
TITLE PAGE

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and recorded 4th day of December A.D. 1998 at 9:10 o'clock A. M.

In Volume 359, pages 985-995 , Official Public Records of Real Property.

DORIS LANGE, Clerk County Court, Gillespie County, Texas.

Filed by *Beth Seelig* Deputy.
Beth Seelig

DOROTHY MARCHE' SMITH TO THE PUBLIC

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS §

COUNTY OF GILLESPIE §

985495

THAT WHEREAS, DOROTHY MARCHE' SMITH, herein called "Smith", is the record owner of all of the following described land, located in Gillespie County, Texas, ("Property"):

18.1 acres of land described on Exhibit "A", attached hereto and made a part hereof ("18.1 acre tract") ("West Tract");

43.65 acres of land described on Exhibit "B", attached hereto and made a part hereof ("43.65 acre tract") ("Middle Tract"); and

57.11 acres of land described on Exhibit "C", attached hereto and made a part hereof ("57.11 acre tract") ("East Tract").

WHEREAS, Smith will hold, sell and convey the above described Property subject to certain protective covenants, reservations, conditions, restrictions and charges as hereinafter set forth:

NOW, THEREFORE, it is hereby declared that all of the above referred Property shall be held, sold and conveyed subject to the following restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and

which shall run with the land and shall be binding on all parties having a right, title or interest in or to the above described Property or any part thereof, and their heirs, successors and assigns, and which restrictions, covenants and conditions shall inure to the benefit of each owner thereof, and any contract or deed which may hereafter be executed in connection with said Property, or any part thereof, shall be conclusively held to have been executed, delivered and accepted subject to the terms and conditions contained in this instrument, regardless of whether or not such terms and conditions are specifically set out in said contract or deed.

I.

DEFINITIONS

1.01. "Owner" shall refer to the record owner, whether one or more persons or entities, of the fee simple title to any portion of the above described Property, excluding however, those having any interest therein merely as security for the performance of an obligation.

1.02. "Tract" shall refer to any portion of the Property, as owned by any Owner.

II.

RESTRICTIONS

1. All tracts shall be used solely for single family residential,

agricultural and the other purposes as hereinafter set out. Only one (1) permanent residence will be permitted on any tract.

2. A single family single story dwelling house containing no less than 2,000 square feet of combined living area and attached enclosed garage area, exclusive of porches, breezeways, carports or basements may be erected on any tract. Said dwelling shall contain a minimum of 1,600 square feet of living area. The minimum square footage of living area shall be that area which is heated and/or cooled. Any existing structures presently situated on the property shall not be deemed to be in violation of these restrictions.
3. Multiple story dwellings must contain not less than 1,600 square feet of combined living area and attached enclosed garage area on the ground floor. The living area on the ground floor shall contain a minimum of 1,200 square feet. The living area on the second story shall contain a minimum of 600 square feet.
4. Servants quarters, a maximum of one (1) guest house and other outbuildings may be constructed on the property only after completion of the main dwelling house. A "bed and breakfast" shall be defined as a guest house.
5. A "bed and breakfast", which is known as a tourist lodging service within rooms of the principal residence or in a separate guest house situated on the tract, shall be permitted. Only one (1) unit used as a "bed and breakfast" within the principal residence shall be permitted. Only one (1) guest house may be used as a bed and breakfast on a tract.
6. The exterior of any building shall be completed not later than ten (10) months after laying the foundation of that respective building.
7. A residence shall not be occupied until the exterior thereof shall be completely finished and connected to a septic tank or other waste

disposal system approved by the County and/or State Health Department or other governing body controlling wells and septic systems.

