TEXAS GENERAL LAND OFFICE

RE: APPLICATION OF BRANDON GOODYK ON BEHALF OF THE BLUEJACK COMPANY, LLC, TO PURCHASE VACANT LAND, MONTGOMERY COUNTY, TEXAS	**§ § § § §**	**SCRAP FILE NO. 16621** **16.59 ACRES**

VACANCY PANEL'S RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. INTRODUCTION

The Commissioner of the General Land Office (Commissioner) is authorized to make vacancy determinations under Texas Natural Resources Code (TNRC) § 51.188.

Pursuant to TNRC § 51.174(a)(1), the Commissioner delegated to a panel of General Land Office (GLO) employees, consisting of Mark Neugebauer, Director of Surveying, and Becky Petty, Staff Attorney, the responsibility to process the application of BRANDON GOODYK ON BEHALF OF THE BLUEJACK COMPANY, LLC (Applicant), to purchase vacant land in Montgomery County, Texas, Scrap File No. 16621 (Application). No valid exceptions are on file at the GLO contesting the Application. Therefore, pursuant to TNRC §§ 51.187 and 51.188, no hearing for the Application was necessary. Following the investigation, including examination of the submissions of the Applicant and all relevant records of the GLO, the panel recommends that the Commissioner issue a Final Order determining that a vacancy exists as described in the application of BRANDON GOODYK ON BEHALF OF THE BLUEJACK COMPANY, LLC, on file in Scrap File No. 16621.

II. FINDINGS OF FACT.

A. Procedural Findings.

1. The Application, Scrap File No. 16621, was filed by the Applicant as Document Number 2016056928 of the Official Public Records of Montgomery County, Texas on June 29, 2016.

2. The GLO received the Application on July 8, 2016, and the Application was properly filed.

3. The allegedly vacant tract was adequately described in the Application, the Application was determined to be complete and in compliance with the requirements of TNRC § 51.176, and the commencement date was established as January 9, 2017.

4. The Applicant provided and filed a proper affidavit with the GLO stating that the Applicant had made a diligent and thorough search for necessary parties.

5. The Applicant provided sufficient evidence to establish ownership of all interests in the property surrounding the alleged vacancy that is the subject of the Application.

6. The record shows that the GLO provided adequate notice to each identified and located necessary party by mail to his or her last known address of the filing of the Application.

7. Leonard E. Woods, a Licensed State Land Surveyor (Surveyor Woods), filed a survey report, of record in GLO file SF-16621 (Survey Report); field notes, of record in GLO file SF-16621 (Field Notes); and a survey plat, of record in GLO file Montgomery County Rolled Sketch No. 49 (Survey Map) for the allegedly vacant tract described in the Application.

8. The GLO accepted the properly prepared Survey Report and Survey Map for filing on July 8, 2016.

9. The field notes for the entire vacancy (Survey No. 1) consisting of 16.59 acres were filed as Document No. 2016056930 of the Montgomery County Official Public Records on June 29, 2016, while the field notes for the portion of the vacancy that the Applicant has applied to purchase (Survey No. 2) consisting of 8.01 acres were filed as Document No. 2016056929.

10. The Survey Report established that the Surveyor, in conducting the Survey, followed the footsteps of the original surveyors to the greatest extent possible based on a careful and diligent on the ground survey and research from multiple sources.

11. The GLO did not receive any exceptions to the vacancy application from any of the necessary parties within the sixty-day time frame set forth in TNRC § 51.182, and no exceptions to the surveyor's report were received by the GLO from any of the necessary parties within the thirty-day timeframe set forth in TNRC §51.186(b); therefore, a hearing was not required to be held.

B. Surveying Findings.

1. The entire alleged vacant land tract in this Application, Survey No.1 located in Montgomery County, is described as follows:

> Survey No. 1 is 16.59 acres of land bounded on the north by the Ambrose Tinny Survey, Abstract No. 551, GLO file Montgomery-1-305; on the east by the William Miller Survey, Abstract No. 384, GLO file Montgomery-B-47; on the south by the Thomas C. Bradberry Survey, Abstract No. 91, GLO file Montgomery-3-165; and on the west by the Charles Weaver Survey, Abstract No. 624, GLO file Montgomery-3-168, Montgomery County, Texas.

