

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 16, 2023

TO: All interested persons.

RE: San Miguel Electric Cooperative, Inc.
TPDES Permit No. WQ0002043000

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Atascosa County Courthouse, 1 Courthouse Circle Drive, Suite 102, Jourdanton, Texas in Atascosa County and at McMullen County Courthouse, 501 River Street, Tilden, Texas in McMullen County.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

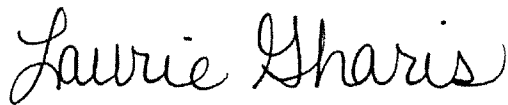
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for**

**San Miguel Electric Cooperative, Inc.
TPDES Permit No. WQ0002043000**

The Executive Director has made the Response to Public Comment (RTC) for the application by San Miguel Electric Cooperative, Inc., for TPDES Permit No. WQ0002043000 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0002043000) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Atascosa County Courthouse, 1 Courthouse Circle Drive, Suite 102, Jourdanon, Texas in Atascosa County and at McMullen County Courthouse, 501 River Street, Tilden, Texas in McMullen County.

MAILING LIST
for
San Miguel Electric Cooperative, Inc.
TPDES Permit No. WQ0002043000

FOR THE APPLICANT:

David Burris
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026

James Miertschin, P.E.
James Miertschin & Associates, Inc.
P.O. Box 162305
Austin, Texas 78716

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Michael Parr, Staff Attorney
Texas Commission on Environmental
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Environmental Law Division MC-173
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Thomas Starr, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

Febrero 16, 2023

TO: Todas las personas interesadas.

RE: San Miguel Electric Cooperative, Inc.

TPDES Permiso No. WQ0002043000

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo a los Comentarios Públicos (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Atascosa County Courthouse, 1 Courthouse Circle Drive, Suite 102, Jourdanton, Texas en el Condado de Atascosa y en el McMullen County Courthouse, 501 River Street, Tilden, Texas en el condado de McMullen.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

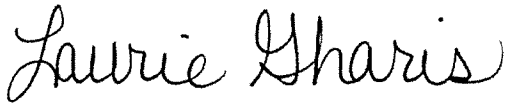
Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg
Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO A LOS COMENTARIOS DEL PÚBLICO

**para
San Miguel Electric Cooperative, Inc.
TPDES Permiso No. WQ0002043000**

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de San Miguel Electric Cooperative, Inc., del permiso de TPDES No. WQ0002043000. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0002043000) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Atascosa County Courthouse, 1 Courthouse Circle Drive, Suite 102, Jourdanton, Texas en el Condado de Atascosa y en el McMullen County Courthouse, 501 River Street, Tilden, Texas en el condado de McMullen.

LISTA DE CORREO
para
San Miguel Electric Cooperative, Inc .
TPDES Permiso No. WQ0002043000

PARA EL SOLICITANTE:

David Burris
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026

James Miertschin, P.E.
James Miertschin & Associates, Inc.
P.O. Box 162305
Austin, Texas 78716

PERSONAS INTERESADAS:

Ver lista adjunta.

PARA EL DIRECTOR EJECUTIVO
por correo electrónico:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Michael Parr, Staff Attorney
Texas Commission on Environmental
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Environmental Law Division MC-173
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Austin, Texas 78711-3087

Thomas Starr, Technical Staff
Texas Commission on Environmental
Quality
Waste Permits Division
MSW Permits Section MC-124
P.O. Box 13087
Austin, Texas 78711-3087

PARA ABOGADOS DE INTERÉS

PÚBLICO

por correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

PARA EL SECRETARIO OFICIAL

por correo electrónico:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

ALEXANDER , MARCIE
ENVIRONMENTAL INTEGRITY PROJECT
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

ELLIOTT , BRENT A DIRECTOR
RAILROAD COMMISSION OF TEXAS
PO BOX 12967
AUSTIN TX 78711-2967

GALVAN , DUBELZA
LLOYD GOSSELINK
STE 1900
816 CONGRESS AVE
AUSTIN TX 78701-2442

ICE , LAUREN
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

LONERGAN , GWYNETH
PERALES ALLMON & ICE PC
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PERALES , MARISA ATTORNEY
PERALES ALLMON & ICE PC
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AUSTIN TX 78701-1834

VASSAR , NATHAN E
LLOYD GOSSELINK ROCHELLE & TOWNSEND PC
STE 1900
816 CONGRESS AVE
AUSTIN TX 78701-2442

MAJOR AMENDMENT OF TPDES PERMIT NO. WQ0002043000

APPLICATION by
SAN MIGUEL ELECTRIC
COOPERATIVE, INC.
FOR TPDES Permit No.
WQ0002043000

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§
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§

BEFORE
THE TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment on the application by San Miguel Electric Cooperative, Inc. (**Applicant**) for a Major Amendment with Renewal to Texas Pollutant Discharge Elimination System (**TPDES**) Permit No. WQ0002043000 and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (**30 TAC**) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk (**OCC**) received a timely comment letter from Nueces River Authority and Arthur and Sherrill Swaim (**the Swaims**). This response addresses all timely public comments received, whether withdrawn or not. More information about this permit application or the wastewater permitting process is available by calling the TCEQ Public Education Program at 1-800-687-4040. TCEQ general information is also available at the website: <http://www.tceq.texas.gov/>.

BACKGROUND

The Applicant applied to the TCEQ for a Major Amendment with Renewal to TPDES Permit No. WQ0002043000 (**proposed permit**). The major amendment authorizes the expansion of lignite mining activities including the addition of new mining areas X, Y, and Z; the addition of five proposed treatment ponds (X-1, X-2, Y-1, Z-1, and Z-2); the addition of five proposed outfall locations (055, 056, 058, 059, and 060); a revision to mining area 11H; the addition of proposed treatment pond O; and the addition of proposed Outfall 057, each of which will discharge mine pit water, mine depressurization water, and stormwater on an intermittent and flow-variable rate. The renewal is associated with authorization for discharges of mine pit water, mine depressurization water, and stormwater from ponds in the "active mining area" on an intermittent and flow-variable basis via Outfall 001M-035M and 050M-060M and mine pit water and stormwater from ponds in the "post-mining area" on an intermittent and flow-variable basis via Outfall 001R-035R and 050R-060R.

Description of Facility/Discharge Route

The San Miguel Electric Plant (**Facility**), a 442-Megawatt, lignite-fired steam electric generating power plant, is located at 6200 Farm-to-Market Road 3387, south of the City of Christine, in Atascosa and McMullen Counties, Texas 78012. The Applicant also operates San Miguel Lignite Mine, a surface lignite coal mining operation.

Mine pit water, mine depressurization water, and stormwater from ponds in the active mining areas (denoted by an M) are routed to sedimentation ponds prior to

discharge. Mine pit water and stormwater from ponds in the post-mining areas (denoted by an R) are routed to sedimentation ponds prior to discharge. The discharges from Outfalls 001M-035M, 050M-060M, 001R-035R, and 050R-060R are flow-variable and stormwater-driven. Stormwater that encounters haul roads may be routed to haul road ponds or discharged through haul road drop structures to outfalls authorized under the TPDES Multi-Sector General Stormwater Permit No. TXR05X702.

Treated domestic wastewater, truck wash water, and some stormwaters are routed to an evaporation pond (Pond C), which is not authorized to discharge. The domestic wastewater is treated in an activated sludge package plant. The truck wash water and stormwater receive no treatment prior to being commingled with treated domestic waste and disposed via an on-site evaporation pond. The evaporation pond has a minimum surface area of 3.24 acres and a minimum storage volume of 30.6 acre-feet. Pond Evaporation calculations are presented in Appendix A and Other Requirement No. 12 has been carried forward in the proposed permit and updated.

Water from the mining ponds (mine pit water, mine depressurization water, and stormwater) is authorized for reuse for on-site dust suppression. The Facility also maintains Authorization for Industrial Reclaimed Water Use No. 2E-0000151, which allows for reuse of depressurization water, groundwater seepage, domestic (sanitary) wastewater, and stormwater at an approximate maximum volume of 4.0 million gallons per day (MGD).

The discharge of treated effluent via Outfalls 001-006 is to an unnamed tributary, to Caballos Creek, to Souse Creek, and then to La Parita Creek; via 007 to an unnamed tributary, and then to La Parita Creek; via 009 to an unnamed tributary, to Christine Creek, to Metate Creek, and then to La Parita Creek; via 010 to an unnamed tributary, to Christine Creek, to Metate Creek, and then to La Parita Creek; via 011-019 to unnamed tributaries, and then to La Parita Creek; via 008, 020-023, 029-031 to unnamed tributaries, to Metate Creek, and then to La Parita Creek; via 024-028 to an unnamed tributary, to Souse Creek, and then to La Parita Creek; via 032-033 to unnamed tributaries; via 034-035 to an unnamed ditch, and then to an unnamed tributary; via 057 to an unnamed tributary, and then to La Parita Creek. Outfalls 001-035, and 57 all end in the Atascosa River in Segment No. 2107 of the Nueces River Basin.

Via 050 the discharge is to Hog Creek, and then to La Jarita Creek; via 051 to an unnamed tributary, and then to La Jarita Creek; and via 052 to an unnamed ditch, and then to La Jarita Creek. Via 054 it is to pipe culvert, to a ditch, and then to an unnamed tributary; via 053 to an unnamed tributary; via Outfall 055 to Bruce Branch; and via Outfall 056 to Far Live Oak Creek. Outfalls 050-056 all end in San Miguel Creek in Segment No. 2108 of the Nueces River Basin.

Via 058 the discharge is to Ditch CD Z-2A, to Bill Walker Creek, and then to Leoncita Creek; via 059 to Bill Walker Creek, and then to Leoncita Creek; via 060 to Ditch CD Z-1A, to Bill Walker Creek, and then to Leoncita Creek. Outfalls 058-060 all end in the Frio River Above Choke Canyon Reservoir in Segment No. 2117 of the Nueces River Basin.

Segment Nos. 2107, 2108, and 2117 are currently listed on the state's inventory of impaired and threatened waters, the 2020 CWA § 303(d) list, for bacteria in water (recreation use) along with the impairments discussed below.

Segment No. 2107 is listed for bacteria from the downstream end of the segment at the confluence with the Frio River upstream to the confluence with Galvan Creek (AUs 2107_01 and 2107_02), for depressed DO in water from the confluence with Borrego Creek to the confluence with Galvan Creek (AU 2107_02), and for impaired fish and microbenthic communities in water from the confluence with Borrego Creek upstream to the confluence with Palo Alto Creek (AUs 2107_02 and 2107_03). Due to the low concentrations of oxygen demanding constituents in this type of effluent, the Facility's discharges are not expected to contribute to the DO impairment in Segment No. 2107.

Segment No. 2108 is listed for bacteria from the downstream end of the segment to the confluence of Live Oak Creek (AU 2108_01).

Segment No. 2117 is listed for bacteria from the downstream end of segment to the confluence with Ruiz Creek (AUs 2117_01 and 2117_02) and for total dissolved solids in water for the entire segment (AUs 2117_01 through 2117_06).

Due to the intermittent and primarily stormwater-driven nature of the discharge, the effluent from the Facility is not expected to contribute to the bacteria impairment in Segment Nos. 2107, 2108, and 2117. In addition, domestic wastewater produced at the Facility is not authorized for discharge and there are no other known sources of bacteria in the effluent therefore, discharge from the Facility is not expected to add to the impairment for bacteria in Segment Nos. 2107, 2108, or 2117.

Technical Review

The TCEQ has primary authority over water quality in Texas and federal regulatory authority for the TPDES program, which controls discharges of pollutants into Texas surface waterbodies ("water in the state"). The Texas Water Code (TWC) § 26.027 authorizes the TCEQ to issue permits for discharges into water in the state, and the ED evaluates applications for discharge permits based on the information provided in the application and can recommend issuance or denial of an application based on its compliance with the TWC and TCEQ rules. Specifically, the ED's Technical Review evaluates impacts from the proposed discharge on the receiving waters starting at the discharge point (Sandpit Creek), according to 30 TAC Chapter 307, the Texas Surface Water Quality Standards (TSWQS) and the TCEQ's *Implementation Procedures for the Texas Surface Water Quality Standards-June 2010 (IPs)*.

The Technical Review process for surface water quality is conducted by staff in the ED's Water Quality Division (**WQD staff**) on the Standards Implementation Team (**Standards Team**), and WQD staff on the Water Quality Assessment Team (**WQA Team**). WQD staff reviewed the application in accordance with the TSWQS and TCEQ's IPs with the goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving surface waters.

The first component of the ED's Technical Review involved WQD staff on the Standards Team reviewing the classifications, designations, and descriptions of the receiving surface waters for the route of the proposed discharge. Other available information and a receiving water assessment allowed the Standards Team to preliminarily determine the aquatic life uses in the proposed discharge's possible area of impact and assign the corresponding Minimum Dissolved Oxygen (DO) criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ's IPs.

The designated uses and the DO criterion for the receiving waters of the route for the proposed discharge, according to Appendix A of 30 TAC § 307.10 (TSWQS), is primary contact recreation, public water supply, high aquatic life use, and 5.0 mg/L DO for the Atascosa River and San Miguel Creek in Segment Nos. 2107 and 2108 (respectively) of the Nueces River Basin. The designated uses and the DO criterion for Frio River Above Choke Canyon Reservoir in Segment No. 2117 of the Nueces River Basin are primary contact recreation, public water supply, aquifer protection, high aquatic life use, and 5.0 mg/L DO.

Because the proposed discharge is directly to an unclassified water body, the Standards Team reviewed this permitting action in conformity with 30 TAC §§ 307.4(h) and (l) (TSWQS) and determined that the unclassified receiving water uses are minimal aquatic life use and 2.0 mg/L DO for all ditches, Bruce Branch, Far Live Oak Creek, and Bill Walker Creek.

The second component of the ED's Technical Review involves WQD staff on the WQA Team reviewing the DO criteria of the discharge route and assigning the appropriate effluent limitations (**limits**). Due to the low concentrations of oxygen demanding constituents expected in these types of discharges, no significant depletion of DO is expected in the receiving waters.

Regulations in Title 40 of the Code of Federal Regulations (40 C.F.R.) require that technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment in the absence of guidelines. Discharges of mine pit water and stormwater via Outfalls 001M/R-035M/R and 050M/R-060M/R are subject to federal effluent limitation guidelines at 40 C.F.R. Part 434, Subpart C - Acid or Ferruginous Mine Drainage.

Existing permit Outfalls 001M-035M, 050M-054M are the point of discharge from a single pond in the active mining area. Outfalls 001R-035R, 050R-054R are the point of discharge from a single pond in the post-mining area. Outfalls 055M/R-060M/R are added to the proposed permit per the amendment application. The pond locations are detailed in Other Requirement No. 5 of the proposed permit.

For Outfalls 001M-035M and 050M-060M, effluent limitations in the existing and proposed permit for TSS and pH are based on 40 C.F.R. § 434.32 (effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT)). Effluent limitations for total manganese included in the existing permit and continued in the proposed permit are required by 40 C.F.R. § 434.32 (BPT) and § 434.33 (effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT)). However, more protective limits from 30 TAC § 319.22 have been applied. Effluent limitations for total iron in the existing permit are required by 40 C.F.R. § 434.32 (BPT) and § 434.33 (BAT). However, more stringent standards from 40 C.F.R. § 434.35 (new source performance standards - *eff.* October 9, 1985 (NSPS)) have been applied. Although construction commenced at the Facility in 1979, and NSPS are not required, the existing total iron NSPS are included in prior Agency discharge permits issued since May 12, 1993, and possibly earlier. All the existing effluent limitations have been continued in the proposed permit according to the anti-backsliding guidelines under 40 C.F.R. Part § 122.44(l).

For Outfalls 001R-035R and 050R-060R, existing and proposed permit limits for settleable solids and pH are based on 40 C.F.R. § 434.52 (BPT) and settleable solids are also consistent with § 434.53 (BAT).

Calculations of water quality-based effluent limitations for the protection of aquatic life and human health are presented in Appendix B. Aquatic life criteria established in Table 1 and human health criteria established in Table 2 of 30 TAC Chapter 307 (TSWQS) are incorporated into the calculations, as are recommendations in the Water Quality Assessment Team's memorandum dated July 6, 2022.

TCEQ practice for determining significant potential is to compare the reported analytical data from the Facility against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the calculated daily average water quality-based effluent limitation. Monitoring and reporting are required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation.

Effluent data was not submitted with the application for any discharge outfalls. Data reported by separate letters on November 5, 2021, and May 8, 2021, was screened against the calculated water quality-based effluent limitations.

A self-expiring monitoring and reporting requirement for aluminum was placed in Outfall 034M/R based on the data submitted.

The Facility does not discharge during critical conditions, and Other Requirement No. 20 was placed in the proposed permit as well as Other Requirement No. 21 to require the Facility to demonstrate the dissolved portion of aluminum is less than fifty percent.

The limits in the existing permit were compared to the calculated water quality-based effluent limits to determine whether the existing limits are still protective. None of the recalculated limits are more stringent than the existing values. The existing limits are still protective.

Industrial facilities deemed "minor" by the United States Environmental Protection Agency (USEPA) are subject to screening on a case-by-case basis; however, Total Dissolved Solids (TDS), Chloride, and Sulfate Screening was not performed because of the Due to the intermittent flow-variable nature of the discharge.

The existing permit includes pH limits of 6.0 – 9.0 Standard Units (SU) at all Outfalls. All outfalls discharge to either intermittent ditches, tributaries, or creeks that are unclassified water bodies. Consistent with the procedures for pH screening that were submitted to and approved by USEPA in a letter dated June 2, 2014, requiring a discharge to an unclassified water body to meet pH limits of 6.0 – 9.0 standard units. This reasonably ensures instream compliance with the pH criteria from 30 TAC Chapter 307 TSWQS). These limits have been carried forward in the proposed permit.

The proposed permit's limits, including Total Suspended Solids (TSS) are below.

Outfall	Pollutant	Daily Average mg/L	Daily Maximum mg/L
001M-035M and 050M-060M	Flow, MGD	Report, MGD	Report, MGD
	TSS	35	70
	Total Iron	3.0	6.0

Outfall	Pollutant	Daily Average mg/L	Daily Maximum mg/L
	Total Manganese	1.0	2.0
	pH, SU	6.0 SU, minimum	9.0 SU
034M	Flow, MGD	Report, MGD	Report, MGD
	TSS	35	70
034M	Total Aluminum	Report	Report
	Total Iron	3.0	6.0
	Total Manganese	1.0	2.0
	pH, SU	6.0 SU, minimum	9.0 SU
001R-035R and 050R-060R	Flow, MGD	Report, MGD	Report, MGD
	Settleable Solids, ml/L	N/A	0.5 ml/L
	pH, SU	6.0 SU, minimum	9.0 SU
034M	Flow, MGD	Report, MGD	Report, MGD
	Settleable Solids, ml/L	N/A	0.5 ml/L
	Total Aluminum	Report	Report
	pH, SU	6.0 SU, minimum	9.0 SU

The discharge from this permit action is not expected to impact any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat.

This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization for the TPDES program (September 14, 1998; October 21, 1998, *update*). To make this determination for TPDES permits, TCEQ and USEPA only consider aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. USEPA review with respect to the presence of endangered or threatened species is not required by the proposed permit.

Through the Technical Review, the ED provides the proper limits to maintain and protect the existing instream uses. However, as with all determinations, reviews, or analyses related to the technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases employed in the applicable review or analysis.

Procedural Background

The TCEQ received the application on April 4, 2022, and declared it Administratively Complete on June 7, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Atascosa County, Texas on June 29, 2022, in the *Pleasanton Express*. The ED completed the technical review of the application on June 22, 2022, and prepared the proposed permit, which if approved, would establish the conditions under which the Facility must operate. The

Applicant published the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) in Atascosa County, Texas on October 26, 2022, in the *Pleasanton Express*. The public comment period closed on November 28, 2022. Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the TCEQ rules in 30 TAC Chapters 39, 50, and 55.

Access to Rules, Laws, and Records

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in Word or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Current TCEQ Rules," then "Download TCEQ Rules")
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- **Environmental or citizen complaints may be filed electronically at:**
<https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> (select "use our online form") or by sending an email to the following address: complaint@TCEQ.texas.gov

Commission records for the Facility are available for viewing and copying at TCEQ's main office in Austin, located at 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). The permit application, executive director's preliminary decision, and proposed permit are available for viewing and copying at the Atascosa County Courthouse, 1 Courthouse Circle Drive, Suite 102, Jourdanton, Texas in Atascosa County and at McMullen County Courthouse, 501 River Street, Tilden, Texas in McMullen County.

Alternative language notice in Spanish is available at:

<https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

El aviso de idioma alternativo en español está disponible en
<https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, animal life, vegetation, and human health. However, if you would like to file a complaint about the Facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described below at the seventh bullet point under,

“Access to Rules, Laws, and Records.” If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the Facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENTS and RESPONSES

COMMENT 1

The Nueces River Authority and the Swaims questioned whether the proposed permit complies with the TSWQS, is protective of surface and ground water quality, including nearby wells, and is protective of livestock, wildlife, and aquatic life.

RESPONSE 1

WQD staff evaluated the application as an authorization to discharge treated wastewater into water in the State. Thus, the quality of the effluent and the method of achieving that quality must follow the Texas Water Code (TWC), the Federal Clean Water Act, and the TSWQS. Further, WQD Staff developed the proposed permit to preclude significant degradation of water quality in the receiving waters for the proposed discharge. The proposed permit includes effluent limitations and monitoring requirements designed to ensure protection of the receiving waters in accordance with TCEQ rules and procedures.

Chapter 26 of the TWC and TCEQ rules relating to water quality are geared towards the protection of public health, aquatic life, and the environment. Accordingly, the stated policy of both the Water Code and the TSWQS is:

to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.¹

Likewise, the TPDES program mandates that discharges of treated effluent into water in the state from facilities regulated by TPDES permits meet the requirements of the TSWQS. The TSWQS is a primary mechanism for the TCEQ to protect surface water quality, groundwater quality, human health, aquatic life, the environment, and designated uses of the receiving waters. Development of the proposed permit was in accordance with the TSWQS (30 TAC Chapter 307) and the TCEQ IPs to be protective of water quality, provided that the Applicant operates and maintains the Facility according to TCEQ rules and the proposed permit's requirements.

The TSWQS require that discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses.

The methodology outlined in the TCEQ IPs is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic

¹ Texas Water Code § 26.003 and 30 TAC § 307.1.

toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As specified by the methodologies outlined in the TCEQ IPs, TPDES permits issued by the TCEQ must maintain water in the state to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. In addition, permits must prevent adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The design of the proposed permit ensures these water quality standards will be supported.

To achieve the goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving waters, during the Technical Review of the application process, WQD Staff review all applications in accordance with the TSWQS and the TCEQ IPs. The proposed permit contains several water quality-specific parameters that limit the potential impact of the proposed discharge on the receiving waters, such as the limits that were developed by the WQA Team to maintain and protect the existing uses of the receiving waters (primary contact recreation, public water supply, high aquatic life use, and aquifer protection, which were identified by WQD Staff on the Standards Team.

COMMENT 2

The Nueces River Authority and the Swaims questioned whether the antidegradation analysis performed by the Standards Team complied with applicable regulations and whether the proposed permit includes appropriate nutrient limits.

RESPONSE 2

For major amendment applications, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ's IPs, an antidegradation review of the receiving waters was performed. Correspondingly, the Tier 1 review performed on June 22, 2022, determined that existing water quality uses will not be impaired by the proposed discharge, with the numerical and narrative criteria to protect existing uses being maintained.

The Tier 2 review on the new, proposed outfalls and their discharge routes preliminarily determined that significant degradation of water quality is not expected in the Leoncita Creek, which has been identified as having high aquatic life use, because existing uses will be maintained and protected.

Additionally, the WQA Team's review on July 8, 2022, determined no significant depletion of DO is expected in the receiving waters because of these discharges due to the low concentrations of oxygen-demanding constituents. Further, there are no site-specific nutrient requirements for Segments 2107, 2108, and 2117.

COMMENT 3

The Nueces River Authority and the Swaims questioned whether the proposed permit complies with applicable siting requirements in 30 TAC Chapter 309, including

adequate prevention of nuisance odors and vectors and compliance with floodplain and wetland siting requirements.

RESPONSE 3

Chapter 309 of 30 TAC applies to the domestic wastewater sent to Pond C for evaporation. Pond C meets all the conditions of the Chapter 309 rules like 30 TAC §§ 309.13(a) (100-year flood plain), 309.13(b) (wetlands), 309.13(c) (public water supply protection), and 309.13(e) (nuisance odors and vectors), which all have been met with this draft permit.

Other Requirement No. 15 prohibits discharge from Pond C. Further, Pond C is constructed, maintained, and operated per the industrial wastewater pond requirements in the proposed permit's Other Requirement Nos. 12, 13, 14, 15, and 17, unlike the stormwater-only ponds which are under the Railroad Commission (RRC) authority. Pond C does receive some stormwater but is not authorized to discharge per Other Requirement No. 13.

Further, the application stipulates the top berm elevation of sedimentation ponds be above the 100-year floodplain elevation.

COMMENT 4

The Nueces River Authority and the Swaims questioned whether the Commission should deny or alter the terms and conditions of the proposed permit based on consideration of need under TWC § 26.0282 or based on compliance history.

RESPONSE 4

Section 26.0282 does not apply to the discharges from the Facility because it expressly applies to the control and treatment of conventional pollutants normally found in domestic wastewater, and domestic wastewater produced at the Facility is not authorized for discharge. If the proposed permit is issued it will not authorize a discharge that is not in accordance with the applicable federal and state laws or regulations. The proposed permit was reviewed and approved by the USEPA on November 18, 2022.

The Fact Sheet / Technical Summary includes a table of the quantitative description of the discharge described in the monthly effluent report data for the period June 2017 through May 2022, and there were no effluent limitation violations. Likewise, the Applicant's compliance history from September 1, 2016, through August 31, 2021, is classified as "satisfactory," and the Applicant is not classified as a "repeat violator."

COMMENT 5

The Swaims questioned whether the application contains all items and information necessary to be administratively and technically complete, whether wastewater- and stormwater-generating process descriptions are sufficiently specific to properly quantify and regulate contributions and discharges from all sources, and whether the outfalls and discharge routes have been properly identified and characterized.

RESPONSE 5

The application contains all items and information necessary to be administratively and technically complete.

The wastewater- and stormwater-generating process descriptions are sufficiently specific to properly quantify and regulate contributions and discharges from all sources, and the outfalls and discharge routes have been properly identified and characterized.

The Standards Team provided the standards memo on June 22, 2022, verifying the discharge route, aquatic life uses, the results of Tier 1 and Tier 2 antidegradation review, and any effects on endangered or threatened aquatic or aquatic dependent species.

Further, the Modeler on the Water Quality Assessment Team provided their memo on July 8, 2022, stating no significant depletion of dissolved oxygen is expected in the receiving waters because of these discharges.

COMMENT 6

The Swaims questioned whether the wastewater- and stormwater-management ponds and other infrastructure are adequate to prevent unauthorized discharges and meet effluent limitations.

RESPONSE 6

The wastewater- and stormwater-management ponds and other infrastructure are appropriate for preventing unauthorized discharges and meeting effluent limits.

The proposed permit includes Other Requirement No. 3 that requires retention ponds to be constructed prior to disturbing the natural soils in preparation of any mining activity. This permit provision requires a record of the design dimensions, construction information, pond drainage area, and a map sketch or drawing showing the location of each pond to be maintained at the site, and it requires all these records to be readily available for inspection by authorized representatives of TCEQ.

The stormwater pond management is also under the regulation of the RRC mining permit. TCEQ recognizes that a RRC mining permit is required for operation of the coal mine and that the application requires soil and groundwater testing. Therefore, the proposed permit includes Other Requirement No. 4 as follows:

“Discharges from the retention ponds must be monitored in accordance with this permit from the time the natural soils are disturbed for mining purposes until reclamation of the disturbed soils is complete and until the performance bond issued by the appropriate authority has been released. At least 10 days prior to any such action, the permittee shall notify the TCEQ Industrial Team, Wastewater Permitting Section (MC-148) and the Region 13 Office in writing of the permittee’s intent to close any retention pond or to discontinue monitoring. Discharges of stormwater runoff that occur during the construction of retention ponds are covered under TPDES Construction General Permit TXR150000.”

COMMENT 7

The Swaims questioned whether proper notice was provided, and along with the Nueces River Authority, request a public meeting be held in either Atascosa or McMullen County.

RESPONSE 7

The TCEQ's Notice rules, found at 30 TAC Chapter 39 (Public Notice) apply to applications, such as the Applicant's.

When the ED determines that an application is administratively complete, the OCC mails this determination, along with a Notice of Receipt of Application and Intent to Obtain Permit (NORI), to the Applicant.²

Not later than 30 days after the ED determines that the application is administratively complete, the Applicant must publish the NORI in the newspaper that has the largest circulation within the county or municipality in which the facility is located.³

Additionally, the Applicant, using county deed records, must identify all landowners adjacent to the Facility and discharge and submit the list to the OCC office so it can mail timely copies of the public notices for the application to the adjacent landowners.

The Applicant must also make a copy of the administratively complete application available for public viewing in the county in which the facility is located.⁴

Additionally, after completing the technical review of an application, the ED files the preliminary determination and the proposed permit with the OCC.⁵ The OCC must then mail the preliminary decision, along with the Notice of Application and Preliminary Decision (NAPD), to the Applicant, who must then publish the NAPD in the same newspaper as the NORI.⁶ The OCC must also mail the NAPD to adjacent landowners and to persons who have filed public comment or hearing requests.⁷

The NAPD must set a deadline for filing public comments with the OCC that is no earlier than 30 days after its publication in a newspaper.⁸ As the public comment period for this application has ended, the ED must file this Response to Public Comments, addressing all timely, relevant, and material, or significant public comments submitted during the comment period, regardless of whether the comments were withdrawn.⁹

The notices are not intended to provide a full description of the application, but rather to provide instructions on where to obtain additional information, such as more comprehensive description of the information in the application. Documents

² 30 TAC § 39.418(a).

³ 30 TAC § 39.405(f).

⁴ 30 TAC § 39.405(g).

⁵ 30 TAC § 39.419(a).

⁶ 30 TAC § 39.419(b).

⁷ 30 TAC § 39.413.

⁸ 30 TAC § 39.551(c)(3).

⁹ 30 TAC § 55.156.

associated with the application are made public at the locations below to allow the public to review them and determine if they have additional comments or questions.

In this case, the TCEQ received the application for a new permit on April 4, 2022, and the TCEQ Application Review and Processing Team performed an administrative review of the application which includes verifying that the landowners map and landowners list was prepared according to TCEQ policies and regulations.

The Applicant provided the required landowners list and map to TCEQ, and the NORI and NAPD were mailed out to each person and address on the list. The Applicant published the NORI on June 29, 2022, in the *Pleasanton Express*. The application was determined technically complete on June 22, 2022, and the Applicant published the NAPD in the *Pleasanton Express* on October 26, 2022.

