

TO APPROVE GRAZING LEASE NO. G09-1951, IN FAVOR OF THOMAS WILLISTON ON CHOCTAW NATION FEE LAND IN MCCURTAIN COUNTY, OKLAHOMA

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING BILL

A COUNCIL BILL

TO APPROVE Grazing Lease No. G09-1951, in favor of Thomas Williston, on Choctaw Nation fee land in McCurtain County, Oklahoma.

WHEREAS, in accordance with Article VII, Section 1 of the Constitution of the Choctaw Nation of Oklahoma, the Chief shall perform all duties pertaining to the Office of the Chief Executive. He shall sign official papers on behalf of the Nation;

WHEREAS, in accordance with Article IX, Section 6 of the Constitution of the Choctaw Nation of Oklahoma, the Tribal Council (the "Council") shall make decisions pertaining to the acquisition, leasing, disposition, and management of tribal property;

WHEREAS, Thomas Williston has proposed a Grazing Lease on land located in Section 8, Township 8 South, Range 22 East, McCurtain County, Oklahoma, containing 55 acres, more or less (behind Choctaw Travel Plaza in Garvin). For complete legal description, please see attached Page 1 of Grazing Lease labeled Exhibit A, aerial map labeled Exhibit B, and location map labeled Exhibit C;

WHEREAS, this lease was put out for public bid in accordance with standard procedure. Two bids were received in response. Thomas Williston was the highest bidder and his bid was at or above fair market value;

WHEREAS, the proposed Grazing Lease will be for a three (3) year term, beginning January 1, 2020, and expires December 31, 2022;

WHEREAS, Annual rent will be \$1025.00. In addition to the rental payment, Thomas Williston has agreed to practice weed, sprout, and brush control on 50 acres of open land by using chemical spray or brush hog valued at \$1000.00 per year, See page 7 of Exhibit A;

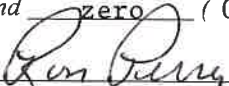
WHEREAS, the Council has determined it is in the best interest of the Nation to approve Grazing Lease No. G09-1951.

THEREFORE BE IT ENACTED by the Council that this Bill be cited as approval of Grazing Lease No. G09-1951 on Choctaw Nation fee land in McCurtain County, Oklahoma.

BE IT FURTHER ENACTED by the Council that this Bill be cited as an acknowledgement that the Chief of the Nation, or his designee, is authorized to prepare, execute, deliver and file any and all agreements, certificates, instruments and documents, in such form and with such terms and provisions as the Chief of the Nation, or his designee, may approve, and to take such other action as he, she or they may deem proper or appropriate, to carry out the intent and purposes of the foregoing enactments.

CERTIFICATION

I, the undersigned, as Speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that eleven (11) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma, on December 14, 2019. I further certify that the foregoing Council Bill CB- 36 -20 was adopted at such meeting by the affirmative vote of ten (10) members, zero (0) negative votes, and zero (0) abstaining.



Ronald Perry, Secretary
Choctaw Nation Tribal Council

Date: 12-19-19

 (Speaker Pro Tempore)
for Thomas Williston, Speaker (Recused)
Choctaw Nation Tribal Council



Gary Batton, Chief
Choctaw Nation of Oklahoma

EXHIBIT A

Performance Bond \$2025.00
Administrative Fee \$30.75
Annual Rental \$1025.00

Beginning Date: January 1, 2020
Expiration Date: December 31, 2022

CHOCTAW NATION OF OKLAHOMA
REAL PROPERTY MANAGEMENT

LEASE NUMBER: G09-1951
LESSEE: Thomas Williston

LESSOR: Choctaw Nation of Oklahoma

GRAZING LEASE

THIS CONTRACT, made and entered into on September 23, 2019, by and between the Indian or Indians named below hereinafter called the "Lessor", and Thomas Williston, 3021 Osprey Rd, Idabel, Oklahoma 74745, hereinafter called the "Lessee", in accordance with the provisions of existing law and regulations (25 CFR 162) which, by reference, are made a part hereof, WITNESSETH, that for and in consideration of the rents, covenants and agreements hereinafter provided, the Lessor hereby lets and leases unto the Lessee for HAY BALING purposes only, the following described property:

Legal Description, West of Hwy. 37 in Lot 5 Section 8, Township 8 South, Range 22 East, McCurtain County, Oklahoma, containing 55 acres, more or less (behind Choctaw Travel Plaza in Garvin).

of which not to exceed 55 acres may be cultivated, for a term of (3) years, beginning on January 1, 2020, and expiring on December 31, 2022, subject to the conditions hereafter set forth. The lessee in consideration of the foregoing covenants, agrees to pay the following annual rental for the land and premises: \$1025.00 (annual rental, due dates and any expenses to be borne by the lessor are to be specified in full). Pay administrative fee to: Choctaw Nation of Oklahoma; Attn: Real Property Management, PO Box 1210, Durant, OK 74702-1210.

