

APPLICATION NO. 12151 BY THE  
NORTH TEXAS MUNICIPAL WATER  
DISTRICT FOR WATER USE PERMIT  
12151

§ BEFORE THE TEXAS COMMISSION  
§  
§ ON  
§  
§ ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE

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TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**RESPONSE TO REQUESTS FOR  
CONTESTED CASE HEARING**

TO THE HONORABLE COMMISSIONERS:

The North Texas Municipal Water District (herein referenced interchangeably as the "District," or the "Applicant") submits this response to requests made to the Texas Commission on Environmental Quality (the "TCEQ") for a contested case hearing on the above-referenced application, and would respectfully show the Commissioners the following:

**I. BACKGROUND**

The District has applied to TCEQ for a water use permit to construct and maintain a dam and reservoir known as Lower Bois d'Arc Creek Reservoir ("LBCR") with a maximum storage capacity of 367,609 acre-feet of water and an approximate surface area of 16,526 acres on Bois d'Arc Creek (the "Application"). Bois d'Arc Creek is a tributary of the Red River, in the Red River Basin. LBCR will be located in Fannin County, Texas. The Application requests authorization to beneficially use stored water in LBCR for in-place recreation purposes and to divert and use not to exceed 175,000 acre-feet of water per year from LBCR at a maximum diversion rate of 365.171 cubic feet per second ("cfs") (163,889 gpm) for municipal, industrial, agricultural, and recreational purposes. The Applicant requests authorization to use the water in Collin, Dallas, Denton, Fannin, Hopkins, Hunt, Kaufman, Rains and Rockwall Counties within the Red River, Sulphur River and Trinity River Basins. Accordingly, the Application also includes a request for an interbasin transfer of water from the Red River Basin to the District's service area in the Trinity River Basin and to the Sulphur River Basin within Fannin County.<sup>1</sup>

**II. PROCEDURAL HISTORY**

On December 29, 2006, the District filed Application No. 12151 with TCEQ. Upon request by TCEQ staff, additional fees and information were provided on March 21, 2007, May 9, 2007,

<sup>1</sup> The Application originally included a request for an interbasin transfer from the Red River Basin to the Sabine River Basin and a request under Section 11.042 of the Texas Water Code to convey water in Pilot Grove Creek and the East Fork Trinity River in the Trinity River Basin. The District amended the Application to remove those requests by correspondence dated March 15, 2011 and November 6, 2012, respectively.

and June 14, 2007. The application was declared administratively complete and filed with the Office of the Chief Clerk on June 26, 2007. Mailed notice was issued on July 31, 2007, and notice of the application was published in the *Amarillo Globe News*, *Athens Review*, *Dallas Morning News*, *Beaumont Enterprise*, *Houston Chronicle*, *Corsicana Daily Sun*, *Crosby County Examiner*, *Motley County Tribune*, *Paducah Post*, *Palestine Herald Press* and *Wichita Falls Times Record News* between August 7 and August 17, 2007. Public meetings were held in Greenville, Bonham and McKinney, Texas on September 10, 11 and 13, 2007, respectively. A number of hearing requests were filed, as noted below. On February 17, 2010, the Executive Director filed responses to the timely submitted written comments as well as those made at the public meetings.

Additional information was provided to TCEQ staff on February 6, 2009, February 24, 2009, June 1, 2010, September 23, 2010, October 5, 2010, March 15, 2011, May 13, 2011, June 17, 2011, August 8, 2011, October 12, 2011, March 9, 2012, April 13, 2012 and November 6, 2012; the additional information included an accounting plan and a mitigation plan. On July 3, 2014, TCEQ staff filed draft water use permit 12151 (the "Draft Permit") with the Office of the Chief Clerk along with a request for consideration of the Draft Permit to be placed on the Commission's regular agenda meeting.

On August 15, 2014, the District received notice that the above-referenced matter would be considered by the Commission at the September 24, 2014 agenda. The District submits this response to requests made to the TCEQ for a contested case hearing on the Application, pursuant to Title 30, Section 55.254 of the Texas Administrative Code.

### III. DETERMINATION OF AFFECTED PERSONS

Under TCEQ rules a contested case hearing can only be requested by 1) the TCEQ Commissioners, 2) the TCEQ Executive Director, 3) the Applicant, and 4) any "affected person[.]"<sup>2</sup> An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the Application.<sup>3</sup> An interest common to members of the general public does not qualify as a personal justiciable interest.<sup>4</sup> Accordingly, a request for a contested case hearing must include a brief, but specific, description of the person's location and distance relative to the activity that is the subject of the Application.<sup>5</sup> In addition, the person must do more than just provide a conclusory statement in the request that he or she will be harmed by the proposed change. The person must describe briefly, but specifically, how and why he or she will be affected by the change proposed in the Application.<sup>6</sup>

When determining whether an individual or entity is an affected person, all relevant factors are considered by the Commission, including: 1) whether the interest claimed is one protected by

<sup>2</sup> 30 Tex. Admin. Code § 55.251(a) (2014).

<sup>3</sup> *Id.* § 55.103.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* § 55.251(c)(2).

<sup>6</sup> *Id.*

the law under which the application will be considered; 2) distance restrictions or other limitations imposed by law on the affected interest; 3) whether a reasonable relationship exists between the interest claimed and the activity regulated; 4) the likely impact of the regulated activity on the health, safety, and use of property of the person; and 5) the likely impact of the regulated activity on use of the impacted natural resource by the person.<sup>7</sup>

Persons claiming to be affected persons must also submit their hearing requests in writing to the Chief Clerk “within the time period specified in the notice[.]”<sup>8</sup> For purposes of the Application, the notice directed all potential requestors to submit their requests for a contested case hearing on the matter to the Chief Clerk within the 30-day period following the date notice of the Application was published. Notice of Application was published between August 7 and August 17, 2007. The public meetings were held between September 10 and September 13, 2007. Thus, all timely hearing requests must have been received by the Chief Clerk by September 17, 2007.<sup>9</sup> All such requests not filed within this period are not timely and thus cannot be processed by the Chief Clerk.<sup>10</sup>

Under Section 55.254(f) of the TCEQ rules, a person who filed a hearing request may submit a reply to the following responses no later than nine days before the scheduled TCEQ Commissioners agenda wherein the hearing requests will be considered.<sup>11</sup> Under Section 55.254(f), such a reply may contain additional information responsive to the information contained in the correspondence issued by the Office of the Chief Clerk pursuant to Section 55.254(d). Given the inadequacies of the hearing requests submitted on the Application, as discussed in more detail below, it is anticipated that some hearing requestors may attempt to use Section 55.254(f) as a means of curing the substantive defects of their original hearing request by raising additional issues in an effort to influence the determination of their affected person status. Such a result, if allowed, would effectively neuter the deadline for submitting hearing requests articulated in Section 55.251(d). Indeed, the only reasonable interpretation of Section 55.254(f) in the context of Section 55.251(d) is that the former section provides requestors with the opportunity to clarify the information originally contained in their timely request, but it does not allow the requestors to raise new issues—e.g., new claimed water rights, uses of water, or impacts attributable to the Application.

#### IV. EVALUATION OF HEARING REQUESTS FOR WATER USE PERMIT 12151

##### A. Impacts on Use of Property

Among the non-exclusive criteria the TCEQ uses to determine whether a hearing requestor is an affected person who has standing to request a contested case hearing are 1) whether the

<sup>7</sup> 30 Tex. Admin. Code § 55.256(c) (2014).

<sup>8</sup> *Id.* §§ 55.251(b), (d), .254(a).

<sup>9</sup> *Id.* §§ 55.251(b), (d).

<sup>10</sup> *Id.* §§ 55.251(f)(1), .254(a).

<sup>11</sup> *Id.* § 55.254(f).

interest claimed by the hearing requestor is one protected by the law under which the application will be considered, and 2) the likelihood of impact of the regulated activity on the use of property of the hearing requestor.<sup>12</sup> The possibility that property owned by a requestor will be acquired either through purchase or eminent domain condemnation by an applicant for a water rights permit does not sufficiently establish affected person status, because those interests are not protected by the law under which the TCEQ issues water rights permits. Likewise, impacts to the use of property resulting from the acquisition of real property or eminent domain condemnation by an applicant for a water rights permit do not result from any activity regulated by the TCEQ. The laws under which a water rights permit is evaluated by the TCEQ address neither acquisition of property by purchase or condemnation, nor inundation of property. The TCEQ, in turn, does not regulate the acquisition or condemnation of private property by applicants or permittees.

The TCEQ has no authority to regulate acquisition of property by the District either by purchase through real estate transactions, or by condemnation through eminent domain proceedings. In fact, the District has already acquired the majority of property that will be inundated as a result of the activities that will be regulated by the TCEQ should the Application be granted and the Draft Permit be issued, including from a number of hearing requestors as discussed in more detail below.

Similar to the issue of property acquisition, neither the Draft Permit, nor the law under which the Application is being considered, expressly authorizes or prohibits, or otherwise addresses, inundation of private property. The Application, and all applicable statutes and rules under which the Application was submitted and is being considered by TCEQ, contemplates only 1) the construction of a dam, 2) impoundment of water in an on-channel reservoir, 3) storage of state water in the impoundment, 4) diversion of stored water from the impoundment, 5) transfer of water between river basins, and 6) the beneficial use of the diverted water.

Property that is still in private ownership that will be inundated by LBCR, should authorization for it be issued, will be acquired by the District either through purchase or condemnation prior to the impoundment of water. The procedures through which the District will acquire the property are within the jurisdiction of governmental entities other than the TCEQ. Purchase of real estate involves private contractual agreements enforceable in district court, and filings with the Fannin County Clerk. Similarly, condemnation of property through eminent domain proceedings is within the exclusive jurisdiction of the judiciary.<sup>13</sup> If the District inundates or floods property to which it has not acquired ownership, the remedy for such action would be through civil actions for constitutional takings, inverse condemnation, or some other theory in property or tort law.<sup>14</sup> In any event, the TCEQ has no jurisdiction or authority with respect to the impacts of property from the creation of LBCR.

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<sup>12</sup> 30 Tex. Admin. Code § 55.256(c) (2014).

<sup>13</sup> See Tex. Prop. Code § 21.001 (West 2008).

<sup>14</sup> See *Tarrant Reg'l Water Dist. v. Gragg*, 43 S.W.3d 609, 621 (Tex. App.—Waco 2001), *aff'd*, 151 S.W.3d at 549 (citing *Bennett v. Tarrant County Water Control & Improvement Dist. No. 1*, 894 S.W.2d 441 (Tex. App.—Fort Worth 1995, writ denied)).

The singular exception would be for the property upon which the dam itself will be constructed, because the TCEQ directly regulates dam construction. However, no hearing request was submitted that claimed that the requestor owned property upon which the dam will be constructed.

The TCEQ cannot provide any remedy to the hearing requestors who claim loss of property as a basis for standing. The TCEQ may only deny the Application if it fails to meet applicable criteria in law. Inundation and acquisition of property are not interests protected by the laws under which the Application is being considered, and, thus, cannot be the bases for denial of the Application by TCEQ.

B. Withdrawn Hearing Requests.

The following hearing requestors have formally withdrawn their hearing requests from consideration by the TCEQ:

- National Wildlife Federation
- Sierra Club, Lone Star Chapter
- Texas Conservation Alliance
- Mary & W. L. Carson
- Tommy & Amy Carson<sup>15</sup>
- Ronnie Goodwin
- Harry & Lynda Hammett
- Kenneth Hassell
- Scott Lipsett
- John Loschke
- Edward & Ellen Mills
- Stewart Richardson
- Judy Russell
- Kenneth Russell
- Karen A & Mary Ann Strickland
- Elizabeth Faye Wedell

Accordingly, the District will not address the substantive contents of these withdrawn requests in this response.

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<sup>15</sup> The list of Hearing Requestors attached to the Chief Clerk's letter notifying the parties of the September 24, 2014 TCEQ Agenda did not include Tommy & Amy Carson or Ronnie Goodwin. However, the names Tommy & Amy Carson and Ronnie Goodwin are included on a common hearing request that also includes the names of Mary & W. L. Carson who are identified by the Chief Clerk as hearing requestors. This common hearing request was withdrawn by letters dated July 22, 2014 and July 26, 2014. Accordingly, the District references Tommy & Amy Carson, and Ronnie Goodwin, as withdrawn hearing requestors.

C. Certain Individual Hearing Requestors Have Divested All Property Interests

Ten individual hearing requestors, who have not formally withdrawn their hearing requests, have sold or otherwise conveyed to the District all of their property interests each had at the time they submitted their hearing requests. Those requestors are: Lela Foreman, Gordon Locke, Lem Locke, Cathy Melson, Ellen Melson, Nathan Melson, Carlos Pardo, John Welch, Dorothy L. Witcher, and John Rex Witcher. The effect of the sales of land in fee simple or the conveyance of easements by these hearing requestors is that the property interest on which their hearing requests were expressly or impliedly based no longer exists.

A sworn affidavit from the District's Deputy Director explaining the acquisition of property interests from these individual hearing requestors is attached hereto as Appendix A, and is incorporated herein for all purposes. Along with the affidavit are numerous supporting documents that, collectively, evidence the conveyance of all relevant property interests described in this subsection.

D. Individual Hearing Requestors Not Withdrawn

1. James G Blaine<sup>16</sup>

James G Blaine submitted one request for a contested case hearing on the Application. It was received by the TCEQ Office of the Chief Clerk (the Chief Clerk") on November 12, 2008. The deadline to file hearing requests was September 17, 2007. Therefore, Mr. Blaine's hearing request is untimely.

In his request for a contested case hearing, Mr. Blaine fails to comply with the requirements of Title 30, Section 55.251(c)(2) of the Texas Administrative Code, which requires him to have briefly, but specifically, described how and why the requests made in the Application will affect him in a manner that is not common to interests of members of the general public. While he indicates that his property is in the vicinity of the dam proposed in the Application, nothing in his request gives any indication of how, or why, the Application will affect any justiciable interest that he may have.

In addition to the issues identified above, Mr. Blaine describes his general concerns about the potential harm to wildlife and their habitats; the potential threat of flooding; and the threat to potential archeological and/or historic items. Furthermore, Mr. Blaine describes his concern with the absence of benefit from the development of LBCR as proposed in the Application. However, Mr. Blaine provides no explanation regarding why he believes that these interests will be affected by the requests made in the Application, if granted, in a manner not common to members of the general public.

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<sup>16</sup> This request was sent to both TCEQ and USACE and is more directed to the request for an Environmental Impact Study ("EIS"). The Chief Clerk included Mr. Blaine on its list of hearing requestors.

Mr. Blaine has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by James G Blaine be considered by the TCEQ, it should not be granted.

## 2. Monika Blaine

Monika Blaine submitted two requests for a contested case hearing. The first request was submitted as part of a request by several other self-described Citizens to Save Bois d'Arc Creek.<sup>17</sup> The first request was received by the Chief Clerk on September 10, 2007. The second request was received by the Chief Clerk on November 12, 2008.<sup>18</sup> The deadline to file hearing requests was September 17, 2007. Therefore, Mrs. Blaine's November 12, 2008 hearing request is untimely.

In her requests, Mrs. Blaine identifies two distinct reasons for her protest of the Application. Specifically, she expresses general concern for wildlife in Fannin County, and she expresses her belief that she should not lose her land. As a threshold issue, the hearing request does not include any statement explaining the requestor's location and distance relative to LBCR or how and why the requestor believes she will be affected by the Application in a manner not common to members of the general public.

Ms. Blaine's request seems to imply that some property owned by Ms. Blain will be subject to acquisition or inundation in connection with the permit authorizing construction of the LBCR dam and storage of state water in an on-channel reservoir. However, without a more specific statement explaining the requestor's location and distance relative to LBCR or how and why the requestor will be affected, it is impossible to determine that Ms. Blaine is an affected person with a personal justiciable interest distinct from one common to members of the general public.

Notwithstanding the technical shortcomings of Ms. Blaine's request, the issues identified in the request do not fall within the scope of the TCEQ's review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property interest at all, Mrs. Blaine's interests are addressed by the availability of relief under other sources of law that are distinct and removed from the

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<sup>17</sup> It is not clear whether Mrs. Blaine's hearing request was made in her individual capacity, or as a member of an association. Accordingly, the District will respond to all hearing requests submitted under the name Citizens to Save Bois d'Arc Creek collectively as an association in Subsection D below.

<sup>18</sup> See footnote 12 above.

considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property or civil claims for takings should any land owned by Ms. Blaine be inundated as a result of the construction of the LBCR dam.

In addition to the issues identified above, Mrs. Blaine describes her general concerns about the potential harm to wildlife and their habitats and the potential loss of livelihood for persons in general. However, Mrs. Blaine provides no explanation regarding why she believes that these interests will be affected by the requests made in the Application, if granted, in a manner not common to members of the general public.

Mrs. Blaine has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. In addition, she has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Monika Blaine should not be granted.

### 3. Paula Brennecke

Paula Brennecke submitted one request for a contested case hearing as part of a request by several other self-described Citizens Organizing for Resources and Environment.<sup>19</sup> The request was received by the Chief Clerk on September 20, 2007. The deadline for submitting hearing requests was September 17, 2007. Therefore, Ms. Brennecke's hearing request is untimely.

In her request, Ms. Brennecke describes various concerns she has with the development of LBCR, as proposed in the Application. Specifically, she references wildlife mitigation, and potential water quality problems that are unrelated to the requests made in the Application. None of these issues, however, reflect any anticipated impacts to what would qualify as Ms. Brennecke's personal justiciable interests. Instead, as she has described them, her concerns are each clearly related to interests common to members of the general public—if they are attributable to the Application at all.

Ms. Brennecke has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. In addition, she has failed to describe in his hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this

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<sup>19</sup> It is not clear whether Ms. Brennecke's hearing request was made in her individual capacity, or as a member of an association. Accordingly, the District will respond to all hearing requests submitted under the name Citizens Organizing for Resources and Environment collectively as an association in Subsection D below.

requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Paula Brennecke be considered by the TCEQ, it should not be granted.

5. Lela Foreman

Lela Foreman submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 14, 2007.

In her request, Ms. Foreman describes her concerns about control of surface water resources in Fannin County, potential impacts to wildlife, potential impacts to agricultural land, drawdown of water from the reservoir, a U.S. Army Corps of Engineers Study, and farmland that belongs to her family. As a threshold issue, Ms. Foreman's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. After Ms. Foreman filed her hearing request with the TCEQ, she conveyed the property she owned that will be inundated by LBCR to the District.<sup>20</sup> As evidenced by the attached sworn affidavit of the District's Deputy Director, the general warranty deed granted by Ms. Foreman to the District represents the total conveyance of all interests in property that will be inundated by the reservoir that Ms. Foreman had at the time of her hearing request.

In addition to the issues identified above, Mrs. Foreman describes her general concerns about the potential harm to wildlife and their habitats and the potential loss of livelihood for persons in general. However, Mrs. Foreman provides no explanation regarding why she believes that these interests will be affected by the requests made in the Application, if granted, in a manner not common to members of the general public.

Ms. Foreman has not identified any water right or vested riparian right that she owns and that she is concerned will be affected by the requests made in the Application, if approved. While Ms. Foreman makes a general statement that Fannin County will retain no water rights, Fannin County does not hold any water rights to lose. In addition, she has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Lela Foreman should not be granted.

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<sup>20</sup> See Appendix A.

6. Larry Franklin

Mr. Franklin submitted one request as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 12, 2007.

In his request, Mr. Hall describes his general concerns about the potential harm to wildlife and their habitats, the potential loss of productive farmland in general, the potential that the lake front property will not be developed as projected, the potential site selection being improper, the potential for water quality problems, and the need for LBCR. As a threshold issue, Mr. Franklin's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

Mr. Franklin has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Larry Franklin should not be granted.

7. John Gregory Hall

John Gregory Hall submitted one hearing request as part of a request for the Sierra Club. It was received by the Chief Clerk on September 19, 2007, via first class mail. The deadline for submitting hearing requests was September 17, 2007. Therefore, Mr. Hall's hearing request is untimely.

In his request, Mr. Hall describes the location of his property as located in the watershed of Caney Creek in northwest Fannin County. The request states that Mr. Franklin believes he will be harmed by alleged negative impacts of the Application on efforts that he has made to protect the environment and habitat of wildlife on his property. The Application does not request an authorization for an impoundment on Caney Creek. LBCR will not be located in northwest Fannin County. Mr. Hall describes general concerns about impacts on wildlife and the Caddo National Grasslands without describing how or why his interests would be affected in a manner not common to members of the general public.

In addition to the issues identified above, Mr. Hall describes his general concerns regarding potential historical and archeological sites should the Application be approved. However, each of these issues are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects the historical and archeological sites, as he describes, those interests are

addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application.

Mr. Hall has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of John Gregory Hall should not be granted.

8. Chad Knight

Chad Knight submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on August 27, 2007.

In his request, Mr. Knight describes his general concerns regarding potential harm to wildlife and their habitats and loss of productive farmland in general. Mr. Knight also expresses concerns related to waste contamination. As a threshold issue, Mr. Knight's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

Mr. Knight has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Chad Knight should not be granted.

9. Dustin Knight

Dustin Knight submitted one request for a contested case hearing as part of a request by "Citizens to Save Lower Bois d'Arc." It was received by the Chief Clerk on August 27, 2007.

In his request, Mr. Knight describes his general concerns about potential loss of productive agricultural land, impact on taxes in Fannin County, water quality, sedimentation, and flooding. As a threshold issue, Mr. Knight's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he

will be impacted by the Application in a manner distinct from interests common to members of the general public.

Mr. Knight has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Dustin Knight should not be granted.

10. Rebecca & Ronnie Knight

Rebecca & Ronnie Knight submitted one request for a contested case hearing. It was received by the Chief Clerk on August 29, 2007.

In their request, the Knights express concerns related to property they own on Bois d'Arc Creek and impacts to their business and livelihood. They further describe various concerns they have with the development of LBCR as proposed in the Application, including potential harm to wildlife and wildlife habitats; the potential loss of productive farmland in general; and the potential for vermin. While the hearing request states that the Knights own property on Bois d'Arc Creek, it does not include an explanation of the location and distance of the property relative to LBCR. The hearing request alleges that the LBCR project will, but it does not state how or why that result will occur as a result of the Application. Without a specific statement as to the requestor's location relative to LBCR, it is impossible to discern whether the Rebecca & Ronnie Knight are affected persons.

The Knights appear to have based their hearing request, in part, on the potential that the property referenced in the hearing request will be subject to acquisition or inundation in connection with the permit authorizing construction of the LBCR dam and storage of state water in an on-channel reservoir. However, without a more specific statement explaining the requestor's location and distance relative to LBCR, or how and why the requestor will be affected by the activities proposed in the Application, it is impossible to determine that the Knights are affected persons with a personal justiciable interest distinct from one common to members of the general public.

To the extent that the Knights have based their hearing request on concerns related to the acquisition or inundation of their property, those interests do not fall within the scope of the TCEQ's review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property interest at all, the Knights' interests are addressed by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable

constitutional and statutory requirements governing the condemnation of property, or civil claims for takings, inverse condemnation, or some other theory in property or tort law should any land owned by Ms. Blaine be inundated as a result of the construction of the LBCR dam.

Rebecca & Ronnie Knight provided no statement explaining the location and distance of his property relative to the proposed site of LBCR. Instead, they simply state that they own property "on this creek" without explaining, with any specificity, the location and distance of the property relative to LBCR, or how or why the property will be impacted should LBCR be constructed. In addition, they have not identified any water right or vested riparian right that will be affected by the requests made in the Application, if approved. It is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Rebecca & Ronnie Knight should not be granted.

11. Renea Knight

Renea Knight submitted one request for a contested case hearing. It was received by the Chief Clerk on September 12, 2007.

In her request, Ms. Knight describes her concerns that the County Commissioners' support for LBCR was given without the landowners voices being heard as the landowners do not wish to lose their rights and land. As a threshold issue, Ms. Knight's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes she will be impacted by the Application in a manner distinct from interests common to members of the general public.

The issues identified by Ms. Knight do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. Knight has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. She has failed to describe in her hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Renea Knight should not be granted.

12. Glenn Lee

Glenn Lee submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 14, 2007.

In his request, Mr. Lee describes various concerns regarding water quality, site selection for LBCR, and the loss of control of natural resources by Fannin County to the District. As a threshold issue, Mr. Lee's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

None of the issues raised in Mr. Lee's hearing request reflect any anticipated impacts to what would qualify as Mr. Lee's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. In addition, Mr. Lee has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. He has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Glenn Lee should not be granted.

13. Maeta Lee

Maeta Lee submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 10, 2007.

In her request, Ms. Lee describes her concerns related to potential loss of productive farmland, loss of tax base in Fannin County, retention of water rights by Fannin County, water quality, and siting of LBCR. As a threshold issue, Ms. Lee's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

None of the issues raised in Ms. Lee's hearing request reflect any anticipated impacts to what would qualify as Ms. Lee's personal justiciable interests. Instead, as she has described them, her concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. In addition, Ms. Lee has not identified any water right

or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. She has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Maeta Lee should not be granted.

14. Gordon Locke

Gordon Locke submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 10, 2007.

In his request, Mr. Locke describes his concerns relating to water quality, siting of LBCR, and the potential for overdrawing the reservoir. As a threshold issue, Mr. Locke's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. Subsequent to the submittal of his hearing request, Mr. Locke conveyed the property he owned that will be inundated by LBCR to the District.<sup>21</sup> As evidenced by the attached sworn affidavit of the District's Deputy Director, the general warranty deed granted by Mr. Locke represents the total conveyance of all interests in property that will be inundated by the reservoir that Mr. Locke had at the time of his hearing request.

None of the issues raised in Mr. Locke's hearing request reflect any anticipated impacts to what would qualify as Mr. Locke's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. In addition, Mr. Locke has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. He has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Gordon Locke should not be granted.

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<sup>21</sup> See Appendix A.

15. Lem Locke

Lem Locke submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 10, 2007.

In his request, Mr. Locke describes his concerns regarding potential harm to wildlife and their habitats, potential loss of hardwood trees, potential loss of productive farmland in general, water quality, siting of LBCR, and the hardship on displaced homeowners in general. As a threshold issue, Mr. Locke's request does not include any explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. While Mr. Locke states that he is a long time property owner within the designated lake area, he has not provided a statement with any specificity of the location and distance of his property relative to LBCR. Absent a brief, but specific, statement explaining his location and distance relative to LBCR as required by TCEQ rules, it is impossible to discern whether Mr. Locke is an affected person.

