

## CAUSE NO. 97-151-C368

WILLIAMSON COUNTY, TEXAS,  
Plaintiff

V.

BOYD F. HENRY,  
Defendant§ IN THE DISTRICT COURT OF  
§  
§ OF  
§  
§ WILLIAMSON COUNTY, TEXAS  
§  
§  
§ 368<sup>th</sup> JUDICIAL DISTRICT

## AGREED JUDGMENT

BE IT REMEMBERED, that on the 20<sup>th</sup> day of April, 2000, came on to be heard the above-entitled and numbered cause and came the Plaintiff, Williamson County, Texas, a political subdivision of the State of Texas, hereinafter referred to as Plaintiff, and announced ready for trial, and came the Defendant, Boyd F. Henry, hereinafter referred to as Defendant, and announced ready for trial.

I.

Prior to the commencement of the trial of this cause said Defendants admitted and stipulated in open Court that the Plaintiffs have the right to recover and condemn the property described herein; that all prior steps and due processes of law were duly, legally and timely performed; that all legal prerequisites for the trial of the cause by this court have been duly complied with; that the only issue remaining in this cause to be tried by this Court is the amount of compensation due to the Defendants as a result of the condemnation of the hereinafter-described property; and that this court has jurisdiction of such issue and this cause of action.

FILED  
at 3:57 o'clock A.M.

APR 20 2000

District Clerk, Williamson Co., TX.

II.

From the papers heretofore filed in this cause, the evidence introduced upon the trial of this cause and the agreements and stipulations made by the parties upon the trial of this cause, the Court finds that under and by Plaintiff's First Amended Original petition, filed with the Judge of this Court on April 30, 1997, Plaintiffs sought and prayed for acquisition, for county road purposes, from the Defendants, through condemnation of the tract of land located in Williamson County, Texas, described in Exhibit "A," attached hereto,

Provided, however, there is excluded from said estate to be condemned all the oil, gas and sulphur which can be removed from beneath said tract of land without any right whatever remaining to the owners, their heirs, assigns or successors in interest of such oil, gas, and sulphur, of ingress to or egress from the surface of said tract of land for the purpose of exploring, developing, drilling or mining of the same.

III.

Whereas all parties have agreed and reached a compromise agreement that the sum of TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) is the sum to which Defendant is entitled by virtue of the condemnation of the land on the date the property was condemned, and for damages, if any, to the remainder of defendant's property lying adjacent to the property condemned.

Upon due consideration, the Court finds and determines the following:

(1) All proceedings necessary to vest this Court with jurisdiction of the parties and the subject matter and the parties of this cause have been instituted, maintained and

complied with as required by law; therefore, this Court has jurisdiction of the parties hereto and of the subject matter set forth in this case;

(2) Boyd F. Henry is the owner in fee simple of the property. Plaintiff is condemning and acquiring the fee simple title in and to the property under and by virtue of these condemnation proceedings. Plaintiff is authorized to condemn the property;

(3) From the pleadings, evidence and the agreement of the parties, Defendant should have and recover from Plaintiff the sum of TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00).

(4) Plaintiff should have and recover from Defendant as more specifically set forth in Plaintiff's First Amended Original Petition, a fee simple title in and to the property described in Exhibit "A" attached hereto.

(5) All costs of Court incurred herein should be taxed against Plaintiff, which costs shall be paid only to the District Clerk of Williamson County, Texas.

#### IV.

It is therefore ORDERED, ADJUDGED AND DECREED that Plaintiff does have and recover of and from Defendant fee simple title in and to the property described in Exhibit "A," attached hereto, which is situated in Williamson County, Texas. Defendant has and is entitled to a judgment from Plaintiff in the sum of TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) for its interest in the property condemned and for damages, if any, to Defendant's remaining lands.

#### V.

It is further ORDERED, ADJUDGED and DECREED that the fee simple title to the land

is hereby decreed to and vested in Plaintiff; however, there is excluded from said estate vested in Plaintiff all the oil, gas and sulphur which can be removed from said land. The owners of said oil, gas and sulphur shall not have any right of ingress to or egress from the surface of said condemned land for the purpose of exploring, drilling, developing or mining of the same.

