

Texas Gas, and its predecessors, and Hidalgo County have
worked together since at least 1926



**Texas
Gas Service**
a Division of ONE Gas



THIS COURT'S ORDER

STATE OF TEXAS

COUNTY OF HIDALGO

ORDER CLOSING, ABANDONING AND VACATING TRACT I, 0.57 ACRES, AND TRACT II,
0.91 ACRES, OF ROADWAY BEING OUT OF LOTS 6, 7, 8, 9, 8, 10, BLOCK 48, LOTS
1, 2, 3, 4, 4.5, BLOCK 58, AND LOTS 4 & 5, BLOCK 37, CITRUS FRUIT
DEVELOPMENT COMPANY SUBDIVISION, HIDALGO COUNTY, TEXAS

WHEREAS, the Commissioners Court of Hidalgo County, on the 24th day of January, 2012, at a duly called and noticed meeting of the Hidalgo County Commissioners' Court at which a quorum was present, came to be heard facts and information concerning abandoning, closing and vacating an unopened county road being Tract I, 0.57 acres, and Tract II, 0.91 acres of land (the "Road") more particularly described by meets and bounds as attached hereto as Exhibit "A" and make part hereof.

WHEREAS, the Commissioners Court has determined it has no purpose or use for the Road; that such Road is unopened and is not currently in use; that there is no foreseeable need or use in the future for the Road;

WHEREAS, the Commissioners Court has examined factual evidence and is not opposed to Hidalgo County abandoning, closing and vacating the Road;

NOW THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED that the Commissioners Court of Hidalgo County based on the facts presented, does hereby unanimously agree to abandon, close and vacate the Road as described in Exhibit "A".

BE IT FURTHER ORDERED that, in accordance with Texas Transportation Code Section 251.058 (b), title to the portion of the public road that is closed, abandoned, and vacated to the center line of the road vests on the date this Order is signed by the County Judge in the owners of the property that abut the portion of the road being closed, abandoned and vacated. A copy of this Order shall be filed in the deed records of Hidalgo County and serves as the official instrument of conveyance from Hidalgo County to the owner of the abutting property.

WHEREUPON, Commissioner Joseph Palacios moved for the adoption of said Order, said Motion being seconded by Commissioner Local Quintanilla and duly adopted by all members of the court present voting "aye".


Arturo Guajardo, Jr., County Clerk


Ramon Garcia, County Judge

APPROVED BY
COMMISSIONERS' COURT

ON: 1/24/12

THIS COURT'S ORDER

WHEREAS, the Commissioners Court has determined it has no purpose or use for the Road; that such Road is unopened and is not currently in use; that there is no foreseeable need or use in the future for the Road;

STATE OF TEXAS

COUNTY OF HIDALGO

ORDER CLOSING, ABANDONING AND VACATING TRACT I, 0.57 ACRES, AND TRACT II, 0.91 ACRES, OF ROADWAY BEING OUT OF LOTS 6, 7, 8, 9, & 10, BLOCK 48, LOTS 1, 2, 3, 4, & 5, BLOCK 58, AND LOTS 4 & 5, BLOCK 57, CITRUS FRUIT DEVELOPMENT COMPANY SUBDIVISION, HIDALGO COUNTY, TEXAS

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WHEREAS, the Commissioners Court has determined it has no purpose or use for the Road; that such Road is unopened and is not currently in use; that there is no foreseeable need or use in the future for the Road;

WHEREAS, the Commissioners Court has examined factual evidence and is not opposed to Hidalgo County abandoning, closing and vacating the Road;

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BE IT FURTHER ORDERED that, in accordance with Texas Transportation Code Section 201.058 (b), title to the portion of the public road that is closed, abandoned, and vacated to the center line of the road vests on the date this order is signed by the County Judge in the owners of the property that abut the portion of the road being closed, abandoned and vacated. A copy of this Order shall be filed in the deed records of Hidalgo County and serves as the official instrument of conveyance from Hidalgo County to the owner of the abutting property.

WHEREUPON, Commissioner JOSEPH PALACIOS moved for the adoption of said Order, said Motion being seconded by Commissioner JOSE L. OULIARIS and duly adopted by all members of the court present voting "aye".

Arturo Sualando, Jr.
Arturo Sualando, Jr., County Clerk

Ramon Garcia
Ramon Garcia, County Judge

APPROVED BY
COMMISSIONERS' COURT

ON: 1/24/12

THIS COURT'S ORDER

WHEREAS, the Commissioners Court has determined it has no purpose or use for the Road; that such Road is unopened and is not currently in use; that there is no foreseeable need or use in the future for the Road;

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BE IT FURTHER ORDERED that, in accordance with Texas Transportation Code Section 201.056 (b), title to the portion of the public road that is closed, abandoned and vacated to the center line of the road vests on the date this Order is signed by the County Judge in the hands of the property that abut the portion of the road being closed, abandoned and vacated. A copy of this Order shall be filed in the deed records of Hidalgo County and serves as the official instrument of conveyance from Hidalgo County to the owner of the abutting property.

WHEREUPON, Commissioner Joseph Encinas moves for the adoption of said Order, said Motion being seconded by Commissioner [Joe] Quintana and duly adopted by all members of the

Q. That's not true, is it? You intentionally didn't tell the county. You said I didn't tell them about the pipeline, right?

A. No, I didn't tell them.

ON: 1/24/12

STATE OF TEXAS

COUNTY OF HIDALGO

**ORDER CLOSING, ABANDONING AND VACATING TRACT I, 0.57 ACRES, AND TRACT II,
0.91 ACRES, OF ROADWAY BEING OUT OF LOTS 6, 7, 8, 9, & 10, BLOCK 49, LOTS
1, 2, 3, 4, & 5, BLOCK 58, AND LOTS 4 & 5, BLOCK 57, CITRUS FRUIT
DEVELOPMENT COMPANY SUBDIVISION, HIDALGO COUNTY, TEXAS**

WHEREAS, the Commissioners Court of Hidalgo County, on the 24th day of January, 2012, at a duly called and noticed meeting of the Hidalgo County Commissioners Court at which a quorum was present came to be heard facts and information concerning abandoning, closing and vacating an unopened county road being Tract I, 0.57 acres, and Tract II, 0.91 acres of land (the "Road") more particularly described by meets and bounds as attached hereto as Exhibit "A" and made part hereof.

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WHEREUPON, Commissioner Joseph Palacios moved for the adoption of said Order, said Motion being seconded by Commissioner Joel Quintanilla and duly adopted by all members of the court present voting "aye".

ATTEST 

Arturo Guajardo, Jr., County Clerk


Ramon Garcia, County Judge

APPROVED BY
COMMISSIONERS' COURT
ON: 1/24/12

EXHIBIT "A"

TRACT I
METES AND BOUNDS DESCRIPTION
FOR A
0.57 OF AN ACRE TRACT

A 0.57 of an acre tract of land being the south 15.00 feet of Lots 7 and 8, Block 49, a portion of the south 15.00 feet of Lot 6, Block 49, the north 15.00 feet of Lots 3 and 4, Block 58, and a portion of the north 15.00 feet of Lot 5, Block 58, Citrus Fruit Development Company Subdivision as recorded in Volume 6, Pages 428 through 431, Deed Records, Hidalgo County, Texas, also being a portion of that certain thirty foot (30.00') Road Right-of-Way (not opened) between said Blocks 58 and 49 of said Citrus Fruit Development Company Subdivision and being more fully described by metes and bounds as follows:

BEGINNING at a set one-half inch iron on the point of intersection of the south Right-of-Way line of said thirty foot (30.00') Road Right-of-Way (not opened) between Blocks 58 and 49 and the west Right-of-Way line of an abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way as described in Deed recorded in Volume 1768, Page 801, Deed Records, Hidalgo County, Texas, for the southeast corner of herein described tract. Said point bears S 09° 02' 39" W 15.00 feet from a set one-half inch iron rod being the southeast corner of said Lot 8, Block 49, also being the northeast corner of said Lot 3, Block 58, also being the point of intersection of the north line of said Block 58, also being the south line of said Block 49 and the west Right-of-Way of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way.

THENCE N 81° 03' 00" W 824.98 feet along said south Right-of-Way line of said thirty foot (30.00') Road Right-of-Way (not opened) between Blocks 58 and 49, being parallel to the north lines of said Lots 3, 4 and 5, Block 58, to a set one-half inch iron rod on the east Right-of-Way line of U. S. Highway 281 for the southwest corner of herein described tract.

THENCE N 08° 20' 00" E along said east Right-of-Way line of U. S. Highway 281, pass at 15.00 feet a point being the north line of said Block 58, also being the south line of said Block 49 and continuing for a total distance of 30.00 feet to a set one-half inch iron rod on the north Right-of-Way line of said thirty foot (30.00') Road Right-of-Way (not opened) between Blocks 58 and 49 for the northwest corner of herein described tract.

THENCE S 81° 03' 00" E 825.35 feet along said north Right-of-Way line of said thirty foot (30.00') Road Right-of-Way (not opened) between Blocks 58 and 49, being parallel to the south lines of said Lots 6, 7 and 8, Block 49, to a set one-half inch iron rod on the east line of said Lot 8, Block 49, also being said west Right-of-Way line of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way for the northeast corner of herein described tract.

THENCE S 09° 02' 00" W along said east line of Lot 8, Block 49, also being said west Right-of-Way line of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way, pass at 15.00 feet a set one-half inch iron rod being the southeast corner of said Lot 8, Block 49, also being the northeast corner of said Lot 3, Block 58, also being the point of intersection of the north line of said Block 58, also being the south line of said Block 49 and the west Right-of-Way of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way, and continuing along the east line of said Lot 3, Block 58, for a total distance of 30.00 feet to the point of beginning and containing 0.57 of an acre (24,755 square feet) of land, more or less.

TRACT II
METES AND BOUNDS DESCRIPTION
FOR A
0.91 OF AN ACRE TRACT

A 0.91 of an acre tract of land being the south 15.00 feet of Lots 9 and 10, Block 49, the north 15.00 feet of Lots 1 and 2, Block 58, and the north 15.00 feet of Lots 5 and 4, Block 57, Citrus Fruit Development Company Subdivision as recorded in Volume 6, Pages 428 through 431, Deed Records, Hidalgo County, Texas, also being a portion of that certain thirty foot (30.00') Right-of-Way (not opened) between said Blocks 58 and 49 and a portion of that certain thirty foot (30.00') Right-of-Way on the north line of said Block 57, (not opened) of said Citrus Fruit Development Company Subdivision and being more fully described by metes and bounds as follows:

BEGINNING at a set one-half inch iron on the point of intersection of the south Right-of-way line of said thirty foot (30.00') Road Right-of-Way (not opened) between Blocks 58 and 49 and the east Right-of-Way line of an abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way as described in Deed recorded in Volume 1768, Page 801, Deed Records, Hidalgo County, Texas, for the southwest corner of herein described tract. Said point bears S 09° 02' 39" W 15.00 feet from a set one-half inch iron rod being the southwest corner of said Lot 9, Block 49, also being the northwest corner of said Lot 2, Block 58, also being the point of intersection of the north line of said Block 58, also being the south line of said Block 49 and the east Right-of-Way of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way.

THENCE N 09° 02' 39" E along the west line of said Lot 2, Block 58, also being said east Right-of-Way line of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way, pass at 15.00 feet a set one-half inch iron rod being the northwest corner of said Lot 2, Block 58, also being the southwest corner of said Lot 9, Block 49, also being the point of intersection of the north line of said Block 58, also being the south line of said Block 49 and the east Right-of-Way of said abandoned one hundred foot (100.00') Missouri Pacific Railroad Right-of-Way, and continuing along the west line of said Lot 9, Block 49, for a total distance of 30.00 feet to a set one-half inch iron rod on the north Right-of-Way line of said thirty foot (30.00') Right-of-Way (not opened) between said Blocks 58 and 49 for the northwest corner of herein described tract.

THENCE S 81° 03' 00" E 897.57 feet along said north Right-of-Way line of said thirty foot (30.00') Right-of-Way (not opened) between said Blocks 58 and 49 being parallel to the south lines of said Lots 9 and 10, Block 49, to a set one-half inch iron rod on the east line of said Lot 10 Block 49, for an interior corner of herein described tract.

THENCE S 08° 57' 00" W 15.00 feet along said east line of Lot 10 Block 49, to a set one-half inch iron rod being the southeast corner of said Lot 10, Block 49, also being the northeast corner of said Lot 1, Block 58, also being the northwest corner of said Lot 5, Block 57, for an interior corner of herein described tract.

THENCE S 81° 03' 00" E 841.40 feet along the north lines of said Lots 5 and 4, Block 57, to a set one-half inch iron rod being the northeast corner of said Lot 4, Block 57, for the northeast corner of herein described tract.

THENCE S 08° 57' 00" W 15.00 feet along the east line of said Lot 4, Block 57, to a set one-half inch iron rod on the south Right-of-Way line of said thirty foot (30.00') Right-of-Way on the north line of said Block 57(not opened) for the southeast corner of herein described tract

THENCE N 81° 03' 00" W 1,793.03 feet along said south Right-of-Way line of said thirty foot (30.00') Right-of-Way on the north line of said Block 57 and between said Blocks 58 and 49 to the point of beginning and containing 0.91 of an acre (26,085 square feet) of land, more or less.

JOB NO.: 2011-188.TR II.CITRUS FRUIT DEV
R. E. GARCIA & ASSOCIATES

REPORTER'S RECORD
VOLUME 001 OF 001 VOLUME

TRIAL COURT CAUSE NO. C-7554-14-C

MVP PROPERTIES, LLC		IN THE DISTRICT COURT OF
VS		HIDALGO COUNTY, T E X A S
ONE GAS, INC. D/B/A		
TEXAS GAS SERVICE CO.		139TH JUDICIAL DISTRICT

* * * * *

STATEMENT OF FACTS

January 8, A.D., 2015

* * * * *

On the 15th day of January, A.D., 2015, the foregoing Proceedings came on to be heard outside the presence of a Jury, in the above-entitled and -enumerated cause; and the following proceedings were had before the Honorable Roberto "Bobby" Flores, Judge Presiding, held in Edinburg, Hidalgo County, Texas, USA:

Proceedings reported by COMPUTERIZED INTEGRATED COURTROOM REALTIME, STENOTYPE MACHINE; Reporter's Record produced BY COMPUTER-ASSISTED TRANSCRIPTION.

JESSIE C. SALAZAR, Texas CSR #4286
Official Court Reporter - 139th Judicial District Court
Hidalgo County Courthouse
100 North Closner, Second Floor
Edinburg, Texas 78539 USA
956.318.2260

1 is there, that reflects that Texas Gas has for the last 70 years
2 had a pipeline running across that property, is it?

3 A. No, that's what the title memorandum showed and we
4 didn't know about it. I didn't know about it until I saw it.

5 Q. That's not true, is it? You intentionally didn't tell
6 the county. You said I didn't tell them about the pipeline,
7 right?

8 A. No, I didn't tell them.

9 Q. Okay.

10 A. I met the requirements by statute.

11 Q. You had surveyed prepared that would not reflect the
12 pipeline, right?

13 THE COURT: I'm going to make an observation and
14 I don't know if you have figured it out. But I -- probably I,
15 without a doubt, I have the most talented court reporter
16 probably in the nation. And for him to take both of you
17 together, I don't see -- I haven't seen anybody do it.