Notwithstanding the technical shortcomings of Mr. Locke's request, none of the issues raised in the hearing request reflect any anticipated impacts to what would qualify as Mr. Locke's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. In addition, Mr. Locke has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. He has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Lem Locke should not be granted.

16. Cathy Melson

Cathy Melson submitted one request for a contested case hearing as part of a request by several other self-described Citizens Organizing for Resource and Environment. It was received by the Chief Clerk on September 14, 2007.

In her request, Ms. Melson describes her concerns regarding the need for impact studies and the lack of knowledge regarding where and how much mitigation land is needed, potential impact to wildlife and their habitats, potential loss of hardwood trees, potential loss of productive farmland in general, and potential water quality hazards due to two closed landfills in the area. As a threshold issue, Ms. Melson's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes

she will be impacted by the Application in a manner distinct from interests common to members of the general public. Subsequent to the submittal of her hearing request, Ms. Melson granted a flood easement to the District for the portions of her property that will be inundated as a result of the proposed regulated activity.<sup>22</sup> As evidenced by the attached sworn affidavit of the District's Deputy Director, the flood easement granted by Ms. Melson represents the total conveyance of all interests in property that will be inundated by the reservoir that Ms. Melson had at the time of her hearing request.

None of the issues raised in Ms. Melson's hearing request reflect any anticipated impacts to what would qualify as Ms. Melson's personal justiciable interests. Instead, as she has described them, her concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. In addition, Ms. Melson has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. She has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Cathy Melson should not be granted.

17. Ellen Melson

Ellen Melson submitted one request for a contested case hearing as part of a request by several other self-described Citizens Organizing for Resource and Environment. It was received by the Chief Clerk on September 19, 2007. The deadline for submitting hearing requests was September 17, 2007. Therefore, Ms. Melson's hearing request is not timely.

In her request, Ms. Melson describes her concerns regarding the location of her property located on Sloans Creek approximately two miles upstream of the proposed LBCR and her concerns with the potential loss of that property if the requests made in the Application are granted. Ms. Melson also expresses her concerns that she will not receive fair compensation for her property. After she filed her hearing request with the TCEQ, Ms. Melson granted a flood easement to the District for the portions of her property that will be inundated as a result of the proposed regulated activity.<sup>23</sup> As evidenced by the attached sworn affidavit of the District's Deputy Director, the flood easement granted by Ms. Melson represents the total conveyance of all interests in property that will be inundated by the reservoir that Ms. Melson had at the time of her hearing request.

Irrespective of the status of ownership of the property Ms. Melson references in her hearing request, the issue of property acquisition falls outside the scope of the TCEQ's review of the

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<sup>22</sup> See Appendix A.

<sup>23</sup> See Appendix A.

Application and is otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects Ms. Melson's property as she describes, her interests are addressed by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., takings, inverse condemnation, or some other theory in property or tort law.

In addition, Ms. Melson's request describes various concerns she has with the development of LBCR as proposed in the Application. Specifically she references the potential for flooding; the need for LBCR; the potential increase in property taxes on her property that she attributes to the development of LBCR; and the potential water quality hazards due to four municipal sewerage systems that would discharge into LBCR and the Bonham old closed landfill. None of these issues, however, reflect any anticipated impacts to what would qualify as Ms. Melson's personal justiciable interests. Instead, as she has described them, her concerns are each clearly related to interests common to members of the general public—if they are attributable to the Application at all.

Ms. Melson has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. In addition, she has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Ellen Melson be considered by the TCEQ, it should not be granted.

18. Nathan Melson

Nathan Melson submitted one request for a contested case hearing as part of a request by several other self-described Citizens Organizing for Resource and Environment. It was received by the Chief Clerk on September 19, 2007. The deadline for submitting hearing requests was September 17, 2007. Therefore, Mr. Melson's hearing request is not timely.

In his request, Mr. Melson describes the location of his property located on Sloans Creek approximately two miles upstream of the proposed LBCR and his concerns with the potential loss of that property if the requests made in the Application are granted. After he filed his hearing request with the TCEQ, Mr. Melson granted a flood easement to the District for the portions of his property that will be inundated as a result of the proposed regulated activity.<sup>24</sup> As evidenced by the attached sworn affidavit of the District's Deputy Director, the flood easement granted by Mr. Melson represents the total conveyance of all interests in property that will be inundated by the reservoir that Mr. Melson had at the time of his hearing request.

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<sup>24</sup> See Appendix A.

Irrespective of the status of ownership of the property Mr. Melson references in his hearing request, the issue of property acquisition falls outside the scope of the TCEQ's review of the Application and is otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects Mr. Melson's property as she describes, his interests are addressed by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., takings, inverse condemnation, or some other theory in property or tort law.

In addition, Mr. Melson's request describes his concerns relating to flooding, need for LBCR, potential increases in property taxes on his property, the potential harm to wildlife and their habitats, insufficient water conservation efforts by the District, and the potential water quality hazards due to four municipal sewerage systems that would discharge into LBCR and a closed landfill. None of these issues, however, reflect any anticipated impacts to what would qualify as Mr. Melson's personal justiciable interests. Instead, as he has described them, his concerns are each exclusively related to interests common to members of the general public—if they are attributable to the Application at all.

Mr. Melson has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Nathan Melson be considered by the TCEQ, it should not be granted.

19. Carlos Pardo

Carlos Pardo submitted one request for a contested case hearing. It was received by the Chief Clerk on September 14, 2007.

Mr. Pardo's request describes concerns he has with the development of LBCR as proposed in the Application. Specifically, he expresses concerns related to potential impacts to wildlife and habitat and the potential loss of productive agricultural land. As a threshold issue, Mr. Pardo's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. After he filed his hearing request with the TCEQ, Mr. Pardo conveyed the property he owned that will be inundated by LBCR to the District.<sup>25</sup> As evidenced by the attached sworn affidavit of the District's

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<sup>25</sup> See Appendix A.

Deputy Director, the special warranty deed granted by Mr. Pardo represents the total conveyance of all interests in property that will be inundated by the reservoir that Mr. Pardo had at the time of his hearing request.

None of the issues raised in Mr. Pardo's hearing request reflect any anticipated impacts to what would qualify as Mr. Pardo's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. In addition, Mr. Pardo has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. He has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Carlos Pardo should not be granted.

20. Wes Reed

Wes Reed submitted one request for a contested case hearing on behalf of Joseph Reed, John Reed, and Wes Reed. It was received by the Chief Clerk on September 14, 2007.

All of the concerns Mr. Reed sites in his hearing request concern potential disruption of Mr. Reed's use of property he owns in the vicinity of LBCR by the construction of LBCR. As explained above, any inundation of property owned by Mr. Reed as a result of regulated activities proposed by the District in the Application and contemplated in the Draft Permit is remediable through procedures that are exclusively within the jurisdiction of the judiciary. Specifically, should any property owned by Mr. Reed at the time of the construction of the LBCR dam, should the permit be issued, civil actions for takings, inverse condemnation, or some other theory in property or tort law will be available to Mr. Reed at that time. Those issues are not within the scope of the TCEQ's jurisdiction or protected by any law under which the Application was submitted to, or is being considered by, the TCEQ. If the District attempts to acquire Mr. Reed's property prior to initiating any activity that is regulated by the TCEQ, those procedures will also be conducted outside of the TCEQ's jurisdiction.

Therefore, the hearing request submitted by Wes Reed should not be granted.

21. Cathy Ryser

Cathy Ryser submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 17, 2007.

In her request, Ms. Ryser describes her concerns regarding the price of land, loss of hardwood timber, lake level fluctuations, lowering of her property values due to loss of shoreline and mitigation, loss of farm land, and acquisition of property. As a threshold issue, Ms. Ryser's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes she will be impacted by the Application in a manner distinct from interests common to members of the general public.

To the extent that Ms. Ryser's hearing request addresses purchase price of real property, or the acquisition of real property through purchase or condemnation, such issues are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects Ms. Ryser's property as she describes, her interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

None of the issues addressed in Ms. Ryser's hearing request reflect any anticipated impacts to what would qualify as Ms. Ryser's personal justiciable interests. Instead, as she has described them, her concerns are each clearly related to interests common to members of the general public—if they are attributable to the Application at all. Ms. Ryser has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. In addition, she has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by Cathy Ryser should not be granted.

22. Charles Ryser

Charles Ryser submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 14, 2007.

In his request, Mr. Ryser describes his concerns regarding water rights in Fannin County, potential impact to wildlife and their habitat; potential loss of hardwoods; potential loss of productive agricultural land; and siting of LBCR. As a threshold issue, Mr. Ryser's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

None of the issues raised in Mr. Ryser's hearing request reflect any anticipated impacts to what would qualify as Mr. Ryser's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. Mr. Ryser has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by Charles Ryser should not be granted.

23. Donna Ryser

Donna Ryser submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 17, 2007.

In her request, Ms. Ryser describes her concerns regarding potential impacts to wildlife and their habitat, potential loss of productive agricultural land, lake levels, potential loss of property, economic growth and development, water quality, and price of water. As a threshold issue, Ms. Ryser's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes she will be impacted by the Application in a manner distinct from interests common to members of the general public.

To the extent that Ms. Ryser's hearing request addresses purchase price of real property, or the acquisition of real property through purchase or condemnation, such issues are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects Ms. Ryser's property as she describes, her interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

None of the issues addressed in Ms. Ryser's hearing request reflect any anticipated impacts to what would qualify as Ms. Ryser's personal justiciable interests. Instead, as she has described them, her concerns are each clearly related to interests common to members of the general public—if they are attributable to the Application at all. Ms. Ryser has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. In addition, she has failed to describe in her hearing request how and why she believes she will be affected in a manner not common to members of the general public. Because her request does not identify any personal justiciable interest affected by the Application, it is

impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by Donna Ryser should not be granted.

24. Erich Ryser

Erich Ryser submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 19, 2007. The deadline for submitting hearing requests was September 17, 2007. Therefore, Mr. Ryser's hearing request is not timely.

In his request, Mr. Ryser describes his concerns regarding potential impacts to wildlife and their habitat, potential loss of productive agricultural land, lake levels, alternative sources of water, and land values. As a threshold issue, Mr. Ryser's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

To the extent that Mr. Ryser's hearing request addresses purchase price of real property, or the acquisition of real property through purchase or condemnation, such issues are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by Mr. Ryser, his interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

None of the issues addressed in Mr. Ryser's hearing request reflect any anticipated impacts to what would qualify as Mr. Ryser's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. Further, Mr. Ryser has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Erich Ryser be considered by the TCEQ, it should not be granted.

25. Nathan Ryser

Nathan Ryser submitted one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. It was received by the Chief Clerk on September 13, 2007.

In his request, Mr. Ryser describes his concerns regarding retention of water rights by Fannin County, tax revenues, loss of agricultural land to inundation and mitigation, overdrawing of water from the reservoir, reduced recreational opportunities, development, and potential impacts to wildlife. As a threshold issue, Mr. Ryser's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

To the extent that Mr. Ryser's hearing request addresses inundation of property, that issue falls outside the scope of the TCEQ's review of the Application and is otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by Mr. Ryser, his interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., takings, inverse condemnation, or some other theory in property or tort law.

None of the issues raised in Mr. Ryser's hearing request reflect any anticipated impacts to what would qualify as Mr. Ryser's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. Mr. Ryser has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by Erich Ryser should not be granted.

26. William Sebastian

William Sebastian submitted one request for a contested case hearing. It was received by the Chief Clerk on August 15, 2007.

In his request, Mr. Sebastian describes his concerns regarding impacts on the environment and wildlife habitat, quality of life, alternative sources of supply, and loss of tax revenue and impacts to taxpayers in Fannin County. As a threshold issue, Mr. Sebastian's request does not

include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

None of the issues raised in Mr. Sebastian's hearing request reflect any anticipated impacts to what would qualify as Mr. Sebastian's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. Any impact the LBCR project will have on tax revenues in Fannin County will impact all citizens equally and is certainly common to members of the general public in Fannin County. Mr. Sebastian has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by William J. Sebastian should not be granted.

27. John Welch

John Welch submitted one hearing request for a contested case hearing, as part of a request for a group called Prevent Construction of Lower Bois d'Arc Lake.<sup>26</sup> It was received by the Chief Clerk on September 10, 2007.

In his request, Mr. Welch describes his regarding the quantity of potable water produced from LBCR, transfer of water to the Dallas "Metroplex" area, and impacts to the agriculture industry in Fannin County. As a threshold issue, Mr. Welch's request does not include any statement explaining the requestor's location and distance relative to LBCR or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. Before he filed his hearing request, Mr. Welch conveyed the property he owned that will be inundated by LBCR to Kyle and Mary Payne.<sup>27</sup> The Paynes subsequently sold that property to the District. As evidenced by the attached sworn affidavit of the District's Deputy Director, the general warranty gift deed granted by Mr. Welch to the Paynes and the special warranty deed granted by the Paynes to the District represent the total conveyance of all interests in property that will be inundated by the reservoir that Mr. Welch had before time of his hearing request.

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<sup>26</sup> It is unclear from the request whether the noted organization is a legitimate organization. No other hearing requester identified this entity in their requests, and there is no such organization recognized by the Office of the Texas Secretary of State.

<sup>27</sup> See Appendix A. Neither Kyle Payne nor Mary Payne has filed a contested case hearing request on the Application.

None of the issues raised in Mr. Welch's hearing request reflect any anticipated impacts to what would qualify as Mr. Welch's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. Mr. Welch has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by John Welch should not be granted.

28. Dorothy L. & John Rex Witcher

Dorothy L. & John Rex Witcher submitted a request for a contested case hearing that was received by the Chief Clerk on September 7, 2007. As a threshold issue, the hearing request does not include any statement explaining the requestor's location and distance relative to LBCR.

The stated basis for the Witcher's hearing request is compensation for the acquisition by the State of property owned by the Witchers. The hearing request appears to assert that the Witchers own property that may be purchased in connection with the LBCR project. Without a specific statement as to the requestor's location relative to LBCR, however, it is impossible to discern whether the Witcher's are affected persons. Subsequent to the submittal of their hearing request, the Witchers conveyed the property they owned that will be inundated by LBCR to the District.<sup>28</sup> As evidenced by the attached sworn affidavit of the District's Deputy Director, the special warranty deed granted by the Witchers represents the total conveyance of all interests in property that will be inundated by the reservoir that the Witchers had at the time of their hearing request.

In any event, the issues raised in the hearing request are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by the Witcher's, their interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

The Witcher's have not identified any water right or vested riparian right that they are concerned will be affected by the requests made in the Application, if approved. Because the Witcher's request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

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<sup>28</sup> See Appendix A.

Therefore the hearing request submitted by Dorothy L & John Rex Witcher should not be granted.

29. Harold Dean Witcher

H.D. "Thump" Witcher<sup>29</sup> submitted two identical requests for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. The first was received by the Chief Clerk on September 11, 2007 and the second was received by the Chief Clerk on September 17, 2007.

In his request, Mr. Witcher expresses concerns related to need for water, control of water resources, alternative sources of supply, impacts to land and livelihood, impacts to wildlife, water quality, evaporation losses, siting of LBCR, loss of land due to mitigation, and loss of homestead and agricultural property owned by Mr. Witcher. As a threshold issue, Mr. Witcher's hearing request does not include a specific explanation of the hearing requestor's location and distance relative to the LBCR project area. Further, while Mr. Witcher's request expresses his belief that he will lose his home and property, it does not state with any specificity how and why that impact will result from the activities that will be authorized by the Draft Permit if it is issued. Absent a more specific explanation of Mr. Witcher's location, it is impossible to discern whether he will be, in fact, affected by the Application and Draft Permit.

To the extent that Mr. Witcher's hearing request addresses the acquisition of real property through purchase or condemnation, or inundation of property, such issues are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by Mr. Witcher, his interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property, and civil remedies for takings, inverse condemnation, or some other theory in property or tort law.

Mr. Witcher's additional concerns are all interests that are common to members of the general public. Mr. Witcher has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of H.D. "Thump" Witcher should not be granted.

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<sup>29</sup> Mr. Witcher was identified as "Harold Dean Witcher" in the Chief Clerk's notice of setting of this matter on the TCEQ's September 24, 2014 agenda.

30. Charles Michael Yarbrough

Charles Michael Yarbrough filed two requests for a contested case hearing. One of the requests was submitted as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. The first request was received by the Chief Clerk on September 10, 2007. The second request was submitted by Mr. Yarbrough jointly with John Edward Yarbrough and was received by the Chief Clerk on September 12, 2007.

In his requests, Mr. Yarbrough expresses concerns regarding his ownership of property, forced divestiture of his property due to lake development, loss of surface and mineral rights, loss of agricultural land, siting of LBCR, public health concerns from vector breeding, loss of his business and employment, impacts to the agriculture industry and other businesses in general, impacts to his livelihood generally, impacts to wildlife, impacts to the Fannin County economy generally, loss of land to mitigation, loss of timberland, water quality and contamination from closed landfills and pesticides, water conservation measures implemented by the District, alternative sources of supply, compensation for land acquired in connection with LBCR.

As a threshold issue, neither of Mr. Yarbrough's hearing requests include a brief, but specific, statement explaining his location and distance relative to the LBCR project area. Absent a more specific statement explaining Mr. Yarbrough's location, it is impossible to discern whether Mr. Yarbrough will be, in fact, impacted by the activities proposed in the Application should the Draft Permit be issued.

Mr. Yarbrough states his belief that the activities requested in the Application violate the Texas Private Real Property Rights Preservation Act. That Act, codified as Chapter 2007 of the Tex. Gov't Code, provides a civil remedy over which the TCEQ has no jurisdiction. In any event, the construction of LBCR is exempt from Chapter 2007 because it is an action that the District is reasonably taking to fulfill its obligation under state law to secure a reliable source of supply for its customers.

Mr. Yarbrough's concerns regarding purchase price of real property, and the acquisition of real property through purchase or condemnation, relate exclusively to issues that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application will actually impact any property owned by Mr. Yarbrough, his interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

Mr. Yarbrough has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request the location of his property relative to the LBCR site.

Because his request does not describe the location of the referenced property, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing requests of Charles Michael Yarbrough should not be granted.

31. Charles Yarbrough

Charles Yarbrough filed one request for a contested case hearing as part of a request by several other self-described Citizens to Save Bois d'Arc Creek. The request was received by the Chief Clerk on September 12, 2007.

In his request, Mr. Yarbrough expresses concerns regarding water quality, potential impacts to wildlife, impacts to tax revenues, and economic impacts. As a threshold issue, Mr. Yarbrough's hearing request does not include a statement explaining his location and distance relative to LBCR. The hearing request also does not explain how and why Mr. Yarbrough believes he will be impacted in a manner not common to members of the general public.

None of the issues raised in Mr. Yarbrough's hearing request reflect any anticipated impacts to what would qualify as Mr. Yarbrough's personal justiciable interests. Instead, as he has described them, his concerns are each related exclusively to interests common to members of the general public—if they are attributable to the Application at all. Mr. Welch has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request how and why he believes he will be affected in a manner not common to members of the general public. Because his request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request of Charles Yarbrough should not be granted.

32. John Edward Yarbrough

John Edward Yarbrough filed one request for a contested case hearing jointly with Charles Michael Yarbrough. The request was received by the Chief Clerk on September 12, 2007.

In his request, Mr. Yarbrough expresses concerns regarding loss of his business and employment, impacts to the agriculture industry and other businesses in general, impacts to his livelihood generally, impacts to wildlife, impacts to the Fannin County economy generally, loss of land to mitigation, loss of timberland, water quality and contamination from closed landfills and pesticides, water conservation measures implemented by the District, alternative sources of supply, compensation for land acquired in connection with LBCR. As a threshold issue, Mr. Yarbrough's hearing request does not include a brief, but specific, statement explaining his location and distance

relative to the LBCR project area. Absent a more specific statement explain Mr. Yarbrough's location, it is impossible to discern whether Mr. Yarbrough will be, in fact, impacted by the activities proposed in the Application should the Draft Permit be issued.

Mr. Yarbrough states his belief that the activities requested in the Application violate the Texas Private Real Property Rights Preservation Act. That Act, codified as Chapter 2007 of the Tex. Gov't Code, provides a civil remedy over which the TCEQ has no jurisdiction. In any event, the construction of LBCR is exempt from Chapter 2007 because it is an action that the District is reasonably taking to fulfill its obligation under state law to secure a reliable source of supply for its customers.

To the extent that Mr. Yarbrough's hearing request addresses the potential acquisition of real property through purchase or condemnation, those issues relate exclusively to issues that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application will actually impact any property owned by Mr. Yarbrough, his interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

Mr. Yarbrough has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. In addition, he has failed to describe in his hearing request the location of his property relative to the LBCR site. Because his request does not describe the location of the referenced property, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request by John Edward Yarbrough should not be granted.

E. Organizational Hearing Requestors Not Withdrawn

1. Bois d'Arc Municipal Utility District

Bois d'Arc Municipal Utility District ("Bois d'Arc MUD") submitted a request for a contested case hearing on the Application in a letter written by Skip Newsom that was received in the Chief Clerk's office on September 14, 2007 via facsimile and on September 17, 2007 via first class mail.

In its request, Bois d'Arc MUD describes its basis for requesting a hearing as the loss of at least 35 percent of its service area as well as several miles of easements and facilities. The Bois d'Arc MUD also describes its concerns that the water proposed to be transferred out of Fannin County will affect its customers and constituents. The factor for determining affected person status

that is applicable to a governmental entity is the entity's statutory authority over or interest in the issues relevant to the application.

Under 30 Tex. Admin. Code Section 55.256, a governmental entity, including local governments and public agencies, may be considered affected persons but only when the entity has authority under state law over issues contemplated by the application. The Application was filed, and is being considered by the TCEQ, under Chapter 11 of the Texas Water Code and Chapters 295 and 297 of the TCEQ's rules. No provision of state statutory law relevant to the Application relates to public retail water utility service area, easements, or facilities.

Similar to the interests of individual landowners, the acquisition, relocation, or impact to Bois d'Arc MUD's property is not an interest that falls within the jurisdiction of the TCEQ. Under the applicable law, the TCEQ regulates the construction of dams; the impoundment and storage of water in on-channel reservoirs; and the diversion, transfer, and beneficial use of state water. As explained above, any inundation of real or personal property of persons or entities other than the District is remedied through judicial courts. The Proper venue for disputes arising out of such inundation will be through judicial courts in civil actions related to takings, inverse condemnation, or some other theory in property or tort law.

In addition, Bois d'Arc MUD has not asserted that it has any ownership or other interest in state surface water resources in the Red River Basin. The concerns expressed by Bois d'Arc MUD regarding the interbasin transfer of state water does not demonstrate a personal justiciable interest that is distinguishable from interests common to members of the general public.

Bois d'Arc MUD derives its authority from Article XVI, Section 59, of the Texas Constitution; Chapter 8155 of the Texas Special District Local Laws Code; and Chapters 49 and 54 of the Texas Water Code. None of the provisions of those bodies of law is relevant to applications for use of State water. Therefore, Bois d'Arc MUD cannot be considered an affected person under the applicable TCEQ rules. Accordingly, Bois d'Arc MUD's hearing request should not be granted.

## 2. Citizens Organizing for Resources and Environment

Several individuals identifying themselves as Citizens Organizing for Resources and Environment ("CORE") submitted requests for a contested case hearing on the Application. Specifically, Paula Brennecke, Scott Lipsett, Cathy Melson, Ellen Melson, Nathan Melson, Judy Russell, and Kenneth Russell, each submitted hearing requests wherein they identified themselves as members of CORE. It is not clear from the correspondence submitted by these individuals whether they were requesting a hearing on the Application as individuals, or also as members of CORE.

As an initial matter, it is not clear that CSBD is a legitimate organization. The Secretary of State has no records reflecting any organization named "Citizens Organizing for Resources and Environment." Further, to the extent the hearing requests of Scott Lipsett, Judy Russell, and

Kenneth Russell were intended as associational hearing requests by the Citizens Organizing for Resources and Environment, those requests have been withdrawn.

As discussed with respect to each individual in these responses above, none of these persons demonstrate in their hearing requests that they have personal justiciable interests that are affected by the Application. As individuals, therefore, they have failed to meet the requirements imposed by TCEQ rules for requesting a contested case hearing on the Application.

Furthermore, CORE is not political subdivision of the State of Texas. It therefore does not itself qualify as a governmental entity that may be considered an affected person under Title 30, Section 55.256(b) of the Texas Administrative Code. The hearing requests fail to show that CORE meets the requirements imposed on governmental entities by TCEQ rules for requesting a contested case on the Application.

The requests fail to provide any indication that CORE possesses any personal justiciable interests affected by the Application. CORE must have satisfied the associational standing requirements imposed by TCEQ in order for it to request a contested case hearing on the Application.<sup>30</sup> As described below, it has not satisfied these requirements.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For CORE to have associational standing to request a contested case hearing, therefore, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing.<sup>31</sup> There were seven individuals that requested a contested case hearing on the Application and that also referenced CORE. As discussed above, however, none of these individuals demonstrated that they meet the TCEQ's criteria for being considered affected persons in their own right. Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application.<sup>32</sup> With respect to Paula Brennecke, Scott Lipsett, Cathy Melson, Ellen Melson, Nathan Melson, Judy Russell, and Kenneth Russell, they provide no basis for the associational standing of CORE to make a request, as their requests each fail to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code.

Because it has not been demonstrated that any CORE members would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

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<sup>30</sup> 30 Tex. Admin. Code § 55.252 (2014).

<sup>31</sup> *Id.* § 55.252(a)(1).

<sup>32</sup> *Id.* § 55.251(a).

Section 55.252(a) also requires CORE to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose.<sup>33</sup> CORE has made no such demonstration. In addition to the bases for its lack of standing discussed above, CORE also has no standing under Title 30, Section 55.252(a)(2) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that CORE must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case.<sup>34</sup> CORE has made no such demonstration. Because CORE is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it also has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that CORE has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. None of the requesters provided any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that CORE is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

To the extent that the hearing requests submitted by Paula Brennecke, Cathy Melson, Ellen Melson, Nathan Melson are interpreted as associational hearing requests by the Citizens Organizing for Resources and Environment, the requests should not be granted.

