

OTTEN JOHNSON

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June 3, 2019

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VIA E-MAIL – MBRAUDIS@USDA.GOV

Scott Fitzwilliams, Forest Ranger
Karen Schroyer, District Ranger
c/o Michael Braudis, Realty Specialist
White River National Forest District
620 Main Street
Carbondale, CO 81623

Re: Larsen Family LP Comment on Kloser Special Use Access Permit Across National Forest System
Lands – Richmond Ridge Project, File No. 2720; 1950

Dear Mr. Fitzwilliams, Ms. Schroyer, and Mr. Braudis:

This firm represents Larsen Family LP (“**Larsen Family**”) in connection with certain land use matters in Pitkin County (the “**County**”). Following the receipt of Karen Schroyer’s letter of May 14, 2019 (the “**Scoping Notice**”),¹ Larsen Family requested that we analyze Mike and Emily Kloser’s (“**Applicant**”) application for a special use access permit, dated February 27, 2018 (the “**Application**”), and provide this comment letter identifying significant issues and any extraordinary circumstances relevant to the United States Forest Service’s (the “**USFS**” or “**Forest Service**”) disposition of the Application. Our review uncovered many significant issues, and two extraordinary circumstances that require the USFS to dismiss or deny the Application, or, in the alternative, conduct an environmental assessment. We provide a more detailed analysis below.

Summary of Application and Related Actions

Although the Forest Service is familiar with the Application, several items bear particular relevance to this comment. First, the Application seeks USFS approval of temporary construction access to the Hercules Lode, followed by permanent all-season access over a revegetated template along the same alignment. (Application at p. 5.) Second, before submitting the Application, Applicant had already severed a transferrable development right (“**TDR**”) from the Hercules Lode, pursuant to Section 6-70-20 of the Pitkin County Land Use Code (the “**LUC**”), which encourages landowners in the County’s Rural and Remote Zone District (the “**RR District**”) to relocate development rights outside of that protected district. Third, at the time Applicant submitted the Application, Applicant’s legal entity, Kloser Investments LLC (“**Kloser Investments**”), was pursuing County approval of an

¹ The Scoping Notice was actually addressed to A&B Partnership, not Larsen Family LP (which has different owners than A&B Partnership). Larsen LP did not receive any notice from the Forest Service soliciting comments in connection with its intent to move forward with this application.

activity envelope, site plan, ground mounted solar panels, certain setbacks, and a growth management quota system exemption for a 1,000 square-foot residence and related outbuildings. The County issued those approvals (the “**County Approvals**”) on May 9, 2018. A successful Larsen Family LP legal action then revealed that, before receiving the County Approvals, Kloser Investments had escorted the County’s Board of County Commissioners (“**BOCC**”) on a private, improperly noticed site visit to the Hercules Lode and engaged in ex parte communications with the BOCC. Fourth, as a result of that improper site visit, the BOCC issued Resolution No. 054-2018 (the “**Rescission**” attached hereto as Exhibit A), rescinding the County Approvals. Larsen Family is not aware of any pending development application concerning the Hercules Lode. Larsen Family also believes that Kloser Investments failed to inform USFS that its development application/approval was rescinded by Pitkin County.

Significant Issues

Special-use authorization for access to non-Federal lands is appropriate only where the property is an inholding under the Alaska National Interest Lands Conservation Act (“**ANILCA**”), 16 U.S.C. § 3101 *et seq.*, the requested access facilities or modes of access are needed for the reasonable use and enjoyment of the land to be accessed, and the request minimizes the impacts on federal resources. 36 CFR § 251.114(a). The significant issues identified below indicate that the Hercules Lode is not an inholding, the Application’s proposed access is not required, and the Application does not minimize impacts to federal land.

1. The Forest Service Is Not Required To Grant Access Under ANILCA Because The Hercules Lode Is Not An Inholding

A property is an inholding for purposes of granting access under ANILCA only if it is “completely surrounded by National Forest System lands.” *E.g., Friends of Columbia Gorge, Inc. v. U.S. Forest Serv.*, 546 F. Supp. 2d 1088, 1093 (D. Or. 2008); *see also, Alpine Lakes Prot. Soc’y v. U.S. Forest Serv.*, 838 F. Supp. 478, 484–85 (W.D. Wash. 1993); *Bunyard v. United States Department of Agriculture*, 301 F.Supp.2d 1052 (D. Ariz. 2004) (holding property bordered on three sides by USFS land not an inholding under ANILCA.) Moreover, the property to be served must be located “within the boundaries of the National Forest System” and “*physical barriers* [must] prevent adequate and feasible access.” 16 U.S.C. § 3210(a); 43 CFR § 36.10(a)(3) (emphasis added).

Here, the Application and Scoping Notice erroneously describe the Hercules Lode as an inholding under ANILCA—this property is not an inholding. Indeed, except for a small segment of USFS land, the property is surrounded entirely by private property, most of it owned by related-parties, such as Castle Creek Investors (“**CCI**”), who voluntarily chose not to grant easements to the Hercules Lode, and then reversed course after the County granted TDRs for that and another Applicant-affiliated property. Moreover, a public right of way, Little Annie Road, provides direct access to the Hercules Lode, and although Applicant could access the Hercules Lode from that right of way, it has instead characterized that property as an inholding in an apparent effort to make access more convenient. Geography, not convenience, determines whether a property is an inholding, however, and because the Hercules Lode is neither surrounded by USFS land nor blocked by physical barriers, it does not qualify. Thus, ANILCA simply does not apply to this property and supplies no ground on which to base access.

2. Applicant's Proposed Access Is Not Reasonably Necessary Because Applicant Has Not Demonstrated That It Has Any Right to Develop the Hercules Lode.

The Application is predicated upon Applicant's ability to construct a 1,000 square foot residence and accompanying outbuildings on the Hercules lode (Application p. 5), but the County has rescinded the County Approvals that would have allowed that plan to proceed. To our knowledge, no new application for a residence is pending, and given the improprieties surrounding the County Approvals, it is doubtful the BOCC—at least as currently composed—could approve any application concerning the Hercules Lode. The Application effectively proposes a road to nowhere and does not even hint at how Applicant might now secure approval to construct anything on the Hercules Lode. Because the Application's fundamental purpose no longer exists, the proposed access is not reasonably necessary for the use and enjoyment of the Hercules Lode.

3. Applicant's Proposed Access Is Not Reasonably Necessary Because Access To The Property Already Exists and Applicant Has Already Achieved Reasonable Use and Enjoyment

Where access to a parcel already exists, a grant of further access is discretionary. 36 CFR § 251.110(g). Here, Applicant has admitted access via Little Annie Road. (Application, p. 4.) And no additional access is necessary for the reasonable use and enjoyment of the Hercules Lode because Applicant chose to sever a TDR on the portion of that parcel below Little Annie Road, arguing that its overlapping mining claims severed the Hercules Lode into two parcels for purposes of development under the LUC. A related party in interest, CCI, took the same approach on adjacent claims. Applicant has now attempted to portray that second development right on the same parcel as "requiring" access across federal land, simply because it chose to receive the financial compensation of a TDR. Yet irrespective of whether the County recognizes the dubious proposition that overlapping claims create multiple development rights on the same parcel, federal law is clear that this parcel as a whole has already achieved reasonable development. See *Murr v. Wisconsin*, 137 S. Ct. 1933, 1948-50 (YEAR). No USFS access is necessary.

