

**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR REPLACEMENT PLAN TO ALLOW THE WITHDRAWAL OF GROUNDWATER FROM THE DAWSON AQUIFER IN THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN.

REPLACEMENT PLAN NO. 2 - DETERMINATION OF WATER RIGHT NO. 1692-BD

AQUIFER: DAWSON

APPLICANT: MCCUNE RANCH, LLC

In compliance with Section 37-90-107.5, C.R.S. and the Designated Basin Rules, 2 CCR 410-1 ("Rules" or "Rule"), McCune Ranch, LLC ("Applicant") submitted an application to replace the previously approved McCune Ranch, LLC replacement plan that allowed the withdrawal of ground water from the Dawson Aquifer that has been allocated by Determination of Water Right No. 1692-BD.

FINDINGS

1. Pursuant to Section 37-90-107.5, C.R.S., in a Findings and Order dated June 29, 2018, the Ground Water Commission ("Commission") approved a Replacement Plan that allowed the withdrawal of 42 acre-feet per year of Dawson Aquifer groundwater allocated by Determination of Water Right No. 1692-BD. This replacement plan application submitted by the Applicant seeks to replace in its entirety the previously approved replacement plan.
2. Pursuant to Section 37-90-107(7), C.R.S., in a Findings and Order dated June 25, 2008, the Commission approved a Determination of a Right to an Allocation of Ground Water, No. 1692-BD, from the Dawson Aquifer ("Aquifer"), summarized as follows.
 - a. The determination quantified an amount of water from beneath 900.52 acres of overlying land generally described as the SW1/4 of the SW1/4, Section 18, the W1/2 of the NW1/4 and the W1/2 of the SW1/4, Section 19, Township 11 South, Range 64 West of the 6th PM and the S1/2 of the SE1/4, Section 13 and all of Section 24, Township 11 South, Range 65 West of the 6th Principal Meridian, in El Paso County.
 - b. The allowed average annual amount of withdrawal shall not exceed 819 acre-feet, which based on an aquifer life of one hundred years results in an amount of water allocated of 81,900 acre-feet (subject to adjustment by the Commission to conform to actual local aquifer characteristics).
 - c. The use of ground water is limited to the following beneficial uses: domestic, industrial, commercial, irrigation, augmentation, stock watering, recreational water feature ponds and piscatorial habitat less than 1000 square feet and wildlife, replacement and all other augmentation purposes.
 - d. In accordance with Rule 5.3.6 the withdrawal of the subject ground water will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal, the ground water is considered to be not-nontributary, and Commission approval of a replacement plan providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers is required prior to approval of well permits for wells to withdraw the subject ground water.
3. The subject water is Designated Ground water located within the boundaries of the Kiowa-

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Bijou Designated Ground Water Basin. The Commission has jurisdiction over the withdrawal of the water by large capacity wells that are permitted pursuant to section 37-90-107(7), C.R.S.

4. Withdrawal of the subject ground water would deplete the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin, the alluvial aquifer of the Upper Big Sandy Designated Ground Water Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin, all of which, according to Rules 5.2.4.2, 5.2.7.2 and 5.2.6.2, respectively, have been determined to be over appropriated. Such depletion would unreasonably impair existing large capacity alluvial rights withdrawing water from those alluvial aquifers.
5. Pursuant to Rule 5.6.1 this plan must be adequate to prevent any material injury to water rights of other appropriators, which for purposes of this plan means large capacity wells withdrawing water from the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin, the alluvial aquifer of the Upper Big Sandy Designated Ground Water Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin.
6. Pursuant to Rule 5.3.6.2(C) the amount of replacement water shall provide for the depletion of alluvial water for the first 100 years due to all previous pumping and if pumping continues beyond 100 years, shall replace actual impact until pumping ceases.
7. The application for the replacement plan was received by the Commission on December 6, 2018. The application is subject to the Designated Basin Rules as re-amended on May 15, 2018.
8. The Applicant proposes to divert 49.8 acre-feet annually from the Dawson Aquifer for a period of 300 years. The Dawson aquifer water will be withdrawn through 83 wells to be located on 83 residential lots. The residential lots will be within 278.1 acres generally described as a portion of the W1/2 of Section 19, Township 11 South, Range 64 West and a portion of Section 24, Township 11 South, Range 65 West, 6th P.M., and more specifically described on attached Exhibit B. As shown on attached Exhibit B, 70 lots are located mostly in Section 24 and 13 lots are located mostly in Section 19. Each Dawson Aquifer well is proposed to divert 0.6 acre-feet of water annually for use in 1 single family residence; irrigation of landscape, lawn and gardens; and watering of domestic animals and stock.
9. At a continuous withdrawal of 49.8 acre-feet annually for 300 years, depletions to the alluvial aquifer systems of the Kiowa-Bijou Designated Ground Water Basin, Upper Big Sandy Designated Ground Water Basin and Upper Black Squirrel Creek Designated Ground Water Basin would steadily increase to 1.87 acre-feet per year in the 300th year, which is equal to 3.75% of pumping, as shown in Exhibit A.
10. The Applicant proposes to provide 22.41 acre-feet per year of replacement water to the alluvial aquifer system of the Kiowa-Bijou Designated Ground Water Basin. The proposed source of replacement water is septic and leaching field return flows from the in-house use of the ground water to be pumped under the plan. The Applicant estimates that return flows from each lot will consist of 90% of the water used for in-house purposes. Assuming each lot uses a total annual amount for in-house use of 0.30 acre-feet, the return flow per lot would be 0.27 acre-feet annually, and the return flows under the plan will total 22.41 acre-feet per year for all 83 lots at full build out.

