

Meadow Lake Airport Association

13625 Judge Orr Road, Meadow Lake Airport (kFLY), Peyton, CO 80831-6051

Date: April 14, 2023

To: El Paso County Planning and Community Development Department

Subj: **Waterbury Filing No. 1 – Final Plat** File: SF237 / PUDSP215

Ref: (a) C.R.S. 43-10-113 “*Safe Operating Area Around Airports*”
(b) Meadow Lake Airport Master Plan Update and Airport Layout Plan (2018)
(c) Colorado Aviation System Plan (2020)
(d) Pikes Peak Multi-Hazard Mitigation Plan (2020)
(e) ACRP Research Report 206: “*Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports*” (2019)

1. Request. Meadow Lake Airport Association requests that:

- a. the “Airspace Avigation Easement” signed by the applicant [Enclosure 1] be recorded with the El Paso County Clerk and Recorder, and be included with the Final Plat submittal and with Purchase Agreements for the lots in the Waterbury subdivision; and
- b. a “Disclosure Notification” [sample at Enclosure 2], be included as a General Note on the Final Plat as was required by the Board of County Commissioners with the Saddlehorn Ranch subdivision.

2. Background. This proposed development lies under the traffic pattern for Meadow Lake Airport’s primary runway (Runway 15-33) [see Enclosure 3]. Based on current airport activity, approximately 200-300 aircraft per day overfly this area at various low altitudes and power settings for approach or departure from this runway. This necessitates consideration of compatible uses as any residences in the proposed development will be subject to noise and vibration.

- The Colorado Aviation System Plan (2020) [page 4-10] states:
“Lands surrounding Colorado Springs Municipal (COS) and Meadow Lake (FLY) airports are being rapidly converted to residential development, prompting significant concerns by the airports, CDOT Division of Aeronautics, and local government officials.”
- The Colorado Revised Statutes, Section 24-65.1-202 states:
(a) *Areas around airports shall be administered so as to:*
 - (I) *Encourage land use patterns for housing and other local government needs that will separate uncontrollable noise sources from residential and other noise-sensitive areas; and*
 - (II) *Avoid danger to public safety and health or to property due to aircraft crashes.”*
- The Pikes Peak Multi-Hazard Mitigation Plan, adopted by the El Paso County Board of County Commissioners on December 15, 2020, devotes ten pages to

discussion of the growing potential for the impact of aircraft crashes to population living within hazard areas (Part 77 Areas).

- Correspondence from the FAA Denver Airport District Office (ADO) continues to express concern with the lack of attention to the approach and departure surfaces at Colorado Springs and Meadow Lake airports. The ADO letter of October 9, 2018 concerning the proposed Meadowlake Ranch development in the approach area to Runway 15 at Meadow Lake Airport stated:

“As a consequence of aircraft overflights, residents would be subjected to considerable “single-event” noise impacts from aircraft overflights, which residents are particularly sensitive to during nighttime hours. In addition, there could be visual (perceptual) impacts from aircraft operating into and out of the airport. While these types of operations represent safe and typical procedures over the currently vacant land, it would be disconcerting to many people on the ground in this area of proposed development, due to the perceived hazard of low-flying aircraft.”

- The Colorado Division of Aeronautics letter dated April 6, 2021, in response to the draft El Paso County Master Plan, stated:

“... we encourage El Paso County to help protect the public use airports in your county from encroaching incompatible land uses. Such land uses can have a negative impact on the safety and welfare of the community, and also reduce the safe and efficient operations and development of these airports, most notably Colorado Springs and Meadow Lake.

The Meadow Lake Airport Association (MLAA) continues to express concern over rezoning and/or development of any areas within the Meadow Lake Airport Influence Area (“AIA”). The County has approved a “1041 Permit” for Meadow Lake Airport and is in the process of updating the County GIS data base with KFLY’s current Part 77 Airspace, in accordance with statutory requirements to protect the land areas defined in 14 CFR Part 77. However, no appropriate planning standards have yet been promulgated, i.e.; a “Compatible Land Use Plan”, with which to evaluate development proposals in the “AIA”.

