

**DISCLOSURE STATEMENT**  
**FOR**  
**RUNNING INDIAN ESTATES**

**TABLE OF CONTENTS**

<u>Paragraph</u>	<u>Page Number</u>
1. NAME OF SUBDIVISION.....	1
2. NAME AND ADDRESS OF SUBDIVIDER .....	1
3. NAME AND ADDRESS OF PERSON.....	2
4. SIZE OF SUBDIVISION.....	2
5. SIZE (IN ACRES) OF LARGEST PARCEL.....	2
6. SIZE (IN ACRES) OF SMALLEST PARCEL.....	2
7. PROPOSED RANGE OF PRICES.....	2
8. FINANCING TERMS .....	2
9. NAME AND ADDRESS OF PERSON.....	2
10. NAME AND ADDRESS OF PERSON.....	3
11. CONDITION OF TITLE .....	3
12. STATEMENT OF ALL RESTRICTIONS.....	3
13. ESCROW AGENT.....	3
14. UTILITIES.....	3
15. INSTALLATION OF UTILITIES .....	4
16. UTILITY LOCATION .....	4
17. WATER AVAILABILITY .....	4
18. FOR SUBDIVISIONS WITH COMMUNITY .....	5
19. FOR SUBDIVISIONS WITH INDIVIDUAL.....	5
20. LIFE EXPECTANCY OF WATER SUPPLY .....	5
21. SURFACE WATER.....	5

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22. NEW MEXICO STATE ENGINEER'S OPINION ..... 5

23. WATER QUALITY ..... 6

24. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY ..... 6

25. LIQUID WASTE DISPOSAL ..... 6

26. N.M. ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL ..... 6

27. SOLID WASTE DISPOSAL ..... 7

28. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE ..... 7

29. TERRAIN MANAGEMENT ..... 7

30. SOIL AND WATER CONSERVATION DISTRICT'S OPINION ..... 8

31. SUBDIVISION ACCESS ..... 9

32. MAINTENANCE ..... 9

33. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS ..... 9

34. CONSTRUCTION GUARANTEES ..... 9

35. ADVERSE OR UNUSUAL CONDITIONS ..... 10

36. RECREATIONAL FACILITIES ..... 10

37. FIRE PROTECTION ..... 10

38. POLICE PROTECTION ..... 10

39. PUBLIC SCHOOLS ..... 10

40. HOSPITALS ..... 10

41. SHOPPING FACILITIES ..... 11

42. PUBLIC TRANSPORTATION ..... 11

**SUPPLEMENTS**

WATER PLAN  
TERRAIN MANAGEMENT PLAN  
LIQUID WASTE DISPOSAL PLAN  
SOLID WASTE DISPOSAL PLAN

EXHIBIT A WATER QUALITY ANALYSIS  
EXHIBIT B WELL LOGS  
EXHIBIT C LETTER OF INTENT TO PROVIDE UTILITIES  
EXHIBIT D RESTRICTIVE COVENANTS  
EXHIBIT E SEWAGE TREATMENT PLANT DESIGN CAPACITY

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EXHIBIT F OFFICE OF STATE ENGINEER COMMENTS AND RESPONSES  
EXHIBIT G NEW MEXICO ENVIRONMENT DEPARTMENT COMMENTS  
EXHIBIT H NATURAL RESOURCES CONVERSATION COMMISSION COMMENTS  
EXHIBIT I NEW MEXICO STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
COMMENTS  
EXHIBIT J ANNUAL REPORT TO NEW MEXICO PUBLIC UTILITIES COMMISSION  
EXHIBIT K TRUTH IN LENDING REGULATION Z  
EXHIBIT L CULTURAL RESOURCE SURVEY  
EXHIBIT M PRELIMINARY PLAT AND TERRAIN MANAGEMENT PLAN  
EXHIBIT N VICINITY MAP

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**DISCLOSURE STATEMENT FORM**

FOR ALL SUBDIVISIONS CONTAINING MORE THAN FIVE (5) PARCELS.

**YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING.**

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property .

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it.

**If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all your money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the date of your inspection of the property.**

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Otero County Clerk.

**Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.**

**1. NAME OF SUBDIVISION: RUNNING INDIAN ESTATES**

Location: **Part of North Half of the Northeast Quarter, Section 33, T15S., R10E., NMPM.**

Subdivider's names: **BOWLIN TRAVEL CENTERS, INC., P.O. Box 1409, Mesilla Park, NM 88047**

Date: **August, 2001**

Prepared by: **George P. Light. 4001 N. Scenic Dr., Alamogordo, NM 88310**

**2. NAME AND ADDRESS OF SUBDIVIDER:  
BOWLIN TRAVEL CENTERS, INC., P.O. Box 1409, Mesilla Park, NM 88047**

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3. **NAME AND ADDRESS OF PERSON IN CHARGE OF SALES, LEASING, OR OTHER CONVEYANCE IN NEW MEXICO**

Name: **Kit Johnson**  
Address: **P.O. Box 1409, Mesilla Park, NM 88047**  
Telephone number(s): **(505) 541-9101**

4. **SIZE OF SUBDIVISION, BOTH PRESENT AND ANTICIPATED**

<u>Present</u>	<u>Anticipated</u>
Number of parcels: <b>36</b>	Number of parcels: <b>36</b>
Number of acres: <b>22.6</b>	Number of acres: <b>22.6</b>

5. **SIZE (IN ACRES) OF LARGEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION: 9.6 Acres**

6. **SIZE (IN ACRES) OF SMALLEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION: ONE-QUARTER (1/4) Acre**

7. **PROPOSED RANGE OF PRICES FOR SALES, LEASES OR OTHER CONVEYANCES:**

Lowest dollar amount: <b>10,000</b>	Parcel size (in acres): <b>1/4</b>
Highest dollar amount: <b>1.0 MILLION</b>	Parcel size (in acres): <b>9.6</b>

8. **FINANCING TERMS**

Interest rates: **Going bank rates, expected to be 8% to 16%**

Term of loan or contract: **To be mutually determined by buyer and seller.**

Minimum down payment: **5% with owner financing.**

Service charges and/or escrow fees: **To be paid by buyer; going rates at time of sale, varies with escrow agent; range estimated at \$50 to \$100 setup fee and \$2.00 to \$4.00 monthly fee.**

Premium for credit life or other insurance if it is a condition for giving credit: **State approved rates.**

Closing costs: **1 to 2 points, if owner financing; lender's terms, otherwise.**

Any other information required by the Truth in Lending Act and Regulation Z if not set forth above: **All applicable State and Federal regulations will be complied with. See Exhibit K.**

9. **NAME AND ADDRESS OF HOLDER OF LEGAL TITLE:**

Name: **BOWLIN TRAVEL CENTERS, INC.**  
Address: **P.O. Box 1409, Mesilla Park, NM 88047**

**NOTE: IF ANY OF THE HOLDERS OF LEGAL TITLE NAMED ABOVE IS A CORPORATION OR PARTNERSHIP, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION AND/OR PARTNERS IN THE PARTNERSHIP, INCLUDING DESIGNATION OF MANAGING PARTNER.**

**MICHAEL L. BOWLIN, PRESIDENT AND CEO; BILL McCABE, SECRETARY/TREASURER.  
150 LOUISIANA NE, ALBUQUERQUE, NM 87108.**

10. **NAME AND ADDRESS OF PERSON WHO IS RECORDED AS HAVING EQUITABLE TITLE (if different from answer in Question 9):**

Name: **SAME AS ABOVE.**

Address: *(include street address or P.O. box, city, state, and zip code)*

**NOTE: IF ANY OF THE HOLDERS OF EQUITABLE TITLE NAMED ABOVE IS A CORPORATION OR PARTNERSHIP, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION AND/OR PARTNERS IN THE PARTNERSHIP, INCLUDING DESIGNATION OF MANAGING PARTNER.**

11. **CONDITION OF TITLE**

Include at least the following information where applicable:

Number of mortgages: **ONE.**

Name and address of each mortgagee: **WELLS FARGO BANK, ALBUQUERQUE, NM.**

Balance owing:

Summary of release provisions for each mortgage: **RELEASE UPON PAYMENT OF SALES PRICE.**

Number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser: **None.**

Name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser: **N.A.**

Balance owing on each real estate contract: **N.A.**

Summary of default of each real estate contract: **N.A.**

Summary of release provisions of each real estate contract: **N.A.**

Statement of any other encumbrances on the land: **None.**

Statement of any other conditions relevant to the state of title: **None.**

12. **STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY**

State here all deed and plat restrictions affecting the subdivided land: **See attached Restrictive Covenants.**

13. **ESCROW AGENT**

Name of escrow agent: **None**

Address: *(include street address or P.O. box, city, state, and zip code)* **N.A.**

Statement of whether or not the subdivider has any interest in or financial ties to the escrow agent: **N.A.**

14. **UTILITIES**

**All of the utilities listed below will be available at a property line of each lot as a part of the overall**

project development cost at no additional cost to the lot buyer.

Name of entity providing electricity: TEXAS/NEW MEXICO POWER.

Name of entity providing gas service: GAS COMPANY OF NEW MEXICO.

Name of entity providing water: EILEEN ACRES SERVICE CORP .

Name of entity providing telephone: QWEST

Name of entity providing liquid waste disposal: EILEEN ACRES SERVICE CORP .

Name of entity providing solid waste disposal: OTERO-LINCOLN COUNTY REGIONAL LANDFILL.