8. A dwelling house shall not be moved onto any tract. Any dwelling house shall be constructed and erected on site. The relocation or reconstruction of a structure of historic quality and integrity, to be used as an accessory building shall be permitted. Mobile, modular, pre-manufactured and/or industrial built homes shall not be used as a dwelling, nor stored on any tract. The term dwelling house (for purposes set out in this paragraph) shall include servants' quarters and quest houses.
9. No structure shall be erected on any tract nearer than 100 feet from the property line.
10. After completion of a permanent residence, tract owners may store their personal travel trailer, motor home or other recreational vehicle, on their tract, so long as it is not used as a permanent dwelling and is not stored closer to the public road than the rear line of the residence. During the period of construction of a dwelling house, tract owners may camp in a recreational vehicle on the tract for a period not exceeding ten (10) months.
11. Each tract owner shall be permitted to camp overnight in a recreational vehicle or tent for a continuous period not exceeding nine (9) days nor more than a total of twenty-seven (27) days during any calendar year, provided the tract owner is present and the campsite is no closer than 100 feet from any property line.
12. Tracts shall not be used for any commercial or industrial purpose except for (a) permanent agricultural crops including vineyards, fruit trees, pecan groves and permanent grass (hay meadows or grazing pastures) and (b) a cottage industry by an artisan such as an artist, photographer, wood, metal or glass sculptor.

13. Prior to December 31, 2003 (a) the herein described 18.1 acre tract may be divided into two (2) tracts, provided such resubdivision shall not result in any tract containing less than 9 acres in size and is approved by any governmental regulatory body with jurisdiction over resubdivision, (b) the herein described 43.65 acre tract may be divided into two (2) tracts, provided such resubdivision shall not result in any tract containing less than 15 acres in size and is approved by any governmental regulatory body with jurisdiction over resubdivision, and (c) the herein described 57.11 acre tract may be divided into four (4) tracts, provided such resubdivision shall not result in any tract containing less than 14 acres in size and is approved by any governmental regulatory body with jurisdiction over resubdivision. After December 31, 2003 and prior to December 31, 2018, any existing tract may be subdivided, provided such resubdivision shall not result in any tract containing less than nine (9) acres in size and is approved by any governmental regulatory body with jurisdiction over resubdivisions. After December 31, 2018, the provisions of this paragraph 13 will expire and be of no further force or effect.
14. The herein described 18.1 acre tract and 43.65 acre tract shall not serve as the servient estate for road easements to property other than the herein described property nor for the dedication and installation of any public road or roads, serving as access to any property other than the herein described property. The herein described 57.11 acre tract may only serve as the servient estate for a road easement to property other than that described herein or for the dedication and installation of a public road or roads serving as access to any property other than that described herein, if the same is located no closer than 350' from the East boundary of the herein described 43.65 acre tract.
15. Abandoned or inoperative equipment, vehicles or junk shall not be permitted or stored on any tract.

16. Swine shall not be kept on any tract. Other livestock, family pets and poultry for family use by an owner, shall be permitted provided such animals are kept within the boundaries of said tract at all times, and provided they are not offensive to adjacent landowners by smell, sight, sound or otherwise and do not result in overgrazing. There shall not be any commercial feeding operations or commercial breeding of animals conducted on a tract. Agricultural animals used for grazing said property while simultaneously raising young (i.e. cow/calf operation) shall not be considered commercial breeding of animals.
17. Noxious or offensive activities shall not be permitted on any tract, nor shall anything be done thereon which shall be an annoyance or nuisance to the neighborhood. Owners are to keep their tract clean and neat in appearance and free of litter at all times. Disposal of any kind shall not be allowed that would adversely affect the natural beauty and value of any property in the neighborhood. Garbage or refuse shall not be buried on any tract.
18. All perimeter fences or interior fences erected on any tract shall be of new material and professional in appearance, and completed in a good and workmanlike manner regarding quality and appearance.
19. Except for tracts in excess of forty (40) acres in size, hunting shall be by the use of shotgun only. Prolonged or consistent discharging of firearms or target practicing shall not be allowed on any tract. Any use of firearms whatsoever shall only be by the owners of tracts. Personal safety of owners and owners of neighboring tracts shall be of prime consideration. Subleasing for hunting is specifically forbidden.
20. Mineral exploration of any type which will damage the surface shall not be permitted on any tract.

