

SUBORDINATION OF LIEN

THE STATE OF TEXAS
COUNTY OF SAN JACINTO

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KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, **THE FIRST STATE BANK**, Huntsville, Texas (hereinafter called the "Holder"), is the legal and equitable owner and holder of that one certain promissory note in the original principal sum of \$2,000,000.00 dated August 31, 2000, executed by **GEORGE H. RUSSELL and wife, SUZANNE B. RUSSELL** (hereinafter called "Russell"), payable to the order of Holder, which Note is secured by a Deed of Trust of even date therewith, recorded under Clerk's File No. 00-5583 Official Public Records of San Jacinto County, Texas, covering several tracts of land therein described;

WHEREAS, on or about December *13th* 2004, Russell, as Grantor granted a Conservation Easement (the "Conservation Easement") for the benefit of **NATURAL AREA PRESERVATION ASSOCIATION** ("NAPA"), as Grantee, which Conservation Easement has either been recorded, or will be recorded in the Official Public Records of San Jacinto County, Texas. A Copy of the Conservation Easement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

WHEREAS Russell has requested Holder subordinate the Deed of Trust to 5.327 acres and 29.489 acres hereinafter described in the Conservation Easement, and the Holder has agreed to such subordination.

NOW THEREFORE, the Holder, for good and valuable consideration paid to the Holder, the receipt and sufficiency of which is hereby acknowledged, hereby **SUBORDINATES**, the Deed of Trust and all other liens held by the Holder to NAPA as the holder of the Conservation Easement covering the following tracts of land:

BEAVER SANCTUARY

Being 5.327 acres of land situated in the State of Texas, County of San Jacinto, a part of the Isaac Prater 1/3 League Survey, Abstract 239, and being more definitely described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

OTTER SANCTUARY

Being 29.489 acres of land situated in the State of Texas, County of San Jacinto, a part of the Isaac Prater 1/3 League Survey, Abstract 239, and being more definitely described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes.

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But it is expressly agreed and understood that this is a **PARTIAL SUBORDINATION ONLY** covering only the 5.327 acres and 29.489 acres of land described above, and shall in no wise subordinate, affect or impair said lien or liens against any other property in said Deed of Trust mentioned.

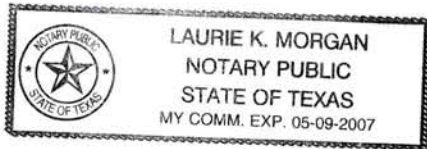
EXECUTED this 17th day of December, 2004.

THE FIRST STATE BANK

By [Signature]
Name JAMES BAINE
Title PRES / CEO

THE STATE OF TEXAS §
 §
COUNTY OF WALKER §

This instrument was acknowledged before me on the 17th day of December, 2004, by James Baine, an authorized officer of **THE FIRST STATE BANK**, on behalf of said bank.



[Signature]
NOTARY PUBLIC in and for
The State of Texas.

CONSERVATION EASEMENT

STATE OF TEXAS §

COUNTY OF SAN JACINTO §

This Grant of Conservation Easement ("Conservation Easement") is made on this 13th day of December 2004, by George H. Russell and Suzanne B. Russell, with an address of 1409 19th Street, Huntsville, Walker County, Texas 77340 ("Grantor"), and Natural Area Preservation Association, a non-profit corporation organized and existing under the laws of the State of Texas, with an address of P. O. Box 162481, Austin, Travis County, Texas 78716-2481 ("Grantee").

RECITALS:

A. Grantor is the sole owner in fee simple of certain real property, subject to any outstanding mineral and/or royalty interests, which is described in Exhibits A and B, attached hereto and incorporated by this reference, consisting of approximately 34.816 acres, more or less, located in San Jacinto County, State of Texas, hereinafter referred to as the "Protected Property" and known as the George H. Russell and Suzanne B. Russell BEAVER AND RIVER OTTER SANCTUARIES.

B. The Protected Property is an undeveloped area in relatively natural condition that qualifies as a "...relatively natural habitat of fish, wildlife, or plants, or similar ecosystem," as that phrase is used in P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder; specifically the Protected Property protects a tract of undeveloped, mature forest which provides habitat for numerous native plants and animals typical of the southwestern East Texas Pineywoods region. The Protected Property is located in close proximity to other areas under conservation easements previously donated or sold by Grantor and Grantor's family.

