

STATE OF COLORADO) Filed for  
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60114

Mary Kattner Recorder

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 2

STATE OF COLORADO

Case No. W-4062

5181-F-b-2  
05010

IN THE MATTER OF THE )  
APPLICATION FOR WATER RIGHTS ) FINDINGS OF FACT, CONCLUSIONS  
OF LIVINGSTON PROPERTIES, INC.) OF LAW AND DECREE APPROVING  
AND ANTELOPE VALLEY RANCH ) PLAN FOR AUGMENTATION, INCLUDING  
CORPORATION IN THE ARKANSAS ) EXCHANGE OF WATER, PROVISION  
RIVER OR ITS TRIBUTARIES, ) OF SUBSTITUTE SUPPLIES OF  
TRIBUTARY INVOLVED, ANTELOPE ) WATER AND CHANGE OF WATER RIGHTS  
CREEK IN CUSTER COUNTY )

THIS MATTER having come on for determination upon the application of Livingston Properties, Inc. and Antelope Valley Ranch Corporation, which application was filed in December, 1973 and amended in September, 1974; and the Court having considered the application and other documents filed herein, FINDS:

1. Timely and adequate notice of this proceeding has been provided in the manner required by law, and the water judge sitting in this Court has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, whether they have appeared or not. A statement of opposition denominated "Objection" has been filed herein by the Southeastern Colorado Water Conservancy District through Fairfield and Woods, its attorneys. No other parties have entered their appearance in this proceeding, and the time for filing statements of opposition has expired.

2. The Blumenau subdivision owned by Applicant Livingston Properties, Inc. comprises approximately 1,275 acres of land located in portions of Sections 22, 27, 28, 33 and 34 of Township 22 South, Range 71 West of the 6th Principal Meridian, and in portions of Sections 3 and 4 of Township 23 South, Range 71 West of the 6th Principal Meridian, all in Custer County, Colorado. The subdivision is more particularly

identified by reference to the subdivision filing maps accepted by and recorded in Custer County on November 6, 1973 for Filing No. 1 and August 7, 1974 for Filing No. 2, copies of which are attached hereto as Exhibits "A" (Filing No. 1) and "B" (Filing No. 2), the contents of which are incorporated herein by this reference as if fully set forth.

3. Applicants anticipate serving 219 single family residential equivalent units. Applicants intend to supply water to these residences by single-unit wells or multiple-unit wells drilled pursuant to permits issued under 1973 C.R.S. § 37-90-137. All of the Blumenau subdivision's domestic water supply wells are expected to use as their source of supply ground water occurring in the alluvium of Wilmer Gulch, Rosita Gulch and Tyndall Gulch, all tributaries of Grape Creek, a tributary of the Arkansas River. The Blumenau subdivision is not located within a designated ground water basin. The water withdrawn from these wells to be augmented will be used for domestic, in-house purposes and for occasional stock watering. None of the water so withdrawn will be used for irrigation purposes.

4. The location of each well is not presently known, although one well for each lot depicted on Exhibits "A" and "B" is anticipated. The State Engineer shall not issue a well permit for a well located within the Blumenau Subdivision under the plan for augmentation approved hereunder until and unless the applicant therefor shall tender with his or her application a receipt from the Clerk of the District Court in and for Water Division No. 2, State of Colorado, for the \$5.00 filing fee required by 1973 C.R.S. § 37-92-302(1)(d). In order to assist in the proper implementation of the within plan for augmentation, Applicants or their successors shall file with the Court notice of the eventual location of such wells at the time that the permit therefor is requested from the office of the Colorado State Engineer.

5. Domestic sewage from these residences will be

returned through septic tanks and leaching fields or other nonevapo-transpiration systems. Use of water in the Blumenau subdivision through these systems is anticipated to consume no more than 20% of the water diverted.

6. For purposes of planning for Applicants' water needs, 186 residences to be constructed at the Blumenau subdivision are anticipated to be occupied on a vacation and weekend basis only for an average of 100 days per year. The remaining 33 residences are anticipated to be occupied on a year-round basis. The estimated gross water requirements for the Blumenau subdivision are based upon the assumptions that the residential equivalent units will be occupied by 3.5 persons per unit and a daily per capita water requirement of 80 gallons. Accordingly, planning for the Blumenau subdivision anticipates a maximum water supply demand for the entire 219 single family residential equivalent units of 26.3 acre feet per annum.

7. Because of the nature of the sewage treatment facilities contemplated for the Blumenau subdivision, and because protective covenants imposed upon the land therein will prohibit irrigation as well as evapo-transpiration sewage disposal systems, only 10% of the annual water supply requirements would normally be consumptively used. However, because approximately 38 units will be located on lots with a steep grade and shallow soil, reducing the effectiveness of leaching fields located thereon, Applicants have increased the anticipated consumptive use to 20% of the annual water supply requirements. Accordingly, Applicants project that 3.2 consumptive acre feet of water per annum will be required for the 186 weekend-vacation units and that 2.06 consumptive acre feet of water per annum will be required for the 33 year-round units, for a total projected consumptive use associated with the domestic, in-house use of water within the Blumenau subdivision of 5.26 consumptive acre feet of water per annum. Domestic, in-house use, as referred to

herein, precludes any use of water for any purpose outside the house, i.e., use of water outside the house for car washing, for swimming or wading pools or for irrigation of trees, shrubs or lawns. The sole and only use of water outside the house is for watering of horses.

8. Applicants anticipate that 25% of the units will keep horses on their lots and that of those lots with horses an average two horses per lot will be kept. The daily per horse water requirements is projected to be 10 gallons of which 100% is anticipated to be consumptively used. Accordingly, Applicants project a total consumptive use associated with the keeping of horses within the Blumenau subdivision of 0.47 consumptive acre feet of water per annum.

9. Of the water previously consumed by irrigation, Applicants propose to store a portion thereof in Antelope Valley Ranch Reservoir, as set forth in paragraph 12 below, and anticipate that 5.74 acre feet of water per annum will be lost to evaporation of this stored water. Applicants, however, also claim a credit 3.92 acre feet of water per annum against the evaporation loss associated with this proposed storage of water. This credit results from the elimination of the annual consumptive use of 1.48 acre feet of water previously consumed by the meadow grass for each of the 2.65 acres of such meadow land which will be utilized for the reservoir site. In consideration of this credit, the net evaporation-related consumptive use would be only 1.82 acre feet of water per annum. Accordingly, the total consumptive use, from domestic, in-house usage, keeping of horses and evaporation loss, is anticipated to be a maximum 7.55 acre feet of water per annum.

10. By the operation of the within plan for augmentation, Applicants will replace the depletions expected to result from the provision of domestic water supplies to the 219 residential equivalent units in the Blumenau subdivision,

from the keeping of horses, and from the evaporation of stored water. This replacement will take place by:

a) The permanent removal of Applicants' lands from irrigation by certain irrigation water rights as described in paragraph 11 below, and the resulting termination of the historic consumptive use attributable thereto;

b) Leaving a portion of such consumptive use in the stream system during the historic irrigation season; and

c) The storage of a portion of such consumptive use during the historic irrigation season and the release of such stored water during the non-irrigation season.

In this manner, Applicants will balance the consumptive use depletion to the Grape Creek-Arkansas River watershed which is anticipated to result from the use of water from the Blumenau subdivision domestic supply well structures to be augmented. The plan shall thus eliminate the possibility of any injurious effect upon the owners of, or persons entitled to use water under, a vested water right or decreed conditional water right in the Grape Creek-Arkansas River watershed.

