

DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS

35⁰⁰ THE STATE OF TEXAS § 6745
 COUNTY OF NACOGDOCHES § KNOW ALL MEN BY THESE PRESENTS:
 §

THAT WHEREAS, Bradshaw - Dunn, Inc., hereinafter called the Declarant, is the owner of all that certain real property located in Nacogdoches County, Texas, described as follows:

TIMBERIDGE--A Subdivision of 56.843 acres out of the F. F. Hix Survey, A-260, the John Rivers Survey, A-455, the Russell Roark Survey, A-457, and the P. D. Sanders Survey, A-549, County of Nacogdoches, Texas, and being shown on plat recorded at Volume 4, page 73, Plat Records of Nacogdoches County, Texas.

WHEREAS, the Declarant will convey the above described properties, subject to certain protective covenants, conditions, restrictions, liens, and charges as hereinafter set forth;

NOW, THEREFORE, for the purpose of creating and carrying out a uniform plan for the improvement and sale of Lots contained in the Subdivision, as a high quality restricted residential waterfront section, and for the purpose of insuring harmonious, pleasant, and satisfactory living conditions in the private residential area, and insure a means for mutually safeguarding and enhancing the value of an investment in the property and in improvements to be made from time to time erected on the Lots the following restrictions and conditions on the use of said Lots are hereby established and adopted and imposed upon each Lot or parcel thereof in said Subdivision; said conditions and restrictions shall constitute covenants running with the land, shall be binding upon and inure to the benefit of owners, their heirs and assigns, and upon all persons acquiring property by whatever means in said Subdivision; by the acceptance of title to any Lot or portion thereof in this Subdivision, the owner

each conveyance executed by or on the behalf of owners, conveying a Lot or portion thereof within said Subdivision, by reference to the place of record of this instrument, and by acceptance thereof, the grantee, and all persons claiming under him, shall be subject to and bound thereby, and each such conveyance shall be conclusively held to have been executed, delivered, and accepted subject to the terms, conditions, and restrictions set out in this instrument. In the event, however, of the failure of any conveyance to a Lot or portion thereof in said Subdivision to refer to this instrument, this instrument shall nevertheless be considered a part thereof, and any conveyance of such Lot or Lots shall be construed to be subject to the terms of this instrument.

ARTICLE ONE

DEFINITIONS

Owner

1.01. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Properties

1.02. "Properties" or "Property" shall mean and refer to that certain real property hereinbefore described.

Lot

1.03. "Lot" shall mean and refer to that portion of any of the plots of land shown upon the plat and Subdivision map recorded at Volume 4 Page 73 of the Plat Records of Nacogdoches County, Texas.

Declarant

1.04. "Declarant" shall mean and refer to Bradshaw - Dunn,

ARTICLE TWO
ARCHITECTURAL CONTROL

Architectural Control Committee

2.01. Declarant shall designate and appoint an Architectural Control Committee, herein called Committee, consisting of not less than three (3) qualified persons, which committee and their successors shall serve at the pleasure of Declarant.

Approval of Plans and Specifications

2.02. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, or any Lot, nor shall any exterior addition to, or change or alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to, and approved in writing by, the Committee as to harmony of external design and location in relation to surrounding structures and topography. Examination of plans and specifications by the Committee shall not be subject to any fee charge. The Committee shall at all times have authority to request additional data, within the thirty (30) day approval or disapproval period, including plans, specifications and drawings and additions thereto, when, in the discretion of the Committee, said documents are necessary or helpful in determining whether or not the plans and specifications should be approved. In the event the Committee so requires additional data, the thirty (30) day period for Committee approval or disapproval shall be extended so that said thirty (30) day period shall end thirty (30) days from the last date on which additional data is delivered to the Committee as such data was previously requested by the Committee.

Failure of Committee to Act

2.03. In the event that any plans and specifications are

following such submission, approval by the Committee shall not be required, and full compliance with this Article Two shall be deemed to have been had.