The El Paso County Land Development Code states the following:

8.4.2(A)(3) Airport Impacts. *“Residential lots should be located to minimize adverse influences from airports and airport operations.”*

8.4.2(B)(2) Noise. *“Divisions of land shall be designed to minimize the impacts of noise pollution to residents.”*

8.5.1(C)(3) Dedication of Easements (b) Owner Required to Dedicate Easements. *“The owner shall dedicate or deed easements required by this code, or the ECM, or to serve the division of land with utilities and other services, or those easements that may be requested by public agencies including but not limited to:*

- *Avigation easements;*
- *Noise Easements”*

Appendix H of the National Academies of Science “Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports” (ACRP Research Report 206). Due to the direct impact of the proposed development and the existing

traffic patterns of Meadow Lake Airport, we believe that the “Avigation Easement” and a “Real Estate Disclosure” must be a condition for approval of the development plan.

3. Summary. An “Airspace Avigation Easement” was provided by the applicant’s planner during the Preliminary Plan development and was signed by the applicant. MLAA requests that it be officially recorded with the County Clerk and Recorder and be required as a “Condition” of approval of the Final Plat. We also request that the Final Plat be amended to include a “Disclosure Notification” as previously required by the Board of County Commissioners for sub-division approval within the Airport Influence Area, i.e.; Saddlehorn Ranch. We are hopeful that the developer will see that these notifications benefit all stakeholders by providing record notice and other issues attendant to being in close proximity to an airport.

Respectfully,



David E. Elliott

President, MLAA Board of Directors

cell: (719) 339-0928 email: falcon20flier@msn.com

- Encl: (1) “Airspace Avigation Easement – Waterbury Filings 1 and 2”
(2) “Disclosure Notification”, Saddlehorn Ranch Filing No. 2 –Final Plat
(3) Meadow Lake Airport Traffic Pattern – Runway 15-33

Copy: Justin Walker, Dewhirst & Dolven LLC

AIRSPACE AVIGATION EASEMENT – Waterbury Filings 1 and 2

This indenture, made this 8th day of August, 2022 between 4 WAY RANCH LLC (hereinafter "GRANTOR"), and the Meadow Lake Airport Association (hereinafter "GRANTEE"), provides that:

A. The GRANTOR for and in consideration of fulfillment of a condition of project approval and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the GRANTEE, its successors and assigns, a perpetual and assignable easement in and over that certain parcel of real property more particularly identified and described in Exhibit A attached hereto and made a part hereof (said parcel hereinafter referred to as PARCEL), and a right-of-way for the free and unrestricted passage and flight of aircraft of the class, size and category as is now or hereinafter may be operationally compatible with Meadow Lake Airport, in, through, across and about the airspace above imaginary planes, as such those planes as defined by Part 77 of the Federal Aviation Regulations; Federal Aviation Administration (FAA) *Airport Design* Advisory Circular (current version); and *United States Standard for Terminal Instrument Procedures (TERPS)* (current version) over said PARCEL, as described below (hereinafter "Airspace").

This easement shall not apply to restrict improvements constructed on the property below 7,115 feet above mean sea level (MSL), or 150 feet above the highest ground elevation of the parcel.