The permit application, the ED's preliminary decision, and proposed permit are available for viewing and copying at the Atascosa County Courthouse, 1 Courthouse Circle Drive, Suite 102, Jourdanon, Texas in Atascosa County and at McMullen County Courthouse, 501 River Street, Tilden, Texas in McMullen County.

Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk.

The ED declined to hold a public meeting on this application due to a lack of substantial public interest or a legislative request.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

No changes to the proposed permit were made in response to comment.

Respectfully submitted,

Texas Commission on Environmental
Quality

Erin Chancellor, Interim Executive Director

Charmaine Backens, Acting Director,
Office of Legal Services

Guy Henry, Acting Deputy Director,
Environmental Law Division



Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239 0611
Facsimile No. 512-239-0626
REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on February 14, 2023, the Executive Director's Response to Public Comment for Permit No. WQ0002043000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Michael T. Parr II, *Staff Attorney*
State Bar No. 24062936

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Tuesday, March 21, 2023 11:21 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0002043000
Attachments: Hearing Request no exhibits.pdf

RFR
HR

From: lauren@txenvirolaw.com <lauren@txenvirolaw.com>
Sent: Monday, March 20, 2023 4:54 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0002043000

REGULATED ENTY NAME SAN MIGUEL ELECTRIC PLANT

RN NUMBER: RN100226539

PERMIT NUMBER: WQ0002043000

DOCKET NUMBER:

COUNTY: ATASCOSA, MCMULLEN

PRINCIPAL NAME: SAN MIGUEL ELECTRIC COOPERATIVE INC

CN NUMBER: CN600132278

FROM

NAME: Lauren Ice

EMAIL: lauren@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX:

COMMENTS: Please see the attached request for reconsideration and request for a contested case hearing on behalf of Arthur Wayne Swaim and Sherrill Swaim, Robert Murray and Sallie Swaim, the Rodney and Bobbie Swaim Family Limited Partnership, Lee Franklin Lively, and Shorty Investments, Ltd.

PERALES, ALLMON & ICE, P.C.

ATTORNEYS AT LAW

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info@txenvirolaw.com

Of Counsel:
David Frederick
Richard Lowerre
Brad Rockwell

March 20, 2023

Laurie Gharis
Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Via eFiling

Re: Request for Reconsideration and Request for a Contested Case Hearing on the Application of San Miguel Electric Cooperative, Inc. for Major Amendment to TPDES Permit No. WQ0002043000

Dear Ms. Gharis:

We are submitting the following request for reconsideration and request for a contested case hearing on behalf of Arthur Wayne Swaim and Sherrill Swaim (the "Swaims") and Robert Murray and Sallie Swaim, the Rodney and Bobbie Swaim Family Limited Partnership, Lee Franklin Lively, and Shorty Investments, Ltd. (collectively "Hearing Requestors") regarding the Application of San Miguel Electric Cooperative, Inc. ("Applicant" or "SMECI") for a major amendment to TPDES Permit No. WQ0002043000 (the "Application").

I. Introduction and Background

SMECI has applied for a major amendment to its TPDES permit at its San Miguel lignite mine (the "Facility") related to its ongoing lignite mining activities and its proposed expansion. This Draft Permit would authorize "the expansion of lignite mining activities including: the addition of new mining area X, Y, and Z; the addition of five proposed treatment ponds (X-1, X-2, Y-1, Z-1, and Z-2); the addition of five proposed outfall locations (055, 056, 058, 059, and 060); a revision of mining area 11H; the addition of proposed treatment pond O; and the addition of proposed Outfall 057; each of which will discharge mine pit water, mine depressurization water, and stormwater on an intermittent and flow-variable rate." The six proposed new outfalls would discharge effluent through various tributaries and creeks, and ultimately to the Atascosa River in Segment No 2107, San Miguel Creek in Segment No. 2108, and the Frio River Above Choke Canyon Reservoir in Segment No. 2117 of the Nueces River Basin. Segments 2108 and 2117 are immediately upstream from the Choke Canyon Reservoir, while Segment 2107 flows to the Frio River immediately downstream of the Choke Canyon Reservoir. All segments are currently impaired.

The Swaims submitted timely-filed comments on November 28, 2022. The ED issued his Response to Comments on or about February 14, 2023. In his RTC, the ED indicated that no changes to the permit were made in response to comments received. The Swaims now submit this timely request for reconsideration and a contested case hearing and would show that they have a personal justiciable interest affected by the Application. The Commission should, therefore, grant their hearing request and refer the disputed issues to SOAH for a contested case hearing. The Swaims may be contacted through our firm at the address and telephone number provided above.

II. Upon Reconsideration, the Commission Should Deny the Application.

The Commission should, upon reconsideration, deny the Application to SMECI. SMECI has provided false and misleading information in this Application as to ownership of the property in question.

The Commission's Instructions for Completing the Industrial Wastewater Permit Application defines "Facility" to include "all contiguous land and fixtures, structures, or appurtenances used for storing, processing, or disposing of waste," and "Treatment Facility" to mean "Wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation, or disposal of domestic sewage, industrial wastes, agriculture wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission."

In its Application, SMECI purports to being the owner of the facility, despite the fact that SMECI only has certain mining rights, while other parties—namely, the Hearing Requestors—own the surface estate, or the land. Attached as **Exhibit A** is a page from the Application in which the Applicant purports to own the treatment facility. This is not an inadvertent mistake, but an intentional effort to mislead the Agency. On the same page, the Applicant also claims to be the owner of the land where the treatment facility is or will be located. In fact, the map of affected person provided by the Applicant suggests that the Applicant owns the entirety of the land inside the area the Applicant has identified in Map 1 as "PERMIT X, Y, & Z AREA," when it plainly does not. Attached as **Exhibit B** is Map 1 from the Application.

Attached as **Exhibit C** is a map, prepared by the Applicant for a Railroad Commission permit proceeding, and which depicts the same area as Map 1. The following tracts are highlighted to indicate tracts owned by Hearing Requestors:

- Tract 1A includes a 1,566.16-acre-tract owned by the Rodney and Bobbie Swaim Family Limited Partnership and a 12.054-acre-tract owned by Bobbie Swaim. Bobbie Swaim was not identified on Map 1 or in the list of Affected Landowners.
- Tract 1B includes a 1,606.44-acre-tract of land owned by Arthur Wayne Swaim and Robert Murray Swaim, and a 50-acre-tract of land owned by Arthur Wayne Swaim and Robert Murray Swaim, which serves as their homesite. Arthur Wayne Swaim was not identified on Map 1 or in the list of Affected Landowners.
- Tract 2 includes a 2,498.56-acre-tract owned by Lee Franklin Lively.

- Tract 10A includes a 1,417.32-acre-tract of land owned by Shorty Investments, Ltd.

Attached as **Exhibits D–G** are deeds establishing Hearing Requestors’ rights to the properties erroneously identified in the Application as belonging to SMECI. The Applicant has not provided a long-term lease agreement, deed, recorded easement, or any other documentation that gives it the rights to the land for the operation of the facility, as is required by the Commissions own rules and instructions. Applicant has, in Railroad Commission proceedings, purported to rely on interests acquired from successors in interest to the parties to a 1931 Partition Deed. Hearing Requestors dispute that Applicant has any right to conduct surface mining operations for lignite on Hearing Requestors’ properties. The issue is the subject of a declaratory relief action in District Court, pending as *Lee Franklin Lively et al. v. San Miguel Electric Cooperative, Inc.*, Cause No. M-22-0027-CV-B, 156th Judicial District, McMullen County, Texas.

At the very least, this has resulted in an incomplete map, which fails to properly delineate the Applicant’s property boundaries from other landowners, as is required by the Commission’s rules and instructions. Given the context, however, we conclude that the Applicant was knowingly providing false information in the Application, which justifies the denial of this Application.

The Commission should also return the Application because it relies on an outdated “no permit required” letter from USACE, and should not have been declared administratively or technically complete. SMECI admits that its property contains jurisdictional waters of the United States and that it needs a 404 authorization, but a “no permit required” letter is not the same authorization. Therefore, the Application is incomplete and should be returned.

III. The Swaims are “Affected Persons.”

The Swaims are affected persons pursuant to 30 Tex. Admin Code § 55.203, because they have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application, which is not common to members of the general public. *See* 55.203(a). As previously described, Arthur Wayne Swaim, together with Robert Murray Swaim, owns the surface of 1,656-acre tract in the area identified in the Application as “PERMIT X, Y, & Z AREA,” depicted in Map 1 of the Application. *See* Exhibit B. They also own a 50-acre-tract in this area, where Arthur and Sherrill Swaim reside with their family.

In addition, Arthur Wayne Swaim, together with Robert Murray Swaim and Margaret Swaim Stephenson, hold interests in the Rodney and Bobbie Swaim Family Limited Partnership, which owns property within the area identified on Map 1 as PERMIT X, Y, & Z AREA and as Property ID 2166. *See* Exhibit B. This property will be directly impacted by the Application, particularly by the proposed addition of a new outfall—Outfall 056—and Pond X-2. Finally, Arthur Wayne Swaim also holds substantial mineral interests in the PERMIT X, Y, & Z AREA.

The Swaims’ property, property and mineral interests, and home site will be adversely impacted by the expansion of lignite mining activities and this Application that would authorize the discharge of mine pit water, mine depressurization water, and stormwater on an intermittent and flow-variable rate across their property. Because their property interests will be affected by

the Application in a way not common to members of the general public, the Commission should find that the Swaims are “affected persons.”

IV. Robert Murray and Sallie Swaim, the Rodney and Bobbie Swaim Family Limited Partnership, Lee Lively, and Shorty Investments, Ltd. are also “Affected Persons.”

The Swaims file this request on behalf of themselves, and also on behalf of Robert Murray and Sallie Swaim and the Rodney and Bobbie Swaim Family Limited Partnership. As previously explained, Arthur Wayne Swaim owns jointly property with Robert Murray Swaim, and both Arthur Murray and his wife Sherrill as well as Robert Murray and his wife Sallie reside on the property. Therefore, the comments and hearing request are submitted on behalf of the joint property owners. Likewise, with an interest in the Rodney and Bobbie Swaim Family Limited Partnership, the Swaims also submit this hearing request on behalf of the LP.

As previously explained, the properties that are the subject of this Application were not accurately depicted in the Application, and in fact, the Applicant made false representations as to property ownership regarding property owned by Arthur Wayne Swaim, Robert Murray Swaim, the Rodney and Bobbie Swaim Family Limited Partnership, Lee Lively, and Shorty Investments, Ltd. Therefore, the Commission should, upon reconsideration, deny the permit application on this basis alone. However, should the Commission send the Application to a hearing, due process requires that the Commission also name Arthur Wayne and Sherrill Swaim, Robert Murray and Sallie Swaim, the Rodney and Bobbie Swaim Family Limited Partnership, Lee Lively, and Shorty Investments, Ltd. as “Affected Persons.”

V. The Hearing Requests are Based on Disputed Issues Raised During the Public Comment Period.

The Swaims raised several relevant issues during the public comment period, which remain disputed and are the basis of this hearing request.

1. Whether the Application contains all items and information necessary to be administratively and technically complete under the Commission’s rules (RTC 5)

The Hearing Requestors disagree with the ED’s RTC that the Application has demonstrated that it contains all items and information necessary to be administratively and technically complete. For example, the Application claims in several places that the Applicant owns outright the property on which the permitted and proposed activities will take place, but that is not true, and is inconsistent with the maps provided by the Applicant, which allege that the property is leased for mining activities. Again, the Hearing Requestors dispute that Applicant holds any right to conduct lignite mining activities on the Hearing Requestors’ properties. The Application fails to provide any leases or other documentation of Applicant’s right to use the property. The Application has also failed to provide a history of the property, even though this is expressly required for major amendments to TPDES permits. Also, the Application provides inaccurate information regarding the need for USACE 404 permits, as previously described. For these reasons and upon reconsideration, the Application should be returned.

2. Whether the wastewater and stormwater generating process descriptions set forth in the Application are sufficiently specific to properly quantify and regulate contributions and discharges from all sources of pollutants at the Facility. (RTC 5)

The Hearing Requestors disagree with the ED's RTC that the Application has demonstrated that the wastewater and stormwater infrastructure are specific enough to quantify and regulate contributions and discharges. For example, the Application does not include a water balance. For these reasons and upon reconsideration, the Application should be returned.

3. Whether all pollutants and constituents that will be treated and/or discharged by the Applicant have been identified, quantified, and addressed in the Application and Draft Permit. (Not addressed by RTC)

The ED's RTC did not address this comment directly. Therefore, the Hearing Requestors remain concerned that the pollutants and constituents in the Applicant's discharge have not been identified, quantified, or addressed by the Application and the Draft Permit.

4. Whether the Applicant's industrial wastewater and stormwater management ponds and other infrastructure are adequate to prevent unauthorized discharges and meet effluent limitations. (RTC 6)

The Hearing Requestors disagree with the ED's RTC that the wastewater- and stormwater-management ponds and other infrastructure are appropriate for preventing unauthorized discharges and meeting effluent limits. For example, the RTC only indicates that the draft permit would require that records be available for inspection by TCEQ and that the stormwater ponds are also regulated by RRC; however, neither of these responses provides information to indicate that the infrastructure will actually be adequate to prevent unauthorized discharges, and as mentioned earlier, no water balance was included in the Application. For these reasons and upon reconsideration, the Application should be returned.

5. Whether the outfalls and discharge routes have been properly identified and characterized. (RTC 5)

The Hearing Requestors disagree with the ED's RTC that the outfalls and discharge routes have been properly identified and characterized. It is not clear from Standards Team memo dated June 22, 2022, that an independent verification of the outfalls and discharge routes was conducted.

6. Whether the Application complies with antidegradation requirements or will impair the existing uses of the receiving waters. (RTC 2)

The Hearing Requestors disagree with the ED's RTC that the existing water quality uses will not be impaired by the proposed discharge, with the numerical and narrative criteria to protect existing uses being maintained. The Standards Team memo dated June 22, 2022 does not provide the complete antidegradation analysis, and therefore, it is not clear that the Application

complies with the antidegradation requirements or will impair existing uses of the receiving waters.

- 7. Whether the Draft Permit will be protective of water quality pursuant to the Texas Surface Water Quality Standards; Whether the Draft Permit will be protective of groundwater quality and nearby water wells; Whether the Draft Permit will be protective of the Hearing Requestors' health, and aquatic and terrestrial life; Whether the Draft Permit will be protective of the Hearing Requestors' use and enjoyment of their property. (RTC 1)**

The Hearing Requestors disagree with the ED's RTC that the design of the proposed permit ensures water quality standards will be supported. For example, the ED's RTC resuscitated the requirement that staff review the application in accordance with the IPs but it is still not clear that this will protect water quality, groundwater quality, the Hearing Requestors' health, aquatic terrestrial life, or the Hearing Requestors' use and enjoyment of their own property, particularly because it is not clear that property ownership was adequately depicted.

- 8. Whether the Draft Permit has sufficiently definite terms and conditions to ensure that compliance with all applicable water quality standards and regulations. (Not addressed by RTC)**

The ED's RTC did not address this comment directly. Therefore, the Hearing Requestors remain concerned that the Draft Permit does not have sufficiently definite terms and conditions to ensure that compliance with all applicable water quality standards and regulations.

- 9. Whether the Draft Permit includes sufficient monitoring and reporting requirements, including operational requirements, to ensure compliance with all applicable water quality standards and regulations. (RTC 1)**

The ED's RTC did not directly address this comment, but did provide a partial response in RTC. For example, the RTC only resuscitated that the proposed permit includes effluent limitations and monitoring requirements designed to ensure protection of the receiving waters in accordance with TCEQ rules and procedures. The Hearing Requestors disagree with this conclusion and remain concerned that the Draft Permit does not include sufficient monitoring and reporting requirements to ensure compliance, particularly in light of the Applicant's compliance history.

- 10. Whether notice was proper. (RTC 7)**

The ED's RTC did not affirmatively state that notice was proper, but only resuscitated the Agency's notice requirements. Particularly in light of the fact that the Applicant has not accurately depicted ownership of the property in question, it is not clear that notice was proper. For these reasons and upon reconsideration, the Application should be returned.

- 11. Whether the Draft Permit should be denied or altered based on compliance history. (RTC 4)**

As mentioned in the Swaims' November 2022 public comments, SMECI has been issued four Notices of Violation by TCEQ since 2020 for violations of this TPDES permit, including one as recent as August 31, 2022 for "[f]ailure to meet the limit for one or more permit parameter."

Additionally, SMECI has had a number of TCEQ enforcement actions against it in recent years, related to several of its permits. A simple search of the TCEQ Commissioners' Integrated Database reveals that the Regulated Entity associated with this TPDES permit (RN100226539) has three active enforcement actions against it, one of which (TCEQ Docket No. 2017-0200-MLM-E) is associated with violation of SMECI's other TPDES permit at its wastewater treatment facility (RN102342961). It is clear, based on SMECI's persistent violations and enforcement actions, that SMECI would rather pay penalties to TCEQ than comply with the terms of its permits. Based on the Applicant's compliance history, the Application should be denied.

VI. Conclusion

For the reasons stated above, the Hearing Requestors respectfully request that upon reconsideration, the Commission return the Application. If the Application is not returned, the Hearing Requestors request a contested case hearing on the issues raised in the Swaims' November 2022 comments and in this hearing request. The Hearing Requestors further request that the preliminary hearing take place in person, in McMullen County, to allow for effective participation. The area of the proposed mining project is in a rural area, and internet access may be unreliable for many of the interested residents in the area.

Respectfully submitted,

/s/ Lauren Ice

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*Counsel for Arthur Wayne and Sherrill Swaim,
Lee Franklin Lively, Robert Murray and Sallie
Swaim, the Rodney and Bobbie Swaim Family
Limited Partnership, and Shorty Investments,
Ltd.*

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Tuesday, March 21, 2023 11:21 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0002043000
Attachments: Exhibits A-D.pdf

RFR
H

From: gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>
Sent: Monday, March 20, 2023 4:56 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0002043000

REGULATED ENTY NAME SAN MIGUEL ELECTRIC PLANT

RN NUMBER: RN100226539

PERMIT NUMBER: WQ0002043000

DOCKET NUMBER:

COUNTY: ATASCOSA, MCMULLEN

PRINCIPAL NAME: SAN MIGUEL ELECTRIC COOPERATIVE INC

CN NUMBER: CN600132278

FROM

NAME: Lauren Ice

EMAIL: gwyneth@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX:

COMMENTS: Attached are Exhibits A-D.

EXHIBIT A

3. Do the students at these schools attend a bilingual education program at another location?
☐ Yes ☒ No
4. Would the school be required to provide a bilingual education program but the school has waived out of this requirement under 19 TAC §89.1205(g)?
☐ Yes ☒ No
5. If the answer is yes to question 1, 2, 3, or 4, public notices in an alternative language are required. Which language is required by the bilingual program? Spanish

8. REGULATED ENTITY AND PERMITTED SITE INFORMATION (Instructions Pages 24-25)

If the site of your business is part of a larger business site, a Regulated Entity Number (RN) may already be assigned for the larger site. Use the RN assigned for the larger site. Search the TCEQ's Central Registry³ to determine the RN or to see if the larger site may already be registered as a regulated site:

If the site is found, provide the assigned RN and the information for the site to be authorized through this application below. The site information for this authorization may vary from the larger site information.

- a. TCEQ issued Regulated Entity Number (RN): RN1002262539
- b. Name of project or site (the name known by the community where located): San Miguel Lignite Mine
- c. Is the location address of the facility in the existing permit the same?
☒ Yes ☐ No

- d. If the facility is located in Bexar, Comal, Hays, Kinney, Medina, Travis, Uvalde, or Williamson County, additional information concerning protection of the Edwards Aquifer may be required.

- e. Owner of treatment facility: SMECI

Ownership of Facility: ☐ Public ☒ Private ☐ Both ☐ Federal

- f. Owner of land where treatment facility is or will be:

Mr. ☐ Ms. ☐ First/Last or Organization Name: San Miguel Electric Cooperative

Mailing Address: PO Box 280

City/State/ZIP Code: Jourdanton, TX, 78026

Phone No.: (830) 784-3411

Fax No.: (830) 784-3411

E-mail: dburris@smeci.net

If not the same as the facility owner, there must be a long-term lease agreement in effect for at least six years. In some cases, a lease may not suffice - see instructions. **Attachment:**

- g. Owner of effluent TLAP disposal site (if applicable):

Mr. ☐ Ms. ☐ First/Last or Organization Name:

Mailing Address:

City/State/ZIP Code:

Phone No.:

Fax No.:

E-mail:

If not the same as the facility owner, there must be a long-term lease agreement in effect for at least six years. **Attachment:**

³ <http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=regent.RNSearch>

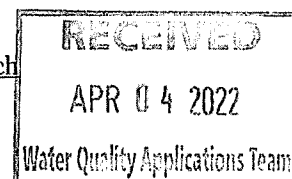
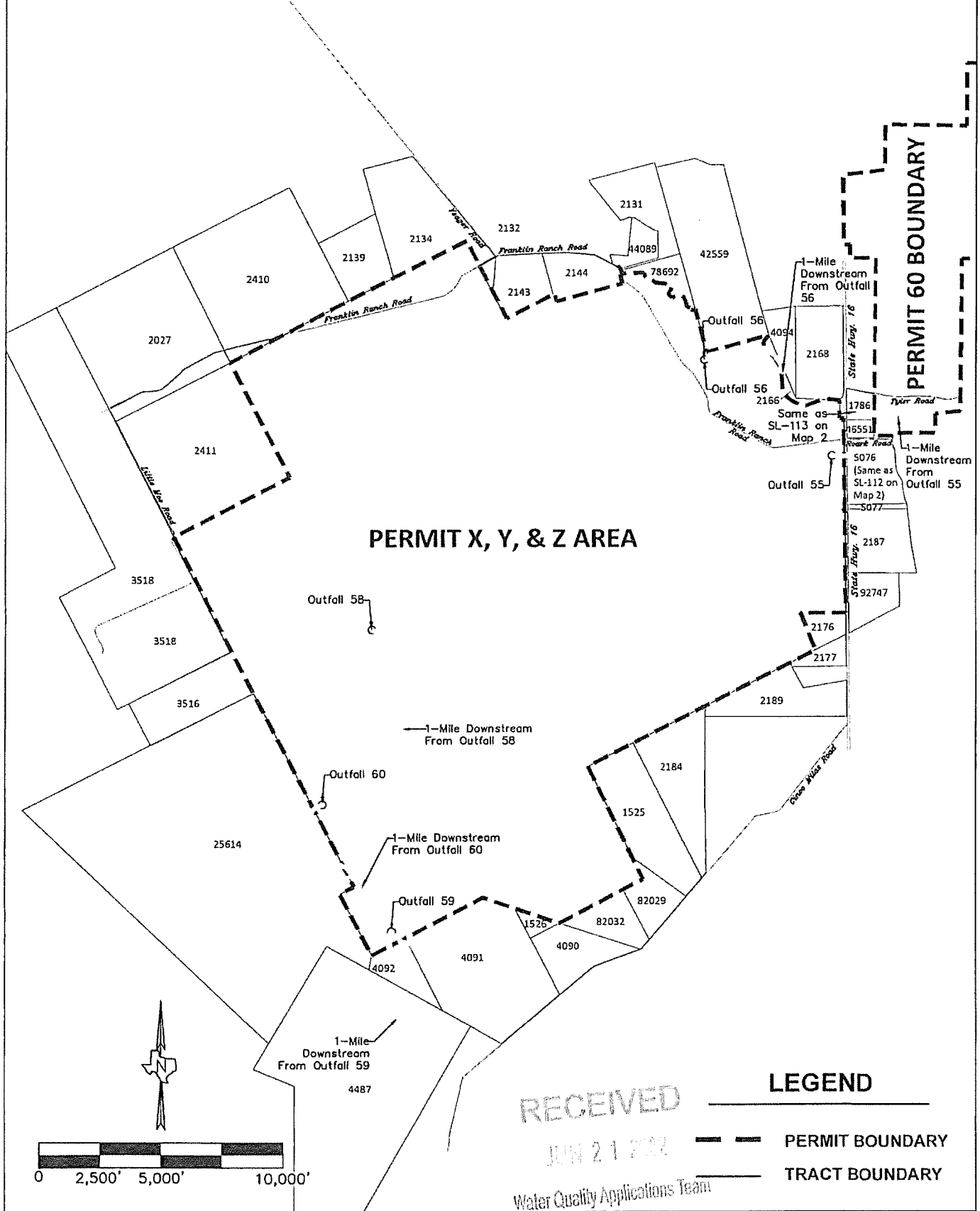


EXHIBIT B

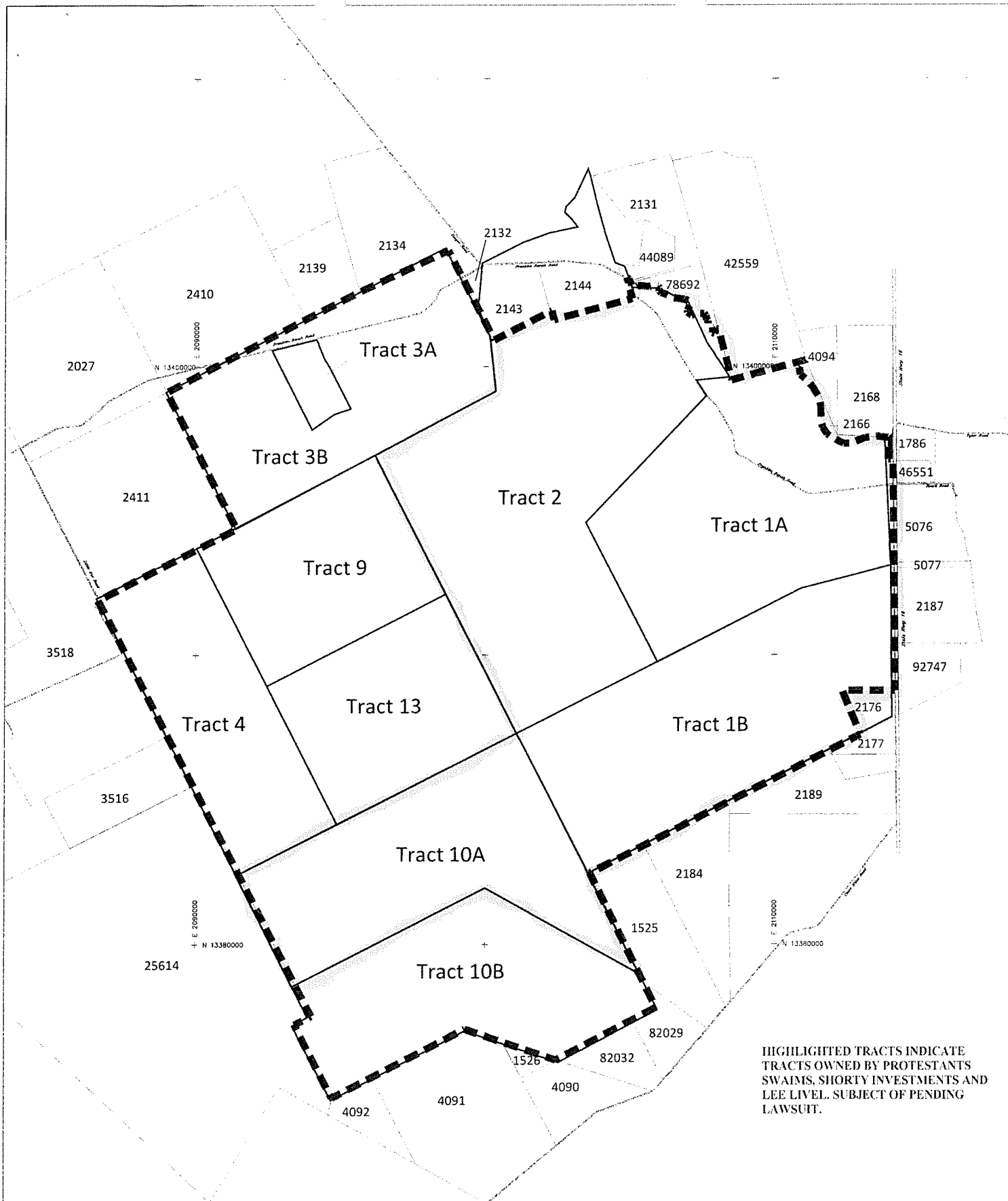
MAP 1



Adjacent Landowners Shown On Map 1

Property ID	Owner Listed in Tax Rolls	Address	City	State	Zip
1786 (Same as Permit 60 Tract SL-113)	Su-Tian Ranch, Ltd.	2009 Countiss Road	Jourdanton	TX	78026
5077, 5076 (Same as Permit 60 Tract 112)	Nancy Wheeler Plumlee	1232 CR 227	Giddings	TX	78942
2168	Bessilia G Guerrero	PO Box 354	Tilden	TX	78072
4094	Alonzo Garza	PO Box 372	Tilden	TX	78072
42559	Elta Grace Pennington	100 Cross Creek Ranch Rd	Jourdanton	TX	78026
2184, 2176	Gayle Crain Kuykendall, Trustee	132 Auburn Place	San Antonio	TX	78209
2189, 2187, 92747	Robbie Kuykendall Family 2012 Trust	3673 N Hwy 16	Jourdanton	TX	78026
2177	Franklin Swaim	PO Box 513	Tilden	TX	78072
78692	Wesley F & Sue Swaim Family Limited Partnership	PO Box 100	Tilden	TX	78072
2131, 2132, 2134, 2139, 44089	Murray R Swaim	P.O. Box 1676	Marble Falls	TX	78654
2410	Kathy F. Smith	PO Box 93	Jourdanton	TX	78026
2027	Peggy Steinle	360 Franklin Ranch Road	Tilden	TX	78072
2411	Walt Franklin, et al	317 Sidney Baker S	Kerrville	TX	78028
3516, 3518	Brockton V & Charlotte K Schlupp	PO Box 158	Tilden	TX	78072
25614	Edwards Franklin Ranch, LLC	920 Tom Road	Floresville	TX	78114
4091, 4092, 1526, 4090	Jerald & Brenda Kolinek	3267 Bee Cave Rd Ste 107-S1	Austin	TX	78746-6773
4091, 4092, 1526, 4090	MCTee L7 Ranch, Ltd	PO Box 1001	Wimberley	TX	78676
4091, 4092, 1526, 4090	Primitive Ranches, LLC	100 Cross Creek Ranch Rd	Wimberley	TX	78026
2143, 2144	Elta Grace Pennington	PO Box 445	Falls City	TX	78113
82029, 82032	Jaime Catherine Pennington Albert	PO Box 301	Jourdanton	TX	78026
1525	Jennifer Matt-Lynn Pennington Hofferichter	P.O. Box 449	Giddings	TX	78942
46551	Lee F. Lively	151 Franklin Ranch Road	Jourdanton	TX	78026
4487	Rodney and Bobbie Swaim Family Limited Partnership	PO Box 241	Tilden	TX	78072
SH 16	Robert W. Errington and wife, Fatima Rodriguez Errington	1524 Wolf Bend Rd	Germanatown	TN	35138
	Camilla Wilson	619 Hillsong	San Antonio	TX	78258
	Shorty Investments, Ltd.	971 Oakwood	San Antonio	TX	78228
	Barbara Bacon	P.O. Box 780339	San Antonio	TX	78278-9914
	Nustar Logistics, LP	P.O. Box 200	Tilden	TX	78072
	Henry & Linda Lee	1700 N. Congress Ave., Suite 640	Austin	TX	78701
	State of Texas, General Land Office				

EXHIBIT C



HIGHLIGHTED TRACTS INDICATE TRACTS OWNED BY PROTESTANTS SWAIMS, SHORTY INVESTMENTS AND LEE LEE. SUBJECT OF PENDING LAWSUIT.