2. The east part of the alleged vacant land tract in this Application, Survey No. 2 located in Montgomery County, is described as follows:

Survey No. 2 is 8.01 acres of land bounded on the north by the Ambrose Tinny Labor, Abstract No. 551, GLO file Montgomery-1-305; on the east by the William Miller Survey, Abstract No. 384, GLO file Montgomery-B-47; on the south by the Thomas C. Bradberry Survey, Abstract No. 91, GLO file Montgomery-3-165; and on the west by the west part of Survey No. 1 consisting of 8.58 acres, Montgomery County, Texas.

3. Three Mexican land grant Title Surveys, the Noah Griffith Title Survey, the Jacob Shannon Title Survey, and the William Montgomery Title Survey are located in the vicinity of the alleged vacant land and represent the most senior Surveys of the area in question. The said Mexican Title Surveys were made by Surveyor Elias R. Wightman in the year 1831. Woods Survey Report, p. 6.

4. To the east of the area in question is the Noah Griffith (also spelled Griffeth) Title Survey No. 16 (Griffith Survey), Montgomery County Abstract No. 16, GLO file Spanish Collection Box 09: Folder 42. The Griffith Survey was Titled by the Mexican Government April 11, 1831, for one League of land (4,428.4 acres). Woods Survey Report, p. 6.

5. To the north of the area in question is the Jacob Shannon Title Survey No. 12 (J. Shannon Survey), Montgomery County Abstract No. 35, GLO Spanish Collection Box 11: Folder 11. The J. Shannon Survey was Titled by the Mexican Government April 30, 1831, for one League of land (4,428.4 acres). Woods Survey Report, p. 6.

6. To the west of the area in question is the William Montgomery Title Survey (Montgomery Survey), Grimes County Abstract No. 43, GLO Spanish Collection Box 10: Folder 30. The Montgomery Survey was Titled by the Mexican Government May 4, 1831, for one League of land (4,428.4 acres). Woods Survey Report, p. 6.

7. To the north of the area in question is the Margaret Shannon Survey (M. Shannon Survey), Montgomery County Abstract No. 489, GLO file Montgomery-1-230, surveyed February 18, 1839, by Andrew Harper, Deputy Surveyor Montgomery County. The M. Shannon Survey was patented August 31, 1844, for one Labor of land (177.10 acres) on Surveyor Harper's field notes. Woods Survey Report, p.7.

8. To the north and east of the area in question is the William Miller Survey (Miller Survey), Montgomery County Abstract No. 384, GLO file Montgomery-B-47, surveyed February 18, 1839, by Andrew Harper, Deputy Surveyor Montgomery County. The Miller Survey was patented January 27, 1849, for 480 acres on Surveyor Harper's field notes. Woods Survey Report, p. 7.

9. To the north of the area in question is the Ambrose Tinny Survey (Tinny Survey), Montgomery County Abstract No. 551, GLO file Montgomery-1-305, surveyed October 8, 1838, by Andrew Harper, Deputy Surveyor Montgomery County. The Tinny Survey

was patented February 24, 1847, for one Labor of land (177.10 acres) on Surveyor Harper's field notes. Woods Survey Report, p. 7.

10. To the southeast of the area in question is the Joseph M. Robinson Survey (Robinson Survey), Montgomery County Abstract No. 450, GLO file Montgomery-3-52, surveyed August 14, 1842, by James G. Read, Deputy Surveyor Montgomery County. The Robinson Survey was patented March 15, 1845, for 640 acres on Surveyor Read's field notes. Woods Survey Report, p. 8.

11. To the south and east of the area in question is the Thomas C. Bradberry Survey (Bradberry Survey), Montgomery County Abstract No. 91, GLO file Montgomery-3-165, surveyed July 6, 1855, by Joseph M. Brown, Deputy Surveyor Montgomery County. The Bradberry Survey was patented March 27, 1861, for 640 acres on Surveyor Brown's field notes. Woods Survey Report, p. 9.

12. To the south of the area in question is the Joseph G. Ferguson Survey (Ferguson Survey), Montgomery County Abstract No. 221, GLO file Montgomery-B-211, surveyed September 29, 1853, by Joseph M. Brown, Deputy Surveyor Montgomery County. The Ferguson Survey was patented September 11, 1860, for 1,920 acres on Surveyor Brown's field notes. Woods Survey Report, p. 8.

