

04

29



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *HMB for Steve*

FROM: Lynn Vouis, Assistant County Attorney *LW*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *P.H.*
Mark Flomerfelt, Manager, Roads Operation/Stormwater *M.F.*

DATE: February 14, 2005

SUBJECT: Purchase Agreement/Settlement Authorization
Lockhart-Smith Canal Project
Bradwell Easement
Case No.: 2005-CA-294-13-L
Tax Parcel No. 16-19-30-5AB-0200-004B

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) and execution of a purchase agreement by the Chairman as to the above-referenced Bradwell easement (one of three) on the Lockhart-Smith Canal Project. The recommended settlement is at the total sum of \$30,000.00 inclusive of all land value, severance damages, statutory interest, attorney's fees and cost reimbursements.

I PROPERTY

A. Location Data

The Bradwell easement is located along the Lockhart-Smith Canal. The canal bisects the property as illustrated on the attached Exhibit A.

B. Street Address

The street address is 955 North Oregon Street. The property is located on the east side of Oregon Avenue. A location map is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-98 on May 27, 2003, authorizing the acquisition of the Bradwell easements. The Lockhart-Smith Canal project was found to be necessary, serve a public purpose, and be in the best interests of the citizens of Seminole County. An order of take hearing is scheduled for April 11, 2005.

III ACQUISITIONS AND REMAINDER

The permanent easement acquisition consists of 7,588 s.f. encumbering a parent tract of 98,036 s.f.

IV APPRAISED VALUES

The County's appraisal dated July 15, 2003, was prepared by Diversified Property Specialists, Inc., and reported full compensation to be \$11,850.00. No updated appraisal reports have been prepared as of yet.

V BINDING OFFER/NEGOTIATION

The County's written offer was \$15,000.00, exclusive of fees and costs. The owner claimed land value and damages of \$30,000.00, exclusive of attorney fees and costs. The negotiated settlement is at \$30,000.00, inclusive of fees and costs.

The County filed suit to acquire this parcel shortly before settlement was reached. If a closing can be scheduled to take place prior to the April 11, 2005 order of taking hearing date, the parcel will be dropped from the lawsuit. The purchase agreement is attached as Exhibit C.

VI ATTORNEY FEES AND COSTS

The settlement at \$30,000.00 is inclusive of attorney fees and costs, without specific allocation.

VII ANALYSIS

The early settlement at the total inclusive sum of \$30,000.00 is higher than the appraisal and the offer. However, all additional future costs after the County obtains title to the property are avoided. Additionally, updated appraisals of residential property are reflecting 12 – 15% annual appreciation rates.

VIII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with further litigation.

IX RECOMMENDATION

County staff recommends that the BCC approve this settlement in the amount of \$30,000.00 inclusive of all land value, severance damage, statutory interest, attorney's fees, and cost reimbursements.