18 MR. JOHNSON: Yes, sir.

19 THE COURT: So have a little respect for him if
20 you do.

21 MR. JOHNSON: Yes, sir. My apologies to the
22 court reporter, Your Honor.

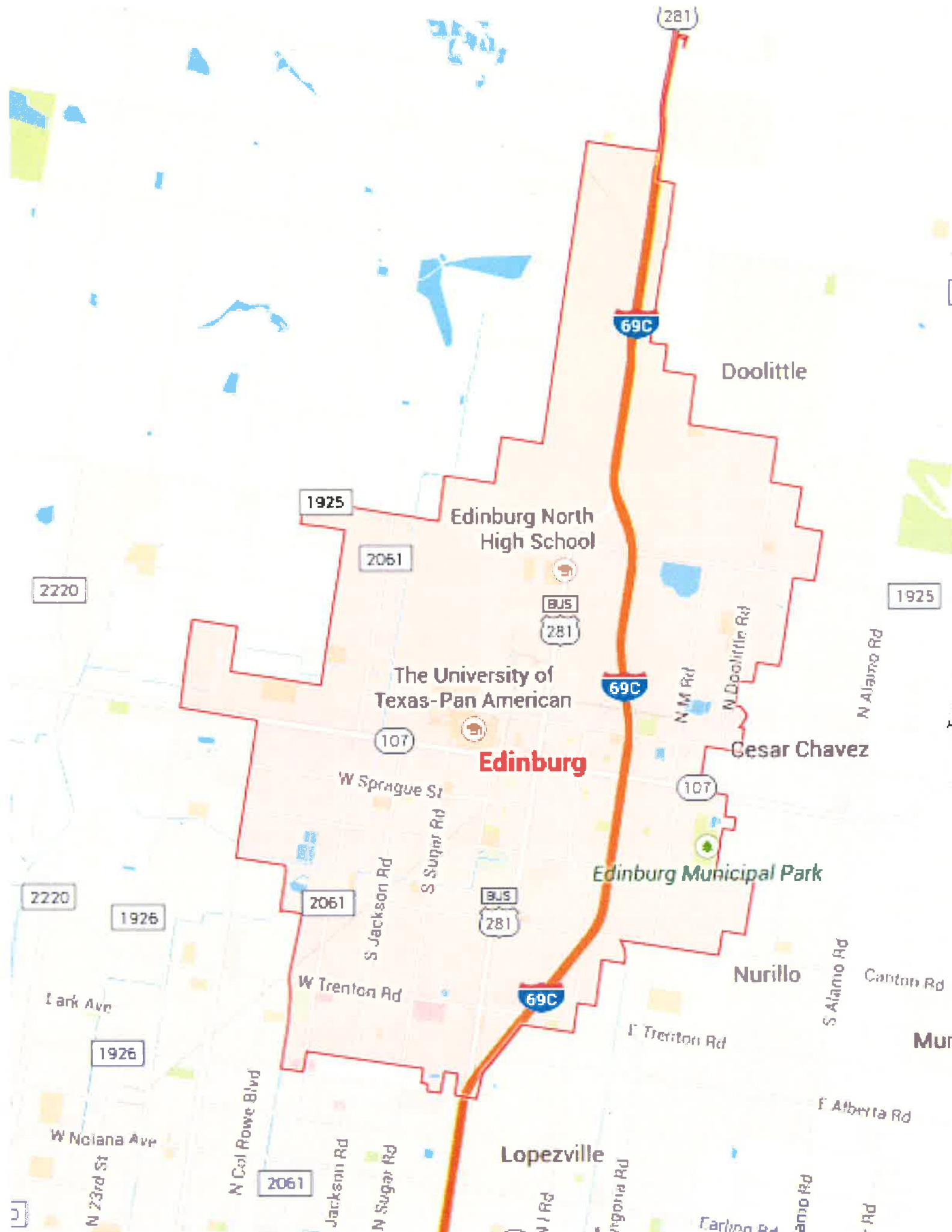
23 A. If your question is did I tell the county?

24 Q. (BY MR. JOHNSON) No, I have another question.

25 MR. JOHNSON: I offer Exhibit No. 2. Defendant's



LOCATION OF THE PIPELINE



Doolittle

1925

Edinburg North High School

2061

BUS 281

The University of Texas-Pan American

69C

Edinburg

Cesar Chavez

107

W Sprague St

Edinburg Municipal Park

2220

1925

2220

1926

2061

BUS 281

S Jackson Rd

S Sugar Rd

Nurillo

Lark Ave

1926

W Trenton Rd

69C

Canton Rd

Lopezville

S Alamo Rd

W Nolana Ave

N 23rd St

N Col Rowe Blvd

Jackson Rd

N Sugar Rd

V I Rd

Virginia Rd

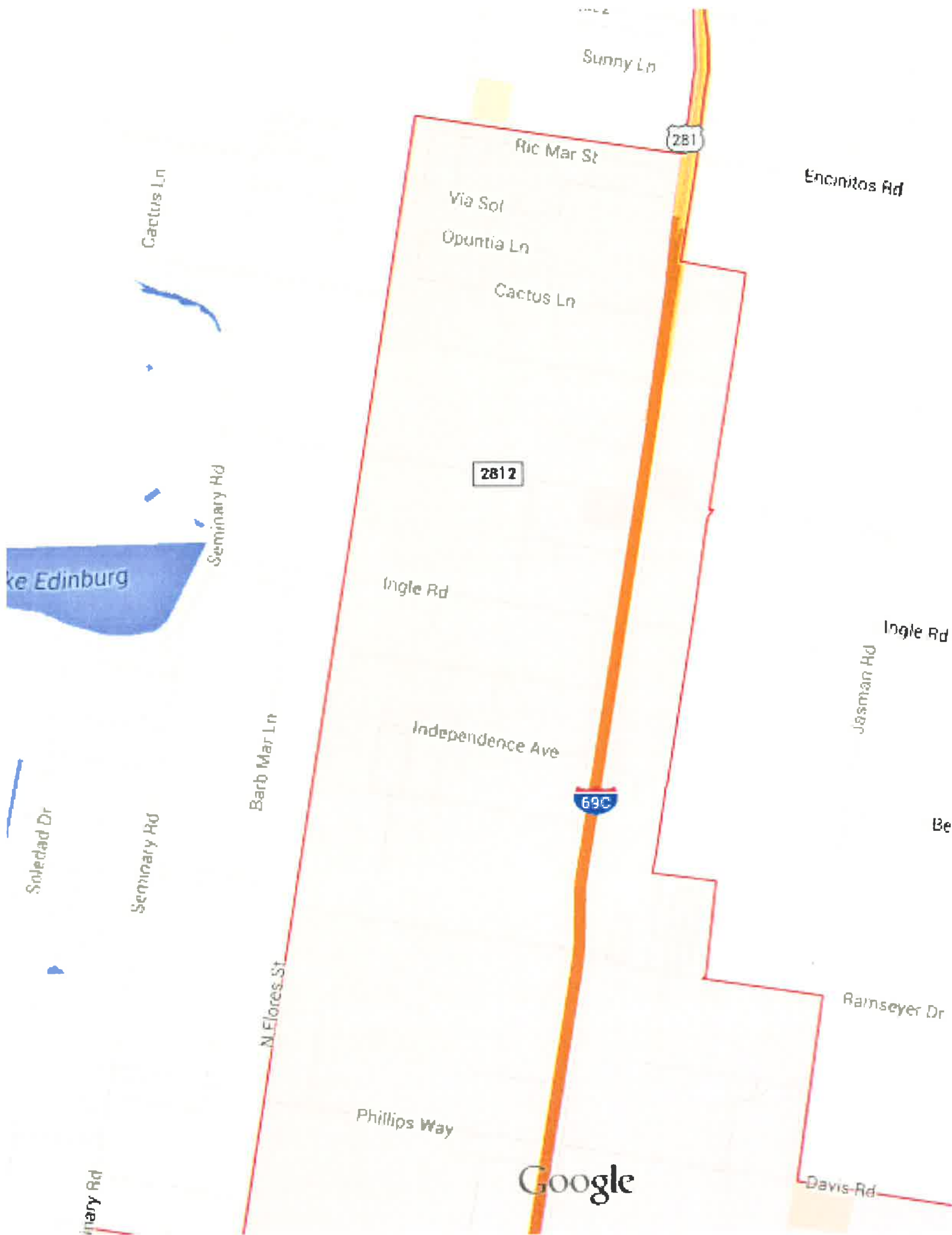
Carlton Rd

Alamo Rd

Rd

E Alberta Rd

Mun



Sunny Ln

281

Ric Mar St

Encinitas Rd

Via Sol

Opuntia Ln

Cactus Ln

2812

Ingle Rd

Ingle Rd

Independence Ave

69C

Jasman Rd

Be

Barb Mar Ln

Rainseyer Dr

Phillips Way

Google

Davis Rd

Lake Edinburg

Cactus Ln

Seminary Rd

Seminary Rd

N Flores St

Soledad Dr

Seminary Rd

art

Enc

Via Fernan

W Via Sol Dr

Via Sol

Opuntia Ln

Cactus Ln

Monte Cristo Heights Rd

Chip Berry Produce

Caballo Ln

690

Edinburg

Art Y Jo Dr

2812

Love's Travel Stop

TA Edinburg

2812

Lake Citrus Dr

Mile 21 Rd

Don Hugo Produce

Ingle Rd

281

Ingle Rd

Orange Ave

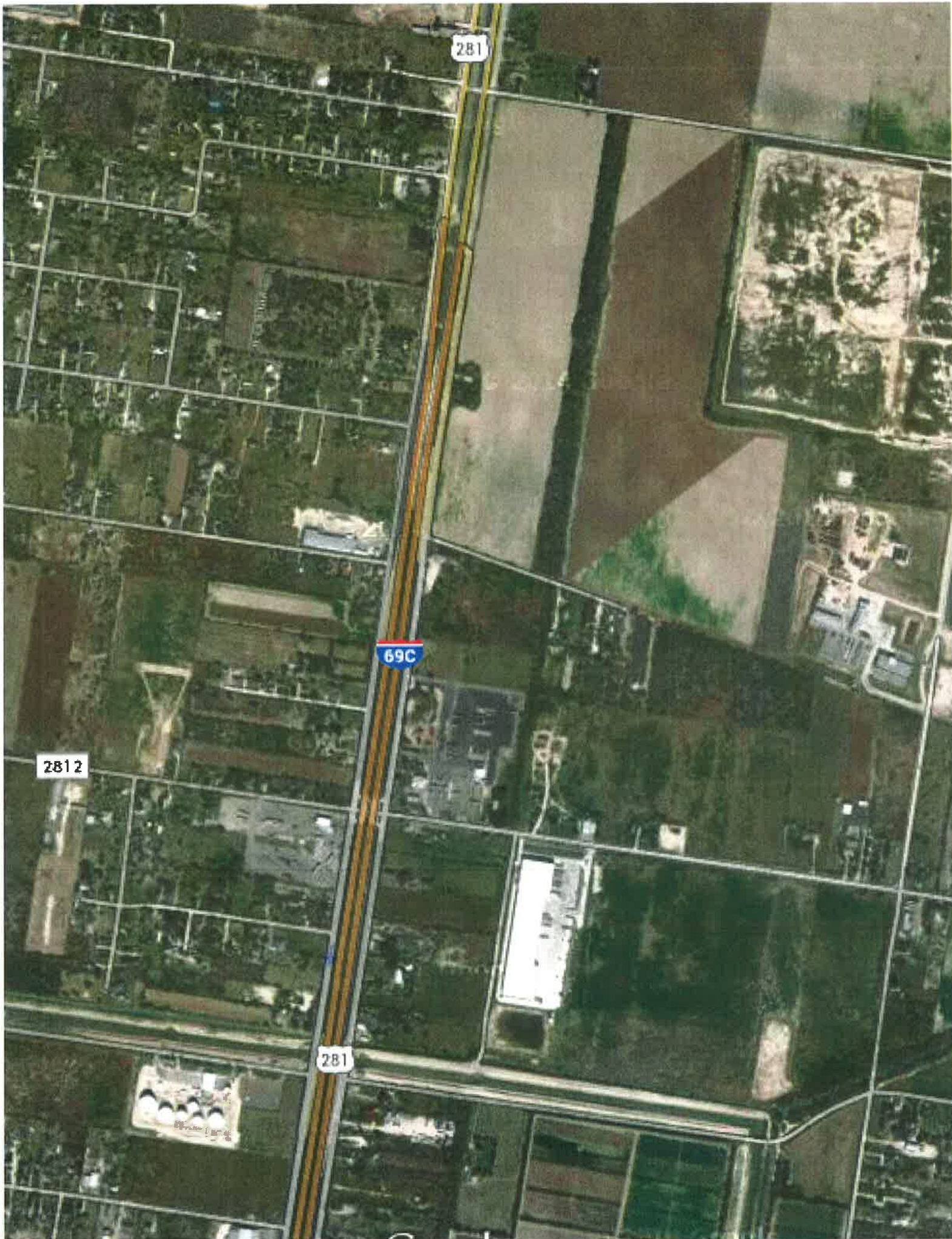
Tractor Supply Co

J & D Produce

Independence Ave

Independence Ave

Google



281

69C

2812

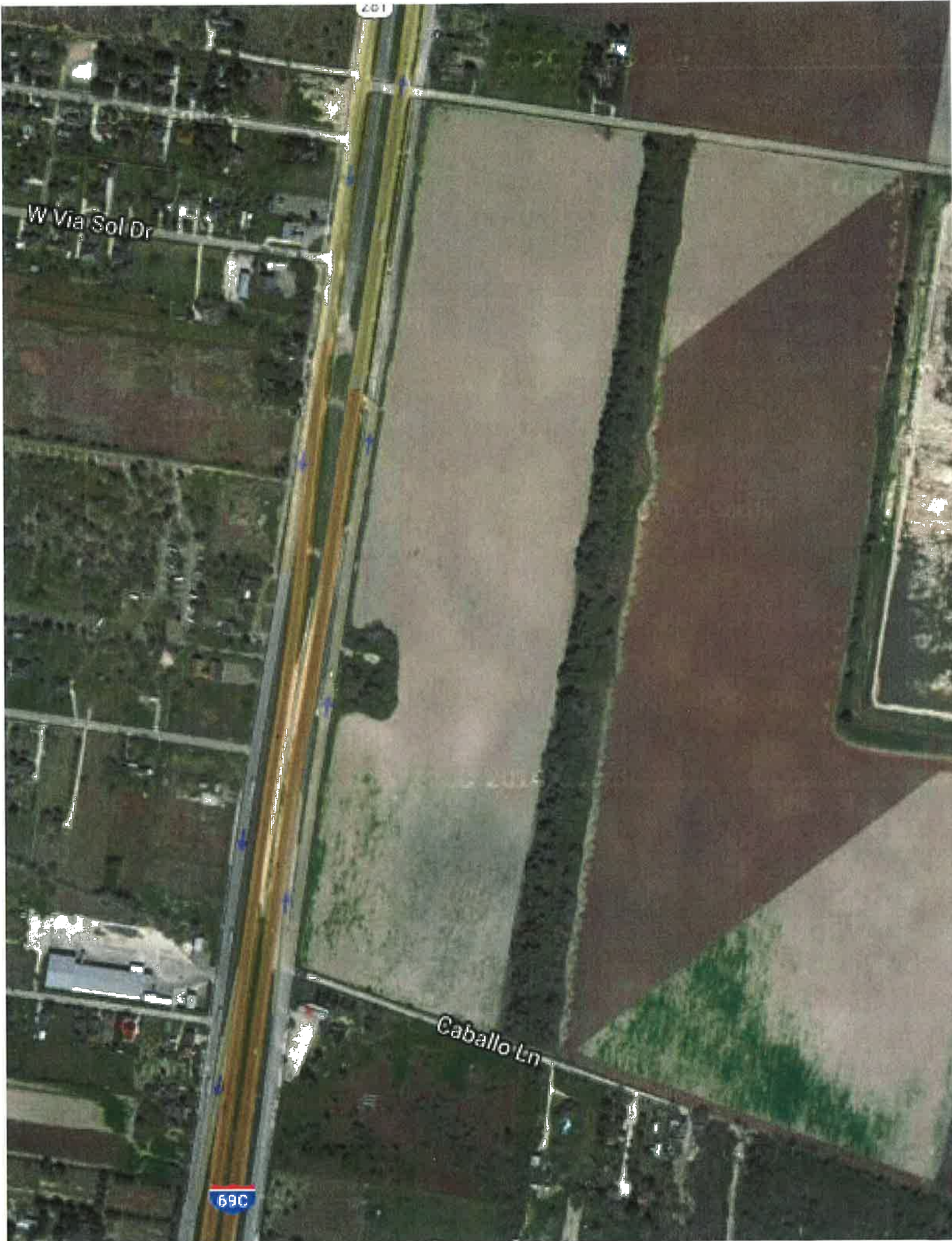
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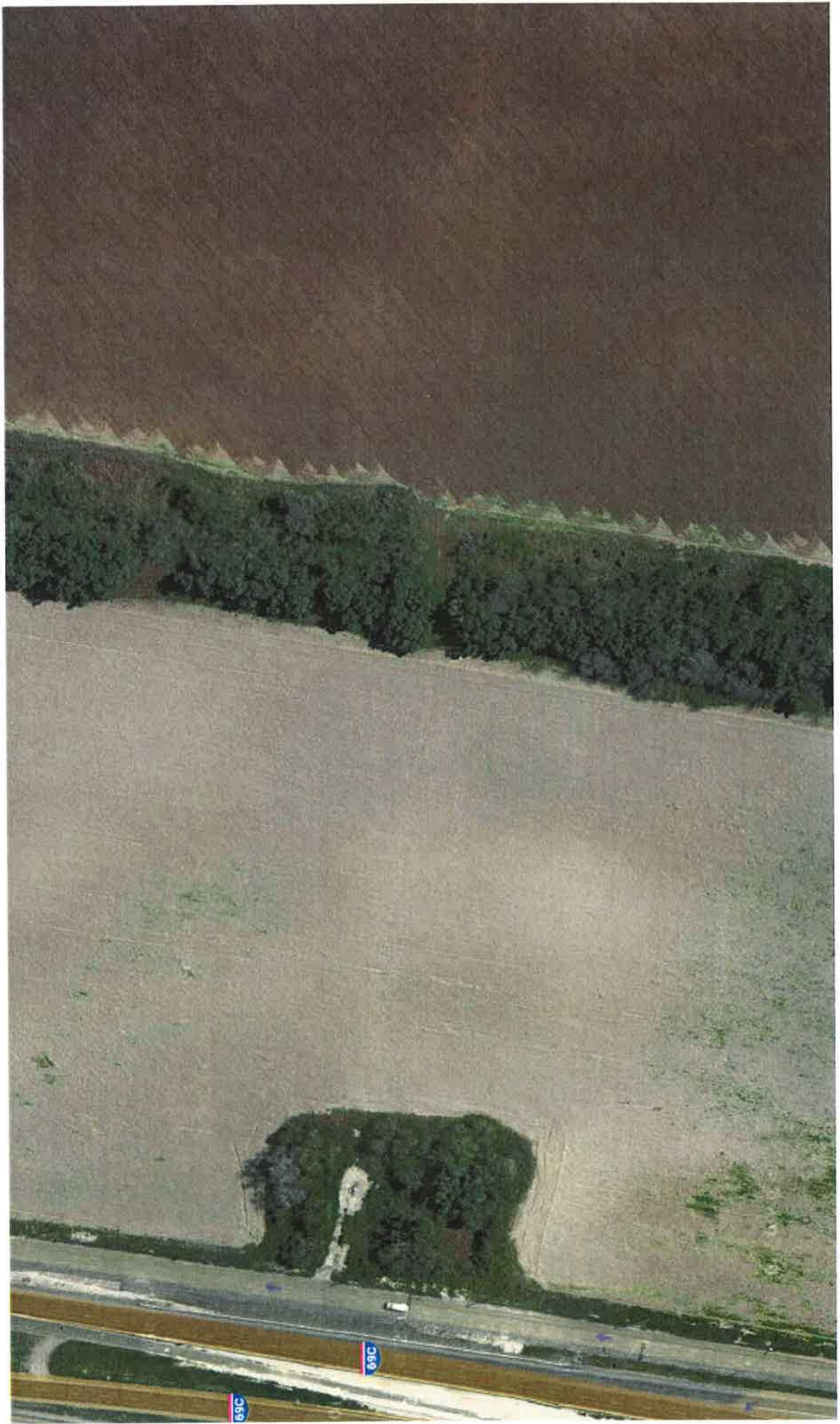
201