13. To the west of the area in question is the Charles Weaver Survey (Weaver Survey), Montgomery County Abstract No. 624, GLO file Montgomery-3-168, surveyed December 24, 1845, by A. McNeill, Deputy Surveyor Montgomery County. The Weaver Survey was patented December 19, 1848 for 320 acres on Surveyor McNeill's field notes. Woods Survey Report, p. 8.

14. The Titled field notes by Surveyor Wightman call for the Griffith Survey to adjoin and lie south of a League of land surveyed for William M. Rankin (Rankin Survey). The Griffith Survey calls to begin at the southeast corner of the said Rankin Survey and runs a line west 6,250 varas to a mound of earth (no witness trees mentioned). The next call is south 4,000 varas to a mound of earth from which a Post Oak (no diameter given) bears South 45° West, 10 varas. The Griffith Survey then runs a line east at 6,250 varas to a mound of earth from which a Red Oak (no diameter given) bears North 25° East, 15 varas. The last call is north 4,000 varas to the place of beginning.

15. The Titled field notes by Surveyor Wightman call for the J. Shannon Survey to adjoin and lie west of a League of land granted to William S. Rankin (Rankin Survey) [Note: it is presumed that there is a typo of the middle initial of William Rankin's name in the English translation of the J. Shannon Survey]. The J. Shannon Survey calls to begin at the southwest corner of the Rankin Survey and runs north 6,250 varas with Rankin's west line to the northwest corner of the Rankin Survey. The next call is west 4,000 varas to a landmark in the prairie from which a Post Oak (no diameter given), marked H, bears North 20° West, 335 varas. The J. Shannon Survey then runs south 6,250 varas to another

landmark, from which a Hickory (no diameter given) blazed with an axe bears North 52° East, 50 varas. The last call is east 4,000 varas to the place of beginning.

16. The Titled field notes by Surveyor Wightman call for the Montgomery Survey to adjoin and lie south of a League of land surveyed for Asa Yeamans (Yeamans Survey) and a League of land for John Landrum (Landrum Survey). The Montgomery Survey calls to begin at the southeast corner of the said Yeamans Survey and runs a line west with the south line of the Yeamans Survey 4,000 varas to the east line of the Landrum Survey (no corner marker or witness trees given). The next call is south with Landrum's line 792 varas to the southeast corner of the Landrum Survey (no corner marker or witness trees given). The Montgomery Survey then runs west with the south line of the Landrum Survey 2,000 varas to a landmark on Landrum's line (no witness trees given). The Montgomery Survey then runs south 3,639 varas to a mound of earth (no witness trees given). The next call is east 6,000 varas to a mound of earth (no witness trees given). The last call is north 4,431 varas to the place of beginning.

17. The patented field notes for the M. Shannon Survey by Surveyor Harper call to begin at a post for the northwest corner of the Griffith Survey from which a 36-inch Red Oak, marked S, bears South 67° West, 17 varas, and a 14-inch Red Oak, marked X, bears South 75° East, 17 varas. The M. Shannon Survey then runs South 89° West with the south line of the J. Shannon Survey a distance of 895 varas to a set post from which a 10-inch Red Oak, marked S, bears South 29° East, 5 varas, and a 12-inch Post Oak, marked D, bears South 31° West, 9.7 varas. The next call is South 1° East a distance of 1,117.3 varas to a set post from which a 10-inch Red Oak, marked S, bears North 21° East, 2.8 varas, and an 8-inch Post Oak, marked D, bears South 26° West, 1.2 varas. The M. Shannon Survey then runs a line North 89° East a distance of 892 varas to a set post which intersects the west line of the Griffith Survey from which a 10-inch Ash, marked S, bears North 3° East, 10 varas, and a 10-inch Ash, marked D, bears South 31° West, 5.4 varas. The last call is North 1° West with the west line of the Griffith Survey a distance of 1,117.3 varas to the place of beginning.