4. Applicant's Proposed Access Is Not Reasonably Necessary Because Applicant Has Not Sufficiently Explored Private Alternatives.

The USFS has an obligation to consider all reasonable alternatives to the access proposed. 40 CFR § 1501.2(c). Here, reasonable alternatives may exist, but Applicant has failed to pursue them. For example, Applicant includes Larsen Family's letter denying a request for access across Larsen Family property but does not disclose that Applicant did not offer to compensate Larsen Family for that requested access. (Application, p. 17.) Similarly, Applicant states that no development is allowed on the adjacent Larsen Family parcel, but this is incorrect. (Application, p. 8.) Larsen Family's deed restriction concerning that parcel allows construction of a driveway. (See Exhibit B, attached hereto.) Applicant has also failed to demonstrate that it cannot secure access under Colorado law via a private way of necessity. See *Tieze v. Killam*, 179 P.3d 10, 13-14 (Colo. App. 2007) (holding Colorado law may confer private way of necessity despite possibility of access under ANILCA). Applicant's failure to fully investigate and exhaust these alternatives shows that the proposed access is not reasonably necessary.

5. Applicant's Proposed Access Is Not Reasonably Necessary Because Applicant May Secure Construction Access Via Helicopter And Subsequent Access On Foot.

Section 3-40-20(2)(c) of the LUC specifically permits construction access via helicopter to the RR District. Although more costly, helicopter access eliminates the need for access across USFS property, mitigates potential erosion and vegetation impacts, and minimizes impacts on federal resources. Furthermore, Applicant has not demonstrated any need for continued wheeled access following construction. The Hercules Lode abuts Little Annie Road and is accessible by foot from that road. The LUC does not require wheeled access to structures in the RR District. Thus, because helicopter and foot access provide adequate access to similarly situated parcels in the RR District, *see* 36 CFR § 251.111, neither the temporary nor permanent access Applicant has proposed is reasonably necessary.

6. Applicant's Proposed Access is Not Reasonably Necessary Because Applicant May Transfer Its Development Rights.

The LUC recognizes TDRs for RR District parcels. LUC § 6-70-20. As you know, the Hercules Lode has already qualified for one TDR, and Pitkin County regulations allow the Applicant to apply for a second TDR on the site to which Applicant seeks access. Thus, because Applicant has the ability to obtain a TDR worth anywhere between \$200,000 to \$300,000, depending on the market for TDRs, Applicant has not shown a need for access to provide for the reasonable use and enjoyment of the Hercules Lode. Applicant may receive significant compensation instead.

7. Applicant's Proposed Temporary Construction Access, Followed By Permanent All-Season Access Will Not Minimize Impacts to Federal Lands.

Adequate access should be "consistent with similarly situated non-Federal land and that minimizes damage or disturbance to National Forest System lands and resources." 36 C.F.R. § 251.111; *see also id.* at §§ 251.114(a), 251.110(c). Given available alternatives described above, Applicant's proposed access will not minimize impacts to National Forest System lands. To the contrary, Applicant states that it intends to revegetate the access route following construction (Application, p. 7), but does not explain how it will accomplish that aim in a high-alpine environment. Even limited wheeled access leaves lasting impacts in that zone, and irrespective of Applicant's plans to access the Hercules Lode a few times a month, the graded, revegetated "template" is much more likely to invite additional motorized traffic given the extensive motorized backcountry travel along Richmond Ridge and Applicant's inability to gate or otherwise limit access.

8. Applicant's Proposed Access Requires A Trespass On And Physical Occupation Of Larsen Family LP Property.

Because of topographical constraints on the Hercules Lode and the USFS property across which Applicant seeks access, Applicant's proposed alignment requires a slight turn or jog at a point where the Hercules Lode, USFS property, and Larsen Family LP property meet. That jog, in combination with Applicant's proposed road width and the size of standard construction vehicles, will make it impossible for Applicant to access the Hercules Lode without trespassing on Larsen Family property. Exhibit C, attached hereto, depicts that required trespass and physical occupation in more detail. Forest Service approval will therefore mandate compensable damage to

Larsen Family real property. *See Betterview Investments, LLC v. Pub. Serv. Co. of Colorado*, 198 P.3d 1258, 1261-62 (Colo. App. 2008)

Individually and as a whole, these significant issues indicate that Applicant's proposed access is not reasonably necessary for the use and enjoyment of the Hercules Lode and will damage Larsen Family real property. The Application should therefore be dismissed or denied.

Extraordinary Circumstances

1. The Presence of Canada Lynx In The Proposed Access Area Is An Extraordinary Condition Requiring An Environmental Assessment.

If the Forest Service does not dismiss or deny the Application, the access it proposes does not qualify for a categorical exclusion because of its potential impact on Canada Lynx populations, and the Forest Service must instead conduct an environmental assessment. A proposed action qualifies for a categorical exclusion only if there are no extraordinary circumstances, and the project is within a listed exclusion category. *See* 36 CFR § 220.6(a). In considering whether an extraordinary circumstance exists, the USFS should consider the presence of federally listed threatened or endangered critical species. 36 CFR § 220.6(b)(1)(i).

The Application does not note the presence of listed species, but our research indicates that the proposed access lies within Canada Lynx habitat, and U.S. Fish & Wildlife Service lists the Canada Lynx as threatened wherever it may be found. *See* U.S. Fish and Wildlife Service, *Canada Lynx (Lynx canadensis)*, <https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=A073> (last visited, May 31, 2019). (A habitat map is also available at the link.) Our research further indicates that winter travel at or above the tree line results in snow compaction that in turn creates deleterious resource competition for Canada Lynx.² As the Forest Service's Mike Kenealy explained "In a natural setting, with no skiers or other human-caused compaction, those predators (coyotes, cougars, bobcats) sink in and can't forage very high. . . . When you've got other critters eating your food source, then there's not enough food for lynx to consume. That's the crux of the issue." Bruce Finley, *Snowpacked Trails to huts give predators access to lynx's hare*, DENVER POST (March 16, 2012, 4:16 pm), <https://www.denverpost.com/2012/03/16/snowpacked-trails-to-huts-give-predators-access-to-lynxs-hare-2/>. Applicant's proposed, permanent winter access creates precisely the concern Mr. Kenealy describes.

