

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
v.	§	
	§	CIVIL NO. 9:14-cv-138
JOHN PARKS TROWBRIDGE, JR.	§	
	§	
Defendant.	§	

MOTION FOR ORDER OF SALE AND TO VACATE PROPERTY

The United States moves for an Order of Sale and to Vacate Property. An Order of Sale and to Vacate Property should be issued for the following reasons:

On March 3, 2016, the Court adopted the report and recommendation that the United States' Motion for Summary Judgment be granted and the motion to dismiss filed by Trowbridge be denied. (Dkt. #66.) The Court entered Final Judgment in favor of the United States and ordered that:

The United States' federal tax liens have attached to the Tyler County property, the Tyler County property belongs to Trowbridge and the United States may enforce its federal tax liens against such property and foreclose upon and sell the Tyler County Property using the sale proceeds to help satisfy the tax liabilities.¹

28 U.S.C. § 2001(a) empowers the Court to set the terms and conditions of a sale of real property that is sold under any decree or order of the Court. Section 2001 provides a rigorous procedure for the public sale of real property, including a requirement that the sale take place in the county in which the property is located. The Court has broad discretion in setting the terms

¹ (Dkt. #67.)

and conditions of a sale under 28 U.S.C. § 2001. *United States v. Branch Coal Corp.*, 390 F.2d 7, 10 (3d Cir. 1968); *United States v. Heasley*, 283 F.2d 422 (8th Cir. 1960); *United States v. Hunwardsen*, 39 F. Supp.2d 1157 (N.D. Iowa 1999).

The United States requests that the Court allow the Internal Revenue Service (“IRS”) to sell the Tyler County property. The IRS has created a unit that specializes in selling real and personal property, according to Internal Revenue Manual Section 5.10.8. This section authorizes an employee (Property Appraisal and Liquidation Specialist, or PALS) of the IRS to sell property in which the United States has brought an action to foreclose a lien on a taxpayer’s property or right to property. The PALS unit has experience in efficiently selling property across the country and its members receive extensive training on the appraisal and sale of property.

Also, John Parks Trowbridge, Jr. should be ordered to vacate the Property so that the IRS PALS can take control of the property in order to sell it, as provided in the proposed Order.

The attached proposed Order of Sale fully complies with the terms of the Final Judgment and with 28 U.S.C. §§ 2001, 2002 and 2004.

WHEREFORE, the United States requests this Court enter the attached Order of Sale to allow the IRS to conduct the sale, and to grant such further relief to which the United States is entitled.

Respectfully submitted,

JOHN MALCOLM BALES
UNITED STATES ATTORNEY

/s/ Joshua Smeltzer
JOSHUA D. SMELTZER
U.S. Department of Justice
Attorney, Tax Division – CTS-SW
Admitted pursuant to 28 U.S.C. §517
717 N. Harwood, Suite 400
Dallas, Texas 75201
(214) 880 9735
(214) 880 9741 (FAX)
Joshua.D.Smeltzer@usdoj.gov

ATTORNEY FOR UNITED STATES

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, with accompanying proposed order of sale, was filed with the Court's ECF filing system that will send notification to all counsel of record. A copy was also served via United States Mail, postage pre-paid, as follows:

John Parks Trowbridge, Jr.
9816 Memorial Boulevard, No. 205
Humble, Texas 77338

/s/ Joshua Smeltzer
JOSHUA D. SMELTZER

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN PARKS TROWBRIDGE, JR.

Defendant.

§
§
§
§
§
§
§
§

CIVIL NO. 9:14-cv-138

ORDER OF SALE AND TO VACATE PROPERTY

In the Final Judgment entered on March 3, 2016 (Dkt. #67), this Court ordered that the United States' federal tax liens have attached to the Tyler County property (legal description attached as Exhibits A-1, A-2 and A-3), the Tyler County property belongs to Trowbridge and the United States may enforce its federal tax liens against such property and foreclose upon and sell the Tyler County property using the sale proceeds to help satisfy the tax liabilities.

