

W. 16-a.

AGENDA COVER MEMO

DATE: August 2, 2006

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas

AGENDA ITEM TITLE: In The Matter of Authorizing a Grant of Easement and Maintenance Agreement Over a Portion of County-Owned Land Identified as Tax Lot 17-02-26-00-00705, Commonly Known as Vickery Mountain Park.

I. MOTION

THAT THE ORDER BE APPROVED AUTHORIZING A GRANT OF EASEMENT AND MAINTENANCE AGREEMENT WITH EVA MAUREEN O'NEILL CONCERNING THE PROPERTY KNOWN AS VICKERY MOUNTAIN PARK.

II. ISSUE OR PROBLEM

Eva Maureen O'Neill owns two parcels of land that border Lane County Property commonly known as Vickery Mountain Park. One of the parcels she owns has a legal right of access over an existing private road that is a portion of the Vickery Mountain Park property, but the other parcel does not have a recorded legal right of access. She wishes to obtain an Easement in order to assure legal access to her property and is willing to be responsible for the maintenance of the driveway access road until such time as the County parkland is developed to include an improved parking lot. When the development of a parking lot has been completed, the County and O'Neill agree to renegotiate the issue of responsibility for maintenance of the road.

III. DISCUSSION

A. Background:

Lane County owns Tax Lot 705 on Map 17-02-26, which consists of approximately 81.05 acres and is commonly known as Vickery Mountain Park. Ms. O'Neill owns the adjacent property to the east of the County property, identified as Tax Lot 701. This Tax Lot is a "panhandle" lot which includes a fee-owned strip that extends westerly along the north line of the Park property a distance of about 1,400 feet to the intersection of the Vickery Mountain Park access road which is also a "panhandle" owned by the County and which extends northerly to intersect with Camp

Upon conclusion of the public hearing and if the Board finds that the conveyance of the easement and maintenance agreement is the best interest of the public, it is recommended that the Order authorizing the Grant of Easement and Maintenance be approved.

There is no monetary consideration involved with this transaction, but Ms. O'Neill has agreed to pay all administrative costs associated with the transaction.

C. Alternatives/Options

1. Approve the Order authorizing the Grant of Easement and Maintenance Agreement.
2. Reject the Grant of Easement and Maintenance Agreement as outlined above.

D. Recommendations

Option 1.