C. The characteristics of the Protected Property, its current use and state of improvement, are described in a Baseline Report to be prepared by Grantee and Grantor. Grantor will work with Grantee to ensure that the Baseline Report is a complete and accurate description of the Protected Property at the time of donation of this Conservation Easement. The Baseline Report will be used by Grantor and Grantee to assure that any future changes in the use of the Protected Property will be consistent with the terms of this Conservation Easement. However, the Baseline Report is not intended to preclude the use of other evidence to establish the present condition of the Protected Property if there is a controversy over its use.

D. Grantor and Grantee have the common purpose of conserving the above-described conservation values of the Protected Property in perpetuity. The State of Texas has authorized the creation of Conservation Easements pursuant to The Texas Natural Resource Code Chapter 183 and Grantor and Grantee wish to avail themselves of the provisions of that law.

NOW, THEREFORE, Grantor, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein and as an absolute and unconditional gift, hereby gives, grants, and conveys unto Grantee a Conservation Easement in perpetuity over the Protected Property, of the nature and character as follows:

1. **PURPOSE.** The purpose of this Conservation Easement is to ensure that the Protected Property will be retained forever predominantly in its natural and scenic condition; to protect native plants, animals, and plant communities on the Protected Property; to prevent any use of the Protected Property that will impair or interfere with the conservation values of the Protected Property described herein, while allowing for uses on the Protected Property that may be conducted in a manner that is compatible with and not destructive of the conservation values of the Protected Property.

Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Protected Property that is inconsistent with the purposes of this Conservation Easement. However, unless otherwise specified below, nothing in this Conservation Easement shall require Grantor to take any action to restore the condition of the Protected Property after any act of God or other event over which Grantor had no

control. Grantor understands that nothing in this Conservation Easement relieves them of any obligation or restriction on uses of the Protected Property imposed by law.

2. **PROPERTY USES.** Any activity on or use of the Protected Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following is a listing of activities and uses which are expressly prohibited or which are expressly allowed. Grantor and Grantee have determined that the allowed activities do not impair the conservation values of the Protected Property. Additional retained rights of Grantor are set forth in Paragraph 3 below.

2.1 Subdivision. The Protected Property may not be further divided, subdivided or partitioned.

2.2 Construction. There shall be no further construction of buildings, structures, wells, dams, or other improvements on the Protected Property, nor construction of roads other than those roads that have been previously established. Existing soft-surface roads may be maintained and stabilized as necessary. Perimeter fencing may be built and maintained if necessary to prevent unauthorized entry to the preserve. Gates may be added as necessary to prevent unauthorized passage. Additional hiking and interpretive trails may be added as well as hard surface pathways along the routes of allowed roads and trails, for the passage of electric powered vehicles or for visitation by the handicapped, so long as said construction or improvement maintains the ecological integrity of the Protected Property to the greatest possible extent. A pedestrian or electric vehicle bridge may be joined to the shoreline of the Protected Property from the Waterwood Marina and/or from the existing Fritz-Russell Westernmost Longleaf Pine Preserve. Gasoline or diesel powered vehicles shall be restricted to those necessary for security, emergency response, and other officially sanctioned purposes. Said trails, paths, and roads may be mowed or trimmed for minimal width maintenance. Shrines or memorials may be constructed on the Protected Property. Site plans for any such structures must be approved by Grantor and Grantee. Said construction may not result in any significant negative impact to native plants, animals or communities.

2.3 Mineral Extraction. Minerals shall not be extracted by any surface mining methods. Extraction of subsurface minerals shall be accomplished by means of extraction

methods that will have a limited and localized impact on, and not significantly impair or interfere with, the conservation values of the Protected Property and the purposes of this Conservation Easement. Grantor shall give written notice to Grantee thirty (30) days prior to beginning any extraction of minerals.

2.4 Excavation. Except as necessary to accommodate activities expressly permitted by this Conservation Easement, there shall be no ditching, draining, filling, excavating, dredging, or removal of topsoil, sand, gravel, rock, minerals or other materials except for archeological investigation or other scientific purpose.

