AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Public Hearing; Petition to Vacate a Certain Road and Cul-de-Sac Adjacent to Dos Rios Gunnison Homesites Unit No. 2; Levi Klingsmith, et al

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Levi Klingsmith, et al, and Gunnison County

Term Begins: 8/05/2014 **Term Ends:** 8/5/2114 **Grant Contract #:**

Summary:
Levi Klingsmith, et al, have applied for the vacation of an unbuilt portion of CR #33 and the cul-de-sac at the end of the road. There is no ending date for a street vacation.

Fiscal Impact: Applicant has paid application fee

Submitted by: Marlene Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date: Certificate of Insurance Required Yes ○ No ○

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 7/28/2014

○ Consent Agenda ● Regular Agenda ○ Worksession Time Allotted: 15

Agenda Date: 8/5/2014 Follow Up Agenda Date:

Revised April 2013

NOTICE OF PUBLIC HEARING REGARDING
PETITION TO VACATE
A CERTAIN ROAD AND CUL-DE-SAC ADJACENT TO
DOS RIOS GUNNISON HOMESITES UNIT NO. 2

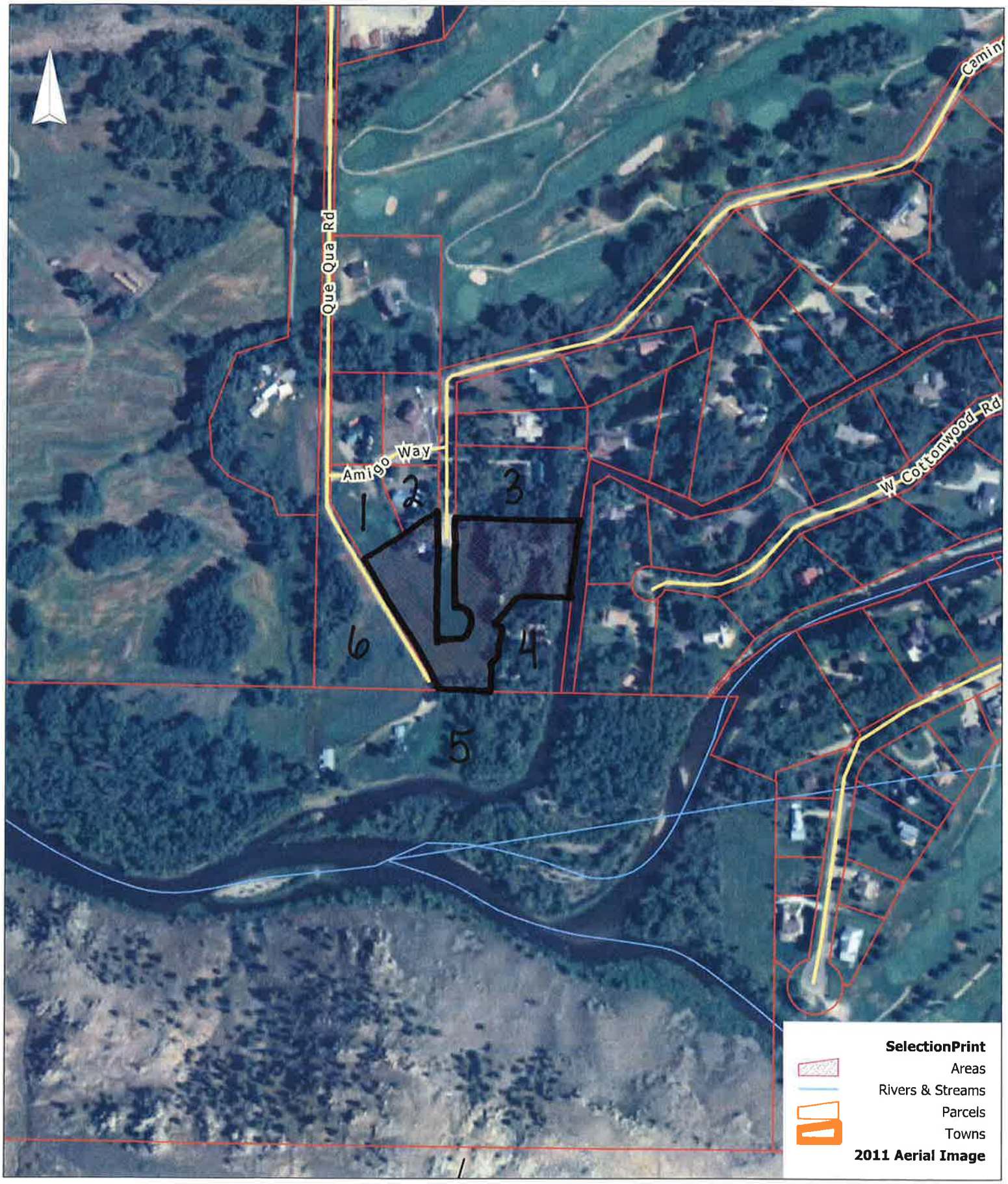
The Board of County Commissioners of Gunnison County, Colorado, will hold a public hearing regarding the petition filed by Levi Klingsmith, et al to vacate a certain unbuilt portion of CR #33, Camino Del Rio, and the cul-de-sac at the terminus of the unbuilt portion at the south end of CR#33, Camino del Rio, west of the City of Gunnison. The street and cul-de-sac that the petitioner seeks to have vacated is described as follows:

> That unbuilt portion of CR #33, Camino del Rio and the unbuilt cul-de-sac lying south of the end of the existing constructed road.

The public hearing will be held on **Tuesday, August 5, 2014, at 9:15 a.m., in the Planning Commission Meeting Room, Blackstock Government Center, 221 N. Wisconsin, Gunnison, Colorado.** The public is invited to attend and participate.

Marlene Crosby
Public Works Director

Gunnison Country Times: Publish as a Legal Notice for the weeks of July 21st and 28th, 2014.



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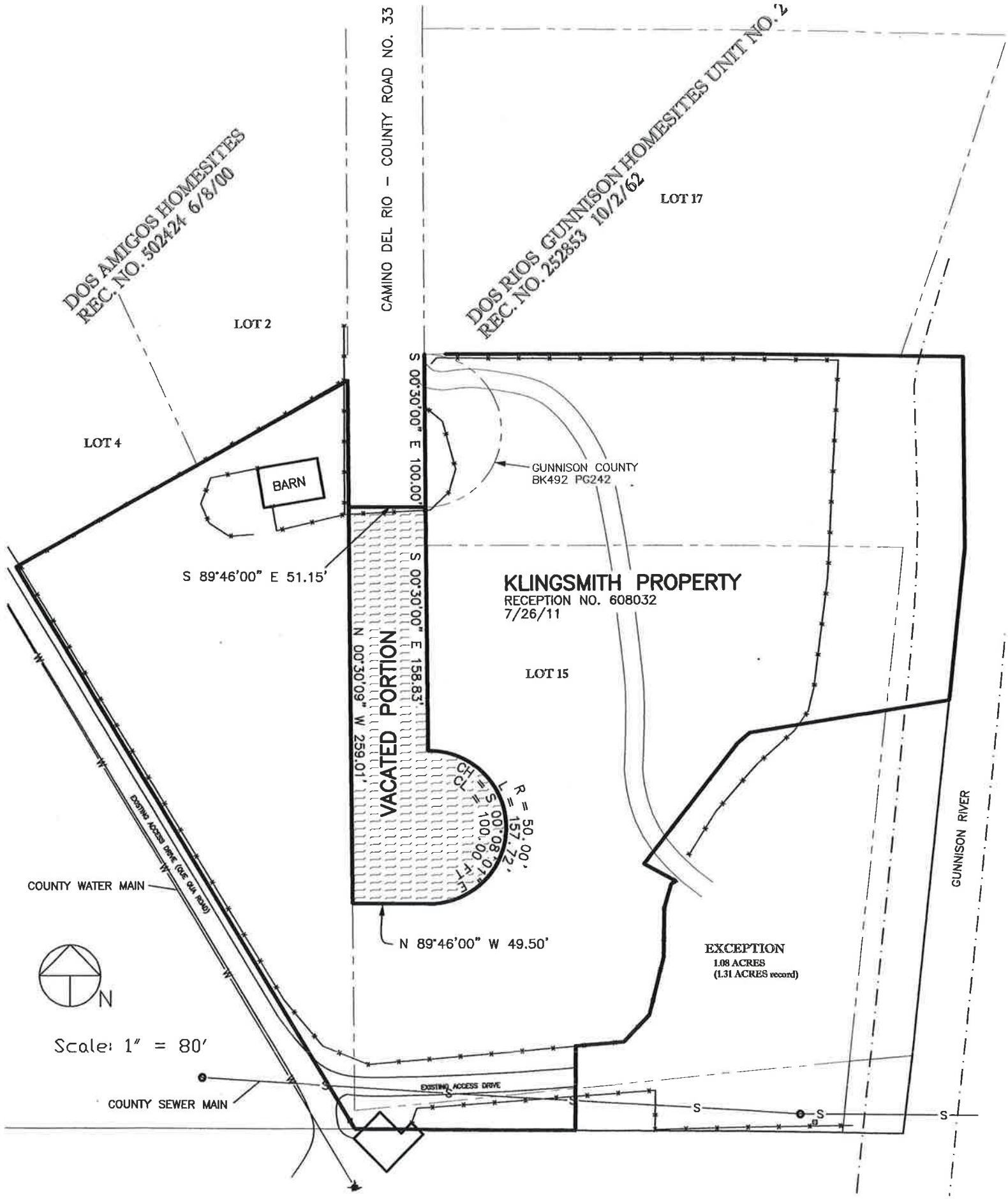
Monday, July 07, 2014