Accordingly, it is **ORDERED** as follows:

1. The subject real property to be sold (the "Property") is located in Tyler County, Texas, and is legally described in attached exhibits A-1, A-2 and A-3.
2. The Internal Revenue Service's Property Appraisal & Liquidation Specialist (defined as "PALS") is authorized and directed under 28 U.S.C. §§ 2001, 2002 and 2004, to offer for public sale and to sell the Property, together with any improvements, buildings and appurtenances thereon;
3. The PALS is authorized to have free access to the Property and to take all actions appropriate to preserve the Property, including, without limitation, retaining a locksmith or other

person, if necessary, to change or install locks or other security devices on the Property, until the deed thereto is delivered to the successful purchaser;

4. The terms and conditions of the sale are as follows:

a. The sale of the Property shall be free and clear of all liens or other claims of any party to this proceeding;

b. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Property and easements and restrictions of record, if any;

c. The sale of the Property by public auction, shall be held on the front steps of the Dallas County Courthouse, Texas, or on the above Property, in accordance with the provisions of 28 U.S.C. §§ 2001, 2002 and 2004;

d. The date and time for sale is to be announced by the PALS;

e. After the PALS has determined the date and time for sale, they shall insert the same in the Notice of Sale and shall promptly mail a copy of the Notice of Sale, by regular mail and by certified mail, return receipt requested, to each of the following:

Joshua D. Smeltzer
Trial Attorney, Tax Division
U.S. Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
Attorney for United States

John Parks Trowbridge, Jr.
9816 Memorial Boulevard, No. 205
Humble, Texas 77338

f. The date and time of such public auction sale shall also be announced by the PALS by advertising the Notice of Sale, once each week for four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation in Dallas County, Texas, and at the discretion the PALS by any other notice that the PALS deems appropriate. The Notice of Sale will contain a description of the Property and the terms and conditions of the sale in this order of sale;

g. The minimum bid will be determined by the PALS and shall be inserted into the Notice of Sale. If the minimum bid is not met or exceeded, the PALS may, without further permission of this Court, and under the terms and conditions in this order of sale, hold a new public sale, if necessary, and reduce the minimum bid;

h. Each successful bidder shall be required to deposit at the time of the sale with the PALS a minimum of ten percent (20%) of the minimum bid, with the deposit to be made by certified check or cashier's check, payable to the United States District Court, immediately upon the Property being struck off and awarded to the highest and best bidder. Before being permitted to bid at the sale, bidders shall display to the PALS proof that they are able to comply with this requirement. No bids will be received from anyone who has not presented that proof;

i. The balance of the purchase price for the Property shall be paid to the PALS within thirty (30) days after the date the bid is accepted, by a certified or cashier's check, payable to the United States District Court. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and shall be applied to cover the expenses of the sale, with any amount remaining to be applied to the federal tax liabilities at issue of defendant John Parks Trowbridge, Jr. The Clerk shall distribute the deposit as directed by the PALS, by check made payable to the "United States Treasury." The Property shall be again offered for sale under the terms and conditions of the order of sale or, in the alternative, sold to the second highest bidder. The United States may bid as a credit against its judgment without tender of cash;

j. The Clerk of the Court shall receive and deposit all funds collected as a result of the foreclosure and sale of this Property, into the registry of the Court. Such funds shall then be deposited by the Clerk of the Court into an interest bearing account for later distribution.

k. The sale of the Property will confirm itself within thirty-five (35) days from the date of sale, unless someone objects to the sale. Upon this self-confirmation, or later confirmation by the Court if an objection is filed, the IRS will execute and deliver a deed conveying the Property to the purchaser. On confirmation of the sale, all interests in, liens against, or claims to, the Property that are held or asserted by any parties to this action are discharged and extinguished;

l. The sale is ordered under 28 U.S.C. §§ 2001, 2002 and 2004 and is made without right of redemption;

5. Until John Parks Trowbridge, Jr. vacates the Property, Defendant John Parks Trowbridge, Jr. will take reasonable steps necessary to preserve the Property (including any and

all buildings, improvements, fixtures and appurtenances on the Property) in its current condition including without limitation, maintaining fire and casualty insurance policies on the Property. John Parks Trowbridge, Jr. will not commit waste against the Property, nor shall they cause or permit anyone else to do so. John Parks Trowbridge, Jr. will not do anything that tends to reduce the value or marketability of the Property, nor will they cause or permit anyone else to do so. John Parks Trowbridge, Jr. will not record any instruments or liens against the Property, publish any notice, or engage in any other action (such as running newspaper advertisements) that may directly or indirectly tend to adversely affect the value of the Property or that may tend to discourage potential bidders from participating in the public auction, nor will they cause or permit anyone else to do so.