LEGEND

- PERMIT BOUNDARY
- LOT LINE

SAN MIGUEL ELECTRIC COOPERATIVE, INC.		SAN MIGUEL LIGHTS MINE	AREA X, Y, & Z PERMIT APPLICATION LAND TRACT MAP	00042
SAN MIGUEL ELECTRIC COOPERATIVE, INC.				
SAN MIGUEL ELECTRIC COOPERATIVE, INC.		SAN MIGUEL LIGHTS MINE	AREA X, Y, & Z PERMIT APPLICATION LAND TRACT MAP	00042
SAN MIGUEL ELECTRIC COOPERATIVE, INC.				

EXHIBIT D

erty being located in Atascosa and McMullen Counties, Texas, and to do and perform all matters and things pertaining thereto as fully as I myself could do them;

NOW, THEREFORE, I, the said IREY SMITH BRODBENT, for good cause, do hereby revoke, countermand, and make void, said power of attorney and all powers and authorities therein given and contained and all matters and things which shall or may be acted, done or performed by virtue or means thereof in any manner whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 1st day of June, A.D. 1931.

Irey Smith Brodbent

David C. Vokes

Dorothy Kerr

State of Michigan :
County of Wayne :

SS

Before me, David Cooper Vokes, a Notary Public in and for said County and State, personally appeared IREY SMITH BRODBENT, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purpose therein expressed.

Given under my hand and seal of office this 1st day of June, A.D. 1931.

(SEAL)

David Cooper Vokes, Notary

My Commission Expires: September 15, 1933.

Public, Wayne County, Michigan.

FILED FOR RECORD THIS 10th day of June A.D. 1931 at 9 o'clock A.M.

AND DULY RECORDED THIS 10th day of June A.D. 1931 at 11 o'clock A.M.

Julius Franklin
County Clerk,
McMullen County, Texas.

STATE OF TEXAS :
COUNTY OF McMULLEN :

THIS INSTRUMENT made between Murray Franklin, joined by his wife, Rosa Franklin, Annie Franklin, a feme sole, Felix Franklin, a single man, Thomas Franklin, joined by his wife, Mary Franklin, John N. Franklin, joined by his wife, Thelma Franklin, Margaret Franklin Yeager, joined by her husband, Ewell Yeager, Sam Franklin, ~~joined by his wife, Estelle Franklin~~, Julius Franklin, joined by his wife Mabel Franklin, all of McMullen County, Texas, R.S. Franklin, Jr., joined by his wife, Lena Franklin, Green Franklin, joined by his wife, Verda Franklin, R.C. Franklin, joined by his wife, Rosabelle Franklin, all of Atascosa County, Texas, and Claude Franklin, of La Salle County, Texas, joined by his wife, Ida May Franklin, WITNESSETH:

1. That whereas, R.S. Franklin, of McMullen County, Texas, died intestate on April 1st, 1913, leaving his wife, Mrs. Minerva Franklin, surviving him, and ten sons and two daughters, as the sole surviving issue of their marriage, as follows, to wit: The above mentioned Murray Franklin, Annie Franklin, Felix Franklin, Thomas Franklin, John N. Franklin, Margaret Franklin Yeager, Sam Franklin, Julius Franklin, R.S. Franklin, Jr., Green Franklin, R.C. Franklin, and Claude Franklin.

That the said Mrs. Minerva Franklin died a feme sole and intestate in McMullen County, Texas, on February 4th, 1930, leaving surviving her all said next hereinabove mentioned twelve children as the issue of her marriage to the said R.S. Franklin, deceased, and all being over twenty-one years of age, and the sole heirs at law of said R.S. Franklin and Mrs. Minerva Franklin, deceased.

That no portion of said lands is community estate of any of these coparceners or their spouses, and none of them assert any equity, right, title or interest in any of said lands hereinafter partitioned, inconsistent with the terms and recitals of this instrument, or that would preclude such partition.

That said twelve children are the sole owners of the real property known as the Frank-

143
lin Ranch, situated in McMullen and Atascosa Counties, Texas, a part of said ranch lands being community estate of said R.S. Franklin and Mrs. Minerva Franklin, deceased, a part thereof being the separate estate of said Mrs. Minerva Franklin;

That the above mentioned Murray Franklin is the sole owner in his own right, by purchase, of an undivided 2500 acres in a portion of said Franklin Estate Lands hereinbefore mentioned. That there has been no partition of said Franklin Estate Lands, or any part thereof, among the heirs entitled to receive the same, except to this extent only: That during her lifetime, the said Mrs. Minerva Franklin, joined by her above mentioned children, as the sole heirs at law of said R.S. Franklin, deceased, conveyed unto the above mentioned Sam Franklin, one of said heirs, 923.7 acres of land out of the Austin and Williams Survey No. 950, Abstract No. 16, Cert. No. 5, and 253.2 acres out of the Day Land & Cattle Company Survey No. 1098 $\frac{1}{2}$, Abstract No. 1329, located in Atascosa County, Texas, which deed of conveyance, dated July 26th, 1929, is of record in the deed records of Atascosa County, Texas, in Volume 115, on pages 261-262, to which reference is here made for greater particularity. That said conveyance was made unto the said Sam Franklin as his part and portion of said lands to which he was entitled under the laws of descent and distribution as an inheritance from his father, the said R.S. Franklin, deceased. And

Whereas, no debts are due and owing said Franklin Estate, and it is the desire of all the heirs that said real property known as the Franklin Ranch should be equitably partitioned between them, and they have agreed:

A. That all Coal and Kaolin or Clay Products on or under said lands or any of them shall be reserved from this partition, and shall continue to be held and owned by said twelve heirs in common and in undivided interests as now, to them and each of them, their heirs and assigns, share and share alike.

B. That the conveyance to Sam Franklin hereinbefore mentioned be in all things confirmed, subject to the provision that he reconvey to the other eleven heirs jointly an undivided eleven-twelfth interest in all coal, kaolin or clay products thereon or thereunder.

C. That title to the home ranch, consisting of 250 acres out of the George E. Evans Survey No. 835, Abstract No. 180 [hereinafter referred to and described as Tract No. 12] shall be reserved from this partition and shall continue to be held by said twelve heirs equally in common and in undivided interests as now.

D. That the remainder of said lands (subject to the reservation of title to be held in common of all coal, kaolin or clay products thereon or thereunder) shall be equitably partitioned among said twelve heirs, share and share alike, except for this: that said Murray Franklin being the owner in his own right of an undivided 2500 acres in a portion of said Franklin Ranch lands, and having cast said interest into this partition in order that the same may be more economically and conveniently affected shall be equitably compensated by the award to him in this partition of a parcel of said lands of a value equal to the value of parcels allotted to the other heirs, plus the value of his said 2500 acre undivided interest.

Wherefore, it is hereby covenanted, granted, concluded and agreed by and between said parties, and each of them covenants, grants, concludes and agrees, for himself, themselves, his and their heirs and assigns, that a partition of said lands be made as follows, viz:

FIRST. The said Green Franklin of Atascosa County, Texas (except as below stated, shall from henceforth, have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and portion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 1, being partition subdivision No. 1 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff, County Surveyor of McMullen County, Texas, as shown by map or plat of said survey of record in the office of the County Clerk of said County and

251.4 acres out of Section No. 63, B.S. & F. Abstract No. 151,
 522.4 acres out of Section No. 65, B.S. & F. Abstract No. 152.
 678.2 acres out of Section No. 67, B.S. & F. Abstract No. 153.
 545.3 acres out of Section No. 57, B.S. & F. Abstract No. 148.
 174.5 acres out of Section No. 59, B.S. & F. Abstract No. 149.
 283.0 acres out of Section No. 61, B.S. & F. Abstract No. 150.
 360.0 acres out of Section No. 63, James B. Taylor, Abstract No. 637, and
 55.3 acres out of survey No. 9, Chas. S. Burbanks, Abstract No. 62.---aggregating 2816.1
 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, particularly described by
 metes and bounds as follows:

Beginning at a post in fence on the west side of the county road from Tilden to San Antonio same being the South East corner of the R.S. Franklin Estate Ranch;

Thence North 89° 30' West with fence line between the Franklin and Skinner ranches at 3308 vrs. to a fence post corner of fence the North West corner of the Skinner ranch.

Thence South 39° 35' West with fence line between the Franklin and Skinner ranches at 784.8 vrs. to a stake and mound of hill rock set for the South West corner of this subdivision tract No. 1 same being the South East corner of Subdivision Tract No. 2 of the R.S. Franklin Ranch.

Thence North 27° West with the West line of this Tract No. 1 and the East line of Tract No. 2 at 3180.6 vrs. to a stake and mound of hill rock set on the South line of Section No. 33 J. Poitevent same being North 63° East 738.4 vrs. from a rock marked H the original South West corner of Section No. 33 and the North West corner of Section No. 63, B.S. & F. the South East corner of Section No. 35, J. Poitevent and the North East corner of Section No. 36, James B. Taylor.

Thence North 63° East with the line between section No. 33 J. Poitevent and Section No. 63, B.S. & F. at 1202.6 vrs. passed a rock marked I the original North East corner of Section No. 63, B.S. & F. the South East corner of section No. 33, J. Poitevent the South West corner of section No. 39, J. Poitevent and the beginning corner of section No. 57, B.S. & F. and at 3146.6 vrs. passed a stake the South East corner of section No. 39 from which found both witness trees marked X one brs. South 22° West 46 vrs. another brs. South 26½° West 42 vrs. and at 4884.4 vrs. in all to a stake and rock set under fence on the West side of the Tilden and San Antonio Road for the North East corner of this Subdivision tract No. 1 and the South East corner of Subdivision Tract No. 3 of the R.S. Franklin Estate.

Thence with the fence on the West side of the County Road as follows South 28° East 436.3 vrs. South 15° 25' East 547.2 vrs. South 5° 55' East 1583.6 vrs. South 11° 40' East 1137.6 vrs. South 21° 50' East 383 vrs. South 0½-40' West 520 vrs. to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Green Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Green Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, and to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Green Franklin, as one of them.

SECOND. The said John N. Franklin of McMullen County, Texas (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of

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of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 2, being partition subdivision No. 2 of the Franklin Ranch Estate Land, as surveyed by W.S.Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

- ✓ 671.43 acres out of Survey No. 37, J. Poitevent, Abstract No. 382;
- ✓ 671.43 acres out of Survey No. 35, J. Poitevent, Abstract No. 383;
- ✓ 335.55 acres out of Survey No. 25, J. Poitevent, J. Poitevent, Abstract No. 378;
- ✓ 49.4 acres out of Survey No. 38, James B. Taylor, Abstract No. 638,
- ✓ 644 acres out of Survey No. 36, James B. Taylor, Abstract No. 635, 431 acres out of Survey No. 63, B.S. & F. Abstract No. 63, B.S. & F. Abstract No. 18.1;
- ✓ 114.7 acres out of Survey No. 64, James B. Taylor, Abstract No. 634, and
- ✓ 22.5 acres out of Survey No. 66, W.G. Miles, Abstract No. 623, and 30 acres out of Survey No. 65, B.S. & F. Abstract No. 152.---- aggregating 2970.1 acres of land.

And, as surveyed by said W.S.Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at a rock marked S the South West corner of Tract No. 4 of the R.S. Franklin Ranch Subdivision same being the original South West corner of Survey No. 27 J. Poitevent, South East corner of section No. 24 L. Jacobs North West corner of Section No. 37, J. Poitevent and the North East corner of Section No. 23, J. Poitevent.

Thence North 63 East following section line between section 27 J. Poitevent, section 37, J. Poitevent, section 29, J. Poitevent, and Section 35, J. Poitevent at 3893.4 vrs. to a Rock marked T set for the South East corner of Tract No. 4 same being the North East Corner of this tract No. 2 and being the original corner of survey Nos. 29, 35, 33 J. Poitevent and No. 34 L. Jacobs.

Thence South 27 East following section line between section No. 35, J. Poitevent and Section No. 33, J. Poitevent at 1947 vrs. to a rock marked H the original South East corner of Section No. 35, J. Poitevent South West corner of Section No. 33, J. Poitevent, North East corner of section No. 36 James B. Taylor and North West Corner of Section No. 63 B.S. & F.

Thence North 63 East with section line between Section No. 33 J. Poitevent and Section No. 43 B.S. & F. at 738.4 vrs. at a stake and mound of hill rock for a North East corner of this tract No. 3.

Thence South 27 East crossing Survey No. 63, B.S. & F. and into survey No. 65, B.S. & F. at 3180.6 vrs. set a stake and Mound of Hill Rock about 10 feet from the Skinner fence line for corner of this tract No. 2.

Thence South 39° 35' West with the line between the Franklin and Skinner Ranch at 639 vrs. to a mound of petrified rock same being the corner of fence the present corner of the Franklin, Skinner and Henry Ranches.

Thence North 72° 15' West with fence line between the Franklin and Henry (the old C.W. Kuykendall) ranches at 3427 vrs. to a corner of fence from which the original witness tree to the South East corner of Section No. 25 hrs. South _____ West 58.3 vrs.

Thence South 63° 30' West with fence line between the Franklin and Henry Ranches at 1848 vrs. to a Post marked A the original S.W. corner of Section No. 25, J. Poitevent and corner in fence from which found the old witness tree marked A that bra. South 6 East 151.5 vrs.

Thence North 27 West with fence line between the Franklin and the O.J. Doham (Old Pyrtle Pasture) at 1017 vrs. to a rock marked and 1922 the North West corner of Section No. 25, J. Poitevent.

Thence North 63 East at 234 vrs. to another rock marked and 1922 for the South West corner of section No. 37, J. Poitevent.

Thence North 27 West with fence line between the Franklin and O.J.Dolan Ranches at 1947 vrs. to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said John N. Franklin as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said John N. Franklin, as his separate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said John N. Franklin, as one of them.

✓ THIRD. The said Murray Franklin of McMullen County, Texas, (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 3, being partitioned subdivision No. 3 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

673.9 acres out of Section No. 34, L. Jacobs, Abstract No. 615;
669.5 acres out of Section No. 33, J. Poitevent, Abstract No. 384;
670.5 acres out of Section No. 39, J. Poitevent, Abstract No. 381;
674.5 acres out of Section No. 40, L. Jacobs, Abstract No. 614;
489.1 acres out of Section No. 41, J. Poitevent, Abstract No. 380;
189.3 acres out of Survey No. 835, Geo. E. Evans, Abstract No. 180;
370.6 acres out of Survey No. 960, C. Manchaca, Abstract No. 304;
672.5 acres out of Section No. 58, James B. Taylor, Abstract No. 636. 215.0 acres out of Section No. 60, James B. Taylor, Abstract No. 633.
129.1 acres out of Section No. 57, B.S. & F. Abstract No. 148. and 16 acres out of Section No. 59, B.S. & F. Abstract No. 149.---aggregating 5429.9 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at a rock marked X the original North East Corner of Section No. 30 E.L. Taylor, and the South East corner of section No. 22, M. Franklin the South West corner of Section No. 32, M. Franklin and the North West corner of section No. 31, J. Poitevent from which an old mesquite tree marked X brs. N. 31½ E. 83 vrs. this rock is the North East corner of Tract No. 4 of the R.S. Franklin Estate Subdivision and the North West corner of this subdivisional tract No. 3.

Thence North 63 East with section line between section No. 31, J. Poitevent and section No. 32, M. Franklin at 1941 vrs. passed the North East corner of section No. 31 and the South East corner of section No. 32 and at 2558 vrs. in all to a rock marked M set in the West line of the Geo. E. Evans Survey No. 835 for a corner of this subd. tract No. 3.

Thence South 84° 45' East crossing survey No. 835 Geo. E. Evans at 2174. 4 vrs. to the South West corner of Survey No. 834 T.F. Corry.

Thence North 75 East with the South line of the said T.F. Corry survey at 950 vrs. to the South East corner of same.

Thence South 23 East along the North East bank of the San Miguel creek at 1017 vrs. to a

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stake about 18 vrs. North of the Bank of the San Miguel creek same being a division corner between the R.S. Franklin Estate and F.L. Henry.

Thence North with the fence division line between the R.S. Franklin Estate and F.L. Henry Tracts at 1360 vrs. to an iron pipe set in said fence for a corner of this Tract and the South west corner of an 163.5 acre tract surveyed for Tom Franklin out of the North portion of the Manchaca survey No. 960 and the south east portion of the Geo. Elliott Survey No. 959.

Thence East with the south line of the said Tom Franklin tract at 705 vrs. to an iron stake set in fence on the West side of the County Road leading from Tilden to San Antonio.

Thence South 0-15' West with the west line of said County road at 1256 vrs. the North High bank of the San Miguel Creek at 1385 vrs. in all to a stake on the south bank of the San Miguel Creek.

Thence South 43 West 74 vrs. to corner of fence on the South bank of San Miguel creek the corner of the T.P. Franklin Estate.

Thence South 0-5' West with the fence line between the R.S. Franklin Estate and the T.P. Franklin Estate at 1514 vrs. to corner of fence the South West corner of the T.P. Franklin Estate also the South West corner of the J.M. Hernandez Survey No. 34.

Thence East with the fence line of the R.S. Franklin Estate and the T.P. Franklin Estate same being the division line between the J.M. Hernandez Survey No. 34 and the James B. Taylor Section No. 60 at 1004 vrs. to a fence corner on the west side of the County Road from Tilden to San Antonio.

Thence South 6-30' East with fence on the west side of the County road at 568 vrs. to a stake.

Thence South 11 East 570 vrs. Thence South 28 East 220 vrs. to a stake and mound of rock set for the North East corner of Tract No. 1 of the R.S. Franklin Estate Subdivision and the South East corner of this Tract No. 3.

Thence South 63 West with the North line of Tract No. 1 of this subdivision at 1737.7 vrs. passed the South East corner of Section No. 39 and continuing South 63 West with south line of Section No. 39 J. Poitevent and North line of section No. 57, B.S. & F. at 3681.8 vrs. passed rock marked E the Original South West corner of Section No. 39 J. Poitevent and South East corner of Section No. 33 J. Poitevent the North East corner of Section No. 63 B.S. & F. and the North West corner of Section No. 57 B.S. & F. and at 5622.8 vrs in all to a rock marked H the original South West corner of section No. 33 J. Poitevent the South East corner of section No. 35 J. Poitevent and the North East corner of section No. 36 James B. Taylor the North West corner of section No. 63 B.S. & F. same being the South West corner of this tract. No. 3 of the R.S. Franklin Subdivision.

Thence North 27 West with section line between section No. 33 and 35 J. Poitevent, 29 J. Poitevent and 34 L. Jacobs, 30 E.L. Taylor and 31 J. Poitevent at 5825.4 vrs. to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Murray Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Murray Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Murray Franklin, as one of them

FOURTH. The said Thomas Franklin of McMullen County, Texas (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 4, being partition subdivision No. 4 of the Franklin Ranch Estate Land, as surveyed by W.S.Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

661.98 acres out of Survey No. 28 E.L.Taylor Abstract No. 740,

661.98 acres out of Survey No. 30 E.L.Taylor, Abstract No. 737,

675.56 acres out of Survey No. 27 J. Poitevent, Abstract No. 387 and

675.56 acres out of Survey No. 29 J. Poitevent, Abstract No. 386 ----aggregating 2675.08 acres of land. And, as surveyed by said W.S.Goff, County Surveyor, particularly described by metes and bounds as follows:—

Beginning at a rock marked X the original North East Corner of Survey No. 30, E.L.Taylor, The South East corner of Survey No. 22, M.Franklin, the South West Corner of Survey No. 32, M.Franklin and the North West corner of Survey No. 31, J. Poitevent from which a mesquit tree—marked X brs. N. $31\frac{1}{2}$ E. 83 vrs.

Thence South 27° East following the original section line between section No. 30 E.L.Taylor section No. 31 J. Poitevent section No. 29 J. Poitevent and section No. 34, L. Jacobs, and at 3878.6 vrs. set a rock marked T for the South East corner of this tract No. 4 same being the original South East corner of Section No. 29 J. Poitevent, South West corner of Section No. 34 L. Jacobs the North East corner of section No. 35 J. Poitevent and the North West corner of section No. 33 J. Poitevent.

Thence South 63° West following section line between section No. 29 J. Poitevent, section No. 35, J. Poitevent, section No. 27 J. Poitevent and Section No. 37 J. Poitevent at 3893.4 vrs. to a rock marked S the original South West corner of Section No. 27 J. Poitevent the North West corner of Section No. 37 J. Poitevent the North East corner section No. 23, J. Poitevent and the South East corner of Section No. 24, L. Jacobs.

Thence North 27° West following section line between Section No. 27 J. Poitevent and Section No. 24 L. Jacobs at 1959 vrs. passed a rock marked L.J., the original North West Corner of Section No. 27 J. Poitevent, the South West Corner of Section No. 28 E.L.Taylor the South East Corner of Survey No. 3, Susan Skinner and the North East corner of Survey No. 24 L. Jacobs and at 3878.6 vrs. in all to the North West corner of this tract No. 4 same being the original North West Corner of Section No. 28, E.L.Taylor the South West Corner of Survey No. 21, T. & N.O.R.R.Co. on the East line of the Susan Skinner Survey No. 3.

Thence North 63° East following Section line between Survey No. 28 E.L.Taylor, Survey No. 21, T. & N.O.R.R.Co. Section No. 30 E.L.Taylor and Section No. 22, M.Franklin at 3893.4 vrs. to place of beginning.

Second Parcel:

36 acres out of the Geo.Elliott Survey No. 959, Abstract No. 181, 127.5 acres out of the C.Manchaca Survey No. 960, Abstract No. 304----aggregating 163.5 acres of land. And, as surveyed by said W.S.Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at a corner of fence on the west side of the County Road leading from Tilden to San Antonio, Texas, the South East Corner of the Dilworth Tract of land and the North East corner of this 163.5 acre survey.

Thence South $87^{\circ} 30'$ East with West side of said County Road at 283 vrs. to a stake.

Thence South $0-15'$ West with West side of County Road at 1125 vrs. to an Iron stake set

for the South East corner of this 163.5 acre survey.

Thence West 705 vrs. to an iron pipe set for the South West corner of this survey in fence the Division line between the F.L. Henry Tract and the R.S. Franklin Estate.

Thence North 1023 vrs. with the division fence line between the F.L. Henry Tract and the R.S. Franklin Estate at 1023 vrs. to fence corner.

Thence East with fence line between the F.L. Henry Tract and the R.S. Franklin Estate at 174 vrs. to a fence corner.

Thence North with fence line between F.L. Henry and the R.S. Franklin Estate at 367 vrs. to fence corner the North West corner of the 36 acres of the Geo. Elliott Survey No. 359 and the South West corner of the old A.M. Dilworth Tract of land.

Thence East with fence line between the Dilworth Tract and the R.S. Franklin Estate at 523 vrs. to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Thomas Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Thomas Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinafores described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Thomas Franklin, as one of them.

FIFTH. The said Felix Franklin of McMullen County, Texas (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance and to him and his heirs and assigns, for his part, share and proportion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 5, being partition subdivision No. 5 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said survey of record in the office of the County Clerk of said County and being:

819.6 acres out of survey No. 1, Mrs. M. Ellison, Abstract No. 756. 683.6 acres out of survey No. 45, J. Poitevent Abstract No. 377. 678.5 acres out of survey No. 46, E.L. Taylor, Abstract No. 735. 644.8 acres out of survey No. 3, Susan Skinner, Abstract No. 815.---Aggregating 2826.5 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at the North East corner of the D. & A. Oppenheimer tract of land a corner of fence same being South 27° East 31.7 vrs. from the South West corner of Subdivision Tract No. 4 the original South West corner of Section No. 21 T. & N.O.R.R.Co. and the North West corner of Section No. 28 E.L. Taylor.

Thence South 62°25' West with the fence line between the Franklin and Oppenheimer Ranches at 2856 vrs. to a large Rock.

Thence South 27° 35' East at 147 vrs. to an old fence corner post.

Thence South 63° West with fence line of the Franklin and Oppenheimer Ranches at 1764 vrs. to a rock marked A the original South West corner of Section No. 45, J. Poitevent, from which a mesquite tree marked A vrs. South 65 West 14.7 vrs.

Thence North 27° 45' West with fence line between the R.S. Franklin Estate and R.S. Franklin Jr. at 2166 vrs. to a rock marked the North West corner of Section No. 45, J. Poitevent and the

North East Corner of section No. 2, R.S. Franklin also a corner of Section No. 1 T. & N.O.R.R. Co.

Thence North 82° East with the south east line of Section No. 1, T. & N.O.R.R. Co. at 945 vrs. to a stake set for the South East Corner of Section No. 1, T. & N.O.R.R. Co. on the North line of Section No. 45, J. Poitevent.

Thence North 0° 12' East with East line of the T. & N.O.R.R. Co. Sur. No. 1 and the West line of the Mrs. M. Ellison Survey No. 1 at 1467 vrs. passed the North East corner of Section No. 1 T. & N.O.R.R. Co. and at 2200.0 vrs. in all to a stake and mound of hill rock set for the North West corner of this tract No. 5.

Thence North 63° East crossing survey No. 1 Mrs. M. Ellison at 2684.2 vrs. to an iron stake and mound of hill rock for the North East corner of this tract No. 5, from which a mesquite tree marked F brs. South 53° 15' West 20 vrs.

Thence South 27° East at 134 vrs. passed the North East Corner of the Susan Skinner Survey No. 3 and the North West corner of Section No. 24, M. Franklin, and continuing South 27 East with the line of the Susan Skinner Survey No. 3 and the M. Franklin Section No. 24, and the T. & N.O.R.R. Co. Section No. 21 at 3965.8 vrs. in all to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Felix Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Felix Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Felix Franklin, as one of them.

SIXTH. The said Julius Franklin of McMullen County, Texas, (except as below stated, shall from henceforth have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 6, being partition subdivision No. 6 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

717.4 acres out of Survey No. 30, T. & N.O.R.R. Co. Abstract No. 676. 828.6 acres out of survey No. 3 Live Oak County School Land, Abstract No. 298.

111.6 acres out of survey No. 2/6 Mrs. M. Friar, Abstract No. 662. 528.3 acres out of survey No. 1, Mrs. M. Ellison, Abstract No. 756, and 640 acres out of survey No. 10, T. & N.O. R.R. Co. Abstract No. 869. ---aggregating 2825.9 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at the North East corner of Tract No. 5 of the Franklin Subd. an iron Stake for corner from which a mesquite marked F brs. South 53° 15' West 20 vrs. same being the South East Corner of this tract No. 6.

Thence South 63° West crossing survey No. 1 Mrs. M. Ellison at 2684.2 vrs. to a stake and mound of hill rock for the North West corner of tract No. 5, also a corner of this tract No. 6.

Thence South 0° 12' West with the West line of tract No. 5 at 733.0 vrs. to the North East corner of section No. 1, T. & N.O. R.R. Co.

Thence West at 100 vrs. passed the South East Cor. of Section No. 10, T. & N.O.R.R.Co. on the North line of Section No. 1, T. & N.O.R.R.Co., and continuing west with the section line between section No. 10 and section No. 1, T. & N.O.R.R.Co. at 2000 vrs. in all to a stake and mound of hill rock for the South West Corner of section No. 10, 9, 3 and 1 all T. & N.O.R.R.Co. surveys.

Thence North with section line between sections Nos. 9 & 10 T. & N.O.R.R.Co. at 1900.8 vrs. to a stake and mound of hill rock set for the corner of sections No. 9, 10, 11 & 12 all T. & N. O.R.R.Co. sections.

Thence East with section line between section No. 10 & 11, T. & N.O.R.R.Co. at 1900.8 vrs. to a stake and mound of hill rock set for the North East corner of section No. 10 and South East corner of section No. 11.

Thence North with the East line of section No. 11, T. & N.O.R.R.Co. the west line of Survey No. 1, Mrs. M.Ellison, Survey No. 2.6 Mrs. M.Friar and Section No. 30, T. & N.O.R.R.Co. at 1900.8 vrs. to the North East corner of section No. 11, T. & N.O.R.R.Co.

Thence West with the section line between section No. 30 T. & N.O.R.R.Co. and Section No. 11, T. & N.O.R.R.Co. at 1909 vrs to a stake in fence set for the North West corner of Section No. 11 South West corner of Section No. 30, North East corner of section No. 12 and the South East corner of section No. 15 all of the T. & N.O.R.R.Co. Block.

Thence North 1° East following fence line between section No. 30 and section No. 15, T. & N.O.R.R.Co. at 2058 vrs. to a corner of fence and mound of hill rock for the North West corner of Section No. 30 and the North East corner of section No. 15 on the south line of section No. 29, all of the T. & N.O.R.R.Co. block.

Thence South 88° 55' East with the fence line between section No. 30 and section No. 29 at 1653 vrs. to a corner of fence on the west line of the Live Oak Co.School Land Survey No. 3.

Thence North 13° 17' West with fence line between the Live Oak Co.School Land and section No. 29 T. & N.O.R.R.Co. at 457 vrs to a corner of fence the supposed North West corner of the Live Oak County School Land (But could not find the rock corner as called for in the original field notes)

Thence North 75° 25' East following fence line between the Live Oak Co.School Land Survey No. 3 and the T. & N.O.R.R.Co. section No. 29 at 803.6 vrs. set a stake and mound of hill rock under fence for the North East corner of this Tract No. 6.

Thence South 24° East crossing the Live Oak Co. School Land and at 4960.5 vrs to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Julius Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Julius Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns, forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S.Franklin and Mrs. Minerva Franklin, deceased, and the said Julius Franklin, as one of them.

SEVENTH. R.S.Franklin, Jr., of Atascosa County, Texas (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance and to him and his heirs and assigns, for his part, share and pre-

portion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 7, being partition subdivision No. 7 of the Franklin Ranch Estate Land, as surveyed by W.S.Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:—

2112.4 acres out of the Live Oak County School Land Survey No. 3, Abstract No. 298,

300 acres out of the Mrs. A. Priar Survey No. 3/6, Abstract No. 661, 40 acres out of the Mrs. M. Ellison Survey No. 1, Abstract No. 758, and

655.5 acres out of the M. Franklin Section No. 24, Abstract No. 574---aggregating 3107.9 acres of land. And, as surveyed by said W.S.Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at a stake the North West corner of Section No. 21, T. & N.O.R.R.Co. the South West corner of Section No. 24, M. Franklin on the East line of the Susan Skinner Survey No. 3.