W Via Sol Dr

Caballo Ln

69C

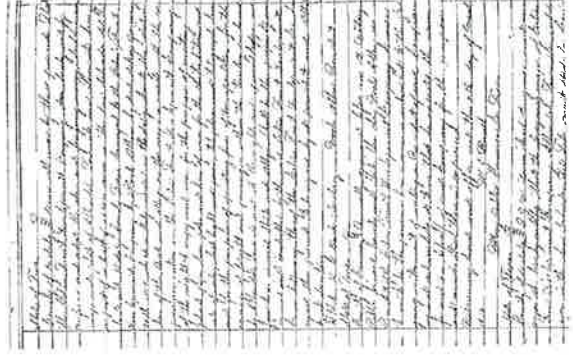
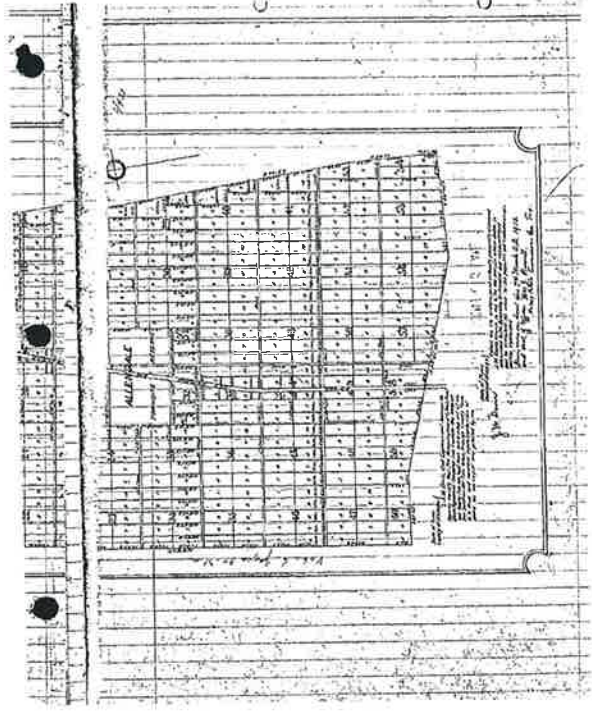




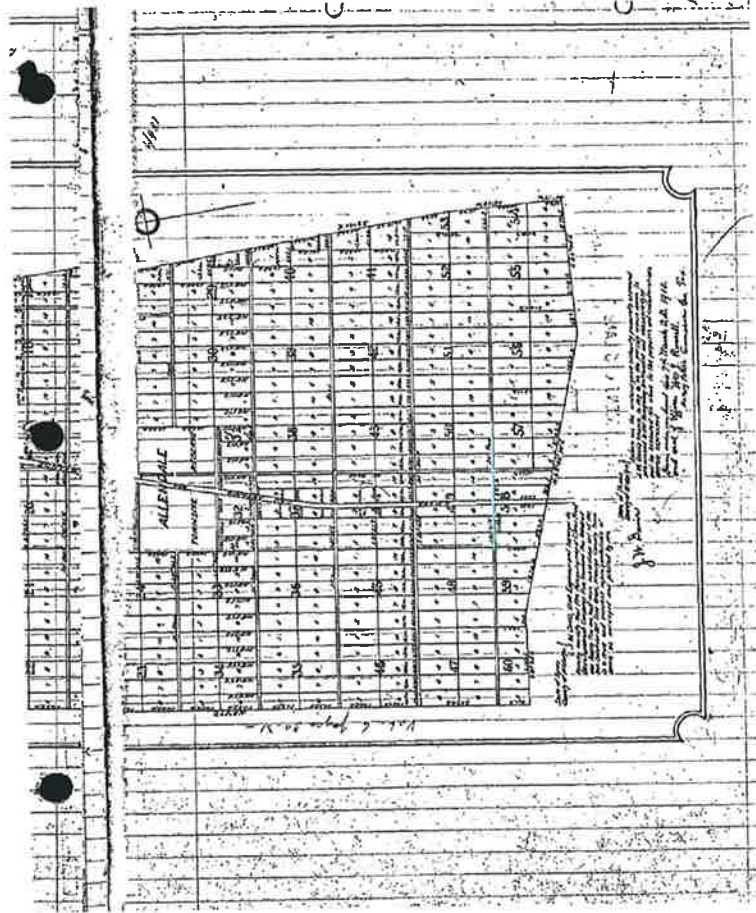


THE DEDICATION

- In 1909, the Citrus Fruit Development Property dedicated the property to public use.
- The dedication included a reservation for erecting “pipelines, poles, and lines of wire for the distribution and sale of water, heat, light and power”



THE DEDICATION



THE DEDICATION

*of the right to occupy and use for the purpose of erecting
public pipe lines, poles and lines of wire for the distribution and
sale of water, heat light and power, telephones and telegraph lines*

“the right to occupy and use for the purpose of erecting
_____ pipe lines, poles and lines of wire for the distribution
and sale of water, heat light and power, telephones and
telegraph lines”

State of Texas

County of Hidalgo, I know all men by these presents: That the Citrus Fruit Development Company, does hereby certify, confirm and adopt the above and foregoing survey, subdivision maps and plat of Allendale Townsite, said Townsite being a part of a tract of 2545 1/2 acres in the San Salvador del Te-
 lu Grant, Hidalgo County Texas, conveyed to the Citrus Fruit Development Company by Noah Allen by deed, dated January 25th, 1909, which was duly recorded in Hidalgo County, the dedication of the streets and alleys on the map is made with the express reservation in the Citrus Fruit Development Company of the right to occupy and use for the purpose of erecting poles, pipe lines, poles and lines of wire for the distribution and sale of water, heat, light and power, telephones and telegraph lines and for the purpose of operating lines of transportation for the carriage of freight and passengers within the territory embraced by Allendale Townsite and all the rights and powers, franchises and privileges in said streets and alleys shall be the property and be used and controlled by the said Citrus Fruit Development Co. in testimony whereof the Citrus Fruit Development Co. has caused these presents to be signed by its president and attested by its Secretary.

Attest H. H. Banker, Secretary

Noah Allen, President

State of Texas

County of Cameron, I personally appeared before me a Notary Public for said County and State, this day Noah Allen as President of the Citrus Fruit Development Company known to me to be the person whose name is subscribed to the foregoing instrument of writing as President of said Company and acknowledged to me that he executed the same for and on behalf of said Company for the purpose and consideration therein expressed.

Witness my hand and office seal this 2th day of March 1910.

W. J. Russell

Notary Public Cameron Co. Texas

State of Texas

County of Hidalgo, I, J. W. Jarvis, Civil Engineer and surveyor do hereby certify that the foregoing maps of Citrus Fruit Development Company, Allendale Townsite, subdivision shown in the San Salvador del Te-
 lu Grant

surveyed and plotted by one

J. W. Davis.

State of Texas

County of Cameron,

I before me the undersigned authority personally appeared J. W. Davis known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and considerations there in expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 4th day of March A.D. 1910.

Wm. Russell,

Notary Public, Cameron Co., Tex.

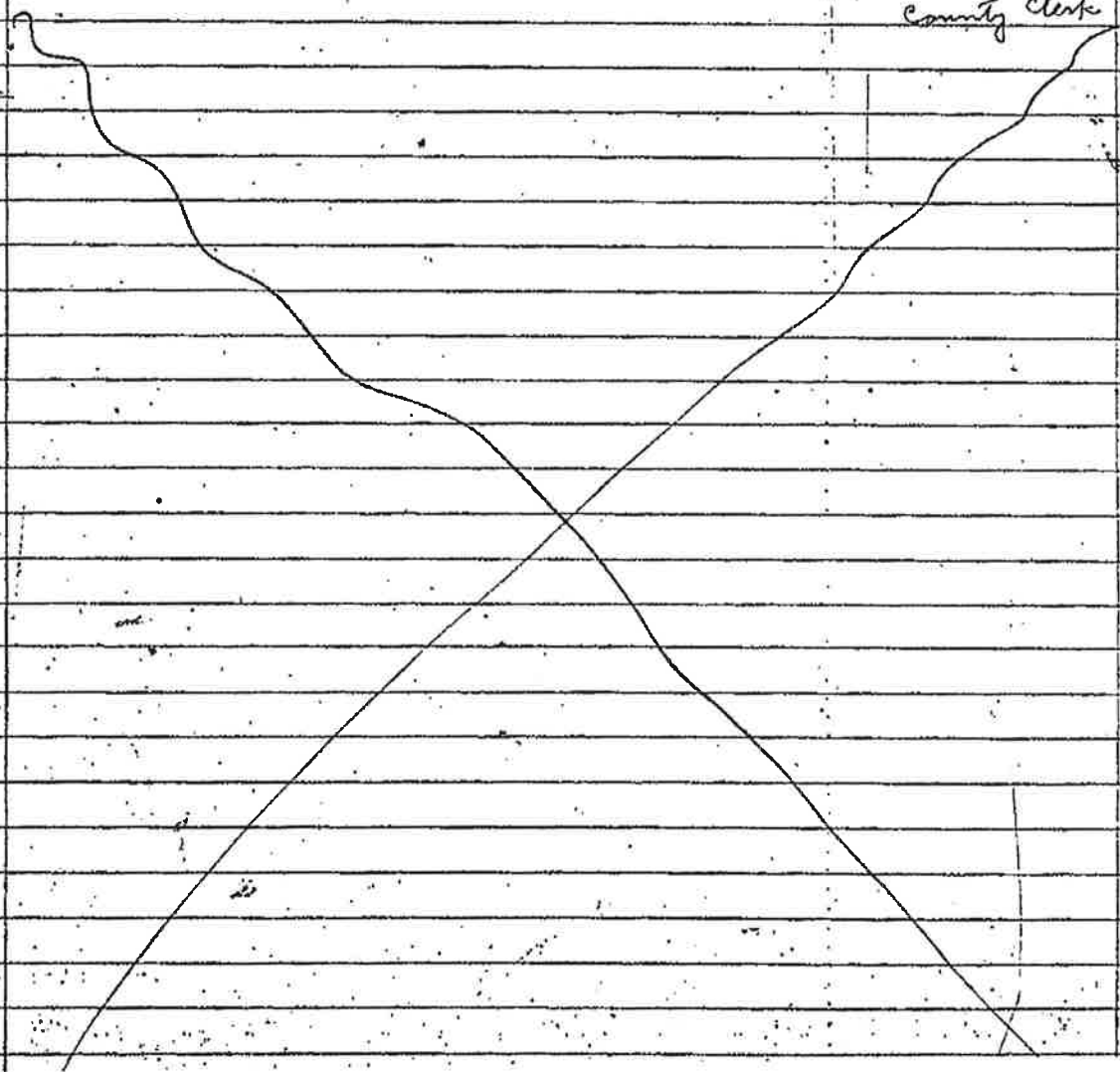
Filed for records this 4th day of March A.D. 1910 at 4:25 o'clock P.M.

A. G. Alvarez,

Clk. Sec'd. Hidalgo Co. Texas

Recorded April 11th 1910 at 3:15 o'clock P.M.

County Clerk



THE EXPRESS EASEMENT

- In 1943, the landowners granted Rio Grande Valley Gas Company an express easement to utilize the property to “construct, maintain and operate pipelines”

COUNTY OF HIDALGO I KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of (\$1.00) One and no/100 dollars to them in hand paid, the receipt of which is hereby acknowledged, the undersigned grantors do hereby GRANT, AND CONVEY to the RIO GRANDE VALLEY GAS COMPANY, a Delaware corporation, its successors and assigns, the right of way to construct, maintain and operate pipe lines, and to construct, maintain, and operate, telegraph and telephone lines in connection therewith, together with the necessary poles, guy wires and anchors, over and through the following described property situated in ~~in~~ Hidalgo County, State of Texas, to wit:

Lots 4, 5, 6 and 7 in Block 57, Citrus Fruit Development Company Subdivision, Hidalgo County, Texas, according to the map or plat thereof on file and of record in the office of the County Clerk of Hidalgo County, Texas, to which reference is here made for all purposes;

more fully described in deed from _____ to _____ recorded in Volume _____



THE EXPRESS EASEMENT

Upon written application to the RIO GRANDE VALLEY GAS COMPANY at Edinburg, Texas, the Grantee will make of cause to be made a tap on any gas pipe line constructed by the Grantee on Grantor's premises for the purpose of supplying gas to the Grantee for domestic use only.

THE EXPRESS EASEMENT

Upon written application to the RIO GRANDE VALLEY GAS COMPANY at Edinburg, Texas, the grantee will make or cause to be made a tap on any gas pipe line constructed by the grantee on grantor's premises for the purpose of supplying gas to the grantor for domestic use only,

- In 1957 Gas Company an express easement to utilize the property to "construct, maintain and operate pipelines"

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That for and in consideration of (\$1.00) One and no/100 dollars to them in hand paid, the receipt of which is hereby acknowledged, the undersigned grantors do hereby GRANT, AND CONVEY to the RIO GRANDE VALLEY GAS COMPANY, a Delaware corporation, its successors and assigns, the right of way to construct, maintain and operate pipe lines, and to construct, maintain, and operate, telegraph and telephone lines in connection therewith, together with the necessary poles, guy wires and anchors, over and through the following described property situated in ~~in~~ Hidalgo County, State of Texas, to wit: Lots 4, 5, 6 and 7 in Block 57, Citrus Fruit Development Company Subdivision, Hidalgo County, Texas, according to the map or plat thereof on file and of record in the office of the County Clerk of Hidalgo County, Texas, to which reference is here made for all purposes; more fully described in deed from _____ to _____ recorded in Volume _____

COUNTY OF HIDALGO | KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of (\$1.00) One and no/100 dollars to them in hand paid, the receipt of which is hereby acknowledged, the undersigned grantors do hereby GRANT, AND CONVEY to the BIG GRANDE VALLEY GAS COMPANY; a Delaware corporation, its successors and assigns, the right of way to construct, maintain and operate pipe lines, and to construct, maintain, and operate, telegraph and telephone lines in connection therewith, together with the necessary poles, guy wires and anchors, over and through the following described property situated in Hidalgo County, State of Texas, to wit:

Lots 4, 5, 6 and 7 in Block 57, Citrus Fruit Development Company Subdivision, Hidalgo County, Texas, according to the map or plat thereof on file and of record in the office of the County Clerk of Hidalgo County, Texas, to which reference is here made for all purposes; more fully described in deed from _____ to _____ recorded in Volume

Page _____ Deed Records of said _____ County, to which reference is here made for further description.

