

37872

**SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS
FOR PRIVATE ACCESS AND PUBLIC UTILITY EASEMENT**

This Declaration is made this 11th day of April,
1994, by KGA Development Corporation ("KGA").

WITNESSETH

WHEREAS, KGA is the owner of a fee simple estate in certain parcels of real property located in Sandoval County, New Mexico, more particularly described as Lots 6C and 6D, Block 1 ("the Lots"), as shown and designated on the Replat of the La Mesa Subdivision in S25, T13N, R4E NMPA, filed on March 2, 1989 in Vol. 3, Folio 365-A, in the records of the Sandoval County Clerk, New Mexico ("the Plat"); and

WHEREAS, the Lots are owned and held by KGA subject to certain covenants and restrictions of record, including without limitation the Comprehensive Declaration of Covenants, Conditions and Restrictions recorded on July 18, 1988 in Vol. Misc. 221, Folio 68-100, as Document 22603, in the records of the Sandoval County Clerk, New Mexico, and on supplements or amendments thereto; and

WHEREAS, KGA has burdened portions of the Lots with a 30 foot wide Private Access and Public Utility Easement ("the Easement"), as more fully shown in the Plat; and

WHEREAS, KGA may hereafter, sell, dispose of, convey, lease, or hypothecate one or all of the Lots; and

WHEREAS, responsibility for the improvement of 605
Easement, as well as the repair and maintenance of the Easement,

rests with the owners of the Lots and does not rest with the La Mesa Homeowners Association; and

WHEREAS, the easement crosses an arroyo and may be subject to occasional flooding. The owners of the lots, and not La Mesa Homeowners Association, will be responsible for keeping the driveway in good repair, including that portion crossing the arroyo.

WHEREAS, KGA desires to subject the Lots to the covenants, conditions, restrictions, reservations, liens and charges hereinafter set forth to insure the maintenance of the Easement for joint use by the owners of the Lots, their tenants, invitees, as well as their successors and assigns (the "Lot owners");

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS KGA declares:

1. The cost of any future improvements or repairs to the Driveway, necessitated by the installation, maintenance or repair of any utilities on the Easement, which are not borne by the utility company itself, is to be borne by the Lot owner whose utility service is affected, or split evenly between the Lot owners if the utility service of all of the Lot owners is benefitted by the installation, maintenance or repair of the utility service. Any portion of the Easement affected by utility service work shall be restored to the same condition as existed prior to such work.

2. The costs generally of improving the Easement with a gravel driveway (the "Driveway"), and maintaining and repairing the Driveway, including the repair of any damage caused by occasional flooding of that part of the Easement that crosses the arroyo located on the Lots, shall be split evenly between the Lot owners, unless one of the Lot owners has not yet started construction on his Lot, in which case the Lot owner who has started construction shall be responsible for the costs of improving, maintaining and repairing the Driveway until such time as the other Lot owner starts construction on his Lot at which time such Lot owner shall share the costs incurred from that date forward.

3. None of the Lot owners shall erect or construct, or cause to be erected or constructed, any fence, wall, curb, gate or other barrier which blocks or otherwise interferes with or restricts the full and complete use and enjoyment of the Easement by all Lot owners, unless all Lot owners have consented to the same and it does not otherwise violate any covenants, conditions or restrictions the Lots are subject to. This does not, however, preclude the Lot owners from planting trees or other ground cover, approved by the architectural control committee of the La Mesa Homeowners Association, on those portions of the Easement not actually used for the Driveway. The Lot owners shall not be liable to one another for injury or damage to such trees or ground cover planted on the Easement if

such damage or injury occurs in connection with the use of the Easement for its intended purposes.

4. Each Lot owner shall allow the other, their agents and employees to temporarily, and with advance notice, enter upon that portion of his land, outside of the Easement, as is reasonably necessary due to terrain or other extraordinary conditions, for the purpose of improving, maintaining and repairing the Driveway. There shall be no disturbance of trees or other ground cover during such entry.