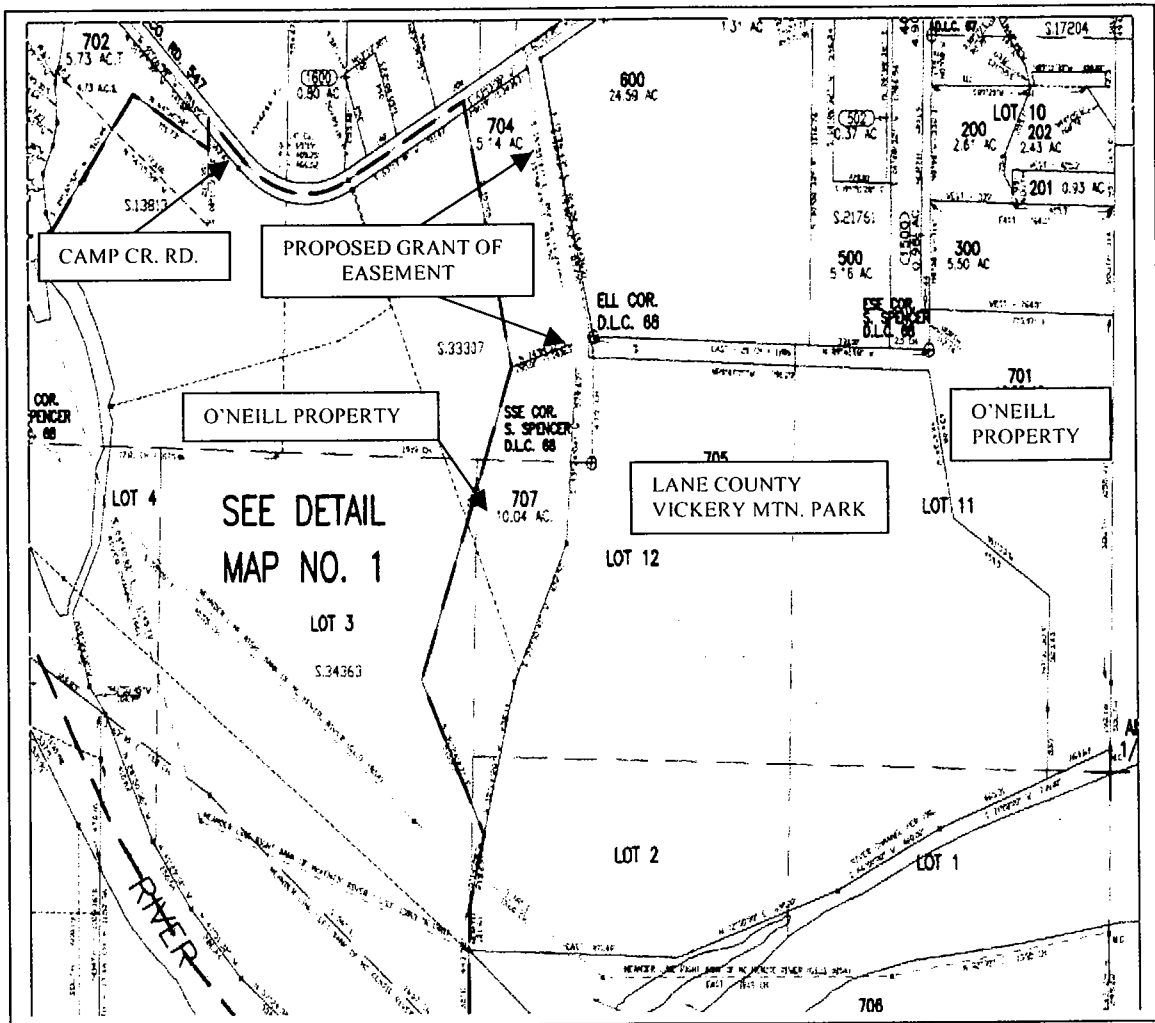
IV. IMPLEMENTATION/FOLLOW-UP

Public Works Staff will transmit the signed document for recording,

V. ATTACHMENTS:

Grant of Easement and Maintenance Agreement
Attachment 1 (Map)
Attachment 2 (Notice of Hearing)

ATTACHMENT I
PORTION OF MAP 17-02-26



ATTACHMENT 2

NOTICE OF HEARING PER ORS 275.330(2) VICKERY MOUNTAIN PARK GRANT OF EASEMENT AND ROAD MAINTENANCE AGREEMENT

AUGUST 30, 2006
1:30 PM

LANE COUNTY COMMISSIONERS CONFERENCE ROOM
PUBLIC SERVICE BUILDING, 2ND FLOOR
125 East 8th AVE.
EUGENE, OR

GENERAL INFORMATION:

Lane County is proposing to grant an easement over a portion of that property known as Vickery Mountain Park in Section 26, Township 17 South, Range 2 West, Willamette Meridian. This property is identified as Lane County Assessor's Tax Lot 705 on Map 17-02-26. The proposed grantee, Eva M. O'Neill, currently own two adjacent properties adjoining the County park land; identified as Tax Lot 701 and 707 on Map 17-02-26. Tax Lot 701 currently has a recorded easement for ingress and egress to and from Camp Creek Road at about MP 3.8, over an existing access road located on the park property. A location map is included on the reverse of this sheet for your information.

Tax Lot 707 uses the access road for ingress and egress, but does not possess a recorded easement over the road. The proposed Grant of Easement includes language whereby the grantee agrees to accept responsibility for maintenance of the access road until such time as the County park land is developed to include an improved parking lot, at which time the County and the grantee agree to renegotiate the issue of responsibility for maintenance of the road. There are currently no plans to develop any improvements on the County park land.

ADVANTAGES:

Although this park property currently has no improvements, it is available for access by the public. The proposed grant of easement will relieve the County of an obligation to maintain the access road. Because the property proposed to be benefited by the easement is zoned E-30, Exclusive Agriculture, 30 acre minimum, it is anticipated that the granting of the easement will pose little, if any, additional burden on the County park land or on the access road.