11. Applicant Antelope Valley Ranch Corporation owns the water rights decreed to the John L. Schwab No. 1 Ditch which were adjudicated on May 13, 1893 by the District Court of Custer County. Those rights were adjudicated for the diversion of water from Antelope Creek, a tributary of Grape Creek, for irrigation purposes with the following appropriation dates and amounts:

<u>Name</u>	<u>Appropriation Date</u>	<u>Amount (c.f.s.)</u>
John L. Schwab	6-10-1872	0.925
John L. Schwab No. 1	6-1-1881	0.925

The historic use of water diverted through the exercise of the water rights decreed to the John L. Schwab No. 1 Ditch out of Antelope Creek has been for the irrigation of 41 acres of land owned by the Applicant which is adjacent to

Antelope Creek in a portion of the South 1/2 of Section 15, Township 23 South, Range 71 West of the 6th Principal Meridian, Custer County, Colorado; the duty of water resulting from that historic use is represented by the ratio of 1 c.f.s. to each 22.2 acres of land irrigated, with an average consumptive use resulting from evapo-transpiration and other losses of approximately 1 acre foot of water per acre of irrigated land per year, or 22.2 acre feet per c.f.s. per year.

12. Applicant Antelope Valley Ranch Corporation intends permanently to remove from irrigation 7.5 acres of the land it owns and which have been irrigated with the two water rights referred to in paragraph 11 above. Applicant further intends permanently to relinquish the right to divert for irrigation purposes 0.339 c.f.s. of the water rights decreed to the John L. Schwab No. 1 Ditch, which were used to irrigate such lands, being 0.1695 c.f.s. out of each of those two water rights. As a result, the flow of Antelope Creek and Grape Creek will be increased by an amount of 7.5 acre feet of water per annum which is equal to or more than the amount required to replace, by exchange, the depletions expected to result from the provision of domestic water supplies to the Blumenau subdivision. Of this annual increased flow, 5.64 acre feet will be stored in the Antelope Valley Ranch Reservoir located adjacent to Antelope Creek on property of the Applicant Antelope Valley Ranch Corporation in the Northwest Quarter (NW1/4) of Section 22, Township 23 South, Range 71 West of the 6th Principal Meridian, Custer County, Colorado. This reservoir has a 13.7 acre feet of water storage capacity. The water thus stored will be released through either of two 8 inch gate controlled outlet pipes, up to a maximum of 3.82 acre feet per annum, to Antelope Creek to replace non-irrigation season depletions at such times and at such rates as may be requested by the Division Engineer.

13. As discussed in paragraph 9 above, the maximum depletion anticipated to be felt in the Grape Creek-Arkansas

River watershed by virtue of the consumptive use caused by the domestic, in-house use of water, the keeping of horses and the evaporation loss of stored water within the Blumenau subdivision would be 7.5 consumptive acre feet of water per annum. Accordingly, Applicant intends to balance this depletion by leaving in or releasing to Antelope Creek, during times of valid call by downstream water users senior to Applicants, water owned by them in the John L. Schwab No. 1 Ditch. In this manner Applicants will augment the flow of Antelope Creek to the extent of their depletions thereof.

14. The consumptive use for each individual residence in the Blumenau subdivision can be computed as follows:

a) Water use on each of the year-round units would require diversions of 0.3136 acre feet of water per annum, of which 0.0627 acre feet of water per annum would be consumed.

b) Water use on each of the weekend-vacation units would require diversions of 0.0859 acre feet of water per annum, of which 0.0172 acre feet of water per annum would be consumed.

c) Water use for the keeping of horses on each of the year-round units would require diversions of 0.0224 acre feet of water per annum, all of which would be consumed.

d) Water use for the keeping of horses on each of the weekend-vacation units would require diversions of 0.0061 acre feet of water per annum, all of which would be consumed.

15. As individual lots are developed, the projected consumptive use of water for the subdivision can be computed as follows:

$$Q = 0.0627a + 0.0172b + 0.0224c + 0.0061d + e, \text{ where}$$

Q = consumptive use in acre feet of water per annum;

a = the total number of year-round residences developed;

b = the total number of weekend-vacation residences developed; and

c = the total number of year-round residences keeping horses on their lot;

d = the total number of weekend-vacation residences keeping horses on their lot;

e = 1.82 consumptive acre feet per annum from stored water evaporation loss.

If the acre feet available in any water year, July 1 through June 30, is not sufficient to replace the projected subdivision depletions as calculated by the above formula, Applicants intend to provide, through a homeowners' association, the means for curtailing domestic, in-house use. If, however, the amount of replacement water available exceeds the projected subdivision depletions as calculated under the above formula, the excess in any one year may be sold, leased or otherwise disposed of by said homeowners' association.

16. If the plan for augmentation is operated and administered in accordance with the above-detailed description it will have the effect of replacing water in the stream at the time and places and in the amounts of the depletions caused by the Blumenau subdivision's use of water. As a result, the underground water to be diverted by the domestic supply wells, which would otherwise be considered as appropriated and unavailable for use, will now be available for appropriation without adversely affecting vested water rights or conditionally decreed water rights in the Arkansas River or its tributaries.

17. All lot purchasers in the Blumenau subdivision will be bound by the terms of the Decree in this matter and the Decree shall be filed of record in Custer County, Colorado,



and thereby constitute a covenant running with the land. Protective covenants running with the property allow the use of water for domestic, in-house purposes only, and also prohibit evapo-transpiration sewage treatment systems. No amendment to the protective covenants shall be made inconsistent with the terms of this Decree absent further order of this Court. To further facilitate the enforcement of this condition, the obligations and rights attendant upon this plan for augmentation shall be assumed by and assigned to a homeowners' association formed for this purpose, which shall be comprised of all lot owners in the subdivision.

18. The Court finds that five years operation of this plan for augmentation is sufficient to determine the actual water requirements for the Blumenau subdivision and that at any time thereafter Applicants or their successors may file an application for approval of a plan for augmentation for the purpose of expanding or changing the uses decreed herein or otherwise making use of that part of the property subject to this Decree which, based on such operation, appears to be in excess of the actual water requirements for the Blumenau subdivision.

19. Pursuant to 1973 C.R.S. § 37-92-304(6), as amended by S.F. 4, Ch. 483, 1977 Colo. Sess. Laws, the Court finds, decides and determines that within a period of five (5) years from the date hereof, experience with the operation of this plan shall have been sufficient to determine whether the decree should be subject to reconsideration on the question of injury to the vested rights of others, including Applicants.

20. The Court finds that by the imposition of the conditions set forth in these findings, wells contemplated herein may be utilized without adversely affecting any vested water rights or decreed conditional water rights on the Arkansas River or its tributaries, and that by the

implementation of the augmentation plan herein approved, the purchasers of Applicants' lots, or their successors and assigns, may secure permits for and use such wells without adversely affecting any vested water rights or decreed conditional water rights on the Arkansas River or its tributaries, and without the necessity of administering or curtailing the withdrawal of water from any of such domestic supply wells so long as replacement water is available to meet the lawful requirements of a senior diverter at the time and location and to the extent the senior would be deprived of his lawful entitlement by the well diversions, and the conditions of this decree are being met.

#### CONCLUSIONS OF LAW

The Court concludes, as a matter of law:

1. The plan for augmentation proposed by Applicants is one contemplated by law, and if administered in accordance with this decree, will permit the depletions associated with the provision of water well service for domestic, in-house only purposes to the single-family residential equivalent units to be constructed in the Blumenau subdivision, without adversely affecting the owner or user of vested water rights or decreed conditional water rights in the Arkansas River or its tributaries.