III.

GENERAL PROVISIONS

3.01. Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants and conditions now or hereafter imposed by the provisions of this instrument. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3.02. Invalidation of any one of the covenants or restrictions, contained herein, by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

3.03. The covenants, conditions and restrictions of this instrument shall run with and bind the land and shall inure to the benefit of, and be enforceable by Smith or the Owner of any Tract subject to this instrument, and their respective legal representatives, heirs, successors and assigns, and shall be effective until December 31, 2018, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless amended as provided herein. The covenants, conditions and restrictions contained in this instrument may be amended at any time after December 31, 2018, by an instrument signed by not less than the Owners of seventy-five percent (75%) of the above described 118.86 acres. No amendment shall be effective

until duly recorded in the Real Property Records of Gillespie County, Texas, nor until the approval of any governmental regulatory body, which may be then required, shall have been obtained.

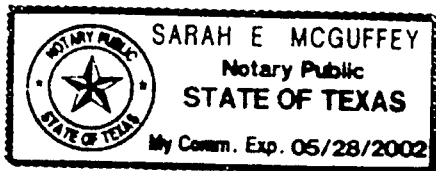
EXECUTED this 1st day of December, 1998.

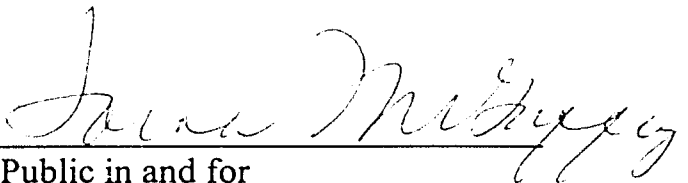

DOROTHY MARCHE' SMITH

THE STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on this the 2nd day of December, 1998, by DOROTHY MARCHE' SMITH.




Notary Public in and for
the State of Texas

5516.1g.

EXHIBIT " A "

("West Tract")

18.1 acre tract

STATE OF TEXAS, *
COUNTY OF GILLESPIE. *

Field notes (and accompanying plat) of a survey of 18.1 acres of land, more or less, made at the request of Dorothy Smith. Said land is situated in Gillespie County, Texas, being part of the A. Rodriguez Survey No. 8, Abstract No. 570, and being part of that 85 acre tract of land described in a conveyance to Dorothy Marche Smith by Rufus W. Smith, dated August 12, 1988, found of record in Volume 187, pages 811-813 of the Deed Records of Gillespie County, Texas.

Said 18.1 acre tract of land is described by metes and bounds as follows, to wit:

BEGINNING at a ½ inch steel bar set in the approximate East line of the Epaphras W. Bull Survey No. 11, Abstract No. 46, and in the approximate West line of said Survey No. 8, and in the North Right-of-Way line of Ranch Road 2721, for the S.E. corner of that 268.28 acre tract of land described of record in Volume 107, pages 335-337 of said Deed Records, for the S.W. corner of said 85 acre Smith tract, for the S.W. corner of this tract of land;

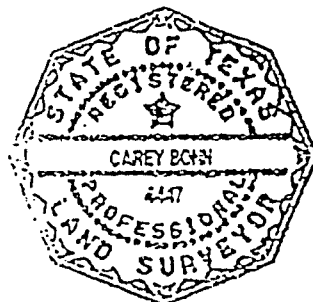
THENCE with the general course of a line of old fence posts along the East line of said 268.28 acre tract and the West line of said 85 acre tract, N. 0 deg. 09 min. 35 sec. E. 625.35 feet to a ½ inch steel bar found set near a fence corner post, for the S.W. corner of that 772.2 acre tract of land described of record in Volume 194, pages 130-134 of said Deed Records, for the N.W. corner of said 85 acre tract, for the N.W. corner of this tract of land;

