



## Filing Receipt

**Received - 2023-03-20 03:12:00 PM**

**Control Number - 52531**

**ItemNumber - 43**

PUC DOCKET NO. 52531

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| PETITION BY E REAL ESTATE, LLC  | § | BEFORE THE                |
| FOR EXPEDITED RELEASE FROM      | § |                           |
| WATER CCN NO. 10150             | § | PUBLIC UTILITY COMMISSION |
| HELD BY MARILEE SPECIAL UTILITY | § |                           |
| DISTRICT IN COLLIN COUNTY       | § | OF TEXAS                  |

**PETITIONER'S SUPPLEMENTAL AFFIDAVITS**

On March 7, 2023, the administrative law judge (“ALJ”) filed Order No. 16, allowing E Real Estate, LLC, (“Petitioner”) to file with the Public Utility Commission of Texas (the “PUC”) additional evidence to supplement its petition for expedited release from Marilee Special Utility District (“Marilee SUD”) water certificate of convenience and necessity (“CCN”) No. 10150 pursuant to (i) Texas Water Code Section 13.2541 and (ii) 16 Texas Administrative Code Section 24.245. Specifically, the ALJ allowed Petitioner to file supplemental information to prove that Meter Nos. 77, 315, and 360 do not lie within the boundaries of the East Tract, or to amend its petition to exclude those meters, by March 20, 2023.

In support thereof, Petitioners hereby provide the attached affidavits of Mr. Van D. Nichols and Ms. Leah Stout, as well as related attachments that provide further evidence of the location of Meter Nos. 77, 315, and 360. Petitioners respectfully request a finding consistent with the information provided by the affidavits of Mr. Nichols and Ms. Stout, as well as the supplemental attachments provided therein, that Meter Nos. 77, 315, and 360 do not lie within the boundaries of area or areas sought for decertification in this matter.

Respectfully submitted,

COATS | ROSE

By:



Natalie B. Scott  
State Bar No. 24027970  
nscott@coatsrose.com

Kevin R. Bartz  
State Bar No. 24101488  
kbartz@coatsrose.com

Terrace 2  
2700 Via Fortuna, Suite 350  
Austin, Texas 78746  
(512) 469-7987 Telephone  
(512) 469-9408 Telecopier

**ATTORNEY FOR PETITIONER  
E REAL ESTATE, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of March, 2023, a true and correct copy of this document was served on all parties of record in this proceeding by electronic mail and by filing on the PUC Interchange System.

**Counsel for Marilee SUD:**

John J. Carlton  
The Carlton Law Firm, P.L.L.C.  
4301 Westbank Drive, Suite B-130  
Austin, Texas 78746  
Email: [john@carltonlawaustin.com](mailto:john@carltonlawaustin.com)

**Attorney for Commission Staff:**

Phillip Lehmann  
PUC – Legal Division  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
Email: [Phillip.lehmann@puc.texas.gov](mailto:Phillip.lehmann@puc.texas.gov)



Natalie B. Scott

**ATTACHMENT A**

Affidavit of Van D. Nichols and Related Attachments



**AFFIDAVIT OF VAN D. NICHOLS**

STATE OF TEXAS                   §  
COUNTY OF DALLAS           §

BEFORE ME, the undersigned notary, personally appeared Van D. Nichols, the affiant, a person who is known to me. After administering an oath, the affiant testified that:

1.       “My name is Van D. Nichols. I am sixty-seven years old, of sound mind, very familiar with these properties and am capable of making this affidavit.
2.       I have worked with and partnered with the principles of the Petitioner, E Real Estate, LLC for over thirty years. I have an ownership interest in the property that is the subject of this docket (the “Property”) and oversee and manage the Property.
3.       I have lived in Celina, Texas since February of 2002 and reside approximately 3 miles north of the tracts in this petition. I office at 1341 S. Preston Road, Suite C, Celina, Texas 75009 in an office building owned by, among one other, myself and the principles of the Property.
4.       I graduated from Texas A & M University in May of 1978 with a Bachelor of Science Degree. I acquired a Texas Real Estate license in college and currently hold a Texas Brokers license (#226826). I have been the lead individual, in working with Natalie Scott, our attorney with Coats Rose, and Frank Abbott, engineer with Kimley-Horn, during this decertification process. The facts stated in this affidavit are within my personal knowledge and are true and correct.
5.       I have managed the Property since 2006 and 2007 and am very familiar with the Property and its improvements. I worked closely with Mr. Abbott in preparing the exhibits for the Original Application, as well as subsequent revisions that were made to the Application. Leah Stout and two other E Real Estate employees assisted in locating the meters on the ground at the Property. Ms. Stout has provided a separate affidavit in support of the efforts to locate and document the location of the meters.
6.       I have personally visited the physical locations at controversy in this matter several times and was able to locate Meters Nos. 77, 381 and 360.
7.       I have never located Meter No. 315. It does not exist on the Property. On information and belief, this meter was previously attached to a house that was torn down many years ago, and the meter was removed.
8.       My investigation on the Property occurred prior to making my previous affidavit. During one of my on-the-ground visits, I used a measuring wheel and measured the distance from the driveway of the residence that meter No. 77 serves to the meter location. The distance measured was 330 ft. I coordinated with Mr. Abbott again to verify that meter No. 77 was outside of the subject property’s area that is seeking to be

decertified. I also compared my findings with the “Detailed Map” prepared by Eddy Daniel for Marilee SUD. Mr. Daniel’s map is the only reference in the record regarding Meter No. 315. It is out of date and inaccurate. I found that the map provided by Mr. Daniel for Marilee SUD is inaccurate with regard to exact meter locations. An attachment to this affidavit labeled as Exhibit “A” contains my notations on Mr. Daniel’s map. The notations that I provided on Mr. Daniel’s map illustrate what I have determined to be the correct on-the-ground locations of Meter Nos. 77, 381, and 360.

9. After reading Order No. 16 in this matter, I again went to all three (3) meter locations on March 14, 2023. During my March 14<sup>th</sup> visit, I took photographs of all three meters. These photographs are included as attachments to this affidavit and are labeled Exhibits B, B-1 & B-2. I also measured the distance from the edge the driveway to meter No. 77 with the same result as stated above, give or take six inches, and determined that the distance measured 330 feet. I also reviewed “map right”, a software mapping program we use in our office, to double check the location of meter No. 77 and to compare the mapping program information with my on-the-ground measurement. The attachment to this affidavit labeled Exhibit “C” shows that the meter location in relationship to the driveway indicated a measurement of 328.68 ft. as compared to my on-the-ground wheel measurement of 330 ft. This further confirms that the meter is located outside of the area to be de-certified. Regarding Meters 381 and 360, I have determined that they are both located on a tract of land owned by Central Frisco, Ltd., which is also located outside of the subject area seeking decertification. I also have included as an attachment to this affidavit labeled Exhibit “D” a deed and survey for the neighboring 6-acre tract, with the meter locations generally marked and a picture depicting their locations. To summarize, I have determined that the meters referenced in Marilee SUD’s response are not located in the area to be decertified and that the meter locations provided by Marilee SUD are incorrect.

10. To my knowledge, Marilee SUD (Mustang) has not disputed my previous affidavit with a filed objection.

11. In Marilee SUD’s Verified Response to the Petition of E Real Estate, LLC to amend Certificate of Convenience and Necessity in Collin County by Expedited Release received on August 25, 2022, and included as Exhibit A to that response was an affidavit by Mr. Michael Garrison in which he incorrectly states under provision 4a. that Meter No. 360 is located *inside* of the northeastern boundary of the Subject Property and that said meter services a 62.434-acre tract of land. As detailed above, I have determined that meter 360 is located outside of the subject property and is located on a neighboring 6-acre parcel. Please reference the deed, survey, and aerial provided as an attachment to this affidavit and labeled as Exhibit “D”.

12. In provision 4b. Mr. Garrison also stated that Meter No. 77 is located inside the southern boundary of the Property. As described above, I have determined that their meter location shown on the map furnished by Mr. Daniel as part of his affidavit, is incorrect. Rather, Meter No. 77 is located outside the subject area and to the west of where Mr. Daniel’s map indicates in 4d.