2.5 Recreational Uses. Grantor shall have the right to engage in, and to permit others to engage in, recreational uses of the Protected Property that require no surface alteration or other development of the land. Pursuit of wildlife by any form of motorized transportation is not allowed. No native species of wildlife may be hunted under any circumstances, except in the event of overpopulation as described in Paragraph 2.12 below. Native plants and animals are to be strictly protected, except under certain scientifically verifiable circumstances as described in Paragraph 2.12. Feral hogs, dogs, cats, and other non-native species are to be controlled, removed, or humanely killed as possible.

2.6 Destruction of Plants, Disturbance of Natural Habitat. Grantor shall have the right to cut and remove exotic trees, shrubs, or plants, and to cut firebreaks in case of emergency. Grantor shall also have the right to cut and remove trees, shrubs, or plants to accommodate the activities expressly permitted under this Conservation Easement in Paragraphs 2.2, 2.3, and 2.4. There shall be no additional removal, harvesting, destruction, or cutting of native trees, shrubs, or plants. There shall be no planting of invasive or non-native trees, shrubs, or plants on the Protected Property. Except to accommodate the activities expressly permitted under this Conservation Easement, there shall be no use of plowing or other disturbance that would lessen native biological diversity or alter the native species composition of habitat areas on the Protected Property.

As native plant and animal communities and species are subject to human-induced modification of the life support systems of the biosphere, environmental changes may occur that could adversely affect the native species and ecological balance of the

Protected Property. Due to fragmentation of most of the world's biomes, it is now more difficult for native gene pools to ebb and flow and evolve than in past epochs. Therefore, it is recognized that the native species composition of the Protected Property may change due to factors beyond the control of either Grantee or Grantor. Environmental changes may require that Grantee, using the best available science, aid the introduction of native species that, in a non-fragmented landscape, would enter the Protected Property to fill the ecological changes left by extirpated native species. Scientifically supported artificial intervention may prove to be necessary on a case-by-case basis to protect or preserve an endangered native species or community using methods scientifically established as having occurred in areas of non-fragmented habitat. Any human modification of the Protected Property should be conducted with extreme caution and under adequate monitoring by the scientific community; any such intervention must be approved by both Grantor and Grantee.

2.6a Notwithstanding the foregoing, Grantor may conduct experimental activities on parts of the Protected Property to promote the natural growth and regeneration of endangered, threatened, or extirpated native species, subject to approval by Grantee. Should it be determined by Grantee that planting or reintroduction of native species through artificial means is necessary to mitigate the loss of, or unnatural decline of, species due to human activities or natural disasters which have created an unbalance in the relative abundance of species, only stock from nearby gene pools may be used.

2.7 Hydrology. Except as necessary to accommodate allowed activities, there shall be no alteration, depletion or extraction of surface or subsurface water on the Protected Property except as expressly permitted in Paragraph 2.4 above. Grantor shall not sell or otherwise transfer water rights associated with the Protected Property.

2.8 Signage. No signs or billboards or other advertising displays are allowed on the Protected Property, except for those signs whose placement, number and design do not significantly diminish the scenic character of the Protected Property.

2.9 Biocides. There shall be no use of pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides, except as approved by Grantor and Grantee to control invasive species detrimental to the conservation values of the Property.

2.10 Dumping. There shall be no new storage or dumping of trash, garbage, or other unsightly or offensive material, hazardous substance, or toxic waste, nor any placement of underground storage tanks in, on, or under the Protected Property; there shall be no changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, except as permitted elsewhere in this Conservation Easement.

2.11 Pollution. There shall be no pollution of surface water, natural watercourses, lakes, ponds, marshes, subsurface water or any other water bodies, nor shall activities be conducted on the Protected Property that would be detrimental to water purity or that could alter the natural water level or flow in or over the Protected Property.

2.12 Predator Control. Grantor shall attempt to eliminate non-native feral hogs, dogs, cats, and any other non-native predatory or problem animals by humane methods approved by Grantor. No native predators, including bears, cougars, coyotes, red wolves, hawks, eagles, foxes, alligators, or snakes, may be killed under any circumstances except under immediate danger of loss of life or serious injury in the case of an attack by a bear, cougar, rattlesnake, or other predator capable of killing humans. However, if it is determined that a threat to a rare or endangered species, to the native ecological balance, to the relative abundance of native species, or to the ecological integrity is occurring or is likely to occur from an overpopulation of a native species (e.g. white-tailed deer), then control, removal or elimination of the damaging species may be conducted subject to approval by Grantor and Grantee.