Variations

2.04. The Committee, may, in its discretion, approve variations, deviations, and exceptions as it pertains to construction design, construction location, quality of materials, plans and specifications, etc., when, in the Committee's opinion and judgment, such approval is necessary or desirable for the purpose of fairness or enforcement and/or in the imposing of equitable conditions and also, when such change, variance, deviation, or exception, will result in more commonly beneficial use and yet be in keeping with the overall intent of this document; provided, however, in no event or instance shall the Committee have the power to permit more than one residence to be constructed on one Lot, nor shall the Committee otherwise have the power to alter or change these restrictions. The provisions of this paragraph shall permit variations, deviations, and changes by the Committee of building lines and easements.

ARTICLE THREE

EXTERIOR MAINTENANCE

In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Declarant, or Association referred to herein shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of the buildings and any other improvements erected thereon, all at the expense of Owner.

ARTICLE FOUR

USE RESTRICTIONS

Type of Buildings Permitted

2.01. All Lots shall be used for residential waterfront

one single family dwelling. No more than one residence shall be erected on each Lot and no detached buildings or out buildings shall be constructed or maintained on any Lot except one garage, boat house, out storage building and/or green house. No more than one family shall occupy each residence. Declarant reserves to itself the discretionary right to designate one or more Lots as a park area for the benefit of the subdivision.

Minimum Floor Area

4.02. Any single story residence constructed on said Lots must have a ground floor area of not less than 1,400 square feet, including finished porches with foundations, roofs, open or screened porches with same type of roof construction as residences, but excluding terraces, open entryways, patios, driveways, carports, and garages. Any residence other than a single story residence must have not less than 1,000 square feet of ground floor living area, and must have a total living floor area of not less than 1,400 square feet, including finished porches with foundations, roofs, open or screened porches with same type of roof construction as residences, but excluding terraces, open entryways, patios, driveways, carports, and garages.

Setbacks

4.03. No building or structure shall be located on any Lot nearer to the front right of way line shown on the recorded plat than 50 feet. No side yards at the front building setback lines shall be less than 10 feet, except that a 5 foot side yard shall be permitted for a garage or other permitted accessory building located 50 feet or more from the front right of way line shown on the recorded plat. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of the building on any Lot to encroach upon

such resulting building site as if it were one original, platted Lot. Save and except a variance may be granted by the Architectural Control Committee. Right of way is hereby designated to be that 60 feet wide street, Shoreline Drive, shown on the recorded plat.

Resubdivision or Consolidation

4.04. No Lot may be resold or resubdivided or consolidated into any dimension other than that as shown on the Subdivision plat except with prior approval of the Architectural Control Committee and being an exception that would be in keeping with the overall intentions of these restrictions. No portion of the Property less than one Lot as shown on the recorded plat shall ever be used for the construction of a residence.

4.05 No obnoxious or offensive activities shall be carried on upon the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4.06 So far as shall be practicable, all Lot owners shall attempt to maintain natural and/or neat vegetation and conditions between the street and the front building setback lines. No landscape plan or planting inconsistent with this style shall be done on any Lot. The Architectural Control Committee shall have the right to disapprove or halt any landscape plan or planting inconsistent with the requirements of this section.

4.07 No trailer, mobile home, basement, tent, shack, garage, barn or outbuilding shall be any time used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence; provided, however, builders expressly approved by the Architectural Control Committee shall be allowed to maintain temporary quarters during the construction of a residence upon a Lot. No mobile homes shall be allowed on any Lot at any time.

4.08 The removal of dirt from the Property is expressly

4.09 No cesspool shall ever be dug, used or maintained on the Property, and whenever a residence is constructed on a Lot, it shall provide an inside toilet and shall be connected with a septic tank until such time as sanitary sewers may be available for use in connection therewith. Drainage of septic tanks into private access and utility easements or open ditches is strictly prohibited. All septic tanks and connecting installations shall be installed and maintained in strict accordance with the rules and regulations of the State Board of Health and other applicable governmental regulations. No outside toilets shall be allowed.