6. All persons or businesses occupying the Property in any manner, if any, will leave and vacate the Property permanently within thirty (30) days of the date they are served with this Order, each taking his or her personal property (but leaving all improvements, possible buildings, fixtures, and appurtenances to the property). If any person fails or refuses to vacate the Property by the date specified in this Order, the PALS are authorized to coordinate with the United States Marshals Service to take all actions that are reasonably necessary to have those persons ejected. This includes that the United States Marshals Service is authorized and directed to take any and all necessary actions, including but not limited to the use of reasonable force, to enter and remain on the premises, which includes, but is not limited to, the land, the buildings, vehicles and any structures located thereon, for the purpose of executing this Order. The United States Marshals Service is further authorized and directed to arrest and/or evict from the premises any and all persons who obstruct, attempt to obstruct, or interfere or attempt to interfere, in any way with the execution of the Order of Sale, including any supplemental or amended Order of Sale. If any

person fails or refuses to remove his or her personal property from the Property by the time specified herein, the personal property remaining on the subject property thereafter is deemed forfeited and abandoned, and the IRS and its employees are authorized to remove it and to dispose of in any manner the IRS sees fit, including sale, in which case the proceeds of the sale are to be applied to the costs of such disposal and then to the tax liabilities of John Parks Trowbridge, Jr.

7. Any attempt to reenter the Property after they have vacated it, could subject that person(s) to being found in contempt of the Court, and that such contempt could be punishable by a fine, incarceration, or both. Finally, the United States Marshals Service is to provide notice of the order to defendant John Parks Trowbridge, Jr., and any other resident of the Property by hand delivery or by leaving it in a prominent location at the Property.

8. No later than two (2) business days after vacating the Property pursuant to the deadline set forth in paragraph 6 above, defendant John Parks Trowbridge, Jr., shall notify counsel for the United States of a forwarding address where they can be reached. Notification shall be made by contacting the attorney for the United States, Joshua D. Smeltzer, in writing at 717 N. Harwood, Suite 400, Dallas, Texas 75201.

9. After the sale is confirmed, the Court shall distribute the proceeds of the sale, as far as they shall be sufficient, to the following items, in the order specified:

- a. First, to any costs or fees owing to the Clerk;
- b. Second, to the IRS for the costs of the sale;
- c. Third, to any ad valorem taxes due:

d. Fourth, the remaining proceeds shall be applied to the unpaid federal tax liabilities of John Parks Trowbridge, Jr.; and

e. should the United States inform the Court that the portion of the proceeds from the sale which are being applied to John Parks Trowbridge, Jr.'s unpaid federal tax liabilities exceed the amount of his liabilities, such excess amount shall be held by the Court until further Order of the Court.

10. The clerk shall immediately mail a copy of this order to all counsel and parties of record.

EXHIBIT A
FIELDNOTE DESCRIPTION
(2 PAGES)

FIELDNOTES TO 12.857 ACRES OF LAND AS SITUATED IN THE CULLEN ARNETT SURVEY, A-39, TYLER COUNTY, TEXAS AND BEING A OUT OF AND A PART OF THAT SAME CALLED 75 ACRES, MORE OR LESS, DESIGNATED AS "TRACT NO. 1" AS CONVEYED TO HARRY W. STAFFORD BY DEED RECORDED IN VOLUME 610, PAGE 494 OF THE OFFICIAL PUBLIC RECORDS OF TYLER COUNTY. SAID 12.857 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A RAILROAD RAIL FOUND ON THE NORTHEAST SIDE OF COUNTY ROAD NO. 3050 FOR THE MOST EASTERLY SOUTHEAST CORNER OF SAID STAFFORD 75 ACRES AND THE SOUTHEAST CORNER OF THIS TRACT, SAME BEING THE NORTHEAST CORNER OF THE JIM NUGENT 5.00 ACRE TRACT AS RECORDED IN VOLUME 465, PAGE 941 OF THE TYLER COUNTY DEED RECORDS AND BEING LOCATED ON THE WEST LINE OF THE BAILEY WAYNE BUTLER 25.411 ACRE TRACT AS RECORDED IN VOLUME 548, PAGE 610 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE S 87°24'W, WITH THE SOUTH LINE OF SAID STAFFORD 75 ACRES AND THE NORTH LINE OF SAID NUGENT 5.00 ACRES TRACT, AT 26.00 FT. PASS THE CENTER OF SAID COUNTY ROAD, IN ALL A TOTAL OF 526.45 FT. TO A 1-1/2" IRON PIPE FOUND FOR THE NORTHWEST CORNER OF SAME AND THE SOUTHWEST CORNER OF THIS TRACT AND SAME BEING THE MOST SOUTHERLY SOUTHEAST CORNER OF A 1.893 ACRE TRACT SURVEYED THIS DATE OUT OF SAID STAFFORD 75 ACRES;