### 3. Citizens to Save Bois d'Arc Creek

Harold D. Witcher<sup>35</sup> filed a request on behalf of Citizens to Save Bois d'Arc Creek ("CSBD") for a contested case hearing. The request was received by the Chief Clerk on September 17, 2007.

As an initial matter, it is not clear that CSBD is a legitimate organization. The Office of the Texas Secretary of State does not recognize the valid existence of any organization bearing the name of the Citizens to Save Bois d'Arc Creek. The official records of the Secretary of State indicate that Citizens to Save Bois d'Arc Creek forfeited its existence on May 21, 2010.<sup>36</sup>

There is no indication that CSBD possesses any personal justiciable interests affected by the Application. Because CSBD has no independent justiciable interest that it claims is affected by the

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<sup>33</sup> *Id.* § 55.252(a)(2).

<sup>34</sup> *Id.* § 55.252(a)(3).

<sup>35</sup> The hearing request submitted for Citizens to Save Bois d'Arc Creek appears to have been submitted by H.D. "Thump" Witcher, who also submitted an individual hearing request as addressed in subsection C, above.

<sup>36</sup> A tax forfeiture letter is attached hereto as Appendix B.

Application, then it must meet the associational standing requirements in order to submit a valid request for a contested case hearing.

Specifically, TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. Section 55.252(a) requires that, for CSBD to have associational standing to request a contested case hearing, it must be comprised of members that otherwise have standing on their own right to request such a hearing.<sup>37</sup> The CSBD request describes no members who would have standing to request a hearing on the Application in their own right. As discussed in subsection IV.C.30, above, Harold D. Witcher is not an affected person. As a consequence, because CSBD has failed to demonstrate that any of its members would have standing to request a hearing on the Application in their own right, it has no associational standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing on the Application.

Section 55.252(a) also requires CSBD to demonstrate that the interests it seeks to protect in its requests are germane to its organizational purpose.<sup>38</sup> CSBD has made no such demonstration. In addition to its substantive failures in establishing standing discussed above, CSBD also has no standing under Title 30, Section 55.252(a)(2) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that CSBD must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of its individual members.<sup>39</sup> CSBD has made no such demonstration. Because CSBD is unable to demonstrate that neither the claim it asserts nor the relief it seeks requires the participation of any of its individual members, it also has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its absence of the requisite associational standing, CSBD also fails in its request to satisfy the substantive requirements of Title 30, Section 251 of the Texas Administrative Code. Specifically, it fails to comply with the requirements of Section 55.251(c)(2) to briefly, but specifically, describe how and why the change proposed in the Application will affect its interests or its members interests in a manner not common to members of the general public. CSBD identified no water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that CSBD is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the request by the Citizens to Save Bois d'Arc Creek should not be granted.

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<sup>37</sup> 30 Tex. Admin. Code § 55.252(a)(1).

<sup>38</sup> *Id.* § 55.252(a)(2).

<sup>39</sup> *Id.* § 55.252(a)(3).

#### 4. Witcher Family Texas Property Trust

The Witcher Family Texas Property Trust submitted a request for a contested case hearing in a letter written by Dorothy L. and John Rex Witcher, Trustees, that was received by the Chief Clerk on September 7, 2007. As a threshold issue, the hearing request does not include any statement explaining the requestor's location and distance relative to LBCR.

The stated basis for the Witcher Family Texas Property Trust's hearing request is compensation for the acquisition by the State of property owned by the Witchers. The hearing request appears to assert that the Witchers own property that may be purchased in connection with the LBCR project. Without a specific statement as to the requestor's location relative to LBCR, however, it is impossible to discern whether the Witcher Family Texas Property Trust is an affected person.

In any event, the issues raised in the hearing request are ones that fall outside the scope of the TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects the Trust's property as it describes, its interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

The Trust has not identified any water right or vested riparian right that it is concerned will be affected by the requests made in the Application, if approved. Because the Trust's request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore the hearing request submitted by Witcher Family Texas Property Trust should not be granted.

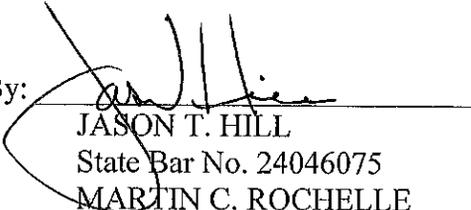
### V. CONCLUSION

Following a careful and thorough review of all hearing requests identified by the Chief Clerk, the District believes that the responses provided herein recommend the legally correct course of action for the TCEQ to take with respect to each hearing request identified. For the foregoing reasons, the District respectfully recommends that the TCEQ proceed in a manner consistent with the analysis provided herein.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &  
TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900  
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By: 

JASON T. HILL

State Bar No. 24046075

MARTIN C. ROCHELLE

State Bar No. 17126500

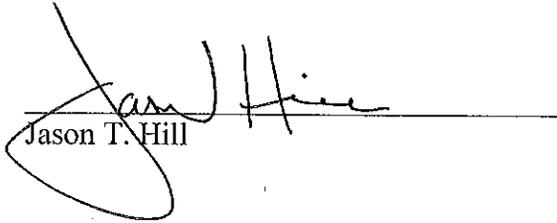
JAMES ALDREDGE

State Bar No. 24058514

**ATTORNEYS FOR APPLICANT  
NORTH TEXAS MUNICIPAL WATER  
DISTRICT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Response to Requests for Contested Case Hearing was sent by hand delivery, United States Postal Service, or electronic mail to the individuals identified below on this, the 29th day of August, 2014.



Jason T. Hill

For the Executive Director  
via United States Postal Service:

Robin Smith  
Environmental Law Division, MC-173  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

For the Office of Public Interest Counsel  
via United States Postal Service:

Aaron Tucker  
Office of Public Interest Counsel, MC-103  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

For the Small Business and Environmental  
Assistance Division (formerly Office of Public Assistance)  
via United States Postal Service:

Brian Christian  
Small Business and Environmental  
Assistance Division, MC-108  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

All Hearing Requestors of Record as Identified  
by the Chief Clerk on the Attached Mailing List

MAILING LIST

NORTH TEXAS MUNICIPAL WATER DISTRICT  
DOCKET NO. 2014-0913-WR; WRPERM 12151

COLETTE J BARRON  
ATTORNEY, TX PARKS & WILDLIFE DEPT  
4200 SMITH SCHOOL RD  
AUSTIN TX 78744-3218

HARRY & LYNDA HAMMETT  
1494 COUNTY ROAD 2917  
DODD CITY TX 75438-3204

JANICE BEZANSON  
TCA - TEXAS CONSERVATION ALLIANCE  
1605 MISSION TRL  
SALADO TX 76571-6107

KENNETH HASSELL  
14262 COUNTY ROAD 565  
FARMERSVILLE TX 75442-5173

JAMES G BLAINE  
3011 COUNTY ROAD 2730  
HONEY GROVE TX 75446-4212

MYRON J HESS  
COUNSEL, NATIONAL WILDLIFE FEDERATION 44  
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AUSTIN TX 78701-4385

MONIKA BLAINE  
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HONEY GROVE TX 75446-4212

MABEL HOLMES  
15924 E FM 1396  
WINDOM TX 75492-3625

PAULA BRENNECKE  
540 COUNTY ROAD 2521  
BONHAM TX 75418-6914

CHAD KNIGHT  
791 COUNTY ROAD 2945  
DODD CITY TX 75438-3031

MARY & W L CARSON  
9520 E FM 1396  
TELEPHONE TX 75488-6036

DUSTIN KNIGHT  
1037 CR 2950  
DODD CITY TX 75438

R P CRAWFORD  
690 COUNTY ROAD 37500  
SUMNER TX 75486-3003

REBECCA & RONNIE KNIGHT 317 COUNTY  
ROAD 2950  
DODD CITY TX 75438-3209

LELA FOREMAN  
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TELEPHONE TX 75488-6025

RENEA KNIGHT  
791 COUNTY ROAD  
2945 DODD CITY TX 75438-3031

LARRY D FRANKLIN  
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WINDOM TX 75492-3652

KEN KRAMER  
DIRECTOR, SIERRA CLUB LONE STAR  
CHAPTER 4204 SINCLAIR AVE  
AUSTIN TX 78756-3527

JOHN GREGORY HALL 328  
COUNTY ROAD 1035  
RAVENNA TX 75476-3017

GLENN LEE  
703 MARKET ST W  
HONEY GROVE TX 75446-1520

MAETA LEE  
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SCOTT LIPSETT  
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RANDOLPH TX 75475-0121

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WINDOM TX 75492-3615

LEM LOCKE  
13849 E FM 1396  
WINDOM TX 75492-3615

JOHN LOSCHKE  
874 COUNTY ROAD 2750  
HONEY GROVE TX 75446-5202

CATHY J MELSON  
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DODD CITY TX 75438-3853

ELLEN MELSON  
3385 E STATE HIGHWAY 56  
DODD CITY TX 75438-3853

NATHAN MELSON  
3385 E STATE HIGHWAY 56  
DODD CITY TX 75438-3853

EDWARD & ELLEN MILLS  
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PROSPER TX 75078-9137

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RUBY F ODOM  
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WINDOM TX 75492-0354

CARLOS A PARDO  
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CELINA TX 75009-5541

WES REED  
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DALLAS TX 75209-3131

STEWART RICHARDSON  
9086 FM 100  
HONEY GROVE TX 75446-3434

JUDY RUSSELL  
790 COUNTY ROAD 2900  
DODD CITY TX 75438-3060

KENNETH RUSSELL  
790 COUNTY ROAD 2900  
DODD CITY TX 75438-3060

CATHY RYSER  
4097 COUNTY ROAD 2765  
HONEY GROVE TX 75446-5211

CHARLES RYSER  
4097 COUNTY ROAD 2765  
HONEY GROVE TX 75446-5211

DONNA RYSER  
4227 COUNTY ROAD 2765  
HONEY GROVE TX 75446-5212

ERICH RYSER  
404 WENTWORTH DR  
MCKINNEY TX 75070-2801

NATHAN RYSER  
602 OAK ST  
HONEY GROVE TX 75446-2138

WILLIAM SEBASTIAN  
1476 COUNTY ROAD 2130  
TELEPHONE TX 75488-5238

KAREN A & MARY ANN STRICKLAND  
7720 COUNTY ROAD 1135  
LEONARD TX 75452-6044

MARY ANN STRICKLAND  
7720 COUNTY ROAD 1135  
LEONARD TX 75452-6044

ELIZABETH FAYE WEDELL  
PO BOX 812  
BONHAM TX 75418-0812

HAROLD DEAN WITCHER, JR  
PO BOX 36  
HONEY GROVE TX 75446-0036

JOHN W WELCH  
1588 COUNTY ROAD 2655  
TELEPHONE TX 75488-6804

CHARLES MICHAEL YARBROUGH  
2325 COUNTY ROAD 2765  
HONEY GROVE TX 75446-5210

DOROTHY & JOHN REX WITCHER  
8729 SOUTHWESTERN BLVD APT  
1513 DALLAS TX 75206-8277

CHARLES YARBROUGH  
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HONEY GROVE TX 75446-1821

HAROLD DEAN WITCHER, JR  
972 CR 2705  
TELEPHONE TX 75488

JOHN YARBROUGH  
3576 COUNTY ROAD 2765  
HONEY GROVE TX 75446-5215

# **APPENDIX A**

**AFFIDAVIT OF MIKE RICKMAN**

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

Before me, the undersigned notary, on this day personally appeared Mike Rickman, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1.       “My name is Mike Rickman. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2.       I am the Deputy Director of the North Texas Municipal Water District (the District). In my official capacity with the District, I am responsible for directing and monitoring efforts by the District to acquire, through real estate purchase transactions, real property in Fannin County in the area where the District anticipates the Lower Bois d’Arc Creek Reservoir (the Reservoir) will inundate or flood land if Water Use Permit No. 12151 is issued by the Texas Commission on Environmental Quality (TCEQ).

3.       The District has acquired title to, or other sufficient property interest in, all property from several hearing requestors that will be inundated as a result of impoundment of water in Lower Bois d’Arc Creek Reservoir.

4.       Several individuals from whom the District has acquired property submitted hearing requests to the TCEQ and stated, at the time of the submission of the hearing requests, to the TCEQ that they owned property in the area of the Reservoir project.

5.       The District has acquired all property that will be inundated or otherwise affected by the construction of the dam and Reservoir project from the following individuals: Lela Foreman, Gordon Locke, Lem Locke, Cathy Melson, Ellen Melson, Nathan Melson, Carlos Pardo, Dorothy L. Witcher, and John Rex Witcher. Fannin County deed records evidencing the conveyance of property from these individuals to the District are attached to this affidavit as Attachment 1.

6.       A list of the Fannin County Appraisal District property ID numbers for each of the individuals listed above is included in Attachment 1.

7.       The District has acquired title to all property that will be inundated as a result of impoundment of water in Lower Bois d’Arc Creek Reservoir from Kyle and Mary Payne, successors in interest to John Welch, who is deceased. A Fannin County deed record evidencing the conveyance of property from these individuals to the District is attached to this affidavit as Attachment 2.

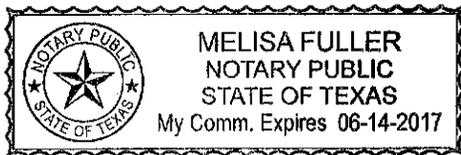
8.       A list of the Fannin County Appraisal District property ID numbers for the property described in paragraph 7 is included in Attachment 2.

9. The result of the acquisition of property described herein, and demonstrated in Attachments 1 and 2, is that the individuals listed in paragraphs 5 and 7, above, no longer own property in the Reservoir project area.”



Mike Rickman  
Deputy Director

SUBSCRIBED AND SWORN TO before me this 27th day of August, 2014.



Notary Public, State of Texas

My commission expires: 6/14/2017

ATTACHMENT 1

**Application for Water Use Permit No. 12151  
Land Purchased by North Texas Municipal Utility District  
Fannin County Appraisal District Property ID Numbers**

Lela Foreman – Property ID 119098, 119099

Gordon and Lem Locke – Property ID 113666

Cathy Melson – Property ID 79826, 82344, 83869

Ellen and Nathan Melson – Property ID 84722

Carlos Pardo – Property ID 82903, 116064

John Welch (Kyle and Mary Payne) – Property ID 74019, 74459, 74460, 76766, 76771, 76772,  
78111, 78189, 78190, 82624, 82625, 82627, 118087

Dorothy L Witcher and John Rex Witcher (Witcher Family Texas Property Trust) – Property ID  
73652, 73653, 116466



Fannin County  
Tammy Biggar County Clerk  
101 E. Sam Rayburn Dr., #102  
Bonham, Texas 75418

Instrument Number: 2011-4715

Recorded On: November 29, 2011

As  
Deed

Parties: FOREMAN LELA ET AL

Billable Pages: 9

To NORTH TEXAS MUNICIPAL WATER DISTRICT

Number of Pages: 10

Comment:

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

Deed	48.00
<b>Total Recording:</b>	<b>48.00</b>

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 2011-4715

Receipt Number: 227881

Recorded Date/Time: November 29, 2011 04:36:11P

Book-Vol/Pg: BK-OR VL-1585 PG-389

User / Station: K Gentry - Cash Station #1

**Record and Return To:**

GF#201100522 (11-199)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT THAT TRANSFERS INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### SPECIAL WARRANTY DEED

Date: November 18, 2011

Grantor: LELA FOREMAN, A single woman, owning and claiming other property as her homestead;

MARK HOHENBERGER, not herein joined by my wife as the herein described property constitutes no part of our homestead;

KELLI HUFFMAN, not herein joined by my husband as the herein described property constitutes no part of our homestead;

KARIN ELLER, not herein joined by my husband as the herein described property constitutes no part of our homestead

**Grantor's Mailing Address:**

LELA FOREMAN  
8719 E. FM 1396  
Telephone, TX 75488  
Fannin County

MARK HOHENBERGER  
420 Jayme Court  
Burleson, TX 76028  
Tarrant County

KELLI HUFFMAN  
8376 Everglades Circle  
Fort Worth, TX 76137  
Tarrant County

KARIN ELLER  
1935 Bluebird Avenue  
Fort Worth, TX 76111  
Tarrant County

**Grantee:** NORTH TEXAS MUNICIPAL WATER DISTRICT

**Grantee's Mailing Address:**

P. O. Box 2408  
Wylie, Texas 75098  
Collin County

**Consideration:**

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

**Property (including any improvements):**

BEING 127.037 parcel acres, situated in the Thomas Murphy Survey, Abstract No. 739, Fannin County, Texas, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

**Reservations from and Exceptions to Conveyance and Warranty:**

This Deed is executed and delivered subject to all easements, mineral reservations, conditions, covenants and restrictive covenants as the same appear of record in the office of the County Clerk of Fannin County, Texas.

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation of all oil, gas, and other minerals in and under and that may be produced from the Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

Lela Foreman  
LELA FOREMAN

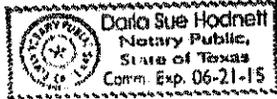
Mark Hohenberger  
MARK HOHENBERGER

Kelli Huffman  
KELLI HUFFMAN

Karin Eller  
KARIN ELLER

STATE OF TEXAS §  
COUNTY OF Fannin §

This instrument was acknowledged before me on this 18th day of November, 2011, by LELA FOREMAN.



Darla Sue Hodnett  
Notary Public, State of Texas

STATE OF TEXAS §  
COUNTY OF Collin §

This instrument was acknowledged before me on this 22nd day of November, 2011, by MARK HOHENBERGER.



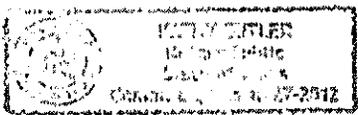
Darla Sue Hodnett  
Notary Public, State of Texas

DPF 15 BK Vol 585 583

STATE OF TEXAS §  
COUNTY OF Collin §

This instrument was acknowledged before me on this 22nd day of November, 2011, by KELLI HUFFMAN.

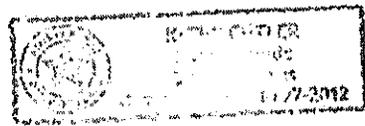
Kathy Cutler  
Notary Public, State of Texas



STATE OF TEXAS §  
COUNTY OF Collin §

This instrument was acknowledged before me on this 22nd day of November, 2011, by KARIN ELLER.

Kathy Cutler  
Notary Public, State of Texas



**PREPARED IN THE OFFICE OF:**  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

**AFTER RECORDING RETURN TO:**  
NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

**Cole Title Company**  
709 N. CENTER  
BONHAM, TEXAS 75418  
201100522

**PARCEL 1  
TAKE PARCEL**

*Being:* 115.214 acres of land, a part of the Thomas Murphy Survey Abstract Number 739, lying and being situated in Fannin County, Texas. The said 115.214 acre tract being part of a called 132.01 acre Tract Two described in a General Warranty Deed from Ruby Conyers to Ruth Hohenberger, Ronnie Rae, and Lela Foreman, dated December 20, 1991 of record in Volume 763, Page 3 of the Land Records of Fannin County, Texas. The said 115.214 acre tract being described more particularly by metes and bounds as follows:

*Commencing* at the Southernmost Southeast corner of the referenced 132.01 acre Tract Two parent tract, in the North line of the referenced 28.4 acre Tract One parent tract, at the Southwest corner of a called 65 ¼ acre tract conveyed to Billy Wayne and Phyllis Ryser, Charles E. and Cathy Ann Ryser D/B/A Ryser Brothers in Volume 807, Page 942, Go, N00°37'00"E a distance of 915.09 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7300068.39, Easting 2739267.49), for the Point of Beginning and the Southernmost Southeast corner of this tract, in the Southernmost East line of the referenced 132.01 acre Tract Two parent tract, and in the West line of the referenced 65 ¼ acre Ryser tract.

*Thence:* along 10 calls with the 541 contour line the following approximate courses and distances as follows:

1. N 35°38'57" W 95.16 feet	2. N 05°28'52" W 53.72 feet
3. N 07°52'35" E 90.21 feet	4. N 22°40'13" W 122.69 feet
5. S 64°00'42" W 59.72 feet	6. S 48°53'10" W 92.36 feet
7. S 27°39'15" W 152.45 feet	8. S 23°49'05" E 61.84 feet
9. S 43°32'08" W 85.61 feet	10. N 89°31'57" W 83.56 feet to a found concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7300061.88, Easting 2738860.44), for the Southernmost Southwest corner of this tract, in the Southernmost West line of the referenced 132.01 acre Tract Two parent tract, and in the East line of a called 71.93 acre tract conveyed to Benny Beaver, Teddy Beaver, Donna Strickland, and Mark Ramsey in Volume 805, Page 942.

*Thence:* N 00°37'00" E a distance of 1747.98 feet to a ½" found iron rod, for the inside Southwest corner of this tract, at the inside Southwest corner of the referenced 132.01 acre Tract Two parent tract, at a Northeast corner of the referenced 71.93 acre Ramsey tract.

*Thence:* N 88°32'37" W a distance of 1118.90 feet to a found concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7301838.03, Easting 2737760.82), for a Southwest corner of this tract, in the Northernmost South line of the referenced 132.01 acre Tract Two parent tract, and in a North line of the referenced 71.93 acre Ramsey tract.

*Thence:* along 2 calls with the 541 contour line the following approximate courses and distances as follows:

1. N 50°56'41" W 110.91 feet	2. S 87°58'59" W 114.14 feet to a found concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7301903.88, Easting 2737560.59), for the
------------------------------	--

Northernmost Southwest corner of this tract, in the Northernmost West line of the referenced 132.01 acre Tract Two parent tract, and in an East line of the referenced 71.93 acre Ramsey tract.

*Thence:* N 00°44'12" E a distance of 1389.20 feet to a ½" found iron rod, for the Northwest corner of this tract, at the Northwest corner of the referenced 132.01 acre Tract Two parent tract, in an East line of the referenced 71.93 acre Ramsey tract, and at a Southwest corner of a called 2317.169 acre tract conveyed to North Texas Municipal Water District in Volume 1537, Page 1.

*Thence:* N 00°44'12" E a distance of 1389.20 feet to a ½" found iron rod, for the Northernmost Northeast corner of this tract, at the Northernmost Northeast corner of the referenced 132.01 acre Tract Two parent tract, and at an inside Southwest corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 01°00'00" W a distance of 82.00 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 52°31'00" E a distance of 519.05 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 63°19'10" E a distance of 381.77 feet to a ½" found iron rod, for a Northeast corner of this tract, at a Northeast corner of the referenced 132.01 acre Tract Two parent tract, and at an inside Southwest corner of the referenced 2317.169 acre North Texas Municipal Water District.

*Thence:* S 04°38'18" E a distance of 766.28 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 23°26'12" E a distance 505.44 feet to a ½" found iron rod, for an inside Northeast corner of this tract, at an inside Northeast corner of the referenced 132.01 acre Tract Two parent tract, and at a Southwest corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 83°37'37" E a distance of 518.54 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 37°17'40" E a distance of 313.98 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 16°49'13" E a distance of 259.69 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 82°30'35" E a distance of 102.53 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, and at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract.

*Thence:* S 67°01'33" E a distance of 793.34 feet to a ½" found iron rod, for the Easternmost Southeast corner of this tract, at the Easternmost Southeast corner of the referenced 132.01 acre Tract Two parent tract, at a corner of the referenced 2317.169 acre North Texas Municipal Water District tract, and at the Northeast corner of the referenced 65 ¾ acre Ryser tract.

*Thence:* S 89°39'14" W a distance of 542.05 feet to a ½" set iron rod, for a corner of this tract, at a corner of the referenced 132.01 acre Tract Two parent tract, at a corner of the referenced 65 ¾ acre Ryser tract.

*Thence:* S 88°22'00" W a distance of 1682.00 feet to a ½" set iron rod, for the inside Southeast corner of this tract, at the inside Southeast corner of the referenced 132.01 acre Tract Two parent tract, and at the Northwest corner of the referenced 65 ¼ acre Ryser tract.

*Thence:* S 00°37'00" W a distance of 582.91 feet to the Point of Beginning and containing 115.214 acres.

**PARCEL 2  
 TAKE PARCEL**

*Being:* 11.795 acres of land, a part of the Thomas Murphy Survey Abstract Number 739, a part of the S.H. Cain Survey Abstract Number 251, and a part of the James King Survey Abstract Number 597, lying and being situated in Fannin County, Texas. The said 11.795 acre tract being part of a called 28.4 acre Tract One and part of a called 132.01 acre Tract Two described in a General Warranty Deed from Ruby Conyers to Ruth Hohenberger, Ronnie Rae, and Lela Foreman, dated December 20, 1991 of record in Volume 763, Page 3 of the Land Records of Fannin County, Texas. The said 11.795 acre tract being described more particularly by metes and bounds as follows:

*Commencing* at the Southernmost Southeast corner of the referenced 132.01 acre Tract Two parent tract, in the North line of the referenced 28.4 acre Tract One parent tract, at the Southwest corner of a called 65 ¼ acre tract conveyed to Billy Wayne and Phyllis Ryser, Charles E. and Cathy Ann Ryser D/B/A Ryser Brothers in Volume 807, Page 942, Go, S89°23'16"E a distance of 131.85 feet to a 3/8" found iron rod at the Northeast corner of the referenced 28.4 acre Tract One parent tract, in a South line of the referenced 65 ¼ acre Ryser tract, and at the Northernmost Northwest corner of a called 14.283 acre tract conveyed to North Texas Municipal Water District in Volume 1454, Page 2, Go, S00°16'04"E a distance of 148.38 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7299003.68, Easting 2739390.17), for the Point of Beginning and the Northeast corner of this tract, in the East line of the referenced 28.4 acre Tract One parent tract, and in a West line of the referenced 14.283 acre North Texas Municipal Water District tract.

*Thence:* S 00°16'04" E a distance of 923.67 feet to a 3/8" found iron rod, for the Southeast corner of this tract, at the Southeast corner of the referenced 28.4 acre Tract One parent tract, and at the inside Northwest corner of the referenced 14.283 acre North Texas Municipal Water District tract.

*Thence:* N 89°40'28" W a distance of 519.00 feet to a found concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7298084.51, Easting 2738875.71), for the Southernmost Southwest corner of this tract, in the South line of the referenced 28.4 acre Tract One parent tract, at a Northwest corner of the referenced 14.283 acre North Texas Municipal Water District tract, at the Northernmost Northeast corner of a called 2.661 acre Flowage Easement conveyed to North Texas Municipal Water District in Volume 1454, Page 12, and at the Northernmost Northeast corner of the remainder of a called 14.037 acre Tract Three conveyed to Novelle Cotton Witcher Living Trust in Volume 1090, Page 295.

