



# COMAL COUNTY

ENGINEER'S OFFICE

## Utility Road Crossing Permit

Permit Type: Utility Road Crossing Permit - Aerial  
Permit Number: 105529  
Issued This Date: 08/15/2022  
Location Description: 451 WEGENER TRL  
FISCHER, TX 78623

This Utility Permit is authorization for the owner to operate and maintain a utility at the location described in accordance with Chapter 43 of Title 4 - Comal County Private Improvements within Public Right-of-Way and Utility Road Crossings Order.

It is the responsibility of the Applicant to maintain and operate the facility in a satisfactory manner. If the Applicant defaults on the terms and conditions of this Utility Permit, the Applicant shall be liable for all damages incurred by the County arising from the Applicant's default, as well as attorney fees and all costs and fees arising out of suit to enforce the terms and conditions of this Utility Permit.

This Utility Permit is valid for an indefinite period, but the Applicant may transfer it to a succeeding owner.

Utility Inspector

8/15/2022

Date

**Reservations From and Exceptions to Conveyance and Warranty:**

This conveyance is made subject to the following:

1. The property being hereby conveyed may be used for residential purposes, no commercial purposes shall be allowed except agribusiness that is acceptable to the neighbors and that has no retail sales from property.
2. Septic tanks will be permitted on the property, but their construction and location shall comply with existing state, county or other laws relating thereto.
3. No part of the property shall be used or maintained as a dumping ground for rubbish, garbage, trash or other waste material and same shall not be kept on the property except in sanitary containers for regular and frequent removal from the property. All incinerators or other equipment for the disposal of such materials shall be kept in a clean and sanitary condition and in such a manner as not to create a nuisance or annoyance to adjoining landowners, nor violate any laws or regulations relating to the use thereof.
4. No junk or junk yards of any kind or character shall be permitted, nor shall the accumulation of scrap. Used materials, inoperative automobiles, or machinery, or other unsightly storage of personal property shall be permitted.
5. All residential dwellings must consist of 1500 square foot exclusive of porches and garages.
6. No pre-manufactured home, modular home, or trailer shall be permitted on the property, provided, however, this does not preclude a Recreational Vehicle (RV) from being used on the property during construction of the residential dwelling. Thereafter, the RV may not be used for living purposes.
7. No hogs or pigs may be kept on the property, except for youth raising them for FFA or 4H projects; any poultry must be penned.
8. The property may not be further subdivided in less than 10 acre tracts.
9. Soil may not be excavated from the property except for the purposes of building ponds or stock tanks.
10. These restrictions shall be covenants running with the land and shall be enforceable by any owner of property within the 170 acres.

This conveyance is made and accepted subject to any and all restrictions, covenants, reservations, and easements, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State.

Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and 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 wise belonging, to have and hold it to Grantee, Grantee's heirs, executor, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors are hereby bound to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

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

Helen Herbel Bolton  
HELEN HERBEL BOLTON, by and through  
her agent and attorney in fact, Janet P. Scudder.

By: Janet P. Scudder  
Janet P. Scudder, agent and attorney in  
fact for Helen Herbel Bolton

Janet P. Scudder  
JANET P. SCUDDER, f/k/a Janet Mabry

**ACKNOWLEDGMENT**

**STATE OF TEXAS**

**COUNTY OF HAYS**

This instrument was acknowledged before me on this 11<sup>th</sup> day of March, 2005 by Janet P. Scudder, Individually, formerly known as Janet Mabry and as agent and attorney in fact for Helen Herbel Bolton.



Gabriele Sommer  
NOTARY PUBLIC, State of \_\_\_\_\_  
(print or stamp name of Notary)  
My commission expires \_\_\_\_\_

**WILLIAM J. KOLODZIE SURVEYING COMPANY****EXHIBIT "A"**

REGISTERED PROFESSIONAL LAND SURVEYORS  
 197 EAST MILL STREET  
 NEW BRAUNFELS, TEXAS 78130  
 830-625-6484 FAX 830-620-6484

WILLIAM J. KOLODZIE, R.P.L.S. 1462

GERARD S. SCHOLLER, R.P.L.S. 1876

March 8, 2005

Description of a 10.010 acre tract of land out of the William S. Turner Survey No. 122, Abstract 620, Comal County, Texas, and being 6.621 acres out of that certain 29.282 acre tract conveyed to Janet E. Scudder by deed dated August 28, 1989 and recorded in Volume 690 on pages 270-272 of the Official Public Records of Comal County, Texas, and 3.389 acres out of that certain 37.9553 acre tract conveyed by Carlton Herbel and wife to Helen Herbel Bolton by deed dated December 18, 1987 and recorded in Volume 610 on page 174 of the Official Public Records of Comal County, Texas, said 10.010 acre tract described more particularly by metes and bounds as follows:

FROM a 1/2" re-bar rod found at a corner post in the Northeast R.O.W. line of State Highway 32, for the Southwest corner of a 163.674 acre tract conveyed by Carl A. Herbel and wife to Helen Herbel Bolton by deed dated January 17, 1969 and recorded in Volume 167 on pages 318-320 of the Deed Records of Comal County, Texas, for the South corner of the above cited Helen Herbel Bolton 37.9553 acre tract, for the Southeast corner of a 108.634 acre tract conveyed by Carlton H. Herbel to Carlton H. Herbel and Carolene Cae Herbel as Joint Tenants by deed dated February 28, 1997 and recorded as Document No. 9706004776 of the Official Public Records of Comal County, Texas; THENCE with the East line of the said 108.634 acre tract, the West line of the said 37.9553 acre tract, N. 06° 34' 12" W. 1,734.95 feet to a 1/2" re-bar rod set for the Southeast corner of a 12.508 acre tract, for the Southwest corner of a 14.758 acre tract, for the West corner and POINT OF BEGINNING of the herein described 10.010 acre tract;

THENCE leaving the East line of the 108.634 acre tract, the West line of the 37.9553 acre tract, with the Southeast line of the 14.758 acre tract, N. 45° 13' 09" E. 724.56 feet to a 1/2" re-bar rod set in the East line of the 37.9553 acre tract, in the West line of the above cited Janet E. Scudder 29.282 acre tract, for the Southeast corner of the 14.758 acre tract, for a Northeast corner of this 10.010 acre tract;

THENCE with the East line of the 37.9553 acre tract, with the West line of the 29.282 acre tract, S. 03° 47' 46" W. 410.91 feet to a 1/2" re-bar rod found in the fence, for the Southeast corner of an 8.715 acre tract conveyed to Roger and Lori Graham by deed dated July 8, 2004 and recorded as Document No. 20040602905 of the Official Public Records of Comal County, Texas, for an interior corner of this 10.010 acre tract;

THENCE with the South line of the Graham 8.715 acre tract, S. 86° 59' 19" E. 1,033.26 feet to a 1/2" re-bar rod set in the West line of Wegener Trail, a 40 foot road deeded to Comal County by deed recorded in Volume 180 on pages 504-

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**CASH WARRANTY DEED**

Date: March 11, 2005

**Grantor:** Helen Herbel Bolton, a single person, Janet P. Scudder, Individually, formerly known as Janet Mabry, owning, occupying, and claiming other property as homestead.

**Grantor's Mailing Address (including county):**

c/o Janet Scudder  
1 Scudder Lane  
Wimberley, Texas 78676  
Hays County

**Grantee:** Henry J. Johnson, Jr., and wife, Elizabeth A. Johnson

**Grantee's Mailing Address (including County):**

163 Champion Circle  
Wimberley, Texas 78676  
Hays County

**Consideration:** TEN AND NO/100 DOLLARS and other good and valuable consideration paid to an intermediary as part of a tax-deferred exchange pursuant to Section 1031 of the Internal Revenue Code.

**Property (including any improvements):**

10.010 acre tract of land out of the William S. Turner Survey No. 122, Abstract 620, Comal County, Texas, and being 6.621 acres out of that certain 29.292 acre tract conveyed to Janet E. Scudder by deed dated August 28, 1989 and recorded in Volume 690 on pages 270-272 of the Official Public Records of Comal County, Texas, and 3.389 acres out of that certain 37.9553 acre tract conveyed by Carlton Herbel and wife to Helen Herbel Bolton by deed dated December 18, 1987 and recorded in Volume 610 on page 174 of the Official Public Records of Comal County, Texas, and being more particularly described by Exhibit "A" attached hereto.

**Reservations From and Exceptions to Conveyance and Warranty:**

This conveyance is made subject to the following:

1. The property being hereby conveyed may be used for residential purposes, no commercial purposes shall be allowed except agribusiness that is acceptable to the neighbors and that has no retail sales from property.
2. Septic tanks will be permitted on the property, but their construction and location shall comply with existing state, county or other laws relating thereto.
3. No part of the property shall be used or maintained as a dumping ground for rubbish, garbage, trash or other waste material and same shall not be kept on the property except in sanitary containers for regular and frequent removal from the property. All incinerators or other equipment for the disposal of such materials shall be kept in a clean and sanitary condition and in such a manner as not to create a nuisance or annoyance to adjoining landowners, nor violate any laws or regulations relating to the use thereof.
4. No junk or junk yards of any kind or character shall be permitted, nor shall the accumulation of scrap. Used materials, inoperative automobiles, or machinery, or other unsightly storage of personal property shall be permitted.
5. All residential dwellings must consist of 1500 square foot exclusive of porches and garages.
6. No pre-manufactured home, modular home, or trailer shall be permitted on the property, provided, however, this does not preclude a Recreational Vehicle (RV) from being used on the property during construction of the residential dwelling. Thereafter, the RV may not be used for living purposes.
7. No hogs or pigs may be kept on the property, except for youth raising them for FFA or 4H projects; any poultry must be penned.
8. The property may not be further subdivided in less than 10 acre tracts.
9. Soil may not be excavated from the property except for the purposes of building ponds or stock tanks.
10. These restrictions shall be covenants running with the land and shall be enforceable by any owner of property within the 170 acres.