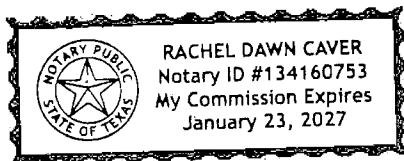
13. Mr. Garrison does state that the Meter No. 381 is located just outside the Northwest boundary of the subject property. I have determined that this is correct, as Meter No. 381 is located outside the boundary of the subject property. However, I also determined that Mr. Daniel's Exhibit B map is incorrect regarding where he depicts the location of Meter 381. Both Meter No. 360 and Meter No. 381 are located on a neighboring 6-acre tract outside of the subject property seeking decertification. Mr. Daniels map shows Meter 381 north of its actual location.

14. To summarize, while Mr. Daniel's affidavit attached to Marilee SUD's response as Exhibit "B" states that "In his professional opinion, the District provides water service to the Subject Property through it's existing meters[,]" my in-person identification of the on-the-ground meter locations as compared to the location of the subject property shows otherwise. None of the three meters identified by Mr. Daniels, nor the improvements serviced by those meters (381, 360 & 77), are located on the subject property and, as described herein, Mr. Daniel's meter locations on his map are not located accurately.

FURTHER AFFIANT SAYETH NOT.

By: Van D. Nichols  
Van. D. Nichols

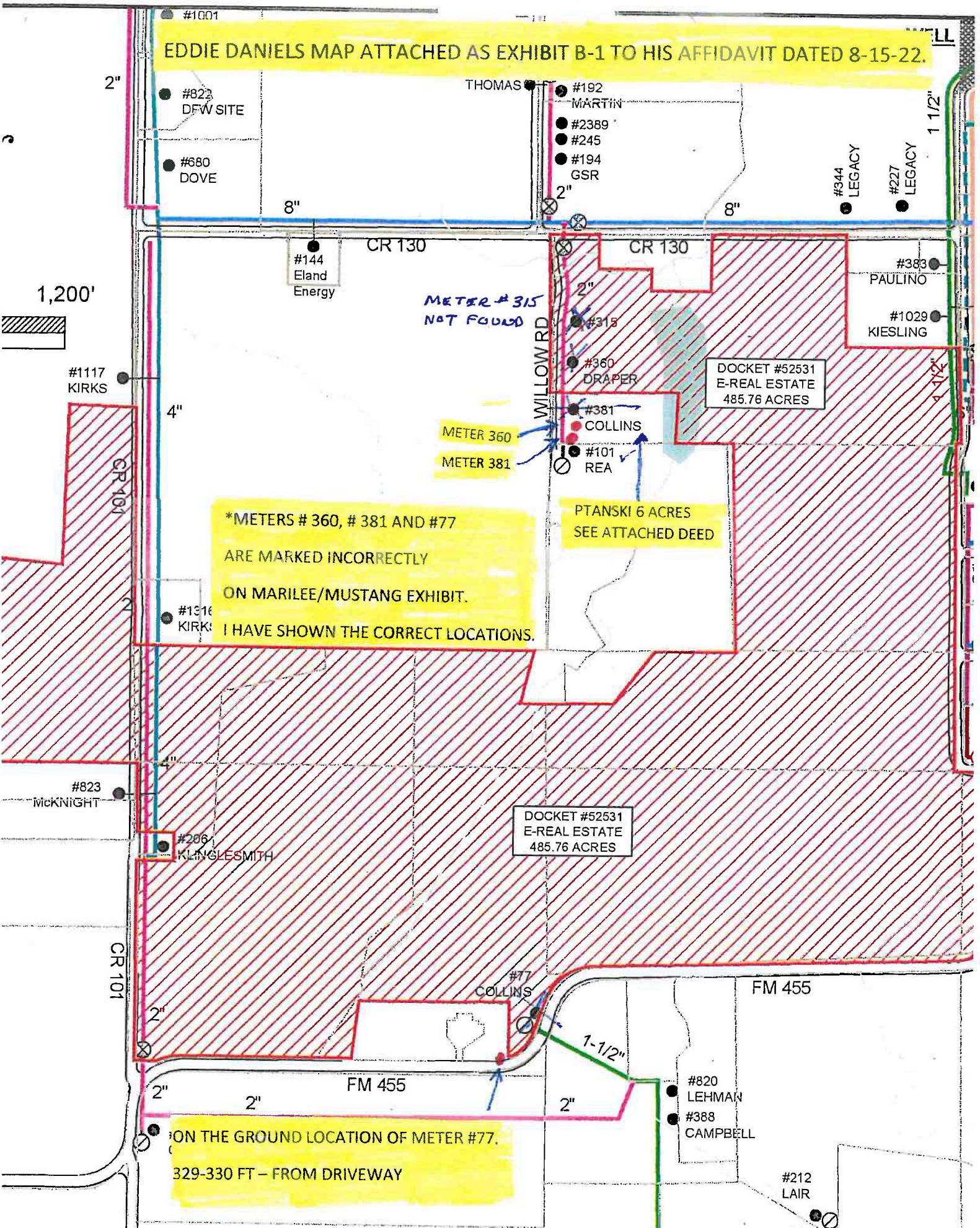
SWORN TO AND SUBSCRIBED TO BEFORE ME by Van D. Nichols on the 20<sup>th</sup> of March, 2023.