THENCE N 01°45'40"W, WITH THE LOWER EAST LINE OF SAID 3.232 ACRE TRACT, AT 33.40 FT, AGAIN PASS THE CENTER OF SAID COUNTY ROAD, IN ALL A TOTAL OF 1034.67 FT. TO A 1/2" IRON ROD SET FOR AN INTERIOR ANGLE CORNER OF SAME AND BEING THE MOST WESTERLY NORTHWEST CORNER OF THIS TRACT;

THENCE N 42°48'E 42.74 FT., WITH THE SOUTHEAST LINE OF SAID 1.893 ACRE TRACT, TO A 1/2" IRON ROD SET FOR ANOTHER INTERIOR ANGLE CORNER OF SAME AND BEING THE MOST NORTHERLY NORTHWEST CORNER OF THIS TRACT;

THENCE N 87°22'15"E 496.46 FT., WITH A SOUTH LINE OF SAID 1.893 ACRES, TO A 5/8" IRON ROD FOUND FOR THE SOUTHEAST OF SAME AND THE NORTHEAST CORNER OF THIS TRACT AN INTERIOR ANGLE CORNER OF THE STAFFORD 75 ACRES AND SAME BEING THE NORTHWEST CORNER OF THE PREVIOUSLY MENTIONED BAILEY WAYNE BUTLER 25.411 ACRE TRACT;

THENCE S 01°45'40"E 1064.94 FT., WITH THE WEST LINE OF SAID BUTLER 25.411 ACRES AND THE LOWER EAST LINE OF SAID STAFFORD 75 ACRES, TO PLACE OF BEGINNING AND CONTAINING WITHIN THESE BOUNDS 12.857 ACRES OF LAND.


COUNTY CLERK'S MEMO
PORTIONS OF THIS DOCUMENT NOT
LEGIBLE AND/OR REPRODUCIBLE WHEN
RECEIVED. BUT RECORDED AT CUS
TOMER'S REQUEST
[Signature]
DEPUTY

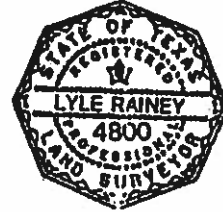


PAGE 3
12.857 ACRES

SURVEYED MARCH 2, 1999

I, LYLE RAINEY, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4800, DO HEREBY CERTIFY THAT THE FIELDNOTE DESCRIPTION OF THE ABOVE DESCRIBED TRACT WAS PREPARED FROM AN ACTUAL AND ACCURATE ON THE GROUND SURVEY AND THAT SAME IS TRUE AND CORRECT.


LYLE RAINEY
REGISTERED PROFESSIONAL
LAND SURVEYOR/NO. 4800

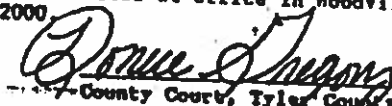


THE STATE OF TEXAS
COUNTY OF TYLER

I hereby certify that the foregoing instrument with its certificate of authentication was filed for record in my office on the 4 day of January 2000 at 11:30 o'clock A. M. and was this day duly recorded at 9:00 A.M., in Vol. 669 Pages 556 et seq. OFFICIAL PUBLIC RECORDS of said County.

Witness my hand and official seal at office in Woodville this 5 day of January 2000.




Donnie Thomas, Clerk,
County Court, Tyler County, Texas

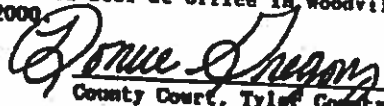
By Dean Rivers Deputy

THE STATE OF TEXAS
COUNTY OF TYLER

I hereby certify that the foregoing instrument with its certificate of authentication was filed for record in my office on the 26 day of July 2000 at 1:00 o'clock P. M. and was this day duly recorded at 9:00 A.M., in Vol. 679 Pages 323 et seq. OFFICIAL PUBLIC RECORDS of said County.

Witness my hand and official seal at office in Woodville this 27 day of July 2000.




