

RELEASE & ACCESS AGREEMENT

"Kirby-Smith Machinery, Inc." hereby acknowledges that it will have access at no cost to certain real property (the "Property") owned or controlled by Collin County (hereinafter the "County") for the following activities:

Donation of Two Days of Reclamation machine with Operator.

Kirby-Smith Machinery, Inc. acknowledges that the County makes no warranty, either express or implied about the condition of the Property and assumes no responsibility for the quality, accuracy or legal compliance of the activities to be undertaken. In consideration of being allowed access to the Property, Kirby-Smith Machinery, Inc. assumes all risk of injury to itself, as well as to its employees, agents, invitees or contractors in any way arising out of their presence on or participation in any activity on the Property. SPECIFICALLY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, KIRBY-SMITH MACHINERY, INC., FOR ITSELF, AND ITS EMPLOYEES, HEREBY RELEASES THE COUNTY FROM ANY AND ALL CLAIMS, CAUSES OF ACTIONS, SETTLEMENTS, LIABILITIES, DEMANDS, DAMAGES, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS) OF ANY KIND, WHICH KIRBY-SMITH MACHINERY, INC. OR ITS EMPLOYEES MAY HAVE OR INCUR FOR, FROM OR RELATING TO ANY ACCIDENT, DAMAGE OR INJURY (INCLUDING, WITHOUT LIMITATION, DEATH) TO ANY PERSON OR PROPERTY SUSTAINED OR INCURRED IN CONNECTION WITH THE AUTHORIZED PRODUCT DEMONSTRATION. THE FOREGOING INDEMNITY AND RELEASE SHALL APPLY REGARDLESS OF WHETHER SUCH ACCIDENT, DAMAGE OR INJURY IS CAUSED BY OR ATTRIBUTABLE TO (IN WHOLE OR IN PART) THE NEGLIGENT ACTS OR OMISSIONS, STRICT LIABILITY, PRODUCTS LIABILITY, ANY CONDITION OR DEFECT IN OR ON ANY PROPERTY, OR ANY OTHER FAULT OR RESPONSIBILITY OF THE COUNTY OR ITS EMPLOYEES, BUT SHALL NOT COVER THAT PORTION OF ANY CLAIM WHICH MAY ARISE DUE TO THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF THE COUNTY OR ITS EMPLOYEES.

Kirby-Smith Machinery, Inc. further acknowledges that this Release is not intended to create a lease or other real property interest; that the County's permission to use its property may be revoked at any time and for any reason or no reason; and that Kirby-Smith Machinery, Inc. and its employees, shall at all times follow the safety rules and other instructions of the County's local representative while on the Property.

Collin County expressly reserves and does not waive any and all immunities to which it is entitled under applicable law.

Collin County reserves its right to pursue claims, if any, caused by or arising from Kirby-Smith Machinery, Inc.'s activities described above.

Date: 5/10/2019

Authorized Agent of Kirby-Smith Machinery, Inc.

By: Sol Gieser, Sol Gieser