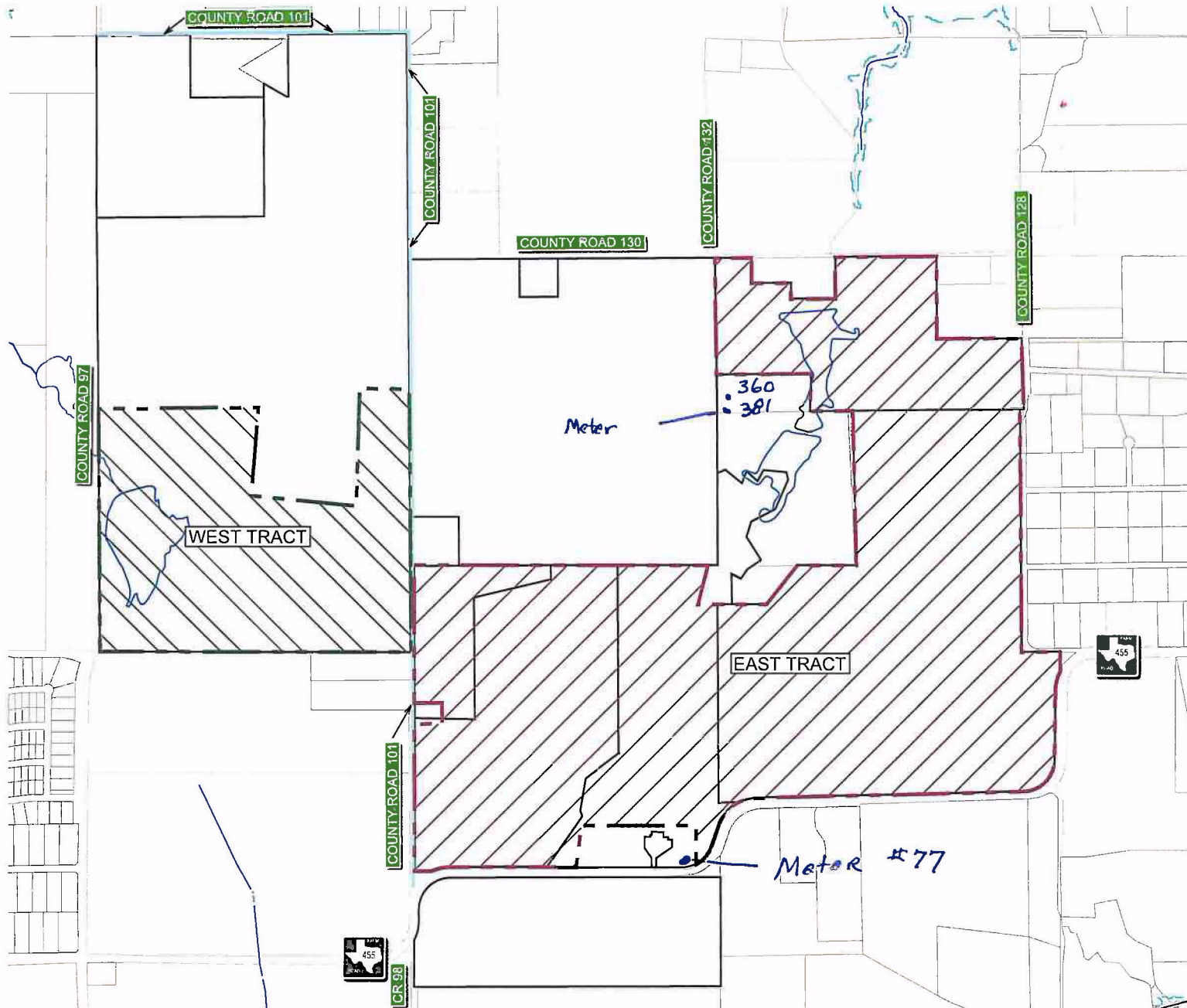
Rachel Caver  
Notary Public, State of Texas



EDDIE DANIELS MAP ATTACHED AS EXHIBIT B-1 TO HIS AFFIDAVIT DATED 8-15-22.