Thence North 27° West with the East line of the Susan Skinner Survey and the West line of the M. Franklin section at 1900.8 vrs. passed the North West corner of the M. Franklin Section No. 24, and the North East corner of the Susan Skinner survey and at 2034. vrs. to an iron stake set for the North East corner of Tract No. 5 and South East corner of Tract No. 6 of the R.S. Franklin Estate Subdivision from which a Mesquit tree marked F brs. South 53° 15' West 20 vrs.

Thence North 24° West with the East line of Tract No. 6 of the R.S. Franklin Estate Subdivision at 4960.5 vrs. to a stake and mound of hill rock under fence on the North line of the Live Oak County School Land Survey No. 3 same being the North West corner of this tract No. 7 and the North East corner of Tract No. 6 of the R.S. Franklin Estate Subdivision.

Thence North 75° 25' East with the North line of the Live Oak County School Land Survey No. 3 at 716.4 vrs. to an iron 2 inch pipe set for the South West corner of the Murray Franklin Survey No. 526.

Thence South 15° 15' East with the West line of Tract No. 10 of the R.S. Franklin Estate Subdivision at 556.0 vrs. to a stake and mound of hill rock the South West corner of the tract No. 10 also a corner of this tract No. 7.

Thence North 74° 45' East with south line of Tract No. 10 of this Subd. at 1580.4 vrs. to a stake and mound of hill rock set for the South East corner of Tract No. 10 on the west line of Tract No. 9 of the R.S. Franklin Estate Subdivision same being a North East corner of this tract No. 7.

Thence South 15° 15' East with the west line of Tract No. 9 of the R.S. Franklin Estate Subdivision at 254 vrs. to a stake and mound of hill rock set for the South West corner of tract No. 9 and being an inner corner of this tract No. 7.

Thence North 74° 45' East with the south line of tract No. 9 of this Subd. at 1432.8 vrs. to a stake and mound of hill rock set for the North East corner of this Tract No. 7 same being the North West corner of Tract No. 8 of the Franklin Estate Subdivision.

Thence South 15° 15' East with the West line of Tract No. 8 at 3570.4 vrs. set a stake and mound of hill rock on the North line of Section No. 23 T. & N.O.R.R.Co. same being the South West corner of tract No. 8 and a South East corner of this tract No. 7.

Thence South 63° West with the North line of the Section No. 23, T. & N.O.R.R.Co. and South line of the Mrs. M. Priar Survey No. 3/6 1077.8 vrs. to a Stake and mound of hill rock for the North West corner of Section No. 23, T. & N.O.R.R.Co. and the North East corner of Section No. 24 M. Franklin.

Thence South 27° East with the west line of section No. 23 T. & N.O.R.R.Co. and East line of section No. 24 M. Franklin at 1900.8 vrs. to a stake and mound of hill rock for South

West corner of section No. 23 T. & N.O.R.R.Co. the North West Corner of section No. 22 M. Franklin the South East corner of section No. 24 M. Franklin and the North East corner of section No. 21 T. & N.O.R.R.Co.

Thence South 63° West with the North line of section No. 21 T. & N.O.R.R.Co. and the South line of section No. 24 M. Franklin at 1946.7 vrs. to the place of beginning.)

And the other parties hereto do grant, release and confirm unto the said R.S. Franklin, Jr., as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said R.S. Franklin, Jr., as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described; it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said R.S. Franklin, Jr., as one of them.

EIGHTH. The said R.S. Franklin of Atascosa County, Texas, (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by himself, as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 8 being partition subdivision No. 8 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

127.9 acres out of the L. Juneman Survey No. 838, Abstract No. 284. 174.5 acres out of the Thos. J. Hughes Survey No. 837, Abstract No. 227.

659.2 acres out of the Benj. T. Hughes Survey No. 836, Abstract No. 228. 1201.4 acres out of the Live Oak County School Land Survey No. 3, Abstract No. 298.

34 acres out of the R.W. Franklin Survey No. 42, Abstract No. 672. and 53 acres out of the Mrs. M. Friar Survey No. 3/8, Abstract No. 661---aggregating 2250.1 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, Particularly described by metes and bounds as follows:

Beginning at a stake and mound of hill rock set on the North line of the T. & N.O.R.R.Co. section No. 23 for the South West corner of this tract No. 8 also the South East corner of Tract No. 7 of the R.S. Franklin Estate subdivision.

Thence North 15° 15' West with the east line of Tract No. 7 at 3570.4 vrs. to a stake and mound of hill rock set on the South line of Tract No. 9 for the North West Corner of this tract No. 8 the same being the North East corner of tract No. 7 of the Franklin Subd.

Thence North 74° 45' East with the South line of Tract No. 9 at 2719 vrs. to the channel of the San Miguel Creek for the North East corner of this Tract No. 8 and the South East corner of Tract No. 9. of the Franklin subdivision.

Thence down the San Miguel Creek with the following meanders as surveyed by D.W. Cobb for the division line between the S.F. Fisher (old G.W. Ballard) and the R.S. Franklin Ranches, South 66° East 177 vrs. South 20° East 777.6 vrs. South 69° East 252 vrs. South 82° East 1004.4 vrs. South 52° East 288 vrs. South 29° 30' East 547.2 vrs. South 0-20' East 540 vrs. South 16° 30' West 576 vrs. South 20° East 197 vrs. to a rock set for the South East corner of this Tract No. 8.

Thence South 75° 15' West 3070 vrs. to a stake and mound of hill rock set for the North

East Corner of Section No. 23 T. & N.O. R.R. Co.

Thence South 63 West with the North line of Section No. 23 T. & N.O.R.R.Co. and south line of the Mrs. M.Priar Survey No. 3/6 at 867 vrs. to the place of beginning.)

And the other parties hereto do grant, release and confirm unto the said R.S.Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said R.C.Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S.Franklin and Mrs. Minerva Franklin, deceased, and the said R.C.Franklin, as one of them.

NINTH. The said Mrs. Margaret Franklin Yeager of McMullen County, Texas, (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by herself as her separate estate of inheritance, and to her and her heirs and assigns, for her part, share and proportion of the said lands and premises, all that tract or parcel of land situated in McMullen County, and Atascosa County, Texas, known and described as Tract No. 9 being partition subdivision No. 9 of the Franklin Ranch Estate Land, as surveyed by W.S.Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

324.1 acres out of the Chas. W.Walters Survey No. 840, Abstract No. 493, 324.1 acres out of the Wm.H.McCullough Survey No. 841, Abstract No. 1008.

641.4 acres out of the E.G. Howell Survey No. 842, Abstract No. 1018, 663.7 acres out of the E.G. Howell Survey No. 843, Abstract No. 1017, (342 acres out of the Live Oak County School Land Survey No. 3, Abstract No. 298.)

182.1 acres out of the L. Juneman Survey No. 838, Abstract No. 284, and 13.3 acres out of the Thomas J. Hughes Survey No. 837, Abstract No. 227.----aggregating 2500.7 acres of land. And, as surveyed by said W.S.Goff, County Surveyor, particularly described my metes and bounds as follows:

Beginning at a stake in the channel of the San Miguel Creek the North West corner of the Chas. W.Walters survey No. 840, the North East corner of the F.D.Channes Survey No. 839 the South East corner of the Austin and Williams survey No. 950 and the South East corner of the Day Land and Cattle Company survey No. 1098.

Thence North 74°45' East with the North line of the Chas. W. Walters survey No. 840, the Wm. E. McCullough survey No. 841, the E.G. Howell Survey No. 842, the G.E. Howell survey No. 843 and at 5726.8 vrs. to a stake and mound of hill rock set for the North East corner of the E.G. Howell survey No. 843.

Thence South 15°15' East with the East line of the E.G. Howell survey No. 843 at 1972 vrs. to a stake set in an old marked line the supposed North line of the Thos. J. Hughes Survey No. 837 and at 1978 vrs. in all to a stake set under fence.

Thence South 74°45' West following the fence line at 1900.8 vrs. passed the South West Corner of the E.G. Howell Survey No. 843 and the South East corner of the G.E. Howell Survey No. 842 and at 2004. vrs. to a stake set by D.W.Cobb, Surveyor of Atascosa County, Texas, for the North West corner of the Thos. J. Hughes survey No. 837 same being the division corner between the Franklin and the S.F.Fisher (old G.W.Ballard) Ranches.

Thence South 15°15' East at 378 vrs. to a stake in the channel of the San Miguel Creek.

Thence South 66° East at 554 vrs to a stake in the channel of the San Miguel Creek for the South East corner of this subdivision No. 9.

Thence South 74°45' West at 4151.8 vrs. to a stake and mound of hill rock set for the South West corner of this subdivision No. 9.

Thence North 15°15' West at 807 vrs cross the North line of the Live Oak County School Land Survey No. 3 and at 2707 vrs. in all to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Margaret Franklin Yeager, as her separate estate and for her sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging unto the said Margaret Franklin Yeager, as her separate estate and for her, sole and separate use and benefit, her heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Margaret Franklin Yeager, as one of them.

TENTH: The said Miss Annie Franklin of McMullen County, Texas, (except as below stated) shall from henceforth have, hold, possess and enjoy in severalty, by herself as her separate estate of inheritance, and to her and her heirs and assigns, for her part, share and proportion of the said lands and premises, all that tract of parcel of land situated in McMullen and Atascosa Counties, Texas, known and described as Tract No. 10 being partition subdivision No. 10 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

1148 acres out of the Austin and Williams survey No. 950 Abstract No. 16, 130 acres out of the Day Land and Cattle Co. Survey No. 1098½, Abstract No. 1391, 160 acres out of the F.M. Drake Survey No. 839½, Abstract No. 967.

(156.68 acres out of the Jno. Roebuck Survey No. 512, Abstract No. 950, 80 acres out of the Murray Franklin Survey 526, Abstract No. 1105 and 320 acres out of the F. DeChannes Survey No. 839, Abstract No. 179 and 155.30 acres out of the Live Oak County School Land Survey No. 3 Abstract No. 298---aggregating 2150 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at the North East corner of the James Fadden Survey No. 951 same being the North East corner of a field and the original corner witness trees having been grubbed and could not find same.

Thence North 75° 10' West with the North line of the Austin and Williams survey No. 951 and the South line of the Austin and Williams Survey No. 950, at 996.5 vrs. to an iron stake set for the South East corner of Tract No. 12 of the R.S. Franklin Estate Subdivision.

Thence North 14° 50' East crossing the Austin and Williams Survey No. 950 and at 2823 vrs. to a rock marked A F set in the North line of the Day Land and Cattle Co. Survey No. 1098½ for the North West corner of this tract No. 10 and the North East Corner of Tract No. 12 of the R.S. Franklin Estate Subd.

Thence South 66°30' East with the North fence line of the Day Land and Cattle Co. survey 554.4 vrs. to a mound of hill rock the original corner of the Day Land and Cattle Co. survey No. 1098½ from which found the original Mesquite witness trees marked U and brs. North 3 East 9 vrs. and another marked U brs. South 81 East 18 vrs.

Thence South 74° East with the North line of the Day Land and Cattle Co. survey at 2241 vrs. to a fence corner for the North East Corner of the Day Land and Cattle Co. survey No. 1098½ (Could not find old witness tree as described in original field notes)

Thence South 23°30' West with the East line of the Day Land and Cattle Co. Survey at 2942 vrs to a stake set in the bed of the San Miguel creek for a corner of the Day Land and Cattle Co. survey and the same being the South East corner of the Austin and Williams Survey No. 950, the North East corner of the F.DeChaumes survey No. 639, the North West corner of the Chas. W.Walters survey No. 840, the North East corner of the P.M.Drake survey No. 839½.

Thence South 15°15' East with the line between the F.DeChaumes and the Chas. W.Walters surveys at 1900.8 vrs. passed the South East corner of the F.DeChaumes Survey and the South West corner of the Chas. W.Walters survey at 2453 vrs. in all to a stake set for the south East corner of this Tract No. 10 same being the North East corner of the Subd. Tract No. 7 on the West line of Subd. Tract No. 9.

Thence South 74°45' West at 1580.4 vrs. to a stake set for the South West corner of this Subd. Tract No. 10 and an inner corner of the Subd. Tract No. 7 of the R.S.Franklin Estate Subdivision.

Thence North 15°15' West at 556 vrs. to an iron 2 inch pipe set in the North line of the Live Oak Co.School Land for the South West corner of the Murray Franklin survey No. 526.

Thence North 14°40' West with the west line of the Murray Franklin survey No. 526 at 780 vrs. to a stake set for the North West corner of the Murray Franklin Survey No. 526.

Thence South 89°20' West with south line of the Jno. Roebuck survey No. 512 at 384 vrs. set a stake for a South West corner of the Jno. Roebuck Survey No. 512.

Thence North 0°40' West with line of the Jno. Roebuck survey at 167 vrs. to another corner *Thence north 78°40' west at 110 vrs. to another corner of the Jno. Roebuck survey* of the Jno. Roebuck Survey and the South East corner of the James Fadden Survey No. 951.

Thence North 14°50' East with the East line of the James Fadden Survey No. 951 and the West line of the Jno. Roebuck Survey and the P.M.Drake survey No. 839½ at 1900.8 vrs. to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Amie Franklin, as her separate estate and for her sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Amie Franklin, as her separate estate and for her, sole and separate use and benefit, her heirs and assigns forever.

Out of the grant hereby made there is, however, excepted, and reserved all coal and kaolin in place on or under said parcel of land hereinabove described; it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S.Franklin and Mrs. Minerva Franklin, deceased, and the said Amie Franklin, as one of them.

ELEVENTH. The said Claude Franklin of La Salle County, Texas, (except as below stated) shall from henceforth, have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of the said lands and premises, all that tract or parcel of land situated in McMullen County, Texas, known and described as Tract No. 11 being partition subdivision No. 11 of the Franklin Ranch Estate Land, as surveyed by W.S.Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

665.5 acres out of Survey No. 22 M.Franklin, Abstract No. 675,

653.4 acres out of Survey No. 32 M.Franklin, Abstract No. 673,

200.8 acres out of Survey No. 41, J. Poitevent, Abstract No. 380,

740.7 acres out of Survey No. 335 Geo.E.Evans, Abstract No. 180,
619.8 acres out of Survey No. 42, R.W.Franklin, Abstract No. 672,
140 acres out of Survey No. 3.6 Mrs. M.Friar, Abstract No. 661 and
140.7 acres out of Survey No. 514 R.S.Franklin, Abstract No./113---aggregating 3150.9 acres
of land. And, as surveyed by said W.S.Goff, County Surveyor, particularly described by metes
and bounds as follows:

Beginning at a rock marked X set for the South West corner of section No. 22 M.Franklin
South East corner of section No. 21 T. & N.O.R.R.Co. North East corner of section No. 28 E.L.
Taylor and the North West corner of section No. 30 E.L.Taylor.

Thence North 27° West with section line between section No. 22 M.Franklin and No. 21 T.
& N.O.R.R.Co. at 1900.8 vrs. to a stake and mound of rock set for the North West corner of
section No. 22 M.Franklin, South East corner of section No. 24 M.Franklin, North East corner
of section No. 21 T. & N.O.R.R.Co. South West corner of section No. 23 T. & N.O.R.R.Co.)

Thence North 63° East with section line between section No. 23 T. & N.O.R.R.Co. and
Section No. 22 M.Franklin at 1946.7 vrs. to a stake for the South East corner of Section No.
23 T. & N.O. R.R.Co. South West corner of Survey No. 514 R.S. Franklin North East corner of
section No. 22 M. Franklin and the North West corner of Section No. 32 M.Franklin.

Thence North 27° West with section line between section No. 23 T. & N.O.R.R.Co. Survey No.
514 R.S.Franklin and Survey No. 3/6 Mrs. M.Friar at 1900.8 vrs. to a stake and mound of hill
rock set for the North East corner of section No. 23, T. & N.O. R.R.Co. then

Thence North 75°15' East with the south line of Tract No. 8 of the R.S.Franklin Estate
Subd. at 3070 vrs. to a rock set for the North East corner of this Tract No. 11 and South
East corner of Tract No. 8 of this Franklin subdivision.

Thence North 20° West 60 vrs. to a stake in south line of Benj. T. Hughes Survey No. 836
as located by D.W.Cobb Surveyor of Atascosa Co.

Thence North 74°45' East with south line of the Benj. T. Hughes survey No. 836 at 237 vrs.
to a mound of rock the North East corner of the R.W.Franklin Section No. 42 and the North
West corner of the Geo.E.Evans Survey No. 835.

Thence South 15-16 East with the West line of the Geo. E.Evans Survey at 353 vrs. to a stake
set on the North bank of the San Miguel creek and being a corner of a 296 acre survey out of
the Geo.E.Evans Survey, made by W.H. Fountain Surveyor for Geo.W.Ballard.

Thence South 75°15' East 482 vrs. to a stake, Thence South 60° East 662 vrs. to a stake
set for the South West corner of the said 296 acre tract, from which two Mesquite trees marked
by D.W.Cobb Surveyor brs. North 34 West 29.2 vrs. and South 64 East 1.4 vrs.

Thence North 75°40' East 144 vrs. to the North West corner of a 250 acre tract made for ~~the~~
R.S.Franklin Estate Home.

Thence South 15° East with the west line of the 250 acre Tract at 1420 vrs. to a large
rock set for the South West Corner of the said 250 acre tract from which a large live oak Tree
marked F vrs. South 6° 45' West 16.5 vrs.

Thence North 75° East with the south line of the 250 acre tract at 1000 vrs. to a large
rock set in the west line of the Geo. Evans Survey No. 835 the south East corner of the 250
acre tract and a North East corner of this Tract No. 11.

Thence South 15° East with the west line of the Geo. Evans Survey at 1503 vrs. to the South
West Corner of the T.F.Corry Survey No. 834.

Thence North 84° 45' West crossing the Geo. E.Evans survey at 2174.4 vrs. to a large rock
set in the west line of the Geo.E. Evans survey for a corner of this tract No. 11 and a corner
of Tract No. 3 of the R.S.Franklin Estate Subdivision.

Thence South 63° West at 597 vrs. passed the South East corner of section No. 32 M.Franklin
and North East corner of Section No. 31 J. Poitevent and continuing South 63° West with sec-

tion line between section No. 32 M. Franklin and section No. 31 J. Poitevent at 2538 vrs. passed a rock marked X the original S.W. Corner of section No. 32 M. Franklin, North West corner of section No. 31 J. Poitevent, South East corner of section No. 22 M. Franklin and the North East corner of section No. 30 E. L. Taylor, and at 4484.7 vrs. in all to the place of beginning.

And the other parties hereto do grant, release and confirm unto the said Claude Franklin as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Claude Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Claude Franklin, as one of them.

TWELFTH. The said Sam Franklin of McMullen County, Texas, (except as below stated) shall from henceforth, have, hold, possess and enjoy in severalty, by himself as his separate estate of inheritance, and to him and his heirs and assigns, for his part, share and proportion of the said lands and premises, all that tract or parcel of land situated in Atascosa County, Texas, known and described as Tract No. 12, being partition subdivision No. 12 of the Franklin Ranch Estate Land, as surveyed by W.S. Goff, County Surveyor of McMullen County, Texas, and as shown by map or plat of said Survey of record in the office of the County Clerk of said County and being:

1286.3 acres out of the Austin & Williams Survey No. 950, Abstract No. 16, 188.2 acres out of the Day Land and Cattle Co. Survey No. 1098 $\frac{1}{2}$, Abstract No. 1391, and 35 acres out of the R.S. Franklin Survey No. 1060 $\frac{1}{2}$, Abstract No. 1620.---aggregating 1309.5 acres of land. And, as surveyed by said W.S. Goff, County Surveyor, particularly described by metes and bounds as follows:

Beginning at an iron stake set on the North line of the James M. Fadden survey No. 951 for the South East corner of this Tract No. 12 and the South West corner of Tract No. 10 of the R.S. Franklin Estate Subdivision.

Thence North 14° 50' East with the West line of Tract No. 10 crossing the Austin and Williams Survey No. 950 and 2823 vrs. to a rock marked A F set in the North line of the Day Land and Cattle Co. No. 1098 $\frac{1}{2}$, for the North West corner of Tract No. 10 and the North East corner of Tract No. 12.

Thence North 66° 30' West with the North fence line of the Day Land and Cattle Co. Survey No. 1098 $\frac{1}{2}$ at 1243 vrs. to a corner in fence the South East corner of the R. S. Franklin survey No. 1060 $\frac{1}{2}$.

Thence North 25° East with fence line at 315.4 vrs. to a pile of hill rock the North East corner of the R.S. Franklin Survey No. 1060 $\frac{1}{2}$ from which found the original witness trees that brs. South 20° West 30 $\frac{1}{2}$ vrs. and South 8° West 22 vrs.

Thence North 66° 30' West 570 vrs. to a corner in fence the North West corner of the R. S. Franklin Survey No. 1060 $\frac{1}{2}$, the original Mesquite Tree marked X brs. South 69° West 10 vrs.

Thence North 45° 30' East with fence at 103 vrs. to corner of fence an inner corner of the Day Land and Cattle Co. Survey No. 1098 $\frac{1}{2}$ from which found the original witness tree marked V brs. North 41° West 19 vrs. and another prong of same Mesqt. brs. marked V brs. North 44° West 19 vrs.

Thence North 44° 30' West with the North fence line of the Day Land and Cattle Co. Survey No. 1098 $\frac{1}{2}$ at 703 vrs. to a stake in fence set for the North West corner of this tract

same being the North East corner of the West part of this Tract No. 12.

Thence South 14° 50' West at 3900 vrs. to a stake set in the North line of the Austin and Williams Survey No. 952 and the South line of the Austin and Williams Survey No. 950.

Thence South 75 East at 1230 vrs. with the fence line between the two Austin and Williams surveys to a corner in fence on the west side of the J.L. Himes field same being on the west line of the James Fadden Survey No. 951.

Thence North 14° 50' West with fence line at 53 vrs. to a large rock set in the ground for the North West corner of the James Fadden survey No. 951 from which found old marked Mesquite Tree marked X brs. North 83 East 5 vrs.

Thence South 75° 10' East with the North fence line of the James Fadden Survey No. 951 at 1030.5 vrs. to the place of beginning.

And the other parties hereto do grant release and confirm unto the said Sam Franklin, as his separate estate and for his sole and separate use and benefit, the premises above described; to have and to hold the above described premises, with all and singular the hereditaments and appurtenances thereto belonging, unto the said Sam Franklin, as his separate estate and for his, sole and separate use and benefit, his heirs and assigns forever.

Out of the grant hereby made there is, however, excepted and reserved all coal and kaolin in place on or under said parcel of land hereinabove described, it being the intention and understanding that the full ownership of said minerals in place on or under said land is reserved from this partition, to be held and owned jointly and in undivided equal interests by the hereinbefore mentioned surviving heirs of R.S. Franklin and Mrs. Minerva Franklin, deceased, and the said Sam Franklin, as one of them.

And the said Sam Franklin, joined by his wife, Kathleen Franklin, in consideration of the premises hereinbefore recited, does hereby expressly agree that Murray Franklin, Annie Franklin, Felix Franklin, Thomas Franklin, John N. Franklin, Margaret Franklin Yeager, Julius Franklin, R.S. Franklin, Jr., Green Franklin, R.C. Franklin and Claude Franklin shall hence forth have, hold, possess and enjoy as their separate estate, and to them, their heirs and assigns an undivided eleven-twelfths interest in all coal and kaolin or clay products on or under that certain 923.7 acres of land out of the Austin and Williams Survey No. 950, Abstract No. 16, Certificate No. 5, and 253.2 acres out of the Day Land & Cattle Company Survey No. 1098½, Abstract No. 1329, located in Atascosa County, Texas, and fully described by metes and bounds in that certain deed dated July 26th, 1929, executed by Mrs. Minerva Franklin, deceased, and the above mentioned brothers and sisters of said Sam Franklin, and recorded in the deed records of Atascosa County, Texas, in Volume 115, on pages 261-264, to which deed and said record thereof reference is here made for greater certainty of description of said parcel of land; and does hereby grant, release and confirm unto the said Murray Franklin, Annie Franklin, Felix Franklin, Thomas Franklin, John N. Franklin, Margaret Franklin Yeager, Julius Franklin, R.S. Franklin, Jr., Green Franklin, R.C. Franklin and Claude Franklin, as their separate estate, and for their sole and separate use and benefit, an undivided eleven-twelfth interest in all coal, kaolin or clay products on or under said parcel of land next hereinbefore mentioned. To have and to hold an undivided eleven twelfths interest in all said coal, kaolin or clay products on or under said parcel of land, with all and singular the hereditaments and appurtenances thereto belonging, unto them, as their separate estate, and for the sole and separate use of them, their heirs and assigns forever.

It being understood and the intention of the parties being that Partition Subdivision Tract No. 12 allotted to Sam Franklin in this partition is composed of two parcels of land in one solid body, one of which is hereinabove described by metes and bounds and conveyed to him and the other of which (being his interest in his father's landed estate) was conveyed to him

by said deed recorded in Volume 115, on pages 261, 264 of the deed records of Atascosa County, Texas, which latter mentioned deed and the title thereby vested in Sam Franklin is in all things ratified and confirmed by the other parties hereto, except as to reservation of title to an undivided eleven twelfths interest in all coal, kaolin or clay products thereunder herein reconveyed unto his said eleven brothers and sisters by Sam Franklin;

THIRTEENTH. There is expressly reserved from this partition all that part and portion of said Franklin Estate Ranch Lands known as the Home Tract, and so designated on map or plat of this subdivision prepared by N.S.Goff, County Surveyor of McMullen County, Texas, and on file in the office of the County Clerk of McMullen County, Texas, to which reference is here made for greater certainty of description; being 250 acres of land and all improvements thereon out of the George Evans Survey No. 835, Abstract No. 180, described by metes and bounds as follows:

Beginning at a post corner in fence on the East line of the Geo.E.Evans Survey same being the South East Corner of a 296 acre survey made by W.H.Fountain Surveyor For Geo.W. Ballard out of the Northern part of the Geo.E.Evans Survey and the North East corner of the part owned by R.S.Franklin Estate from which an old marked mesquite tree brs. North 71 West 18 vrs. another North 72 West 24½ vrs.

Thence South 15° East with the fence line between the Geo. E.Evans Survey and the T.F. Corry Survey at 1026 vrs. to the channel of the San Miguel Creek at 1408 vrs. to a rock set for the South East Corner of this 250 acres.

Thence South 75° West 1000 vrs. to a large rock set for the South West corner of this 250 acre tract from which a large Live Oak tree marked F brs. South 6° 45' West 16.5 vrs.

Thence North 15° West 1420 vrs. to an iron pin set on the North bank of the San Miguel Creek for the North West corner of this tract.

Thence North 75° 40' East 1000 vrs. to the place of beginning.

And as to said 250 acre Home Tract it is hereby covenanted, granted, concluded and agreed by and between said parties, and each of them covenants, grants, concludes, and agrees, for himself, themselves, his and their heirs and assigns, that the said Murray Franklin, Amie Franklin, Felix Franklin, Thomas Franklin, John N.Franklin, Margaret Franklin Yeager, Sam Franklin, Julius Franklin, R.S.Franklin, Jr., Green Franklin, R.C.Franklin and Claude Franklin, hold, possess and enjoy as the separate estate of inheritance of them and each of them, in equal and undivided interests, said Home Tract and all improvements thereon and the title thereto.

And all the parties hereto do grant, release and confirm unto the said Murray Franklin, Amie Franklin, Felix Franklin, Thomas Franklin, John N.Franklin, Margaret Franklin Yeager, Sam Franklin, Julius Franklin, R.S. Franklin, Jr., Green Franklin, R.C.Franklin, and Claude Franklin, as the separate estate of them and each of them in equal undivided interest said Home Tract; to have and to hold the same in common, with all and singular their hereditaments and appurtenances thereto belonging, for the sole and separate use and benefit of them, of each of them, their heirs and assigns forever.

And all the parties hereto do expressly confirm the titles to said lands as partitioned hereby, expressly disclaiming each unto the other any and all rents and revenues heretofore accrued or due thereon, and every right, title or interest, community or separate legal or equitable in said lands or any of them, except as vested by this deed.

It being expressly stipulated and understood, however, that as to the reserved title and estate in all kaolin and coal on or under the lands hereinbefore mentioned the said Murray Franklin, Amie Franklin, Felix Franklin, Thomas Franklin, John N.Franklin, Margaret Franklin Yeager, Sam Franklin, Julius Franklin, R.S.Franklin, Jr., Green Franklin, R.C.Franklin, and

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Claude Franklin, their agents, heirs and assigns, shall have and hold in common, every right, privilege and easement incidental to such estate and necessary to the full enjoyment thereof, including the right to survey, geologize, explore for, mine, refine, prepare for market, transport, remove and market from said premises, any and (or) all kaolin thereon or thereunder, with the right of access to said lands or any part of them for said purposes or any of them, with the use of all proper labor, equipment, machinery, transportation and other means and facilities necessary to said operations, including the right to construct on said premises tanks for the conservation of surface water, and to develop water by the drilling of wells, and to conserve and pump water from the San Miguel Creek for all uses connected with such coal and kaolin mining and development for commercial purposes.

And subject only to such reserve estate, it is expressly covenanted and provided that this conveyance and the titles by it vested are absolute and irrevocable in the grantees and the heirs and assigns of the grantees hereinbefore enumerated and to whom such grants are herein made, respectively; and that they and their several heirs and assigns have full right to encumber, lease, mortgage or convey, in whole or in part, the estates in them severally vested by this instrument; and especially, that no right of repartition of any of the lands hereinbefore described or any part thereof can or ever will be asserted or prosecuted by any of the parties hereto because of failure of title or partial failure of title to said lands hereby partitioned or any parcel or parcels thereof.

WITNESS our hands, this 11 day of May, 1931.

R.S. Franklin.	Murray Franklin.
Lena Franklin.	Rosa Franklin.
Green Franklin.	R.C. Franklin.
Felix Franklin.	Rosa Bell Franklin.
	Verda Franklin.
Margaret Franklin Yeager.	Amie Franklin.
Ewell Yeager.	Tom Franklin.
John Franklin.	Mary Franklin.
Sam Franklin.	Thelma Franklin.
Claude Franklin.	Ida May Franklin.
Julius Franklin.	Mabel Franklin.

