

DIRTY CREEK CONSERVATION BANK AGREEMENT

MCINTOSH COUNTY, OKLAHOMA

ENTERED INTO BY:

MITIGATION MANAGEMENT, LTD.

IN CARE OF:

J. MIKE BIRD

2557 STATE HWY 7 E

CENTER, TEXAS 75935

AND

THE UNITED STATES FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES FIELD OFFICE

9014 EAST 21ST STREET

TULSA, OKLAHOMA 74129

MAY 25, 2018



Conservation Bank Agreement

DIRTY CREEK CONSERVATION BANK

This Conservation Bank Agreement (“CBA”), dated this 25 day of May 2018, is made by and among, AE Land and Timber, LLC properly registered with and authorized to conduct business in the State of Oklahoma (referred to in this CBA where appropriate as “Property Owner”), ABB Dirty Creek, LLC properly registered with and authorized to conduct business in the State of Oklahoma (referred to in this CBA where appropriate as “Bank Sponsor”) and the U.S. Fish and Wildlife Service (“USFWS”). The Bank Sponsor, Property Owner, and the USFWS are hereinafter referred to jointly as the “Parties”. This CBA sets forth the agreement of the Parties regarding the establishment, use, operation, and maintenance of the Dirty Creek Conservation Bank (the “Bank”).

RECITALS

- I. The Bank Sponsor is responsible for establishing, operating and maintaining the Bank according to this CBA.
- II. The Property Owner is the owner of real property containing approximately 1,067 acres of land located roughly 13 miles south of Muskogee in McIntosh County, Oklahoma (the “Property”). The Property is generally shown on the Bank Location Map (**Exhibit A**) and legally described in the Real Estate Records and Assurances (**Exhibit E**) attached hereto.
- III. Bank Sponsor and Property Owner desire to create the Bank over the Property (the “Bank Property”). The Bank Property is generally shown on the Bank Location Map (**Exhibit A**) and legally described in the Conservation Easement (**Exhibit E-4**) attached hereto. The Bank Property is to be conserved in perpetuity by the Conservation Easement, which shall be recorded as provided in Section V and VIII of this CBA.
- IV. USFWS, an agency within the U.S. Department of the Interior, has jurisdiction over the conservation, protection, restoration and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of these species within the United States pursuant to the Federal Endangered Species Act, 16 U.S.C. § 1531, *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f), *et seq.*, and other provisions of Federal law.
- V. USFWS may seek review of this document by other Federal agencies and state and local agencies as appropriate, but is the entity which oversees the establishment, use, operation, and maintenance of the Bank.
- VI. The goals and objectives for the Bank are set forth in the Development Plan (**Exhibit C**) and the Bank Management and Operation Documents (**Exhibit D**) attached to and made a part of this CBA.
- VII. Initially-capitalized terms used and not defined elsewhere in this CBA are defined in Section II.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

Section I: Purpose and Authorities

A. Purpose

1. The purpose of this CBA is to set forth the agreement of the Parties regarding the establishment, use, operation, and maintenance of the Bank. The purpose of the Bank is to compensate for unavoidable impacts to, and conserve and protect, Covered Species and Covered Habitat. The Bank Sponsor shall preserve, restore, and/or enhance and then manage and maintain Covered Species and Covered Habitat in accordance with this CBA, the Development Plan, Interim Management Plan, and the Long-term Management Plan.

B. Authorities

1. The establishment and use of the Bank for off-site compensatory mitigation or conservation is subject to one or more of the following statutes, regulations, policies, and guidelines:
2. Federal
 - a. National Environmental Policy Act (42 U.S.C § 4321, *et seq.*)
 - b. Endangered Species Act (16 U.S.C. § 1531 *et seq.*) (“ESA”)
 - c. Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*)
 - d. National Historic Preservation Act (54 U.S.C. § 306101, *et seq.*)
 - e. Endangered Species Act Compensatory Mitigation Policy (81 FR 95316, December 27, 2016)
 - f. Interim Guidance on Implementing the Endangered Species Act Compensatory Mitigation Policy (USFWS Director’s Memo, January 17, 2017)
 - g. Guidance for the Establishment, Use and Operation of Conservation Banks (U.S. Department of Interior Memorandum, dated May 2, 2003), (“USFWS Guidance”);
 - h. American Burying Beetle Conservation Strategy For the Establishment, Management, and Operations of Mitigation Lands (U.S. Fish and Wildlife Service Southwest Region, dated May 21, 2014), (“USFWS Strategy”);
 - i. Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, dated January 10, 2001.

Section II: Definitions

The initially-capitalized terms used and not defined elsewhere in this CBA are defined, for the purposes of this CBA, as set forth below.

“Adaptive Management” means an approach to natural resource management which incorporates changes to management practices, including corrective actions as determined to be appropriate by USFWS in discussion with the Bank Sponsor and/or the Property Owner, as appropriate, based upon Bank annual report results, and USFWS review of overall Bank performance and compliance.

“Bank Establishment Date” is the date determined pursuant to Section V of this CBA, when the Bank is considered established and Transfer of Credits may begin.

“Buffer Credits” are units of measure representing non-habitat areas that increase the overall ecological functioning of the bank, or buffer the bank property against edge effects from adjacent land use. One Buffer Credit is equivalent to two acres (0.5 credits/acre), or as otherwise defined in **Exhibit F-1**.

“Conservation Easement” means a perpetual conservation easement, as defined by the Oklahoma Uniform Conservation Easement Act (60 O.S. §§ 49.1—49.8), in the form of **Exhibit E-4** attached hereto.

“Conservation Values” refers to ecological values which serve as habitat (including, without limitation, food, water and proper vegetative mix and canopy cover) necessary to support occupancy, survival, and reproduction of the Covered Species.

“Covered Habitat” means habitat of concern or habitat upon which the Covered Species depend for their continued viability that USFWS determine will be adequately conserved as a result of implementation of this CBA.

“Covered Species” means the species for which the Bank has been established and for which Credits have been allocated as set forth in **Exhibit F-1**.

“Credits” are units of measure representing the accrual, attainment, restoration, or protection of the Covered Species with regard to the Covered Habitat on the Bank Property. One Credit is equivalent to one acre, or as otherwise defined in **Exhibit F-1**.

“Credit Release” means an action by USFWS to make specified Credits available for Transfer pursuant to this CBA.

“Endowment Agreement” means the document attached as **Exhibit D-3**, which establishes the terms and conditions pursuant to which the Endowment Holder will accept custody of and manage the Endowment Fund.

“Endowment Amount” is the amount Section VI.C requires the Bank Sponsor to provide as Endowment Deposits to the Endowment Holder to fund the Endowment Fund. The Endowment Amount is determined in **Exhibit D-2**.

“Endowment Deposit” is the deposit or series of deposits made or required to be made by the Bank Sponsor to the Endowment Holder to fund the Endowment Fund. Endowment Deposits received by the Endowment Holder shall be deposited into the Endowment Fund.

“Endowment Fund” is a financial account, held in trust for the benefit of the long-term stewardship of the Bank Property. The Endowment Fund is intended to be maintained and managed in perpetuity in accordance with the Endowment Agreement. The Endowment Fund is intended to be invested in accordance with an investment policy statement that is designed to generate earnings and appreciation in value over the long-term. The Endowment Fund is to be used in funding perpetual management, maintenance, monitoring, and reporting pursuant to the Long-term Management Plan. The term “Endowment Fund” as used in this CBA shall include the Endowment Deposits and all interest, dividends, gains, other earnings, additions and appreciation thereon, as well as any additions thereto.

“Endowment Holder” means an independent third-party conservation organization (non-profit), or such other similarly qualified entity, selected by the Bank Sponsor and the USFWS, responsible for holding, managing, and disbursing the Endowment Fund in accordance with Section VIII.E of this CBA.

“Extraordinary Circumstances” shall mean an event or circumstance that has a material and detrimental impact on the Bank Property or on the ability of Bank Sponsor to attain Performance Standards and: (1) was neither foreseen nor foreseeable by the Bank Sponsor, Property Owner, or USFWS; and (2) neither Bank Sponsor nor Property Owner (or anyone acting on behalf or under the control of either of them) caused or could have prevented; and (3) prevents Bank Sponsor or Property Owner from achieving an objective or undertaking an action required of it under this CBA. Extraordinary Circumstances excludes mere economic hardship. For purposes of this agreement the definition of Extraordinary Circumstances shall be deemed to include but not limited to the following; war, insurrection, riot or other civil disorder, flood, tornado, earthquake, fire, other natural disaster, disease, sustained change in ecological and/or environmental condition, governmental restriction or the failure by any governmental agency to issue any requisite permit or authority, injunction or other enforceable order of any court of competent jurisdiction, or any other occurrence, which has a material and detrimental impact on the Bank or the Bank Property and over which neither the Bank Sponsor nor the Property Owner has control; provided, however, that (i) a riot or other civil disorder shall constitute an event of Extraordinary Circumstances only if the event has broad regional impacts and is not endemic to the Bank Property and its immediate locale; (ii) a flood shall be considered an event of Extraordinary Circumstances only if it is greater than a presently projected 100-year flood, where “flood” refers to a runoff event; (iii) disease shall constitute an event of Extraordinary Circumstances only if such event has broad regional impact and is not endemic to the Bank Property and its immediate locale; and (iv) governmental restriction or the failure by any governmental agency to issue any requisite permit or authority, or any injunction or other enforceable order of any court of competent jurisdiction shall not constitute an event of Extraordinary Circumstances unless there is no other feasible means of Remedial Action.

“Grantee” means the entity authorized to hold the Conservation Easement and is otherwise approved by USFWS. “Habitat Establishment” means the manipulation of the physical, chemical, or biological characteristics present on the Bank Property to develop an aquatic or terrestrial habitat resource for Covered Species. Habitat Establishment will result in a gain in resource area and/or function.

“Habitat Conservation Plan (HCP)” means an HCP prepared pursuant to § 10(a)(2)(A) of the ESA (16 U.S.C. § 1539(a)(2)(A)).

“Interim Management Period” means the period from the Bank Establishment Date until the first anniversary of the full funding of the Endowment Fund has occurred and all the Performance Standards in the Bank Management and Monitoring Documents have been met.

“Interim Management Plan” means the document attached as **Exhibit D-4** that describes the management, monitoring, Adaptive Management, reporting and other activities to be implemented by the Bank Sponsor during the Interim Management Period.

“Interim Management Security” is the financial assurance specified in Section VI.A and **Exhibit D-1**, to be provided by the Bank Sponsor to guarantee the implementation of the Interim Management Plan, and to guarantee all Remedial Action(s) required under Section VIII.F are completed during the Interim Management Period.

“Letter Holder” is the entity designated to hold the Standby Letter of Credit in section VI.B and identified as the beneficiary within the Standby Letter of Credit.

“Long-term Management Period” means the period beginning upon conclusion of the Interim Management Period and continuing in perpetuity, during which the Bank Property is to be managed, monitored and maintained pursuant to the Long-term Management Plan.

“Long-term Management Plan” means the document attached as **Exhibit D-5** that is intended to ensure the Bank Property is managed, monitored and maintained in perpetuity to conserve and protect its Covered Species and Covered Habitat.

“Performance Standards” means the minimum standards set forth in **Exhibit D** to define the successful preservation, restoration, and enhancement of Covered Species and Conservation Values.

“Phase I Environmental Site Assessment” is an assessment of the environmental condition of the Property performed in accordance with the American Society of Testing and Materials (ASTM) Standard E2247-16 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland and Rural Property,” or any successor to such ASTM Standard which is active at the time of the assessment (**Exhibit G**).

“Preservation” means the protection of existing ecologically important wildlife, habitat or other ecosystem resources in perpetuity.

“Property Assessment and Warranty” means the written Property evaluation and assurance signed by the Bank Sponsor and attached as **Exhibit E-2**.

“Property Owner” means the owner(s) of fee simple title to the Bank Property.

“Remedial Action” means any corrective measures which the Bank Sponsor or Property Owner is required to take on the Bank Property prior to Bank closure to ameliorate any injury or adverse impact to the Bank Property as preserved, restored, or enhanced, or as a result of a failure to achieve the Performance Standards.

“Security Holder” is the entity designated to hold the Financial Assurances identified in Section VIII.E.

“Service Area” means the geographic area(s) within which impacts to Covered Species that occur may be mitigated or compensated through Credits from the Bank (**Exhibit B**). The Service Area will conform to USFWS Guidance and USFWS Strategy.

“Subordination Agreement” means a written, recorded agreement in which the holder of an interest in, or lien or encumbrance on the Bank Property makes the lien or encumbrance subject to and of lower priority than the Conservation Easement, even though the lien or encumbrance was recorded before the Conservation Easement.

“Transfer” means the use, sale, or conveyance of Credits by the Bank Sponsor.

“Unlawful Act” shall mean the unlawful act of any person or entity other than the Bank Sponsor or Property Owner and shall include an event or series of events, such as the intentional release within the Bank Property, or any connected watercourse, of any Hazardous Substance, or the discharge of such a substance in violation of a statute, ordinance, regulation or permit, which event or series of events has a material and detrimental impact on the Bank Property.

Section III: Stipulations

A. Baseline Condition

1. The current condition of the Bank Property is described in the Development Plan (**Exhibit C-1**) and Biological Resources Survey (**Exhibit H**) attached to and made part of the CBA.

B. Disclaimer

This CBA does not in any manner limit the legal authorities or responsibilities of the USFWS.

C. Exhibits

The following Exhibits are attached to and incorporated by this reference into this CBA:

1. “**Exhibit A**” - Bank Location Maps

A-1 General Vicinity Map with Conserved Areas

A-2 Map of Property, including the Bank Property

2. “**Exhibit B**” - Service Area Map(s) and Description(s)

B-1 Service Area Map

- B-2 Narrative description of the Bank’s Service Area
- 3. **“Exhibit C”** - Development Plan (if required)
 - C-1 Development Plan (not required)
 - C-2 Construction Security Analysis and Schedule (not required)
 - C-3 Performance Security Analysis and Schedule (not required)
- 4. **“Exhibit D”** - Bank Management and Monitoring Documents
 - D-1 Interim Management Security Analysis and Schedule
 - D-2 Endowment Fund Analysis and Schedule
 - D-3 Agreements, Instructions and Forms for Submission or Disbursement of Endowment Funds
 - D-4 Interim Management Plan
 - D-5 Long-Term Management Plan
 - D-6 Bank Closure Plan
- 5. **“Exhibit E”** - Real Estate Records and Assurances
 - E-1 Preliminary Title Report, Legal Description, and Parcel Map(s)
 - E-2 Property Assessment and Warranty
 - E-3 Plat Maps
 - E-4 Real Estate Instrument
 - E-5 Title Insurance [attach once received]
- 6. **“Exhibit F”** - Bank Crediting and Credit Transfers
 - F-1 Credit Evaluation and Credit Table
 - F-2 Credit Purchase Agreement and Payment Receipt Template
 - F-3 Credit Transfer Ledger Template
 - F-4 Instruction for Covered Species Credits Transfers Using RIBITS [if applicable]
 - F-5 Credit Release Schedule
 - F-6 Implementation Fee Schedule [if applicable]
- 7. **“Exhibit G”** - Phase I Environmental Site Assessment
- 8. **“Exhibit H”** - Biological Resources Survey
- 9. **“Exhibit I”** - Jurisdictional Determination and Delineation of Waters of the U.S. and/or Waters of the State. [if applicable]
- 10. **“Exhibit J”** – Cultural, Historical, Archaeological, and Native American Resources (“Cultural Resources”)
 - J-1 Identification, Inventory, and Evaluation

J-2 Compliance Documentation [not applicable]

J-3 Historic Properties Treatment Plan [not applicable]

11. “**Exhibit K**” – Other Documentation, Permits, Amendments, or Revisions

Section IV: Bank Evaluation and Development

A. Bank Site Assessment by the USFWS

Representatives of the USFWS have inspected and evaluated the Bank Sponsor’s proposed development of Covered Species, and Covered Habitat as set forth in **Exhibits C and D** and have agreed upon the assignment of Credits set forth in **Exhibit F-1**.

B. Bank Sponsor’s Responsibilities for Bank Management and Monitoring

The Bank Sponsor agrees to perform all necessary work, in accordance with the provisions of this CBA, to establish, enhance, restore, monitor, and maintain the Covered Species and Covered Habitat, as set forth in **Exhibits C and D**, and have agreed upon the assignment of Credits set forth in **Exhibit F-1**.

C. Phase I Environmental Site Assessment

1. Bank Sponsor has provided a current Phase I Environmental Site Assessment of the Bank Property (**Exhibit G**). If the Phase I Environmental Site Assessment identifies any recognized environmental conditions as defined by the American Society for Testing and Materials (ASTM) Standard E1527-13. “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process,” or any successor to such ASTM Standard, in place at the time of execution of instrument, the Bank Sponsor represents and warrants to the USFWS that all appropriate assessment, clean-up, remedial or removal action has been completed and the Bank Sponsor has provided an updated Phase I Environmental Site Assessment to the USFWS that concludes no recognized environmental conditions requiring any assessment, clean-up, remedial or removal actions on the part of Bank Sponsor or Property Owner are present on the Property.

D. Approvals

The Bank Sponsor will obtain all permits, authorizations and other approvals necessary or appropriate to construct, operate, and maintain the Bank, including those of the USFWS. This CBA does not constitute or substitute for any such approval.

E. Phases

1. Subsequent Phases. Establishment of each Subsequent Phase is subject to approval by the USFWS. The Bank Sponsor may propose a Subsequent Phase by submitting a written request to the USFWS. Subsequent Phases will need to comply with requirements in effect on the date of submission of the complete documentation for the proposed Subsequent Phase. Any Subsequent Phase will be considered as either an amendment of the CBA or a

new bank, as determined by the USFWS. Approval of this CBA does not obligate the USFWS to approve any Subsequent Phase.

F. Modification of the Development Plan

In the event that the Bank Sponsor and/or the USFWS determine that modifications must be made to the Development Plan (**Exhibit C-1**), the Parties shall meet to discuss the modifications, and the Bank Sponsor shall submit a written request for approval of such modifications to USFWS within 60 calendar days of the meeting. Upon agreement of the Parties, the Bank Sponsor shall then implement all approved modifications. Modification of the Development Plan may constitute an amendment. If the USFWS elect to authorize modifications to the Development Plan, such authorization may be conditioned upon, among other things, a change in the number of Credits available for release. The Bank Sponsor shall revise the Credit Table in **Exhibit F-1** as directed by the USFWS to reflect any change in the available Credits. The schedule for funding the Endowment Amount shall be amended to reflect the revised Credit Table (**Exhibit F-1**).

G. Property Assessment and Warranty

1. The Bank Sponsor is responsible to ensure the Property Assessment and Warranty (**Exhibit E-2**) is true, complete, and correct as of the date of this CBA. Should the Bank Sponsor become aware of any errors or omissions in the Property Assessment and Warranty after the date of this CBA, the Bank Sponsor shall notify the USFWS in writing within 30 days of discovery. The USFWS shall evaluate any impacts of the errors or omissions in the Property Assessment and Warranty, and the Grantee's interest in the Conservation Easement or the Bank Property and USFWS may find default pursuant to Section XII.E in such circumstances.

Section V: Bank Establishment Date

- A. The Bank Establishment Date will occur and Transfer of Credits may begin only when the USFWS has received documentation confirming that all of the following actions have occurred:
 1. The CBA has been fully executed by all of the Parties,
 2. The Conservation Easement has been (i.) accepted by a Grantee approved by the USFWS and (ii.) recorded in the Official Records of the county in which the Bank Property is located;
 3. The Bank Sponsor has complied with its obligation to furnish financial assurances in accordance with Section VI.A; and
 4. Any applicable Subordination Agreement(s) is executed and recorded.

Section VI: Financial Assurances

The Bank Sponsor is responsible for providing financial assurances for the performance and completion of Bank construction, management, monitoring, and Remedial Action in accordance with this CBA, as set forth in this Section. The financial assurances shall be held in accordance with Section VIII.E of this CBA, held by an approved USFWS qualified third-party. The Bank Sponsor shall provide written confirmation from the Endowment Holder, as applicable, that the requirement to provide financial assurances was completed to the USFWS in accordance with Section XII.K upon furnishing each of the following financial assurances:

A. Interim Management Security

1. Concurrent with the Transfer of the first Credit, Bank Sponsor shall furnish an Interim Management Security in the amount specified in **Exhibit D-1**. The amount of the Interim Management Security shall be equal to the estimated cost to implement the Interim Management Plan during the Interim Management Period, as set forth in the Interim Management Security Analysis and Schedule (**Exhibit D-1**). The Interim Management Security shall be in the form of an irrevocable standby letter of credit. The Bank Sponsor shall ensure the Interim Management Security shall remain available in the full amount, until cancelled, in accordance with Section VIII.E.

B. Letters of Credit

1. Letters of credit, when selected, shall be submitted to and approved by the USFWS before they satisfy any financial assurance requirement. Any letter of credit shall be issued for a period of at least one year, and shall provide that the expiration date will be automatically extended for at least one year on each successive expiration date unless, at least 120 days before the current expiration date Bank Sponsor and the Letter Holder have received notice from the issuing institution of its decision not to extend the expiration date, as evidenced by the return receipts. The letter of credit shall remain available for 120 calendar days after the date Bank Sponsor and the Letter Holder have received such notice. If the issuer fails to extend the expiration date of any letter of credit, Bank Sponsor shall provide the Letter Holder with replacement security in the form of a letter of credit, as determined by the Letter Holder, within 60 days after receiving notice of the issuer's decision not to extend the expiration date. If Bank Sponsor does not provide such replacement security on or before the expiration of the 60-day period, then the Letter Holder shall have the right to immediately draw upon the letter of credit for which the replacement security was required.

C. Endowment Fund

1. The Endowment Fund shall be held by the Endowment Holder, in an amount sufficient to fully provide for the financial requirements of the long-term management of the Bank in accordance with the Long-term Management Plan and the Endowment Fund Analysis and Schedule (**Exhibit D-2 and D-5**). The Bank Sponsor shall fully fund the Endowment

Amount through Endowment Deposits according to the schedule below. The Endowment Amount shall be 100% funded by the 4th anniversary of the first Credit Release.

- a. Funding schedule for Covered Species and Covered Habitat Preservation Credit Releases will be as follows:
 - i. No Endowment Funding is required prior to the first Covered Species and Covered Habitat Credit Release as set forth in Exhibit F-1;
 - ii. 100% of the Endowment Amount shall be funded through Endowment Deposits prior to the final release of Covered Species and Covered Habitat Credits.
2. Each year the Endowment Amount is not 100% funded, the Endowment Amount in **Exhibit D-2** shall be increased (but not decreased) to account for inflation. The Bank Sponsor must make this adjustment on or before April 1 of each year (“Adjustment Year”), based upon the change in the Consumer Price Index (CPI) for Oklahoma. The Bureau of Labor Statistics publishes the CPI for Oklahoma, which can be found at <http://www.bls.gov/regions/southwest/subjects.htm#tab-1>. The Bank Sponsor shall determine the change in the Index by comparing the Index published in March of the Adjustment Year to the Index published in March of the year in which this CBA is fully executed. The DIR website also provides an adjustment calculator that may be used for this purpose. The Endowment Amount in **Exhibit D-2** shall be increased by the percent change in the CPI and the product shall be the Endowment Amount for the Adjustment Year. If the percentage change in the CPI is less than or equal to zero for any Adjustment Year, then no adjustment will be made for that year.
3. Bank Sponsor shall provide USFWS a paper copy of the receipt for each Endowment Deposit and upload to RIBITS within 30 calendar days of such deposit.

Section VII: Credit Release

Each Credit Release must be approved in writing by the USFWS.

A. Covered Species and Covered Habitat Credit Release

1. Upon receipt of Bank Sponsor’s written request and accompanying documentation of compliance with all applicable requirements set forth in this Section, the USFWS may release for Transfer Covered Species and Covered Habitat Credits (**Exhibit F-1**), as described below. The actual number of Credits Released shall be determined in writing by the USFWS, based upon existing and as-built conditions of the Bank Property, extent of appropriate habitat preserved or established, attainment of the Performance Standards,

funding of the Endowment Fund in accordance with Section VI.C, and compliance with requirements of this CBA and any associated authorization. Upon each Credit Release, the USFWS shall enter the number of Credits released into RIBITS. The applicable Credit Release shall occur prior to any Credit Transfer.

2. Credits for Covered Species and Covered Habitat are described in the Credit Table (**Exhibit F-1**) and may be released as described below. If the maximum percentage of released credits is not authorized at the time of each numbered Credit Release below, subsequent Credit Releases may be authorized.
 - a. First Credit Release. Release of 85% of the total anticipated Preservation Credits when all of the following have occurred:
 - i. Upon Bank Establishment Date.
 - ii. The Bank Sponsor demonstrates, to the satisfaction of the USFWS in whose jurisdiction the Credit resides, that any associated Performance Standards, if applicable, have been met, and that the habitat values have been maintained, as required by the CBA and its exhibits.
 - b. Final Credit Release. Release of the remainder of the total anticipated Credits when all of the following have occurred:
 - i. The Bank Sponsor has funded 100% of the Endowment Amount per Section VI.C and **Exhibit D-2**.
 - ii. The Bank Sponsor demonstrates, to the satisfaction of the USFWS that any associated Performance Standards, if applicable, have been met, and that the habitat values have been maintained, as required by the CBA and its exhibits.
3. Restoration Credits (enhancement/uplift) described in the Credit Table (**Exhibit F-1**) for Covered Species shall be released upon demonstrated occupation of the restored habitat by a Covered Species and attainment of the applicable Performance Standards.
4. Each Covered Species and Covered Habitat Credit Release, with the exception of the first, is also contingent upon the Bank Sponsor's submission of the annual report for the current reporting period in accordance with Section IX.B, and a USFWS site visit at the appropriate time of year.
5. Only federal Covered Species listed under Federal Endangered Species Act ("ESA") at the time of execution of this CBA, and associated Covered Habitat, can provide compensatory mitigation under ESA. Subsequent listing of any non-listed Covered Species and Covered Habitat would require review of the Bank documents by the USFWS with jurisdiction over the newly listed Covered Species and/or Covered Habitat to ensure the documents are consistent with the needs of the Covered Species and/or Covered Habitat. An amendment,

as described in Section XII.D.1, (Amendment and Modification) may be required. Such amendment may include, but is not limited to, additional management requirements or modification of the Credit Evaluation and Credit Table (**Exhibit F-1**) and the number and type of Credits. United States Fish and Wildlife Service with jurisdiction over the newly listed Covered Species and Covered Habitat Credits may reject or suspend its approval of any Transfer or Release of those Credits until required changes have been completed.

Section VIII: Operation of the Bank

A. Service Area

The Service Area is described and shown in **Exhibit B**.

B. Transfer and Use of Credits

1. The Transfer of Credits may begin only upon or after the Bank Establishment Date. Bank Sponsor shall have the exclusive right to determine the price for any and all Bank Credits it offers for sale. The minimum Credit unit that may be Transferred is 0.1 Credit.
2. In no case shall the number of Credits of any particular type Transferred exceed the total number of Credits of that type which have been released for Transfer, as evidenced by written approval of the USFWS.
3. Use of Credits at the Bank compensate for unavoidable impacts to Covered Species or Covered Habitat, under any permit or biological opinion issued by the USFWS, can only occur after approval by the USFWS executing such a permit or issuing such an opinion. Approval is determined on a case-by-case basis to ensure the use is appropriate to compensate for the impacts of the specific project to which the Credits are proposed to be applied.
4. Bank Sponsor shall notify the USFWS upon any Credit Transfer in accordance with Section IX.C of this CBA. Bank Sponsor shall enter pending Covered Species and Covered Habitat Credit Transfers into RIBITS for approval by the USFWS, per **Exhibit F-4**.

- C. If the Bank Property is damaged after the Bank Establishment Date, and such damage materially impairs any or all habitat related to Covered Species or Covered Habitat on such damaged Bank Property, the Bank Sponsor shall implement the provisions of Section VIII.F. Failure to comply shall constitute default, and the USFWS will take action accordingly. Each Credit Transfer shall be made pursuant to a written purchase agreement in the form of **Exhibit F-2**. Prior to Transfer, Bank Sponsor shall upload pending Covered Species and Covered Habitat Credit purchase agreements into RIBITS for approval by the USFWS, per **Exhibit F-4**.

1. Interim Management and Monitoring

- a. Bank Sponsor shall be responsible for conducting management, monitoring, and maintenance activities according to the Interim Management Plan (**Exhibit D-4**) until the end of the Interim Management Period. The Bank Sponsor shall upload all reports into RIBITS and furnish a copy of reports to USFWS.
2. Long-term Management and Monitoring
 - a. At the end of the Interim Management Period, Bank Sponsor shall be obligated to manage, monitor, and maintain the Bank Property in perpetuity to preserve its Covered Habitat and Conservation Values in accordance with this CBA, the Conservation Easement, and the Long-term Management Plan (**Exhibit D-5**). Such activities shall be funded with funds disbursed from the Endowment Fund according to Section VIII.E.2. Bank Sponsor and the USFWS shall meet and confer upon the request of any one of them, to consider revisions to the Long-term Management Plan and Endowment Fund Analysis and Schedule (**Exhibit D-2**) which may be necessary or appropriate to better conserve the Covered Habitat and Conservation Values of the Bank Property. If either (a) the value of the Endowment Fund has decreased to levels that may threaten its continued existence as a source of perpetual funding for long-term management, whether due to unexpected investment performance or otherwise; or (b) if long-term management expenses exceed those estimated in the Endowment Fund Analysis and Schedule (**Exhibit D-2**), the Bank Sponsor shall consult with the USFWS in accordance with Section VIII.E.2. During the Long-term Management Period, the Bank Sponsor shall be responsible for submitting annual reports to USFWS, in accordance with Section IX.B of this CBA. The Bank Sponsor shall upload all reports into RIBITS and furnish a copy of all reports to USFWS

D. Bank Closure Plan

If at any time after the bank is closed and the Bank Sponsor fails to perform its Long-Term Management Plan activities then those responsibilities shall become the responsibility of the Property Owner.

1. Upon Bank closure, no further Credit Transfer shall occur.
2. The Bank closure shall be deemed to take place upon written approval of the USFWS following occurrence of all of the following:
 - a. All Performance Standards have been met and all Remedial Action required under Section VIII.F has been completed as evidenced by:
 - i. Submission of all required annual reports in accordance with Section IX.B.
 - ii. The completion of all Remedial Action, if any, in accordance with the applicable Remedial Action plan(s).
 - iii. An on-site inspection by the USFWS.

- b. And either (i.) The last authorized Credit has been Transferred; or (ii.) The Bank Sponsor requests Bank closure by written notice to the USFWS and USFWS provides written approval of the closure.
- c. All financial responsibilities of the Bank Sponsor have been met, including 100% funding of the Endowment Amount for no less than one year and full funding of the Implementation Fee, if applicable.

E. Financial Operations

1. Securities

In the event the holder of the Interim Management Security, and Performance Security, terminates its participation in this CBA, the Bank Sponsor shall provide replacement Interim Management Security, and Performance Security in the amount specified in this CBA within 60 calendar days' after receiving written notice of termination from the holder of the Securities. The Parties agree to modify the CBA to name a third-party holder of each of these securities specified in the Interim Management Security, and Performance Security specified in Section VI.

a. Performance Security (if applicable)

- i. The Security Holder, as the holder of the security, in coordination with the USFWS, shall be entitled to draw upon the Performance Security for default.
- ii. If any portion of the Performance Security is drawn upon pursuant to this Section, then the Bank Sponsor shall replenish the Performance Security to the amount specified in **Exhibit C-3** within 90 calendar days after written notice from Security Holder.
- iii. The Performance Security shall be cancelled or the monies provided as Performance Security returned to the Bank Sponsor by Security Holder upon Bank closure or termination in accordance with Section XIII.D.2.a or the Security Holder terminates its participation in this CBA pursuant to Section XIII.D.2.

b. Interim Management Security

- i. The Security Holder, as the holder of the security, in coordination with the USFWS, shall be entitled to draw upon the Interim Management Security for default, including but not limited to, failure to perform all tasks as required under the Interim Management Plan or Remedial Action plan, if applicable during the Interim Management Period.
- ii. In the event that the Interim Management Security is drawn upon pursuant to this section, the Bank Sponsor shall restore the Interim Management Security to the amount specified in **Exhibit D-1** within 90 calendar days after written notice from Security Holder.