4.10 . The exterior of all frame structures, and all framework on the exterior of all other structures shall be covered immediately upon completion with at least two coats of good paint or other type of wood preservative approved by the Architectural Control Committee, and the exterior shall be completely constructed within six (6) months from date of commencement.

4.11 In no event shall the raising of hogs, horses, cattle, poultry, fowls, or other livestock, whether for profit or otherwise, be allowed. No more than three (3) dogs, and not more than three (3) domestic house cats can be kept on each Lot. No such cats or dogs shall be kept, bred, or maintained for commercial purposes. Quarters and shelters for dogs or cats shall be built and kept in a neat and sanitary manner. Buildings for housing dogs or cats shall be located not nearer to the street and/or utility easement of any Lot than two-thirds the depth of such Lot measured along the shorter of its side lines. Adequate fences shall be maintained for any such animals in order to prevent their trespassing on other properties. All refuse must be disposed of and all applicable health regulations must be strictly complied with. Declarant and the Association reserve the right to make such additional rules and regulations concern-

within the Property if any such dog or cat becomes a nuisance or threat to the safety of small children or any other person.

4.12 No fence, structure or surface impediment of any kind shall be built, kept or maintained within the easements set out as the 10 foot utility easements located on the front of each Lot and noted on the recorded plat referenced above except with permission of Architectural Control Committee.

4.13 Walls and fences, if any, shall be no higher than eight (8) feet above ground; no opaque or solid fence shall be closer to the front Lot line than the front building line of a Lot except with permission of Architectural Control Committee.

4.14 No building for garage, servant's quarters, or other service function of a residence shall be erected or placed upon any Lot until construction of the main residence has been started and is actually underway.

4.15 No vehicles in excess of one (1) ton capacity shall be permitted to park on streets and/or utility easements overnight in the Subdivision. No 18 wheelers, tractor trailers, trailers, or other similar large commercial type vehicles shall be permitted to park on the property overnight at any time. No repairing of motor vehicles shall be permitted on any Lot unless the same is conducted within a garage. No signs advertising a motor vehicle for sale may be placed upon a vehicles on any Lot or upon a vehicle parked on a street and/or utility easement within the Property. No motor vehicle shall be left parked, abandoned, or otherwise unattended in a specific location on any street and/or utility easement for more than five (5) days, nor shall any vehicle which is not in operating condition or not bearing current license plates be placed upon any street and/or utility easement or Lot closer to the front property line than the rear walls of the residence situated on such Lot. No con-

mowers, or road graders, may be parked on any Lot or street and/or utility easement at any time.

4.16 No freezers, refrigerators, washers, dryers, or other household appliances shall be placed on patios, carports, or any other portion of a Lot, except inside the residence or inside a garage or a storage building; provided said storage building has been approved by the Architectural Control Committee.

4.17 No sign of any kind shall be displayed to the public view on the Property, except small signs designating names of the residents of the Property or small signs advertising portions of the Property for sale.

4.18 The usage of firearms, air rifles, B.B. guns, bow and arrow or other dangerous weapon(s) on the Property is prohibited. The use of a motorcycle, trail bike or other similar vehicle in an obnoxious manner is prohibited.

4.19 Clothes lines may be installed on a Lot so long as the same is situated behind the rear wall line of the residence on such Lot.

4.20 Garbage and trash or other refuse accumulated on the Property or in this private residential area shall not be permitted to be dumped at any place upon adjoining land. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No household garbage shall be burned on the Property at any time.

4.21 No oil well drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on a Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any Lot. No derrick or

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4.22 No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot.

4.23 No exposed corrugated metal roofs or siding on dwelling houses, garages, boat houses or green houses will be permitted on any Lot; provided, however, factory pre-painted metal (including corrugated metals) may be used and exposed on boat houses.