The State of Texas:

County of McMullen: Before me, L.A. Martin, County Judge, in and for McMullen County, Texas, on this day personally appeared Murray Franklin, Amie Franklin, a femme sole, Felix Franklin, Thomas Franklin, John N. Franklin, Ewell Yeager, Sam Franklin, Julius Franklin, R.S. Franklin, Jr., Green Franklin, R.C. Franklin and Claude Franklin, known to me to be the persons whose names are subscribed to the foregoing instrument, and they each and severally acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 11th day of May 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :

County of McMullen : Before me, L.A. Martin, County Judge in and for McMullen County, Texas, on this day personally appeared Rosa Franklin, wife of the said Murray Franklin, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she the said Rosa Franklin acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

Given under my hand and seal of office this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge, in and for McMullen County, Texas, on this day personally appeared Mary Franklin, wife of the said Thomas Franklin, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Mary Franklin acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

Given under my hand and seal of office, this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge, in and for McMullen County, Texas, on this day personally appeared Thelma Franklin, wife of the said John N. Franklin, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Thelma Franklin acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge, in and for McMullen County, Texas, on this day personally appeared Margaret Franklin Yeager, wife of the said Ewell Yeager, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Margaret Franklin Yeager, acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge in and for McMullen County, Texas, on this day personally appeared Mabel Franklin, wife of the said Julius Franklin, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she the said Mabel Franklin acknowledged such instrument to be her act and deed and she declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

Given under my hand and seal of office this 11 day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

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The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge in and for McMullen County, Texas,
on this day personally appeared Lena Franklin, wife of R.S. Franklin, Jr., known to me to be
the person whose name is subscribed to the foregoing instrument, and having been examined by
me privily and apart from her husband, and having the same fully explained to her, she the
said Lena Franklin acknowledged such instrument to be her act and deed and she declared that
she had willingly signed the same for the purposes and consideration therein expressed, and
that she did not wish to retract it.

Given under my hand and seal of office, this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge in and for McMullen County, Texas,
on this day personally appeared Verda Franklin, wife of the said Green Franklin, known to me
to be the person whose name is subscribed to the foregoing instrument, and having been examined
by me privily and apart from her husband and having the same fully explained to her, she the
said Verda Franklin acknowledged such instrument to be her act and deed, and she declared that
she had willingly signed the same for the purposes and consideration therein expressed and that
she did not wish to retract it.

Given under my hand and seal of office, this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge in and for McMullen County,
Texas, on this day personally appeared Rosabelle Franklin, wife of the said H.C. Franklin
known to me to be the person whose name is subscribed to the foregoing instrument, and having
been examined by me privily and apart from her husband, and having the same fully explained to
her, she the said Rosabelle Franklin acknowledged such instrument to be her act and deed, and
she declared that she had willingly signed the same for the purposes and consideration therein
expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

The State of Texas :
County of McMullen : Before me, L.A. Martin, County Judge in and for McMullen County,
Texas, on this day personally appeared Ida May Franklin, wife of the said Claude Franklin,
known to me to be the person whose name is subscribed to the foregoing instrument, and having
been examined by me privily and apart from her husband, and having the same fully explained
to her, she the said Ida May Franklin acknowledged such instrument to be her act and deed, and
she declared that she had willingly signed the same for the purposes and consideration therein
expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this 11th day of May, 1931.

L.A. Martin, County Judge,
McMullen County, Texas.

(Seal)

FILED FOR RECORD THIS 9th day of June A.D. 1931 at 9 o'clock A.M.

AND DULY RECORDED THIS 11th day of June A.D. 1931 at 4 o'clock P.M.

Julius Franklin County Clerk,
McMullen County, Texas.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Tuesday, March 21, 2023 11:22 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0002043000
Attachments: Exhibits E-G.pdf

RFR
H

From: gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>
Sent: Monday, March 20, 2023 4:58 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0002043000

REGULATED ENTY NAME SAN MIGUEL ELECTRIC PLANT

RN NUMBER: RN100226539

PERMIT NUMBER: WQ0002043000

DOCKET NUMBER:

COUNTY: ATASCOSA, MCMULLEN

PRINCIPAL NAME: SAN MIGUEL ELECTRIC COOPERATIVE INC

CN NUMBER: CN600132278

FROM

NAME: Lauren Ice

EMAIL: gwyneth@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX:

COMMENTS: Attached are Exhibits E through G.

EXHIBIT E

SPECIAL WARRANTY DEED

THE STATE OF TEXAS §
COUNTY OF MCMULLEN §

KNOW ALL MEN BY THESE PRESENTS:

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

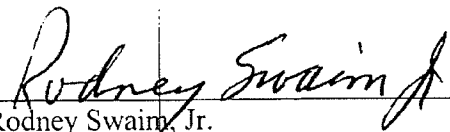
That RODNEY SWAIM JR. and BOBBIE B. SWAIM, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration to them in hand paid, the receipt and sufficiency of which is hereby acknowledged;

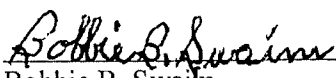
DO HEREBY GRANT, SELL, and CONVEY to the RODNEY and BOBBIE SWAIM FAMILY LIMITED PARTNERSHIP, a Texas limited partnership, with the mailing address at 151 Franklin Ranch Road, Jourdanton, Texas 78026, all of our right, title and interest to the surface estate of tracts of land being situated in McMullen County, Texas, and being more particularly described on Exhibit "A" which is attached hereto and incorporated herein for all intents and 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 Grantee, its successors and assigns forever; and the undersigned do hereby WARRANT TO FOREVER DEFEND, all and singular the said premises unto the said Grantee, its 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 warranty.

There is specifically excluded from this conveyance the homestead tract of land described on Exhibit "B" which is attached hereto and incorporated herein for all intents and purposes, all restrictions, covenants, conditions, encumbrances, conveyances and easements, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned county and state.

EXECUTED this 25 day of November, 2014.

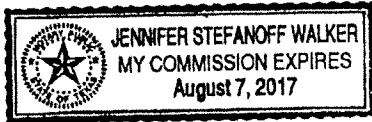

Rodney Swaim, Jr.

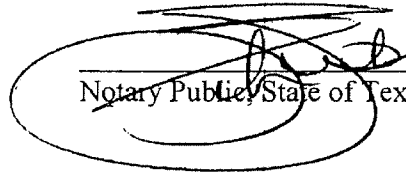

Bobbie B. Swaim

THE STATE OF TEXAS §
COUNTY OF ~~WHEELER~~ NUECES §

BEFORE ME, the undersigned authority, appeared RODNEY SWAIM, JR, known to me to be the person 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 25 day of November, 2014.



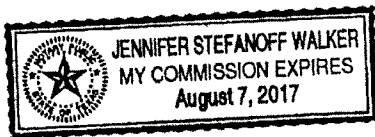


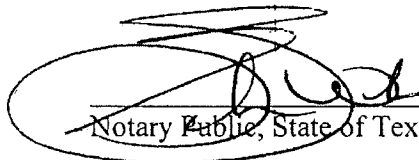
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF ~~WHEELER~~ NUECES §

BEFORE ME, the undersigned authority, appeared BOBBIE B. SWAIM, known to me to be the person 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 25 day of November, 2014.





Notary Public, State of Texas

EXHIBIT "A"

FIRST TRACT

The SURFACE ESTATE ONLY in and to the following described real property, lying and being situated in McMullen County, Texas, to-wit:

1747.32 acres of land in McMullen County, Texas, described as being:

670.91 acres out of the L. Jacobs Sur. No. 49;

438.31 acres out of the J. B. Taylor Sur. No. 58;

212.89 acres out of the J. Poitevent Survey No. 41;

389.08 acres out of the C. Manchaca Sur. No. 960;

15.61 acres out of the G. E. Evans Sur. No. 835;

10.44 acres out of the J. M. Hernandez Sur. No. 34;

1.18 acres out of the B. S. and F. Sur. No. 60; and

8.90 acres out of the Murray Franklin Sur. No. 10

1747.32 acres, total, and being the same land that is more particularly described in the Deed from Green Franklin and Claud Franklin, et al, to Murray Franklin, dated November 8, 1950, of record in Volume 47, at page 591 of the Deed Records of McMullen County, Texas, and in a Correction Deed dated October 17, 1951, to Murray Franklin of record in the Deed Records of McMullen County, Texas, bearing said Clerk's File No. 3371;

LESS, HOWEVER: 169.1 acres, more or less, out of the C. Manchaca Sur. No. 960, hereinabove devised to Domingo Garza and wife, Dora Garza or the survivor of them. There is also excluded the 12.054 homestead tract described in Exhibit "B" leaving a NET of 1566.16 acres, more or less.

SECOND TRACT

BEGINNING at a corner fence post set in concrete, the Southwest corner of a called 1,100.30 acre tract described as Tract Two (2), recorded in Volume 28, Pages 547, et seq. of the Deed Records of McMullen County, Texas in the East line of a called 1,104.5 acre tract in the name of Ralph Edwards, recorded in Volume 91, Pages 256, et seq. of the Deed Records of McMullen County, Texas, the Northwest corner of said 1,097.40 acre tract and the North corner and POINT OF BEGINNING of this tract;

THENCE South 89° 44' 06" East, a distance of 4,241.40 feet generally along a fence to a 5/8 inch iron rod set, the North corner of Tract 2 herein described, and the East corner of this tract;

THENCE South 00° 13' 15" West, along a West line of the herein described Tract 2, and the East line of this tract, a distance of 2,583.13 feet to a 5/8 inch iron rod set, an interior corner of herein described Tract 2 and the South corner of this tract;

THENCE South $88^{\circ} 24' 27''$ West, a distance of 297.72 feet pass a 5/8 inch iron rod set for the East corner of herein described Tract 3, and the East corner of a called 30 foot easement as herein described, at a distance of 3,763.37 feet, pass a corner fence post set in concrete, the East corner of a called 239.8956 acre tract in the name of Reuben E. Thier, recorded in Volume 343, Pages 381, et seq. of the Deed Records of McMullen County, Texas, and being an interior corner of said 1,097.40 acre tract, in all a total distance of 4,241.51 feet to a corner fence post set in concrete, the South corner of said 1,104.5 acre tract (91/256) and being the West corner of this tract;

THENCE North $00^{\circ} 15' 45''$ East, a distance of 2,720.269 feet generally along a fence, to the POINT OF BEGINNING, and being 258.15 acres of land, more or less, there is also a 30 foot wide easement for ingress and egress, from Highway No. 72 and along the East line of Tract 3 as herein described, to the South line of this Tract.

EXHIBIT "B"

EXCLUDED

DESCRIPTION OF 12.054 ACRES, homestead tract, more or less, being within the J. B. Taylor Survey No. 58, Abstract 636, McMullen County, Texas, and being out of a called 1747.32 acres conveyed from Murray Franklin to Rodney Swaim, Jr. by Last Will and Testament dated January 14th, 1993, recorded in Volume 16, Page 182 et seq. of the Probate Records of McMullen County, Texas, said 1747.32 acres being further described by metes and bounds in a conveyance from Green Franklin and wife, Verda Franklin and Claud Franklin and wife, Ida May Franklin to Murray Franklin by Deed dated November 9th, 1950, recorded in Volume 47, Pages 591, et seq. of the Deed Records of McMullen County, Texas, said 12.054 acres having a bearing basis derived from GPS observations in the Texas State Plane Coordinate System, NAD 1983 South Central Zone, made on August 21st, 2014, with all other bearings relative thereto.

COMMENCING at a large rock with a chiseled "X" found for the apparent east corner of the L. Jacob Survey No. 40, Abstract No. 614, McMullen County, Texas, (original corner called to be a stone with a "C", slash marks above and below and a date of 1876, other markings can be seen but are very faint), being the apparent north corner of the J. Poitevent Survey No. 39, Abstract No. 381, McMullen County, Texas, being on the apparent southwest boundary of said Survey No. 58, said east corner of Survey 40 called to be a corner of said 1747.32 acres, for this POINT OF COMMENCEMENT;

THENCE North 27° 16' 17" West, (South 27° East), crossing and passing through said 1747.32 acres, with the apparent common boundary of said Survey No. 40 and Survey No. 58, a distance of 1,481.38' to a point on the common boundary of said Survey No. 40 and Survey No. 58; from WHENCE a disturbed rock marked "E" (with a slash below) (original corner called to be a stone marked "E X" with a double slash above and single slash below each letter) found for the apparent and disturbed north corner of said Survey No. 40, bears North 27° 16' 17" West a distance of 3,970.72';

THENCE North 62° 43' 43" East, crossing and passing through said 1747.32 acres and said Survey No. 58, a distance of 133.16' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set in a fence line for the south corner and POINT OF BEGINNING of this tract;

THENCE crossing and passing through said 1747.32 acres and said Survey No. 58, generally along a fence surrounding the ranch headquarters of the Swaim property, the following five (5) calls:

1. North 27° 58' 58" West, a distance of 190.00' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set for an exterior angle corner of this tract;
2. North 01° 52' 59" East, a distance of 813.92' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set for the northwest corner of this tract; from WHENCE

- a 9" cedar corner fence post found for the apparent and occupied westernmost corner of said 1747.32 acres, bears South 88° 53' 32" West a distance of 6,584.34';
3. North 77° 51' 45" East, at 341.76' pass the termination point of a 30.00' wide easement (point being within a cattle guard) also surveyed this day, and continuing along same course for a total distance of 554.82' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set for the northeast corner of this tract;
 4. South 01° 00' 11" East, a distance of 868.74' to a ½" iron rod with plastic cap stamped "LITTLE 6163" for the southeast corner of this tract;
 5. South 65° 09' 09" West, a distance of 545.74' to the POINT OF BEGINNING; said tract containing 12.054 acres, more or less.

CENTERLINE DESCRIPTION of 30.00' wide easement, being within the J. B. Taylor Survey No. 58, Abstract No. 636, McMullen County, Texas, following an existing ranch road that crosses and passes through a called 1747.32 acres conveyed from Murray Franklin to Rodney Swaim, Jr., by Last Will and Testament dated January 14th, 1993, recorded in Volume 16, Page 182 et seq. of the Probate Records of McMullen County, Texas, and said 1747.32 acres being further described by metes and bounds in a conveyance from Green Franklin and wife, Verda Franklin and Claud Franklin and wife, Ida May Franklin to Murray Franklin by Deed dated November 9th, 1950, recorded in Volume 47, Page 591 et seq. of the Deed Records of McMullen County, Texas, said 30.00' wide easement having a bearing basis derived from GPS observations in the Texas State Plan Coordinate System, NAD 1983 South Central Zone, made on August 21st, 2014, with all other bearings relative thereto;

BEGINNING at a cotton spindle set at the apparent intersection of the southwest margin of the county maintained Franklin Ranch Road (ROW of varying width) with the apparent centerline of said existing ranch road (maintained road to Swaim Ranch headquarters), for the POINT OF BEGINNING of the centerline of this 30.00' wide easement; from WHENCE a 9" cedar corner fence post found for the apparent and occupied westernmost corner of said 1747.32 acres, bears South 79° 25' 06" West a distance of 7,336.38';

THENCE with the centerline of this easement, said easement being 15.00' on either side of this centerline description, crossing and passing through said 1747.32 acres and said Survey No. 58, following said existing ranch road, the following five (5) calls:

1. South 37° 26' 39" West, a distance of 442.79' to a cotton spindle set for the beginning of a curve to the left;
2. ~with said curve having a radius of 591.31', a delta angle of 25° 19' 39", a chord bearing and distance of South 24° 32' 10" West, 259.27', for an arc distance of 261.39' to a cotton spindle set for the end of said curve;
3. South 08° 30' 45" West, a distance of 223.17' to a cotton spindle set for the beginning of a curve to the left;
4. ~with said curve having a radius of 434.65', a delta angle of 43° 15' 37", a chord bearing and distance of South 13° 04' 36" East, 320.44', for an arc distance of 328.18' to a cotton spindle set for the end of said curve;
5. South 35° 12' 52" East, a distance of 53.51' to a point in a cattle guard, being on the

north boundary of a 12.054 acres also surveyed this day, for the TERMINATION POINT of the centerline of this easement, from WHENCE a 1/2" iron rod with plastic cap stamped "LITTLE 6163" set for the northeast corner of said 12.054 acres also surveyed this day, bears North 77° 51' 45" East a distance of 213.06';

AFTER RECORDING
PLEASE RETURN TO :
Peeler & Cartwright, P. C.
615 N. Upper Broadway, Suite 614
Corpus Christi, TX 78401

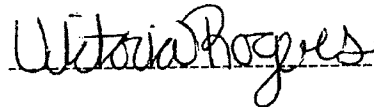
FILED FOR RECORD

This Dec 03, 2014 at 10:52A
MATTIE SADOVSKY
CLERK COUNTY COURT McMULLEN CO. TX
BY: Victoria Rogers

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, MATTIE SADOVSKY, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Dec 03, 2014 at 10:52A and duly recorded the
Dec 03, 2014 in the McMullen County Records of said
County, in VOL 97 on PAGE 845.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

MATTIE SADOVSKY
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Victoria Rogers



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

EXECUTOR'S AND TRUSTEE'S DISTRIBUTION DEED

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MCMULLEN §

WHEREAS, Rodney Swaim, Jr. ("Decedent"), died on May 2, 2018 owning a community property interest in and to a 12.054 acre homestead tract, more or less, including improvements thereon, situated in McMullen County, Texas, as more particularly described by metes and bounds on Exhibit "A", attached hereto (the "Property");

WHEREAS, there is now pending in the County Court of McMullen County, Texas, a cause styled "Estate of Rodney Swaim, Jr., Deceased," Cause No. 0564, in which cause Decedent's Last Will and Testament and the First Codicil thereto (collectively, the "Will") were duly admitted to probate, and Arthur Wayne Swaim was duly appointed and qualified as Independent Executor of Decedent's estate (the "Executor");

WHEREAS, the Will leaves all rest, residue, and remainder of Decedent's estate, which includes the Property, to Bobbie B. Swaim, in her capacity as the trustee (the "Trustee") of the Bobbie B. Swaim Bypass Trust created under the Will for the sole lifetime benefit of Bobbie B. Swaim (the "Trust");

WHEREAS, the Will authorizes the Trustee to distribute to Bobbie Swaim the whole or any part of the corpus of the Trust at any time if the Trustee determines, in the Trustee's sole discretion, that of the corpus of the Trust is necessary for Bobbie B. Swaim's health, education, support, and maintenance;

WHEREAS, as authorized and directed under the Will, the Executor, having determined that all just debts and claims against Decedent's estate and estate taxes and expenses that are required to be paid have been paid or otherwise provided for, desires to evidence the distribution of the Property from Decedent's estate to the Trustee as part of the gift of the rest, residue, a remainder to the Decedent's estate under the Will; and

WHEREAS, the Trustee has determined that the distribution of the Property from the corpus of the Trust to Bobbie B. Swaim is necessary for Bobbie B. Swaim's health, education, support, and maintenance, and, for the purpose of convenience, desires to evidence the distribution of the Property from the Trust corpus to Bobbie B. Swaim in the same instrument.

NOW, THEREFORE, Arthur Wayne Swaim, as Independent Executor of the Estate of Rodney Swaim, Jr., Deceased, and Bobbie B. Swaim, as Trustee of the Bobbie B. Swaim Bypass Trust, (collectively, "Grantors"), to effectuate simultaneous distributions of all of Decedent's interest in the Property from the Estate of Rodney Swaim, Jr., and from the corpus of the Bobbie B. Swaim Bypass Trust, have GRANTED, CONVEYED, and DISTRIBUTED, and by these presents do hereby GRANT, CONVEY, and DISTRIBUTE, all right, title, and interest of Grantors in and to the Property unto Bobbie B. Swaim, individually, whose address is P.O. Box 67, Tilden, TX 78072 ("Grantee").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, and Grantee's heirs, executors, administrators, successors, and assigns forever, without express or implied warranty.

PROVIDED, HOWEVER, that this distribution and conveyance is made subject to all prior easements, reservations, outstanding mineral interests, outstanding royalty interests, valid and existing oil and gas leases, encroachments, encumbrances, leases, liens, rights of surface tenants, taxes for the year 2020, and any and all other matters of record affecting title to the above-described real property. Nothing herein, however, is intended to revive or adopt any expired or unenforceable instrument of record.

PROVIDED FURTHER, HOWEVER, that this distribution and conveyance is made without express or implied warranty of any kind, and all warranties that might arise by common law as well as warranties in Section 5.023 of the Texas Property Code (or its successors) are excluded.

This conveyance is intended to include any property interests obtained by after-acquired title.

Grantors are acting herein as such solely in Grantors' respective fiduciary capacities as Independent Executor of the Estate of Rodney Swaim, Jr., Deceased, and Trustee of the Bobbie B. Swaim Bypass Trust. The liability, if any, of Grantors as such under any representation, covenant or agreement expressed or implied herein, or in any related document, is limited to that applicable to Grantors acting as such in their respective fiduciary capacities.

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

This instrument may be executed in multiple counterparts, each of which will be considered an original for all purposes, and the signature pages from such counterparts may be affixed to this instrument as a single document for recording and all other purposes.

This instrument is executed on the dates set forth in the acknowledgements hereto but is dated effective for all purposes as of January 1, 2020.

(SIGNATURES FOLLOW)

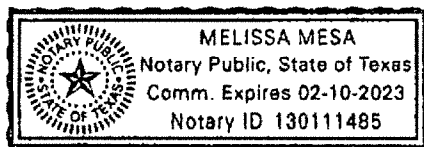
GRANTORS

Arthur Wayne Swaim
Arthur Wayne Swaim, as Independent
Executor of the Estate of Rodney Swaim, Jr.,
Deceased

Bobbie B. Swaim
Bobbie B. Swaim, as Trustee of the Bobbie B.
Swaim Bypass Trust

STATE OF TEXAS §
COUNTY OF McNellen §

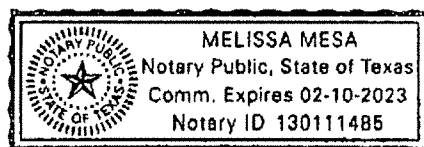
This instrument was acknowledged before me on the 18th day of December,
2020, by Arthur Wayne Swaim, as Independent Executor of the Estate of Rodney Swaim, Jr.,
Deceased.



Melissa Mesa
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF McNellen §

This instrument was acknowledged before me on the 18th day of December,
2020, by Bobbie B. Swaim, as Trustee of the Bobbie B. Swaim Bypass Trust.



Melissa Mesa
Notary Public, State of Texas

AFTER RECORDING RETURN TO:

Omar Leal
Branscomb, PLLC
802 N. Carancahua, Suite 1900
Corpus Christi, Texas 78401-0036

DEED PREPARED WITHOUT BENEFIT

OF TITLE EXAMINATION BY:

Omar Leal
Branscomb, PLLC
802 N. Carancahua, Suite 1900
Corpus Christi, Texas 78401-0036

Exhibit "A"

DESCRIPTION OF 12.054 ACRES, homestead tract, more or less, being within the J. B. Taylor Survey No. 58, Abstract 636, McMullen County, Texas, and being out of a called 1747.32 acres conveyed from Murray Franklin to Rodney Swaim, Jr. by Last Will and Testament dated January 14th, 1993, recorded in Volume 16, Page 182 et seq. of the Probate Records of McMullen County, Texas, said 1747.32 acres being further described by metes and bounds in a conveyance from Green Franklin and wife, Verda Franklin and Claud Franklin and wife, Ida May Franklin to Murray Franklin by Deed dated November 9th, 1950, recorded in Volume 47, Pages 591, et seq. of the Deed Records of McMullen County, Texas, said 12.054 acres having a bearing basis derived from GPS observations in the Texas State Plane Coordinate System, NAD 1983 South Central Zone, made on August 21st, 2014, with all other bearings relative thereto.

COMMENCING at a large rock with a chiseled "X" found for the apparent east corner of the L. Jacob Survey No. 40, Abstract No. 614, McMullen County, Texas, (original corner called to be a stone with a "C", slash marks above and below and a date of 1876, other markings can be seen but are very faint), being the apparent north corner of the J. Poitevent Survey No. 39, Abstract No. 381, McMullen County, Texas, being on the apparent southwest boundary of said Survey No. 58, said east corner of Survey 40 called to be a corner of said 1747.32 acres, for this POINT OF COMMENCEMENT;

THENCE North 27° 16' 17" West, (South 27° East), crossing and passing through said 1747.32 acres, with the apparent common boundary of said Survey No. 40 and Survey No. 58, a distance of 1,481.38' to a point on the common boundary of said Survey No. 40 and Survey No. 58; from WHENCE a disturbed rock marked "E" (with a slash below) (original corner called to be a stone marked "E X" with a double slash above and single slash below each letter) found for the apparent and disturbed north corner of said Survey No. 40, bears North 27° 16' 17" West a distance of 3,970.72';

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THENCE crossing and passing through said 1747.32 acres and said Survey No. 58, generally along a fence surrounding the ranch headquarters of the Swaim property, the following five (5) calls:

1. North 27° 58' 58" West, a distance of 190.00' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set for an exterior angle corner of this tract;
2. North 01° 52' 59" East, a distance of 813.92' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set for the northwest corner of this tract; from WHENCE a 9" cedar corner fence post found for the apparent and occupied westernmost corner of said 1747.32 acres, bears South 88° 53' 32" West a distance of 6,584.34';
3. North 77° 51' 45" East, at 341.76' pass the termination point of a 30.00' wide easement (point being within a cattle guard) also surveyed this day, and continuing along same course for a total distance of 554.82' to a ½" iron rod with plastic cap stamped "LITTLE 6163" set for the northeast corner of this tract;
4. South 01° 00' 11" East, a distance of 868.74' to a ½" iron rod with plastic cap stamped "LITTLE 6163" for the southeast corner of this tract;
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BEGINNING at a cotton spindle set at the apparent intersection of the southwest margin of the county maintained Franklin Ranch Road (ROW of varying width) with the apparent centerline of said existing ranch road (maintained road to Swaim Ranch headquarters), for the POINT OF BEGINNING of the centerline of this 30.00' wide easement; from WHENCE a 9" cedar corner fence post found for the apparent and occupied westernmost corner of said 1747.32 acres, bears South 79° 25' 06" West a distance of 7,336.38';

THENCE with the centerline of this easement, said easement being 15.00' on either side of this centerline description, crossing and passing through said 1747.32 acres and said Survey No. 58, following said existing ranch road, the following five (5) calls:

1. South 37° 26' 39" West, a distance of 442.79' to a cotton spindle set for the beginning of a curve to the left;
2. -with said curve having a radius of 591.31', a delta angle of 25° 19' 39", a chord bearing and distance of South 24° 32' 10" West, 259.27', for an arc distance of 261.39' to a cotton spindle set for the end of said curve;
3. South 08° 30' 45" West, a distance of 223.17' to a cotton spindle set for the beginning of a curve to the left;
4. -with said curve having a radius of 434.65', a delta angle of 43° 15' 37", a chord bearing and distance of South 13° 04' 36" East, 320.44', for an arc distance of 328.18' to a cotton spindle set for the end of said curve;
5. South 35° 12' 52" East, a distance of 53.51' to a point in a cattle guard, being on the

north boundary of a 12.054 acres also surveyed this day, for the TERMINATION POINT of the centerline of this easement, from WHENCE a 1/2" iron rod with plastic cap stamped "LITTLE 6163" set for the northeast corner of said 12.054 acres also surveyed this day, bears North 77° 51' 45" East a distance of 213.06';

FILED FOR RECORD

This Dec 18, 2020 at 02:20P
MATTIE SADOVSKY
CLERK COUNTY COURT McMULLEN CO. TX
BY: Victoria Streeter

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, MATTIE SADOVSKY, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Dec 18, 2020 at 02:20P and duly recorded the
Dec 18, 2020 in the McMullen County Records of said
County, in VOL 170 on PAGE 337.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

MATTIE SADOVSKY
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Victoria Streeter

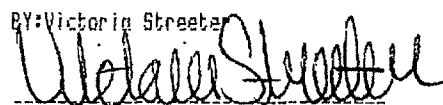


EXHIBIT F

PARTITION DEED

46896

THE STATE OF TEXAS §
COUNTY OF McMULLEN §

THAT WE, the undersigned, of the County of McMullen, State of Texas, for and in consideration of the sum of TEN AND NO/100 DOLLARS and other valuable consideration to the undersigned paid by the Grantees herein named, the receipt and sufficiency of which is hereby acknowledged, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto ROBERT MURRAY SWAIM and ARTHUR WAYNE SWAIM, hereinafter called "Grantees", of the County of McMullen, State of Texas, the real property known as the Red Pasture situated in McMullen County, Texas, and more particularly described in the exhibit attached hereto.

This conveyance is made and accepted subject to a Deed of Trust recorded in the Deed Records of McMullen County, Texas, Volume 54, Pages 173 - 177, and by a Vendor's Lien upon the described property; Grantees assuming to pay the note described therein.

This deed is a partition of the surface estate only among the heirs of the Estate of Louis M. Gubbels. All of Grantors' right, title and interest in and to all the oil, gas and other minerals, including, but not by way of limitation, coal, lignite, uranium, fissionable material and other hard minerals are hereby expressly reserved unto themselves, their heirs and assigns.

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 Grantees, their heirs and assigns forever; and we do hereby bind ourselves, our heirs, executors and administrators to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantees, their heirs and assigns, against the claim or claims of all persons whomsoever lawfully claiming or to claim the same or any part thereof, when the claim is by, through or under Grantors, but not otherwise.

EXECUTED this 2nd day of May, A.D. 1991.

GRANTORS:

Margaret Ann Swaim Stephenson
Margaret Ann Swaim Stephenson
Wesley Franklin Swaim
Wesley Franklin Swaim
Wayde Nelson Swaim
Wayde Nelson Swaim
Michael Dean Swaim
Michael Dean Swaim

Grantee's Mailing Address:

Robert Murray Swaim
P.O. Box 100, Tilden, Texas, 78072
Arthur Wayne Swaim
Star Route 2, Box 226, Jourdanton, Texas, 78026

Grantors' Mailing Address:

Margaret Ann Swaim Stephenson
Star Route 2, Box 215, Jourdanton, Texas, 78026
Wayde Nelson Swaim
Star Route 2, Box 223, Jourdanton, Texas, 78026
Wesley Franklin Swaim
Star Route 2, Box 225, Jourdanton, Texas, 78026
Michael Dean Swaim
P.O. Box 203, Tilden, Texas, 78072

STATE OF TEXAS §
 §
COUNTY OF MCMULLEN §

This instrument was acknowledged before me on this 2 day
of April, 1991, by MARGARET ANN SWAIM STEPHENSON, WESLEY FRANKLIN
SWAIM, WAYDE NELSON SWAIM and MICHAEL DEAN SWAIM.



Lucille Rutherford
Notary Public in and for
The State of Texas
My Commission Expires: 2-28-93

AFTER RECORDING RETURN TO:

Robert Murray Swaim
P.O. Box 100
Tilden, Texas 78072

RED PASTURE

BEING a tract of land containing 1606.44 acres, more or less, being that same tract called to contain 1607.04 acres, more or less, conveyed by Murray Franklin et al to Rodney Swalm and Franklin Swalm as Trustees of the Louis M. Gubbels Trust by deed dated February 26, 1975, recorded in Volume 133, Page 91, of the Deed Records of McMullen County, Texas, said 1606.44 acre tract having approximate acreages with their respective surveys as follows:

J. Poitevent Survey No. 33 A-384	668.65 Ac.
J. Poitevent Survey No. 39 A-381	669.05 Ac.
J. B. Taylor Survey No. 58 A-636	212.99 Ac.
J. B. Taylor Survey No. 60 A-633	14.07 Ac.
B. S. & F. Survey No. 57 A-148	41.68 Ac.