DOS AMIGOS HOMESITES
REC. NO. 502424 6/8/00
CAMINO DEL RIO – COUNTY ROAD NO. 33
DOS RIOS GUNNISON HOMESITES UNIT NO. 2
REC. NO. 252853 10/2/62
LOT 17
LOT 2
LOT 4
BARN
S 00°30'00" E 100.00'
GUNNISON COUNTY
BK492 PG242
S 89°46'00" E 51.15'
KLINGSMITH PROPERTY
RECEPTION NO. 608032
7/26/11
S 00°30'00" E 158.83'
N 00°30'09" W 259.01'
VACATED PORTION
LOT 15
R = 50.00'
L = 157.72'
CH = S 00°08'10" E
CL = 100.00'
LT
GUNNISON RIVER
COUNTY WATER MAIN
EXISTING ACCESS DRIVE (CUL DE SAC ROAD)
N 89°46'00" W 49.50'
EXCEPTION
1.08 ACRES
(1.31 ACRES record)
N
Scale: 1" = 80'
COUNTY SEWER MAIN
EXISTING ACCESS DRIVE

DESCRIPTION OF VACATED PORTION

Commencing at the southwest corner of Lot 17, Dos Rios Home Sites, Unit No. 2, filed at Reception No. 252853 in the records of Gunnison County, Colorado, thence South 00°30'00" East 100.00 feet along the east boundary of the platted right of way to the POINT OF BEGINNING, thence the following courses:

1. South 00°30'00" East 158.83 feet along said east boundary;

2. 157.72 feet along the arc of a curve to the right, said curve having a radius of 50.00 feet, and a long chord bearing South 00°08'01" East 100.00 feet, along said boundary;

3. North 89°46'00" West 49.50 feet along the south boundary of said right of way to the west boundary of said Dos Rios Home Sites No. 2;

4. North 00°30'00" West 259.10 feet along said boundary;

5. South 89°46'00" East 51.15 feet to the POINT OF BEGINNING.

CORRECTION
DEED OF DISTRIBUTION
BY
PERSONAL REPRESENTATIVE

THIS DEED, is made by **HELEN K. ALLEN and KIRK A. KLINGSMITH,** as Co-Personal Representatives of the Estate of Philip Charles Klingsmith, Jr., a/k/a P.C. Klingsmith, and as Pete Klingsmith, Deceased, Grantor, to **CHRISTOPHER D. KLINGSMITH, RAWLEY C. KLINGSMITH, LEVI M. KLINGSMITH, AARON P. KLINGSMITH, AND MARIAH L. KLINGSMITH,** Grantees, whose address is 405 S. Sheridan Blvd., Lakewood, Colorado 80226.

WHEREAS, the above named decedent in his lifetime made and executed his Last Will and Testament dated April 26, 2005, which Will was duly admitted to informal probate on December 16, 2010, by the District Court in and for the County of Gunnison and State of Colorado, Case No. 10PR46;

WHEREAS, Grantors were duly appointed Co-Personal Representatives of said estate on December 16, 2010, and are now qualified and acting in said capacity; and

WHEREAS, Grantees are determined to be the persons entitled to distribution of the real property described below, and Grantors are authorized and directed to distribute the same to Grantees;

NOW, THEREFORE, pursuant to the power conferred upon Grantors by the Colorado Probate Code, Grantors sell, convey, assign, transfer, and release to Grantees, as equal joint tenants with right of survivorship, the following real property in Gunnison County, Colorado:

See Exhibit A attached hereto and incorporated herein by reference

with all its appurtenances, subject to general real property taxes for 2011 and prior years.