VI.

It is further ORDERED, ADJUDGED, and DECREED by the Court that Defendants do have and recover from Plaintiff, and Plaintiff is hereby directed to pay to Dan Foster, as trustee for Boyd F. Henry, the sum of TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) for the land described in Exhibit "A," as adequate compensation for defendant's interests in the property herein condemned and for damages, if any, to Defendant's remaining lands. Said payment will be made within thirty (30) days of the entry of this Agreed Judgment. In the event the judgment is not paid within 30 days interest shall accrue on the amount due at the rate of 10 percent simple annual interest from the thirty-first day after the date this Judgment is signed until the date upon which it is paid.

VII.

It is further ORDERED, ADJUDGED AND DECREED that upon payment by Plaintiff of the sum of TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) Plaintiff shall stand RELEASED and DISCHARGED of its constitutional obligation to pay such compensation for the taking of the property described in Exhibit "A" for public use.

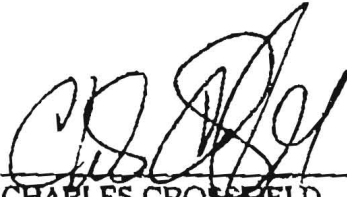
All costs of Court are hereby adjudged against Plaintiff, which costs shall be paid

only to the District Clerk of Williamson County, Texas. All provisions of this Judgment may be enforceable by appropriate process without further notice unless they are each timely observed.

SIGNED this 20<sup>th</sup> day of April, 2000.

  
JUDGE PRESIDING

**AGREED AS TO FORM**



CHARLES CROSSFIELD

State Bar No. 05137500

Brown, McCarroll, Sheets and Crossfield, L.L.P.

309 E. Main Street

Round Rock, Texas 78664

ATTORNEY FOR CONDEMNOR



DAN FOSTER

State Bar No. 24010031

WOMACK, McCLISH, & WALL, P.C.

1801 Lavaca, Suite 120

Austin, Texas 78701-1398

ATTORNEY FOR CONDEMNOR

NO. 97-151-0368WILLIAMSON COUNTY, TEXAS,  
PLAINTIFF,

VS

BOYD F. HENRY  
DEFENDANT§  
§  
§  
§  
§  
§IN THE 368<sup>th</sup> JUDICIAL

DISTRICT COURT

WILLIAMSON COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION****TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, WILLIAMSON COUNTY, TEXAS, a Texas county and political subdivision of Texas, hereinafter referred to as "Plaintiff," and files this original Petition, and would respectfully show the following:

## I.

Plaintiff, WILLIAMSON COUNTY, TEXAS, is a political subdivision and Texas county, duly created and existing under the laws of the State of Texas, and empowered by the legislature of the State of Texas to exercise the right of eminent domain to condemn and acquire land, an easement in land, or a right-of-way, and is authorized to institute these eminent domain proceedings by and through the duly elected and qualified Commissioners Court of Williamson County, Texas.

## II.

Plaintiff, acting through its Commissioners Court, has determined a public necessity exists for the acquisition of certain real property for the purpose of widening, improving, constructing, maintaining, and making improvements to County Road 279, a public highway in and of said County, said construction being a public project that will greatly benefit the health and safety of the residents of the county.

## III.

The only practicable means of accomplishing said road improvements require the use of a certain 0.242 acre tract out of Block "D" Live Oak Ranch Unit 2, without existing improvements, said tract being more particularly described on Exhibit "A" to this Resolution, which is hereby

c:\condemnation\boyd.pet

FILED  
at 4:12 o'clock P.M.

APR 30 1997

Barbara G. Walhouse  
District Clerk, Williamson Co., TX.

incorporated by reference as fully and completely as if set out verbatim herein.

The Property described above is hereinafter referred to as the "Property."