- iii. The Interim Management Security shall be cancelled or the monies provided as Interim Management Security returned to the Bank Sponsor by Security Holder upon conclusion of the Interim Management Period or Security Holder

2. Endowment Fund

a. Endowment Deposits

- i. The Endowment Deposits that the Endowment Holder receives are to be held in the Endowment Fund.

b. Endowment Fund Management

- i. Principal amount should be governed by an investment policy statement that is designed, over long periods of time, to generate investment returns sufficient to keep pace with inflation and pay the costs of long-term management, net of any financial investment and administrative fees. After the Endowment Amount is 100% funded, no additional Endowment Amount monies will be required from the Bank Sponsor.
- ii. The Parties shall ensure that the Endowment Agreement (**Exhibit D-3**) includes a provision that disbursements will not be made from the Endowment Fund any earlier than one year after the Endowment Amount has been 100% funded.
- iii. The Parties anticipate that disbursements from the Endowment Fund will be made available by the Endowment Holder to the Bank Sponsor to fund annual long-term management of the Bank Property as anticipated in the Long-term Management Plan and estimate of costs in accordance with the Endowment Agreement.
- iv. In the event either (a) the value of the Endowment Fund has decreased to levels that may threaten its continued existence as a source of perpetual funding for long-term management, whether due to unexpected investment performance or otherwise; or (b) if long-term management expenses exceed those estimated in the Endowment Fund Analysis and Schedule (**Exhibit D-2**), long-term management expenses the Bank Sponsor shall consult with the USFWS and the Grantee to identify the most effective means to implement the management measures and tasks with the resources available. Bank Sponsor shall submit a proposed temporary revised Long-term Management Plan and Endowment Fund Analysis in writing to the USFWS and Grantee within 60 calendar days after completion of Bank Sponsor's consultation with the USFWS and Grantee. Upon written approval of the temporary revised Long-term Management Plan by the

USFWS and any required notification to the Endowment Holder, in accordance with the Endowment Agreement, the Bank Sponsor shall implement the approved revised management measures and tasks. The original Long-term Management Plan shall be restored in full force and effect upon expiration of the temporary revised Long-term Management Plan or sooner if the circumstances in subsections (a) or (b) above, as the case may be, cease to exist.

3. Financial Records and Auditing

- a. The Bank Sponsor is required to maintain complete and accurate financial records relating to the operation of the Bank for which it is responsible, using generally accepted accounting principles developed by the Federal Accounting Standards Advisory Board. At the request of the USFWS, no more frequently than annually, the Bank Sponsor shall have its financial records relating to the operation of the Bank audited by an independent licensed Certified Public Accountant and shall submit the auditor's report to the USFWS upon completion.

F. Remedial Action Plan

1. Prior to Bank closure:
2. if a Party discovers any failure to achieve the Performance Standards or any injury or adverse impact to the Bank Property as preserved, restored, or enhanced, the USFWS does not determine that such damage is a result of Extraordinary Circumstances, the Party making the discovery shall notify the other Party(ies). The USFWS may require the Bank Sponsor to develop and implement a Remedial Action plan to correct such condition, as described below. The annual report required under Section IX.B shall identify and describe any Remedial Action proposed, approved, or performed and, if the Remedial Action has been completed, evaluate its effectiveness.
 - a. Within 60 calendar days after the date of written notice from the USFWS, the Bank Sponsor shall develop a Remedial Action plan and submit it to the USFWS for written approval. The Remedial Action plan must identify and describe proposed actions to achieve the Performance Standards or remedy injury or adverse impact to the Bank Property and set forth a schedule within which the Bank Sponsor will implement those actions. The Bank Sponsor shall, at Bank Sponsor's cost, implement the necessary and appropriate Remedial Action in accordance with the Remedial Action plan approved by the USFWS.
 - b. If (a) the Bank Sponsor fails to develop a Remedial Action plan and submit it to the USFWS or to implement Remedial Action identified by USFWS, in accordance with

this section, or (b) a remedial action plan is agreed upon and implanted, but the conditions do not satisfy the plan's objective and measurable Performance Standards by the dates specified in the plan, then the USFWS may find the Bank Sponsor in default pursuant to Section XII.E and take action accordingly.

- c. If the USFWS determines that the Bank is operating at a Credit deficit (i.e., that Credit Transfers made exceed the Credits authorized for release, as adjusted in accordance with this CBA), then the USFWS shall notify the Bank Sponsor of its default pursuant to Section XII.E, and take action accordingly. Upon receipt of notification, Bank Sponsor shall cease Credit Transfers immediately and is not authorized to resume Credit Transfers until notified in writing by the USFWS.
- d. If there is damage to the Bank Property as a result of Extraordinary Circumstances, the provisions of Section XII.A apply.

Section IX: Reporting

A. Annual Inflation Adjustments to Endowment Fund Report

By February 28th of each year following the Bank Establishment Date and until the Endowment Fund is 100% funded, the Bank Sponsor shall report to the USFWS and the Endowment Holder, in hard copy, and in editable electronic format, and uploaded to RIBITS the following:

1. The adjusted Endowment Amount in accordance with Section VI.C.2.
2. The resulting adjusted Endowment Deposit amounts.

B. Annual Report

Bank Sponsor, as specified below, shall submit an annual report to USFWS, in hard copy, editable electronic format, and upload to RIBITS, on or before February 28th of each year following the Bank Establishment Date. Each annual report shall cover the period from January 1 of the preceding year (or if earlier, the Bank Establishment Date for the first annual report) through December 31st of the previous year (the "Reporting Period"). Bank Sponsor shall be responsible for reporting Bank development and interim management tasks, and for reporting long-term management tasks described below. The annual report shall address the following:

1. Bank Development, if applicable

The Bank Sponsor shall submit an annual report that includes data, documentation, and discussion of the Bank's progress toward meeting Performance Standards described in this CBA and its Exhibits. The annual report shall describe any deficiencies in attaining and maintaining Performance Standards and any Remedial Action proposed, approved, or performed. If Remedial Action has been completed, the annual report shall also evaluate the effectiveness of that action.

2. Interim Management and Long-term Management

The Interim and Long-term Management Plans contain reporting requirements that are separate from, and in addition to, the requirements listed below for the annual report.

During the Interim Management Period, the Bank Sponsor shall submit an annual report that contains an itemized account of the management tasks in accordance with the Interim Management Plan and any Remedial Actions conducted during the Reporting Period. During the Long-term Management Period, the Bank Sponsor shall submit an annual report that contains an itemized account of the management tasks in accordance with the Long-term Management Plan and any Remedial Actions conducted during the Reporting Period. Each annual report shall also include the following:

- a. The time period covered, i.e. the dates “from” and “to.”
- b. A description of each management task conducted, the dollar amount expended and time required.
- c. The total dollar amount expended for management tasks conducted during the Reporting Period.
- d. A description of the management and maintenance activities proposed for the next reporting year.
- e. A description of the overall condition of the Bank, including photos documenting the status of the Bank Property during the Reporting Period and a map documenting the location of the photo points.

3. Credit Transfer Reporting

The Bank Sponsor shall submit an annual report that includes:

- a. an updated Credit Transfer Ledger (**Exhibit F-3**) showing all Credits transferred since the Bank Establishment Date, and
- b. an accounting of remaining Credits.

C. Credit Transfer Reporting

Upon the Transfer of each and every Credit the Bank Sponsor shall enter the Credit Transfer into the RIBITS ledger, upload an electronic copy of the finalized Credit purchase agreement into the appropriate RIBITS folder, and submit to USFWS:

1. A copy of the fully executed Credit purchase agreement in the form provided at **Exhibit F-2**.

2. An updated Credit Transfer ledger, in hard copy and in editable electronic format in the form provided at Exhibit F-3.

D. Reporting Compliance Measures

If Bank Sponsor fails to submit complete reports on time, the Bank Sponsor is in default.

1. Annual reports not received by USFWS will result in automatic Credit Transfer suspension effective the 30th day that the report is past due. The suspension will be lifted within 10 calendar days after USFWS receives a complete annual report.
2. If the Bank Sponsor has been notified by USFWS of an incomplete report, the USFWS will then notify the Bank Sponsor of the date by which the report must be made complete.

Section X: Responsibilities of the Bank Sponsor and Property Owner

- A. Without limiting any of its other obligations, including without limitation, under the Conservation Easement, Bank Sponsor and Property Owner each hereby agrees and covenants that during the time the Bank is in operation, prior to Bank closure:
 1. Bank Sponsor and Property Owner shall, prior to the execution of the Conservation Easement at **Exhibit E-4** hereof, provide the USFWS with satisfactory evidence that the entity proposed to hold the Conservation Easement (Grantee) is authorized to do so pursuant to the Oklahoma Uniform Conservation Easement Act (60 O.S. §§ 49.1—49.8), has a primary purpose of long-term land stewardship for conservation purposes consistent with the purpose of the Bank, and has agreed to hold said Conservation Easement, and otherwise complies with the requirements of the USFWS.
 2. Bank Sponsor shall be responsible for all activities and costs associated with the establishment and operation of the Bank, including but not limited to construction, planting, Remedial Action, documentation, maintenance, management, monitoring, and reporting, until completion of the Interim Management Period.
 3. The Bank Sponsor agrees to perform the actions described in this CBA and its Exhibits to support all Credits that project proponents/action agencies secure. The Bank Sponsor shall provide USFWS with the written Credit purchase agreement (**Exhibit F-2**) for all Credits secured by project proponents/action agencies that confirms that the Bank Sponsor will continue to perform the aforementioned actions.
 4. It shall not discharge or release on, to or from the Bank Property, or permit others to discharge or release on, to or from the Bank Property, any material, waste or substance designated as hazardous or toxic or as a pollutant or contaminant under any Federal, state, or local environmental law or regulation (each a “Hazardous Substance”).

5. Property Owner shall not create or suffer any lien or encumbrance upon the Bank Property other than as set forth in the Property Assessment and Warranty approved by the USFWS unless such lien or encumbrance is made subordinate to the CBA or the Conservation Easement. Property Owner shall not execute, renew, or extend any lien, lease, license, or similar recorded or unrecorded right or interest in the Bank Property without the prior written consent of USFWS and the Grantee, if a Conservation Easement has been granted.
 6. It shall not construct or install any structure or improvement on, or engage in any activity or use of, the Bank Property, including mineral exploration or development, excavation, draining, dredging, or other alteration of the Bank Property that is prohibited by, or not consistent and in accordance with this CBA and its Exhibits.
 7. Bank Sponsor shall ensure that the Bank Property is managed and maintained in accordance with the Interim Management Plan, this CBA and its Exhibits.
 8. Property Owner shall allow, or otherwise provide for, access to the Bank Property by Bank Sponsor, Grantee, USFWS and third parties, as described in the Conservation Easement.
 9. Property Owner shall grant to Bank Sponsor all rights and authority necessary to carry out, and shall not limit the Bank Sponsor in performing its responsibilities and obligations, on and affecting, the Bank Property in accordance with this CBA and its Exhibits.
- B. Reasonably foreseeable technical problems, or unanticipated or increased costs or expenses associated with the implementation of actions called for by this CBA, or changed financial or business circumstances in and of themselves shall not serve as the basis for modifications of this CBA or extensions for the performance of the requirements of this CBA.
- C. An extension of one compliance date based upon or related to a single incident shall not extend any subsequent compliance dates.

Section XI: Responsibilities of the USFWS

A. USFWS Oversight

Subject to the “Availability of Funds” provision of this CBA, USFWS agrees to oversee the performance of this CBA.

B. USFWS Review

The USFWS will make a good faith effort to provide review the annual reports and Remedial Action plans within 60 days from the date of receipt of complete submittal. If the USFWS is unable to complete its review within the time specified in this section, this fact will be reflected

in any schedule established for performance of Remedial Action and any evaluation of timely performance of Remedial Action by Bank Sponsor.

C. Compliance Inspections

The USFWS shall conduct compliance inspections for any purpose(s) it determines as necessary to assess compliance with this CBA.

Section XII: Other Provisions

A. Extraordinary Circumstances

1. The Bank Sponsor and USFWS in its review of the CBA, have made a concerted effort to identify the preservation, restoration and management measures for the Bank Property, including Adaptive Management, necessary to qualify as compensatory mitigation Covered Species, and Covered Habitat and to manage and maintain these resources in perpetuity. However, the Parties recognize that there may be a rare event (an Extraordinary Circumstance) in which the Bank can no longer serve its intended purpose as compensatory mitigation, in whole or in part, for the specific resources for which it was established. An Extraordinary Circumstance of this type may lead to Bank Sponsor and/or Property Owner being relieved of some or all of its obligations under this CBA. The Parties agree that the USFWS will consider whether it is appropriate to relieve any obligations under the process outlined below:
 - a. If the Bank Sponsor or Property Owner believes that an Extraordinary Circumstances event has taken place that Party shall send written notification to the USFWS as promptly as possible, but no later than 14 calendar days following the date of discovery of the event. The Party sending the notification (invoking) will fully describe the nature of the Extraordinary Circumstances event, its effect on the Party's performance of the obligations under this CBA, the habitat values affected by the event, and any expected timeframe of non-performance attributable to the Extraordinary Circumstances event. As promptly as reasonably possible after providing notification, the Party invoking Extraordinary Circumstances shall meet with USFWS to discuss whether the event qualifies as an Extraordinary Circumstance. The Party invoking Extraordinary Circumstances shall bear the burden of demonstrating that Extraordinary Circumstances have occurred. Until such time USFWS determines whether the event qualifies as an Extraordinary Circumstance and whether it is appropriate to suspend performance pursuant to Section XII.A.1.d, the Bank Sponsor shall continue to manage and maintain the Bank Property to the fullest extent practicable consistent with this CBA and other applicable documents.
 - b. If USFWS concur that an Extraordinary Circumstances event has taken place, such agencies will provide written notification to the Bank Sponsor and Property Owner. Within 14 calendar days of notification of concurrence from USFWS that Extraordinary Circumstances have occurred, or on a date mutually agreed upon by all

Parties, the Parties will meet to discuss the course of potential action to be taken in response to such occurrence, including potential Remedial Action as defined in Section II and potential suspension of Performance Standards as described in Section XII.A.1.c. Remedial Action in such circumstances is limited to, restoration of Covered Habitat on the Bank Property, out-of-kind improvements on the Bank Property, or a smaller restoration of Covered Habitat on the Bank Property (taking into account the diminution of habitat values across the Service Area), improvements to another property, or the purchase of credits from another bank. Once approved by USFWS, the Party invoking Extraordinary Circumstances shall carry out the Remedial Action set forth above within a mutually agreed upon timeframe.

- c. If the Bank Sponsor or Property Owner is prevented from or delayed in performing an obligation under this CBA by Extraordinary Circumstances that commences after the Bank Establishment Date, USFWS upon written notice to the Bank Sponsor and Property Owner may suspend the Bank Sponsor and/or Property Owner's obligation to perform, as well as the ability of the Bank to provide any remaining Credits released, but not yet Transferred, as compensatory mitigation.
 - d. Following the meeting discussed in Section XII.A.1.b. to consider potential actions to be taken in response to the event, USFWS will, in writing, (1) inform the Property Owner or Bank Sponsor as to what, if any, performance is suspended, and (2) direct the Bank Sponsor as to what specific Remedial Action is required in accordance with Section XII.A.1.b. The Bank Sponsor will continue to perform all other obligations that are not suspended.
 - e. Within 60 calendar days of notification described in Section XII.1.d., or by a date mutually agreed upon by all Parties, the Party invoking Extraordinary Circumstances will submit to USFWS, in writing, the implementation plan to meet the required Remedial Action. At a minimum, the Remedial Action will be sufficient to ensure that the Conservation Values which underlie all previously Transferred Credits will be supported.
 - f. If the Remedial Action agreed upon and implemented does not meet an agreed upon objective or standard within the agreed upon timeframe, the Bank Sponsor and USFWS will reconvene to evaluate if alternative Remedial Action would be appropriate in accordance with Section XII.A.1.b.
2. Failure to act in good faith to participate in the process outlined above in Section XII.A.1 or to implement any USFWS-approved Remedial Actions in accordance with Section XII.A.1.b, shall be a default under this CBA.
 3. In accordance with Section VIII.C of this CBA, USFWS may, at their discretion, direct Bank Sponsor to suspend the Transfer of Credits, prohibit the release of additional Credits, and/or reduce the number of Credits allocated to the Bank in proportion to such damaged

area unless and until the Bank Sponsor has remedied the defect pursuant to the Remedial Action as described in Section XII.A.1.d.

4. Disputes over whether an event is a result of Extraordinary Circumstances, or any Remedial Action taken in response pursuant to this Section, shall be resolved in accordance with Section XII.B.
5. Bank Sponsor and Property Owner are not entitled to termination of this CBA under Section XII.D as a result of Extraordinary Circumstances.

B. Dispute Resolution

The Parties agree to work together in good faith to resolve disputes concerning this CBA. Unless a Party has initiated legal action in connection with the particular dispute, any Party may elect (“Electing Party”) to employ an informal dispute resolution process whereby:

1. The Electing Party shall notify all other Parties to this CBA of the dispute through a Dispute Notice. The Dispute Notice shall identify the Parties against which the Electing Party is commencing the informal dispute process (“Implicated Parties”), the position of the Electing Party (including, if applicable, the basis for contending that a violation has occurred), and the resolution the Electing Party proposes.
2. Each Implicated Party shall have 45 calendar days after receipt of the Dispute Notice (or such other time as the Parties may mutually agree) to respond to the Electing Party. During this time, any Party to this CBA that received the Dispute Notice may seek clarification of the Dispute Notice.
3. Within 45 calendar days after Implicated Party’s response was provided or due, whichever is later, the Electing Party and the Implicated Party shall confer and negotiate in good faith toward a mutually satisfactory resolution, or shall establish a specific process and timetable to seek such resolution.
4. The dispute resolution process may be terminated by the Electing Party or any Implicated Party upon written notice to all other Parties to this CBA.

C. Conveyance of Bank Property or Other Interests

1. All transfers of any interest in the Bank Property or the Conservation Easement are subject to the applicable provisions of the Conservation Easement.
2. The Property Owner shall have the right to sell, assign, transfer or convey (each a “transfer”) all or a portion of its interest in the Bank Property at any time; provided, however, that any such transfer on or after the execution date of this CBA must be made in accordance with this CBA and the Conservation Easement, and shall be subject to written concurrence by the USFWS and Bank Sponsor. Such concurrence shall be subject to the requirement that the transferee assumes and agrees in writing to observe and perform all of the Property Owner’s obligations pursuant to this CBA and the Conservation Easement. From and after the date of any transfer by Property Owner of its interest in the Bank

Property, in which the transferee has assumed and agreed in writing to observe and perform all of the transferor's obligations pursuant to this CBA, the transferor shall have no further obligations hereunder and all references to Property Owner in this CBA shall thereafter refer to such transferee, except that the transferor's liability for acts, omissions, or breaches occurring prior to the transfer shall survive the transfer. Any transfer of the Property Owner's interest in the Bank Property made without the prior written concurrence of the USFWS may, at the discretion of the USFWS, result in the termination of this CBA according to Section XII.E and USFWS may take action accordingly.

3. The Bank Sponsor may sell, or convey its interest in the Bank at any time, provided that no uncured event of default exists, Bank Sponsor is in full compliance with all requirements of this CBA (including all financial assurance requirements), and subject to the prior written approval of the USFWS. If any of the financial assurances required under this CBA are not completely funded at the time the Bank Sponsor requests USFWS approval of a sale or conveyance, then the USFWS shall not approve such sale or conveyance unless and until either the current Bank Sponsor, or the proposed replacement Bank Sponsor, shall have provided all required financial assurances. In addition, prior to sale or conveyance, the Bank Sponsor shall provide to the USFWS a written agreement signed by the replacement Bank Sponsor, acceptable to USFWS in form and substance, in which the Bank Sponsor assigns to the replacement Bank Sponsor, and the replacement Bank Sponsor assumes and agrees to perform, all of the responsibilities and obligations of the Bank Sponsor under the CBA. Any such sale or conveyance made without the prior written concurrence of the USFWS constitutes default pursuant to Section XII.E and USFWS may take action accordingly.

D. Modification and Termination of the CBA

1. Amendment and Modification

- a. Prior to Bank closure, this CBA, including its Exhibits, may be amended or modified only with the written approval of the Parties, which approval may be withheld or denied. All amendments and modifications shall be fully set forth in a separate document signed by all Parties that shall be appended to this CBA.
- b. After Bank closure, amendments or modifications to this CBA, including its Exhibits, which do not impact obligations of the Bank Sponsor under this CBA must be approved in writing by the Property Owner and USFWS, which approval may be withheld or denied. . All amendments and modifications shall be fully set forth in a separate document signed by all Parties that shall be appended to this CBA.
- c. At the request of the Bank Sponsor, the USFWS may consider an amendment to the CBA to conform to an approved HCP.

2. Termination

- a. The Bank Sponsor may withdraw the entire Bank Property and terminate this CBA at any time prior to any Credit Transfer, provided that other habitat values existing on the Bank Property prior to the initiation of any efforts to restore or enhance the Bank Property shall be preserved in a condition at least equal to that which existed prior to initiation of Bank establishment efforts as required by the Conservation Easement.
- b. In the event this CBA is terminated or the Bank is closed prior to the Transfer of all authorized Credits, any remaining Credits under this CBA shall be extinguished and will no longer be available for Transfer.
- c. The USFWS may terminate this CBA if the Bank Sponsor or Property Owner sells or conveys the Bank or the Bank Property without the prior written concurrence of the USFWS, as required by Section XII.C.
- d. In the event termination is commenced, the Bank Sponsor agrees to fulfill its pre-existing obligations to perform all establishment, monitoring, maintenance, management, and remediation responsibilities that arise directly from Credits that were transferred at the time of termination.
- e. Nothing in this Section is intended or shall be construed to limit the legal or equitable remedies (including specific performance and injunctive relief) available to the USFWS in the event of default by Bank Sponsor and/or Property Owner.

E. Default

The Bank Sponsor and/or Property Owner shall be in default if that Party fails to observe or perform any obligations or responsibilities required of it by this CBA. In the event of default, the USFWS shall issue a notice of default to Bank Sponsor and/or Property Owner, which includes direction and specified time period to cure the default. If the Bank Sponsor and/or Property Owner fails to remedy the default within the allotted time, the USFWS will take appropriate action, which includes but is not limited to, suspending Credit Transfers, reducing available Credits, utilizing financial assurances, and terminating the CBA. In the event the informal dispute resolution process is invoked, the holder of the financial securities shall not draw upon the financial securities until such time as the informal dispute resolution process has been terminated. This Section shall not be construed to modify or limit any specific right, remedy, or procedure in any Section of this CBA or any remedy available under applicable State and/or Federal Law.

F. Controlling Language

The Parties intend the provisions of this CBA and each of the documents incorporated by reference in it to be consistent with each other, and for each document to be binding in accordance with its terms. To the fullest extent possible, these documents shall be interpreted in a manner that avoids or limits any conflict between or among them. However, if and to the extent that specific language in this CBA conflicts with specific language in any document that is incorporated into this CBA by reference, the specific language within the CBA shall be controlling. The captions and

headings of this CBA are for convenient reference only, and shall not define or limit any of its terms or provisions.

G. Entire Agreement

This CBA, and all exhibits, appendices, schedules and agreements referred to in this CBA, constitute the final, complete and exclusive statement of the terms of the agreement between and among the Parties pertaining to the Bank, and supersede all prior and contemporaneous discussions, negotiations, understandings or agreements of the Parties. No other agreement, statement, or promise made by the Parties, or to any employee, officer, or agent of the Parties, which is not contained in this CBA, shall be binding or valid, with respect to the subject matter hereof. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment in accordance with Section XII.D.1. Each of the Parties acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any of the other Parties or anyone acting on behalf of any of the Parties unless the same has been embodied herein.

H. Reasonableness and Good Faith

Except as specifically limited elsewhere in this CBA, whenever this CBA requires a Party to give its consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld or delayed. If the Party disagrees with any determination covered by this provision and reasonably requests the reasons for that determination, the determining Party shall furnish its reasons in writing and in reasonable detail within 30 calendar days following the request.

I. Successors and Assigns

This CBA and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns subject to the limitations on transfer set forth in this CBA.

J. Partial Invalidity

If a court of competent jurisdiction holds any term or provision of this CBA to be invalid or unenforceable, in whole or in part, for any reason, the validity and enforceability of the remaining terms and provisions, or portions of them, shall not be affected unless an essential purpose of this CBA would be defeated by loss of the invalid or unenforceable provision or its invalidity or unenforceability as to any Party.

K. Notices

Any notice, demand, approval, request, or other communication permitted or required by this CBA shall be in writing and deemed given when delivered personally, sent by receipt-confirmed facsimile, or sent by recognized overnight delivery service, addressed as set forth below, or five calendar days after deposit in the U.S. mail, postage prepaid, and addressed as set forth below.

Notice by any Party to any other Party shall be given to all Parties. Such notice shall not be effective until it is deemed to have been received by all Parties.

Any Party may change its notice address by giving notice of change of address to the other Parties in the manner specified in this Section XII.K.

Bank Sponsor:

ABB Dirty Creek, LLC
Attn: Michael Darren Bird
2557 State Hwy 7 E
Center, Texas 75935
Telephone: (936) 598-9588
Fax: (936) 598-9579
Email: jmbird@adv-eco.com

Property Owner:

AE Land and Timber, LLC

Attn: Michael Darren Bird
2557 State Hwy 7 E
Center, Texas 75935
Telephone: (936) 598-9588
Fax: (936) 598-9579
Email: jmbird@adv-eco.com

Service:

U.S. Fish and Wildlife Service

Attn: Field Supervisor and Endangered Species Biologist
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, Oklahoma 74129-1428
Telephone: (918) 581-7458
Fax: (918) 581-7467

L. Counterparts

This CBA may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute a single executed agreement.

M. No Third Party Beneficiaries

This CBA shall not create any third party beneficiary hereto, nor shall it authorize anyone not a Party hereto to maintain any action, suit or other proceeding, including without limitation, for personal injuries, property damage or enforcement pursuant to the provisions of this CBA. The duties, obligations and responsibilities of the Parties to this CBA with respect to third parties shall remain as otherwise provided by law in the event this CBA had never been executed.

N. Availability of Funds

Implementation of this CBA by the USFWS is subject to the requirements of the Anti-Deficiency Act, 31 U.S.C. § 1341, and the availability of appropriated funds. Nothing in this CBA may be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The USFWS is not required under this CBA to expend any appropriated funds unless and until an authorized official affirmatively acts to commit to such expenditures as evidenced in writing.

O. No Partnerships

This CBA shall not make or be deemed to make any Party to this CBA an agent for or the partner or joint venturer of any other Party.

P. Applicable Laws

Among the Bank Sponsor, Property Owner and the USFWS, the applicable statutes, regulations, policies, directives, and procedures of the United States will govern all documents and actions pursuant to this CBA. Between the Bank Sponsor and Property Owner this CBA shall be governed by and construed according to the applicable laws, statutes, regulations, orders, policies and requirements of the State of Oklahoma and its agencies with jurisdiction, including without limitation the authorities identified in Section I.B of this CBA as applicable.

Q. No Federal Contract or Monetary Damages

This CBA is not a contract between the Bank Sponsor or Property Owner or any other agency of the Federal government. Any dispute arising under this CBA will not give rise to any claim by the Bank Sponsor or Property Owner for monetary damages. This provision is controlling notwithstanding any other provision or statement in the CBA to the contrary.

Section XIII: Execution

Each of the undersigned certifies that he or she has full authority to enter into this CBA. This CBA shall be deemed executed on the date of the last signature by the Parties. Within 30 calendar days of CBA execution, the Bank Sponsor shall upload the final signed CBA, including all of its Exhibits, to the appropriate folders in RIBITS and provide an electronic copy to USFWS.

IN WITNESS WHEREOF, the Parties have executed this CBA as follows:

Bank Sponsor

By: _____

[Name]

[Title, if applicable]

Date: _____

Property Owner

By: _____

[Name]

[Title, if applicable]

Date: _____

U.S. Fish and Wildlife Service

By: _____

[Name]

[Title, if applicable]

Date: _____

“Exhibit A” - Bank Location Maps

A-1. General Vicinity Map

This map should show the Bank location in relation to cities, towns, or major roads, and other distinguishable landmarks with sufficient detail to allow the Bank Property to be easily located. This map should depict other conserved lands in the vicinity of the proposed Bank Property.

A-2. Map of Property including Bank Property

This map should illustrate Property and Bank Property boundaries, Construction Phases, and any planned Subsequent Phases on a topographic map.

“Exhibit B” – Service Area Map(s) and Description(s)

B-1. Map(s) of the Bank’s Service Area(s)

Include Service Area map(s) showing the area within which each type of Credit (i.e., Waters of the U.S., Waters of the State, Covered Species or Covered Habitat) may be sold or obligated.

B-2. Narrative description(s) of the Bank’s Service Area(s)

Include a detailed description of the area, and a basis for that Service Area, within which each type of Credit may be sold or obligated. Include sufficient details to be able to determine the boundaries; including counties, landmarks, roads, etc. on all sides of the Service Area.

“Exhibit C” - Development Plan

C-1. Development Plan – Not applicable

This plan should include the baseline conditions of the Bank Property including: biological resources, geographic location and features, topography, hydrology, vegetation, past present and adjacent land uses, a delineation of Waters of the U.S. and/or Waters of the State and jurisdictional determination (if applicable), and a list of species and habitats occurring on the Bank Property. Include a description of the objectives of the Mitigation Bank and activities and methodologies for establishing, restoring, and/or enhancing Waters of the U.S. and/or Waters of the State or other habitat types. Detail anticipated increases in functions and services of existing aquatic resources and their corresponding effect within the watershed (i.e. habitat diversity and connectivity, floodplain management, or other landscape scale functions). Include map(s) of the overall mitigation bank design, a description of habitat establishment goals, objectives and Performance Standards, a discussion of ecological suitability of the site to achieve the stated goals and objectives (i.e. watershed/hydrology analysis, soils, topography, compatibility with adjacent land uses, watershed management plans, critical habitat designation, HCP, and species recovery plans). Include maps detailing the anticipated location, acreages, and types of proposed Credits. Include historic aerial

photographs and/or historic topographic maps (if available). If restoration is proposed; monitoring methodologies required to evaluate and meet the Performance Standards; an approved schedule for reporting monitoring results; a discussion of possible Remedial Actions; surrounding land uses and zoning along with the anticipated future development in the area; and any other information deemed necessary by the USFWS. The Development Plan must clearly specify how each Construction Phase will be constructed and monitored in sufficient detail that a third-party acting on the Construction Security could complete establishment of any given phase.

C-2. Performance Security Analysis and Schedule – Not applicable

Specify the amount of the Performance Security based upon the amount of Construction Security in Exhibit C-2. Include a specific Performance Security Analysis and Schedule for each Construction Phase.

“Exhibit D” - Bank Management and Operation Documents

Any and all standard required forms to be used for the submission of financial information shall be included in this Exhibit D in template form.

D-1. Interim Management Security Analysis and Schedule

This analysis and schedule shall consist of a table and/or spreadsheet that shows all of the tasks (management, monitoring, reporting); task descriptions; labor (hours); cost per unit; cost, frequency, timing or scheduling of the tasks; the total annual funding necessary for each task; and any associated assumptions for each task required by the Interim Management Plan. The total annual expenses should include administration and contingency costs. Include a specific Interim Management Security Analysis and Schedule for each Construction Phase.

Cost estimates should be based on tasks implemented by a third-party in present day dollars or equipment prices in present day dollars

D-2. Endowment Fund Analysis and Schedule

This analysis and schedule shall consist of a table and/or spreadsheet that shows the projected annual capitalization rate, all of the tasks (management, monitoring, reporting); task descriptions; labor (hours); cost per unit; cost, frequency, timing or scheduling of the tasks; the total annual funding necessary for each task; and any associated assumptions for each task required by the Long-term Management Plan. The total annual expenses should also include administration and contingency expenses. The Endowment Fund Analysis and Schedule is developed assuming that each Construction Phase is constructed and managed by itself without the economies of scale or other cost reductions that may occur if all Construction Phases are implemented.

Cost estimates should be based on tasks implemented by a third-party in present day dollars or equipment prices in present day dollars.

This Endowment Fund Analysis and Schedule in this **Exhibit D-2** is specific to funding long-term management of the Bank Property by the Property Owner. The endowment funding required by the Grantee to hold and monitor the Conservation Easement must be addressed by the Bank Sponsor in a separate and distinct Endowment Agreement to be included as part of **Exhibit E**. Such separate Endowment Agreement is not considered part of **Exhibit D-3**.

D-3. Agreements, Instructions and Forms for Submission or Disbursement of Endowment Funds

1. Endowment Agreement
2. Deposit Document
3. Deposit Procedures
4. Annual Funding Report Templates

D-4. Interim Management Plan

The Interim Management Plan identifies the short-term management, monitoring, Adaptive Management, reporting and other activities to be implemented by the Bank Sponsor during the Interim Management Period. The Interim Management Plan should include provisions for managing each Construction Phase independently as well as together.