2.13 Commercial Development. Any industrial use of or activity on the Protected Property is prohibited. Commercial development or use that is compatible with wildlife preservation is permitted, provided such development or use does not undermine the conservation values of the Protected Property.

3. **ADDITIONAL RIGHTS RETAINED BY GRANTOR.** Grantor retains the following additional rights:

3.1 Existing Uses. The right to undertake or continue any activity or use of the Protected Property not prohibited by this Conservation Easement. Prior to making any change in use of the Protected Property, Grantor shall notify Grantee in writing to allow Grantee a

reasonable opportunity to determine whether such change would violate the terms of this Conservation Easement.

3.2 Transfer. The right to sell, give, mortgage, lease, or otherwise convey the Protected Property subject to the terms of this Conservation Easement.

4. **GRANTEE'S RIGHTS**. To accomplish the purpose of this Conservation Easement, the following rights are granted to Grantee by this Conservation Easement:

4.1 Right to Enforce. The right to preserve and protect the conservation values of the Protected Property and enforce the terms of this Conservation Easement.

4.2 Right of Entry. The right of Grantee's staff, contractors and associated natural resource management professionals to enter the Protected Property one or more times a year after reasonable notice to Grantor, for the purposes of: (a) inspecting the Protected Property to determine if Grantor is complying with the covenants and purposes of this Conservation Easement; and (b) monitoring of plant and wildlife populations. In the event that Grantee reasonably believes that a violation of this Conservation Easement may have occurred or is about to occur, Grantee may enter the Protected Property at a reasonable time and with reasonable notice for the purposes of investigating and documenting said violations.

4.3 Discretionary Consent. Grantee's consent for activities otherwise prohibited or requiring Grantee's consent under paragraph 2 above, may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the prohibited activities listed in paragraph 2 are deemed desirable by both Grantor and Grantee, Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and permission for activities requiring Grantee's consent shall be in writing and shall describe the proposed activity in sufficient detail to allow Grantee to judge the consistency of the proposed activity with the purpose of this Conservation Easement. Grantee may give its permission only if it determines, in its sole discretion, that such activities (1) do not violate the purpose of this Conservation Easement and (2) either enhance or do not impair any significant conservation interests associated with the Protected Property.

Notwithstanding the foregoing, Grantee and Grantor have no right or power to agree to any activities that would result in the termination of this Conservation Easement.

5. **RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED.** Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on Grantor or in any way to modify any existing obligation of Grantor as owners of the Protected Property. Among other things, this shall apply to:

(a) *Taxes* - Grantor shall be solely responsible for payment of all taxes and assessments levied against the Protected Property.

(b) *Management, Upkeep and Maintenance* - Grantor shall be solely responsible for the upkeep and maintenance of the Protected Property, to the extent it may be required by law. Grantee shall have no obligation for the upkeep or maintenance of the Protected Property.

6. **ACCESS.** No right of access by the general public to any portion of the Protected Property is conveyed by this Conservation Easement. As these properties are to serve as native gene pool repositories and as part of worldwide biological and ecological conservation, controlled access by biologists, ecologists, botanists, and other scientists and their students shall be allowed for academic research. Grantor may allow access to other individuals or the public at Grantor's discretion. Biological or mineral materials shall not be disturbed or removed for off-site study or for other purposes except by mutual consent of Grantor and Grantee.

7. **ENFORCEMENT.** Grantee shall have the right to prevent and correct violations of the terms of this Conservation Easement. With reasonable notice, Grantee may enter the Protected Property for the purpose of inspecting for violations. If Grantee determines that a violation has occurred, is occurring, or is threatened, it may at its discretion take appropriate legal action. Except when an ongoing or imminent violation could substantially diminish or impair the conservation values of the Protected Property, Grantee shall give Grantor written notice of the violation and sixty (60) days to correct it (or to begin good faith efforts to correct in the event the violation is something which cannot be reasonably corrected in sixty days), before filing any legal action. If a court with jurisdiction determines that a violation may exist or has occurred, Grantee may

obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring Grantor to restore the Protected Property to its condition prior to the violation. The failure of Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time.