This conveyance is made and accepted subject to any and all restrictions, covenants, reservations, and easements, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State.

Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and 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 wise belonging, to have and hold it to Grantee, Grantee's heirs, executor, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors are hereby bound to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

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

Helen Herbel Bolton  
HELEN HERBEL BOLTON, by and through  
her agent and attorney in fact, Janet P. Scudder.

By: Janet P. Scudder  
Janet P. Scudder, agent and attorney in  
fact for Helen Herbel Bolton

Janet P. Scudder  
JANET P. SCUDDER, f/k/a Janet Mabry

**ACKNOWLEDGMENT**

**STATE OF TEXAS**

**COUNTY OF HAYS**

This instrument was acknowledged before me on this 11<sup>th</sup> day of March, 2005 by Janet P. Scudder, Individually, formerly known as Janet Mabry and as agent and attorney in fact for Helen Herbel Bolton.



Gabriele Sommer  
NOTARY PUBLIC, State of \_\_\_\_\_  
(print or stamp name of Notary)  
My commission expires \_\_\_\_\_

**WILLIAM J. KOLODZIE SURVEYING COMPANY****EXHIBIT "A"**

REGISTERED PROFESSIONAL LAND SURVEYORS  
 197 EAST MILL STREET  
 NEW BRAUNFELS, TEXAS 78130  
 830-625-6484 FAX 830-620-6484

WILLIAM J. KOLODZIE, R.P.L.S. 1462

GERARD S. SCHOLLER, R.P.L.S. 1876

March 8, 2005

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FROM a 1/2" re-bar rod found at a corner post in the Northeast R.O.W. line of State Highway 32, for the Southwest corner of a 163.674 acre tract conveyed by Carl A. Herbel and wife to Helen Herbel Bolton by deed dated January 17, 1969 and recorded in Volume 167 on pages 318-320 of the Deed Records of Comal County, Texas, for the South corner of the above cited Helen Herbel Bolton 37.9553 acre tract, for the Southeast corner of a 108.634 acre tract conveyed by Carlton H. Herbel to Carlton H. Herbel and Carolene Cae Herbel as Joint Tenants by deed dated February 28, 1997 and recorded as Document No. 9706004776 of the Official Public Records of Comal County, Texas; THENCE with the East line of the said 108.634 acre tract, the West line of the said 37.9553 acre tract, N. 06° 34' 12" W. 1,734.95 feet to a 1/2" re-bar rod set for the Southeast corner of a 12.508 acre tract, for the Southwest corner of a 14.758 acre tract, for the West corner and POINT OF BEGINNING of the herein described 10.010 acre tract;

THENCE leaving the East line of the 108.634 acre tract, the West line of the 37.9553 acre tract, with the Southeast line of the 14.758 acre tract, N. 45° 13' 09" E. 724.56 feet to a 1/2" re-bar rod set in the East line of the 37.9553 acre tract, in the West line of the above cited Janet E. Scudder 29.282 acre tract, for the Southeast corner of the 14.758 acre tract, for a Northeast corner of this 10.010 acre tract;

THENCE with the East line of the 37.9553 acre tract, with the West line of the 29.282 acre tract, S. 03° 47' 46" W. 410.91 feet to a 1/2" re-bar rod found in the fence, for the Southeast corner of an 8.715 acre tract conveyed to Roger and Lori Graham by deed dated July 8, 2004 and recorded as Document No. 20040602905 of the Official Public Records of Comal County, Texas, for an interior corner of this 10.010 acre tract;

THENCE with the South line of the Graham 8.715 acre tract, S. 86° 59' 19" E. 1,033.26 feet to a 1/2" re-bar rod set in the West line of Wegener Trail, a 40 foot road deeded to Comal County by deed recorded in Volume 180 on pages 504-



EXHIBIT "A"

10.010 ACRE TRACT, PAGE 2.

507 of the Deed Records of Comal County, Texas, in the East line of the 29.282 acre tract, for the Southeast corner of the Graham 8.715 acre tract, for the Northeast corner of this 10.010 acre tract;

THENCE with the West line of Wegener Trail, the East line of the 29.282 acre tract, as follows:

S. 26° 33' 37" W. 349.53 feet to a 1/2" re-bar rod set,  
S. 21° 41' 37" W. 56.73 feet to a 1/2" re-bar rod set, for the Northeast corner of a 10.010 acre tract surveyed on even date herewith, for the Southeast corner of this 10.010 acre tract;

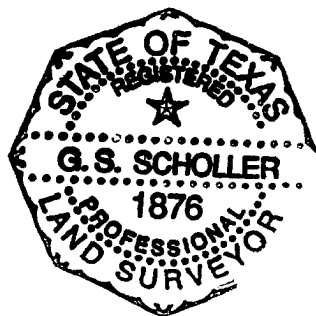
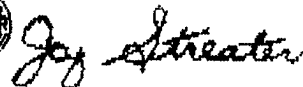
THENCE with the Northeast line of the 10.010 acre tract, crossing the 29.282 acre tract and the 37.9553 acre tract, N. 76° 36' 53" W. 1,379.13 feet to the Place of Beginning.