D-5. Long-term Management Plan

The Long-term Management Plan identifies the perpetual management, monitoring, and reporting activities to be conducted after the Interim Management Period, and should include at minimum:

1. Purpose of Bank establishment and purpose of Long-term Management Plan;
2. A baseline description of the setting, location, history and types of land use activities, geology, soils, climate, hydrology, habitats present (once Bank meets Performance Standards) and species descriptions;
3. Overall management, maintenance and monitoring goals; specific tasks and timing of implementation; and a discussion of any constraints which may affect goals;
4. The Endowment Fund Analysis and Schedule (**Exhibit D-2**);
5. Discussion of Adaptive Management actions for reasonably foreseeable events and possible thresholds for evaluating and implementing Adaptive Management;
6. Monitoring and Reporting requirements and schedule;
7. Rights of access to the Bank Property and prohibited uses of the Bank Property as provided in the Conservation Easement; and

8. Procedures for amendments and notices.
9. Include a reference to the Historic Properties Treatment Plan (**Exhibit I-3**), if applicable.

D-6. Bank Closure Plan

Provide Bank closure plan. See Section VIII.D

“Exhibit E” - Real Estate Records and Assurances

The Property Owner shall provide the USFWS the following, with the understanding that the Bank will not be deemed established and authorized to sell Credits until the Bank Property has been protected in perpetuity by acceptance and recording of the Conservation Easement and all of the other requirements for Bank establishment set forth in the CBA have been met:

E-1. Preliminary Title Report, Legal Description, and Parcel Map(s)

Parcel map(s) and a legal description, as well as a Preliminary Report which includes pertinent exceptions (e.g., excepted or reserved easements or rights, liens, encumbrances and other matters affecting title), of the Property and Bank Property

E-2. Property Assessment and Warranty

Property Assessment and Warranty prepared in accordance with the approved template.

E-3. Plat Map(s)

Plat maps supporting the Property Assessment and Warranty which illustrate the physical extent of the title exceptions and identify the locations of all structures, roads, fences, and other physical improvements.

E-4. Real Estate Instrument

The form of the Conservation Easement using the approved template [or, if fee title to the State, substitute: The form of the Grant Deed.]

E-5. Title Insurance [attach once received]

Applicable for final CBA approval under all circumstances.

"Exhibit F” - Bank Crediting and Credit Transfers

F-1. Credit Evaluation and Credit Table

A “Credit Evaluation” is an explanation of the evaluation undertaken to formulate the value of each type of Credit and the total number of each type of Credit. The “Credit Table” should show the number and type of Credits Released as mitigation or compensation for agency-

approved projects and other impacts in the Service Area(s). The table should distinguish between the following categories of Credits: Covered Species and Covered Habitat Preservation; Covered Species and Covered Habitat Restoration.

F-2. Credit Purchase Agreement and Payment Receipt Templates

F-3. Credit Transfer Ledger Template

1. Credit Transfer Ledger shall include at a minimum:
2. Bank name;
3. Total number of each type of Bank Credit;
4. Initial Credit purchaser name, address and phone number;
5. Project name;
6. Project applicant name, address, and phone number;
7. Agency project file numbers;
8. Date of Credit Transfer;
9. Type(s) of Credit(s) sold or obligated;
10. Number of Credits sold or obligated;
11. Number of Credits applied; and
12. Balance of each type of Credit remaining.
13. A declaration that the Bank Sponsor has entered the Transfer into RIBITS.

F-4 Instructions for Species Credit Transfers Using RIBITS

F-5 Credit Release Schedule and Funding Schedule for Covered Species and Covered Habitats

F-6 Implementation Fee Schedule [if applicable]

“Exhibit G” - Phase I Environmental Site Assessment

“Exhibit H” - Biological Resources Survey

Biological Resources Survey(ies) of the Bank Property shall describe the biotic and abiotic baseline of the Bank Property and should include descriptions of the following with maps: (a) the Bank Property’s geographic location and features, including topography, hydrology, soils, and

vegetation; (b) current functions and services of aquatic resources; (c) inventory of all biological resources, including: description of vegetation communities and a complete plant species list, presence of Federally-threatened or endangered species, and/or their habitats, as determined by protocol surveys or other appropriate survey methodology, state-listed threatened and endangered species and other species of special concern, other wildlife species that may be present, and presence of non-native species on the Bank Property; and (d) past and present land uses, including grazing practices.

“Exhibit I” –Jurisdictional Determination and Delineation of Waters of the U.S. and/or Waters of the State. – Not Applicable

Bank Sponsor shall provide a copy of the delineation of Waters of the U.S. and/or Waters of the State and jurisdictional determination issued by USACE and/or Regional Board for the Bank Property.

“Exhibit J” – Cultural, Historical, Archeological, and Native American Resources (“Cultural Resources”).

Cultural Resources requirements met for all Construction Phases.

J-1 Identification, Inventory, and Evaluation

Cultural resources inventory and evaluation shall include the following: (a) a description and map of the area of potential effects (“APE”), (b) a description of each cultural resource and a brief statement identifying the specific location of each cultural resource within the APE, (c) a description of how the boundary was determined for each cultural resource identified, and (d) a determination of eligibility for the National Register of Historic Places (National Register), as determined by the lead Federal agency in consultation with the State Historic Preservation Officer (SHPO), and Tribal Historic Preservation Officer (TIPO), and (e) where appropriate, eligibility recommendation for listing on the Oklahoma Register of Historical Resources.

J-2 Compliance Documentation [not applicable]

If the Bank Sponsor finds that the undertaking will have no effect or no adverse effect upon cultural resources, the CBA shall include such determination of effect and the required concurrence by the SHPO, TIPO, and the Advisory Council on Historic Preservation, as applicable. However, if it is determined that the undertaking will have an adverse effect on a historic property, the CBA is to include either an executed Programmatic Agreement or Memorandum of Agreement (Section 106 agreement) as documentation of compliance with Section 106 of the National Historic Preservation Act of 1966, as amended. The SHPO has an important role in this process and consults with the Oklahoma Archeological Survey (OAS) under the program.

J-3 Historic Properties Treatment Plan (HPTP) [not applicable]

A historic properties treatment plan, approved by the SHPO, shall be prepared prior to any ground-disturbing activities conducted on the Bank Property. The HPTP will be included in

the Section 106 agreement as an appendix. Ground disturbing activities must be conducted in accordance with the stipulations of the Section 106 agreement (**Exhibit J-2**). The plan shall include both short and long-term management of the historic properties. In addition, the Federal Agency will make compliance with the Section 106 Agreement a condition of any Federal authorization or approval.

“Exhibit K” – Other Documentation, Permits, Amendments or Revisions

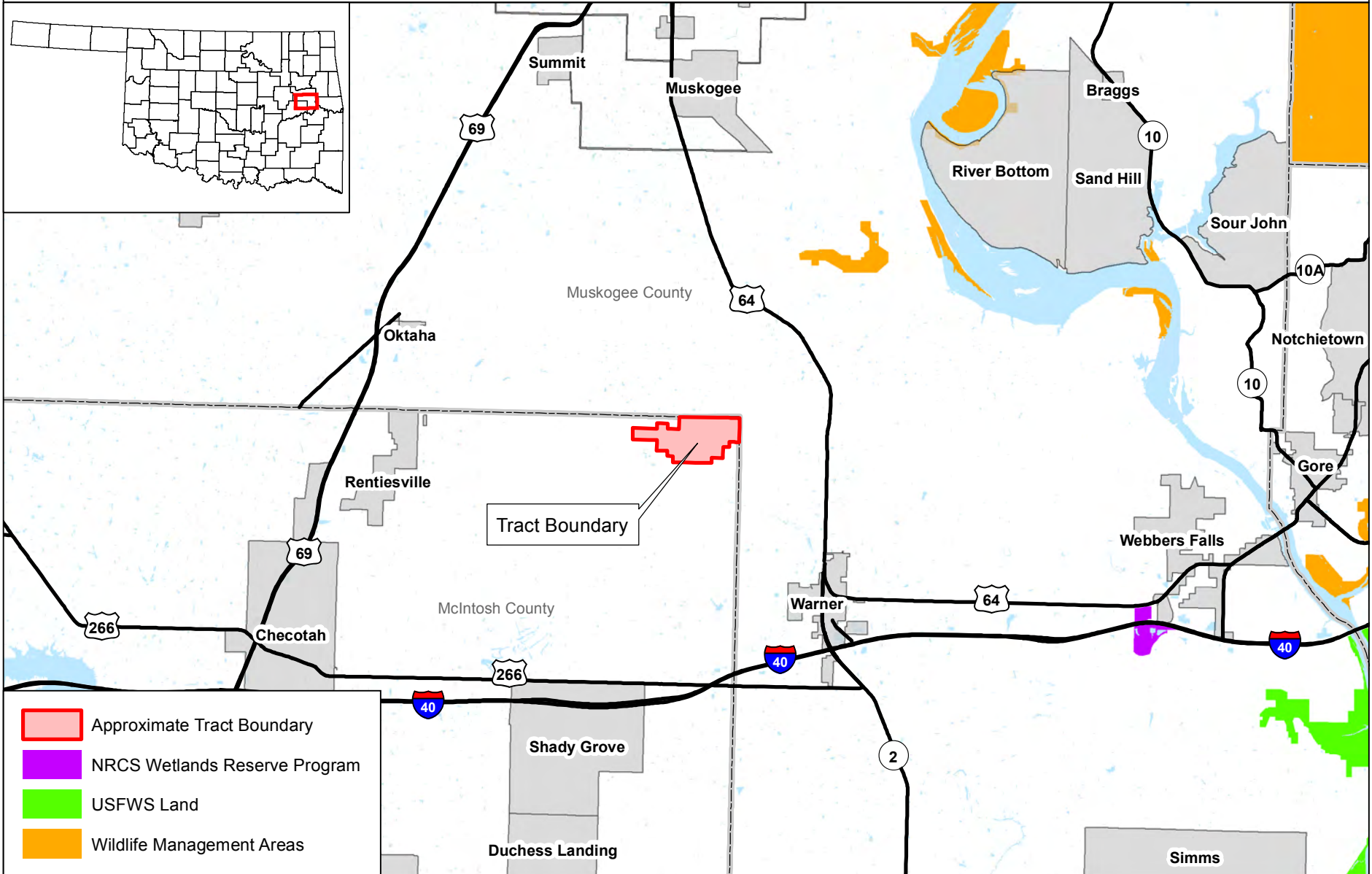
To the extent not already obtained, the Bank Sponsor or Property Owner will be responsible for obtaining all appropriate environmental documentation, permits, permit amendments, or other authorizations needed to establish and maintain the Bank, including but not limited to the following. Enclose the required documentation for all Construction Phases.

Include only those that apply and add others as necessary:

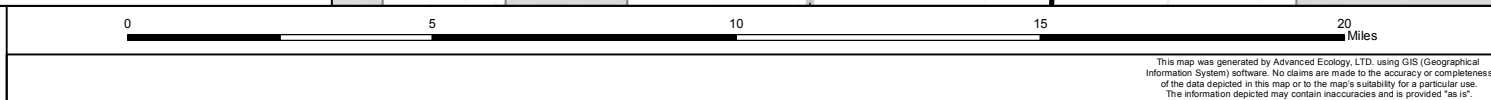
- A. Department of the Army Permit;
- B. Water Quality Certification or Waiver under § 401 of the Clean Water Act;
- C. Federal Endangered Species Act compliance (16 U.S.C. § 1535 *et seq.*) (ESA)(§ 7 or § 10);

Exhibit A – Bank Location Maps

Exhibit A-1
 General Vicinity Map
 McIntosh County, Oklahoma



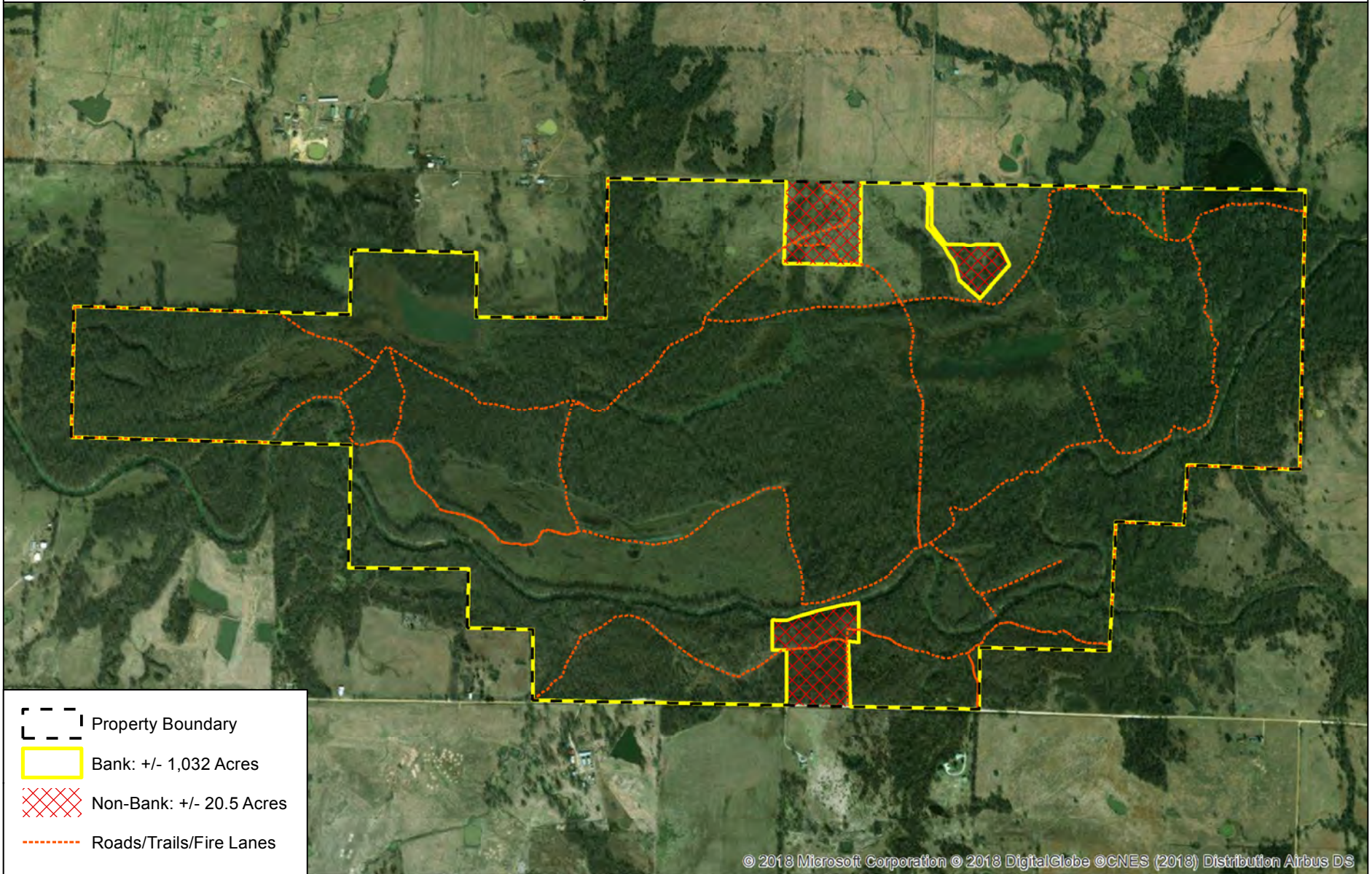
- Approximate Tract Boundary
- NRCS Wetlands Reserve Program
- USFWS Land
- Wildlife Management Areas



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Exhibit A-2
Bank and Property Map
Dirty Creek Conservation Bank



- Property Boundary
- Bank: +/- 1,032 Acres
- Non-Bank: +/- 20.5 Acres
- Roads/Trails/Fire Lanes

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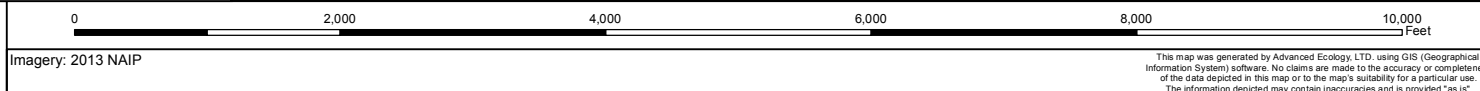
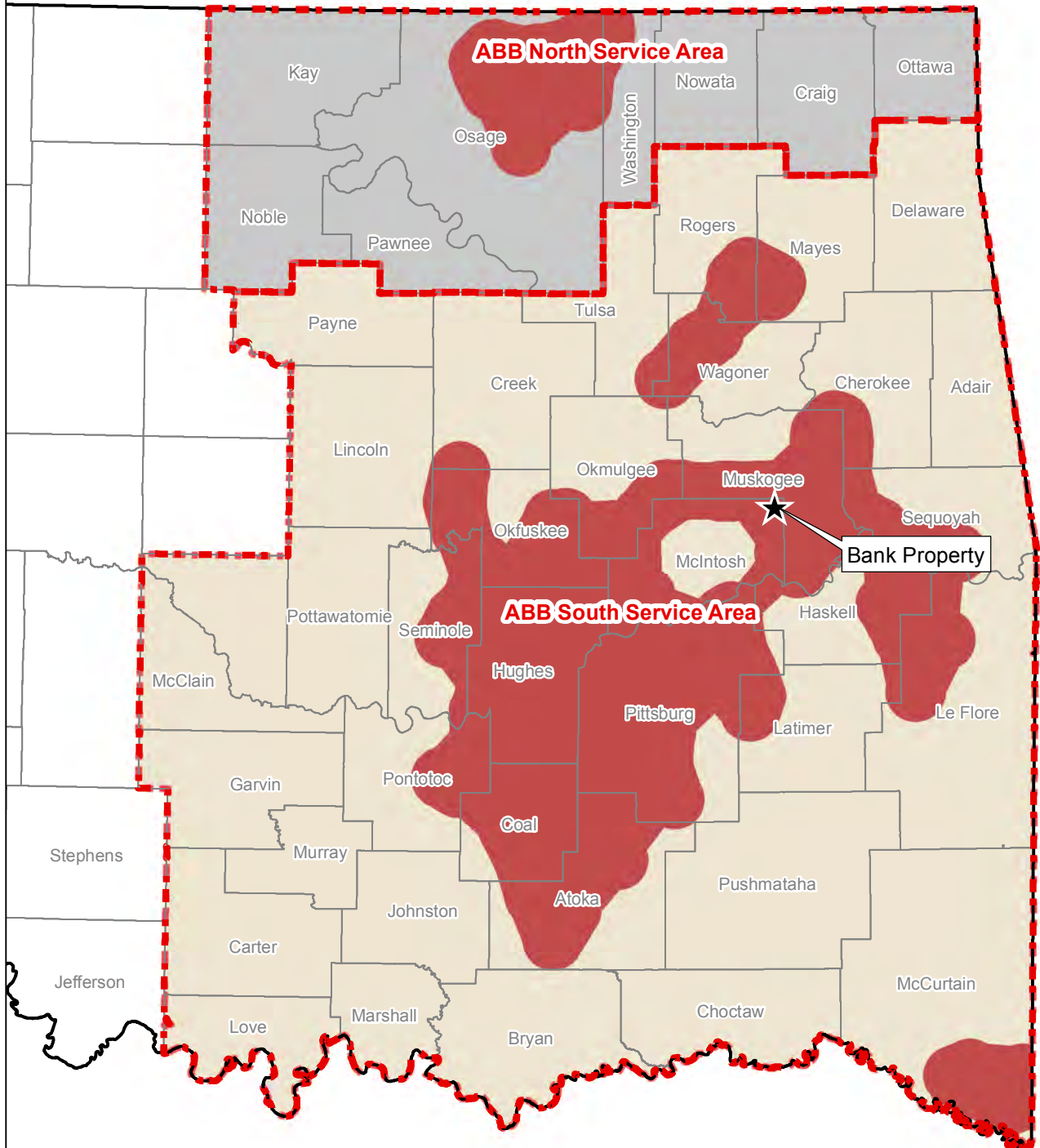





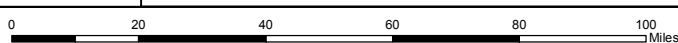
Exhibit B – Service Area Map and Description

Exhibit B-1
 American Burying Beetle
 Conservation Priority Areas and Service Areas



-  ABB North Service Area
-  ABB South Service Area
-  ABB Conservation Priority Areas

 6/1/2017



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Exhibit B-2

Narrative Description of the Bank's Service Area

"**North Service Area**" means the Oklahoma Counties of Ottawa, Craig, Nowata, Washington, Osage, Pawnee, Payne, and Kay Counties. "**South Service Area**" means the Oklahoma Counties of Delaware, Mayes, Rogers, Tulsa, Payne, Creek, Wagoner, Cherokee, Adair, Lincoln, Okfuskee, Okmulgee, Muskogee, Sequoyah, Haskell, McIntosh, Cleveland, Pottawatomie, Seminole, Hughes, Pittsburg, Latimer, Le Flore, McCurtain, Pushmataha, Choctaw, Bryan, Atoka, Coal, Pontotoc, McClain, Garvin, Murray, Johnston, Carter, Marshall.

Dirty Creek Conservation Bank is located in the **ABB Conservation Priority Area** within the **South Service Area** as delineated by the USFWS Tulsa Ecological Services Field Office. Projects impacting ABB that are located within Oklahoma will be mitigated at any bank within the Service Area where impacts occur. If a bank with available credits is not available in the Service Area where impacts occur, then impacts may be mitigated in the other Service Area at any bank therein.

Project proponents should consult the Information, Planning, and Conservation (IPaC) system at <http://ecos.fws.gov/ipac/> to view the consultation range of the American burying beetle (*Nicrophorus americanus*).

Exhibit C – Development Plan – Not Required

C-1: Development Plan – Not Required

C-2: Construction Security Analysis and Schedule – Not Required

C-3: Performance Security Analysis and Schedule – Not Required

Exhibit D – Bank Management and Monitoring Documents

D-1: Interim Management Security Analysis and Schedule

Exhibit D-1**Interim Management Security Analysis**

The table below details the 1-Year Budget for the financial expenditures associated with the management and implementation of the Dirty Creek Conservation Bank.

	Annualized Costs	1 Year
<u>Annual Maintenance and Operation - Bank Land</u>		
Endowment Fund Management	\$ 1,500	\$ 1,500
Insurance (liability)	\$ 1,250	\$ 1,250
<u>Admin, Accounting & Audit (MBCB Budget)</u>	\$ 1,500	\$ 1,500
Road Mowing	\$ 2,100	\$ 2,100
Road Repairs & Maintenance	\$ 1,000	\$ 1,000
Fence Maintenance	\$ 1,100	\$ 1,100
Firelane Maintenance	\$ 1,250	\$ 1,250
TOTAL ANNUAL - LAND	\$ 9,700	\$ 9,700
<u>Annual Maintenance and Operation - Bank Habitat</u>		
Habitat Management		
Controlled Burn	\$ 3,000	\$ 3,000
Biological Control		
RIFA Control	\$ 1,000	\$ 1,000
Feral Hog Control & Monitoring	\$ 500	\$ 500
Monitoring and Reporting		
<u>ABB & Small Mammal Survey</u>	\$ 7,750	\$ 7,750
<u>RIFA Survey</u>	\$ 500	\$ 500
<u>Habitat Baseline Monitoring</u>	\$ 1,000	\$ 1,000
<u>5- Year Monitoring Plan Reevaluation</u>	\$ 750	\$ 750
Adaptive Management (20%)	\$ 2,900	\$ 2,900
TOTAL ANNUAL - BANK	\$ 17,400	\$ 17,400
Total 1 Year Interim Budget	\$ 27,100	\$ 27,100

D-2: Endowment Fund Analysis and Schedule

Exhibit D-2**Endowment Fund Analysis - Dirty Creek Conservation Bank**

	Annualized Costs	Endowment
<u>Annual Maintenance and Operation - Bank Land</u>		
Endowment Fund Management	\$ 1,500	\$ 37,500
Insurance (liability)	\$ 1,250	\$ 31,250
Admin, Accounting & Audit (MBCB Budget)	\$ 1,500	\$ 37,500
Road Mowing	\$ 2,100	\$ 52,500
Road Repairs & Maintenance	\$ 1,000	\$ 25,000
Fence Maintenance	\$ 1,100	\$ 27,500
Firelane Maintenance	\$ 1,250	\$ 31,250
TOTAL ANNUAL - LAND	\$ 9,700	\$ 242,500
<u>Annual Maintenance and Operation - Bank Habitat</u>		
Habitat Management		
Controlled Burn	\$ 3,000	\$ 75,000
Biological Control		
RIFA Control	\$ 1,000	\$ 25,000
Feral Hog Control & Monitoring	\$ 500	\$ 12,500
Monitoring and Reporting		
ABB & Small Mammal Survey	\$ 7,750	\$ 193,750
RIFA Survey	\$ 500	\$ 12,500
Habitat Baseline Monitoring	\$ 1,000	\$ 25,000
5- Year Monitoring Plan Reevaluation	\$ 750	\$ 18,750
Adaptive Management (20%)	\$ 2,900	\$ 72,500
TOTAL ANNUAL - BANK	\$ 17,400	\$ 435,000
Total Annual Endowment	\$ 27,100	\$ 677,500

Endowment Funding Schedule

The Endowment Fund may be funded through the sale of Credits from Dirty Creek Conservation Bank.

Until the Endowment Fund is fully funded, the Sponsor will allocate a minimum of \$900.00 from each Credit sold toward funding the Endowment Fund until the Endowment Fund is fully funded or a total of \$677,500 (Endowment Amount) is deposited into the Endowment Fund.

As Credits are sold, the allocated dollars will be held in an endowment fund account and deposited into the Endowment Fund quarterly.

The intent is to fully fund the endowment once 75% of the credits are sold, or before the 4th anniversary of the Bank Establishment Date as described in the CBA, Section VI.C.

D-3: Agreements, Instructions and Forms for Submission or Disbursement of Endowment Funds

LONG-TERM FUNDING AGREEMENT

AN AGREEMENT (the “**Agreement**”) by and between XXXXXXXXXXXXXXXX, with an address at XXXXXXXXXXXXX (the “**Grantor**”), and Texas Parks and Wildlife Foundation, with an address at 2914 Swiss Avenue, Dallas, TX 75204 (the “**Foundation**”) (collectively, the “**Parties**”).

WHEREAS, the Grantor is the bank sponsor of approximately XXXXX acres of real property (the “**Property**”) located XXXXXXXXXXXXX counties, Oklahoma, and with a service area that includes Lamar and Red River counties, Texas, as more completely described in Exhibit “A” attached hereto; and

WHEREAS, the United States Fish and Wildlife Service (“USFWS”) and the Grantor have entered into the XXXXXXXXXXXXX Conservation Bank Agreement (the “**Conservation Bank Agreement**”), dated XXXXXXXX XX, 201__, and incorporated herein by reference, wherein the USFWS agreed to Grantor’s establishment and operation of the XXXXXXXXXXXXX Conservation Bank (the “**Conservation Bank**”) on the Property; and

WHEREAS, as a condition of the Conservation Bank Agreement and pursuant to the Conservation Easement of XXXXXXXXXXXXX on the Property, Grantor agreed and is obligated to manage and maintain the Property in perpetuity to improve, conserve, and/or protect the aquatic resources, habitat and other ecological values of the Bank Property (“Long-Term Management Plan”). The Bank Property, comprised of approximately XXXXX acres, including habitat for the American Burying Beetle (ABB) (the “**Covered Species**”), a USFWS-listed endangered species with a range that includes Lamar County and Red River County, Texas, will be managed in accordance with the Conservation Bank Agreement and associated Long-Term Management Plan.

WHEREAS, as a condition of the Conservation Bank Agreement, the Grantor agreed and is obligated to establish and maintain a separate non-wasting endowed account (the “**Endowment Fund**” or “**Fund**”) (as defined in the Conservation Bank Agreement); and

WHEREAS, in order to satisfy its obligations to establish and maintain the Endowment Fund, the Grantor enters in this Agreement, on the terms set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as provided herein:

1. Transfer of Assets. In accordance with the Conservation Bank Agreement, the Grantor agrees to transfer the “**Endowment Amount**” as defined in the Conservation Bank Agreement equaling XXXXXXXXXXXXXXXX Dollars (\$XXX, XXX.00) in the form of one lump sum to the Foundation for deposit into the Fund. The Target Amount shall also be referred to in this Agreement as the “**Donation**”.

2. Fund Designation. The Donation shall be clearly designated on the books of the Foundation and in its publications in order to readily identify the assets and activities of

the Fund. The Grantor grants to the Foundation permission to honor the Grantor and to express the appreciation of the Foundation publicly in the form of news announcements, both internal and external.

3. Management of the Fund. The assets of the Fund shall be the property of the Foundation held by it in its corporate capacity and shall not be deemed a trust fund held by it in a trustee capacity. The assets of the Fund shall be wholly-owned, invested and managed by the Foundation in accord with the Long-Term Strategy of its Investment Policy, the current form of which is attached as Exhibit "B" hereto. The Grantor shall have no right or responsibility with respect to the investment or financial management of the Fund under this Agreement or otherwise. The Foundation also shall have full right and power to commingle and co-invest the assets of the Fund with other investment assets of the Foundation and to delegate investment management of the assets of the Fund. In the event the assets of the Fund are commingled with other Foundation assets, the Foundation shall maintain at all times separate records and books of account so as to specifically identify the assets and intents of the Fund from time to time. All income generated from the assets in the Fund as well as all gains and losses, realized and unrealized, thereon shall be credited to the Fund as appropriate. The Foundation shall not be liable to the USFWS, the Grantor, or any other entities or persons for losses arising from investment of funds in the Fund that is consistent with this Agreement. Notwithstanding the aforementioned, the Foundation shall not use or borrow against the monies in the Fund for its own benefit, except for assessment and collection of the fees due to the Foundation or its financial institutions, or as otherwise approved by the Conservation Bank Agreement and the USFWS.

4. Fees and Expenses. The Foundation shall, in its sole discretion, assess against the Fund, pro rata along with all other similarly situated funds of the Foundation, appropriate and reasonable costs for the administration of the Fund, including but not limited to reasonable investment fees, custodian fees and taxes (if any), and 0.50% annually of the fair market value of the Fund computed and assessed either quarterly or annually, in either case at the Foundation's election, based on the average balance over the prior four (4) or twelve (12) months. The Foundation shall collect the fees and expenses referenced in this Section 4 by deducting same from the balance of the Fund.

5. Designation of Purposes. The Fund shall at all times be used exclusively for charitable purposes as defined under Sections 501(c)(3) and 170 of the Internal Revenue Code of 1986, as amended (the "**Code**"), and in accordance with the Conservation Bank Agreement. No part of the net income or assets of the Fund shall inure to the benefit of the Grantor or the Foundation, its officers or board members, or to any private person except as explicitly set forth herein. The Foundation acknowledges that the purposes are consistent with and further the purpose and mission of the Foundation.

6. Distributions.

In accordance with the Conservation Bank Agreement, the Foundation is authorized to make distributions and disbursements from the Fund to pay costs and expenses reasonably incurred in and related to the management of the Property, including, but not limited to, property taxes, contracts, equipment, materials, and signage.

Generally, distributions from the Fund will be made in accordance with a spending policy (“**Amount**”) established by the Foundation’s Board of Directors from time to time. Distributions are calculated by multiplying the Amount by the preceding rolling 12-quarter average of the Fund market value. For a fund in existence for fewer than three years, the fair market value of the fund must be calculated for the period the fund has been in existence.

Distributions in excess of the Amount may be made to the Conservation Bank based on written request by the Grantor. In making the determination to distribute in excess of the Amount, the Foundation will consider needs with respect to both annual operating and maintenance requirements and expenditures for long-term replacement of capital improvements (collectively “**Annual Expenditures**”). Distributions in excess of the projected Annual Expenditures for the Conservation Bank shall be authorized only if such distributions pay costs and expenses for management activities outlined in the Conservation Bank Agreement and protect the financial viability of the Fund. Distributions in excess of the projected Annual Expenditures for the Mitigation Bank for management costs and expenses not outlined in the Conservation Bank Agreement shall be authorized only if such exceptions are approved in writing by the USFWS, serve to advance the land stewardship goals of the Conservation Bank Agreement, and protect the financial viability of the Fund.