TO HAVE AND TO HOLD to it, the said RIO GRANDE VALLEY GAS COMPANY, its successors and assigns, so long as such lines shall be maintained, with ingress and egress to and from the same, for the purpose of constructing, inspecting, repairing and maintaining the same, and the removal of same, at will, in whole or in part. The said Grantors to fully use and enjoy the said premises, except for the purposes hereinbefore granted to the said RIO GRANDE VALLEY GAS COMPANY, which hereby agrees to bury all pipes to a sufficient depth so as not to interfere with cultivation, of soil, and to pay all damages which may arise to crops and fences from the construction, maintenance and operation of said pipe, telegraph and telephone lines; said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by the said grantors, their heirs or assigns, one by the said RIO GRANDE VALLEY GAS COMPANY, its successors or assigns; and the third by the two so appointed as aforesaid, and the written award of such three persons, or any two of them shall be final and conclusive.

Upon written application to the RIO GRANDE VALLEY GAS COMPANY at Edinburg, Texas, the grantee will make or cause to be made a tap on any gas pipe line constructed by the grantee on grantor's premises for the purpose of supplying gas to the grantor for domestic use only, the cost of meter, saddle and labor to be borne by said grantee; all other expenses, including fitting, to be borne by grantors, gas to be measured and furnished at the main line of grantee at the same price and under the same rules and regulations as prevail in the nearest city or town where grantee is supplying gas.

It is hereby understood that party securing this grant in behalf of Grantee is without authority to make any covenant or agreement not herein expressed.

Witness the execution hereof on this 30th day of March, A.D. 1943.

Signed and delivered in the presence of the undersigned witnesses:

L. A. GANNAWAY

JULIA S. GANNAWAY
Pro Forma

Right of Way Agent.

THE STATE OF TEXAS §§

COUNTY OF HIDALGO §§

Before me, Robert J. Enochs, a Notary Public in and for said County and State, on this day personally appeared L.A. Gannaway, 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 the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 30th day of March, A.D. 1943.



ROBERT J. ENOCHS
Robert J. Enochs

Notary Public in and for
Hidalgo County, Texas.

THE STATE OF TEXAS

COUNTY OF HIDALGO

Before me, Robert J. Enochs, a Notary Public in and for said County and State, on this day personally appeared Julia S. Gannaway, wife of L.A. Gannaway, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privately and apart from her husband, and having the same fully explained to her, she, the said Julia S. Gannaway acknowledged such instrument to be her act and deed, and declared that she

Given under my hand and seal of office, on this the 30th day of March A.D. 1943.



ROBERT J. BROCK
Robert J. Brock

Notary Public in and for
Hidalgo County, Texas

Filed for record the 3rd day of April 1943, at 9:25 A.M. and duly recorded this
the 21st day of April 1943, at 1:25 P.M.



C. D. KIRKLAND, COUNTY CLERK
HIDALGO COUNTY, TEXAS.

BY I. BRENNAN DEPUTY.




THE FRANCHISE AGREEMENTS

AN ORDINANCE REPEALING SECTION 7 OF THAT CERTAIN ORDINANCE PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS ON THE 25th DAY OF OCTOBER, 1926, GRANTING THE RIGHT, PRIVILEGE AND FRANCHISE TO DISTRIBUTE NATURAL GAS IN THE CITY OF EDINBURG

1952

1955

2002



and further, to acquire, lay, use, maintain and operate in, through, upon, under, and along the streets, avenues, alleys, lanes, highways, parks, and public places and on, along, across, under any streams, watercourses, or waterways, a system of gas mains, and all service pipes, conduits, feeders, and the necessary attachments, connections, fixtures and appurtenances for distributing, supplying and selling natural gas

ORDINANCE NO. 147

AN ORDINANCE REPEALING SECTION 7 OF THAT CERTAIN ORDINANCE PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS ON THE 25th DAY OF OCTOBER, 1926, GRANTING THE RIGHT, PRIVILEGE AND FRANCHISE TO DISTRIBUTE NATURAL GAS IN THE CITY OF EDINBURG BY RIO GRANDE VALLEY GAS COMPANY, REGULATING SAID DISTRIBUTION AND PROVIDING FOR RATES TO BE CHARGED TO CONSUMERS OF NATURAL GAS AND PROVIDING OTHER REGULATIONS FOR THE CONDUCT OF SAID SYSTEM AND AMENDING SAID ORDINANCE BY SUBSTITUTING A NEW SECTION 7 WITH REFERENCE TO THE RATES TO BE CHARGED TO CONSUMERS OF NATURAL GAS

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF EDINBURG, TEXAS:

1952 Ord.
1926 7
cell super.
later franchise
obtained in 195.

No longer applies

RBJ
1-14-64

Section 1. Section 7 of that certain ordinance and adopted by the Board of Commissioners of the Edinburg on the 25th day of October, 1926 a franchise to Rio Grande Valley Gas Company natural gas service within the City of Edinburg repealed.

Section 2. In lieu of said Section 7, which is repealed, there shall be substituted a new said franchise, to read as follows:

SECTION 7. (A) The grantee shall not charge any higher rate for natural gas furnished for any domestic consumer within the limits than the rate fixed by the Railroad Commission of Texas, Gas Utilities Division, heretofore made or any orders hereafter.

(B) Grantee shall be entitled from each and every consumer of gas, when service is commenced, a deposit of an amount of an estimated average monthly bill. Said deposit may be retained by the grantee until service is discontinued and all bills have been paid. Grantee shall return said deposit to the consumer, together

with four (4%) per cent interest thereon from the date of said deposit up to the date of discontinuance of service. Grantee shall be entitled to apply said deposit, with accrued interest, to any indebtedness owed Grantee by the consumer making the deposit.

The above and foregoing ordinance was passed on its first reading on this the 7th day of August 1952.

The above and foregoing ordinance was passed on its second reading on the 19th day of August, 1952.

The above and foregoing ordinance was passed on its third reading and was duly declared finally passed on the 2nd day of September, 1952.

/s/ Chester E. Blodget
Mayor, City of Edinburg, Texas
CHESTER E. BLODGET

ATTEST:

/s/ Paul W. Henderson
City Clerk
PAUL W. HENDERSON

(SEAL)

ORDINANCE NO. 182

AN ORDINANCE GRANTING TO RIO GRANDE VALLEY GAS COMPANY THE RIGHT, PRIVILEGE AND FRANCHISE TO DISTRIBUTE NATURAL GAS IN THE CITY OF EDINBURG, HIDALGO COUNTY, TEXAS; REGULATING SAID DISTRIBUTION; PROVIDING FOR THE RATES TO BE CHARGED TO CONSUMERS OF NATURAL GAS; PROVIDING OTHER REGULATIONS FOR THE CONDUCT OF SAID SYSTEM BY THE GRANTEE, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF EDINBURG, TEXAS:

SECTION 1. Subject to the terms and conditions mentioned in this Ordinance, the right, privilege and franchise is hereby granted to Rio Grande Valley Gas Company, a Texas corporation, and to its successors, lessees and assigns, to acquire, lay, construct, operate and maintain a system of mains, pipes, conduits and feeders and the necessary plants, attachments and appurtenances for the purpose of supplying and distributing natural gas for fuel, power, heat, light, and for other purposes, or for any or either of them in the City of Edinburg, Hidalgo County, Texas, including any territory that may hereafter be annexed thereto; and further, to acquire, lay, use, maintain and operate in, through, upon, under, and along the streets, avenues, alleys, lanes, highways, parks, and public places and on, along, across, under any streams, watercourses, or waterways, a system of gas mains, and all service pipes, conduits, feeders, and the necessary attachments, connections, fixtures and appurtenances for distributing, supplying and selling natural gas

for fuel, power, heat, light and for any other purposes to the City of Edinburg, and to the inhabitants thereof, and for distributing, supplying and conveying said natural gas through a system of mains, pipes, conduits and feeders, for the purpose of distributing, supplying and selling natural gas for fuel, power, heat, light and for any other purpose, to other cities, towns or communities, and areas outside the City Limits of Edinburg and rural thereto, and to the inhabitants thereof, for the full term of this franchise.

SECTION 2. The mains and pipes of the grantee shall be laid in alleys, streets, and avenues, the alleys to be used in all instances where practical, and when in streets and avenues shall be laid in a line parallel with the curb line thereof, or in such locations as shall be most practical, provided, however, that in no case shall the main pipe be laid less than 18 inches below the established city grade, without permission of the City Engineer.

When the grantee shall desire to lay any mains hereunder, and before commencing said work, it shall submit to the Board of Commissioners, or other proper authority, a map or plan showing the streets, avenues, alleys, and other public places wherein it proposes to lay said mains, and when said plan shall have been approved by the Board of Commissioners or other proper authority or officer appointed by the said Board, to

approve such plan, they shall then constitute a permit to the grantee for the opening of all of said streets, avenues, alleys and other public places shown on said map or plan, and for the laying of said mains and other equipment by the grantee, as rapidly as work can be conveniently conducted by it. Provided, however, that it shall not be necessary for grantee herein to secure such permit for the laying of service pipes from the main pipes of the grantee, but a general permit from the City Engineer for this purpose shall be deemed sufficient.

SECTION 3. In the opening and refilling of all openings made by the grantee, it shall relay the pavements and do all other work necessary to the complete restoration of the streets, pavements, sidewalks, or grounds to a condition equally as good as when disturbed, and when the grantee shall open any ground in said city for the purpose of laying any gas pipes or for any other purpose whatever, the grantee shall open no more space at any time, or at any one place, nor keep the same open any longer than is necessary to properly execute the work for which same shall have been opened.

SECTION 4. The grantee, its successors, lessees or assigns, shall at all times be subject to all lawful City Ordinances now in existence, or which may hereafter be passed, not inconsistent herewith.

No fee or other charge of any kind shall be imposed upon the grantee, or upon any consumer of gas for the breaking or opening of any streets or other public places or for the laying of mains, service pipes or other connections therein except as provided for hereunder.

Nothing in this franchise shall be construed in such a manner as to in any way abridge the right of the City of Edinburg to pass the necessary police ordinances for the protection of the citizens of Edinburg, and their property, and the property of this grantee.

The grantee shall at all times display and keep the necessary danger signals and proper guards around all excavations and obstructions, and shall keep sufficient space in good condition for the travel of wagons and teams, and motor vehicles, et cetera, on at least one side of all excavations and obstructions, and shall as soon as practicable, restore all openings and the streets and public places to a condition equally as good as before said openings and obstructions were made.

SECTION 5. The grantee shall do no permanent injury to any street, avenue, alley, lane, bridge, stream, watercourse, park, public place, nor in any manner disturb or interfere unnecessarily with electric lines, conduits, or equipment or with any water

or other pipes, nor with any public or private sewer now or hereafter laid or constructed by said City or by any authorized person or corporation, but no electric conduits or water or sewer pipes or other pipes shall be so laid as to interfere unnecessarily with any gas mains or pipes which shall be laid prior to the time of laying such electric conduits, sewer or water pipes or other pipes.

SECTION 6. The grantee shall supply gas at the rate and under the conditions herein specified, to all applicants not in arrears for prior bills for gas, service pipes, appliances, or other things, owning or occupying premises on streets, avenues or other public places in which gas mains or conduits are laid.

SECTION 7. (A) The grantee shall not charge or receive any higher rate for natural gas furnished by it for any domestic consumer within the City Limits than the rate fixed by the Railroad Commission of Texas, Gas Utilities Division, by order heretofore made or any orders hereafter.

(B) Grantee shall be entitled to require from each and every consumer of gas, before gas service is commenced, a deposit of twice the amount of an estimated average monthly bill, which said deposit may be retained by Grantee until service is discontinued and all bills therefor have been

Paid. Grantee shall then return said deposit to the consumer, together with interest thereon in such minimum amount as is now, or may hereafter be, provided by law, from the date of said deposit up to the date of discontinuance of service.

SECTION 8. Grantee shall charge and receive for natural gas furnished by it for any commercial and industrial consumer within the City Limits such rates as it may from time to time elect, but there shall be no discrimination in rates between industrial consumers using equal daily quantities of gas under similar conditions.

SECTION 9. All service pipes shall be maintained by the grantee to the curb line of the consumer, but it shall be entitled to charge for furnishing and laying service pipes from the curb line to and through the buildings at cost plus ten per cent per lineal foot, but it is optional with the consumer as to whether he shall employ grantee or not; and the grantee, its successors or assigns, shall have the right to make and enforce as a part of the conditions on which it shall supply heat, light, power and fuel as herein provided, all needful rules, regulations not inconsistent with law, or the provisions of this Ordinance.

SECTION 10. This ordinance shall continue and remain in force for a period of thirty (30) years from and after the date which it shall become effective.

SECTION 11. The grantee shall, in the event of its desiring a renewal of this franchise, so notify the Board of Commissioners within the last five years prior to its expiration, and in case this franchise shall not be renewed, then all operations hereunder shall cease, and in that event, the City of Edinburg at its option, may purchase, in the manner then provided by its Charter, Ordinances and Laws of Texas, the works, apparatus, mains, pipes, meters and supplies of the grantee, its successors or assigns for its reasonable value at said time. And if said Franchise shall not be renewed and the City shall not exercise its option to purchase, the grantee may in such event, and after the expiration of this franchise, remove all of such works from the streets and alleys of Edinburg, Texas, in which event it shall restore said streets, alleys, parks and public places in the City of Edinburg, Texas, to equally as good condition as same were before such removal, such work to be done under the direction and supervision of the proper authority of the City of Edinburg, Texas, and at the cost and expense of grantee, for which the City may require security in advance.

SECTION 12. The grantee herein is expressly given the power and privilege to sell, transfer and assign said franchise to any person or corporation.

SECTION 13. Whenever the words "the grantee" occur in this Ordinance, same shall mean and shall be understood to be Rio Grande Valley Gas Company, its successors, lessees or assigns, and any individual, partnership, corporation, receiver, or other person or authority owning or operating such franchise or plant; and whenever the words "authority" or "proper authority" occur in this Ordinance, they mean and shall be understood to be the authorized officer or officers, committee or body representing the City of Edinburg, Texas.

SECTION 14. The grantee, by accepting or acting under this grant, shall pay to the City of Edinburg, as a franchise tax and as compensation for the rights and privileges enjoyed hereunder, during the life of this grant, two (2%) per cent of its gross income derived from all gas sales within the City of Edinburg, Texas. Such payment shall be based on receipts for each 12-month period ending December 31, and payment shall be made on or before April 1 of each and every year, beginning April 1, 1956. This tax shall be in lieu of all other franchise, license or occupation taxes, levies, rentals or charges which may be levied or attempted to be levied by the said City of Edinburg, Texas. The Board of Commissioners may, when it may see fit, have the books and records of grantee examined by a representative of the City

to ascertain whether such statement and tax is accurate, but nothing in this ordinance shall be construed to prevent the City from ascertaining the facts by any other legal method.

SECTION 15. All Ordinances or parts of Ordinances in conflict herewith, are hereby repealed.

SECTION 16. It shall be the duty of grantee herein to serve, through its distribution system, all business and industrial sections within the corporate limits of the City of Edinburg, and all residential sections where there are four or more houses located on each city block, provided that no more than one city block having no consumers of gas intervenes between this block and the end of any main or lateral then existing, and provided that grantee shall not be required to extend mains or pipe more than one hundred (100') feet for any one customer for natural gas.

SECTION 17. In such cases as providential hindrance, strikes, inability to get pipe, or railroads delaying in moving pipe, or other causes beyond the control of the grantee, it shall not suffer therefor, but the proper authorities are to extend such time as is necessary, providing grantee is pursuing work with due diligence.

SECTION 18. This franchise shall be subject to all lawful statutory provisions of the general laws

of Texas and the Charter of the City of Edinburg, whether or not such statutory provisions of the general laws and of said Charter are specifically mentioned herein, and in the event of conflict between the terms of this franchise and said provisions of general law or said Charter, the latter shall control.