**15. INSTALLATION OF UTILITIES**

Electricity:	Date: JANUARY AND FEBRUARY, 2003.
Natural gas:	Date: JANUARY AND FEBRUARY, 2003.
Water:	Date: JANUARY, FEBRUARY AND MARCH, 2003
Telephone:	Date: JANUARY AND FEBRUARY, 2003
Liquid waste disposal:	Date: JANUARY, FEBRUARY AND MARCH, 2003
Solid waste disposal:	Date: UPON PLAT APPROVAL

**16. UTILITY LOCATION**

**ALL UTILITIES WILL BE PROVIDED TO EACH LOT OR TRACT IN THE SUBDIVISION.**

**ELECTRICITY: OVERHEAD IN STREETS AND EASEMENTS  
NATURAL GAS: UNDERGROUND IN STREETS AND EASEMENTS  
WATER: UNDERGROUND IN STREETS AND EASEMENTS  
TELEPHONE: UNDERGROUND IN STREETS AND EASEMENTS  
LIQUID WASTE DISPOSAL: UNDERGROUND IN STREETS AND EASEMENTS  
SOLID WASTE DISPOSAL: ABOVEGROUND PICKUP IN STREETS AND EASEMENTS**

**17. WATER AVAILABILITY**

Describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses: **Domestic: 70 acre feet; Commercial: 10 acre feet; Totaling 80 acre feet.**

Describe the availability and sources of water to meet the subdivision's maximum annual water requirements: **Ground water from the Tularosa Basin shallow water aquifer is available.**

Describe the means of water delivery within the subdivision: **Water distribution system of PVC pipe as an extension of the existing Eileen Acres Service Corp. water system.**

Describe any limitations and restrictions on water use in the subdivision: **All connections will be metered.**

Summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures and other water conservation measures: **Water-saving appliances and plumbing fixtures are strongly encourage by the subdivider.**

Describe what measures, if any, will be employed to monitor or restrict water use in the subdivision: **The subdivider will comply with county-wide water conservation measures, if imposed by the Commission. All connections will be metered.**

**18. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS**

Name and address of entity providing water: **EILEEN ACRES SERVICE CORP.**

Source of water and means of delivery: **TULAROSA BASIN SHALLOW AQUIFER, WELLS T-1313 AND T-1313 S-1. THE WATER WILL BE DELIVERED THROUGH EXTENSION OF THE EXISTING WATER DISTRIBUTION SYSTEM OF EILEEN ACRES SERVICE CORP.**

Summary of any legal restrictions on either indoor or outdoor usage: **N.A.**

Statement that individual wells are prohibited, if such is the case: **N.A.**

**19. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS**

State whether wells will be provided by the subdivider or by the prospective purchaser/lessee: **N.A.**

If wells are provided by purchaser/lessee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities: **N.A.**

If wells are provided by the subdivider state the cost, if any, to the purchaser/lessee/conveyee: **N.A.**

Summary of legal restrictions on either indoor or outdoor usage: **N.A.**

Average depth to groundwater and the minimum and maximum well depths to be reasonably expected: **N.A.**

Recommended total depth of well: **N.A.**

Estimated yield in gallons per minute of wells completed to recommended total depth: **N.A.**

**20. LIFE EXPECTANCY OF WATER SUPPLY**

State the life expectancy of each source of water supply for the subdivision under full development of the subdivision: **The Otero County 40-year Water Plan 1990-2030 indicates that groundwater levels may drop as much as 80-85 feet in the 40 year period. Conservation measures could decrease that amount.**

**21. SURFACE WATER\* N.A.**

\*Not applicable where subdivider intends to provide water for domestic Use.

Provide a detailed statement of the source and yield of the surface water supply and any restrictions to which the surface water supply is subject:

**22. NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico State Engineer regarding:

Whether or not the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses: **SEE EXHIBIT F**

Whether or not the subdivider can fulfill the proposals in this disclosure statement concerning water, excepting water quality: **SEE EXHIBIT F**

**23. WATER QUALITY**

Describe the quality of water in the subdivision available for human consumption: **The water is high in**

mineral content with TDS near 1400 ppm. Please refer to the water quality analysis attached to this disclosure statement as Exhibit A.

Describe any quality that would make the water unsuitable for use within the subdivision: **None, although, the subdivider recommends the use of RO units for drinking water.**

State each maximum allowable water quality parameter that has been exceeded with the approval of the Board of County Commissioners and the name of the element, compound or standard that has exceeded that parameter: **None.**

**24. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether or not the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations: **SEE EXHIBIT G**

Whether or not the subdivider can fulfill the water quality proposal made in this disclosure statement: **SEE EXHIBIT G**

Whether or not the subdivider's proposal for water quality conforms to the County's water quality regulations: **SEE EXHIBIT G**

**25. LIQUID WASTE DISPOSAL**

Describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board of County Commissioners for use within the subdivision: **Liquid waste will be collected by a typical underground sewage system which will include PVC piping, a lift station, a force main and the existing extended aeration sewage treatment plant of Eileen Acres Service Corp. The existing plant is sized to accommodate 150 to 200 homes. It is presently serving about 61 homes. The plant will be at less than 50% of design capacity after full development of RUNNING INDIAN ESTATES.**

**NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAYBE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS**

**26. N.M. ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE DISPOSAL**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations: **SEE EXHIBIT G**

Whether or not the subdivider can fulfill the liquid waste proposals made in this disclosure statement: **SEE EXHIBIT G**

Whether or not the subdivider's proposal for liquid waste disposal conforms to the County's liquid waste disposal regulations: **SEE EXHIBIT G**

**27. SOLID WASTE DISPOSAL**

**Solid waste disposal:**  Responsibility of Purchaser/Lessee

Responsibility of Subdivider

If purchaser/lessee is responsible for solid waste disposal, please state the address of the nearest Convenience Center or approved landfill and its distance in miles from the subdivision and/or the location of the nearest dumpster if a collection system is in use: **Contract collection services are available in the area. The nearest community County operated convenience center is located 3 miles away at La Luz. The nearest licensed landfill site is The Otero/Lincoln County Regional Landfill on US Highway 54 twenty-two (22) miles south of Alamogordo, which is twenty-eight (28) miles from the subdivision via and US 54.**

If subdivider is providing solid waste disposal, please describe the method or system to be used and the location of the landfill to be used: **N.A.**

**28. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL**

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

Whether or not there are sufficient solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations: **SEE EXHIBIT G**

Whether or not the subdivider can fulfill the solid waste proposals made in this disclosure statement: **SEE EXHIBIT G**

Whether or not the subdivider's proposal for solid waste disposal conforms to the County's solid waste disposal regulations: **SEE EXHIBIT G**

**29. TERRAIN MANAGEMENT**

Describe the suitability for residential use of the soils in the subdivision as defined in the Natural Resource Conservation Service's soil survey for Otero County: **The NRCS soil survey shows three classifications of soils in this subdivision. Please refer to the Terrain Management Map for the location of each. The classifications are:**

**1. AdB- ALAMOGORDO FINE SANDY LOAM 0 TO 3% SLOPE**

"The shallow depth to gypsum and its inherent properties limit foundations and streets and roads. Good design and careful installation and the use of suitable fill help to overcome these problems. Septic tank absorption fields are not restricted, but contamination of groundwater may result from moderately rapid permeability, a high concentration of facilities, and formation of pits as gypsum dissolves. Permeability: 2.0 to 6.0 in/hr; shrink-swell potential: low; erosion factors: above average."

**2. Lm- LARGO-OGRAL COMPLEX, 1 TO 3 PERCENT SLOPE.**

"The moderate shrink-swell potential and low strength of the largo soils limit dwellings and local roads and streets but can be overcome by good design and careful installation and by use of suitable fill material. The moderately slow permeability of the largo soils limits septic tank filter fields but can be overcome by increasing the size of the filter field or modifying the design. Filter fields are not restricted in the ograd soils, but because of the substratum, underground water may be contaminated. Permeability: 0.6-6.0 in/hr. (Varies with depth); shrink-swell potential: low to moderate; erosion factors: above average."

**3. PMB- PRELO SILT LOAM, 1 TO 3% SLOPE.**

"This soil has high potential for most urban uses. Low strength, moderate shrink-swell potential, and susceptibility to piping can be overcome by good design and careful installation and by use of

suitable fill material for foundations. The high amount of gypsum in the substratum can corrode underground utilities. The use of noncorrodible materials will overcome this limitation. The moderately slow permeability limits septic tank absorption fields but can be overcome by increasing the size of the absorption area or modifying the filter field. Permeability: 0.6-2.0 in/hr. (Varies with depth); shrink-swell potential: moderate; erosion factors: slightly above average."

Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures: **Low soil strength will be overcome by proper design of foundations. Corrosive soils will be overcome by using noncorrodable materials underground such as plastic pipe. Ferrous building material should not be in contact with the soil. Where natural vegetation is removed a mulch should be maintained until permanent ground cover is established. IT IS HIGHLY RECOMMENDED THAT EACH LOT BUYER RETAIN THE SERVICES OF A SOILS ENGINEER TO ASSIST WITH PROPER EVALUATION OF THE SOILS AND THE TOPOGRAPHY FOR PROPER BUILDING SITING, AND SITE GRADING BEFORE BUILDING IS UNDERTAKEN.**

Identify by lot and block numbers all parcels within the subdivision that are subject to flooding: **None**

Identify by lot and block numbers all parcels within the subdivision located in whole or in part on slopes in excess of 8%: **None**

Describe the surface drainage for all lots in the subdivision: **Please refer to the Terrain Management Map with contours.**

Describe the subsurface drainage for all lots in the subdivision (as per the Natural Resources Conservation Service's soil survey for Otero County): **The NRCS soil survey classified the soils in the area as fine sandy loam to silty clay. Generally, subsurface drainage is slow to moderate.**

Describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision: **Stormwater flows in a southwesterly direction through the subdivision. There are two small culverts under U.S. Highway 54-70 immediately east of the subdivision which concentrate stormwater flows from the northeast and discharge that flow onto the subdivision. Both of these culverts have a small drainage area. Generally, the existing stormwater drainage ways within the subdivision will remain. Easements for drainage swales are provided to pass the stormwater through the subdivision and keep it off the building sites. Two small detention ponds will be constructed within the commercial area (Tract A) when it is developed. These will regulate the stormwater discharge from the commercial area and reduce runoff rates through the residential areas. The date of construction is unknown and will be determined by the development of Tract A. The drainage swales through the residential areas will be constructed at the time the streets are built.**

**30. NATURAL RESOURCE CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT**

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil & Water Conservation District on:

Whether or not the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and soil erosion: **SEE EXHIBIT H**

Whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement: **SEE EXHIBIT H**

Whether or not the subdivider's terrain management proposals conform to the County's regulations on terrain management: **SEE EXHIBIT H**

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**31. SUBDIVISION ACCESS**

Name of town or village nearest to subdivision: **La Luz, NM.**

Distance in miles from nearest town to subdivision and the general route over which that distance is computed: **The La Luz Post Office is approximately two miles from the subdivision entrance via State Road 545.**

Describe access roads to subdivision, including approximate width and surfacing: **The subdivision is accessed from Alamogordo via US Highway 54-70 North approximately four miles to the intersection with State Road 545.**

State whether or not subdivision is accessible by conventional vehicle and whether it is accessible at all times of the year; also state any weather conditions that could affect access to the subdivision and any measures that will be necessary to gain access during these conditions: **The subdivision is accessible by conventional vehicle during all times of the year.**

Describe the width and surfacing of all roads within the subdivision: **Roads within the subdivision will be twenty-four (24) feet wide, surfaced with bituminous surfacing over six (6) inch thick compacted base course.**