I hereby state that this survey was made on the ground and completed on March 8, 2005, and is true and correct to the best of my knowledge and belief.



GERARD S. SCHOLLER  
TEXAS R.P.L.S. 1876

Doc# 200506012752  
# Pages 5  
04/07/2005 2:50PM  
Official Records of  
COMAL COUNTY  
JOY STREATER  
COUNTY CLERK  
Fees \$22.00



8/11

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**CASH WARRANTY DEED**

**Date:** March 11, 2005

**Grantor:** Helen Herbel Bolton, a single person, Janet P. Scudder, Individually, formerly known as Janet Mabry, owning, occupying, and claiming other property as homestead.

**Grantor's Mailing Address (including county):**

c/o Janet Scudder  
1 Scudder Lane  
Wimberley, Texas 78676  
Hays County

**Grantee:** Henry J. Johnson, Jr., and wife, Elizabeth A. Johnson

**Grantee's Mailing Address (including County):**

163 Champion Circle  
Wimberley, Texas 78676  
Hays County

**Consideration:** TEN AND NO/100 DOLLARS and other good and valuable consideration paid to an intermediary as part of a tax-deferred exchange pursuant to Section 1031 of the Internal Revenue Code.

**Property (including any improvements):**

- Tract 1: 10.010 acre tract of land out of the William S. Turner Survey No. 122, Abstract 620, Comal County, Texas, and being 5.991 acres out of that certain 29.292 acre tract conveyed to Janet E. Scudder by deed dated August 28, 1989 and recorded in Volume 690 on pages 270-272 of the Official Public Records of Comal County, Texas, and 4.019 acres out of that certain 37.9553 acre tract conveyed by Carlton Herbel and wife to Helen Herbel Bolton by deed dated December 18, 1987 and recorded in Volume 610 on page 174 of the Official Public Records of Comal County, Texas, and being more particularly described by Exhibit "A" attached hereto.
  
- Tract 2: 10.010 acre tract of land out of the William S. Turner Survey No. 122, Abstract 620, Comal County, Texas, and being 7.647 acres out of that certain 29.282 acre

tract conveyed to Janet E. Scudder by deed dated August 28, 1989 and recorded in Volume 690 on pages 270-272 of the Official Public Records of Comal County, Texas, and 2.363 acres out of that certain 37.9553 acre tract conveyed by Carlton Herbel and wife to Helen Herbel Bolton by deed dated December 18, 1987 and recorded in Volume 610 on page 174 of the Official Public Records of Comal County, Texas, and being more particularly described by Exhibit "B" attached hereto.

**Reservations From and Exceptions to Conveyance and Warranty:**

This conveyance is made subject to the following:

1. The property being hereby conveyed may be used for residential purposes, no commercial purposes shall be allowed except agribusiness that is acceptable to the neighbors and that has no retail sales from property.
2. Septic tanks will be permitted on the property, but their construction and location shall comply with existing state, county or other laws relating thereto.
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4. No junk or junk yards of any kind or character shall be permitted, nor shall the accumulation of scrap. Used materials, inoperative automobiles, or machinery, or other unsightly storage of personal property shall be permitted.
5. All residential dwellings must consist of 1500 square foot exclusive of porches and garages.
6. No pre-manufactured home, modular home, or trailer shall be permitted on the property, provided, however, this does not preclude a Recreational Vehicle (RV) from being used on the property during construction of the residential dwelling. Thereafter, the RV may not be used for living purposes.
7. No hogs or pigs may be kept on the property, except for youth raising them for FFA or 4H projects; any poultry must be penned.
8. The property may not be further subdivided in less than 10 acre tracts.
9. Soil may not be excavated from the property except for the purposes of building ponds or stock tanks.

10. These restrictions shall be covenants running with the land and shall be enforceable by any owner of property within the 170 acres.

This conveyance is made and accepted subject to any and all restrictions, covenants, reservations, and easements, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State.

Current ad valorem taxes on said property having been prorated, the payment thereof is assumed by Grantee.

Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and 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 wise belonging, to have and hold it to Grantee, Grantee's heirs, executor, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors are hereby bound to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

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Helen Herbel Bolton  
HELEN HERBEL BOLTON, by and through  
her agent and attorney in fact, Janet P. Scudder.

By: Janet P. Scudder  
Janet P. Scudder, agent and attorney in  
Fact for Helen Herbel Bolton

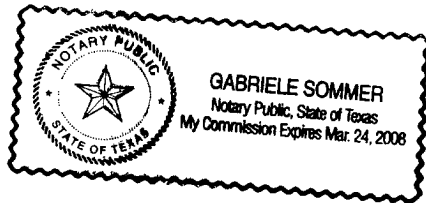
Janet P. Scudder  
JANET P. SCUDDER, f/k/a Janet Mabry

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on this 11<sup>th</sup> day of March, 2005 by Janet P. Scudder, Individually, formerly known as Janet Mabry and as agent and attorney in fact for Helen Herbel Bolton.



