

AFFIDAVIT OF LEGAL RIGHT TO PRODUCE GROUNDWATER

(Entity Form)

BEFORE ME, the undersigned authority, on this day personally appeared Nickolas R. Lutz, Jr., who being duly sworn on his oath, says and deposes as follows:

"My name is Nickolas R. Lutz, Jr.. I am the Manager (title) of RH2O, LLC (name of entity) (hereinafter referred to as the "Applicant"). I have been authorized by RH2O, LLC (name of entity) to give this affidavit. I am of sound mind, over eighteen (18) years of age, and have never been convicted of a felony or of a crime involving moral turpitude. My address is 8529 Edinburgh St., Montgomery, TX 77316. I have personal knowledge of the facts stated herein, and they are true and correct.

1. I am submitting to the Brazos Valley Groundwater Conservation District ("District") an application for a drilling and/or operating permit on behalf of the Applicant for a water well located at See Attached.
2. Applicant has the legal authority to produce the groundwater associated with the land surface and the permit application for the well listed in #1 above, as required by District Rule 7.1(c).
3. Exhibit A, attached hereto, is the map that identifies the water rights to be legally controlled by the Applicant under District Rule 7.1(c) for the well listed in #1 above.
4. I have provided to the District documents that prove Applicant's right to own, control, or produce the groundwater rights associated with the permit application for the well listed in #1 above, as required by District Rule 7.1(c). **See Exhibit B, attached hereto.**
5. I have provided to the District documents, if any, that fully evidence all transfer(s) of Applicant's right to own, control, or produce the groundwater rights to another person/entity that are associated with the land surface and the permit application, as required by Rule 7.1(c). And I understand that I am required to provide such transfer documents as they occur in the future.
6. I understand that a permit may be amended or revoked if the groundwater rights or right to produce, related to a permit under Rule 7.1(c), are legally transferred to another person/entity.

FURTHER AFFIANT SAYETH NOT."

RH2O, LLC

Signed

Nickolas R. Lutz, Jr.

**Nickolas R. Lutz, Jr., Manager
Authorized representative of Applicant**

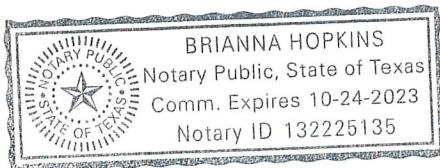
SWORN AND SUBSCRIBED to before me on this the 10th day of August, 2023.

(Notary Seal)

B Hopkins

Notary Public in and for the State of Texas

My Commission Expires: 10-24-23



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.

STATE OF TEXAS §
 §
COUNTY OF ROBERTSON §

SPECIAL WARRANTY DEED SEVERING THE GROUNDWATER ESTATE

Recitals

WHEREAS, Grantors Nickolas R. Lutz, Jr., John C. Lutz, and Mary Kathryn Lutz Sustaire, are the three children of Joan Fagan Lutz, and the sole heirs and beneficiaries under the Will of Joan Fagan Lutz; and

WHEREAS, Joan Fagan Lutz’s Will was probated in Brazos County, Texas, and is recorded in Volume 768, Page 80 of the Probate Records of Brazos County, Texas; and

WHEREAS, Joan Fagan Lutz’s Will left all of her property, excluding the specific bequests in the Will of certain personal property, defined as her “Remaining Property” in equal undivided shares to each of her three children in Section 3.3 of the Will; and

WHEREAS, the real property located in Robertson County, Texas, commonly known as the Red Hill Farm, subject to this deed severing the groundwater estate included in the Inventory of the Estate of Joan Fagan Lutz, was a portion of the Remaining Property, and is owned by the Grantors pursuant to the terms of (i) the probated Will of Joan Fagan Lutz, and (ii) is described on that certain Executor’s Deed dated December 16, 2011, conveying to the Estate of Joan Fagan Lutz, *inter alia*, Parcel 1, containing eleven separate tracts of land containing a cumulative total of 920.5425 acres, more or less, in Robertson County, Texas, said Executor’s Deed is recorded as Document 20115875 in Volume 1155 at Pages 369 *et seq.* of the Official Public Records of Robertson County, Texas and as Document 01108399 in Volume 10468 at Pages 263 *et seq.* of the Official Public Records of Brazos County, Texas; and