Donnie Thomas, Clerk,
County Court, Tyler County, Texas

By Jean Jordan Deputy

EXHIBIT "A"

FIELDNOTE DESCRIPTION

EASTERN HALF (9.302 ACRES) OF TRACT DESCRIBED:

FIELDNOTES TO 18.605 ACRES OF LAND AS SITUATED IN THE CULLEN ARNETT SURVEY, A-39, TYLER COUNTY, TEXAS AND BEING A OUT OF AND A PART OF THAT SAME CALLED 75 ACRES, MORE OR LESS, DESIGNATED AS "TRACT NO. 1" AS CONVEYED TO HARRY W. STAFFORD BY DEED RECORDED IN VOLUME 610, PAGE 494 OF THE OFFICIAL PUBLIC RECORDS OF TYLER COUNTY. SAID 605 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A PINE KNOT STAKE FOUND ON THE EAST LINE OF THE ROBERT LUCAS SURVEY, A-24, AND THE WEST LINE OF SAID ARNETT SURVEY FOR THE SOUTHWEST CORNER OF SAID STAFFORD 75 ACRES AND OF THIS TRACT AND SAME BEING THE NORTHWEST CORNER OF THE EARL N. HAMILTON 37.55 ACRE TRACT RECORDED IN VOLUME 332, PAGE 233 OF THE TYLER COUNTY DEED RECORDS;

THENCE N 03°10'25"W, WITH THE COMMON LINE BETWEEN SAID LUCAS AND ARNETT SURVEYS AND WEST LINE OF SAID STAFFORD 75 ACRE TRACT, AT 305.80 FT. PASS THE CENTER OF COUNTY ROAD NO. 3050, IN ALL A TOTAL OF 1048.27 FT. TO A 1/2" IRON ROD SET FOR THE NORTHWEST CORNER OF THIS TRACT AND BEING THE SOUTHWEST CORNER OF A 17.29 ACRE TRACT SURVEYED THIS DATE OUT OF SAID STAFFORD 75 ACRES;

THENCE N 87°22'15"E 780.55 FT., WITH THE SOUTH LINE OF SAID 17.299 ACRE TRACT, TO A 1/2" IRON ROD SET FOR THE SOUTHEAST CORNER OF SAME AND THE NORTHEAST CORNER OF THIS TRACT ON THE WEST LINE OF A 1.893 ACRE TRACT ALSO SURVEYED THIS DATE OUT OF SAID 77 ACRES;

THENCE S 01°45'40"E, WITH THE WEST LINE OF SAID 1.893 ACRE TRACT, AT 1031.56 FT. PASS THE CENTER OF SAID COUNTY ROAD, IN ALL A TOTAL OF 1063.66 FT. TO A 1/2" IRON ROD SET FOR THE SOUTHEAST CORNER OF THIS TRACT ON THE SOUTH LINE OF THE SAID STAFFORD 75 ACRES AND ON THE NORTH LINE OF THE ABOVE MENTIONED HAMILTON 37.55 ACRE TRACT;

THENCE S 88°32'W 754.63 FT., WITH THE SOUTH LINE OF SAID 75 ACRES AND THE NORTH LINE OF SAID HAMILTON TRACT, TO THE PLACE OF BEGINNING AND CONTAINING WITHIN THESE BOUNDS 18.605 ACRES OF LAND.

SURVEYED MARCH 2, 1999

I, LYLE RAINEY, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4800, DO HEREBY CERTIFY THAT THE FIELDNOTE DESCRIPTION OF THE ABOVE DESCRIBED TRACT WAS PREPARED FROM AN ACTUAL AND ACCURATE ON THE GROUND SURVEY AND THAT SAME IS TRUE AND CORRECT.

Lyle Rainey
LYLE RAINEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 4800



THE STATE OF TEXAS
COUNTY OF TYLER

I hereby certify that the foregoing instrument with its certificate of authentication was filed for record in my office on the 4 day of January 2000 at 11:32 o'clock A. M. and was this day duly recorded at 9:00 A.M., in Vol. 669 Pages 566 et seq. OFFICIAL PUBLIC RECORDS of said County.

Witness my hand and official seal at office in Woodville this 5 day of January 2000.