*Gabriele Sommer*  
\_\_\_\_\_  
NOTARY PUBLIC, State of \_\_\_\_\_  
\_\_\_\_\_  
(print or stamp name of Notary)  
My commission expires \_\_\_\_\_

EXHIBIT "A"

**WILLIAM J. KOLODZIE SURVEYING COMPANY**

REGISTERED PROFESSIONAL LAND SURVEYORS  
 197 EAST MILL STREET  
 NEW BRAUNFELS, TEXAS 78130  
 830-625-6484 FAX 830-620-6484

WILLIAM J. KOLODZIE, R.P.L.S. 1462

GERARD S. SCHOLLER, R.P.L.S. 1876

March 8, 2005

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FROM a 1/2" re-bar rod found at a corner post in the Northeast R.O.W. line of State Highway 32, for the Southwest corner of a 163.674 acre tract conveyed by Carl A. Herbel and wife to Helen Herbel Bolton by deed dated January 17, 1969 and recorded in Volume 167 on pages 318-320 of the Deed Records of Comal County, Texas, for the South corner of the above cited Helen Herbel Bolton 37.9553 acre tract, for the Southeast corner of a 108.634 acre tract conveyed by Carlton H. Herbel to Carlton H. Herbel and Carolene Cae Herbel as Joint Tenants by deed dated February 28, 1997 and recorded as Document No. 9706004776 of the Official Public Records of Comal County, Texas; THENCE with the East line of the said 108.634 acre tract, the West line of the said 37.9553 acre tract, N. 06° 34' 12" W. 892.37 feet to a 1/2" re-bar rod set for the Northwest corner of a 13.447 acre tract surveyed on even date herewith, for the Southwest corner and POINT OF BEGINNING of the herein described 10.010 acre tract;

THENCE continuing with the East line of the 108.634 acre tract, with the West line of the 37.9553 acre tract, N. 06° 34' 12" W. 642.89 feet to a 1/2" re-bar rod set in a field fence, for the Southwest corner of a 10.010 acre tract surveyed on even date herewith, for the Northwest corner of this 10.010 acre tract;

THENCE with the Southwest line of the 10.010 acre tract, crossing the 37.9553 acre tract and the 29.282 acre tract, S. 63° 27' 49" E. 1,274.65 feet to a 1/2" re-bar rod set at an angle point in the West line of Wegener Trail, a 40 foot road deeded to Comal County by deed recorded in Volume 180 on pages 504-507 of the Deed Records of Comal County, Texas, in the East line of the 29.282 acre tract, for the Southeast corner of the 10.010 acre tract, for the Northeast corner of this 10.010 acre tract;

THENCE with the West line of Wegener Trail, the East line of the 29.282 acre tract, as follows:  
 S. 61° 58' 37" W. 231.90 feet to a 1/2" re-bar rod set, and

EXHIBIT "A"

10.010 ACRE TRACT, PAGE 2.

S. 08° 42' 37" W. 97.40 feet to a 1/2" re-bar rod set for the Southeast corner of the 29.282 acre tract, for a corner of the 13.447 acre tract, for the Southeast corner of this 10.010 acre tract;

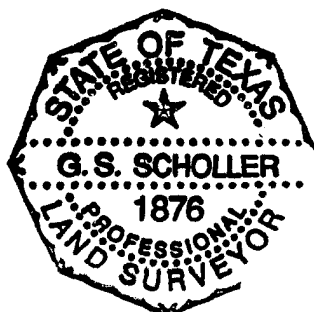
THENCE with the South line of the 29.282 acre tract, the North line of the 13.447 acre tract, N. 80° 52' 47" W. 618.40 feet to a 1/2" re-bar rod found in the East line of the 37.9553 acre tract, for the Southwest corner of the 29.282 acre tract;

THENCE continuing with the North line of the 13.447 acre tract, crossing the 37.9553 acre tract, N. 80° 52' 47" W. 239.80 feet to the Place of Beginning.

I hereby state that this survey was made on the ground and completed on March 8, 2005, and is true and correct to the best of my knowledge and belief.