**32. MAINTENANCE**

**After the roads have been constructed by the subdivider and accepted by the Otero County Road Department, maintenance of the roads will be the responsibility of the County.**

**33. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS**

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway and Transportation Department on:

Whether or not the subdivider can fulfill the state highway access requirements for the subdivision in conformity with state regulations: **SEE EXHIBIT I**

Whether or not the subdivider can satisfy the access proposal made in this disclosure statement: **SEE EXHIBIT I**

Whether or not the subdivider's access proposals conform to the County's regulations on access: **SEE EXHIBIT I NO COMMENTS ON ACCESS WERE RECEIVED.**

**34. CONSTRUCTION GUARANTEES**

Describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale: **See the last paragraph in Section 29.**

Describe or attach all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement: **N.A.**

**UNLESS THERE IS SUFFICIENT BOND, LETTER OF CREDIT OR OTHER ADEQUATE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPROVEMENTS, IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.**

**35. ADVERSE OR UNUSUAL CONDITIONS**

State any activities or conditions adjacent to or nearby the subdivision, such as feed lots, dairies, cement

plants or airports, that would subject the subdivided land to any unusual conditions affecting its use or occupancy: **Jet air craft from Holloman Air Force Base, approximately seven miles southwest of the subdivision, fly overhead and are sometimes noisy. Sometimes "sonic booms" are caused by them. US Highway 54-70 and La Luz Gate Road are adjacent to the subdivision, therefore highway traffic noises are to be expected. Also, Union Pacific Railroad, approximately 1/8 mile west of the subdivision, will generate noises.**

**A pedestrian survey by a Professional Archaeologist has been preformed on this property. The property does not appear to contain any cultural property assets or liabilities. Buyers are advised that the New Mexico Cultural Properties Act prohibits the disturbance of unmarked human burials on all lands in New Mexico.**

**36. RECREATIONAL FACILITIES**

Describe all recreational facilities, actual and proposed in the subdivision, and state the estimated date of completion of each: **The subdivider has no plans to provide recreational facilities.**

State whether or not there are any bonds, letters of credit or other collateral securing the construction of each proposed recreational facility and describe or attach any such bond, letter of credit or other collateral: **N.A.**

**37. FIRE PROTECTION**

Name of nearest fire station:  Municipality (Name of station:)  
 Volunteer (Name of Station:) **La Luz**

Distance to nearest fire station from subdivision and route over which distance is computed: **Approximately two miles from the subdivision via State Road 545.**

**38. POLICE PROTECTION**

List the various police units that patrol the subdivision.

**NM State Police and Otero County Sheriff's Department**

**39. PUBLIC SCHOOLS**

Name of and distance (in miles) to nearest public elementary school serving the subdivision:

**La Luz Elementary School on State Road 545 is approximately one and one-half miles east of the subdivision.**

Name of and distance to nearest public junior high or middle school serving the subdivision: **Chaparral Junior High School, 1400 College Avenue and Mountain View Middle School, 500 South Canyon Road, Alamogordo, NM, which are approximately four miles from the subdivision .**

Name of and distance to nearest public high school serving the subdivision: **Alamogordo High School, 103 Cuba Avenue, Alamogordo, NM which is approximately four miles from the subdivision.**

**40. HOSPITALS**

Name of nearest hospital: **Gerald Champion Regional Medical Center, 2669 N. Scenic Drive,**

**Alamogordo, NM**

Distance (in miles) to nearest hospital and route over which that distance is computed: **Approximately four miles from the subdivision via US Highway 54- 70 and North Scenic Drive.**

Number of beds in nearest hospital: **95**

**41. SHOPPING FACILITIES**

Description of nearest shopping facilities including number of stores: **White Sands Mall, Alamogordo, NM which contains approximately 15 stores such as: KMART, J C PENNY'S, BEAL'S, and others.**

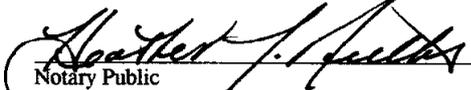
Distance (in miles) to nearest shopping facilities and route over which that distance is computed: **Approximately three miles from the subdivision via US Highway 54-70 to Alamogordo.**

**42. PUBLIC TRANSPORTATION**

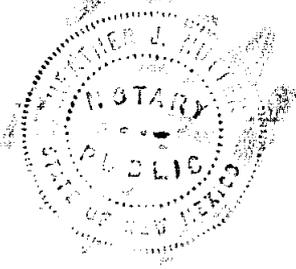
Describe all public transportation that serves the subdivision on a regular basis: **None.**

Signed:   
Michael L. Bowlin, President  
Bowlin Travel Centers, Inc.

Subscribed and sworn to before me on the 27<sup>th</sup> day of March, 2002.

  
Notary Public

My Commission expires: 10/11/04



SUPPLEMENT TO DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES

WATER PLAN

Subdivision name: **RUNNING INDIAN ESTATES**

Location: **NI/2NE/4, Section 33, T15S, R10E, NMPM.**

Subdividers' names: **Bowlin Travel Centers, Inc. , P.O. Box 1409, Mesilla Park, NM 88047**

Date: **August,2001**

Water Quality (Appendix B, paragraph D.I through 5)

See attached Exhibit A for water quality analysis.

There are no documented sources of contamination of the groundwater in the area of the subdivision.

There are no known sources of contamination, flood plains, or surface bodies of water within the subdivision or within 500 feet of the subdivision boundaries.

Water Availability (Appendix C, paragraph C.4 A. through 4)

Well logs are attached as Exhibit B.

Attached as Exhibit C is a letter of intent from Eileen Acres Service Corp. to provide water for this subdivision.

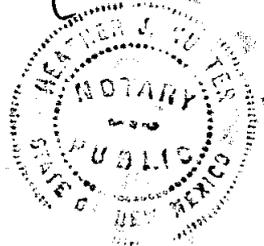
Eileen Acres Service Corp. has an existing water system which serves Eileen Acres Subdivision and Shady Grove Mobile Home Park. Their declared water right is 758 acre feet per year. They have two wells, T-1313 and T1313 S-I which produce a combined total of 175 gallons per minute. Their present storage capacity is 18,000 gallons. The well production from July 1, '00 to July 1, '01 was 38.059 acre feet.

The existing water distribution system will be extended to RUNNING INDIAN ESTATES with 1.5 through 3 inch diameter PVC water pipe. Metered service lines will be 3/4 inch.

Signed: *Michael L. Bowlin*  
Michael L. Bowlin, President  
Bowlin Travel Centers, Inc.

Subscribed and sworn to before me on the 27<sup>th</sup> day of March, 2002.

*Heather J. Fuchs* My Commission expires: 10/11/04  
Notary Public



**SUPPLEMENT TO DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES**

TERRAIN MANAGEMENT PLAN

Subdivision name: **RUNNING INDIAN ESTATES**

Location: **The Southwest corner of the intersection of US Highway 54- 70 and State Road 545.**

Subdividers' names: **Bowlin Travel Centers, Inc. , P .0. Box 1409, Mesilla Park, NM 88047**

Date: **August, 2001**

Prepared by: **George P. Light, 4001 N. Scenic Dr., Alamogordo, NM 88310**

A. **Maps.**

1. Vicinity map: See the copy of the Alamogordo North quadrangle provided.
2. Subdivision map: See Preliminary Plat and Terrain Management Plan.
3. Soil survey: The NRCS soil survey shows three classifications of soils in this subdivision. Please refer to the Preliminary Plat and Terrain Management Map for the location of each. The classifications are:
  1. **AdB- ALAMOGORDO FINE SANDY LOAM 0 TO 3% SLOPE**  
"The shallow depth to gypsum and its inherent properties limit foundations and streets and roads. Good design and careful installation and the use of suitable fill help to overcome these problems. Septic tank absorption fields are not restricted, but contamination of groundwater may result from moderately rapid permeability, a high concentration of facilities, and formation of pits as gypsum dissolves. Permeability: 2.0 to 6.0 in/hr; shrink-swell potential: low; erosion factors: above average ."
  2. **LfB- LARGO-OGRAL COMPLEX, 1 TO 3 PERCENT SLOPE.**  
"The moderate shrink-swell potential and low strength of the largo soils limit dwellings and local roads and streets but can be overcome by good design and careful installation and by use of suitable fill material. The moderately slow permeability of the largo soils limits septic tank filter fields but can be overcome by increasing the size of the filter field or modifying the design. Filter fields are not restricted in the ogral soils, but because of the substratum, underground water may be contaminated. Permeability: 0.6-6.0 in/hr. (Varies with depth); shrink-swell potential: low to moderate; erosion factors: above average."
  3. **PMB- PRELO SILT LOAM, 1 TO 3% SLOPE.**  
"This soil has high potential for most urban uses. Low strength, moderate shrink-swell potential, and susceptibility to piping can be overcome by good design and careful installation and by use of suitable fill material for foundations. The high amount of gypsum in the substratum can corrode underground utilities. The use of noncorrodible materials will overcome this limitation. The moderately slow permeability limits septic tank absorption fields but can be overcome by increasing the size of the absorption area or modifying the filter field. Permeability: 0.6-2.0 in/hr. (Varies with depth); shrink-swell potential: moderate; erosion factors: slightly above average."
4. Surface drainage: See the Preliminary Plat and Terrain Management Map.
  - a. Storm drainage computations: See the Preliminary Plat and Terrain Management Map.
  - b. Contributing runoff: There are two small culverts under US 54-70 which discharge onto this subdivision. They are a 36" diameter pipe and a 72" by 36" concrete box. Both have a small drainage area contained within Eileen Acres subdivision. The 36" pipe has a drainage

area of approximately 7.5 acres. The 72" by 36" box culvert has a drainage area of approximately 21 acres. Drainage from areas east of Eileen Acres Subdivision farther upstream has been diverted to the south by a ditch and dike along the east boundary of Eileen Acres No.1.

c. Storm water control structures: Small detention ponds in the commercial area with outlets to the drainage easements which will contain shallow swales are provided to pass upstream contributions through the subdivision.

5. Type of utilities: Utilities provided by the subdivider will be overhead power and underground telephone lines, water lines, sewer lines, and natural gas lines.

6. Grading: Grading by the subdivider will be limited to the roads and drainage features in the subdivision. Road cuts and fills will be one foot or less. Fill will be compacted during construction to avoid settlement. Lot buyers will be responsible for building site preparation. The Otero Soil and Water Conservation District recommends that structure pads be raised a minimum of 24 inches. Importing of non-plastic fill material for building pads is recommended. Where natural vegetation is removed a mulch should be maintained until permanent ground cover is established.