*Thence:* along 31 calls with the 541 contour line the following approximate courses and distances as follows:

- |                              |                              |
|------------------------------|------------------------------|
| 1. N 50°02'25" W 100.08 feet | 2. N 59°43'53" W 146.96 feet |
| 3. N 50°32'44" W 134.06 feet | 4. N 69°07'49" W 102.46 feet |

5. N 62°37'27" W 91.00 feet	6. N 69°08'20" E 154.15 feet	Vol 1585	Pg 397
7. N 89°22'48" E 113.36 feet	8. N 72°51'44" E 122.27 feet		
9. S 81°53'01" E 62.47 feet	10. S 78°39'28" E 73.61 feet		
11. N 85°59'25" E 90.66 feet	12. S 83°08'45" E 120.82 feet		
13. N 64°06'58" E 96.17 feet	14. N 19°51'59" W 107.98 feet		
15. N 32°53'36" W 53.63 feet	16. N 29°24'47" W 115.94 feet		
17. N 18°57'19" W 94.20 feet	18. N 57°31'04" W 107.89 feet		
19. N 61°16'52" E 107.38 feet	20. N 28°27'09" E 58.87 feet		
21. N 01°25'37" E 69.40 feet	22. N 34°00'37" W 95.87 feet		
23. N 17°38'13" W 90.70 feet	24. N 39°57'53" W 79.29 feet		
25. N 49°20'10" E 61.81 feet	26. S 65°08'02" E 77.11 feet		
27. N 88°57'33" E 63.55 feet	28. S 22°22'09" E 89.33 feet		
29. S 45°12'02" E 134.10 feet	30. S 49°24'38" E 139.06 feet		

31. S 57°34'04" E 36.16 feet to the Point of Beginning and containing 11.795 acres.

**PARCEL 3  
TAKE PARCEL**

*Being:* 0.028 acres of land, a part of the Thomas Murphy Survey Abstract Number 739, lying and being situated in Fannin County, Texas. The said 0.028 acre tract being part of a called 132.01 acre Tract Two described in a General Warranty Deed from Ruby Conyers to Ruth Hohenberger, Ronnie Rae, and Lela Foreman, dated December 20, 1991 of record in Volume 763, Page 3 of the Land Records of Fannin County, Texas. The said 0.028 acre tract being described more particularly by metes and bounds as follows:

*Commencing* at the Southernmost Southeast corner of the referenced 132.01 acre Tract Two parent tract, in the North line of the referenced 28.4 acre Tract One parent tract, at the Southwest corner of a called 65 ¼ acre tract conveyed to Billy Wayne and Phyllis Ryser, Charles E. and Cathy Ann Ryser D/B/A Ryser Brothers in Volume 807, Page 942, Go, N00°37'00"E a distance of 596.19 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7299749.55, Easting 2739264.06), for the Point of Beginning and the Southeast corner of this tract, in the Southernmost East line of the referenced 132.01 acre Tract Two parent tract, and in the West line of the referenced 65 ¼ acre Ryser tract.

*Thence:* along 2 calls with the 541 contour line the following approximate courses and distances as follows:

1. N 37°20'58" W 59.76 feet                      2. N 61°57'41" E 41.90 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7299816.75, Easting 2739264.78), for the Northeast corner of this tract, in the Southernmost East line of the referenced 132.01 acre Tract Two parent tract, and in the West line of the referenced 65 ¼ acre Ryser tract.

*Thence:* S 00°37'00" W a distance of 67.21 feet to the Point of Beginning and containing 0.028 acres.

Doc 4715 Bk OR Y81 1585 P# 398

Filed for Record in:  
Fannin County  
Honorable Tammy Bissar  
County Clerk  
On: Nov 29, 2011 at 04:26P

As a  
Deed

Document Number: 4715

Amount 48.00

Receipt Number - 227881

By  
Kathy Gentry, Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE  
SALE, RENTAL, OR USE OF THE DESCRIBED  
REAL PROPERTY BECAUSE OF COLOR OR RACE IS  
INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

STATE OF TEXAS

COUNTY OF FANNIN

I hereby certify that this instrument was  
filed on the date and time stamped hereon by me  
and was duly recorded in the volume and page  
of the named records of: Fannin County  
as stamped hereon by me.

Nov 29, 2011

By:  Deputy

Tammy Bissar, County Clerk  
Fannin County



Grantor retains Easement rights and shall have free ingress and egress for the purpose of cutting and removing timber from subject property for three (3) years from this date.

The Minerals, together with all and singular the rights and appurtenances belonging in any way to the Minerals, subject to the provisions stated above, to Grantors, THOMAS RAMSEY LOCKE and JOHN GORDON LOCKE, their heirs, personal representatives, successors, and assigns forever, and I, the Grantee, bind myself and my heirs, personal representatives, successors, and assigns to warrant and forever defend all and singular the Minerals to Grantors and their heirs, personal representatives, successors, and assigns against every person lawfully claiming or to claim all or any part of the Minerals, subject to the provisions stated above.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

When the context requires, singular nouns and pronouns include the plural.

Thomas Ramsey Locke  
THOMAS RAMSEY LOCKE

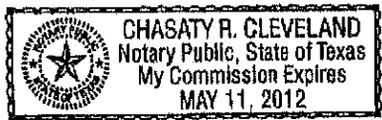
John Gordon Locke  
JOHN GORDON LOCKE

STATE OF TEXAS §

COUNTY OF Williamson §

This instrument was acknowledged before me on this 19<sup>th</sup> day of December, 2008, by THOMAS RAMSEY LOCKE.

[Signature]  
Notary Public, State of Texas



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STATE OF TEXAS §

COUNTY OF COLLIN §

This instrument was acknowledged before me on this 30th  
day of December, 2008, by **JOHN GORDON LOCKE**.

Kathy Cutler  
Notary Public, State of Texas



**PREPARED IN THE OFFICE OF:**

Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

**AFTER RECORDING RETURN TO:**

NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

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**Exhibit "A"**  
**Page 1 of 2**

Being: 47.208 acres of land, a part of the James A. King Survey Abstract Number 597 and the Wm. A. Allen Survey Abstract Number 21, lying and being situated on the West side of F.M. Highway 1396 in Fannin County, Texas. The said 47.208 acre tract being a part of a called 30.25 acre Tract One and being all of the remainder of a called 30.25 acre Tract Two as described in a Deed from Gladys Johnson and others to John E. Locke and Clara Locke, dated May 16, 1960 of record in Volume 430, Page 115 of the Deed Records of Fannin County, Texas. Also being a part of a called 30.7 acre tract as described in a Warranty Deed with Vendor's Lien from Willie Patterson Webb and Lois Webb to John Locke and Clara F. Locke, dated May 25, 1961, of record in Volume 445, Page 96 of the Deed Records of Fannin County, Texas. The said 47.208 acre tract being described more particularly by metes and bounds as follows:

Commence at a capped ½" set iron rod capped "Sanderson" at the Southeast corner of the referenced 30.25 acre Tract One parent tract (State Plane Grid, Northing 7298086.59, Easting 2738269.89), and being the Northeast corner of a called 143.4 acre tract conveyed to Novel Cotton Witcher in First Tract, Volume 530, Page 300 of the Land Records of Fannin County, Texas, and being in the West Right of Way line of Farm to Market Road 1396, Go S89°51'32"W a distance of 1446.85 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7298083.03, Easting 2736823.19), for the Point of Beginning and Southernmost Southeast corner of this tract.

Thence: S89°51'32"W with the South line of the referenced parent tract a distance of 813.74 feet to a 10" Oak tree for the inside Southeast corner of this tract, at the Northwest corner of the referenced 143.4 acre Witcher tract.

Thence: S08°22'03"W with the most Westerly East line of the referenced parent tract a distance of 130.80 feet to a capped ½" set iron rod, for the Westernmost Southeast corner of this tract, at the Northeast corner of a called 32 ½ acre tract conveyed to Novelle Cotton Witcher in the Second Tract of Volume 530, page 300 and in the West line of the referenced 143.4 acre Witcher tract.

Thence: N89°34'14"W with the South line of the referenced parent tract a distance of 438.70 feet to a capped ½" set iron rod, for the Southwest corner of this tract, in the North line of the referenced Witcher Second Tract, and at the Southeast corner of a called 23.577 acre tract conveyed to Billy Wayne Ryser and wife, Phyllis Jane Ryser in Tract Three of Volume 858, page 542 of the Land Records of Fannin County, Texas.

Thence: N07°15'56"E with the West line of the remainder of the referenced Tract Two parent tract a distance of 74.94 feet to a capped ½" set iron rod, for the most Southerly Northwest corner of this tract, in the East line of the referenced Ryser Tract Three.

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Fannin County  
Tammy Rich County Clerk  
101 E. Sam Rayburn Dr., #102  
Bonham, Texas 75418



Instrument Number: 2010-5846

As

Recorded On: December 20, 2010

Easement

Parties: MELSON CATHY

Billable Pages: 6

To NORTH TEXAS MUNICIPAL WATER DISTRICT

Number of Pages: 7

Comment:

( Parties listed above are for Clerks reference only )

\*\* Examined and Charged as Follows: \*\*

Easement	36.00
Total Recording:	36.00

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law

File Information:

Document Number: 2010-5846

Receipt Number: 222513

Recorded Date/Time: December 20, 2010 03:17:14P

Book-Vol/Pg: BK-OR VL-1529 PG-532

User / Station: J Hall - Cashiering Workstation #2

Record and Return To:

GF#201000681 (10-218)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT THAT TRANSFERS INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### Permanent Flowage and Flood Easement

For and in consideration of ten dollars (\$10.00) and other valuable considerations in hand paid, the receipt and sufficiency of which are hereby acknowledged, appeared Cathy Melson, (Grantor) does hereby Grant, Bargain, Sell and Convey to the North Texas Municipal Water District (Grantee), a Flowage and Flood Easement for the permanent and perpetual right, power, and privilege to overflow, flood, submerge, store, and impound water on the land described in Exhibit "A" attached hereto (the Easement) at such time and occasions and for such durations as may be required for the continued and uninterrupted operation and maintenance of the project known as the Lower Bois d'Arc Reservoir Project in Fannin County, Texas (the "Reservoir").

Grantee is hereby granted the right to use the land described in Exhibit "A" (the Easement) together with all rights, title, interest in and to all structures and improvements now located and situated on the land, for the purposes of overflowing, flooding, submerging, impounding, and storing water on the property as may be required for the operation and maintenance of the Reservoir, and for such other incidental purposes as may be deemed appropriate by Grantee.

It is hereby reserved unto Grantor the right and privilege to use the Easement for such purposes that do not interfere with Grantees use of the Easement for above stated purposes provided however that Grantors shall not be allowed to construct or maintain any permanent structures including, without limitation buildings, ditches, channels, dams, dikes, wells, earthen tanks, roads, or utility lines on the Easement, nor to perform any excavation or filling on the Easement, without the prior written approval by Grantee. In the event, after having obtained prior written approval as

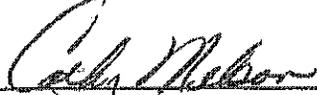
required above, Grantor elects to construct any structure within the Easement, such structure or improvement shall be placed within the Easement at Grantor's own risk and Grantee shall not be responsible for any loss, damage or destruction to such structures or improvements placed within the Easement. Grantor may not use the Easement for the storage of hydrocarbons or other petrochemical products, may not use or store any other chemical product on the land. Grantor shall not be allowed to use the Easement for dumping trash or debris, for use as a landfill, for storage or disposal of material of any nature, nor shall any portion of the Easement be used in conjunction with any septic system or other sewage disposal system. Further, any use of the Easement by Grantor shall be subject to all federal and state laws with respect to pollution

The terms and conditions hereof shall extend to and be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, devisees, successors, and assigns, and Grantor hereby binds itself, its heirs, executors, administrators, successors and assigns to warrant and forever defend all and singular said Easement unto Grantees, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

It is mutually agreed and understood that this Permanent Flowage and Flood Easement, as written covers all agreements and stipulations between the said parties, and no representations or statements, oral or written, have been made modifying, adding to, or changing the terms of hereof.

Signed this 14 day of December, 2010.

**GRANTOR:**

  
Cathy Melson

**GRANTEE:**

NORTH TEXAS MUNICIPAL WATER DISTRICT

By:   
Bently Powell, Real Estate Manager

5874 BK Vol 1529 P# 535

THE STATE OF TEXAS §  
COUNTY OF Fannin §

This instrument was acknowledged before me on this 14th day of December, 2010, by Cathy Melson.



Darla Hodnett  
Notary Public, State of Texas

THE STATE OF TEXAS §  
COUNTY OF Fannin §

This instrument was acknowledged before me on this 8th day of December, 2010, by BENTLY POWELL, Real Estate Manager on behalf of NORTH TEXAS MUNICIPAL WATER DISTRICT.



Darla Hodnett  
Notary Public, State of Texas

**PREPARED IN THE OFFICE OF:**  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

**AFTER RECORDING RETURN TO:**  
NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

*Being:* 1.360 acres of land, a part of the John Oldham Survey Abstract Number 856 and a part of the Joseph A. McMurray Survey Abstract Number 720, lying and being situated in Fannin County, Texas. The said 1.360 acre tract being a part of a called 71.370 acre tract described in a Warranty Deed from Nathan Melson and wife, Ellen Melson to Cathy Melson, dated June 23, 2010 of record in Volume 1497, Page 294 of the Land Records of Fannin County, Texas. The said 1.360 acre tract being described more particularly by metes and bounds as follows:

**COMMENCING** at a found concrete monument in the South line of the referenced parent tract and in the North line of a called 120.846 acre tract conveyed to Nathan B. Melson and wife, Ellen E. Melson in Volume 1494, Page 181, Go N89°02'30"W a distance of 39.65 feet to a point, for the Point of Beginning and the Southeast corner of this tract, in the South line of the referenced parent tract, and in the North line of the referenced 120.846 acre Melson tract, from which a set 5/8" iron rod with a 2" aluminum disc stamped "North Texas Municipal Water District Easement" (State Plane Grid, Northing 7267603.81, Easting 2692257.46), bears S89°02'30"E a distance of 11.63 feet.

*Thence:* N 89°02'30" W with the South line of the referenced parent tract a distance of 19.57 feet to a point near the center of Sloans Creek, for the Southwest corner of this tract, at the Southwest corner of the referenced parent tract, at the Northwest corner of the referenced 120.846 acre Melson tract, at the Northeast corner of a called 31.0 acre tract conveyed to Ronald L. Callahan in Volume 1333, Page 63, and at the Southeast corner of a called 92.280 acre tract conveyed to John Pampy and wife, Barbara Furlano-Pampy in Volume 1142, Page 351.

*Thence:* Along 16 calls near the center of Sloans Creek from point to point as follows:

- |                               |  |
|-------------------------------|--|
| 1. N 49°28'12" W 13.67 feet   | 2. N 20°43'07" E 229.75 feet   |
| 3. N 29°16'15" W 69.63 feet   | 4. N 56°24'24" W 56.94 feet  |
| 5. N 12°31'00" W 75.53 feet   | 6. N 58°29'53" E 62.60 feet  |
| 7. S 72°24'20" E 113.18 feet  | 8. N 37°30'57" E 47.74 feet  |
| 9. N 12°52'30" E 100.53 feet  | 10. N 55°35'36" E 103.95 feet  |
| 11. N 02°21'31" W 66.84 feet  | 12. N 33°06'03" W 181.13 feet  |
| 13. N 29°44'19" W 102.73 feet | 14. N 08°14'29" E 71.43 feet   |
| 15. N 37°36'27" E 79.22 feet  | 16. N 01°41'54" W 19.09 feet to a point, for the northwest corner of this tract, at the Northwest corner of the referenced parent tract, in the East line of the referenced 92.280 acre Pampy tract, and at the Southwest corner of a called 122.33 acre tract conveyed to The City of Bonham in Volume 594, Page 382 Tract One. |

*Thence:* S 89°59'11" E a distance of 27.22 feet to a point in the North line of the referenced parent tract, and in the South line of the referenced 122.33 acre City of Bonham tract, from which a set 5/8" iron rod with a 2" aluminum disc stamped "North Texas Municipal Water District Easement" (State Plane Grid, Northing 7268647.33, Easting 2692433.36), bears S89°59'11"E a distance of 2.95 feet.

*Thence:* along 57 calls with the 541 contour line the following approximate courses and distances as follows:

- |                              |                              |
|------------------------------|------------------------------|
| 1. S 00°41'55" W 17.41 feet  | 2. S 34°47'47" E 46.48 feet  |
| 3. S 24°16'40" E 64.30 feet  | 4. S 38°10'37" E 40.00 feet  |
| 5. S 19°06'28" E 70.04 feet  | 6. S 27°57'25" E 77.51 feet  |
| 7. S 20°53'42" E 91.42 feet  | 8. S 43°15'41" E 66.15 feet  |
| 9. N 18°47'41" E 123.04 feet | 10. N 09°46'52" E 95.11 feet |
| 11. N 00°55'14" E 79.17 feet | 12. EAST 3.00 feet           |

DGC 5874 BK OR

Vol 1929 Pg 537 GF Number 201000681

- |  |                               |
|--|-------------------------------|
| 13. S 00°36'53" E 76.20 feet   | 14. S 07°48'05" W 97.60 feet  |
| 15. S 07°59'25" W 116.04 feet  | 16. S 33°22'28" E 90.36 feet  |
| 17. S 31°31'00" E 93.74 feet   | 18. S 61°51'15" E 98.20 feet  |
| 19. S 74°23'34" W 9.27 feet  | 20. N 75°18'14" W 83.26 feet  |
| 21. S 09°38'27" W 79.48 feet   | 22. S 01°53'17" W 122.37 feet |
| 23. S 11°36'30" W 116.47 feet  | 24. S 04°18'49" W 99.96 feet  |
| 25. N 81°58'32" W 18.57 feet   | 26. N 02°40'10" E 123.19 feet |
| 27. N 12°15'03" E 61.12 feet   | 28. N 12°55'45" E 99.03 feet  |
| 29. N 01°11'11" E 146.31 feet  | 30. N 32°49'32" W 82.32 feet  |
| 31. S 25°48'02" W 78.16 feet   | 32. S 09°32'26" W 48.16 feet  |
| 33. N 00°01'20" W 47.49 feet   | 34. N 10°06'56" W 96.71 feet  |
| 35. N 16°08'51" E 39.65 feet   | 36. N 48°33'38" W 104.59 feet |
| 37. N 15°29'07" W 111.06 feet  | 38. N 23°25'27" W 106.29 feet |
| 39. N 26°23'30" W 111.26 feet  | 40. N 41°16'33" W 59.51 feet  |
| 41. S 31°44'09" W 84.78 feet   | 42. S 05°02'53" W 58.82 feet  |
| 43. S 35°18'29" E 39.64 feet   | 44. S 32°59'57" E 230.92 feet |
| 45. S 02°50'51" W 88.52 feet   | 46. S 53°36'27" W 78.18 feet  |
| 47. S 45°40'36" W 43.08 feet   | 48. S 08°55'32" W 77.12 feet  |
| 49. S 55°02'22" W 81.63 feet   | 50. N 66°20'12" W 80.97 feet  |
| 51. S 73°43'24" W 37.24 feet   | 52. S 11°45'04" E 76.88 feet  |
| 53. S 60°49'21" E 34.46 feet   | 54. S 31°25'46" E 83.08 feet  |
| 55. S 05°35'07" W 52.65 feet   | 56. S 31°39'57" W 126.12 feet |
| 57. S 01°38'22" W 66.88 feet to the Point of Beginning and containing 1.360 acres, more or less. |                               |

Fannin County  
Tammy Rich County Clerk  
101 E. Sam Rayburn Dr., #102  
Bonham, Texas 75418



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Instrument Number: 2010-5845

Recorded On: December 20, 2010

As  
Easement

Parties: MELSON NATHAN ETAL

Billable Pages: 6

To NORTH TEXAS MUNICIPAL WATER DISTRICT

Number of Pages: 7

Comment:

( Parties listed above are for Clerks reference only )

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**\*\* Examined and Charged as Follows: \*\***

Easement	36.00
Total Recording:	36.00

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\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

File Information:

Record and Return To:

Document Number: 2010-5845  
Receipt Number: 222512  
Recorded Date/Time: December 20, 2010 03:14:41P  
Book-Vol/Pg: BK-OR VL-1529 PG-525  
User / Station: J Hall - Cashiering Workstation #2

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2875 BK 1319 524

GP#201000686 (10-219)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT THAT TRANSFERS INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### Permanent Flowage and Flood Easement

For and in consideration of ten dollars (\$10.00) and other valuable considerations in hand paid, the receipt and sufficiency of which are hereby acknowledged, appeared Nathan B. Melson and wife, Ellen E. Melson, (Grantor) does hereby Grant, Bargain, Sell and Convey to the North Texas Municipal Water District (Grantee), a Flowage and Flood Easement for the permanent and perpetual right, power, and privilege to overflow, flood, submerge, store, and impound water on the land described in Exhibit "A" attached hereto (the Easement) at such time and occasions and for such durations as may be required for the continued and uninterrupted operation and maintenance of the project known as the Lower Bois d'Arc Reservoir Project in Fannin County, Texas (the "Reservoir").

Grantee is hereby granted the right to use the land described in Exhibit "A"(the Easement) together with all rights, title, interest in and to all structures and improvements now located and situated on the land, for the purposes of overflowing, flooding, submerging, impounding, and storing water on the property as may be required for the operation and maintenance of the Reservoir, and for such other incidental purposes as may be deemed appropriate by Grantee.

It is hereby reserved unto Grantor the right and privilege to use the Easement for such purposes that do not interfere with Grantees use of the Easement for above stated purposes provided however that Grantors shall not be allowed to construct or maintain any permanent structures including, without limitation buildings, ditches, channels, dams, dikes, wells, earthen tanks, roads, or utility lines on the Easement, nor to perform any excavation or filling on the Easement, without

the prior written approval by Grantee. In the event, after having obtained prior written approval as required above, Grantor elects to construct any structure within the Easement, such structure or improvement shall be placed within the Easement at Grantor's own risk and Grantee shall not be responsible for any loss, damage or destruction to such structures or improvements placed within the Easement. Grantor may not use the Easement for the storage of hydrocarbons or other petrochemical products, may not use or store any other chemical product on the land. Grantor shall not be allowed to use the Easement for dumping trash or debris, for use as a landfill, for storage or disposal of material of any nature, nor shall any portion of the Easement be used in conjunction with any septic system or other sewage disposal system. Further, any use of the Easement by Grantor shall be subject to all federal and state laws with respect to pollution

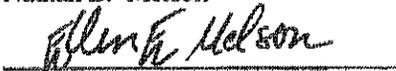
The terms and conditions hereof shall extend to and be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, devisees, successors, and assigns, and Grantor hereby binds itself, its heirs, executors, administrators, successors and assigns to warrant and forever defend all and singular said Easement unto Grantees, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

It is mutually agreed and understood that this Permanent Flowage and Flood Easement, as written covers all agreements and stipulations between the said parties, and no representations or statements, oral or written, have been made modifying, adding to, or changing the terms of hereof.

Signed this 14<sup>th</sup> day of December, 2010.

**GRANTOR:**

  
Nathan B. Melson

  
Ellen E. Melson

GRANTEE: NORTH TEXAS MUNICIPAL WATER DISTRICT

By: Bentley Powell  
Bentley Powell, Real Estate Manager

THE STATE OF TEXAS §  
COUNTY OF Fannin §

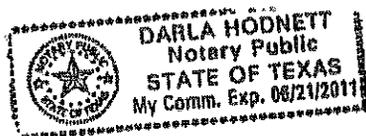
This instrument was acknowledged before me on this 14<sup>th</sup> day of December, 2010, by Nathan B. Melson and wife, Ellen E. Melson.



Darla Hodnett  
Notary Public, State of Texas

THE STATE OF TEXAS §  
COUNTY OF Fannin §

This instrument was acknowledged before me on this 8<sup>th</sup> day of December, 2010, by BENTLEY POWELL, Real Estate Manager on behalf of NORTH TEXAS MUNICIPAL WATER DISTRICT.



Darla Hodnett  
Notary Public, State of Texas

Doc  
5875

Bk  
OR

Vol  
1529

Page  
529

**PREPARED IN THE OFFICE OF:**

Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

**AFTER RECORDING RETURN TO:**

NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

EXHIBIT "A"

GF Number 201000886

Being: 0.972 acres of land, a part of the Grant Clutter Survey Abstract Number 211 and a part of the Thomas Toby Survey Abstract Number 1131, lying and being situated in Fannin County, Texas. The said 0.972 acre tract being a part of a called 120.846 acre tract described in a Warranty Deed from Cathy Jean Melson to Nathan B. Melson and wife, Ellen E. Melson, dated May 28, 2010 of record in Volume 1494, Page 180 of the Land Records of Fannin County, Texas. The said 0.972 acre tract being described more particularly by metes and bounds as follows:

**COMMENCING** at a found concrete monument in the North right-of-way of State Highway 56, at a corner of the referenced 120.846 acre parent tract, Go N89°36'47"W with the North right-of-way of State Highway 56 a distance of 505.72 feet to a point, for the Point of Beginning and the Southeast corner of this tract, in the South line of the referenced parent tract, from which a set 5/8" iron rod with a 2" aluminum disc stamped "North Texas Municipal Water District Easement" (State Plane Grid, Northing 7264995.62, Easting 2693501.12), bears S89°36'47"E a distance of 14.88 feet.

**Thence:** N 89°36'47" W with the North right-of-way of State Highway 56 a distance of 7.68 feet to a point near the center of Sloans Creek, for the Southwest corner of this tract, at the Southwest corner of the referenced parent tract, and at the Southeast corner of a called 11.000 acre tract conveyed to Jerry Roten and wife, Joanne Roten in Volume 1223, Page 383.