ARTICLE FIVE
ASSOCIATION

5.01 All Grantee(s) shall become, and remain for so long as they own an interest in any portion of the Property, members of that certain Texas Non-Profit Corporation known as Timberidge Property Owners Association (hereinafter and hereinbefore referred to as the "Association"). Declarant shall also be a member of the Association. The Grantee(s) shall abide by the decisions and actions of the Association as the same relate to the implementation and enforcement of these restrictions, covenants, reservations, conditions, provisions and easements. Provided however, each Grantee(s) individually may seek to enforce any one or more of same to the extent such right of enforcement is not hereinafter vested in the Association.

5.02 Except as otherwise provided herein, as to each Lot, the owner or owners thereof shall have one (1) vote in said Association per Lot. In the event more than one person, or a business entity, owns a Lot, those persons, or business entity, owning said Lot shall appoint an agent to act on behalf of the ownership of that Lot for the purpose of voting for that Lot ownership or serving as a Director of the Association. Such appointment shall be evidenced by filing with the Association a written document, signed by all record title owners of said Lot,

5.03 The Directors shall elect the officers of the Association as officers consisting of a President, Vice-President, and Secretary-Treasurer.

5.04 Notwithstanding anything herein contained or contained in the By-laws, the original Directors of the Association shall be named by Declarant and shall serve for the terms below mentioned:

<u>Name of Original Director</u>	<u>Appointed to Serve Until</u>
(1) Director Position 1	June 1, 1987
(2) Director Position 2	June 1, 1987
(3) Director Position 3	June 1, 1988
(4) Director Position 4	June 1, 1988
(5) Director Position 5	June 1, 1988

At the end of their appointed term, the original Directors shall be eligible to serve as elected Directors as more fully provided in the By-laws of the Association.

5.05 All Lots within the Property, as well as other areas or park areas shall be kept in a neat and orderly condition. Grass and weeds shall be cut regularly and trash, junk, and refuse shall not be kept or allowed on a Lot or other area of the Property. In the event of default in the strict performance of this covenant, the Association or its agents or representatives may, without notice or liability to the owner of any Lot so in default of this covenant, enter upon such Lot and cut grass and weeds thereon, and remove and dispose of trash, junk, and refuse. Upon any such work being done by the Association, the Association shall render a written statement of the expenses thereof to the owner of the said Lot, who shall immediately pay the full amount thereof in cash. Said statement and those expenses provided for in Article III herein shall be deemed to be an Assessment against said Lot for the purposes of these restrictions and any sums

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5.06 All Lots, except Lots which have not been transferred to a Grantee by Declarant, are hereby subject to a maintenance charge for the purpose of creating a fund to be known as "Timberidge Maintenance Fund." Each Grantee shall make payment of the charge to Timberidge Property Owners Association, on April 1st of each year, commencing on April 1, 1985. The initial maintenance charge shall be \$50.00 per annum. Said maintenance charge is payable annually on April 1, in advance, except that initial maintenance charges due from a Grantee for the balance of the year of closing may be pro rated and shall be payable at the closing of title or sale from Declarant to such Grantee. Said maintenance charge may at any time be increased or decreased by a majority vote of the members of the Association pursuant to the By-laws of the Association. Any such action shall be effective upon the adoption by the Association of a resolution for such purpose acknowledged by its Secretary and the filing of same for record in the office of the County Clerk of Nacogdoches County, Texas. All such maintenance charges shall be considered to be Assessments for the purposes of these Restrictions and the Association shall have all rights and remedies relative to the collection of said Assessment amounts as the same are set forth below. The Association shall apply the total maintenance fund, so far as the same may be sufficient, toward the payment of expenses incurred for any and all of the following purposes and may pledge, assign, transfer, convey, hypothecate, collaterally assign or otherwise encumber such fund in order to accomplish any such purposes: (a) constructing and maintaining sport and recreational facilities, (b) improving, beautifying and maintaining parks, parkways, public roads, common areas and private easements of access and utility, (c) collecting and disposing of garbage, ashes, rubbish, and the like, (d) payment