LV

Attachments

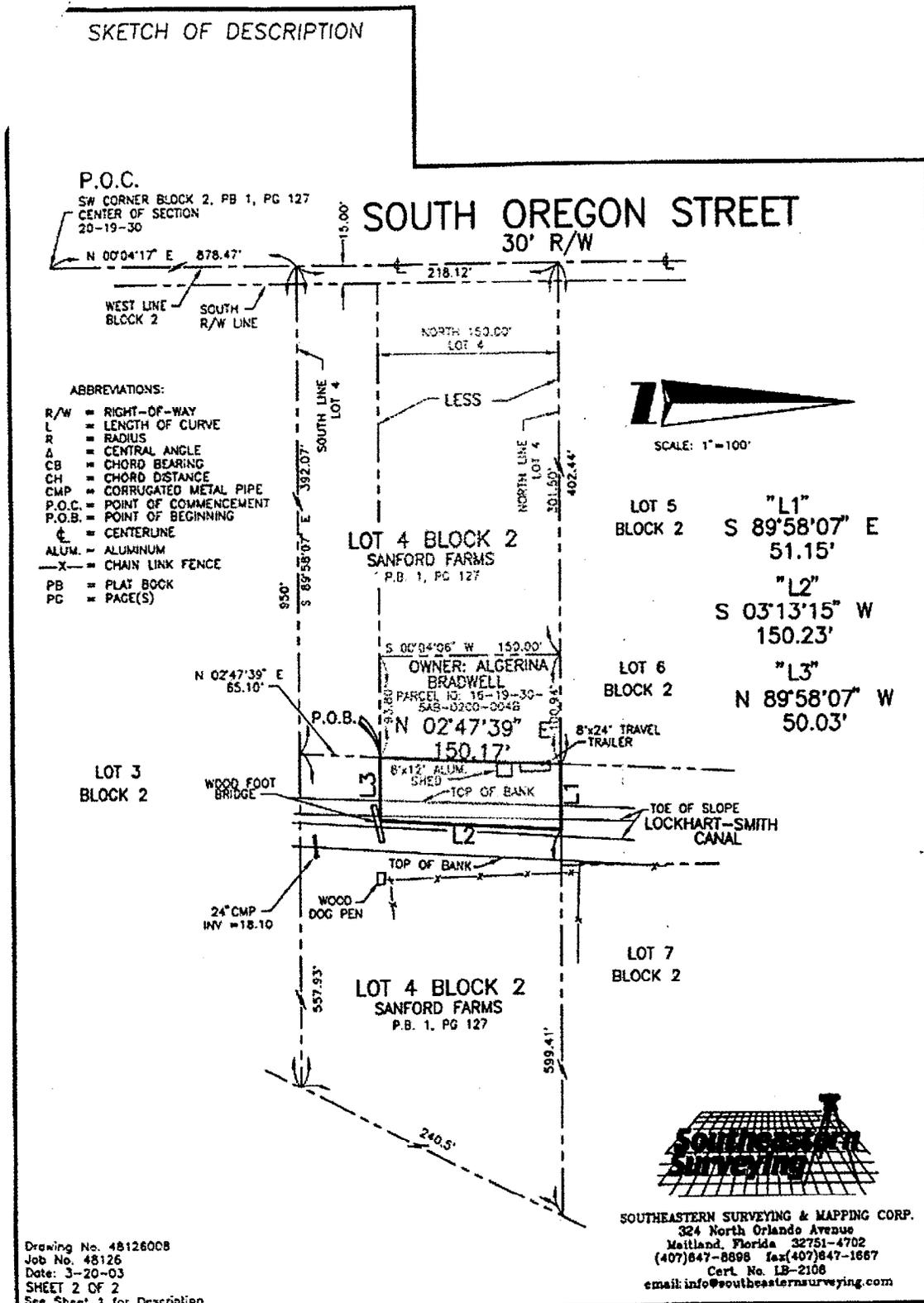
Exhibit A

Exhibit B

Exhibit C

P:\USERS\lvouis\EMY DOCUMENTS\MEM\settlement memos\AGENDA ITEM LOCKHART SMITH CANAL BRADWELL.DOC

PROPERTY SKETCH



Drawing No. 48126008
Job No. 48126
Date: 3-20-03
SHEET 2 OF 2
See Sheet 1 for Description

SOUTHEASTERN SURVEYING & MAPPING CORP.
324 North Orlando Avenue
Maitland, Florida 32751-4702
(407)847-8898 fax(407)847-1667
Cert. No. LP-2108
email: info@southeasternsurveying.com

- Exhibit A -

PURCHASE AGREEMENT PERMANENT EASEMENT

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 2005, by and between ALGERINA BRADWELL, whose address is P.O. Box 470209, Lake Monroe, FL 32747-0209, hereinafter referred to as "OWNER," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for the Lockhart-Smith Canal improvement project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, OWNER hereby agrees to sell and COUNTY hereby agrees to purchase the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION - Parcel I.D. Number: 16-19-30-5AB-0200-004B

See, attached Exhibit "A"

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above-described property by Permanent Drainage/Stormwater Easement, see, attached Exhibit "B", unto COUNTY for the sum of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00.) The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever.

(b) COUNTY shall be responsible for the following closing costs: recording fees for Permanent Easement and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice.

(c) OWNER shall be responsible for OWNER's attorney's fees, cost to prepare and all expenses to record instruments necessary to provide title unto COUNTY, The before mentioned closing costs shall be withheld by the COUNTY's closing agent from the proceeds of this sale.

(d) OWNER covenants that there are no real estate commissions due any licensed real estate broker and further agrees to defend against and pay any valid claims made in regard to this purchase relating to covenants made herein by the OWNER.

III. CONDITIONS

(a) COUNTY shall pay to the OWNER the sum as described in Item II. above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. The OWNER agrees to close within seven (7) days of notice by the COUNTY or the COUNTY'S closing agent that a closing is ready to occur.

(b) OWNER warrants that there are no facts known to OWNER materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(c) The OWNER shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable.

(d) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(e) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY; this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY's condemnation proceedings in any way. The OWNER, may however, assert OWNER's rights against other claimants in apportionment proceedings.