2. The State Engineer may lawfully be required under the terms of this decree:

a) to administer and comply with the plan for augmentation in the manner set forth herein,

b) not to curtail diversions, in times of shortage, through any of such wells, the depletions for which are compensated by the operation of the augmentation plan herein approved, and

c) to curtail diversions at any time the consumptive use in the subdivision exceeds the net amounts of consumptive use of water available under this plan for augmentation.

DECREE

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED

THAT:

1. The plan for augmentation as found and described in all preceding paragraphs is hereby approved.

2. The State Engineer, the Division Engineer of Water Division No. 2, and other water administration officials shall administer and comply with the plan for augmentation as herein approved by:

a) requiring Applicants:

(i) to cease forthwith the historic diversions of 18.3% of their rights in the John L. Schwab No. 1 Ditch described at paragraph 11 of the above Findings; and

(ii) to cease the irrigation of the 7.5 acres of land historically irrigated which are described in Exhibit "C";

b) recognizing the change and exchange of Applicants' direct flow right as set forth in paragraph 12 of the above Findings, including Applicants' right to store up to 5.64 acre feet of water per year in the Antelope Valley Ranch Reservoir as described in paragraph 12 of such Findings;

c) directing Applicants to release from said storage, to the Arkansas River and its tributaries, at such times and in such amounts as the Division Engineer, Water Division No. 2 may reasonably require to meet the lawful requirements of a senior diverter at the time and location and to the extent the senior would be deprived of his lawful entitlement by Applicants' diversion. In no event, however, shall such total compensation exceed 3.82 acre feet of water per annum unless this plan for augmentation is amended as contemplated herein.

3. This plan is effective as to all lots in the Blumenau subdivision as above described. Each residence may be served by a single-unit well and more than one residence

may be served by a multiple-unit well. Each residence is restricted to using the water for domestic, in-house use and for occasional stock watering. Use of water for irrigation purposes is prohibited. Each residence shall be equipped with a non-evaporative sewage system. These restrictions appear in the protective covenants running with the property adopted at the time of subdivision and shall appear in the Articles of Incorporation creating the homeowners' association described in paragraph 4 below. No amendment of the protective covenants shall be made inconsistent with the terms of this Decree absent further order of this Court.

4. The easement for the Antelope Valley Ranch Reservoir site, the right to store and withdraw water therein pursuant to this plan for augmentation, together with the 0.339 c.f.s. which are subject to this plan, will be held by a homeowners' association to be formed by Applicants within 90 days of the entry of this Decree, and the obligations and rights attendant to this plan for augmentation shall be assumed by and assigned to such homeowners' association. This homeowners' association shall be known as the Blumenau Homeowners' Association (hereinafter referred to as "BHA") and shall ultimately be comprised of all lot owners within the Blumenau subdivision.

5. The BHA shall enforce the restrictions in the protective covenants running with the land and shall be required so to do by the Articles of Incorporation under which it is created. It shall be empowered to be sued on behalf of its constituent property owners by any person entitled to enforce this Decree and it may in turn sue its constituent property owners or other persons in use to enforce compliance with the terms hereof. On or before January 1 of each year of its existence, the BHA shall report to the Division Engineer the name and address of the president of the association, the number of residences then

constructed and available for occupancy and the number of residences keeping horses on their lots, together with a statement whether such residences are occupied year-round or only for weekends and vacations.

6. Applicants shall permanently remove from irrigation the 7.5 acres of land described in Exhibit "C," and shall, if ordered by the Division Engineer, set survey monuments at the corners of those acres so removed from irrigation.

7. The BHA shall leave in Antelope Creek, or divert and immediately deliver back into Antelope Creek, when the same may be lawfully diverted, 0.086 c.f.s. to balance simultaneous subdivision depletions. The BHA may divert, when the same may be lawfully diverted, the remainder of the 0.339 c.f.s. subject to the plan for augmentation, for storage of up to 5.64 acre feet of water per annum in Antelope Valley Ranch Reservoir. On orders of the Division Engineer, the BHA shall release the waters thus stored up to a maximum of 3.82 acre feet per annum in order to balance subdivision depletions at times when said 0.339 c.f.s. may not lawfully be diverted. The amount of water rights decreed to the John L. Schwab No. 1 Ditch that may lawfully be diverted to storage, plus the amount that may lawfully be left in the stream or diverted and redelivered to the stream, shall not exceed 0.339 c.f.s. For administrative convenience, the Division Engineer may vary the amounts being delivered into storage and to the stream provided the total of both amounts does not exceed 0.339 c.f.s. This paragraph shall be self executing, and a change of water right is hereby decreed.

8. The BHA shall install and maintain such works and devices as shall accurately measure and control: (a) the waters stored in the Antelope Valley Ranch Reservoir which are received from up to 0.253 c.f.s. of the John L. Schwab

No. 1 Ditch Decrees, and (b) the waters released from said reservoir. The BHA shall install and maintain such other works as shall accurately measure and control all waters subject to this Decree, at such points as the Division Engineer shall require. Said facilities shall be installed, operated, and maintained at all times to the satisfaction of the Division Engineer.

9. Each lot owner shall install a water meter or other measuring device satisfactory to the Division Engineer. The BHA shall supply the Division Engineer with readings therefrom semiannually, on or before January 1 and July 1 of each year, and at such other times as the Division Engineer may by order require.

10. Immediate steps shall be taken by the BHA to curtail domestic, in-house use if under the following formula the consumptive use in any water year exceeds the total amount of water available for depletion replacement:

$$Q = 0.0627a + 0.0172b + 0.0224c + 0.0061d + e, \text{ where}$$

Q = consumptive use in acre feet of water per annum.

a = the total number of year-round residences developed;

b = the total number of weekend-vacation residences developed; and

c = the total number of year-round residences keeping horses on their lots;

d = the total number of weekend-vacation residences keeping horses on their lot;

e = 1.82 consumptive acre feet per annum of stored water evaporation loss.

If the amount of replacement water available for the year exceeds the amount required under the above formula, the excess in any one year may be sold, leased or otherwise disposed of by the BHA for use within the Blumenau subdivision or at such other locations as the BHA may desire.

11. Any user who withdraws or uses water in violation of this Decree shall be subject to all administrative and legal sanctions provided by law and by this Decree. No user diverting or using water under the authority of this Decree shall rely upon or be entitled to rely upon the exemptions or presumptions set forth in 1973 C.R.S. §37-92-602. -?

12. Applicants or their successors shall file with this Court notice of the location of each domestic supply well to be drilled in the Blumenau subdivision at the time that the permit therefor is requested from the office of the Colorado State Engineer. The State Engineer shall not issue a well permit for a well located within the Blumenau Subdivision under the plan for augmentation approved hereunder until and unless the applicant therefor shall tender with his or her application a receipt from the Clerk of the District Court in and for Water Division No. 2, State of Colorado, for the \$5.00 filing fee required by 1973 C.R.S. §37-92-302(1)(d).

13. The State Engineer, in the discharge of his responsibilities with respect to the processing of applications for permits to construct and utilize wells for the provision of a water supply for the Blumenau subdivision, all for domestic, in-house use only, shall recognize the existence and operation of the plan for augmentation herein approved, and shall issue well permits accordingly, so long as the plan is operational. Each permit issued for such wells shall incorporate within it by reference the provision of this Decree.

14. Applicants or their successors shall file with this Court an application for the right to store water in the Antelope Valley Ranch Reservoir. The Southeastern Colorado Water Conservancy District shall not file a statement of opposition with respect to such application provided that it seeks the right to store therein no more than 13.7 acre feet of water annually.

