

## TITLE ISSUES ARISING IN THE PURCHASE OF AGRICULTURAL LAND

One of the first and most important steps in assisting a client in the sale or purchase of agricultural land is the evaluation of the state of the title to the property. This is typically done through the engagement of a title insurance company that will conduct a title search and provide a title commitment that will outline the necessary requirements for insuring title to the property and provide a list of matters that are excluded from coverage. This presentation will give you an overview of the various parts of a title commitment and provide you with tips on resolving common title issues that arise in transactions involving agricultural land such as:

1. Ownership and Estate Issues
2. Issues Regarding Access to Property
3. Deed Restrictions, Covenants, Easements and Encroachments
4. Leases and Other Contractual Obligations Running with the Land

We will also touch on the importance of obtaining a survey and provide you with some tips to help you and your client spot potential issues that may be uncovered by a survey.



## COMMITMENT FOR TITLE INSURANCE

Issued By

**FIDELITY NATIONAL TITLE INSURANCE COMPANY**

### NOTICE

**IMPORTANT - READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, Fidelity National Title Insurance Company, a(n) Tennessee corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within 90 days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

### COMMITMENT CONDITIONS

#### 1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.

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- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
  - (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
  - (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
  - (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
  - (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
  - (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
  - (h) "Title": The estate or interest described in Schedule A.
2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid without:
- (a) the Notice;
  - (b) the Commitment to Issue Policy;
  - (c) the Commitment Conditions;
  - (d) Schedule A;
  - (e) Schedule B, Part I—Requirements; [and]
  - (f) Schedule B, Part II—Exceptions; and
  - (g) a counter-signature by the Company or its issuing agent that may be in electronic form].
4. **COMPANY'S RIGHT TO AMEND**  
The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.
5. **LIMITATIONS OF LIABILITY**
- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
    - (i) comply with the Schedule B, Part I - Requirements;
    - (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
    - (iii) acquire the Title or create the Mortgage covered by this Commitment.

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- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing [and authenticated by a person authorized by the Company].
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. ARBITRATION**

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

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## COMMITMENT FOR TITLE INSURANCE

Issued By  
**FIDELITY NATIONAL TITLE INSURANCE COMPANY**

**Transaction Identification Data for reference only:**

Issuing Agent: J.D. Kiouss  
Issuing Office: Lawyers Land & Title Services, LLC  
ALTA® Universal ID: 1102439  
Loan ID No.: [REDACTED]  
Commitment No.: [REDACTED]  
Issuing Office File No.: [REDACTED]  
Property Address: [REDACTED]

### SCHEDULE A

1. Commitment Date: April 2, 2019 at 08:00 AM
2. Policy to be issued:
  - a. ALTA Owners Policy (06/17/06)  
Proposed Insured: [REDACTED]  
Proposed Policy Amount: [REDACTED]
  - b. ALTA Loan Policy (06/17/06)  
Proposed Insured: [REDACTED]  
Proposed Policy Amount: [REDACTED]
3. The estate or interest in the Land described or referred to in this Commitment is Fee Simple.
4. Title to the Fee Simple estate or interest in the Land is at the Commitment Date vested in:  
[REDACTED]
5. The Land is described as follows:

RE: LEGAL DESCRIPTION OF 50.01 ACRES ON FAIRFIELD PIKE AND LYING IN THE 4TH CIVIL DISTRICT OF BEDFORD COUNTY, TN.

Beginning at a point in the center of Fairfield Pike in line with fence from the north at the southeast corner of the Clodfelter Property (D.B. 242; Pg. 599) and the southwest corner of the property herein described; Thence leaving the said center with the east line of the said Clodfelter Property N 11°52'36" E a distance of 28.53' to an iron rod old;

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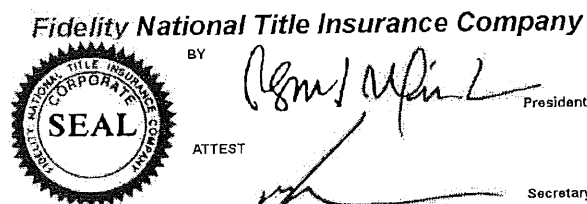
**SCHEDULE A**  
(Continued)