WHEREAS, Grantors have formed a new Texas limited liability company, of which each is a member, known as RH₂O, LLC;

NOW, THEREFORE, in consideration of the Recitals above, and the consideration recited herein, Grantors do hereby sever and convey their right, title and interest in the Groundwater Estate in and under the real property defined herein as 920.5425 acres, more or less, commonly known as the Red Hill Farm, into the Texas limited liability company identified herein as the Grantee – “RH₂O, LLC.”

Effective Date: July 28, 2023

Grantors: Nickolas R. Lutz, Jr.
John C. Lutz
Mary Kathryn Lutz Sustaire

Grantors' Mailing Address: **Attn: Nickolas R. Lutz, Jr.**
8529 Edinburgh Ct.
Montgomery, Texas 77316
John C. Lutz
9957 FM 979
Cameron, Texas 76520

Mary Kathryn Lutz Sustaire
13121 Hopes Creek Road
College Station, Texas 77845

Grantee: RH₂O LLC, a Texas limited liability company

Grantee's Mailing Address: **Attn: Nickolas R. Lutz, Jr., Manager**
8529 Edinburgh Ct.
Montgomery, Texas 77316

Consideration:

Ten and No/100 Dollars (\$10.00) cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor.

Property (including any improvements):

Those certain property rights and interests associated with and belonging to the "Groundwater Estate" (defined herein) in and underlying those certain 920.5425 acres, more or less, in Robertson County, Texas, commonly known as the Red Hill Farm, and more particularly described in Exhibit "A" appended hereto and incorporated herein by reference for all purposes (the "Surface Estate") for the purposes of exploring for, drilling and developing, and producing the Groundwater Estate and, thereafter, producing, treating, transporting and/or storing the groundwater in, on and under said 920.5425 acres.

Definition of Groundwater Estate:

As used in this Special Warranty Deed Severing the Groundwater Estate, the term "Groundwater Estate" shall mean all legal right and title to the ownership of all water percolating beneath the real property defined herein as the Surface Estate, and containing 920.5425 acres in Robertson County, Texas, more particularly described in Exhibit "A," now and in the future, including all appurtenant rights to explore, drill for, develop and produce groundwater from the Groundwater Estate, which rights include access to, on,

over and across said Surface Estate together with the right to occupy and use as much of the Surface Estate as may reasonably be necessary for such purposes.

Notice of Groundwater District and other regulatory authority:

Grantee expressly acknowledges that the rights (i) of access to the Groundwater Estate in and under the Surface Estate of the real property for drilling, exploring, operating, developing, producing the groundwater and/or drainage for the purpose of removing groundwater from the Property, and (ii) of surface access and use in, on and over the Surface Estate defined herein, including use in dedicated Rights of Way and/or platted or recorded utility easements for the limited purposes to construct, own, operate and maintain groundwater wells, pump units, storage and treatment facilities, and pipelines to transport groundwater produced from Grantee's development activities on the Property, (a) is without warranty, guarantee or other representation as to the quantity or quality of the groundwater that may be available or produced from the Groundwater Estate, and (b) is subject to any and all applicable statutes, regulations and rules, including those of the Brazos Valley Groundwater Conservation District.

RESERVATIONS FROM CONVEYANCE: SAVE AND EXCEPT, HOWEVER, and there is hereby RESERVED unto Grantors, their successors and assigns the following:

(a) Title to the Surface Estate containing 920.5425 acres, more or less, in Robertson County, Texas, more particularly described in Exhibit "A," together with all oil, gas and other minerals in, on, over and across said real property (the "Mineral Estate"); **and**

(b) the limited right to use groundwater producible from the Groundwater Estate for beneficial, non-wasteful purposes on the Surface Estate defined herein for the following limited purposes:

- (i) use in conjunction with the development of the Mineral Estate in, on over and under said Surface Estate; and
- (ii) any exempt use authorized by law on the Surface Estate.