15. All subsequent purchasers in the Blumenau subdivision and the lands formerly irrigated, all as herein-

above defined, shall be bound by the terms of the Decree in this matter and when the Decree is filed of record in Custer County it shall constitute a covenant running with such lands. Except as provided for in paragraph 10 above, the 7.5 acres of land formerly irrigated shall not be irrigated or subirrigated by the use of the John L. Schwab No. 1 Ditch water rights herein involved or by the use of any other water rights transferred to such land, absent an appropriate decree therefor from the District Court in and for Water Division No. 2.

16. So long as the transferable consumptive use dedicated herein is held or utilized for the purposes of augmentation pursuant to this decree, the water rights involved herein will not be subject to abandonment despite any lack of records of use by the Water Commissioner.

17. The State Engineer and Division Engineer of Water Division No. 2 shall not at the request of other appropriators, or on their own initiative, curtail the diversion of water through any of the wells provided for herein so long as this plan is being administered in accordance with this Decree and replacement water is available in the Antelope Valley Ranch Reservoir. However, if at any time the water available is insufficient to replace the subdivision depletions and the steps taken by the BHA to curtail use have proved inadequate, the State Engineer and Division Engineer shall curtail the diversion of water through any of the wells provided for herein.

18. It is specifically ordered, adjudged and decreed that, based on hydrological and geological fact, but only pursuant to the operation of this plan, there will be unappropriated water available for withdrawal by the proposed wells and that the vested rights or decreed conditional water rights of others will not be injured by the construction and use of such proposed domestic supply wells, subject,



however, to the provisions of paragraph 21 below.

19. The Water Commissioner for Water District No. 2 is hereby directed to reduce the headgate diversions for each of the two John L. Schwab No. 1 Ditch water rights, as described in paragraph 11 of the Findings above, by 0.1695 c.f.s.

20. This Decree shall become effective as to the Blumenau subdivision when:

a) The Articles of Incorporation creating the BHA and incorporating by reference the provisions of this Decree have been adopted and proof thereof filed with the Clerk of this Court;

b) The water rights subject to this plan for augmentation, as set forth in paragraph 2 above, have been conveyed to the BHA;

c) The location of the 7.5 acres as described in Exhibit "C," to be removed from irrigation have been approved by the Division Engineer;

d) This Decree has been recorded in the records of Custer County, Colorado, and a copy thereof filed with the Clerk of this Court; and

e) Notice of the filing of this Decree has been served upon the owners of all lots sold prior to the recording of this Decree and copies of said Notice have been filed with the Clerk of this Court.

Copies of the Articles of Incorporation, recorded Decree and Notice of Decree to Lot Owners shall be sent to the Southeastern Colorado Water Conservancy District. Upon motion by Applicants, after compliance with this paragraph, the Court will enter an order so stating.

21. Any time after this plan has been in operation for five years, the BHA may file an application for approval of a plan for augmentation in behalf of the subdivision for

the purpose of expanding or changing the decreed uses or otherwise making use for the subdivision of that part of the property subject to this Decree which, based on such operation, appears to be in excess of the ultimate in-house use requirements for the subdivision.

22. Pursuant to 1973 C.R.S. § 37-92-304(6), as amended by S.B. 4, Chap. 483, 1977 Colo. Sess. Laws, and in order to insure that no injury occurs to the vested rights of others, including applicants, any such person claiming injury may reopen this Decree within five years of the date hereof.

DATED this 21 day of January, 1978.

*John C. Statler*

John C. Statler  
Water Judge  
Water Division No. 2  
State of Colorado

LIVINGSTON PROPERTIES, INC. and  
ANTELOPE VALLEY RANCH CORPORATION

By *Kenneth J. Burke*

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THE SOUTHEASTERN COLORADO  
WATER CONSERVANCY DISTRICT

By *Charles J. Beise*

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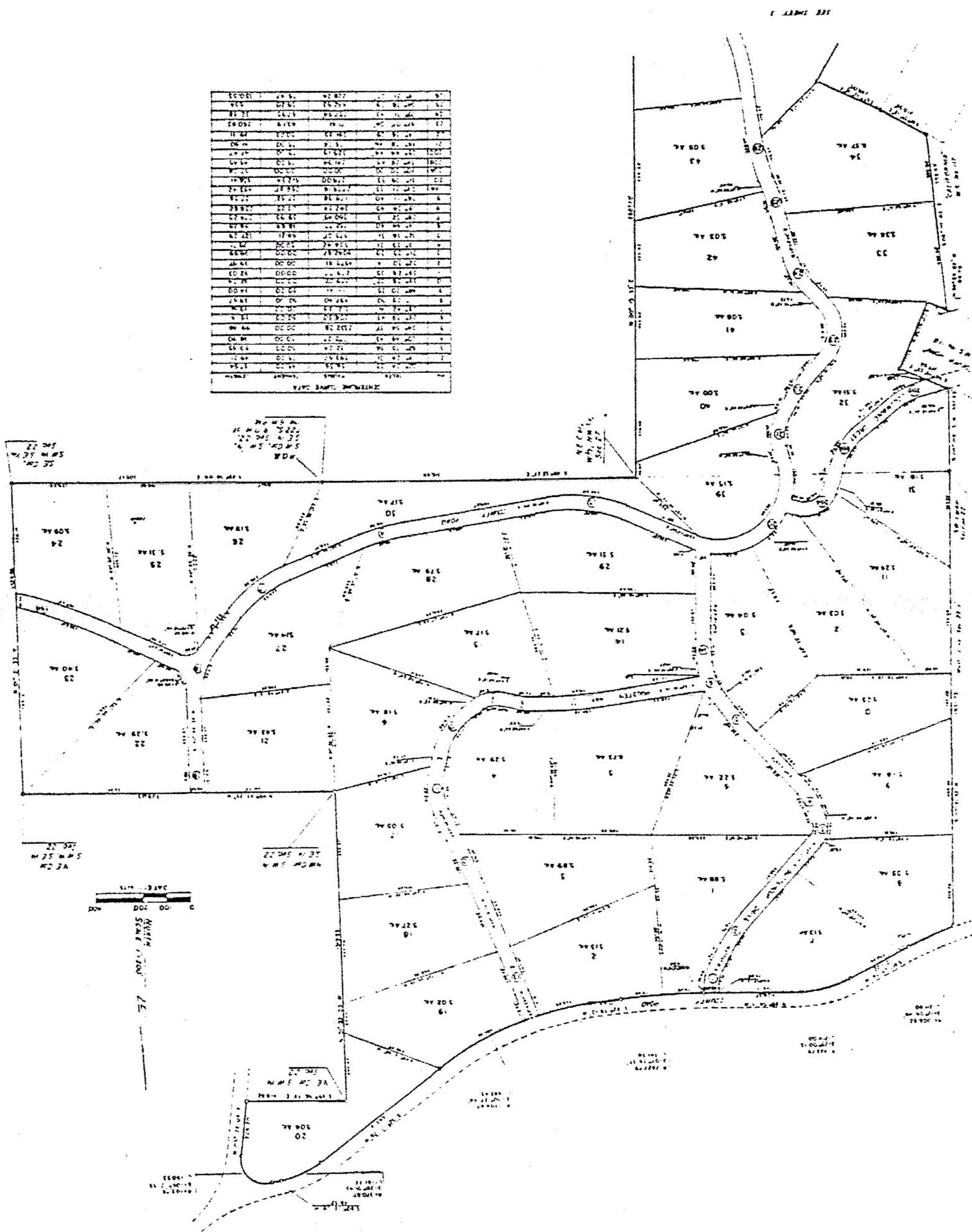
ATTORNEY FOR OPPONENT