B. The Airspace for avigation easement purposes above said PARCEL consists of the following:

all of the air space above the imaginary planes that are described by Part 77 of the Federal Aviation Regulations.

all of the air space above the relevant imaginary planes that are described by the latest version of the FAA *Airport Design* Advisory Circular (AC 150/5300-13A).

all of the air space above the relevant imaginary planes that are described by the latest version of the *United States Standard for Terminal Instrument Procedures (TERPS)* as described in the FAA Order 8260.3E

C. The aforesaid easement and right-of-way described in Paragraphs A and B includes but is not limited to:

1. For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons or aircraft, of the class, size and category as is now or hereinafter may be operationally compatible with Meadow Lake Airport, in, through, across or about any portion of the Airspace hereinabove described; and
 2. The easement and right to cause or create, or permit or allow to be caused or created within the Airspace, such noise, dust, turbulence, vibration, illumination, air currents, fumes, exhaust, smoke and all other effects as may be inherent in the proper operation of aircraft, now known or hereafter used for navigation of or flight in air; and
 3. The continuing and perpetual right to keep the Airspace clear of any portions of buildings, structures, or improvements of any and all kinds, and of trees, vegetation, or other objects, which extend into said Airspace; and
 4. The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects now upon, or that in the future may be upon, said PARCEL, and which extend into the Airspace may be required to mark according to FAA regulations or other regulation(s), rules, or order(s); and
 5. The right of ingress to, passage within, and egress from said PARCEL, solely for the above stated purposes.
- D. GRANTOR, on behalf of itself, its successors and assigns hereby covenants with the GRANTEE, Meadow Lake Airport Association, as follows:
1. GRANTOR, its successors and assigns, will not construct, install, permit or allow any building, structure, improvement, tree, or other object on said PARCEL, to extend into the Airspace, or to constitute an obstruction to air navigation, or to obstruct or interfere with the use of the easement and right-of-way herein granted; and
 2. GRANTOR, its successors and assigns, will not hereafter use or permit the use of said PARCEL in such a manner as to create electrical or electronic interference with radio communication or radar operation between any installation upon Meadow Lake Airport and any aircraft.
- E. The easement and right-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which now or hereinafter constitutes Meadow Lake Airport, and shall further be deemed in gross,

being conveyed to the GRANTEE for the benefit of the GRANTEE, and any and all members of the general public who may use said easement or right-of-way, taking off from, landing upon, or operating such aircraft in or about the Meadow Lake Airport or in otherwise flying through said Airspace.

F. This grant of avigation easement shall not operate to deprive the GRANTOR, its successors or assigns, of any rights that it may otherwise have from time to time against any individual or private operator for negligent or unlawful operation of aircraft.

G. It is understood and agreed that these covenants and agreements run with the land and shall be binding upon the heirs, representatives, administrators, executives, successors, and assigns of the GRANTOR, and that for the purposes of this instrument, the PARCEL shall be the servient easement and Meadow Lake Airport shall be the dominant tenement.

H. The avigation easement, covenants and agreements described herein shall continue in effect until the Meadow Lake Airport shall be abandoned or shall cease to be used for public airport purpose, at which time it shall terminate.

I. Grantors agree to waive all damages and claims for damages caused or alleged to be caused by the Grantors violation of any aspect of this easement document.

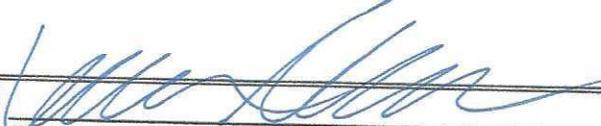
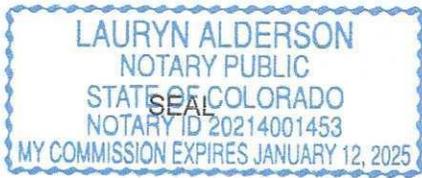
IN WITNESS WHEREOF, the GRANTOR has hereunto set its/his/her hands and seals this 8 th day of August, 2022.

GRANTOR

4 WAY RANCH JOINT VENTURE LLC
By: Peter R. Martz
Printed Name: PETER MARTZ
Title: MANAGER

State of Colorado
County of El Paso

Signed and sworn to [or affirmed] before me on August 8th, 2022
by Peter Martz (name(s) of individual(s) making statement).