CONSEQUENCES:

The Grant of Easement and Maintenance Agreement will be recorded, which will be an encumbrance on the County Land. The strip of land in question is about 820 feet in length and of variable width from 43 feet to 61 feet. It is currently burdened with an access easement and could not be converted to another use without the consent of Ms. O'Neill or her successor in interest.

HEARING FORMAT:

Staff Presentation

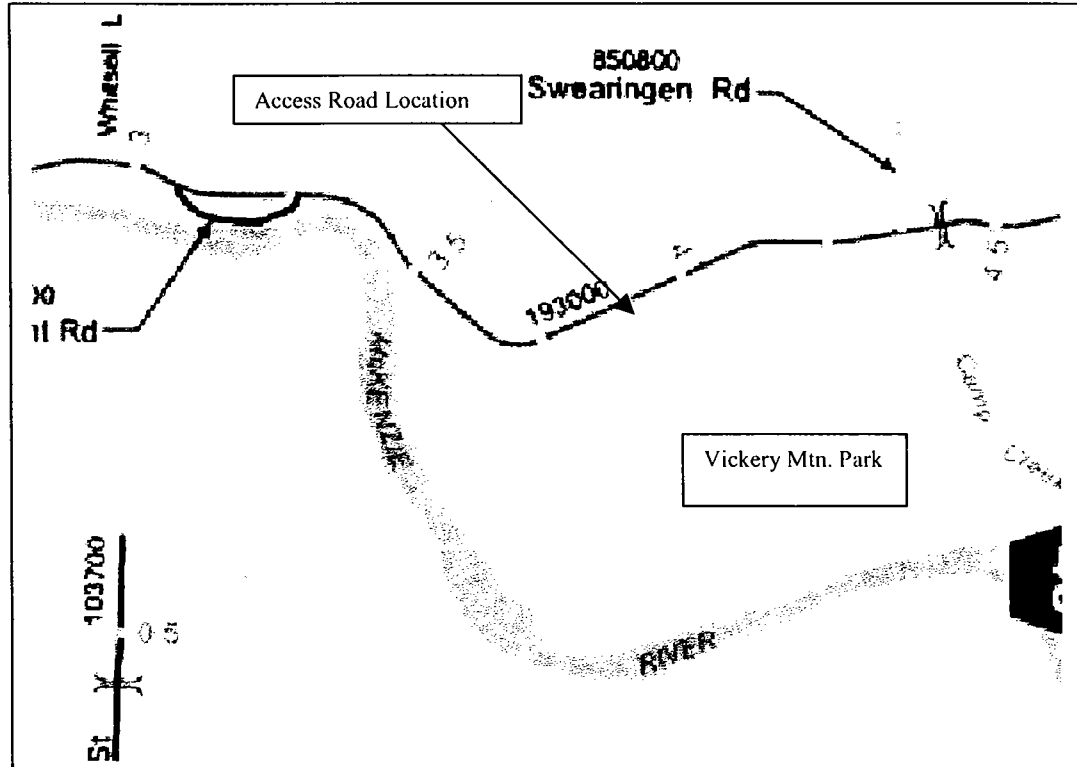
Opportunity for Written Comments

Public Testimony

If, at the conclusion of the public hearing, the Board finds that the granting of the Easement and Maintenance Agreement is in the best interest of the public, the Order will approved authorizing said grant.

FOR INFORMATION:

Contact Frank Simas, Right of Way Manager, (541) 682-6090, Lane County Public Works, 3040 N. Delta Highway, Eugene, OR 97408. Meeting location is wheelchair accessible. Anyone needing special accommodations (hearing impaired, language translation, chemical sensitive needs and large print copies of Hearing materials) please make your request at least 48 hours prior to the meeting. TDD service can be reached at (541) 682-3995.



LOCATION MAP

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

ORDER NO.