# BLUMENAU SUBDIVISION FILING No. 1

A SURVIVOR IN CUSTER COUNTY, COLORADO

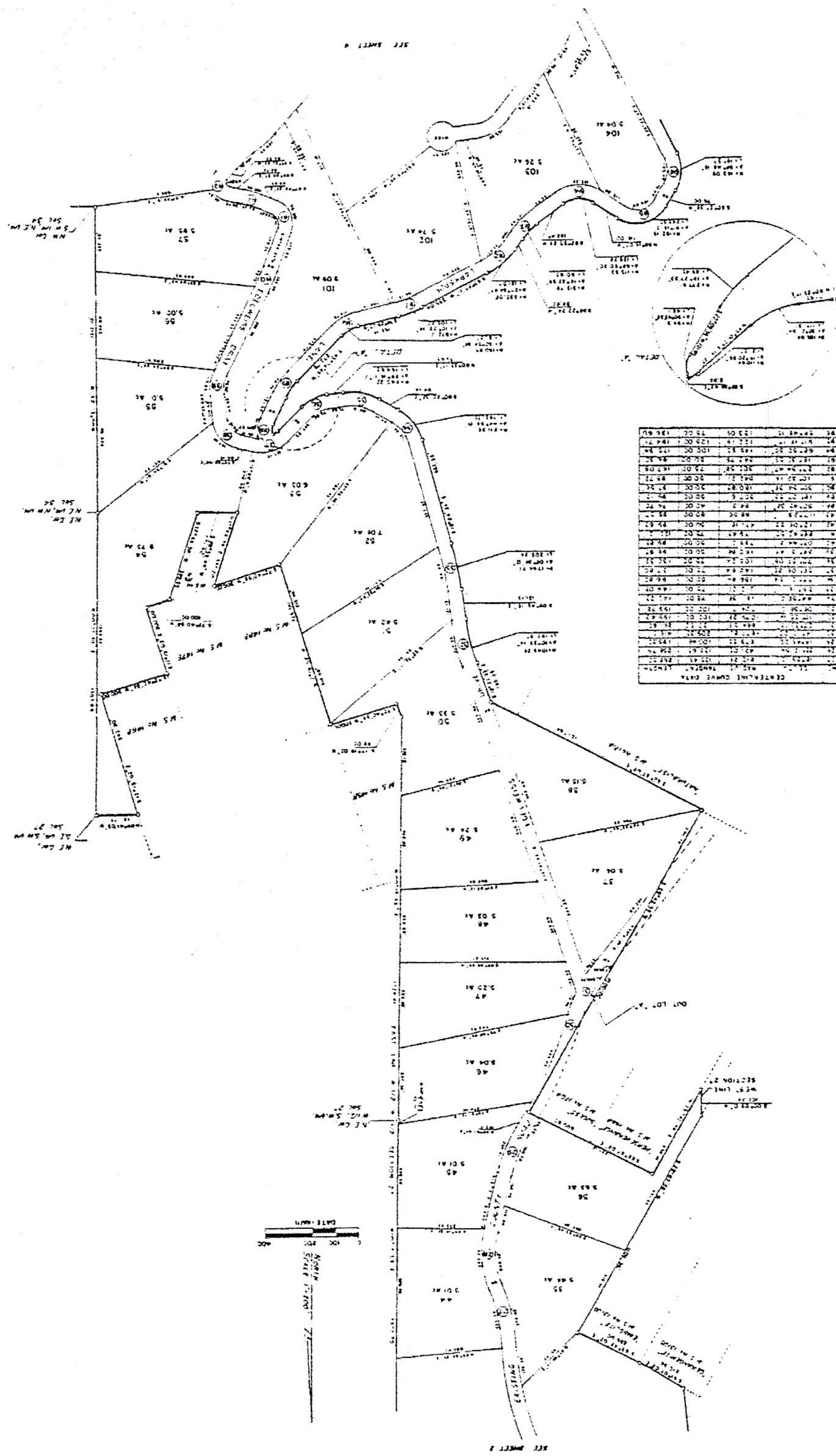
Block	Area (Ac.)	Owner	Remarks
1	1.00	Blumenau	
2	1.00	Blumenau	
3	1.00	Blumenau	
4	1.00	Blumenau	
5	1.00	Blumenau	
6	1.00	Blumenau	
7	1.00	Blumenau	
8	1.00	Blumenau	
9	1.00	Blumenau	
10	1.00	Blumenau	
11	1.00	Blumenau	
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97	1.00	Blumenau	
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99	1.00	Blumenau	
100	1.00	Blumenau	



SEE SHEET 2

# BLUMENAU SUBDIVISION FILING No. 1

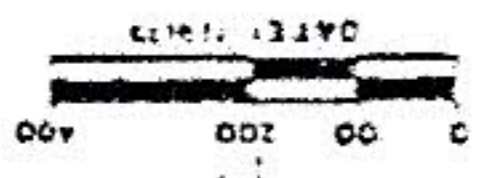
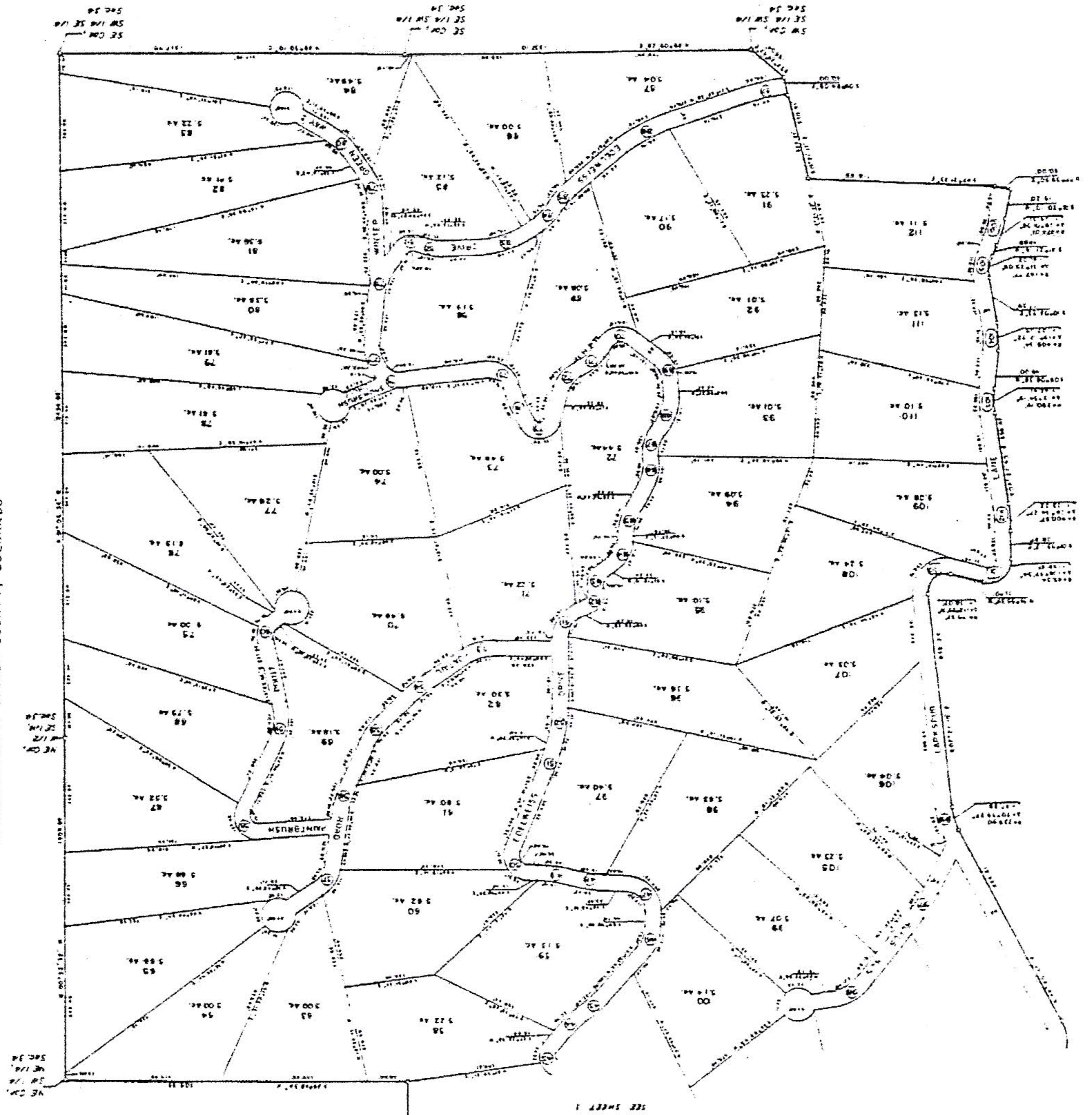
A SUBDIVISION IN CUSTER COUNTY, COLORADO