<u>Lessor</u>	<u>Address</u>	<u>Interest</u>	<u>Date Payable</u>	<u>Amount</u>
Choctaw Nation of Oklahoma Attn: Real Property Management P.O. Box 1210 Durant, OK 74702-1210		Full	January 1, 2020	1025.00
			January 1, 2021	1025.00
			January 1, 2022	1025.00

This lease is subject to the following provision:

1. "US/WE/OUR" -as used herein means the Choctaw Nation.
2. INTEREST - It is understood and agreed between the parties hereto that in the event that any annual or semi-annual installment of rental is not paid within ten (10) business days after becoming due, ~~interest at the rate of twelve percent (12%) per annum upon such delinquent installment of rental will become due and payable from the date such rental became due until paid.~~ Unless otherwise provided in the lease, such interest charges and late payment penalties will apply in the absence of any specific notice to the Tenant from Us or the Indian landowners, and the failure to pay such amounts will be treated as a lease violation.

3. **SPECIAL FEES** – The following special fees will be assessed to cover administrative costs incurred by the United States in the collection of debt if rent is not paid in the time and manner required, in addition to any interest or late payment penalties that must be paid to the Choctaw Nation.

<u>Tenant will pay:</u>	<u>For:</u>
(a)\$50.00	Administrative fee for dishonored checks.
(b)\$15.00	Administrative fee for processing of each notice or demand letter.
(c)\$18% of balance due	Administrative fee charged following referral for collection of delinquent debt.

4. **CARE OF PREMISES** – It is understood and agreed the lessee is to keep the leased premises in good repair. Lessee shall not commit or permit to be committed any waste whatsoever on the premises and shall not remove or tear down any building or other improvement thereon but shall keep the same in good repair. Lessee shall not destroy or permit to be destroyed any trees, except with the consent of the Lessor and the approval of the Choctaw Nation. Lessee shall not allow the premises to become unsightly. The lessee will be held financially responsible for all unrepaired damages to buildings, fences, improvements or appearance, except usual wear and decay.

5. **AMENDMENTS, ASSIGNMENTS AND SUBLEASES** – Unless otherwise provided herein, amendments, assignments, subleases, or mortgages of this leasehold interest are authorized, but only with the written consent of the parties to the lease in the same manner the original lease was approved and with the approval of the Choctaw Nation.

6. **RESERVATIONS** – It is understood and agreed that the Lessor reserves the right to make mineral, business, sign board, industrial, sand and gravel leases and/or permits, and to grant right of way and other legal grants on the premises covered by this lease. In the event such a lease or grant is made, the Lessee hereunder shall be entitled to damages for the actual loss sustained by him/her on account of said lease or grant, and to nothing more. The period for which damages may be claimed by the Lessee is limited to the lease year or growing season on cropland in which the damage occurred. It is further understood that in the event of a dispute between the Lessor hereunder and the lessee, grantee or permittee under any mineral, business, sign board, industrial, or sand and gravel permit or lease or right of way and other grant, as to the amount of actual damages, the matter will be referred to the Choctaw Nation who shall be the judge as to the amount of the said damages incurred.

7. **UNLAWFUL CONDUCT** – The Lessee agrees that there must not be any unlawful conduct, creation of nuisance, illegal activity, or negligent use of waste of the leased premises.

8. **APPLICABLE LAWS** – The Lessee shall promptly execute and comply with all laws, rules, orders, ordinances, and regulations of the City, County or State governments, and of any department or Bureau of them, and of any other government authority having jurisdiction over business conducted thereon, including tribal laws regulating activities on agricultural land, environmental protection, and historic or cultural preservation, but only as far as these laws, regulations, ordinances and requirements are violated by the conduct of the Lessee's occupancy.