Thence N 11°52'36" E a distance of 334.76' to an iron rod old;  
Thence N 05°30'04" E a distance of 180.64' to an iron rod old;  
Thence N 00°18'51" E a distance of 363.06' to an iron rod old, the northwest corner of the property herein described;  
Thence leaving the said east line along a new division N 86°06'01" E a distance of 2443.43' to an iron rod new, the northeast corner of the property herein described;  
Thence S 00°00'12" W a distance of 592.42' to an iron rod new;  
Thence S 00°00'12" W a distance of 31.16' to a point in the center of the said Fairfield Pike, the southeast corner of the property herein described;  
Thence following the said center the following calls S 80°50'18" W a distance of 140.79' to a point;  
S 79°03'46" W a distance of 55.43' to a point;  
S 75°00'57" W a distance of 52.24' to a point;  
S 73°09'19" W a distance of 61.74' to a point;  
S 70°14'03" W a distance of 498.16' to a point;  
S 70°54'14" W a distance of 369.27' to a point;  
S 69°18'45" W a distance of 542.76' to a point;  
S 75°55'46" W a distance of 87.90' to a point;  
S 85°11'38" W a distance of 94.51' to a point;  
N 85°55'05" W a distance of 67.28' to a point;  
N 78°53'54" W a distance of 669.29' to the point of beginning and containing 50.02 acres based on a survey by Lincoln B. Northcutt RLS 1808 and dated 6/07/19 and located at 115 East Depot Street, Shelbyville, TN 37160. This parcel is subject to all easements as shown and any other easements and/or restrictions either recorded or by prescription that a complete title search may reveal.

Being a portion of the same property conveyed to [REDACTED] unmarried by Warranty Deed filed for record on March 2, 2018 in [REDACTED], of the Register's Office of Bedford County, Tennessee.



J.D. Kiouss, Attorney



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### SCHEDULE B, PART I Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

Warranty Deed from [REDACTED] to [REDACTED]

Deed of Trust from [REDACTED] to [REDACTED]  
securing the principal amount of [REDACTED]

5. Deed of Trust executed by [REDACTED] unmarried to [REDACTED] dated February 28, 2018 and filed for record on March 2, 2018 in [REDACTED] said Register's Office, securing the original principal sum of [REDACTED] must be satisfied and released of record. If this mortgage secures an equity line of credit and/or revolving loan, the Company requires a satisfactory written statement from the existing lender confirming: (a) the payoff amount, (b) that the line of credit has been closed or frozen, and no further draws/advances will be permitted and/or the right to future advances has been terminated, and (c) agreeing to deliver a full satisfaction release upon payment of the outstanding balance.
6. Bedford County taxes for the year 2018 PAID in the amount of \$1,775.00 for Tax Parcel Identification No. [REDACTED] All prior years are paid.
7. Note: This property is not currently assessed with city taxes.
8. Subject property is currently assessed under Greenbelt or agricultural use; Application for Greenbelt status may need to be re-submitted to continue assessment pursuant to the Agricultural, Forest and Open Space Land Act of 1976, TCA Sec. 67-5-1001 et. seq.
9. Notice and Waiver to be executed.

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**SCHEDULE B**  
(Continued)

10. Owner's Affidavit to be executed.

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**SCHEDULE B**  
(Continued)

**SCHEDULE B, PART II**  
**Exceptions**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Rights or claims of parties in possession not shown by the public records.
3. Easements, or claims of easements, not shown by public records.
4. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey or inspection of the premises.
5. Any lien, or right to lien, for services, labor, or material hereto or hereafter furnished, imposed by law and not shown by the public records.
6. Rights of dower, homestead or other marital rights of the spouse, if any, of any individual insured.
7. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on or under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interest that are not listed.
8. Restrictions upon the use of the premises not appearing in the chain of title to the land.
9. Acreage content of the subject property is not hereby insured. Reference to acreage is left in the description merely for convenience in identifying the tract.
10. Right of Way of Fairfield Pike, as much as therein may lie.
11. Right of Way Deed for Highway Purposes of record in Deed Book 154, page 53, said Register's Office.
12. Oil & Gas Lease of record in Book TD209, page 673, said Register's Office.
13. Grant of Transmission Line Easement of record in Deed Book 73, page 361, said Register's Office.
14. Application for Greenbelt Assessment of record in Greenbelt Book 8, page 657 and Greenbelt Book 13,

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**SCHEDULE B**  
(Continued)

page 31, said Register's Office.