Blumenau Subdivision  
Sheet 1 of 4

# BLUMENAU SUBDIVISION FILING No. 1

A SUBDIVISION IN CUSTER COUNTY, COLORADO



DATE: 1917  
 ASSESSOR: J. S. ...  
 COUNTY: CUSTER, CO.

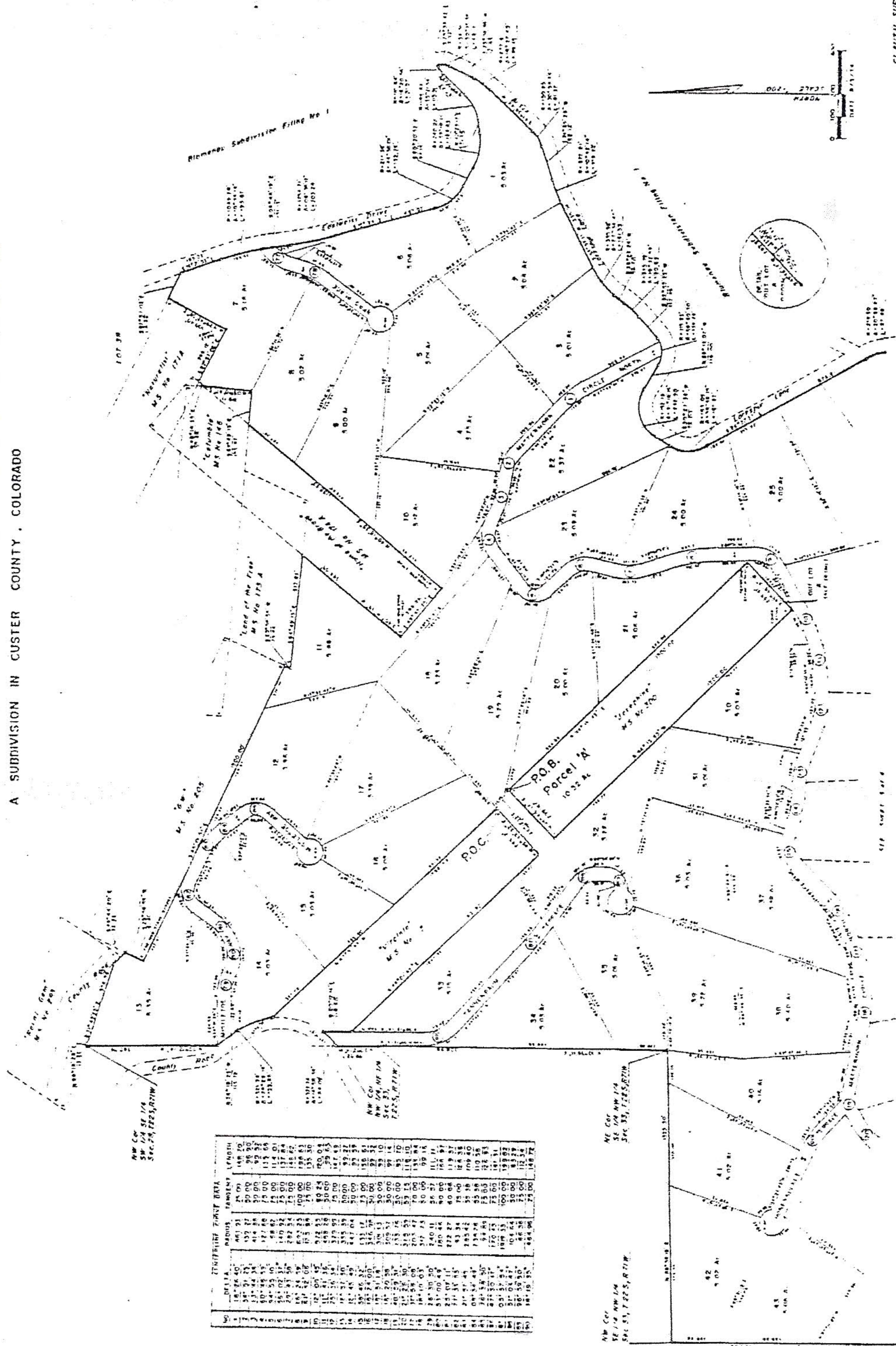
Lot No.	Area (Ac.)	Area (Sq. Ft.)
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2	1.00	43,560
3	1.00	43,560
4	1.00	43,560
5	1.00	43,560
6	1.00	43,560
7	1.00	43,560
8	1.00	43,560
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96	1.00	43,560
97	1.00	43,560
98	1.00	43,560
99	1.00	43,560
100	1.00	43,560

Lot No.	Area (Ac.)	Area (Sq. Ft.)
1	1.00	43,560
2	1.00	43,560
3	1.00	43,560
4	1.00	43,560
5	1.00	43,560
6	1.00	43,560
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10	1.00	43,560
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95	1.00	43,560
96	1.00	43,560
97	1.00	43,560
98	1.00	43,560
99	1.00	43,560
100	1.00	43,560