5. If any Lot owner should neglect or refuse to pay his share of the cost to improve the Easement, and maintain and or repair the Driveway, as required by this Declaration, the other Lot owners may pay such costs and shall be entitled to a Mechanic's Lien and Lis Pendens on the property of the Lot owner failing to pay his share.

6. Should the Lot owners ever become involved in litigation over the enforcement of any provision in this Supplemental Declaration, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.

7. Each Lot owner is bound to indemnify the other against his share of any liability for personal injury or property damage, when such injury or damage shall result from, arise out of, or be attributable to any construction, maintenance or repair undertaken in connection with the Easement or pursuant to this Declaration.

This Document is a duplicate original of that certain Grant of Easement recorded May 31, 1988, in Book Misc. 219, page 336, and is being re-recorded to attach Exhibit A, which was left off in error.

GRANT OF EASEMENT

THIS GRANT OF EASEMENT, made this 31 day of May, 1988, by and between MARGUERITE LIBERMAN, a widow; JOSEPH GREVEY and SIMONE GREVEY, his wife; JACK GREVEY and JOANNE M. GREVEY, as Trustees under the Restatement of Trust Agreement, dated March 2, 1983; and IRA LIBERMAN and FRANCES LIBERMAN, his wife ("Grantors") and KGA DEVELOPMENT CORPORATION ("Grantee").

For consideration paid, the receipt and sufficiency of which is hereby acknowledged, and pursuant to that certain Purchase Agreement dated November 30, 1987, by and between KGA Partnership, a New Mexico general partnership, and Grantors, Grantors do hereby grant, bargain, sell, convey and confirm with warranty covenants unto Grantee, its successors and assigns, a right-of-way and utility easement in, on, under, beneath, over and across certain real estate situate in Sandoval County, New Mexico, and more particularly described on Exhibit A, attached hereto and incorporated herein by reference. Said Easement shall include a right of perpetual, ingress and egress for vehicular travel, and the right to install, operate and maintain electric, natural gas, telephone, and domestic water utilities.

Grantee, its successors or assigns, agree to maintain and keep said easement in good repair, and further agree to indemnify and hold harmless Grantors from any and all third-party claims

and cost arising from the construction, installation and maintenance of roads and utilities within said easement.

Grantors and Grantee do hereby dedicate said easement to and for the benefit of the general public.

WITNESS our hands and seals this ____ day of May, 1988.

GRANTORS:

Marguerite Liberman
MARGUERITE LIBERMAN, a widow

Ira Liberman
IRA LIBERMAN

Frances Liberman
FRANCES LIBERMAN, his wife

Joseph Grevey
JOSEPH GREVEY

Simone Grevey
SIMONE GREVEY

Jack Grevey
JACK GREVEY, Trustee under
Restatement of Trust Agreement
dated March 2, 1983.

Joanne M. Grevey
JOANNE M. GREVEY, Trustee under
Restatement of Trust Agreement
dated March 2, 1983.

GRANTEE:

KGA DEVELOPMENT CORPORATION

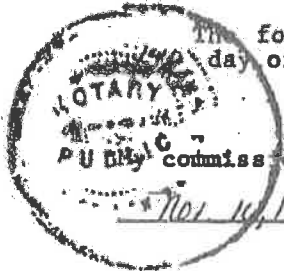
By: John J. Kelly
JOHN J. KELLY, its President

Notary Public
STATE OF PENNSYLVANIA
MAY 19 1988
A necessary operation in the presence of an authorized officer.

ACKNOWLEDGEMENTS FOR NATURAL PERSONS

STATE OF NEW MEXICO)
) ss.
 COUNTY OF BERNALILLO)

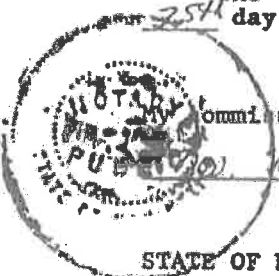
The foregoing instrument was acknowledged before me this day of May, 1988, by Marguerite Liberman.



Marguerite Liberman
 Notary Public

STATE OF NEW MEXICO)
) ss.
 COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this day of May, 1988, by Ira Liberman.