THENCE with the general course of a fence along the South line of said 772.2 acre tract and the North line of said 85 acre tract, N. 89 deg. 16 min. 30 sec. E. 1178.77 feet to a ½ inch steel bar found set at a corner post, for the S.S.E. corner of said 772.2 acre tract, for a reentrant corner of said 85 acre tract, for the N.E. corner of this tract of land;

THENCE S. 12 deg. 42 min. 55 sec. E. 657.46 feet to a ½ inch steel bar set in the North Right-of-Way line of Ranch Road 2721 and in a South line of said 85 acre tract, for the S.E. corner of this tract of land;

THENCE with the North Right-of-Way line of Ranch Road 2721 as follows:
N. 89 deg. 30 min. 40 sec. W. 981.64 feet to a concrete monument;
S. 88 deg. 46 min. 50 sec. W. 343.6 feet to the PLACE OF BEGINNING.

Surveyed November 19, 1998



Carey Bonn
Carey Bonn
Reg. Prof. Land Surveyor No. 4447
Bonn Surveying 830-997-3884

EXHIBIT "B"

("Middle Tract")

43.65 acre tract

STATE OF TEXAS, *
COUNTY OF GILLESPIE. *

Field notes (and accompanying plat) of a survey of 43.65 acres of land, more or less, made at the request of Dorothy Smith. Said land is situated in Gillespie County, Texas, being part of the A. Rodriguez Survey No. 8, Abstract No. 570, and being part of that 85 acre tract of land described in a conveyance to Dorothy Marche Smith by Rufus W. Smith, dated August 12, 1988, found of record in Volume 187, pages 811-813 of the Deed Records of Gillespie County, Texas.

Said 43.65 acre tract of land is described by metes and bounds as follows, to wit:

BEGINNING at a ½ inch steel bar found set at a fence corner post, for the S.S.E. corner of that 772.2 acre tract of land described of record in Volume 194, pages 130-134 of said Deed Records, for a northerly reentrant corner of said 85 acre Smith tract, for the N.W. corner of this tract of land, from which a ½ inch steel bar found set for the N.W. corner of said 85 acre Smith tract bears S. 89 deg. 16 min. 30 sec. W. 1178.77 feet;

THENCE with the general course of a fence along the S.E. line of said 772.2 acre tract and the N.W. line of said 85 acre tract as follows:

- N. 46 deg. 23 min. 10 sec. E. 334.0 feet to cedar stump post;
- N. 45 deg. 10 min. 10 sec. E. 819.4 feet to a cedar post;
- N. 44 deg. 30 min. 50 sec. E. 725.72 feet to a ½ inch steel bar set, for the N.E. corner of this tract of land;

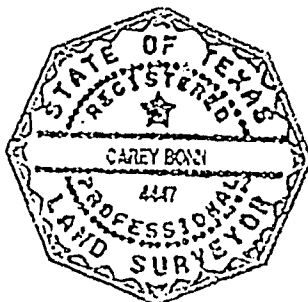
THENCE S. 9 deg. 49 min. 30 sec. E. 1731.12 feet to a ½ inch steel bar set in the North Right-of-Way line of Ranch Road 2721 and in a South line of said 85 acre tract, for the S.E. corner of this tract of land;

THENCE with the North Right-of-Way line of Ranch Road 2721 as follows:

- S. 70 deg. 21 min. W. 292.94 feet to a concrete monument;
- with the arc of a curve to the right having a radius of 2814.8 feet and a central angle of 20 deg. 05 min. 50 sec., in a westerly direction, a distance of 987.34 feet (L.C. bears S. 80 deg. 20 min. 50 sec. W. 982.29 feet) to a concrete monument;
- N. 89 deg. 30 min. 40 sec. W. 238.12 feet to a ½ inch steel bar set, for the S.W. corner of this tract of land;

THENCE N. 12 deg. 42 min. 55 sec. W. 657.46 feet to the PLACE OF BEGINNING.