Wherever used herein, the singular shall include the plural.

This CORRECTION DEED is made to correct an error in the name of one of the Grantees (Aaron) in the deed recorded as Reception No. 606645.

EXECUTED this 26th day of July, 2011.

Helen K. Allen

Helen K. Allen, as Co-Personal Representative of the Estate of Philip Charles Klingsmith, Jr., a/k/a P.C. Klingsmith, and as Pete Klingsmith, Deceased

Kirk A. Klingsmith

Kirk A. Klingsmith, as Co-Personal Representative of the Estate Philip Charles Klingsmith, Jr., a/k/a P.C. Klingsmith, and as Pete Klingsmith, Deceased

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152 R: $31.00 D: $0.00

072011 klingsmith.correctdeeddistPR2

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this 26th day of July, 2011, by Helen K. Allen, as Co-Personal Representative of the Estate of Philip Charles Klingsmith, Jr., a/k/a P.C. Klingsmith, and as Pete Klingsmith, Deceased.

Witness my hand and official seal.

My commission expires: 9/4/14

NOTARY PUBLIC GLORIA R. BESECKER STATE OF COLORADO

Gloria R. Besecker
Notary Public

STATE OF United Arab Emirates, Emirate of Abu Dhabi, City of Abu Dhabi, Embassy of the United States of America)
) ss:
COUNTY OF)

16 AUG 2011

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by Kirk A. Klingsmith, as Co-Personal Representative of the Estate of Philip Charles Klingsmith, Jr., a/k/a P.C. Klingsmith, and as Pete Klingsmith, Deceased.

Witness my hand and official seal.

My commission expires:
INDEFINITELY

Notary Public Priscilla Guzman
Vice Consul of the
United States of America

072011 klingsmith.correctdeeddistPR2

Exhibit A to Deed of Distribution by Personal Representative
Estate of Philip Charles Klingsmith, Jr.

A tract of land within the NW¼ SW¼ of Section 10, Township 49 North, Range 1 West, New Mexico Principal Meridian, Gunnison County, Colorado; said tract being more particularly described as follows:

Commencing at the west quarter corner of said Section 10, (as marked by a USGLO brass cap monument), thence South 04°25'08" East 438.93 feet to the northwest corner of the Marshall/Bedell/Buffington property, (as described under Reception No. 493246 of the records of Gunnison County); thence South 64°45'31" East 112.56 feet along the northerly boundary of said Marshall/Bedell/Buffingtion property; thence North 67°01'30" East 198.32 feet along said boundary; thence South 36°00'36" East 14.25 feet along said boundary; thence South 68°41'20" East 24.82 feet along said boundary to the northeast corner of said Marshall/Bedell/Buffington property; thence South 00°30'00" East 405.37 feet along the east boundary of said Marshall/Bedell/Buffinton property to the southeast corner of said Marshall/Bedell/Buffington property, said corner also being the POINT OF BEGINNING for the herein described tract; thence the following courses around said tract:

1. *South 60°39'46 West 248.35 feet along the southerly boundary of said Marshall/Bedell/Buffingtion property to a point on the westerly boundary of the Lands End Co. property (as described under Reception No. 493345 of said records);*
2. *South 31°08'00" East 426.96 feet along said boundary to the south corner of said Lands End Co. property;*
3. *South 89°31'44" East 314.89 feet along the southerly boundary of Parcel 6 of the Lands End Co. property (as described in Book 738 at Page 70 of said records) to the southeasterly corner of said Parcel 6;*
4. *North 06°03'00" East 46.18 feet along the easterly boundary of said Parcel 6 to the northeasterly corner of said parcel 6;*
5. *North 84°23'00" East 40.84 feet along the southerly boundary of Parcel 4 of said Lands End Co. property, to the southeasterly corner of said Parcel 4;*
6. *North 06°03'00" East 332.82 feet along the easterly boundary of said Parcel 4 to the northeasterly corner of said Parcel 4;*
7. *North 00°35'36" West 125.00 feet along the easterly boundary of Lands End Co. property (as described under Reception No. 496154 of said records), to the northeast corner of said Lands End Co. property;*
8. *North 89°46'14" West 334.58 feet along the northerly boundary of said Lands End Co. property to the northwest corner of said Lands End Co. property;*
9. *South 00°30'00" East 100.00 feet along the west boundary of said Lands End Co. property;*
10. *North 89°46'00" West 64.01 feet to a point on the east boundary of the previously referenced Lands End Co. property, (as described under Reception No. 493345 of said records);*
11. *North 00°30'00" West 82.25 feet along said boundary to the southeast corner of said Marshall/Bedell/Buffington property, said corner also being the POINT OF BEGINNING for the herein described tract;* (containing 5.46 acres, more or less)