Applicant's proposed permanent summer access also raises significant concerns. Applicant has not attempted to address, and has provided no information regarding, Forest Service guidelines for Lynx habitat, which require the Forest Service to "[c]oncentrate activities in existing developed areas, rather than developing new areas in lynx habitat" and to manage special uses to reduce impacts on lynx and lynx habitat. *SLRA*, Attachment 1-5, 1-6. The Forest Service cannot act without such information.

Because Applicant has not provided clear guidance regarding the Application's impact on Canada Lynx populations, uncertainty exists as to the degree of the potential effects, and an extraordinary circumstance therefore

² *See Southern Rockies Lynx Mgmt. Direction, Record of Decision, Attachment 1: The Selected Alternative ("SRLA")*, at Attachment 1-1 (Oct. 2008), www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5357379.pdf.

Michael Braudis
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exists. Forest Service Handbook, 1909.15, Ch. 31.2. Resolving this uncertainty further requires the Forest Service to conduct an environmental assessment. 36 CFR § 220.6(c). Approval by way of a categorical exclusion is inappropriate at this time.

2. Applicant Has Not Demonstrated That The Proposed Access Will Minimize Adverse Impacts On Scenic Values.

The Forest Service cannot approve the Application without concluding that the proposed access minimizes adverse impacts on scenic values. 36 C.F.R. § 251.114(f)(2). In analyzing those impacts, the Forest Service must take into account not just the approval of the proposed access itself, but the potential residential development that will result from it (if it is possible to construct a residence at all). *Colo. Wild, Inc. v. United States Forest Serv.*, 523 F. Supp. 2d 1213, 1224-1226 (D. Colo. 2007). Here, Applicant has failed to analyze visual impacts of development on the Hercules Lode. The impacts will be substantial. Assuming development of the Hercules Lode is even possible, the construction of a 1,000 square-foot residence, along with ground-mounted solar arrays and various outbuildings will mar scenic vistas up and down the Castle Creek Valley and will, in particular, spoil views across Annie Basin, where most home sites are secluded in more forested areas. Because of these significant negative impacts, approval of the Application is inappropriate.

Conclusion

Our analysis of the Application has revealed numerous significant issues, and two extraordinary circumstances that require the USFS to dismiss or deny the Application, or, in the alternative, conduct an environmental assessment before proceeding further. We hope you find this analysis helpful as you continue your review and would be happy to discuss our conclusions or to answer any questions you may have.

Very truly yours,



Andrew L.W. Peters
For the Firm

ALWP/
Attachments

cc: Marcella Larsen, Larsen Family LP, via e-mail

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS ("BOCC") OF
PITKIN COUNTY, COLORADO,
REVOKING AND RESCINDING BOCC RESOLUTION NO. 037-2018**

RESOLUTION NO. 054-2018

RECITALS:

1. Pursuant to Section 2.8.4 of the Pitkin County Home Rule Charter ("HRC"), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution; and
2. On May 9, 2018, the BOCC adopted Resolution No. 037-2018 Approving the Kloser Investments LLC Activity Envelope and Site Plan Review, Special Review for Ground Mounted Solar Panels up to Sixteen Feet in Height and the Establishment of Yard Setbacks in the Rural/Remote Zone District, and GMQS Exemption; and
3. Through application submitted to the Pitkin County Community Development Department, Kloser Investments LLC sought approval from the BOCC for certain improvements on the Hercules Lode mining claim located on the Richmond Ridge area of Aspen Mountain, which approval was granted as set forth in Resolution No. 037-2018; and
4. The BOCC considered Kloser Investment LLC's application at duly noticed public meetings held on February 28, April 11, April 25, and May 9, 2018;
5. During the April 25, 2018 public meeting, the BOCC scheduled a site visit to the Hercules Lode, tentatively set to take place on Monday, May 7, 2018; however, at the conclusion of the April 25, 2018 meeting the scheduling of the May 7 site visit remained tentative as not all members of the BOCC were in attendance; and
6. Representatives of Kloser Investments LLC were in attendance during the April 25, 2018 BOCC meeting whereat scheduling the May 7 site visit was discussed; and
7. Representatives of the Larsen Family LP were in attendance during the April 25, 2018 BOCC meeting whereat scheduling the May 7 site visit was discussed; and
8. On May 7, 2018, a quorum of the BOCC participated in a site visit to the Hercules Lode as well as to the adjacent property owned by the Larsen Family LP; and
9. Representatives of both Kloser Investments LLC and Larsen Family LP participated and were in attendance during the May 7, 2018 site visit; and
10. During the May 7, 2018 site visit, the BOCC did not adopt any policy, position, resolution, rule, regulation, or formal action regarding the Kloser Investment LLC land use application or any other matter; and
11. On April 30, 2018, the BOCC posted its agenda, which included notice of the May 7, 2018 site visit at the Pitkin County Courthouse; and
12. Notice of the May 7, 2018 site visit was posted as follows:



RECEPTION#: 649385, R: \$0.00, D: \$0.00
DOC CODE: RESOLUTION
Pg 1 of 10, 08/07/2018 at 01:27:28 PM
Janice K. Vos Caudill, Pitkin County, CO

MONDAY, MAY 7 (Time TBD)

Site Visit to Kloser LLC Property

13. C.R.S. § 24-6-402(2)(c) provides that "[a]ny meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public;" and

14. Because notice of the May 7, 2018 site visit did not include a time or a location reasonably ascertainable to an ordinary member of the community, it is possible that interested members of the public did not have an opportunity to participate in the May 7 site visit; and

15. The BOCC, therefore, finds that it approved BOCC Resolution 037-2018 in a manner that potentially deprived members of the public an opportunity to fully participate in the process leading up to the adoption of Resolution 037-2018; and

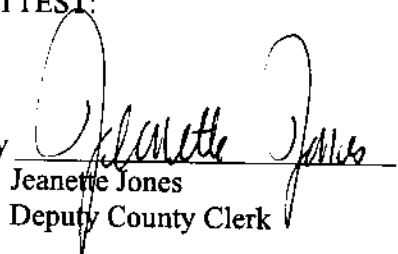
16. The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts a Resolution Revoking and Rescinding BOCC Resolution 037-2018 and authorizes the Chair to sign on behalf of the county.

INTRODUCED, READ AND ADOPTED ON THE 11th DAY OF July 2018.