Surveyed November 19, 1998



Carey Bonn

Carey Bonn
Reg. Prof. Land Surveyor No. 4447
Bonn Surveying 830-997-3884

359 994

EXHIBIT " C "

("East Tract")

57.11 acre tract

STATE OF TEXAS, *
COUNTY OF GILLESPIE. *

Field notes (and accompanying plat) of a survey of 57.11 acres of land, more or less, made at the request of Dorothy Smith. Said land is situated in Gillespie County, Texas, being part of the A. Rodriguez Survey No. 8, Abstract No. 570, and being part of that 85 acre tract of land described in a conveyance to Dorothy Marche Smith by Rufus W. Smith, dated August 12, 1988, found of record in Volume 187, pages 811-813 of the Deed Records of Gillespie County, Texas, and being all of that 33.62 acre tract of land described in a conveyance to Dorothy Marche Smith by Rufus W. Smith, dated August 6, 1989, found of record in Volume 193, pages 841-842 of said Deed Records.

Said 57.11 acre tract of land is described by metes and bounds as follows, to wit:

BEGINNING at a ½ inch steel bar found set at a fence corner post in the S.E. line of that 772.2 acre tract of land described of record in Volume 194, pages 130-134 of said Deed Records, for a N.W. corner of that 450.52 acre tract of land described of record in Volume 111, pages 203-204 of said Deed Records, for the N.E. corner of said 33.62 acre Smith tract, for the N.E. corner of this tract of land;

THENCE with the general course of a fence along a West line of said 450.52 acre tract and the East line of said 33.62 acre tract, S. 11 deg. 58 min. 30 sec. E., at 2333 feet passing the center of a cedar fence corner post, 2334.13 feet in all to a point in the North Right-of-Way line of Ranch Road 2721, for the S.W. corner of said 450.52 acre tract, for the S.E. corner of said 33.62 acre tract, for the S.E. corner of this tract of land;

THENCE with the North Right-of-Way line of Ranch Road 2721, S. 70 deg. 21 min. W. 1274.94 feet to a ½ inch steel bar set, for the S.W. corner of this tract of land;

THENCE N. 9 deg. 49 min. 30 sec. W. 1731.12 feet to a ½ inch steel bar set in fence in the S.E. line of said 772.2 acre tract and in the N.W. line of said 85 acre tract, for the N.W. corner of this tract of land;

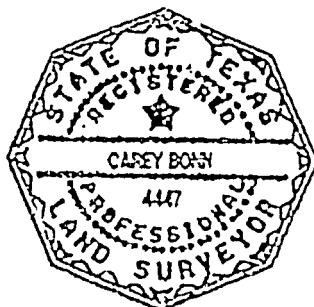
THENCE with the general course of a fence along the S.E. line of said 772.2 acre tract and the N.W. lines of said 85 and 33.62 acre tracts as follows:

N. 44 deg. 27 min. 45 sec. E. 198.0 feet to a cedar post;

N. 45 deg. 15 min. 55 sec. E. 1229.04 feet to the PLACE OF BEGINNING.

Surveyed November 19, 1998

359 995



Carey Bonn
Carey Bonn
Reg. Prof. Land Surveyor No. 4447
Bonn Surveying 830-997-3884

CERTIFICATE OF LEGALITY AND AUTHENTICITY

I, certify that the discrete numbered microfilm images between the Title Page and the Certificate of Legality and Authenticity have been made in strict accordance with Article 1941 (a) V.T.C.S., and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; that no microfilm image or images were substituted for any original discrete microfilm image or images between the Title Page and this Certificate. Official Public Records of Real Property. Volume 359 Page 985-995 ,
filmed on the 4th day of December, A.D. 1998 .

DORIS LANGE, Clerk, by _____ Deputy.

Beth Seelig
Beth Seelig