Negotiations for the voluntary sale of such property by the owner, Boyd F. Henry, have been conducted by the county in good faith, and have included the offer of the full appraised value of such easement to the owners, but such negotiations have reached an impasse.

IV.

The Property referred to in Paragraph III will be used for purposes for which Plaintiff possesses the power of eminent domain, namely, the widening, improvement, construction, maintenance, and operation of County Road 279 a public highway in and of said County. Plaintiff has found and determined that it is necessary and convenient to place the above-described improvements on the Property, and Plaintiff has found and determined that it is necessary to acquire fee simple title to the Property, the same to be paid for by Plaintiff, with title thereto vesting in Plaintiff, for the purposes set forth in this paragraph of this Petition, through these proceedings in eminent domain.

V.

BOYD F. HENRY, Defendant, is the owner of the real property referred to in Paragraph II, as far as known to Plaintiff, and is a resident of Williamson County, Texas. Boyd F. Henry may be served at 1818 Piedmont Avenue, Austin, TX 78757-2237, and through his attorney, Kent A. Sick at Womack & McClish, P.C., Attorneys At Law, 1801 Lavaca, Suite 120, Austin, TX 78701.

VI.

Plaintiff is informed and believes that the Defendant set forth above in Paragraph V of this Petition is the record owner of the Property being condemned in these proceedings, or is holding or claiming some interest in or title to said Property. If Plaintiff is in error as to the ownership of the Property, or as to the extent of title or interest of the hereinabove named Defendants in and to the Property described in this petition, Plaintiff reserves the right to add the name or names of such additional owner or owners, or claimant or claimants, whose interest may subsequently appear, and to condemn the interest of each of such other parties as may subsequently appear, in order to acquire the title and interest sought in this proceeding as provided by law.

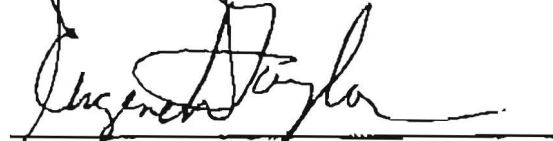
VII.

Plaintiff specially alleges that it has been unable to agree and cannot agree with the owner upon the value of the Property, or the damages, if any, and therefore, brings these proceedings in eminent domain.



WHEREFORE, Plaintiff requests the Court to forthwith, in the manner required by law, name, designate, and appoint three (3) disinterested freeholders of Williamson County, Texas, as Special Commissioners to assess the actual damages, in accordance with the law, to be allowed the owner and other persons with an interest in the Property, the same to be the Property, the same to be paid for by the Plaintiff, and plaintiff also requests such other proceedings, orders, and judgments vesting fee simple title to the Property in Plaintiff, and that Plaintiff be granted such other and further relief to which it may be justly entitled in law or equity.

Respectfully submitted,



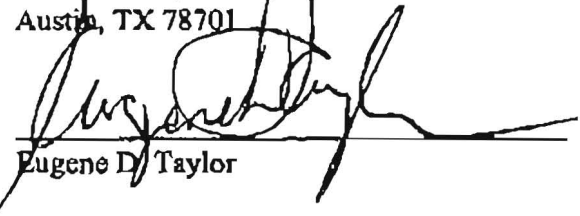
**EUGENE D. TAYLOR**  
Williamson County Attorney  
State Bar No. 19691500  
Attorney for Plaintiff  
405 Martin Luther King, Box 7  
Georgetown, Texas 78626  
(512) 930-9309  
FAX (512) 930-3320

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Plaintiff's Original Petition has on this 30th day of April, 1997 been sent by certified mail, return receipt requested to the following:

Boyd F. Henry  
1818 Piedmont Avenue  
Austin, TX 78757-2237

Kent A. Sick  
Womack & McClish, P.C.  
Attorneys At Law  
1801 Lavaca, Suite 520  
Austin, TX 78701



