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DISTRICT COURT, WATER DIVISION NO. I, STATE OF COLORADO

DEC 02 '88

Case No. 86CW057

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WATER RECORDS  
STATE ENGINEER  
DRO

RULING AND DECREE OF THE WATER COURT

CONCERNING THE APPLICATION OR WATER RIGHTS OF BRIDGE BUILDERS, INC., a Colorado Corporation and SPRUCE MOUNTAIN ASSOCIATES d/b/a SPRUCE MOUNTAIN RANCH

IN THE NOT NONTRIBUTARY DAWSON AQUIFER, in Douglas County.

THIS MATTER is based upon the application for ground water rights of Bridge Builders, Inc. and Spruce Mountain Associates, d/b/a Spruce Mountain Ranch. for underground water rights of a not nontributary character from the Dawson aquifer underlying land in Douglas County, Colorado. The Court, having examined the record and the evidence presented herein, makes the following:

FINDINGS OF FACT

1. name, Address, and Telephone Number of Applicant:

Bridge Builders, Inc., a Colorado Corporation, and  
Spruce Mountain Associates, d/b/a Spruce Mountain Ranch  
1200 17th Street  
Suite 1950  
Denver, Colorado 80202  
(303) 753-9229

Applicants shall be referred to subsequently in the singular as the Applicant,

2. History of Case:

The Applicant is represented by Saunders, Snyder, Ross & Dickson, P.C. (Robert E. Schween). The application in this matter was filed with this Court on February 28, 1986, on behalf of Applicant. Statements of Opposition have been filed by Mission Viejo Company and Highlands Ranch Development Corp. (Charles N. Woodruff), the Fannie F. Hamilton Revocable Trust (Charles B. White), Bellamah Community Development and MSP Investment Company (John P. Akolt, III).

3. Subject Matter Jurisdiction:

Timely and adequate notice of the pendency of those proceedings has been given in the manner required by law. The Water Court has jurisdiction over the subject matter of these proceedings and over all who have standing to appear as parties, whether they have appeared or not.

4. Type and Location of Ground Water:

A. Not Nontributary Dawson Aquifer Ground Water.

In this proceeding, Applicant seeks a decree for rights to all ground water recoverable from the not nontributary Dawson aquifer underlying its property in Douglas County, Colorado.

B. Property Description.

The Applicant's property which is subject to this case is located in Sections 15, 16, 20, 21, 22, 27, 28, 29, and 33, Township 10 South, Range 67 West of the 6th Principal Meridian, all in the County of Douglas, State of Colorado, and consisting of 2430 acres, more or less. Applicant is the owner of the ground water rights or holds a valid consent to use the ground water underlying the above-described land. No part of such land lies within a designated ground water basin. A general location map is attached hereto as Exhibit "A." A legal description of the land overlying the not nontributary Dawson aquifer ground water claimed herein is attached as Exhibit "B."

5. Specific Wells Claimed:

The legal descriptions of the locations of the Dawson aquifer wells to be constructed under this decree are as follows:

DA1 is to be located in the SW1/4 SE1/4 of Section 21, 800 feet North of the South section line and 2400 feet West of the East section line of said Section 21.

DA2 is to be located in the SW1/4 NW1/4 of Section 21, 2000 feet South of the North section line and 1200 feet East of the West section line of said Section 21.

DA3 is to be located in the SW1/4 SE1/4 of Section 28, 1100 feet North of the South section line and 2000 feet West of the East section line of said Section 28.

DA4 is to be located in the NW1/4 NW1/4 of section 22, 300 feet South of the North section line and 300 feet East of the West section line of said Section 22.

DA5 is to be located in the NE1/4 SW1/4 of Section 16, 3300 feet South of the North section line and 2350 feet East of the West section line of said Section 16.

5. Well Permits:

A. Applicant will make application for permits for each well described herein at such time as Applicant is ready to construct each well.

B. The State Engineer shall consider the rights granted herein as valid. Each well will be drilled and completed as it is needed pursuant to a phased development program. Accordingly, the Court determines that if Applicant fails to construct any of said wells within the period of time specified in the corresponding well permits, it may reapply and the State Engineer shall promptly issue a well permit for the amount of water determined herein with burdens no more restrictive than found herein.

7. Average Annual Amounts of Withdrawal Available:

A. The Office of the State Engineer ("State") issued amended Determination of Facts ("Findings") pursuant to § 37-92-302(2), C.R.S. (1987 Cum. Supp.), with respect to the Dawson aquifer ground water on June 26, 1986. Pursuant to the Denver Basin Rules, the State Engineer found that withdrawal of the ground water from the Dawson aquifer underlying the property described herein will, within 100 years, deplete the flow of a natural stream at a rate greater than one-tenth of one percent of the average annual rate of withdrawal, and therefore such ground water is not nontributary ground water as defined in § 37-90-103(10.5), C.R.S. This Dawson aquifer ground water may not be withdrawn and used until a judicially approved plan for augmentation is obtained pursuant to statutory criteria controlling at the time the augmentation application is made.