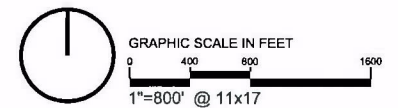






# LEGEND

- COUNTY ROAD 101
- WEST TRACT
- EAST TRACT



## DETAILED MAP

E REAL ESTATE  
**Eland Ranch**  
DOCKET #52531

Exhibit "A"  
2082

## EXHIBIT "B"

Meter # 360

Located on 6 acre tract.

Outside of area.





## EXHIBIT "B-1"

Meter # 381

Located on South line of  
6 acre tract. Out of area





## EXHIBIT "B-2"

Meter # 77

Located along W FM 455.

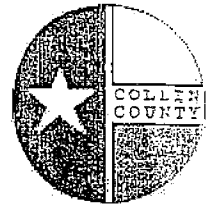
Out of area.







COLLIN COUNTY, TEXAS  
STACEY KEMP  
2300 Bloomdale Rd, Suite 2104  
McKinney, TX 75071  
Phone: 972-548-4185



STACEY KEMP  
COUNTY CLERK

EXHIBIT D

Cashier DFOSTER

Batch # 652739

Date: 08/31/2011 Time: 03:18:05PM

Customer Name REUNION TITLE  
1700 REDBUD BLVD STE 300  
MC KINNEY, TX 75070

| Date                     | Instrument No     | Document Type | Transaction Type | GF Number | Pg/Amt |
|--------------------------|-------------------|---------------|------------------|-----------|--------|
| 8/31/2011 3:18:05PM      | 20110831000926230 | DT            |                  | 11R21067  | 20     |
| Party 1: UMBERGER BRIAN  |                   |               | Party 2:         |           |        |
|                          |                   | DT            |                  | Total:    | 92.00  |
| 8/31/2011 3:18:05PM      | 20110831000926240 | D1            |                  |           | 5      |
| Party 1: PTASINSKI JAMES |                   |               | Party 2:         |           |        |
|                          |                   | D1            |                  | Total:    | 32.00  |
| Fee Total:               |                   |               |                  |           | 124.00 |
| CHECK                    | 6433              |               |                  |           | 92.00  |
| CHECK                    | 6428              |               |                  |           | 32.00  |
| Payment Total:           |                   |               |                  |           | 124.00 |

11R 19238

## WARRANTY DEED

**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                   §  
  §     **KNOW ALL PERSONS BY THESE PRESENTS:**  
COUNTY OF COLLIN           §

As used herein, the following terms shall have the following meanings:

**Effective Date:**           August 31, 2011

**Grantor:**                   JAMES PTASINSKI, being joined herein proforma by my wife,  
                                  XUAN L. PTASINSKI

**Grantor's Mailing Address:**     3921 Lost Creek Dr.  
  Plano, Texas 75074

**Grantee:**                   CENTRAL FRISCO, LTD., a Texas limited partnership

**Grantee's Mailing Address:**     13455 Noel Rd., Suite 2000  
  Dallas, Texas 75240

**Consideration:** TEN DOLLARS (\$10.00) cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged

**Property (including any improvements):**

Being 6.00 acres, more or less, situated in the Benjamin Haile Survey, Abstract No. 397 in Collin County, Texas, together with a nonexclusive easement for road and utility purposes, both being more fully described in Exhibit A attached hereto and made a part hereof for all purposes.

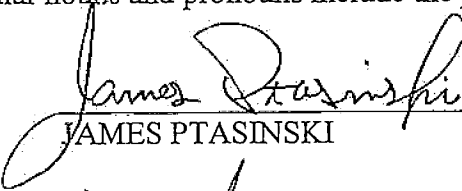
**Reservations from and Exceptions to Conveyance and Warranty:**


The Property conveyed herein is subject to the exceptions listed on Exhibit B attached hereto and made a part hereof for all purposes.