7. Schedule of construction:

a. Little clearing and grading is required. It is expected to start in June, 2002 and continue through September, 2002.

b. Duration of exposure of disturbed surfaces is expected to be one growing season.

c. Stabilization of disturbed areas is expected in fall of 2005 through natural revegetation.

d. Drainage swales and culverts will be installed during street construction.

e. All roads are expected to be completed by the end of December, 2002.

f. Same as (e), above

g. Installation dates of each utility:

WATER AND SEWER: JANUARY, FEBRUARY AND MARCH, 2003

POWER: JANUARY AND FEBRUARY, 2003

TELEPHONE: JANUARY AND FEBRUARY, 2003

NATURAL GAS: JANUARY AND FEBRUARY, 2003

(h) No recreational or community facilities are planned.

8. Legal Description: Part of the N1/2NE1/4 Section 33, T15S., R10E., N.M.P.M.

9. Number of parcels and areas: There are 35 lots and one tract in the subdivision. Please refer to the Preliminary Plat and Terrain Management Map. The tract is 9.6 acres. The smallest lot is 114 acre.

B. Not applicable.

C. The soils within the subdivision are fairly suitable to poorly suitable for fill, underground utilities, road construction, water control structures, and erosion control structures. Construction of fill will require control of the soil's moisture content during compaction. Compaction will require placement in shallow lifts, less than one foot, with adequate watering and rolling before placing subsequent lifts. Building pads are likely to require imported non-plastic material to increase soil strength and reduce shrink/swell potential. Underground utilities should be constructed of non-ferrous material, as much as possible.

**IT IS HIGHLY RECOMMENDED THAT EACH LOT BUYER RETAIN THE SERVICES OF A SOILS ENGINEER TO ASSIST WITH PROPER EVALUATION OF THE SOILS AND THE TOPOGRAPHY FOR PROPER BUILDING SITING, AND SITE GRADING BEFORE BUILDING IS UNDERTAKEN.**

D. Grading, filling, and clearing: The subdivider does not propose grading, filling and clearing except to construct the roads, drainage swales and utilities.

Lot buyers are encouraged to follow good terrain management practices such as preserving or blending to the natural contours as much as practical. Removal of natural vegetation is discouraged. Planting of windbreaks will decrease soil erosion and is encouraged. Mulching disturbed areas will encourage ground cover replacement.

E. Special Flood Hazard Areas: There are no Special Flood Hazard Areas or Flood Plains within or adjacent to the subdivision.

F. Storm Drainage:

1.
  - a. The drainage patterns within and around the subdivision will not be significantly altered by the subdivider. The natural slopes within the subdivision are unaltered by development and drainage patterns that now exist shall remain.
  - b. There are no flood hazard areas within the subdivision.
  - c. Water within the subdivision will be removed via the natural features in the same way it is now.
  - d. Sedimentary material from the area of the subdivision should not increase if lot buyers follow the terrain management recommendations herein and maintain ground cover vegetation on the disturbed areas.
  - e. Water will be drained from the subdivision in the same pattern and location that naturally occurs at the site now.
2. Drainage easements are provided.
3. No floodwaters are diverted by the subdivision.
4. The storm drainage features will be constructed using standard engineering practices.
5. There are no buffer strips proposed by the subdivider.

G. No fencing is proposed by the subdivider. UNDER NEW MEXICO LAW LAND OWNERS ARE RESPONSIBLE TO PROVIDE THEIR OWN FENCES IF THEY WANT TO KEEP LIVESTOCK OUT.

Signed: *Michael L. Bowlin*  
Michael L. Bowlin, President  
Bowlin Travel Centers, Inc.

Subscribed and sworn to before me on the 27<sup>th</sup> day of March, 2002.

*Heather J. Heltzer*  
Notary Public

My Commission expires: 10/11/04



SUPPLEMENT TO DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES

LIQUID WASTE DISPOSAL PLAN

Subdivision name: **RUNNING INDIAN ESTATES**

Location: **The Southwest corner of the intersection of US Highway 54-70 and State Road 545. Part of the NI/2NE/4 Section 33, T15S., R10E., N.M.P.M.**

Subdividers' names: **Bowlin Travel Centers, Inc. , P.O. Box 1409, Mesilla Park, NM 88047.**

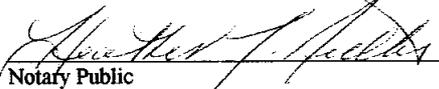
Date: **August, 2001**

**Liquid waste disposal for this subdivision will be provided by the existing sewage treatment plant of Eileen Acres Service Corp. See Exhibit E for Sewage Treatment Plant Design Capacity. See Exhibit C Letter of Intent to Provide Utilities.**

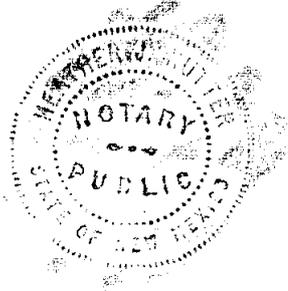
**Liquid waste will be collected by a typical underground sewage system which will include PVC piping, a lift station, a force main and the existing extended aeration sewage treatment plant of Eileen Acres Service Corp. The existing plant is sized to accommodate 200 homes. It is presently serving about 61 homes. The plant will be at less than 50% of design capacity after full development of RUNNING INDIAN ESTATES.**

Signed:   
Michael L. Bowlin, President  
Bowlin Travel Centers, Inc.

Subscribed and sworn to before me on the 27<sup>th</sup> day of March, 2002.

  
Notary Public

My Commission expires: 10/11/04



SUPPLEMENT TO DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES

**SOLID WASTE DISPOSAL PLAN**

Subdivision name: **RUNNING INDIAN ESTATES**

Location: **The Southwest corner of the intersection of US Highway 54-70 and State Road 545. Part of the N1/2NE1/4 Section 33, T15S., R10E., N.M.P .M.**

Subdividers' names: **Bowlin Travel Centers, Inc. , P.O. Box 1409, Mesilla Park, NM 88047**

Date: **August, 2001**

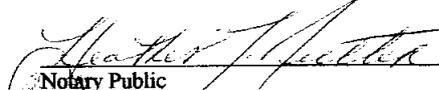
**The subdivider's proposal for solid waste disposal for the subdivision is that each homeowner shall be responsible for their individual solid waste. The subdivider will not provide solid waste disposal services. Solid waste disposal is provided for all of Otero County at The Otero-Lincoln County Regional Landfill located 22 miles south of Alamogordo on US Highway 54.**

**Private contract solid waste pick-up services are available in the area of the subdivision and each homeowner will be required to make arrangements for their own pick-up.**

**The nearest county operated convenience center where lot owners may leave their solid waste is located at 33 Gravel Pit Road near La Luz and is approximately two miles from the entrance to the subdivision.**

Signed:   
Michael L. Bowlin, President  
Bowlin Travel Centers, Inc

Subscribed and sworn to before me on the 27 day of March, 2002.

  
Notary Public

My Commission expires: 10/14/04



STATE OF NEW MEXICO } S.S.  
OTERO COUNTY  
FILED FOR RECORD IN MY OFFICE

EXHIBIT A  
DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES  
**WATER QUALITY ANALYSIS**

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19 - OTERO

EXHIBIT A  
Page 1



System Name	Sacramento water and Sanitation Dist.	Shady Grove Trailer Park	Timberon WUA	Tularosa 1	Tularosa 2
Well Name	Spring #1	Composite of wells	Well #1	Tularosa Creek	Well #1
Code Number	685-19	640-19	464-19	140-19	140-19
Latitude					33-04-00
Longitude					106-02-00
ARSENIC	<0.005	0.014	<0.001	<0.005	<0.005 (2)
BARIUM		0.14	<0.10	0.11	0.16 (2)
CADMIUM	<0.001	<0.001	<0.001	<0.001	<0.001 (2)
CHROMIUM	<0.005	<0.005	0.009	<0.005	<0.005 (2)
FLUORIDE	0.16 (2)	0.30	0.20	0.46	0.67
LEAD	<0.005	<0.005	<0.005	<0.005	<0.005 (2)
MERCURY		<0.0005	0.0011	<0.0005	0.0013(2)
NITRATE	0.22 (2)	3.06	0.41	0.59	2.99 (2)
SILVER	<0.005	0.003	0.004	<0.001	<0.001 (2)
SELENIUM	<0.001	0.004	<0.001	<0.005	<0.004 (2)
GROSS ALPHA			2.3 ± 0.6		
GROSS BETA			<1.6 @ 95% C.L.		
RADIUM-226					
RADIUM-228					
ALKALINITY	294 (2)	195	157	180	210 (2)
BICARBONATE	357.7 (2)	237.4	193.3	219.1	257.1 (2)
CALCIUM	112.3 (2)	248.4	80.8	192.8	364.6 (2)
CARBONATE	0.0 (2)	0.0	0.0	0.0	0.0 (2)
CHLORIDE	3.0 (2)	274.9	0.6	71.4	175.8 (2)
COLOR	2.5 (2)	0	0	3.0	0 (2)
CONDUCTANCE	633 (2)	2,527	727	1,523	2,763 (2)
FOAMING AGENTS	<0.05 (2)	<0.05		<0.05	<0.05 (2)
HARDNESS	309 (2)	1,017	279	745	1,488 (2)
IRON	<0.25 (2)	<0.25	0.27	<0.25	<0.25 (2)
MAGNESIUM	6.9 (2)	96.6	18.8	64.3	140.7 (2)
MANGANESE	<0.05 (2)	<0.05	<0.05	<0.05	<0.05 (2)
ODOR	none (2)	none	slightly musty	none	none (2)
pH	8.03 (2)	7.44	8.03	7.90	7.49 (2)
POTASSIUM	0.20 (2)	1.95	0.00	1.17	2.73 (2)
SODIUM	4.6 (2)	177.1	2.3	50.6	118.5 (2)
SULFATE	30.0 (2)	761.3	107.4	545.1	1,207.0 (2)
TOTAL FILT. RES.	361 (2)	1,783	455	1,117	2,168 (2)
TURBIDITY	0.3 (2)	0.6	2.7	15.0	1.3 (2)