18. The patented field notes for the Miller Survey by Surveyor Harper call to begin at a post for the northwest corner of the M. Shannon Survey from which a 10-inch Red Oak, marked S, bears South 29° East, 5 varas, and a 12-inch Post Oak, marked D, bears South 31° West, 9.7 varas. The Miller Survey then runs South 89° West with the south line of the J. Shannon Survey a distance of 610 varas to a post for the southwest corner of the J. Shannon Survey from which a 24-inch Red Oak, marked S, bears North 48° East, 18 varas, and an 18-inch Red Oak, marked D, bears South 88° West, 11.5 varas. The next call is South 1° East with the east line of the Montgomery Survey a distance of 2,090 varas to a post for the northwest corner of the Tinny Survey from which a 14-inch Post Oak, marked D, bears North 8° East, 4.5 varas, and an 18-inch Red Oak, marked T, bears South 34° East, 17.5 varas. The Miller Survey then runs a line North 89° East with the north line of the Tinny Survey a distance of 998 varas to a 10-inch Linn [sic.] for the northeast corner of the Tinny Survey from which a 32-inch Water Oak, marked D, bears North 17° West, 10 varas, and a Water Oak (no diameter given), marked T, bears South

34° West, 12 varas. The next call is South 1° East with the east line of the Tinny Survey, at 70 varas crossing Sandy Creek, 2 varas wide, course northeast, at 1,000 varas passing the southeast corner of the Tinny Survey, at 1,130 varas to a set post from which 14-inch Post Oak, marked D, bears North 69° East, 13.5 varas, and a 10-inch Red Oak, marked X, bears South 12° West, 8.2 varas. The Miller Survey then runs a line North 89° East a of distance of 495 varas to a set post which intersects the west line of the Griffith Survey from which a 16-inch Post Oak, marked D, bears North 47° West, 8.5 varas, and an 18-inch Post Oak, marked X, bears South 13.5 varas. The next call runs a line North 1° West with the west line of the Griffith Survey, at 2,000 varas crossing Sandy Creek, 2 varas wide, course northeast, a distance of 2,100 varas to a set post from which a 10-inch Ash, marked S, bears North 3° East, 10 varas, and a 10-inch Ash, marked D, bears South 31° West, 5.4 varas. The Miller Survey then runs a line South 89° West with the south line of the M. Shannon Survey a distance of 892 varas to a post for the southwest corner of the M. Shannon Survey from which a 10-inch Post Oak, marked S, bears North 21° East, 2.8 varas, and an 8-inch Post Oak, marked D, bears South 26° West, 1.2 varas. The last call is North 1° West with the west line of the M. Shannon Survey a distance of 1,117.3 varas to the place of beginning.

19. The patented field notes for the Tinny Survey by Surveyor Harper call to begin on the east line of the Montgomery Survey, 3,090 varas south of the Montgomery Survey's northeast corner, a stake from which an 8-inch Magnolia, marked T, bears North 53° West, 6.8 varas, and a 15-inch Elm, marked D, bears South 62° East, 18.4 varas. The Tinny Survey then runs a line east 1,000 varas to a stake from which a 7-inch Red Oak, marked T, bears North 7° East, 8 varas, and an 11-inch Pine, marked D, bears South 21° West, 5 varas. The next call is a line run north, at 930 varas crossing Sandy Creek, 2 varas wide, course east, a distance of 1,000 varas to a Lynn [sic.] from which a 32-inch Water Oak, marked D, bears North 17° West, 9 varas, and an 18-inch Water Oak, marked T, bears South 34° West, 12 varas. The Tinny Survey then runs a line west a distance of 999 varas intersecting the east line of the Montgomery Survey, a stake from which a 14-inch Post Oak, marked D, bears North 8° East, 6.5 varas, and an 18-inch Red Oak, marked T, bears South 34° East, 17.5 varas. The last call is south with the east line of the Montgomery Survey, at 960 varas crossing Sandy Creek, 2 varas wide, course northeast, a distance of 1,000 varas to the place of beginning.

20. The patented field notes for the Robinson Survey by Surveyor Read call to begin at the northwest corner of the Lorenzo Jones Survey, a stake from which an 18-inch Pine, marked R, bears North 55° East, 5.7 varas, and an 18-inch Pine, marked X, bears North 11° West, 6.6 varas. The Robinson Survey then runs a line north 2,470 varas to the Griffith Survey's south line, a stake from which a 30-inch Pine, marked X, bears South 58° West, 6.4 varas, and a 7-inch Pine, marked X, bears South 35 1/2 ° East, 4.9 varas. The next call is a line run North 89° East with the south line of the Griffith Survey a distance of 1,412.7 varas to the northwest corner of the Joseph B. Artoff Survey, a stake from which a 12-inch Pine, marked X, bears South 39° East, 5 varas, and a 12-inch Pine, marked X, bears South 81° West, 7 varas. The Robinson Survey then runs a line South 1° East with the Artoff Survey's west line a distance of 2,500 varas to a stake from which a

20-inch Red Oak, marked X, bears North 10 1/2° East, 7.8 varas, and an 10-inch Sweetgum, marked X, bears North 50° West, 5.2 varas. The last call is west a distance of 1,425 varas to the place of beginning.