ATTEST:

By


Jeanette Jones
Deputy County Clerk

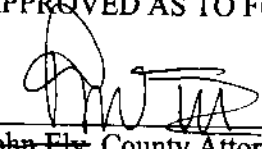
BOARD OF COUNTY COMMISSIONERS

By:


Patti Clapper, Chair


Date: 07-11-18

APPROVED AS TO FORM:


Asst. ~~John Ely~~, County Attorney

Richard Y. Nerby III

MANAGER APPROVAL


Jon Peacock, County Manager

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,
COLORADO, APPROVING THE KLOSER INVESTMENTS LLC ACTIVITY ENVELOPE AND
SITE PLAN REVIEW, SPECIAL REVIEW FOR GROUND MOUNTED SOLAR PANELS UP TO
SIXTEEN FEET IN HEIGHT AND THE ESTABLISHMENT OF YARD SETBACKS IN THE
RURAL/REMOTE ZONE DISTRICT, AND A GMQS EXEMPTION**

Resolution No. ~~031~~ -2018

RECITALS

1. Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter ("HRC"), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution.
2. Kloser Investments LLC ("Applicant") has applied to the Board of County Commissioners of Pitkin County ("BOCC") to obtain Activity Envelope and Site Plan Review approval to construct a cabin, Special Review approval to construct a ground-mounted solar panels exceeding twelve (12) feet in height and to establish yard setbacks in the Rural/Remote (RR) zone district, and to obtain a GMQS exemption.
3. The property is known as the Hercules Lode, U.S. Mineral Survey No. 4215 according to the United States Patent recorded April 8, 1901 in Book 136 at Page 273 as Reception No. 65703. The parcel identification number is 273731300037.
4. The property is zoned Rural/Remote and contains 7.7 acres.
5. The property is bounded by a combination of private and United States Forest Service ("USFS") lands. The southwest corner of the property is crossed by Little Annie Road.
6. The Hercules Lode, U.S. Mineral Survey No. 4215 was patented in 1891. The Hercules is junior to two senior mining claims that overlay the Hercules claim and which results in two separate Hercules parcels – the western "bunny ears" parcel and the eastern parcel that is the subject of this application. The western portion of the Hercules Lode (Parcel No. 273731300036) was approved as a TDR Sending Site, pursuant to Administrative Decision 07-2010, and was sterilized by TDR Certificate No. 1R-00-03-SW. The eastern 7.7 acre subject parcel is currently undeveloped.
7. The Applicant entered into an Access and Temporary Construction Easement Agreement with Castle Creek Investors Inc. for a perpetual non-exclusive access easement and right-of-way recorded as Reception No. 643479 over and across the CCI property from Richmond Hill Road. This access driveway has not been approved through any land use decision by Pitkin County.
8. An application to obtain access across the USFS property was submitted to the USFS August 28th, 2017. Any decision by the USFS to extend authorization for an additional access point using National Forest System lands is a discretionary decision and no determination has been made.
9. The Applicant originally requested Special Review approval for a driveway, but subsequently withdrew the request.

10. The BOCC heard this application at a duly noticed public hearing on February 28, 2018, at which time evidence and testimony were presented with respect to this application. Such hearing was continued to April 11, 2018. The BOCC heard this application at the continued duly noticed public hearing on April 11, 2018, at which time additional evidence and testimony were presented with respect to this application. Such hearing was continued to April 25th and then May 9, 2018. The BOCC heard this application at the continued duly noticed public hearing on May 9, 2018, at which time additional evidence and testimony were presented with respect to this application. A site visit to the subject property was conducted by the BOCC on May 7, 2018.
11. The BOCC finds that the proposed Activity Envelope and Site Plan complies with the Land Use Code ("Code") as follows
 - a. The Activity Envelope contains slopes less than 30%.
 - b. The parcel is mapped within Medium to Severe Wildfire Hazard Areas. A site-specific Wildfire Risk Assessment performed by Jerry Pectz of Zone 1 Wildfire rated the Activity Envelope as low and provided mitigation recommendations in the Assessment dated October 3rd, 2017.
 - c. Art Mears, Professional Engineer and Natural Hazards Consultant determined that the cabin site is not exposed to snow avalanche hazards as stated in the Kloser Cabin Avalanche Hazard Assessment dated September 27th, 2017.
 - d. The Activity Envelope contains approximately 21,056.66 square feet, which is less than the half (½) acre allowed pursuant to Sec. 5-10. The Activity Envelope will accommodate a 1000 square foot cabin, a 160 square foot shed, on-site wastewater treatment system ("OWTS"), ground-mounted solar panels and associated grading as permitted in the RR zone district pursuant to Sec. 5-20-70(i) and Sec. 3-40-20.
 - e. The property is not discernible with the naked eye from any point along Castle Creek Road, and, therefore is exempt from the Scenic View Protection area standards of Sec. 7-20-120(d) of the Land Use Code ("Code"). The cabin has been sited behind a stand of conifers to mitigate impacts to the immediate surrounding parcels. No trees in excess of 6" DBH are proposed to be removed and shall be protected during construction.
 - f. The cabin will be sited at the edge of an open meadow within a stand of existing conifers and therefore complies with Sec. 7-20-120(e) of the Code.
 - g. There are no known or mapped watercourses or water features on the site.
 - h. The parcel is not mapped within County regulated wildlife habitat areas. Impacts to wildlife can be mitigated pursuant to Sec. 7-20-70.
 - i. The Colorado Division of Water Resources issued permit No. 307658 to construct a well to be used for ordinary household purposes inside one single family dwelling.
 - j. The proposed on-site wastewater treatment system will be accommodated within the Activity Envelope. Final design and installation will be reviewed by the Environmental Health Department prior to installation.
12. The BOCC further finds that the Applicant has demonstrated the parcel was legally created prior to June 12, 1978 and therefore retains a GMQS exemption for a 1,000 square foot cabin, pursuant to Land Use Code Sec. 6-30-100(a).
13. The BOCC further finds that the request to construct ground-mounted solar panels exceeding twelve (12) feet in height in the RR zone district complies with the Special Review standards in Sec. 2-30-30(h)(2). The ground mounted solar energy collectors and other ancillary development (racking assembly, balancing system, utility boxes, etc.) will not exceed sixteen (16) feet in height and will comply with the standards of Sec. 4-30-50(i)(5) of the Code.

14. The BOCC further finds that the Applicant has demonstrated legal access off of Little Annie Road. Due to slopes exceeding 30% and 45% along Little Annie Road, a driveway from Little Annie Road is prohibited pursuant to Sec. 7-20-20.
15. The BOCC further finds that no driveway is proposed for the property at this time. Development of a driveway is not a requirement in the RR zone district; limited or alternative access was anticipated when the zone district was created. Therefore, an Activity Envelope and Site Plan can be reviewed without a driveway. Prior to submission of a building permit application, the Applicant shall demonstrate, at a minimum, some form of access for construction. Such access shall comply with all provisions of the Land Use Code.
16. The BOCC further finds that the proposed setbacks as amended and specified in the conditions below are appropriately established in relation to the property lines to take advantage of topography and existing vegetation in order to have minimal impacts on immediate neighboring parcels and the natural environment of the larger surrounding area and to comply with the criteria of the Special Review standards in Sec. 2-30-30.
17. The BOCC further finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the BOCC that it does hereby approve the Kloser Investments LLC Activity Envelope and Site Plan Review; Special Review to install ground-mounted solar panels up to sixteen (16) feet in height and to establish setbacks in the Rural/Remote (RR) zone district; and GMQS Exemption, subject to the following conditions, which shall run with the land and be binding on all successors in interest:

