

VERLAND E. BEHRENS
CHERI M. WHEELER
RICK D. CHAMBERLAIN, J.D., C.P.A.

LAW OFFICES OF
BEHRENS, WHEELER & CHAMBERLAIN
AN ASSOCIATION INCLUDING A PROFESSIONAL CORPORATION
SIX NORTHEAST 63rd STREET
SUITE 400 - SANTA FE NORTH BUILDING
OKLAHOMA CITY, OKLAHOMA 73105
TELEPHONE (405) 848-1014 - FAX (405) 848-3155

RAYGAN PIERCE CHAIN
WILLIAM CASEY GRAY

September 8, 2014

FILED IN THE OFFICE
OF THE CITY CLERK
ON September 8, 2014

City of Norman Department of Planning and Community Development
201-A West Gray Street
Norman OK 73069

Re: 0-1415-6: Cochran/George Re-zoning request
PP-1415-3: Cochran/George Preliminary Plat consideration
Position Statement of Finley Resources, Inc. and request for rescheduling of current
Planning Commission hearing date

Gentlemen and Ladies,

We represent Finley Resources, Inc. ("Finley"), the owner of property adjacent to that covered by the two pending matters referenced above. This is to notify the Planning Commission and the applicants of concerns our client has about the pending matters which, if not addressed, could result in a protest of those matters. Finley does not wish to interfere with the plans of Mr. Cochran and Ms. George, but must take measures to protect its pre-existing interests and rights in connection with the adjoining property it owns.

We attended the pre-development discussion on August 28, 2014, and voiced our concerns to both the applicants and the Planning Commission staff. We have also had private conversations with Mr. Cochran and Ms. George, and believe that an agreement can be reached with them regarding these two matters if the parties can get clarification and assurances from the City of Norman.

The following is a summary of the background facts upon which Finley's concerns are based:

1. In preparation for oil and gas drilling activity in the area, Finley purchased the 10 acre tract which adjoins the application property to the East. At that time there was no development or structures on either the Finley property or the Cochran/George property. There are no structures on the Cochran/George property as of this date.
2. In compliance with the ordinances of the City of Norman, Finley made application for an oil and gas well drilling permit and received Permit No. 430 on February 20, 2014. Copies of the permit and related materials are attached and marked collectively as Exhibit "A".
3. At the time of the filing of the permit application, Finley anticipated (and still does) using the drillsite and pad constructed under the authority of the permit for the drilling of more than one horizontal well in order to reduce its drilling "footprint" in the area. This effort to reduce the number of drilling locations needed to develop the area was seen by Finley as a way to reduce the impact on the owners in the area. In that regard, Finley provided the City staff with the attached plat which depicts the

anticipated multiple well use of the drillsite. Finley was left with the impression the City staff processing the permit application agreed that using the drillsite for multiple wells would be beneficial to all in the area. A copy of the multiple well plat is attached hereto and marked as Exhibit "B".

4. Upon the authority granted in the permit, the drillsite was constructed and the Little River No. 1-12H well was drilled. The horizontal lateral in this well extends south into Section 12-9N-3W. In compliance with subsequent requests from the City staff, certain alterations were made to the ultimately as-built site, none of which involved the use of more land than originally anticipated.

The following is a description of the issues and bases for a potential protest of these matters by Finley:

1. Although the permit ordinance, Sec. 13-1501, does not contain provisions which create a concern for Finley at this time, there is concern about one of the provisions in Section 13-1509, entitled **Production** Prohibitions. In summary, the language of concern provides that no internal combustion engine shall be operated in connection with the **drilling** of an oil or gas well within 600 feet of any dwelling or business structure without a waiver from the owner of the property on which the structure is built. It is not uncommon for a municipality to require a **producing** location to utilize surface production equipment powered by electricity, and Finley is making arrangements to have electricity brought to the subject location for operating the pump, etc. This type of ordinance is typically included out of concern for the noise created by a producing location. It is, however, not possible with today's technology to **drill** a horizontal well using only electricity. In other words, drilling rigs capable of drilling horizontal wells require an internal combustion engine to operate.
2. Wells such as the Finley Little River No. 1-12H, usually require the use of a gasoline or diesel powered drilling rig for 30-45 days. Accordingly, any inconvenience to those in the area resulting from the noise generated by an internal combustion engine-powered drilling rig, is a short-term matter.
3. The impact of the ordinance provision, if enforced as worded, would give the owner of a residence or business within 600 feet of a proposed well site the power to veto the **drilling** process by withholding consent. It is our view that such an application would be arbitrary and unenforceable, given the equal protection assurances afforded by federal law.
4. As stated above, at this time, the veto provision has no application because there is no dwelling or business structure within 600 feet of the Little River No. 1-12H well. Finley's concern is for the future of its planned operations from that same drillsite. Given the technical and fiscal realities of the oil and gas business, it may be a few years before the last of the four planned wells is drilled from Finley's drillsite. At such time as a dwelling is constructed on one of the residential lots proposed by the Cochran/George application, it is likely that at least one could be located within 600 feet of the Little River No. 1-12H well.