21. The patented field notes for the Bradberry Survey by Surveyor Brown call to begin at the northwest corner of the Robinson Survey on the south line of the Griffith Survey, a set stake from which a 30-inch Pine, marked X, bears South 58° West, 6.5 varas, and a 7-inch Pine, marked R, bears South 35°30' East, 4.9 varas. The Bradberry Survey then runs south with the west line of the Robinson Survey a distance of 810 varas to the northeast corner of the Ferguson Survey, a set stake from which a Pine (no diameter given), marked W, bears South 26° West, 6 varas, and a Pine (no diameter given), marked R, bears North 30° West, 12 varas. The next call is South 89° West with the north line of the Ferguson Survey a distance of 3,256 varas intersecting the east line of the Weaver Survey, a set stake from which an 8-inch Pine, marked K, bears North 84° East, 4 varas, and a 10-inch Pine, marked W, bears South 54° East, 4 varas. The Bradberry Survey then runs a line north with the east line of the Weaver Survey a distance of 1,610 varas to a stake from which a 16-inch Pine, marked X, bears South 16° East, 8.4 varas, and a 6-inch Red Oak, marked X, bears South 62° West, 1.5 varas. The next call is North 89° East, at 810 varas passing the southwest corner of the Miller Survey, and continuing at a distance of 1,224 varas to the southeast corner of the Miller Survey on the west line of the Griffith Survey, a set stake from which a 16-inch Post Oak, marked D, bears North 47° West, 8.5 varas, and an 18-inch Post Oak, marked X, bears South, 13.5 varas. The Bradberry Survey then runs a line South 1° East with the west line of the Griffith Survey a distance of 800 varas to the southwest corner of the Griffith Survey, a set stake from which a Pine (no diameter given), marked X, bears South 10° East (no distance given), and a Pine (no diameter given), marked //, bears South 4° West, 2 varas. The last call is North 89° East with the south line of the Griffith Survey a distance of 2,018 varas to the place of beginning.

22. The patented field notes for the Ferguson Survey by Surveyor Brown call to begin on the east line of the Weaver Survey at the northwest corner of the Mary E. Elgin Survey, a stake from which a 16-inch Pine, marked X, bears north, 2 varas. The Ferguson Survey then runs North 89° East with the north line of the Elgin Survey a distance of 1,061 varas to the northeast corner of the Elgin Survey, a stake from which a 20-inch Pine, marked X, bears south, 2 varas. The next call is south with the east line of the Elgin Survey a distance of 789 varas to a stake from which a 12-inch Pine, marked X, bears South 40° East, 2 varas, and an 8-inch Pine, marked X, bears North 40° West, 1.5 varas. The Ferguson Survey then runs a line North 89° East a distance of 2,195 varas to the east line of the Stansbury Survey, a stake from which an 8-inch Red Oak, marked X (no bearing or distance given), and a 10-inch Red Oak, marked X, bears South 52° East, 1 vara. The next call is north with the west lines of the G.W. Stansbury Survey, the H. Stansbury Survey, the Lorenzo Jones Survey, and the Robinson Survey a distance of 3,586 varas to a stake on a west line of the Robinson Survey from 12-inch Pine, marked W, bears South 26° West, 6 varas, and a 12-inch Pine, marked K, bears North 30° West, 12 varas. The Ferguson Survey then runs a line South 89° West a distance of 3,256 varas

to a stake on the east line of the Weaver Survey from which an 8-inch Pine, marked K, bears North 84° East, 4 varas, and a 10-inch Pine, marked W, bears South 54° East, 5 varas. The last call is south with the east line of the Weaver Survey, at 1,795 varas passing the southeast corner of the Weaver Survey and the northeast corner of the Robblis Survey, a distance of 2,797 varas to the place of beginning.