1. The Applicant shall adhere to all material representations made in the amended current and prior applications and in public meetings or hearings. Those representations shall be conditions of approval, unless amended by other conditions.
2. The parcel is exempt from growth management for construction of up to 1,000 square feet of floor area plus additional floor area as allowed in the RR zone district pursuant to Sec. 5-20-70(i) and Sec. 3-40-20.
3. The following setbacks are herein approved: 116' setback to the northern property line; 966' setback to the western property line; 20' setback to the southern property line; and 20' setback to the eastern property line. Any modification of setbacks and non-exempt development within the setbacks shall require modification of the Activity Envelope and Site Plan by the BOCC, pursuant to the Special Review standards in Sec. 2-30-30.
4. Prior to submission of any future permit applications, the Applicants shall be required to submit for approval by the County Attorney and Community Development an Activity Envelope and Site Plan that is substantially consistent with the amended Activity Envelope and Site Plan submitted March 27, 2018 and in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.1. The Applicant shall provide notice to Larsen Family LP upon recordation of the Activity Envelope and Site Plan. The above referenced approvals shall be a condition precedent to finalization and recordation.
5. Within three years of this Activity Envelope and Site Plan approval, and prior to submission of a building permit application, the Applicant shall demonstrate one of the following options for access.

The land use approvals set forth herein are only valid if the Applicant utilizes one of the following options for access. If within three years of this approval, one of the following three options is not demonstrated, then this approval shall lapse and be of no force and effect.

- a. USFS Temporary Access Permit. If the USFS authorizes temporary access for construction, then further Special Review is not required. If the USFS issues a Private Road Special Use Permit for limited access for construction, upon notice to Larsen Family LP, the Applicant may submit a County Access Permit application. The access across private and USFS lands would be required to be restored and revegetated within one growing season of the issuance of the Certificate of Occupancy for the cabin.
 - b. USFS Long-Term Access Permit. If the USFS authorizes long-term motorized access to the property, then Special Review approval by BOCC for a driveway is required, prior to submission of a County Access Permit application.
 - c. Alternate. If the USFS does not authorize temporary or long-term access to the property, then the Applicant may access the property for construction by any means that Applicant demonstrates to the satisfaction of the County Attorney and Community Development Director is a legal means of access, or may apply for Special Review approval by BOCC for use of a helicopter for construction access.
6. With the building permit application for the residence, the Applicant shall:
- a. Provide proof of an adequate water supply (in terms of quantity and availability) for domestic and fire protection purposes, and for irrigation purposes for revegetation.
 - b. Obtain an On-Site Wastewater Treatment System ("OWTS") Construction Permit or a permit for a vault privy from Environmental Health.
 - c. Submit a site specific drainage and erosion control plan and accompanying drainage report to be approved by the Planning Engineer. The drainage and erosion plan shall show all temporary erosion control BMPs to be installed during construction. The drainage report shall demonstrate that historical flow patterns and runoff amounts will be permanently maintained.
 - d. Submit a construction management plan for review and approval by the Planning Engineer.
 - e. The Applicant shall comply with the wildfire mitigation recommendations found in the Wildfire Hazard Assessment report performed by Zone 1 Wildfire Assessment dated October 3rd, 2017. Submit a tree mitigation plan if any trees with larger than 6" DBH are to be removed. Living mature conifer trees providing screening to adjacent properties shall not be removed. Best practices for tree protection shall be shown on the construction management plan, and implemented during construction.
 - f. Submit a revegetation/landscaping plan for disturbed areas with appropriate native seed mixes. Landscaping in the form of berms shall not exceed four feet from the most restrictive grade.
 - g. Submit an exterior lighting plan with the corresponding fixture cut sheets. Exterior lighting shall comply with the lighting code.
 - h. Obtain a fireplace/woodstove permit from the Community Development Department, if applicable.
7. Prior to building permit issuance, the Applicant shall pay the applicable road impact fee
8. The Applicant shall provide adequate engineering of any retaining walls over four (4) feet in height and/or any improvements to walls over four (4) feet in height. All retaining walls shall be a maximum of seven (7) feet tall.

9. The Applicant shall comply with the applicable codes and requirements of the Aspen Fire Protection District.
10. The ground mounted solar energy collectors and other ancillary development (racking assembly, balancing system, utility boxes, etc.) shall not exceed sixteen (16) feet in height and shall have a "matte" finish or be of a non-reflective material/color. Equipment that is painted shall be maintained. The collectors shall not shade the leach field and shall comply with the standards of Sec. 4-30-50(h) of the Code.
11. The Applicant shall comply with the following conditions to mitigate impacts on wildlife:
 - a. Native vegetation shall be maintained outside of the activity envelope.
 - b. Landscaping shall not include nut, berry or fruit producing trees or shrubs palatable to bears
 - c. Contractors/construction workers shall be required to provide bear proof containers for all edible and food related trash.
 - d. Contractors are prohibited from bringing their dogs on-site.
 - e. Trash/garbage shall be kept in an approved bear resistant container or enclosure as required by the County's Wildlife Protection Ordinance.
 - f. All outside doors shall utilize only solid round handled doorknobs unless another type is required by the applicable building code for disabled accessibility purposes.
 - g. Bird feeders, including hummingbird feeders, shall be hung away from any deck or window, and shall be at least 10' from the ground suspended between 2 trees or posts. All seed feeders shall include a seed catchment pan to catch discarded seeds. Bird feeders should be removed from April through November.
 - h. Fencing shall be prohibited, except for fencing limited to that necessary for safety, to contain pets or livestock, or to protect a garden, which fencing shall be accommodated adjacent to the residence.
12. The Applicant shall comply with the County's Noxious Weed Management Plan.
13. All plants used for landscaping and revegetation shall be native species. Areas disturbed by construction shall be re-vegetated within one growing season of the project's completion. Landscaping shall be installed prior to issuance of the Certificate of Occupancy for the residence.
14. No development including grading, excavation, fill placement, berming, landscaping, vegetation removal or disturbance, well or water storage tanks, and OWTS or a vault privy, shall occur outside of the approved activity envelope, except as necessary to comply with the wildfire mitigation measures described above, or for tree removals approved pursuant to Section 7 20-130.
15. Prior to commencement of any earthmoving or other construction activity, the Applicant shall stake the corners of the activity envelope and install construction fencing around the construction site within the perimeter of the activity envelope. The fencing shall remain in place until issuance of a Certificate of Occupancy.
16. No development in excess of 30" above or below natural grade shall occur within the setbacks of the lot, as specified above and shown on the recorded Site Plan, with the exception of driveways and associated retaining walls of up to 6' above or below natural grade and fencing. Landscaping in the form of berms shall not exceed four feet from the most restrictive grade.