(f) As part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have exclusive possession of the property described in Exhibit A to this Agreement. The right of entry shall commence NINETY (90) days after the execution of this Agreement by COUNTY, and shall continue until closing occurs, or if closing cannot occur, until the condemnation proceedings to acquire the property have been completed. Additionally, as part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, and or its agents, a Right-of-Entry, to enter upon the fee simple remainder of the property, approximately TEN (10) feet past the limits of the Permanent Drainage/Stormwater Easement, in order to construct the improvements associated with the Lockhart-Smith Canal/Drainage System Improvement Project, Phase I, ensuring that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. Aside from this Agreement, no further notification of COUNTY's intent to enter the property is required. OWNER will not receive from COUNTY any additional compensation beyond that set forth

in this Purchase Agreement during the period of time the COUNTY occupies the above described property for the purpose set forth above for the right to enter and possess the property before conveyance of title.

ab (g) The OWNER shall indemnify and save the COUNTY harmless from and against all liability, claims for damages, and suits for any injury to any person or persons, or damages to any property of any kind whatsoever arising out of or in any way connected with this Agreement or in any act or omission in any manner related to said Agreement.

(h) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

(i) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names on the date first above written.

WITNESSES:

Sandra Parker
SIGNATURE

Sandra Parker
PRINT NAME

Tracy Marshall
SIGNATURE

Tracy Marshall
PRINT NAME

Algerina Bradwell
ALGERINA BRADWELL

ADDRESS: P.O. Box 470209,
Lake Monroe, FL 32747-0209

COMMISSIONER SIGNATORY BLOCK BEGINS ON PAGE FOUR

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____,
2005, regular meeting.



County Attorney

LV/la
02/01/05

DESCRIPTION:

A portion of The North 150.0 feet of Lot 4, Block 2, lying West of Smith Canal, Sanford Farms, according to the map or plat thereof recorded in Plat Book 1, page 127, of the public records of Seminole County, Florida. LESS the North 150.0 feet of the West 301.5 feet of said Lot 4, more particularly described as follows:

Commence at the Southwest corner of Block 2 of said plat, also being the center of Section 20, Township 19 South, Range 30 East, thence North 00°04'17" East along the West line of said Block 2, also being the centerline of South Oregon Street, 878.47 feet; thence South 89°58'07" East, 392.07 feet along the South line of said Lot 4; thence North 02°47'39" East, 65.10 feet to the Point of Beginning; thence continue North 02°47'39" East, 150.17 feet to a point on the North line of said Lot 4; thence South 89°58'07" East along said North line, 51.15 feet; thence South 03°13'15" West, 150.23 feet; thence North 89°58'07" West, 50.03 feet to the Point of Beginning.

Containing 7,588 square feet (0.174 acres, more or less.)

SURVEYORS NOTES

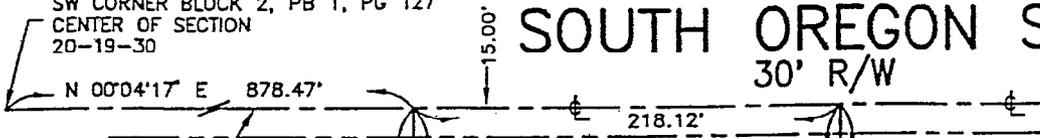
1. Bearings shown hereon are based on the centerline of South Oregon Street, being N. 0°04'17" E., per the map of Lockhart-Smith Canal, prepared by Tinklepaugh Surveying Services, Inc., dated: 5/01/01, File No. SX6822-A
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Minimum Technical Standards for Land Surveying CH. 61G17-6 requirements.
3. Vertical information shown hereon refers to 4"x4" Concrete Monument with Seminole County disk stamped 3050801 located ± 30' North of the centerline of the intersection of Canal Street and Missouri Avenue (Elevation=7.414)
4. Topography shown hereon was extracted from a digital file of a topographic survey prepared by Tinklepaugh Surveying Services, Inc. dated 5-1-01 and verified by a field reconnaissance by Southeastern Surveying & Mapping Corporation dated 3-20-2003.
5. This description is based on information shown on the map of Lockhart-Smith Canal, prepared by Tinklepaugh Surveying Services, Inc., dated: 5/01/01, File No. SX6822-A.

<p>DESCRIPTION</p> <p>FOR</p> <p>Seminole County</p> <p>000007</p> <p>EXHIBIT A</p>	Date: 3-20-2003 EO		CERT. NO. LB2108 48126007
	Job No.: 48126007	Scale: 1" = 100'	 <p>SOUTHEASTERN SURVEYING & MAPPING CORP. 324 North Orlando Avenue Maitland, Florida 32751 (407)647-8898 fax(407)647-1867 email info@southeasternsurveying.com</p> <p><i>Gary B. Krick</i> GARY B. KRICK REGISTERED LAND SURVEYOR NO. 4245</p>
	CH. 61G17-6, Florida Administrative Code requires that a description drawing bear the notation that THIS IS NOT A SURVEY.		
	SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH		

P.O.C.