SECTION 19. This ordinance shall take effect and be in force sixty (60) days after its final passage and publication in the manner prescribed by Article XII, Section 2 of the Charter of the City of Edinburg.

SECTION 20. The grantee shall, within sixty days from the approval of this ordinance by the Mayor, file in the office of the City Clerk its consent to and written acceptance of provisions and conditions of this ordinance.

PASSED by the Board of Commissioners of the City of Edinburg, Texas, this the 2nd day of August, A. D. 1955.

APPROVED by the Mayor of the City of Edinburg, Texas, this the 8 day of Aug , A. D. 1955.

/s/ Nix Harrington, Mayor
City of Edinburg, Texas

ATTEST:

/s/ Paul W. Henderson
City Clerk
City of Edinburg, Texas

(SEAL)

The above and foregoing ordinance and the grants, franchise, powers, rights and privileges thereto were accepted by Rio Grande Valley Gas Company on and as of the date thereunder, to-wit: the 9th day of August, 1955.

RIO GRANDE VALLEY GAS COMPANY

By /s/ L. O. Vogelsang
Vice-President

ATTEST:

(SEAL) /s/ W. H. Meredith
Assistant Secretary
W. H. Meredith

THE STATE OF TEXAS §

COUNTY OF CAMERON §

BEFORE ME, a Notary Public in and for said County, State of Texas, on this day personally appeared L. O. Vogelsang, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the Rio Grande Valley Gas Company, a corporation, and that he executed the same as the act of such corporation, for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 19th day of August, A. D. 1955.

(SEAL) /s/ R. T. McMinn
Notary Public, Cameron County,
Texas

FILED in the office of the City Secretary of the City of Edinburg, Texas, this 22nd day of August, 1955.

(SEAL) /s/ Paul W. Henderson
Paul W. Henderson, City Secretary
City of Edinburg, Texas

ORDINANCE NO. 02-2462

AN ORDINANCE GRANTING TO SOUTHERN UNION GAS COMPANY THE RIGHT, PRIVILEGE AND FRANCHISE TO USE STREETS, ALLEYS AND THOROUGHFARES TO OPERATE AND MAINTAIN A NATURAL GAS DISTRIBUTION SYSTEM IN THE CITY OF EDINBURG, HIDALGO COUNTY, TEXAS; PROVIDING REGULATIONS FOR THE CONDUCT OF THE SYSTEM BY THE GRANTEE; PROVIDING FOR THREE SEPARATE READINGS; PROVIDING A REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

SECTION 1.

a. Subject to the terms and conditions of this Franchise Ordinance, the right, privilege and franchise is hereby granted to Southern Union Gas Company, a division of Southern Union Company, a Delaware Corporation (hereinafter "Grantee"), and to its successors, lessees and assigns, to have, own, acquire, install, construct, reconstruct, operate, maintain, use, and extend a system of mains, pipelines, conduits, valves, feeders, regulator stations, laterals, service lines, measuring devices, and all other necessary plants, attachments, land, structures facilities and appurtenances (hereinafter the "System") for the purpose of selling, storing, supplying, conveying, transmitting, distributing, and/or transporting natural gas, including the equivalent substitutes, for all other lawful purposes in, through, upon, under, and along the present and future streets, avenues, alleys, bridges, sidewalks, parks, easements, highways, and any other public places including any streams, water courses or water ways within the City limits of the City of Edinburg, Hidalgo County, Texas (the "City"), and including any territory that the City may hereafter annex, acquire or purchase; and to distribute, sell, store, supply, transport, carry and/or convey natural gas through the System in the City to other cities, towns,

communities and areas outside the City and to inhabitants thereof, for the full term of this Franchise Ordinance.

b. For purposes of this Franchise Ordinance, "Transport Gas" or "Transported Gas" shall mean gas owned or controlled by a user or its designee (i.e. gas that is purchased or otherwise acquired by a user from someone other than Grantee) and delivered by such user or its designee to Grantee at a point on Grantee's distribution system, such point of delivery to be defined by Grantee, and carried, delivered or transported through Grantee's System at a point of redelivery in the City by Grantee to the user for a fee

SECTION 2.

a. The mainlines and service pipes of the Grantee shall be laid in alleys, streets, and avenues, and other public places, and when in streets and avenues, shall be laid parallel with the curb line thereof, or in such locations as shall be most practical.

b. When the Grantee shall desire to lay any mains hereunder, and before commencing its construction work, it shall submit to the City Engineer, or other proper authority, a map or plan showing the streets, avenues, alleys, and other public places wherein it proposes to construct its facilities. The City Engineer, or other proper authority, shall respond in writing to Grantee within ten (10) calendar days of Grantee's submission either approving or rejecting the plan and if a rejection, listing the reasons for such rejection, otherwise the approval of the City shall be deemed to have been granted to Grantee. Actual or deemed approval by the City Engineer, or other proper authority shall constitute a permit to the Grantee for the opening of all of the streets, avenues, alleys and other public places designated in the submission for work, and for the construction or laying of the mainlines and other facilities or equipment by the Grantee (the "Permit"). Provided, however, that it shall not be necessary for Grantee to secure a permit for the laying of service pipes from the mainline pipes of the

Grantee to its customers. No Permit shall be required for purposes of making emergency repairs, replacements or modifications to Grantee's facilities; however, Grantee shall notify the City within a reasonable time after any such emergency repair involving City public property.

c. In the refilling of all openings made by the Grantee, it shall attempt to restore the City public rights-of-way to a condition reasonably approximate to the original condition, and when the Grantee shall open any ground in the City rights-of-way, the Grantee shall open no more space nor keep the space open any longer than is reasonably necessary to properly execute the work for which such space shall have been opened. The Grantee shall at all times display and keep the necessary danger signals and barricades around all excavations and obstructions, and shall keep sufficient space in good condition for the travel of automobiles, trucks, and other motor vehicles, on at least one side of all excavations and obstructions.

SECTION 3. Except as provided in Section 13, the Grantee, its successors, lessees or assigns, shall at all times be subject to any Ordinances now in existence, or which may hereafter be passed, not inconsistent herewith. No fee or other charges of any kind shall be imposed upon the Grantee for the breaking or opening of any streets or other public rights-of-way or for the laying, construction, or maintenance of mainlines, service pipes or other facilities therein except as provided for hereunder. Nothing in this Franchise Ordinance shall be construed in such manner as to in any way abridge the right of the City to pass the necessary police ordinances for the protection of the citizens of the City and their property, and the property of this Grantee.

SECTION 4. Subject to an exception for emergencies, the Grantee shall do no permanent injury to any street, avenue, alley, lane, bridge, stream, watercourse, park or public place. Grantee and City shall exercise reasonable efforts to ensure that any future installations of utilities in City rights-

of-way by Grantee, City or other utility providers authorized by City do not interfere unnecessarily with any facilities of Grantee, City or other utility providers.

SECTION 5. Grantee, and its successors and assigns, shall have the right to adopt and enforce Rules of Service for service hereunder not inconsistent with law or this Franchise Ordinance. Grantee shall supply natural gas and provide regulated services at the rates and under the terms and conditions specified by such rules, its tariffs filed with the City and as provided herein, but nothing in such rates and terms and conditions shall be deemed or construed to abridge, amend or change any of the terms or provisions of this agreement

SECTION 6. This Franchise Ordinance shall continue and remain in full force and effect for a period of twenty (20) years from and after the date it shall become effective.

SECTION 7.

a. In the event Grantee shall desire renewal of this Franchise Ordinance, the Grantee shall notify the City within the last twelve (12) months prior to the expiration of the Franchise Ordinance. If the City refuses to renew this Franchise Ordinance with the Grantee, the City, at the City's option, shall have the right to purchase for cash the System assets of the Grantee located within the corporate limits of the City for the market value of such System assets, appraised as an ongoing business without regard to the lack of a franchise ordinance (the "Appraised Value").

b. In order to exercise the option to purchase, the City must provide written notice to Grantee at least six (6) months prior to the expiration of the Franchise Ordinance of the City's intention to purchase (the "Notice"), or such option is waived. The determination of the Appraised Value shall be accomplished as set forth below. The Grantee and the City shall meet within thirty (30) days of the Notice and attempt to reach agreement upon the Appraised Value. In the event the Grantee and the City cannot reach agreement upon the Appraised Value within such thirty (30) day period, Grantee

and the City shall each appoint a qualified business appraiser, with a reasonable level of experience in business valuations of utility assets. The appraisers so appointed shall each render an opinion as to the Appraised Value within ninety (90) days of the Notice. If the two opinions differ by 10%, or less, of the higher value, the average of the values shall be the Appraised Value. If the two opinions differ by more than 10% of the higher value, the appointed appraisers shall select a mutually agreeable independent business appraiser (with reasonable level of experience in business valuations of utility assets), who shall provide an opinion as to the Appraised Value to both parties within one hundred fifty (150) days of the Notice. The value assigned by the independent appraiser and the closest value assigned by either of the appointed appraisers shall be averaged to produce the Appraised Value.

c. Both parties shall use good faith efforts to reach agreement on the terms and conditions of the purchase and to close the purchase transaction prior to the expiration of the term of the franchise ordinance. Each party shall bear its own costs and expenses associated with the purchase transaction and shall share equally all costs of the independent business appraiser.

d. In the event the City exercises the option to purchase Grantee's system, such purchase must be closed within six (6) months following the term of the Franchise Ordinance. In such event, the franchise term shall be deemed extended for such time as required to finalize the purchase, but no longer than six (6) months in any event. In the event the City decides not to purchase Grantee's system or the City is financially unable to close the purchase of the Grantee's system within six (6) months following the term of the Franchise Ordinance, the City's purchase right shall be deemed waived and the City shall reimburse Grantee for all of Grantee's costs and Grantee's expenses paid to third party's (including, without limitation, its reasonable accounting and attorneys' fees) expended in preparing for the purchase transaction.

e. In the event the City does not exercise the option to purchase and this Franchise Ordinance is not renewed or extended, at the expiration of the franchise term the Grantee may, at its sole option either: (1) abandon its facilities in place in accordance with the Regulations of the Railroad Commission of Texas, in which case the City shall support Grantee's abandonment filing at the Railroad Commission; or (2) as long as Grantee and the City continue to negotiate in good faith to enter into a new or amended Franchise Ordinance, continue to operate under the terms and conditions of this Franchise Ordinance, until a new, mutually agreeable Franchise Ordinance between the City and Grantee is effective; or (3) remove the facilities from public property at Grantee's expense. If removal is instituted, it must be completed within eighteen (18) months after the expiration of this Franchise, or any extension thereof, and public property must be returned to a condition reasonably equivalent to its condition prior to the removal; or (4) any combination of the foregoing. Nothing in this section shall prohibit the City and Grantee from mutually agreeing to extend the term of this Franchise Ordinance so as to allow for good faith negotiations on a new Franchise Ordinance.

SECTION 8. The Grantee may not sell, transfer or assign any portion of the rights, privileges or duties required by this Franchise Ordinance without the express written consent of the City, such consent not to be unreasonably withheld. Notwithstanding the foregoing, the consent of the City shall not be required by Grantee in order to transfer this Franchise Ordinance to a purchaser who purchases all or substantially all of the distribution assets owned by the Grantee located in the Rio Grande Valley region of Texas.

SECTION 9. Whenever the words "the Grantee" occur in this Franchise Ordinance, it shall mean and shall be understood to be Southern Union Gas Company, a division of Southern Union Company, its successors, lessees or assigns, and any individual, co-partnership, corporation, receiver, or other person or authority owning or operating such franchise or plant; and whenever the words

“authority”, “proper authority”, “Edinburg” or “City” occur in this Franchise Ordinance they mean and shall be understood to be the authorized officer or officers, committee, city council, commission, designee or other body representing the City of Edinburg, Texas.

SECTION 10.

(a) As full consideration for the rights and privileges conferred by this Franchise Ordinance, and as a rental charge for the use of the streets, alleys and public ways, Grantee shall pay to the City a sum of money, known as the “Franchise Fee”, equal to the sum of the following: (1) five percent (5%) of Grantee’s actual Gross Receipts from Gas Sales (as defined in Section 10(b)) to Grantee’s customers located in the City; plus (2) five percent (5%) of Grantee’s actual Gross Receipts from Gas Transportation (as defined in Section 10(b)) to Grantee’s customers with re-delivery points located in the City; plus (3) five percent (5%) of Grantee’s actual Gross Receipts from all Utility Regulated Service Charges (as defined in Section 10(b)).

(b) Subject to the other provisions herein, Gross Receipts from Gas Sales shall mean: (1) Grantee’s total actual receipts from its gas sales to customers located within the corporate limits of the City consisting of the following receipts: (i) cost of service, (ii) purchased gas costs and (iii) applicable Franchise Fees and gross receipts taxes. Gross Receipts from Gas Transportation shall mean Grantee’s total actual receipts from its transportation of third party gas for re-delivery to customers with re-delivery points located within the corporate limits of the City consisting of its receipts from cost of service and applicable Franchise Fees and gross receipts taxes. Grantee’s Gross Receipts from Gas Sales and Gross Receipts from Gas Transportation subject to Franchise Fee shall specifically exclude, but not be limited from excluding: (1) receipts from non-regulated miscellaneous service charges (e.g. charges for appliance light-ups, returned checks, etc.), (2) receipts from gas sales or gas transportation services to customers located at delivery points outside the corporate limits of

the City, (3) receipts from gas consumed or transported by Grantee for its own use, (4) bad debt or uncollected accounts, (5) receipts collected for gas utility taxes (Chapter 122 of the Texas Utility Code) (6) receipts for any taxes, other than Franchise Fees and gross receipts taxes, (7) receipts for construction advances or contributions in aid of construction, (8) receipts for maintenance of appliances, machinery or equipment, (9) receipts for compensation for damage to Grantee's property, (10) receipts from sales of materials, appliances or equipment, and (11) receipts from any non-utility or non-regulated services or products.

Utility Regulated Service Charges are charges for services (but not for natural gas sales or transportation services) that (a) Grantee provides to its customers located within the corporate limits of the City and (b) which are or may, from time to time, become legally subject to the rate regulation of the applicable regulatory authority. By way of example only, any such Utility Regulated Service Charges currently include receipts of Grantee from its customers in the City for connections, disconnections and meter tests. Such Utility Regulated Service Charges currently do not include receipts of Grantee from its customers in the City for appliance sales, appliance light-ups, maintenance of customer equipment or facilities and all other receipts that are not legally subject to the rate regulation of the applicable regulatory authority.

(c) Grantee shall pay the City under the terms of franchise ordinance number 1129, including its gross receipts for its gas sales to customers located in the City for meters read on or before September 25, 2001. Such payment will be delivered to the City as required by that franchise ordinance, except that the continuing obligations under ordinance number 1129 shall cease upon the effective date of this Franchise Ordinance. The first Franchise Fee payment due under this Franchise Ordinance shall be based upon meters read on or after September 25, 2001. During the term of this Franchise Ordinance, Grantee shall pay the City in May and November for the preceding six months,

not including May and November. Grantee shall include with the Franchise Fee payment a statement showing its gross Receipts from Gas Sales, Gas Transportation in the City and Utility Regulated Service Charges in the City, including the calculation of the Franchise Fee for the subject time period. Such statement shall be in a mutually agreeable format. Collection and payment of Franchise Fees shall be final as to both parties unless questioned by written notice provided to the other party within six (6) years after payment thereof has been made.

(d) It is expressly agreed that the Franchise Fee payments shall be in lieu of any payments for the right to use the public rights-of-way of the City, including expressly the charge permitted to be levied by V.T.C.A. Tax Code §§ 182.021-182.026 and 182.081-182.082, or any successor statute permitting such a charge, however designated. The Franchise Fee shall be in lieu of and accepted as payment of all of Grantee's obligations to pay all other franchise, license, easement or occupation taxes, levies, exactions, fees, rentals, street-cut fees, inspection fees, permit fees, franchise fees, easement taxes, or charges of any kind whatsoever which may be levied or attempted to be levied by the City for use of City's rights-of-way. Sales taxes and ad valorem taxes are not excused or released. Franchise Fees are understood not to be taxes.

(e) It is expressly agreed by the City that the Franchise Fees defined in this Franchise Ordinance are a reasonable and necessary operating expense of Grantee and shall be fully recovered by Grantee through the terms of its applicable rate ordinances or schedules for its customers in the City.

(f) The City may, upon reasonable prior written notice and during reasonable business hours, inspect and review the books and records of Grantee to verify the amount of Franchise Fees payable and due. It is understood and agreed that such representative may be an independent agent, assigned by the City to conduct such inspection of Grantee's books and records.