15. All matters shown on the survey dated 3/31/2010 by Lincoln Northcutt, TN RLS # 1808.
16. County of Bedford taxes for the year 2019 and subsequent years, a lien not yet ascertainable, due or payable.

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## COMMITMENT FOR TITLE INSURANCE

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**FIDELITY NATIONAL TITLE INSURANCE COMPANY**

### SCHEDULE C

The Land is described as follows:

RE: LEGAL DESCRIPTION OF 50.01 ACRES ON FAIRFIELD PIKE AND LYING IN THE 4TH CIVIL DISTRICT OF BEDFORD COUNTY, TN.

Beginning at a point in the center of Fairfield Pike in line with fence from the north at the southeast corner of the Clodfelter Property (D.B. 242; Pg. 599) and the southwest corner of the property herein described;  
Thence leaving the said center with the east line of the said Clodfelter Property N 11°52'36" E a distance of 28.53' to an iron rod old;  
Thence N 11°52'36" E a distance of 334.76' to an iron rod old;  
Thence N 05°30'04" E a distance of 180.64' to an iron rod old;  
Thence N 00°18'51" E a distance of 363.06' to an iron rod old, the northwest corner of the property herein described;  
Thence leaving the said east line along a new division N 86°06'01" E a distance of 2443.43' to an iron rod new, the northeast corner of the property herein described;  
Thence S 00°00'12" W a distance of 592.42' to an iron rod new;  
Thence S 00°00'12" W a distance of 31.16' to a point in the center of the said Fairfield Pike, the southeast corner of the property herein described;  
Thence following the said center the following calls S 80°50'18" W a distance of 140.79' to a point;  
S 79°03'46" W a distance of 55.43' to a point;  
S 75°00'57" W a distance of 52.24' to a point;  
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This parcel is subject to all easements as shown and any other easements and/or restrictions either recorded or by prescription that a complete title search may reveal.

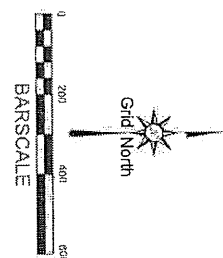
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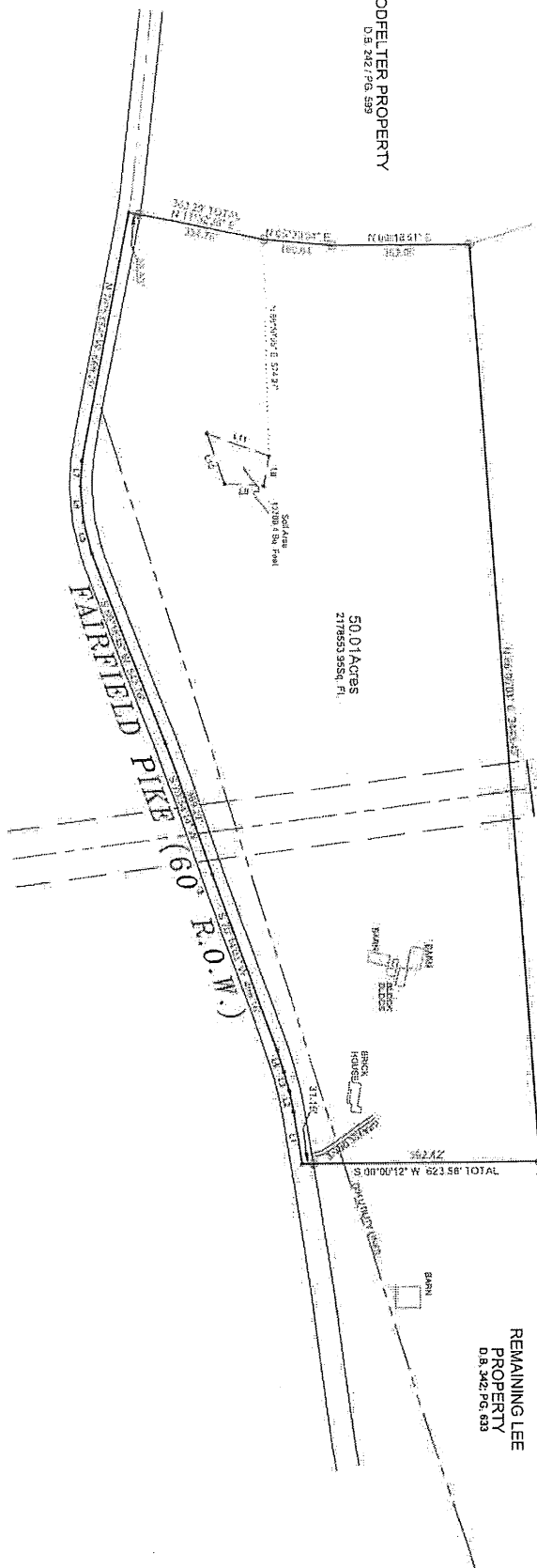