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11. The subject property is located within the drainage of Kiowa Creek, and the return flows will flow to the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin. The Applicant proposes to aggregate all replacements to the drainage in which the well or wells will operate, in accordance with Guideline 2007-1.
12. Pursuant to Rule 5.6.1.D this plan may not cause unreasonable impairment of water quality. So long as the septic and leaching treatment systems for the in-house use of the water are constructed and operated in compliance with state and county health department standards the plan would not cause unreasonable impairment of water quality of the alluvial aquifer.
13. Records in this office indicate that the Applicant controls the water right to be used as the source of replacement water, consisting of Determination of Water Right No. 1692-BD, and such water is legally available for use pursuant to this plan.
14. In accordance with Sections 37-90-107.5 and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 19, 2019 and December 26, 2019. No objections to the application were received within the time limit set by statute.
15. According to Rule 5.6.2:
 - a. The Applicant has the burden of proving the adequacy of the plan in all respects.
 - b. The Commission Staff shall propose any additional terms and conditions or limitations which are necessary to prevent material injury and to ensure that the plan is administrable and enforceable.
16. The Commission Staff has evaluated the application pursuant to Section 37-90-107.5, C.R.S., and the requirements of Rule 5.3.6.2(C) and Rule 5.6, finds that the requirements have been met, no material injury will occur to water rights of other appropriators, and the plan may be approved to allow diversions from the Dawson Aquifer if operated subject to the conditions given below.

ORDER

In accordance with Section 37-90-107.5, C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for a replacement plan to allow the withdrawal of ground water from the Dawson Aquifer underlying 900.52 acres that are the subject of Determination of Water Right no. 1692-BD is approved subject to the following conditions:

17. Approval of this replacement plan hereby cancels the McCune Ranch, LLC replacement plan approved by the Commission in a Findings and Order dated June 29, 2018.
18. The Dawson aquifer water will be withdrawn through 83 wells to be located on 83 residential lots. The residential lots will be within 278.1 acres generally described as a portion of the W1/2 of Section 19, Township 11 South, Range 64 West and a portion of Section 24, Township 11 South, Range 65 West, 6th P.M., and more specifically described on attached Exhibit B. Each Dawson Aquifer well may divert 0.6 acre-feet of water annually for use in 1 single family residence; irrigation of landscape, irrigation of lawn and gardens; and watering of domestic animals and stock.
19. The allowed annual amount of ground water to be withdrawn from the aquifer by all wells

operating under this plan shall not exceed 49.8 acre-feet. The allowed annual amount of water to be withdrawn from each on-lot well shall not exceed 0.6 acre-feet.