Donna Johnson Clerk,
County Court, Tyler County, Texas

By *Dean Bivens* Deputy

THE STATE OF TEXAS
COUNTY OF TYLER

I hereby certify that the foregoing instrument with its certificate of authentication was filed for record in my office on the 26 day of July 2000 at 1:00 o'clock P. M. and was this day duly recorded at 9:00 A.M., in Vol. 679 Pages 330 et seq. OFFICIAL PUBLIC RECORDS of said County.

Witness my hand and official seal at office in Woodville this 27 day of July 2000.



Donna Johnson Clerk,
County Court, Tyler County, Texas

By *Kevin* Deputy

Exhibit

A-2

00-2615

VOL 679 PAGE 337

**PRIVATE ROADWAY EASEMENT
AND UTILITY EASEMENT**

The State of Texas)
)
Harris county)

KNOW ALL MEN BY THESE PRESENTS:

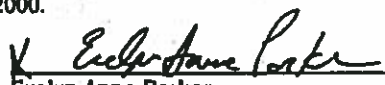
That I, Evelyn Anne Parker (hereinafter referred to as Seller), have SOLD, ASSIGNED, and CONVEYED to Ideal Abilities (hereinafter referred to as Buyer) a private roadway easement and right-of-way over, across, through, and under a certain tract of land in the Cullen Arnett Survey, Abstract No. 39, Tyler county, The State of Texas, (as recorded at volume 669, page 560 of the records of Tyler county), being 50 feet in width and being 1.893 acres, more or less, more particularly described by metes and bounds as shown on the Exhibit "A" attached hereto and made a part hereof for all intents and purposes, for the purpose of establishing, constructing, maintaining, repairing, and reconstructing said private roadway and ingress and egress over and through said private roadway.

And under the same terms Seller does further sell, assign, and convey to Buyer, his successors, executors, administrators, heirs, and assigns, a general utility easement along said private roadway easement for the purposes of installing and maintaining utilities.

TO HAVE AND TO HOLD said private roadway easement and right-of-way and general utility easement and all rights and benefits necessary and convenient for the full use and enjoyment of the rights herein sold to the Buyer, his heirs, administrators, successors, executors, and assigns forever; provided, however, that the use of the easement across the above described property shall not be exclusive with Buyer but is in common with other original Grantees and the original Grantor, their heirs, executors, administrators, successors, assigns, and tenants.

Seller and Buyer agree that, when the context requires, singular nouns and pronouns include the plural. Seller and Buyer further agree that, where any paragraph or sentence of this warranty deed might be severable under final formal order of a court of competent jurisdiction, the remaining paragraphs and sentences shall stand intact as the full and final agreement.

EXECUTED this 10th day of July, 2000.



Evelyn Anne Parker

The State of Texas)
)
Harris county)

This instrument was acknowledged before me as a free act and deed on the 10th day of July, 2000, by Evelyn Anne Parker.



NOTARY PUBLIC, STATE OF TEXAS

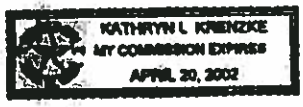


EXHIBIT A

FIELDNOTE DESCRIPTION
(2 PAGES)

FIELDNOTES TO 1.893 ACRES OF LAND AS SITUATED IN THE CULLEN ARNETT SURVEY, A-39, TYLER COUNTY, TEXAS AND BEING A OUT OF AND A PART OF THAT SAME CALLED 75 ACRES, MORE OR LESS, DESIGNATED AS "TRACT NO. 1" AS CONVEYED TO HARRY W. STAFFORD BY DEED RECORDED IN VOLUME 610, PAGE 494 OF THE OFFICIAL PUBLIC RECORDS OF TYLER COUNTY. SAID 1.893 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1-1/2" IRON PIPE FOUND ON THE SOUTH LINE OF SAID STAFFORD 75 ACRES FOR THE MOST SOUTHERLY SOUTHEAST CORNER OF THIS TRACT AND THE SOUTHWEST CORNER OF A 12.857 ACRE TRACT SURVEYED THIS DATE OUT OF SAID 75 ACRES AND SAME BEING THE NORTHWEST CORNER OF THE JIM NUGENT 5.00 ACRE TRACT RECORDED IN VOLUME 465, PAGE 941 AND BEING THE NORTHEAST CORNER OF THE EARL N. HAMILTON 37.55 ACRE TRACT RECORDED IN VOLUME 332, PAGE 223 OF THE DEED RECORDS OF TYLER COUNTY;