 (Notary's official signature)	
<u>Notary Public</u> (Title of office)	
<u>January 12, 2025</u> (Commission Expiration)	

**EXHIBIT A
 WATERBURY – FILINGS 1 AND 2
 LEGAL DESCRIPTION**

A PARCEL OF LAND BEING A PORTION OF SECTION 28, A PORTION OF SECTION 29, AND A PORTION SECTION 33, TOWNSHIP 12 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MONUMENTED AT EACH END BY A 3-1/4" ALUMINUM SURVEYOR'S CAP STAMPED "PSINC LS 30087" AND ASSUMED TO BEAR S89°47'04"E A DISTANCE OF 5,285.07 FEET.

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 15 AS PLATTED IN 4 WAY RANCH FILING NO. 1, RECORDED UNDER RECEPTION NO. 206712416, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY LINE OF STAPLETON DRIVE AS DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 212064636; THENCE N01°31'24"E, ON THE EASTERLY BOUNDARY OF SAID LOT 15 AND THE SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 5.63 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID STAPLETON ROAD SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE EASTERLY BOUNDARY OF SAID 4 WAY RANCH FILING NO. 1, THE FOLLOWING TWELVE (12) COURSES;

1. N01°31'24"E, A DISTANCE OF 230.23 FEET;
2. N01°58'45"E, A DISTANCE OF 267.96 FEET;
3. N38°56'07"E, A DISTANCE OF 145.18 FEET;

4. N28°06'29"W, A DISTANCE OF 415.84 FEET;
5. N40°37'02"W, A DISTANCE OF 70.00 FEET TO A POINT ON CURVE;
6. ON THE ARC OF CURVE TO THE LEFT WHOSE CENTER BEARS S40°37'02"E, HAVING A DELTA OF 02°07'07", A RADIUS OF 1,135.00 FEET, A DISTANCE OF 41.97 FEET TO A POINT ON CURVE;
7. N44°30'10"W, A DISTANCE OF 104.01 FEET TO A POINT OF CURVE;
8. ON THE ARC OF CURVE TO THE RIGHT, HAVING A DELTA OF 21°00'17", A RADIUS OF 565.00 FEET, A DISTANCE OF 207.13 FEET TO A POINT OF TANGENT;
9. N23°29'53"W, A DISTANCE OF 586.57 FEET;
10. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 41°24'35", A RADIUS OF 40.00 FEET AND A DISTANCE OF 28.91 FEET TO A POINT OF REVERSE CURVE;
11. ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 98°17'54", A RADIUS OF 60.00 FEET, A DISTANCE OF 102.94 FEET TO A POINT ON CURVE;
12. N09°36'47"E, A DISTANCE OF 181.35 FEET;