Total 1606.44 Ac.

SAID 1606.44 acre tract being more particularly described as follows:

BEGINNING at an iron rod set in a fence corner at the west corner of said J. Poitevent Survey A-384 for the west corner of the tract herein described;

THENCE N 63°14' E 5390.89 ft. with a fence in part along the northwest line of said J. Poitevent Survey A-384 to an iron rod set at a fence post at the north corner thereof, being the west corner of said J. Poitevent Survey A-381, also being an angle point in the northwest line of this tract;

THENCE N 63°05' E 5392.98 ft. with the northwest line of said J. Poitevent Survey A-381 to an "X" mark made on a rock for an exterior corner of this tract, being the north corner of said J. Poitevent Survey A-381 and the most westerly corner of said J. B. Taylor Survey A-636;

THENCE N 76°28' E 3497.25 ft. across said J. B. Taylor Survey A-636 and into said J. B. Taylor Survey A-633 to an iron pipe in the western boundary of State Highway No. 16 for the north corner of this tract;

THENCE S 0°17' E 5153.08 ft. with said highway boundary to an iron rod set in a fence corner in same for the most easterly corner of this tract;

THENCE with the fence along the southeast lines of said B. S. & F. Survey A-148 and said Poitevent Surveys A-381 and 384 with the following calls:

1. S 63°18' W 3102.66 ft.;
2. S 63°09' W 6162.98 ft.; and
3. S 63°12' W 22603.63 ft. to an iron rod set in a fence corner at the south corner of said Poitevent Survey A-384 for the south corner of this tract.

THENCE N 27°00' W 5404.74 ft. with a fence along the southwest line of said Poitevent Survey A-384 and this tract to the PLACE OF BEGINNING.

FILED FOR RECORD MAY 2 1991 AT 2:55 O'CLOCK 3 M.
AND DULY RECORDED MAY 2 1991 AT 3:15 O'CLOCK 3 M.
BY Nell Hodgkin DEPUTY. NELL HODGIN, CLERK
MCMULLEN COUNTY, TEXAS

VOL 322 PAGE 452

EXHIBIT G

QUIT CLAIM DEED

THE STATE OF TEXAS :

COUNTY OF Mc MULLEN:

KNOW ALL MEN BY THESE PRESENTS:

That we, FRANKLIN SWAIM, joined herein pro forma by my wife, RUTH DEAN SWAIM; RODNEY SWAIM, JR., joined herein pro forma by my wife, BOBBY SWAIM, of the County of McMullen and State of Texas; MINERVA SWAIM McCELVEY, joined herein pro forma by my husband, REX McCELVEY, of Frio County, Texas; ANN SWAIM PINION, joined herein pro forma by my husband, LARRY PINION, of Dallas County, Texas; WESLEY FRANKLIN SWAIM, joined herein pro forma by my wife, SUE SWAIM, of the County of McMullen and State of Texas, for and in consideration of the sum of One and no/100 (\$1.00) Dollar in hand paid by the Grantees herein named, the receipt of which is hereby acknowledged, have QUITCLAIMED, and by these presents do QUITCLAIM unto Murray Swaim, whose address is: P.O. Box 100, Tilden, Texas 78072 and unto Wayne Swaim, whose address is: HCR 2, Box 226, Jourdanon, Texas 78026, share and share alike, as their separate property and estate, for their sole use and benefit, all of our right, title and interest in and to the following described real property, lying and being situated in the County of McMullen and State of Texas, and being more particularly described as follows, to-wit:

Being 50.00 acres of land, more or less, out of the B.S. and F. Survey No. 57, Abstract No. 148, McMullen County, Texas, and out of a 1500.54 acre tract of land described in Volume 360, Page 58, Deed Records, McMullen County, Texas. Said 50.00 acres being more particularly described as follows:

BEGINNING at an 1/2" iron pin found at a fence corner on the west line of State Highway No. 16, for the northeast corner of this tract, the northeast corner of the 1500.54 acre tract and a corner of a 1606.44 acre tract of land described in Volume 322, Page 438, Deed Records, McMullen County, Texas.

THENCE S. 00 deg. 39 min. 00 sec. E. 1916.27 feet along the west line of State Highway No. 16, to a fence corner, for the southeast corner of this tract.

THENCE S. 79 deg. 14 min. 46 sec. W. 1292.70 feet along a fence line, to an 1/2" iron pin set, for the southwest corner of this tract.

THENCE N. 00 deg. 39 min. 00 sec. W. 1506.51 feet to an 1/2" iron pin set in a fence line and the common line of the 1500.54 acre tract and the 1606.44 acre tract, for the northwest corner of this tract.

THENCE N. 62 deg. 46 min. 38 sec. E. 1422.97 feet along a fence line and the common line of the 1500.54 acre tract and the 1606.44 acre tract, to the POINT OF BEGINNING, as surveyed on June 21, 1995, by David L. Potter of Jourdanon, Texas, Registered Professional Land Surveyor.

TO HAVE AND TO HOLD all of our right, title and interest in and to the above described property and premises unto the said MURRAY SWAIM and

472-410

WAYNE SWAIM, their heirs and assigns forever, so that neither FRANKLIN SWAIM, RODNEY SWAIM, JR., MINERVA SWAIM McCELVEY, ANN SWAIM PINION, nor WESLEY FRANKLIN SWAIM, nor our heirs, legal representatives or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

EXECUTED this the 12th day of November, A.D., 1996.

Franklin Swaim
FRANKLIN SWAIM

Ruth Dean Swaim
RUTH DEAN SWAIM, pro forma

Rodney Swaim Jr
RODNEY SWAIM, JR.

Bobby Swaim
BOBBY SWAIM, pro forma

Minerva Swaim McElvey
MINERVA SWAIM McCELVEY

Rex McElvey
REX McCELVEY, pro forma

Ann Swaim Pinion
ANN SWAIM PINION

Larry Pinion
LARRY PINION, pro forma

Wesley Swaim
WESLEY FRANKLIN SWAIM

Sue Swaim
SUE SWAIM, pro forma

THE STATE OF TEXAS :
COUNTY OF McMullen:

This instrument was acknowledged before me on June 4, 1998

Swaim and wife, Ruth Dean Swaim.



Becky Martin
NOTARY PUBLIC FOR THE STATE OF TEXAS

THE STATE OF TEXAS :
COUNTY OF McMullen:

This instrument was acknowledged before me on June 4, 1998

by RODNEY SWAIM, JR. and wife, BOBBY SWAIM.



Becky Martin
NOTARY PUBLIC FOR THE STATE OF TEXAS

VS 472 PAGES 411

THE STATE OF TEXAS :

COUNTY OF Frio :

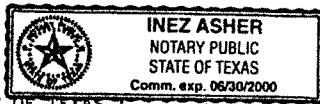
This instrument was acknowledged before me on Dec. 27, 1996
by MINERVA SWAIM McCELVEY and husband, REX McCELVEY.



Inez Asher
NOTARY PUBLIC FOR THE STATE OF TEXAS

THE STATE OF TEXAS :
COUNTY OF Frio :

This instrument was acknowledged before me on Dec. 27, 1996,
by ANN SWAIM PINION and husband, LARRY PINION.



Inez Asher
NOTARY PUBLIC FOR THE STATE OF TEXAS

THE STATE OF TEXAS :
COUNTY OF McMullen :

This instrument was acknowledged before me on June 26, 1998
by WESLEY FRANKLIN SWAIM and wife, SUE SWAIM.

Bonnie L. Koonce
NOTARY PUBLIC FOR THE STATE OF TEXAS

FILED FOR RECORD 10-1-09 AT 3:45 O'CLOCK P.M.
AND DULY RECORDED 10-1-09 AT 4:00 O'CLOCK P.M.
BY Dorai Rene Garza DEPUTY DORAIRENE GARZA, CLERK
MCMULLEN CO. TX

v3 472 412

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Tuesday, March 21, 2023 11:22 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0002043000
Attachments: Exhibits H-I.pdf

RFR
H

From: gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>
Sent: Monday, March 20, 2023 4:59 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0002043000

REGULATED ENTY NAME SAN MIGUEL ELECTRIC PLANT

RN NUMBER: RN100226539

PERMIT NUMBER: WQ0002043000

DOCKET NUMBER:

COUNTY: ATASCOSA, MCMULLEN

PRINCIPAL NAME: SAN MIGUEL ELECTRIC COOPERATIVE INC

CN NUMBER: CN600132278

FROM

NAME: Lauren Ice

EMAIL: gwyneth@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX:

COMMENTS: Attached are Exhibits H and I.

EXHIBIT H

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

GSD LOTTIE F. HOLLAN TO LEE F. LIVELY

GIFT SURFACE DEED

THE STATE OF TEXAS §
COUNTY OF McMULLEN § KNOW ALL MEN BY THESE PRESENTS:

THAT I, **LOTTIE F. HOLLAN**, of McMullen County, Texas, for and in consideration of the love and affection which I have and bear unto my son, **LEE F. LIVELY**; have GIVEN, GRANTED and CONVEYED, and by these presents do GIVE, GRANT and CONVEY unto **LEE F. LIVELY**, as his sole and separate property and estate, whose address is P. O. Box 449, Giddings, Lee County, Texas 78942, all of my right, title and interest in and to the **SURFACE ESTATE ONLY** of the following described real property, lying and being situated in McMullen County, Texas, to-wit:

TRACT 1:

Field notes of 2498.56 acres of land in McMullen County, Texas, out of Tract 11 allotted to Claude Franklin; Tract 3, allotted to Murray Franklin; and Tract 13, the Home Tract, according to partition deed of the Franklin Ranch recorded in Volume 9, page 330, McMullen County Deed Records, and is composed of the following approximate acreages:

Survey	Number	Abstract	Acreage
George Evans	835	180	630.58
J. Poitevent	41	380	465.11
J. Poitevent	31	385	667.38
Lawrence Jacob	40	614	1.02
Lawrence Jacob	34	615	677.60
R. W. Franklin	42	672	0.17
M. Franklin	32	673	56.70

Said 2498.56 acre tract is described by metes and bounds as follows:

Begin at a fence corner post for the common corner of said Surveys 22 and 32 and the J. Poitevent Survey 31 and the E. L. Taylor Survey 30; said post also being the north corner of Tract 4, part 1, said partition, allotted to Thomas Franklin and being a corner in the southeast line of a 2380.19 acre tract surveyed this date;

Thence with the common line between said Tracts 3 and 4, part 1, said partition, as now fenced, S 27°13'00" E 5364.63 feet to a fence corner post and S 27°15'04" E 5465.54 feet to fence corner post for the east corner of said Tract 4, said partition, for the common westerly common corner of said Survey 34 and the J. Poitevent Survey 33;

Thence N 62°56'49" E, with fence and the common line of said Surveys 33 and 34, 5391.09 feet to a fence corner post for their common easterly corner;

Thence N 27°09'08" W, with fence and the common line of said Surveys 34 and 40, 5277.47 feet to a fence corner post for an interior corner of that certain 1793.6 acre tract allotted to Claude Franklin by deed dated September 1, 1977 and recorded in Volume 155, page 50 said Deed Records;

Thence N 39°14'25" E, with fence and line of said 1793.6 acre tract, at 14.07' pass the corner post of a northwesterly bearing fence and continuing on the same course, 6106.47 feet in all to a fence corner post near the southwest line of Franklin Ranch Road;

Thence N 31°40'26" W, with fence, 630.13 feet to a fence corner post in the easterly north line of said 1793.6 acre tract;

Thence S 84°56'57" E, with the common line of Tracts 3 and 11, said partition, as now fenced, crossing said Franklin Ranch Road, 693.53 feet to a large cedar post and S 85°28'35" E 749.86 feet to a stake for the south corner of that certain 71 acre tract conveyed by Rosa West Franklin to J. P. Crain by deed dated September 24, 1945 and recorded in Volume 39, page 230, said Deed Records; a pipe fence corner post at the end of a game fence bears N 28°25'31" W 22.24 feet;

Thence N 15°28'08" W, with the southwest line of said 71 acre tract, 1371.66 feet to a stake for the southwest corner of a 293.41 acre tract surveyed this date;

Thence with the line of said 293.41 acre tract as follows: N 58°58'26" W, at 2.72 feet pass an iron pin set in a game fence and continuing on the same course, 2154.97 feet to an iron pin set for corner; N 88°27'54" W, at 544.42 feet pass an iron pin and continuing on the same course, 602.45 feet in all to a stake in Franklin Ranch Road from which an iron pin bears 58.02 feet N 88°27'54" W;

Thence with the line of said 293.41 acre tract within said Road as follows: N 50°15'00" W 97.14 feet; N 54°23'14" W 302.34 feet; N 50°33'31" W 247.38 feet; N 38°25'35" W 139.16 feet; N 18°19'05" W 171.61 feet to the middle of a bridge over Live Oak Creek; N 11°14'09" W 81.81 feet; N 25°28'23" W 223.06 feet; N 50°27'30" W 190.19 feet; N 59°39'34" W 172.70 feet and N 62°08'05" W 239.69 feet to a stake in said Road from which an iron pin bears 37.11 feet S 08°11'54" E;

Thence N 08°11'54" W, leaving said Road and passing an iron pin at 37.11 feet and continuing on the same course, 296.05 feet to a fence corner post for the southwest corner of a 41.96 acre tract surveyed this date;

Thence with line of said 41.96 acre tract as partly fenced as follows: N 08°11'54" W, 1037.13 feet to a fence corner post in the southwest line of Tract 13, said partition; N 02°12'52" E 603.05 feet to a fence corner post; N 47°07'22" W 31.03 feet to a fence corner post; N 07°07'34" E, at 415.9 feet pass a fence corner post and continuing on the same course (no fence), 573.07 feet in all to the centerline of the San Miguel Creek and being in the westerly line of said 293.41 acre tract;

Thence with said centerline of Creek: N 39°10'13" W 1079.85 feet to the upper west corner of said 293.41 acre tract and N 54°06'45" W 190.56 feet to the east corner of said 2380.19 acre tract;

Thence with the line of said 2380.19 acre tract as follows: S 22°01'20" W, in part with a field fence, 2083.88 feet to a fence corner post; S 57°51'15" E, with fence, 301.25 feet to a fence corner post; S 07°17'59" W, with fence, 606.50 feet to an iron pin; N 72°39'59" W 96.90 feet to an iron pin; S 09°41'45" W, at 367.90 feet pass a fence corner post and continuing on the same course, 431.40' to a stake in said Franklin Ranch Road for its interior corner from which another iron pin in fence along the south line of said Road bears 30.69 feet S 09°41'45" W;

Thence with said 2380.19 acre tract within said Road: S 87°29'22" W 2800.86 feet and S 60°28'43" W 101.69 feet;

Thence S 04°21'47" W, with said 2380.19 acre tract, at 18.34 feet pass a pasture fence corner post and continuing on the same course, with said fence, 4903.75 feet in all to a fence corner post in the common line of Tracts 11 and 3, said partition;

Thence S 62°31'21" W, with fence and the common line of Tracts 11 and 3, said partition, as now fenced, 3663.20 feet to the place of beginning.

Included in the above-described 2498.56 acre tract is 9.75 acres out of said Tract 13.

TRACT II:

Field notes of 1.15 acres of land in McMullen County, Texas, out of the George Evans Survey 835, Abstract 180 and being out of Tract 13, Home Tract, according to the partition deed of the Franklin Ranch recorded in Volume 9, page 330, McMullen County Deed Records: said 1.15 acre tract is described by metes and bounds as follows:

Begin at a stake for the southwest corner of said Tract 13;

Thence N 74°31'52" E, with the south line of said Tract 13, 245.20 feet to a stake in the centerline of Franklin Ranch Road and being in the common line of a 293.41 and a 2498.56 acre tract surveyed this date;

Thence with said centerline and line of said common line as follows: N 25°28'23" W 58.32 feet; N 50°27'30" W 190.19 feet; N 59°39'34" W 172.70 feet and N 62°08'05" W 7.74 feet to a stake in the west line of said Tract 13;

Thence S 15°28'08" E, with the west line of said Tract 13, 342.39 feet to the place of beginning.

TRACT III:

Field notes of 8.60 acres of land in McMullen County, Texas, out of the George Evans Survey 835, Abstract 180 and being out of Tract 13, Home Tract, according to the partition deed of the Franklin Ranch recorded in Volume 9, page 330, McMullen County Deed Records; said 8.60 acre tract is described by metes and bounds as follows:

Begin at the intersection of the west line of said Tract 13 with the centerline of the San Miguel Creek located 106.54 feet S 15°28'08" E from the northwest corner of said Tract 13; said intersection being in the common line of a 293.41 and a 2498.56 acre tract surveyed this date;

Thence S 15°28'08" E, with the west line of said Tract 13, 2011.76 feet to a fence corner post in the westerly line of a 41.96 acre tract surveyed this date;

Thence with the westerly line of said 41.96 acre tract as follows: N 02°12'52" E 603.05 feet to a fence corner post; N 47°07'22" W 31.03 feet to a fence corner post; N 07°07'34" E, at 415.9 feet pass a fence corner post and continuing on the same course (no fence), 573.07 feet in all to the centerline of the San Miguel Creek for its north corner and being in the common line of said 293.41 and 2498.56 acre tracts;

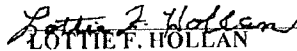
Thence N 39°10'13" W, with the centerline of said Creek and the said common line, 962.92 feet to the place of beginning.

EXCEPT HOWEVER, that there is hereby RESERVED unto Grantor a LIFE ESTATE in the main residence, the adjoining bunkhouse and eighty (80) acres surrounding same, all being north of the Franklin Ranch Road, for and during her natural life, so that Grantor shall have the full possession, use and benefit of said tracts, as well as the rents, revenues and profits thereof, for and during the life of Grantor.

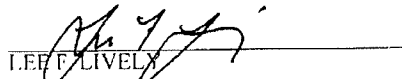
This Deed and the hereinafter warranty are made expressly subject to any easements, rights of way and prescriptive rights, whether of record or not, all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral and royalty severances and other instruments that affect the property; rights of adjoining owners in any walls and fences situated on a common boundary; and discrepancies, conflicts, or shortages in area or boundary lines; and any encroachments or overlapping of improvements.

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 LEE F. LIVELY, his heirs and assigns forever, and I do hereby bind myself, my heirs, executors and administrators, to WARRANT AND FOREVER DEFEND, all and singular the said premises unto the said LEE F. LIVELY, his heirs and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

EXECUTED on this 28th day of December, 2012.

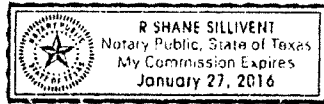

LOTTIE F. HOLLAN

DELIVERED TO AND ACCEPTED BY:


LEE F. LIVELY
12-28-2012
Date

THE STATE OF TEXAS §
COUNTY OF ATASCOSA §

This instrument was acknowledged before me on the 28th day of December, 2012, by
LOTTIE F. HOLLAN.



R Shane Sillivent
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS §
COUNTY OF ATASCOSA §

This instrument was acknowledged before me on the 28th day of December, 2012, by **LEE F. LIVELY.**



R Shane Sillivent
NOTARY PUBLIC, STATE OF TEXAS

After Recording Return To:
Lee F. Lively
P. O. Box 449
Giddings, Texas 78942

Prepared in the Law Office Of:
Alfred A. Steinle
P. O. Box 400
Jourdanton, Texas 78026

THIS INSTRUMENT WAS PREPARED BASED ON INFORMATION FURNISHED BY THE PARTIES, AND NO INDEPENDENT TITLE SEARCH HAS BEEN MADE.

FILED FOR RECORD

This Dec 31, 2012 at 08:54A
HONORABLE DORAIRENE GARZA
CLERK COUNTY COURT McMULLEN CO. TX
BY: Gracie Rios

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, HONORABLE DORAIRENE GARZA, Clerk of the County Court of said county, do hereby certify that the foregoing instrument of writing, with its certificate of authentication was filed for record in my office this Dec 31, 2012 at 08:54A and duly recorded the Dec 31, 2012 in the McMullen County Records of said County, in VOL 47 on PAGE 323.
Witness my hand and the seal of the County Court of said County at the office in TILDEN, TEXAS the day and year last above written.

HONORABLE DORAIRENE GARZA
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Gracie Rios
Gracie Rios

EXHIBIT I

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN 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 PARTITION WARRANTY DEED

Effective Date:

Grantor: Iris B. Porter, Independent Executrix, Thelma Brite Estate

Grantor's Mailing Address:

Iris B. Porter, Independent Executrix
Estate of Thelma Brite
1301 Courthouse Circle
Jourdanton, Texas 78026

Grantees and Mailing Addresses:

Barbara Bacon
871 Oakwood
San Antonio, TX 78228

Doris Errington
102 Chaparral Circle
Jourdanton, TX 78026

Joseph R. Errington
20011 Messina
San Antonio, TX 78258

Rebecca N. Spears
619 Hillsong
San Antonio, TX 78258

Pamela Cassidy
14722 Keegan
Corpus Christi, TX 78410

Thelma Cooper
1175 County Road 428
Taylor, TX 76574

Marie Harrod
Box 66
Oakville, TX 78060

Marjorie E. Stephenson
P. O. Box 609
Charlotte, Texas 78011

Linda Kay Manley
7902 FM 979
Cameron, TX 76520

Brenda Jean Duerer
3458 CR 707
Kosse, TX 76653

Chester W. Mosier
16534 County Rd. 164
Iola, TX 77861

Robert H. Mosier
10020 Hunters Run
College Station, TX
77845

**Gray Mosier, as Trustee of
the Frances Sturges Reed
Trust**
P. O. Box 6
Kingsbury, TX 78638

Consideration:

In fulfillment of the terms of the will of Thelma Brite, Deceased, who died on January 30, 2012. Such will was dated June 23, 2003 and probated as shown by the record in Cause Number 524, styled IN THE ESTATE OF THELMA BRITE, DECEASED in the McMullen County Court, Tilden, Texas on March 13, 2012, and as amended and changed by the terms and conditions of the Family Settlement Agreement dated November 15, 2012.

Preamble:

WHEREAS, by virtue of an Order Admitting Will to Probate and Appointing Independent Executrix issued by the Judge of the County Court of McMullen County, Texas, in Cause No. 524, styled, IN THE ESTATE OF THELMA BRITE, DECEASED, the said court ordered the appointment of Iris B. Porter as the Independent Executrix of the said Estate to serve without bond; and

WHEREAS, the Last Will and Testament of THELMA BRITE directed that certain properties be divided and transferred to her beneficiaries of the will, all as shown by the said Last Will and Testament of THELMA BRITE filed with the papers of the said Cause in McMullen County, Texas; and

WHEREAS, the Last Will and Testament of THELMA BRITE was partially altered by the Family Settlement Agreement, signed by all parties at interest in the property subject to the said Agreement, filed in said Cause, in the McMullen County Court, Tilden, Texas; and

WHEREAS, the said Family Settlement Agreement was approved by McMullen County Judge James E. Teal, December 5, 2012; and

WHEREAS, this Warranty Deed is made and accepted to implement the provisions of the Last Will and Testament of THELMA BRITE Deceased, and the Family Settlement Agreement.

Property (including any improvements):

The SURFACE ESTATE ONLY in and to 1417.32 acres of land situated in McMullen County, Texas, described by metes and bounds on Exhibit A attached hereto and incorporated herein for all purposes, being Tract "A" in a partition of 2834.63 acres of land in McMullen County, Texas, into two (2) tracts, being Tract "A" (1417.32 acres) and Tract "B" (1417.31 acres), both being out of said measured 2834.63 acres (called 2814.10 acre tract), out of the J. Poitevent Survey – Abstract 382, J. Poitevent Survey – Abstract 383, the J.B. Taylor Survey – Abstract 638, J. Poitevent Survey – Abstract 378, J.B. Taylor Survey – Abstract 635, the B.S. & F. Survey – Abstract 151, the J.B. Taylor Survey – Abstract 634, the W.G. Miles Survey – Abstract 623 and the B.S. & F Survey – Abstract 152, McMullen County, Texas

and being a part of all that certain 2970.10 acre tract of land described as partition subdivision number two (2) of the Franklin Ranch Subdivision dated May 11, 1931, by and between Murray Franklin, et al, recorded in Volume 9, Page 330 Deed Records of McMullen County, Texas; SAVE and EXCEPT: 156 acres of land, more or less, being the same land described in Gift Warranty Deed dated December 29, 1994 from Thelma Franklin Brite to Robert W. Errington, recorded in Volume 353, Page 428 Deed Records of McMullen County, Texas.

Reservations from and Exceptions to Conveyance and Warranty:

1. Taxes and assessments on the Property becoming due and payable after the date of this Warranty Deed, payment of which is assumed by Grantee.
2. Any and all existing leases covering oil, gas or other minerals, and all outstanding royalty and mineral interests in and to the oil, gas and other minerals, situated in, on or under the Property, to the extent the same are valid and still in force and effect.
3. Any and all covenants, conditions, easements, reservations, rights-of-way and restrictions affecting the Property, as evidenced by instruments filed in the public records of McMullen County, Texas, to the extent the same are valid and still in force and effect.
4. All statutes, ordinances, regulations and laws of any municipality or other governmental authority having jurisdiction of the Property.
5. For Grantor and Grantor's successors, a reservation of all oil, gas and other minerals in, on and under the Property, including all of Grantor's rights and interests in existing leases covering the oil, gas or minerals, and the production therefrom.

Grant:

Grantor, for the Consideration, and subject to the Reservations from and Exceptions to Conveyance and Warranty, PARTITIONS, GRANTS AND CONVEYS to each of the Grantees named on Exhibit B attached hereto and incorporated herein for all purposes the undivided interest in and to the Property set forth next to and corresponding to the name of each said Grantee, respectively, reflected in said Exhibit B, together with all and singular the rights and appurtenances thereto in anywise belonging. TO HAVE AND TO HOLD each of the Grantee's interest in and to the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto each said Grantee and said Grantee's heirs, legal representatives and assigns forever; and, subject to all of the matters set forth or referred to herein, Grantor does hereby bind Grantor and Grantor's successors to WARRANT AND FOREVER DEFEND all and singular each Grantee's interest in and to the Property unto said Grantee and said Grantee's heirs, legal representatives

and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof by, through or under the Grantor but not otherwise, except as to the Reservations From and Exceptions to Conveyance and Warranty.

GRANTOR:

Iris B. Porter

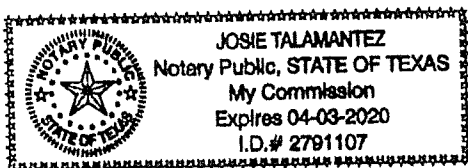
Iris B. Porter, Independent Executrix,
Estate of Thelma Brite, Deceased

THE STATE OF TEXAS §

§

COUNTY OF ATASCOSA §

June, 2016, by Iris B. Porter, Independent Executrix, Estate of Thelma Brite, Deceased. 8th day of



Josie Talamantez
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:
Susan Hutchinson
Davis, Hutchinson & Wilkerson, L.L.P.
802 N. Carancahua Street, Suite 1500
Corpus Christi, Texas 78401

EXHIBIT "A"
(1417.32 Acre Fee Estate)

BEGINNING at a set 5/8 inch iron rod and being the common survey corner of the L. Jacob Survey-Abstract 615, the J. Poitevent Survey-Abstract 384, the J. Poitevent Survey-Abstract 386 and the said J. Poitevent Survey-Abstract 383, said 5/8 inch iron rod being the most northern corner of this tract;

THENCE S 27 degrees 17' 12" E - with the common survey corner of said J. Poitevent Survey-Abstract 384 and the said J. Poitevent Survey - Abstract 383, a distance of 5405.01 feet to a set 5/8 inch iron rod on the common survey corner of the said J. Poitevent Survey - Abstract 384, the J. Poitevent Survey - Abstract 383, the J.B. Taylor Survey-Abstract 635 and the B.S. & F. Survey - Abstract 151, said 5/8 inch iron rod being an interior corner of this tract;

THENCE N 62 degrees 57' 14" E - with the common survey line of said J. Poitevent Survey-Abstract 384 and the said B.S. & F. Survey - Abstract 151, a distance of 2049.52 feet to a set 5/8 inch iron rod for a corner of this tract;

THENCE S 27 degrees 06' 54" E - a distance of 6241.98 feet to a set 5/8 inch iron rod on the north right of way line of the CINCO MILLAS ROAD, said 5/8 inch iron rod being the southeast corner of this tract;

THENCE S 40 degrees 38' 16" W - with the north right of way line of said CINCO MILLAS ROAD a distance of 964.08 feet to a set 5/8 inch iron rod for the south - southwest corner of this tract;

THENCE N 53 degrees 59' 46" W - a distance of 9267.62 feet to a set 5/8 inch iron rod for an interior corner of this tract;

THENCE S 62 degrees 55' 09" W - a distance of 7802.65 feet to a set 5/8 inch iron rod on the common survey line between J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, said 5/8 inch rod being the southwest corner of this tract;

THENCE N 27 degrees 15' 04" W with the common survey line of said J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, a distance of 3750.03 feet to a set 5/8 inch iron rod for the common corner of said J. Poitevent Survey - Abstract 388, the J. Poitevent Survey - Abstract 382, the L. Jacob Survey - Abstract 616 and the J. Poitevent Survey - Abstract 387, said 5/8 inch iron rod being the west-northwest corner of this tract;

THENCE N 62 degrees 55' 09" E - with the common survey lines of said J. Poitevent Survey - Abstract 387, J. Poitevent Survey - Abstract 382, J. Poitevent Survey - Abstract 386 and J. Poitevent Survey - Abstract 383, a distance of 10828.44 feet to **THE POINT OF BEGINNING** and containing 1417.32 acres more or less.

Exhibit B
(Grantees)

<u>Name:</u>	<u>Interest</u>
Barbara Bacon	28%
Gray Mosier, as Trustee of the Frances Sturges Reed Trust	16%
Doris Errington	8%
Joseph Richard Errington	8%
Rebecca N. Spears	8%
Pamela Cassidy	8%
Thelma Cooper	8%
Marie Harrod	8%
Marjorie E. Stephenson	4%
Linda Kay Manley	1%
Brenda Jean Duerer	1%
Chester W. Mosier	1%
Robert H. Mosier	1%

THE STATE OF TEXAS
COUNTY OF HUNTLEY
I, HATTIE SADOVSKY, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing with its certificate of
authentication was filed for record in my office
this Jun 24/2016 at 09:13A and was recorded the
24/2016 in the Huntley County Records of said
County in VOL. 123 on PAGE 47.
Witness my hand and the seal of the County Court of said
County at the office in HUNTLEY, TEXAS
the day and year last above written.