THENCE N 01°45'40"W, WITH THE WEST LINE OF SAID 12.857 ACRE TRACT, AT 33.40 FT. PASS THE CENTER OF COUNTY ROAD NO. 3050, IN ALL A TOTAL OF 1034.67 FT. TO A 1/2" IRON ROD SET FOR THE MOST WESTERLY NORTHWEST CORNER OF SAID 12.857 ACRES AND AN INTERIOR ANGLE CORNER OF THIS TRACT;

THENCE N 42°48'E 42.74 FT., WITH THE NORTHWEST LINE OF SAID 12.857 ACRES, TO A 1/2" IRON ROD SET FOR THE MOST NORTHERLY NORTHWEST CORNER OF SAME AND ANOTHER INTERIOR ANGLE CORNER OF THIS TRACT;

THENCE N 87°22'15"E 496.46 FT., WITH THE NORTH LINE OF SAID 12.857 ACRES, TO A 5/8" IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAME AND THE MOST EASTERLY SOUTHEAST CORNER OF THIS TRACT AND THE SOUTHWEST CORNER OF A 12.689 ACRE TRACT SURVEYED THIS DATE OUT OF SAID 75 ACRES;

THENCE N 01°45'40"W 50.00 FT., WITH THE WEST LINE OF SAID 12.689 ACRES, TO A 1/2" IRON ROD SET FOR THE NORTHEAST CORNER OF THIS TRACT, SAME BEING THE SOUTHEAST CORNER OF A 11.942 ACRE TRACT ALSO SURVEYED THIS DATE OUT OF SAID STAFFORD 75 ACRES;

THENCE S 87°22'15"W 576.46 FT., WITH THE SOUTH LINE OF SAID 11.942 ACRE TRACT, TO A 1/2" IRON ROD SET FOR THE SOUTHWEST CORNER OF SAME AND THE NORTHWEST CORNER OF THIS TRACT ON THE EAST LINE OF A 17.299 ACRE TRACT SURVEYED THIS DATE OUT OF SAID STAFFORD 75 ACRES;

EXHIBIT "A"

PAGE 2
1.693 ACRES

THENCE S 01°45'40"E, AT 50.00 FT. PASS THE SOUTHEAST CORNER OF SAID 17.299 ACRES AND THE NORTHEAST CORNER OF AN 18.605 ACRE TRACT ALSO SURVEYED OUT OF SAID 75 ACRES AND CONTINUING WITH THE EAST LINE OF SAID 18.605 ACRES, AT 1081.56 FT. AGAIN PASS THE CENTER OF COUNTY ROAD NO. 3050, IN ALL A TOTAL OF 1113.66 FT. TO A 1/2" IRON ROD SET FOR THE SOUTHEAST OF SAID 18.605 ACRES AND THE SOUTHWEST CORNER OF THIS TRACT ON THE SOUTH LINE OF SAID 75 ACRES AND THE NORTH LINE OF THE PREVIOUSLY MENTIONED HAMILTON 37.55 ACRE TRACT;

THENCE N 88°32'E 50.00 FT., WITH THE NORTH LINE OF SAID HAMILTON TRACT AND THE SOUTH LINE OF SAID STAFFORD 75 ACRES, TO THE PLACE OF BEGINNING AND CONTAINING WITHIN THESE BOUNDS 1.693 ACRES OF LAND.

SURVEYED MARCH 2, 1999

I, LYLE RAINEY, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4800, DO HEREBY CERTIFY THAT THE FIELDNOTE DESCRIPTION OF THE ABOVE DESCRIBED TRACT WAS PREPARED FROM AN ACTUAL AND ACCURATE ON THE GROUND SURVEY AND THAT SAME IS TRUE AND CORRECT.

Lyle Rainey
LYLE RAINEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 4800



EXHIBIT "A"

Page 2 of 2

THE STATE OF TEXAS
COUNTY OF TYLER

I hereby certify that the foregoing instrument with its certificate of authentication was filed for record in my office on the 4 day of January 2000 at 1:30 o'clock P.M. and was this day duly recorded at 9:00 A.M., in Vol. 669 Pages 562 et seq. OFFICIAL PUBLIC RECORDS of said County.

Witness my hand and official seal at office in Woodville this 5 day of January 2000



Donna Ingram Clerk,
County Court, Tyler County, Texas

Dean Green Deputy

THE STATE OF TEXAS
COUNTY OF TYLER

I hereby certify that the foregoing instrument with its