



Board Summary Report

File #: 24-285

Agenda Date: 6/11/2024

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To: Board of County Commissioners

Through: Ron Carl, County Attorney

Prepared By:
Robert Hill, Sr. Asst. County Attorney

Subject:
Release of Oil and Gas and Mineral Interests and Approval of Quitclaim Deed to Effect Release

Purpose and Request:

This agenda item is to request a resolution to approve and authorize the Chair's signature on a Quitclaim Deed that will convey any interest or claim on oil and gas or other mineral interests associated with a 0.32 acre tract of land acquired by the County for road right of way purposes. It is recommended that the Board approve the conveyance and authorize the Chair's signature on the deed.

Background and Discussion: By Quitclaim Deed, recorded November 9, 2016, Stephen Tebo conveyed a 0.32 acre tract of property to the County. The deed described conveyance of all right title and interest in the property described in the attached Exhibit A. The Exhibit A contained a metes and bound description of the property and a plat exhibit showing the property. The Exhibit A, however, described the property as easement and right of way for road purposes.

Conveyance of a surface right, such as right of way or easement, does not also convey subsurface interests such as oil and gas or minerals unless so expressed in the deed. Conveyance in fee simple, without reservations for oil and gas or minerals, however, will convey those subsurface interests. Northstar Energy's title search noted this ambiguity and recommended that the parties clarify their intent. As such, Northstar reached out to both the County and Mr. Tebo to inquire as to what the parties intended with the conveyance, fee simple or right of way and whether it was intended to also convey the mineral and oil and gas interests. Mr. Tebo responded that he only thought he was selling the surface use for right of way. Moreover, the ambiguity in the Quitclaim Deed and Exhibit is probably on the County as either the County or its consultant prepared the documents.

Accordingly, due to the specific circumstances surrounding the conveyance, the quitclaim deed and Exhibit's language, and the fact that the documents were prepared by the County or the County's consultant, it does not appear that this conveyance was intended to include the subsurface mineral interests. The quitclaim deed sought to be approved by this agenda item will return the oil and gas and mineral interests to the landowner, while preserving the County's surface rights for road right of way use.

Alternatives: The Board could opt to not approve the quitclaim deed. However, the County or the landowner would have to quiet title in court before anyone could lease the oil and gas rights.

Fiscal Impact: Approval of the Quitclaim deed would mean that the County could not lease the mineral

interest and obtain any revenue therefrom. However, the amount of the acreage is small and if the County is found to have only acquired an easement interest it would not be entitled to any oil and gas or mineral revenues.

Alignment with Strategic Plan:

- Be fiscally sustainable
- Provide essential and mandated service
- Be community focused

Concurrence: The County Attorneys' Office has reviewed this matter with Public Works and Development.

Resolution: Attached is a copy of the draft resolution.