**Thence:** Along 19 calls near the center of Sloans Creek from point to point as follows:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. N 12°24'58" W 94.37 feet   | 2. N 28°30'03" W 63.87 feet   |
| 3. N 18°26'54" W 140.83 feet  | 4. N 30°57'19" W 295.88 feet  |
| 5. N 25°30'35" W 131.75 feet  | 6. N 25°30'35" W 80.06 feet   |
| 7. N 17°23'33" W 330.25 feet  | 8. N 13°41'23" W 210.57 feet  |
| 9. N 27°37'10" W 79.83 feet   | 10. N 34°02'54" W 146.87 feet |
| 11. N 45°03'53" W 80.28 feet  | 12. N 32°21'56" W 240.48 feet |
| 13. N 63°05'44" W 104.14 feet | 14. N 27°58'29" W 139.35 feet |
| 15. N 05°51'48" E 74.14 feet  | 16. N 30°18'21" W 253.66 feet |
| 17. N 03°51'20" W 80.92 feet  | 18. N 18°24'36" W 248.67 feet |

19. N 36°49'55" W 162.96 feet to a point, for the Northwest corner of this tract, at the Northwest corner of the referenced parent tract, at the Northeast corner of a called 31.0 acre tract conveyed to Ronald L. Callahan in Volume 1333, Page 63, at a Southeast corner of a called 92.80 acre tract conveyed to John Pampy and wife, Barbara Furlano-Pampy in Volume 1142, Page 351, and at the Southwest corner of a called 71.370 acre tract conveyed to Cathy Melson in Volume 1497, Page 295.

**Thence:** S 89°02'30" E with the North line of the referenced parent tract a distance of 19.57 feet to a point, for the Northeast corner of this tract, in the South line of the referenced 71.370 acre Melson tract, from which a set 5/8" iron rod with a 2" aluminum disc stamped "North Texas Municipal Water District Easement" (State Plane Grid, Northing 7267603.81, Easting 2692257.46), bears S89°02'30"E a distance of 11.63 feet.

**Thence:** along 28 calls with the S41 contour line the following approximate courses and distances as follows:

- |                               |  |
|-------------------------------|--|
| 1. S 09°17'51" E 21.72 feet   | 2. S 44°58'48" E 88.69 feet  |
| 3. S 22°18'18" E 214.62 feet  | 4. S 17°36'54" E 107.40 feet   |
| 5. S 03°22'32" E 75.69 feet   | 6. S 26°54'40" E 41.74 feet  |
| 7. S 33°13'21" E 103.60 feet  | 8. S 35°30'29" E 80.98 feet  |
| 9. S 14°57'56" W 55.57 feet   | 10. S 18°06'29" E 111.60 feet  |
| 11. S 39°58'24" E 53.75 feet  | 12. S 64°11'02" E 76.60 feet   |
| 13. S 40°21'04" E 107.21 feet | 14. S 30°41'53" E 170.56 feet  |
| 15. S 40°10'14" E 163.70 feet | 16. S 28°37'56" E 148.38 feet  |
| 17. S 13°05'37" E 195.85 feet | 18. S 17°31'08" E 113.30 feet  |
| 19. S 20°32'53" E 113.26 feet | 20. S 12°51'08" E 96.97 feet   |
| 21. S 23°24'22" E 87.01 feet  | 22. S 26°11'06" E 141.56 feet  |
| 23. S 31°04'38" E 144.26 feet | 24. S 33°34'05" E 104.66 feet  |
| 25. S 20°28'42" E 157.27 feet | 26. S 23°48'49" E 84.92 feet   |
| 27. S 13°11'25" E 73.28 feet  | 28. S 02°13'28" E 26.71 feet to the Point of Beginning and containing 0.972 acres, more or less. |

Doc 5845 Bk OR Vol 1529 Pg 531

Filed for Record in:  
Fannin County  
Honorable Tammy Rich  
County Clerk  
On: Dec 20, 2010 at 03:14P

As a  
Easement

Document Number: 5845

Amount 36.00

Receipt Number - 222512

By  
Jessica Hall, Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE  
SALE, RENTAL, OR USE OF THE DESCRIBED  
REAL PROPERTY BECAUSE OF COLOR OR RACE IS  
INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

STATE OF TEXAS COUNTY OF FANNIN

I hereby certify that this instrument was  
filed on the date and time stamped hereon by me  
and was duly recorded in the volume and page  
of the named records of Fannin County  
as stamped hereon by me.

Dec 20, 2010

By: J. Rich Deputy

Tammy Rich, County Clerk  
Fannin County

*all*

**Cole Title Company**  
709 N. CENTER  
BONHAM, TEXAS 75418

201000686



10  
GF#200900201 (09-057)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT THAT TRANSFERS INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### SPECIAL WARRANTY DEED

Date: July 15, 2009

Grantor: CARLOS A. PARDO and wife, VERONICA PARDO,  
"as part of a 1031 exchange made through the Law Office  
of Elizabeth A. Robertson, PLLC, as Qualified  
Intermediary"

**Grantor's Mailing Address:**

CARLOS A. PARDO and wife, VERONICA PARDO  
4085 Preston Hills Circle  
Celina, Texas 75009  
Collin County

Grantee: NORTH TEXAS MUNICIPAL WATER DISTRICT

**Grantee's Mailing Address:**

NORTH TEXAS MUNICIPAL WATER DISTRICT  
P. O. Box 2408  
Wylie, Texas 75098  
Collin County

**Consideration:**

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

**Property (including any improvements):**

BEING 295.228 acres, situated in the FELIX G. SADLER SURVEY, ABSTRACT No. 984, and the WILLIAM ONSTAT SURVEY, ABSTRACT No. 854, Fannin County, Texas, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

**Reservations from and Exceptions to Conveyance and Warranty:**

This Deed is executed and delivered subject to all easements, mineral reservations, conditions, covenants and restrictive covenants as the same appear of record in the office of the County Clerk of Fannin County, Texas.

Grantor retains Easement rights and shall have free ingress and egress for the purpose of cutting and removing timber from subject property for three (3) years from this date.

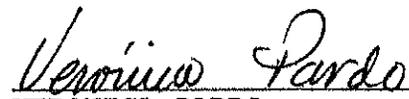
Doc  
00003330 DR  
Bk Vol  
1439 Pg  
327

The Minerals, together with all and singular the rights and appurtenances belonging in any way to the Minerals, subject to the provisions stated above, to Grantor, CARLOS A. PARDO and wife, VERONICA PARDO, their heirs, personal representatives, successors, and assigns forever, and I, the Grantee, bind myself and my heirs, personal representatives, successors, and assigns to warrant and forever defend all and singular the Minerals to Grantor and their heirs, personal representatives, successors, and assigns against every person lawfully claiming or to claim all or any part of the Minerals, subject to the provisions stated above.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

  
\_\_\_\_\_  
CARLOS A. PARDO

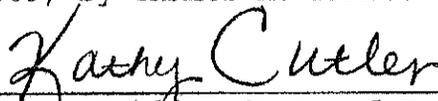
  
\_\_\_\_\_  
VERONICA PARDO

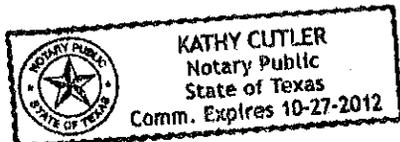
STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on this 15<sup>th</sup>  
day of July, 2009, by CARLOS A. PARDO.

  
\_\_\_\_\_  
Notary Public, State of Texas

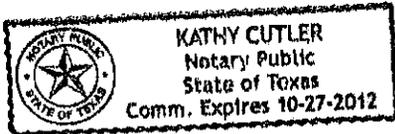


DR503330 BK  
DR 1439 V01  
Pg 328

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

This instrument was acknowledged before me on this 15th  
day of July, 2009, by VERONICA PARDO.

Kathy Cutler  
Notary Public, State of Texas



**PREPARED IN THE OFFICE OF:**

Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

**AFTER RECORDING RETURN TO:**

NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

Doc 00003330  
BK OR  
Vol 1439  
Pg 329

EXHIBIT "A"

*Being:* 278.859 acres of land, a part of the Felix G. Sadler Survey Abstract Number 984 and the William Onstat Survey Abstract Number 854, lying and being situated in Fannin County, Texas. The said 278.859 acre tract being a part of a called 428.957 acre tract described in a Warranty Deed With Vendor's Lien from Michael Schreiber and wife, Mava M. Schreiber to Carlos A. Pardo dated February 13, 2003 of record in Volume 1009, Page 95 of the Land Records of Fannin County, Texas. Also being a part of a called 64.49 acre tract described in a General Warranty Deed from Lindsey Larue to Carlos A. Pardo and wife, Veronica Pardo, dated February 15, 2008 of record in Volume 1358, Page 343 of the Land Records of said County and State. Also being a part of a called 176.41 acre tract described in a General Warranty Deed from Lindsey Larue to Carlos Albert Pardo, dated May 15, 2007 of record in Volume 1304, Page 562 of the Land Records of said County and State. The said 278.859 acre tract being described more particularly by metes and bounds as follows:

*COMMENCING* at a point in County Road 2910, from said point a fence corner post bears N80°02'02"W a distance of 21.12 feet, at the Southeast corner of the referenced 428.957 acre parent tract, at the Northeast corner of a called 80 acre tract conveyed to G.R. Belue and Mildred Belue in Volume 783, Page 543, and in the West line of a called 40 acre tract conveyed to G.R. Belue and wife, Mildred Belue in Volume 518, Page 505, Go N02°13'58"E a distance of 1042.52 feet to a point near the center of County Road 2910, from said point a 2 ½" found pipe bears S77°02'30"E a distance of 14.96 feet, said point also being the Southwest corner of a called 51.790 acre tract conveyed to North Texas Municipal Water District in Volume 1422, Page 324, and at the Northwest corner of the referenced 40 acre Belue tract, Go N03°06'27"E a distance of 766.39 feet to a point near the center of County Road 2910, from said point a 2 ½" found pipe bears N89°47'06"E a distance of 16.7 feet, said point also being the Northwest corner of the referenced 51.790 acre tract conveyed to North Texas Municipal Water District, said point also being the Southwest corner of a called 50.000 acre tract conveyed to Robert Blaine Payne in Tract Two of Volume 542, Page 408, Go N00°42'20"E a distance of 463.96 feet to a point in the East line of the referenced 428.957 acre parent tract, said point also being in the West line of the referenced 50.000 acre Payne Tract Two, from said point a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7288223.93, Easting 2705172.54), bears S40°06'16"E a distance of 18.68 feet, for the Point of Beginning and the Easternmost Southeast corner of this tract,

*Thence:* along 156 calls with the 541 contour line the following approximate courses and distances as follows:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. N 40°06'16" W 29.02 feet   | 2. S 45°53'46" W 53.04 feet   |
| 3. S 56°28'55" W 103.06 feet  | 4. S 49°55'56" W 108.11 feet  |
| 5. S 48°42'49" W 106.20 feet  | 6. S 70°25'58" W 48.98 feet   |
| 7. S 54°27'16" W 102.93 feet  | 8. S 70°20'41" W 36.75 feet   |
| 9. S 44°55'14" W 108.66 feet  | 10. S 54°46'47" W 13.80 feet  |
| 11. S 49°36'13" W 98.96 feet  | 12. S 57°27'09" W 60.73 feet  |
| 13. N 55°04'04" W 54.37 feet  | 14. N 68°18'06" W 161.61 feet |
| 15. S 73°36'58" W 90.32 feet  | 16. S 71°22'02" W 99.88 feet  |
| 17. S 51°40'03" W 111.55 feet | 18. N 77°49'56" W 118.95 feet |

19. S 77°29'13" W 104.20 feet	20. S 54°51'39" W 55.95 feet
21. S 16°13'07" W 76.53 feet	22. S 07°51'43" E 103.48 feet
23. S 31°44'11" E 98.57 feet	24. S 20°26'58" E 40.33 feet
25. S 53°38'08" W 118.68 feet	26. S 21°51'47" W 62.09 feet
27. S 05°39'12" E 54.85 feet	28. S 60°28'27" W 66.01 feet
29. N 78°16'03" W 113.54 feet	30. S 49°15'19" W 131.39 feet
31. S 39°02'48" W 63.92 feet	32. S 14°09'07" W 53.83 feet
33. S 37°52'50" W 147.75 feet	34. S 05°47'54" W 114.33 feet
35. S 05°53'53" E 149.85 feet	36. N 50°13'38" W 86.06 feet
37. N 25°53'57" W 125.08 feet	38. N 68°29'56" W 115.92 feet
39. S 55°35'20" W 135.50 feet	40. S 24°12'41" W 201.85 feet
41. S 08°35'10" W 123.69 feet	42. S 01°12'42" W 130.77 feet
43. S 24°50'21" W 112.45 feet	44. S 29°29'24" W 80.21 feet
45. S 54°34'17" W 141.56 feet	46. N 88°15'03" E 78.00 feet
47. S 35°58'51" W 64.47 feet	48. S 01°35'04" W 71.32 feet
49. S 42°22'02" W 75.88 feet	50. S 27°28'24" W 140.59 feet
51. N 79°13'53" W 59.17 feet	52. S 41°20'08" W 95.64 feet
53. S 24°45'29" W 113.16 feet	54. S 48°09'20" E 85.06 feet
55. N 77°17'08" W 76.46 feet	56. N 21°10'01" W 81.71 feet
57. N 52°42'34" E 99.75 feet	58. N 24°26'34" E 90.95 feet
59. N 52°23'11" E 166.22 feet	60. N 71°14'29" W 82.33 feet
61. N 37°42'18" E 75.87 feet	62. N 10°09'35" E 130.19 feet
63. N 70°23'06" W 38.11 feet	64. N 04°28'37" E 41.85 feet
65. N 79°42'27" W 28.81 feet	66. N 02°40'27" W 93.49 feet
67. N 08°35'47" W 136.65 feet	68. N 07°52'29" W 118.35 feet
69. N 06°09'08" W 101.55 feet	70. N 10°59'53" W 69.19 feet
71. N 29°22'32" E 61.91 feet	72. N 12°33'14" E 84.94 feet
73. N 24°33'45" E 155.94 feet	74. N 21°45'37" E 137.00 feet
75. N 26°38'08" E 85.02 feet	76. N 16°44'13" E 92.24 feet
77. N 28°15'16" E 81.91 feet	78. N 44°27'38" E 114.67 feet
79. N 30°55'57" E 118.79 feet	80. N 16°43'17" E 99.41 feet
81. N 07°48'35" W 98.47 feet	82. N 56°19'58" W 60.89 feet
83. N 63°38'10" E 119.29 feet	84. N 44°18'04" E 113.85 feet
85. N 22°14'44" E 79.90 feet	86. N 25°43'49" E 69.68 feet
87. N 23°27'50" E 123.19 feet	88. N 37°58'52" E 106.89 feet
89. N 04°17'00" E 77.99 feet	90. N 10°02'42" W 87.34 feet
91. N 15°35'18" W 89.79 feet	92. N 17°06'41" W 112.61 feet
93. N 16°42'12" W 114.28 feet	94. N 34°04'50" W 91.50 feet
95. N 74°22'30" W 56.89 feet	96. S 74°50'48" W 101.36 feet
97. S 72°51'36" W 156.54 feet	98. S 49°45'02" W 77.10 feet
99. S 34°44'39" W 117.60 feet	100. N 36°16'18" W 64.88 feet
101. N 16°05'20" W 132.41 feet	102. N 04°57'23" W 119.29 feet
103. N 36°49'56" E 70.80 feet	104. N 05°07'43" W 120.04 feet
105. N 62°49'37" W 110.73 feet	106. N 78°33'57" W 112.33 feet
107. N 63°59'01" W 117.96 feet	108. N 65°53'49" W 110.32 feet

109. N 72°42'37" W 125.90 feet	110. N 77°58'59" W 125.65 feet
111. S 77°53'39" W 101.84 feet	112. S 40°39'22" W 92.09 feet
113. S 04°16'15" W 105.49 feet	114. S 16°32'58" E 122.42 feet
115. S 20°06'14" E 121.46 feet	116. S 00°29'38" E 91.99 feet
117. S 22°00'36" W 109.65 feet	118. S 00°57'48" W 110.34 feet
119. S 10°11'22" E 133.30 feet	120. S 01°54'15" E 81.53 feet
121. S 09°34'26" E 149.53 feet	122. N 85°40'28" W 85.77 feet
123. N 80°02'16" W 94.50 feet	124. S 27°50'46" W 115.11 feet
125. S 29°21'31" W 109.36 feet	126. S 28°17'32" W 115.45 feet
127. S 36°52'26" W 85.81 feet	128. S 28°44'12" W 108.31 feet
129. S 11°09'34" W 107.41 feet	130. S 16°51'26" E 97.11 feet
131. S 34°26'49" E 99.82 feet	132. N 73°42'31" W 74.02 feet
133. S 50°02'11" W 113.88 feet	134. S 18°31'01" W 99.85 feet
135. S 04°05'41" W 108.57 feet	136. S 04°24'20" W 112.21 feet
137. S 03°35'47" E 108.26 feet	138. S 07°22'26" E 187.62 feet
139. S 02°17'10" E 155.05 feet	140. S 06°54'58" E 121.24 feet
141. S 28°22'58" W 45.00 feet	142. S 04°32'09" W 136.76 feet
143. S 50°51'45" E 26.31 feet	144. S 03°45'33" E 62.02 feet
145. N 61°02'01" W 131.83 feet	146. N 05°52'35" E 150.16 feet
147. N 40°49'17" W 98.30 feet	148. N 10°20'43" W 111.52 feet
149. N 24°00'18" W 47.74 feet	150. N 14°14'39" W 100.73 feet
151. N 17°09'18" W 101.14 feet	152. N 43°07'04" W 88.12 feet
153. N 32°17'27" W 146.79 feet	154. N 36°33'47" W 78.19 feet
155. N 13°15'18" W 124.25 feet	156. N 25°05'38" W 127.33 feet

to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7287369.37, Easting 2700760.42), for the Westernmost Southwest corner of this tract, in the West line of the referenced 428.957 acre parent tract, and in the East line of a called 216.099 acre tract conveyed to Charles M. Kasbarian in Volume 954, page 640.

*Thence:* N 00°30'20" W a distance of 1167.50 feet to a ½" found iron rod, for a break in the West line of this tract and of the referenced 428.957 acre parent tract, and for a break in the East line of the referenced 216.099 acre Kasbarian tract.

*Thence:* N 00°40'56" W a distance of 1786.13 feet to ½" found iron rod, and at the Southwest corner of a called 112 acre tract conveyed to Robert Blaine Payne in the Second Tract of Volume 542, Page 408, said point also being the Southeast corner of a called 260.00 acre tract conveyed to Love Lake Farm, L.P. in Parcel 2, Volume 1024, Page 827, Volume 1024, Page 814, Volume 1024, Page 820. for the Westernmost Northwest corner of this tract, at the Northwest corner of the referenced 428.957 acre parent tract,

*Thence:* N 89°00'18" E a distance of 3542.28 feet to a ½" set iron rod, said point being the Southeast corner of a called 53 1/3 acre tract conveyed to Robert Blaine Payne in the Third Tract of Volume 542, Page 408, for the inside Northwest corner of this tract, at the inside Northwest corner of the referenced 428.957 acre parent tract,

*Thence:* N 00°07'03" W with the general course and direction with the remnants of an old Bois d' Arc fence, a distance of 989.38 feet to a ½" set iron rod, for the Northernmost Northwest corner of this tract, at the Northwest corner of the referenced 428.957 acre parent tract, in the East line of the referenced 53 1/3 acre Payne Third Tract, and at the Southwest corner of a tract conveyed to Robert Blaine Payne in the First Tract of Volume 542, page 408.

*Thence:* S 89°26'30" E with the general course and direction with the remnants of an old Bois d' Arc fence, a distance of 913.80 feet to a ½" set iron rod, for the Northernmost Northeast corner of this tract, at the Northeast corner of the referenced 428.957 acre parent tract, at the Southeast corner of the referenced Payne First Tract, and in the West line of a called 12.2 acre tract conveyed to Robert Blaine Payne in the Second Tract of Volume 542, Page 408.

*Thence:* S 00°07'03" E a distance of 1192.83 feet to a ½" set iron rod, for a bend in the East line of this tract, for a bend in the East line of the referenced 428.957 acre parent tract, and at a bend in the West line of a called 78.189 acre tract conveyed to Robert Blaine Payne in Tract One of Volume 542, Page 408.

*Thence:* S 00°42'20" W a distance of 1933.83 feet to the Point of Beginning and containing 278.859 acres, more or less.

*Being:* 16.369 acres of land, a part of the Felix G. Sadler Survey Abstract Number 984 and the William Onstat Survey Abstract Number 854, lying and being situated in Fannin County, Texas. The said 16.369 acre tract being a part of a called 428.957 acre tract described in a Warranty Deed With Vendor's Lien from Michael Schreiber and wife, Mava M. Schreiber to Carlos A. Pardo dated February 13, 2003 of record in Volume 1009, Page 95 of the Land Records of Fannin County, Texas. The said 16.474 acre tract being described more particularly by metes and bounds as follows:

*COMMENCING* at a point in County Road 2910, from said point a fence corner post bears N80°02'02"W a distance of 21.12 feet, at the Southeast corner of the referenced 428.957 acre parent tract, at the Northeast corner of a called 80 acre tract conveyed to G.R. Belue and Mildred Belue in Volume 783, Page 543, and in the West line of a called 40 acre tract conveyed to G.R. Belue and wife, Mildred Belue in Volume 518, Page 505, Go N02°13'58"E a distance of 665.40 feet to a point, in the East line of the referenced 428.957 acre parent tract, and in the West line of the referenced 40 acre Belue tract, said point being the Point of Beginning and the Southeast corner of this tract.

*Thence:* S 20°14'14" W a distance of 15.32 feet to a point, for a corner of this tract.

*Thence:* N 16°04'05" W a distance of 48.84 feet to a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7286664.91, Easting 2705079.75), for a corner of this tract.

*Thence:* along 8 calls with the 541 contour line the following approximate courses and distances as follows:

- |                              |                              |
|------------------------------|------------------------------|
| 1. S 65°08'51" W 93.33 feet  | 2. S 52°09'09" W 104.18 feet |
| 3. S 19°12'42" W 121.78 feet | 4. S 15°25'06" W 70.88 feet  |
| 5. S 30°32'44" W 161.49 feet | 6. S 28°04'53" W 101.95 feet |
| 7. S 36°03'00" W 52.37 feet  | 8. S 50°29'28" W 94.46 feet  |

to a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7286047.03, Easting 2704620.16), for the Southernmost Southeast corner of this tract, in the South line of the referenced 428.957 acre parent tract, and in the North line of the referenced 80 acre Belue tract.

*Thence:* N 80°02'02" W a distance of 281.89 feet to a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7286095.81, Easting 2704342.55), for the Southernmost Southwest corner of this tract, in the South line of the referenced 428.957 acre parent tract, and in the North line of the referenced 80 acre Belue tract.

*Thence:* along 17 calls with the 541 contour line the following approximate courses and distances as follows:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. N 18°17'19" E 233.80 feet  | 2. N 13°17'18" W 92.49 feet   |
| 3. N 10°29'04" E 95.94 feet   | 4. N 01°36'45" W 106.37 feet  |
| 5. N 27°47'00" W 50.76 feet   | 6. N 04°40'44" W 146.32 feet  |
| 7. N 28°32'48" E 181.04 feet  | 8. N 27°20'42" E 106.35 feet  |
| 9. N 13°37'23" E 121.17 feet  | 10. N 67°29'19" E 140.99 feet |
| 11. N 44°50'12" E 125.37 feet | 12. N 48°47'30" E 108.59 feet |
| 13. N 65°48'22" E 113.33 feet | 14. N 74°39'12" E 124.20 feet |
| 15. N 37°11'00" E 79.62 feet  | 16. N 14°25'48" E 140.38 feet |

to a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7287663.44, Easting 2705143.94), for a corner of this tract.

*Thence:* S 12°57'18" E 17.46 feet to a point, for the Northernmost Northeast corner of this tract, in the East line of the referenced 428.957 acre parent tract, and in the West line of a called 51.790 acre tract conveyed to North Texas Municipal Water District in Volume 1422, Page 324.

*Thence:* S 03°06'27" W a distance of 638.28 feet to point near the center of County Road 2910, from said point a 2 1/2" found pipe bears S77°02'30"E a distance of 14.96 feet, said point also being the Southwest corner of a called 51.790 acre tract conveyed to North Texas Municipal Water District in Volume 1422, Page 324, and at the Northwest corner of the referenced 40 acre Belue tract, said point being a break in the East line of this tract,

*Thence:* S 02°13'58" W a distance of 377.11 feet to the Point of Beginning and containing 16.369 acres, more or less.

2

Filed for Record in  
Fannin County  
Honorable Tanya Fish  
County Clerk  
On: Jul 17, 2009 at 10:31A

As a  
Deed

Document Number: 00003330

Amount \$2,000

Receipt Number - 214824

By Jessica Hall, Deputy

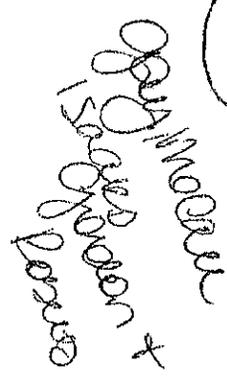
ANY PROVISION HEREIN WHICH RESTRICTS THE  
SUE, ENFORCE, OR USE OF THE DESCRIBED  
REAL PROPERTY INTEREST OF OR FOR THE USE IS  
INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

STATE OF TEXAS COUNTY OF FANNIN

I hereby certify that this instrument was  
filed on the date and time stamped hereon by me  
and was duly recorded in the volume and page  
of the named records of: Fannin County  
as stamped hereon by me.

Jul 17, 2009

By:  Deputy  
Tanya Fish, County Clerk  
Fannin County

 \*  
1500000000  
Passer

010 0000

Cole Title Company  
709 N. CENTER  
BONHAM, TEXAS 75418  
2009005201

Fannin County  
Tammy Rich County Clerk  
101 E. Sam Rayburn Dr., #102  
Bonham, Texas 75418



70 2009 0005715

Instrument Number: 2009-5715

Recorded On: December 08, 2009

As  
Deed

Parties: WITCHER FAMILY TEXAS PROPERTY TRUST  
To NORTH TEXAS MUNICIPAL WATER DISTRICT

Billable Pages: 7  
Number of Pages: 8

Comment:

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

Deed	40.00
Total Recording:	40.00

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 2009-5715  
Receipt Number: 216819  
Recorded Date/Time: December 08, 2009 04:08:48P  
Book-Vol/Pg: BK-OR VL-1463 PG-456  
User / Station: J Hall - Cashlering Workstation #2

**Record and Return To:**

GF#200900695 (09-315)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT THAT TRANSFERS INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### SPECIAL WARRANTY DEED

Date: December 3, 2009

Grantor: JOHN REX WITCHER, a single person, individually and as Co-Trustee of the WITCHER FAMILY TEXAS PROPERTY TRUST; and DOROTHY L. WITCHER, a single person, individually and as Co-Trustee of the WITCHER FAMILY TEXAS PROPERTY TRUST

**Grantor's Mailing Address:**

JOHN REX WITCHER and DOROTHY L. WITCHER  
8721 Southwestern Blvd., #1213  
Dallas, Texas 75206  
Dallas County

Grantee: NORTH TEXAS MUNICIPAL WATER DISTRICT

**Grantee's Mailing Address:**

NORTH TEXAS MUNICIPAL WATER DISTRICT  
P. O. Box 2408  
Wylie, Texas 75098  
Collin County

**Consideration:**

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

**Property (including any improvements):**

BEING 72.284 acres, situated in the Thomas Taylor Survey, Abstract No. 1112, and the S. H. Cain Survey, Abstract No. 251 Fannin County, Texas, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

**Reservations from and Exceptions to Conveyance and Warranty:**

This Deed is executed and delivered subject to all easements, mineral reservations, conditions, covenants and restrictive covenants as the same appear of record in the office of the County Clerk of Fannin County, Texas.

