



Sara J Fisher Eagle, CO

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07/19/2002 01:25P**EASEMENT**

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THIS EASEMENT ("Easement") is made as of the 5 day of July, 2002, by and between JJP COMPANIES, INC. ("Grantor") and EAGLE INTERCHANGE, LLC ("Grantee").

Recitals

A. Grantor is the owner of that certain parcel of land in Eagle County, Colorado more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Burdened Property").

B. Grantee is the owner of that certain parcel of land in Eagle County, Colorado more particularly described in Exhibit B attached hereto and incorporated herein by this reference (the "Benefitted Property").

C. Grantor desires to grant a perpetual and exclusive easement with respect to a 1.5 acre portion of the Burdened Property, such portion more particularly described in Exhibit C attached hereto and incorporated herein by this reference (the "Easement Area") to Grantee. Grantee shall be entitled to the use of the easement, to the exclusion of Grantor, for parking, for temporary storage of materials during construction (excluding toxic or environmentally hazardous materials), for other construction-related activity, for drainage purposes and for ingress and egress in association with the foregoing uses, all to be incidental to the full use and enjoyment of the Benefitted Property. Grantee desires to accept such grant of easement upon the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and the covenants and agreements hereinafter set forth, Grantor and Grantee each hereby agree and declare, for themselves and their successors and assigns, as follows:

1. **Grant of Easement**. Grantor hereby grants and conveys to and for the benefit of the Grantee and Grantee's successors and assigns a perpetual and exclusive easement for parking, for temporary storage of materials during construction (excluding toxic or environmentally hazardous materials), for other construction-related activity, for drainage purposes and for ingress and egress in association with the foregoing uses, all to be incidental to the full use and enjoyment of the Benefitted Property and to the exclusion of Grantor.

2. **No Obstruction or Interference**. Grantor shall not erect or construct, or cause to be erected or constructed, any fence, wall or other barrier or improvement on or over the Easement Area which would interfere with or constrict the full and complete use and enjoyment of the Easement Area by Grantee.

3. **Mechanic's Liens**. Grantee, for himself and his heirs, personal representatives, successors and assigns, agrees to indemnify and hold harmless the owner of the Burdened Property from and against any and all loss, liability, claims, damages and costs (including reasonable attorney's fees) arising from or relating to any mechanic's or materialmen's liens which may be asserted or recorded against the Burdened Property for services performed by or at the Grantee's request, and shall, at its sole cost and expense, cause to be removed of record any such mechanic's or materialmen's liens.

RENNIE CO JJP COMPANIES INC
PO Box 2697
Avon CO 81620

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4. **Indemnification.** Grantor and Grantee each agree to indemnify, save and keep each other and their respective employees, contractors, agents and invitees ("Indemnitees") harmless from any and all claims, damages, liabilities, losses, actions, suits, costs, expenses, and judgments of any kind whatsoever, including attorney's fees, which may be brought or claimed against an Indemnitee, which arise out of, directly or indirectly, the use of the Easement Area by Grantee, its employees, contractors, agents and invitees, but excepting from such indemnification any such claims, damages, costs, expenses or liabilities arising out of negligence or intentional misconduct of the Grantor, Grantee or their respective Indemnitees.

5. **Enforcement and Remedies.** All claims, demands, disputes, controversies and differences that may arise from or are related to this Easement shall be settled by binding arbitration before a single arbitrator in Eagle County, Colorado pursuant to the Uniform Arbitration Act of 1975, Part 2, Article 22, Title 13, Colorado Revised Statutes. The award of the arbitrator shall be final and binding on the parties, and judgment may be entered on such award in any court having jurisdiction. The arbitrator shall include, in any award, interest at the Colorado statutory rate from the time any sums become due from one party to another through the date of the award. After the date of the award, interest shall accrue on the amount of the award at the statutory rate until paid. The parties specifically agree that the arbitrator may, in addition to entering an award for monetary damages, also issue prohibitive or mandatory injunctions or order specific performance. The prevailing party in any arbitration shall be entitled to its reasonable costs and attorney's fees as part of the arbitration award.