**Well #1 data:**

T-1313 in Shady Grove by shop

Date of Data:	6/2/86		1/10/01	
Depth to Static Water Level:	210		202.5	
Depth to Water Bearing Formation:	225.0		225.0	
Perforations Begin @:	250.0		250.0	
Perforations End @:	310.0		310.0	
Total Screened pipe:				60.0
Pump Setting:			252.0	
Pump Setting Below Top of Screen:				2.0
Total Depth of Well:	310.0		310.0	
Pump HP:			10	Grundfos
Pump GPM:			60	@ 50 psi
Well Capacity:	350	est.		
Casing:	8 5/8"	PVC	8 5/8"	PVC

**Well #2 data:**

T-1313-S Located in Eileen Acres

Date of Data:	1969		3/15/01	
Depth to Static Water Level:	215			
Depth to Water Bearing Formation:				
Perforations Begin @:				
Perforations End @:				
Total Screened pipe:				
Pump Setting:	273		252	
Pump Setting Below Top of Screen:				
Total Depth of Well:	300		300	
Air line well head to intake:	254		254	
Pump HP:	15	Aermotor	10	Grundfos to ground storage
Pump GPM:			95	
Well Capacity GPM:	350			
Casing:	8"	steel		PVC

**EILEEN ACRES  
WATER WELL PRODUCTION 2000/2001**

Month	Well #1 Production	Well #2 Production	Total Monthly Production
Jul-00	0	1,271,800	1,271,800
Aug-00	198,500	1,097,900	1,296,400
Sep-00	6,900	1,319,000	1,325,900
Oct-00	1,300	614,300	615,600
Nov-00	0	562,100	562,100
Dec-00	0	527,200	527,200
Jan-01	400	563,900	564,300
Feb-01	0	567,900	567,900
Mar-01	187,800	357,200	545,000
Apr-01	479,300	556,600	1,035,900
May-01	730,000	730,300	1,460,300
Jun-01	1,104,900	838,900	1,943,800
Jul-01	1,108,506	847,700	1,956,206
	3,817,606	9,854,800	

Total Annual Production... Gallons: **12,400,606**

Total Annual Production... Acre Feet: **38.059**

## EILEEN ACRES WATER WELL PRODUCTION 1995

Month	Year	Well #1		Well #2		Total Monthly Production
		Readings	Production	Readings	Production	
December	1994	27,000,700		62,001,900		
January	1995	27,008,700	8,000	62,501,200	499,300	507,300
February	1995	27,008,700	0	63,081,600	580,400	580,400
March	1995	27,010,200	1,500	63,791,200	709,600	711,100
April	1995	27,087,500	77,300	64,738,000	946,800	1,024,100
May	1995	27,133,000	45,500	65,779,600	1,041,600	1,087,100
June	1995	27,612,800	479,800	66,674,800	895,200	1,375,000
July	1995	28,057,000	444,200	67,308,600	633,800	1,078,000
August	1995	28,144,500	87,500	68,669,200	1,360,600	1,448,100
September	1995	28,814,200	669,700	68,897,000	227,800	897,500
October	1995	29,481,400	667,200	68,898,400	1,400	668,600
November	1995	30,061,100	579,700	68,898,400	0	579,700
December	1995	30,851,900	790,800	68,898,400	0	790,800

3,851,200

**Total Annual Production... Gallons:****10,747,700****Total Annual Production... Acre Feet:****32.986**

Well #1: "Nogal Well"

Well #2: Well on Cottontail Run



GARY E. JOHNSON  
GOVERNOR

State of New Mexico  
ENVIRONMENT DEPARTMENT  
Alamogordo Field Office  
411 Tenth Street Room 106  
Alamogordo, New Mexico 88310  
(505) 437-7115 • FAX (505) 434-1813

EXHIBIT A  
Page 6

MARK E. WEIDLER  
SECRETARY

EDGAR T. THORNTON, III  
DEPUTY SECRETARY

February 14, 1996

Mr. Tony Medina, Water Master  
Shady Grove Trailer Park (640-19)  
37 Stonewood Drive  
Alamogordo, New Mexico 88310

Dear Mr. Medina:

On February 13, 1996, a Public Water Supply Survey was conducted on the Shady Grove Public Water Supply System. Your kind assistance during the survey was most appreciated.

Generally, the water system appeared improved since the last survey, with our discussion including additional improvements planned for the near future. The only deficiency noted was a screen needed on the Tank #1 overflow.

The attached survey is an update to the 1993 survey (also enclosed). Please review them carefully, and if any information presented does not concur with your data, please let me know.

As requested, for your files, enclosed is a copy of the chemical water sampling data on the Shady Grove water system since 1980. Included also is a copy of the bacteriological water sample results since 1978.

If you have any questions, please feel free to communicate with this office.

Sincerely,

*Gunther L. Diehl*  
Gunther L. Diehl  
Environmental Supervisor

GLD/pds

Attachments

cc: Charles Hendrickson, HPM 1-A, District III

STATE OF NEW MEXICO } s.s.  
OTERO COUNTY  
FILED FOR RECORD IN MY OFFICE  
This 20 day of June, 2002  
At 4:30 o'clock PM and duly recorded  
in Book No. 1027 Page 235-  
The records of Otero County, New Mexico  
\_\_\_\_\_  
County Clerk, Otero County, New Mexico  
\_\_\_\_\_  
Deputy

EXHIBIT B  
DISCLOSURE STATEMENT  
WELL LOGS

---

Notary Public

---

# Declaration of Owner of Underground Water Right

Bk 1027 Pg 243

APR 25 1986

Declaration No. T-1313 BASIN NAME \_\_\_\_\_ Date received April 25, 1986

STATE ENGINEER  
STATEMENT

1. Name of Declarant Wright-Wimberly Joint Venture  
Mailing Address P.O. Box 130, Alto, NM 88312  
County of Otero, State of New Mexico

2. Source of water supply Shallow  
(artesian or shallow water aquifer)

3. Describe well location under one of the following subheadings:  
a. NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Sec. 33 Twp. 15S Rgc. 10E N.M.P.M., in \_\_\_\_\_ County.  
b. Tract No. \_\_\_\_\_ of Map No. \_\_\_\_\_ of the \_\_\_\_\_  
c. X = \_\_\_\_\_ feet, Y = \_\_\_\_\_ feet. N. M. Coordinate System \_\_\_\_\_ Zone \_\_\_\_\_  
On land owned by Declarant Grant \_\_\_\_\_

4. Description of well: date drilled 1950's drilled by Vic Rill depth 300 feet.  
outside diameter of casing 8 inches; original capacity 350 gal. per min.; present capacity 350 gal. per min.; pumping lift 294 feet; static water level 210 feet (above) (below) land surface;  
make and type of pump Aeromotor Submersible  
make, type, horsepower, etc., of power plant 10hp  
Fractional or percentage interest claimed in well 100%

5. Quantity of water appropriated and beneficially used N/A 340  
for Mobile Home Subdivision (acre feet per acre) (acre feet per annum) purposes.

6. Acreage actually irrigated \_\_\_\_\_ acres, located and described as follows (describe only lands actually irrigated):

Subdivision	Sec.	Twp.	Range	Acre Irrigated	Owner
<u>PT N<sup>2</sup></u>	<u>33</u>	<u>15S</u>	<u>10E</u>	<u>62</u>	<u>Declarant</u>

(Note: location of well and acreage actually irrigated must be shown on plot on reverse side.)

7. Water was first applied to beneficial use 1950  
month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_ and since that time has been used fully and continuously on all of the above described lands or for the above described purposes except as follows: \_\_\_\_\_

8. Additional statements or explanations At present approximately 88 trailers are being supplied by we intend to continue adding more mobile homes until the full capacity of these wells is reached. Total appropriated from all 3 well is 758 acre feet/year.

I, JAMES L. WIMBERLY being first duly sworn upon my oath, depose and say that the above is a full and complete statement prepared in accordance with the instructions on the reverse side of this form and submitted in evidence of ownership of a valid underground water right, that I have carefully read each and all of the items contained therein and that the same are true to the best of my knowledge and belief.

Wright-Wimberly J. V.  
by James L. Wimberly, Declarant.

Subscribed and sworn to before me this 23rd day of April, A.D. 1986  
My commission expires 9-15-87  
Wade Sinden Notary Public

FILED  
UNDER NEW MEXICO LAW A DECLARATION IS ONLY A STATEMENT OF DECLARANT'S CLAIM  
ACCEPTANCE FOR FILING DOES NOT CONSTITUTE APPROVAL OR REJECTION OF THE CLAIM

STATE ENGINEER OFFICE  
WELL RECORD

EXHIBIT B  
Page 2

Section 1. GENERAL INFORMATION

(A) Owner of well Wright-Wimberly Joint Venture Owner's Well No. \_\_\_\_\_  
Street or Post Office Address P. O. Box 130  
City and State Alto, New Mexico 88312

Bk 1027 Pg 244

Well was drilled under Permit No. T-1313 and is located in the:

- a.  $\frac{1}{4}$  NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 33 Township 15S Range 10E N.M.P.M.
- b. Tract No. \_\_\_\_\_ of Map No. \_\_\_\_\_ of the \_\_\_\_\_
- c. Lot No. \_\_\_\_\_ of Block No. \_\_\_\_\_ of the \_\_\_\_\_  
Subdivision, recorded in Otero County.
- d. X= \_\_\_\_\_ feet, Y= \_\_\_\_\_ feet, N.M. Coordinate System \_\_\_\_\_ Zone in the \_\_\_\_\_ Grant.

(B) Drilling Contractor New Mexico Drilling, Inc. License No. WD-471

Address P. O. Box 1423 Alamogordo, New Mexico 88310

Drilling Began 4/7/86 Completed 6/2/86 Type tools Rotary Size of hole 12 1/2 in.

Elevation of land surface or \_\_\_\_\_ at well is \_\_\_\_\_ ft. Total depth of well 310 ft.

Completed well is  shallow  artesian. Depth to water upon completion of well 210 ft.