7. Foundation’s Reliance on Information.

A. The Foundation is expressly entitled to rely on the validity of the USFWS approval and the accuracy and validity of the land management plan and funding addressed in the Conservation Bank Agreement without independent verification. The Foundation shall not be liable in any respect to the USFWS, the Grantor, or to any other party, for errors, omissions, inaccuracies, or other elements of the land management plan or the funding related to same, whether contained therein or omitted therefrom, including but not limited to the sufficiency or adequacy of the Fund, as established in the Conservation Bank Agreement.

B. If, at any time, the plan for managing the Conservation Bank as set forth in the Conservation Bank Agreement is amended or otherwise modified in accordance with the terms of the Conservation Bank Agreement, the Grantor shall immediately notify the Foundation in writing of such amendment or modification and transmit written documentation memorializing such modification executed by the USFWS. Grantor and the Foundation agree and acknowledge that the Foundation shall be entitled to rely upon a modification or change agreed to by Grantor and the USFWS.

8. Duration of the Fund. It is the Grantor and the USFWS’ intention that the Fund will last in perpetuity to fund the costs and expenses associated with the management and maintenance of the Property and that these obligations shall continue in perpetuity as covenants running with the land. If the purposes for which the Fund is created have been accomplished or so frustrated that the Fund serves no purpose or should the Foundation: (i) become insolvent or file for bankruptcy; (ii) no longer be classified as a public charity under Code Section 509(a); (iii) commit an act or omission with respect to the Fund which is grossly negligent or willful misconduct; or (iv) cease to exist or conduct its operations, any Party as well as the USFWS, after providing written notice to the other Party and the USFWS, and with the USFWS written concurrence, may petition a court of competent jurisdiction for the

dissolution of the Fund. In any of the instances set forth above, with the USFWS written approval, the Fund may be distributed to: (a) a conservation organization that is determined by the Internal Revenue Service to be tax exempt for one or more purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code or corresponding section of any future federal tax code and that agrees to use the Fund for a public conservation purpose in the State of Texas; (b) a governmental entity that agrees to hold and disburse the Fund for a USFWS-approved conservation purpose in the State of Texas; or (c) to a USFWS-selected and approved non-governmental entity that agrees to hold and disburse the Fund to and/or as prescribed by the USFWS for a public conservation purpose in the State of Texas. Any such written determination shall be delivered to the Foundation by the USFWS.

9. Accountings. The Foundation shall render periodic accounts of the administration of the Fund to the Grantor. In no event, however, shall the accounting be rendered less than once each fiscal year (beginning January 1 through December 31). The accounting shall consist of annual reports regarding expenditures and reimbursements as well as income, contributions and the Donation. If requested, the Foundation shall also provide to the USFWS a copy of its most recent financial statement as prepared by an independent auditor.

10. Amendment. Provisions of this Agreement may be amended, modified or deleted with the written mutual consent of the Foundation, the Grantor or its legally or duly appointed agent or attorney-in-fact or the personal representative of the Grantor's estate, and the USFWS. Any such amendments, modifications, or deletions shall be recorded in a written signed addendum, which shall become part of this Agreement.

11. No Preferential Treatment. Grantor acknowledges that in entering into this Agreement Grantor is dealing exclusively with the Foundation. Neither the fact, nor the terms, of this Agreement shall create or imply any type of preferential treatment or obligation on behalf of the Texas Parks and Wildlife Department ("TPWD") in its review of the Conservation Banking Agreement and other documents related to the Property. Grantor agrees it shall not seek any such preferential treatment in connection with TPWD or otherwise seek to trade on its relationship with the Foundation created under this Agreement.

12. Entire Agreement. This Agreement, along with any exhibits hereto, contains the entire understanding of the Parties with respect to the subject matter herein and is subject to the laws of the State of Texas, without regard to its conflict of laws rules. This Agreement supersedes all other agreements and understandings, both oral and written, between the Parties relating to the Fund. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions hereof shall nevertheless remain in effect.

13. Independent Parties. Each of the Parties is acting in its independent capacity in entering into and carrying out this Agreement and not as an agent, employee, or representative of the other Party.

14. Waiver. Any waiver by either Party of any term or provision of this Agreement shall be given in writing. No waiver shall be construed as a waiver of any other provision of this Agreement, nor shall such waiver be construed as a waiver of such provision respecting any other event or circumstance.

15. Headings. The headings used in this agreement are for convenience only and shall not determine or limit the interpretation, construction or meaning of this Agreement.

16. Third-Party Beneficiary. This Agreement shall not be the basis of any claims, rights, causes of action, challenges, or appeals by any person not a Party to this Agreement, except that the Parties acknowledge that the USFWS shall have the rights expressly assigned to it hereunder.

17. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and delivered by certified or registered mail, return receipt requested, postage prepaid, at the address set forth below, or to such other person or at such other place as either Party may designate in a notice. Notice shall be sent as follows:

To Grantor:

To Foundation:

Texas Parks and Wildlife Foundation
2914 Swiss Avenue
Dallas, TX 75204

To USFWS:

US Fish and Wildlife Service
Division of Ecological Services
9014 East 21st Street
Tulsa, OK 74129

18. Counterparts. This Agreement may be executed in identical counterparts, and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be attached and assembled to form a single original document.

19. Assignment. Grantor may assign its rights and obligations under this Agreement to any party to whom Grantor transfers long-term management responsibilities in accordance with the Conservation Bank Agreement. Foundation may assign its rights and obligations under this Agreement, including ownership of the Fund, only with the written agreement of the Grantor, the Foundation, and the USFWS and as provided in the Conservation Bank Agreement.

20. Compliance with Laws; Indemnification.

A. In conducting the Land Management Activities and performing its obligations under this Agreement, the Grantor, or its assigned designee, agrees to conduct all such activities in compliance with all applicable Federal, State, and local laws, regulations, and ordinances; and to secure all appropriate and necessary public or private permits, approvals, and consents.

2. The Foundation and the Grantor, or its assigned designee, shall indemnify and hold harmless each other, and their respective officers, directors, agents, representatives, and employees in respect of any and all claims, injuries, losses, diminution in value, damages, liabilities, whether or not currently due, and related expenses (including without limitation, settlement costs and any legal or other expenses for investigating or defending any actions or threatened actions) arising from or in connection with any breach by the indemnifying Party of its obligations under this Agreement (including, in the case of the Recipient, of its obligation to perform the Land Management Activities).
3. The terms of this Section will survive termination of this Agreement.

IN WITNESS WHEREOF, the Grantor and the Foundation have executed this Agreement as of the date last signed below.

[GRANTOR]

TEXAS PARKS AND WILDLIFE FOUNDATION

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Exhibit “A”

PROPERTY DESCRIPTION

Approximately XXXXX acres of real property (the “**Property**”) located XXXXXXXXXX
Counties, Oklahoma.

Exhibit “B”

INVESTMENT POLICY

Investment Policy
For
Texas Parks and Wildlife Foundation

Adopted October 6, 2010

Revised January 1, 2018

Investment Policy
For
Texas Parks and Wildlife Foundation

Table of Contents

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EXHIBIT A: Asset Allocation and Performance Benchmarks

1. Introduction

The purpose of Texas Parks and Wildlife Foundation's (the "Foundation") Investment Policy (this "Policy") is to provide guidelines for the prudent management of the Foundation's investment assets (the "Portfolio") and is intended to assist the Foundation's Board of Trustees (the "Board") in supervising and monitoring the Portfolio. The Policy defines the Foundation's investment objectives and the responsibilities of and standards applicable to those involved in the investment and management of the Portfolio.

It is recognized that from time to time the Board's attitudes, expectations and objectives may change. Therefore, this Policy is intended to be used as a guideline rather than a rigid statement of policy from which there can be no deviation. This Policy is intended to be a summary of an investment philosophy and the procedures that provide guidance for the Foundation, Board, Investment Committee and Investment Advisor.

2. The Foundation's Mission and Portfolio

The Foundation was established in 1991 as a non-profit corporation under the laws of the State of Texas and is governed by the Board. The Foundation has been recognized by the Internal Revenue Service as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and is classified as a public charity. The Foundation's mission is to provide private support to the Texas Parks and Wildlife Department to manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing, and outdoor recreation opportunities for the use and enjoyment of present and future generations. In furtherance of its mission, the Foundation is dedicated to funding conservation projects, internships and scholarships to directly conserve Texas' natural resources and raise awareness of conservation issues.

The Portfolio consists of funds that are intended to be used for near term-program and operating expenses, and funds to support future or long-term program support. The Portfolio is designed to ensure long-term financial security to the Foundation and to provide a source of funding for the Foundation's activities.

3. Investment Objectives

The Foundation's investment objectives are to safeguard and preserve the real purchasing power of the Portfolio while earning investment returns that are commensurate with the Foundation's risk tolerance and sufficient to meet its operational requirements. The specific investment objectives are set forth below.

Intermediate-Term Portfolio

The Intermediate-Term Portfolio shall be invested with the primary objective of capital preservation, liquidity and inflation hedging while seeking an appropriate level of investment return.

More specifically, the investment objectives and constraints for the Intermediate-Term Portfolio include the following:

- Preservation of Purchasing Power. The Foundation aims to at least preserve the real purchasing power of the assets by seeking returns on its investments that are equal to the rate of inflation.
- Growth. The Foundation seeks to achieve modest growth in assets in excess of inflation.
- Time Horizon. The total return is evaluated on a three-year rolling basis. It is recognized that not every three-year period will meet the Foundation's objectives, but the Foundation aims to attain its objectives over a series of three-year periods.
- Risk Tolerance. The Foundation seeks to control risk and reduce volatility to equal or below a 5% standard deviation through a conservative asset allocation framework that will invest primarily in fixed income securities with limited exposure to equities and other higher volatility assets.
- Liquidity Requirements. The Foundation seeks to maintain adequate liquidity to meet its obligations, including planned periodic expenditures as determined by the Board. The Board will inform the Investment Advisor of any anticipated need for liquidity as such need becomes known. The Investment Advisor will presume no liquidity needs other than those provided by this Policy or the Board or Investment Committee.

Long-Term Portfolio

The Long-Term Portfolio shall be invested with the primary object to grow purchasing power in perpetuity with a time horizon not less than five years.

More specifically, the investment objectives and constraints for the Long-Term Portfolio include the following:

- Preservation of Purchasing Power. The Foundation aims to at least preserve the long-term real purchasing power of its assets over time by seeking returns on its investments that are in excess of the sum of (a) the spending rate (described below) and (b) the rate of inflation.
- Long-Term Growth. The Foundation seeks to achieve growth in its assets in excess of inflation by emphasizing long-term investment fundamentals in structuring its investments.
- Time Horizon. The Foundation intends to invest for the long-term, with the total return evaluated on a five-year rolling basis. It is recognized that not every five-year period will meet the Foundation's objectives, but the Foundation aims to attain its objectives over a series of five-year periods.
- Risk Tolerance. The Foundation seeks to control risk and reduce the volatility through diversification. However, short-term volatility is characteristic of the securities markets and will be tolerated if such volatility is consistent with the volatility of similar investment portfolios (such as the volatility of performance benchmarks, described below). The Foundation recognizes and acknowledges that some risk must be assumed in order to achieve the long-term investment objectives of the Portfolio. In establishing its risk tolerance, the Foundation's ability to withstand short- and intermediate-term variability, as well as the statistical probability of loss for a given period of time, is evaluated periodically by the Board.

- Liquidity Requirements. The Foundation seeks to maintain adequate liquidity to meet its obligations, including planned periodic expenditures as determined by the Board. The Board will inform the Investment Advisor of any anticipated need for liquidity as such need becomes known. The Investment Advisor will presume no liquidity needs other than those provided by this Policy or the Board or Investment Committee.

4. Responsibilities

The Board, or such members of the Board as so designated, has the responsibility for investing and managing the Portfolio as well as the responsibility for establishing and modifying this Policy, including establishing the asset allocation for the Portfolio. The Board has delegated to the Investment Committee these responsibilities.

The Investment Committee, the Foundation's designated staff and the Foundation's Investment Advisor are charged with implementing this Policy. Their respective responsibilities are set forth below.

a. Investment Committee

The Investment Committee is responsible for:

- Establishing, reviewing periodically, and modifying this Policy and its appendices from time to time, and reporting any changes to the Board.
- Establishing the asset allocation targets and ranges for the Portfolio, and modifying them from time to time.
- Implementing this Policy, with input from Foundation staff and the Investment Advisor.
- Overseeing the Portfolio and reporting on the status of the Portfolio to the Board at least two times per year.
- Engaging the Investment Advisor to assist the Investment Committee in carrying out its investment responsibilities and to implement the investment strategy and decisions of the Investment Committee.
- Continuing or terminating the Investment Advisor and monitoring its performance.
- Engaging and continuing or terminating the Investment Advisor's bank custodian, and monitoring its performance.
- Monitoring the fees and other expenses associated with the management and administration of Portfolio.

b. Investment Advisor

The Investment Advisor, The Northern Trust Company, is responsible for:

- Recommending the strategic asset allocation of the Portfolio to the Investment Committee.

- Recommending any tactical strategy that seeks to take advantage of market dislocations (*i.e.*, underweight/overweight specific sectors) to the Investment Committee.
- Implementing the Portfolio's asset allocation through the selection, continuation, and termination of Investment Managers.
- Implementing rebalancing on a periodic basis, or when otherwise appropriate, to ensure the Portfolio is in compliance with the asset allocation ranges established by the Investment Committee.
- Selecting, continuing, or terminating Investment Managers based on appropriate criteria, including the following: investment philosophy, historical performance, experience of key personnel, and financial viability or changes in these factors. In selecting each Investment Manager, the Investment Advisor will take reasonable measures to assess the independence of the Investment Manager, including any conflicts of interest that the Investment Manager may have. (This Investment Manager selection responsibility also includes the ongoing monitoring of the Investment Managers for adherence to this Policy and his, her, or its stated investment strategy.)
- Reviewing Investment Managers, establishing the scope and terms of the delegation to Investment Managers, and monitoring their performance and compliance with the scope and terms of the delegation.
- Monitoring, analyzing the performance of, and recommending performance benchmarks for each Investment Manager.
- Requiring each Investment Manager to promptly report to any material adverse determinations against the firm or its principals, either by a court, the Securities Exchange Commission, or any other regulatory authority.
- Requiring each Investment Manager to promptly communicate significant changes in the Investment Manager's firm, including: changes in senior management or high-level personnel; changes in the Investment Manager's ownership; and changes in the Investment Manager's investment strategy and/or style.
- Preparing investment reports monthly for the Investment Committee's review that contain the information necessary for the Investment Committee to exercise its judgment and carry out its investment responsibilities prudently.
- Attending meetings in person or by telephone conference with the Investment Committee and the Foundation's staff as requested.
- Providing necessary information to and cooperating with the Investment Committee, Foundation staff, and the Foundation's external auditors.
- Providing feedback regarding changes to this Policy when requested by the Board or the Investment Committee and proposing corresponding amendments to the relevant account documents, if necessary.

c. Foundation Staff

Foundation staff is responsible for assisting the Investment Committee with all components of this Policy, including coordination of outside professionals involved in supporting the investment and management of the Portfolio.

5. Restrictions on Investments

The Investment Advisor and Investment Manager(s) shall adhere to the following restrictions on investments:

- All purchases of securities must be for cash and there will be no leveraged purchasing or margin transactions except for pooled investment vehicles.
- No short sales.
- No investment in hedge funds or private equity funds will be made, except upon approval of the Investment Committee.
- Issuer concentration shall not exceed 5% within the investment portfolio of each investment manager.
- No more than 20% of the market value of the Portfolio shall be concentrated in any one industry.

These above restrictions will not be applied to the underlying holdings of any investments in commingled vehicles such as mutual funds.

6. Guidelines on Prudent Investing

a. Standard of Care

Each person responsible for managing and investing the Foundation's assets will do so in good faith with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and will consider both the purposes of the Foundation and the goals of the Portfolio.

A person with special skills or expertise, or selected in reliance upon his or her representation that he or she has special skills or expertise, will use those skills or that expertise in managing and investing the Foundation's Portfolio.

In managing the Portfolio, the Foundation will incur only those costs that are appropriate and reasonable in relation to the Portfolio, the purposes of the Foundation, and the skills available to the Foundation. The Foundation will use reasonable efforts to verify facts relevant to the management and investment of the Portfolio.

b. Prudence Considerations

In managing and investing the Portfolio, the following factors, if relevant, will be considered:

- general economic conditions;
- the possible effect of inflation or deflation;
- the expected tax consequences, if any, of investment decisions or strategies;
- the role that each investment or course of action plays within the overall Portfolio;
- the expected total return from income and the appreciation of investments;
- other resources of the Foundation;

- the needs of the Foundation and of particular funds in the Portfolio to make distributions and to preserve capital;
- an asset's special relationship or special value, if any, to the purpose of the Foundation;
- the requirement of diversification;
- liquidity considerations;
- the impact of management or administration costs; and
- risk management.

Management and investment decisions about an individual asset will be made not in isolation but rather in the context of the Portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the Portfolio and the Foundation.

The Foundation will diversify the assets in the Portfolio unless it prudently determines that, because of special circumstances, the Portfolio is better served without such diversification.

c. Delegation Standards

The Investment Committee will delegate to the Investment Advisor the management and investment of the Portfolio to the extent that it can prudently delegate under the circumstances, and will act in accordance with the standard of care described above in selecting, continuing, or terminating the Investment Advisor, establishing the scope and terms of the delegation, and monitoring the Investment Advisor's performance and compliance with the scope and terms of the delegation.

The Investment Committee will take reasonable measures to assess the independence of the Investment Advisor, both before and after the Investment Advisor is engaged. Investment Advisors will be selected based on competence, experience, past performance, and proposed compensation, without regard to business or personal relationships. Any actual or potential conflicts of interest possessed by a member of the Board or the Investment Committee must be disclosed and resolved in accordance with the Foundation's conflict of interest policy.

7. Spending Policy

The Foundation's spending policy is consistent with its investment objective of achieving long-term real growth in its assets. In order to achieve such long-term real growth, the Foundation's expenditures should be less than the Foundation's total inflation-adjusted return on investments. Subject to a donor's intent expressed in a gift instrument, the Board will establish an annual spending policy which is between 3% and 5.5% of a moving average and is consistent with the Foundation's long-term investment objectives. Consistent with the Foundation's long-term investment objectives, the Foundation's current spending policy is to multiply 4% times the preceding rolling 12-quarter average market value of the Portfolio. The Board is responsible for setting this spending rate from time to time on the recommendation of its Investment Committee.

8. Asset Allocation

The Foundation targets a level of risk equivalent to a benchmark portfolio consisting of market indices representing performance benchmarks (described below) corresponding to the asset allocation targets established by the Investment Committee. The Investment Committee will establish in writing the Foundation's asset allocation, including minimum and maximum allocations for each asset class in the Portfolio, and will modify it from time to time, with recommendations from the Investment Advisor.

The Investment Committee will seek to achieve a diversified Portfolio, unless it prudently determines that, because of special circumstances, the Portfolio or a particular fund or funds within the Portfolio are better served without diversification.

9. Rebalancing and Cash Flows

The Investment Committee and/or the Investment Advisor, as the case may be, should consider rebalancing at least once a quarter or more frequently, if necessary (e.g., large market moves). Rebalancing of the Portfolio may be delayed if, for example, prevailing market conditions are such that rebalancing may be detrimental to the Foundation's long-term goals for the Portfolio.

The Investment Committee will identify the destination of all cash flows, including additional contributions to the Foundation's assets, consistent with this Policy. The Foundation's net cash flows may be used to implement the rebalancing activities in order to minimize transaction costs.

10. Performance Benchmarks

Performance benchmarks are used by the Investment Committee to properly measure and evaluate the success of the Investment Advisor and the Investment Managers. The performance benchmarks selected by the Investment Committee (with recommendations from the Investment Advisor) should be representative of the Foundation's long-term return objectives and risk tolerance and be calculated over the same time period as the returns on the Portfolio with which the performance benchmark is being compared. These performance benchmarks are intended as targets only and are no guarantee or assurance of the performance of any investment or of the Portfolio.

11. Reporting and Oversight

The Investment Committee will review the reports made available each month by the Investment Advisor, and will meet quarterly (in person or by telephone conference) to evaluate the performance of the Portfolio and adherence by the Investment Advisor to this Policy. The performance of the Portfolio will be measured relative to appropriate and agreed upon performance benchmarks (described above). The Investment Committee will also make periodic reports to the Board at least two times per year regarding the Foundation's investment performance.

12. Revisions

The Investment Committee will review this Policy periodically and recommend revisions to the Board for approval as needed. In conducting such review, the Investment Committee may consult with the Investment Advisor regarding the performance of the Foundation's investments, the current asset allocation, the Foundation's overall investment strategy, general economic and market conditions, and any other relevant information that may bear on this Policy.

EXHIBIT A

Asset Allocation

January 1, 2018

Intermediate-Term Portfolio

<u>Asset Class</u>	<u>Lower Limit</u>	<u>Upper Limit</u>	<u>Strategic Target</u>
Cash & Equivalents	0%	10%	3%
<u>Fixed Income</u>			
IG Corporate and Government US	62%	90%	69%
Non-IG Corporate US	0%	6%	5%
Inflation Linked	0%	10%	6%
	68%	100%	80%
<u>Real Assets</u>			
Real Estate & Infrastructure	0%	3.5%	1.5%
Commodities & Natural Resources	0%	3.5%	1.5%
	0%	7%	3%
<u>Equities</u>			
US Large Cap	0%	15%	7.5%
US Small and Mid-Cap	0%	2%	1.0%
International Developed Markets	0%	5%	3.5%
International Emerging Markets	0%	3%	2.0%
	0%	15%	14%
Total			100%

Long-Term Portfolio

<u>Asset Class</u>	<u>Lower Limit</u>	<u>Upper Limit</u>	<u>Strategic Target</u>
Cash & Equivalents	0%	10%	0%
<u>Fixed Income</u>			
IG Corporate and Government US	12%	47%	23%
Non-IG Corporate US	0%	10%	6%
Inflation Linked	0%	5%	3%
	27%	47%	32%
<u>Real Assets</u>			
Real Estate & Infrastructure	0%	9%	7%
Commodities & Natural Resources	0%	6%	5%
	0%	15%	12%
<u>Equities</u>			
US Large Cap	20%	35%	26%
US Small and Mid-Cap	5%	20%	6%
International Developed Markets	10%	25%	20%
Emerging Markets	0%	7%	4%
	40%	65%	56%
Total			100%

Performance Benchmarks

Asset Class	Weight		Benchmark
	Intermediate-Term	Long-Term	
Cash Equivalents	3%	0%	Citigroup 3 Month Treasury Bill
IG Corporate and Government US FI	69%	23%	BC US Aggregate Index
Non-IG Corporate US FI	5%	6%	BC US Corp High Yield 2% Capped
Inflation-Linked Securities	6%	3%	Barclays US TIPS Index
Real Estate & Infrastructure	1.5%	7%	50% FTSE EPRA/50% S&P Global Infrastructure
Commodities & Natural Resources	1.5%	5%	50% Bloomberg Futures Commodity TR Index/50% S&P Global Natural Resource Index
US Large Cap Equities	7.5%	26%	S&P 500 Index
US Small-Mid Cap Equities	1.0%	6%	66.66% Russell Midcap/33.34% Russell 2000 Index
International Developed Markets Equities	3.5%	20%	MSCI EAFE Index
International Emerging Markets Equities	2.0%	4%	MSCI Emerging Market Index
Total	100%	100%	

Date

Name

Organization Name

Address line 1

Address line 2

City, State Zip

Dear Salutation,

Texas Parks and Wildlife Foundation is pleased to confirm receipt of a GIFT AMOUNT donation from ORGANIZATION NAME for the NAME OF FUND Mitigation Bank Endowment Fund at Texas Parks and Wildlife Foundation.

Donations to the NAME OF FUND Endowment Fund are permanently restricted for DETAILS OF PROPERTY, on which the NAME OF FUND Mitigation Bank was established and is operated.

Thank you for your work in conserving our natural resources for current and future generations.

Sincerely,

Anne Brown

*Donor: Name of Donor; Gift Amount: ;
Date: ; Purpose: Mitigation Banking Endowment;
No goods were exchanged for this gift, unless otherwise noted.*



Instructions for Deposits to Texas Parks and Wildlife Foundation Long-Term Account

Option #1 - By Check

Check payable to: Texas Parks and Wildlife Foundation
Memo Line: Name of the Mitigation Bank Endowment

Mail to:
Texas Parks and Wildlife Foundation
2914 Swiss Avenue
Dallas, TX 75204

Option #2 - By Wire Transfer

Receiving Bank: Northern Trust, Chicago, IL
ABA # 071-000-152
For Credit To Northern Trust: #5186011000
For Further Credit to A/C: #44-69800
Receiving Account Name: Texas Parks and Wildlife Foundation (Tax ID# 74-2602504)

Northern Trust Contact:
Matt Bradford at 602-468-2526 or Matthew.Bradford@ntrs.com

Please notify Texas Parks and Wildlife Foundation (TPWF) at 214.720.1478 or abrown@tpwf.org when making a wire transfer.

TPWF will provide a written confirmation of your deposit for your records.

01 APR 18 - 30 APR 18

◆ Allocation Schedule - Market Value

		100 Park Project	PLAN TOTALS
Beginning Totals	Balance	347,877.89	347,877.89
Period Totals	Other Receipts/Disbursements	(558.68)	(558.68)
		(558.68)	(558.68)
Time-Weighted	Other Receipts/Disbursements	(279.34)	(279.34)
		(279.34)	(279.34)
Allocation	Balance	347,598.55	347,598.55
	Percent	100.00000%	100.00000%
Earnings	Interest	287.45	287.45
	Dividends	0.31	0.31
	Net Change Accrued Income	61.08	61.08
	Unrealized Gain/Loss Change	3,406.32	3,406.32
	Realized Gain/Loss	2,042.15	2,042.15
		3,755.16	3,755.16
Ending Totals	Balance	351,074.37	351,074.37
	Percent	100.00000%	100.00000%

The Plan Total reflects the total of underlying plan balances, and may not be equal to the sum of displayed columns.

Although this report has been prepared using information believed to be reliable, it may contain information provided by third parties or derived from third party information, and/or information that may have been obtained from, categorized or otherwise reported based upon client direction. The Northern Trust Company does not guarantee the accuracy, timeliness or completeness of any such information. The information included in this report is intended to assist clients with their financial reporting needs, but you must consult with your accountants, auditors and/or legal counsel to ensure your accounting and financial reporting complies with applicable laws, regulations and accounting guidance. The Northern Trust Company and its affiliates shall have no responsibility for the consequences of investment decisions made in reliance on information contained in this report.

01 APR 18 - 30 APR 18

◆ Transaction List - Market Value

Account	Plan	Entry Date	Description	Transaction Narrative	Amount	Days	Percent	Time-weighted Amount
<i>100 Park Project</i>								
Other Receipts/Disbursements for 100 Park Project								
XX-XXX	100	16 Apr 18	Miscellaneous	PAYMENT TO PARK CARETAKER	(558.68)	15	50.00%	(279.34)
Total Other Receipts/Disbursements for 100 Park Project					(558.68)			(279.34)
Total for 100 Park Project					(558.68)			(279.34)
Grand Total					(558.68)			(279.34)

Although this report has been prepared using information believed to be reliable, it may contain information provided by third parties or derived from third party information, and/or information that may have been obtained from, categorized or otherwise reported based upon client direction. The Northern Trust Company does not guarantee the accuracy, timeliness or completeness of any such information. The information included in this report is intended to assist clients with their financial reporting needs, but you must consult with your accountants, auditors and/or legal counsel to ensure your accounting and financial reporting complies with applicable laws, regulations and accounting guidance. The Northern Trust Company and its affiliates shall have no responsibility for the consequences of investment decisions made in reliance on information contained in this report.

D-4: Interim Management Plan

EXHIBIT D-4: INTERIM MANAGEMENT PLAN

1.0 INTRODUCTION

The interim management period runs from the Bank Establishment Date until the Performance Standards outlined in Section 3.0 have been met and the first anniversary of the full funding of the Endowment Fund has occurred. The purpose of this plan is to outline activities occurring exclusively during the defined interim management period. Long-term management activities will also be initiated during the Interim Management Period and will continue as part of the Long-term Management Plan in Exhibit D-5. The Long-term Management Plan outlines activities beginning during the interim period, but without Performance Standards tied to completion of the interim period and initiation of long-term management. See the Long-term Management Plan for detailed information related to invasive flora, red imported fire ants, feral hog control, livestock grazing, prescribed fires, monitoring activities, remedial action, utility easements, and minerals management.

2.0 INTERIM MANAGEMENT PERIOD ACTIVITIES

2.1 Boundary Line Painting, Posting and Maintenance

Legal property boundaries will be designated using a paint and post process. Painted and posted boundary line marking is commonly used in forested and rural locations where falling trees, floodwaters, and terrain make fencing impractical. All work will conform to meet the legal posting requirements for real property in the state of Oklahoma.

Boundary line establishment is the initial marking of trees or shrubs, fence posts or other objects that are on, or immediately adjacent to, a previously surveyed property boundary. Trees and shrubs are marked with a blaze or spot at least once every fifty feet. The marks are made by shaving the outer bark and brushing on exterior grade paint in a bright color.

Posting the boundary line will include erecting signs along the property boundary at no more than every 100 feet, to read "PROPERTY RESTRICTED"; "POSTED – KEEP OUT"; "KEEP OUT"; "NO TRESPASSING"; or similar signs. Fenced and non-fenced portions of the property will have such signs placed conspicuously and at all places where entry to the property is normally expected.

Boundary line maintenance involves refurbishing property line markings (e.g. repainting previously marked trees, securing/replacing posted sign), renewing corner markings, and repainting corner monuments.

3.0 PERFORMANCE STANDARD

The Bank boundary line will be painted and posted including corner markings and monuments.

D-5: Long-Term Management Plan

EXHIBIT D-5: LONG TERM MANAGEMENT PLAN

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1.0 INTRODUCTION

The purpose of this long-term management plan is to ensure that the Bank is managed, monitored, and maintained in perpetuity. This management plan establishes objectives, priorities, and tasks to manage, maintain, monitor, and report on the covered species and covered habitat within the Bank. The activities outlined in this management plan will commence concurrently with the Interim Management Plan activities, and continue beyond the interim management period, as outlined in Exhibit D-4.

2.0 COMPREHENSIVE HABITAT MANAGEMENT STRATEGY

ABB depend on landscape-level heterogeneity of habitat that supports a diversity of small mammals, birds, and other sources of carrion, for completion of ABB life cycle. In the past, wildfires burned across the landscape in a mosaic pattern, leaving some sites unburned, with others charred to bare soil. This created a habitat mosaic comprised of forests, shrub lands, woodlands, and grasslands; the result of which constituted good habitat for the ABB.

However, the highly fragmented and isolated nature of land ownership and human settlement increasingly disallowed landscape-level burns to occur as they had previously. Therefore, ABB land management activities should mimic the conditions that resulted from such landscape-level burns, but on a smaller scale and under controlled conditions.

The lack of above ground vegetative biomass in closed canopy conditions does not provide sufficient habitat for small mammal or other carrion species that favor ABB over other competing *Nicrophorus* species. In a similar manner, large grassland areas also tend to create a niche for another competing set of burying beetles.

Ultimately, a diverse landscape mosaic characterized by high interspersions of habitat patches consisting of woodland, shrubland, forests, and herbaceous areas are key elements of conditions representing good ABB habitat. It is the high degree of interspersions of the vegetative cover types that optimize habitat with regard to richness and abundance of populations of various carrion species.

Management activities that promote desired conditions for ABB contribute positively to recovery efforts and should be customized to current site conditions.

3.0 VEGETATION MANAGEMENT STRATEGY VIA PRESCRIBED BURNING

The general guidelines for prescribed burning will be to burn each acre at least once every five years, with no more than 40% of the habitat burned each year. Prescribed fire will be excluded from May 20 to September 20 to allow for the ABB active period, unless specifically permitted in writing by USFWS.

The specific implementation schedule for prescribed burning activities should match actual habitat conditions at the time of the burn to maximize the desired effect and net benefit of the activity. For example, areas dominated by woody vegetation that is resistant to fire, may require more frequent (e.g., 2 year intervals) growing season burns to reduce the density and size of the woody vegetation. Likewise, areas where excellent habitat conditions are persistent may need less intense or less frequent prescribed fire.

Ambient temperature, seasonal timing, fuel moisture, and other standard prescribed burning factors will be used to plan for, and achieve, the desired outcome within the burn area. On a large portion of the Bank acreage, the current vegetative structure needs a higher level of fire intensity and/or frequency to abate encroachment of woody volunteer. The application of repeated hot backfires, especially in the warm fall period, will quickly reduce woody stems and encroachment to meet management objectives.