6. **Notices.** Any notice to a party hereto shall be in writing and shall either be (a) personally delivered to the recipient of such notice; (b) deposited in the U.S. Post Office, postage prepaid, certified mail, return receipt requested, addressed to the recipient at the party's address as it appears beneath his signature below; (c) given by overnight courier addressed to the recipient at the party's address as it appears beneath his signature below; or (d) given by facsimile transmission to the number set forth beneath each party's signature below. All notices so given shall be considered effective. (i) if personally delivered, when received; (ii) if by certified mail five (5) business days after deposit with the U.S. Post Office; (iii) if by overnight courier, one (1) business day after deposit with the overnight courier company; or (iv) if by facsimile transmission, upon receipt of a machine-generated confirmation of a complete transmission of all pages. Any party to this agreement may change the address or facsimile number to which further notices shall be sent by notice to the other party in accordance with this section. Any new owner taking title to any portion of either the Burdened or the Benefitted Properties shall promptly register such information with the other party.

7. **Severability.** If any portion of the Easement is invalid or unenforceable in whole or in part, the validity or enforceability of the other provisions of this Easement shall not be affected.

8. **Running of the Benefits and Burdens.** The benefits and servitudes created by this Easement shall be a burden upon the Burdened Property, and a benefit to the Benefitted Property, shall be perpetual and shall run with the Properties until terminated or revoked by written instruments signed by Grantor and Grantee and shall be binding upon and inure to the benefit of the Grantor and Grantee, and their respective heirs, personal representatives, successors, assigns, and the tenants, customers, employees and invitees of the parties. This Easement shall be recorded in the real property records of the Eagle County, Colorado Clerk and Recorder's Office.

9. **Governing Law.** This Easement shall be governed by and enforced in accordance with the laws of the State of Colorado.



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10. **Counterparts.** This Easement may be executed in counterparts, each of which will be deemed an original, and all of which when taken together, shall constitute a single instrument.

11. **No Dedication to Public or Any Third Party.** Nothing herein contained shall be deemed a gift or dedication of any portion of the Burdened Property to the general public or to any third party or for public or ,third party use or purpose whatsoever.

12. **Modification; Termination.** This Easement and the easement, rights and obligations hereby imposed may not be modified, amended, changed, cancelled or terminated in any manner without the express written consent of the record owners of the Properties affected by such modification, amendment or termination, as set forth in the recorded instrument.

IN WITNESS WHEREOF, this Easement has been executed as of the day and year first above written.

GRANTOR:
JJP COMPANIES, INC.

By: _____
JOHN J. POUKISH
Post Office Box 2697
Avon, Colorado 81620
(970) 926-5057 (voice)
(970) 926-5087 (fax)

GRANTEE:
EAGLE INTERCHANGE, LLC

By: Mervyn Lapin
MERVYN LAPIN
232 West Meadow Drive
Vail, Colorado 81657
(970) 476-3351 (voice/fax)



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Avon, Colorado 81620
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(970) 926-5087 (fax)

GRANTEE:
EAGLE INTERCHANGE, LLC

By: 
MERVYN E. LAPIN
232 West Meadow Drive
Vail, Colorado 81657
(970) 476-3351 (voice/fax)