B. The hydrologic values and the average annual amounts available to the Applicant from the not nontributary Dawson aquifer underlying the Applicant's property pursuant to the Findings of the State Engineer are as follows:

<u>Acres</u>	<u>Average Saturated Thickness (feet)</u>	<u>Specific Yield</u>	<u>Average Annual Amount (AF)</u>
2400	330	20%	1584

C. The above findings were based on the criteria prescribed in § 37-90-137(4), C.R.S. (1985 Supp.); using Applicant's original estimate of the land area of the subject property (2400 acres). A subsequent survey of the property revealed that the actual acreage of the property is 2430 acres, more or less. At such time retained jurisdiction is invoked to finalize these quantities, the actual acreage shall be used in determining such final quantities. The Court finds that additional notice by publication is not necessary for this adjustment in acreage of the original land area.

8. Final and Interim Average Annual Amounts of Withdrawal; Allowed Amounts of Withdrawal Exceeding the Average Annual Amounts; Injury to Water Rights:

A. Final determinations of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicant from the Dawson aquifer will be made pursuant to the retained jurisdiction of this Court, as described in paragraph 17 hereinbelow. However, in the period of time between the date of this decree and the reopening of this matter pursuant to the Court's retained jurisdiction, the State Engineer's Findings of the average amounts of withdrawal from the Dawson aquifer, as summarized in paragraph 7 above, shall be considered correct and shall control. In the event this decree is not reopened for a further quantitative determination, the findings herein are final and controlling.

B. The allowed annual amount of not nontributary ground water which may be withdrawn from the Dawson aquifer through the wells specified above and any additional wells, pursuant to § 37-90-137(10), C.R.S. (1987 Cum. Supp.), may exceed the average annual amount of withdrawal, as long as the total volume of water withdrawn through such wells and any additional wells therefor subsequent to the date of this decree does not exceed the product of the number of years since the date of the issuance of the well permits or the date of this decree, whichever is earliest in time, multiplied by the average annual amount of withdrawal, as specified above or as determined pursuant to the retained jurisdiction of the Court, except as limited by the provisions of this decree.

C. There is unappropriated ground water available for withdrawal from the Dawson aquifer beneath the land described herein, and the vested water rights of others will not be materially injured by such withdrawals as described hereby, so long as the required augmentation is implemented. The minimum useful life of the subject aquifer is at least 100 years, assuming no substantial artificial recharge within 100 years.

9. Municipal Water System; Additional Wells; Pumping Rates; and Well Fields:

A. The Applicant proposes to build a unified municipal water system over the period of many years and will construct its wells as required by development. Any well completed within 200 feet of a decreed location will be deemed to be constructed at the decreed well location pursuant to the permit and this decree.

B. In addition to the wells described in paragraph 5 above, Applicant may construct additional and replacement wells in order to maintain levels of production and to recover the entire amount of not nontributary ground water in the Dawson aquifer underlying the subject property, as described herein. As additional wells are planned, applications shall be filed in accordance with § 37-90-137(10), C.R.S. (1987 Cum. Supp.).

C. The pumping rates for the wells may exceed the pumping rates specified in the State Engineer's Findings in order to produce the full acre foot allocation of water or to meet municipal water supply needs, and peak system demands.

D. All wells constructed into the Dawson aquifer may be considered a well field among themselves.

E. In considering applications for permits for additional wells to withdraw the ground water which is the subject of this decree, the State Engineer shall be bound by this decree and shall issue said permits in accordance with provisions of § 37-90-137(10), C.R.S. (1987 Cum. Supp.). Applicant shall not be required to submit any additional proof or evidence of matters finally determined herein when making application for permits for wells to withdraw the water which is the subject of this decree, except that the State Engineer may require revised land ownership or consent to use affidavits and may require such additional information as specified in the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court,

any existing permits for Dawson aquifer wells shall be amended or new permits issued to reflect such adjusted average annual amounts. New permits for wells to withdraw water from the Dawson aquifer shall likewise reflect any such adjustment of the average annual amounts decreed herein.

10. Proposed Uses of Water:

Conditioned upon the replacement requirements being satisfied by a judicially approved augmentation plan to be adjudicated separately, Applicant is entitled as a matter of law to use the ground water withdrawn from any well herein and to reuse, and successively use, and otherwise dispose of such water for all municipal purposes including domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, and sanitary purposes. This water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of this ground water or of water from other sources, and for augmentation purposes. Moreover, Applicant may use return flows of this ground water to replace depletions under a plan for augmentation approved in compliance with applicable law.