17. No calculations for height, bulk, setback, size, floor area, or any other building and zoning requirements have been conducted. These requirements will be considered at the time of building permit. Any structures represented in the application may not be permitted under building and zoning regulations.
18. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
19. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code, § 2-20-170 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on May 9, 2021.

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY on the 25th day of January, 2018.

APPROVED this 9th day of May, 2018.

PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Times Weekly on the 14th day of JUNE, 2018.

BOARD OF COUNTY COMMISSIONERS,
PITKIN COUNTY, COLORADO

By Patti Clapper
Patti Clapper, Chair

ATTEST:

Jeanette Jones
Jeanette Jones, Clerk to the BOCC

APPROVED AS TO CONTENT:

Cindy Houben
Cindy Houben
Community Development Director

APPROVED AS TO FORM:

John Ely
John Ely
County Attorney

451943 02/28/2001 02:32P DEED RES DAVIS SILVI
1 of 13 R 65.00 D 0.00 N 0.00 PITKIN COUNTY CO

**DEED RESTRICTIONS: RICHMOND HILL OPEN SPACE
PARCEL AND RICHMOND HILL A-FRAME PARCEL**

THIS DECLARATION OF DEED RESTRICTIONS IS MADE AS OF THE
28 day of FEBRUARY 2001, by Jack Guenther, Trustee under the
Will of Charles F. Urschel, Jr., CFUjr Trust A&B Partnership, Marcella Larsen Chilson, and
Benjamin E. Larsen ("Grantors"),

RECITALS:

WHEREAS, the property to be restricted by this Declaration is composed of
two parcels: the Richmond Hill Open Space Parcel, as described in Exhibit A attached hereto,
and the Richmond Hill A-Frame Parcel, created pursuant to SB-35, as described in Exhibit B
attached hereto; and

WHEREAS, the Richmond Hill Open Space Parcel is owned by Jack Guenther,
Trustee under the Will of Charles F. Urschel, jr. and CFUjr Trust A&B Partnership ("Open
Space Parcel Grantors") and the Richmond Hill A-Frame Parcel is owned by Jack Guenther,
Trustee under the Will of Charles F. Urschel, Jr. F/B/O Wendy Urschel Larsen, Marcella
Larsen Chilson individually, and Benjamin E. Larsen individually ("A-Frame Parcel
Grantors"); and

WHEREAS, Resolution No. 94-128 recorded as Reception No. 375793 and
Ordinance No. 94-24 recorded as Reception No. 375794 in the records of the Pitkin County
Clerk and Recorder, restricted development of the Richmond Hill Open Space Parcel and the
Richmond Hill A-Frame Parcel; and

NOW THEREFORE, for and in consideration of the facts recited above and for
other good and valuable considerations, the receipt and sufficiency of which are hereby
acknowledged, Grantors hereby agree as follows:

1. **Purpose.** It is the purpose of this Declaration to restrict the future
development of the Richmond Hill Open Space Parcel and the Richmond
Hill A-Frame Parcel in accordance with the terms of Resolution No. 94-
128 and Ordinance No. 94-24 of the Pitkin County Board of County
Commissioners.
2. **Restriction on Future Development.** No future development of the
Richmond Hill Open Space Parcel and Richmond Hill A-Frame Parcel
shall be permitted except in accordance with the terms of these
Restrictions.
3. **Exceptions.** The term "development" utilized in paragraph 2 of these
Restrictions excludes the existing A-frame structure on the Richmond
Hill A-Frame Parcel, the replacement structure on the Richmond Hill A-
Frame Parcel described in paragraph 4 below, and ski lift towers or

stations on both the Richmond Hill Open Space Parcel and the Richmond Hill A-Frame Parcel.

4. **Existing A-Frame Structure/Replacement.** The existing A-frame structure on the Richmond Hill A-Frame Parcel may be retained and replaced as follows:

- a. The A-Frame Parcel Grantors shall have a perpetual right to remodel, tear down, and/or replace the structure with another structure not to exceed a floor area of 1,500 square feet as defined by the Pitkin County Land Use Code in effect as of August 2, 1994, inclusive of all amendments up to and including BOCC Ordinance 93-6 (the "1979 Code") ("replacement structure"). In addition, the A-Frame Parcel Grantors shall be allowed to increase the floor area of the replacement structure to the same floor area permitted any other structure within the Little Annie/Richmond Hill "rural and remote" area as defined in Ordinances Nos. 94-10 and 94-16, as those ordinances may be subsequently amended, where such structure is permitted a floor area of greater than 1,500 square feet;
- b. The replacement structure may be sited at the location of the existing A-frame, but shall not be confined to the existing footprint. The replacement structure may also be sited on any alternative site on the Richmond Hill A-Frame Parcel, which is mutually acceptable to both the A-Frame Parcel Grantors and the County;
- c. The replacement structure shall be subject only to building permit approval, which shall not be unreasonably withheld. The building permit approval for the replacement structure shall not be subject to any conditions or exaction not explicitly listed in Resolution No. 94-128 or Ordinance No. 94-24, including, but not limited to, on-site, off-site, or cash in lieu payments for employee housing, park contributions, or trail easements.
- d. The right to remodel, tear down, and/or replace the existing A-frame with a replacement structure shall be forever exempt from the Growth Management Quota System or its subsequently enacted equivalent;
- e. The A-frame or replacement structure may be occupied year-round and shall be permitted a private driveway from Richmond Hill Road;

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- f. The A-frame or replacement structure may be served by a well and septic system upon compliance with all state permit procedures and State and County Department of Environmental Health regulations;
 - g. If utilities are extended in the Little Annie/Richmond Hill "rural and remote" area, as defined in Ordinances Nos. 94-10 and 94-16, as those ordinances may be subsequently amended, the A-Frame Parcel Grantors shall be permitted to utilize and extend those facilities to serve the existing A-frame or replacement structure;
 - h. The right to retain the existing A-frame structure and remodel, tear down, and/or replace the A-frame with a replacement structure shall constitute vested rights as of the date of adoption of Resolution No. 94-128 or Ordinance No. 94-24 and shall not expire.
5. **Termination/Reverter.** In the event the Little Annie/Richmond Hill "rural and remote" area (as defined in Ordinances Nos. 94-10 and 94-16, as those ordinances may be subsequently amended) is modified to permit more than one (1) unit per 35 acres, the Open Space Parcel Grantors and the A-Frame Parcel Grantors will be permitted such increased density as subsequently allowed, less the greater of 3 units, or 28,800 square feet divided by the maximum floor area per unit allowed under the new zoning. The existing A-frame house or its replacement, which is located on the A-Frame Parcel, shall not be included in any future calculation for allowed density.
6. **Recording.** This Declaration shall be recorded with the Pitkin County Recorder.
7. **Enforcement of Rights.**
- a. In the event of a violation by the Open Space Parcel Grantors or the A-Frame Parcel Grantors of any term, condition, or restriction contained in this Declaration, after thirty (30) days' notice of such violation, Pitkin County may enjoin by temporary or permanent injunction such violation, or may take such other action as it deems necessary to insure compliance with the terms, conditions, and purposes of this Declaration; provided, however, that any failure to do so by Pitkin County shall not be deemed to be a waiver or a forfeiture of the right to enforce any term, condition, or purpose of this Declaration in the future.