20. A totalizing flow meter shall be installed on each well. The well owner shall maintain the meter in good working order.
21. Permanent records of all withdrawals of ground water from each well shall be recorded at least annually by the well owners, permanently maintained, and provided to the Commission.
22. Pumping under this plan is limited to a period of 300 years. The year of first use of this replacement plan shall be the calendar year of construction of a well permitted pursuant to this plan or permitting of an existing well pursuant to the plan.
23. Return flows from in-house use of ground water shall occur through individual on-lot non-evaporative septic systems located within the 278.1 acres of land on which the 83 wells will be located, as described in paragraph 19 above and shown on attached Exhibit B. The septic systems must be constructed and operated in compliance with a permit issued by a local health agency.
24. Replacement of depletions must be provided annually in the acre-feet amounts shown in Exhibit A. Annual replacement requirements may be computed by pro-rating between the values given on Exhibit A, or for simplicity may be taken as the amount shown in the next succeeding 5 year increment.
25. The Applicant or their successor(s) are responsible for ensuring that replacement water is provided to the alluvial aquifer as required by this plan. The annual replacement requirement and the annual amount of replacement water provided shall be calculated and reported on a form acceptable to the Commission. The annual amount of replacement water provided must be no less than the annual replacement requirement on a yearly basis. No credit shall be claimed by the Applicant for an oversupply of replacement water provided to the alluvium during previous years.
26. The Applicant must provide the required annual amount of replacement water for the first 100 years, or for as long as a well is operated pursuant to this plan, whichever is longer.
27. To assure adequate return flows, the number of wells serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system must be equal to or greater than the number of wells shown in Table 1 below, or an amended or alternate replacement plan must be obtained that will replace actual depletions to the alluvial aquifer so as to prevent any material injury to water rights of other appropriators.

Table 1		
Year	No. of Wells	Return Flow (af/yr)
1-70	1	0.27
71-110	2	0.54
111-150	3	0.81
151-185	4	1.08
186-225	5	1.35
226-260	6	1.62
261-300	7	1.89

Aquifer: Dawson

Applicant: McCune Ranch, LLC

28. The Applicant (and their successors) must gather and maintain permanent records of all information pertaining to operation of this plan, which shall include, but is not be limited to, those items identified below. The Applicant must submit records to the Commission on forms acceptable to the Commission, on an annual basis for the previous calendar year, by February 15th of the following year.
- a. Identification of all well permits issued and wells constructed under this plan.
 - b. The amount of water diverted by each well and all wells in total, both annually and cumulatively since operation of the plan began.
 - c. The number of occupied dwellings served by each well.
 - d. The number of square feet irrigated by each well.
 - e. The number of large domestic animals served by each well.
 - f. The return flows occurring from use of all wells operating under the plan, assuming 0.27 acre-feet per year per occupied single family dwelling (90% of the water used for in-house purposes) enters the alluvial aquifer as replacement water.
 - g. Any other information the Commission deems relevant and necessary to operation, monitoring, accounting, or administration of the plan.
29. The Applicant (and their successors) are fully responsible for the operation, monitoring, and accounting of the replacement plan. In the event a lot with a well permitted or operating pursuant to this plan is sold, identification of the well that was sold and evidence that the new owner has been notified of their responsibilities under the replacement plan shall accompany that year's accounting.
30. Any covenants adopted for this subdivision should contain a description of the replacement plan, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be reported and the plan is to be administered.
31. In the event the permitted well or wells are not operated in accordance with the conditions of this replacement plan, they shall be subject to administration, including orders to cease diverting ground water.
32. All terms and conditions of Determination of Water Right No. 1692-BD must be meet.
33. A copy of this Findings and Order shall be recorded by the Applicant in the clerk and recorder's records of El Paso County, so that a title examination of the land on which the structures involved in this plan are located reveals the existence of this plan.

Dated this 3rd day of February, 2020.



Kevin G. Rein, P.E.
Executive Director
Colorado Ground Water Commission

By: 

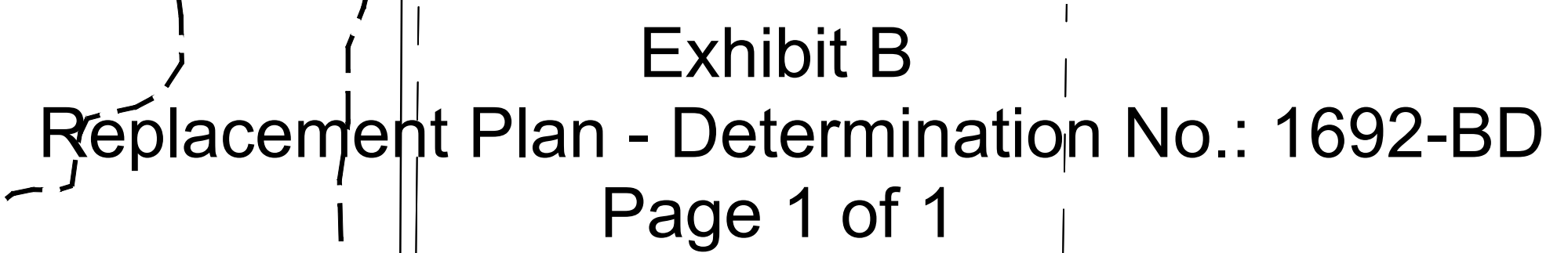
Keith Vander Horst, P.E.
Chief of Water Supply, Basins