EXCEPTING THEREFROM, the following described tract of land consisting of 1.31 acres, more or less:

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A tract of land within the NW¼SW¼ of Section 10, Township 49 North, Range 1 West, New Mexico Principal Meridian, Gunnison County, Colorado; and embracing a portion of Lot 15, Dos Rios Homesites, Unit No. 2; said tract being more particularly described as follows:

Commencing at the west quarter corner of said Section 10, (as marked by a USGLO brass cap monument); thence South 35°27'53" East 1279.66 feet to a point on the east boundary of Parcel No. 4 of the Lands End property, (as described in Book 738 at Page 70 of the records of Gunnison County), said point also being the POINT OF BEGINNING for the herein described tract; thence the following courses around said tract:

1. South 06°03'00" West 232.98 feet along said east boundary to the southeast corner of said Parcel No. 4, said corner also being the northeast corner of the Klingsmith property, (as described under Reception No. 506682 of said records);

2. South 06°49'40" West 50.61 feet along the east boundary of said Klingsmith property to the southeast corner of said Klingsmith property;

3. North 89°31'44" West 39.50 feet along the south boundary of said Klingsmith property to the southwest corner of said Klingsmith property; said corner also being the southeast corner of Parcel No. 6 of said Lands End property;

4. North 89°32'55" West 172.54 feet along the south boundary of said Parcel No. 6;

5. North 00°27'05" East 80.46 feet to a point on an existing fenceline;

6. North 54°39'52" East 16.92 feet along said fenceline;

7. North 22°20'19" East 31.19 feet along said fenceline;

8. North 04°35'31" East 47.38 feet along said fenceline;

9. North 18°46'19" East 15.75 feet along said fenceline;

10. North 37°18'28" East 3.59 feet along said fenceline;

11. North 60°46'59" West 23.16 feet;

12. North 37°51'10" East 99.36 feet;

13. North 49°07'46" East 10.65 feet;

14. East 157.27 feet to a point on the east boundary of said Parcel No. 6, said point also being the POINT OF BEGINNING for the herein described tract;

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TOGETHER WITH, Lands End Well No. 2 for 0.0716 c.f.s. or 32 g.p.m, of water out of Priority No. 167, and 0.1767 or 80 g.p.m. of water out of Priority No. 399, originally decreed to the Palisades Ditch, Ditch No. 171, for irrigation and domestic purposes. Said wellhead is situate at a point from whence the West uarter corner of said Section 10 bears North 46°00' West 285 feet; and

TOGETHER WITH, Lands End Spring for 0.0716 c.f.s. or 32 g.p.m. of water out of Priority 167, and 0.01767 c.f.s. or 80 g.p.m. of water out of Priority No. 399, originally decreed to the Palisades Ditch, Ditch No. 171, for irrigation, domestic and stock water purposes, to the spring situate at a point from whence the West Quarter corner of said Section 10 bears North 18°00' West 930 feet; and

TOGETHER WITH, all water and water rights, ditch and ditch rights used on or appurtenant to the real property described above, including without limitation: a proportionate undivided interest in the Hider Ditch, Ditch No. 124, and a proportionate undivided interest in 1.25 c.f.s. of water decreed thereto under Priority No. 112 for irrigation purposes, out of the Gunnison River, old Water District No. 59, Water Division No. 4;

TOGETHER WITH, a right of way over the roadway, 30 feet in width along the West boundary of Section Ten (10), Township Forty-nine (49) North, Range One (1) West, N.M.P.M., South from the South right of way line of U.S. Highway No. 50 to the North boundary line of SW¼SW¼ of said Section 10, as said road is more particularly described in that Quit Claim Deed recorded in Book 357 at Page 81 of the records of Gunnison County, Colorado, for the purpose of ingress and egress to and from the above described property;

TOGETHER WITH, the common right to fish the Gunnison River where the same flows through lands that were owned by the Gunnison County Development Corporation on January 16, 1962 in Section 10, T49N, R1W, N.M.P.M., in common with other grantees of the Gunnison County Development Corporation; together with the right of ingress and egress over the banks and bed of the river through such lands to enjoy such fishing rights.