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

The conveyance and limited warranties of title herein are expressly made subject to the following liens, assignments, exceptions, easements, restrictive covenants, conditions, and encumbrances incorporated herein for all purposes:

- (i) all matters of public record, including all matters that would be disclosed by a current, accurate review of any and all applicable governmental records, including the applicable records of the Texas Commission on Environmental Quality; **and**
- (ii) All easements, restrictions, reservations, and covenants of record, including:

- a. Any prior reservations of oil, gas, lignite, or other minerals;
 - b. Any existing and valid oil, gas and mineral leases, or easements or rights-of-way; and
 - c. Any other existing rights or encumbrances, including leases, utilities, and pipeline easements; **and**
- (iii) All matters that a current, accurate survey of the Property would show.

The foregoing Exceptions to the Conveyance and Warranty of the Groundwater Estate may be collectively referred to herein as the “Permitted Exceptions.”

Grantors, for the Consideration, and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, GRANT, SELL, and CONVEY to Grantee the Groundwater Estate, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee’s successors and assigns forever. Grantors bind Grantors, and Grantors’ heirs, and successors and assigns, to warrant and forever defend all and singular the Property to Grantee and Grantee’s heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantors but not otherwise.

TAXES: Taxes for the current year and future years will continue to be the obligation and responsibility of Grantor unless and until the Groundwater Estate is separately assessed and taxes levied on the basis of the severed Groundwater Estate, at which time, and thereafter, each separate assessment of, and taxes levied upon the Groundwater Estate shall be the sole obligation of Grantee; **PROVIDED, FURTHER,** that Grantee acknowledges and agrees that all fees, charges and other lawful assessments that may be assessed, charged and collected by the Brazos Valley Groundwater Conservation District, or any successor entity with regulatory authority over groundwater related to the development, production and beneficial use of the groundwater from the Groundwater Estate by Grantee, but not otherwise, shall be solely the responsibility and obligation of Grantee from and after the Effective Date of this Special Warranty Deed. Any taxes or assessments resulting from the production or use of groundwater from the Groundwater Estate pursuant to the Reservation in favor of Grantors, or the Exceptions to the Conveyance shall be the sole responsibility of the person or entity producing or using the groundwater produced.

The use of any pronoun herein to refer to Grantors or Grantee shall be deemed a proper reference even though Grantors and/or Grantee may be an individual (either male or female), a corporation, a partnership or a group of two or more individuals, corporations and/or partnerships, and when this Deed is executed by or to a corporation, company or trustee, the words “heirs, executors and administrators” or “heirs and assigns” shall, with respect to such corporation, company or trustee, be construed to mean “successors and assigns.”

EXECUTED to be EFFECTIVE as of the Effective Date recited above.

SIGNATURE PAGES FOLLOW ON NEXT PAGE

GRANTOR:

By: *Nickolas R. Lutz, Jr.*
Nickolas R. Lutz, Jr.

ACKNOWLEDGMENT

STATE OF TEXAS §
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COUNTY OF MONTGOMERY §

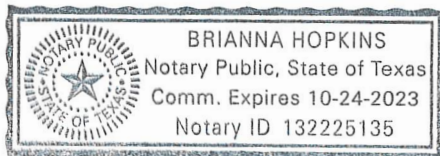
This instrument was sworn, subscribed to, and acknowledged before me on August 10th, 2023 by **Nickolas R. Lutz, Jr.** for the purposes and considerations recited herein.

Brianna Hopkins
Notary Public, State of Texas

Brianna Hopkins
(Name - Typed or Printed)
Notary ID No.: 132225135

10-24-23
(My Commission Expires)

[NOTARY SEAL]



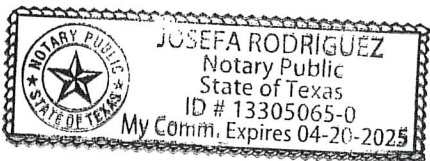
GRANTOR:

By: John C. Lutz
John C. Lutz

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF ROBERTSON §

This instrument was sworn, subscribed to, and acknowledged before me on August 11, 2023 by **John C. Lutz** for the purposes and considerations recited herein.