11. Conditions:

For each well constructed pursuant to this decree, Applicant shall comply with the following conditions:

A. A totalizing flow meter shall be installed on the well discharge prior to withdrawing any water therefrom. Applicant shall keep accurate records of all withdrawals by the well, make any calculations necessary, and submit such records to the Division 1 Engineer as reasonably requested.

B. The entire length of the open bore hole shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicant may provide a geophysical log from an adjacent well or test hole, pursuant to Rule 9A of the Statewide Nontributary Ground Water Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

C. The ground water production shall be limited to the specific aquifer for which the well was designed. Plain, unperforated casing must be installed and properly grouted to

prevent withdrawal from or intermingling of water from zones other than those for which the well was designed.

D. Each well shall be permanently identified by its permit number, this Water Court Case Number, and the name of the producing aquifer on the above-ground portion of the well casing or on the pumphouse.

CONCLUSIONS OF LAW

12. The Water Court has jurisdiction over this proceeding pursuant to § 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law. Section 37-90-137(4), C.R.S. The application for a decree confirming Applicant's right to withdraw and use all ground water from the Dawson aquifer beneath its property as described herein pursuant to §§ 37-90-137(4) and 37-90-137(9)(c), C.R.S. (1987 Cum. Supp.), should be granted, subject to the provisions of this decree. The nature and extent of the rights to not nontributary ground water determined herein are defined by §§ 37-90-137(4) and 37-90-137(9), C.R.S. (1987 Cum. Supp.).

13. The rights to not nontributary ground water determined herein shall not be administered in accordance with priority of appropriation. Such rights are not "conditional water rights" as defined by § 37-92-103(6), C.R.S. The provisions of § 37-92-301(4), C.R.S., requiring quadrennial findings of reasonable diligence are not applicable to the ground water rights determined herein. The determination of ground water rights herein need not include a date of initiation of the withdrawal project, because such rights are administered only pursuant to §§ 37-90-137(4) and 37-90-137(9), C.R.S. (1987 Cum. Supp.).

14. Upon obtaining an approved plan for augmentation, Applicant is entitled to permits to construct the wells described in paragraph 5 hereof which will withdraw not nontributary ground water under §§ 37-90-137(4), and 37-90-137(9), C.R.S., and such additional wells as may be required in the future to withdraw such ground water pursuant to § 37-90-137(10), C.R.S.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

15. The Findings of Fact and Conclusions of Law are incorporated into this Decree of the Water Court.

16. Replacement Obligations and Right to Use Not Nontributary Ground Water:

A. By separate application. Applicant must obtain from this Court an approved plan for augmentation for the replacement of depletions associated with the withdrawal of the water rights decreed herein.

B. The Applicant may withdraw the not nontributary ground water herein through the wells listed above at the locations listed above and in the average annual amounts specified therefor, subject to the requirements of this paragraph and the retained jurisdiction by this Court.

17. Retained Jurisdiction:

A. The Court retains jurisdiction as necessary to adjust the average annual amounts of not nontributary ground water available under the property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to § 37-92-305(11), C.R.S. (1987 Cum. Supp.).

B. Within 60 days after completion of any well decreed herein, or any test hole(s), Applicant or any successor in interest to these water rights shall obtain a geophysical log of said well(s) or test hole(s) and shall serve such log(s) upon the State Engineer and notify each of the parties who have appeared herein that copies of the log and well completion report, if the well is completed, are available for review.

C. At such time as adequate data are available for the purpose of adjusting average annual amounts, the Applicant, the State Engineer, or any party hereby may invoke the Court's retained jurisdiction. Within 60 days of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the data available to him to make a final determination of water rights finding. The State Engineer shall submit such finding to the Water Court and to the Applicant, and the Applicant shall serve a copy upon the other parties.

D. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within the 60-day period, such final determination shall be made by the Water Court after notice and hearing. In the event



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the State Engineer fails to make a final determination, the Applicant shall notify all parties of the hearing schedule. In the interim, the Court retains jurisdiction in this matter pursuant to § 37-92-305(11), C.R.S. (1987 Cum. Supp.).

RULING ENTERED this 30th day of November, 1988.

  
Raymond S. Liesman, Water Referee  
Water Division No. 1  
State of Colorado

THE COURT DOETH FIND THAT NO PROTEST TO THE RULING OF THE REFEREE HAS BEEN FILED. THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

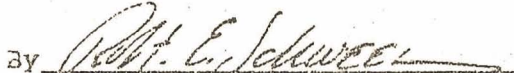
DATED: December 29, 1988

  
Robert A. Behrman, Water Judge  
Water Division No. 1  
State of Colorado

APPROVED AS TO FORM AND CONTENT:

SAUNDERS, SNYDER, ROSS  
& DICKSON, P.C.