8. **TRANSFER OF EASEMENT.** The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable. Grantee shall have the right to transfer or assign this Conservation Easement to any private nonprofit organization that at the time of transfer is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, and the organization expressly agrees to assume the responsibility imposed on Grantee by this Conservation Easement. If Grantee ever ceases to exist or no longer qualifies under Sec. 170(h) or applicable state law, a court with jurisdiction shall transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility.

9. **TRANSFER OF PROPERTY.** Grantor shall notify Grantee in writing at least thirty (30) days prior to the transfer of the Protected Property, or any interest therein, to any third party, and the document of conveyance shall expressly refer to this Conservation Easement.

10. **AMENDMENT OF EASEMENT.** This Conservation Easement may be amended only with the written consent of Grantor and Grantee. Any such amendment shall be consistent with the purposes of this Conservation Easement and shall comply with Sec. 170(h) of the Internal Revenue Code, or any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with Texas Natural Resources Code 183.001 *et seq.* and any regulations promulgated pursuant to that law. Grantor and Grantee have no right or power to agree to any amendment that would adversely affect the enforceability of this Conservation Easement.

11. **TERMINATION OF EASEMENT.** If it is determined that conditions on or surrounding the Protected Property have changed so much that it is impossible to fulfill the conservation purposes set forth above, this Conservation Easement may be terminated only by a court with jurisdiction at the joint request of both Grantor and Grantee.

If condemnation of all or part of the Protected Property by public authority renders it impossible to fulfill any of these conservation purposes, the Conservation Easement may be terminated through condemnation proceedings. At the time of the conveyance of this Conservation Easement to Grantee, this Conservation Easement gives rise to a real property right, immediately vested in Grantee. If the easement is terminated and the Protected Property is sold or taken for public use, then, as required by Sec. 1.170A-14(g)(6) of the IRS regulations, Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award (minus any amount attributable to new improvements made after the date of this conveyance, which amount shall be reserved to Grantor) equal to the ratio of the appraised value of this Conservation Easement to the unrestricted fair market value of the Protected Property, as these values are determined at the time of donation of this Conservation Easement. Grantee shall use the proceeds consistently with the conservation purposes of this Conservation Easement by expending said funds for the purchase of fee simple protected lands or conservation easements which will mitigate the damage to the immediate geographic vicinity of the Protected Property.

12. **INTERPRETATION.** This Conservation Easement shall be interpreted under the laws of Texas, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

13. **INDEMNIFICATION.** Each party agrees to hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of the activities of the other party on the Protected Property that causes injury to a person(s) or damage to property.

Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, volunteers, agents, and contractors, and their successors and assigns (collectively, "Indemnified Parties") from and against all liabilities, claims, and losses, including reasonable attorney's fees, arising from or connected with:

- a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter relating to or occurring on or about

the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties;

b) the violation or alleged violation of any federal, state, or local law, including environmental laws, relating to the Property, by any person other than any of the Indemnified Parties;

c) the presence on, or release from the Property, at any time, of any substance defined as hazardous, toxic, polluting, or otherwise contaminating the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties.

14. **TITLE.** Grantor covenants and represents that Grantor is the sole owner and is seized of the Protected Property in fee simple and has good right to grant and convey this Conservation Easement; that the Protected Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Conservation Easement, and that Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.

15. **NOTICES.** Any notices required by this Conservation Easement shall be in writing and shall be personally delivered or sent by first class mail, to Grantor and Grantee, respectively, at the following addresses, unless a party has been notified by the other of a change of address.

To Grantor:

George and Suzanne Russell
1409 19th Street
Huntsville, Texas 77340

To Grantee:

Natural Area Preservation Association
P. O. Box 162481
Austin, Texas 78716-2481

16. **ENVIRONMENTAL CONDITION.** Grantor warrants that they have no actual knowledge of a release or threatened release of hazardous substances or wastes on the Protected Property.

17. **SEVERABILITY.** If any provision of this Conservation Easement is found to be invalid, the remaining provisions shall not be altered thereby.

18. **PARTIES.** Every provision of this Conservation Easement that applies to Grantor or Grantee shall also apply to their respective heirs, executors, administrators, assigns, and all other successors as their interest may appear.