**(IN THE MATTER OF AUTHORIZING A
(GRANT OF EASEMENT AND
(MAINTENANCE AGREEMENT OVER A
(PORTION OF COUNTY-OWNED LAND
(IDENTIFIED AS TAX LOT 17-02-26-00-
(00705, COMMONLY KNOWN AS
(VICKERY MOUNTAIN PARK**

WHEREAS, Lane County owns the above-referenced property that is commonly known as Vickery Mountain Park and is identified as Tax Lot 17-02-26-00-00705; **AND**

WHEREAS, Eva Maureen O'Neill owns two parcels of land adjacent to said County, one of which has a recorded legal right of access across a portion of the County property containing an access road which provides access to Camp Creek Road, a County road, (Tax Lot 17-02-26-00-00701), and one parcel which does not have a similar recorded legal right of access (Tax Lot 17-02-26-00-00707), **AND**

WHEREAS, Ms. O'Neill wishes to obtain a recorded easement over the established access road to provide legal access to Tax Lot 707, so that she may obtain a Building Permit to construct an agricultural building on said property; **AND**

WHEREAS, Ms. O'Neill is agreeable to being responsible for the maintenance of said access road until such time as the County develops an improved parking lot, and upon completion of said parking lot she and the County agree to renegotiate their respective responsibilities with respect to the maintenance of the road; **AND**

WHEREAS, there is a public benefit to Ms. O'Neill being responsible for the cost of maintaining the access road that she is currently using for access to Tax Lot 701, in that there may be a cost savings of up to \$400.00 per year resulting from Ms. O'Neill assuming responsibility for maintaining the access road, and the Board therefore finds that the granting of an easement and maintenance agreement is therefore in the best interest of the public; **AND**

WHEREAS, ORS 275.330(3) requires that a hearing be held prior to any alienation, sale or conveyance of any land that has been set aside as public park or recreational land, and that notice of said hearing shall be published weekly for two consecutive weeks in a newspaper circulated generally within the county; **AND**

WHEREAS, notice was published in the Eugene Register Guard on August 20, 2006 and August 27, 2006, and the Board of County Commissioners Conducted a public hearing on August 30, 2006, and is now ready to approve the granting of the Grant of Easement and Maintenance Agreement; **AND**

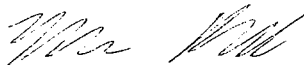
NOW THEREFORE BE IT ORDERED, that the County Commissioners sign the Grant of Easement and Maintenance Agreement needed to accomplish the Grant of Easement and to provide for the maintenance of the access road; **AND**

IT IS FURTHER ORDERED that this order be entered into the records of the Board of County Commissioner's Journal of Administration of Lane County, Oregon.

Dated this _____ day of _____, 2006.

APPROVED:

8-15-06



Chair

Lane County Board of Commissioners

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

After Recording Return to, and
Send Tax Statements to:
Lane County Public Works
Right of Way Management Section
3040 N. Delta Highway
Eugene, Oregon 97408

GRANT OF EASEMENT AND MAINTENANCE AGREEMENT

RECITALS:

WHEREAS, Lane County, a Political Subdivision of the State of Oregon, and herein referred to as **COUNTY**, owns the property described on attached Exhibit "A" and labeled as "County Owned Park Land", and Eva Maureen O'Neill, hereinafter referred to as "**O'NEILL**", is the owner of property that adjoins **COUNTY'S** property along its westerly boundary, also described on said Exhibit "A" and labeled thereon as "O'Neill Parcel", and

WHEREAS, **COUNTY** currently owns the strip of land where an existing driveway is located that runs southeasterly from Camp Creek Road to provide access to both **COUNTY'S** property and **O'NEILL'S** property, and

WHEREAS, currently the **O'NEILL** property as described in Exhibit "A" does not have an appurtenant roadway easement for ingress and egress in order to legally access their property.

NOW, THEREFORE, it is mutually agreed as follows:

DECLARATION OF EASEMENT

1. COUNTY hereby grants to **O'NEILL** a perpetual, non-exclusive easement to allow them to use a strip of land for ingress and egress over a strip of land 60 feet in width, as described on the attached Exhibit "B".

2. EASEMENT PROVISION. The terms of said easement are as follows:

2.1 PURPOSE. The easement is for providing ingress and egress to and from Camp Creek Road for the parcel as described on Exhibit "A" (Legal Description- O'Neill Property), and for the use and benefit of no other property.

2.2 USE OF BURDENED PROPERTY. The **COUNTY** shall have the right to use the Easement area as described on said Exhibit "B", for any purpose so long as said use does not interfere with the use of the roadway nor the access easement as granted by this instrument.

