

**IN THE DISTRICT COURT OF WAGONER COUNTY
STATE OF OKLAHOMA**

**CITY OF BROKEN ARROW, OKLAHOMA
a Municipal Corporation,**

Plaintiff,

vs.

**CWP, INC.; OCCUPANTS OF THE PREMISES;
LAMAR CENTRAL OUTDOOR LLC.;
SUTHERLAND LUMBER L.P.;
AUTOMATIC VENDING, INC.; OKLAHOMA
TURNPIKE AUTHORITY; ONE GAS, Inc., an
Oklahoma Corporation; BOARD OF COUNTY
COMMISSIONER OF WAGONER COUNTY;
and DANA PATTEN, COUNTY TRESURER OF
WAGONER COUNTY, OKLAHOMA,**

Defendants.

Case No. CV-18-114

Judge: Shook

JOURNAL ENTRY OF JUDGMENT

COMES THIS MATTER before me, the undersigned Judge of the District Court, on this _____ day of _____, 2019, upon the application of Plaintiff City of Broken Arrow for an Order vesting title to the land in Plaintiff for permanent right-of-way and authorizing damages in the amount of One Hundred Seventy-Eight Thousand Dollars and 00/100ths (\$178,000).

The City of Broken Arrow is represented by its attorney of record Tammy Ewing. Defendants CWP, Inc. and Automatic Vending, Inc. are represented by their attorney of record William Hickman. The Defendant ONE Gas, Inc. is represented by its attorney of record John Dale. Defendants Board of County Commissioners of Wagoner County and Wagoner County Treasurer are represented by their attorney of record Kim Hall, Wagoner County Assistant District Attorney.

The Court is fully advised and FINDS as follows:

1. The filing of this condemnation action, the appointment of the Commissioners, the Oaths of Commissioners and the Commissioners' subsequent Report are regular in all respects.
2. On January 31, 2019, the Report of Commissioners was filed with the Court. On February 4, 2019, the Court Clerk mailed a Notice in Condemnation and copy of the Report of Commissioners to the attorney for Plaintiff, the attorneys of record for each represented Defendant and to each unrepresented Defendant, including CWP, Inc. and Automatic Vending, Inc., in compliance with the requirements of 69 O.S. §1203(e)(2). The Notice informed CWP, Inc. and Automatic Vending, Inc. of their right to file a written demand for jury trial within 60 days after the filing of the report of commissioners. The sixty day time period expired on or before April 2, 2019.
3. The Plaintiff filed a Demand for Jury Trial on February 25, 2019. The Plaintiff filed a Withdrawal of Jury Demand on May 17, 2019. Defendants CWP, Inc. and Automatic Vending, Inc. filed untimely jury demands on April 18, 2019. Thus, no party has perfected its right to a trial on any issue in this case.
4. The taking of the property described in the pleadings is necessary for the purpose of the Plaintiff and said property was heretofore owned by CWP, Inc., by virtue of a Warranty Deed dated March 31, 1994 and recorded on June 2, 1994 and recorded in Book 872, Page 335 with the Wagoner County Clerk's Office. The property described below is hereby ordered taken and condemned under the power of eminent domain and the City of Broken Arrow is declared to be the owner of the permanent right-of-way.
5. The Defendant ONE Gas, Inc. filed an Entry of Appearance on December 20, 2018. On February 22, 2019, the Court entered a Journal Entry of Judgment for Defendant ONE Gas, Inc.

reserving to ONE Gas, Inc. all rights granted it for a right of way and easement interest as more particularly set forth and described in, among other things, that certain Right of Way Agreement dated May 5, 1958, filed May 19, 1958 and recorded in Book 292, Page 626 in the Office of the Wagoner County Clerk, Right of Way Agreement dated April 18, 1968, filed May 21, 1968 and recorded in Book 367, Page 449 in the Office of the Wagoner County Clerk, and Assignment and Assumption of Real Property Interests, acknowledged January 20, 2014, effective January 27, 2014 and recorded February 4, 2014 as Document No. 2014-1232 in Book 2135, Page 434 in the Office of the Wagoner County Clerk, and pursuant to the franchise agreement between Oklahoma Natural Gas Company (“ONG”) and the City of Broken Arrow. The allocation of the expense of relocation, if any, of ONE Gas’ facilities is expressly excepted from this Judgment and shall be determined according to the relocation agreement between ONG and Plaintiff dated November 5, 2018.