Ira Liberman
 Notary Public

STATE OF NEW MEXICO)
) ss.
 COUNTY OF BERNALILLO)

Frances The foregoing instrument was acknowledged before me this day of May, 1988, by Frances Liberman.

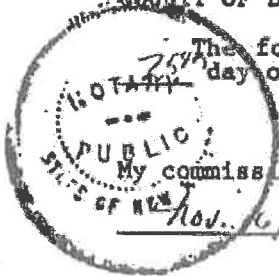


Frances Liberman
 Notary Public

My commission expires:

All notary public licenses are subject to the provisions of the Notary Public Law of 1977, which provides that the commission of a notary public shall expire on the first day of the month in which the commission was issued, unless the commission is renewed by the State Board of Notary Publics.

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)



The foregoing instrument was acknowledged before me this 25th day of May, 1988, by Joseph Grevey.

Arzeta Ackerman
Notary Public

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)



The foregoing instrument was acknowledged before me this 25th day of May, 1988, by Simone Grevey.

Arzeta Ackerman
Notary Public

ACKNOWLEDGEMENTS FOR TRUSTEES

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)



The foregoing instrument was acknowledged before me this 25th day of May, 1988, by Jack Grevey, trustee, acting on behalf of the Restatement of Trust Agreement dated March 2, 1983, a Trust.

Arzeta Ackerman
Notary Public

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
DATE 11/11/01 BY 60322 UCBAW/STP

PROPERTY DESCRIPTION
prepared for
Entrance Right-of-Way
to La Mesa Subdivision

A certain tract of land lying and being situate within the Felipe Gutierrez or Bernalillo Grant, Sandoval County, New Mexico, and being more particularly described by metes and bounds as follows:

BEGINNING at a point on the easterly side of the southern end of the tract, from whence the USGLO Brass Cap monument marking the closing corner between Sections 26 and 35, T.13 N., R.4 E., N.M.P.M. on the easterly boundary of the Felipe Gutierrez or Bernalillo Grant bears N35°49'02"E, 248.02 feet; thence, from said point of beginning,

S35°49'02"W, 59.94 feet to a point; thence,
N20°42'13"W, 546.84 feet to a point; thence,
825.02 feet along a curve to the right with a radius of 325.00 feet
and a delta of 145°26'47"; thence,
S55°15'25"E, 282.20 feet to a point; thence,
S35°44'35"W, 50.01 feet to a point; thence,
N55°15'25"W, 281.33 feet to a point; thence,
698.09 feet along a curve to the left with a radius of 275.00 feet
and a delta of 145°26'47"; thence,
S20°42'13"E, 513.77 feet to the point and place of beginning.

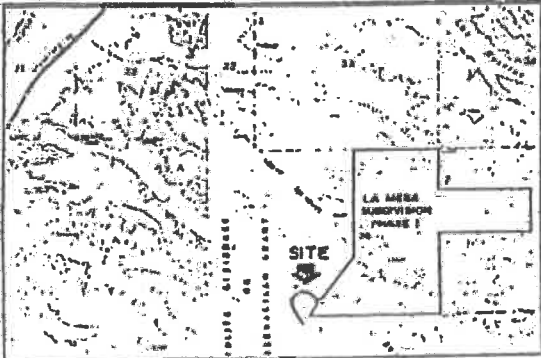
Containing 1.8062 acres, more or less.

All as shown on that certain plat of survey titled "Entrance Right-of-Way to La Mesa Subdivision", dated September, 1987 by Richard E. Smith, NMPLS #5837.

EXHIBIT A

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All the above-described tracts of land are situated within the Felipe Gutierrez or Bernalillo Grant, Sandoval County, New Mexico, and being more particularly described by metes and bounds as follows: ...



VICINITY MAP

SCALE: 1" = 200'

SCALE: 1" = 100'



N

AREA OF R/W
1.8062 Acres

R=32500'
Δ=145°28'47"
L=825.02'

R=275.00'
Δ=145°28'47"
L=699.00'

OFF ROAD DISTANCE
MEASUREMENT



LEGEND

BEARINGS PLYED ON A PRELIMINARY PLAN OF SURVEY BY SMITH AND WILLIAMSON SURVEYING SERVICE, DATED 1997 SEP., TITLED "PRELIMINARY PLAN, LA MESA SUBDIVISION" HAVING PROJECT NO. 2835.