Property, (e) payment of all reasonable and necessary expenses in connections with the collection and administration of said maintenance charge and any other Assessments, (f) employing policemen, watchmen and security guards, (g) providing fire protection, (h) providing and maintaining water or sewerage or drainage, (i) subsidizing bus service, (j) and doing any other thing necessary or desirable in the opinion of the Association to maintain the Property in good order, or which the Association considers of general benefit to the owners or occupants of the Property; it being understood that the judgment of the Board of Directors of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith and pursuant to the By-laws of the Association and so long as the purpose of each such expenditure is consistent with these Restrictions. Such maintenance charge shall remain effective in all events through and including the charges and assessments due April 1, 2004, and shall automatically thereafter be extended for successive periods of ten (10) years each; provided, however, that a majority of the members of the Association may vote to revoke such maintenance charge effective on either April 1, 2004, or effective on any successive ten (10) year period thereafter. Such action shall be effective upon the adoption by the Association of a resolution for such purpose acknowledged by its Secretary and the filing of same for record in the office of the County Clerk of Nacogdoches County, Texas, at any time prior to April 1, 2004, or at any time prior to two (2) years preceding the expiration date of any successive ten (10) year period.

5.07 All Assessments hereinabove referred to, whether special or otherwise, together with interest thereon and costs of collection thereof, shall be a charge on each Lot and shall be a

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obligation of the Lot owner at the time the Assessment becomes due. If any such Assessment is not paid on its due date, then such Assessment shall become delinquent and shall, together with interest due thereon and costs of collection thereof, thereupon become a continuing lien on the Lot to which the Assessment applies and such lien shall bind that Lot owner, his heirs, devisees, personal representatives and assigns. If any Assessment is not paid within fifteen (15) days of its due date, there shall be added to the Assessment a fee of Ten (\$10.00) Dollars to cover collection services. If the Assessment is not paid within thirty (30) days after its due date, the Assessment shall commence bearing interest at the rate of twelve (12%) percent per annum. The Association may thereafter bring an action at law against the Lot owner personally obligated to pay the delinquent Assessment, or may foreclose its lien against the Lot to which the delinquent Assessment applies, and in either such case there shall be added to the amount of such Assessment the costs of collection, court costs and of attorney's fees reasonably incurred by the Association with respect to such collection. In the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee together with the court costs and other reasonable costs of collection.

5.08 Notwithstanding anything contained herein to the contrary, the lien to secure an Assessment provided for herein shall be subordinate to the lien of any mortgage or mortgages now existing or hereafter placed upon any Lot subject to Assessment; provided, however, that such subordination shall be limited only to those Assessments which have become due and payable prior to a foreclosure of such Lot under any such mortgage or mortgages. Such foreclosure shall not relieve such Lot from liability for

ARTICLE SIX

MODIFICATION, ENFORCEMENT, SEVERABILITY, AND DURATION

6.01 Declarant reserves unto itself and its successors and assigns the right for a period of three (3) years from the date hereof to modify these Restrictions with reference to location of setback or sideline building restrictions and to modify the boundaries of the easements designated herein, but such modification must be in writing and appropriately filed of record with the County Clerk of Nacogdoches County, Texas; provided, however, Declarant shall only have the right to modify these Restrictions as to Lots not previously conveyed or sold by Declarant at the time of any modification by Declarant made pursuant hereto.