Date: \_\_\_\_\_

By   
Robert E. Schween, #12923  
707 17th Street, Suite 3500  
Denver, Colorado 80202  
(303) 292-5600

ATTORNEYS FOR APPLICANTS BRIDGE  
BUILDERS, INC. AND SPRUCE MOUNTAIN  
ASSOCIATES

SPRUCE MOUNTAIN RANCH  
LAND DESCRIPTION  
BY  
KKBNA, INC.

A TRACT OF LAND SITUATED IN SECTIONS 15, 16, 20, 21, 22, 27, 28, 29, and 33,  
TOWNSHIP 30 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
DOUGLAS COUNTY, COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 16 AND THE TRUE POINT  
OF BEGINNING; THENCE S 89°12'52" E, 2641.98 FEET TO THE NORTH QUARTER  
CORNER OF SAID SECTION 16; THENCE S 00°13'20" E, 2647.26 FEET TO THE  
NORTH RIGS-OF-WAY LINE OF NOE ROAD OR DOUGLAS COUNTY ROAD NO. 74;  
THENCE S 00°13'20" E, 68.16 FEET ALONG THE WEST LINE OF THE EAST HALF  
OF SAID SECTION 16 TO THE SOUTH RIGHT-OF-WAY LINE OF SAID NOE ROAD;  
THENCE ALONG THE SOUTH LINE OF SAID NOE ROAD THE FOLLOWING FOUR (4)  
CONSECUTIVE COURSES: (1) THENCE S 61°53'53" E, 12.05 FEET; (2) THENCE  
S 89°25'21" E, 2657.52 FEET; (3) THENCE S 88°05'18" E, 734.15 FEET;  
(4) THENCE S 89°19'17" E, 544.61 FEET TO THE EAST LINE OF THE WEST HALF  
OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE LEAVING SAID  
RIGHT-OF-WAY LINE S 00°29'11" E, 2592.17 FEET ALONG SAID EAST LINE TO  
THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE  
S 00°43'51" E, 2635.47 FEET ALONG THE EAST LINE OF THE WEST HALF OF THE  
NORTHWEST QUARTER OF SAID SECTION 22 TO THE SOUTH LINE OF THE NORTHWEST  
QUARTER OF SAID SECTION 22; THENCE S 00°43'50" E, 2637.86 FEET ALONG THE  
EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 22  
TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE  
N 89°51'16" W, 1336.14 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 22;  
THENCE S 00°12'31" E, 1311.87 FEET TO THE NORTHEAST CORNER OF THE  
SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE  
S 89°57'39" W, 1333.17 FEET TO THE CENTER OF SAID NORTHEAST QUARTER OF  
SECTION 28; THENCE S 00°25'44" E, 1312.51 FEET TO THE SOUTHWEST CORNER  
OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 28;  
THENCE N 89°56'02" E, 1328.12 FEET TO THE EAST QUARTER CORNER OF SAID  
SECTION 28; THENCE S 89°55'12" E, 186.81 FEET ALONG THE NORTH LINE OF  
THE SOUTHWEST QUARTER OF SAID SECTION 27; THENCE S 07°04'24" W, 379.02  
FEET TO THE WEST RIGHT-OF-WAY LINE OF SPRUCE MOUNTAIN ROAD OR DOUGLAS  
COUNTY ROAD #53; THENCE ALONG SAID WEST LINE OF SPRUCE MOUNTAIN ROAD THE  
FOLLOWING SIX (6) CONSECUTIVE COURSES: (1) THENCE S 30°45'07" W, 582.65  
FEET; (2) THENCE S 59°14'53" E, 20.00 FEET; (3) THENCE S 30°45'07" W,  
913.00 FEET TO A POINT OF CURVATURE; (4) THENCE 671.57 FEET ALONG THE  
ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2915.00 FEET AND A CENTRAL  
ANGLE OF 13°12'00" TO A POINT OF TANGENCY; (5) THENCE S 17°33'07" W,  
215.10 FEET TO A POINT OF CURVATURE; (6) THENCE 217.95 FEET ALONG THE  
ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5680.00 FEET AND A  
CENTRAL ANGLE OF 02°11'51" TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF  
SAID SECTION 28; THENCE N 89°53'07" W, 1609.65 FEET TO THE SOUTH QUARTER  
CORNER OF SAID SECTION 28; THENCE N 89°54'46" W, 2677.80 FEET TO THE  
SOUTHWEST CORNER OF SAID SECTION 28; THENCE N 89°36'57" W, 2242.60 FEET  
ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28 TO THE  
SOUTHEAST CORNER OF LOT 1 IN A SUBDIVISION ENTITLED SPRUCE MOUNTAIN  
ESTATES, UNIT 1; THENCE N 67°26'23" W, 236.99 FEET ALONG THE SOUTH LINE