Section 2. PRINCIPAL WATER-BEARING STRATA

Depth in Feet		Thickness in Feet	Description of Water-Bearing Formation	Estimated Yield (gallons per minute)
From	To			
225	246	21	Sand and Gravel	350
272	276	4	Sand	

Section 3. RECORD OF CASING

Diameter (inches)	Pounds per foot	Threads per in.	Depth in Feet		Length (feet)	Type of Shoe	Perforations	
			Top	Bottom			From	To
8 5/8 OD	160	PVC	0	310	310		250	310

Section 4. RECORD OF MUDDING AND CEMENTING

Depth in Feet		Hole Diameter	Sacks of Mud	Cubic Feet of Cement	Method of Placement
From	To				

Section 5. PLUGGING RECORD

Plugging Contractor \_\_\_\_\_

Address \_\_\_\_\_

Plugging Method \_\_\_\_\_

Date Well Plugged \_\_\_\_\_

Plugging approved by: \_\_\_\_\_

State Engineer Representative

No.	Depth in Feet		Cubic Feet of Cement
	Top	Bottom	
1			
2			
3			
4			

FOR USE OF STATE ENGINEER ONLY

Date Received July 8, 1986 Quad \_\_\_\_\_ FWL \_\_\_\_\_ FSL \_\_\_\_\_

File No. T-1313 Use ChgLoc/MHSubdiv Location No. 15.10E.33.221



# Declaration of Owner of Underground Water Right

EXHIBIT B  
Page 4

STATE ENGINEER Tularosa

Declaration No. 1313-S BASIN NAME \_\_\_\_\_ Date received April 25, 1986

Bk 1027 Pg 246

STATEMENT

- Name of Declarant Wright-Wimberly Joint Venture  
Mailing Address P.O. Box 130, Alto, NM 88312  
Country of Otero, State of New Mexico
- Source of water supply Shallow (artesian or shallow water aquifer)
- Describe well location under one of the following subheadings:  
a. NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Sec. 33 Twp. 15S Rge. 10E N.M.P.M. in Otero County.  
b. Tract No. \_\_\_\_\_ of Map No. \_\_\_\_\_ of the \_\_\_\_\_  
c. X = \_\_\_\_\_ feet, Y = \_\_\_\_\_ feet, N. M. Coordinate System \_\_\_\_\_ Zone \_\_\_\_\_  
On land owned by \_\_\_\_\_ Grant.
- Description of well: date drilled 1969 driller Hadley depth 300 feet.  
outside diameter of casing 8 inches; original capacity 350 gal. per min.; present capacity 350 gal. per min.; pumping lift 273 feet; static water level 215 feet (above) (below) land surface;  
make and type of pump Aeromotor Submersible  
make, type, horsepower, etc., of power plant 15 H.P.  
Fractional or percentage interest claimed in well 100%

- Quantity of water appropriated and beneficially used N/A 340 (acre feet per acre) (acre feet per annum) for Mobile Home Subdivision purposes.

6. Acreage actually irrigated \_\_\_\_\_ acres, located and described as follows (describe only lands actually irrigated):

Subdivision	Sec.	Twp.	Range	Acre Irrigated	Owner
<u>PT N<math>\frac{1}{2}</math></u>	<u>33</u>	<u>15S</u>	<u>10E</u>	<u>62</u>	<u>Declarant</u>

(Note: location of well and acreage actually irrigated must be shown on plot on reverse side.)

- Water was first applied to beneficial use \_\_\_\_\_ month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_ and since that time has been used fully and continuously on all of the above described lands or for the above described purposes except as follows: \_\_\_\_\_

- Additional statements or explanations At present approximately 88 trailers are being supplied but we intend to continue adding more mobile homes until the full capacity of these wells is reached. Total appropriated from all 3 wells is 758 acre feet/year.

I, JAMES L. WIMBERLY being first duly sworn upon my oath, depose and say that the above is a full and complete statement prepared in accordance with the instructions on the reverse side of this form and submitted in evidence of ownership of a valid underground water right, that I have carefully read each and all of the items contained therein and that the same are true to the best of my knowledge and belief.

Wright-Wimberly, J.V. Declarant.  
by Wanda Shaban

Subscribed and sworn to before me this 23rd day of April, A.D. 1986  
My commission expires 9-15-87  
Wanda Shaban Notary Public

FILED UNDER NEW MEXICO LAW A DECLARATION IS ONLY A STATEMENT OF DECLARANT'S CLAIM ACCEPTANCE FOR FILING DOES NOT CONSTITUTE APPROVAL OR REJECTION OF THE CLAIM.

IMPORTANT - INSTRUCTIONS ON BACK BEFORE FILLING OUT THIS FORM.

EXHIBIT B  
Page 5

# Declaration of Owner of Underground Water Right

APR 25 PM 2 39  
Tulare

BASIN NAME

Declaration No. T-1313-S-2 Date received April 25, 1986

STATE ENGINEER  
LAS CRUCES

STATEMENT

1. Name of Declarant Wright-Wimberly Joint Venture  
Mailing Address P.O. Box 130, Alto, NM 88312  
County of Otero State of New Mexico

2. Source of water supply Shallow (artesian or shallow water aquifer)

3. Describe well location under one of the following subheadings:  
a. SE SE NE 33 15S 10E N.M.P.M. in  
Otero County.  
b. Tract No. \_\_\_\_\_ of Map No. \_\_\_\_\_ of the  
c. X = \_\_\_\_\_ feet, Y = \_\_\_\_\_ feet, N. M. Coordinate System \_\_\_\_\_ Zone  
in the \_\_\_\_\_ Grant.  
On land owned by \_\_\_\_\_

4. Description of well: date drilled 1976 driller Hadley depth 280 feet.  
outside diameter of casing 6 inches; original capacity 80 gal. per min.; present capacity 80  
gal. per min.; pumping lift N/A feet; static water level 210 feet (above) (below) land surface;  
make and type of pump Not Equipped  
make, type, horsepower, etc., of power plant N/A  
Fractional or percentage interest claimed in well 100%

5. Quantity of water appropriated and beneficially used N/A 78  
for Mobile Home Subdivision (acre feet per acre) (acre feet per annum) purposes.

6. Acreage actually irrigated \_\_\_\_\_ acres, located and described as follows (describe only lands actually irrigated):

Subdivision	Sec.	Twp.	Range	Acre Irrigated	Owner
<u>PT N 1/2</u>	<u>33</u>	<u>15S</u>	<u>10E</u>	<u>62</u>	<u>Declarant</u>

(Note: location of well and acreage actually irrigated must be shown on plat on reverse side.)

7. Water was first applied to beneficial use 1976 and since that time  
has been used fully and continuously on all of the above described lands or for the above described purposes except  
as follows: \_\_\_\_\_

8. Additional statements or explanations At present approximately 88 trailers are being  
supplied but we intend to continue adding more mobile homes until the full  
capacity of these well is reached. total appropriated from all 3 wells  
is 758 acre-feet/year

I, JAMES L. WIMBERLY being first duly sworn upon my oath,  
depose and say that the above is a full and complete statement prepared in accordance with the instructions on the re-  
verse side of this form and submitted in evidence of ownership of a valid underground water right, that I have carefully  
read each and all of the items contained therein and that the same are true to the best of my knowledge and belief.

J.L. Wimberly Jr., declarant.  
by: [Signature]

Subscribed and sworn to before me this 2nd day of April, A.D. 19 86  
My commission expires 4-15-87 [Signature] Notary Public

UNDER NEW MEXICO LAW A DECLARATION IS ONLY A STATEMENT OF DECLARANT'S CLAIM  
ACCORDANCE FOR FILING DOES NOT CONSTITUTE APPROVAL OR REJECTION OF THE CLAIM.  
FILED

Bk 1027 Pg 247

Phone 437-3543  
or  
437-1155

New Mexico Drilling, Inc.  
7009 US Hwy. 70 N.

P.O. Box 1423  
Alamogordo, New Mexico  
88311-1423

EXHIBIT B  
Page 6

LOG OF Eilleen Acres WELL  
T-1313-S

Location Shady Grove Trailer Park (location change)  
Date Began 2/1 /97 Date Completed 2/25/97  
Depth Drilled 310 ft. Size Finished 8"  
Water Level 196 ft. Depth Water Struck 196 ft.  
Gallons Per Minute 215  
Casing Set: Size 8-5/8" O.D. Length 310 ft. Ft. Perforated 60  
Make of Pump Grundfos Size 10HP, 230V, 3Ø Pump Depth 252 ft.  
Tested: \_\_\_\_\_ Gallons Per Minute, \_\_\_\_\_ Hours  
Driller Joe Skaggs Helper(s) P.J. Henderson  
Rig No. D40K Robert Skaggs

WELL LOG

		Type of Formation
From: <u>0</u>	To: <u>22</u>	<u>Boulders</u>
<u>22</u>	To: <u>196</u>	<u>Clay and gravel</u>
<u>196</u>	To: <u>203</u>	<u>Pea gravel (water, 15gpm)</u>
<u>203</u>	To: <u>238</u>	<u>Clay and gravel</u>
<u>238</u>	To: <u>246</u>	<u>Boulders (water, 200gpm)</u>
<u>246</u>	To: <u>310</u>	<u>Clay and gravel</u>
_____	To: _____	_____

Remarks: Perforations set from 250-310 ft.  
Sch 40 PVC casing  
252 ft. of 3" <sup>GALV</sup> black pipe  
20 ft. of 12-3/4" surface pipe

STATE OF NEW MEXICO } S.S.  
OTERO COUNTY }  
~~FILED FOR RECORD IN MY OFFICE  
This    day of   , 20    
At    o'clock    M and duly recorded  
Book No.    Page     
records of Otero County, New Mexico  
County Clerk, Otero County, New Mexico  
By    Bennett Printing, Inc. Deputy~~

EXHIBIT C

DISCLOSURE STATEMENT

**LETTER OF INTENT TO PROVIDE  
POTABLE WATER AND LIQUID WASTE DISPOSAL**

---

Eileen Acres Service Corporation, Inc.  
P. O. Box 100  
Alto, NM 88312

## LETTER OF INTENT

Eileen Acres Service Corporation proposes to furnish water and sewer to Running Indian Estates Subdivision, Otero County, New Mexico.

Eileen Acres Service Corporation is ready, willing and able to provide the maximum annual water requirements for Running Indian Estates for the next forty (40) years.

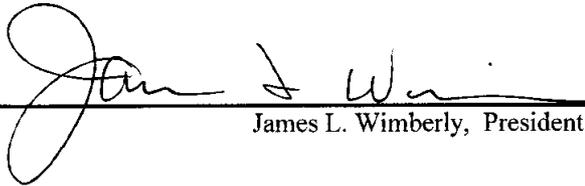
Eileen Acres Service Corporation already has more than enough water rights to meet this requirement, as well as, other existing obligations.

The distribution system will be owned by Running Indian Estates, and maintained by Eileen Acres Service Corporation.

Individual meters will be installed at the expense of subdivider or individual lot owner.

Water meters will be read and consumption billed to individual lot owners at the approved existing rate of Eileen Acres Service Corporation.

All of the above is subject to the approval of the State Engineer's Office.



---

James L. Wimberly, President

EILEEN ACRES SERVICE COMPANY

P.O. Box 6298  
Texarcana, Texas 75505  
903-838-8597

WATER AND SEWER SERVICE RATES

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WATER SERVICE

MONTHLY RATE:

Minimum Monthly Customer Charge: \$8.33 per month.  
Commodity Charge: \$2.11 per each 1,000 gallons of water used.