9. **IMPROVEMENTS** – Unless otherwise specifically provided herein, it is understood and agreed that any buildings or other improvements placed upon the said land by the lessee become the property of the landowners upon termination or expiration of the lease, providing it is in a condition satisfactory to the Indian landowners and us.

10. VIOLATION OF LEASE – It is understood and agreed violations of this lease shall be acted upon in accordance with the regulations as stated in 25 CFR 162.
11. ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS – No assent, expressed or limited, to the breach of any of the Lessee's covenants shall be deemed to be a waiver of any succeeding breach of covenants.
12. UPON WHOM BINDING – It is understood and agreed that the covenants and agreements hereinbefore shall extend to and binding upon the heirs, assigns, executors, and administrators of the parties to this lease. The obligations of the lessee and its sureties to the Indian landowners will also be enforceable by the Choctaw Nation. The landowners and the lessee and his surety or sureties shall be notified of any such change in the status of the land.
13. UNAUTHORIZED USE – Any use of the leased premises for an unauthorized purpose or a failure of the lessee to maintain continuous operations throughout the lease term, will be treated as a lease violation.
14. BOND – The lessee must furnish a bond as may be required by the Choctaw Nation with satisfactory surety to guarantee compliance with the terms of this lease.
15. INDEMNITY – Lessee agrees to indemnify and hold the Choctaw Nation and the Indian landowners harmless from loss, liability, or damages resulting from the lessee's use or occupation of the leased premises, unless: (1) the lessee would be prohibited by law from making such an agreement; or (2) the interests of the Indian landowners are adequately protected by insurance. Lessee also agrees to indemnify the Choctaw Nation and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation or disposal of hazardous materials, or the release or discharge of any hazardous materials from the leased premises that occurs during the lease term, regardless of fault.
16. INSPECTION OF THE PREMISES – The approving officer, his representative or the Lessor may ENTER UPON the premises covered by this lease at such reasonable times as may be desired for inspection or for the purpose of exercising any of the rights reserved under this lease. Whenever locks are placed on gates, KEYS must be furnished to the local Tribal agricultural representative.
17. INTEREST OF MEMBER OF CONGRESS – No member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise here from; but this provision shall not be construed to extend to this contract if made with a corporation or company for its general benefit.
18. VALIDITY – This lease, and any modification of or amendment to this lease, shall not be valid or binding upon either party hereto until approved by the Choctaw Nation.
19. DISCOVERY CLAUSE – If any archeological remains such as bone, pottery, chipped stone, tools, charcoal stains, historic artifacts such as metal, glass, wood, brick, or historic pottery, or unrecorded cemeteries, ~~marked or unmarked graves are exposed during ground disturbing activity,~~ all activity must cease in the immediate vicinity of the remains, and the Choctaw Nation, Zone Archeologist, and State Archeologist must be notified to determine the dispositions of the remains.

20. SEISMOGRAPH EXPLORATION - The lessee shall not prohibit entry by a seismograph company nor be entitled to payment except for actual damages which may be sustained resulting from such seismograph work as specified in the contract.
21. PROPERTY INSURANCE - The lessee shall carry insurance against direct loss or damage, consequential loss, loss due to liability for damages, or loss due to dishonesty or failure of others to perform their duty. Said policy shall provide for notification to Choctaw Nation and prior to any cancellation of said policy for any reason including non-payment of premiums.
22. PAYMENT OF RENT - Rental payments must be made in accordance with the payment schedule contained herein, with the exception that DIRECT PAY rentals may be paid in advance by the mutual consent of the Lessee and Lessor(s), without modification of this lease contract. Unless otherwise provided in the lease, rent payments may not be made or accepted more than one year in advance of the due date. **Rent payments are due at the time specified in the lease, regardless of whether the tenant receives an advance billing or other notice that a payment is due.** If the lease provides for payment to be made directly to the Indian landowner(s), the form of payment must be acceptable to the Choctaw Nation. The Lessee must retain specific documentation evidencing proof of payment. Such proof of payment may cover any or all rents due and payable under the terms of this lease contract. Rent payments shall be made directly to the Choctaw Nation unless the tenant receives notice of a change of ownership. Unless otherwise provided in the lease, rent payments may not be made payable directly to anyone other than the Choctaw Nation.
23. IN THE EVENT OF SALE - In the event any or all of this property should sell during the term of this lease, the lessee agrees to relinquish possession at the end of the calendar year from the date of such sale. In the event of relinquishment as provided above, the lessor shall refund to the lessee the unused portion of any rental which may have been advanced prior to the date of sale. Reimbursement to lessee for improvements, the value of which was included in consideration of the lease, will be made on a prorate basis provided such improvements are completed prior to the relinquishment date. If the improvements have not been accomplished, the lessee will be charged on a prorate basis for the period of time that has elapsed to the relinquishment date.
24. PRESCRIBED FIRE MANAGEMENT - The Choctaw Nation, with the consent of the lessor(s) or their authorized representative, is authorized to enter upon and organize all prescribed fire projects to not only improve pasture but to reduce the number of person-caused fires and prevent damages to natural resources on Indian land. The prescribed burns will be conducted by the Choctaw Nation Forestry Office and approved by the appropriate officials prior to each burn plan. The prescribed fire burns will generally be conducted in the spring or late fall. If we decide to conduct a burn, we will notify all parties immediately and advise them of any burn plans to be conducted by the Choctaw Nation or their authorized representative.
25. DUMPING - The placing or dumping of junk, trash or carrion, rocks or other rubbish or waste is prohibited. The lessee will be liable and will be required to repair or make reimbursement for any damage that may be done to the premises or actual cost of cleanup, whichever is greater.
- ~~26. OFF-ROAD VEHICLE USE (Trail-Blazing Restriction) - Off-road vehicle travel is restricted to emergency situations. ATVs will use existing trails and roads when possible. No new trail will be established.~~