Exhibit A
Replacement Plan - Determination No.: 1692-BD
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Designated Basin Summary Table for McCune Ranch, LLC Pumping Rate of 49.8 acre-feet per year for 300 Years from the Dawson aquifer Section(s): Sec. 24, T11S, R65W and Sec. 19, T11S, R64W							
Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)	Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)
5	49.8	0.00	0.00	155	49.8	0.85	1.70
10	49.8	0.00	0.01	160	49.8	0.88	1.78
15	49.8	0.01	0.02	165	49.8	0.92	1.85
20	49.8	0.02	0.04	170	49.8	0.96	1.92
25	49.8	0.03	0.06	175	49.8	0.99	1.99
30	49.8	0.05	0.10	180	49.8	1.03	2.07
35	49.8	0.07	0.13	185	49.8	1.07	2.14
40	49.8	0.09	0.18	190	49.8	1.10	2.21
45	49.8	0.11	0.22	195	49.8	1.14	2.28
50	49.8	0.14	0.27	200	49.8	1.17	2.36
55	49.8	0.16	0.33	205	49.8	1.21	2.43
60	49.8	0.19	0.38	210	49.8	1.25	2.50
65	49.8	0.22	0.44	215	49.8	1.28	2.57
70	49.8	0.25	0.51	220	49.8	1.32	2.64
75	49.8	0.28	0.57	225	49.8	1.35	2.72
80	49.8	0.32	0.64	230	49.8	1.39	2.79
85	49.8	0.35	0.70	235	49.8	1.42	2.86
90	49.8	0.38	0.77	240	49.8	1.46	2.93
95	49.8	0.42	0.84	245	49.8	1.49	3.00
100	49.8	0.45	0.91	250	49.8	1.53	3.07
105	49.8	0.49	0.98	255	49.8	1.56	3.14
110	49.8	0.52	1.05	260	49.8	1.60	3.21
115	49.8	0.56	1.12	265	49.8	1.63	3.28
120	49.8	0.59	1.19	270	49.8	1.67	3.34
125	49.8	0.63	1.27	275	49.8	1.70	3.41
130	49.8	0.67	1.34	280	49.8	1.73	3.48
135	49.8	0.70	1.41	285	49.8	1.77	3.55
140	49.8	0.74	1.48	290	49.8	1.80	3.62
145	49.8	0.78	1.56	295	49.8	1.84	3.69
150	49.8	0.81	1.63	300	49.8	1.87	3.75

Created by jmw on December 13, 2019

Values for 'Depletion as a % of Pumping' (q/Q) are not calculated when the pumping rate (Q) is changed to anything but zero



Demand Summary

S24,T11S,R65W = 70 Lots @ 0.600
AF/Lot/Year = 42.00 AF/year

S19,T11S,R64W = 13 Lots @ 0.600
AF/Lot/Year = 7.800 AF/year

Proposed Phase 1- 83 lot development

70 Lots

13 Lots

PROPOSED AREA: 278.1 AC - 83 LOTS

SITE PLAN EXHIBIT

SITE:

FOR: PROTERRA PROPERTIES, LLC
1864 WOODMORE DR, SUITE 100
MONUMENT, COLORADO 80132

NO.	REVISIONS
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

DATE: 10/1/2018

DRAWN BY: JCP

JOB #: 49388



December 11, 2019

Job 1858.00

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EXHIBIT A

LEGAL DESCRIPTION: REPLACEMENT PLAN

A TRACT OF LAND BEING A PORTION OF SECTION 24, RANGE 11 SOUTH, RANGE 65 WEST AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED ON THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED "LS 28658" AND AT THE NORTHERLY END BY A 3-1/2" ALUMINUM CAP STAMPED "LS 12103" BEING ASSUMED TO BEAR N00°14'25"E A DISTANCE OF 2636.99 FEET AS SHOWN IN LAND SURVEY PLAT RECORDED UNDER RECEPTION 218900072 RECORDS OF EL PASO COUNTY, COLORADO.