- ⊙ DESIGNATES U.S.G.L.S. BRASS CAP FOUND AND USED.
 - ⊙ DESIGNATES NO. 4 REBAR WITH ALUMINUM CAP SET WITH ABOVE MENTIONED PLAN OF SURVEY.
 - ⊙ TRIANGULAR CALCULATED PRINTS NOT SET.
- THESE LAIDS ARE SUBJECT TO ALL APPURTENANT EASEMENTS OF RECORD.

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE BY ME OR UNDER MY PERSONAL DIRECTION AND CONTROL, DURING THE MONTH OF SEPTEMBER, 1998, AND THAT THE DATA SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF IN ACCORDANCE WITH THE STANDARDS AND PRACTICES OF THE NATIONAL BOARD OF SURVEYORS AND LAND SURVEYORS. I AND MY FELLOW SURVEYORS ARE ADOPTED BY THE NEW MEXICO STATE BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

Richard L. Smith
RICHARD L. SMITH, R.L.S. 1132

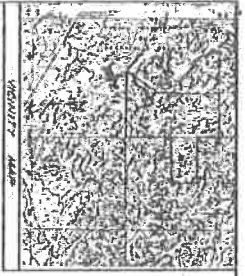
SMITH WILLIAMSON & ASSOCIATES
1200 East Street, Suite 200, Santa Fe, New Mexico 87505
303.755.1130

PLAN OF SURVEY OF
ENTRANCE RIGHT-OF-WAY TO LA MESA SUBDIVISION

SCALE	DATE	BY	CHECKED	APPROVED
1"=100'	SEPTEMBER	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

© 1998 S.W.P.S.

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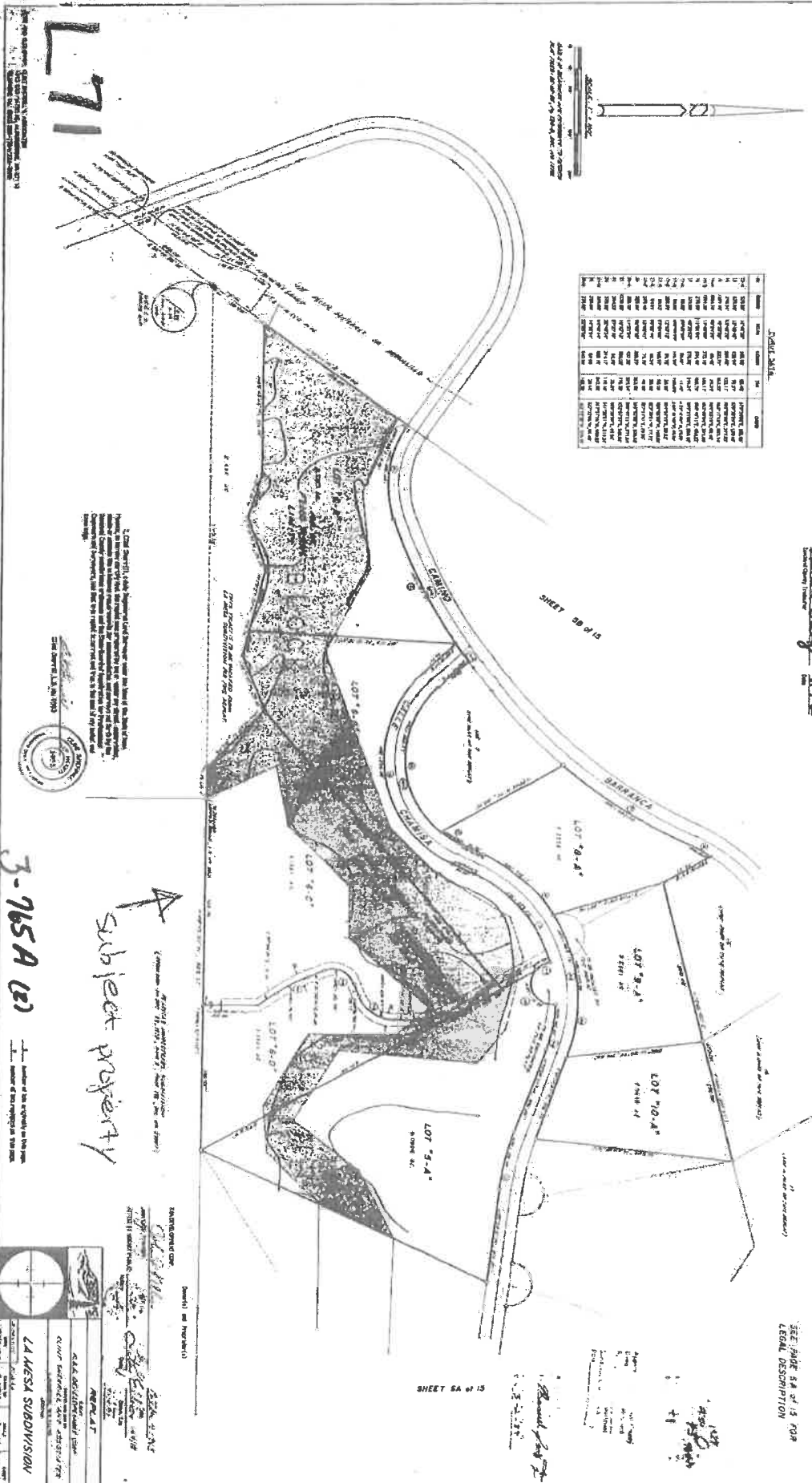
RECORDS
 This map is a replat of lots 5, 6, 8, 9 and 10 of Block One (1) of the La Mesa Subdivision, San Diego County, New Mexico, as shown on the original map of said subdivision, recorded in the office of the County Clerk of said county, under the following recording information:

ORIGINAL MAPS
 Original Map of Block One (1) of the La Mesa Subdivision, San Diego County, New Mexico, recorded in the office of the County Clerk of said county, under the following recording information:

TYPICAL LOT EXHIBIT (ARBITRARY)

DETAILED AREA

NO.	AREA	ACRES	PERCENT
1	LOT 5-A	0.1000	1.0000
2	LOT 5-B	0.1000	1.0000
3	LOT 5-C	0.1000	1.0000
4	LOT 5-D	0.1000	1.0000
5	LOT 5-E	0.1000	1.0000
6	LOT 5-F	0.1000	1.0000
7	LOT 5-G	0.1000	1.0000
8	LOT 5-H	0.1000	1.0000
9	LOT 5-I	0.1000	1.0000
10	LOT 5-J	0.1000	1.0000
11	LOT 5-K	0.1000	1.0000
12	LOT 5-L	0.1000	1.0000
13	LOT 5-M	0.1000	1.0000
14	LOT 5-N	0.1000	1.0000
15	LOT 5-O	0.1000	1.0000
16	LOT 5-P	0.1000	1.0000
17	LOT 5-Q	0.1000	1.0000
18	LOT 5-R	0.1000	1.0000
19	LOT 5-S	0.1000	1.0000
20	LOT 5-T	0.1000	1.0000
21	LOT 5-U	0.1000	1.0000
22	LOT 5-V	0.1000	1.0000
23	LOT 5-W	0.1000	1.0000
24	LOT 5-X	0.1000	1.0000
25	LOT 5-Y	0.1000	1.0000
26	LOT 5-Z	0.1000	1.0000
27	LOT 5-AA	0.1000	1.0000
28	LOT 5-AB	0.1000	1.0000
29	LOT 5-AC	0.1000	1.0000
30	LOT 5-AD	0.1000	1.0000
31	LOT 5-AE	0.1000	1.0000
32	LOT 5-AF	0.1000	1.0000
33	LOT 5-AG	0.1000	1.0000
34	LOT 5-AH	0.1000	1.0000
35	LOT 5-AI	0.1000	1.0000
36	LOT 5-AJ	0.1000	1.0000
37	LOT 5-AK	0.1000	1.0000
38	LOT 5-AL	0.1000	1.0000
39	LOT 5-AM	0.1000	1.0000
40	LOT 5-AN	0.1000	1.0000
41	LOT 5-AO	0.1000	1.0000
42	LOT 5-AP	0.1000	1.0000
43	LOT 5-AQ	0.1000	1.0000
44	LOT 5-AR	0.1000	1.0000
45	LOT 5-AS	0.1000	1.0000
46	LOT 5-AT	0.1000	1.0000
47	LOT 5-AU	0.1000	1.0000
48	LOT 5-AV	0.1000	1.0000
49	LOT 5-AW	0.1000	1.0000
50	LOT 5-AX	0.1000	1.0000
51	LOT 5-AY	0.1000	1.0000
52	LOT 5-AZ	0.1000	1.0000
53	LOT 5-BA	0.1000	1.0000
54	LOT 5-BB	0.1000	1.0000