HATTIE SADOVSKY
CLERK, COUNTY COURT, HUNTLEY COUNTY, TEXAS

BY: Victoria Rogers

Victoria Rogers

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

STATE OF TEXAS §
 §
COUNTY OF MCMULLEN §

CONTRIBUTION DEED AND ASSIGNMENT

Rebecca Spears ("Grantor"), as a capital contribution to, and as part of the consideration for her partnership interest in **Shorty Investments, Ltd.**, a Texas limited partnership ("Grantee"), has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, subject to the matters herein set forth, unto Grantee, all lands, including oil, gas and mineral interests in, on, under or that may be produced and saved from all lands, now or hereafter owned by Grantor in McMullen County, Texas, together with all of Grantor's rights, titles, interests and claims to any such lands and minerals, including, without limitation, Grantor's inheritance rights and property interests arising under the Will of Thelma Brite, Deceased (the "Property").

TO HAVE AND TO HOLD the Property, subject to the matters herein set forth, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs and legal representatives to WARRANT AND FOREVER DEFEND, subject to the matters herein set forth, all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Deed, the Property and all of Grantor's warranties are subject to: taxes and assessments on the Property becoming due and payable after the date of this Deed, the payment of which is assumed by Grantee; all existing leases pertaining to the Property and all previously reserved or outstanding royalty and mineral interests in and to the oil, gas and other minerals situated in, on or under or that may be produced from the physical lands described above; any and all valid and existing pooling, unitization, production sharing or similar agreements, declarations or orders, if any, affecting the Property to the extent the same are valid and still in force and effect.

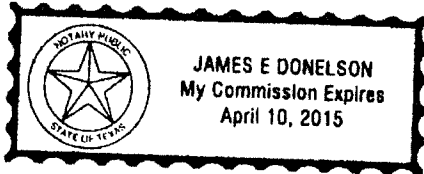
DATED EFFECTIVE: December 5, 2012.

GRANTOR


Rebecca Spears

THE STATE OF TEXAS §
COUNTY OF DEXAR §

This instrument was acknowledged before me on December 26, 2012, by Rebecca Spears.



James E. Donelson
Notary Public, State of Texas

Grantee's address:
Shorty Investments, Ltd.
14722 Keegan
Corpus Christi, TX 78410

After recording, return to:
Susan E. Hutchinson
Davis, Hutchinson & Wilkerson, L.L.P.
802 N. Carancahua, Suite 1270
Corpus Christi, TX 78401

FILED FOR RECORD

This Jan 04, 2013 at 02:44P
HONORABLE DORAIRENE GARZA
CLERK COUNTY COURT McMULLEN CO. TX
BY: Gracie Rios

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, HONORABLE DORAIRENE GARZA, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Jan 04, 2013 at 02:44P and duly recorded the
Jan 04, 2013 in the McMullen County Records of said
County, in VOL 47 on PAGE 831.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

HONORABLE DORAIRENE GARZA
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Gracie Rios

Gracie T. Rios

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

STATE OF TEXAS §
 §
COUNTY OF MCMULLEN §

CONTRIBUTION DEED

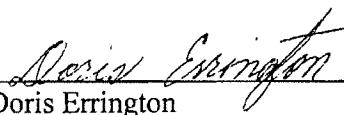
Doris Errington ("Grantor"), as a capital contribution to, and as part of the consideration for her partnership interest in, **Shorty Investments, Ltd.**, a Texas limited partnership ("Grantee"), has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, subject to the matters herein set forth, unto Grantee, all lands owned by Grantor in McMullen County, Texas (the "Property").

TO HAVE AND TO HOLD the Property, subject to the matters herein set forth, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs and legal representatives to WARRANT AND FOREVER DEFEND, subject to the matters herein set forth, all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Deed, the Property and all of Grantor's warranties are subject to: taxes and assessments on the Property becoming due and payable after the date of this Deed, the payment of which is assumed by Grantee; all existing leases pertaining to the Property and all previously reserved or outstanding royalty and mineral interests in and to the oil, gas and other minerals situated in, on or under or that may be produced from the physical tract of land described above; any and all valid and existing pooling, utilization, production sharing or similar agreements, declarations or orders, if any, affecting the Property to the extent the same are valid and still in force and effect; all covenants, conditions, restrictions, reservations, rights-of-way, easements, and other matters evidenced by instruments of record in the Official Public Records of McMullen County, Texas, to the extent the same are valid and in force and effect.

DATED EFFECTIVE: April 1, 2012.

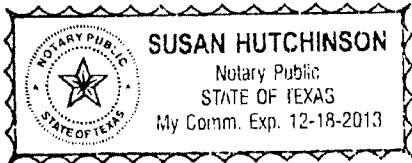
GRANTOR

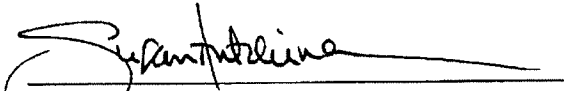

Doris Errington

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

71311 Bk Vol Pg
 OPR 27 851

This instrument was acknowledged before me on April 16, 2012, by Doris Errington.




Notary Public, State of Texas

Grantee's Address:

Shorty Investments, Ltd.
14722 Keegan
Corpus Christi, TX 78410

FILED FOR RECORD

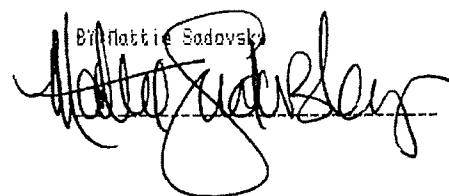
This Apr 20, 2012 at 11:27A
HONORABLE DORAIRENE GARZA
CLERK COUNTY COURT McMULLEN CO. TX
BY: Mattie Sadovsky

After Recording, Return To:

Susan E. Hutchinson
Davis, Hutchinson & Wilkerson, L.L.P.
802 N. Carancahua, Suite 1270
Corpus Christi, TX 78401

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, HONORABLE DORAIRENE GARZA, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Apr 20, 2012 at 11:27A and duly recorded the
Apr 20, 2012 in the McMullen County Records of said
County, in VOL 27 on PAGE 850.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

HONORABLE DORAIRENE GARZA
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

By Mattie Sadovsky


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

STATE OF TEXAS §
 §
COUNTY OF MCMULLEN §

WARRANTY DEED

Gray Mosier, Trustee of the Frances Sturges Reed Trust ("Grantor"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, subject to the matters herein set forth, unto **Shorty Investments, Ltd.**, a Texas limited partnership, all of Grantor's interest in and to the SURFACE ESTATE ONLY OF 1417.32 acres, more or less, of land situated in McMullen County, Texas described on Exhibit "A" attached hereto and incorporated herein for all purposes, including, without limitation, the undivided sixteen percent (16%) interest and other rights, titles and interests conveyed to Grantor in Special Partition Warranty Deed from Iris B. Porter, as Independent Executrix of the Estate of Thelma Brite, Deceased, recorded in Volume 123, Page 47 of the Official Public Records of McMullen County, Texas, reference to which is here made for all purposes (the "Property").

TO HAVE AND TO HOLD the Property, subject to the matters herein set forth, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, subject to the matters herein set forth, all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Deed, the Property and all of Grantor's warranties are subject to: taxes and assessments on the Property becoming due and payable after the date of this Deed, the payment of which is assumed by Grantee; all existing oil, gas and mineral leases pertaining to the Property and all previously reserved or outstanding royalty and mineral interests in and to the oil, gas and other minerals situated in, on or under or that may be produced from the physical tract of land described above; any and all valid and existing pooling, unitization, production sharing or similar agreements, declarations or orders, if any, affecting the Property to the extent the same are valid and still in force and effect; all covenants, conditions, restrictions, reservations, rights-of-way, easements, and other matters evidenced by instruments of record in the Official Public Records of McMullen County, Texas, to the extent the same are valid and in force and effect.

DATED EFFECTIVE: October 1, 2016.

GRANTOR

C Gray Mosier

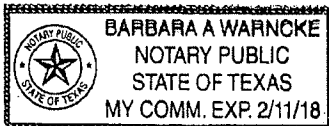
Gray Mosier, Trustee of the
Frances Sturges Reed Trust

[Signature Page to
Warranty Deed]

THE STATE OF TEXAS §

§
COUNTY OF *GUADALUPE* §

This instrument was acknowledged before me on *October 3, 2016*, by
Gray Mosier, Trustee of the Frances Sturges Reed Trust. *BAW*



Barbara A. Warncke

Notary Public, State of Texas

Grantee's Address:

Shorty Investments, Ltd.
14722 Keegan
Corpus Christi, TX 78410

After Recording, Return To:

Susan E. Hutchinson
Davis, Hutchinson & Wilkerson, L.L.P.
802 N. Carancahua, Suite 1270
Corpus Christi, TX 78401

BEGINNING at a set 5/8 inch iron rod and being the common survey corner of the L. Jacob Survey-Abstract 615, the J. Poitevent Survey-Abstract 384, the J. Poitevent Survey-Abstract 386 and the said J. Poitevent Survey-Abstract 383, said 5/8 inch iron rod being the most northern corner of this tract;

THENCE S 27 degrees 17' 12" E - with the common survey corner of said J. Poitevent Survey-Abstract 384 and the said J. Poitevent Survey - Abstract 383, a distance of 5405.01 feet to a set 5/8 inch iron rod on the common survey corner of the said J. Poitevent Survey - Abstract 384, the J. Poitevent Survey - Abstract 383, the J.B. Taylor Survey-Abstract 635 and the B.S. & F. Survey - Abstract 151, said 5/8 inch iron rod being an interior corner of this tract;

THENCE N 62 degrees 57' 14" E - with the common survey line of said J. Poitevent Survey-Abstract 384 and the said B.S. & F. Survey - Abstract 151, a distance of 2049.52 feet to a set 5/8 inch iron rod for a corner of this tract;

THENCE S 27 degrees 06' 54" E - a distance of 6241.98 feet to a set 5/8 inch iron rod on the north right of way line of the CINCO MILLAS ROAD, said 5/8 inch iron rod being the southeast corner of this tract;

THENCE S 40 degrees 38' 16" W - with the north right of way line of said CINCO MILLAS ROAD a distance of 964.08 feet to a set 5/8 inch iron rod for the south - southwest corner of this tract;

THENCE N 53 degrees 59' 46" W - a distance of 9267.62 feet to a set 5/8 inch iron rod for an interior corner of this tract;

THENCE S 62 degrees 55' 09" W - a distance of 7802.65 feet to a set 5/8 inch iron rod on the common survey line between J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, said 5/8 inch rod being the southwest corner of this tract;

THENCE N 27 degrees 15' 04" W with the common survey line of said J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, a distance of 3750.03 feet to a set 5/8 inch iron rod for the common corner of said J. Poitevent Survey - Abstract 388, the J. Poitevent Survey - Abstract 382, the L. Jacob Survey - Abstract 616 and the J. Poitevent Survey - Abstract 387, said 5/8 inch iron rod being the west-northwest corner of this tract;

THENCE N 62 degrees 55' 09" E - with the common survey lines of said J. Poitevent Survey - Abstract 387, J. Poitevent Survey - Abstract 382, J. Poitevent Survey - Abstract 386 and J. Poitevent Survey - Abstract 383, a distance of 10828.44 feet to **THE POINT OF BEGINNING** and containing 1417.32 acres more or less.

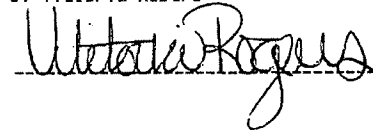
FILED FOR RECORD

This Oct 11, 2016 at 10:09A
MATTIE SADOVSKY
CLERK COUNTY COURT McMULLEN CO. TX
BY: Victoria Rogers

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, MATTIE SADOVSKY, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Oct 11, 2016 at 10:09A and duly recorded the
Oct 11, 2016 in the McMullen County Records of said
County, in VOL 126 on PAGE 653.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

MATTIE SADOVSKY
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Victoria Rogers



CLARIFICATION CONTRIBUTION DEED AND ASSIGNMENT

Date: June 07, 2014

Grantor: JOSEPH R. ERRINGTON

Grantor's Mailing Address: 20011 Messina, San Antonio, Bexar County, Texas 78258

Grantee: SHORTY INVESTMENTS, LTD, a Texas Limited Partnership

Grantee's Mailing Address: 14722 Keegan, Corpus Christi, Nueces County, Texas 78410

Consideration: Ten and No/100 (\$10.00) Dollars and other good and valuable consideration.

Property:

BEING all of the lands, including oil, gas, and mineral interests in, on, under, or that may be produced and saved from all lands, now or hereafter owned by GRANTOR in McMullen County, Texas, together with all of Grantor's rights, titles, interests, and claims to any such lands and minerals, and including Grantor's inheritance rights and property interests arising under the Will of Thelma Brite, Deceased.

LESS HOWEVER, all of Grantor's interest in and to 41.96 acres of land, more or less, and an Easement, both out of the George Evans Survey No. 835, Abstract No. 180, in McMullen County, Texas. Said 41.96 acres and Easement being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

Reservations from and Exceptions to Conveyance and Warranty:

- Easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens and conveyances, that affect the property.
- Taxes and assessments on the property becoming due and payable after the date of this Deed, the payment of which is assumed by Grantee.
- All existing leases pertaining to the property and all previously reserved or outstanding royalty and mineral interests in and to the oil, gas, and other minerals situated in, on, or under or that may be produced from the physical lands described above
- Any and all valid and existing pooling, unitization, productions sharing or similar agreements, declarations, or orders, if any, affecting the property to the extent the same are valid and still in force and effect.

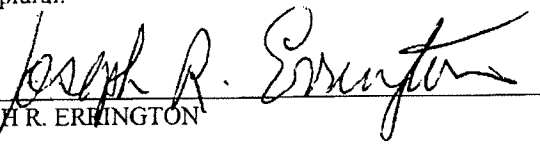
Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, GRANTS, SELLS, AND CONVEYS to Grantee the property, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and to hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and 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.

This Deed is made to clarify the property description in a Deed from Grantor to Grantee, dated December 5, 2012, and recorded under Clerk's Document No. 73830, Official Public Records, McMullen County, Texas. The former Deed described the property to be conveyed as:

"all lands, including oil, gas, and mineral interests in, on, under, or that may be produced and saved from all lands, now or hereafter owned by GRANTOR in McMullen County, Texas, together with all of Grantor's rights, titles, interests, and claims to any such lands and minerals, including Grantor's inheritance rights and property interests arising under the Will

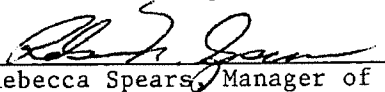
of Thelma Brite. Save and Except and not being conveyed hereby, Grantor's interest in land that is part of the R.S. Franklin Homestead Tract, containing approximately forty (40) acres ("the Property")."
It is Grantor's intent to clarify the exact parcel of land Saved and Excepted from the prior Deed, which was described as approximately forty (40) acres, by replacing such description with the description in Exhibit A attached to this Deed. This Clarification Deed is made by Grantor and accepted by Grantee, is effective on December 5, 2012, and in all other respects confirms the former Deed.

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


JOSEPH R. ERRINGTON

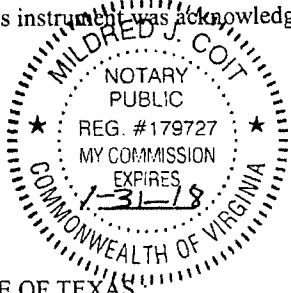
AGREED TO AND ACCEPTED BY:

SHORTY INVESTMENTS, LTD, a Texas
Limited Partnership

By: 
Rebecca Spears, Manager of
Shorty Management GP, LLC,
General Partner

THE STATE OF VIRGINIA :

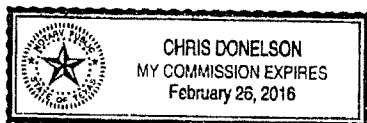
This instrument was acknowledged before me on June 29, 2014, 2014, by Joseph R. Errington.




NOTARY PUBLIC, STATE OF VIRGINIA

THE STATE OF TEXAS:

This instrument was acknowledged before me on July 7, 2014 by
Rebecca Spears, Manager of Shorty Management GP, LLC, General Partner of
Shorty Investments, LTD, in behalf of said Company.




NOTARY PUBLIC, STATE OF TEXAS

AFTER RECORDING RETURN TO:

Shorty Investments, Ltd
14722 Keegan
Corpus Christi, Texas 78410

Exhibit "A"

Property (including any improvements):

PARCEL ONE:

Being 41.96 acres of land in McMullen County, Texas, being 1.62 acres out of Tract 11 allotted to Claude Franklin and 40.34 acres out of Tract 13, The Home Tract, according to a Partition Deed of The Franklin Ranch, recorded in Volume 9, Page 330, Deed Records, McMullen County, Texas. Said property being out of the George Evans Survey No. 835, Abstract 180, and is more particularly described by metes and bounds as follows:

Begin at a fence corner post in the southwest line of Tract 13, said partition, located 2118.29 feet S 15 degrees 28' 08" E from its west corner, said post also being in the upper northeasterly line of a 2498.56 acre tract surveyed this date;

Thence with a fence and line of said 2498.56 acre tract as follows: N 02 degrees 12' 52" E 603.05 feet to a fence corner post; N 47 degrees 07' 22" W 31.03 feet to a fence corner post; N 07 degrees 07' 34" E, at 415.9 feet pass a fence corner post and continuing on the same course (no fence), 573.07 feet in all to the centerline of the San Miguel Creek and being in the westerly line of a 293.41 acre tract surveyed this date;

Thence downstream with said centerline and line of said 293.41 acre tract as follows: S 37 degrees 01' 58" E 599.79 feet; S 41 degrees 14' 40" E 466.80 feet; N 69 degrees 33' 44" E 233.27 feet; N 58 degrees 32' 33" E 115.47 feet and S 86 degrees 17' 21" E 136.72 feet to an interior corner of said 293.41 acre tract;

Thence S 06 degrees 08' 04" W, with a line of said 293.41 acre tract, at 157.4 feet pass a fence corner post and continuing on the same course with said fence, 1603.61 feet in all to a fence corner post;

Thence N 85 degrees 15' 52" W, with fence and line of said 293.41 acre tract, 877.89 feet to a fence corner post for corner in the upper northeast line of said 2498.56 acre tract;

Thence N 08 degrees 11' 54" W, with fence and line of said 2498.56 acre tract, 1037.13 feet to the place of beginning.

PARCEL TWO: "The Right of Way and Easement"

Lying and being situated in McMullen County, Texas and being the non-exclusive right of ingress and egress over and across the above described property, more particularly described as follows:

Situated along the Centerline description of an access easement from the above described property to the Franklin Ranch Road:

BEGIN at a stake in the south line of said 41.96 acre tract and in the middle of a cattle guard located 109.1 feet S 85 degrees 15' 52" E from a fence corner post for its southwest corner,

THENCE with the centerline of a roadway as follows: S 01 degree 10' 13" E 60.47 feet; S 84 degrees 41' 16" E 110.11 feet; S 83 degrees 08' 59" E 97.16 feet; S 63 degrees 42' 55" E 103.66 feet; S 46 degrees 23' 44" E 99.14 feet; S 25 degrees 35' 58" E 98.56 feet; S 14 degrees 51' 36" E 154.50 feet; and S 12 degrees 35' 22" E 379.76 feet to a stake in the centerline of said Franklin Ranch Road from which the middle of a bridge over Live Oak Creek bears S 11 degrees 14' 09" E 81.81 feet.

FILED FOR RECORD


This Jul 10, 2014 at 11:45A
HONORABLE DORAIRENE GARZA
CLERK COUNTY COURT McMULLEN CO. TX
BY: Bailey Serrata

THE STATE OF TEXAS
COUNTY OF McMULLEN

I, HONORABLE DORAIRENE GARZA, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Jul 10, 2014 at 11:45A and duly recorded the
Jul 10, 2014 in the McMullen County Records of said
County in VOL 86 on PAGE 469.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

HONORABLE DORAIRENE GARZA
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Bailey Serrata



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

STATE OF TEXAS §
 §
COUNTY OF MCMULLEN §

CONTRIBUTION DEED AND ASSIGNMENT

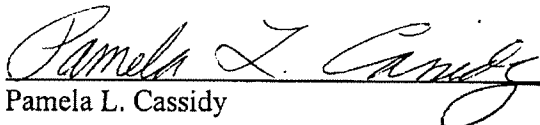
Pamela L. Cassidy ("Grantor"), as a capital contribution to, and as part of the consideration for her partnership interest in **Shorty Investments, Ltd.**, a Texas limited partnership ("Grantee"), has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, subject to the matters herein set forth, unto Grantee, all lands, including oil, gas and mineral interests in, on, under or that may be produced and saved from all lands, now or hereafter owned by Grantor in McMullen County, Texas, together with all of Grantor's rights, titles, interests and claims to any such lands and minerals, including, without limitation, Grantor's inheritance rights and property interests arising under the Will of Thelma Brite, Deceased (the "Property").

TO HAVE AND TO HOLD the Property, subject to the matters herein set forth, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs and legal representatives to WARRANT AND FOREVER DEFEND, subject to the matters herein set forth, all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Deed, the Property and all of Grantor's warranties are subject to: taxes and assessments on the Property becoming due and payable after the date of this Deed, the payment of which is assumed by Grantee; all existing leases pertaining to the Property and all previously reserved or outstanding royalty and mineral interests in and to the oil, gas and other minerals situated in, on or under or that may be produced from the physical lands described above; any and all valid and existing pooling, unitization, production sharing or similar agreements, declarations or orders, if any, affecting the Property to the extent the same are valid and still in force and effect.

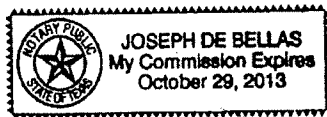
DATED EFFECTIVE: December 5, 2012.

GRANTOR


Pamela L. Cassidy

THE STATE OF TEXAS §
§
COUNTY OF NUECES §

This instrument was acknowledged before me on December 31, 2012, by Pamela L. Cassidy.



Joseph De Bellas

Notary Public, State of Texas

Grantee's address:
Shorty Investments, Ltd.
14722 Keegan
Corpus Christi, TX 78410

After recording, return to:
Susan E. Hutchinson
Davis, Hutchinson & Wilkerson, L.L.P.
802 N. Carancahua, Suite 1270
Corpus Christi, TX 78401

FILED FOR RECORD

This Jan 04, 2013 at 02:50P
HONORABLE DORAIRENE GARZA
CLERK COUNTY COURT McMULLEN CO. TX
BY: Gracie Rios

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, HONORABLE DORAIRENE GARZA, Clerk of the County Court of said county, do hereby certify that the foregoing instrument of writing, with its certificate of authentication was filed for record in my office this Jan 04, 2013 at 02:50P and duly recorded the Jan 04, 2013 in the McMullen County Records of said County, in VOL 47 on PAGE 833.
Witness my hand and the seal of the County Court of said County at the office in TILDEN, TEXAS
the day and year last above written.

HONORABLE DORAIRENE GARZA
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Gracie Rios

Gracie Rios

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

STATE OF TEXAS §
 §
COUNTY OF MCMULLEN §

CONTRIBUTION DEED AND ASSIGNMENT


Thelma Cooper ("Grantor"), as a capital contribution to, and as part of the consideration for her partnership interest in **Shorty Investments, Ltd.**, a Texas limited partnership ("Grantee"), has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, subject to the matters herein set forth, unto Grantee, all lands, including oil, gas and mineral interests in, on, under or that may be produced and saved from all lands, now or hereafter owned by Grantor in McMullen County, Texas, together with all of Grantor's rights, titles, interests and claims to any such lands and minerals, including, without limitation, Grantor's inheritance rights and property interests arising under the Will of Thelma Brite, Deceased (the "Property").

TO HAVE AND TO HOLD the Property, subject to the matters herein set forth, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs and legal representatives to WARRANT AND FOREVER DEFEND, subject to the matters herein set forth, all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Deed, the Property and all of Grantor's warranties are subject to: taxes and assessments on the Property becoming due and payable after the date of this Deed, the payment of which is assumed by Grantee; all existing leases pertaining to the Property and all previously reserved or outstanding royalty and mineral interests in and to the oil, gas and other minerals situated in, on or under or that may be produced from the physical lands described above; any and all valid and existing pooling, unitization, production sharing or similar agreements, declarations or orders, if any, affecting the Property to the extent the same are valid and still in force and effect.

DATED EFFECTIVE: December 5, 2012.

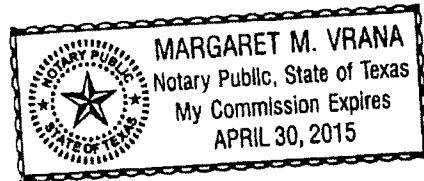
GRANTOR



Thelma Cooper

THE STATE OF TEXAS §
§
COUNTY OF Wmson §

This instrument was acknowledged before me on December 18, 2012, by Thelma Cooper.



Margaret M. Vrana
Notary Public, State of Texas

Grantee's address:

Shorty Investments, Ltd.
14722 Keegan
Corpus Christi, TX 78410

FILED FOR RECORD

This Jan 04, 2013 at 02:37P
HONORABLE DORAIRENE GARZA
CLERK COUNTY COURT McMULLEN CO. TX
BY: Gracie Rios

After recording, return to:

Susan E. Hutchinson
Davis, Hutchinson & Wilkerson, L.L.P.
802 N. Carancahua, Suite 1270
Corpus Christi, TX 78401

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, HONORABLE DORAIRENE GARZA, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Jan 04, 2013 at 02:37P and duly recorded the
Jan 04, 2013 in the McMullen County Records of said
County in VOL 47 on PAGE 829.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

HONORABLE DORAIRENE GARZA
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Gracie Rios

Gracie E. Rios

SPECIAL WARRANTY DEED

STATE OF TEXAS §

COUNTY OF MCMULLEN §

Brenda Jean Duerer, whose address is 3458 CR 707, Kosse, Texas 76653, as "Grantor", for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, BARGAIN, SELL, and CONVEY unto **Shorty Investments, Ltd.**, as "Grantee", whose address is 619 Hillsong, San Antonio, Texas 78258, all of Grantor's undivided interest in and to the surface estate, including "Surface Minerals" as hereinafter defined, of that certain tract of 1,417.32 acres of land, more or less, in McMullen County, Texas, (the "Property"), described by deed dated June 8th, 2016 from Iris B. Porter, Independent Executrix of the Estate of Thelma Brite, to Barbara Bacon, et al., recorded as Instrument No. 82311, Volume 123, Page 47 of the Official Public Records of McMullen County, Texas; and described by metes and bounds in *Exhibit "A"*, attached hereto and incorporated herein for all purposes.

TO HAVE AND TO HOLD together with, all and singular, the rights and appurtenances thereto belonging, to Grantee and Grantee's successors and assigns forever, subject to the provisions hereof; together with all improvements, fixtures and buildings thereon, if any, and all rights and appurtenances belonging or pertaining to the Property.

1. **Surface Minerals.** As used herein, "Surface Minerals" shall refer to any of the following: coal, lignite, iron ore, limestone, caliche, clay, kaolin, gravel, surface shale, and any other substances considered part of the surface estate as a matter of law as of the Effective Date of this instrument. The interests granted and conveyed to Grantee herein include all of Grantor's right, title and interest in the "Surface Minerals", on and under the Property, to have and to hold unto Grantee, their heirs and assigns forever. Grantor grants, conveys and quitclaims to Grantee all of Grantor's right to enter or use any portion of the Property for purposes of exploring for, mining or developing any Surface Minerals herein conveyed, subject to the reservations contained in this instrument.
2. **Reservation of Oil, Gas and Other Minerals.** Grantor expressly reserves unto Grantor, their heirs and assigns, and saves and excepts from this conveyance all interest in oil, gas and the other minerals not expressly conveyed herein, together with the rights of ingress and egress for purposes of drilling, exploring, operating and developing said lands for oil, gas and other minerals not conveyed herein, and removing the same therefrom, and all such other rights and implied easements appurtenant to the mineral estate, including the right to reasonable use of the Surface Minerals on the Property for the purposes of drilling, exploring, operating and developing the oil, gas and other minerals reserved herein.

3. **Exceptions.** This Special Warranty Deed and the Property described herein are subject to all applicable laws, ordinances, easements, leases, oil, gas and other mineral leases, restrictions, reservations, covenants, or other instruments either of record or evidenced by improvements upon the ground and to the extent same are in force, and to the rights of parties in possession, if any.

4. **Ad Valorem Taxes.** This conveyance is being made by Grantor and accepted by Grantee subject to ad valorem taxes and assessments for the year 2021. Grantee expressly assumes liability for the payment of ad valorem taxes assessed against the interests conveyed herein for the year 2021 and for subsequent years.

5. **Warranties and Representations.**

(A) **Condition of Property.** GRANTEE REPRESENTS AND WARRANTS THAT IT IS FAMILIAR WITH THE CONDITION OF THE PROPERTY AND EXPRESSLY ACKNOWLEDGES THAT THE PROPERTY IS BEING SOLD BY GRANTOR AND ACCEPTED BY GRANTEE IN ITS "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. GRANTOR HAS NOT MADE AND MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN THE SPECIAL WARRANTIES OF TITLE SET FORTH HEREIN), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION.

(B) **Special Warranty.** Subject to the exceptions and reservations specified herein, Grantor, hereby binds itself and its respective heirs, successors, and assigns to warrant and forever defend, all and singular, the interests conveyed herein in and to the Property unto the Grantee and Grantee's 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.

6. **Entire Agreement.** This Special Warranty Deed contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this instrument, and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. This instrument shall be construed as if all parties have contributed equally to the drafting of this instrument and, as such, this instrument shall not be construed more strongly against any party.

7. **Effective Date.** This Special Warranty Deed is executed as of the date of acknowledgment of

the parties' signatures below and deemed effective for all purposes as of AUGUST 26
 , 2021.

8. **Recording.** This Special Warranty Deed shall be recorded in the official public records of McMullen County, Texas.

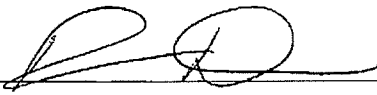
[Signatures and Acknowledgements on the Following Pages].

[Attachments: Exhibit "A"- Property Description/Survey].

AGREED AND ACKNOWLEDGED:

Grantor:

Brenda Jean Duerer

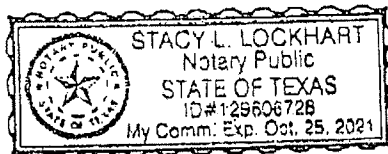
By: 
Brenda Jean Duerer

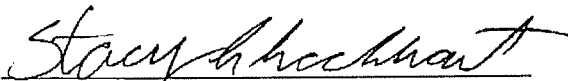
STATE OF TEXAS §

COUNTY OF Limestone §

This instrument was acknowledged before me on the 26th day of August, 2021,
by **Brenda Jean Duerer**.

NOTARY STAMP OR SEAL




Notary Public in and for the State of Texas

AGREED, ACCEPTED AND ACKNOWLEDGED:

Grantee:

Shorty Investments, Ltd.