Anticipated bills under the rates for certain levels of consumption are as follows:

- a) 0 gallons: \$ 8.33
- b) 5,000 gallons: \$ 18.88
- c) 10,000 gallons: \$ 29.43
- d) 15,000 gallons: \$ 39.98
- e) 25,000 gallons: \$ 61.08

These rates do not include New Mexico gross receipts tax.

OTHER FEES:

New Account Fee (non refundable): \$100.00  
Disconnect Fee (nonrefundable): \$ 30.00  
Reconnect Fee: (nonrefundable): \$ 30.00

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SEWER SERVICE

MONTHLY FLAT RATE: \$ 15.57 per month.

This rate does not include New Mexico gross receipts tax.

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EXHIBIT D  
DISCLOSURE STATEMENT  
**RESTRICTIVE COVENANTS**

---

RESTRICTIVE COVENANTS AND PROTECTIVE EASEMENTS  
RUNNING INDIAN ESTATES, OTERO COUNTY

DECLARATION:

Bowlin Travel Centers, Inc., P. O. Box 1409, Mesilla Park, NM 88047, is the owner of real estate within Otero County, New Mexico, particularly described as follows:

Starting at the north one-quarter corner of said section 33 and going S72 degrees 34'31" "E a distance of 456.33 feet to the place of beginning of the tract of land herein described; thence N81 degrees 59'08"E Along the south right-of-way of State Road No. 545 a distance of 577.29 feet to the west right-of-way line of US Highway No. 54-70: Thence S19 degrees 23'30"E along said west right-of-way line A distance of 1343.68 feet; Thence S89 degrees 44'18" W a distance of 292.16 feet; thence S89 degrees 54'26"W a distance of 362.53 feet; Thence S89 degrees 53'39"W a distance of 360.90 feet to the North-South one-quarter line of said Section 33; Thence N00 degrees 06'21"W along said one-quarter line a distance of 1189.55 feet to the place of beginning and containing 22.6023 acres, more or less.

WHEREAS, Bowlin Travel Centers, Inc. imposed certain restrictive covenants and mutual and reciprocal easements upon the tract of land relating to an orderly and uniform development of the said real estate and the improvements to be placed thereon under Restrictive Covenants recorded in book \_\_\_\_\_, page \_\_\_\_\_, et seq. on \_\_\_\_\_, in the office of the County Clerk, Otero County; New Mexico; and

WHEREAS, Bowlin Travel Centers, Inc., remain the sole owner of all said tract, now subdivided into the lots and blocks known as Running Indian Estates, Otero County, New Mexico, as shown on the official plat of the same.

BE IT THEREFORE DECLARED that the following covenants, restrictions and easements as amended herein are declared and imposed upon the lands and the same shall run with the land and be binding upon all parties, purchasers and owners and upon their successors, assigns and privies and all persons claiming under or by or through them for the term of years or terms of years as herein provided.

PART 1. FULLY RESTRICTED RESIDENTIAL AREA.

The residential area covenants in Part II in their entirety shall apply to the residential lots, being lots numbered 1 through 35, inclusive, Running Indian Estates, an addition to Otero County, New Mexico.

PART II. RESIDENTIAL AREA COVENANTS.

A. LAND USE AND BUILDING TYPE.

1. No lots shall be used except for residential purposes.
2. No residence shall be erected, altered, placed or permitted to remain on any lot other than one detached single family, single storied dwelling.

B. MINIMUM HOME BUILDING REQUIREMENTS.

Each dwelling shall contain and conform to the following minimum home building requirements;

1. Dwelling may be site built or manufactured or modular housing. They shall conform otherwise to all requirements relating to such single family residential construction in new subdivisions as may be required by acts, statute, rule, regulation or ordinance of Federal, State and Local authorities and agencies and shall, as constructed, conform generally to the requirements of conventional or Federal, State or Local mortgage financing programs.

C. UNLESS THE FOREGOING GENERAL STANDARD IS HIGHER THE HOMES GENERALLY SHALL INCLUDE THE FOLLOWING:

1. Contain a minimum of 1200 square feet with a minimum 1 car carport.
2. Contain a minimum of two bedrooms and two bath.
3. Sidewall minimum ceiling height of 8 feet with center height of living room no less than 8 feet 6 inches.
4. Composition roof shingle, or an acceptable equal.
5. Exterior walls to be constructed by residential lap siding, fiberboard, plywood, treated wood, masonite or stucco.
6. All modular or manufactured housing must remove wheels, axles, hitch and any running gear.
7. All modular or manufactured housing must be permanently attached to a foundation.
8. All lots must have a concrete driveway.

9. Front entrance deck should be constructed of wood or concrete with steps and sidewalks, and shall not be less than 64 square feet.
10. All site improvements and amenities must be in place and completed within 90 days of start of construction.
11. All utilities connected and attached in a manner pertinent to local & state codes, and must be in a manner comparable to site-built housing applications.
12. The finish floor elevation shall not be greater than twenty-four (24") inches above the finish ground elevation from the front (street side) elevation.
13. Water conserving plumbing fixtures and equipment meeting the requirements of the 2000 International Plumbing Code or subsequent revisions thereof, whichever is more conserving.

#### D. ARCHITECTURAL CONTROL.

No building or improvement shall be erected, placed, altered or replaced on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing and/or planned structures, and as to location with respect to topography and finish grade elevation. No fence or wall, except necessary retaining walls of minimum height, shall be erected or allowed to remain nearer the front street than the front building setback line.

On corner lots, no side fence or walls, except necessary retaining walls of minimum height shall be erected or allowed to remain nearer to the front street than the front of the dwelling, nor nearer the side street than the property line. There is no restriction as to height of fences which are erected behind the minimum setback line of the front street; except as stated or implied herein. Approval shall be as provided in Part III.

All backyards are required to be fenced. Fences should be 6 feet tall and constructed of wood or brick.

All residences must maintain a clean and well-kept appearance at all times.

#### E. BUILDING LOCATION

No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than fifteen (15) feet to any side street line, except that as to streets toward which houses face, no building shall be located nearer than twenty-five (25) feet to the street property lines of the said streets. No building shall be located nearer than five (5) feet to any exterior lot line. No dwelling shall be located on any interior lot nearer than twenty (20) feet to the rear lot line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building, on a lot to encroach upon another lot. Storage sheds are permitted and must be constructed of wood, brick or concrete, and be no larger than 10' x 12.'

#### F. LOT AREA AND WIDTH.

No dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum building setback line. Each lot shall have an area of not less than 6,000 square feet.

#### G. EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

#### H. NUISANCES

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

#### I. TEMPORARY STRUCTURES AND INITIAL OCCUPANCY OF PERMANENT RESIDENCE.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out-building, shall be used on any lot at any time as a residence either temporarily or permanently. Nor shall any residence be occupied initially until its

completion has been approved by the Architectural Committee. Landscaping shall be completed within the time limits after occupancy and after in that manner agreed to between owner and the Committee at time of completion.

J. SIGNS.

No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

K. OIL AND MINING OPERATIONS.

No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

L. LIVESTOCK AND POULTRY.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. No more than two pets will be allowed and pets must not be allowed to roam freely in the streets.

M. GARBAGE AND REFUSE DISPOSAL.

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. A disposal service must be a required pickup service from an approved disposal company.

N. WATER SUPPLY.

No individual water-supply system shall be permitted on any lot. Water supply for every lot shall be obtained from the public water system, maintained by Eileen Acres Service Corporation.

O. SEWAGE DISPOSAL.

No individual sewer-disposal system shall be permitted on any lot. Sewage disposal for every lot shall be by means of the public sewage-disposal system, maintained by Eileen Acres Service Corporation..

P. SIGHT DISTANCE AT INTERSECTIONS.

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

PART III. ARCHITECTURAL CONTROL COMMITMENT.1. MEMBERSHIP.

The architectural Control Committee is composed of:

1. Kit Johnson  
P. O. Box 1409  
Mesilla Park, NM 88047
2. James L. Wimberly  
P. O. Box 100  
Alto, NM 88312
3. Paul Light  
4001 Scenic Drive  
Alamogordo, NM 88310
4. C. C. Bess  
P. O. Box 1409  
Mesilla Park, NM 88047
5. Michael L. Bowlin  
P.O. Box 1409  
Mesilla Park, NM 88047

A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representatives, shall be entitled to any

compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or to restore to it any of its powers and duties.

2. Procedure.

The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

PART IV. GENERAL PROVISIONS.

1. TOLERANCE.

A six (6") inch tolerance by reason of mechanical variance of construction is allowed for minimum distance requirements from lot line.

2. TERM.

These covenants are to run with the land and shall be binding on all parties, their successors, assigns and privies and all persons claiming by, through or under them for a period of thirty (30) years from the date these covenants are recorded. After this period the covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been placed of record in the County Clerk's Office, requesting amending or agreeing to change the covenants in whole or in part. Votes shall be counted on the basis of one (1) vote for each lot owned.

3. ENFORCEMENT

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

4. SEVERABILITY.

Invalidation of any one of these covenants by judgment or court order or by ordinance of the City of Alamogordo, New Mexico shall in no-wise effect any of the other provisions which shall be and remain in full force and effect.

5. AMENDMENT.

These covenants may be amended (in whole or in part) at any time an instrument signed by a majority of the owners of the lots has been recorded agreeing to (amend said covenants in whole or in part to) include additional property under the terms hereof or to exclude specifically described property from the provisions hereof. Votes shall be counted on the basis of one (1) vote for each lot owned within the subject area.

IN WITNESS WHEREOF, the said owner has caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Bowlin Travel Centers, Inc.