GERARD S. SCHOLLER  
TEXAS R.P.L.S. 1876



**WILLIAM J. KOLODZIE SURVEYING COMPANY**

EXHIBIT "B"

REGISTERED PROFESSIONAL LAND SURVEYORS  
 197 EAST MILL STREET  
 NEW BRAUNFELS, TEXAS 78130  
 830-625-6484 FAX 830-620-6484

WILLIAM J. KOLODZIE, R.P.L.S. 1462

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March 8, 2005

Description of a 10.010 acre tract of land out of the William S. Turner Survey No. 122, Abstract 620, Comal County, Texas, and being 7.647 acres out of that certain 29.282 acre tract conveyed to Janet E. Scudder by deed dated August 28, 1989 and recorded in Volume 690 on pages 270-272 of the Official Public Records of Comal County, Texas, and 2.363 acres out of that certain 37.9553 acre tract conveyed by Carlton Herbel and wife to Helen Herbel Bolton by deed dated December 18, 1987 and recorded in Volume 610 on page 174 of the Official Public Records of Comal County, Texas, said 10.010 acre tract described more particularly by metes and bounds as follows:

FROM a 1/2" re-bar rod found at a corner post in the Northeast R.O.W. line of State Highway 32, for the Southwest corner of a 163.674 acre tract conveyed by Carl A. Herbel and wife to Helen Herbel Bolton by deed dated January 17, 1969 and recorded in Volume 167 on pages 318-320 of the Deed Records of Comal County, Texas, for the South corner of the above cited Helen Herbel Bolton 37.9553 acre tract, for the Southeast corner of a 108.634 acre tract conveyed by Carlton H. Herbel to Carlton H. Herbel and Carolene Cae Herbel as Joint Tenants by deed dated February 28, 1997 and recorded as Document No. 9706004776 of the Official Public Records of Comal County, Texas; THENCE with the East line of the said 108.634 acre tract, the West line of the said 37.9553 acre tract, N. 06° 34' 12" W. 1,535.26 feet to a 1/2" re-bar rod set for the Northwest corner of a 10.010 acre tract surveyed on even date herewith, for the Southwest corner and POINT OF BEGINNING of the herein described 10.010 acre tract;

THENCE continuing with the East line of the 108.634 acre tract, with the West line of the 37.9553 acre tract, N. 06° 34' 12" W. 199.69 feet to a 1/2" re-bar rod set in a field fence, for the Southeast corner of a 12.508 acre tract, for the South corner of a 14.758 acre tract, for the Southwest corner of the said 10.010 acre tract, for the Northwest corner of this 10.010 acre tract;

THENCE with the Southwest line of the 10.010 acre tract, crossing the 37.9553 acre tract and the 29.282 acre tract, S. 76° 36' 53" E. 1,379.13 feet to a 1/2" re-bar rod set in the West line of Wegener Trail, a 40 foot road deeded to Comal County by deed recorded in Volume 180 on pages 504-507 of the Deed Records of Comal County, Texas, the East line of the 29.282 acre tract, for the Southeast corner of the 10.010 acre tract, for the Northeast corner of this 10.010 acre tract;

THENCE with the West line of Wegener Trail, the East line of the 29.282 acre tract, S. 21° 41' 37" W. 482.77 feet to a 1/2" re-bar rod set at an angle



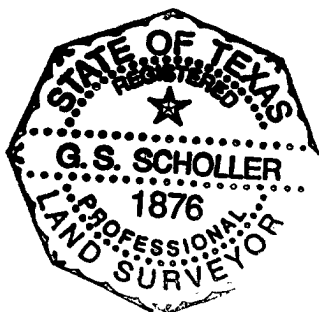
point in Wegener Trail, for the Northeast corner of a 10.010 acre tract surveyed on even date herewith, for the Southeast corner of this 10.010 acre tract;

THENCE with the Northeast line of the 10.010 acre tract, crossing the 29.282 acre tract and the 37.9553 acre tract, N. 63° 27' 49" W. 1,274.65 feet to the Place of Beginning.

I hereby state that this survey was made on the ground and completed on March 8, 2005, and is true and correct to the best of my knowledge and belief.

GERARD S. SCHOLLER  
TEXAS R.P.L.S. 1876

Doc# 200506012755  
# Pages 8  
04/07/2005 2:50PM  
Official Records of  
COMAL COUNTY  
JOY STREATER  
COUNTY CLERK  
Fees \$28.00



Doc# 200506012755

0716611-WLM



200706051860 12/28/2007 11:30:10 AM DEED 1/5

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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### WARRANTY DEED WITH VENDOR'S LIEN

**Date:** December 20, 2007 *to be effective December 21, 2007*

**Grantor:** CAROLENE CAE HERBEL, a single person

**Grantor's Mailing Address (including county):**

1804 Half Moon  
Las Cruces, NM 88005  
Dona Ana County

**Grantee:** MADALYN WARD

**Grantee's Mailing Address (including County):**

11608 FM 1826  
Austin, TX 78737  
Travis County

**Consideration:** TEN AND NO/100 DOLLARS and other good and valuable consideration and the further consideration of a note of even date that is in the principal amount of ONE HUNDRED FORTY TWO THOUSAND SIX HUNDRED AND NO/100 (\$142,600.00) DOLLARS and is executed by Grantee, payable to the order of CAPITAL FARM CREDIT, FLCA. The note is secured by a vendor's lien retained in favor of CAPITAL FARM CREDIT, FLCA in this deed and by a deed of trust of even date, from Grantee to Ben R. Novosad, Trustee.