6. Defendants Board of County Commissioners of Wagoner County and Wagoner County Treasurer filed Answers on April 29, 2019.

7. Service of process has been perfected as provided by law on all Defendants having compensable interests in the property and on Defendants having lien and/or mortgage claims or claims of title against the property.

8. On February 25, 2019, the Plaintiff deposited with the Clerk of this Court the sum of \$178,000.00 pursuant to the Report of Commissioners filed in this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff’s acquisition of the property, together with all other relief prayed for in its Petition, is hereby granted, approved and confirmed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the City of Broken Arrow is the owner of a permanent right-of-way on the following described land:

PARCEL 9:

A tract of land for Right of Way situated on Government Lot 2, Section 7, Township 18 North, Range 15 East of the Indian Base and Meridian, Wagoner County, State of Oklahoma, according to the Official U.S. Government Survey thereof, more particularly described as follows:

Commencing at the SW corner of said Gov't Lot 2; thence N 01°20'24" W along the West line of said Lot 2, a distance of 150.50 feet; thence N 88°39'36" E, a distance of 24.75 feet to the POINT OF BEGINNING; thence N 01°20'24" W, a distance of 190.05 feet; thence S 43°48'09" E, a distance of 0.37 feet to a point that is 25.00 feet Easterly of said West line; thence N 01°20'24" W and parallel with said West line, a distance of 99.92 feet; thence S 52°35'24" E, a distance of 350.00 feet; thence S 25°43'51" E, a distance of 91.68 feet; thence S 52°35'24" E, a distance of 142.57 feet to a point that is 50.00 feet Northerly of the South line of said Lot; thence S 88°51'57" W and parallel with said South line, a distance of 155.40 feet; thence S 43°48'09" E, a distance of 68.00 feet to said South line; thence S 88°51'57" W along said South line, a distance of 237.33 feet; thence N 27°54'24" W, a distance of 168.68 feet to the POINT OF BEGINNING, Containing 95,532 Square Feet or 2.19 Acres, more or less.

Basis of bearing is an assumed bearing of North 01°20'24" West along the West line of Government Lot 2 of Section 7, T18N, R-15-E, Wagoner County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all rights of way and easements granted to Oklahoma Natural Gas, Company (ONG), a division of ONE Gas, Inc., as to the above property are reserved to ONE Gas, Inc, as more particularly set forth herein and in the Journal Entry of Judgment for Defendant One Gas, Inc. issued by the Court on February 22, 2019.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as of January 31, 2019, the date of the tender of payment of the sum of One Hundred Seventy-Eight Thousand Dollars and 00/100ths (\$178,000.00), the Defendant CWP, Inc. and all persons claiming by, through or under it, have no further right, title or interest in and to said land inconsistent with the


Plaintiff's ownership, and are hereby enjoined from ever asserting any claim to said land adverse to the rights of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the sum of \$178,000.00 includes full compensation for the subject property, any damages to the remainder, any claims or causes of action known or unknown, as well as all attorney's fees, engineering fees, appraisal fees, cost and expenses.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court Clerk shall disburse funds in the amount of \$178,000.00 to CWP, Inc., care of its attorney of record.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall bear its respective costs and attorney's fees included herein.

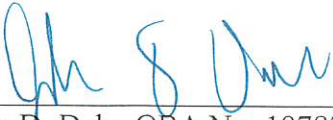
JUDGE OF THE DISTRICT COURT



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