SW CORNER BLOCK 2, PB 1, PG 127
 CENTER OF SECTION
 20-19-30

SOUTH OREGON STREET
 30' R/W



WEST LINE BLOCK 2
 SOUTH R/W LINE

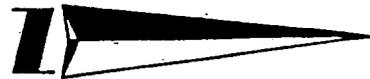
218.12'

NORTH 150.00'
 LOT 4

LESS

ABBREVIATIONS:

- R/W = RIGHT-OF-WAY
- L = LENGTH OF CURVE
- R = RADIUS
- Δ = CENTRAL ANGLE
- CB = CHORD BEARING
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- ALUM. = ALUMINUM
- X = CHAIN LINK FENCE
- PB = PLAT BOOK
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SCALE: 1"=100'

LOT 5
 BLOCK 2
 "L1"
 S 89°58'07" E
 51.15'

"L2"
 S 03°13'15" W
 150.23'

LOT 6
 BLOCK 2
 "L3"
 N 89°58'07" W
 50.03'

LOT 4 BLOCK 2
 SANFORD FARMS
 P.B. 1, PG 127

S 00°04'06" W 150.00'

OWNER: ALGERINA
 BRADWELL
 PARCEL ID: 15-19-30-
 5AB-0200-004B

N 02°47'39" E
 150.17'

8'x24' TRAVEL
 TRAILER

8'x12' ALUM.
 SHED

TOP OF BANK

TOE OF SLOPE
 LOCKHART-SMITH
 CANAL

TOP OF BANK

24" CMP
 INV = 18.10

WOOD
 DOG PEN

LOT 7
 BLOCK 2

LOT 4 BLOCK 2
 SANFORD FARMS
 P.B. 1, PG 127

LOT 3
 BLOCK 2

N 02°47'39" E
 65.10'

WOOD FOOT
 BRIDGE

557.93'

599.41'

240.5'



SOUTHEASTERN SURVEYING & MAPPING CORP.
 324 North Orlando Avenue
 Maitland, Florida 32751-4702
 (407)847-8898 fax(407)847-1887
 Cert. No. LB-2108
 email: info@southeasternsurveying.com

000003

This instrument prepared by:
Stephen P. Lee, Esq.
County Attorney's Office
1101 East First Street
Sanford, Florida 32771

PERMANENT DRAINAGE/STORMWATER EASEMENT

THIS DRAINAGE EASEMENT is made and entered into this _____ day of _____, 2005, by and between ALGERINA BRADWELL, whose address is P.O. Box 470209, Lake Monroe, FL 32747-0209, hereinafter referred to as the GRANTOR, and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the GRANTEE.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of ONE AND NO/100 DOLLAR (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey to the GRANTEE and its assigns, a perpetual Permanent Drainage/Stormwater Easement, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, a drainage system consisting of pipes, ditches, detention, percolation or disposal areas or any combination thereof, together with appurtenant drainage structures over, under, upon and through the following-described lands situate in the County of Seminole, State of Florida, to-wit:

See Exhibit "A," attached hereto and incorporated herein.

Property Appraiser's Parcel Identification Nos.: 16-19-30-5AB-0200-004B

TO HAVE AND TO HOLD said right of way and easement unto said GRANTEE and its assigns forever.

THE GRANTEE herein and its assigns shall have the right to clear and keep clear all trees, undergrowth, and other obstructions that may interfere with the location, excavation, operation or maintenance of the drainage and any other facilities placed thereon by the GRANTEE and its assigns, from the herein granted right-of-way, and GRANTOR, his/her successors and assigns, agree not to build, construct or create, or permit others to build, construct or create any buildings or other structures on the herein

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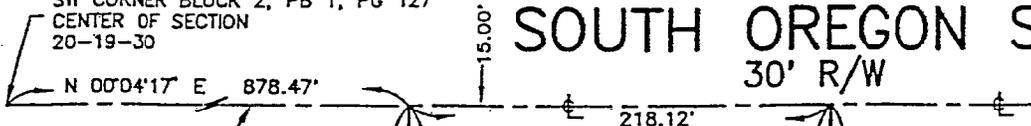
<p>DESCRIPTION</p> <p>FOR</p> <p>Seminole County</p> <p style="font-size: 2em; margin-top: 20px;">000007</p> <p style="font-size: 1.5em; margin-top: 10px;">EXHIBIT A</p>	<p>Date:</p> <p style="text-align: center;">3-20-2003 EO</p>	<p>CERT. NO. LB2108 48126007</p> <div style="text-align: center;">  <p>SOUTHEASTERN SURVEYING & MAPPING CORP. 324 North Orlando Avenue Maitland, Florida 32751 (407)647-8898 fax (407)647-1867 email info@southeasternsurveying.com</p> <p style="font-size: 1.5em; font-family: cursive;">Gary B. Krick</p> <p>GARY B. KRICK REGISTERED LAND SURVEYOR NO. 4245</p> </div>				
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SOUTH OREGON STREET