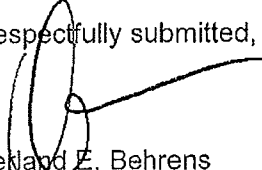
5. In discussing the application of Sec. 13-1509 with the City staff, it was suggested by staff that this veto power in the hands of an adjoining landowner could be triggered as early as the date of the filing of a building permit for a new dwelling. The ordinance speaks of the presence of a dwelling or business structure, not the issuance of a building permit. Given the apparent purpose of the ordinance to reduce the impact of noise on adjoining residents, until there are residents living on nearby properties, the ordinance should have no application.
6. Through our discussions with Mr. Cochran and Ms. George, we believe that an agreement can be reached which, in part, includes a waiver from them of the veto provisions of Sec. 13-1509 for use in connection with future well permit applications by Finley utilizing the existing drillsite. The parties are concerned that the City may not accept the waiver issued in the near future if the permit application for the last well to be drilled on this location is not filed for possibly three years, or more, or if the property upon which any house might be built changes ownership in the interim.

Without clarification or input from the City on the concerns raised above, Finley cannot make an informed decision about a response to the pending matters. Based upon the foregoing, Finley respectfully requests the following relief or clarification from the City in connection with these pending matters:

1. Please confirm that the adjoining property owner veto power over the use of a **drilling** rig fueled by an internal combustion engine set out in Sec. 13-1509(b) will not be applied in the future to any oil and gas well permit application(s) submitted by Finley, or any other applicant, who proposes to use the drillsite of the Little River No. 1-12H well to drill one or more of the three proposed additional horizontal wells contemplated by Finley and understood by the City staff at the time of the issuance of the permit for said well, **or**
2. Please confirm that a current waiver by Mr. Cochran and Ms. George of the adjoining owner veto power over the use of a **drilling** rig fueled by an internal combustion engine set out in Sec. 13-1509(b), specifically prepared to be utilized in the future in connection with an application by Finley, or another applicant, for a permit to drill any or all of the three proposed additional horizontal wells, will be accepted by the City as a valid and current waiver of such rights at such time in the future as the permit application is submitted, **or**
3. Please include in any ordinance issued in O-1415-6, and in any plat approval in PP-1415-6, a restriction that no dwelling or business structure will be allowed to be constructed on the re-zoned property which is located closer than 600 feet from the drillsite for the Little River #1-12H well, **or**
4. Deny the subject applications, although that is not Finley's intended result.
5. Please provide clarification of Sec. 13-1509(b) to confirm that the terms "dwelling or business structure" set out in that section are intended to include only completed structures which are presently capable of being occupied for the intended purposes.

Unless and until the parties can receive some clarification or comment on the issues raised above, we submit that a hearing before the Planning Commission would be premature. At the pre-planning conference on August 28, 2014, we asked the representatives from the office of the City Attorney for feedback on these points. We were advised that the legal staff would be consulted and we would receive responses. No responses have been received to date. We respectfully request that the hearing before the Planning Commission on these two matters currently scheduled for September 11, 2014, be rescheduled to a future date to allow additional time for the parties to obtain the clarification requested above.

Respectfully submitted,



Vekland E. Behrens
Encl.

cc (all via e-mail only): Jane Page Hudson
Mark Cochran
Elizabeth George (c/o Mark Cochran)
David Wood
Rob Cargile
Clinton Koerth
Susan Whiteside