2.3 PRIVATE GRANT. The easement created by this instrument does not constitute a dedication or grant of public use.

2.4 MAINTENANCE. Notwithstanding the provisions of that certain easement recorded May 1, 1978, under Recorder's Reception No. 7829265 in the Office of Deeds and Records of Lane

County, Oregon, **O'NEILL** or her successor in interest shall be responsible for the maintenance of the existing driveway access road until such time as the County park land is developed to include an improved parking lot. When development of said parking lot has been completed, **COUNTY** and **O'NEILL** agree to renegotiate their respective responsibilities with regard to maintenance of said driveway access and to amend this Grant of Easement and Maintenance based on outcome of said negotiations.

2.5 UTILITIES. The easement area may be used for the installation or maintenance of utilities, provided the installation of said utilities does not interfere with the usage of the easement area for ingress and egress.

3.0 SUCCESSORS IN INTEREST. The provisions of this instrument shall touch and concern, and relate to the use of the **O'NEILL** and **COUNTY** parcels, and are intended to be covenants and restrictions running with the land. This document shall therefore be recorded in the Office of Deeds and Records of Lane County Oregon.

All Provisions of the instrument, including the benefits and burdens are binding on and inure to the heirs, successors assignees, transferees and personal representatives of all parties who may hereinafter own either of the respective parcels.

4.0 HOLD HARMLESS. **O'NEILL** and **COUNTY** shall mutually defend, save, hold harmless and indemnify each other and their Commissioners, employees agents and officers harmless from all claims, suits, damages, losses, expenses and actions arising out of or resulting from the negligence or fault of each parties' respective contractors, Commissioners, employees, agents and officers. It is understood between the parties that **COUNTY's** liability hereunder is strictly limited by the Oregon Tort Claims Act and the Oregon Constitution.

IN WITNESS WHEREOF, the undersigned have executed this instrument this _____ day of _____, 2006.

LANE COUNTY, a political subdivision of the State of Oregon

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

O'NEILL

Eva Maureen O'Neill
Eva Maureen O'Neill

STATE OF OREGON)
) ss.
County of Lane)

On July 13, 2006, personally appeared the above-named

EUA MAUREEN O'NEILL

and acknowledged the foregoing instrument to be her voluntary act before me.



Frank Simas

Notary Public for Oregon

My Commission Expires: 12-12-06

STATE OF OREGON)
) ss.
County of Lane)

On _____, 2006, personally appeared _____

Who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon, and that said instrument was signed and sealed on behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

Notary Public for Oregon

My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION – COUNTY OWNED PARK LAND

A parcel of land lying in the Northeast one-quarter (NE ¼) of Section 26, Township 17 South, Range 2 West of the Willamette Meridian, and being a portion of the tract of land conveyed to FREDERICK KEPPEL, by that certain deed recorded on Reel 647-R, Recorder's Reception Number 7332783, Lane County Oregon Deed Records, said parcel being described as follows:

Beginning at an iron pin which is 1320.00 feet South of the Northeast corner of Section 26, Township 17 South, Range 2 West of the Willamette Meridian, in Lane County, Oregon, and running thence South, 1,055.91 feet to an iron pin; thence continuing South, 192.18 feet, more or less, to the meander course of the North bank of the McKenzie River; thence along the meander course South 71° West, 730.00 feet; thence along the meander course South 66° West, 460.00 feet; thence along the meander course South 72° 30' West, 690.00 feet; thence along the meander course West, 871.48 feet to a point; thence leaving the meander course of the McKenzie River and running North, 121.61 feet to a point; thence North 15° 17' East, 215.67 feet; thence North 15° 17' East, 458.74 feet to an iron pin; thence North 27° 30' 41" East, 452.50 feet to an iron pin; thence North 3° 34' 04" East, 578.68 feet to an iron pin; thence North 15° 58' 43" West, 814.52 feet to the south right of way line of Camp Creek County Road; thence North 63° 13' 30" East, 61.08 feet along the south right of way line of the Camp Creek County Road to an iron pin; thence South 15° 58' 43" East, 825.96 feet to an iron pin; thence East, 1,386.00 feet to a point; thence North, 112.76 feet to a point; thence East, 773.97 feet to the point of beginning, all in Lane County, Oregon.