30' R/W



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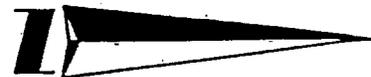
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 PARCEL ID: 16-19-30-
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8'x24' TRAVEL TRAILER

8'x12' ALUM. SHED

TOP OF BANK

TOE OF SLOPE
 LOCKHART-SMITH CANAL

LOT 3 BLOCK 2

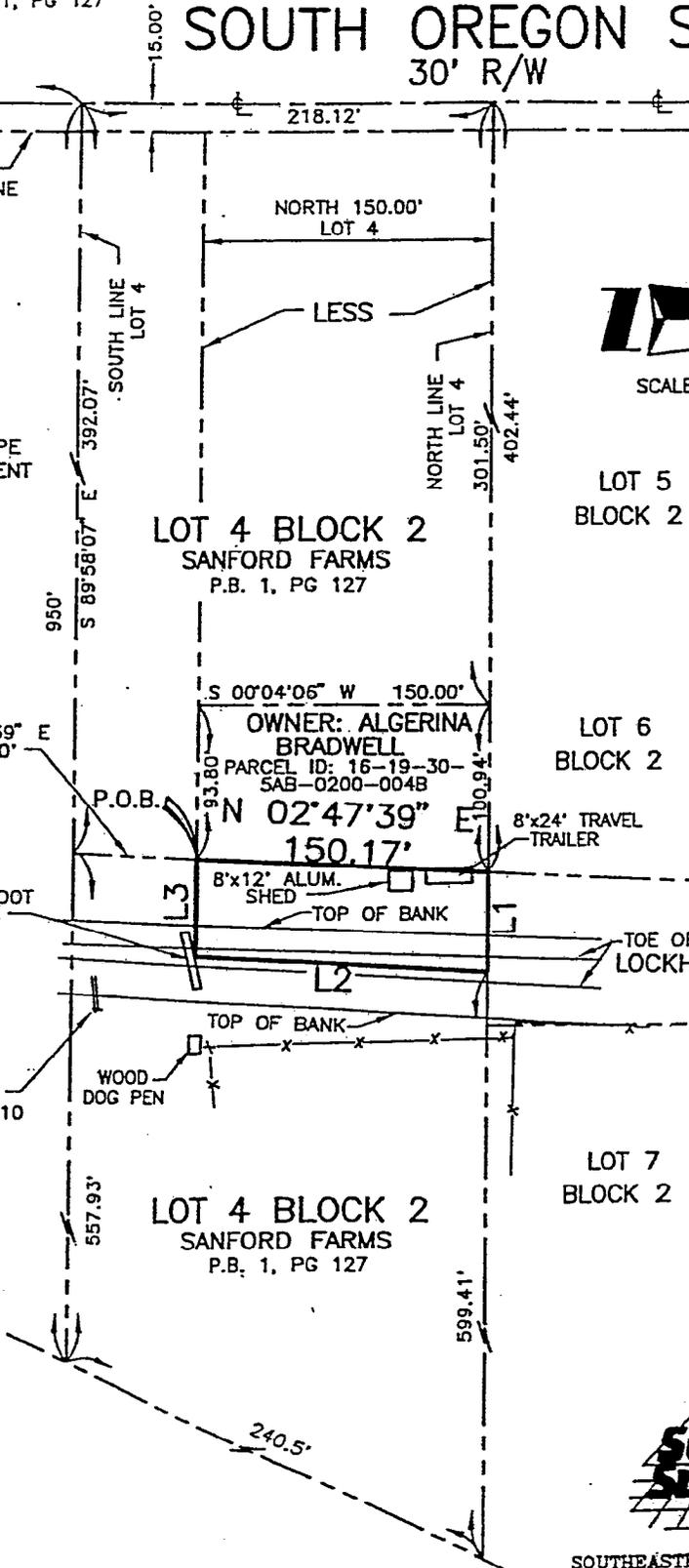
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24" CMP INV = 18.10

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LOT 4 BLOCK 2
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 P.B. 1, PG 127

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000003