(g) The rights, privileges, and franchise granted by this Franchise Ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time as it may see fit, like privileges, rights, and franchises to any other person or corporation for the purpose of furnishing gas in the City.

(h) The City shall be paid a franchise fee once with respect to the same gas sold by Grantee within the City. Should the City receive or be entitled to receive from any other company, firm, corporation or person a franchise fee or similar street rental fee payment from the sale of the same or equivalent gas upon which Grantee is obligated to pay a Franchise Fee, then the aggregate amount which the City has received or is entitled to receive from such other company, firm, corporation or person with respect to such same or equivalent gas sold by Grantee shall be deducted from, and reported with, the Franchise Fee payment to be made to the City by Grantee hereunder. This section is intended to apply only to the gas purchased by Grantee for resale to its customers within the City. Upon request of Grantee, the City agrees to provide Grantee, within a reasonable time of its receipt, with written notice setting forth the amounts of any such franchise fee or other fee received for the use of its streets for the sale of the same or equivalent gas in the City that is ultimately delivered through Grantee's system in the City.

SECTION 11. The City shall notify Grantee in writing of the annexation of any new territory into the City limits of Edinburg. Upon receipt of notice of annexation from the City, Grantee shall commence payment on sales in this newly annexed territory as soon as reasonably possible, but in no event later than ninety (90) days after receipt of notice of annexation from the City.

SECTION 12. If any dispute arises between the City and the Grantee, or any of their affiliates (collectively the "Parties", or individually a "Party"), relating to this Franchise Ordinance, and the

parties are unable to mutually agree upon a resolution of such dispute, then the Parties agree to utilize non-binding mediation prior to taking any legal action as set forth below:

a. A meeting shall be held promptly between the Parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute (the "Initial Meeting").

b. If within thirty (30) days after the Initial Meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable mediator, who is not affiliated with either of the Parties, qualified by education and training to conduct a non-binding mediation (the "Mediator"). In the event the Parties have been unable to agree upon such appointment within fifty (50) days from the Initial Meeting, the Parties shall seek the assistance of a mutually agreeable person or dispute resolution organization to appoint the Mediator. The fees of the Mediator shall be shared equally by the Parties. Each Party in such proceedings shall bear its own costs and expenses for the mediation. All other costs and expenses of the mediation proceeding shall be borne equally by both Parties.

c. In the event the Mediator provides a determination, in writing, that the mediation is unsuccessful or in the event no resolution has been reached within 100 days of the Initial Meeting, either party may pursue all available legal remedies.

d. It is understood and agreed by the parties that this Section shall apply only to actions that are not otherwise required to be handled as an administrative matter as provided in The Texas Utility Code.

SECTION 13. As of the effective date of this Franchise Ordinance, it is expressly understood and agreed that Edinburg City ordinances numbers 46, 1973, 1151 and 2051 (the "Previous Ordinances") do not apply to Grantee. In addition, as of the effective date of this Franchise

Ordinance, Grantee has no continuing obligations under Ordinance 1129 and THE CITY HEREBY FULLY RELEASES AND INDEMNIFIES GRANTEE from any and all liability, costs, causes of action, claims or any other obligations (including court costs and reasonable attorneys' fees) arising out of past franchise fee obligations or derived in whole or in part from Ordinance 1129, 2051 and the Previous Ordinances. Notwithstanding anything contained herein to the contrary, the City expressly excludes from this release and indemnity any judgment or recovery the City may ultimately be entitled to from cause no. C-4558-95-G, styled as **City of Edinburg v. Rio Grande Valley Gas Co., Valero Energy Corporation, et. al.**, it being the intention of the City to reserve all of its rights to recovery from such cause of action. Grantee acknowledges and agrees to this exclusion from the release. Nothing herein shall be considered as a waiver or limitation of the City or Grantee's rights to pursue all available legal remedies under such cause of action or under the appeal of such cause of action.

As part of its regulatory function, the City will be approving a Rate Ordinance along with this Franchise Ordinance. Nothing in the Rate Ordinance will be construed to allow Grantee to pass through any judgment or recovery from Cause No. C-4558-95-G

Grantee agrees, on behalf of itself and any and all parties, entities, and/or persons that may be entitled to enforce the Austin judgment in Cause No. 99-01704 to forever and does herein forgive, release, forego, dismiss and indemnify the City from any and all liability, costs, causes of action, claims, awards, judgment, attorney's fees, entitlements, recoveries of any nature or matter that Grantee may have against City because of the suit filed in Austin, Travis County, Texas, styled **Southern Union Gas Company v. City of Edinburg, et al**, Cause No. 99-01704, and Grantee agrees to dismiss all of the appeals arising out of such suit and/or agree to the dismissal of any and all suits relating to this Austin case and hereby assigns irrevocably to City all rights, titles, and/or positions that Grantee might have and/or might have had in any judgment awarded in the Austin suit referenced herein. It

is the intent of Grantee and City to fully and finally release City from any liability in Cause No. 99-01704. City agrees to dismiss, with prejudice, the suit filed in Hidalgo County, Texas, styled City of Edinburg v. Southern Union Company, Cause No. C-2135-00-G, it being the intent of Grantee and City to fully and finally release Grantee from any liability in Cause No. C-2135-00-G, and the City does hereby release and indemnify Grantee from any liability that Grantee might have because of Cause No. C-2135-00-G.

SECTION 14. All Ordinances or parts of Ordinance in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 15. This Franchise Ordinance shall take effect and be in full force from and after its final passage and approval by the Mayor in accordance with the Charter of Edinburg and the acceptance hereof in writing by Grantee as herein provided.

SECTION 16. The Grantee shall, within sixty (60) days from the approval of this Franchise Ordinance by the Mayor, file in the office of the City Secretary its consent to and written acceptance of the provisions and conditions of this Franchise Ordinance.

SECTION 17. The current franchise ordinance (Ordinance 1129) of Southern Union Gas Company with the City of Edinburg shall remain in full force and effect until the effective date of this Franchise Ordinance.

SECTION 18. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

SECTION 19. REQUIREMENT OF THREE SEPARATE READINGS. In accordance with City of Edinburg Charter, Article III, Sections 6 and 7, this Ordinance shall require three readings.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Ann., Government Code, Section 551.041, on the 18th day of September, 2001.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND READING at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Ann., Government Code, Section 551.041, on the 2nd day of October, 2001.

READ, CONSIDERED, PASSED AND APPROVED ON THIRD AND FINAL READING at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Ann., Government Code, Section 551.041, on the 16th day of October, 2001.

CITY OF EDINBURG

BY: 

Joe Ochoa, Mayor

ATTEST:

BY: 

Mary Villarreal, City Secretary

CERTIFICATE OF RECORDING OFFICER

I, Mary Villarreal, City Secretary for the City of Edinburg hereby certify the herein described Ordinance is a true and correct copy as adopted on 10-16-01 at a duly convened City Council Meeting and as reflected by the Journal of Proceedings of said City Council of the City of Edinburg, Texas. WITNESS MY HAND AND SEAL OF OFFICE on this the 24 day of Oct 2001.

BY: 

Mary Villarreal, City Secretary
City of Edinburg, Texas

APPROVED AS TO FORM:

OXFORD, OXFORD & GONZALEZ

BY: 

Brinkley L. Oxford
Ricardo Gonzalez
CITY ATTORNEYS

The above and foregoing Franchise Ordinance and the grants, franchise, powers, rights and privileges thereto were accepted by Southern Union Gas Company on and as of the date thereunder, November 9, 2001.

SOUTHERN UNION GAS COMPANY

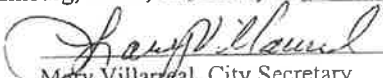
By: Richard Fleeger
Regional Vice President

STATE OF TEXAS §

COUNTY OF HIDALGO §

I, MARY VILLARREAL, the undersigned City Secretary the City of Edinburg, Texas, a Municipal Corporation hereby certify that the above and foregoing is a full, true and correct copy of an ordinance adopted by City Council of the City of Edinburg, Texas at meeting of the Council held in the City on the 16th day of Oct, 2001, as the same appears in the minutes of the City Council.

Witness my hand and seal of the City of Edinburg, Texas, this 25th day of Oct, 2001.

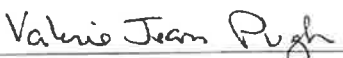

Mary Villarreal, City Secretary

STATE OF TEXAS §

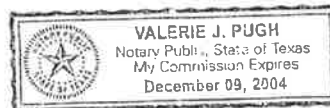
COUNTY OF ~~CAMERON~~ ^{El Paso} §

BEFORE ME, the undersigned authority, on this day personally appeared Richard Flegger, REGIONAL VICE PRESIDENT of SOUTHERN UNION GAS, a Delaware corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity herein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 1 day of November, 2001.


Notary Public in and for
El Paso ~~Camoron~~, County, Texas

BLO/RG/co/cordinances/sug franchise
/Edinburg 2d/Docs/ORDINANCE





RELEVANT STATUTES

- Texas Utilities Code 181.005 states “a gas corporation has the right to lay and maintain lines over, along, under, and across a **public road . . . or a municipal street or alley.**”

[Tex. Utilities Code § 181.005](#)

This document is current through the 2013 3rd Called Session

[Texas Statutes and Codes](#) > [UTILITIES CODE](#) > [TITLE 4. DELIVERY OF UTILITY SERVICES](#)
> [SUBTITLE B. PROVISIONS REGULATING DELIVERY OF SERVICES](#) > [CHAPTER 181. MISCELLANEOUS POWERS AND DUTIES OF UTILITIES](#) > [SUBCHAPTER A. POWERS AND DUTIES OF GAS AND ELECTRIC CORPORATIONS](#)

§ 181.005. Authority to Lay and Maintain Lines

(a) A gas corporation has the right to lay and maintain lines over, along, under, and across a public road, an interurban railroad, a street railroad, a canal or stream, or a municipal street or alley and over, under, and across a railroad or a railroad right-of-way only if:

(1) the pipeline complies with:

(A) all safety regulations adopted by the Railroad Commission of Texas and all federal regulations relating to pipeline facilities and pipelines; and

(B) all rules adopted by the Texas Department of Transportation or the Railroad Commission of Texas and all federal regulations regarding the accommodation of utility facilities on a right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline; and

(2) the owner or operator of the pipeline ensures that the public right-of-way and any associated facility are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline.

Tex. Local Gov't Code § 263.005

This document is current through the 2013 3rd Called Session

Texas Statutes and Codes > LOCAL GOVERNMENT CODE > TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY > SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY > CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES > SUBCHAPTER A. GENERAL PROVISIONS FOR REAL PROPERTY

§ 263.005. Use by Public Utility or Common Carrier

If, at the time real property, or an interest in real property, is sold, leased, or exchanged under this subchapter, a public utility or common carrier that has the right of eminent domain is using the property for right-of-way and easement purposes, the sale, lease, exchange, conveyance, and surrender of possession of the property or interest are subject to the right of and continued use by the public utility or common carrier.

- Texas Local Government Code 263.005 states “[i]f, at the time real property, or an interest in real property, is sold, leased, or exchanged . . . a public utility . . . that has the right of eminent domain is using the property for right-of-way and easement purposes, . . . [the] surrender of possession of the property or interest are subject to the **right of and continued use by the public utility.**” (emphasis added)

Tex. Local Gov't Code § 263.005

This document is current through the 2013 3rd Called Session

Texas Statutes and Codes > LOCAL GOVERNMENT CODE > TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY > SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY > CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES > SUBCHAPTER A. GENERAL PROVISIONS FOR REAL PROPERTY

- **§ 263.005. Use by Public Utility or Common Carrier**
has
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lley.”

If, at the time real property, or an interest in real property, is sold, leased, or exchanged under this subchapter, a public utility or common carrier that has the right of eminent domain is using the property for right-of-way and easement purposes, the sale, lease, exchange, conveyance, and surrender of possession of the property or interest are subject to the right of and continued use by the public utility or common carrier.

- **Texas Local Utility or Common Carrier**
time real property,
leased, or exchanged,
right of eminent domain
of-way and easement
possessor
right of eminent domain
(emphasis added)

Tex. Utilities Code § 181.005

This document is current through the 2013 3rd Called Session

Texas Statutes and Codes > UTILITIES CODE > TITLE 4. DELIVERY OF UTILITY SERVICES > SUBTITLE B. PROVISIONS REGULATING DELIVERY OF SERVICES > CHAPTER 181. MISCELLANEOUS POWERS AND DUTIES OF UTILITIES > SUBCHAPTER A. POWERS AND DUTIES OF GAS AND ELECTRIC CORPORATIONS

§ 181.005. Authority to Lay and Maintain Lines

(a) A gas corporation has the right to lay and maintain lines over, along, under, and across a public road, an interurban railroad, a street railroad, a canal or stream, or a municipal street or alley and over, under, and across a railroad or a railroad right-of-way only if:

- (1) the pipeline complies with:
 - (A) all safety regulations adopted by the Railroad Commission of Texas and all federal regulations relating to pipeline facilities and pipelines; and
 - (B) all rules adopted by the Texas Department of Transportation or the Railroad Commission of Texas and all federal regulations regarding the accommodation of utility facilities on a right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline; and
- (2) the owner or operator of the pipeline ensures that the public right-of-way and any associated facility are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline.

Tex. Utilities Code § 181.005

This document is current through the 2013 3rd Called Session

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- (1) the pipeline complies with:
 - (A) all safety regulations adopted by the Railroad Commission of Texas and all federal regulations relating to pipeline facilities and pipelines; and
 - (B) all rules adopted by the Texas Department of Transportation or the Railroad Commission of Texas and all federal regulations regarding the accommodation of utility facilities on a right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline; and
 - (2) the owner or operator of the pipeline ensures that the public right-of-way and any associated facility are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline.
- (b) The right granted by Subsection (a) relating to the use of a municipal street or alley is subject to the payment of charges in accordance with Section 121.2025 of this code and [Sections 182.025 and 182.026, Tax Code](#).
- (c) In determining the route of a pipeline within a municipality, a gas corporation shall consider using existing easements and public rights-of-way, including streets, roads, highways, and utility rights-of-way. In deciding whether to use a public easement or right-of-way, the gas corporation shall consider whether:
- (1) the use is economically practicable;
 - (2) adequate space exists; and
 - (3) the use will violate, or cause the violation of any pipeline safety regulations.
- (d) The Texas Department of Transportation may require the owner or operator of a pipeline to relocate the pipeline:
- (1) at the expense of the owner or operator of the pipeline, if the pipeline is located on a right-of-way of the state highway system;
 - (2) at the expense of this state, if the pipeline is located on property in which the owner or operator of the pipeline has a private interest; or
 - (3) in accordance with [Section 203.092, Transportation Code](#), at the expense of this state, if the pipeline is owned or operated by a gas utility as defined by Section 181.021 of this code or a common carrier as defined by Chapter 111, Natural Resources Code.
- (e) Rules adopted by the Texas Department of Transportation regarding horizontal and vertical placement of pipelines must be reasonable and, for rights-of-way of the state highway system, must provide an appeals process through the Texas Department of Transportation.

History

Enacted by [Acts 1997, 75th Leg., ch. 166 \(S.B. 1751\)](#), § 1, effective September 1, 1997; am. [Acts 2009, 81st Leg., ch. 1311 \(H.B. 2572\)](#), § 2, effective June 19, 2009; am. [Acts 2011, 82nd Leg., ch. 313 \(H.B. 2289\)](#), § 1, effective June 17, 2011.