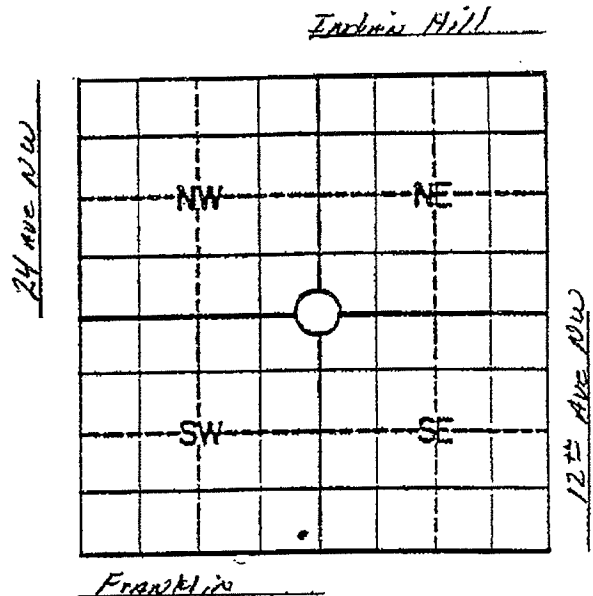
CITY OF NORMAN

OIL, GAS AND MINERAL PRODUCTION PERMIT

Applicant: Finley Resources Phone: (817) 231-8739
Address: P.O. Box 2200 Ft. Worth, Texas
Applicant Insurance Company: Fort Worth - Alliant Ins. Service Phone: (817) 877-1884
Address of Insurance Company: 6100 Western Pl Ste 100 Fort Worth, TX. 76107
Driller's Name: NOMAC Drilling Phone: (405) 422-2754
Address: 3400 S Rado Rd. El Reno, Ok
Landowner's Name: Finley Resources Phone: (817) 231-8739
Address: Same

Name of Well Little River #1-12H
Section 1 NE 14 SE 14 SE 14 SW 14
Township 9N Range 3W

I, the undersigned, agree to comply with the provisions of Ordinance No. 0-9394-43 governing oil, gas and mineral production in the city limits of Norman, Oklahoma. Further, I understand that by making application for this permit, I (we) assume total responsibility for any damage to, or destruction of, City of Norman roads, streets, or bridges, resulting from drilling site preparation or well operation, whether committed by undersigned, it's employees or subcontractors.



Show roadway to well and location of well and nearest residence.

I hereby affirm that all information submitted with this application is correct and accurate.

ROBERT CARBIE
APPLICANT'S NAME (TYPE OR PRINT)
[Signature]
APPLICANT'S SIGNATURE

Agent for Finley Resources
TITLE (TYPE OR PRINT)

PERMIT NO. 430 DATE ISSUED 2-20-14 FEE AMOUNT 3,000⁰⁰

OIL AND GAS INSPECTOR [Signature]

Temp. Well Access
City of Norman — Offsite Construction Permit

Drilling Permit
Permit No. # 430

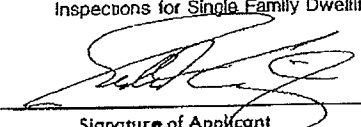
Location Approx 1/2 mile East of 12th Ave NE, North side of Franklin Rd.
Applicant Fintley Resources / TODCO Properties Phone _____
Business Address P.O. Box 2200 Ft. Worth Tx. / 1818 W. Lindsey Norman Constr. Cost \$ Temp
Type Work Oil Well Entrance Fee \$ _____
B.P. Date _____ Plans Req'd _____ Pav. Cut Req'd _____ Inspec. Req'd _____
Add'l. Information * Sec Ord. # 13-1516(e)

* OIL & GAS Inspector (405) 520-2597

The Permittee will without further order, erect and maintain all barricades, lights, and traffic control devices needed, and will notify the Traffic Control Division at 329-2524 and Engineering Division at 366-5452 two (2) days in advance for permission to close any street or alley. The Permittee shall maintain a copy of the permit and standards or approved plans at the jobsite during construction. The Permittee shall notify all utility companies prior to beginning any excavation, giving location and time of excavation.

I hereby agree to all of the terms and conditions set forth above and agree to notify the City Engineering Department two working days immediately preceding the date work will commence or recommence after a stoppage.

Inspections for Single Family Dwellings call Building Inspections at 366-5333 or 366-5339.