27. BUILDING AND IMPROVEMENTS:

- A. If requested, the Lessee agrees to file an Insurance policy made payable to the Choctaw Nation, covering all leased buildings in the full amount of the insurable value with the proceeds to be paid to the Choctaw Nation for the benefit of the Lessor. In the event a building is not insurable, a statement signed by a reputable insurance agency evidencing same and the reasons therefore, must be filed with the approving officer within 30 days of the effective date of this lease.
- B. ALL IMPROVEMENTS, including fences, existing on these premises, or which may be placed thereon during the term of this lease, except electric fences, shall be maintained and/or repaired to a standard acceptable to the Choctaw Nation or to existing tribal fencing ordinances for livestock control. New fences will be constructed when necessary to contain or exclude livestock. Any reconstruction of new fence, unless otherwise specified in the contract, will be built to the following minimum specifications: Six strands of 12.5 gauge standard barbed wire with T-posts spaced 16 feet apart will be securely attached to steel, cedar, or treated wood posts. The cedar or wood posts are to have a minimum of a three-inch top diameter and six foot length. All posts are to be firmly set in the ground and shall remain on the premises. Any stipulated rights of the Lessee to remove specified fences, including gates or other improvements, expires at the termination or expiration of this lease.

28. RESERVED RIGHTS: (1) The Lessor(s) RESERVE to themselves the right to gather all Native nuts and fruits and other culturally significant products, and the right to engage in lawful hunting and fishing, provided that such activities do not interfere with the normal farming and grazing operations; (2) The Lessor(s) RESERVE the right to all water that required for livestock and domestic purposes; (3) Timber and woodlands, and timber and woodland products are reserved by the Lessor(s). Unless otherwise specified in this contract, gathering or cutting wood and timber harvesting is prohibited; and (4) cemeteries or burial plots on the leased premises shall not be cultivated or grazed.

29. U.S. DEPARTMENT OF AGRICULTURE PROGRAMS – Where the approving officer determines that participation in Department of Agriculture Programs appear to be in the best interest of the landowner, and where requested to do so by the lessee, he may execute the necessary USDA documents on behalf of the lessor to permit participation by the lessee.

30. SURRENDER CLAUSE – In the event that the leased lands or any part thereof are included within a defined area for public purposes by an acquiring agency having the right of eminent domain, it is agreed that the said premises included within the taking area will be surrendered and the lease cancelled by the Lessee upon written notice by the approving officer. Such cancellation and surrendering of the premises or part thereof because of a public taking, will be accomplished at the discretion of the approving officer at the end of the then current lease year on non-cultivated land or immediately after harvest of growing crops on cultivated land.

31. OPERATING PROVISIONS – Lessee shall conduct operations in accordance with recognized principles of sustained yield management, integrated resource management planning, sound conservation practices, and other community goals as expressed in applicable tribal laws, leasing policies, or agricultural resource management plans.