Eugene D. Taylor

03/31/97 08:29 WILLIAMSON CTY ROAD AND BRIDGE 512-930-3335  
FROM DIXON LAND SURVEYING FAX 0 219-3821 03.27.1997 03

P. 002

P. 1

## Exhibit A

***Dixon Land Surveying***

Phone # 512-306-0032  
Fax # 512-306-1002

21 Years of Surveying Experience  
in Your Service

Thomas F. Dixon R.P.L.S.  
Owner

March 31, 1997

CR279N

Page 1 of 2

## FIELD NOTES

FIELD NOTES FOR 0.242 ACRES OF LAND BEING 0.148 ACRES OUT OF AND PART OF LOT 2, BLOCK "D", LIVE OAK RANCH UNIT 2, A SUBDIVISION IN WILLIAMSON COUNTY, TEXAS, TOGETHER WITH 0.094 ACRES OUT OF LOT 1, BLOCK "D", LIVE OAK RANCH UNIT 2, ALL 0.242 ACRES BEING OUT OF AND PART OF THAT CERTAIN TRACT OR PARCEL OF LAND CONVEYED TO BOYD F. HENRY RECORDED IN VOLUME 1642, PAGE 775, DEED RECORDS, WILLIAMSON COUNTY, TEXAS; FOR WHICH A MORE PARTICULAR DESCRIPTION BY METES AND BOUNDS IS AS FOLLOWS:

BEGINNING at an iron rod found on the common north R.O.W. of Antler Trail and the east R.O.W. of County Road 279, same being on the west line of said Lot 2, for the S.W. corner hereof;

THENCE the following four (4) courses and distances along the common east R.O.W. of County Road 279 and the west line of said Boyd F. Henry tract as fenced and occupied on the ground:

1. N14°17'35"W for a distance of 114.88 feet to an iron rod found;
2. N07°48'55"W for a distance of 71.66 feet to an iron rod found;
3. N06°31'43"W for a distance of 190.03 feet to an iron rod found at the common N.W. corner of said Lot 2 and the S.W. corner of said Lot 1 for a corner hereof;
4. N06°22'43"W for a distance of 402.27 feet to an iron rod found at the N.W. corner of said Lot 1, same being the N.W. corner of said Boyd F. Henry tract for the N.W. corner hereof;

THENCE N71°52'17"E along the north line of said Lot 1 for a distance of 8.21 feet to an iron rod set for the N.E. corner hereof;

THENCE S07°25'29"E, crossing said Lot 1 for a distance of 401.32 feet to an iron rod set on the south line of said Lot 1 for a corner hereof;

THENCE the following three (3) courses and distances crossing said Lot 2:

1. S07°25'29"E for a distance of 214.61 feet to an iron rod set at the point of tangency of a curve to the left having a radius of 1493.00 feet;
2. 129.77 feet along the arc of said curve to the left with a chord which bears S09°34'53"E for a distance of 129.73 feet to an iron rod set at the point of a compound curve to the left having a radius of 30.00 feet;

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P. 003

3. 41.26 feet, bearing S 66° 16' 29" E a distance  
with a chain which bears S 66° 16' 29" E a distance  
of 42.54 feet to an iron rod set on the north R.O.W.  
of Antler Trail for the S.E. corner hereof;

6305 Forest Hills Drive  
Austin, Texas 78746

03/31/97 08:30

WILLIAMSON CTY ROAD AND BRIDGE 512-930-3335

P. 004

FROM: DIXON LAND SURVEYING FIRM TO 219-5921

03.27.1997 084

P. 2

Phone # 512-306-0032  
Fax # 512-306-1002***Dixon Land Surveying***25 Years of Surveying Experience  
in Your ServiceThomas P. Dixon R.P.L.S.  
Owner

March 31, 1997

Page 2 of 2

THENCE S71°52'17"W along the north R.O.W. of Antler Trail for a distance of 46.01 feet to the POINT OF BEGINNING, containing 0.242 acres of land, more or less.

"I, the undersigned do hereby certify that the field notes shown hereon were prepared from an on-the-ground survey under my direct supervision and that they are true and correct to the best of my knowledge."

  
Thomas Parker Dixon R.P.L.S. 4324