- b. Any costs incurred by Pitkin County in enforcing the terms of this Declaration against the Open Space Parcel Grantors or the A-Frame Parcel Grantors, including, without limitation, costs of suit and reasonable attorney's fees, shall be paid by the applicable Grantor. If the Open Space Parcel Grantors or the A-Frame Parcel Grantors prevail in any action to enforce the terms of this Declaration, the costs of suit, including, without limitation, reasonable attorney's fees of the Open Space Parcel Grantors or the A-Frame Parcel Grantors, shall be paid by Pitkin County.
- c. Notwithstanding any other provision hereof to the contrary, upon a transfer to a third party of the Open Space Parcel Grantors' or the A-Frame Parcel Grantors' interest in the subject property, the Open Space Parcel Grantors' and the A-Frame Parcel Grantors' rights and obligations under this Declaration shall automatically pass to said third party, and the Open Space Parcel Grantors and the A-Frame Parcel Grantors shall have no further rights or responsibilities hereunder, except liability for acts or omissions occurring prior to transfer shall survive transfer.

8. **Duration.** This Declaration shall be servitude running with the land and subject to the Termination/Reverter as set forth in paragraph 5 hereof.

9. **Notices.** Any notices required by this Declaration shall be in writing and shall be personally delivered to or sent by first class mail to Open Space Parcel Grantors and/or the A-Frame Parcel Grantors and Pitkin County respectively at the following addresses, unless a party has been notified by the other of a change of address:

Notice to the Open Space Parcel Grantors:

Jack Guenther, Trustee Under the Will of
Charles F. Urschel, Jr.
153 Treeline Park, Suite 300
San Antonio, TX 78209-1880

CFUjr Trust A&B Partnership
153 Treeline Park, Suite 300
San Antonio, TX 78209-1880

Board of County Commissioners of Pitkin County
530 East Main Street, Suite 301
Aspen, CO 81611



Notice to the A-Frame Parcel Grantors:

Jack Guenther, Trustee Under the Will of
Charles F. Urschel, Jr. F/B/O Wendy Urschel Larsen
153 Treeline Park, Suite 300
San Antonio, TX 78209-1880

Marcella Larsen Chilson
1965 Maroon Creek Road
Aspen, CO 81611

Benjamin E. Larsen
530 Ridge Road
Durango, CO 81301

Board of County Commissioners of Pitkin County
530 East Main Street, Suite 301
Aspen, CO 81611

10. **Severability.** If any provision of this Declaration or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Declaration shall not be affected thereby.
11. **Capacity.** Jack Guenther is signing solely in his capacity as Trustee and not in his individual capacity. The obligations of Grantors under this document shall not be their personal obligations and Grantors shall not have any personal liability to any other party in connection with this document. Any claims or liabilities that are ever asserted as a result of this document shall be satisfied solely from the Grantors' interest in the property and not from any assets or property of Grantors or any other property.

IN WITNESS WHEREOF, the Open Space Parcel Grantors and the A-Frame Parcel Grantors have caused this Declaration to be executed on the date first written above.

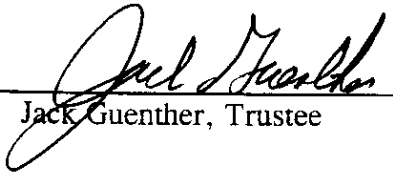
RICHMOND HILL OPEN SPACE PARCEL OWNERS:

By: _____

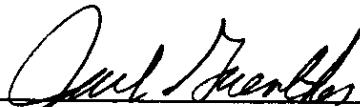
Jack Guenther
Jack Guenther, Trustee Under the Will of
Charles F. Urschel, Jr.



CFUjr TRUST A&B PARTNERSHIP


By: 
Jack Guenther, Trustee

RICHMOND HILL A-FRAME PARCEL OWNERS:

By: 
Jack Guenther, Trustee Under the Will of
Charles F. Urschel, Jr.
F/B/O Wendy Urschel Larsen

By: 
Marcella Larsen Chilson

By: 
Benjamin E. Larsen


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CFUjr TRUST A&B PARTNERSHIP

By: See previous page
Jack Guenther, Trustee

RICHMOND HILL A-FRAME PARCEL OWNERS:

By: See previous page
Jack Guenther, Trustee Under the Will of
Charles F. Urschel, Jr.
F/B/O Wendy Urschel Larsen

By: [Signature]
Marcella Larsen Chilson

By: See previous page
Benjamin E. Larsen

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THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

Personally appeared before me Jack Guenther, as Trustee under the Will of Charles F. Urschel, Jr., on this 22nd day of February 2001, and acknowledged that all material statements of fact in the foregoing Declaration of Restrictions are true to the best of his knowledge and belief, and that the execution of said Declaration is his free act and deed.



Witness my hand and seal.

Carol Sue Bruehler
Notary Public, State of TEXAS

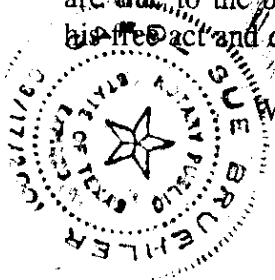
Commission Expiration: 9/17/01

Carol Sue Bruehler
Typed or Printed Name of Notary

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

451943 02/28/2001 02:32P DEED RES DAVIS SILVI
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Personally appeared before me Jack Guenther, as Trustee of the CFUjr Trust A&B Partnership, on this 22nd day of February 2001, and acknowledged that all material statements of fact in the foregoing Declaration of Restrictions are true to the best of his knowledge and belief, and that the execution of said Declaration is his free act and deed.



Witness my hand and seal.


Carol Sue Bruehler
Notary Public, State of TEXAS

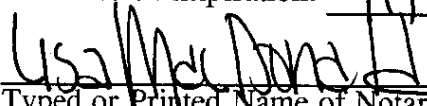
Commission Expiration: 9/17/01

Carol Sue Bruehler
Typed or Printed Name of Notary

THE STATE OF COLORADO §
 §
COUNTY OF PITKIN §

Marcella Larsen Chilson acknowledged this instrument before me on the 20th
day of February 2001.



Notary Public, State of COLORADO
Commission Expiration: 11/18/2004


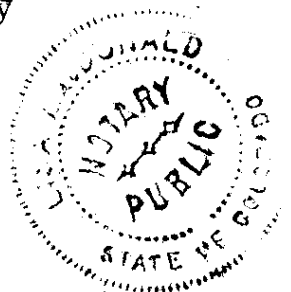
Typed or Printed Name of Notary


THE STATE OF COLORADO §
 §
COUNTY OF §

~~Benjamin E. Larsen acknowledged this instrument before me on the _____ day
of _____ 2001.~~

~~_____
Notary Public, State of COLORADO
Commission Expiration: _____

Typed or Printed Name of Notary~~




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THE STATE OF COLORADO §
 §
COUNTY OF PITKIN §

Marcella Larsen Chilson acknowledged this instrument before me on the _____
day of _____ 2001.