23. The patented field notes for the Weaver Survey by Surveyor McNeill call to begin at a post on the south line of the Montgomery Survey from which a 12-inch Post Oak, marked C, bears South 66° East, 7.5 varas, and a 16-inch Red Oak, marked V with one hack above, bears South 55° West, 13 varas. The Weaver Survey then runs North 89° East with the south line of the Montgomery Survey a distance of 210 varas to the southeast corner of the Montgomery Survey, a post from which an 8-inch Post Oak (no marks given), bears North 51° West, 3.5 varas, and a 10-inch Pine, marked C, bears South 10° West, 10.8 varas. The next call is North 1° West with the east line of the Montgomery Survey a distance of 1,170 varas to the Tinny Survey, a post from which a 14-inch Post Oak (no marks given), bears South 21° East, 11.2 varas, and a 16-inch Elm, marked C, bears South 58° East, 16 varas. The Weaver Survey then runs a line North 89° East with the south line of the Tinny Survey a distance of 280 varas to the northwest corner of the K. Decker's League of land, a post from which a 14-inch Pine (no marks given), bears South 81° East, 2 varas, and a 12-inch Pine, marked C, bears South 39° West, 2.2 varas. The next call is South 1° West with the line of the Decker's League a distance of 3,535.5 varas to a post from which an 8-inch Pine (no marks given), bears North 24° East, 2.8 varas, and a 16-inch Pine, marked C, bears South 78° West, 4.2 varas. The Weaver Survey then runs a line South 89° West a distance of 860 varas to a post from which a 20-inch Pine (no marks given), bears north, 9 varas, and a 10-inch Pine, marked C, bears South 59° East, 4.8 varas. The next call is North 1° West a distance of 855 varas to a post from which a 10-inch Pine (no marks given), bears North 65° East, 8 varas, and a 16-inch Pine, marked C, bears North 5° East, 12.2. varas. The Weaver Survey then runs a line North 89° East a distance of 370 varas to a post from which a 10-inch Pine, marked C, bears North 30° East, 2.1 varas, and an 8-inch Pine, marked V with one hack above, bears North 62° West, 4.8 varas. The last call is North 1° West a distance of 1,505.5 varas to the place of beginning.

24. The east lines of the junior M. Shannon Survey, the junior Miller Survey, and the junior Bradberry Survey are common with the west line of the senior Griffith Survey as called for in their original patented field notes. Woods Survey Report, p. 12.

25. The west lines of the junior Weaver Survey, the junior Tinny Survey, and the junior Miller Survey are common with the east line of the senior Montgomery Survey as called for in their original patented field notes.

26. The junior Miller Survey has common corners and lines with the senior Tinny Survey as called for in the Miller Survey's patented field notes. However, the east line of the Tinny Survey is called to be 1,000 varas while the common southerly west line of the Miller Survey is called to be 1,130 varas. The Miller Survey calls to pass the southeast

corner of the Tinny Survey at 1,000 varas which results in a 130 vara difference in the common line between the Tinny Survey and the Miller Survey.

27. The junior Bradberry Survey has common corners and/or lines with the senior Griffith Survey, the senior Robinson Survey, the senior Ferguson Survey, the senior Weaver Survey, and the senior Miller Survey as called for in the Bradberry Survey's patented field notes. The west line of the junior Bradberry Survey is common with the east line of the senior Weaver Survey. The westerly north line of the junior Bradberry Survey calls to pass the southwest corner of the senior Miller Survey at 810 varas and continues with the south line of the Miller Survey to the common southeast corner of the Miller Survey in the west line of the senior Griffith Survey.

28. The junior Weaver survey has common lines and corners with the senior Montgomery Survey and the senior Tinny Survey as called for in the Weaver Survey's patented field notes. The easterly northwest corner of the junior Weaver Survey is common with the southwest corner of the Tinny Survey. The easterly north line of the junior Weaver Survey is common with the south line of the senior Tinny Survey for a called distance of 280 varas. Woods Survey Report, p. 12-13.

29. Surveyor Woods reports that no corners in the retracement area could be identified as original corners. Woods Survey Report, p. 9.

30. Surveyor Woods recovered an old crosstie fence corner post in an old fence line and cultivated berm which he reports to be recognized locally and accepted as the northwest corner of the Griffith Survey and also being the northeast corner of the M. Shannon Survey. Woods Survey Report, p. 9.