4.0 HABITAT MANAGEMENT

The bank will be burned on a rotational basis, with no more than 40 percent of the habitat burned in any given year. Areas will have two full growing seasons between burns when possible. This will allow sufficient time for carrion species to move back into recently burned habitat before the next fire. Leaving high quality, unburned refugia will provide sufficient forage, escape, and nesting cover critical to maintaining carrion species populations, while ensuring adequate restoration and maintenance of fire-maintained habitats.

4.1 General Burning Criteria

To optimize control on woody stems, growing season burns will generate the best results. Targeted backpack or injection herbicide applications by foliar, hack-and-squirt, and/or basal spray techniques can be used where fires are not able to suppress woody regeneration sufficiently to meet the management goal of the bank.

Moderate intensity fires will be conducted in either Fall or Spring to maintain habitat conditions already approaching optimal status. Low intensity, dormant season head fires/burns will be conducted in areas where there is a deficit of woody cover. Such fires are useful in promoting woody growth and establishment. Dormant season backfires will be used to reduce the woody component within units as appropriate to decrease slightly elevated woody species densities back within ideal range of conditions. If the woody component is reaching size and/or densities to start undesirable successional advancement (when ground line diameters exceed 2-3 inches), then the application of high ambient temperature backfires in the growing season may be appropriate.

4.2 Alternative Vegetation Management Activities

Additional vegetation control methods will be used to manage habitat where conditions prohibit attainment of effective prescribed fire intensities. Such methods may include selective tree removal and/or herbicide injection to reduce overstory and midstory densities. Additionally, backpack herbicide treatments will be used to maintain the desired conditions in some herbaceous, shrub, and woodland areas. No broadcast spraying of herbicides will occur without prior approval from the U.S. Fish and Wildlife Service (USFWS). The application of prescribed grazing may also be a useful tool on this property; given the recent use of the land for cattle grazing.

5.1 Invasive Flora

Annual monitoring for such species will allow control efforts to be prescribed and implemented, as appropriate. Currently, invasive plant species do not occur at densities requiring intervention. At such time that intervention is determined to be necessary through routine monitoring, reduction of invasive plant species will occur primarily through previously described burning methods, and may include, but will not be limited to, herbicide injection work, backpack stem application, and/or mechanical hand felling.

5.2 Wildlife Food Plots

Wildlife food plots of non-native, non-invasive species (e.g., clover, cowpea, soybeans, wheat, oats, sunflower, rye, corn, etc.), are allowed on up to 1% total of the Bank. Disking, fertilizing, liming, and herbicide use will be allowed in the designated food plots. Herbicide, lime and fertilizer applications shall be applied in an appropriate manner to minimize off-plot drift or transporting. These applications will be done according to any applicable state and/or federal regulations. The food plots may be planted with either cool- or warm-season vegetation. Insecticide use is not allowed except with written, advance permission from the USFWS.

5.3 Red Imported Fire Ants

RIFA were not detected on the Bank during surveys and are assumed to exist in low abundance at the Bank. Therefore, current management prescriptions center on monitoring RIFA abundance during annual pedestrian surveys, during ABB surveys, and after prescribed burning activities. Individual RIFA mounds will be treated utilizing ground-based application of non-contact, USFWS-approved insecticides (i.e. Amdro®) as necessary and consistent with the Conservation Banking Agreement and the Conservation Easement. No broadcast aerial insecticide treatments will be used without prior written approval from USFWS.

Annual monitoring reports will include trends or changes in RIFA abundance and recommendations for further RIFA sampling and/or treatment. If RIFA are found above the threshold of 35 mounds per acre on more than 20% of the Bank, then the broadcast application of fire ant treatment (i.e. Amdro®) will be conducted on the area(s) of high RIFA abundance with USFWS approval. If 35 mounds per acre occur but coverage is less than 20%, targeted chemical ground application may be used. If broadcast treatment is used, RIFA surveys will be conducted every year until monitoring and adaptive management suggest a modification of treatment and/or sampling schedule. If further RIFA sampling and or treatment is recommended for specific areas exhibiting abundances that exceed USFWS thresholds, Integrated Pest Management will be conducted in accordance with USFWS guidelines, unless alternative sampling or treatment methodologies are determined to be appropriate through coordination with USFWS.

5.4 Feral Hog Control

Active feral hog population suppression tactics will employ lethal means (i.e. hunting) and trapping operations, year-round. Several hunting techniques may be utilized to reduce and control feral hog activity within the Bank, including, but not limited to, still hunting and stalking. Large pen or corral type traps will be positioned in areas, such as wildlife food plots, to minimize potential for any negative effects on native habitat. Live trapping may be utilized if available, legal and practical, only as long as the hogs are certifiably taken to a processing facility. Under no circumstances will live trapping and releasing activities be allowed.

6.0 MAINTENANCE OF STRUCTURES AND FACILITIES

6.1 Fencing and Signage

The Sponsor will be responsible for the maintenance and replacement of the fencing and signage. Boundary line maintenance involves refurbishing property line markings (e.g. repainting previously marked trees, securing/replacing posted sign), renewing corner markings, and repainting corner monuments.

6.2 Maintenance of Vehicle Access Roads

There is currently a series of access roads/trails throughout the Bank (Exhibit E-4). The Sponsor reserves the right to maintain the existing access system, and to establish fire lanes, as may be deemed necessary, to safely conduct required ABB habitat management operations.

6.3 Fire Breaks

The interior road/trail system as well as major streams within the Bank are anticipated to serve as sufficient internal fire breaks. The external access corridors along the boundary fence will serve as exterior fire lanes (Exhibit E-4).

6.4 Recreation/Hunting

Casual visitation to the Bank will be allowed for both consumptive (e.g., hunting and fishing) and non-consumptive (e.g., hiking, biking, and camping) activities, as long as these activities do not compromise the Sponsor's ability to meet the management goals for the Bank or conflict with the conservation values of the Bank.

7.0 MONITORING PROTOCOLS

An annual report will be provided to USFWS by January 31st of each year. This report will describe any management activities undertaken during that reporting period and relevant monitoring data outlined in sections 7.0 and 8.0. Reports will also include an annual accounting statement exhibiting credits, debits, and remaining balance. Bank inspections will be conducted with USFWS personnel every two years. Vegetation/habitat, ABB, RIFA, invasive exotic plants and animals, and small mammal monitoring will be conducted annually for the first ten years upon Bank authorization.

Standard vegetation inventory methodologies will be used to measure the required vegetation parameters. Vegetation parameters to be measured are as follows:

1. Basal Area (BA)
2. Canopy Cover %
3. Midstory Cover % (1/10 ac plot)
4. Herbaceous Cover % (1/10 ac plot)
5. Stem density (appropriate plot size based on age/size characteristics of stand)
6. Above Ground (0-4') Vegetation Density
7. % Cover of invasive exotic flora, (1/10 ac plot)
8. Presence/Absence of C4 grasses (1/10 ac plot)

8.0 INSECT AND ANIMAL MONITORING

8.1 Red Imported Fire Ants

Casual monitoring via pedestrian surveys during annual inspections and/or during ABB sampling will also be done and documented. Annual monitoring reports will include trends or changes in RIFA abundance and recommendations for further RIFA sampling and/or treatment. RIFA abundance will be surveyed at three year intervals.

8.2 Feral Swine

Feral swine activity (direct observations and rooting activity) will be monitored year-round by ranch personnel and during annual pedestrian surveys.

8.3 Small Mammals

Small mammal populations of species with the potential to serve as carrion for ABB will be monitored annually during ABB surveys, utilizing a small mammal survey protocol approved by USFWS. Additionally, incidental observations will occur during vegetation monitoring and provide presence/absence of other potential sources of carrion.

8.4 American Burying Beetles

ABB populations will be surveyed in accordance with USFWS ABB survey protocols. Only qualified individuals or consultants with the appropriate state and federal permits for trapping or handling ABBs will be used to conduct any trapping and/or sampling within the Bank. ABB research activities and/or adaptive management may require changes to sampling frequency.

The Bank will be surveyed for ABBs annually at established locations. The capture rate (ABBs captured/trap night) will be calculated annually based on survey results. Following the third year of bank establishment, the 3-year average capture rate will be calculated. If the 3-year capture rate is below 0.37 ABBs/trap night (which is the 10-year capture rate average for all Conservation Priority Areas between 2003-2013 and excluding Camp Gruber), then additional coordination with the USFWS will be required to review whether additional management actions are necessary. If the Bank's 3-year average capture rate is below 0.37 ABBs/trap night for 3 consecutive years then the USFWS may suspend remaining mitigation credits and/or require remedial actions for the Bank. The first opportunity for this to occur is 5 years after execution of the CBA.

9.0 REMEDIAL ACTION PLAN

These are corrective measures which the Bank Sponsor may be required to take to ameliorate any injury or adverse impact to the Bank Property as preserved, restored or enhanced or as a result of a failure to achieve the Performance Standards. The Bank Sponsor will be required to prepare and implement a Remedial Action plan which is approved by FWS. Given the varied circumstances under which such actions may be needed, only general guidelines can reasonably be prepared under this Agreement. See Section G of the CBA for further discussion of Remedial Action requirements.

All beetles bred for the specific purpose of supplementing the local population will be approved by USFWS. No breeding stock shall be introduced to the site without the approval of the USFWS.

10.0 UTILITY EASEMENT AREAS

Portions of the Property subject to existing utility easements such as pipeline, powerline, and telephone line easements, as detailed in Exhibit E-4 (the "Utility Easement Areas") will be approved by USFWS to be included in the creditable acreage of the Bank, subject to the following:

Completion of a habitat management plan for each Utility Easement Area which (a.) conforms to the habitat management guidelines as elaborated in the Interim and Long Term Management Plan for the

Bank; (b.) is appropriate given the physical size and shape of each Utility Easement Area for which additional creditable acreage is requested; (c.) allows for reasonable and necessary utility easement management activities by the owner or holder of the subject utility easement; (d.) is approved in writing by the owner or holder of the subject utility easement; and (e.) is approved in writing by the holder of the conservation easement for the Bank.

11.0 MINERALS MANAGEMENT

Valuable mineral resources, including oil and gas, may exist under the Bank, and subsurface rights to such mineral resources may be owned, in whole or in part, by others. Recognizing that surface landowners in the State of Oklahoma cannot wholly control a mineral owner's access to those minerals; the Sponsor shall take all reasonable steps to develop a Mineral Management Plan (MMP) with the mineral owner(s) prior to the initiation of any mineral exploration, production, or transportation activities. The MMP shall include a list of all surface and subsurface ownership interests, a description of anticipated activities including resultant short- and long-term impacts on ABB habitat and ecosystem functions and values, and a set of guidelines and best management practices to minimize the adverse impacts. The Sponsor shall, whenever practicable, work with the subsurface mineral owner(s) to develop leases, easements, and other surface use agreements that are consistent with the MMP.

The exploration, production and transportation of subsurface mineral resources beneath this Bank is acceptable provided: 1) the ground-disturbing activities and surface alterations are minimized to the maximum extent practicable, 2) activities are conducted in a manner that minimizes adverse environmental impacts, 3) impacted areas are restored to pre-existing conditions as soon as practicable, 4) reasonable and appropriate compensatory mitigation is achieved, and, 5) the entity conducting these activities complies with all applicable regulatory requirements, including those under Sections 7 and 10 of the Endangered Species Act. The number of credits in the Bank shall be reduced by the number of acres of area adversely impacted by the activities until the impacted areas are restored to pre-existing conditions. If sufficient unused Bank credits are not available, the USFWS will require the permit applicant to provide other appropriate off-site compensatory mitigation. The Sponsor may propose appropriate compensatory action subject to approval by the USFWS.

D-6: Bank Closure Plan

EXHIBIT D-6: BANK CLOSURE PLAN

Bank Closure, as stated in Section VIII.D of the Dirty Creek Conservation Bank CBA, shall occur upon the occurrence of the following:

- a. All Performance Standards have been met; and
- b. Either:
 - i. The last authorized Credit has been Transferred; or
 - ii. The Bank Sponsor requests bank closure by written notice to the USFWS and USFWS provides written approval of the closure; and
- c. All financial responsibilities of the Bank Sponsor have been met, including 100% funding of the Endowment Fund for not less than one year.

The Bank Sponsor plans to transfer long-term management obligations and responsibilities to a Long-Term Manager. Such responsibilities shall include, but are not limited to, all maintenance, management, and monitoring obligations set forth under the CBA.

The Long-Term Manager will be an individual or entity acceptable to the USFWS in accordance with the terms and conditions of the CBA. It is envisioned that the Long-Term Manager will be an entity that has the qualifications to direct a long term management plan for the conservation of the ABB in accordance with the CBA, such as an institute, foundation or university department.

Upon the Long-Term Manager's assumption, in writing, of such obligations and responsibilities, and the transfer of the Endowment Fund to such party, if required, the Bank Sponsor shall be deemed no longer responsible or liable for any such long-term management or other such obligations and responsibilities in regard to the Dirty Creek Conservation Bank. As a result, the USFWS agrees that it will seek to enforce performance of such long-term management obligations and responsibilities solely against the approved Long-Term Manager. The Property Owner's retained rights under this Agreement, if any, shall not be affected by any such failure to uphold management obligations.

Notwithstanding Bank Closure, the Long-Term Manager shall continue to implement the long-term management plan, managing and monitoring of the Bank property in perpetuity in accordance with the Conservation Easement and the terms of the Conservation Banking Agreement.

Exhibit E – Real Estate Records and Assurances

Exhibit E-1: Preliminary Title Report, Legal Description, Parcel Maps

BUFFALO LAND

ABSTRACT COMPANY

"roaming Oklahoma to serve your Title & Escrow needs"

Title Report

Order Number: 21805-510108

Code Number: AE-7092 Attn: JANIE

Customer Reference Number:

Borrower's Name:

AE LAND AND TIMBER, LLC

Effective Date: Apr 30, 2018 @ 7:30am

Legal Description

SEE ATTACHED EXHIBIT "A"

Title Is Vested In:

AE LAND AND TIMBER, LLC

Tax ID: SEE BELOW

Subject To:

1. Ad Valorem tax for 2017 and subsequent years.

2. 2017 REAL ESTATE TAXES ARE PAID IN THE AMOUNT OF \$361.00.
TAX I.D. NO. 0000-01-12N-18E-1-001-00

3. 2017 REAL ESTATE TAXES ARE PAID IN THE AMOUNT OF \$443.00.
TAX I.D. NO. 0000-02-12N-18E-1-001-00

4. 2017 REAL ESTATE TAXES ARE PAID IN THE AMOUNT OF \$47.00.
TAX I.D. NO. 0000-03-12N-18E-1-002-00

Suggestions:

N/A

Date Typed: May 03, 2018

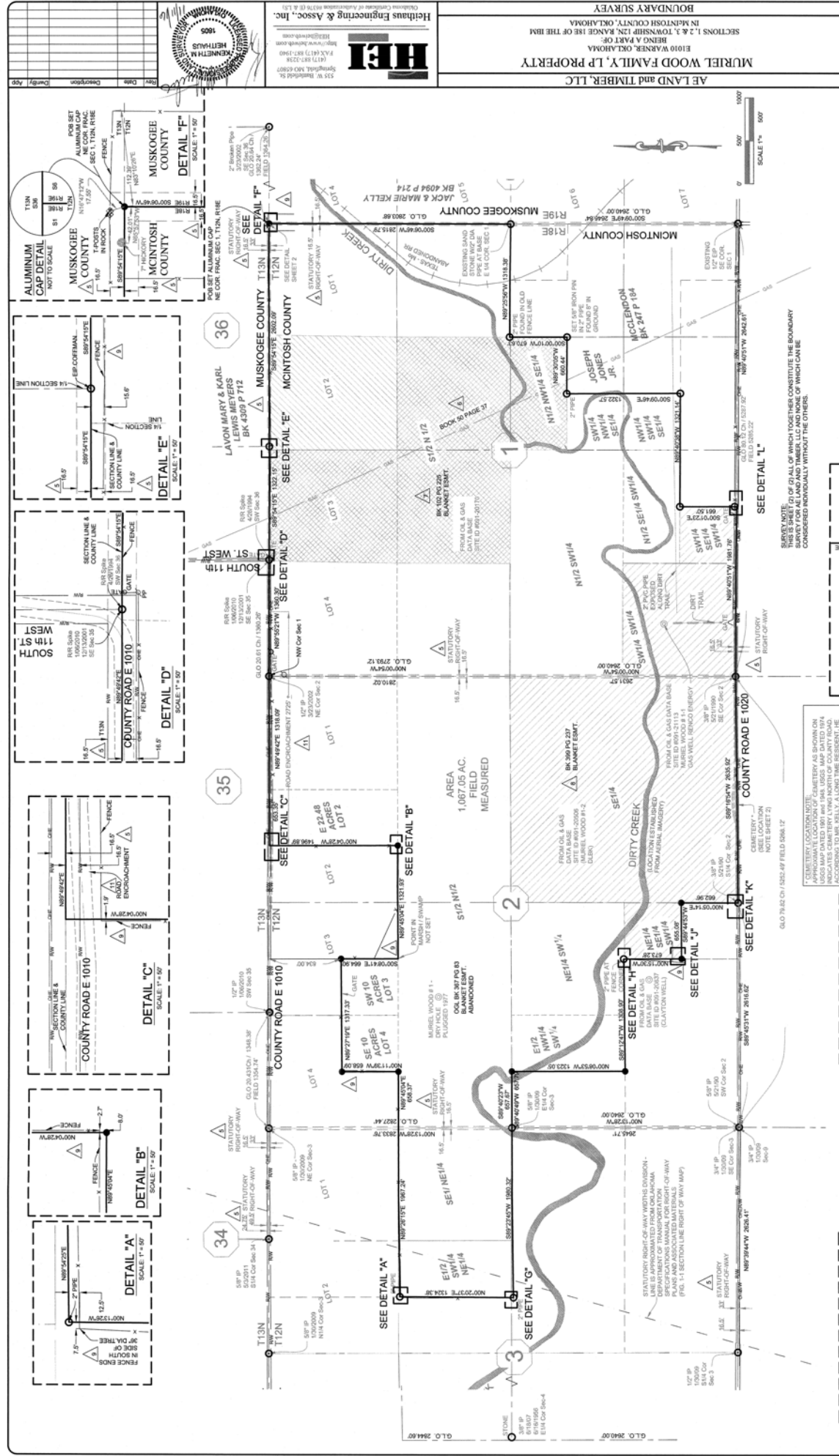
By: 

This is not a Commitment for Title Insurance.

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Checked:	KMH
Date:	11/1/2016
Job No.:	216027
Dwg. No.:	216027
Scale:	1" = 500'

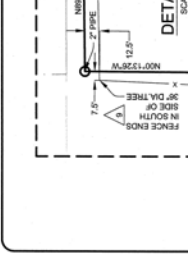
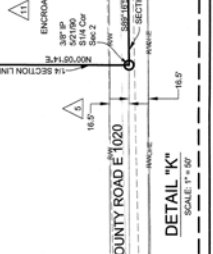
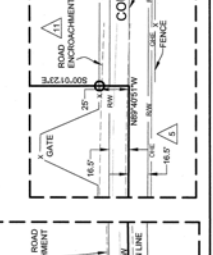
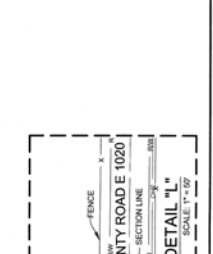
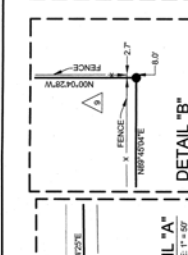
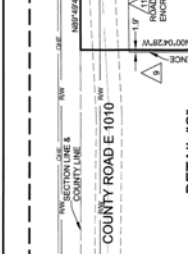
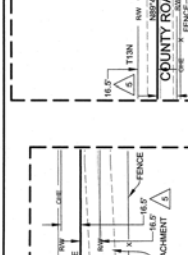
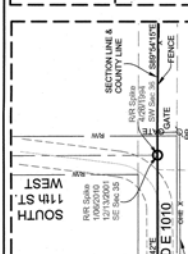
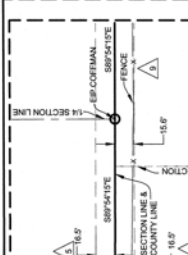
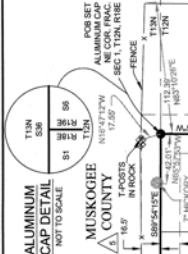
MURIEL WOOD FAMILY, LP PROPERTY
AE LAND and TIMBER, LLC
 SECTIONS 1, 2 & 3, TOWNSHIP 12N, RANGE 18E OF THE 10TH
 BEING A PART OF
 WOOD WARRNER O.K.A. PROPERTY
 IN MCINTOSH COUNTY, OKLAHOMA

HEI
 Heithaus Engineering & Assoc., Inc.
 Oklahoma Certified Professional Surveyors & L.L.C.
 535 W. Boardwalk
 Springfield, MO 65807
 F.A. (417) 871-3100
 M.F. (417) 871-3100
 www.heithaus.com
 BEES00000000



SURVEY NOTE:
 THIS SHEET (2) OF 2 IS ONE OF WHICH TOGETHER CONSTITUTE THE BOUNDARY SURVEY OF WHICH THIS SHEET IS A PART. THE OTHER SHEETS OF WHICH THIS SHEET IS A PART ARE AS INDICATED ON THIS SHEET AND SHOULD BE CONSIDERED INDIVIDUALLY WITHOUT THE OTHERS.

CEMETERY LOCATION NOTE:
 APPROXIMATE LOCATION OF CEMETERY AS SHOWN ON THIS SHEET IS FOR INFORMATION ONLY. THIS SHEET DOES NOT INDICATE CEMETERY LOTS OR MONUMENTS. ACCORDING TO MR. KELLY, A LONG TIME RESIDENT HE DOES NOT RECALL A CEMETERY EXISTING NORTH OF THE ROAD. CEMETERY NOT FOUND BY FIELD DURING SURVEY.



DEED DESCRIPTION

A TRACT OF LAND Lying in part of fractional sections 2 & 4 of township 12 north (T12N) range 8 east (R8E) in the 18th M. Northwest county, Oklahoma more or less to the north line of the intersection of the north line of said section 2 & 4 and the east line of said section 2 & 4. The corners of said section 2 & 4 are as follows: the northeast corner of said section 2 & 4 is at a distance of 130.00' from the northeast corner of said section 2 & 4 to the southeast corner of said section 2 & 4; the southeast corner of said section 2 & 4 is at a distance of 130.00' from the southeast corner of said section 2 & 4 to the southwest corner of said section 2 & 4; the southwest corner of said section 2 & 4 is at a distance of 130.00' from the southwest corner of said section 2 & 4 to the northwest corner of said section 2 & 4; the northwest corner of said section 2 & 4 is at a distance of 130.00' from the northwest corner of said section 2 & 4 to the northeast corner of said section 2 & 4.

SURVEY DESCRIPTION

THE UNDERSIGNED HEREBY CERTIFICATE THAT THE MAP AND SURVEY ON WHICH THIS DEED WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905.

SURVEY DESCRIPTION CONTINUED

THE UNDERSIGNED HEREBY CERTIFICATE THAT THE MAP AND SURVEY ON WHICH THIS DEED WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE OIL AND GAS LEASING ACT OF MARCH 8, 1905.

DEED DESCRIPTION

LOTS 1, 2, 3 AND 4 IN THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 2 & 4, TOWNSHIP 12 NORTH, RANGE 8 EAST, IN THE 18TH NORTHWEST COUNTY, OKLAHOMA, MORE OR LESS TO THE NORTH LINE OF THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 2 & 4 AND THE EAST LINE OF SAID SECTION 2 & 4.

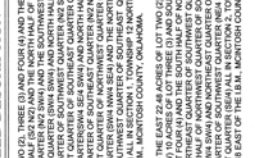
SURVEYOR'S CERTIFICATION

I, KENNETH H. HEITHAUS, Surveyor, do hereby certify that the foregoing is a true and correct copy of the original survey on which this deed was made, and that the same is in accordance with the laws of the State of Oklahoma, and that the same is in accordance with the laws of the State of Oklahoma, and that the same is in accordance with the laws of the State of Oklahoma.

NOTES CORRESPONDING TO SCHEDULE B-II SPECIAL EXCEPTIONS

ALL STATUTORY RIGHTS OF WAY LINES. RIGHT OF WAY IN FAVOR OF COAK GAS CO. RECORDED IN BOOK 48 ON PAGE 37. RIGHT OF WAY IN FAVOR OF MUSTANG FUEL CORP. RECORDED IN BOOK 102 PAGE 20. RIGHT OF WAY IN FAVOR OF CENTEX OPERATING CO. RECORDED IN BOOK 102 PAGE 20. ALL BOUNDARY LINES ENCROACHING UPON SUBJECT PROPERTY OR ENCROACHING UPON ADJACENT LANDS AS SHOWN ON THIS SURVEY ARE REFERRED TO IN THIS DEED BY REFERENCE TO THE DATE OF RECORDATION OF THIS SURVEY AS SHOWN ON THIS SURVEY. VARIOUS ROAD ENCROACHMENTS AS REFERENCED ON THIS SURVEY.

LOCATION MAP



OWNER / SOURCE OF TITLE

THE MURIEL WOOD FAMILY, LIMITED PARTNERSHIP
413 WEST REFERROCK
MUSKOGEE, OKLAHOMA 74402

LEGEND

- EXISTING IRON PIN
- IRON PIN SET LISTING
- SECTIONAL CORNER
- PROPERTY BOUNDARY
- POWER POLE
- ABANDONED RAILROAD
- CREAK
- FENCE
- OVERHEAD ELECTRIC
- ONE
- T-POST
- GAS
- CREAK
- CREAK

SCOPE OF TITLE

THE MURIEL WOOD FAMILY, LIMITED PARTNERSHIP
413 WEST REFERROCK
MUSKOGEE, OKLAHOMA 74402

BASIS OF BEARINGS

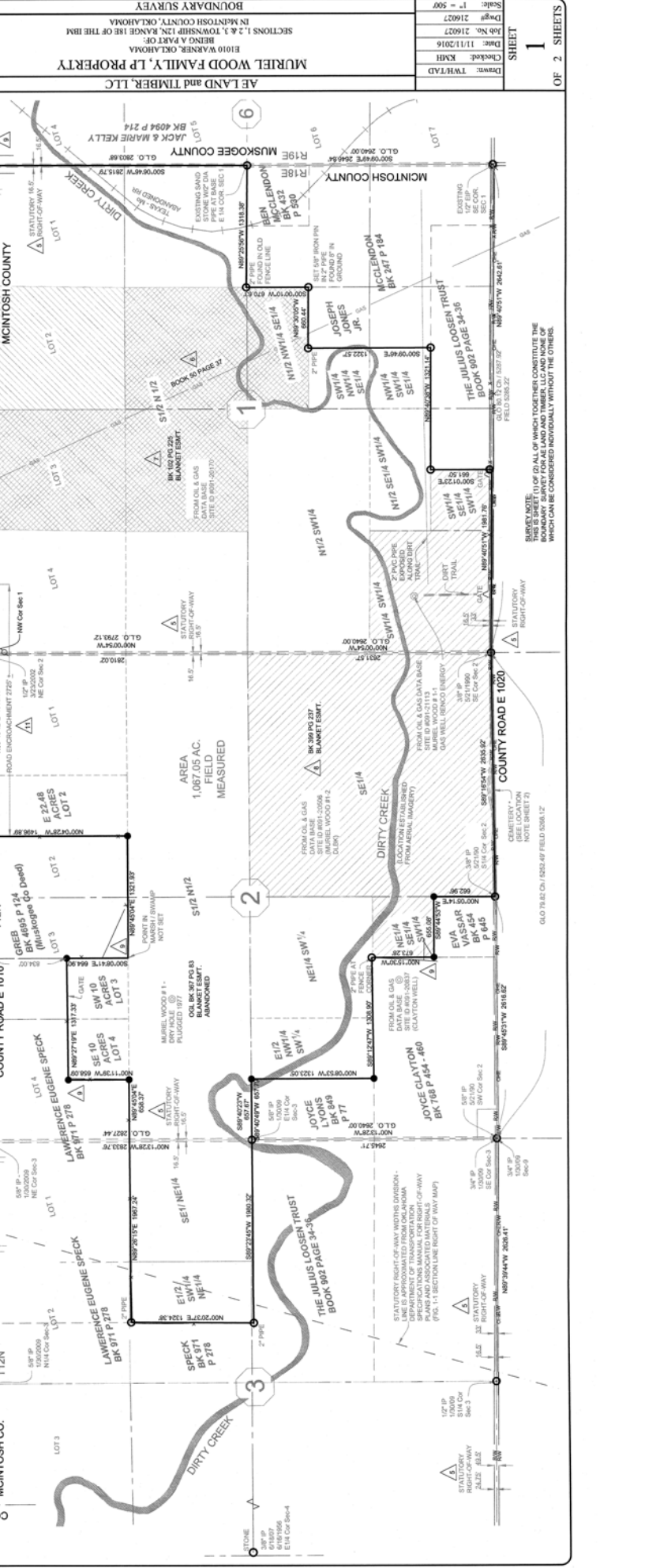
SOUTH LINE OF SECTION 1, T21N, R18E, 8M NSP 49511W

NOTES CORRESPONDING TO SCHEDULE B-II SPECIAL EXCEPTIONS

ALL STATUTORY RIGHTS OF WAY LINES. RIGHT OF WAY IN FAVOR OF COAK GAS CO. RECORDED IN BOOK 48 ON PAGE 37. RIGHT OF WAY IN FAVOR OF MUSTANG FUEL CORP. RECORDED IN BOOK 102 PAGE 20. RIGHT OF WAY IN FAVOR OF CENTEX OPERATING CO. RECORDED IN BOOK 102 PAGE 20. ALL BOUNDARY LINES ENCROACHING UPON SUBJECT PROPERTY OR ENCROACHING UPON ADJACENT LANDS AS SHOWN ON THIS SURVEY ARE REFERRED TO IN THIS DEED BY REFERENCE TO THE DATE OF RECORDATION OF THIS SURVEY AS SHOWN ON THIS SURVEY. VARIOUS ROAD ENCROACHMENTS AS REFERENCED ON THIS SURVEY.