The Minerals, together with all and singular the rights and appurtenances belonging in any way to the Minerals, subject to the provisions stated above, to Grantor, JOHN REX WITCHER and DOROTHY L. WITCHER, their heirs, personal representatives, successors, and assigns forever, and I, the Grantee, bind myself and my heirs, personal representatives, successors, and assigns to warrant and forever defend all and singular the Minerals to Grantor and their heirs, personal representatives, successors, and assigns against every person lawfully claiming or to claim all or any part of the Minerals, subject to the provisions stated above.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

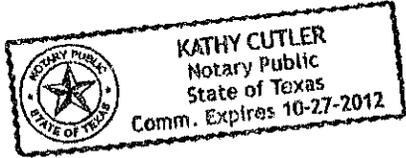
When the context requires, singular nouns and pronouns include the plural.

*John Rex Witcher*  
\_\_\_\_\_  
JOHN REX WITCHER, individually and as Co-Trustee of the WITCHER FAMILY TEXAS PROPERTY TRUST

*Dorothy L. Witcher*  
\_\_\_\_\_  
DOROTHY L. WITCHER, individually and as Co-Trustee of the WITCHER FAMILY TEXAS PROPERTY TRUST

THE STATE OF TEXAS §  
COUNTY OF COLLIN §

SWORN TO AND SUBSCRIBED BEFORE ME, by the said JOHN REX WITCHER, individually and as Co-Trustee of the WITCHER FAMILY TEXAS PROPERTY TRUST, at Collin, County, Texas, this the 3rd day of December, 2009.



*Kathy Cutler*  
\_\_\_\_\_  
Notary Public, State of Texas

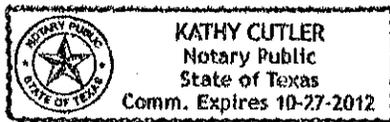
THE STATE OF TEXAS                    §

COUNTY OF COLLIN                    §

SWORN TO AND SUBSCRIBED BEFORE ME, by the said DOROTHY L. WITCHER, individually and as Co-Trustee of the WITCHER FAMILY TEXAS PROPERTY TRUST, at Collin, County, Texas, this the 3rd day of December, 2009.

*Kathy Cutler*

Notary Public, State of Texas



**PREPARED IN THE OFFICE OF:**

Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

**AFTER RECORDING RETURN TO:**

NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

## EXHIBIT "A"

995 BK 99  
5715 OR 1453 Page Number: 200900695  
460

*Being:* 69.061 acres of land, a part of the Thomas Taylor Survey Abstract Number 1112 and the S.H. Cain Survey Abstract Number 251, lying and being situated in Fannin County, Texas. The said 69.061 acre tract being a part of a called 10.3 acre tract described in the Tract 2, part of a called 58.5 acre tract described in Tract 3, and part of a called 13.7 acre tract described in Tract 4 of a Grant Deed from John Rex Witcher and Dorothy L. Witcher to John Rex Witcher and Dorothy L. Witcher, Co-Trustees of The Witcher Family Texas Property Trust, dated October 5, 1995 of record in Volume 820, Page 975 of the Land Records of Fannin County, Texas. The said 69.061 acre tract being described more particularly by metes and bounds as follows:

**COMMENCING** at a ½" found iron rod at the Westernmost Southwest corner of the referenced 58.5 acre Tract 3 parent tract, at the inside Northeast corner of the remainder of a called 14.037 acre tract conveyed to The Nouvelle Cotton Witcher Living Trust in Volume 1090, Page 295, Go N 20°12'59" E a distance of 793.63 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7297344.98, Easting 2739354.10), for the Westernmost Southwest corner of this tract, in a West line of the referenced parent tract, at the Southeast corner of a called 14.283 acre tract conveyed to North Texas Municipal Water District in Volume 1454, Page 2.

**Thence:** N 20°12'59" E a distance of 778.12 feet to a ½" found iron rod, for an inside corner of this tract, at an inside corner of the referenced parent tract, and at the Northernmost Southeast corner of the referenced 14.283 acre North Texas Municipal Water District tract.

**Thence:** N 00°41'45" W a distance of 1089.04 feet to a 3/8" found iron rod, for the Northwest corner of this tract, at the Northwest corner of the referenced parent tract, at the Northeast corner of the referenced 14.283 acre North Texas Municipal Water District tract, and in the South line of a called 65 ¼ acre tract conveyed to Billy Wayne Ryser and others in Volume 807, Page 942.

**Thence:** S 89°42'49" E a distance of 440.95 feet to a ½" found iron rod, for a corner of this tract, at a corner of the referenced parent tract, at the Southernmost Southeast corner of the referenced 65 ¼ acre Ryser tract, and at the Northernmost Southwest corner of a called 76.053 acre tract conveyed to North Texas Municipal Water District in Volume 1444, Page 118.

**Thence:** S 89°50'44" E a distance of 517.83 feet to a ½" found iron rod, for the Northernmost Northeast corner of this tract, at the Northeast corner of the referenced parent tract, and at the inside Southwest corner of the referenced 76.053 acre North Texas Municipal Water District tract.

**Thence:** S 00°09'02" E a distance of 2885.91 feet to a point, for the Easternmost Southeast corner of this tract, at a Southeast corner of the referenced 13.7 acre Tract 4 parent tract, at a Southwest corner of a called 1.421 acre tract conveyed to North Texas Municipal Water District in Volume 1455, Page 67, and in the North line of a called 11.52 acre tract conveyed to Veterans Land Board of the State of Texas in Volume 1324, Page 136, from which a ½" found iron rod bears N 00°09'02" W a distance of 0.30 feet,

**Thence:** N 88°16'26" W a distance of 576.69 feet to a point, for the inside Southeast corner of this tract, at the inside Southeast corner of the referenced parent tract, and at the Northwest corner of the referenced 11.52 acre Veterans Land Board tract, from which a ½" found iron rod bears S 88°40'45" W a distance of 1.04 feet.

Doc. No. BK Vol. Page

*Thence:* S 09°09'04" E a distance of 605.78 feet to a point, for the Southernmost Southeast corner of this tract, in the North right-of-way of F.M. Highway 1396, at a Southeast corner of the referenced 10.3 acre Tract 2 parent tract, and at the Southwest corner of the referenced 11.52 acre Veterans Land Board tract, from which a ½" found iron rod bears S 20°44'33" E a distance of 3.28 feet.

*Thence:* S 87°19'58" W with the North right-of-way of F.M. Highway 1396 a distance of 81.56 feet to a ½" set iron rod, for a corner of this tract, at a corner of the referenced parent tract.

*Thence:* Along a curve to the left with the North right-of-way of F.M. Highway 1396 as follows: R=1196.28', T=140.33', Deg.=04°47'22", L=279.37', Chord=278.74', Delta=13°22'50", and bearing N 55°46'53" W to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7295847.02, Easting 2739784.04), for the Southernmost Southwest corner of this tract, in a South line of the referenced parent tract.

*Thence:* along 20 calls with the 541 contour line the following approximate courses and distances as follows:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. N 13°15'58" W 50.49 feet   | 2. N 39°04'29" W 141.60 feet  |
| 3. N 30°58'49" E 90.34 feet   | 4. N 03°05'27" E 121.72 feet  |
| 5. N 18°25'43" W 120.73 feet  | 6. N 17°14'46" E 123.16 feet  |
| 7. N 01°07'38" W 124.06 feet  | 8. N 06°17'05" E 105.34 feet  |
| 9. N 06°03'04" W 146.34 feet  | 10. N 08°54'06" W 144.70 feet |
| 11. N 15°51'39" W 100.24 feet | 12. S 81°39'27" W 88.83 feet  |
| 13. S 77°46'41" W 75.55 feet  | 14. S 74°12'41" W 119.51 feet |
| 15. S 73°29'38" W 123.48 feet | 16. N 10°27'38" E 99.38 feet  |
| 17. N 36°11'26" E 88.29 feet  | 18. N 36°01'43" E 111.20 feet |
| 19. N 03°07'42" E 115.45 feet | 20. N 76°55'43" W 73.10 feet  |
- to the Point of Beginning and containing 69.061 acres, more or less.

*Being:* 1.372 acres of land, a part of the Thomas Taylor Survey Abstract Number 142, lying and being situated in Fannin County, Texas. The said 1.372 acre tract being a part of a called 21.8 acre tract and a called 17.6 acre tract described in the Tract 1 of a Grant Deed from John Rex Witcher and Dorothy L. Witcher to John Rex Witcher and Dorothy L. Witcher, Co-Trustees of The Witcher Family Texas Property Trust, dated October 5, 1995 of record in Volume 820, Page 975 of the Land Records of Fannin County, Texas. The said 1.372 acre tract being described more particularly by metes and bounds as follows:

**COMMENCING** at a point in the South right-of-way of F.M. Highway 1396, at a Southeast corner of the referenced parent tract, at Northeast corner of a called 21.42 acre tract conveyed to H.C. Ryser, Jr. in Volume 524, Page 53, from which a ½" found iron rod bears N 39°37'43" E a distance of 7.28 feet, Go, N 13°14'58" W with the said highway right-of-way a distance of 739.02 feet to a concrete right-of-way monument, Go, along a curve to the left with the said highway right-of-way as follows: R=1096.28', T=248.20', Deg.=05°13'35", L=488.17', Chord=484.15', Delta=25°30'49", and bearing N 26°07'24" W to a set 5/8" iron rod with a 2" aluminum disc stamped "North Texas Municipal Water District Easement" (State Plane Grid, Northing 7295473.02, Easting 2740086.71), Go, along a curve to the left with the said highway right-of-way as follows: R=1096.28', T=20.09', Deg.=05°13'35", L=40.17', Chord=40.17', Delta=02°05'58", and bearing N 39°55'48" W to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7295503.82, Easting 2740060.93), for the Point of Beginning and the Northeast corner of this tract, in a North line of the referenced parent tract.

*Thence:* along 17 calls with the 541 contour line the following approximate courses and distances as follows:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. S 07°59'03" W 62.96 feet   | 2. S 43°20'20" W 95.96 feet   |
| 3. S 17°47'43" W 53.71 feet   | 4. S 56°10'47" W 65.88 feet   |
| 5. S 53°08'08" E 52.25 feet   | 6. S 35°02'50" W 89.37 feet   |
| 7. N 14°51'48" E 82.86 feet   | 8. N 78°08'21" W 42.42 feet   |
| 9. N 44°42'04" E 72.71 feet   | 10. N 26°14'24" W 90.30 feet  |
| 11. N 18°56'32" E 131.24 feet | 12. N 41°42'42" W 86.83 feet  |
| 13. S 42°33'50" W 102.32 feet | 14. N 83°17'56" W 97.74 feet  |
| 15. N 11°36'51" E 67.14 feet  | 16. N 12°59'23" E 105.62 feet |
| 17. N 62°01'41" E 57.41 feet  |                               |

to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7295721.42, Easting 2739803.15), for the Northwest corner of this tract, in the South right-of-way of F.M. Highway 1396, and in a North line of the referenced parent tract.

*Thence:* Along a curve to the right with the said highway right-of-way as follows: R=1096.28', T=170.72', Deg.=05°13'35", L=338.73', Chord=337.38', Delta=17°42'11", and bearing S 49°49'53" E to the Point of Beginning and containing 1.372 acres, more or less.



## ATTACHMENT 2



**Application for Water Use Permit No. 12151  
Land Purchased by North Texas Municipal Utility District  
Fannin County Appraisal District Property ID Numbers**

Lela Foreman – Property ID 119098, 119099

Gordon and Lem Locke – Property ID 113666

Cathy Melson – Property ID 79826, 82344, 83869

Ellen and Nathan Melson – Property ID 84722

Carlos Pardo – Property ID 82903, 116064

John Welch (Kyle and Mary Payne) – Property ID 74019, 74459, 74460, 76766, 76771, 76772,  
78111, 78189, 78190, 82624, 82625, 82627, 118087

Dorothy L Witcher and John Rex Witcher (Witcher Family Texas Property Trust) – Property ID  
73652, 73653, 116466



**GENERAL WARRANTY GIFT DEED**  
(Prepared without benefit of a Title Policy or Survey)

THE STATE OF TEXAS,       §  
                                  §       KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF FANNIN.       §

That we, JOHN W. WELCH AND WIFE, REGIS WELCH, INDIVIDUALLY AND JOHN W. WELCH AND WIFE, REGIS L. WELCH, CO-TRUSTEES OF THE WELCH FAMILY TRUST dated June 22, 1990, of the County of Fannin, State of Texas, for and in consideration of the love and affection we have for the Grantees and with the desire to make a present gift to the Grantees, and with the desire to retain a life estate interest in all real property herein contained and said life estate to be measured by the life of both John W. Welch and wife, Regis L. Welch, have Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey unto the said KYLE PAYNE AND WIFE, MARY PAYNE, Telephone, Fannin County, Texas all of our interest and all of the interest owned by The Welch Family Trust dated June 22, 1990 in any real estate owned in Fannin County, Texas being approximately 1,058 acres out of the W.W. Rezier, J. Delgado, W.H. Mathews, J.C.M. Hodge, A. Daugherty, James Daugherty, G.W. King and William Johnson Surveys and being generally described as all of the following described real property located in Fannin County, Texas more fully described in Exhibit "A" (pages 1-18) attached hereto and made a part hereof by reference thereto for all purposes.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging unto the said JOHN W. WELCH AND WIFE, REGIS WELCH, INDIVIDUALLY AND JOHN W. WELCH AND WIFE, REGIS L. WELCH, CO-TRUSTEES OF THE WELCH FAMILY TRUST, its heirs and assigns forever; and we as Trustees and Individually do hereby bind ourselves, our heirs, executors and administrators, to Warrant and Forever Defend all and singular the said premises unto the said KYLE PAYNE AND WIFE, MARY PAYNE, their heirs and assigns against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

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94

WITNESS OUR HAND this 28<sup>th</sup> day of October, 2005.

John W. Welch  
JOHN W. WELCH, CO-TRUSTEE/GRANTOR

Regis L. Welch  
REGIS L. WELCH, CO-TRUSTEE/GRANTOR

John W. Welch  
JOHN W. WELCH, INDIVIDUALLY

Regis L. Welch  
REGIS L. WELCH, INDIVIDUALLY

Gift accepted by Kyle and Mary Payne

Kyle Payne  
KYLE PAYNE

Mary Payne  
MARY PAYNE

ACKNOWLEDGMENT

THE STATE OF TEXAS,

COUNTY OF FANNIN.

BEFORE ME, the undersigned authority, in and for said county and state, on this day personally appeared JOHN W. WELCH, TRUSTEE, and INDIVIDUALLY known to me to be the person(s) whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28<sup>th</sup> day of October, 2005.

L.S.



Lana Gibbs  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

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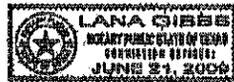
ACKNOWLEDGMENT

THE STATE OF TEXAS,

COUNTY OF FANNIN.

BEFORE ME, the undersigned authority, in and for said county and state, on this day personally appeared REGIS L. WELCH, TRUSTEE, and INDIVIDUALLY known to me to be the person(s) whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 27th day of October, 2005.



L.S.

*Lana Gibbs*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

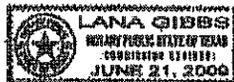
ACKNOWLEDGMENT

THE STATE OF TEXAS,

COUNTY OF FANNIN.

BEFORE ME, the undersigned authority, in and for said county and state, on this day personally appeared KYLE PAYNE, known to me to be the person(s) whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28th day of October, 2005.



L.S.

*Lana Gibbs*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

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ACKNOWLEDGMENT

THE STATE OF TEXAS,

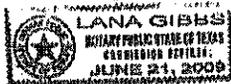
COUNTY OF FANNIN.

BEFORE ME, the undersigned authority, in and for said county and state, on this day personally appeared MARY PAYNE, known to me to be the person(s) whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28<sup>th</sup> day of October, 2005.

*Lana Gibbs*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

L.S.



All that certain tract or parcel of land being a part of the W.W. Reeder Survey, Abstract No. 960, the J.C.N. Hodge Survey, Abstract No. 510 and a part of Wm. Johnson Survey, Abstract No. 587, more fully described as follows

BEGINNING at a point in the center line of a county road for the most Western Northwest corner of this tract, at the Northeast corner of a tract of land owned by the Estate of W.B. Welch;

THENCE East along the center line of a county road (average width 40 feet) 767 feet;

THENCE South along the center line of said county road 299 feet;

THENCE East with the center line of said county road 1412 feet to the most Eastern Northeast corner of this tract;

THENCE South along an old fence line 1378.29 feet to a bolt & arc fence post for the most Eastern Southeast corner of this tract;

THENCE West along an old fence line 1889.85 feet to an iron stake for an inside Southeast corner of this tract;

THENCE South along an old fence line 1149.4 feet to an iron stake for the most Southern Southeast corner of this tract;

THENCE West 580 feet to an iron stake for the Southwest corner of this tract;

THENCE North 1734.4 feet to an iron stake for the most Western Northwest corner of this tract;

THENCE East 249 feet to an iron stake for an inside Northwest corner of this tract;

THENCE North 2 deg. 11' 12" West 1026.4 feet to the point of beginning, containing 88.373 acres of land.

EXHIBIT "A"  
PAGE 1

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Rk Wp1  
98

All that certain tract of land in Fannin County, Texas, North about 80 deg. East 13 miles from the City of Bonham, being a part of the J. Delgado Survey, Abst. No. 276 and a part of the W.W. Reader Survey, Abst. No. 940, more fully described as follows:

**BEGINNING** at a point in the center line of a county road for the Northeast corner of this tract, said point of beginning being the most Northerly Northwest corner of a tract of land described in a deed from W. B. Welch, et al to John Welch, dated July 10, 1970 recorded in Vol. 519, page 521 of the Fannin County Deed Records;

**THENCE** South passing an iron stake standing in a fence line at 27 feet, continuing South in all along an old fence line, 234.21 feet to an iron stake for the most Southerly Southeast corner of this tract;

**THENCE** along a common line between the land conveyed to John Welch in the deed above referred to, and this tract, as follows: North 87 deg. West 412 feet; South 8 deg. West 306 feet; North 87 deg. West passing an iron stake standing in the East side of a county road at 1400 feet, continuing on this course in all, 1493 feet to a point in the center line of a county road for the Southwest corner of this tract;

**THENCE** North 8 deg. 30' East along the center line of said county road 582 feet to the intersection of another county road;

**THENCE** South 89 deg. 20' East along the center line of this county road 2000 feet to the point of beginning, containing 21.597 acres of land, and being a part of the land described in a deed from Truman Atkins to John Bemosh, dated May 11, 1957 recorded in Vol. 400, page 461 of the Fannin County Deed Records and a part of the land willed to Carolyn Bemosh and John R. Bemosh, Jr. by Gardella Witcher Corzine by Will recorded in Vol. 3, page 77 of the Will Records of Fannin County, Texas

EXHIBIT "A"  
PAGE 2

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Vol  
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59

All then certain tract, of the J. Delgado Survey, Abst. No. 276 and a part of the W.W. Reeder Survey, Abst. No. 960, more fully described as follows:

BEGINNING at an iron stake for an inside Southwest corner of this tract, at the most Northern Northeast corner of a tract of land described in a deed from J. L. Welch, et al, to W.B. Welch, said deed dated November 9, 1958 of record in Vol. 413, page 479, Fannin County Deed Records;

THENCE South crossing the center line of a county road at 180 ft., continuing South in all 398 ft. to an iron stake for the most Southern Southwest corner of this tract, standing at the inside Northeast corner of the W.B. Welch tract above referred to;

THENCE East, along the remains of an old hedgerow crossing the center line of a county road at 1239 ft., continuing along said county road in all 2177 ft. to the intersection of another county road from which an iron stake brs. North 49 deg, West 85 ft., said point being further identified as the Southwest corner of a tract of land described in a deed from Udel Jo Carson Uselton to Lois B. Hicks, deed dated January 29, 1970 of record in Vol. 514, Page 61, Fannin County Deed Records;

THENCE North, along the center line of this county road, 1465 ft. to a point for the most Eastern Northeast corner of this tract, said point being the Southeast corner of a tract of land described in a deed from A. Clinard to T.B. Cox, County Judge, on September 17, 1961, of record in Vol. 16 Page 125, Fannin County Deed Records;

THENCE North 68 deg, West passing an iron stake standing by a bole d'arc fence post at 17 ft., continuing on this course in all 174 ft. to an iron stake standing in a fence line for an inside Northeast corner;

THENCE North 198 ft. to an iron stake standing by a fence post for the most Northern Northeast corner of this tract, at the Northwest corner of the Gum Springs Church Lot, and on School Lot described in the deed to T.B. Cox, above referred to;

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THENCE West, along an old fence line (raving fence at 284 ft., and continuing West along the center line of a county road in all 1160 ft. to a point in said road for the most Northern Northwest corner of this tract;

THENCE South passing an iron stake standing by a bois d'arc fence post at 19 ft., continuing South in all along an old fence line 250 ft. to a bois d'arc fence post for an inside Northwest corner;

THENCE North 89 deg. 30 min. West, along an old fence line, 412 ft. to an iron stake standing by a bois d'arc fence post for a Western corner;

THENCE South 6 deg. West, along an old fence line, 306 ft. to an iron stake for an inside Northern corner;

THENCE South 89 deg. West, along an old fence line passing an iron stake standing by a fence post at 1412 ft., continuing on this course in all 1493 ft. to a point in county road for the most Western Northwest corner of this tract;

THENCE South, along the center of said county road, 758 ft. to a point from which iron stake brs. North 58 deg. 40 min. East 39 ft;

THENCE East, along the center line of another county road leaving road at 852 ft., continuing east in all 1249 ft. to the point of beginning, containing 83.663 acres of land, and being a part of the land described in a deed from C. W. Hoskins to T. J. Welch, on March 15, 1905 of record in Vol. 101, Page 589, Fannin County Deed Records and a part of the land described in a deed from E. L. Curtis to T. J. Welch, on September 4, 1902, recorded in Vol. 83, Page 569, Fannin County Deed Records

EXHIBIT "A"  
PAGE 4

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101

All that certain tract or parcel of land situated in Fannin County, Texas about 11 miles Northeast from Bonham and about 10 miles Northwest from Honey Grove and being 110 acres deeded by C.A. Barnes and wife in a deed shown at Book 124, Page 189, Fannin County Deed Records, of the W.H. Mathews Survey of 220 acres, more fully described as follows:

BEGINNING at the Northeast corner of the 183 acre tract, the Northeast corner of original survey;

THENCE North with North line of said Survey, 734 varas a stake;

THENCE South 862 varas a stake in South line of said Survey;

THENCE East 734 varas to Southwest corner of said survey;

THENCE North 862 Varas to the place of beginning, being the same land described in a deed from T.J. Welch and

Hattie Welch to J.W.A. Parker, which said deed November

14, 1917, of record in the Deed Records of Fannin

County, Texas, in Book 146, at Page 353 thereof,

reference to which said deed and the record thereof

here made for all purposes, and being the same land

described as FIRST TRACT in the deed from Leslie

Parker, et ux, to J.L. Welch and Omer Welch, dated

September 28, 1946, of record in Vol. 271, Page 387,

Fannin County Deed Records.

EXHIBIT "A"  
PAGE 5

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OR 1191

All that certain tract or parcel of land situated in Fannin County, Texas, about 12 miles Northeast from Bonham, Fannin County, Texas and being 40 acres of land out of the W.H. Matthews Survey, more fully described as follows:

BEGINNING on the North Boundary Line of said Survey, 784 varas West of the Northeast corner of said Survey;

THENCE West 65 1/2 varas;

THENCE South 842 varas to the South line of said tract;

THENCE East 65 1/2 varas;

THENCE North 842 varas to the place of beginning, being 40 acres off the west end of a tract of land sold to J.R. Moore by deed dated February 2, 1907, by W.L. Stover and wife, and duly recorded in Vol. 112, Page 349, Fannin County Deed Records, being the same land described in the deed from T.B. Barnes and wife, Alice Barnes, to John Barnes, dated November 4, 1912, which said deed is of record in the Deed Records of Fannin County, Texas in Book 180, at Page 210, thereof, reference to which said deed and the record thereof, here made for all purposes, and being the same land described as SECOND TRACT in the deed from Lexie Parker, et ux, to J.L. Welch and Omar Welch, dated September 28, 1946, of record in Vol. 271, Page 227, Fannin County Deed Records.

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Doc 06607013 BR Vol 1191 Pg 103

All that certain tract or parcel of land, situated in Fannin County, Texas, part of the J.G.M. Hodge Survey, and described by metes and bounds as follows:

BEGINNING at a point 261 varas North of the SW corner of said Survey, the NW corner of V.T. Witcher's 20 acre tract in said survey;  
THENCE North 690.0 varas, the NW corner of said Hodge Survey;  
THENCE East 428 varas a point in North line of said survey;  
THENCE South 690.0 varas with Wakefield West line to the NE corner of Witcher's 20 acre tract;  
THENCE West 428 varas to the beginning, containing 52 acres of land.