31. Surveyor Woods recovered two separate 3/4-inch iron pipes in the center of 6-inch diameter "stovepipe" concrete monuments recognized locally and accepted as being in the south line of the Griffith Survey and also being in the easterly north line of the Bradberry Survey. Woods Survey Report, p. 9.

32. Surveyor Woods calculated the southwest corner of the Griffith Survey by intersecting a line from the accepted northwest corner of the Griffith Survey and the accepted south line of the Griffith Survey. By locating the accepted northwest corner and the calculated southwest corner of the Griffith Survey, Surveyor Woods re-established the west line of the Griffith Survey. The re-established west line of the Griffith Survey also re-established the common east line of the M. Shannon Survey, the southerly east line of the Miller Survey, and the northerly east line of the Bradberry Survey.

33. Surveyor Woods recovered a 5-inch square concrete monument at a crosstie fence corner post recognized locally and accepted as the southeast corner of the Montgomery Survey and an ell corner of the Weaver Survey. Woods Survey Report, p. 9.

34. Surveyor Woods calculated the northeast corner of the Montgomery Survey by intersecting a line from the accepted southeast corner of the Montgomery Survey and a line from the accepted northwest corner of the Griffith Survey. By locating the accepted southeast corner and the calculated northeast corner of the Montgomery Survey, Surveyor Woods re-established the east line of the Montgomery Survey, the northerly west line of the Weaver Survey, the west line of the Tinny Survey, and the northerly west line of the Miller Survey. Surveyor Woods reports that the lower portion of the east line of the Montgomery Survey, also being the northerly west line of the Weaver Survey, follows a recognized and monumented fence line.

35. Surveyor Woods re-established the southwest corner of the Tinny Survey by running South 89°00'00" West 1,508.83 varas and South 01°00'00" East 3,090.00 varas from the recognized and accepted northwest corner of the Griffith Survey. The re-established southwest corner of the Tinny Survey is also held as the easterly northwest corner of the Weaver Survey and in the east line of the Montgomery Survey. Woods Survey Report, p. 10.

36. From the re-established southwest corner of the Tinny Survey, Surveyor Woods ran a line North 89°00'00" East a called distance of 1,000 varas to a calculated point being the re-established southeast corner of the Tinny Survey, also being in the southerly west line of the Miller Survey. Woods Survey Report, p. 10.

37. From the re-established southeast corner of the Tinny Survey, Surveyor Woods ran a line South 01°00'00" East a called distance of 130 varas to a calculated point being the re-established easterly southwest corner of the Miller Survey and also being in the westerly north line of the Bradberry Survey. Woods Survey Report, pp. 10-11.

38. From the re-established easterly southwest corner of the Miller Survey, Surveyor Woods ran a line North 89°00'00" East a called distance of 495 varas to a calculated point for the southeast corner of the Miller Survey, the westerly northeast corner of the Bradberry Survey, and in the west line of the Griffith Survey. Woods Survey Report, pp. 10-11.

39. From the re-established easterly northwest corner of the Weaver Survey, Surveyor Woods ran a line North 89°00'00" East a called distance of 280 varas to a calculated point being the re-established northeast corner of the Weaver Survey and also being in the south line of the Tinny Survey. Surveyor Woods set an 5/8-inch iron with a 2-inch diameter aluminum cap stamped, "L.E. Woods Texas L.S.L.S" to perpetuate the re-established northeast corner of the Weaver Survey. Woods Survey Report, p. 11.

40. From the re-established northeast corner of the Weaver Survey, Surveyor Woods ran a line South 00°25'26' East 130.01 varas to a calculated point being the re-established northwest corner of the Bradberry Survey and also being in the east line of the Weaver Survey. Surveyor Woods set an 5/8-inch iron rod with a 2-inch diameter

aluminum cap stamped, "L.E. Woods Texas L.S.L.S" to perpetuate the re-established northwest corner of the Bradberry Survey. Woods Survey Report, pp. 11-12.

41. By re-establishing the northwest corner and the westerly northeast corner of the Bradberry Survey, Surveyor Woods was able to re-establish the westerly north line of the Bradberry Survey. Woods Survey Report, pp. 11-14.

III. CONCLUSIONS OF LAW

1. The on-the-ground retracement survey by Surveyor Woods successfully located sufficient evidence to establish the correct location of the Tinny Survey, the Miller Survey, the Bradberry Survey, and the Weaver Survey.