ITEM	COMMITMENT FOR TITLE INSURANCE ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY	FILE NO. 18470007	AFFECT
A	ALL STATUTORY RIGHTS OF WAY LINES.		AFFECTS AS SHOWN
A	RIGHT OF WAY IN FAVOR OF COAK GAS CO. RECORDED IN BOOK 48 ON PAGE 37.		AFFECTS AS SHOWN
A	RIGHT OF WAY IN FAVOR OF MUSTANG FUEL CORP. RECORDED IN BOOK 102 PAGE 20.		AFFECTS AS SHOWN
A	RIGHT OF WAY IN FAVOR OF CENTEX OPERATING CO. RECORDED IN BOOK 102 PAGE 20.		AFFECTS AS SHOWN
A	ALL BOUNDARY LINES ENCROACHING UPON SUBJECT PROPERTY OR ENCROACHING UPON ADJACENT LANDS AS SHOWN ON THIS SURVEY ARE REFERRED TO IN THIS DEED BY REFERENCE TO THE DATE OF RECORDATION OF THIS SURVEY AS SHOWN ON THIS SURVEY.		AFFECTS AS SHOWN
A	VARIOUS ROAD ENCROACHMENTS AS REFERENCED ON THIS SURVEY.		AFFECTS AS SHOWN

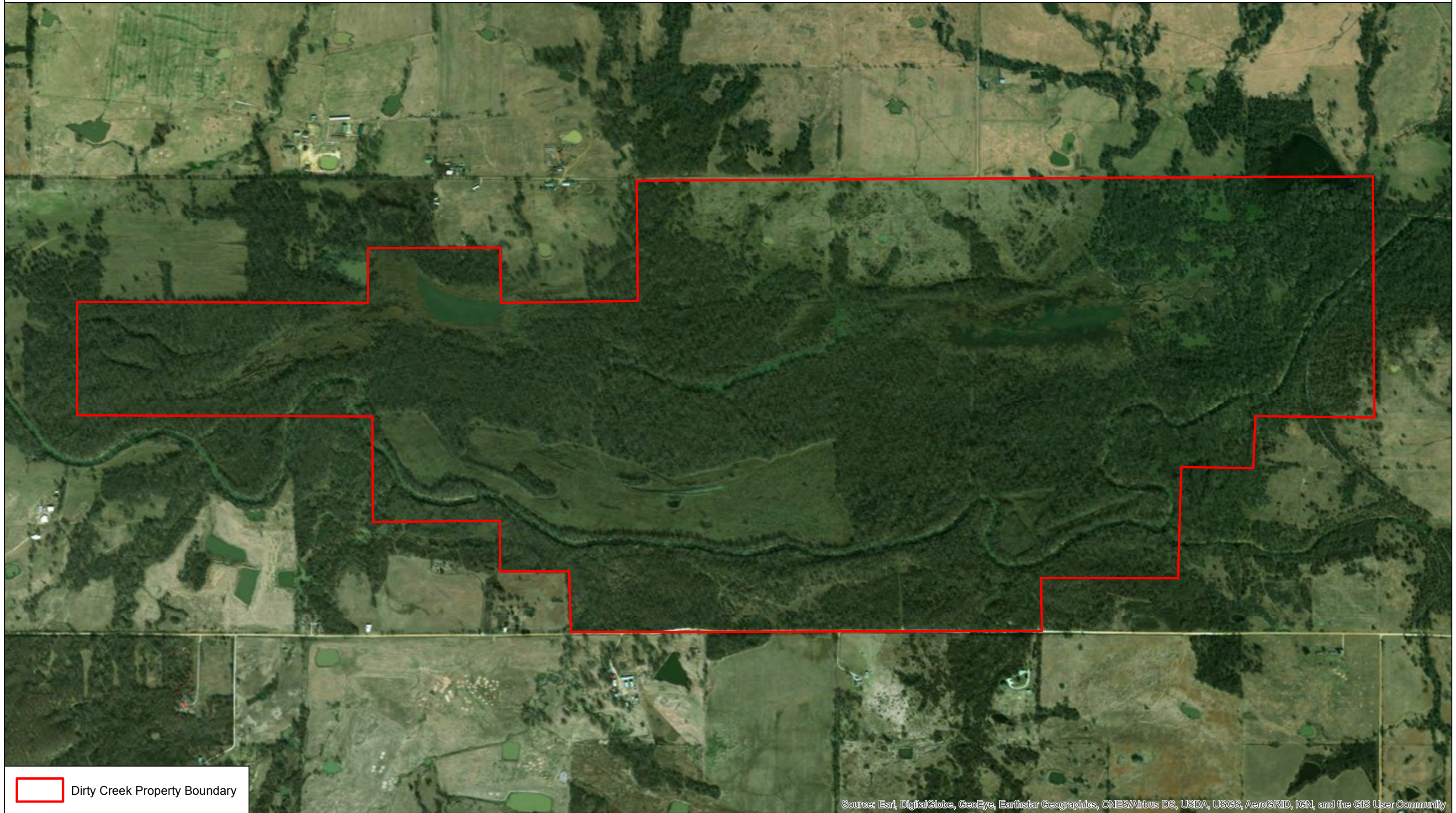
Notes Corresponding to Schedule B-II Special Exceptions
BEING A PART OF:
MURIEL WOOD FAMILY, LP PROPERTY
SECTION 1, 2 & 3, TOWNSHIP 12N, RANGE 8E OF THE 18M IN MONTOSH COUNTY, OKLAHOMA
CLASSIFICATION OF SURVEY: "RURAL"




MURIEL WOOD FAMILY, LP PROPERTY
SECTION 1, 2 & 3, TOWNSHIP 12N, RANGE 8E OF THE 18M IN MONTOSH COUNTY, OKLAHOMA
CLASSIFICATION OF SURVEY: "RURAL"

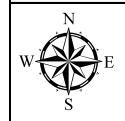
Notes Corresponding to Schedule B-II Special Exceptions
BEING A PART OF:
MURIEL WOOD FAMILY, LP PROPERTY
SECTION 1, 2 & 3, TOWNSHIP 12N, RANGE 8E OF THE 18M IN MONTOSH COUNTY, OKLAHOMA
CLASSIFICATION OF SURVEY: "RURAL"

Exhibit E-1

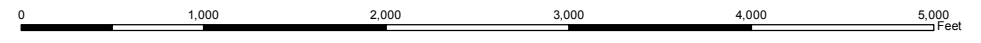


 Dirty Creek Property Boundary

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



5/18/2018



1 Inch = 1,052 Feet

This map was generated by Advanced Ecology, LTD. No claims are made to the accuracy or completeness of the data depicted in this map or to the map's suitability for a particular use. The information depicted may contain inaccuracies and is provided "as is".



Exhibit E-2: Property Assessment and Warranty

EXHIBIT E-2a
TABLE OF CONTENTS

- A. Ozark Gas Company Right of Way Agreement
- B. Mustang Fuel Corp Right of Way Agreement
- C. Centrex Operating Company Right of Way Grant

E-2 (A) – Ozark Gas Company Right of Way Agreement
(Commitment for Title Insurance, Schedule B – Part II, #5)

Description: Pipeline right of way in favor of Ozark Gas Company dated June 23, 1930 and recorded on July 10, 1930 in Book 50, Page 37, Real Property Records of McIntosh County, OK.

Effect on Property: This pipeline easement sets forth a perpetual easement to lay, maintain, operate, relay or remove a pipe line 231 rods long for the purpose of transportation of natural gas. Existing easement routes are reflected in the map attached hereto as Exhibit E-2b.

E-2 (B) – Mustang Fuel Corp - Right of Way Agreement

(Commitment for Title Insurance, Schedule B – Part II, #6)

Description: Pipeline right of way in favor of Mustang Fuel Corp., which later changed its name to ENOGEX, Inc., dated July 17, 1964 and recorded in Book 102, Page 225, Real Property Records of McIntosh County, OK.

Effect on Property: This pipeline easement sets forth a perpetual easement for the right to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove a pipe line or pipe lines, and any appurtenances useful and incident to the operation and protection thereof, without interference, for the transportation of oil, gas, gaseous or liquid hydrocarbons, petroleum or any of its products, or by-products and any other substances. Notwithstanding the aforementioned, no evidence of any such a pipeline or pipelines has been discovered during any inspection of the subject property.

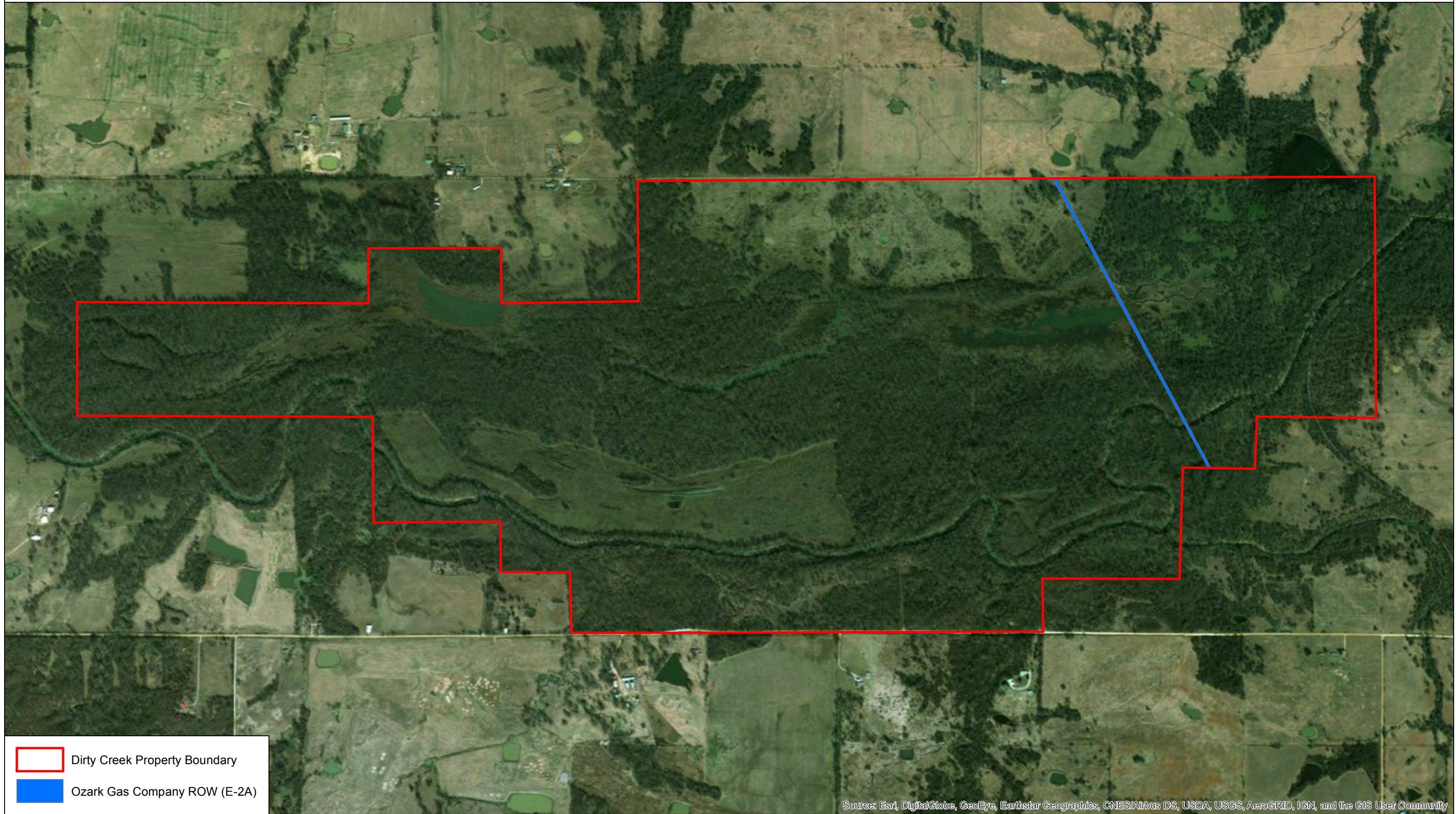
E-2 (C) – Centrex Operating Company - Right of Way Agreement



(Commitment for Title Insurance, Schedule B – Part II, #7)

Description: Pipeline right of way in favor of Centrex Operating Company, dated January 2, 1990 and recorded in Book 398, Page 600, and assigned to Crouch Petroleum Company as recorded in Book 399, Page 237, both in the Real Property Records of McIntosh County, OK.

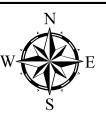
Effect on Property: This pipeline easement sets forth a perpetual easement to lay, maintain, operate, and remove a pipe line for the purpose of transportation of oil or gas, and to erect, maintain and operate a telegraph or telephone line. Furthermore, Grantee may lay an additional line of pipe alongside of the first. Notwithstanding the aforementioned, no evidence of any such a pipeline or pipelines has been discovered during any inspection of the subject property.

Exhibit E-2b

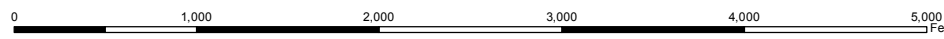


 Dirty Creek Property Boundary
 Ozark Gas Company ROW (E-2A)

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



5/18/2018

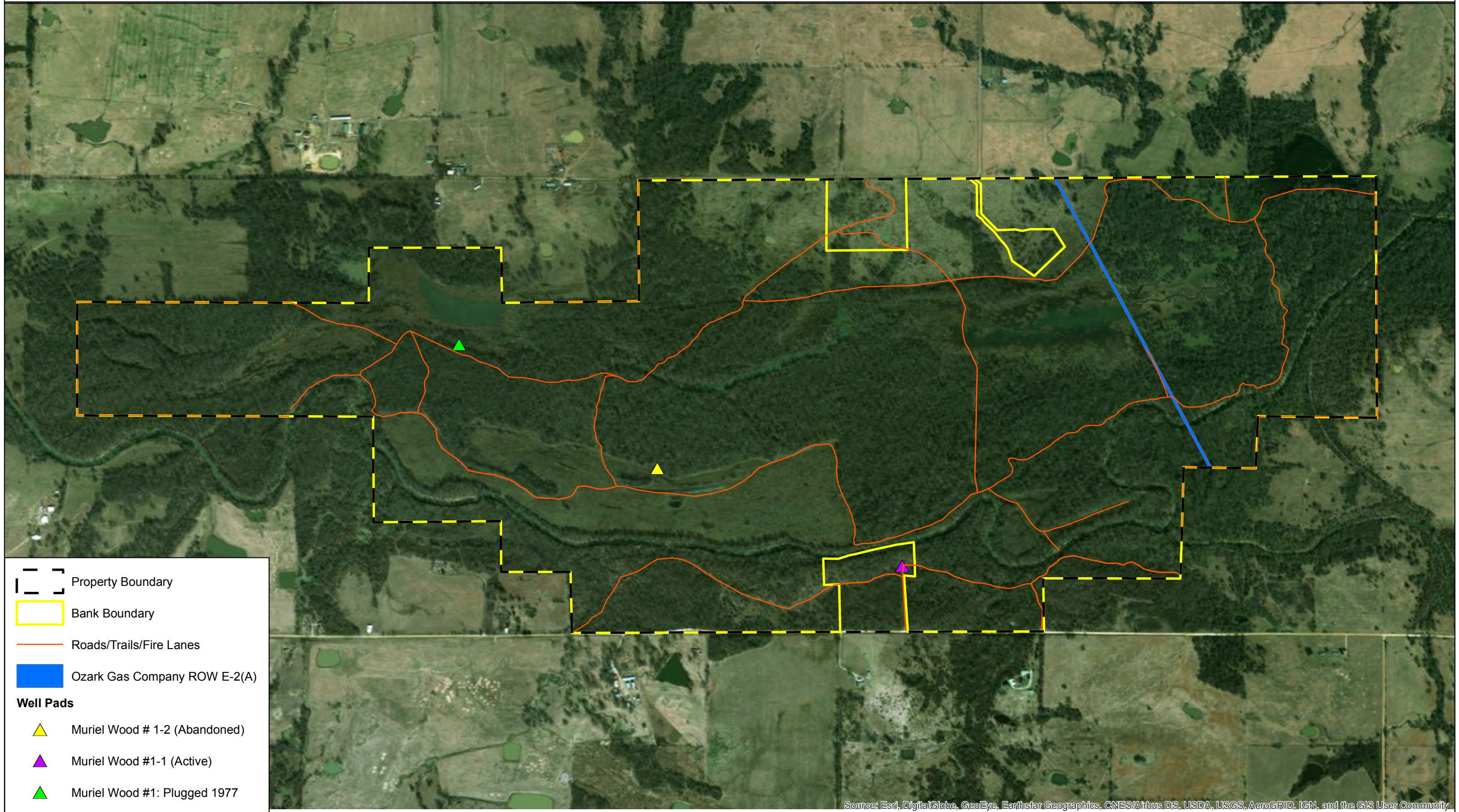


1 Inch = 1,052 Feet

This map was generated by Advanced Ecology, LTD. No claims are made to the accuracy or completeness of the data depicted in this map or to the map's suitability for a particular use. The information depicted may contain inaccuracies and is provided "as is".



Exhibit E-2c
Roads and Infrastructure



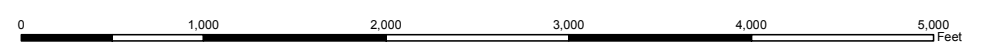
Property Boundary
 Bank Boundary
 Roads/Trails/Fire Lanes
 Ozark Gas Company ROW E-2(A)

Well Pads

- Muriel Wood # 1-2 (Abandoned)
- Muriel Wood #1-1 (Active)
- Muriel Wood #1: Plugged 1977

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

5/18/2018

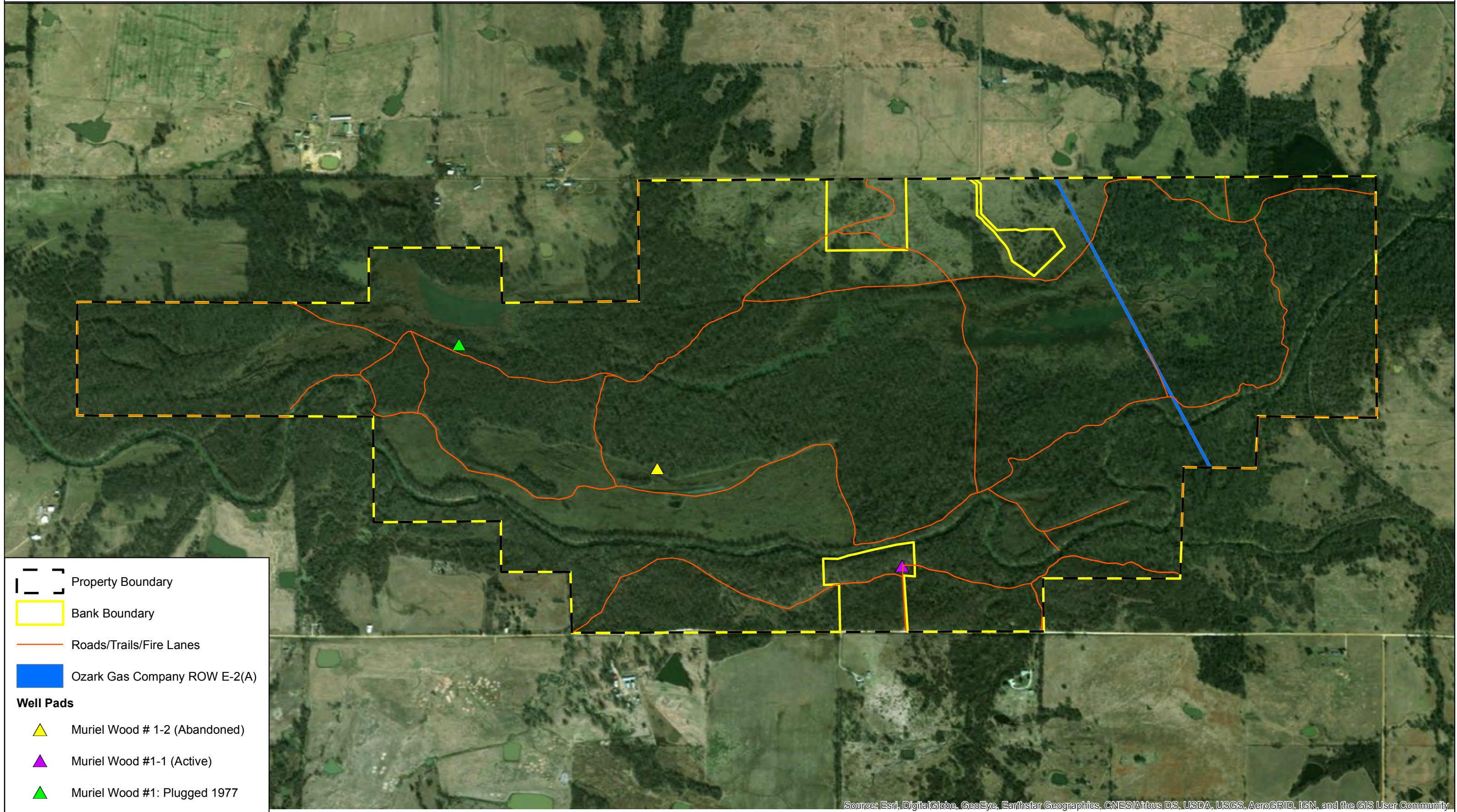


1 Inch = 1,052 Feet

This map was generated by Advanced Ecology, LTD. No claims are made to the accuracy or completeness of the data depicted in this map or to the map's suitability for a particular use. The information depicted may contain inaccuracies and is provided "as is".

Exhibit E-3: Plat Maps

Exhibit E-3
Roads and Infrastructure



Property Boundary

Bank Boundary

Roads/Trails/Fire Lanes

Ozark Gas Company ROW E-2(A)

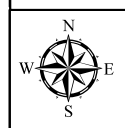
Well Pads

Muriel Wood # 1-2 (Abandoned)

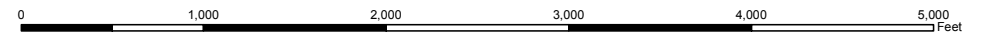
Muriel Wood #1-1 (Active)

Muriel Wood #1: Plugged 1977

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



5/18/2018



1 Inch = 1,052 Feet

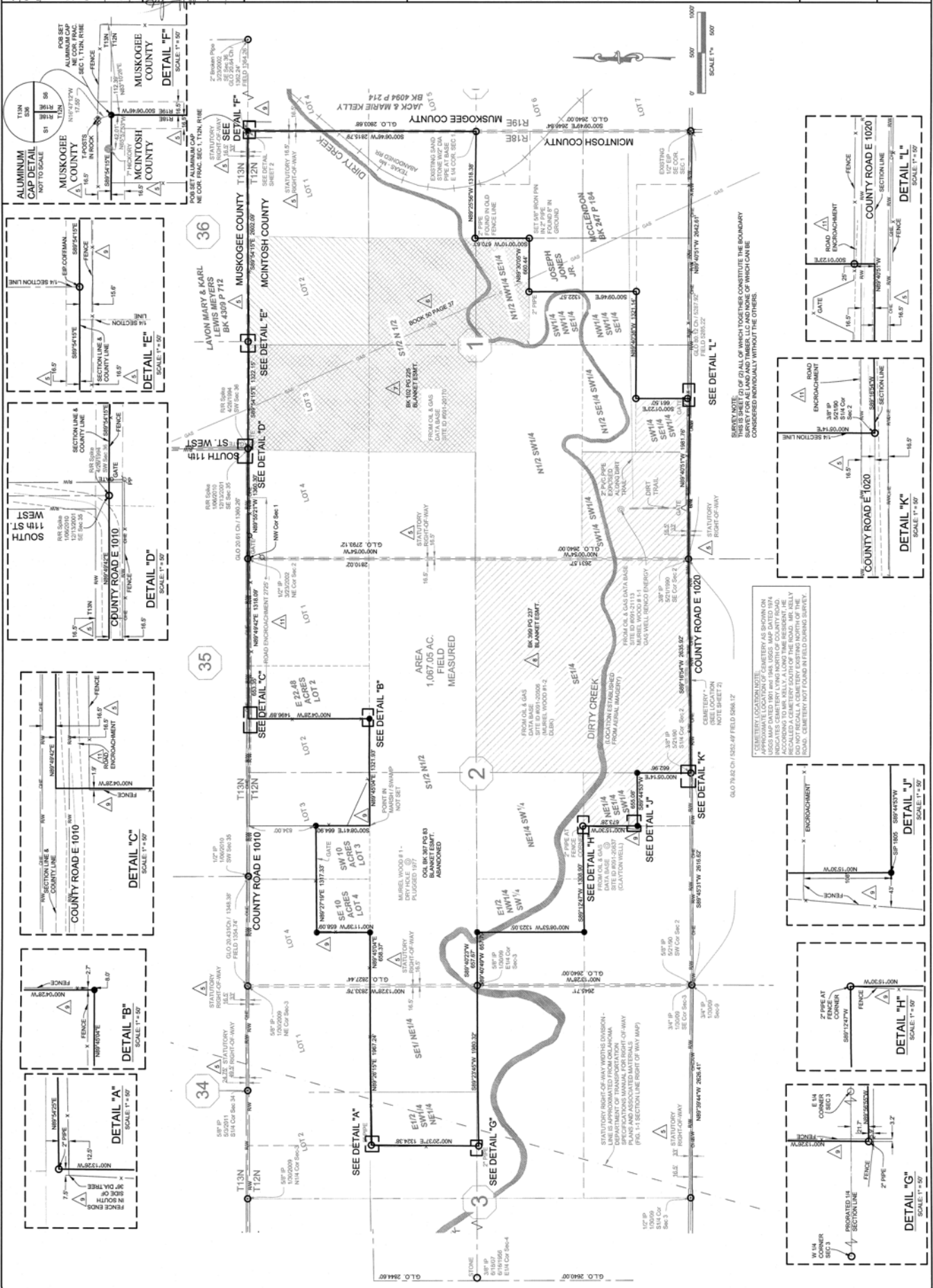
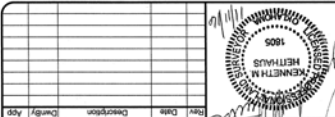
This map was generated by Advanced Ecology, LTD. No claims are made to the accuracy or completeness of the data depicted in this map or to the map's suitability for a particular use. The information depicted may contain inaccuracies and is provided "as is".



Drawn:	TW/THAD
Checked:	KMH
Date:	11/1/2016
Dwg No.:	216027
Scale:	1" = 500'

MURIEL WOOD FAMILY, LP PROPERTY
AE LAND and TIMBER, LLC
 BOUNDARY SURVEY
 SECTIONS 1, 2 & 3, TOWNSHIP 12N, RANGE 18E OF THE 18M
 IN MCINTOSH COUNTY, OKLAHOMA

HEI
 Heithaus Engineering & Assoc., Inc.
 Oklahoma Certified Professional Surveyors & L.L.C.
 535 W. Brookfield St.
 Springfield, MO 65807
 F.A. (417) 871-3100
 M.F. (417) 871-3100
 www.heisurvey.com
 10005



SURVEY NOTE:
 THIS SHEET (2) OF 2 IS ONE OF WHICH TOGETHER CONSTITUTE THE BOUNDARY SURVEY. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1908 AND THE SURVEYING ACT OF 1977. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE SURVEYING DEPARTMENT OF THE STATE OF OKLAHOMA AND HAS FOUND NO RECORDS OF ANY PREVIOUS SURVEY OF THIS PROPERTY. THE SURVEYOR HAS FOUND NO RECORDS OF ANY PREVIOUS SURVEY OF THIS PROPERTY. THE SURVEYOR HAS FOUND NO RECORDS OF ANY PREVIOUS SURVEY OF THIS PROPERTY.

CEMETERY LOCATION NOTE:
 APPROXIMATE LOCATION OF CEMETERY AS SHOWN ON THIS SHEET (2) OF 2 IS ONE OF WHICH TOGETHER CONSTITUTE THE BOUNDARY SURVEY. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1908 AND THE SURVEYING ACT OF 1977. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE SURVEYING DEPARTMENT OF THE STATE OF OKLAHOMA AND HAS FOUND NO RECORDS OF ANY PREVIOUS SURVEY OF THIS PROPERTY. THE SURVEYOR HAS FOUND NO RECORDS OF ANY PREVIOUS SURVEY OF THIS PROPERTY. THE SURVEYOR HAS FOUND NO RECORDS OF ANY PREVIOUS SURVEY OF THIS PROPERTY.

BOUNDARY SURVEY FOR AE LAND and TIMBER, LLC of the VALLEY VIEW LEASE

MURIEL WOOD FAMILY, LP PROPERTY
(E100 WARNER, OKLAHOMA)
BEING A PART OF:
SECTIONS 1, 2 & 3, TOWNSHIP 12N, RANGE 18E OF THE 18M
IN MCINTOSH COUNTY, OKLAHOMA
CLASSIFICATION OF SURVEY: "RURAL"

Notes Corresponding to Schedule B-II Special Exceptions

ITEM	COMMITMENT FOR TITLE INSURANCE ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY	FILE NO. 1847/0097	AFFECT
A	ALL STATUTORY RIGHT OF WAY LINES.		AFFECTS AS SHOWN
A	RIGHT OF WAY IN FAVOR OF COAKR GAS CO. RECORDED IN BOOK 36, PAGE 37.		AFFECTS AS SHOWN
A	RIGHT OF WAY IN FAVOR OF MUSTANG FUEL CORP. RECORDED IN BOOK 102, PAGE 230.		AFFECTS AS SHOWN
A	RIGHT OF WAY IN FAVOR OF CENTRIX OPERATING CO. RECORDED IN BOOK 102, PAGE 230.		AFFECTS AS SHOWN
A	ALL BOUNDARY FEENCES ENCROACHING UPON SUBJECT PROPERTY OR ENCROACHING UPON ADJACENT LANDS AS REFERENCED ON THIS SURVEY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING: (1) A METRICAL ACRES TRACTS AS REFERENCED ON THIS SURVEY.		AFFECTS AS SHOWN
A	VARIOUS ROAD ENCROACHMENTS AS REFERENCED ON THIS SURVEY.		AFFECTS AS SHOWN

SURVEYOR'S CERTIFICATION

THE UNDERSIGNED HEREBY CERTIFIES, TO:

AE Land and Timber, LLC
ATTEST: My Comm. Expires 12/31/2018
BY: **KENNETH H. HEITHAUS**
PLS. 1805 DATE: 11/11/2016

OKLAHOMA MINIMUM STANDARDS FOR LAND SURVEYING PURSUANT TO ACCURACY AND PRECISION IN WHICH THE SUBJECT PROPERTY LIES. PHYSICAL EVIDENCE OF THE APPROXIMATE POSITION OF THE SUBJECT PROPERTY LINES, INCLUDING THE PROPERTY LINES, AS SHOWN ON THIS SURVEY, HAS BEEN OBTAINED FROM A REASONABLE INSPECTION OF THE EVIDENCE AND THE SURVEYOR HAS REASONABLY BELIEVED THE INFORMATION PROVIDED BY OTHERS AND DOES NOT REPRESENT AN OPINION AS TO TITLE. NOTE: THE SURVEY DESCRIPTION AS SHOWN ON THIS SURVEY IS BASED ON THE INFORMATION PROVIDED BY OTHERS AND DOES NOT REPRESENT AN OPINION AS TO TITLE. THE SURVEY DESCRIPTION IS REFERENCED ON THIS SURVEY.

SURVEY DESCRIPTION

A TRACT OF LAND LYING IN PART OF FRACTIONAL SECTIONS 1, 2 & 3, LOT 28 TOWNSHIP 12 NORTH (T12N), RANGE 18E (R18E), THE 18M, MCINTOSH COUNTY, OKLAHOMA MORE OR LESS AS SHOWN ON THE ACCOMPANYING MAP AND THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E.

THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E, IS 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT.

THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E, IS 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT.

DEED DESCRIPTION

LOTS 1, 2, 3, 4 AND 5 OF SECTION 1, TOWNSHIP 12 NORTH, RANGE 18E OF THE 18M, MCINTOSH COUNTY, OKLAHOMA MORE OR LESS AS SHOWN ON THE ACCOMPANYING MAP AND THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E.

THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E, IS 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT.

DEED DESCRIPTION

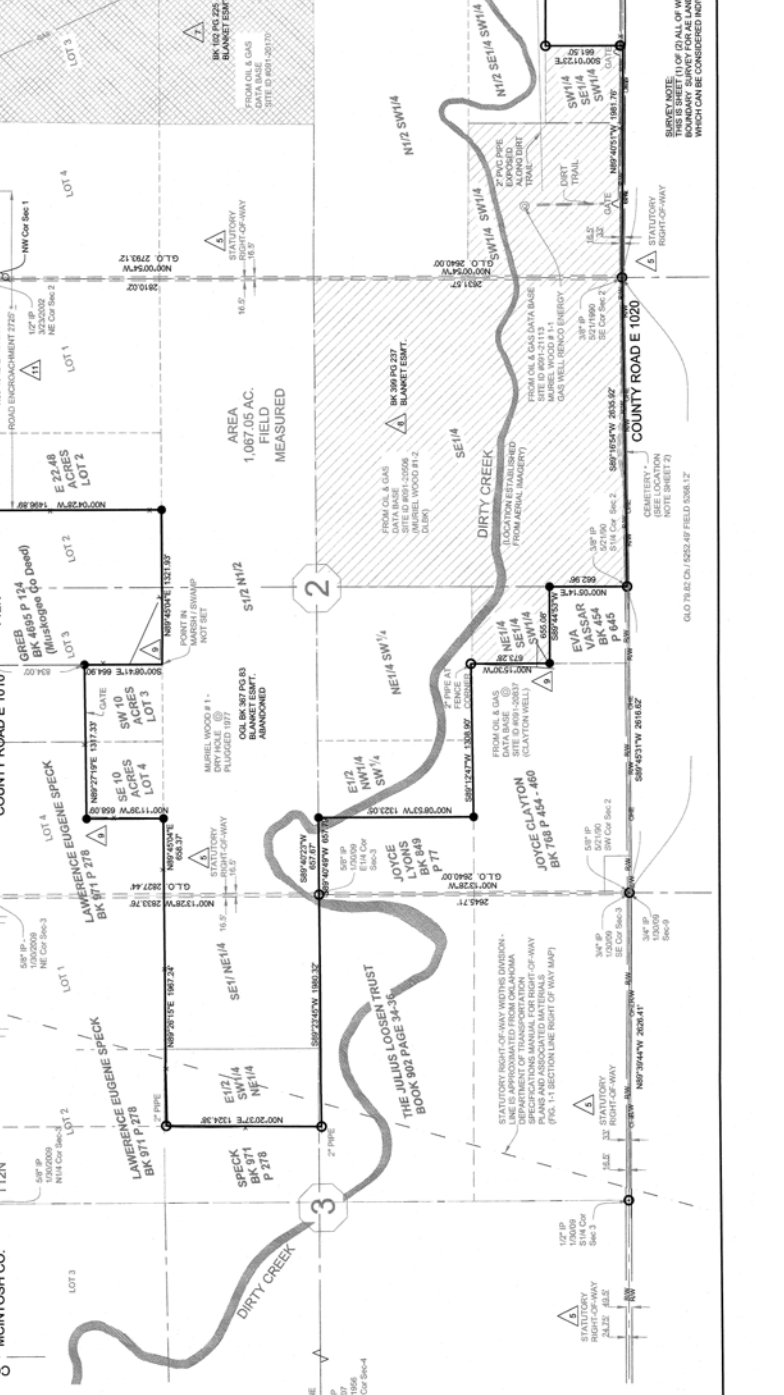
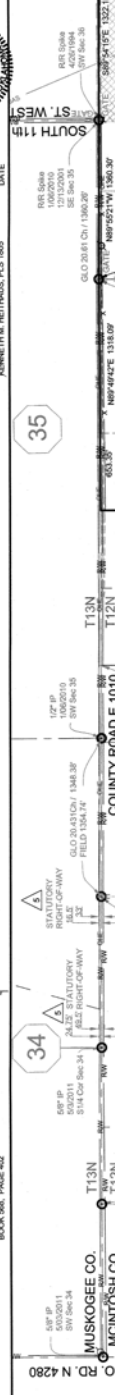
LOTS 1, 2, 3, 4 AND 5 OF SECTION 1, TOWNSHIP 12 NORTH, RANGE 18E OF THE 18M, MCINTOSH COUNTY, OKLAHOMA MORE OR LESS AS SHOWN ON THE ACCOMPANYING MAP AND THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E.