EXCEPT: Any portion of Government Lots 1 and 2 that may presently be in the bed of or south of the McKenzie River, all in Section 26, Township 17 South, Range 2 West of the Willamette Meridian, in Lane County, Oregon.

ALSO EXCEPT the following: Beginning at a ½" iron rod which bears South, 1,319.10 feet from a brass cap marking the northeast corner of Section 26, in Township 17 South, Range 2 West of the Willamette Meridian; thence South 0° 10' 30" West, 1,056.66 feet to a ½" iron pipe; thence South 0° 10' 30" West, 192.18 feet to the meander course of the north bank of the McKenzie River; thence South 71° 00' West, 264.69 feet; thence North 0° 10' 30" East, 200.00 feet to a 5/8" iron rod; thence North 0° 10' 30" East, 323.03 feet to a 5/8" rod; thence North 61° 53' West, 455.50 feet to a 5/8" iron rod; thence North 14° 34' West, 434.08 feet to a 5/8" iron rod; thence North 89° 47' 20" West, 1,396.29 feet to a 5/8" iron rod; thence North 0° 12' 40" East, 60.00 feet to a 5/8" iron rod; thence South 89° 47' 20" East, 1,396.29 feet to a stone marking the east-southeast corner of the Spencer Donation Land Claim No. 68, in Township 17 South, Range 2 West of the Willamette Meridian; thence North 0° 08' 32" East, 117.19 feet along the east line of the aforementioned Donation Land Claim No. 68 to a 5/8" iron rod; thence East, 762.90 feet

to the point of beginning, containing 16.83 acres, more or less, all in Lane County, Oregon.

LEGAL DESCRIPTION – O'NEILL PARCEL

Beginning at a brass cap monument marking the Northeast corner of Section 26, Township 17 South, Range 2 West of the Willamette Meridian, Lane County, Oregon; Running thence South, 665.43 feet; thence West, 2,442.04 feet to a ½ inch iron rod set on the southerly right of way line of Camp Creek Road; thence along said right of way line South 63° 13' 30" West, 290.19 feet to a 5/8 inch iron rod; thence along the westerly line of that certain tract of land described in Reel 907R, Reception No. 78-29266, Lane County, Oregon Deed Records South 15° 55' 07" East, 757.83 feet to the TRUE POINT OF BEGINNING; thence along the southerly line of said parcel described in Reception No. 78-29266 North 74° 04' 53" East, 285.00 feet to a ½ inch iron pipe as monumented in County Survey File No. 13813; thence along the westerly line of County Survey File No. 13813 South 3° 21' 51" West, 579.07 feet to a ½ inch iron pipe; thence South 27° 21' 14" West, 451.90 feet to a ½ inch iron pipe; thence South 15° 14' 28" West, 458.14 feet to a ½ inch iron pipe; thence leaving the westerly line of said County Survey File No. 13813 North 31° 24' 27" West, 510.27 feet to a 5/8 inch iron rod; thence North 21° 17' 53" East, 974.33 feet to the TRUE POINT OF BEGINNING.

EXHIBIT B

LEGAL DESCRIPTION – ROADWAY EASEMENT

Beginning at a ½ inch iron rod on the South right of way line of Camp Creek Road (County Road No. 547), which iron rod is South 666.24 feet and West 2,441.87 feet from a brass cap marking the Northeast corner of Section 26, Township 17 South, Range 2 West of the Willamette Meridian, Lane County, Oregon; Running thence North 63° 13' 30" East along the South line of said Camp Creek Road 61.08 feet to a ½ inch iron rod; thence South 15° 58' 43" East, 825.96 feet to a 5/8 inch iron rod; thence South 0° 12' 40" West, 60.00 feet to a 5/8 inch iron rod; thence North 89° 47' 20" West, 60.16 feet to the east line of that certain tract of land conveyed to Eva Maureen O'Neill and John James O'Neill by deed recorded October 6, 1997, Reception Number 9767682 Official Records Lane County, Oregon; thence North 3° 34' 04" East, 43.34 feet to the most northerly corner of said O'Neill tract; thence North 15° 58' 43" West, 814.52 feet to the place of beginning.