# BLUMENAU SUBDIVISION FILING NO. 2

A SUBDIVISION IN CUSTER COUNTY, COLORADO



LOT	ACREAGE	BEARING	DISTANCE	POINT
1	1.00	N 89° 00' 00" W	100.00	1
2	1.00	S 89° 00' 00" E	100.00	2
3	1.00	S 00° 00' 00" E	100.00	3
4	1.00	N 89° 00' 00" W	100.00	4
5	1.00	S 89° 00' 00" E	100.00	5
6	1.00	S 00° 00' 00" E	100.00	6
7	1.00	N 89° 00' 00" W	100.00	7
8	1.00	S 89° 00' 00" E	100.00	8
9	1.00	S 00° 00' 00" E	100.00	9
10	1.00	N 89° 00' 00" W	100.00	10
11	1.00	S 89° 00' 00" E	100.00	11
12	1.00	S 00° 00' 00" E	100.00	12
13	1.00	N 89° 00' 00" W	100.00	13
14	1.00	S 89° 00' 00" E	100.00	14
15	1.00	S 00° 00' 00" E	100.00	15
16	1.00	N 89° 00' 00" W	100.00	16
17	1.00	S 89° 00' 00" E	100.00	17
18	1.00	S 00° 00' 00" E	100.00	18
19	1.00	N 89° 00' 00" W	100.00	19
20	1.00	S 89° 00' 00" E	100.00	20
21	1.00	S 00° 00' 00" E	100.00	21
22	1.00	N 89° 00' 00" W	100.00	22
23	1.00	S 89° 00' 00" E	100.00	23
24	1.00	S 00° 00' 00" E	100.00	24
25	1.00	N 89° 00' 00" W	100.00	25
26	1.00	S 89° 00' 00" E	100.00	26
27	1.00	S 00° 00' 00" E	100.00	27
28	1.00	N 89° 00' 00" W	100.00	28
29	1.00	S 89° 00' 00" E	100.00	29
30	1.00	S 00° 00' 00" E	100.00	30
31	1.00	N 89° 00' 00" W	100.00	31
32	1.00	S 89° 00' 00" E	100.00	32
33	1.00	S 00° 00' 00" E	100.00	33
34	1.00	N 89° 00' 00" W	100.00	34
35	1.00	S 89° 00' 00" E	100.00	35
36	1.00	S 00° 00' 00" E	100.00	36
37	1.00	N 89° 00' 00" W	100.00	37
38	1.00	S 89° 00' 00" E	100.00	38
39	1.00	S 00° 00' 00" E	100.00	39
40	1.00	N 89° 00' 00" W	100.00	40
41	1.00	S 89° 00' 00" E	100.00	41
42	1.00	S 00° 00' 00" E	100.00	42
43	1.00	N 89° 00' 00" W	100.00	43
44	1.00	S 89° 00' 00" E	100.00	44
45	1.00	S 00° 00' 00" E	100.00	45
46	1.00	N 89° 00' 00" W	100.00	46
47	1.00	S 89° 00' 00" E	100.00	47
48	1.00	S 00° 00' 00" E	100.00	48
49	1.00	N 89° 00' 00" W	100.00	49
50	1.00	S 89° 00' 00" E	100.00	50
51	1.00	S 00° 00' 00" E	100.00	51
52	1.00	N 89° 00' 00" W	100.00	52
53	1.00	S 89° 00' 00" E	100.00	53
54	1.00	S 00° 00' 00" E	100.00	54
55	1.00	N 89° 00' 00" W	100.00	55
56	1.00	S 89° 00' 00" E	100.00	56
57	1.00	S 00° 00' 00" E	100.00	57
58	1.00	N 89° 00' 00" W	100.00	58
59	1.00	S 89° 00' 00" E	100.00	59
60	1.00	S 00° 00' 00" E	100.00	60
61	1.00	N 89° 00' 00" W	100.00	61
62	1.00	S 89° 00' 00" E	100.00	62
63	1.00	S 00° 00' 00" E	100.00	63
64	1.00	N 89° 00' 00" W	100.00	64
65	1.00	S 89° 00' 00" E	100.00	65
66	1.00	S 00° 00' 00" E	100.00	66
67	1.00	N 89° 00' 00" W	100.00	67
68	1.00	S 89° 00' 00" E	100.00	68
69	1.00	S 00° 00' 00" E	100.00	69
70	1.00	N 89° 00' 00" W	100.00	70
71	1.00	S 89° 00' 00" E	100.00	71
72	1.00	S 00° 00' 00" E	100.00	72
73	1.00	N 89° 00' 00" W	100.00	73
74	1.00	S 89° 00' 00" E	100.00	74
75	1.00	S 00° 00' 00" E	100.00	75
76	1.00	N 89° 00' 00" W	100.00	76
77	1.00	S 89° 00' 00" E	100.00	77
78	1.00	S 00° 00' 00" E	100.00	78
79	1.00	N 89° 00' 00" W	100.00	79
80	1.00	S 89° 00' 00" E	100.00	80
81	1.00	S 00° 00' 00" E	100.00	81
82	1.00	N 89° 00' 00" W	100.00	82
83	1.00	S 89° 00' 00" E	100.00	83
84	1.00	S 00° 00' 00" E	100.00	84
85	1.00	N 89° 00' 00" W	100.00	85
86	1.00	S 89° 00' 00" E	100.00	86
87	1.00	S 00° 00' 00" E	100.00	87
88	1.00	N 89° 00' 00" W	100.00	88
89	1.00	S 89° 00' 00" E	100.00	89
90	1.00	S 00° 00' 00" E	100.00	90
91	1.00	N 89° 00' 00" W	100.00	91
92	1.00	S 89° 00' 00" E	100.00	92
93	1.00	S 00° 00' 00" E	100.00	93
94	1.00	N 89° 00' 00" W	100.00	94
95	1.00	S 89° 00' 00" E	100.00	95
96	1.00	S 00° 00' 00" E	100.00	96
97	1.00	N 89° 00' 00" W	100.00	97
98	1.00	S 89° 00' 00" E	100.00	98
99	1.00	S 00° 00' 00" E	100.00	99
100	1.00	N 89° 00' 00" W	100.00	100