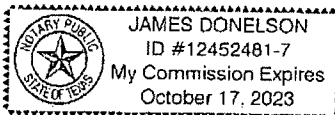
By: Rebecca N. Spears
Rebecca N. Spears, General Partner

STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me on the 30 day of August, 2021, by Rebecca N. Spears, General Partner of Shorty Investments, Ltd., on behalf of said limited partnership.

NOTARY STAMP OR SEAL



James Donelson
Notary Public in and for the State of Texas

After recording, please return to:

Rebecca Spears
Shorty Investments, Ltd.
619 Hillsong
San Antonio, TX 78258

EXHIBIT "A"
(1417.32 Acre Fee Estate)

BEGINNING at a set 5/8 inch iron rod and being the common survey corner of the L. Jacob Survey-Abstract 615, the J. Poitevent Survey-Abstract 384, the J. Poitevent Survey-Abstract 386 and the said J. Poitevent Survey-Abstract 383, said 5/8 inch iron rod being the most northern corner of this tract;

THENCE S 27 degrees 17' 12" E - with the common survey corner of said J. Poitevent Survey-Abstract 384 and the said J. Poitevent Survey - Abstract 383, a distance of 5405.01 feet to a set 5/8 inch iron rod on the common survey corner of the said J. Poitevent Survey - Abstract 384, the J. Poitevent Survey - Abstract 383, the J.B. Taylor Survey-Abstract 635 and the B.S. & F. Survey - Abstract 151, said 5/8 inch iron rod being an interior corner of this tract;

THENCE N 62 degrees 57' 14" E - with the common survey line of said J. Poitevent Survey-Abstract 384 and the said B.S. & F. Survey - Abstract 151, a distance of 2049.52 feet to a set 5/8 inch iron rod for a corner of this tract;

THENCE S 27 degrees 06' 54" E - a distance of 6241.98 feet to a set 5/8 inch iron rod on the north right of way line of the CINCO MILLAS ROAD, said 5/8 inch iron rod being the southeast corner of this tract;

THENCE S 40 degrees 38' 16" W - with the north right of way line of said CINCO MILLAS ROAD a distance of 964.08 feet to a set 5/8 inch iron rod for the south - southwest corner of this tract;

THENCE N 53 degrees 59' 46" W - a distance of 9267.62 feet to a set 5/8 inch iron rod for an interior corner of this tract;

THENCE S 62 degrees 55' 02" W - a distance of 7802.65 feet to a set 5/8 inch iron rod on the common survey line between J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, said 5/8 inch rod being the southwest corner of this tract;

THENCE N 27 degrees 15' 04" W with the common survey line of said J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, a distance of 3750.03 feet to a set 5/8 inch iron rod for the common corner of said J. Poitevent Survey - Abstract 388, the J. Poitevent Survey - Abstract 382, the L. Jacob Survey - Abstract 616 and the J. Poitevent Survey - Abstract 387, said 5/8 inch iron rod being the west-northwest corner of this tract;

THENCE N 62 degrees 55' 09" E - with the common survey lines of said J. Poitevent Survey - Abstract 387, J. Poitevent Survey - Abstract 382, J. Poitevent Survey - Abstract 386 and J. Poitevent Survey - Abstract 383, a distance of 10828.44 feet to **THE POINT OF BEGINNING** and containing 1417.32 acres more or less.


FILED FOR RECORD

This Aug 30, 2021 at 01:16P
MATTIE SADOVSKY
CLERK COUNTY COURT McMULLEN CO. TX
BY: Victoria Streeter

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, MATTIE SADOVSKY, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Aug 30, 2021 at 01:16P and duly recorded the
Aug 30, 2021 in the McMullen County Records of said
County, in VOL 176 on PAGE 446.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

MATTIE SADOVSKY
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Victoria Streeter



SPECIAL WARRANTY DEED

STATE OF TEXAS §

COUNTY OF MCMULLEN §

Linda Kay Manley, whose address is 7902 FM 979, Cameron, Texas 75620, as "Grantor", for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, BARGAIN, SELL, and CONVEY unto **Shorty Investments, Ltd.**, as "Grantee", whose address is 619 Hillsong, San Antonio, Texas 78258, all of Grantor's undivided interest in and to the surface estate, including "Surface Minerals" as hereinafter defined, of that certain tract of 1,417.32 acres of land, more or less, in McMullen County, Texas, (the "Property"), described by deed dated June 8th, 2016 from Iris B. Porter, Independent Executrix of the Estate of Thelma Brite, to Barbara Bacon, et al., recorded as Instrument No. 82311, Volume 123, Page 47 of the Official Public Records of McMullen County, Texas; and described by metes and bounds in *Exhibit "A"*, attached hereto and incorporated herein for all purposes.

TO HAVE AND TO HOLD together with, all and singular, the rights and appurtenances thereto belonging, to Grantee and Grantee's successors and assigns forever, subject to the provisions hereof; together with all improvements, fixtures and buildings thereon, if any, and all rights and appurtenances belonging or pertaining to the Property.

1. **Surface Minerals.** As used herein, "Surface Minerals" shall refer to any of the following: coal, lignite, iron ore, limestone, caliche, clay, kaolin, gravel, surface shale, and any other substances considered part of the surface estate as a matter of law as of the Effective Date of this instrument. The interests granted and conveyed to Grantee herein include all of Grantor's right, title and interest in the "Surface Minerals", on and under the Property, to have and to hold unto Grantee, their heirs and assigns forever. Grantor grants, conveys and quitclaims to Grantee all of Grantor's right to enter or use any portion of the Property for purposes of exploring for, mining or developing any Surface Minerals herein conveyed, subject to the reservations contained in this instrument.
2. **Reservation of Oil, Gas and Other Minerals.** Grantor expressly reserves unto Grantor, their heirs and assigns, and saves and excepts from this conveyance all interest in oil, gas and the other minerals not expressly conveyed herein, together with the rights of ingress and egress for purposes of drilling, exploring, operating and developing said lands for oil, gas and other minerals not conveyed herein, and removing the same therefrom, and all such other rights and implied easements appurtenant to the mineral estate, including the right to reasonable use of the Surface Minerals on the Property for the purposes of drilling, exploring, operating and developing the oil, gas and other minerals reserved herein.

3. **Exceptions.** This Special Warranty Deed and the Property described herein are subject to all applicable laws, ordinances, easements, leases, oil, gas and other mineral leases, restrictions, reservations, covenants, or other instruments either of record or evidenced by improvements upon the ground and to the extent same are in force, and to the rights of parties in possession, if any.
4. **Ad Valorem Taxes.** This conveyance is being made by Grantor and accepted by Grantee subject to ad valorem taxes and assessments for the year 2021. Grantee expressly assumes liability for the payment of ad valorem taxes assessed against the interests conveyed herein for the year 2021 and for subsequent years.

5. **Warranties and Representations.**

(A) **Condition of Property.** GRANTEE REPRESENTS AND WARRANTS THAT IT IS FAMILIAR WITH THE CONDITION OF THE PROPERTY AND EXPRESSLY ACKNOWLEDGES THAT THE PROPERTY IS BEING SOLD BY GRANTOR AND ACCEPTED BY GRANTEE IN ITS "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. GRANTOR HAS NOT MADE AND MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN THE SPECIAL WARRANTIES OF TITLE SET FORTH HEREIN), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION.

(B) **Special Warranty.** Subject to the exceptions and reservations specified herein, Grantor, hereby binds itself and its respective heirs, successors, and assigns to warrant and forever defend, all and singular, the interests conveyed herein in and to the Property unto the Grantee and Grantee's 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.

6. **Entire Agreement.** This Special Warranty Deed contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this instrument, and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. This instrument shall be construed as if all parties have contributed equally to the drafting of this instrument and, as such, this instrument shall not be construed more strongly against any party.
7. **Effective Date.** This Special Warranty Deed is executed as of the date of acknowledgment of

the parties' signatures below and deemed effective for all purposes as of August 21, 2021, 2021.

8. **Recording.** This Special Warranty Deed shall be recorded in the official public records of McMullen County, Texas.

[Signatures and Acknowledgements on the Following Pages].

[Attachments: Exhibit "A"- Property Description/ Survey].

AGREED AND ACKNOWLEDGED:

Grantor:

Linda Kay Manley

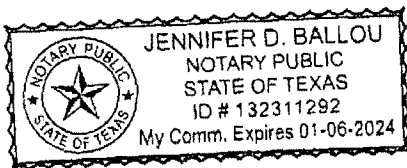
By: Linda Kay Manley
Linda Kay Manley

STATE OF TEXAS §

COUNTY OF Limestone §

This instrument was acknowledged before me on the 19th day of August, 2021,
by **Linda Kay Manley**.

NOTARY STAMP OR SEAL

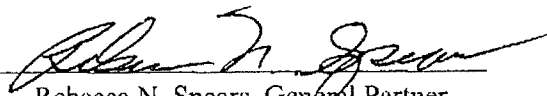


JENNIFER D. BALLOU
Notary Public in and for the State of Texas

AGREED, ACCEPTED AND ACKNOWLEDGED:

Grantee:

Shorty Investments, Ltd.

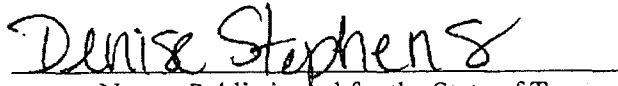
By: 
Rebecca N. Spears, General Partner

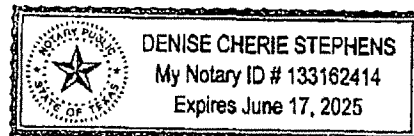
STATE OF TEXAS §

COUNTY OF Bexar §

This instrument was acknowledged before me on the 21 day of August, 2021, by Rebecca N. Spears, General Partner of Shorty Investments, Ltd., on behalf of said limited partnership.

NOTARY STAMP OR SEAL


Notary Public in and for the State of Texas



After recording, please return to:

Rebecca Spears
Shorty Investments, Ltd.
619 Hillsong
San Antonio, TX 78258

EXHIBIT "A"
(1417.32 Acre Fee Estate)

BEGINNING at a set 5/8 inch iron rod and being the common survey corner of the L. Jacob Survey-Abstract 615, the J. Poitevent Survey-Abstract 384, the J. Poitevent Survey-Abstract 386 and the said J. Poitevent Survey-Abstract 383, said 5/8 inch iron rod being the most northern corner of this tract;

THENCE S 27 degrees 17' 12" E - with the common survey corner of said J. Poitevent Survey-Abstract 384 and the said J. Poitevent Survey - Abstract 383, a distance of 5405.01 feet to a set 5/8 inch iron rod on the common survey corner of the said J. Poitevent Survey - Abstract 384, the J. Poitevent Survey - Abstract 383, the J.B. Taylor Survey-Abstract 635 and the B.S. & F. Survey - Abstract 151, said 5/8 inch iron rod being an interior corner of this tract;

THENCE N 62 degrees 57' 14" E - with the common survey line of said J. Poitevent Survey-Abstract 384 and the said B.S. & F. Survey - Abstract 151, a distance of 2049.52 feet to a set 5/8 inch iron rod for a corner of this tract;

THENCE S 27 degrees 06' 54" E - a distance of 6241.98 feet to a set 5/8 inch iron rod on the north right of way line of the CINCO MILLAS ROAD, said 5/8 inch iron rod being the southeast corner of this tract;

THENCE S 40 degrees 38' 16" W - with the north right of way line of said CINCO MILLAS ROAD a distance of 964.08 feet to a set 5/8 inch iron rod for the south - southwest corner of this tract;

THENCE N 53 degrees 59' 46" W - a distance of 9267.62 feet to a set 5/8 inch iron rod for an interior corner of this tract;

THENCE S 62 degrees 55' 09" W - a distance of 7802.65 feet to a set 5/8 inch iron rod on the common survey line between J. Poitevent Survey - Abstract 388 and the said J. Poitevent Survey - Abstract 382, said 5/8 inch rod being the southwest corner of this tract;

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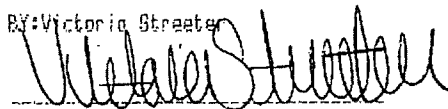
FILED FOR RECORD

This Aug 30, 2021 at 01:16P
MATTIE SADOVSKY
CLERK COUNTY COURT McMULLEN CO. TX
BY: Victoria Streeter

THE STATE OF TEXAS
COUNTY OF McMULLEN
I, MATTIE SADOVSKY, Clerk of the County Court
of said county, do hereby certify that the foregoing
instrument of writing, with its certificate of
authentication was filed for record in my office
this Aug 30, 2021 at 01:16P and duly recorded the
Aug 30, 2021 in the McMullen County Records of said
County, in VOL 176 on PAGE 439.
Witness my hand and the seal of the County Court of said
County at the office in TILDEN, TEXAS
the day and year last above written.

MATTIE SADOVSKY
CLERK, COUNTY COURT, McMULLEN COUNTY, TEXAS

BY: Victoria Streeter



Christina Bourque

From: PUBCOMMENT-OCC
Sent: Tuesday, November 29, 2022 8:17 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0002043000
Attachments: 2022.11.28 Swaims' Comments and PM Request.pdf

PM

From: marisa@txenvirolaw.com <marisa@txenvirolaw.com>
Sent: Monday, November 28, 2022 3:40 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0002043000

REGULATED ENTY NAME SAN MIGUEL ELECTRIC PLANT

RN NUMBER: RN100226539

PERMIT NUMBER: WQ0002043000

DOCKET NUMBER:

COUNTY: ATASCOSA, MCMULLEN

PRINCIPAL NAME: SAN MIGUEL ELECTRIC COOPERATIVE INC

CN NUMBER: CN600132278

FROM

NAME: Marisa Perales

EMAIL: marisa@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX: 5124829346

COMMENTS: Please see the attached comment letter and request for a public meeting filed on behalf of Arthur Wayne Swaim and Sherrill Swaim.

PERALES, ALLMON & ICE, P.C.

ATTORNEYS AT LAW

1206 San Antonio Street
Austin, Texas 78701
(512) 469-6000 • (512) 482-9346 (facsimile)
info@txenvirolaw.com

Of Counsel:
David Frederick
Richard Lowerre
Brad Rockwell

November 28, 2022

Laurie Gharis
Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Request for Public Meeting and Comments on the Application of San Miguel Electric Cooperative, Inc. for Major Amendment to TPDES Permit No. WQ0002043000.

Dear Ms. Gharis:

We are submitting the following request for a public meeting and comments on behalf of Arthur Wayne Swaim and Sherrill Swaim (the "Swaims") regarding the Application of San Miguel Electric Cooperative, Inc. ("Applicant" or "SMECI") for a major amendment to TPDES Permit No. WQ0002043000 (the "Application").

I. Background and Compliance History

SMECI has applied for a major amendment to its TPDES permit at its San Miguel lignite mine (the "Facility") related to its ongoing lignite mining activities and its proposed expansion. This Draft Permit would authorize "the expansion of lignite mining activities including: the addition of new mining area X, Y, and Z; the addition of five proposed treatment ponds (X-1, X-2, Y-1, Z-1, and Z-2); the addition of five proposed outfall locations (055, 056, 058, 059, and 060); a revision of mining area 11H; the addition of proposed treatment pond O; and the addition of proposed Outfall 057; each of which will discharge mine pit water, mine depressurization water, and stormwater on an intermittent and flow-variable rate." The six proposed new outfalls would discharge effluent through various tributaries and creeks, and ultimately to the Atascosa River in Segment No 2107, San Miguel Creek in Segment No. 2108, and the Frio River Above Choke Canyon Reservoir in Segment No. 2117 of the Nueces River Basin. Segments 2108 and 2117 are immediately upstream from the Choke Canyon Reservoir, while Segment 2107 flows to the Frio River immediately downstream of the Choke Canyon Reservoir. All segments are currently impaired.

SMECI has been issued four Notices of Violation by TCEQ since 2020 for violations of this TPDES permit, including one as recent as August 31, 2022 for "[f]ailure to meet the limit for one or more permit parameter."

Additionally, SMECI has had a number of TCEQ enforcement actions against it in recent years, related to several of its permits. A simple search of the TCEQ Commissioners' Integrated Database reveals that the Regulated Entity associated with this TPDES permit (RN100226539) has three active enforcement actions against it, one of which (TCEQ Docket No. 2017-0200-MLM-E) is associated with violation of SMECI's other TPDES permit at its wastewater treatment facility (RN102342961). It is clear, based on SMECI's persistent violations and enforcement actions, that SMECI would rather pay penalties to TCEQ than comply with the terms of its permits. Based on the Applicant's compliance history, the Application should be denied.

II. Request for a Public Meeting

The Swaims request that the Executive Director ("ED") hold a public meeting in Atascosa or McMullen County in order to inform the public about the Application and to obtain public input. TPDES permits for mining activities such as the Applicant's are unique. The existing permit already regulates many outfalls (points of discharge) over a large area. With this major amendment, many more ponds and structures would be added to the existing permit as the mining activities expand. This major amendment would, according to Application materials, add six new ponds and six new outfalls, bringing the total number of ponds regulated by this permit to 46 and the total number of outfalls to 45.

Though the Facility will utilize ponds for treatment, information related to the construction of the proposed ponds is not included with this Application. Much of the activity authorized is governed by the Texas Railroad Commission. Related expansion activity that would be authorized by the RRC is currently the subject of a pending contested case hearing. Furthermore, the Applicant's compliance history, as explained in more detail above, demonstrates a willful failure to abide by TCEQ and RRC regulations.

Finally, downstream of many of these existing and proposed outfalls is the Choke Canyon Reservoir, which is co-owned and operated as a municipal water supply. The co-owners are the Nueces River Authority, the City of Corpus Christi, and the City of Three Rivers.¹

In short, Applicant's Draft TPDES Permit is complex. Public information and accountability is lacking. And the Draft Permit, particularly given its broad scope and the Applicant's poor compliance history, poses a threat to surface water quality, groundwater quality, and even the municipal water supply for those who rely on the Choke Canyon Reservoir.

Pursuant to 30 Tex. Admin. Code § 55.154(c), the ED may, at his own discretion, hold a public meeting at any time, and *shall* hold a public meeting when there is a significant degree of public interest in an application. As has been demonstrated by this request and the request submitted by the Nueces River Authority, there is significant public interest in this Application, and it is appropriate to hold a public meeting in order to inform the public and hear public input. For these reasons, the ED should hold a public meeting.

¹ Nueces River Authority's Request for a Contested Case Hearing and Public Meeting (Oct. 28, 2022).

III. Issues of Concern

The Swaims raise several issues of concern related to the Application and the Draft Permit. Based on publicly available materials, the Applicant has not been demonstrated that the Application and the Draft Permit meet all applicable regulatory requirements, including the following:

- A. Whether the Application contains all items and information necessary to be administratively and technically complete under the Commission's rules;
- B. Whether the wastewater and stormwater generating process descriptions set forth in the Application are sufficiently specific to properly quantify and regulate contributions and discharges from all sources of pollutants at the Facility;
- C. Whether all pollutants and constituents that will be treated and/or discharged by the Applicant have been identified, quantified, and addressed in the Application and Draft Permit;
- D. Whether the Applicant's industrial wastewater and stormwater management ponds and other infrastructure are adequate to prevent unauthorized discharges and meet effluent limitations;
- E. Whether the outfalls and discharge routes have been properly identified and characterized;
- F. Whether the Application complies with antidegradation requirements or will impair the existing uses of the receiving waters;
- G. Whether the Draft Permit will be protective of water quality pursuant to the Texas Surface Water Quality Standards;
- H. Whether the Draft Permit will be protective of groundwater quality and nearby water wells;
- I. Whether the Draft Permit will be protective of the Swaims' health, and aquatic and terrestrial life;
- J. Whether the Draft Permit will be protective of the Swaims' use and enjoyment of their property;
- K. Whether the Draft Permit complies with the applicable siting requirements in 30 Tex. Admin. Code, Chapter 309;
- L. Whether the Draft Permit has sufficiently definite terms and conditions to ensure that compliance with all applicable water quality standards and regulations;

M. Whether the Draft Permit includes sufficient monitoring and reporting requirements, including operational requirements, to ensure compliance with all applicable water quality standards and regulations;

N. Whether notice was proper; and

O. Whether the Draft Permit should be denied or altered based on compliance history.

IV. Conclusion

For the reasons stated above, the Swaims respectfully request a public meeting be held on the Application. Further, the Swaims request that the public meeting take place in person, in Atascosa or McMullen County, to allow for effective public participation. The area of the proposed mining expansion is in a rural area, and internet access may be unreliable for many of the interested residents in the area. Accordingly, the public meeting should take place in person, at an accessible place and time.

Respectfully submitted,

/s/ Lauren Ice

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CHIEF CLERKS OFFICE

October 28, 2022

Ms. Laurie Gharis
Chief Clerk (MC 105)
MC-105
P.O. Box 13087
Austin, Texas 78711-3087

REVIEWED

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By GAN pm H

VIA FIRST CLASS MAIL
AND ELECTRONIC FILING

RE: San Miguel Electric Cooperative, Inc. – Application to Amend TPDES Permit
Number WQ0002043000 (3542-01);
Request for a Contested Case Hearing and Public Hearing

Dear Ms. Gharis:

On behalf of the Nueces River Authority (the “Authority”), please consider this letter as a formal request for a contested case hearing on the above-referenced Texas Pollutant Discharge Elimination System (“TPDES”) permit application (“Application”) filed with the Texas Commission on Environmental Quality (“TCEQ”) by San Miguel Electric Cooperative, Inc. (“Applicant”) and the above-referenced application to amend TPDES Permit No. WQ0002043000 (the “Application”).

I. REQUEST FOR CONTESTED CASE HEARING

The Authority was created by the Texas Legislature in 1935 to protect, preserve, plan, and develop water resources in the Nueces River Basin, with the specific purpose of “conservation and development of the state’s natural resources within the Nueces River Basin, including ... the maintenance and enhancement of the quality of water...”¹ The Authority functions as a regional water resource planning agency, among other responsibilities, as it is the only governmental entity with jurisdiction throughout the Nueces River and adjoining coastal basins. The Authority monitors activities at the state and federal levels that could affect Nueces River Basin interests and responds as appropriate.

The Authority is a co-owner of 139,000 acre-feet of water in the Choke Canyon Reservoir located on the Frio River in Live Oak County, Texas, as authorized under Certificate of Adjudication No. 21-3214, as amended (“COA 21-3214”). The other co-owners are the City of Corpus Christi, Texas and the City of Three Rivers, Texas (collectively, “Cities”). The Authority assists the Cities with the protection of water resources and water availability issues and works with the Cities to protect the water quality and water supply in the Choke Canyon Reservoir.

¹ H.B. 1590, 63rd Reg. Session, at 1-2; available at https://lrl.texas.gov/LASDOCS/63R/HB1590/HB1590_63R.pdf

TCEQ received the Application on April 4, 2022. The Application is for a major amendment to the TPDES permit tied to the expansion of lignite mining activities, including the addition of a new mining area, the addition of proposed treatment ponds, and the addition of six outfalls, each of which will discharge mine pit water, mine depressurization water, and stormwater on an intermittent and flow-variable rate. The effluent is discharged through several unnamed tributaries and ultimately into the Atascosa River in Segment No. 2107, San Miguel Creek in Segment No. 2108, and the Frio River Above Choke Canyon Reservoir in Segment No. 2117, all which drain into Choke Canyon Reservoir.

The Authority requests a contested case hearing, as the Authority is an “affected person” within the meaning of 30 Tex. Admin. Code §§ 55.103 and 55.203. An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by issuance of the Draft Permit.² Governmental entities, including local governments, may be considered affected persons.³ All relevant factors must be considered by the TCEQ in determining affected persons status, including: (1) whether the interest claimed is one protected by 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; (5) the likely impact of the regulated activity on use of the impacted natural resource by the person; (6) whether the requestor submitted comments on the Application that were not withdrawn; and, (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the Application.*⁴ Additionally, the TCEQ may consider: (1) the merits of the Application, including whether the Application meets the requirements for permit issuance; (2) the Executive Director’s (“ED’s”) analysis and opinions; and (3) other expert reports, affidavits, opinions, and data.⁵

II. THE AUTHORITY HAS A PERSONAL JUSTICIABLE INTEREST AFFECTED BY THE APPLICATION

The Authority has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is not common to the general public and that would be adversely affected should the draft permit in the Application be issued. The Authority is the entity charged by the Texas Legislature to protect water resources in the Nueces River Basin. The Application, if approved by the TCEQ, would impact water quality in the basin and impact the Authority’s downstream water rights under COA 21-3214.

The Application addresses discharges of mine pit water, mine depressurization water, and stormwater into Segment Nos. 2107, 2108, and 2117, and as stated above, the Authority is concerned with the water quality implications of such discharges. Furthermore, the health of

² 30 Tex. Admin. Code § 55.103.

³ *Id.* § 55.203(b).

⁴ *Id.* § 55.203(c) (emphasis added).

⁵ *Id.* § 55.203(d).

certain segments is already jeopardized, as several are listed in the Section 303(d) list to the federal Clean Water Act.⁶ Segment Nos. 2107, 2108, and 2117 are impaired for bacteria in the water, and Choke Canyon Reservoir is listed for excessive algal growth. If the TCEQ approves the application, the increase in outfalls and proposed discharges may negatively affect the already-impaired downstream water quality. The designated uses for these segments are primary contact recreation, public water supply, high aquatic life use, and aquifer protection.

The Authority is also concerned with the Applicant's ability to comply with the proposed permit limits. The Applicant has previously had two TCEQ enforcement orders issued for water quality violations, as well as a non-permitted sediment deposit violation with the Texas Railroad Commission.⁷ The water quality violations included the unauthorized discharge of industrial wastewater and a failure to maintain ash ponds in compliance with the TPDES permit. While the Application includes permissible limits for the discharges, the Applicant's history of poor maintenance practices increases the risk to water quality in the Nueces River Basin.

III. DISPUTED FACTS AND LAW TO BE REFERRED FOR A CONTESTED CASE HEARING

In addition to the foregoing bases to grant the Authority's hearing request, the Authority reasserts that it is an affected person and thus entitled to a hearing because it is the entity charged by the Texas Legislature to protect water resources in the Nueces River Basin, and the Application, if approved, will have an impact on water quality. In accordance with 30 Tex. Admin. Code § 55.201(d)(4)(B), the Authority requests a contested case hearing on the application to amend TPDES Permit No. WQ0002043000 regarding the following issues:

- (1) Whether the draft permit complies with the Texas Surface Water Quality Standards and is protective of surface water quality;
- (2) Whether the draft permit is protective of groundwater and nearby water wells in the area;
- (3) Whether the anti-degradation review complies with applicable regulations and the draft permit includes adequate nutrient limits;
- (4) Whether the draft permit is protective of livestock, wildlife, and aquatic life;
- (5) Whether the draft permit complies with applicable siting requirements in 30 Texas Administrative Code Chapter 309, including adequate prevention of nuisance odors and vectors and compliance with floodplain and wetland siting requirements; and
- (6) Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need under Texas Water Code § 26.0282.

⁶ 2022 Texas Integrated Report – Texas 303(d) List (Category 5), July 7, 2022; available at <https://www.tceq.texas.gov/downloads/water-quality/assessment/integrated-report-2022/2022-303d.pdf>; This report “identifies water bodies in or bordering Texas for which effluent limitations are not stringent enough to implement water quality standards . . .”

⁷ TCEQ Agreed Order Docket Nos. 2015-1640-IWD-E and 2017-0200-MLM-E; Texas Railroad Commission Notice of Violation 114A.

October 28, 2022

Page 4

This is not an exhaustive list, and upon review of the draft permit, the Authority reserves its right to provide additional subjects for review.

IV. REQUEST FOR A PUBLIC MEETING

The Authority also requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ's regulations in 30 TAC § 55.154(c) provide that "[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings," and that "[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application." Accordingly, the Authority, on behalf of the natural resources and the public relying upon the health of such natural resources, has a significant and substantial interest in the Application. The Authority is willing to work with the TCEQ and the Applicant to determine a location for such a public meeting.

V. CONCLUSION

For the foregoing reasons and because this request substantially complies with the requirements of a contested case hearing request per 30 Tex. Admin. Code § 55.201, the Authority files these comments on and requests a public meeting and a contested case hearing in this matter regarding the above-listed issues. The Authority reserves the right to raise and pursue any and all issues that may be relevant to its interest in the event of a contested case hearing. All official communication may be directed to my attention at:

Mr. Nathan E. Vassar
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5867
Email: nvassar@lglawfirm.com

I appreciate your attention to this request. Please do not hesitate to contact me if you have questions.

Sincerely,



Nathan E. Vassar

cc: John J. Byrum II, Nueces River Authority
Lora Naismith, Lloyd Gosselink Rochelle & Townsend, P.C.

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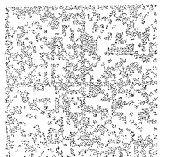
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<p>Lloyd Gosselink ATTORNEYS AT LAW Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Avenue Suite 1900 Austin, Texas 78701</p>	<p>TO: MS. LAURIE GITHARIS CHIEF CLERK (MC 105) P.O. BOX 13087 AUSTIN, TX, 78711-3087</p>
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Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Friday, October 28, 2022 4:02 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0002043000
Attachments: 2022.10.28 NRA Request for Contested Case Hearing on San Miguel Application to Amend WQ0002043000 .pdf

PM
H

From: dgalvan@lglawfirm.com <dgalvan@lglawfirm.com>
Sent: Friday, October 28, 2022 3:07 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0002043000

REGULATED ENTY NAME SAN MIGUEL ELECTRIC PLANT

RN NUMBER: RN100226539

PERMIT NUMBER: WQ0002043000

DOCKET NUMBER:

COUNTY: ATASCOSA, MCMULLEN

PRINCIPAL NAME: SAN MIGUEL ELECTRIC COOPERATIVE INC

CN NUMBER: CN600132278

FROM

NAME: Dubelza Galvan

EMAIL: dgalvan@lglawfirm.com

COMPANY: Lloyd Gosselink

ADDRESS: 816 CONGRESS AVE Ste. 1900
AUSTIN TX 78701-2442

PHONE: 5123225824

FAX:

COMMENTS: Nueces River Authority formal request for public meeting and contested case hearing.

October 28, 2022

Ms. Laurie Gharis
Chief Clerk (MC 105)
MC-105
P.O. Box 13087
Austin, Texas 78711-3087

VIA FIRST CLASS MAIL
AND ELECTRONIC FILING

RE: San Miguel Electric Cooperative, Inc. – Application to Amend TPDES Permit
Number WQ0002043000 (3542-01);
Request for a Contested Case Hearing and Public Hearing

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October 28, 2022

Page 4

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V. CONCLUSION

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Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5867
Email: nvassar@lglawfirm.com

I appreciate your attention to this request. Please do not hesitate to contact me if you have questions.

Sincerely,



Nathan E. Vassar

cc: John J. Byrum II, Nueces River Authority
Lora Naismith, Lloyd Gosselink Rochelle & Townsend, P.C.