CAPITAL FARM CREDIT, FLCA at Grantee's request, having paid in cash to Grantor that portion of the purchase price of the property that is evidenced by the note described, the vendor's lien and superior title to the property are retained for the benefit of CAPITAL FARM CREDIT, FLCA and are transferred to CAPITAL FARM CREDIT, FLCA without recourse on Grantor.

**Property (including any improvements):**

TRACT ONE:

BEING 10.1 acres of land, more or less, in the W.S. TURNER SURVEY NO. 122, in Comal County, Texas, being out of that tract of land called 108.6338 (108+) acres, described and

recorded in Document No. 9706004776, Comal County Official Public Records and said 10.1 acres being more particularly described by metes and bounds in Exhibit "A" attached hereto.

**TRACT TWO:**

BEING 10.1 acres of land, more or less, in the W.S. TURNER SURVEY NO. 122, in Comal County, Texas, being out of that tract of land called 108.6338 (108+) acres, described and recorded in Document No. 9706004776, Comal County Official Public Records and said 10.1 acres being more particularly described by metes and bounds in Exhibit "B" attached hereto.

**Reservations From and Exceptions to Conveyance and Warranty:**

There is hereby reserved unto Grantor, their heirs and assigns, an undivided one-half (1/2) mineral interest in all of the oil, gas and other minerals that are now owned by Grantor, provided, however, it is expressly understood and agreed that no leasing rights are being retained hereby, and Grantee herein shall have the sole and exclusive right to negotiate for and execute mineral leases covering Grantor's mineral interest in said property.

This conveyance is made and accepted subject to the following matters:

1. The property being conveyed hereby may be used for residential purposes only, no commercial shall be allowed.
  2. Septic tanks will be permitted on the property, but their construction and location shall comply with all existing state, county or other laws relating thereto.
  3. No part of the property shall be used or maintained as a dumping ground for rubbish, garbage, trash or other waste material and same shall not be kept on the property except in sanitary containers for regular and frequent removal from the property. All incinerators or other equipment for the disposal of such materials shall be kept in a clean and sanitary condition and in such a manner as not to create a nuisance or annoyance to adjoining landowners, nor violate any laws or regulations relating to the use thereof.
  4. No junk or junkyards of any kind or character shall be permitted, nor shall the accumulation of scrap, used materials, inoperative automobiles, or machinery, or other unsightly storage of personal property be permitted.
  5. All residential dwellings must consist of 1500 square foot exclusive of porches and garages.
  6. No pre-manufactured home, modular home, or trailer shall be permitted on the property, provided, however, this does not preclude a Recreation Vehicle (RV) from being used on the property during construction of the residential dwelling. Thereafter, the RV may not be used for living purposes.
  7. No hogs or pigs may be kept on the property except for FFA or 4H stock; any poultry must be penned.
  8. The property may not be further subdivided.
  9. These restrictions shall be covenants running with the land and shall be enforceable by any owner of property within the 108.634 acre tract subdivided by Carolene C. Herbel.
-

This conveyance is further made and accepted subject to any and all restrictions, covenants, reservations, and easements, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State.

Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and 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 wise belonging, to have and hold it to Grantee, Grantee's heirs, executor, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and 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 shall become absolute.

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

  
CAROLENE CAE HERBEL

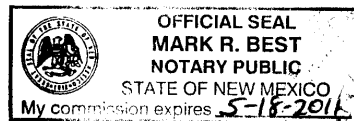
#### ACKNOWLEDGMENT

STATE OF NEW MEXICO

COUNTY OF DONA ANA

This instrument was acknowledged before me on the 21<sup>st</sup> day of December 2007, by CAROLENE CAE HERBEL.

  
Notary Public, State of New Mexico





**EAGLE  
LAND  
SURVEYING**

P.O. Box 2264 Wimberley, Texas 78676 (512) 847-1079 Fax: (512) 847-8522

October 24, 2007  
**TRACT 'B'**

FIELD NOTES DESCRIBING 10.1 ACRES OF LAND, MORE OR LESS, IN THE W. S. TURNER SURVEY NO. 122, IN COMAL COUNTY, TEXAS, BEING OUT OF THAT TRACT OF LAND CALLED 108.6338 (108+) ACRES, AS DESCRIBED AND RECORDED IN DOCUMENT NO. 9706004776, COMAL COUNTY PUBLIC RECORDS, SAID 10.1 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2" iron pin found at the base of a wood fence post on the North right-of-way line of State Highway 32 for the Southeast corner of the afore mentioned 108+ acres, said point being the Southeast corner of the herein described 10.1 acres;

THENCE, N 59°43'44"W, with the North right-of-way line of State Highway 32 and the South line of the afore mentioned 108+ acres, a distance of 37.49 feet to a 1/2" iron pin set for the Southwest corner of the herein described 10.1 acres;

THENCE, N 06°34'34"W, leaving the North right-of-way line of State Highway 32, into the afore mentioned 108+ acres, a distance of 840.00 feet to a 1/2" iron pin set for an angle point;