Josefa Rodriguez Texas
Notary Public, State of Texas

Josefa Rodriguez
(Name - Typed or Printed)

Notary ID No.: 13305065-0

4-20-2025
(My Commission Expires)

[NOTARY SEAL]

GRANTOR:

By: Mary Kathryn Lutz Sustaire
Mary Kathryn Lutz Sustaire

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

This instrument was sworn, subscribed to, and acknowledged before me on August 10, 2023 by **Mary Kathryn Lutz Sustaire** for the purposes and considerations recited herein.

Cristi Cadena

Notary Public, State of Texas

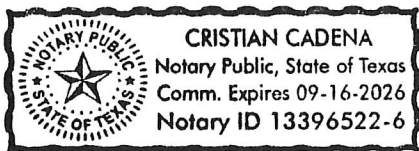
Cristian Cadena

(Name - Typed or Printed)

Notary ID No.: 13396522-6

9-16-26

(My Commission Expires)



[NOTARY SEAL]

GRANTEE:

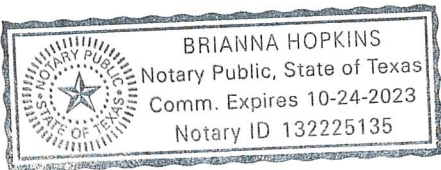
RH₂O LLC, a Texas limited company

By: Nickolas R. Lutz, Jr.
Nickolas R. Lutz, Jr., Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
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COUNTY OF Montgomery ROBERTSON §
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This instrument was sworn, subscribed to, and acknowledged before me on August 10th, 2023 by Nickolas R. Lutz, Jr., Manager of the RH₂O LLC, a Texas limited company, on behalf of said limited company for the purposes and considerations recited herein.



B Hopkins
Notary Public, State of Texas
Brianna Hopkins
(Name - Typed or Printed)
Notary ID No.: 132225135
10-24-23
(My Commission Expires)

[NOTARY SEAL]

Exhibit "A"

Property (including any improvements): All of Grantors' undivided interest in and to the Groundwater Estate in and under the following described Property:

PARCEL 1: BEING 11 tracts of land, more or less, containing an aggregate of 920.5425 acres, more or less lying and being situated in the G.A. Nixon Survey, A-31, J. Little Survey, A-208, and J.R. Robertson Survey in conflict with the G.A. Nixon Survey, Robertson County, Texas and being described as follows:

(Tract 1) 35.4 acres, 174 acres, 30 acres and 152 1/5 acres, G. A. Nixon Survey, A-31, described in Deed dated October 19, 1960, recorded in Volume 194, Page 311, Deed Records of Robertson County, Texas.

(Tract 2) 64.1 acres, 2 5/9 acres and 40 acres, John Little Survey, A-208, in deed dated October 17, 1961, recorded in Volume 196, Page 525, Deed Records of Robertson County, Texas.

(Tract 3) 250 1/2 acres, J. R. Robertson Survey, in conflict with G. A. Nixon Survey, A-31, in deed dated October 22, 1962, recorded in Volume 200, Page 559, Deed Records of Robertson County, Texas.

(Tract 4) 91 acres, J. R. Robertson Survey, in conflict with G. A. Nixon Survey, A-31, dated October 20, 1964, recorded in Volume 209, Page 106, Deed Records of Robertson County, Texas.

(Tract 5) 25 acres and 58 acres, J. R. Robertson Survey, in conflict with G. A. Nixon Survey, A-31, dated October 12, 1965, recorded in Volume 219, Page 66, Public Records of Robertson County, Texas.

AFTER RECORDING RETURN TO:

RH₂O LLC

Attn: Nickolas R. Lutz, Jr., Manager
8529 Edinburgh Ct.
Montgomery, TX 77316