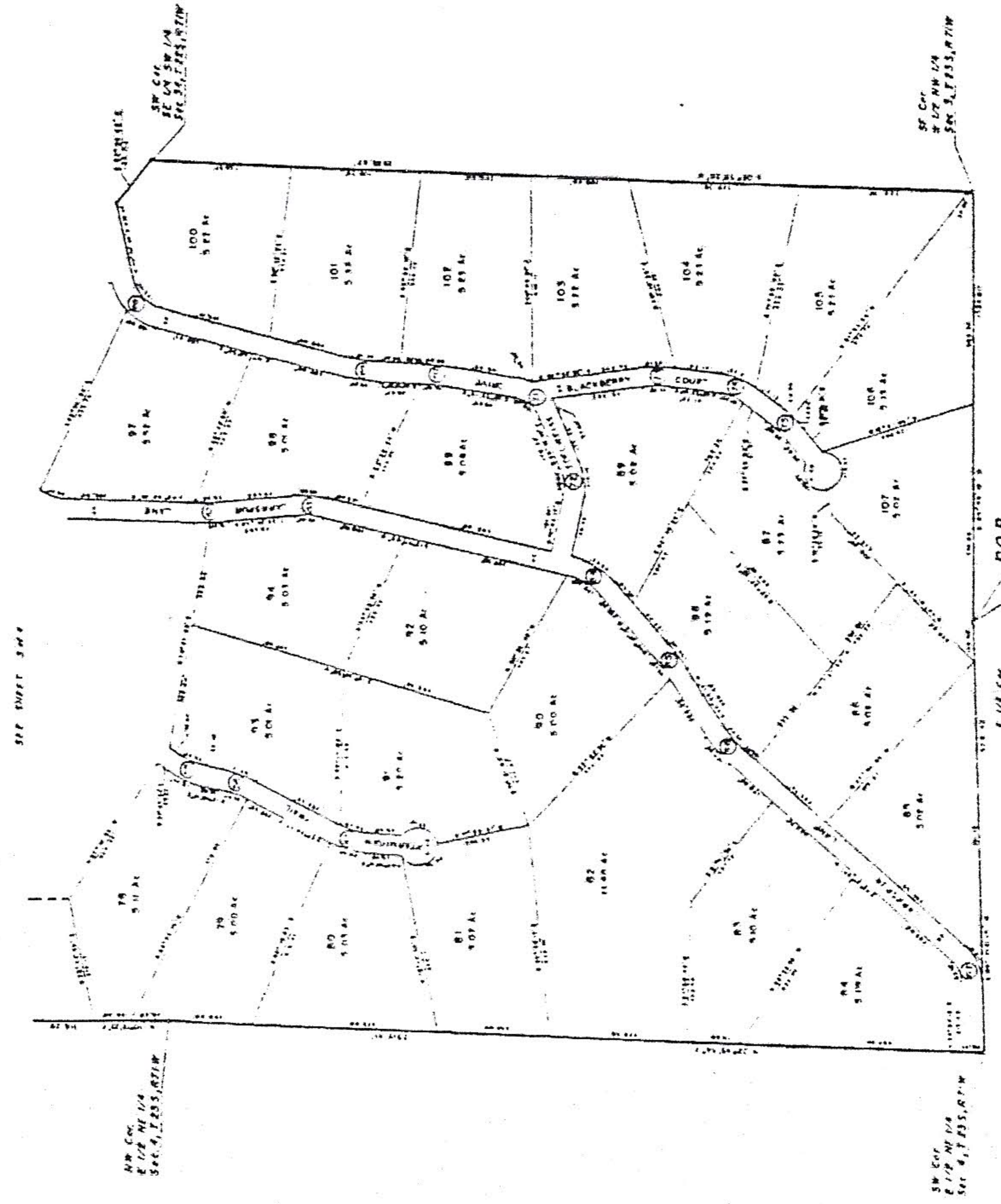
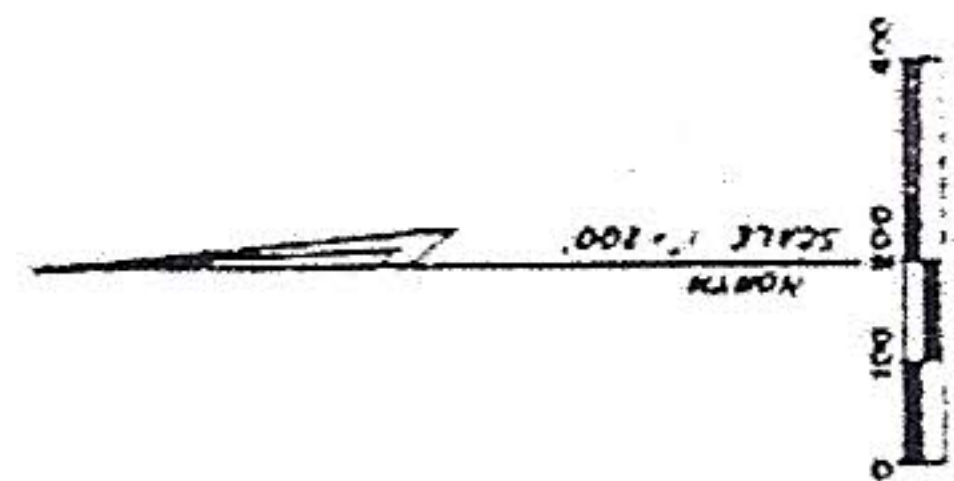


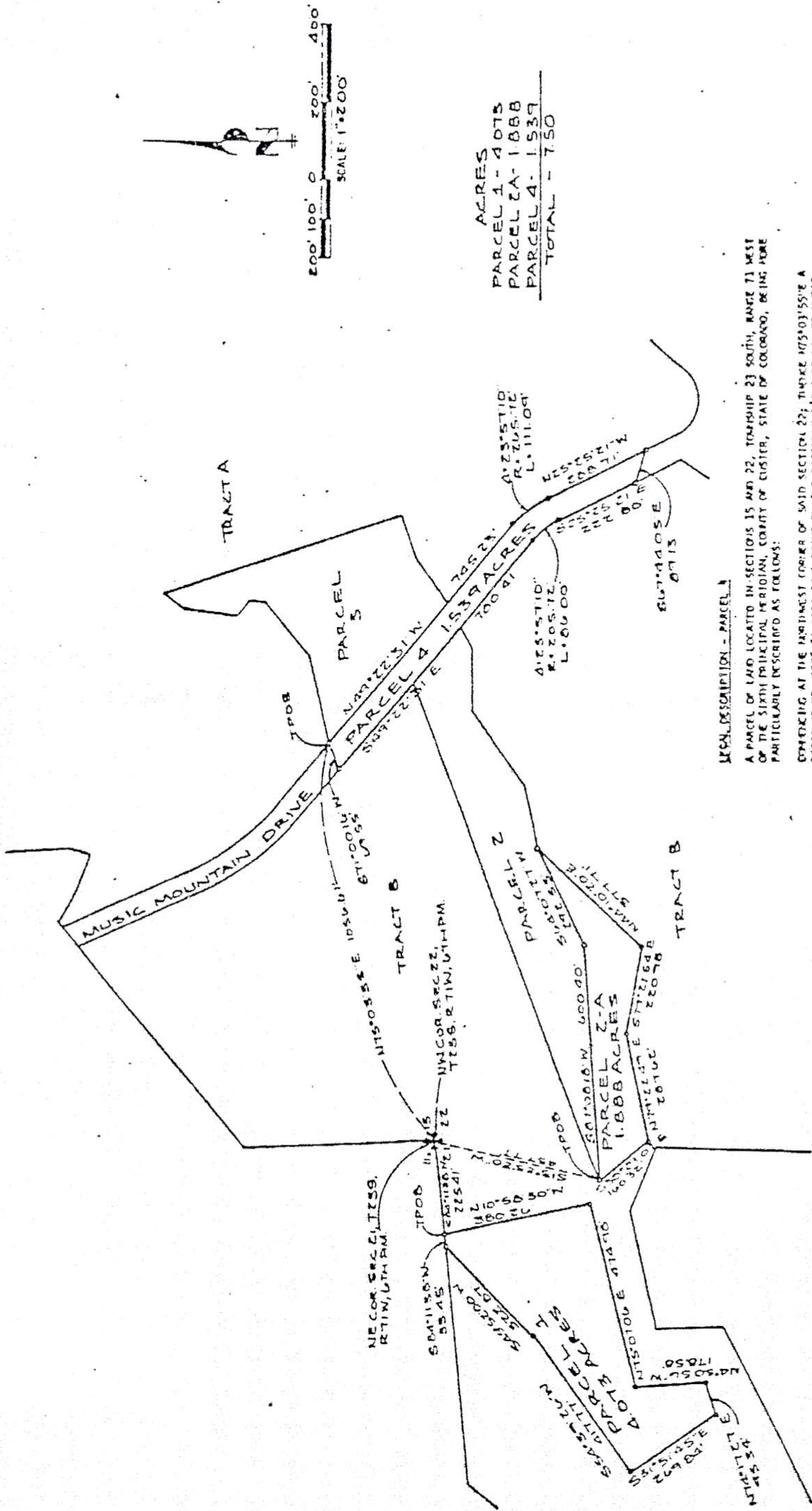


# BLUMENAU SUBDIVISION FILING NO. 2

A SUBDIVISION IN CUSTER COUNTY, COLORADO

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147	201.87	50.00	80.72
148	201.87	50.00	80.72
149	201.87	50.00	80.72
150	201.87	50.00	80.72





NO.	REVISION	BY	DATE
1			
LIVINGSTON - ARIZONA VALLEY			
DRY-UP PARCELS			
BY: WJAM			
DATE: 11/1/11			
SCALE: 1" = 200'			
JR. DI VITOLO AND 6005 E. EDWARDS AVE. DENVER, CO 80222			

JAMES D. WILBER, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT I HAVE PREPARED THE ABOVE LEGAL DESCRIPTIONS.  
 JAMES D. WILBER  
 REGISTERED LAND SURVEYOR #11911