THENCE S89°19'29"E, A DISTANCE OF 214.49 FEET, THENCE N00°45'00"E, A DISTANCE OF 32.04 FEET; THENCE S89°15'00"E, A DISTANCE OF 50.00 FEET; THENCE S88°55'30"E, A DISTANCE OF 146.32 FEET, THENCE S05°37'07"E, A DISTANCE OF 24.68 FEET; THENCE N89°59'53"E, A DISTANCE OF 150.97 FEET TO A POINT ON CURVE, THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N89°59'53"E, HAVING A DELTA OF 01°10'07", A RADIUS OF 225.00 FEET, A DISTANCE OF 4.59 FEET TO A POINT OF TANGENT; THENCE N01°10'00"E, A DISTANCE OF 22.47 FEET, THENCE S88°50'00"E, A DISTANCE OF 50.00 FEET; THENCE N89°55'04"E, A DISTANCE OF 152.16 FEET; THENCE N00°04'56"W, A DISTANCE OF 30.14 FEET; THENCE S88°18'35"E, A DISTANCE OF 150.98 FEET; THENCE S88°04'11"E, A DISTANCE OF 50.00 FEET; THENCE S01°43'12"W, A DISTANCE OF 27.39 FEET; THENCE S88°35'57"E, A DISTANCE OF 70.98 FEET; THENCE N68°36'47"E, A DISTANCE OF 62.85 FEET; THENCE N65°20'20"E, A DISTANCE OF 62.85 FEET; THENCE N62°03'54"E, A DISTANCE OF 62.85 FEET; THENCE N58°57'56"E, A DISTANCE OF 65.28 FEET; THENCE S32°58'22"E, A DISTANCE OF 124.73 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N32°58'22"W, HAVING A DELTA OF 08°00'18", A RADIUS OF 1,225.00 FEET, A DISTANCE OF 171.15 FEET TO A POINT ON CURVE; THENCE S41°02'14"E, A DISTANCE OF 144.45 FEET; THENCE S34°05'25"E, A DISTANCE OF 72.65 FEET; THENCE S30°56'30"E, A DISTANCE OF 81.87 FEET; THENCE S21°08'32"E, A DISTANCE OF 89.56 FEET; THENCE S19°08'47"E, A DISTANCE OF 73.79 FEET; THENCE S03°18'02"W, A DISTANCE OF 205.74 FEET; THENCE S17°29'03"E, A DISTANCE OF 124.83 FEET; THENCE S16°09'50"E, A DISTANCE OF 50.00 FEET; THENCE S16°07'17"E, A DISTANCE OF 73.88 FEET; THENCE S27°50'37"E, A DISTANCE OF 65.16 FEET; THENCE S25°07'25"E, A DISTANCE OF 66.02 FEET; THENCE S22°21'31"E, A DISTANCE OF 66.20 FEET; THENCE S19°54'11"E, A DISTANCE OF 51.22 FEET; THENCE S16°26'35"E, A DISTANCE OF 114.20 FEET; THENCE S21°00'38"E, A DISTANCE OF 85.08 FEET TO A POINT ON THE BOUNDARY LINE OF THE PARCEL DESCRIBED IN THE WARRANTY DEED RECORDED UNDER RECEPTION NUMBER 214007733, RECORDS OF EL PASO COUNTY, COLORADO; THENCE S00°00'00"E ON SAID BOUNDARY LINE, A DISTANCE OF 472.54 FEET TO A POINT ON CURVE, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF STAPLETON DRIVE AS DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 212064636; THENCE ON SAID RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S00°23'33"W, HAVING A DELTA OF 26°14'01", A RADIUS OF 1,405.00 FEET, A DISTANCE OF 643.30 FEET TO A POINT OF TANGENT,
2. S64°09'32"W, A DISTANCE OF 777.32 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 2,697,540 SQUARE FEET OR 61.927 ACRES.

END – EXHIBIT A

Saddlehorn Ranch – Filing No. 2 – Final Plat

Disclosure Notification

General Notes:

25. “THIS PROPERTY IS PRESENTLY LOCATED IN THE VICINITY OF AN AIRPORT, WITHIN WHAT IS KNOWN AS AN AIRPORT INFLUENCE AREA. FOR THIS REASON, THE PROPERTY MAY BE SUBJECT TO SOME ANNOYANCES OR INCONVENIENCES ASSOCIATED WITH PROXIMITY TO AIRPORT OPERATIONS (E.G. NOISE, VIBRATION, OR ODORS), INDIVIDUAL SENSITIVITIES TO THOSE ANNOYANCES CAN VARY FROM PERSON TO PERSON. YOU MAY WISH TO CONSIDER WHAT AIRPORT ANNOYANCES, IF ANY, ARE ASSOCIATED WITH THE PROPERTY BEFORE YOU COMPLETE YOUR PURCHASE AND DETERMINE WHETHER THEY ARE ACCEPTABLE TO YOU.”