OF SAID LOT 1 TO THE EAST RIGHT-OF-WAY LINE OF YARNELL DRIVE; THENCE  
 ALONG SAID EAST LINE OF YARNELL DRIVE THE FOLLOWING THREE (3)  
 CONSECUTIVE COURSES: (1) THENCE 116.37 FEET ALONG A NON-TANGENT CURVE  
 TO THE LEFT WITH A RADIUS OF 269.20 FEET, A CENTRAL ANGLE OF 24°46'06"  
 AND A CHORD BEARING N 13°51'38" W, 115.47 FEET TO A POINT OF TANGENCY;  
 (2) THENCE N 26°14'41" W, 172.63 FEET TO THE SOUTH LINE OF SPRUCE  
 MOUNTAIN ESTATES, UNIT 2; (3) THENCE N 26°14'41" W, 198.78 FEET TO THE  
 SOUTH RIGHT-OF-WAY LINE OF SPRUCE ROAD; THENCE ALONG SAID SOUTH LINE OF  
 SPRUCE ROAD THE FOLLOWING TWO (2) CONSECUTIVE COURSES: (1) THENCE  
 114.67 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS OF  
 180.00 FEET, A CENTRAL ANGLE OF 36°30'00" AND A CHORD BEARING  
 N 82°00'19" E, 112.74 FEET TO A POINT OF TANGENCY; (2) THENCE  
 S 79°44'41" E, 134.00 FEET; THENCE LEAVING SAID SOUTH LINE  
 N 10°15'19" E, 83.00 FEET TO THE SOUTHEAST CORNER OF LOT 21 OF SPRUCE  
 MOUNTAIN ESTATES, UNIT 2; THENCE N 03°29'41" W, 378.00 FEET TO THE  
 NORTHEASTMOST CORNER OF SAID LOT 21 AND THE SOUTHEAST CORNER OF LOT 23 OF  
 SAID SPRUCE MOUNTAIN ESTATES, UNIT 2; THENCE N 42°59'41" W, 190.00 FEET  
 TO THE NORTHERNMOST CORNER OF SAID LOT 20; THENCE S 58°13'56" W, 415.60  
 FEET TO THE EAST RIGHT-OF-WAY LINE OF YARNELL DRIVE, AND THE WESTERNMOST  
 CORNER OF SAID LOT 20; THENCE S 75°38'39" W, 60.00 FEET TO THE WEST LINE  
 OF SAID YARNELL DRIVE; THENCE 178.77 FEET ALONG A NON-TANGENT CURVE TO  
 THE LEFT WITH A RADIUS OF 418.72 FEET, A CENTRAL ANGLE OF 24°27'44" AND  
 A CHORD BEARING S 26°35'21" E, 177.42 FEET, SAID LINE BEING THE WEST  
 LINE OF YARNELL DRIVE, TO THE NORTHEAST CORNER OF LOT 16 OF SAID SPRUCE  
 MOUNTAIN ESTATES, UNIT 2; THENCE S 80°32'29" W, 167.77 FEET TO THE  
 NORTHWEST CORNER OF SAID LOT 16; THENCE S 15°32'50" E, 360.00 FEET TO  
 THE SOUTHWEST CORNER OF SAID LOT 16; THENCE S 89°37'10" W, 245.57 FEET  
 TO THE WESTERLY RIGHT-OF-WAY LINE OF VALLEY VIEW DRIVE AS ESTABLISHED IN  
 SPRUCE MOUNTAIN ESTATES, UNIT 1; THENCE ALONG SAID WESTERLY LINE OF  
 VALLEY VIEW DRIVE THE FOLLOWING THIRTEEN (13) CONSECUTIVE COURSES:  
 (1) THENCE S 62°38'02" E, 54.21 FEET TO A POINT OF CURVATURE; (2) THENCE  
 125.97 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF  
 68.79 FEET AND A CENTRAL ANGLE OF 104°55'32" TO A POINT OF TANGENCY;  
 (3) THENCE S 42°17'30" W, 69.12 FEET TO A POINT OF CURVATURE; (4) THENCE  
 136.62 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF  
 230.45 FEET AND CENTRAL ANGLE OF 33°58'03" TO A POINT OF TANGENCY;  
 (5) THENCE S 76°15'33" W, 21.86 FEET TO A POINT OF CURVATURE; (6) THENCE  
 121.08 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 125.50 FEET AND  
 A CENTRAL ANGLE OF 55°16'48" TO A POINT OF TANGENCY; (7) THENCE  
 S 20°58'45" W, 49.80 FEET TO A POINT OF CURVATURE; (8) THENCE 239.96  
 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 113.25 FEET AND A  
 CENTRAL ANGLE OF 121°24'00" TO A POINT OF TANGENCY; (9) THENCE  
 N 37°37'15" W, 113.27 FEET TO A POINT OF CURVATURE; (10) THENCE 255.35  
 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 316.50 FEET AND A  
 CENTRAL ANGLE OF 46°13'31" TO A POINT OF TANGENCY; (11) THENCE  
 N 83°50'46" W, 24.28 FEET TO A POINT OF CURVATURE; (12) THENCE 259.84  
 FEET ALONG A CURVE TO THE RIGHT A RADIUS OF 256.50 FEET AND A CENTRAL  
 ANGLE OF 58°01'58" TO A POINT OF TANGENCY; (13) THENCE N 25°48'48" W,  
 51.11 FEET TO THE NORTH LINE OF SPRUCE MOUNTAIN ESTATES, UNIT 1; THENCE  
 S 89°37'10" W, 24.95 FEET ALONG THE NORTH LINE OF SPRUCE MOUNTAIN  
 ESTATES, UNIT 1 TO THE EAST RIGHT-OF-WAY LINE OF PINE VIEW ROAD AS  
 ESTABLISHED BY SPRUCE MOUNTAIN ESTATES, UNIT 2; THENCE N 14°25'41" E,  
 51.72 FEET ALONG THE EAST LINE OF SAID PINE VIEW ROAD TO A POINT; THENCE  
 S 89°37'10" W, 62.06 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF PINE VIEW