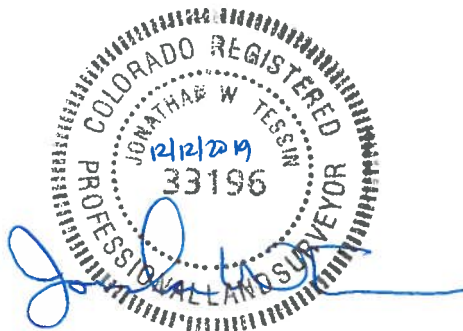
COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 24, SAID POINT BEING THE POINT OF BEGINNING; THENCE S00°14'17"W, A DISTANCE OF 1,684.27 FEET TO THE POINT OF BEGINNING; THENCE S89°41'23"E, A DISTANCE OF 820.25 FEET; THENCE N29°41'56"E, A DISTANCE OF 768.98 FEET; THENCE S89°45'39"E, A DISTANCE OF 128.26 FEET; THENCE S69°47'19"E, A DISTANCE OF 306.30 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N69°47'19"W, HAVING A DELTA OF 2°06'42", A RADIUS OF 1,790.00 FEET, A DISTANCE OF 65.97 FEET TO A POINT OF TANGENT; THENCE N18°06'10"E, A DISTANCE OF 383.72 FEET; THENCE N19°13'35"E, A DISTANCE OF 60.00 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N19°13'35"E, HAVING A DELTA OF 50°01'50", A RADIUS OF 1,470.00 FEET, A DISTANCE OF 1,283.60 FEET TO A POINT ON CURVE; THENCE N30°48'16"W, A DISTANCE OF 58.07 FEET; THENCE N54°25'41"E, A DISTANCE OF 240.00 FEET; THENCE S40°33'13"E, A DISTANCE OF 57.62 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N40°33'13"W, HAVING A DELTA OF 7°37'13", A RADIUS OF 1,470.00 FEET A DISTANCE OF 195.51 FEET TO A POINT OF TANGENT; THENCE N41°49'33"E, A DISTANCE OF 207.94 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 48°27'33", A RADIUS OF 1,384.00 FEET, A DISTANCE OF 1,170.55 FEET TO A POINT OF TANGENT; THENCE S89°42'54"E, A DISTANCE OF 1,221.71 FEET; THENCE S00°17'06"W, A DISTANCE OF 306.26 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF CURVE OT THE RIGHT HAVING A DELTA OF 18°02'49", A RADIUS OF 930.00 FEET, A DISTANCE OF 292.93 FEET TO A POINT OF REVERSE CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 18°02'49", A RADIUS OF 870.00 FEET, A DISTANCE OF 274.03 FEET TO A POINT OF TANGENT; THENCE S00°17'06"W, A DISTANCE OF 780.00 FEET; THENCE S89°42'54"E, A DISTANCE OF 411.84 FEET; THENCE S00°17'06"W, A DISTANCE OF 825.56 FEET; THENCE N89°31'37"W, A DISTANCE OF 411.84 FEET; THENCE S00°17'06"W, A DISTANCE OF 447.57 FEET TO A POINT 50.00 FEET NORTH OF THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE S89°55'06"W ON A LINE 50.00 NORTH OF AND PARALLEL TO SOUTH LINE OF THE SAID SOUTHWEST QUARTER OF SAID SECTION 19, A DISTANCE OF 418.09 FEET TO A POINT THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE

S89°30'15"W ON A LINE 50.00 FEET NORTH OF AN PARALLEL WITH THE SOUTH LINE OF SAID SECTION 24, A DISTANCE OF 5,238.40 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE N00°14'17"E ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 902.65 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 12,114,313 SQUARE FEET OR 278.106 ACRES.

LEGAL DESCRIPTION STATEMENT

I, JONATHAN W. TESSIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF IS CORRECT.