2. Surveyor Woods correctly re-established the southwest and southeast corners of the Tinny Survey which correctly located the south line of same as called in the patented field notes. Surveyor Woods also correctly re-established the northeast corner of the Tinny Survey which correctly re-established the east line of same as called in the patented field notes. The re-established southeast corner of the Tinny Survey correctly locates the northeast corner of the vacant Permanent School Fund land identified as Survey No. 1 and Survey No. 2.

3. Surveyor Woods correctly re-established the northeast corner of the Tinny Survey, also being an ell corner of the Miller Survey, and the easterly southwest corner of the Miller Survey which correctly re-established the southerly west line of the Miller Survey as called in the patented field notes. The re-established easterly southwest corner of the Miller Survey correctly locates the southeast corner of the vacant Permanent School Fund land identified as Survey No. 1 and Survey No. 2.

4. Surveyor Woods correctly re-established the northwest corner and the westerly northeast corner of the Bradberry Survey which correctly re-established the westerly north line of the Bradberry Survey. The said re-established westerly north line distance of 1,216.29 varas compares closely with the called patented distance of 1,224 varas. The re-established northwest corner of the Bradberry Survey correctly locates the southwest corner of the vacant Permanent School Fund land identified as Survey No. 1.

5. Surveyor Woods correctly re-established the northeast corner of the Weaver Survey by the called distance in the patented field notes from the common easterly northwest corner of the Weaver Survey and the southwest corner of the Tinny Survey. By correctly re-establishing the northeast corner of the Weaver Survey, Surveyor Woods correctly located the east line of the Weaver Survey. The re-established northeast corner of the Weaver Survey correctly locates the northwest corner of the vacant Permanent School Fund land identified as Survey No. 1.

6. Surveyor Woods retraced the footsteps of the original locating surveyors. Based on available evidence found on the ground as shown in the Woods survey, an area of 16.59 acres is identified as vacant land being described as Survey No. 1, bounded on the north by the Ambrose Tinny Labor, Abstract No. 551, GLO file Montgomery-1-305; on

the east by the William Miller Survey, Abstract No. 383, GLO file Montgomery-B-47; on the south by the Thomas C. Bradberry Survey, Abstract No. 91, GLO file Montgomery-3-165; and on the west by the Charles Weaver Survey, Abstract No. 624, GLO file Montgomery-3-168, Montgomery County, Texas.

7. Surveyor Woods retraced the footsteps of the original locating surveyors. Based on available evidence found on the ground as shown in the Woods survey, an area of 8.01 acres is identified as vacant land being described as Survey No. 2, bounded on the north by the Ambrose Tinny Labor, Abstract No. 551, GLO file Montgomery-1-305; on the east by the William Miller Survey, Abstract No. 383, GLO file Montgomery-B-47; on the south by the Thomas C. Bradberry Survey, Abstract No. 91, GLO file Montgomery-3-165; and on the west by the west part of Survey No. 1 consisting of 8.58 acres, Montgomery County, Texas.

8. The record considered by the panel provides sufficient evidence that the tract described in the preceding paragraph is vacant land because it is not in conflict on the ground with land previously titled, awarded, or sold; has not been listed on the records of the land office as public school land; and was not, on the application commencement date: (i) subject to an earlier subsisting application; (ii) subject to a vacancy application denied with prejudice; (iii) the subject of pending litigation relating to state ownership or possession of the land; or (iv) subject to a previous vacancy application that has been finally adjudicated by the commissioner or a court of this state or the United States.

A list of the records reviewed by the panel in reaching this recommendation is attached as Appendix A to this recommendation.

Should he adopt this recommendation and find that a vacancy exists, the Commissioner shall attach to the final order a Notice of Claim of Vacancy to be filed in the Montgomery County Clerk's office.

This recommendation to the Commissioner pursuant to TNRC § 51.185(c) is hereby signed and submitted this 30th day of July, 2020, by the members of the vacancy panel for Scrap File No. 16621, Becky Petty and Mark Neugebauer.

DocuSigned by:
Becky Petty
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Becky Petty, Staff Attorney, Office of the General Counsel

DocuSigned by:
Mark J. Neugebauer
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Mark Neugebauer, Chief Surveyor