All that certain tract or parcel of land in Fannin County, Texas, out of the Wm. Johnson Survey, Abst. No. 587, located about 10 miles N.E. from Bonham and being described by metes and bounds as follows, containing 87 1/2 acres of land, more or less:

BEGINNING at the SW corner of said Survey a stake;  
THENCE East with the South line of said survey 652 vrs. to a stake;  
THENCE North parallel with the West line of said survey 614 vrs. a stake;  
THENCE West parallel with the South line of said survey 460 vrs. a stake;  
THENCE North parallel with the West line of said survey 476 vrs. a stake;  
THENCE West 212 vrs. to a stake in the West line of said survey 121 vrs. South of the N.W. corner thereof;  
THENCE South with the West line of said survey 1206 vrs. to the place of beginning, and being the same real estate conveyed by E.B. Carson, et al, to E.O. Carson, by deed dated April 11, 1941, of record in Book 260, Page 535, Fannin County Deed Records,

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NO. 00007013 DR Vol 194

about 14 miles N.E. from Bonham and being 62-1/2 acres of a survey of 160 acres in the name of W.W. Reeder, beginning at the S.E. corner of said survey; THENCE North 291 vrs. to stake in East line of said survey; THENCE West 1052 vrs. to S.E. corner of 2-1/2 acres deeded to me by A. Chard and wife; THENCE 123 varas to N.W. corner of said 2-1/2 acres; THENCE West 116 vrs. to N.W. corner of said 2-1/2 acres; THENCE South 413 vrs. to the S.W. corner of said Reeder Survey; THENCE East 1168 vrs. to the place of beginning.

THIS TRACT OR PARTS OF IT ARE SITUATED IN FANNIN COUNTY, TEXAS, North 44° 30' East 13 miles from the City of Bonham, being a part of the W.W. Reeder Survey, Abstract No. 960 and a part of the Wm. Johnson Survey, Abstract No. 537, more fully described as follows: FROM the Northeast corner of a tract of land described in a deed from J.L. Welch, et al. to W.B. Welch, dated November 3, 1958, recorded in Vol. 413, Page 479 of the Fannin County Deed Records, GO South 2° 11' 12" East 1026.04 feet; THEN Go West 249 feet to an iron stake for the point of beginning and the most Northern Northeast corner of this tract; THENCE South 1734.4 feet to an iron stake for an inside Northeast corner of this tract; THENCE East 500 feet to an iron stake for the most Eastern Northeast corner of this tract; THENCE South 1307.6 feet to an iron stake for the Southeast corner of this tract; THENCE West 1500 feet to an iron stake for the most Southern Southwest corner of this tract, standing at the most Southern Southeast corner of a tract of land described in a deed from E.O. Carson to John Wm. Welch, dated March 15, 1963, recorded in Vol. 480, Page 400, of the Fannin County Deed Records; THENCE North 1705 feet to an iron stake for an inside Southwest corner of this tract, standing at the most Eastern Northeast corner of the land described in the deed to John Wm. Welch above referred to; THENCE West 1277 feet to an iron stake for the most Western Southwest corner of this tract, standing at an inside Northeast corner of the John Wm. Welch land; THENCE North 1337 feet to an iron stake standing in a fence line for the Northwest corner of this tract, in the South line of a tract of land described in a deed from J.L. Welch and Vera Snodgrass to W.B. Welch, dated November 3, 1958, recorded in Vol. 413, Page 479, of the Fannin County Deed Records; THENCE East 2277 feet to the point of beginning, containing 124.030 acres of land.

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PAGE 8

REC  
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1959

All that certain tract or parcel of land known as 25 acres out of the A. Daugherty and G.W. King Surveys in Fannin County, Texas, the same being a part of 60.19 acres of land conveyed by G.H. Baldwin and wife to J.R. Wall by deed of record in Book 101, Page 173, of the Deed Records of Fannin County, Texas,

BEGINNING at NE corner of said 60.19 acres;

THENCE West with the North boundary line of same to the NW corner thereof;

THENCE South 85 yds., the S.B. line of the G.W. King Survey and the N.B. line of the A. Daugherty Survey, continuing South 149 282/402 varas into the A. Daugherty Survey;

THENCE East 602 varas, the East boundary line of said 60.19 acres;

THENCE North 234 282/402 varas to the place of beginning, being the land set apart to Mrs. C.M. Baldwin in a deed from J.R. Wall, et al, of record in Book 118, Page 189, of Deed Records of Fannin County, Texas, and being the same land conveyed by G.H. Baldwin, et ux, to L.O. Parker, by deed dated October 9, 1917, of record in Book 146, Page 93, Fannin County Deed Records.

SAVE AND EXCEPT Odie L. Parker, Sr., Ester Parker, Duck Wooten, Harvey Wooten, Ella Mae Wooten, Jim Wooten, Juanita Wooten, Jesse Rezende and Walter Rezende, ~~together reserve~~ an undivided 1/2 interest in all the oil, gas and other minerals in, on and under the land above described.

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BK  
1191  
Pg 103

On the waters of Bois d'arc Creek about 18 miles N.E.  
 from Bonham, a part of the A. Daugherty Survey;  
**BEGINNING** at the N.W. corner of the G.W. King Survey and on the  
 J.C.M. Hodge Survey;  
**THENCE** South  $142 \frac{2}{3}$  vrs. a stake from which a hickory mkd A  
 brs N.  $25 \text{ deg. W. } 6 \frac{1}{4}$  vrs.;  
**THENCE** West  $1025 \frac{1}{3}$  vrs to a stake on the E. line of L.B.  
 Robinson's tract, from which a Postoak mkd A brs. N.  $81$   
 $\text{deg. E. } 2 \frac{2}{5}$  vrs.;  
**THENCE** North  $186$  vrs. to a stake in the S. line of the Wm.  
 Johnson Survey, from which Post Oak mkd A brs. N.  $88$   
 $\text{deg. E.}$  vrs.;  
**THENCE** East  $600$  vrs. to the S.E. corner of the Wm. Johnson  
 Survey;  
**THENCE** South  $13 \frac{1}{2}$  vrs. to the S.W. corner of the J.C.M.  
 Hodge Survey;  
**THENCE**  $415 \frac{4}{5}$  vrs. to the place of beginning, containing  $27 \frac{1}{2}$   
 acres of land, and being the same real estate described  
 in the deed from Vince Peyton, et ux, to W.R. Atkins,  
 of record in Book 62, Page 150, Fannin County Deed  
 Records.

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 PAGE 10

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Out of the J.C.M. Hodge Survey, containing 20 acres of land more or less, and being the same land willed Cordelia Witcher under the wills of W.R. and E.O. Atkins probated in Fannin County, Texas;

BEGINNING at the S.W. corner of the J.C.M. Hodge Survey;  
THENCE North to the S.W. corner of 50 acres formerly owned by W.R. and E.O. Atkins;  
THENCE East to the S.E. corner of said 50 acres;  
THENCE South to the S. line of the J.C.M. Hodge Survey;  
THENCE West to the place of beginning

Being the same 2 tracts described in the deed from Charles Cain, et ux to W.P. Waldrop, dated February 20, 1936, recorded in Volume 388, Page 191, Deed Records, Fannin County, Texas, and Volume 388, Page 286, Deed Records, Fannin County, Texas.

There is hereby EXCEPTED from the above described land and premises and RESERVED unto Waldrop and Leona C. Waldrop, their heirs and assigns, forever, all of the oil, gas and other mineral estate interests in said premises, together with the right of ingress and egress for the purposes of exploration and development of same, and together with all other rights, privileges and powers incident to said oil, gas and mineral estate interest herein reserved. Subject to non-participating royalty interest reserved in above deed from Charles Cain, et ux to W.P. Waldrop.

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Doc 8007913 BR 1191 189

At that certain tract or parcel of land, situated in Fannin County, Texas, out of the Andrew Daugherty Survey, Acont. 8821, more particularly described as follows:

BEGINNING at the SW corner of a 4 7/10 acre tract that Ellison Parker conveyed to O.G. Rowe as the second tract by deed, recorded in Book 187, Page 695, Fannin County Deed Records;

THENCE East 602 yds. to the SE corner of what was formerly a 60 acre tract conveyed by G.H. Baldwin to J.R. Wall by deed recorded in Book 101, Page 173, Fannin County Deed Records;

THENCE North with the East line of said 60 acres and the West line of the William Ward Survey, 271 282/604 yds. to the NE corner of the 28 acres set aside to Mrs. N.E. Moore in the Participation of the Wall land by deed recorded in Book 118, Page 189, Fannin County Deed Records;

THENCE West 602 yds to the NW corner of said Mrs. N.E. Moore tract;

THENCE South 271.282/604 yds. to the place of beginning, containing in all 29.9 acres of land, more or less, and being the two tracts of land conveyed to O.G. Rowe in the Deed from Ellison Parker, dated February 15, 1920, of record in Book 187, Page 695, Fannin County Deed Records, both tracts now conveyed under one set of field notes.

SAVE AND EXCEPT, Lidda A. Rowe, Sidney Rowe and May Rowe, have previously reserved and excepted from the above described lands and premises an undivided 1/2 interest in all the oil, gas and other minerals, in, on and under the above described lands and premises, with full right of ingress and egress for the purpose of mining, exploring and producing the same.

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B

A that certain tract or parcel land situated in Fannin County, Texas, being a part of the A. Daugherty Survey, Abst. #921, and James Daugherty Survey, Abst. #281, more fully described as follows:

BEGINNING at a stake 166 feet North of the Northeast corner of the Wm. Matthews Survey, Abst. #748;

THENCE South, along an old fence line, 1326.6 feet to an Iron stake for the Southwest corner of this tract;

THENCE East 698 feet to a hole d'arc fence post for a corner;

THENCE North 105 feet to a hole d'arc fence post for a corner;

THENCE East 243 feet to a hole d'arc fence post for a corner;

THENCE North 571.6 feet to a hole d'arc fence post for a corner, standing in the north line of the James Daugherty Survey and the South line of the A. Daugherty Survey;

THENCE East, with said survey lines, 2426 feet to a stake for a corner;

THENCE North with a fence line, 649.6 feet to a stake for a corner;

THENCE West through the timber, with an agreed line between Rufus Allen and Ralph Johnson, 8582 feet to the point of beginning, containing 68.281 acres of land, of which 52.224 acres lays in the A Daugherty Survey and 16,057 acres lays in the James Daugherty Survey.

SAVE AND EXCEPT the reservation of Ralph R. Johnson and Maureen Johnson, from the above described lands and premises an undivided 1/2 interest in all the oil, gas and other minerals, in, on and under the above described lands and premises.

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REC  
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191  
Pg  
118

All that certain tract or parcel of land, situated in Fannin County, Texas, part of the A. Daugherty Survey, Abst. #221, more fully described as follows:

BEGINNING at an oak tree for the Southwest corner of this tract, said point of beginning being 166 feet north from the Northeast Corner of the Wm. H. Matthews Survey, Abst. #748;

THENCE East 3502 feet to a fence post for the Southeast corner;

THENCE North, along an old fence line, 795.4 feet to a fence post for the Northeast corner;

THENCE West, along an old hedgerow and fence line, 3502 feet to an oak tree two foot in diameter for the Northwest corner;

THENCE South, along a fence line, 434 feet to a fence post for a corner;

THENCE East 138 feet to a stake for an inside corner;

THENCE South 291 feet to a stake for a corner;

THENCE West 198 feet to a fence post for a corner;

THENCE South 57.4 feet to the point of beginning, containing 62.2 acres of land, and being the land described in a deed from Oudie Moore Williams and Henry Williams to Rufus Allen by a deed dated January 28, 1944, of record in Vol. 271, Page 38, Fannin County Deed Records.

There is reserved and excepted from the above described lands and premises an undivided 1/2 interest in all the oil, gas and other minerals in, on and under the above described lands, said reservation being in favor of Rufus Allen and Tillie Allen, their heirs and assigns forever.

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1 that certain tract or parcel of land, situated in Fannin County, Texas, being composed of two tracts or parcels of land;

**FIRST TRACT:**

Described as follows: Being 18 acres off of the east part of 42 acres out of the Andrew Daugherty Survey, about 12 miles N.E. from Bonham, and being on the north side of Bois d'arc Creek; said 42 acres was deeded to Louis B. Robertson by B.B. Parish, February 6, 1886, recorded 29th 1888, in Book-Vol. 32, and Page 442, and 443, Fannin County Records of bonds and deeds, and

BEGINNING 342  $\frac{6}{7}$  vrs. from S.W. cor. of the Wm. H. Johnson Survey;

THENCE South 400 vrs. a stake on north line of Wm. H. Mathews Survey;

THENCE East 257  $\frac{1}{7}$  vrs. to stake on N.E. cor. of said Wm. H. Mathews Survey;

THENCE North 400 vrs. a stake on south boundary line of said Johnson Survey;

THENCE West 257  $\frac{1}{7}$  vrs. to place of beginning containing 18 acres.

**SECOND TRACT:**

Described as follows: Situated in Fannin County, Texas, being a part of the Andrew Daugherty Survey, about 12 miles N.E. from Bonham, and being out of a 42 acres deed to Louis B. Robertson by B.B. Parish, February 6, 1886, and recorded in the Deed Records of Fannin County, Texas, Book 32, Page 442, and to which reference is hereby made;

BEGINNING at the S.W. corner of Wm. H. Johnson Survey;

THENCE South 400 vrs. to stake on North Boundary line of Wm. H. Mathews Survey;

THENCE East 342  $\frac{6}{7}$  vrs. to stake in south line of said 42 acres;

THENCE North 400 vrs. a stake in North line of said 42 acres;

THENCE West 342  $\frac{6}{7}$  vrs. with North line of said 42 acres to place of beginning, containing 24 acres, more or less.

1 that certain tract or parcel of land, situated in Fannin County, Texas, being apart of the James Daugherty Survey, Abst. #221, more fully described as follows:

**FIRST TRACT:**

**BEGINNING** at an inside Northwest corner of the original survey, at the most Eastern Southeast corner of the A. Daugherty Survey, Abst. #221;

**THENCE** North 339 feet to an oak tree 3 foot in diameter for the most Northern Northwest corner of this tract;

**THENCE** East, along a fence line, 370 feet to a bois d'arc stake for the Northeast corner;

**THENCE** South 2341 feet to a bois d'arc fence post for the Southeast corner;

**THENCE** West 375 feet to a bois d'arc fence post for the Southwest corner;

**THENCE** North 2006 feet to a bois d'arc fence post for the most Western Northwest corner of this tract, in the north line of the original survey;

**THENCE** East 208 feet to the point of beginning, containing 29.934 acres of land, and being Tracts 4 and 5 in a deed from H.C. Johnson, Jr., et al, to Sally J. Huffman, by a deed dated November 23, 1936, of record in Vol. 377, Page 477, Fannin County Deed Records.

**SECOND TRACT:**

**BEGINNING** at a bois d'arc fence post in the north line of the original survey, on the south line of the A. Daugherty Survey, Abst. #221, 1421 feet West from the Eastern Southeast corner of the A Daugherty Survey;

**THENCE** South 1516 feet to a bois d'arc fence post for the Southeast corner;

**THENCE** West 1005 feet to a bois d'arc fence post for the Southwest corner;

**THENCE** North 1516 feet to a bois d'arc fence post for the Northwest corner;

**THENCE** East 1005 feet to the point of beginning, containing 34.976 acres of land, and being tracts 2 and 3 described in the deed from H.C. Johnson, Jr., et al, to Sally J. Huffman, by a deed dated November 23, 1936, of

Re: dk.

There is excepted from the above described lands and premises the undivided 1/16 interest in all the oil, gas and other minerals that are in and under the above described lands and premises as conveyed by H.C. Johnson, et al, to Mattie DeGraz by royalty deed dated October 31, 1940, of record in Book 246, Page 572, Fannin County Deed Records.

There is excepted from the above described lands and premises the undivided 1/16 interest in all the oil, gas and other minerals that are in, on and under the lands above described, as shown in the deed dated October 31, 1940, from Ralph Johnson et al, to F.E. Case, of record in Book 246, Page 576, Fannin County Deed Records.

There is excepted from the above described lands and premises the undivided 1/16 interest in all the oil, gas and other minerals that are in, on and under the above described lands as described in the royalty deed from Ralph R. Johnson, et al, to J.N. Martin, dated October 31, 1940, of record in Book 247, Page 282, Fannin County Deed Records.

There is excepted from the above described lands and premises the undivided 1/16 interest in all the oil, gas and other minerals that are in, on and under the above described lands as shown in the deed from Ralph Johnson, et al, to James L. Anderson, dated October 31, 1940, of record in Book 247, Page 286, Fannin County Deed Records.

There is excepted from the above described lands and premises the undivided 1/2 interest in all the oil, gas and other minerals that are in, on and under the above described lands as shown in the deed from Sally J. Huffman to an R.W. Huffman, dated September 7, 1966, and recorded in Vol. 447 at Page 408 of the Deed Records of Fannin County, Texas.

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114

**FIRST TRACT:**

A PART OF THE G. N. KING SURVEY ABOUT 11 MILES NW FROM BONHAM ON THE WATERS OF BOIS D'ARC CREEK, IN TWO PARCELS, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**PARCEL A:**  
BEGINNING AT THE NE CORNER OF THE J. C. HODGE SURVEY;  
THENCE SOUTH 96 RODS, A STAKE IN THE EB LINE OF SAID HODGE SURVEY;  
THENCE EAST 50 RODS, A STAKE IN THE NB LINE OF THE WILLIAM WARD SURVEY;  
THENCE NORTH 96 RODS, A STAKE;  
THENCE WEST 50 RODS TO THE PLACE OF BEGINNING, CONTAINING 30 ACRES OF LAND, MORE OR LESS.

**PARCEL B:**  
BEGINNING AT A STAKE IN THE EB LINE OF THE J. C. HODGE SURVEY AT THE SW CORNER OF A 30-ACRE TRACT OF LAND NOW OR FORMERLY OWNED BY C. C. YRAKUM;  
THENCE EAST 50 RODS, A STAKE IN THE NB LINE OF THE WILLIAM WARD SURVEY;  
THENCE SOUTH 32 RODS, A STAKE;  
THENCE WEST 50 RODS, A STAKE;  
THENCE NORTH 32 RODS TO THE PLACE OF BEGINNING, CONTAINING 10 ACRES OF LAND, MORE OR LESS.

THE ABOVE DESCRIBED LAND IS THE SAME PROPERTY CONVEYED BY E. C. CORZINI TO CHARLES J. DORSEY BY DEED DATED JANUARY 24, 1900, RECORDED IN BOOK 75, PAGE 165, FANNIN COUNTY DEED RECORDS.

**SECOND TRACT:**

A PART OF THE G. N. KING SURVEY ABOUT 10 MILES NW OF HONEY GROVE ON THE NORTH SIDE OF BOIS D'ARC CREEK, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:  
BEGINNING AT THE SE CORNER OF THE NORTH J. C. M. HODGE SURVEY;  
THENCE EAST 50 RODS, A STAKE IN THE NB LINE OF THE WILLIAM WARD SURVEY;  
THENCE NORTH 32 RODS, A STAKE AT THE SE CORNER OF THE 40-ACRE TRACT OF LAND NOW OR FORMERLY OWNED BY SCOTT JONES;  
THENCE WEST WITH JONES' SOUTHERLY SB LINE 50 RODS, A STAKE AT HIS SW CORNER;  
THENCE SOUTH WITH THE NB LINE OF SAID HODGE SURVEY 32 RODS TO THE PLACE OF BEGINNING, CONTAINING 10 ACRES OF LAND, MORE OR LESS, AND BEING THE SAME PROPERTY CONVEYED BY J. B. JOLLEY AND WIFE, LEZZIE JOLLEY, TO SCOTT JONES BY DEED DATED FEBRUARY 4, 1911, RECORDED IN BOOK 123, PAGE 615, FANNIN COUNTY DEED RECORDS.

THE ABOVE DESCRIBED FIRST AND SECOND TRACTS ARE THE SAME PROPERTY DESCRIBED IN DEED FROM OPHELIA JONES BURMAUGH ET AL. TO JOHN LOCKE AND WIFE, CLARA LOCKE, DATED FEBRUARY 12, 1962, RECORDED IN BOOK 450, PAGE 827, FANNIN COUNTY DEED RECORDS.

**EXHIBIT "A"**  
**PAGE 18**

FILED FOR RECORD IN  
FANNIN COUNTY  
GENERAL RECORDS DIVISION  
DEEDS UNIT  
ON NOV 01 2005 AT 11:28  
AM  
BY  
RECORDS NUMBER 12480  
PAGE NUMBER 1828  
BY TERRY RICH, CLERK

THE FANNIN COUNTY CLERK HAS REVIEWED THE  
FILE, INDEX, MAP AND RECORDS TO BE  
FOR FANNIN COUNTY DEED RECORDS. THE  
INDEX AND RECORDS HAVE BEEN FILED IN  
BOOK 450, PAGE 827.

STATE OF GEORGIA      COUNTY OF FANNIN

I, Clerk of said County, do hereby certify that this instrument was  
filed for record in the General Records by me  
and the same is a true and correct copy  
of the original recorded in Fannin County  
as depicted herein by me.

Nov 01, 2005

*Melissa Rich*  
Fannin County Clerk  
Fannin County, Georgia  
Barbara J. Rich  
Clerk

DOC# 006607013 OR# 1191 Vol 115 PH



GF#201000690 (10-275)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT THAT TRANSFERS INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### SPECIAL WARRANTY DEED

Date: December 20, 2010

Grantor: KYLE PAYNE and wife, MARY PAYNE

Grantor's Mailing Address:

626 CR 2615  
Telephone, Texas 75488  
Fannin County

Grantee: NORTH TEXAS MUNICIPAL WATER DISTRICT

Grantee's Mailing Address:

P. O. Box 2408  
Wylie, Texas 75098  
Collin County

Consideration:

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

Property (including any improvements):

BEING 880.525 acres, situated in the W. W. Reeder Survey, Abstract No. 960, the John C. M. Hodge Survey, Abstract No. 509, the John C. M. Hodge Survey, Abstract No. 510, the W. M. Johnson Survey, Abstract No. 587, the G. W. King Survey, Abstract No. 599, the Andrew Dougherty Survey, Abstract No. 321, the James Dougherty Survey, Abstract No. 281, the W. M. Mathews Survey, Abstract No. 748, Fannin County, Texas, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

Reservations from and Exceptions to Conveyance and Warranty:

This Deed is executed and delivered subject to all easements, mineral reservations, conditions, covenants and restrictive covenants as the same appear of record in the office of the County Clerk of Fannin County, Texas.

The Minerals, together with all and singular the rights and appurtenances belonging in any way to the Minerals, subject to the



5900 5K 11:55 473

PREPARED IN THE OFFICE OF:

Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15th Street; Plano, Texas 75074  
Ph: (972) 424-8501; Fax: (972) 424-5619

AFTER RECORDING RETURN TO:

NORTH TEXAS MUNICIPAL WATER DISTRICT  
Attn: Bently Powell  
P. O. Box 2408  
Wylie, Texas 75098

**TAKE PARCEL**

*Being:* 879.381 acres of land, a part of the W.W. Reeder Survey Abstract Number 960, John C.M. Hodge Survey Abstract Number 509, John C.M. Hodge Survey Abstract Number 510, WM. Johnson Survey Abstract Number 587, G.W. King Survey Abstract Number 599, Andrew Dougherty Survey Abstract Number 321, James Dougherty Survey Abstract Number 281, and the WM. Mathews Survey Abstract Number 748, lying and being situated in Fannin County, Texas. The said 879.381 acre tract being all of a called 88.593 acre tract, part of a called 83.663 acre tract, all of a called 110 acre tract, all of a called 40 acre tract, all of a called 52 acre tract, part of a called 89 ½ acre tract, part of the remainder a called 62 ½ acre tract, part of a called 124.030 acre tract, all of a called 25 acre tract, all of a called 27 acre tract, all of a called 20 acre tract, all of a called 29.9 acre tract, all of a called 68.281 acre tract, all of a called 62.2 acre tract, all of a called 18 acre First Tract, all of a called 24 acre Second Tract, all of a called 29.334 acre First Tract, all of a called 34.976 acre Second Tract, all of a called 30 acre tract described in First Tract Parcel A, all of a called 10 acre tract described in First Tract Parcel B, and all of a called 10 acre tract Second Tract being described in a General Warranty Deed from Regis Welch to Kyle Payne and wife, Mary Payne, dated June 9, 2009 of record in Volume 1434, Page 1 of the Land Records of Fannin County, Texas. The said 879.381 acre tract being described more particularly by metes and bounds as follows:

**COMMENCING** at a ½" found iron rod at the Westernmost Northwest corner of the referenced 62 ½ acre remainder parent tract, at the Southwest corner of a called 2.000 acre tract conveyed to Robert L. Payne and Diane N. Payne in Volume 1455, Page 63, and in the East line of a called 100 acre tract conveyed to Lynda Lou Spinks and Susanne Spinks in Volume 677, Page 73, Go S00°19'11"W a distance of 2410.07 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7304389.63, Easting 2722471.44), for the Point of Beginning and a Northwest corner of this tract, in the West line of the referenced 89 ½ acre parent tract, and in an East line of a called 923.968 acre tract conveyed to Curtis E. Carlson Jr. and wife, Kathleen G. Carlson in Volume 763, Page 224.

