

# Memorandum

## *Dakota Springs Engineering*

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Date: February 7, 2018

To: Ms. Nina Ruiz, Planner II  
El Paso County Planning and Community Development

cc: Paul Koscielski  
CPR Entitlements, LLC

From: Charles K. Cothorn, P.E.

Subject: Waterview East - Mineral Rights

This memorandum has been prepared to address the potential for a comment concerning severance of the mineral rights to a different owner. We have received that comment numerous times on the current Waterview Applications. The following is what the title company provided in response:

*Land Title Guarantee Company has replied as follows:*

*Per our title commitments, I don't find any evidence of a severance of mineral rights. Perhaps the County is referring to the Patents from the United States which reserve a right of a proprietor of a vein or a lode to follow the vein onto the property if so discovered.*

*This is standard language in United States Patents, but does not actually sever the mineral rights.*

*For further clarification, the mineral rights have not been severed and remain with the current owner of the property.*

*There should be no need to notify any other mineral owner as there are no other mineral owners.*

*Ben K. Lowe  
Commercial Title Officer  
Colorado Title License #137098  
Land Title Guarantee Company*

**Notice to Mineral Estate Owners  
§24-65.5-101, et seq., C.R.S. -Checklist and Certification**

**An examination of the records of the Clerk and Recorder's Office established the following:**

**Checklist**

\_\_\_\_\_ identity of the owner(s) of mineral estate

\_\_\_\_\_ the mineral estate owner(s) has filed a proper notification form

\_\_\_\_\_ the mineral estate owner(s) has recorded an instrument satisfying an applicable dormant mineral interest act

\_\_\_\_\_ x \_\_\_\_\_ no mineral estate owner(s) was found-*Title Policy research revealed no mineral estate owner*

\_\_\_\_\_ mineral owner(s) waived the right to notice in writing to the Applicant.

**If a mineral estate owner(s) exists, a Notice shall be sent to the mineral estate owner no less than thirty (30) days prior to the initial public hearing. The Notice shall include:**

\_\_\_\_\_ time and place of initial public hearing

\_\_\_\_\_ nature of hearing

\_\_\_\_\_ location of property/subject of hearing

\_\_\_\_\_ name of applicant

\_\_\_\_\_ notice was sent to mineral estate owner(s) no less than thirty (30) days prior to initial public hearing (do not count day of mailing in thirty (30) day calculation).

**If a mineral estate owner(s) exists, a copy of the Notice shall be sent to the local government at the same time as notice s mailed to the mineral owner(s) and no less than thirty (30) days prior to the initial public hearing. The Notice shall include:**

\_\_\_\_\_ time and place of initial public hearing

\_\_\_\_\_ nature of hearing

\_\_\_\_\_ location of property/subject of hearing

\_\_\_\_\_ name of applicant

\_\_\_\_\_ name and address of mineral estate owner

\_\_\_\_\_ notice was sent to El Paso County Planning Department no less than thirty (30) days prior to initial public hearing (do not count day of mailing in thirty (30) day calculation).

**CERTIFICATION:**

I Charles K. Cothorn, on behalf of Springs Engineering, have researched the records of the El Paso County Clerk and Recorder and established that there are no potential mineral rights owner(s) on the real property known as:

**LEGAL DESCRIPTION (PARCEL 135B)**

A TRACT OF LAND LOCATED IN A PORTION OF SECTION 9, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 9; THENCE S00°19'32"E ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 9, A DISTANCE OF 1613.76 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION:

1. THENCE S00°19'32"E CONTINUING ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 9, A DISTANCE OF 3638.37 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 9;
2. THENCE S89°33'35"W ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 9, A DISTANCE OF 2495.44 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF POWERS BOULEVARD AS RECORDED IN BOOK 5307 AT PAGE 1472 OF THE RECORDS OF SAID EL PASO COUNTY;

THE FOLLOWING TWO (2) COURSES FOLLOW SAID EASTERLY RIGHT-OF-WAY LINE:

3. THENCE N00°29'10"W A DISTANCE OF 3037.92 FEET TO A POINT OF CURVE TO THE RIGHT;
4. THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT WITH A RADIUS OF 150.00 FEET, A DELTA ANGLE OF 87°49'03", AN ARC LENGTH OF 229.91 FEET, WHOSE LONG CHORD BEARS N43°25'21"E A DISTANCE OF 208.05 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BRADLEY ROAD AS RECORDED IN BOOK 5307 AT PAGE 1472 OF THE RECORDS OF SAID EL PASO COUNTY;

THE FOLLOWING FIVE (5) COURSES FOLLOW SAID SOUTHERLY RIGHT-OF-WAY LINE:

5. THENCE N87°19'53"E A DISTANCE OF 53.06 FEET TO A POINT OF CURVE TO THE LEFT;
6. THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT WITH A RADIUS OF 2969.79 FEET, A DELTA ANGLE OF 12°59'05", AN ARC LENGTH OF 673.03 FEET, WHOSE LONG CHORD BEARS N80°50'20"E A DISTANCE OF 671.59 FEET;
7. THENCE N74°20'48"E A DISTANCE OF 952.02 FEET TO A POINT OF CURVE TO THE RIGHT;
8. THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT WITH A RADIUS OF 2759.79 FEET, A DELTA ANGLE OF 15°09'41", AN ARC LENGTH OF 730.29 FEET, WHOSE LONG CHORD BEARS N81°55'38"E A DISTANCE OF 728.16 FEET;
9. THENCE N89°30'29"E A DISTANCE OF 3.77 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE TRACT OF LAND CONTAINS 195.25 ACRES, MORE OR LESS.



Charles K. Cothorn, P.E.  
On Behalf of Springs Engineering

Dated this 2 day of ~~October~~, 2016. May 2017

STATE OF COLORADO )  
 ) s.s.  
COUNTY OF EL PASO )

The foregoing certification was acknowledged before me this 2nd day of <sup>May, 2017</sup> ~~October, 2016~~,  
by Charles Cothorn

Witness my hand and official seal.

My Commission Expires: 7/22/2019



Lisa C. Hipps  
Notary Public