Notary Public, State of COLORADO

Commission Expiration: _____

Typed or Printed Name of Notary

THE STATE OF COLORADO §
 §
COUNTY OF §

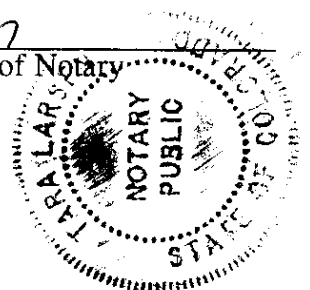
Benjamin E. Larsen acknowledged this instrument before me on the 16th day
of February 2001.

Tara Larsen
Notary Public, State of COLORADO

Commission Expiration: _____

My Commission Expires
06/09/2004

Tara Larsen
Typed or Printed Name of Notary



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EXHIBIT "A"

Parcel A:

The ARGO, TOP, MOUNTAIN BOY, MOUNTAIN BOY NO. 2 and MOUNTAIN BOY NO. 3 Lode Mining Claims (United States Mineral Survey No. 5982) located in the Highland Mining District and embracing a portion of Section 31, Township 10 South, Range 84 West of the 6th P.M. EXPRESSLY excepting and excluding from the premises those portions lying within Hercules Lode (United States Mineral Survey No. 4251), May Queen (United States Mineral Survey No. 5380) and Colorado and Leonie Lodes (United States Mineral Survey No. 5973) as reserved in United States Patent recorded April 17, 1961 in Book 193 at Page 507.

Parcel B:

The GRACE DARLING and ADVANCE Lode Mining Claims (United States Mineral Survey No. 5983) located in the Highland Mining District and embracing a portion of Section 31, Township 10 South, Range 84 West of the 6th P.M.

Parcel C:

An undivided 7/8 interest in the AMERICAN FLAG AND PEMBINA Lode Mining Claims (United States Mineral Survey No. 6008) located in the Highland Mining District and embracing a portion of Sections 30 and 31, Township 10 South, Range 84 West of the 6th P.M.

Parcel D:

The BEAU and BEAU MUNDAY Lode Mining Claims (United States Mineral Survey no. 5763) located in the Highland Mining District and embracing a portion of Section 31, Township 10 South, Range 84 West of the 6th P.M.

Parcel E:

The CABLE Lode Mining Claim (United States Mineral Survey No. 5879) located in the Highland Mining District and embracing a portion of Section 31, Township 10 South, Range 84 West of the 6th P.M.

Parcel F:

The MAY QUEEN Lode Mining Claim (United States Mineral Survey No. 5880) located in the Highland Mining District and embracing a portion of Section 31, Township 10 South, Range 84 West of the 6th P.M.

LESS 35.80 acres, more or less, described in "Exhibit B" attached hereto.

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EXHIBIT "B"

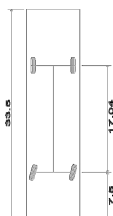
A tract of land situate in the Advance and Grace Darling Lode Mining Claims MS 5983; Cable Lode Mining Claim MS 5879; May Queen Lode Mining Claim MS 5880; Argo, Top, Mountain Boy, Mountain Boy No.2, Mountain Boy No.3 Lode Mining Claims MS 5982 all in Township 10 South, Range 84 West of the 6th Principal Meridian, Pitkin County, Colorado being more particularly described as follows:

Beginning at the southwest corner of the Argo Lode Mining Claim MS 5982; thence N 34°59'59" E 90.06 feet along the south line of said Argo Lode Mining Claim to the center of Richmond Hill Road; thence northerly along the center of said road 623 feet more or less; thence N 39°48'03" E 482.46 feet; thence N 57°17'20" E 510.73 feet to a point 70 feet westerly of the east line of said Grace Darling Lode Mining Claim; thence N 9°43'00" W 1518.61 feet parallel to said east line; thence S 56°01'05" W 335.05 feet; thence S 43°40'14" W 201.77 feet; thence S 40°06'08" W 265.54 feet; thence S 21°48'23" W 65.47 feet; thence S 10°29'21" E 130.67 feet; thence S 26°20'07" W 43.87 feet; thence S 24°43'32" E 112.76 feet; thence S 05°54'46" W 455.37 feet; thence S 34°36'37" W 258.61 feet; thence S 77°45'20" W 67.95 feet; thence S 07°00'20" W 99.64 feet; thence S 34°05'39" W 33.02 feet to the northwest corner of the Top Lode Mining Claim MS 5982; thence S 09°43'00" E 1019.39 feet along the west line of said Top Lode Mining Claim to its intersection with the Hercules Mining Claim; thence S 90°00'00" E 138.45 feet along the north line of the Hercules Mining Claim; thence S 00°00'00" W 269.17 feet along the east line of said Hercules Mining Claim to its intersection with the south line of said Top Lode Mining Claim; thence N 35°00'00" W 285.87 feet along the south line of said Top Lode Mining Claim to the west line of said Argo Lode Mining Claim; thence S 09°43'00" E 100.00 feet along said west line to the point of beginning, containing 35.80 acres more or less.



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Vehicle Tracking Vehicle Details		Ref:
Vehicle Name:	APPO Firetruck 2017	APPO Firetruck 2017 Tracked
Category:	Trucks (unspecified)	
Location:	Trucks (unspecified)	
Source:	Parker: latlon_email_20624077	
Address:		
Notes:		
Lat 1 Name:		



AFPD Firetruck 2017
Overall Length
Overall Width

33.500ft
8.600ft

TRACK ENCROACHES ON M.S. 5982 PROPERTY;
FURTHEST EXTENT OF WHEEL TRAVEL IS SHADED

NEEDS 9.7, OF WIDTH

PROPOSED DRIVEWAY IS ONLY 7' WIDE

ONLY 8.5' OF WIDTH AVAILABLE ON KLOSER PROPERTY
CHASSIS EXTENDS FURTHER INTO SLOPE THAN

WHEELS, MAY REQUIRE ADDITIONAL GRADIN

AUTOTURN VEHICLE TRACKING ANALYSIS FOR ASPEN FIRE TRUCK:

8.5' WIDE X 33.5' LONG

7 0.3' TRACK WIDTH

VERY LOW SPEED SIMULATION: 1 MPH

WELL DRILLING RIG HAS SAME DIMENSIONS

CONCRETE TRUCK, PROPANE DELIVERY TRUCK, SEPTIC TANK PUMP TRUCK ALL TYPICALLY 8'-WIDE OR MORE

PREPARED BY SGM FOR
LARSEN FAMILY LP
2/27/2018