19. **PERPETUAL DURATION.** This Conservation Easement runs with the land and binds all successive owners of the Protected Property.

20. **RE-RECORDING.** In order to ensure the perpetual enforceability of the Conservation Easement, Grantee is authorized to re-record this instrument or any other appropriate notice or instrument.

21. **MERGER.** The parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Protected Property.

22. **SUBSEQUENT LIENS ON PROPERTY.** No provisions of this Conservation Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinate to this Conservation Easement.

23. **EXHIBITS.** The following Exhibit is incorporated within this Conservation Easement:

Exhibit A: Description of Protected Property

24. **ACCEPTANCE & EFFECTIVE DATE.** As attested by the signature of its authorized representative affixed hereto, Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement. This Conservation Easement is to be effective on the date recorded in the San Jacinto County Registry of Deeds.

TO HAVE AND TO HOLD, this Grant of Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to legally bind themselves, have set their hands and seals on the date first written above.

GRANTORS:

George W Russell (SEAL)
Suzanne B Russell (SEAL)

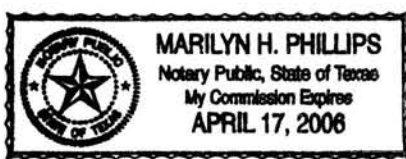
STATE OF Texas §

COUNTY OF Walker §

BEFORE ME, the undersigned authority, on this day personally appeared George & Sue Russell, known to me by presentation of Texas driver's license to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he executed the same for the purposes and consideration therein stated, individually and in the capacity above stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 13 day of December 2004.

Marilyn H Phillips (SEAL)
NOTARY PUBLIC



My commission expires:
4-17-06

GRANTEE:

By: Edward B. Fite (SEAL)
Its: Secretary

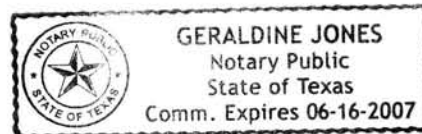
STATE OF TX §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Edward C. Fite, known to me by presentation of Texas driver's license to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he executed the same for the purposes and consideration therein stated, individually and in the capacity above stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16 day of September, 2004.

Geraldine Jones (SEAL)
NOTARY PUBLIC



My commission expires:
6/16/07

EXHIBIT A: DESCRIPTION OF PROTECTED PROPERTY – BEAVER SANCTUARY

Being 5.327 acres of land situated in the State of Texas, County of San Jacinto, a part of the Isaac Prater 1/3 League Survey, Abstract 239, being more particularly described by metes and bounds as follows:

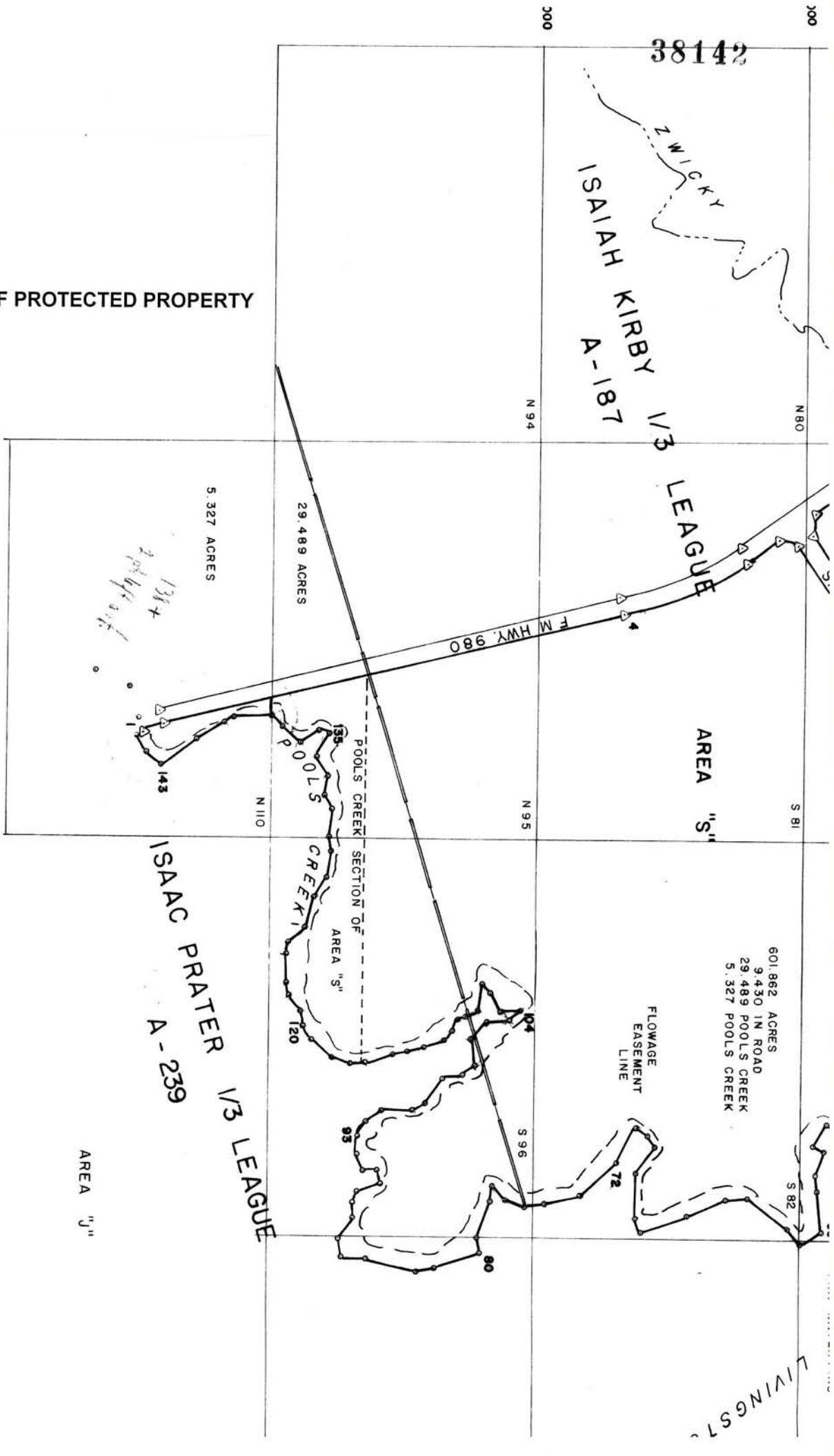
Beginning at a point on the East right-of-way of FM Highway 980 at its intersection with the Trinity River Authority (TRA) fee take line on the North side of Pools Creek; and thence following the TRA fee take line in an easterly, thence northerly direction until it meets the East-West latitude line designated as N 110 in Exhibit C; thence following said line due West until it meets the East right-of-way of FM 980; thence South along said right-of-way line to the point of beginning, said tract being the southernmost part of a 34.816 acre tract designated in Exhibit C as "Pools Creek Section of Area 'S'."

EXHIBIT B: DESCRIPTION OF PROTECTED PROPERTY – OTTER SANCTUARY

Being 29.489 acres of land, more or less, situated in the State of Texas, County of San Jacinto, a part of the Isaac Prater 1/3 League Survey, Abstract 239; and being more particularly described by metes and bounds as follows:

Beginning at a point at the intersection of the Isaac Prater 1/3 League Survey with the East boundary of FM 980; thence due East following the Northern boundary line of the area marked in Exhibit C as "Pools Creek Section of Area 'S'" until it meets the Trinity River Authority (TRA) fee take line, thence following said TRA fee take line South and East until it meets the East-West latitude line designated in Exhibit C as N 110; thence West following said latitude line until it meets the East right-of-way line of FM 980; thence North to the place of beginning.

EXHIBIT C: MAP OF PROTECTED PROPERTY



CLERK'S NOTICE: ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE, IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

FILED FOR
RECORD

2004 DEC 20 A 10: 50

Charlene Vann
COUNTY CLERK
SAN JACINTO COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF SAN JACINTO
I, Charlene Vann, hereby certify that this instrument was FILED in file number sequence on the date and at the time stamped hereon by me and was duly RECORDED, in the official public records of San Jacinto County, Texas as stamped hereon by me on:

DEC 20 2004



CHARLENE VANN
COUNTY CLERK
SAN JACINTO COUNTY, TEXAS