A. SOIL CONSERVATION REQUIREMENTS;

1. Alfalfa shall not be plowed up in the last year of this lease without the written permission from the Choctaw Nation (Damages: \$80.00 per acre).
2. Native grass pastures shall not be grazed to the extent that strands of desirable grasses and forbes are depleted. The animal stocking rate shall be reduced immediately if so directed by the Choctaw Nation. If any part of a native grass pasture or meadow is mowed for hay, grazing of the entire plot shall be deferred between April 1st and November 1st, unless mowed areas are fenced separately (Damages: \$40.00 per acre).
3. PERMANENT GRASS pastures shall not be plowed up (Damages: \$100.00 per acre).
4. MAINTAIN IMPROVED PASTURES, including Bermuda grass and weeping lovegrass, in a productive and vigorous condition. Maintenance measures shall consist of weed control, renovation, fertilization and management of grazing, managed so as to leave at least six (6) inches of top growth on weeping lovegrass and three (3) inches of top growth on Bermuda grass on November 1st. Bermuda and weeping lovegrass may be baled for hay (Damages: \$40.00 per acre).
5. SPRIGS OR SOD – Bermuda grass sprigs, topsoil or sod shall not be removed or sold from these premises under any circumstance (Damages: \$100.00 per acre for sprigs and \$600.00 per acre for sod).
6. MAINTAIN all terraces, waterways, dams, drainage channels and other conservation structures. Terraces will be checked for channel capacity and height. Terraces not meeting minimum specifications shall be built up to specifications no later than N/A or as otherwise directed by the Choctaw Nation (Damages: Double estimated cost of repairs).
7. CONTROL WEEDS in idle fields, open pastures, grass planting and waterways. The lessee shall protect the land against the growth of noxious weeds or any other weeds and brush that decrease production of the land. The lessee will initiate a noxious weed control if so directed by the Choctaw Nation. Any chemical used for weed control must be approved by the Choctaw Nation (Damages: \$20.00 per acre).
8. The burning of pastures, fence rows or crop residues, ditches, waterways, grasslands, rangelands, woodlands, forestlands, wetlands, or riparian areas is prohibited without prior written permission from the Choctaw Nation (Damages: \$20.00 per acre).
9. CONTROL WIND EROSION with emergency tillage as needed or as directed by the Choctaw Nation (Damages: \$20.00 per acre).
10. The revised Oil and Gas Mining lease stipulates that the oil and gas Lessee is, "To be responsible for and to make payment to the surface Lessee and surface owner for all damages to the lands, livestock, crops, timber, water, and improvements caused by its operations hereunder. Said damages to be paid to the surface Lessee pursuant to the provisions of the approved surface lease which stipulates damages. All other damages not stipulated to be paid to the surface Lessee shall be deposited with the Choctaw Nation.

32. SPECIFIED PRACTICES:

1. **DESTRUCTION BY FIRE:** It is understood and agreed that the Lessee will practice fire control on all lands covered by this lease and will in no way interfere with Federal, State, and County officers engaged in emergency fire suppression efforts being conducted in accordance with applicable laws (PENALTY: Twice the appraised value of damage as determined by the Choctaw Nation or their representative).
2. **Lessee agrees that the Choctaw Nation may enter into a contract with Natural Resources Conservation Service (NRCS) and/or other agricultural agencies to administer improvements within the scope of the Choctaw Nations agricultural resource management plan, See www.nrcs.usda.gov. If such program is established the Choctaw Nation will provide notice to Lessee of the project and will begin administering such improvements as established in the program requirements. Lessee agrees that the Choctaw Nation may enter this property at any time to perform such requirements as needed. Lessee agrees that all improvements made to property within the duration of this lease belong to the Choctaw Nation, see 25 CFR 162.233(a)(1).**
3. **The Lessor and Lessee agree that the Choctaw Nation Land & Title will administer and oversee the agreement and execution of all stipulations and improvements in this lease agreement.**
4. **Lessee agrees to practice weed, sprout, and brush control on 50 acres of open land. Weeds, sprouts, and brush will be controlled using chemical spray or brush hog. If using chemicals, completion date is May 31st of each year—if brush hogging, completion date is August 1st of each year. Annual Value: \$1,000.00**

IN WITNESS WHEREOF, the Lessee and Lessor have hereunto affixed their hands and seals and the Lessor hereunto has caused to have his/her legal acceptance on which his/her hand and seal has been affixed.

Thomas Williston

Lessee: Thomas Williston

SUBSCRIBED and sworn to before me this 27th day of September, 2019.