REMAINING LEE  
PROPERTY  
D.B. 342 PG. 533

REMAINING LEE  
PROPERTY  
D.B. 342 PG. 533

CLODFELTER PROPERTY  
D.B. 242 / PG. 599

50.01 ACRES  
277853 9554 FL



### Line Chart

LINE	BEARING	DISTANCE
1	S 60°50'18" W	140.79'
2	S 79°03'46" W	55.43'
3	S 75°00'57" W	52.24'
4	S 73°09'19" W	61.74'
5	S 73°55'46" W	87.90'
6	S 65°11'58" W	94.51'
7	N 85°58'05" W	67.28'
8	S 80°23'22" E	81.22'
9	S 03°58'57" W	104.63'
10	S 70°37'56" W	140.94'
11	N 20°04'33" E	175.32'

NOTES:  
This parcel is subject to all easements as shown and any other easements and/or restrictions shall be noted or by prescription that a complete title search may reveal.  
Information concerning meter utilities shown herein are based on visible evidence noted during this survey or information provided by utility companies. The meter of record is shown and the location of the meter should be confirmed by local utility companies.

1. Lincoln B. Northcutt is a registered land surveyor in the State of Tennessee, Commission No. 11111. He is the author of this survey and is responsible for its accuracy and reliability. He is not responsible for the accuracy and reliability of any information or data provided by others in connection with this survey.

REGISTERED LAND SURVEYOR (DATE)

NORTHCU T T SURVEYING, INC.

115 East Depot Street  
Shelbyville, TN 37160  
Phone (931) 684-2741  
Email northcuttsurvey@gmail.com

SCALE: 1" = 200' APPROVED BY: [Signature] DATE: 03/07/2010  
DRAWN BY: [Signature] DATE: 03/07/2010  
DRAWING NO. [Blank]

W.O. # 10-145

RE: LEGAL DESCRIPTION OF 50.01 ACRES ON FAIRFIELD PIKE AND  
LYING IN THE 4TH CIVIL DISTRICT OF BEDFORD COUNTY, TN.

Beginning at a point in the center of Fairfield Pike in line with fence from the north at the southeast corner of the Clodfelter Property (D.B. 242; Pg. 599) and the southwest corner of the property herein described;  
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Thence leaving the said east line along a new division N 86°06'01" E a distance of 2443.43' to an iron rod new, the northeast corner of the property herein described;  
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Thence following the said center the following calls S 80°50'18" W a distance of 140.79' to a point;  
S 79°03'46" W a distance of 55.43' to a point;  
S 75°00'57" W a distance of 52.24' to a point;  
S 73°09'19" W a distance of 61.74' to a point;  
S 70°14'03" W a distance of 498.16' to a point;  
S 70°54'14" W a distance of 369.27' to a point;  
S 69°18'45" W a distance of 542.76' to a point;  
S 75°55'46" W a distance of 87.90' to a point;  
S 85°11'38" W a distance of 94.51' to a point;  
N 85°55'05" W a distance of 67.28' to a point;  
N 78°53'54" W a distance of 669.29' to the point of beginning and containing 50.02 acres based on a survey by Lincoln B. Northcutt RLS 1808 and dated 6/07/19 and located at 115 East Depot Street, Shelbyville, TN 37160. This parcel is subject to all easements as shown and any other easements and/or restrictions either recorded or by prescription that a complete title search may reveal.

Property is a portion of that recorded in [REDACTED] in the R.O.B.C.

\*\*\*\*\*NOTE TO ATTORNEY\*\*\*\*\*

This property is subject to a TVA line easement 150 foot wide and known as the

"Murfreesboro-AEDC Transmission Line", 75 feet each side center as shown on survey by Lincoln Northcutt RLS # 1808, located at 117 Hickory Drive, Shelbyville, Tennessee 37160 and dated 03/31/2010.