6.02 If any of the aforesaid restrictions, covenants, reservations, conditions, provisions or easements are violated, it shall be lawful for the Declarant, the "Association" or any Grantee(s) to enforce the performance of said restrictions and to enjoin the violation or attempted violation of same. Any such person or persons may prosecute any proceedings at law or in equity against any person or persons so violating or attempting to violate same, and in addition thereto shall be entitled to injunctive relief, and shall also be entitled to any damages arising by reason of violations of these restrictions, covenants, reservations, conditions, provisions and easements. Further, the party prevailing in any such proceeding at law or in equity shall be entitled to collect from the losing party reasonable attorney's fees incurred in connection with the prevailing party's prosecution or defense of its position, as the case may be; provided, however, so long as any appeal is outstanding by any such losing party, no attorney's fees shall be payable by said losing party, until the rendition of a final judgment which is not appealable. Invalidation of any one of the restrictions,

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easements and terms and provisions of the Association, contained herein, which shall remain in full force and effect.

6.03 Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

6.04 The covenants, conditions, and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Declarant or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, and, unless amended as provided herein, shall be effective for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. The covenants, conditions, and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than 90 percent of the Lot Owners; during any succeeding ten (10) year period, the covenants, conditions, and restrictions of this Declaration may be amended during the last year of any such ten (10) year period by an instrument signed by not less than 75 percent of the Lot Owners. No amendment shall be effective until recorded in the Real Property Records of Nacogdoches County, Texas, nor until the approval of any governmental regulatory body which is required shall have been obtained.

ARTICLE SEVEN

EASEMENTS

7.01 There is hereby dedicated, and each Lot shall be subject to, utility easements and right-of-ways ten feet (10') in width along and within the boundaries of each Lot over and across

water lines, sewer lines, electric lighting and telephone cables or poles, drainage ditches, television cable, and/or equipment necessary for the performance of utility services and functions, with the right of access thereto for the purpose of further construction, maintenance and repairs. Such right of access shall include the right, without liability on the party of any one or all of the owners or operators of such utilities, to remove obstructions on the easement right-of-way as in their opinion may interfere with the installation or operation of their circuits, lines, poles, pipes, or structures. Such easements shall be for the general benefit of the Subdivision and the property owners thereof and are hereby reserved and created in favor of any and all utility companies or agencies entering into and upon the Subdivision property, except that nothing set out above shall prohibit, as heretofore set out, the use of such easements or rights-of-way by adjacent owners for the construction of fence lines, walks and/or drives provided no permanent structures are built thereon and provided no damage shall accrue to any utility company. No structure shall be allowed to be located upon any utility easement or other easement designated on the plat of the Subdivision.

7.02 In addition to the ground easements mentioned above, an additional aerial easement is reserved resulting in a total overall ground easement ten (10) feet side from the ground upward and unobstructed aerial easement, twenty (20) feet wide from a plane fifteen (15) feet above the ground upward centered on the ground easements. This aerial easement being particularly needed by light and telephone companies for the protection of overhead wire.

Executed by the said Declarant, this 1st day of April, 1984.

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THE STATE OF TEXAS §
COUNTY OF NACOGDOCHES §

This instrument was acknowledged before me on the 5th day of ~~April~~ ^{July}, 1984, by Ronald Dunn, President, of BRADSHAW - DUNN, INC., a Texas corporation, on behalf of said corporation.

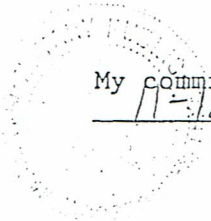
Rhonda Truax

Notary Public, State of Texas
Notary's printed name:

Rhonda TRUAX

My commission expires:

11-12-83



STATE OF TEXAS
COUNTY OF NACOGDOCHES
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me, and was duly RECORDED, in the Volume and Page of the named RECORDS of Nacogdoches County, Texas as stamped hereon by me, on

JUL 20 1984



Hope Skipper
COUNTY CLERK
NACOGDOCHES COUNTY, TEXAS

Hope Skipper
COUNTY CLERK

'84 JUL 17 PM 3 28

FILED
NACOGDOCHES COUNTY

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