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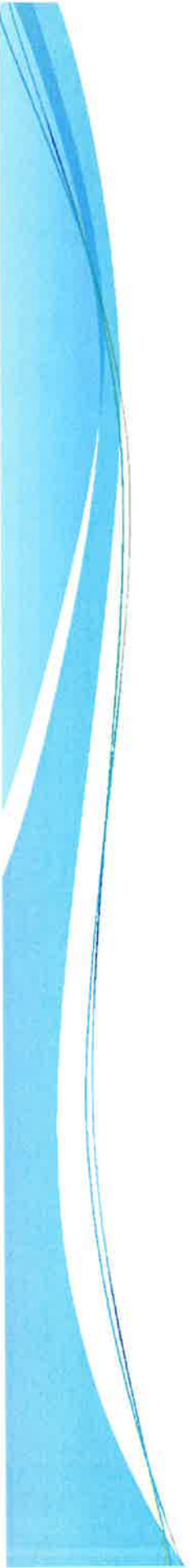
[Tex. Local Gov't Code § 263.005](#)

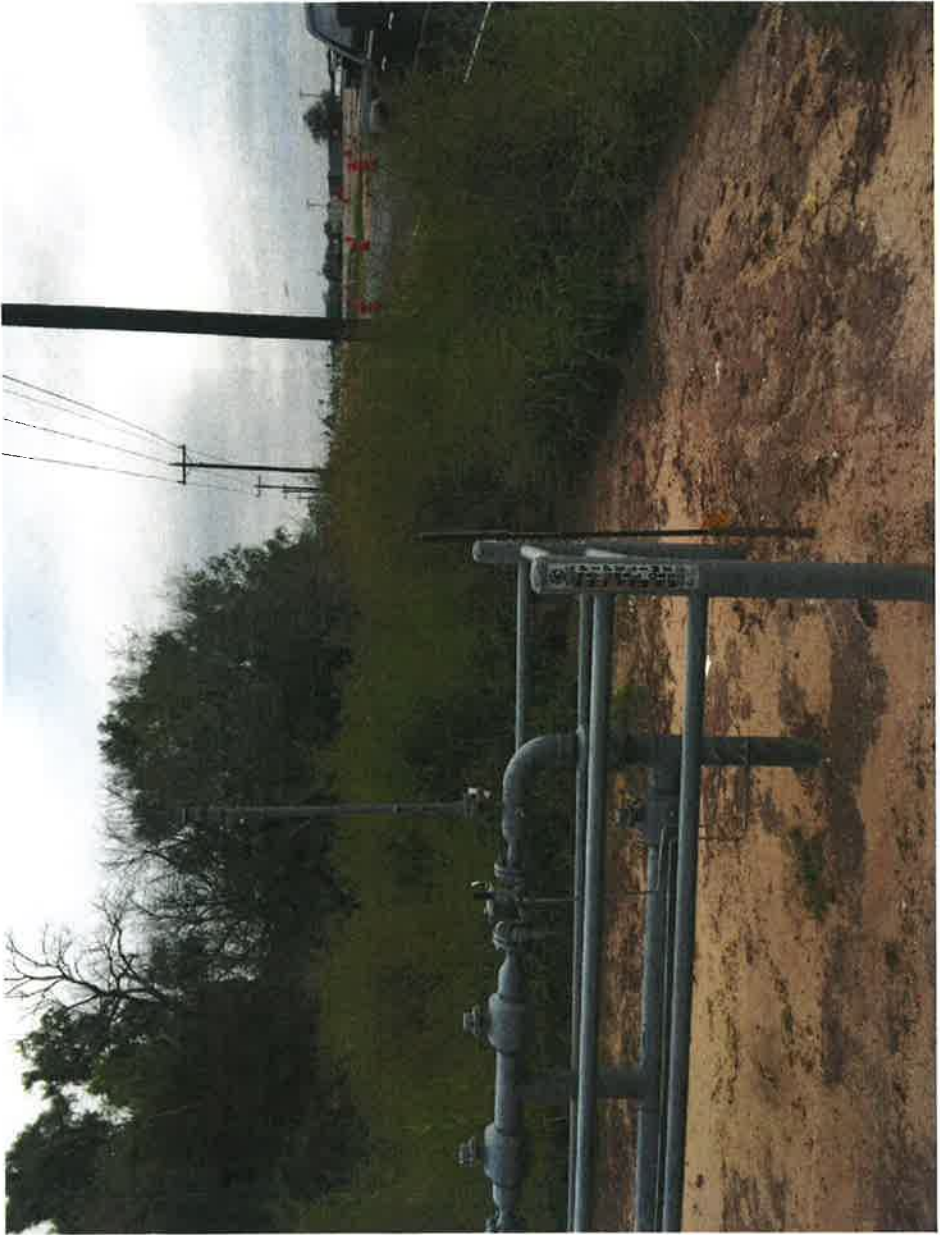
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Texas Statutes and Codes > LOCAL GOVERNMENT CODE > TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY > SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY > CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES > SUBCHAPTER A. GENERAL PROVISIONS FOR REAL PROPERTY

§ 263.005. Use by Public Utility or Common Carrier

If, at the time real property, or an interest in real property, is sold, leased, or exchanged under this subchapter, a public utility or common carrier that has the right of eminent domain is using the property for right-of-way and easement purposes, the sale, lease, exchange, conveyance, and surrender of possession of the property or interest are subject to the right of and continued use by the public utility or common carrier.











MVP'S HISTORY ON THE PROPERTY

- In 1982, Matias Peña Jr. began farming the property, which was owned by Juliana Gannaway.
- In 2002, after a six year lawsuit, Peña Jr. prevailed in a lawsuit against Ms. Gannaway's estate to take ownership of the property.
- Also in 2002, Matias Peña Jr. transferred the property to MVP Development, Inc.
- MVP Development, Inc. was owned by Raul Medina, Jesus Villalobos, Jr., and Matias Peña Jr.
- In 2010, MVP Development, Inc. "sold" the property to MVP Properties, LLC (owned by the same three men).



MVP'S HISTORY ON THE PROPERTY

Both warranty deeds contained the following exception:

4. Right of way assessment in favor of Rio Grande Valley Gas Company as shown by instrument dated March 30, 1943, recorded in Volume 508, Page 177, Deed Records of Hidalgo County, Texas.

MVP'S HISTORY ON THE PROPERTY

- In 1982, Matias Peña Jr. began farming the property, which ~~Both was owned by~~ was obtained through a following exception:
- In 2002, after a six year lawsuit, Peña Jr. prevailed in a lawsuit against Ms. Gannaway's estate to take over the property.
- A right of way assessment in favor of Rio Grande Valley Gas Company as shown by instrument dated March 30, 1943, recorded in Volume 508, Page 177, Deed Records of Hidalgo County, Texas.
- MVP Development, Inc.
- MVP Development, Inc. was owned by Raul Medina, Jesus Villalobos, Jr., and Matias Peña Jr.
- In 2010, MVP Development, Inc. "sold" the property to MVP Properties, LLC (owned by the same three men).

CHARGE: VLTC

GF 78,482

1155189

Administrator's Warranty Deed with Vendor's Lien

Date: November 25, 2002

Grantor: Geoffrey M. Gannaway, Administrator of the Estate of Juliana "Julia" Gannaway, deceased; Pursant to the Decree Confirming Sale of Real Property Entered in Cause No. 22,540-D on November 21, 2002 in the Probate Court of Hidalgo County, Texas; joined herein by all the heirs and devisees of Juliana "Julia" Gannaway, Geoffrey M. Gannaway, Individually; Lourie A. Gannaway, Individually; and John M. Gannaway, Individually

Grantor's Mailing Address:

Geoffrey M. Gannaway, Administrator of the Estate of Juliana "Julia" Gannaway
8827 S. Toledo Ave.
Tulsa, OK 74137-2734
Tulsa County

Geoffrey M. Gannaway, Individually
8827 S. Toledo Ave.
Tulsa, OK 74137-2734
Tulsa County

Lourie A. Gannaway, Individually
10445 Aileron Ave.
Pensacola FL 32506
Escambia County

John M. Gannaway, Individually
1100 W. Samano
Edinburg, Texas 78539
Hidalgo County

Grantee: MVP Development, Inc., a Texas corporation

Grantee's Mailing Address:

MVP Development, Inc.
3604 N. MColl
McAllen, Texas 78501 Hidalgo County

Consideration:

Warranty Deed W/ Vendor's Lien
Gannaway, Geoffrey M.

1

A note of even date executed by Grantee and payable to the order of Lone Star National Bank, 5515 N. 10th St., McAllen, TX. in the principal amount of TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00). The note is secured by a first and superior vendor's lien and superior title retained in this deed in favor of Lone Star National Bank, 5515 N. 10th St., McAllen, TX. and by a first-lien deed of trust of even date from Grantee to A.Javier Rodriguez, trustee.

Property (including any improvements):

All of Lots 1 through 10 inclusive, Block 49, Lots 1 through 5 inclusive, Block 58, Lots 1 through 10 inclusive, Block 43 and Lots 4 through 7 inclusive, Block 57, CITRUS FRUIT DEVELOPMENT COMPANY SUBDIVISION Hidalgo County, Texas, according to the map recorded in Volume 6, Pages 428-431, Deed of Records in the Office of the County Clerk of Hidalgo County, Texas, reference to which is here made for all purposes, together with all improvements thereon and all rights, easements, appurtenances, privileges and appurtenances pertaining thereto, including all rights, titles and interest of Grantor in and to any roads, streets, easements, strips, or gores of land abutting or adjoining the Land; all rights, titles, interest, of Grantor in and to any award or awards now pending or hereafter made by any municipal, county, state or federal authority or board with respect to the Land; all other rights, titles, interests, estates, claims or demands whatsoever of Grantor, either at law or in equity, in and to the Land including specifically, but without limitation, all remainders and reversions thereto.

SAVE AND EXCEPT all oil, gas and other minerals in, on, under, or that may be produced from the above described property; and

FURTHER SAVE AND EXCEPT that part conveyed to the State of Texas as set forth in Judgment dated July 11, 1960, recorded in Volume 984, Page 428, Deed Records of Hidalgo County, Texas, and subject to the following matters, to the extent that they are valid and subsist and affect the Property.

Reservations and Exceptions to Conveyance and Warranty:

1. Standby fees, taxes and assessments by any taxing authority for the year 2002, and subsequent year, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.
2. Telegraph and telephone line easement on favor of Southwestern Bell Telephone Company as shown by instruments dated March 16, 1935, recorded in Volume 401, Page 561, and dated August 10, 1959, recorded in Volume 983, Page 565, both in the Deed of Records of Hidalgo County, Texas.

3. Highway easement in favor of State of Texas as shown by instrument dated March 18, 1935, recorded in Volume 402, Page 97 and dated April 2, 1935, recorded in Volume 406, Page 78, both in the Deed of Record Hidalgo County, Texas.
4. Right of way assessment in favor of Rio Grande Valley Gas Company as shown by instrument Dated March 30, 1943, recorded in Volume 508, Page 177, Deed Records of Hidalgo County, Texas.
5. Terms, stipulations and conditions contained in Oil, Gas and Mineral Lease executed by L. A. Gannaway and wife Julia Schwab Gannaway to Sinclair Oil and Gas Company, dated December 7, 1954, recorded in Volume 164, Page 575, Oil and Gas Records of Hidalgo County, Texas.
6. Terms, stipulations and conditions contained in the Declaration of Unit as set forth in instrument dated February 4, 1955, recorded in Volume 171, Page 358, Oil and Gas Records of Hidalgo County, Texas.
7. Terms, stipulations and conditions contained in Declaration of Unit as set forth in instrument dated August 12, 1959, recorded in Volume 236, Page 375, Oil and Gas Records of Hidalgo County, Texas.
8. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
9. All presently recorded (in the Office of the County Clerk of Hidalgo County, Texas) and validly existing easements and rights-of-way, not executed by Grantors.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty. The vendor's lien against and superior title to the Property are retained until each note described is fully paid according to its terms, at which time this deed will become absolute.

Lone Star National Bank, 5515 N. 10th St., McAllen, TX., at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the

benefit of Lone Star National Bank, 5515 N. 10th St., McAllen, TX. and are transferred to Lone Star National Bank, 5515 N. 10th St., McAllen, TX. without recourse against Grantor.

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

Geoffrey M. Gannaway
Geoffrey M. Gannaway, Administrator of
the Estate of Juliana "Julia" Gannaway,
deceased

STATE OF OKLAHOMA)

COUNTY OF TULSA)

This instrument was acknowledged before me on December 2, 2002, by
Geoffrey M. Gannaway, Administrator of the Estate of Juliana "Julia" Gannaway, deceased.



Darlene E. Hodge
Notary Public, State of Oklahoma

STATE OF OKLAHOMA)

COUNTY OF TULSA)

Geoffrey M. Gannaway
Geoffrey M. Gannaway, Individually

This instrument was acknowledged before me on December 2, 2002, by
Geoffrey M. Gannaway, Individually.



Darlene E. Hodge
Notary Public, State of Oklahoma


Lourie A. Gannaway, Individually

STATE OF FLORIDA)

COUNTY OF ESCAMBIA)

This instrument was acknowledged before me on December 12, 2002, by
Lourie A. Gannaway, Individually.


Notary Public, State of Florida

LINDA S. PARKER
Notary Public-State of FL
Comm. Exp. Sept. 19, 2004
Comm No. CC 962851

STATE OF TEXAS)
COUNTY OF HIDALGO)

John M. Gannaway
John M. Gannaway, Individually

This instrument was acknowledged before me on 16 of Dec., 2002, by John M. Gannaway, Individually.



Michael W Tokar
Notary Public, State of Texas

CHARGE TO: VALLEY LAND TRUST CO.

PREPARED IN THE OFFICE OF:

Law Office of Gary L. Henrichson
200 E. Cano
P. O. Box 1258
Edinburg, Texas 78539
Tel: (956) 381-4529
Fax: (956) 381-4589

AFTER RECORDING RETURN TO:

Law Office of Gary L. Henrichson
200 E. Cano
P. O. Box 1258
Edinburg, Texas 78539
Tel: (956) 381-4529
Fax: (956) 381-4589

Warranty Deed W/ Vendor's Lien
Gannaway, Geoffrey M.

9

Filed for Record in:
Hidalgo County
by J. D. Salinas, III
County Clerk
On: Jan 07, 2003 at 10:37A
As a Recording
Document Number: 1155189
Total Fees: 24.00
Receipt Number - 468557
By:
Marylou Cantu, Deputy

Hidalgo County
Arturo Guajardo Jr.
County Clerk
Edinburg, TX 78540



7C 2010 02115785

Instrument Number: 2010-2115785

As

Recorded On: June 29, 2010

Recording

Parties:

Billable Pages: 5

To

Number of Pages: 6

Comment: SWDVL

**** Examined and Charged as Follows: ****

Recording	32.00
Total Recording:	32.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****
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.

File Information:

Document Number: 2010-2115785
Receipt Number: 1129723
Recorded Date/Time: June 29, 2010 03:49P

Record and Return To:

MVP PROPERTIES LLC
3101 NORTH JACKSON RD
MCALLEN TX 78501

User / Station: A Uresti - Cash Station 03



STATE OF TEXAS
COUNTY OF HIDALGO

I hereby certify that this instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Hidalgo County, Texas

Arturo Guajardo Jr.
County Clerk
Hidalgo County, TX

BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Special Warranty Deed with Vendor's Lien

Date: June 28, 2010

Grantor: MVP DEVELOPMENT, INC., a Texas Corporation

Grantor's Mailing Address: 13303 North Highway 281
Edinburg, Texas 78541
Hidalgo County

Grantee: MVP PROPERTIES, LLC, a Texas Limited Liability Company

Grantee's Mailing Address: 3101 North Jackson Road
McAllen, Texas 78501
Hidalgo County

Consideration:

Cash and a Note of even date executed by Grantee and payable to the order of Grantor in the principal amount of Three Hundred Eighty-Five Thousand Three Hundred Ninety-Eight and 71/100 Dollars (\$385,398.71). The Note is secured by a first and superior vendor's lien and superior title retained in this Deed and by a first-lien Deed of Trust of even date from Grantee to DAVID DAVILA, trustee.

Property (including any improvements):

See attached Exhibit "A" which is incorporated herein for all intents and purposes.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty:

TRACT 1

1. Standby fees, taxes and assessments by any taxing authority for the year 2002, and subsequent year, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.
2. Telegraph and telephone line easement on favor of Southwestern Bell Telephone Company as shown by instruments dated March 16, 1935, recorded in Volume 401, Page 561, and dated August 10, 1959, recorded in Volume 983, Page 565, both in the Deed of Records of Hidalgo County, Texas.
3. Highway easement in favor of State of Texas as shown by instrument dated March 18, 1935, recorded in Volume 402, Page 97 and dated April 2, 1935, recorded in Volume 406, Page 78, both in the Deed of Record Hidalgo County, Texas.
4. Right of way assessment in favor of Rio Grande Valley Gas Company as shown by instrument dated March 30, 1943, recorded in Volume 508, Page 177, Deed Records of Hidalgo County, Texas.
5. Terms, stipulations and conditions contained in Oil, Gas and Mineral Lease executed by L.A. Gannaway and wife Julia Schwab Gannaway to Sinclair Oil and Gas Company, dated December 7, 1954, recorded in Volume 164, Page 575, Oil and Gas Records of Hidalgo County, Texas.
6. Terms, stipulations and conditions contained in the Declaration of Unit as set forth in instrument dated February 4, 1955, recorded in Volume 171, Page 358, Oil and Gas Records of Hidalgo County, Texas.
7. Terms, stipulations and conditions contained in Declaration of Unit as set forth in instrument dated August 12, 1959, recorded in Volume 236, Page 375, Oil and Gas Records of Hidalgo

9. All presently recorded (in the Office of the County Clerk of Hidalgo County, Texas) and validly existing easements and rights-of-way, not executed by Grantors.