THE SOUTHWEST CORNER OF LOT 28 SAID FRACTIONAL SECTION 1, SAID T12N R18E, IS 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT AND 131.58 TO SAID POINT.

OWNER / SOURCE OF TITLE

THE MURIEL WOOD FAMILY LIMITED PARTNERSHIP
413 WEST REFERROCK
PO BOX 566, PAGE 402

MUSKOGEE CO.
MCINTOSH CO.MUSKOGEE COUNTY
MCINTOSH COUNTY
MUSKOGEE COUNTY
MCINTOSH COUNTY



Scale: 1" = 500'

Drawn: TWH/TADChecked: KMH
Date: 11/11/2016
Job No.: 216027
Project: BOUNDARY SURVEY IN MCINTOSH COUNTY, OKLAHOMA

Exhibit E-4: Real Estate Instrument

CONSERVATION EASEMENT

STATE OF OKLAHOMA

§

§

COUNTIES OF

_____ §

Date: _____, 201__

Grantor: Dirty Creek ABB

2557 State Highway 7 East
Center, Texas 75935

Grantee: MISSISSIPPI RIVER TRUST,
a Mississippi non-profit, charitable corporation
c/o Brian W. Ballinger
P.O. Box 15
Stoneville, Mississippi 38776

This Grant of Conservation Easement ("Conservation Easement") is made by Dirty Creek ABB with an address of , 2557 State Highway 7 East,Center Texas 75935 ("Grantor"), to **MISSISSIPPI RIVER TRUST**, a Mississippi non-profit, charitable corporation (hereinafter "Grantee"), herein represented and herein appearing by and through Brian W. Ballinger, its Director, who after being duly sworn by the applicable Notary Public set forth below, did depose and state that he is the duly sworn representative of said Grantee and that said Grantee is a business licensed in and located in the State of Mississippi, whose mailing address is P.O. Box 15, Stoneville, MS 38776, . Grantor and Grantee shall hereinafter be collectively referred to as the "Parties" and singularly as "Party".

The following Exhibits are attached to this Conservation Easement and incorporated by reference:

Exhibit A Legal description of the Property

Exhibit B Baseline Documentation Report (On file at **MISSISSIPPI RIVER**

TRUST)

Exhibit C Conservation Bank Agreement (On file at **MISSISSIPPI RIVER**

TRUST)

PROPERTY: Located in _____ County, Oklahoma, hereinafter referred to as the "Property"; and more particularly described as follows: _____

acres, more or less, as described on **Exhibit “A,”** attached hereto and incorporated herein. Grantor and Grantee acknowledge that Grantor does not hold title to the mineral fee or royalty interests in the Property (the “Mineral Rights”), and that such Mineral Rights are held by a third party or parties. Therefore, this Conservation Easement is subject to the Mineral Rights as reflected in the official public records of Hughes County, Pontotoc County and Coal County, Oklahoma. Grantor agrees that it shall not enter into any voluntary modifications, amendments, extensions, or other alterations of any instruments relating to or evidencing the Mineral Rights without the prior written approval and consent of the Grantee.

The Property possesses natural, scenic, forested, open space, scientific, biological, or ecological values of prominent importance to the Grantor, the Grantee, and the public. These values are referred to as the "Conservation Values" in this Conservation Easement.

CONVEYANCE: The Grantor conveys and warrants for full and fair consideration to the Grantee this perpetual and assignable Conservation Easement over the Property, subject to all matters of record in the official public records of Hughes County, Pontotoc County, and Coal County, Oklahoma, existing as of the date of this Conservation Easement (such matters, collectively, the "Permitted Exceptions"). Grantor also warrants that Grantor has good and sufficient title to the surface interest in the Property, free from all encumbrances that may materially and adversely affect the Conservation Values of the Property as described herein, and hereby promises to defend the same against all claims that may be made against the Property, all subject to the Permitted Exceptions. The scope of this Conservation Easement is set forth in this instrument. This conveyance is a grant of rights by the Grantor to the Grantee as expressly set forth herein.

THE GRANTOR AND THE GRANTEE AGREE TO THE FOLLOWING:

1. PURPOSES OF THIS CONSERVATION EASEMENT AND COMMITMENTS OF THE GRANTOR AND THE GRANTEE.

- A. This Conservation Easement assures that the Property will be perpetually preserved in its predominately **natural, and undeveloped** condition. The Purposes of this Conservation Easement (collectively, the “Purposes”) are: (i) to protect the Property's natural resource values, biodiversity, and high quality habitat for native plants and animals; (ii) to maintain and enhance the natural features of the Property; and (iii) to serve as a conservation bank pursuant to the regulations and guidelines of the United States Fish and Wildlife Service (“USFWS”), an agency within the U.S. Department of the Interior, having jurisdiction over the conservation, protection, restoration and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of these species within the United States pursuant to the Federal Endangered Species Act, 16 U.S.C. § 1531, *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f), *et seq.*, Guidance for the Establishment, Use and Operation of Conservation Banks (U.S. Department of Interior Memorandum, dated May 2, 2003), Executive Order 13186,

Responsibilities of Federal Agencies to Protect Migratory Birds, dated January 10, 2001. and other provisions of Federal law. Any uses of the Property that may impair or interfere with these Purposes and the Conservation Values are prohibited, other than those pursuant to rights under the Permitted Exceptions.

- B. The Grantor is the fee owner of the surface interest in the Property, subject to the Permitted Exceptions, and is committed to preserving the Conservation Values of the Property. The Grantor agrees to confine use of the Property to activities consistent with the Purposes of this Conservation Easement and the preservation of the Conservation Values, other than any uses or activities pursuant to rights under the Permitted Exceptions.
- C. The Grantor agrees that, other than in connection with a conservation bank established pursuant to the _____ Conservation Bank Agreement or other legally binding document executed by Grantor infurtherance of a conservation banking program or project authorized under the statutes referenced in Section 1.A.(iii), above, or successor statutes thereto (asat any time amended or modified, and together with the Permit (as hereinafter defined), collectively, the "Conservation Bank Agreement"), (i) neither the Property nor any portion of it shall be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, permissible lot yield, or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density; and (ii) no development rights that have been encumbered or extinguished by this Conservation Easement shall be transferred to any other lands pursuant to a transferable development rights, scheme cluster development arrangement or otherwise.
- D. The Grantee is a qualified recipient of this Conservation Easement as defined under the Oklahoma Uniform Conservation Easement Act and Section 170(h) of the Internal Revenue Code or any successor provisions thereof, is committed to preserving the Conservation Values of the Property and has the resources to uphold the terms of this Conservation Easement. The Grantee protects natural habitats of fish, wildlife, plants, and the ecosystems that support them. The Grantee also preserves open spaces, including ranches, farms and forests, where such preservation is for the scenic enjoyment of the general public or pursuant to clearly delineated governmental conservation policies and where it will yield a significant public benefit. Grantee will implement a reporting program and provide required written compliance reports to the USFWS on an annual basis.

2. CONSERVATION VALUES. The Conservation Values of the Property are the following:

A. **PUBLIC POLICY:**

The Property is preserved pursuant to a clearly delineated federal, state, or local conservation policy and yields a significant public

benefit. Legislation, regulations, and policy statements that establish relevant public policy include, but are not limited to the following:

- * Conservation easements, as stipulated in the Oklahoma Uniform Conservation Easement Act;
- * Federal Endangered Species Act, 16 U.S.C. § 1531, *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f), *et seq.*;
- * Guidance for the Establishment, Use and Operation of Conservation Banks (U.S. Department of Interior Memorandum, dated May 2, 2003);
- * Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, dated January 10, 2001. and other provisions of Federal law;
- Draft Guidelines for the Establishment, Management, and Operation of American burying beetle Conservation Banks (U.S. Fish and Wildlife Service, Oklahoma, dated August 13, 2012);

B. WILDLIFE HABITAT:

- (i) The Property contains significant natural areas that represent high quality examples of habitat in which wildlife, fish, plants, or the ecosystems that support them, thrive in a relatively natural condition;
- (ii) The Property contains _____ acres, which supports native, sustainable habitat for a biologically diverse collection of animals and plants, including native grasslands, forestland, streams, and ponds;
- (iii) The Property contains and supports ecological values which serve as habitat (including, without limitation, food, water and proper vegetative mix and canopy cover) necessary to support occupancy, survival, and reproduction of the endangered species: American burying beetle (*Nicrophorus americanus*), as well as a biologically diverse collection of animals and plants; and
- (iv) The Property was once owned by Samuel Noble Foundation as a research station focused on using controlled burning to promote

native grasses for forage and wildlife, with subsequent owners continuing this management strategy for decades.

C. INCORPORATION OF PURPOSE AND RECITALS

NOW THEREFORE, in consideration of the foregoing, the Grantor and Grantee have established a Conservation Easement on, over and across the Property consisting of the foregoing purposes and recitals, and the following terms, covenants, and restrictions granted to Grantee, which shall run with and bind the Property in perpetuity.

3. **BASELINE DOCUMENTATION.** Specific Conservation Values of the Property have been documented in a natural resource inventory and recorded in a baseline documentation report titled “Muddy Boggy Conservation Bank: Conservation Easement Baseline Documentation Report, dated _____, and referenced and incorporated herein as **Exhibit “B”** attached hereto (the “Baseline Documentation Report”), a copy of which is on file at the USFWS and at the office of the Grantee. The Baseline Documentation Report consists of maps, a depiction of all existing human-made modifications, prominent vegetation, identification of flora and fauna, land use history, distinct natural features, and photographs. The Parties acknowledge that the Baseline Documentation Report is an accurate representation of the Property at the time of this conveyance. The Parties also acknowledge that the Baseline Documentation Report is intended to serve as an objective information baseline for monitoring compliance with the terms of this conveyance, but that it is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use.

4. **PROHIBITED ACTIONS AND PROPERTY USES.** Any activity on, or use of, the Property that is inconsistent with the Purposes of this Conservation Easement and the Conservation Bank Agreement; or that is detrimental to the Conservation Values is prohibited, other than those activities or uses pursuant to rights under the Permitted Exceptions. By way of example, but not by way of limitation, the activities and uses that are explicitly prohibited, are set forth in Section 4 of this Conservation Easement, and are further described in the Conservation Bank Agreement, referenced and incorporated herein as **Exhibit “C”** attached hereto, a copy of which is on file at the USFWS and at the office of Grantee.

Neither Grantor, Grantee, or their respective agents, assigns, successors, or personal representatives, nor any purchasers, lessees or other authorized users of the Property, may use, disturb or allow through intent or negligence, the use or disturbance of the Property in any manner that is inconsistent with the purposes of this Conservation Easement, other than those activities, uses or disturbances pursuant to rights under the Permitted Exceptions. Without limiting the generality of the foregoing, the following is a listing of activities and uses, which are expressly allowed or expressly prohibited. Grantor and Grantee have determined that the allowed activities may be conducted in a manner that does not permanently impair the Conservation Values of the Property. Additional retained rights of Grantor are set forth in Section 5 below.

A. Subdivision. The Property may not be further divided, subdivided or partitioned, or pledged for a debt, except in its current configuration as a single entity.

B. Commercial Development. Commercial or industrial activities or uses of the Property are not permitted.

C. Construction; Maintenance of Existing Improvements. Grantor may maintain, remodel, and repair existing buildings, structures, fences, wells, dams and reservoirs, utilities, soft-surface roads, and other improvements, as described in the Baseline Documentation Report and, in the event of their destruction, to reconstruct or replace said improvements with another of similar size, function, capacity, location and material that does not materially alter the existing footprint of such structures. Maintenance of existing roads shall be limited to removal of dead vegetation, necessary pruning or removal of obstructing trees and plants, and/or application of permeable materials (e.g. sand, gravel, crushed stone) as necessary to correct or prevent erosion. Construction of additional buildings and structures and facilities of any kind is prohibited, unless approved in advance in writing by USFWS and Grantee, and only then when necessary to protect Conservation Values on the Property. Notwithstanding the foregoing, the activities of Grantor set forth in this section hereinabove, may not be undertaken by Grantor during the time period between May 20 and September 20, without the prior written authorization of USFWS. For purposes of this Conservation Easement the time period between May 20 and September 20 has been determined by USFWS as the active season of the American burying beetle and shall hereinafter be referred to as the "Active Season".

D. Except as expressly set forth in the Conservation Bank Agreement, there shall be no (i.) unseasonable watering; (ii.) use of fertilizers, or pesticides, including but not limited to insecticides, fungicides, rodenticides and herbicides; or (iii.) incompatible fire protection activities.

E. Disturbance of Natural Habitat. There shall be no (i) removing, destroying, cutting, trimming, mowing, shredding, clearing, altering of any native vegetation; (ii.) farming, tilling, disturbing or changing in any way the natural habitat existing on the Property, except as may be permitted pursuant to existing, recorded rights of others as of the date of this Conservation Easement; or as expressly allowed in the Conservation Bank Agreement and solely in order to fulfill the objectives and standards of the Conservation Bank Agreement and this Conservation Easement.

Accordingly, Grantor may remove diseased, invasive or non-native trees, shrubs, or plants; cut and mow firebreaks and road rights-of-way; and remove trees, shrubs, or plants to accommodate maintenance of permitted improvements, habitat management purposes, or other uses expressly permitted under the terms of this Conservation Easement and the Conservation Bank Agreement.

F. Dumping. There shall be no dumping or storing of any unsightly or potentially unhealthful material, such as trash, wastes, rubbish, ashes, sewage, garbage, scrap material, sediment discharges, oil and petroleum by-products, leached compounds, toxic materials or fumes, or any “hazardous substances” (as hereinafter defined). For the purposes of this paragraph, the phrase “hazardous substances” shall be defined as in the federal Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.) and/ or a substance whose manufacture, processing, distribution in commerce, use, possession or disposal is banned, prohibited or limited pursuant to the federal Toxic Substances Control Act (15 U.S.C. § 2601 et seq.).

G. Vehicle Traffic. Use of automobiles, trucks, vans or other motor vehicles on portions of the Property not designated in the Conservation Bank Agreement as access trails or roads is prohibited, except as expressly permitted under the Conservation Bank Agreement; is permitted or necessary for inspection, construction or maintenance of permitted improvements, fire protection or emergency purposes; is permitted pursuant to existing, recorded or statutory rights of others as of the date of this Conservation Easement; or for any other use not inconsistent with the Conservation Bank Agreement and this Conservation Easement.

H. Signage. Construction or placement of any signs, billboards or other advertising displays on the Property is not permitted, except that signs whose placement, number and design do not significantly diminish the scenic character of the Property may be placed to state the name and address of the Property and the names of persons living on or operating the Property, to advertise or regulate permitted on-site activities, to advertise the Property for sale or rent, to post the Property to control unauthorized entry or use, or to identify the Property as being protected by this Conservation Easement.

I. Invasive Species. There shall be no further planting of invasive or potentially invasive non-native plant species anywhere on the Property.

J. Predator and Nuisance Species Control. Grantor shall have the right to control, destroy, or trap predatory, exotic, invasive and problem animals that pose a material threat to people, livestock, other animals, or habitat condition in accordance with the Conservation Bank Agreement and applicable state and federal laws and requirements.

K. Excavation and Mineral Extraction. Except as approved in writing by the Grantee, as expressly provided, required or permitted in the Conservation Bank Agreement, or pursuant to existing, recorded rights of others as of the date of this Conservation Easement, there shall be no (i) change in the topography of the Property, (ii) filling, excavating, grading, dredging, mining, or alteration of the Property, excepting further as may be necessary to extract deep minerals by the owner of the mineral estate in the Property or any portion thereof, or (iii) mining or exploitation of

topsoil, peat, sand, gravel, rock, or other minerals of the surface estate, including near-surface lignite, iron, or coal, or other materials.

L. Pollution, Disturbance to Hydrology. There shall be no pollution, alteration, or depletion of surface water, natural water courses, lakes, ponds, marshes, wetlands, subsurface water or any other water bodies, nor shall activities be conducted on the Property that are inconsistent with the Conservation Bank Agreement and that would be detrimental to water purity or that could alter the natural water level or flow in or over the Property, except as may be permitted in the Conservation Bank Agreement or pursuant to existing, recorded rights of others as of the date of this Conservation Easement. All commercial sales, leases, or other conveyances of surface or subsurface water or water rights by Grantor are prohibited.

M. Hunting, Fishing or Trapping. Provided that the occurrence of the following activities does not negatively impact the habitat of the ABB during the Active Season, Grantor may conduct hunting, fishing or trapping activities in accordance with appropriate federal, state and local laws and restrictions. Notwithstanding the aforementioned, the hunting or trapping of feral hogs may occur at any time on the Property provided that the use of bait does not have the effect of attracting feral hogs which would not under normal circumstances enter the Property.

N. Agricultural Activity. There shall be no agricultural activity, including the grazing of livestock, of any kind conducted on the Property, except as may be permitted in the Conservation Bank Agreement.

Grantee or its successors in interest may determine that a disturbance at the Property is necessary to maintain the Conservation Values for the life of this Conservation Easement. In normal circumstances, Grantor shall make requests for such a disturbance in writing and receive Grantee's and USFWS's advance written approval. Additionally, in the event of an emergency, for example, a wildfire, Grantor shall provide notice and take action that is reasonable under the circumstances, seeking Grantee's and USFWS's written approval of such action as soon as the imminent and immediate threat is abated. No approvals may enlarge permitted uses under this Conservation Easement or result in its termination.

If, owing to unforeseen or changed circumstances, any of the prohibited activities listed in Section 4, Prohibited Actions and Property Uses are deemed desirable by both Grantor and Grantee, the Grantee may, in its sole discretion, give permission for such activities only if it determines that such activities 1) do not violate the purpose of this Conservation Easement, 2) either enhance or do not impair any significant conservation interests associated with the Property, and 3) do not result in impermissible inurement or private benefit to Grantor or any other parties. Such requests for permission and grants of permission for activities requiring the Grantee's consent shall be in writing and shall describe the proposed activity in sufficient detail to allow the Grantee to judge the consistency of the proposed activity with the purpose of this Conservation Easement and the Conservation Bank Agreement. Notwithstanding the foregoing, the Grantor and Grantee have no right or power to agree to any activities that would result in the termination of this Conservation Easement.

Grantor or Grantor's agents, assigns, successors, or personal representatives, or potential or actual purchasers, lessees or other users of the Property shall notify Grantee of any activities on the Property, regardless of cause, that are inconsistent with the intended purpose of this Conservation Easement.

5. **GRANTOR'S RESERVED RIGHTS.** The Grantor retains all ownership rights that are not prohibited by or inconsistent with this Conservation Easement. By way of example and not limitation, the Grantor reserves the sole and exclusive right to operate the Property as a conservation bank and to sell credits or similar entitlements or other interests in order to carry out the business of conservation banking. In addition, subject to the limitations of Section 4, the Grantor reserves the activities and uses described in the Conservation Bank Agreement, and it is expressly agreed that such uses are not in violation of this Conservation Easement or its Purposes and do not adversely affect the Conservation Values of the Property.

6. **GRANTOR'S OBLIGATIONS.** The Grantor, its heirs, successors, and assigns shall comply with the terms and provisions of this Conservation Easement in perpetuity.

7. **RIGHTS OF THE GRANTEE.** The Grantor confers the following rights upon the Grantee to perpetually maintain the Conservation Values of the Property:

A. **Right to Enter.** The Grantee, its employees or agents have the right to enter the Property at reasonable times and with no less than 48 hours prior notice to Grantor to monitor the Property by way of an Access Easement between Grantor and Grantee of even date herewith to be filed of record in the official public records of _____ County, Oklahoma. Furthermore, the Grantee has the right to enter the Property at reasonable times and with no less than 48 hours prior notice to Grantor in connection with enforcing compliance (pursuant to Section 8, below) with, or otherwise exercise its rights under, this Conservation Easement. Under emergency circumstances, such as Grantee's reasonable belief that a violation of this Conservation Easement is ongoing or is imminent, Grantee shall provide notice of entry and inspection that is reasonable under the circumstances, consistent with the conservation purposes hereof. The Grantee may not, however, unreasonably interfere with the Grantor's permitted uses of the Property or any portion thereof. The Grantee has no right to permit others to enter the Property. The general public is not granted access to or any other rights in the Property under this Conservation Easement.

B. **Right to Preserve.** The Grantee has the right, through the remedies set forth in Section 8, below, to prevent any activity on or use of the Property that is inconsistent with the Purposes of this Conservation Easement or detrimental to the Conservation Values of the Property.

C. **Right to Require Restoration.** The Grantee has the right, through the remedies set forth in Section 8, below, to require the Grantor to restore the areas or

features of the Property that are damaged by any activity that is inconsistent with this Conservation Easement. The Grantor agrees to promptly restore the damaged area or feature to its prior condition. Before undertaking restoration work, the Grantor shall:

- (i) confer with the Grantee regarding a plan for the restoration of the Property;
- (ii) prepare and provide to the Grantee a detailed restoration plan; and
- (iii) obtain the Grantee's prior written approval of the proposed restoration plan, which approval shall not be unreasonably withheld, conditioned, or delayed.

8. **GRANTEE'S REMEDIES.** This section addresses cumulative remedies of the Grantee and limitations on these remedies.

- A. **Delay in Enforcement.** A delay in enforcement shall not be construed as a waiver of the Grantee's right to eventually enforce the terms of this Conservation Easement.
- B. **Acts Beyond Grantor's Control.** The Grantee may not bring an action against the Grantor for modifications to or damage of the Property or any portion thereof, or for a violation of this Conservation Easement, resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as unintentional fires, floods, storms, tornadoes, or natural earth movement, or Grantor's well-intentioned action in response to an emergency that may unintentionally result in a technical violation of this Conservation Easement provided that such modification or damage does not materially affect the conservation purposes of the Property in a negative manner. The Grantor has no responsibility under this Conservation Easement for such unintended modifications, unless Grantor fails to take reasonable action to cure any material damage in accordance with the notice and demand provision below. Grantor shall not knowingly permit violations of this Conservation Easement by third parties.

In the event the terms of this Conservation Easement are violated by unauthorized actions of third parties, the Grantor may, but is not required to, at the Grantee's request, allow the Grantee to join in any suit, to assign the Grantor's right of action to the Grantee, or to appoint the Grantee as the Grantor's attorney-in-fact, for the purposes of pursuing an enforcement action against the responsible parties.

- C. **Notice and Demand.** If the Grantee believes that the Grantor is in violation of this Conservation Easement, or that a violation is threatened, the Grantee shall provide sixty (60) days written notice to the Grantor (the "Notice Period"). The written notice will identify the alleged violation and request corrective action to cure the violation and, where the Property has been injured, to restore the Property within a reasonable timeframe. If the Grantor fails to cure

the violation within the Notice Period, Grantee may pursue its remedies to protect, restore, or compensate for the Conservation Values of the Property. However, if at any time the Grantee reasonably believes that the violation constitutes immediate and irreparable harm for which an immediate remedy is needed, no prior written notice is required. The Grantee may then immediately pursue its remedies to prevent or limit harm to the Conservation Values of the applicable portion of the Property. If the Grantee believes that this Conservation Easement is, or is expected to be, violated, and the Grantee's good-faith and reasonable efforts to notify the Grantor are unsuccessful, the Grantee may pursue its lawful remedies to mitigate or prevent harm to the Conservation Values without prior notice and without awaiting the Grantor's opportunity to cure. The Grantor agrees to reimburse Grantee all reasonable and actual documented costs, including reasonable and actual attorneys' fees, associated with such cure efforts in the event of an actual violation of this Conservation Easement as determined by a court of competent jurisdiction or by agreement of the Parties, subject to the provision of Section 8.B, above.

The Grantor agrees that the Grantee reserves the right to assert the following hierarchy of corrective actions to any and all material violations of this Conservation Easement (subject to the provisions of Section 8.B, above, and to the other terms and conditions of this Conservation Easement):

- (i) Grantor shall restore, according to a plan approved by the Grantee, the damaged area or feature of the Property (the "Damaged Portion") to its condition prior to the violation; or
- (ii) if the Grantee determines that restoration is not likely to be successful on all of the Damaged Portion, then to the extent reasonably practicable, the Grantor shall convey, or cause to be conveyed, within one year of the notice of violation, a new Conservation Easement acceptable to and approved by the Grantee on a nearby parcel of land possessing the equivalent Conservation Values that existed on the Damaged Portion prior to the violation; or
- (iii) if the Grantee, in its good faith judgment, determines that options (i) or (ii) will not be effective, then the Grantor shall provide a cash settlement to the Grantee equivalent to the combined sum value necessary to effectively complete the actions described in options (i) or (ii), which cash settlement shall not exceed the Conservation Easement Valuation (as defined below) with respect to such Damaged Portion. However, in no case shall a cash settlement be less than any monetary benefit Grantor, or any third party authorized by Grantor, actually receives from a violation of this Conservation Easement.

If actions of the Grantor, or those of any third party authorized by the Grantor, render it impossible, as determined by Grantee, to fulfill the Purposes or substantially diminish the Conservation Values of this Conservation Easement on the Property or a Damaged Portion, then the

Grantee shall be compensated by the Grantor for such loss with respect to the Property or a Damaged Portion by an amount equivalent to (a) the current market value of the Property unencumbered with this Conservation Easement, less (b) the current market value of the Property encumbered with this Conservation Easement, multiplied by (c) a fraction, the numerator of which is the area expressed in acres of the Damaged Portion and the denominator of which is the area expressed in acres of the Property, plus (c) reasonable and actual attorneys' fees (such formula, the "Conservation Easement Valuation"). However, in no case shall such compensation be less than any monetary benefit Grantor, or any third party authorized by Grantor, actually receives from a violation of this Conservation Easement.

- D. Failure to Act. If, within 60 days after written notice, the Grantor does not implement corrective measures requested by the Grantee as provided in Section 8.C., above, the Grantee may bring an action in law or in equity to enforce the terms of the Conservation Easement.

The Grantee is entitled to enjoin the violation through temporary restraining order or through temporary or permanent injunctive relief and to seek specific performance, declaratory relief, restitution, reimbursement of expenses, and/or an order compelling the Grantor to restore the applicable portion of the Property. If the court determines that the Grantor has failed to comply with this Conservation Easement, the Grantor shall also reimburse the Grantee for all reasonable litigation costs and reasonable attorney's fees.

- E. Actual or Threatened Non-Compliance. The Grantee's rights under this Section 8, Grantee's Remedies, apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement. The Grantor agrees that the Grantee's claim for money damages for any violation of the terms of this Conservation Easement is inadequate. The Grantee shall also be entitled to affirmative and prohibitive injunctive relief and specific performance, both prohibitive and mandatory.
- F. Cumulative Remedies. The preceding remedies of the Grantee are cumulative. The Grantee may invoke any, or all, of the remedies if there is an actual or threatened violation of this Conservation Easement.

9. NOTIFICATION OF PERMITTED ACTIVITIES. The purpose of requiring the Grantor to notify the Grantee prior to undertaking certain permitted activities as specifically required in this Section 9 is to afford the Grantee an opportunity to review and approve, conditionally approve, or object to the activities in question and to enable the Grantee to ensure that any such activities are designed and will be carried out in a manner not inconsistent with the Purposes of this Conservation Easement. This notification requirement applies only to the permitted activities listed in this Conservation Easement and the Conservation Bank Agreement as requiring notice by Grantor, unless otherwise provided herein.

Whenever notice is required under the immediately preceding paragraph, the Grantor shall notify the Grantee in writing within the time period specified in the Conservation Bank Agreement for such activity prior to the date the Grantor intends to undertake the activity in question. The notice shall describe the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to the proposed activity's consistency with the Purposes of this Conservation Easement. If the Grantee fails to respond within thirty (30) days after it receives the written request, then its approval shall be deemed given.

In addition, the Grantor shall notify the Grantee in writing no less than thirty (30) days prior to the closing of the sale or gift of the Property to any other party. Grantor shall pay Grantee a transfer fee of one hundred dollars (\$100.00) upon any such transfer. The failure of Grantor to perform any act required by this Section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

10. CONSERVATION EASEMENT REQUIREMENTS UNDER OKLAHOMA LAW AND UNITED STATES TREASURY REGULATIONS.

- A. This Conservation Easement is created pursuant to the Oklahoma Uniform Conservation Easement Act.
- B. This Conservation Easement is established for conservation purposes pursuant to the Internal Revenue Code, as amended at Title 26, U.S.C.A., Section 170(h)(1)-(6) and Sections 2031(c), 2055, and 2522, and under Treasury Regulations at Title 26 C.F.R. 1.170A-14 et seq., as amended.
- C. The Grantee is qualified to hold conservation easements pursuant to these statutes.

11. OWNERSHIP COSTS AND LIABILITIES. In accepting this Conservation Easement, the Grantee shall have no liability or other obligation for costs, liabilities, taxes, assessments, fees, charges of whatever description, or insurance of any kind related to the Property, unless such costs or liabilities are the result of Grantee's negligence or willful misconduct. Upon request by the Grantee, the Grantor shall provide satisfactory evidence of payment of all such costs and liabilities. The Grantee's rights do not include the right, in absence of a judicial decree, to enter the Property for the purpose of becoming an owner or operator of the Property or becoming an arranger with respect to the Property within the meanings of the Comprehensive Environmental Response, Compensation, and Liability Act, or other similar statute or ordinance of the State of Oklahoma. The Grantee, its members, trustees or directors, officers, employees, and agents have no liability arising from injury or death to any person or physical damage to any personal property on the Property, except to the extent such injury, death or damage results from Grantee's or any of its employees' or agents' negligence or willful misconduct. The Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use allowed by this Conservation Easement, and all such activities or uses shall be undertaken in accordance with all applicable federal, state and local laws, regulations, and requirements. Excluding liens which may be characterized as purchase money mortgage liens or

other similar liens created in connection with the financing or re-financing of the Property or any portion thereof, the Grantor shall keep the Property free of any liens of any nature. Any such mortgage liens or other liens shall be subordinate to this Conservation Easement. In no event shall foreclosure of any lien created after the date this Conservation Easement is recorded in the real property records of _____ County result in the extinguishment of the Conservation Easement, affect its perpetual duration, or affect Grantee's rights in any manner.

12. INDEMNIFICATION. Grantor acknowledges that Grantee has no possessory rights in the Property, nor any responsibility or right to control, maintain, or keep up the Property. If Grantee is ever required by a court to pay damages, costs, or fees resulting from personal injury, property damage, governmental regulatory actions, or the presence of polluting substances, that occur on the Property, Grantor shall indemnify and reimburse Grantee for these payments, as well as for reasonable attorneys' fees and other expenses of defending itself, except to the extent that any such loss, cost or damage is determined by a court to have been caused by the negligence or willful misconduct of Grantee or its employees or agents. If Grantor is ever required by a court to pay damages, costs, or fees resulting from personal injury, property damage, or the presence of polluting substances, that occur on the Property, that are determined by a court to have been caused by the negligence or willful misconduct of Grantee or its employees or agents, Grantee shall indemnify and reimburse Grantor for these payments, as well as for reasonable attorneys' fees and other expenses of defending itself.

13. HAZARDOUS MATERIALS. The Grantor warrants that the Grantor has no actual knowledge of the deposition, release or storage of hazardous substances or hazardous wastes, as defined by any local, state or federal law, on the Property.