7/26/2020

My commission expires

Shreda Graham

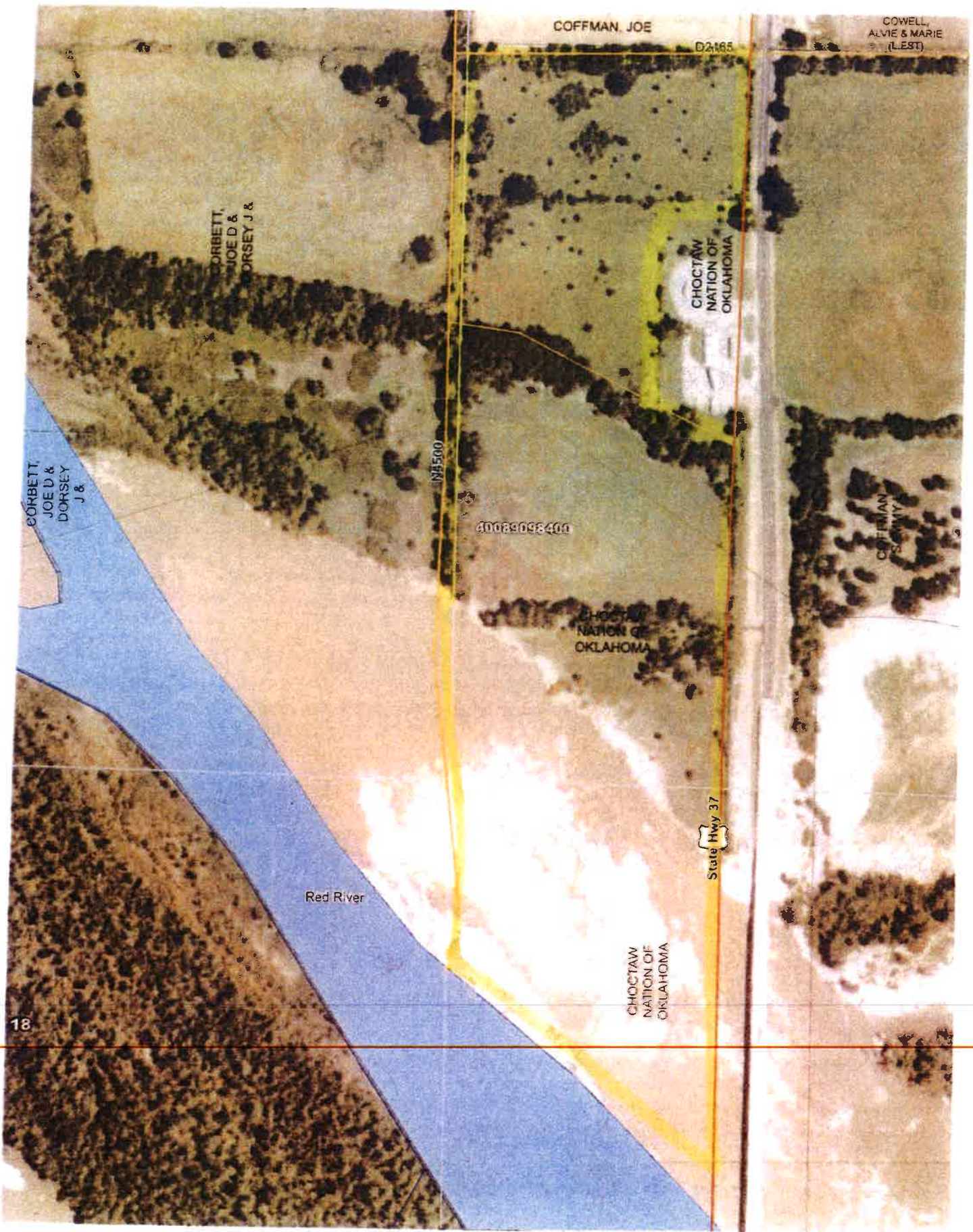
Notary Public

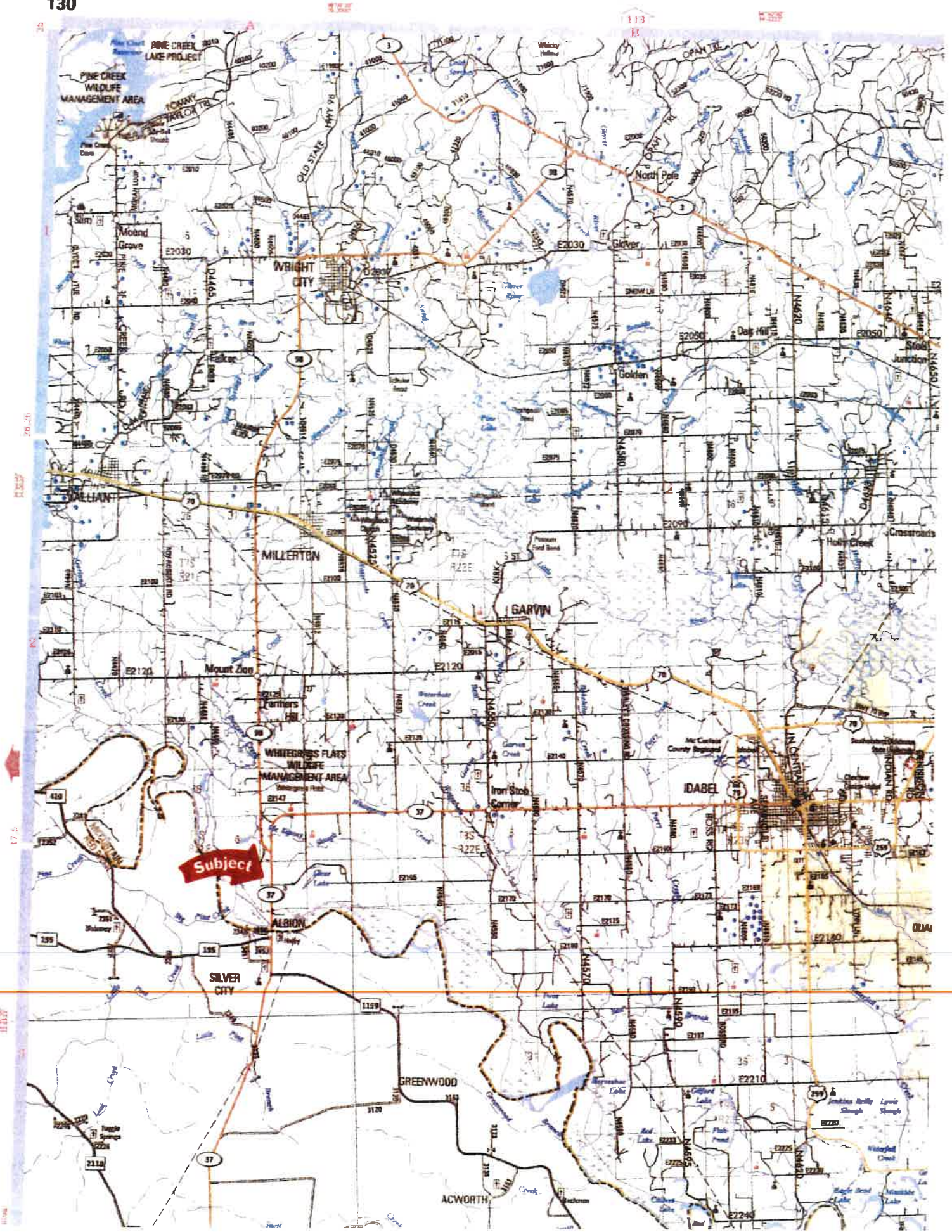
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My commission number



EXHIBIT B





Purpose of Council Bill: To approve Grazing Lease No. G09-1951 to Thomas Williston, on Choctaw Nation fee land in McCurtain County, Oklahoma. The lease is located west of Hwy. 37 in Lot 5 of Section 8, Township 8 South, Range 22 East, McCurtain County, Oklahoma, containing 55 acres, more or less (behind Choctaw Travel Plaza in Garvin). Please see attachments Page 1 of Grazing Lease labeled Exhibit A, aerial map labeled Exhibit B, and location map labeled Exhibit C.

Title of Council Bill: TO APPROVE GRAZING LEASE NO. G09-1951, IN THE FAVOR OF THOMAS WILLISTON ON CHOCTAW NATION FEE LAND IN MCCURTAIN COUNTY, OKLAHOMA

Lessee: Thomas Williston

Duration: 3 years

Payment: \$1025.00 per year

Request By Project Director: Traci Umsted, Director of Real Property Management, Land and Title; Brad Mallett, SEO, Legal and Compliance