ROAD AND THE SOUTHEAST CORNER OF LOT 3 IN SAID SPRUCE MOUNTAIN ESTATES, UNIT 2; THENCE ALONG SAID WESTERLY LINE OF PINE VIEW ROAD THE FOLLOWING FOUR (4) CONSECUTIVE COURSES: (1) THENCE N 14°25'41" E, 68.21 FEET TO A POINT OF CURVATURE; (2) THENCE 211.32 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 357.14 FEET AND A CENTRAL ANGLE OF 33°54'08" TO A POINT OF TANGENCY; (3) THENCE N 19°28'27" W, 172.40 FEET TO A POINT OF CURVATURE; (4) THENCE 30.00 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 758.61 FEET AND A CENTRAL ANGLE OF 02°15'57" TO THE SOUTHEAST CORNER OF LOT 5 OF SAID SPRUCE MOUNTAIN ESTATES, UNIT 2; THENCE ALONG SAID LOT 5 THE FOLLOWING FOUR (4) CONSECUTIVE COURSES: (1) THENCE S 72°16'51" W, 331.71 FEET TO THE EASTERLY LINE OF A CUL-DE-SAC FOR PINE VIEW CIRCLE AS ESTABLISHED IN SAID SPRUCE MOUNTAIN ESTATES, UNIT 2; (2) THENCE 58.13 FEET ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 45.00 FEET, A CENTRAL ANGLE OF 74°01'06" AND A CHORD BEARING N 54°43'42" W, 54.17 FEET ALONG SAID CUL-DE-SAC; (3) THENCE 4 01°44'15" W, 286.32 FEET TO THE NORTH LINE OF SAID SPRUCE MOUNTAIN ESTATES, UNIT 2; (4) THENCE N 89°41'24" E, 335.00 FEET ALONG THE SAID NORTH LINE OF UNIT 2 TO THE WESTERLY LINE OF SAID PINE VIEW ROAD; THENCE N 00°01'40" E, 420.00 FEET; THENCE S 89°41'24" W, 605.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF PERRY PARK ROAD OR DOUGLAS COUNTY ROAD NO. 108; THENCE N 00°08'54" W, 1557.88 FEET ALONG THE EAST LINE OF SAID PERRY PARK ROAD TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 29; THENCE N 89°46'20" E, 2641.32 FEET TO THE NORTHEAST CORNER OF SAID SECTION 29; THENCE N 0°37'51" W, 662.72 FEET ALONG THE EAST LINE OF SOUTHEAST QUARTER SAID SECTION 20 TO THE NORTH LINE OF THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 20; THENCE S 89°43'45" W, 2615.02 FEET ALONG SAID NORTH LINE TO THE EAST RIGHT-OF-WAY LINE OF SAID PERRY PARK ROAD; THENCE ALONG SAID EAST LINE OF PERRY PARK ROAD THE FOLLOWING TEN (10) CONSECUTIVE COURSES: (1) N 05°48'37" W, 73.27 FEET; (2) THENCE N 00°47'56" E, 282.24 FEET; (3) THENCE N 13°11'06" E, 570.40 FEET; (4) THENCE N 01°48'28" E, 1095.93 FEET; (5) THENCE N 12°03'57" E, 795.16 FEET; (6) THENCE N 20°57'42" E, 67.54 FEET; (7) THENCE N 04°29'35" W, 258.73 FEET; (8) THENCE N 10°32'58" W, 884.30 FEET; (9) THENCE N 10°16'12" W, 493.03 FEET; (10) THENCE N 36°00'04" W, 254.84 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 20; THENCE S 89°52'04" E, 2524.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 20; THENCE N 00°04'49" E, 2689.51 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 16; THENCE N 00°03'49" E, 2582.29 FEET TO THE NORTHWEST CORNER OF SAID SECTION 16, THE TRUE POINT OF BEGINNING, CONTAINING 2373.98 ACRES, MORE OR LESS.