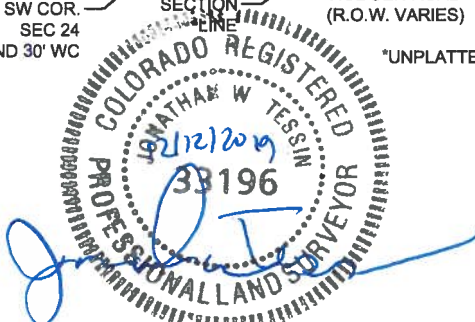
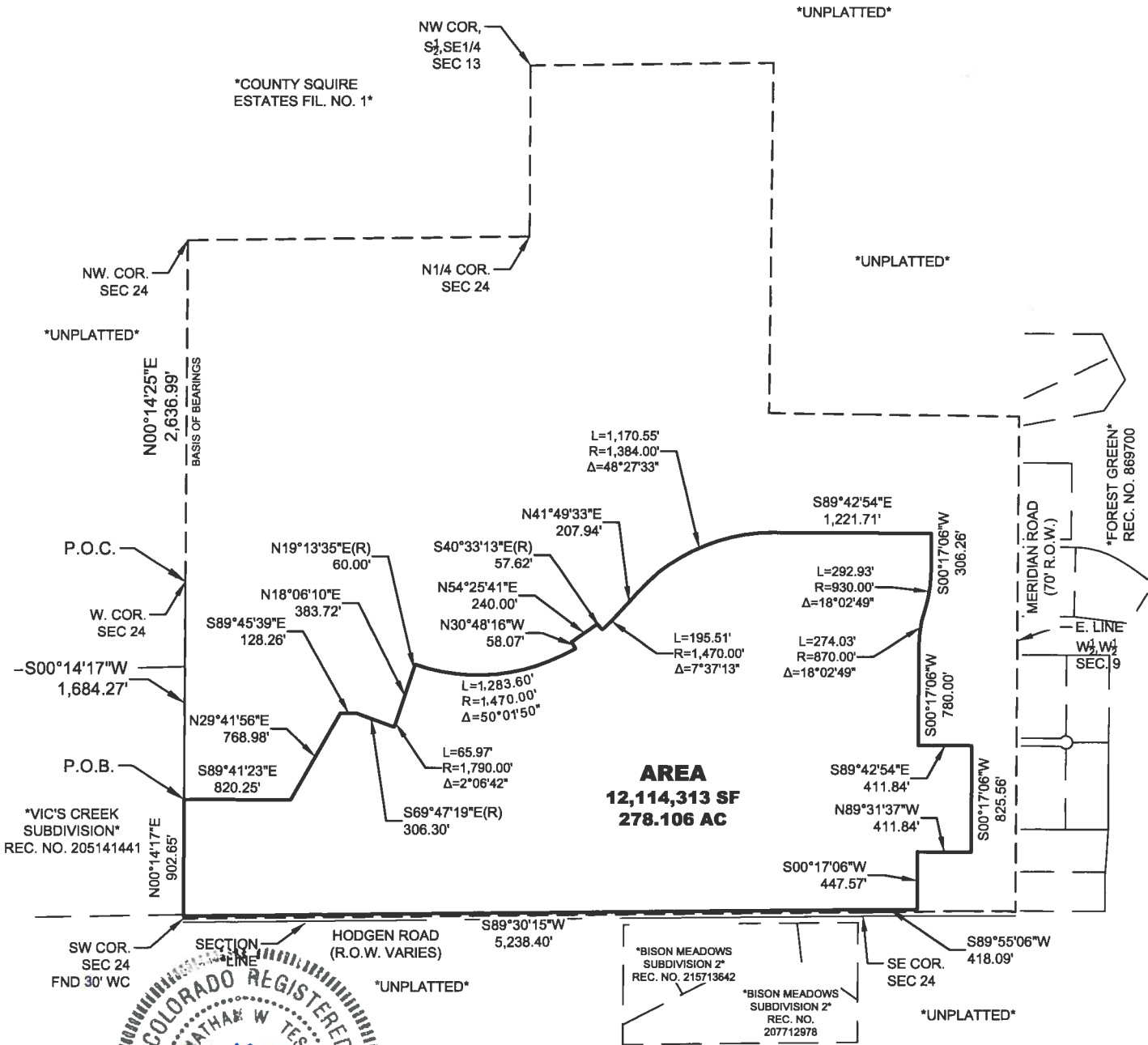
JONATHAN W. TESSIN, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 33196
FOR AND ON BEHALF OF EDWARD-JAMES SURVEYING, INC.

EXHIBIT B
REPLACEMENT PLAN



LEGEND:

- P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCING
* AREA IS NOT PART OF THIS SURVEY



THIS DRAWING DOES NOT REPRESENT A
MONUMENTED LAND SURVEY AND IS ONLY
INTENDED TO DEPICT THE LEGAL DESCRIPTION.



EDWARD-JAMES SURVEYING, INC.
926 Elkton Dr. 4732 Eagleridge Circle
Colorado Springs, CO 80907 Pueblo, CO 81008
(719) 576-1216 (719) 545-6240
12-11-2019 JOB NO. 1858-00
SHEET 3 OF 3