**Thence:** along 105 calls with the 541 contour line the following approximate courses and distances as follows:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. N 28°35'39" E 126.85 feet  | 2. S 23°22'14" E 116.60 feet  |
| 3. S 48°30'27" E 107.78 feet  | 4. S 89°49'01" E 105.42 feet  |
| 5. S 43°02'55" E 121.26 feet  | 6. S 11°20'16" E 101.61 feet  |
| 7. S 14°30'12" E 103.43 feet  | 8. S 53°10'06" E 86.58 feet   |
| 9. S 52°28'37" W 89.74 feet   | 10. S 07°11'35" W 78.92 feet  |
| 11. S 31°10'26" E 74.89 feet  | 12. S 30°05'43" W 82.46 feet  |
| 13. S 08°08'17" E 117.40 feet | 14. S 12°46'13" E 116.04 feet |
| 15. S 25°46'33" E 118.74 feet | 16. S 45°35'45" E 123.16 feet |
| 17. S 18°01'16" E 130.61 feet | 18. S 61°14'46" E 140.54 feet |
| 19. S 77°30'03" E 137.91 feet | 20. S 80°53'45" E 113.64 feet |
| 21. N 67°03'07" E 127.40 feet | 22. N 46°49'13" E 115.60 feet |
| 23. N 32°22'09" E 112.06 feet | 24. N 04°03'33" E 113.10 feet |
| 25. N 04°52'54" W 113.96 feet | 26. N 04°41'45" E 126.05 feet |
| 27. N 00°42'24" E 114.26 feet | 28. N 09°58'36" E 106.73 feet |
| 29. N 20°30'34" E 132.30 feet | 30. N 16°26'26" E 115.34 feet |
| 31. N 19°54'34" E 105.37 feet | 32. N 15°26'46" E 62.50 feet  |
| 33. N 66°34'34" E 91.77 feet  | 34. N 00°57'29" E 81.94 feet  |

- |                                |                                |
|--------------------------------|--------------------------------|
| 35. N 55°57'27" E 73.56 feet   | 36. N 35°35'35" E 104.03 feet  |
| 37. N 42°04'06" E 87.68 feet   | 38. N 01°12'01" E 96.72 feet   |
| 39. N 01°25'23" E 121.08 feet  | 40. N 03°22'10" E 111.41 feet  |
| 41. N 04°26'48" W 139.13 feet  | 42. N 11°12'25" W 98.61 feet   |
| 43. N 07°00'16" W 85.28 feet   | 44. N 26°03'11" W 104.17 feet  |
| 45. N 32°01'29" W 81.40 feet   | 46. N 40°10'12" W 77.32 feet   |
| 47. N 29°13'31" W 99.29 feet   | 48. N 02°24'03" E 82.86 feet   |
| 49. N 14°46'16" W 90.40 feet   | 50. N 02°31'41" W 87.79 feet   |
| 51. N 23°56'37" W 93.67 feet   | 52. N 43°07'52" W 82.09 feet   |
| 53. N 52°58'31" W 85.63 feet   | 54. N 68°05'20" E 66.71 feet   |
| 55. N 37°54'17" E 54.14 feet   | 56. N 05°44'30" E 99.46 feet   |
| 57. N 49°38'40" W 89.32 feet   | 58. N 41°02'38" E 100.25 feet  |
| 59. N 16°40'28" E 80.09 feet   | 60. S 77°02'37" E 85.42 feet   |
| 61. N 62°38'52" E 90.33 feet   | 62. N 63°57'49" E 68.64 feet   |
| 63. N 18°44'46" E 92.04 feet   | 64. N 78°33'54" E 97.39 feet   |
| 65. N 08°49'13" W 79.62 feet   | 66. N 73°18'31" E 198.98 feet  |
| 67. N 48°03'56" E 101.10 feet  | 68. N 54°53'36" E 94.60 feet   |
| 69. N 38°27'51" E 76.81 feet   | 70. N 68°59'05" W 122.06 feet  |
| 71. N 25°32'32" W 80.89 feet   | 72. N 77°09'11" E 81.90 feet   |
| 73. N 58°57'25" E 96.28 feet   | 74. N 22°01'57" W 102.16 feet  |
| 75. N 44°04'41" W 108.85 feet  | 76. N 32°24'21" W 122.95 feet  |
| 77. N 44°16'08" W 96.09 feet   | 78. N 58°35'55" E 87.90 feet   |
| 79. N 80°07'33" W 96.46 feet   | 80. N 05°00'41" W 134.75 feet  |
| 81. N 00°13'17" E 88.76 feet   | 82. N 09°48'28" W 79.08 feet   |
| 83. N 22°08'35" W 105.51 feet  | 84. N 41°37'26" E 61.29 feet   |
| 85. N 46°30'12" W 87.19 feet   | 86. N 89°55'34" W 73.57 feet   |
| 87. N 22°46'35" E 80.63 feet   | 88. N 52°29'29" E 52.01 feet   |
| 89. N 33°57'20" W 91.05 feet   | 90. N 05°28'02" W 127.68 feet  |
| 91. N 11°08'05" W 71.05 feet   | 92. N 82°38'53" W 97.17 feet   |
| 93. S 88°21'32" E 86.66 feet   | 94. S 55°55'27" E 83.07 feet   |
| 95. S 43°37'48" E 98.61 feet   | 96. S 42°08'27" E 245.91 feet  |
| 97. S 20°32'06" E 98.02 feet   | 98. S 50°03'20" E 103.31 feet  |
| 99. S 70°37'16" E 143.56 feet  | 100. N 34°42'05" E 107.18 feet |
| 101. N 86°44'49" E 60.87 feet  | 102. S 09°35'10" W 120.25 feet |
| 103. S 26°43'11" E 108.19 feet | 104. S 56°34'30" E 114.10 feet |

105. N 13°21'06" E 85.15 feet to a point, for a Northeast corner of this tract, in the East line of the referenced 83.663 acre parent tract, at a Westernmost Southwest corner of the remainder of a called 40 acre tract conveyed to Leon Casey Barber and wife, Kristi Denise Barber in Volume 1449, Page 553, at the Westernmost Southwest corner of a called 3.516 acre Flowage Easement conveyed to North Texas Municipal Water District in Volume 1440, Page 286, and at the Westernmost Northwest corner of a called 67.045 acre tract conveyed to North Texas Municipal Water District in Volume 1440, Page 280, from which a found concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7307676.45, Easting 2725018.29), bears S53°21'47"E a distance of 23.89 feet.

*Thence:* S 00°04'51" W a distance of 791.56 feet to a ½" found iron rod, for an inside Northeast corner of this tract, at the Southeast corner of the referenced 83.663 acre parent tract, in the North line of the referenced 62 ½ acre parent tract, and at the Westernmost Southwest corner of the referenced 67.045 acre North Texas Municipal Water District tract.

*Thence:* N 89°57'58" E a distance of 1399.43 feet to a ½" found iron rod, for a Northeast corner of this tract, at the Northernmost Northeast corner of the referenced 88.593 acre parent tract, and at the inside Southwest corner of the referenced 67.045 acre North Texas Municipal Water District tract.

*Thence:* S 01°14'25" E a distance of 233.09 feet to a 3/8" found iron rod, for an inside Northeast corner of this tract, at the inside Northeast corner of the referenced 88.593 acre North Texas Municipal Water District tract, and at the Southernmost Southwest corner of the referenced 67.045 acre North Texas Municipal Water District tract.

*Thence:* N 87°39'57" E a distance of 993.82 feet to a ½" found iron rod, for a corner of this tract, in the North line of the referenced 88.593 acre parent tract, at the Southernmost Southeast corner of the referenced 67.045 acre North Texas Municipal Water District tract, and at a Southwest corner of a called 414.541 acre Parcel One conveyed to North Texas Municipal Water District in Volume 1466, Page 321.

*Thence:* S 89°55'55" E a distance of 419.14 feet to a point, for a Northeast corner of this tract, at the Easternmost Northeast corner of the referenced 88.593 acre parent tract, and at an inside Southwest corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One, from which a 3/8" found iron rod bears N02°19'22"W a distance of 31.07 feet.

*Thence:* S 02°33'19" W passing a 3/8" found iron rod at 1363.04 feet and continuing a total distance of 1396.72 feet to a fence corner post, for a Southeast corner of this tract, at the Easternmost Southeast corner of the referenced 88.593 acre parent tract, and at an inside Northwest corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* N 88°42'01" W a distance of 732.40 feet to a ½" found iron rod, for an inside Southeast corner of this tract, in a South line of the referenced 88.593 acre parent tract, at the Northeast corner of the referenced 52 acre parent tract, and at a Northwest corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* S 00°17'15" E a distance of 2657.69 feet to a fence corner post, for an inside Northeast corner of this tract, at the Southeast corner of the referenced 20 acre parent tract, in a North line of the referenced 27 acre parent tract, and at a Southwest corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One, from which a 3/8" found iron rod bears S32°36'31"W a distance of 3.35 feet.

*Thence:* N 89°57'12" E a distance of 1475.74 feet to a ½" found iron rod, for an inside Northwest corner of this tract, in the North line of the referenced 25 acre parent tract, at the Southwest corner of the referenced 10 acre Second Tract parent tract, and at a Southeast corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* N 00°21'06" E a distance of 2641.82 feet to a ½" found iron rod, for a Northwest corner of this tract, at the Northwest corner of the referenced 30 acre First Tract, Parcel A parent tract, and at an inside Southeast corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* S 89°36'42" E a distance of 488.14 feet to a ½" found iron rod, for a corner of this tract, in the North line of the referenced 30 acre First Tract, Parcel A parent tract, and at a corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* S 86°27'42" E a distance of 346.41 feet to a fence corner post, for the Easternmost Northeast corner of this tract, at the Northeast corner of the referenced 30 acre First Tract, Parcel A parent tract, and at an inside Southwest corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* S 00°32'10" E a distance of 1047.76 feet to a fence corner post, for a corner of this tract, in the East line of the referenced 30 acre First Tract, Parcel A parent tract, and at a corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One.

*Thence:* S 00°09'21" E a distance of 2548.51 feet to a ½" found iron rod, for a corner of this tract, in the East line of the referenced 29.9 acre parent tract, at the Southernmost Southwest corner of the referenced 414.541 acre North Texas Municipal Water District Parcel One, and at the Northwest corner of a called 20 acre tract conveyed to Thomas Liggan et.al. in Volume 1, Page 612.

*Thence:* S 00°45'13" W a distance of 445.26 feet to a point, for the Easternmost Southeast corner of this tract, at the Southeast corner of the referenced 29.9 acre parent tract, at the Southwest corner of the referenced 20 acre Liggan tract, and in the North line of a called 30.069 acre tract conveyed to North Texas Municipal Water District in Volume 1427, Page 369.

*Thence:* S 89°51'36" W a distance of 893.45 feet to a ½" found iron rod, for a corner of this tract, in the South line of the referenced 29.9 acre parent tract, at the Northwest corner of a called 50 acre Tract Ten conveyed to Joseph Young Reed Jr., Wesley Martin Reed, and John Harvey Reed in Volume 1388, Page 463, and at the Northeast corner of a called 25 ¼ acre Tract Four conveyed to Kevin Ray Riley and Jodie Ed Riley in Volume 791, Page 579.

*Thence:* N 89°59'54" W a distance of 455.98 feet to a 5/8" found iron rod, for an inside Southeast corner of this tract, in the South line of the referenced 29.9 acre parent tract, at the Northeast corner of the referenced 29.334 acre First Tract parent tract, and at the Northwest corner of the referenced 25 ¼ acre Riley Tract Four.

*Thence:* S 00°17'50" E a distance of 2340.92 feet to a 5/8" found iron rod, for the Southernmost Southeast corner of this tract, at the Southeast corner of the referenced 29.334 acre First Tract parent tract, at the Southwest corner of the referenced 25 ¼ acre Riley Tract Four, and in a North line of a called 584.92 acre Tract Two conveyed to Kevin Ray Riley and Jodie Ed Riley in Volume 791, Page 579.

*Thence:* S 89°40'55" W a distance of 575.00 feet to a 5/8" found iron rod, for the Southernmost Southwest corner of this tract, at the Southwest corner of the referenced 29.334 acre First Tract parent tract, and at an inside Northeast corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* N 00°17'50" W a distance of 2009.75 feet to a 5/8" found iron rod, for an inside Southwest corner of this tract, at the Westernmost Northwest corner of the referenced 29.334 acre First Tract parent tract, in the Easternmost South line of the referenced 68.281 acre parent tract, and at a Northeast corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* S 89°54'45" W a distance of 1216.00 feet to a 5/8" found iron rod, for an inside Southeast corner of this tract, in the Easternmost South line of the referenced 68.281 acre parent tract, at the Northeast corner of the referenced 34.976 acre Second Tract parent tract, and at a Northwest corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* S 00°05'34" E a distance of 1515.99 feet to a 5/8" found iron rod, for a Southeast corner of this tract, at the Southeast corner of the referenced 34.976 acre Second Tract parent tract, and at an inside Northwest corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* S 89°54'16" W a distance of 1064.01 feet to a 5/8" found iron rod, for a Southwest corner of this tract, at the Southwest corner of the referenced 34.976 acre Second Tract parent tract, and at an inside Northeast corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* N 00°08'16" W a distance of 891.43 feet to a 5/8" found iron rod, for an inside Southwest corner of this tract, in the West line of the referenced 34.976 acre Second Tract parent tract, at a Southeast corner of the referenced 68.281 acre parent tract, and at a Northeast corner of the referenced 548.92 acre Riley Tract Two.

*Thence:* S 89°56'57" W a distance of 243.47 feet to a 5/8" found iron rod, for an inside Southeast corner of this tract, at the inside Southeast corner of the referenced 68.261 acre parent tract, and at a Northwest corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* S 00°01'56" E a distance of 104.99 feet to a 5/8" found iron rod, for a Southeast corner of this tract, at the Westernmost Southeast corner of the referenced 68.281 acre parent tract, and at an inside Northwest corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* S 89°54'39" W a distance of 832.94 feet to a 5/8" found iron rod, for an inside Southeast corner of this tract, at the Southwest corner of the referenced 68.281 acre parent tract, in the East line of the referenced 110 acre parent tract, and at a Northwest corner of the referenced 584.92 acre Riley Tract Two.

*Thence:* S 00°33'59" W a distance of 916.64 feet to a 5/8" found iron rod, for a Southeast corner of this tract, at the Southeast corner of the referenced 110 acre parent tract, in a West line of the referenced 584.92 acre Riley Tract Two, and at the Northeast corner of a called 10 acre Tract One conveyed to Kevin Ray Riley and Jodie Ed Riley in Volume 791, Page 579.

*Thence:* N 89°43'33" W a distance of 946.78 feet to a 5/8" found iron rod, for a corner of this tract, in the South line of the referenced 110 acre parent tract, at the Northwest corner of the referenced 10 acre Riley Tract One, and at a Northeast corner of the referenced 923.968 acre Carlson tract.

*Thence:* N 89°27'12" W a distance of 110.30 feet to a 1/2" set iron rod, for a corner of this tract, in the South line of the referenced 110 acre parent tract, and at a corner of the referenced 923.968 acre Carlson tract.

*Thence:* N 74°12'47" W a distance of 97.63 feet to a 1/2" set iron rod, for a corner of this tract, in the South line of the referenced 110 acre parent tract, and at a corner of the referenced 923.968 acre Carlson tract.

*Thence:* N 89°56'55" W a distance of 1573.44 feet to a point, for the Westernmost Southwest corner of this tract, at the Southwest corner of the referenced 40 acre parent tract, and at an inside Northeast corner of the referenced 923.968 acre Carlson tract, from which a 3" fence corner pipe bears S01°26'51"W a distance of 15.53 feet.

*Thence:* N 01°26'51" E a distance of 2382.00 feet to a 3" fence corner pipe, for the Westernmost Northwest corner of this tract, at the Northwest corner of the referenced 40 acre parent tract, and at an inside Southeast corner of the referenced 923.968 acre Carlson tract.

*Thence:* S 89°40'00" E a distance of 1043.48 feet to a 3" fence corner pipe, for an inside Northwest corner of this tract, in the North line of the referenced 110 acre parent tract, at the Southwest corner of the referenced 2.4 acre Second Tract parent tract, and at a Southeast corner of the referenced 923.968 acre Carlson tract.

*Thence:* N 00°12'01" E a distance of 2667.39 feet to a fence corner post, for a corner of this tract, in the West line of the referenced 89 1/2 acre parent tract, and in the East line of the referenced 923.968 acre Carlson tract.

*Thence:* N 00°19'11" E a distance of 53.65 feet to the Point of Beginning and containing 879.381 acres, more or less.

**PARCEL 2  
TAKE PARCEL**

*Being:* 0.044 acres of land, a part of the WM. Johnson Survey Abstract Number 587, lying and being situated in Fannin County, Texas. The said 0.044 acre tract being a part of a called 89 ½ acre tract described in a General Warranty Deed from Regis Welch to Kyle Payne and wife, Mary Payne, dated June 9, 2009 of record in Volume 1434, Page 1 of the Land Records of Fannin County, Texas. The said 0.044 acre tract being described more particularly by metes and bounds as follows:

*COMMENCING* at a ½" found iron rod at the Westernmost Northwest corner of the remainder of a called 62 ½ tract conveyed to Kyle Payne and wife, Mary Payne in Volume 1434, Page 1, at the Southwest corner of a called 2.000 acre tract conveyed to Robert L. Payne and Diane N. Payne in Volume 1455, Page 63, and in the East line of a called 100 acre tract conveyed to Lynda Lou Spinks and Susanne Spinks in Volume 677, Page 73, Go S00°19'11"E a distance of 1583.30 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7305216.30, Easting 2722476.05), for the Point of Beginning and the Northwest corner of this tract, in the West line of the referenced 89 ½ acre parent tract, and in an East line of the referenced 100 acre Spinks tract.

*Thence:* along 5 calls with the 541 contour line the following approximate courses and distances as follows:

1. S 64°11'15" E 19.97 feet
2. N 42°09'24" E 37.32 feet
3. N 67°10'11" E 26.36 feet
4. S 35°59'36" W 56.29 feet
5. S 32°01'38" W 65.32 feet to a set concrete monument with a 2" aluminum disc stamped "North Texas Municipal Water District Boundary" (State Plane Grid, Northing 7305144.59, Easting 2722475.65), for the Southwest corner of this tract, in the West line of the referenced 89 ½ acre parent tract, and in an East line of the referenced 100 acre Spinks tract.

*Thence:* N 00°19'11" E a distance of 71.72 feet to the Point of Beginning and containing 0.044 acres, more or less.

Doc  
5906

Bk  
OR

Vol  
1530

Ps  
444

Filed for Record in:  
Fannin County  
Honorable Tammy Rich  
County Clerk  
On: Dec 27, 2010 at 04:52P

As a  
Deed

Document Number: 5906

Amount 52.00

Receipt Number - 222558

By  
Kathy Gentry, Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE  
SALE, RENTAL, OR USE OF THE DESCRIBED  
REAL PROPERTY BECAUSE OF COLOR OR RACE IS  
INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

STATE OF TEXAS COUNTY OF FANNIN

I hereby certify that this instrument was  
filed on the date and time stamped hereon by me  
and was duly recorded in the volume and page  
of the named records of: Fannin County  
as stamped hereon by me.

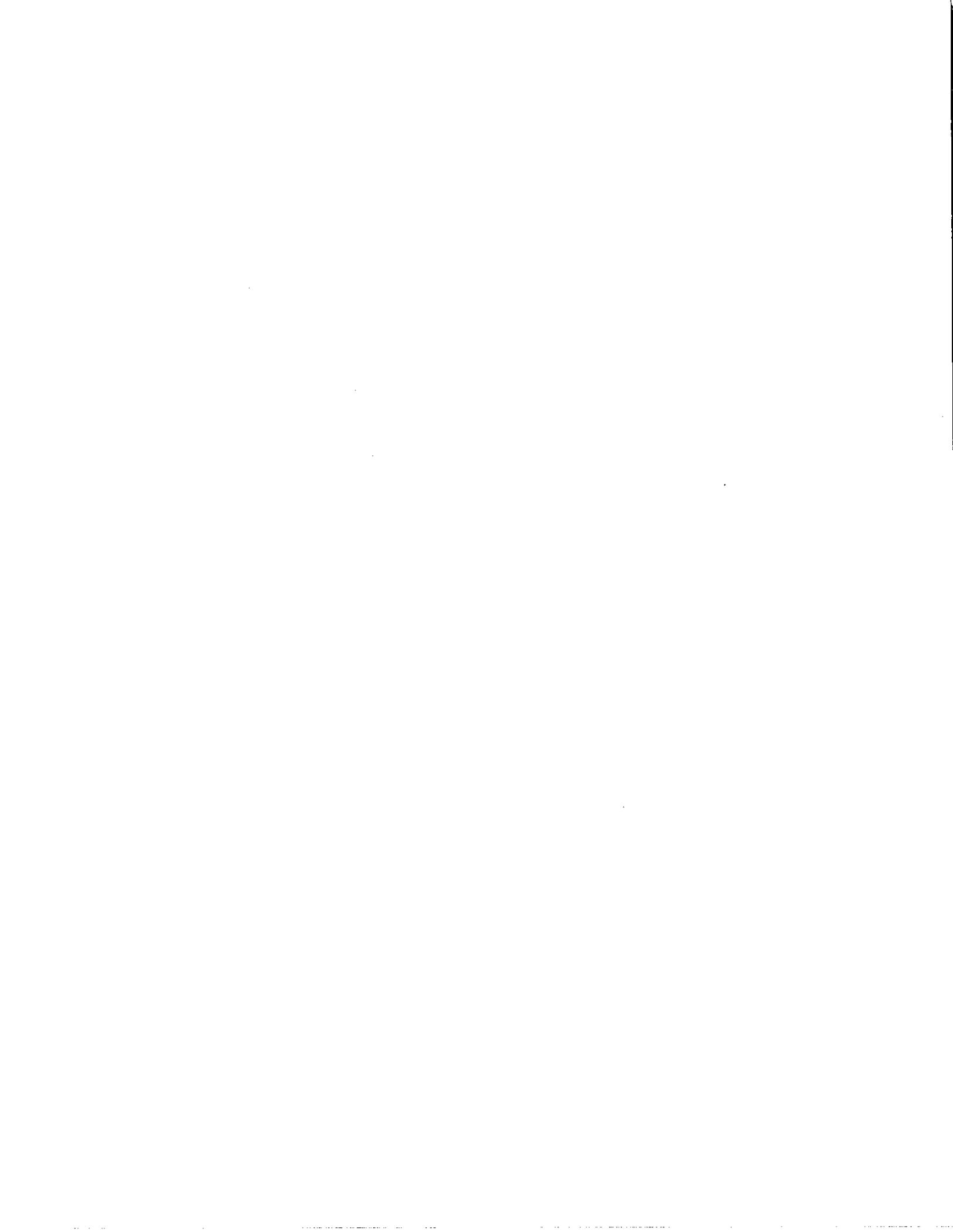
Dec 27, 2010

By: Kathy Gentry Deputy

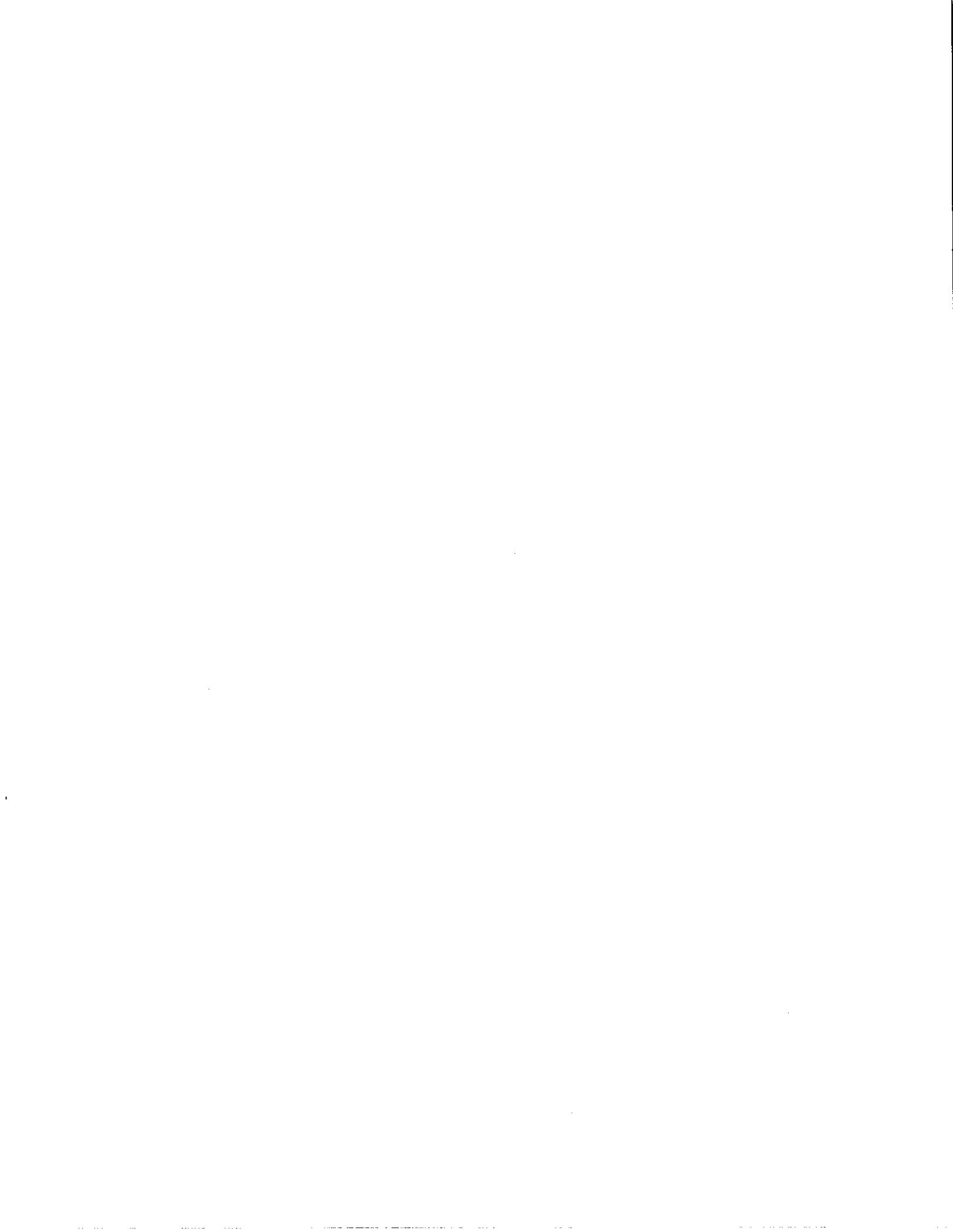
Tammy Rich, County Clerk  
Fannin County

**Cole Title Company**  
709 N. CENTER  
BONHAM, TEXAS 75418

20100610



## **APPENDIX B**





**Forfeiture pursuant to Section 171.309 of the Texas Tax Code  
of  
Citizens to save Bois d'Arc Creek**

File Number : 800945763

Certificate / Charter forfeited : May 21, 2010

The Secretary of State finds that:

1. The Secretary has received certification from the Comptroller of Public Accounts under Section 171.302 of the Texas Tax Code indicating that there are grounds for the forfeiture of the taxable entity's charter, certificate or registration; and
2. The Comptroller of Public Accounts has determined that the taxable entity has not revived its forfeited privileges within 120 days after the date that the privileges were forfeited.

Therefore, pursuant to Section 171.309 of the Texas Tax Code, the Secretary of State hereby forfeits the charter, certificate or registration of the taxable entity as of the date noted above and records this notice of forfeiture in the permanent files and records of the entity.



A handwritten signature in black ink, appearing to read "Hope Andrade", written over a grid background.

Hope Andrade  
Secretary of State