Grantor, for the Consideration and subject to the Reservations from and Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's successors or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, successors or assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's 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.

Current ad valorem taxes on said Property having been prorated, the payment thereof is assumed by Grantee.

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

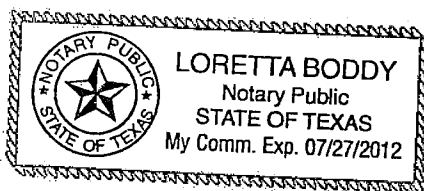
  
JAMES PTASINSKI

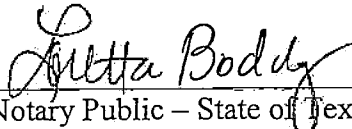
  
XUAN L. PTASINSKI

STATE OF TEXAS

COUNTY OF COLLIN

This instrument was acknowledged before me on the 31<sup>st</sup> day of August, 2011, by JAMES PTASINSKI and wife, XUAN L. PTASINSKI.



  
Notary Public – State of Texas

PREPARED IN THE OFFICE OF:

Abernathy, Roeder, Boyd & Joplin, P.C.  
1700 Redbud Boulevard, Suite 300  
McKinney, Texas 75069  
2383.0036 – 11R19238

AFTER RECORDING, RETURN TO:

Central Frisco, Ltd.  
Attn: Gary Goodnight  
13455 Noel Rd., Suite 2000  
Dallas, Texas 75240

**EXHIBIT A**

BEING a tract of land situated in the Benjamin Haile Survey, Abstract No. 397, Collin County, Texas, and also being all of a 6.000 acre tract as conveyed to James Ptasinski and recorded in Volume 3305, Page 795 of the Deed Records of Collin County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for the Southwest corner of said 6.000 acre tract;

THENCE N 00 degrees 34 minutes 23 seconds W a distance of 322.85' to a capped 1/2" iron rod set for corner;

THENCE N 89 degrees 08 minutes 15 seconds E a distance of 819.08' to a capped 1/2" iron rod set for corner;

THENCE S 02 degrees 48 minutes 30 seconds W a distance of 323.51' a point for corner in a lake;

THENCE S 89 degrees 08 minutes 15 seconds W a distance of 800.00' to the POINT OF BEGINNING and containing 261,357 feet or 6.000 acres of land.

TOGETHER WITH A NONEXCLUSIVE EASEMENT FOR ROAD AND UTILITY PURPOSES OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY. TO-WIT:

SITUATED in Collin County, Texas, part of the Benjamin Haile Survey, Abst. 397 and being part of an 80.342 acre tract as described in a deed from B.M H. Hopkins to Martha Dean Smith and recorded in Volume 947, Page 305 of the Collin County Deed Records and being more fully described as follows:

BEGINNING at an iron stake in the Northwest corner of the said tract in the corner line of a public road.

THENCE South 0 degrees 33 minutes 19 seconds East with an established fence along the West line of the tract a distance of 1007.3 ft. to a stake.

THENCE North 89 degrees 52 minutes East a distance of 33 ft. to a stake.

THENCE North 0 degrees 33 minutes 19 seconds West a distance of 707.18 ft. to a stake.

THENCE North 89 degrees 52 minutes East a distance of 20 ft. to a stake.

THENCE North 0 degrees 33 minutes 19 seconds West a distance of 200 ft. to a stake.

THENCE South 89 degrees 52 minutes West a distance of 20 ft. to a stake.

THENCE North 0 degrees 33 minutes 19 seconds West a distance of 100 ft. to a stake in the North line of the said tract in the center line of a public road.

THENCE North 09 degrees 54 minutes 09 seconds West with the center line of the road a distance of 33 ft. to the place of beginning containing 0.854 acres of land.

CAPPED  
1/2" IRS

N 89°08'15" E 819.08'

CAP  
1/2'

CATTLE  
GUARD

EASEMENT TO GRAYSON  
COLLIN ELECTRIC COOP  
VOLUME 1145, PAGE 889

6.000 ACRES

6.000 ACRES  
JAMES PTASINSKI  
VOLUME 3305, PAGE 795

1 STORY  
GARAGE

METAL  
SHED

A/C UNIT

WOOD  
PORCH

1 STORY BRICK  
8432 WILLOW ROAD

CONCRETE  
MENT

Meter 360

Meter 381

S 89°08'15" W 800.00'

S 02°48'30" W 323.51'

EDGE OF  
POND

POINT IN  
POND

31.260 ACRES  
CHAPMAN AND DOROTHY DUNHAM  
C.C. NO. 92-0067367

N 00°34'23" W 322.85'

OB  
1/2" IRF  
C.M.