AND

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 10 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF REFERENCE AT THE WEST QUARTER CORNER OF SAID SECTION 27; THENCE S 89°55'12" E, 639.66 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 27 TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE S 89°55'12" E, 361.83 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF THE DENVER & RIO GRANDE WESTERN RAILROAD; THENCE LEAVING SAID NORTH LINE S 43°47'00" W, 658.68 FEET

ALONG SAID WESTERLY LINE OF THE DENVER & RIO GRANDE WESTERN RAILROAD TO THE COMMON EASTERLY RIGHT-OF-WAY LINE OF THE ATCHISON, TOPEKA & SANTA FE RAILROAD AND THE DENVER & RIO GRANDE WESTERN RAILROAD; THENCE ALONG SAID COMMON EASTERLY LINE THE FOLLOWING THREE (3) CONSECUTIVE COURSES: (1) THENCE 224.60 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1482.50 FEET, A CENTRAL ANGLE OF 08°40'50" AND A CHORD BEARING N 19°37'25" E, 224.39 FEET TO A POINT OF TANGENCY; (2) THENCE N 15°17'00" E, 130.00 FEET TO A POINT OF CURVATURE; (3) THENCE 310.12 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1036.00 FEET, A CENTRAL ANGLE OF 16°12'41" AND A CHORD-BEARING N 23°23'21" E, 309.07 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 27 AND THE TRUE POINT OF BEGINNING AND CONTAINING 2.71 ACRES, MORE OR LESS.

AND

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 27 AND THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 10 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF REFERENCE AT THE WEST QUARTER CORNER OF SAID SECTION 27; THENCE S 26°58'26" E, 512.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SPRUCE MOUNTAIN ROAD OR DOUGLAS COUNTY ROAD NO. 53, AND THE TRUE POINT OF BEGINNING; THENCE S 75°31'15" E, 92.96 FEET; THENCE N 21°15'08" E, 110.00 FEET TO THE COMMON WESTERLY RIGHT-OF-WAY LINE OF THE ATCHISON, TOPEKA & SANTA FE RAILROAD AND THE DENVER & RIO GRANDE WESTERN RAILROAD; THENCE ALONG SAID COMMON WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) CONSECUTIVE COURSES: (1) THENCE S 74°43'00" E, 25.00 FEET TO A POINT OF TANGENCY; (2) THENCE 580.49 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1382.50 FEET, A CENTRAL ANGLE OF 24°03'28" AND A CHORD BEARING S 27°18'44" W, 575.24 FEET TO A POINT OF COMPOUND CURVATURE; (3) THENCE 367.73 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5680.00 FEET, A CENTRAL ANGLE OF 03°42'34" AND A CHORD BEARING S 41°11'45" W, 367.67 FEET TO A POINT OF REVERSE CURVATURE; (4) THENCE 693.75 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 3185.40 FEET, A CENTRAL ANGLE OF 12°17'55" AND A CHORD BEARING S 36°54'04" W, 682.43 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID SPRUCE MOUNTAIN ROAD; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF SPRUCE MOUNTAIN ROAD THE FOLLOWING THREE (3) CONSECUTIVE COURSES: (1) THENCE N 30°45'07" E, 963.00 FEET; (2) THENCE S 59°14'53" E, 10.00 FEET; (3) THENCE N 30°45'07" E, 511.00 FEET TO THE TRUE POINT OF BEGINNING AND CONTAINING 2.77 ACRES, MORE OR LESS.

AND

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 27, THE SOUTHEAST QUARTER OF SECTION 28, AND THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 10 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF REFERENCE AT THE EAST QUARTER CORNER OF SAID SECTION 33; THENCE S 89°53'20" W, 2043.37 FEET ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 33 TO THE WESTERLY RIGHT-OF-WAY LINE