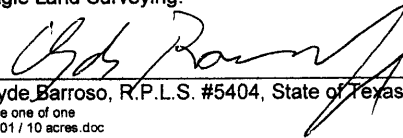
THENCE, N 57°59'39"W, a distance of 587.60 feet to a 1/2" iron pin set for the most Westerly corner of the herein described 10.1 acres;

THENCE, N 01°47'20"E, a distance of 952.64 feet to a 1/2" iron pin found for the Southwest corner of that tract of land called 12.508 acres, as described and recorded in Document No. 20060603436, Comal County Public Records, said point being the Northwest corner of the herein described 10.1 acres;

THENCE, S 45°13'31"E, with the fenced South line of the afore mentioned 12.508 acres, a distance of 205.72 feet to a 1/2" iron pin found for an angle point;

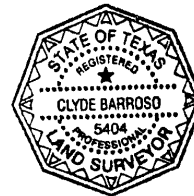
THENCE, S 45°24'19"E, continuing with the fenced South line of the afore mentioned 12.508 acres, a distance of 354.48 feet to a 1/2" iron pin found for the South corner of the afore mentioned 12.508 acres, the South corner of that tract of land called 14.525 acres, as described and recorded in Document No. 200506027292, Comal County Public Records, the West corner of that tract of land called 10.010 acres, as described and recorded in Document No. 200506012752, Comal County Public Records, the Northwest corner of that tract of land called 10.010 acres, as described and recorded in Document No. 200506012755, Comal County Public Records, said point being the Northeast corner of the herein described 10.1 acres;

THENCE, S 06°34'34"E, with the West line of the afore mentioned 10.010 acres, as described in Document No. 200506012755, with the West line of that tract of land called 10.010 acres, as described and recorded in Document No. 200506012755, Comal County Public Records, and with the West line of that tract of land called 13.447 acres, as described and recorded in Document No. 200406034788, Comal County Public Records, a distance of 1,734.62 feet to the POINT OF BEGINNING, containing 10.1 acres of land, more or less. These field notes accompany a survey plat dated October 24, 2007, by Eagle Land Surveying.

  
Clyde Barroso, R.P.L.S. #5404, State of Texas

page one of one  
703011 / 10 acres.doc  
jw

EXHIBIT "A"





**EAGLE  
LAND  
SURVEYING**

P.O. Box 2264 Wimberley, Texas 78676 (512) 847-1079 Fax: (512) 847-8522

October 24, 2007  
**TRACT 'C'**

FIELD NOTES DESCRIBING 10.1 ACRES OF LAND, MORE OR LESS, IN THE W. S. TURNER SURVEY NO. 122, IN COMAL COUNTY, TEXAS, BEING OUT OF THAT TRACT OF LAND CALLED 108.6338 (108+) ACRES AS DESCRIBED AND RECORDED IN DOCUMENT NO. 9706004776, COMAL COUNTY PUBLIC RECORDS, SAID 10.1 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

COMMENCING AT A 1/2" IRON PIN FOUND AT THE BASE OF A WOOD FENCE POST ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 32 FOR THE SOUTHEAST CORNER OF THE AFORE MENTIONED 108+ ACRES;

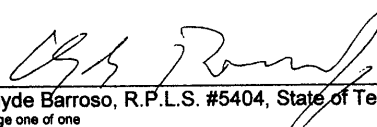
THENCE, N 59°43'44"W, WITH THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 32 AND THE SOUTH LINE OF THE AFORE MENTIONED 108+ ACRES, A DISTANCE OF 37.49 FEET TO A 1/2" IRON PIN SET FOR THE POINT OF BEGINNING FOR THIS DESCRIPTION, SAID POINT BEING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED 10.1 ACRES;

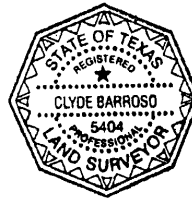
THENCE, N 59°43'44"W, with the North right-of-way line of State Highway 32 and the South line of the afore mentioned 108+ acres, a distance of 716.71 feet to a 1/2" iron pin set for the Southwest corner of the herein described 10.1 acres;

THENCE, N 01°47'20"E, leaving the North right-of-way line of State Highway 32, into the afore mentioned 108+ acres, a distance of 785.00 feet to a 1/2" iron pin set for the Northwest corner of the herein described 10.1 acres;

THENCE, S 57°59'39"E, a distance of 587.60 feet to a 1/2" iron pin set for Northeast corner of the herein described 10.1 acres;

THENCE, S 06°34'34"E, a distance of 840.00 feet to the POINT OF BEGINNING, containing 10.1 acres of land, more or less. These field notes accompany a survey plat dated October 24, 2007, by Eagle Land Surveying.

  
Clyde Barroso, R.P.L.S. #5404, State of Texas  
page one of one  
70302 / 10 acres.doc  
jw



Filed and Recorded  
Official Public Records  
**EXHIBIT "B"**  
Joy Streater, County Clerk  
Comal County, Texas  
12/28/2007 11:30:10 AM  
CASHTHREE  
200706051860



*Joy Streater*