TRACT 2

1. Any and all existing easements, rights of way or encumbrances, recorded or unrecorded, which affect or may affect the Property, including any roadway or other easements, rights of way or encumbrances in favor of Hidalgo County.
2. Prior reservation of oil, gas or other minerals.
3. Oil, gas and mineral leases of record.
4. Any encroachments or shortage in existing boundaries.
5. Any zoning restrictions or other restrictions promulgated by any city in which each tract of land is situated if any.
6. Any recorded or unrecorded leases which may be in effect.
7. Conflicts or shortages in area or boundaries.
8. Rights of parties in possession

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until each note described is fully paid according to its terms, at which time this deed will become absolute.

GRANTEE IS TAKING THE PROPERTY IN AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE CONSIDERATION WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT FOR THE WARRANTY OF TITLE STATED IN THIS DEED.

THE PROPERTY IS BEING CONVEYED TO GRANTEE IN AN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. GRANTOR MAKES NO WARRANTY OF CONDITION, MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE FIXTURES AND PERSONAL PROPERTY. ALL WARRANTIES, EXCEPT FOR THE WARRANTY OF TITLE STATED IN THIS DEED, ARE DISCLAIMED.

As part of the consideration for this deed, Grantor and Grantee agree that, as between Grantor and Grantee, the risk of liability or expense for environmental problems, even if arising from events before closing, is the sole responsibility of Grantee, regardless of whether the environmental problems were known or unknown at closing. Grantee indemnifies, holds harmless, and releases Grantor from liability for any latent defects and from any liability for environmental problems affecting the property, including liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Texas Solid Waste Disposal Act, or the Texas Water Code. Grantee indemnifies, holds harmless, and releases Grantor from any liability for environmental problems affecting the property arising as the result of Grantor's own negligence or the negligence of Grantor's representatives. Grantee indemnifies, holds harmless, and releases Grantor from any liability for environmental problems affecting the property arising as the result of theories of products liability and strict liability, or under new laws or changes to existing laws enacted after the effective date that would otherwise impose on Grantor in this type of transaction new liabilities for environmental problems affecting the property.

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

By: [Signature]
MATIAS PENA, JR., President

MVP PROPERTIES, LLC,
A Texas Limited Liability Company

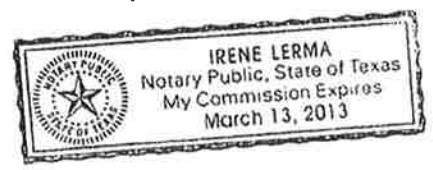
By: [Signature]
RAUL MEDINA, Member

By: [Signature]
MATIAS PENA, JR., Member

By: [Signature]
JESUS VILLALOBOS, Member

STATE OF TEXAS *
*
COUNTY OF HIDALGO *

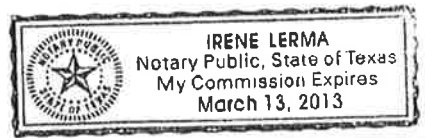
This instrument was acknowledged before me on this 28th day of June, 2010, by MATIAS PENA, JR., as the President of MVP DEVELOPMENT, INC., a Texas Corporation, on behalf of said corporation.



[Signature]
Notary Public, State of Texas
My commission expires: 3-13-13

STATE OF TEXAS *
*
COUNTY OF HIDALGO *

This instrument was acknowledged before me on this 28th day of June, 2010, by RAUL MEDINA, Member, on behalf of MVP PROPERTIES, LLC, a Texas Limited Liability Company.



[Signature]
Notary Public, State of Texas
My commission expires: 3-13-13

STATE OF TEXAS *
*
COUNTY OF HIDALGO *

This instrument was acknowledged before me on this 28th day of June, 2010, by MATIAS PENA, JR., Member, on behalf of MVP PROPERTIES, LLC, a Texas Limited Liability Company.



[Signature]
Notary Public, State of Texas

COUNTY OF HIDALGO

*

This instrument was acknowledged before me on this 28th day of June, 2010, by JESUS VILLALOBOS, Member, on behalf of MVP PROPERTIES, LLC, a Texas Limited Liability Company.





Notary Public, State of Texas

My commission expires: 3-13-13

PREPARED IN THE OFFICE OF:

LAW OFFICE OF DAVID DAVILA, P.C.
5525 North McColl Road
McAllen, Texas 78504

AFTER RECORDING RETURN TO:

MVP PROPERTIES, LLC

TRACT 1

All of Lots 1 through 10 inclusive, Block 49, Lots 1 through 5 inclusive, Block 58, Lots 1 through 10 inclusive, Block 43 and Lots 4 through 7 inclusive, Block 57, CITRUS FRUIT DEVELOPMENT COMPANY SUBDIVISION Hidalgo County, Texas, according to the map recorded in Volume 6, Pages 428-431, Deed of Records in the Office of the County Clerk of Hidalgo County, Texas, reference to which is here made for all purposes, together with all improvements thereon and all rights, easements, appendages, privileges and appurtenances pertaining thereto, including all rights, titles and interest of Grantor in and to any roads, streets, easements, stripes, or gores of land abutting or adjoining the Land; all rights, titles, interest, of Grantor in and to any award or awards now pending or hereafter made by any municipal, county, state, or federal authority of board with respect to the Land; all other rights, titles, interests, estates, claims or demands whatsoever of Grantor, either at law or in equity, in and to the Land including specifically, but without limitation, all remainders and reversions thereto.

SAVE AND EXCEPT all oil, gas and other minerals in, on, under, or that may be produced from the above described property; and

FURTHER SAVE AND EXCEPT that part conveyed to the State of Texas as set forth in Judgment dated July 11, 1960, recorded in Volume 984, Page 428, Deed Records of Hidalgo County, Texas, and subject to the following matters, to the extent that they are valid and subsist and affect the Property.

TRACT 2

A 100' of abandoned Railroad right of way at Encinitos Road and being more particularly described as follows:

“A 7.90 (more or less) acre tract of land (real property) out of Lots 49 and 58 of the Citrus Fruit and Development Company Subdivision, San Salvador Del Tule Grant, Hidalgo County”, according to the map recorded in Volume 6, Pages 428 thru 431, Deed Records, Hidalgo County, Texas.

Physical Location:

Encinitos Road (South/Side), approximately 0.15 miles east of US Expressway 83, Hidalgo County; (Encinitos Road is approximately 1.2 miles north of FM 2812)

MVP DID NOT TELL THIS COURT ABOUT THE PIPELINE OR TEXAS GAS

Q. Is this the survey that you submitted to the county?

A. This is -- this is part of the requirement for the abandonment of part of the process to have the county abandon the process -- this easement or dedication actually is to comply with the statute. And there's a statute that says what you have to do. You have to do a title memorandum so the county knows if there's anything of record in that easement before they can abandon it. And you also have to do a survey. Those are all the legal requirements that were met.



MVP DID NOT TELL THIS COURT ABOUT THE PIPELINE OR TEXAS GAS

Q. So somewhere around late 2011, early 2012 you made a request to the county that they abandon it?

A. I made the request for the county to abandon it after I learned that Texas Gas Service had a pipeline through the property.



MVP DID NOT TELL THIS COURT ABOUT THE PIPELINE OR TEXAS GAS

Q. That's not true, is it? You intentionally didn't tell the county. You said I didn't tell them about the pipeline, right?

A. No, I didn't tell them.



MVP DID NOT TELL THIS COURT
ABOUT THE PIPELINE OR TEXAS GAS

A. Why not? I'm a businessman.

MVP DID NOT TELL THIS COURT ABOUT THE PIPELINE OR TEXAS GAS

Q. Is this the survey that you submitted to the county?

A. This is -- this is part of the requirement for the abandonment of part of the process to have the county abandon

A. Why not? I'm a businessman.

with the statute. And there's a statute that says what you have to do. You have to do a title memorandum so the county knows if there's anything of record in that easement before they can abandon it. And you also have to do a survey. Those are all the legal requirements that were met.

REPORTER'S RECORD
VOLUME 001 OF 001 VOLUME

TRIAL COURT CAUSE NO. C-7554-14-C

MVP PROPERTIES, LLC		IN THE DISTRICT COURT OF
VS		HIDALGO COUNTY, T E X A S
ONE GAS, INC. D/B/A		
TEXAS GAS SERVICE CO.		139TH JUDICIAL DISTRICT

* * * * *

STATEMENT OF FACTS

January 8, A.D., 2015

* * * * *

On the 15th day of January, A.D., 2015, the foregoing Proceedings came on to be heard outside the presence of a Jury, in the above-entitled and -enumerated cause; and the following proceedings were had before the Honorable Roberto "Bobby" Flores, Judge Presiding, held in Edinburg, Hidalgo County, Texas, USA:

Proceedings reported by COMPUTERIZED INTEGRATED COURTROOM REALTIME, STENOTYPE MACHINE; Reporter's Record produced BY COMPUTER-ASSISTED TRANSCRIPTION.

JESSIE C. SALAZAR, Texas CSR #4286
Official Court Reporter - 139th Judicial District Court
Hidalgo County Courthouse
100 North Closner, Second Floor
Edinburg, Texas 78539 USA
956.318.2260

1 A. -- with the exact date.

2 Q. So somewhere around late 2011, early 2012 you made a
3 request to the county that they abandon it?

4 A. I made the request for the county to abandon it after
5 I learned that Texas Gas Service had a pipeline through the
6 property.

7 Q. So you knew TGS had a pipeline there and you -- and
8 you asked the county to abandon the roadway? Why would you do
9 that?

10 A. Why not? I'm a businessman.

11 Q. Because you knew -- because you knew TGS was using the
12 roadway as an easement to put the pipeline there, right?

13 A. No, because I knew that -- that Texas Gas Service was
14 trespassing on the property and did not have a valid easement.
15 I knew that.

16 Q. So you knew that?

17 A. Yes.

18 Q. Okay. And so you went and made this request to the
19 county. You didn't send that letter to Texas Gas, did you?

20 A. No, absolutely not. They're trespassers. I owe no
21 duty to a trespasser.

22 Q. Okay.

23 A. I was faithfully executing my duties as MVP President.

24 Q. Would you look at Exhibit No. 2.

25 A. (Witness complies.)

1 Q. To my -- to my --

2 A. Your Exhibit 2?

3 Q. -- Exhibit 2.

4 A. Is this -- is this it?

5 Q. That's my binder, yes, sir.

6 A. Okay. This is an exhibit?

7 Q. My exhibits are in that binder.

8 A. Okay.

9 Q. Exhibit No. 2. Did you cause that particular survey
10 to be completed?

11 A. Did I order that survey?

12 Q. Yes, sir.

13 A. Yes.

14 Q. All right. Did you work with Mr. Garcia in putting
15 together the survey?

16 A. No.

17 Q. Is this the survey that you submitted to the county?

18 A. This is -- this is part of the requirement for the
19 abandonment of part of the process to have the county abandon
20 the process -- this easement or dedication actually is to comply
21 with the statute. And there's a statute that says what you have
22 to do. You have to do a title memorandum so the county knows if
23 there's anything of record in that easement before they can
24 abandon it. And you also have to do a survey. Those are all
25 the legal requirements that were met.

1 I made the request. The legal requirement was
2 that I had to get a title memorandum and I had to get a survey
3 so we ordered it. Those were both paid by MVP.

4 Q. Yes, sir.

5 A. And we submitted it to the county and the commission
6 heard it and granted our request.

7 Q. Now did the surveyor go out and look at the property?

8 A. No. I don't know. I mean --

9 Q. Okay.

10 A. You need to ask him.

11 Q. Does the survey -- I would like to, if the Court
12 denies this injunction, I'm going to take his deposition. But
13 does the survey reflect the pipeline?

14 A. I would need to look at it. I don't know.

15 Q. Do you know when this survey was completed?

16 A. It should have been right around the time that we made
17 the request because we ordered them together.

18 Q. So we know that by the time this survey was done --

19 A. There's -- there's a date there.

20 Q. Yeah. What is it though?

21 A. I can't see it.

22 Q. Me either. You had this survey done to submit to the
23 county?

24 A. Correct.

25 Q. And can you show me where the pipeline is on the

1 survey?

2 A. My vision is pretty poor these days. I can't see it.
3 I mean, you want to point it out to me, I may agree with you.

4 Q. I'm just asking if you knew if it was on there?

5 A. On the survey?

6 Q. Yes, sir. Is the pipeline reflected on the survey,
7 the one you submitted to the county to get them to abandon the
8 roadway?

9 A. I don't know. I mean, I just see a strip there.

10 Q. Yes, sir.

11 A. And where they went and surveyed that strip.

12 Q. Okay. And you understand that's the roadway in this
13 map, right?

14 A. That's -- that's the dedicated -- that's the strip
15 that the predecessors in interest dedicated to the public back
16 in 1910. And we asked for a survey of -- of that strip to
17 submit along with the title memorandum to the county so we could
18 qualify under statute to have them abandon the property.

19 Q. Got you. The idea was to get a survey of that strip.

20 A. Right.

21 Q. And you and I agree that TGS pipeline lies in that
22 strip, right?

23 A. I believe, yes, it does.

24 Q. All right. But you and I agree that that survey that
25 you submitted to the county doesn't reflect the pipelines in the

1 strip anywhere, does it?

2 A. No. Apparently they -- they were blind to that too.

3 Q. Now let me ask you this. Did you -- did you tell the
4 county that there was a pipeline in the --

5 A. No.

6 Q. -- in the process? Now, I did note that they -- the
7 surveyor put one notation related to the valves on this survey.
8 Do you see it?

9 A. No, but point it out to me and I'll agree with you on
10 it.

11 Q. I will -- I will.

12 A. It says what it says.

13 Q. I will just put it up here so we can all look at it
14 together.

15 I circled it on my copy so I could find it. But
16 the only notation that would allow anybody to know that there
17 was a pipeline on this road is that little mark right there.

18 A. Yeah, which is the ones we have been talking about.

19 Q. And if you -- yeah.

20 A. It's not a road by the way. It's just farmland.

21 Q. And if you back up -- if you backed up, and you look
22 at the legend, and you can possibly read the legend, it happens
23 to say V is a gas valve. Do you see that?

24 A. Uh-huh. I see it.

25 Q. And that there is no other indication on this document

1 is there, that reflects that Texas Gas has for the last 70 years
2 had a pipeline running across that property, is it?

3 A. No, that's what the title memorandum showed and we
4 didn't know about it. I didn't know about it until I saw it.

5 Q. That's not true, is it? You intentionally didn't tell
6 the county. You said I didn't tell them about the pipeline,
7 right?

8 A. No, I didn't tell them.

9 Q. Okay.

10 A. I met the requirements by statute.

11 Q. You had surveyed prepared that would not reflect the
12 pipeline, right?

13 THE COURT: I'm going to make an observation and
14 I don't know if you have figured it out. But I -- probably I,
15 without a doubt, I have the most talented court reporter
16 probably in the nation. And for him to take both of you
17 together, I don't see -- I haven't seen anybody do it.

18 MR. JOHNSON: Yes, sir.

19 THE COURT: So have a little respect for him if
20 you do.

21 MR. JOHNSON: Yes, sir. My apologies to the
22 court reporter, Your Honor.

23 A. If your question is did I tell the county?

24 Q. (BY MR. JOHNSON) No, I have another question.

25 MR. JOHNSON: I offer Exhibit No. 2. Defendant's

CITIZENS AFFECTED BY INTERRUPTION OF TEXAS GAS' SERVICE

- Immediately affected customers include:
 - Approximately 3,000 customers in Alton, Palmhurst, North Mission, North Edinburg, and North McAllen;
 - Holt Caterpillar;
 - J&D Produce
 - Santana Textiles;
 - Edinburg Refined Products;
 - 50 Residential Customers in direct usage from the line;
 - Manual A. Segovia Prison Unit;
 - Reynoldo V. Lopez State Jail; and
 - Hidalgo County Jail.
- All customers of Texas Gas in Hidalgo County
- Ultimately, all taxpayers of Hidalgo County

A decorative graphic on the left side of the page, consisting of several overlapping, curved, light blue shapes that resemble a stylized wave or a modern logo element.

Relief from Commissioner's Court

Texas Gas requests

- the Commissioners vacate the prior Order; or
- Modify the Order to reflect that the County's Order did not affect the existing utility easement rights of any municipality or public utility in the roadway; and
- Intervene in the Lawsuit brought by MVP against Texas Gas to ensure the rights of all citizens of Hidalgo County are protected

Texas Gas values its long-standing relationship with Hidalgo County