55	LOT 5-BC	0.1000	1.0000
56	LOT 5-BD	0.1000	1.0000
57	LOT 5-BE	0.1000	1.0000
58	LOT 5-BF	0.1000	1.0000
59	LOT 5-BG	0.1000	1.0000
60	LOT 5-BH	0.1000	1.0000
61	LOT 5-BI	0.1000	1.0000
62	LOT 5-BJ	0.1000	1.0000
63	LOT 5-BK	0.1000	1.0000
64	LOT 5-BL	0.1000	1.0000
65	LOT 5-BM	0.1000	1.0000
66	LOT 5-BN	0.1000	1.0000
67	LOT 5-BO	0.1000	1.0000
68	LOT 5-BP	0.1000	1.0000
69	LOT 5-BQ	0.1000	1.0000
70	LOT 5-BR	0.1000	1.0000
71	LOT 5-BS	0.1000	1.0000
72	LOT 5-BT	0.1000	1.0000
73	LOT 5-BU	0.1000	1.0000
74	LOT 5-BV	0.1000	1.0000
75	LOT 5-BW	0.1000	1.0000
76	LOT 5-BX	0.1000	1.0000
77	LOT 5-BY	0.1000	1.0000
78	LOT 5-BZ	0.1000	1.0000
79	LOT 5-CA	0.1000	1.0000
80	LOT 5-CB	0.1000	1.0000
81	LOT 5-CC	0.1000	1.0000
82	LOT 5-CD	0.1000	1.0000
83	LOT 5-CE	0.1000	1.0000
84	LOT 5-CD	0.1000	1.0000
85	LOT 5-CE	0.1000	1.0000
86	LOT 5-CD	0.1000	1.0000
87	LOT 5-CE	0.1000	1.0000
88	LOT 5-CD	0.1000	1.0000
89	LOT 5-CE	0.1000	1.0000
90	LOT 5-CD	0.1000	1.0000
91	LOT 5-CE	0.1000	1.0000
92	LOT 5-CD	0.1000	1.0000
93	LOT 5-CE	0.1000	1.0000
94	LOT 5-CD	0.1000	1.0000
95	LOT 5-CE	0.1000	1.0000
96	LOT 5-CD	0.1000	1.0000
97	LOT 5-CE	0.1000	1.0000
98	LOT 5-CD	0.1000	1.0000
99	LOT 5-CE	0.1000	1.0000
100	LOT 5-CD	0.1000	1.0000



APPROVALS
 REPLICATED BY: **REPLAT**
 SHOWING: **REPLAT**
 BLOCK ONE (1)
 LA MESA SUBDIVISION
 SANDOVAL COUNTY, NEW MEXICO
 SP/FORMER 12/88

REPLAT
 SHOWING
 BLOCK ONE (1)
 LA MESA SUBDIVISION
 SANDOVAL COUNTY, NEW MEXICO
 SP/FORMER 12/88

Subject property
 3-765A (2)

LA MESA SUBDIVISION

OWNER: **LA MESA SUBDIVISION**

REPLICATED BY: **REPLAT**

SHOWING: **REPLAT**

BLOCK ONE (1)

LA MESA SUBDIVISION

SANDOVAL COUNTY, NEW MEXICO

SP/FORMER 12/88