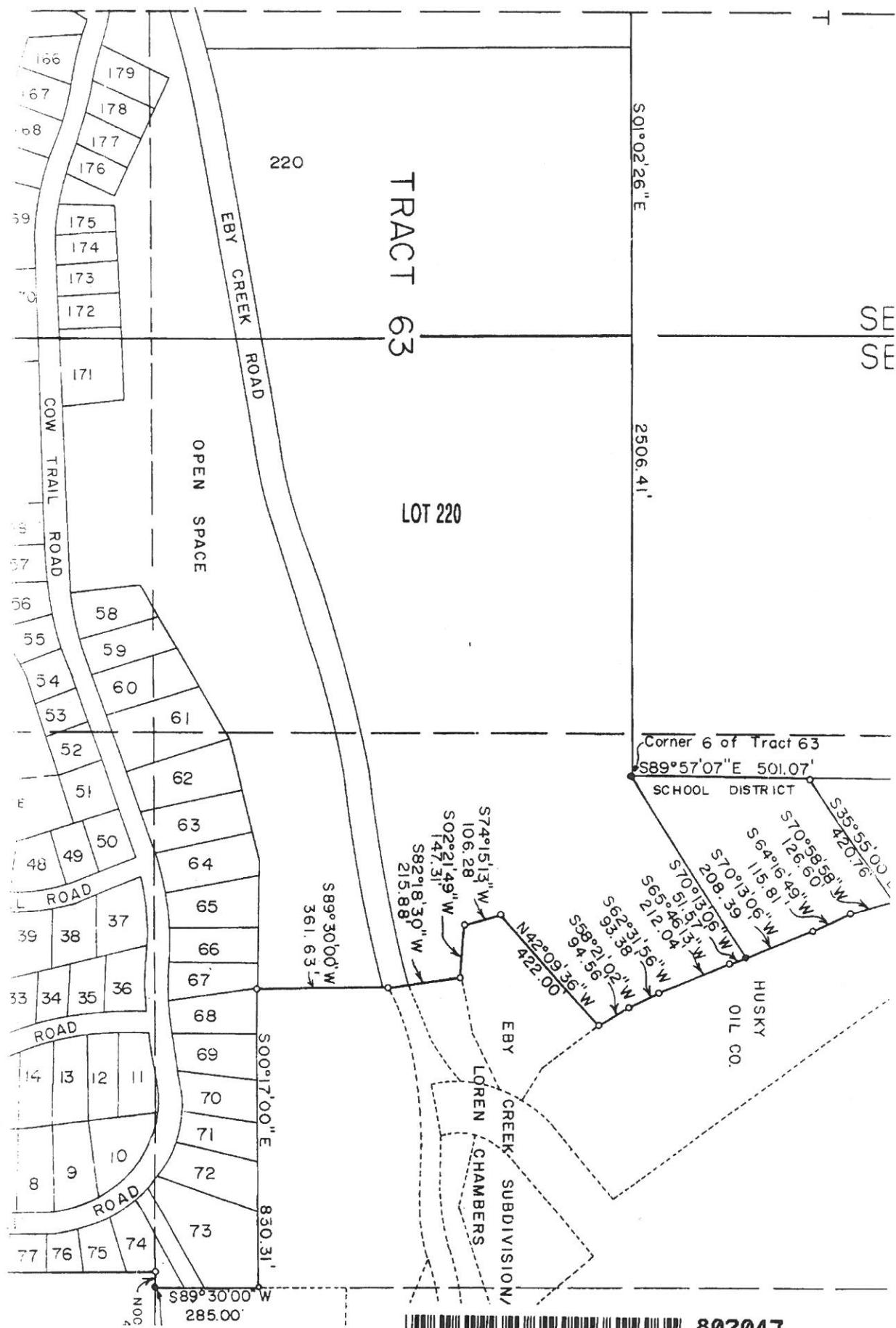
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EXHIBIT A

ONLY A 1.5 AC PORTION AS SHOWN ON EXHIBIT C IS BURDENED



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EXHIBIT B
("Benefitted Property")

A 7.576 acre parcel of land known as Lot 1, Eagle Interchange East, Eagle County, Colorado, recorded with the Eagle County Clerk and Recorder's Office August 14, 1996 as Reception No. 598818, Book 702, Page 831.