14. LITIGATION. The Grantor warrants that the Grantor has no actual knowledge of any pending or threatened litigation relating in any way to the Property. The Grantor also warrants that the Grantor has no actual knowledge of any civil or criminal proceedings or investigations against Grantor that have at any time related to the Property.

15. TERMINATION. This Conservation Easement may be extinguished only by a change in condition that causes it to be impossible to fulfill the Conservation Easement's Purposes, or by exercise of eminent domain, as described below.

- A. Unexpected Change in Conditions. If subsequent circumstances render the Purposes of this Conservation Easement impossible to fulfill, then this Conservation Easement may be partially or entirely terminated only by judicial proceedings.
- B. Eminent Domain. If the Property is taken, in whole or in part, by power of eminent domain or acquired by purchase in lieu of condemnation so as to render it to be impossible to fulfill the Purposes (or any Purpose) of this Conservation Easement, then Grantor and the Grantee shall act jointly to realize the action most favored by the Grantee according to the following hierarchy:
 - (i) avoiding the Property and preserving it in its present condition: both

Parties shall jointly take actions to formally request that the intended proceeding completely avoid the taking of this Property or any portion thereof;

- (ii) minimizing and supplementing the loss to the Property: if the Property cannot be wholly preserved as a result of the intended proceeding, both Parties shall jointly take actions to formally request that the intended proceeding minimize its taking of this Property and supplement, on at least a 1:1 acreage basis of nearby land possessing equivalent over-all value, including without limitation Conservation Values and mitigation credit values, the loss of the Property with a supplemental Conservation Easement conveyed to the Grantee within one year of notice of the intended proceeding;
- (iii) mitigating the loss of the Property: if options (i) and (ii) are not acceptable to the Grantee, both Parties shall jointly take actions to formally request that the intended proceeding mitigate its taking of this Property, on at least a 1:1 acreage basis of nearby land possessing equivalent over-all value, including without limitation Conservation Values and mitigation credit values, by conveying a replacement Conservation Easement to the Grantee within two (2) years of notice of the intended proceeding; or
- (iv) recover full value: if any of options in (i), (ii) or (iii) above are not acceptable to the Grantee, both Parties shall jointly take action to recover the full value of the interests in the Property subject to the taking or in lieu purchase (such Property interests, the "Taken Property") and all direct and incidental damages resulting from the taking or in lieu purchase. Following the receipt of a condemnation award (or sales price in an in lieu purchase) for any Taken Property, the proceeds shall be distributed to Grantor and Grantee in the following manner: (a) first to Grantor in an amount equal to the number of authorized mitigation credits lost or affected by the taking or in lieu purchase, times the Per Credit Value (as defined below), and (b) then to Grantee in an amount not to exceed (I) the current market value of the Property unencumbered with this Conservation Easement, less (II) the current market value of the Property encumbered with this Conservation Easement, multiplied by (III) a fraction, the numerator of which is the area expressed in acres of the Taken Property, and the denominator of which is the area expressed in acres of the Property; and (c) then all remaining proceeds to Grantor. The "Per Credit Value" shall be determined by using the per conservation credit value from the most recent sale of mitigation credits; provided, however, that if no sale of mitigation credits has occurred in the preceding 2 years, the Per Credit Value shall be determined by appraisal (which, if applicable, shall also account for the value of previously sold mitigation credits lost or affected by such taking or in lieu purchase). All appraisals required for calculating values under this subparagraph (iv) shall be obtained at the sole cost and expense of Grantor.

16. **AMENDMENTS.** If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, the Grantor and the Grantee may jointly agree to amend this Conservation Easement. However, no amendment shall be allowed that will affect the qualification of this Conservation Easement or the status of the Grantee under any applicable laws, including the Oklahoma Uniform Conservation Easement Act or Section 170(h) of the Internal Revenue Code of 1954, as amended. Further, any amendment shall be consistent with the Purposes of this Conservation Easement, shall not diminish the Conservation Values of the Property, shall not affect the ability of the Property to be used as a conservation bank, shall not result in private inurement or impermissible private benefit to any person, shall not affect the perpetual duration of this Conservation Easement and shall not be inconsistent with the Conservation Bank Agreement. Any such amendment shall be in writing and executed by the Grantor and the Grantee, and recorded in the official public records of Hughes County, Pontotoc County, and Coal County, Oklahoma, and at the expense of the Party initiating or causing the need for the amendment.

17. **LIBERAL CONSTRUCTION.** This Conservation Easement shall be liberally construed in favor of maintaining the use of the Property as a conservation bank, maintaining the Conservation Values of the Property, and in accordance with the Oklahoma Uniform Conservation Easement Act.

18. **NOTICES.** For purposes of this agreement, notices may be provided to either Party by personal delivery, private courier, or by mailing a written notice to the Party (at the last known address of such Party) by certified mail, return-receipt requested. Notice may also be given by electronic mail with confirmed receipt. All notices shall be deemed delivered and effective upon actual receipt if given personally, or by private courier, or three days after deposit with the United States Postal Service if given by mail in accordance with the limitation cited hereinabove. Such deeming of notice shall not be construed to prevent proof of lack of receipt of notice. Any Party providing notice shall make a good faith attempt to determine that notice was actually received.

19. **SEVERABILITY.** If any portion of this Conservation Easement is determined to be invalid, the remaining provisions will remain in force.

20. **SUCCESSORS.** Grantor may transfer, sell, or otherwise convey the Property to any other person or party, so long as such conveyance is expressly made subject to the terms of this Conservation Easement. This Conservation Easement is binding upon, and inures to the benefit of, the Grantor's and the Grantee's respective successors in interest and assigns, subject, however, to Section 21 hereof with respect to Grantee. All subsequent owners of the Property are bound to all provisions of this Conservation Easement to the same extent as the Grantor.

21. **ASSIGNING THIS CONSERVATION EASEMENT TO ANOTHER HOLDER.** The Grantee may transfer this Conservation Easement to a similar entity upon the consent of the USFWS, but the Grantee may only assign its rights and obligations under this Conservation Easement to a qualified organization as defined under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable), and authorized to acquire and hold conservation easements under Oklahoma Uniform Conservation Easement Act (or any successor provision then applicable) and any applicable laws of the United States. Any assignment of this Conservation Easement shall obligate the Grantee to (i) require that the Purposes of the Conservation Easement

continue to be carried out, and (ii) transfer to the new holder the balance of easement stewardship funds allocated to this Conservation Easement in the event such funds are held by or under the control of Grantee. The Grantee agrees to give written notice and request for consent to assignment to Grantor at least sixty (60) days prior to the date of such proposed assignment. If Grantor fails to respond to Grantee's request for consent within thirty (30) days of receipt of such request, Grantor shall be deemed to have consented to such request.

22. **TERMINATION OF RIGHTS AND OBLIGATIONS.** A Party's rights and obligations under this Conservation Easement terminate upon transfer of that Party's interest in the Property. Liability for acts or omissions occurring prior to transfer will survive the transfer, but no transferor shall be liable for any act or omission occurring from or after such transfer.

23. **OKLAHOMA LAW.** This Conservation Easement will be construed in accordance with Oklahoma and Federal law.

24. **ENTIRE AGREEMENT.** This Conservation Easement sets forth the entire agreement of the Parties. It is intended to supersede all prior discussions or understandings. No alteration or variation of this Conservation Easement shall be valid or binding unless contained in an amendment that complies with Section 16.

25. **TITLE.** Grantor covenants and represents that Grantor is the sole owner and is seized of the surface interest in the Property in fee simple and has good right to grant and convey this Conservation Easement pursuant to and in accordance with the terms and conditions hereof, and that Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement, all subject to this Conservation Easement and to the Permitted Exceptions. Without limiting the foregoing, the Parties acknowledge that the Grantor is not seized of the subsurface or mineral interests in the Property or any portion thereof, that other parties are vested with such interests pursuant to instruments recorded prior to the date of this Conservation Easement (including without limitation the Mineral Rights), and that this Conservation Easement is subordinate to such interests.

26. **MERGER.** The Parties agree that the terms of this Conservation Easement shall survive any merger of the fee and Conservation Easement interest in the Property.

27. **ENFORCEMENT BY USFWS:** All rights and remedies with respect to this Conservation Easement held by the Grantee are also held by the USFWS. All notices required to be sent to either Party must also be sent to the USFWS, Tulsa District. All plans and contingencies mentioned in this document that require either Party's approval shall also require approval of the USFWS, Tulsa District. Should any provision of this Conservation Easement conflict with or contradict either or both of the Conservation Bank Agreement or the Permit No. _____ (as at any time amended or modified, and together with the Conservation Bank Agreement, collectively, the "Permit"), the Permit shall control, although in the event a provision in the Conservation Easement has greater requirements than the Permit, Grantor shall comply with the Conservation Easement unless doing so would violate the Permit. The USFWS

does not assume the obligations of the Grantee, including the indemnification provision in Section 12. Nothing contained herein shall constitute a grant of interest in real property to the USFWS. Additionally, before any action by either Party is taken to void or modify this Conservation Easement, the Conservation Bank Agreement, or other long-term protection plan mechanism, including transfer of title to, or establishment of any other legal claim to the Muddy Boggy Conservation Bank, the Party wishing to take such action to void or modify shall give 60 days written notice to the USFWS Threatened and Endangered Species Branch Chief at the Oklahoma Ecological Services Field Office.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Grantee and its successors and assigns forever.

GRANTOR:

_____.

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF SHELBY §

Before me, the undersigned authority, on this day personally appeared _____, a manager of _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as manager of _____ for the consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____, 201_.

Notary Public, State of Texas
My commission expires on: _____

GRANTEE:

MISSISSIPPI RIVER TRUST, a Mississippi non-profit, charitable corporation:

By: _____

Name: _____

Title: _____

STATE OF MISSISSIPPI §

§

COUNTY OF WASHINGTON §

Before me, the undersigned authority, on this day personally appeared _____, 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 and on behalf of MISSISSIPPI RIVER TRUST, for the consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____, 201_.

Notary Public, State of Mississippi

My commission expires on: _____

EXHIBIT A

Property Description

EXHIBIT B

Dirty Creek: Conservation Easement Baseline Documentation Report

[Copy is on file at the USFWS Tulsa District and at the offices of Grantee.]

EXHIBIT C


Conservation Bank Agreement

[Copy is on file at the USFWS Tulsa-District and at the offices of Grantee.]

ATTACHMENTS

Attachments are on file at the MISSISSIPPI RIVER TRUST.

Exhibit E-5: Title Insurance

 First American Title™	Commitment for Title Insurance
	ISSUED BY First American Title Insurance Company
Commitment	

FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation (“Company”), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate 180 days after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

In Witness Whereof, First American Title Insurance Company has caused its corporate name to be affixed by its duly authorized officers on the date shown in Schedule A.

First American Title Insurance Company



Dennis J. Gilmore
President



Jeffrey S. Robinson
Secretary


(This Commitment is valid only when Schedules A and B are attached)

This jacket was created electronically and constitutes an original document

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CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <<http://www.alta.org/>>.*

 First American Title™	Commitment for Title Insurance
	ISSUED BY First American Title Insurance Company
Schedule A	

Inquiries Should Be Directed To: **TCO Title Services, LLC**
6307 Waterford Blvd., Suite 160, Oklahoma City, OK 73118
(405) 840-8401 Email: j cotton@TCOTitle.com

File No.: **16-07-0007**

1. Effective Date: **August 19, 2016, 7:59AM**

2. Policy (or Policies) to be issued:

AMOUNT

- | | | | |
|----|-------------------------------------|--|-----------------------|
| a. | <input checked="" type="checkbox"/> | ALTA Owner's Policy of Title Insurance | |
| | <input type="checkbox"/> | ALTA Homeowner's Policy of Title Insurance | \$1,062,080.00 |

Proposed Insured: **AE Land and Timber LLC**

- | | | | |
|----|-------------------------------------|--|----|
| b. | <input checked="" type="checkbox"/> | ALTA Loan Policy of Title Insurance | |
| | <input type="checkbox"/> | ALTA Expanded Coverage Residential Loan Policy | \$ |

Proposed Insured: **To Be Determined,**

- | | | | |
|----|--------------------------|----------------------|----|
| c. | <input type="checkbox"/> | (Identify form used) | |
| | | | \$ |

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment is **Fee Simple**

4. Title to the **Fee Simple** estate or interest in the land is at the Effective Date vested in: **Muriel Wood Family Limited Partnership, a limited Partnership**

5. The land referred to in this Commitment is described as follows:

Lots One (1), Two (2), Three (3) and Four (4) and the South Half of the North Half (S/2 N/2) and the North half of the Southwest Quarter (N/2 SW/4) and the Southwest Quarter of Southwest Quarter (SW/4 SW/4) and North Half of Southeast Quarter of Southwest Quarter (N/2 SE/4 SW/4) and Southwest Quarter of Southeast Quarter of Southwest Quarter (SW/4 SE/4 SW/4) and North Half of Northwest Quarter of Southeast Quarter (N/2 NW/4 SE/4) and Southwest Quarter of Northwest Quarter of Southeast Quarter (SW/4 NW/4 SE/4) and the Northwest Quarter of Southwest Quarter of Southeast Quarter (NW/4 SW/4 SE/4) all in Section 1, Township 12 North, Range 18 East of the I.B.M., McIntosh County, Oklahoma.

AND

Lot One (1) and The East 22.48 acres of Lot Two (2) and the Southwest (SW) 10 acres of Lot Three (3) and Southeast (SE) 10 acres of Lot Four (4) and the South Half of North Half (S/2 N/2) and Northeast Quarter of Southwest Quarter (NE/4 SW/4) and East Half of Northwest Quarter of Southwest Quarter (E/2 NW/4 SW/4) and Northeast Quarter of Southeast Quarter of Southwest Quarter (NE/4 SE/4 SW/4) and Southeast Quarter (SE/4) all in Section 2, Township 12 North, Range 18 East of the I.B.M., McIntosh County, Oklahoma.


AND
The Southeast Quarter of Northeast Quarter (SE/4 NE/4) and East Half of Southwest Quarter of Northeast Quarter (E/2 SW/4 NE/4) in Section 3, Township 12 North, Range 18 East of the I.B.M., McIntosh County, Oklahoma.

Physical Address: **E1010 Rd, Warner Oklahoma**
Tax ID Parcel #: **03-12N-18E-1-002-00, 01-12N-18E-1-001-00, 02-12N-18E-1-001-00**

First American Title Insurance Company
By **TCO Title Services, LLC**



By: _____
, Authorized Countersignature
, License #
(This Schedule A valid only when Schedule B is attached)

 First American Title™	Commitment for Title Insurance
	ISSUED BY First American Title Insurance Company
Schedule BI	

File No.: 16-07-0007

REQUIREMENTS

The following requirements must be satisfied:

1. Submit proof of the payment to, or for the account of the grantors and/or mortgagors of the full consideration for the estate or interest to be insured.
2. Proper documents creating the estate or interest to be insured must be executed and duly filed for record, to wit: **[Any deed and or/mortgage from individuals must state current marital status of record owner or proposed mortgagor and be joined in execution by spouse, if married.]**
3. Deed from *Muriel Wood Family Limited Partnership, a limited Partnership*, vesting fee simple title in *AE Land and Timber LLC*.

NOTE: The State of Oklahoma requires the payment of a documentary stamp tax as a condition precedent to the recordation of any deed as provided by 68 Okla. Stat. 3201, subject to the exemptions provided for by 68 Okla. Stat. 3202.

4. Mortgage from *AE Land and Timber LLC*, securing your loan.

NOTE: The State of Oklahoma requires the payment of a mortgage tax as a condition precedent to the recordation of any mortgage.

5. Obtain a court search as to any entity taking title subsequent to date of this commitment including in *Oklahoma* County, and satisfy any judgments or liens which might affect the subject property and have releases thereof filed of record.
6. Return properly executed Seller/Owner Statement to the Company, including satisfactory evidence that all bills for labor and materials furnished for the improvements of said premises have been or will be paid.
7. Determine that property is improved with one-to-four family residential dwelling. Otherwise, policy to be issued under this commitment will be ALTA Loan Policy (2006) or ALTA Owner Policy 2006, as applicable. (Eagle)
8. Obtain an accurate survey of the premises which would disclose any encroachments, overlaps, boundary line disputes, or other matters.


9. *Provide evidence of open ingress and egress to the Land.*
10. With respect to Muriel Wood Family Limited Partnership, a limited partnership, furnish:
- a) A copy of the certificate of limited partnership;
 - b) A full copy of the partnership agreement and any amendments;
 - c) Other requirements which the Company may impose following its review of the material required herein and other information which the Company may require.
11. With respect to A&E Land and Timber LLC (*the Company*), *provide a satisfactory affidavit which establishes that there have been no amendments to the operating agreement of the Company since commenced and that all consents and authorizations required in the operating agreement and any amendments thereto have been given.*

END OF ITEMS

Note 1: The commitment will remain effective for a period of 180 days from 8/19/2016 @ 7:30AM

Note 2: Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized company employee; an authorized employee of an agent or other approved third-party service. Exceptions to this practice must be approved by the underwriter in advanced.

Note 3: If the application for title Insurance was placed by reference to only a street address or Tax Identification number; the legal description must be confirmed by the parties in the transaction. Based on the records researched, we believe the legal description in this commitment covers the parcel requested, however if the legal description is incorrect, a new commitment must be prepared. A delay in the transaction may occur, if the commitment needs to be revised to correct legal description.

 First American Title™	Commitment for Title Insurance
	ISSUED BY First American Title Insurance Company
Schedule BII	

File No.: 16-07-0007

The policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

STANDARD EXCEPTIONS:

- a. Rights or claims of parties in possession not shown by the public records.
- b. Easements, or claims of easements, not shown by the public records.
- c. Encroachments, overlaps, discrepancies or conflicts in boundary lines, shortage in area, or other matters which would be disclosed by an accurate and complete survey or inspection of the premises.
- d. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

SPECIAL EXCEPTIONS:

- 1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- 2. Real estate taxes for 2016 and subsequent years, amount of which is not ascertainable, due or payable.
- 3. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, limestone, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records.
- 4. Water rights, claims or title to water, whether or not shown by the public records.
- 5. Right of Way in favor of Ozark Gas Co. recorded in book 50, page 37.
- 6. Right of Way in favor of Mustang Fuel Corp. recorded in book 102, page 225.
- 7. Right of Way in favor of Centrex Operating Co. recorded in book 398, page 600, Assigned to Crouch Petroleum Co. recorded in book 399, page 237.

✓ 402

402

112741
 STATE OF OKLAHOMA, McIntosh County
 Filed for record on the 18th day
 of October, 2000, at 9:27 AM
 Book 5108, at Page 402
 Shirley Irvin, County Clerk
 Deputy

OKLAHOMA WARRANTY DEED

THIS INDENTURE, made this 6th day of October, A.D., 2000, between Muriel W. Wood, a single person, of Crawford County, in the State of Kansas ("Grantor"), and the Muriel Wood Family Limited Partnership, a Limited Partnership organized under the laws of the State of Missouri, ("Grantee"), whose mailing address is c/o Muriel W. Wood, 413 West Jefferson, Pittsburg, Kansas 66762;

WITNESETH:

THAT GRANTOR, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, to Grantor paid by Grantee (the receipt of which is hereby acknowledged) do by these presents GRANT, BARGAIN, SELL and CONVEY unto Grantee, and Grantee's heirs, successors and assigns, all of the following described real estate, situated in the County of McIntosh, State of Oklahoma, to-wit:

Lots One (1), Two (2), Three (3), and Four (4); the South Half (S 1/2) of the North Half (N 1/2); the North Half (N 1/2) of the Southwest Quarter (SW 1/4); the Southwest Quarter (SW 1/4) of Southwest Quarter (SW 1/4); the North Half (N 1/2) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4); the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) the North Half (N 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4); the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4); and the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4), all in Section One (1), Township Twelve (12), Range Eighteen (18), consisting of five hundred twenty-four and eighty-three hundredths (524.83) acres, more or less, McIntosh County, Oklahoma, and

Lot One (1); the East twenty-two and forty-eight hundredths (22.48) acres of Lot Two (2); the Southwest (SW) ten (10) acres of Lot Three (3); the Southeast (SE) ten (10) acres of Lot Four (4); the South Half (S 1/2) of the North Half (N 1/2); the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4); the East Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4); the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4); and the Southeast Quarter (SE 1/4), all in Section Two (2), Township Twelve (12), Range Eighteen (18), consisting of four hundred seventy-seven and twenty-five hundredths (477.25) acres, more or less, McIntosh County, State of Oklahoma, and

==ODMA\FPCDOCS\KANSAS_CITY\0596871

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The Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) and the East Half (E ½) of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section Three (3), Township Twelve, Range Eighteen (18), consisting of sixty (60) acres, more or less, McIntosh County, State of Oklahoma,

KNOWN AS VALLEY VIEW RANCH

Subject to all restrictions, reservations and easements, if any, of record affecting said property, together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

TO HAVE AND TO HOLD the premises aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in anywise appertaining unto Grantee and unto Grantee's heirs, successors and assigns forever; Grantor covenanting that the said premises are free and clear from any encumbrance done or suffered by Grantor; and that Grantor will warrant and defend the title to said premises unto Grantee and unto Grantee's heirs, successors and assigns forever, against the lawful claims and demands of all persons claiming under Grantor.

Muriel W. Wood
Muriel W. Wood

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

Before me, the undersigned, a Notary Public, in and for said County and State, on this 6th day of October, A.D., 2000, personally appeared Muriel W. Wood, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.



Edward A. Setzler
Notary Public in and for said County and State

Edward A. Setzler
Type or Print Name

My Commission Expires: June 11, 2001

00DMA\PCDOCS\KANSAS_CITY\3596871

LENA M. WILLIAMSON, SINGLE, AND LENA
M. WILLIAMSON, AS GUARDIAN OF
MURIEL B. WILLIAMSON, A MINOR

GRANTORS

To
OZARK GAS COMPANY, A CORPORATION

GRANTEES

CHARACTER OF INSTRUMENT
RIGHT OF WAY AGREEMENT

DATE OF INSTRUMENT
June 23, 1930

DATE OF RECORD
July 10, 1930 at 8 A. M.

BOOK 50 OF MS PAGE 3738

CONSIDERATION \$91.76, in hand paid,
receipt acknowledged

DATE OF ACKNOWLEDGMENT June 23, 1930 BEFORE W. G. Anderson

A Notary Public OF San Diego County, California

WHOSE COMMISSION EXPIRES Sept. 10, 1933

IS THE OFFICIAL SEAL ATTACHED? Yes

GRANTING CLAUSE does hereby grant

DESCRIPTION AND REMARKS

the Right of Way to lay, maintain, operate, relay and remove a pipe line
231 rods long, for the purpose of transportation of Natural Gas, with
right of ingress and egress on, over and through certain lands situated
in the County of McIntosh, State of Oklahoma, described as follows,
to-wit:

The $N\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ and the $W\frac{1}{2}$ of the $NE\frac{1}{4}$ (Lot 2) and
the $E\frac{1}{2}$ of the $NW\frac{1}{4}$ (Lot 3) less plot of ground within the $NW\frac{1}{4}$ of $NE\frac{1}{4}$
 $NW\frac{1}{4}$ of Section 1, Township 12 North, Range 18 East.

IT IS MUTUALLY AGREED AS FOLLOWS:

1. That Grantor is to fully use and enjoy said premises, except the
easement for the purpose hereinbefore granted to said Grantee.
2. Grantee covenants to bury its line of pipe so that same will not
interfere with the cultivation of said premises.
3. That Grantee shall have right at any time to change size of its line
of pipe.
4. Grantee shall pay all damages which may be suffered by reason of said
line of pipe and damages are to be ascertained by three disinterested
parties, one to be appointed by Grantor, one by Grantee and the third
by the two so appointed as aforesaid, and award of two of such three
shall be final and conclusive.

SHEET No. 37

102

by three disinterested persons one thereof to be appointed by the owner of the premises, one by the Grantee and the third by the two so appointed as aforesaid, and the award of two of such three persons shall be final and conclusive.

This contract shall bind and run in favor of the respective parties hereto, their heirs, executors, administrators, successors and assigns.

STATE OF OKLAHOMA)
MUSKOGEE COUNTY) ss.

IN THE COUNTY COURT

The within and foregoing Right-of-Way Agreement having been heretofore authorized by order of this court, on petition filed and heard herein, and the court having examined said right-of-way agreement executed pursuant thereto, and being fully advised in the premises, the within and foregoing right-of-way agreement is approved.

Done in open court this 30th day of June, 1930.

(SEAL)

O. H. P. Brewer, County Judge

LENA M. WILLIAMSON AND MURIEL W. WOOD

GRANTORS

To

MUSTANG FUEL CORP., AN OKLAHOMA CORPORATION

GRANTEES

by Lena M. Williamson

CHARACTER OF INSTRUMENT
RIGHT OF WAY GRANT

DATE OF INSTRUMENT

July 17, 1964

DATE OF RECORD

9-8-64 at 11:10 A. M.

BOOK Vol. OF 102 PAGE 225

CONSIDERATION \$1.00 per rod

DATE OF ACKNOWLEDGMENT July 22, 1964 / BEFORE Illegible

A Notary Public OF Jackson County, Missouri

WHOSE COMMISSION EXPIRES June 17, 1966

IS THE OFFICIAL SEAL ATTACHED? Yes

GRANTING CLAUSE hereby grant, warrant and convey

DESCRIPTION AND REMARKS

the right to construct, maintain, inspect, operate, protect, repair, replace, change the size of or remove a pipe line or pipe lines, and any appurtenances useful and incident to the operation and protection thereof, without interference for the transportation of oil, gas, gaseous or liquid hydrocarbons, petroleum or any of its products, or by-products and any other substances along a route to be selected by Grantee on, over, and through the following described lands situated in McIntosh County, State of Oklahoma, to wit:

N/2 NW/4 SE/4 and SW/4 NE/4 and E/2 NW/4 of Section 1,
Township 12 North, Range 18 East,

together with the right of unimpaired ingress and egress to and from said line or lines, or any of them, for the purposes aforesaid.

Grantors agree not to construct or permit to be constructed any structure or obstruction to said pipe line or lines. Grantee agrees to pay any damages arising from the exercise of the rights herein granted. Any pipe line or lines shall be buried to such depth so as not to interfere with the cultivation of said premises.

Grantors covenant and warrant that they are the lawful owners of the above described property free and clear of any liens, encumbrances or imperfections, and warrant the title to the same.

The rights herein granted may be assigned in whole or in part.

SHEET No. 13

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ACKNOWLEDGED: July 31, 1964 by Muriel W. Wood before Anna Bogatie, a Notary Public of Crawford County, Kansas, whose commission expires October 23, 1966. (SEAL)

600

600

GRANT OF RIGHT OF WAY

FOR AND IN CONSIDERATION OF ***Ten & More*** DOLLARS
 (\$ 10.00), to the undersigned in hand paid, the receipt of which is hereby acknowledged, I or we do hereby grant to
Centrex Operating Company, 938 Mayo Building, Tulsa, OK 74103
 a corporation, organized under the laws of the State of Oklahoma and duly authorized to transact business in the State
 of Oklahoma, its successors or assigns, the right of way, to lay, maintain, operate and remove a pipe line for the
 transportation of oil or gas, and erect, maintain and operate a telegraph or telephone line, if the same shall be found necessary, on,
 over, or through the following described lands, to-wit:

SW SW and SW SE SW of Section 1 &
 SE/4 and NE SE SW of Section 2

06.1122

STATE OF OKLAHOMA) SS
 COUNTY OF McINTOSH)
 I do hereby certify that this
 instrument was filed for record
 and duly recorded in my office
9 o'clock 05 minutes A.M
 In Book 378, Page 600
 SHIRLEY IRVIN, County Clerk
 By Rena Borker Deputy
 DATE April 3, 1991

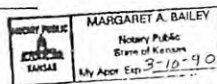
As Shaded all in Township 12 North Range 18 East in McIntosh County, State of Oklahoma
 with ingress and egress to and from the same. The said grantor, his/her heirs and assigns, to fully use and
 enjoy the said premises, except for the purposes hereinbefore granted to the grantee herein, which grantee hereby agrees to pay
 any damages that may arise from the laying, maintaining and operating said pipe line; said damages, if not mutually agreed upon,
 to be ascertained and determined by three disinterested persons, one thereof to be appointed by said grantor, heirs or assigns,
 one by the said grantee, its successors and assigns, and the third by the two so appointed, as aforesaid, and the award of such three
 persons shall be final and conclusive. And it is hereby further agreed that the said grantee, its successors or assigns, may at any
 time lay an additional line of pipe alongside of the first line, as herein provided, upon the payment of a like consideration, and sub-
 ject to the same conditions; also to have the right to change the size of its pipes, the damages, if any, in making such change, to be
 paid by said grantee.

TO HAVE AND TO HOLD the said easement unto the said Centrex Operating Company, its
 successors and assigns, so long as the same shall be useful for the purpose desired by said grantee, who by the acceptance hereof
 covenants and agrees with the grantor that the pipe line shall be buried so as not to interfere with the cultivation of the premises.

WITNESS hand this day of April, 1991 A. D.

Muriel W. Wood Trustee
 Muriel W. Wood, Trustee of the
 Muriel W. Wood Trust

KANSAS
 STATE OF OKLAHOMA,
 County of Crawford



Before me, the undersigned, a Notary Public, in and for said County and State, on this 2nd day of
January, 1990, personally appeared Muriel W. Wood, Trustee of the
Muriel W. Wood Trust
 to me well known to be the identical person who executed the within and foregoing instrument and acknowledged to me
 that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and official seal the day and year first above written.
 My commission expires March 10, 1990

Margaret A. Bailey
 Notary Public

517

237

064485

State of Oklahoma, McIntosh County, I hereby certify that this instrument was filed for record in my office at 9:10 o'clock A. M., and duly recorded in book 399, page 237. SHIRLEY IRVIN, County Clerk. By Lisa Bookhart Deputy. Date April 22, 1991.

RIGHT OF WAY ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS;

That CENTRAL OPERATING COMPANY, an Oklahoma Corporation, 420 S. Main, Suite 938, Tulsa, OK 74103, and CENTREX OPERATING COMPANY, an Oklahoma Corporation, hereinafter referred to as 'ASSIGNOR', (whether one or more), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer and convey unto CROUCH PETROLEUM CO., 1715 W. 58th, Amarillo, TX 79110, hereinafter referred to as 'ASSIGNEE', All right title and Interest in and to those certain instruments of (1) grants of right of way, (2) gas facility leases, and (3) verification of meter site locations described in Exhibit "A" said exhibit being attached hereto and forming a part hereof, together with the rights incident thereto and the personal property thereon, appurtenant thereto, or used or obtained in connection therewith.

To have and to hold the same unto Assignee, its heirs, personal representatives, successors and assign forever.

The effective date of this assignment shall be April 1, 1991.

This assignment is made without warranty of title or representation thereof, but with full substitution and subrogation of Assignee as to all the covenants of warranty heretofore given by others than Assignor.

EXECUTED this 1st Day of April, 1991.

ATTEST: [Signature]

CENTRAL OPERATING COMPANY James E. Vincent President

ATTEST: [Signature]

CENTREX OPERATING COMPANY J. Duston Smith President

STATE OF OKLAHOMA) COUNTY OF TULSA)

CORPORATION ACKNOWLEDGMENT

On this 1st day of April, 1991, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, personally appeared JAMES E. VINCENT to me known to be the identical person who signed the name of the maker thereof to the within and foregoing instruments as its President and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written. My Commission expires 11/07/94 [Signature] Notary Public

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EXHIBIT "A" to Right of Way Assignment from Central Operating Company
et al to Crouch Petroleum Co.

Type of Instrument: Grant of Right of Way
Date: January 2, 1990
Grantor: Julius Loosen
Grantee: Centrex Operating Company
Description: SE SE SW and S/2 SW SE and SW SE SE
Section 1-12N-18E
McIntosh County, Oklahoma
Recording Data: Book _____ and Page _____

Type of Instrument: Grant of Right of Way
Date: January 2, 1990
Grantor: Muriel W. Wood, Trustee of the Muriel W. Wood
Trust
Grantee: Centrex Operating Company
Description: SW SW and SW SE SW of Section 1 and
SE/4 and NE SE SW of Section 2-12N-18E
McIntosh County, Oklahoma
Recording Data: Book _____ and Page _____

Type of Instrument: Gas Facility Lease
Date: January 2, 1990
Grantor: Julius Loosen
Grantee: Centrex Operating Company
Description: SE/4 SE/4 SW/4 and S/2 SW/4 SE/4 and
SW/4 SE/4 SE/4 of Section 1-12N-18E
McIntosh County, Oklahoma
Recording Data: Book _____ and Page _____