SUBJECT TO, a perpetual easement and right of way for access and utilities from Camino Del Rio over the real property conveyed hereby for the benefit of the 1.31 acre exception parcel described above.

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152 R: $31.00 D: $0.00

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

RESOLUTION NO: 2014-___

A RESOLUTION VACATING AN UNBUILT PORTION OF COUNTY ROAD 33 A/KA CAMINO DEL RIO AND CUL-DE-SAC LYING WITHIN DOS RIOS GUNNISON HOMESITES UNIT NO. 2, A/K/A DOS RIOS SUBDIVISION, GUNNISON HOMESITES UNIT NO. 2, COUNTY OF GUNNISON, STATE OF COLORADO

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado (herein "Board"), by virtue of Colorado law, has authority and is the owner of certain roads lying within the County of Gunnison; and

WHEREAS, the Board has determined that not all platted roads are necessary for public access to privately owned property; and

WHEREAS, the Board has received a request to vacate a certain unbuilt portion of County Road 33, a/k/a Camino Del Rio, and the unbuilt cul-de-sac at the terminus of said road, lying within Dos Rios Gunnison Homesites Unit No. 2, a/k/a Dos Rios Subdivision, Gunnison Homesites Unit No. 2, County of Gunnison, State of Colorado as identified on the plat titled "Dos Rios Gunnison Home Sites Unit No. 2" recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado and as more specifically described and identified in Appendix "A" attached hereto and incorporated herein by reference; and

WHEREAS, the vacation of the above described unbuilt portion of road and cul-de-sac will not hinder any property owners of any lands from having access to their respective land nor disrupt existing travel modes or anticipated conditions in traffic or development patterns; and

WHEREAS, there will be no adverse impact to the natural environment, community needs or public health, safety and welfare from the vacation of the above described unbuilt portion of road and cul-de-sac; and

WHEREAS, the notices required by Colorado law for such vacation have been given and a public hearing on such vacation has been conducted; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado that the unbuilt portion of County Road 33, a/k/a Camino Del Rio, and the unbuilt cul-de-sac at the terminus of said road, lying within Dos Rios Gunnison Homesites Unit No. 2, a/k/a Dos Rios Subdivision, Gunnison Homesites Unit No. 2, County of Gunnison, State of Colorado as identified on the plat titled "Dos Rios Gunnison Home Sites Unit No. 2" recorded in the records in the Office of the Clerk and Recorder of Gunnison County, Colorado and as more specifically described and identified in Appendix "A" attached hereto shall be and hereby are vacated.

It is the specific intent of the Board that the vacation of the above described unbuilt portion of road and cul-de-sac shall accrue to and vest in the record owner(s) of adjacent real property pursuant to the provisions of C.R.S. § 43-2-302.

FURTHERMORE, this Resolution is contingent upon and shall not become effective until the recording in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado of the following:

1. A Lot Cluster Agreement executed by Gunnison County and the owner(s) of the adjacent property clustering said property and the unbuilt portion of County Road 33, a/k/a Camino Del Rio, and the unbuilt cul-de-sac vacated by this Resolution; and

2. This Resolution.

INTRODUCED by Commissioner_____, seconded by Commissioner _____, and adopted this 5th day of August, 2014.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chairperson

By: _____
Phil Chamberland, Vice Chairperson

By: _____
Jonathan Houck, Commissioner

ATTEST:

_____
Deputy County Clerk

DESCRIPTION OF VACATED PORTION

Commencing at the southwest corner of Lot 17, Dos Rios Home Sites, Unit No. 2, filed at Reception No. 252853 in the records of Gunnison County, Colorado, thence South 00°30'00" East 100.00 feet along the east boundary of the platted right of way to the POINT OF BEGINNING, thence the following courses:

1. South 00°30'00" East 158.83 feet along said east boundary;

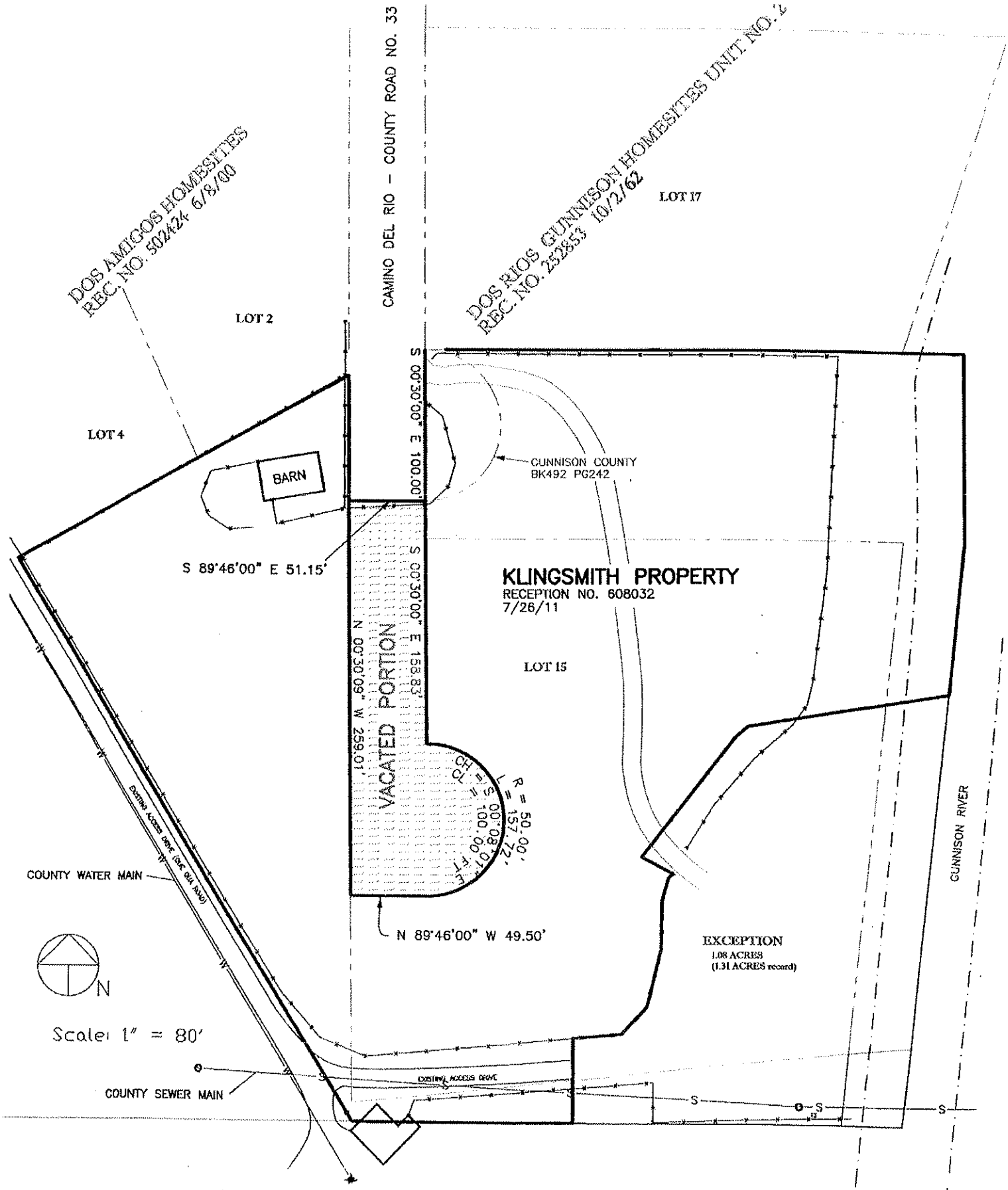
2. 157.72 feet along the arc of a curve to the right, said curve having a radius of 50.00 feet, and a long chord bearing South 00°08'01" East 100.00 feet, along said boundary;

3. North 89°46'00" West 49.50 feet along the south boundary of said right of way to the west boundary of said Dos Rios Home Sites No. 2;

4. North 00°30'00" West 259.10 feet along said boundary;

5. South 89°46'00" East 51.15 feet to the POINT OF BEGINNING.

APPENDIX A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COUNTY WATER MAIN
EXISTING ACCESS DRIVE (OUE QUA NAW)
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