Signature of Applicant


Approved by

2-20-14
Date

PERMIT NUMBER: 430

CITY OF NORMAN

OIL AND GAS INSPECTION RECEIPT

PO BOX 370


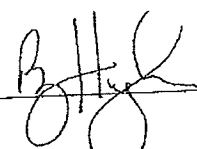
NORMAN, OKLAHOMA 73070

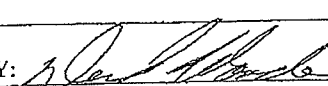
PHONE 366-5335 OR 366-5322

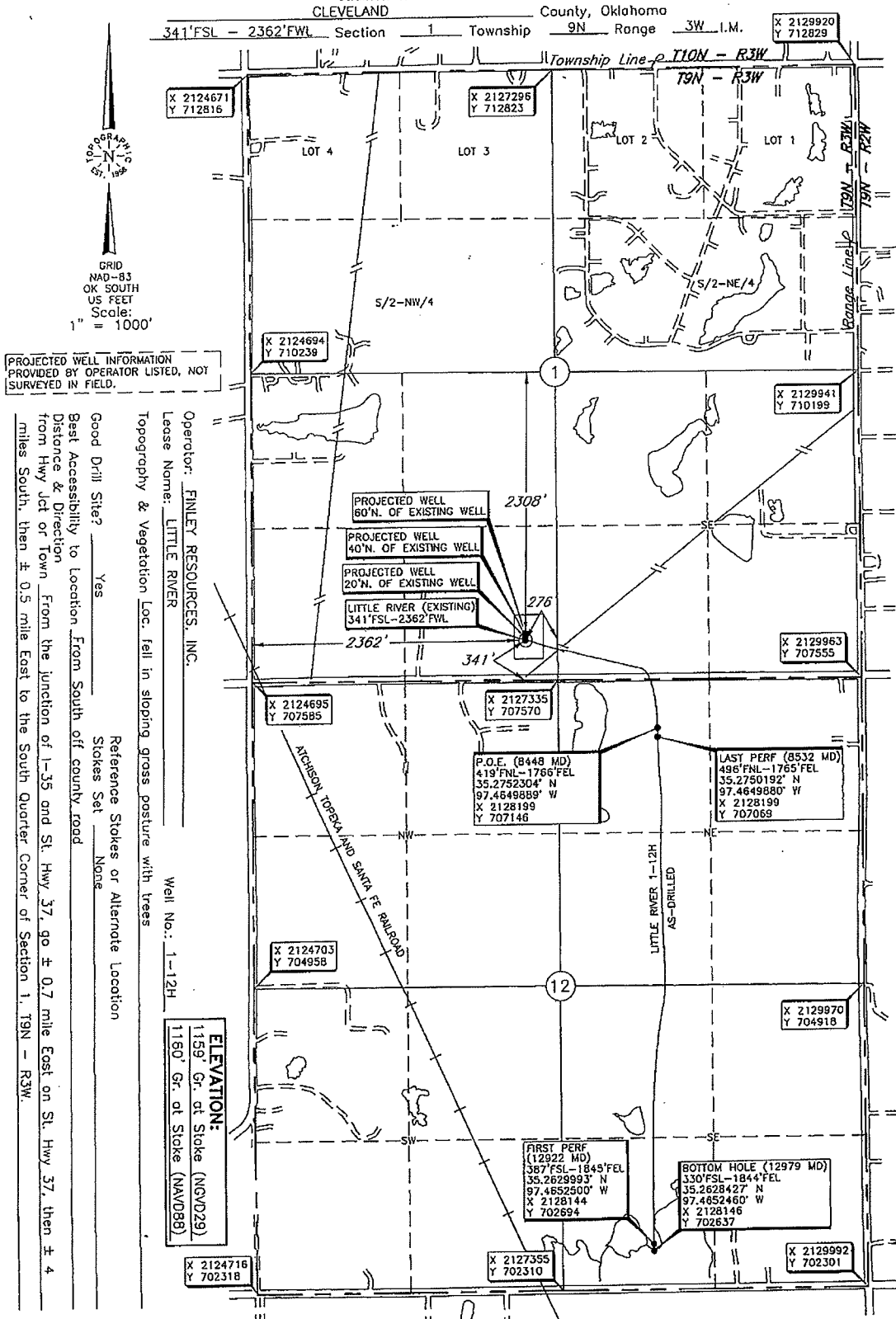
CUSTOMER Finley Resources / TODCO Properties DATE: 2-20-14

ADDRESS: P.O. Box 2200 Ft. Worth TX 76113

ITEM	AMOUNT
OIL WELLS [ACCT.NO. 10-1416 (PL)]	
<i>Drilling Permit #</i>	
<i>Little River #1-12H</i>	<i>3,000⁰⁰</i>
ENGINEERING PERMITS[ACCT. NO. 10-1408 (PR)]	
<i>Temp Drive</i>	<i>A</i>
<i>*See ord. # 13-1516(c)</i>	

 BANK OF OKLAHOMA www.bok.com	TODCO PROPERTIES, INC. OPERATING ACCOUNT 1818 W. LINDSEY STE. A-102 NORMAN, OK 73069-6207		20005												
	DATE <u>02/18/2014</u>		86-3-1039												
	PAY TO THE ORDER OF <u>City of Norman</u>		\$3,000.00												
	Three Thousand and no/100		DOLLARS												
<table border="1"> <tr> <td>Drilling Permit / Little River #1-12H</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Drilling Permit / Little River #1-12H												 MP	
Drilling Permit / Little River #1-12H															
THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNTS LISTED ⑈020005⑈ ⑆103400036⑆ 814006291⑈															

TOTAL:	<i>3,000⁰⁰</i>
RECEIVED BY: 	



All Coordinates are in NAD-83 Datum

Date of Drawing: Aug. 21, 2014
Invoice # 229587 Date Staked: Dec. 18, 2013 NMB

DATUM: NAD-83
LAT: 35°16'38.5" N
LONG: 97°28'07.7" W
LAT: 35.277352810° N
LONG: 97.468798589° W
STATE PLANE
COORDINATES (US FEET):
ZONE: OK SOUTH
X: 2127057
Y: 707913

FINAL AS-DRILLED PLAT

AS-DRILLED INFORMATION
FURNISHED BY FINLEY RESOURCES, INC.

Exhibit B