Such parcel is further described as commencing at angle point 6 of API Tract 63, located in Sec. 32, T4S, R84W, 6th Principal Meridian, Eagle County, Colorado of said plat map, the true point of beginning, thence S 89° 57'59" E a distance of 958.52', thence S 40°03'15"E a distance 180.32', thence S 31°48'27" W a distance of 383.78', thence S 70°58'58" W a distance of 126.60', thence S 64°16'49" W a distance of 115.81', thence S 70° 13'06" W a distance of 209.00', thence N 33°04'42" W a distance of 600.42' to the true point of beginning; said parcel of land containing 7.576 acres more or less.

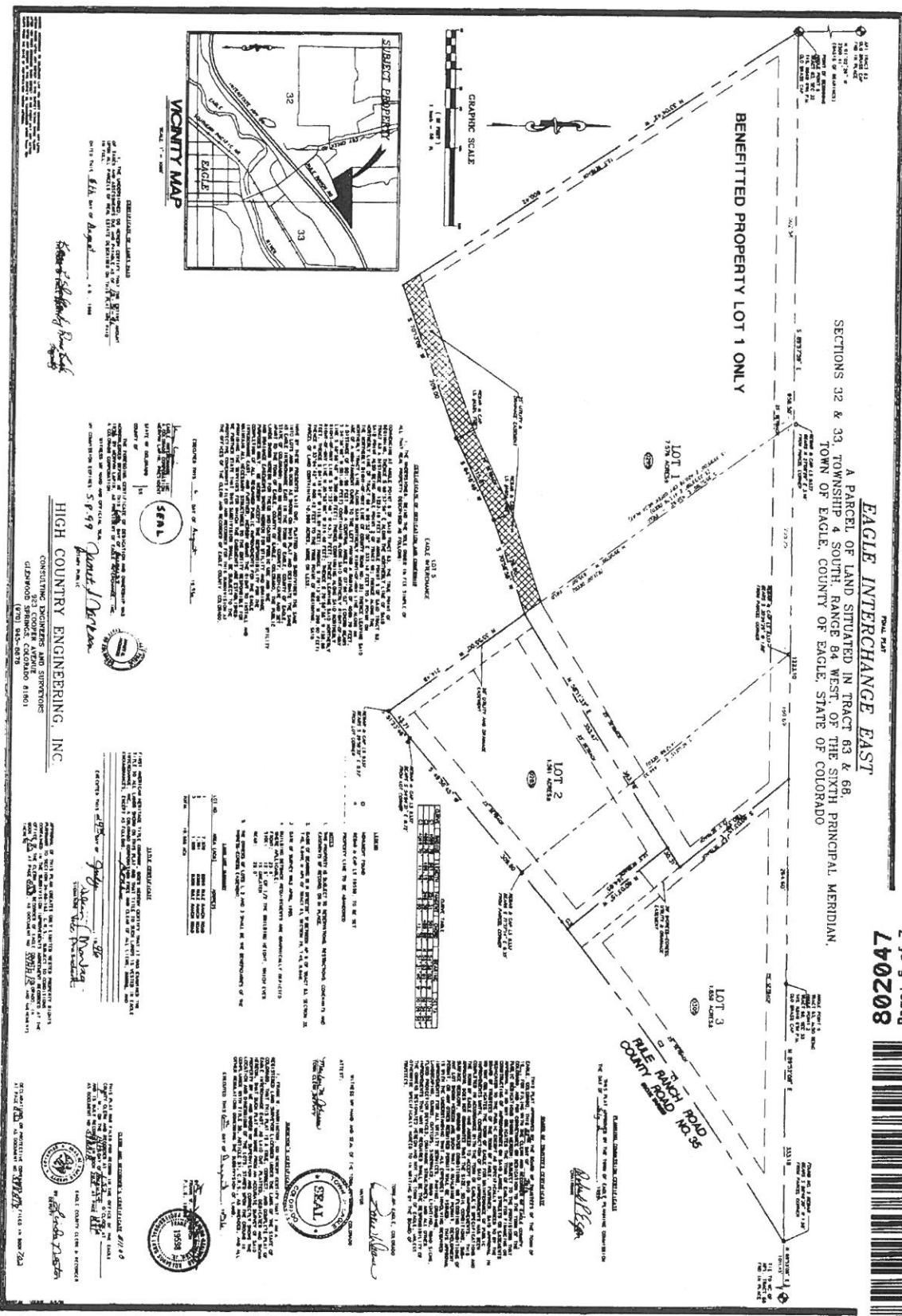
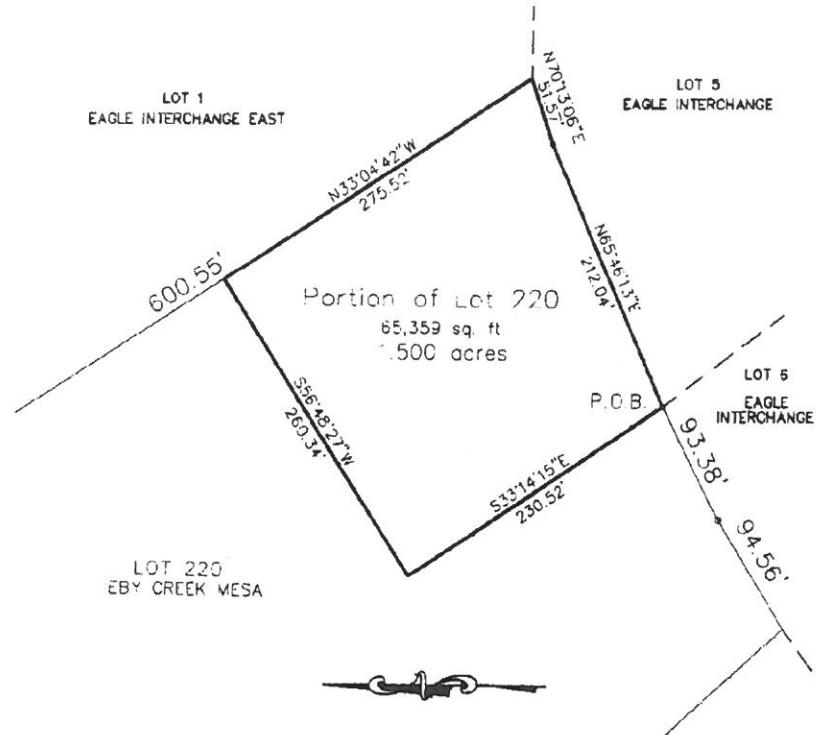


EXHIBIT C



LEGAL DESCRIPTION

A portion of Lot 220, Eby Creek Mesa, according to the Final Plot thereof filed for record on November 4, 1981, at Book 331, Page 642, Reception No. 22800C in the Office of the Clerk and Recorder, Eagle County, State of Colorado. Said parcel being more particularly described as follows, to wit:

Beginning at a Point being a southerly angle point of said Lot 220; thence along said south and east line of Lot 220 the following three (3) courses:

- 1) N65°46'13"E, 212.04 feet
- 2) N70°13'06"E, 51.57 feet
- 3) N33°04'42"W, 275.52 feet

thence departing said line S56°48'27"W 260.34 feet; thence S33°14'15"E 230.52 feet to the Point of Beginning, containing 1.500 acres more or less.

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 MEYER LAND SYSTEMS A Division of		
MARLIN ENGINEERING LLC		
P.O. Box 1082 AVON, CO 81620 (970) 748-0274 (970) 748-9021 FAX	P.O. Box 5018 EAGLE, CO 81631 (970) 328-1900 (970) 328-1901 FAX	
DRAWN BY: TJA DATE: 4-5-02		MLS99116\P\parcel-F.x.dwg



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