Approximate Scale
Scale: 1" = 4,000'

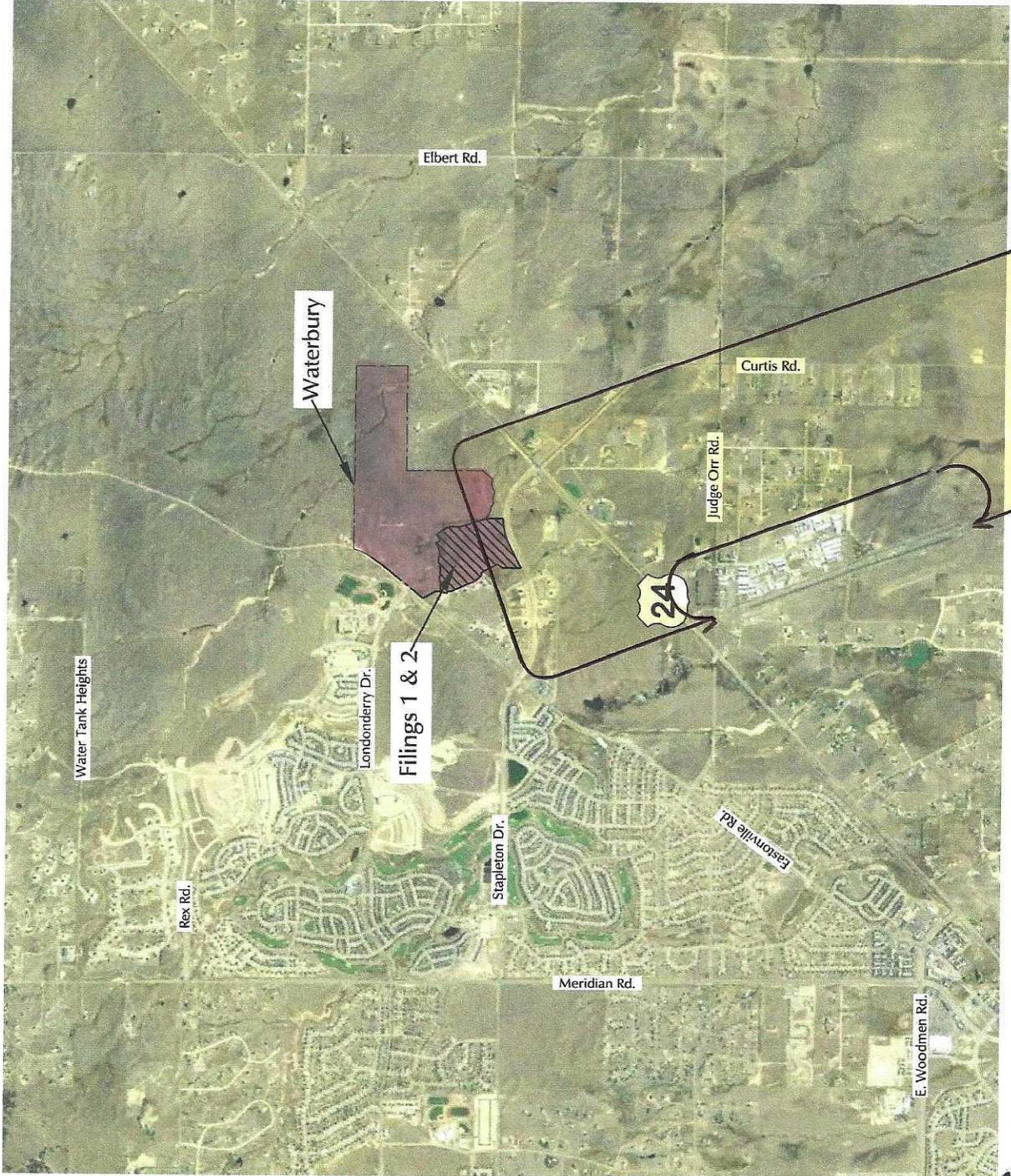


Figure 1
Vicinity
Map

Waterbury Filing Nos 1 and 2 (LSC #204220)