OF THE ATCHISON, TOPEKA & SANTA FE RAILROAD, AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING S 89°53'20" W, 495.06 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER & RIO GRANDE RAILROAD; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING EIGHT (8) CONSECUTIVE COURSES: (1) THENCE N 58°22'07" E, 214.09 FEET TO A POINT OF CURVATURE; (2) THENCE 1246.91 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2050.00 FEET AND A CENTRAL ANGLE OF 34°51'00" TO A POINT OF TANGENCY; (3) THENCE N 23°31'07" E, 1312.20 FEET TO A POINT OF CURVATURE; (4) THENCE 611.29 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5870.00 FEET AND A CENTRAL ANGLE OF 05°58'00" TO A POINT OF TANGENCY; (5) THENCE N 17°33'07" E, 215.19 FEET TO A POINT OF CURVATURE; (6) THENCE 627.79 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2725.00 FEET AND A CENTRAL ANGLE OF 13°12'00" TO A POINT OF COMPOUND CURVATURE; (7) THENCE 701.75 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3025.40 FEET AND A CENTRAL ANGLE OF 13°01'53" TO A POINT OF TANGENCY; (8) THENCE N 43°47'00" E, 400.86 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF THE ATCHISON, TOPEKA & SANTA FE RAILROAD; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) CONSECUTIVE COURSES: (1) THENCE 575.35 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1860.00 FEET, A CENTRAL ANGLE OF 05°24'05" AND A CHORD BEARING S 19°44'58" W, 175.28 FEET TO A POINT OF TANGENCY; (2) THENCE S 22°27'00" W, 3644.50 FEET TO A POINT OF CURVATURE; (3) THENCE 615.29 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1382.50 FEET AND A CENTRAL ANGLE OF 25°30'00" TO A POINT OF TANGENCY; (4) THENCE S 47°57'00" W, 405.45 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 33, THE TRUE POINT OF BEGINNING, CONTAINING 34.66 ACRES, MORE OR LESS.

AND

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 10 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF REFERENCE AT THE EAST QUARTER CORNER OF SAID SECTION 33; THENCE S 89°53'20" W, 664.52 FEET ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LINE S 89°53'20" W, 1229.22 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE ATCHISON, TOPEKA & SANTA FE RAILROAD; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) CONSECUTIVE COURSES: (1) THENCE N 47°57'00" E, 494.15 FEET TO A POINT OF CURVATURE; (2) THENCE 659.80 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1482.50 FEET AND A CENTRAL ANGLE OF 25°30'00" TO A POINT OF TANGENCY; (3) THENCE N 22°27'00" E, 505.87 FEET; THENCE LEAVING SAID EASTERLY LINE S 89°59'58" E, 262.13 FEET ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID NORTHEAST QUARTER TO THE EAST LINE OF THE WEST HALF OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE S 01°16'53" E, 1331.16 FEET ALONG SAID EAST LINE TO THE SOUTH LINE OF SAID NORTHEAST QUARTER, THE TRUE POINT OF BEGINNING, CONTAINING 19.53 ACRES, MORE OR LESS.

EXCEPT

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A 60-FOOT WIDE PUBLIC RIGHT-OF-WAY AS RECORDED IN BOOK 1, PAGE 4, AND IN BOOK 1, PAGE 38, OF THE DOUGLAS COUNTY RECORDS AND SITUATED IN THE WEST HALF OF SECTION 16, TOWNSHIP 10 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF REFERENCE AT THE WEST QUARTER CORNER OF SAID SECTION 16; THENCE N 00°03'49" E, 190.62 FEET ALONG THE WEST LIFE OF THE NORTHWEST QUARTER OF SAID SECTION 16 TO THE SOUTHERLY RIGHT-OF-WAY LINE OF NOE ROAD OR DOUGLAS COUNTY ROAD NO. 74 AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING N 00°03'49" E, 60.67 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID NOE ROAD; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF NOE ROAD THE FOLLOWING SEVEN (7) CONSECUTIVE COURSES: (1) THENCE S 81°23'12" E, 215.12 FEET; (2) THENCE N 81°19'55" E, 626.00 FEET; (3) THENCE N 88°31'31" E, 321.31 FEET; (4) THENCE S 85°43'37" E, 894.70 FEET; (5) THENCE S 80°09'04" E, 128.36 FEET; (6) THENCE S 68°23'15" E, 183.01 FEET; (7) THENCE S 61°53'53" E, 353.55 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 16; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE OF NOE ROAD S 00°13'30" E, 68.16 FEET ALONG THE EAST LINE OF THE WEST HALF OF SAID SECTION 16 TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID NOE ROAD; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF NOE ROAD THE FOLLOWING SEVEN (7) CONSECUTIVE COURSES: (1) THENCE N 61°53'53" W, 382.79 FEET; (2) THENCE N 68°23'15" W, 173.42 FEET; (3) THENCE N 80°09'04" W, 119.26 FEET; (4) THENCE N 85°43'37" W, 888.77 FEET; (5) THENCE S 88°31'31" W, 314.52 FEET; (6) THENCE S 81°19'55" W, 631.35 FEET; (7) THENCE N 81°23'12" W, 216.22 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 16, THE TRUE POINT OF BEGINNING, AND CONTAINING 3.75 ACRES, MORE OR LESS

SPRUCE MOUNTAIN RANCH AS DESCRIBED ABOVE CONTAINS 2429.90 ACRES, MORE OR LESS.

KKBNA, INC.  
1/22/87