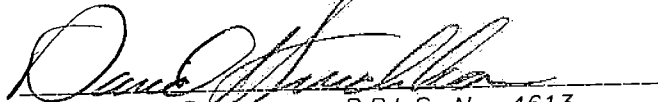
GRAVEL ROAD

368 DOES NOT CROSS THIS TRACT.

TRACT 2 OF THE EASEMENT GRANTED IN  
VOLUME 1103, PAGE 19 DOES NOT CROSS  
THIS TRACT.

### **SURVEYOR'S CERTIFICATE**

The survey shown hereon is a true representation of the property as determined by a survey made on the ground and under personal supervision. All visible improvements are as shown. There are no visible encroachments, conflicts, or protrusions, except as shown. This survey conforms to the Texas Board of Professional Land Surveyors' Minimum Standards of Practice, as adopted by the Board effective September 1, 2009. The property is subject to all easements of record.

  
David J. Surdukan R.P.L.S. No. 4613



**BOUNDARY SURVEY  
6.000 ACRES  
BENJAMIN HAILE SURVEY  
ABSTRACT NO. 397  
COLLIN COUNTY, TEXAS**

**G.F.No. 11R19238**

**SURDUKAN SURVEYING, INC.**





6 Acre Ptasinski Tract

**ATTACHMENT B**

Affidavit of Leah Stout and Related Attachments

**AFFIDAVIT OF LEAH STOUT**

**STATE OF TEXAS**

**COUNTY OF COLLIN**

§  
§

BEFORE ME, the undersigned notary, personally appeared Leah Stout, the affiant, a person who is known to me. After administering an oath, the affiant testified that:

1. "My name is Leah Stout. I am over the age of eighteen years, of sound mind, and am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I began working for E Real Estate, LLC in 2015. I oversee the property that is the subject of this docket (the "Property") on a daily basis.

3. I currently live on property owned by E Real Estate, LLC located at 9115 County Road 101, which is located within 1 ½ - 2 miles of the Property. I also work closely with Mr. Van Nichols, who manages E Real Estate, at 1341 S. Preston Road, Suite C, Celina, Texas 75009.

4. On November 22, 2022, at Mr. Nichols's request, I visited the Property with two other employees to investigate the meter locations and the corresponding service. I identified the location of three (3) meters, determined what was being serviced by these meters and took pictures of the same. Two of the meters are located on Willow Road. Meter No. 360 serves the home located at 8432 Willow Road. I also determined that Meter No. 381 serves the home located at 10558 W FM 455. Lastly, I determined that Meter No. 77 is located along FM 455 and serves the home located at 10704 W FM 455.

5. Meter No. 315 could not be located. I have also confirmed with Marilee/Mustang's/Celina water office that there is no Meter No. 315 located on Willow Road. One of the other employees who visited the Property with me recalled the meter being removed when the house it served was demolished.

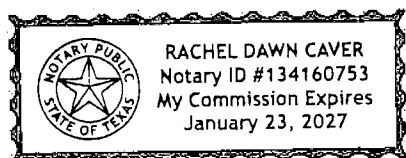
6. I have included Exhibits A and A-1 showing the location of Meter Nos. 360 & 381, as well as Exhibit B showing the location of Meter No. 77.

FURTHER AFFIANT SAYETH NOT.

By:

Leah Stout  
Leah Stout

SWORN TO AND SUBSCRIBED TO BEFORE ME by Leah Stout on the 20<sup>th</sup> day of March, 2023.



Rachel Caver  
Notary Public, State of Texas



EXHIBIT A



METER # 360

SERVES HOUSE AT 8432 WILLOW ROAD



5

## EXHIBIT A-1



METER BELONGS TO REA FAMILY

METER # 381

SERVES HOUSE AT 10558 W FM 455



A photograph showing a green water meter in a grassy field. A white bucket is placed next to the meter. A fence is visible in the background. The image is labeled with text overlays.

EXHIBIT B

METER # 77

SERVES HOUSE AT 10704 W FM 455