By \_\_\_\_\_

EXHIBIT E  
DISCLOSURE STATEMENT  
**SEWAGE TREATMENT PLANT DESIGN CAPACITY**

---

<u>WASTE TREATMENT PLANT SPECIFICATION DATA</u>	
(ONE 15,000 GPD PLANT)	
<u>DESIGN CONDITIONS</u>	
Average Flow (GPD)	15,000
Design Flow Period (Hrs.)	24
Average Flow During Design Flow Period (GPM)	11
Max. Flow During Design Flow Period (GPM)	26
5 Day BOD (mg/L)	200
<u>AERATION</u>	
Capacity (Gal.)	15,000
Pounds BOD per 1000 Cubic Feet Loading	12.5
Detention Based on Average Daily Flow (Hrs.)	24
Cubic Feet of Air Required Per Pound BOD	2,100
<u>FINAL SETTLING</u>	
Capacity (Gal.)	2,850
Detention Based on Design Flow Period (Hrs.)	4.5
Surface Settling Rate (GPD/Sq. Ft.)	341
Weir Overflow Rate (GPD/L.Ft.)	2,143
Number of Sludge Hoppers	1
Sludge Collector Gravity	45
Sludge Return Rate (GPM)	
<u>AIR SUPPLY</u>	
Number of Operating Blowers	One
Stand-By Blowers, 100% Alternating	Optional
PSI	4
CFM	85
HP	5
Volts/Phase/Hertz	230/1/60
<u>AEROBIC SLUDGE DIGESTER</u>	
Capacity (Gal.)	1,200
Loading (Cu.Ft./Cap.)	1.1
<u>CHLORINE CONTACT CHAMBER</u>	
Capacity (Gal.)	650
Detention (Min.)	62

SCALE 1" = 10'

SEWAGE FLOW CALCULATIONS

- 1. EILEEN ARS, UNIT 1  
39 Lots     2.7 Persons x 75 GPD = 7897.50 GPD
- 2. EILEEN ARS, UNIT 2  
165 Lots x 2.7 Persons x 75 GPD = 33412.5 GPD

TOTAL DESIGN FLOW = 41310.0 GPD

TOTAL NITROGEN TREATED EFFLUENT

20 PPM x 4131000 GPD x 8.34 = 7.18 Lbs./Day  
 7.18 Lbs/Day x 365 Days = 2620.70 Lbs./Year  
 2620.70 Lbs./Year ÷ 5.632 Acres = 465.32 Lbs./Ac./Year

NITROGEN UPTAKEN BERMUDA GRASS

From "Wastewater Treatment and Reuse By Land Application-Volumm II",  
 Published by Environmental Protection Agency, Dated August 1973.  
 Nitrogen Uptake in Bermuda Grass = 480-600 Lbs./Ac./year  
 Using 480 Lbs./Ac./Year x 1.25% = 600 Lbs./Ac./Year (Maximum Allowable Loading Limit)

TOTAL DESIGN FLOW = 41310.0 GPD

**TOTAL NITROGEN TREATED EFFLUENT**

20 PPM x 04131000 GPD x 8.34 = 7.18 Lbs./Day

7.18 Lbs/Day x 365 Days = 2620.70 Lbs./Year

2620.70 Lbs./Year ÷ 5.63 Acres = 465.32 Lbs./Ac./Year

**NITROGEN UPTAKEN BERMUDA GRASS**

From "Wastewater Treatment and Reuse By Land Application-Volumn II", published by the Environmental Protection Agency, Dated August 1973.

Nitrogen Uptake in Bermuda Grass = 480-600 Lbs./Ac./Year

Using 480 Lbs./Ac./Year x 1.25% = 600 Lbs./Ac./Year (Maximum Allowable Loading Limit)

**LIQUID WASTE DISCHARGE PLAN**

STATE OF NEW MEXICO } ss  
 OTERO COUNTY }  
 FILED FOR RECORD IN MY OFFICE  
 This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 At \_\_\_\_\_ o'clock \_\_\_\_\_ M and duly recorded  
 in Book No. \_\_\_\_\_ Page \_\_\_\_\_  
 The records of Otero County, New Mexico  
 \_\_\_\_\_  
 County Clerk, Otero County, New Mexico  
 By \_\_\_\_\_ Deputy

EILEEN ACRES, UNIT 2		9	OF	11
DANIEL ENGINEERING COMPANY		PHONE 437-0340		
1015 OREGON AVE.		ALAMOGORDO, NEW MEXICO 88310		
SCALE: NOTED	DATE: DEC. 5, 1984	BY: JDC	JOB NO: 9212	

EXHIBIT F  
DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES  
**COMMENTS FROM OFFICE OF THE STATE ENGINEER**  
**RESPONSE TO COMMENTS**

---



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER

SANTA FE

October 9, 2001

THOMAS C. TURNEY  
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101  
POST OFFICE BOX 25102  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6175  
FAX: (505) 827-6188

Mr. Dale Palkki  
Otero County Grant/Subdivision Coordinator  
1000 New York Ave RM 101  
Alamogordo, NM 88310-6935

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUERSTED**

Re: Preliminary Plat Review, Running Indian Estates Subdivision

Dear Mr. Palkki:

The Office of the State Engineer (OSE) has reviewed the preliminary plat proposal for the referenced subdivision pursuant to the Otero County Subdivision Regulations and provisions of the New Mexico Land Subdivision Act. The subdivider has provided insufficient information regarding water availability, water conservation, water quantification, and fire protection. Therefore, a favorable opinion regarding the water proposal for this subdivision will be withheld until the subdivider adequately addresses the above stated issues.

A staff memorandum in support of this opinion is attached for your review. A copy of this letter and attached memorandum should be provided to the subdivider. The OSE is prepared to re-evaluate the subdivision proposal when the subdivider submits the required information.

If the subdivider has any questions regarding this letter or the attached memorandum they may call Mr. John T. Romero at (505) 827-4187.

Sincerely,

Handwritten signature of Brian C. Wilson in cursive.

Brian C. Wilson, P.E.  
Chief, Water Use & Conservation Bureau

Attachment

Jtr:bcw

**MEMORANDUM****New Mexico Office of the State Engineer**  
*Water Use & Conservation Bureau*

**Date:** October 9, 2001

**To:** Brian C. Wilson, P.E., Chief, Water Use & Conservation Bureau

**From:** John T. Romero, Water Master I *JR*

**Subject:** Running Indian Estates, Preliminary Plat Review, Otero County

---

The proposal is a request to develop a Type II subdivision containing 36 parcels encompassing approximately 23 acres of land. The proposed parcel sizes will range between 0.25 and 6.9 acres. The subdivision is located in Section 33, Township 15 South, Range 10 East, New Mexico Principal Meridian. This proposal is located approximately four miles North of Alamogordo, New Mexico. This proposal was reviewed pursuant to the Otero County Subdivision Regulations and provisions of the New Mexico Subdivision Act.

The subdivider proposes that Eileen Acres Service Corp. will provide all the water for the proposed subdivision. The subdivider has quantified the maximum amount of water, for indoor and outdoor purposes, by the subdivision at 80 acre-feet per year at full build out. This translates to approximately 2.22 acre-feet per parcel per year. Otero County Subdivision Regulations allow up to 2.0 acre-feet per parcel per year. The subdivider may propose a different amount other than 2.0 acre-feet; however, they must then prepare a detailed water demand analysis showing this amount. This analysis is also required for all nonresidential water uses such as the commercial use of 10 acre-feet proposed by the subdivider. Additionally, the subdivider has provided the required letter of intent from the water utility; however, the letter does not state that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision for at least forty (40) years nor have they submitted the proper documentation pursuant to Appendix C, Section C.3, Subsection E.1 & 2.

The subdivider has also failed to adequately address water conservation pursuant to Appendix C, Section C.2 of the Otero County Subdivision Regulations. The New Mexico Subdivision Act (Chapter 47, Article 6 NMSA 1978), Section 47-6-9 (A) 4, also requires the subdivider to address conservation measures in their proposal. It is suggested that the subdivider refer to Office of the State Engineer (OSE) Technical Report 48 entitled "Water Conservation and Quantification of Water Demands in Subdivisions" (Wilson, 1996) to calculate the amount of irrigated turf area each parcel will be allowed to irrigate based on the amount of water available to the subdivision. Further, the subdivider has failed to list any restrictions on water use or list any additional measures to monitor water use in the subdivision other than stating that all parcels will be

Page 2  
Running Indian Estates  
October 9, 2001

fitted with individual water meters. Any additional measures to monitor water use should correspond to the amount of water allowed for indoor and outdoor use by the subdivision.

The subdivider has attempted to address water availability by referring to the Otero County, 40-year water plan performed by Mr. John Shoemaker. The subdivider needs to address the life expectancy of the proposed water supply showing sustained production of water over a 40-year period. The subdivider is required to submit information addressing water availability pursuant to Appendix C, Section C3.A & B of the Otero County Subdivision Regulations for review.

The subdivider has also failed to submit a fire protection plan pursuant to Appendix C, Section C.5 of the Otero County Subdivision Regulations. A fire protection plan is required for all subdivisions with more than one hundred (100) parcels and with a community water system. Even though the total amount of parcels will not exceed the 100-parcel threshold and a private water utility will be providing the water to this subdivision, it is recommended that the county require the subdivider to submit a fire protection plan for review.

It is my opinion that the subdivider's water proposal does not conform to the Otero County Subdivision Regulations or the New Mexico Subdivision Act. A favorable opinion regarding the availability of water for the subdivision will not be issued for this subdivision proposal until the above mentioned information is submitted for further review.

**RESPONSE TO OFFICE OF STATE ENGINEER COMMENTS**

**1. WATER REQUIREMENTS FOR RUNNING INDIAN ESTATES (Second paragraph of OSE comments)**

The annual water required for the **residential portion** of the subdivision (35 lots) will be 70 acre feet per year. This number is based on 2.0 acre feet per lot per year as prescribed by the Otero County Subdivision Regulations. (i.e. 35 lots x 2.0 acre feet per lot per year = 70 acre feet per year)

The annual water requirement for the **commercial portion** of the subdivision (TRACT A), which is 9.6 acres is estimated to be 10 acre feet per year. While there are no plans for any specific businesses at this location, this estimate is based on the types of businesses that may be expected for this location. Currently there is a curio store (Bowlin's Running) on this tract. The types of businesses may include a fast food restaurant (Dairy Queen), a convenience store (Alsup's), automobile or mobile home retail sales, service and maintenance businesses (plumbing, electrical, construction), and automotive repair shops. This area is not expected to attract high water use businesses nor to be a high density business area. Water use for businesses of this type vary widely. Area requirements for these businesses also vary widely. For the sake of this illustration, the following is assumed to occupy Tract A:

1 curio store	@ 800gpd
1 convenience store	@ 1000gpd
1 auto sales/repair	@ 1000gpd
1 plumbing shop	@ 500gpd
1 mobile home sales	@ 300gpd
1 construction office/yard	@ 500gpd
1 fastfood restaurant	@ 2000gpd
1 small motel (30 rms)	@ 2800gpd

TOTAL 8900gpd (8900gpd x 365days /yr = 32,485,000 gallons = 10 AFY)

**2. WATER CONSERVATION. (Third paragraph of OSE comments).**

This subdivision is in the extraterritorial jurisdiction of the City of Alamogordo. Therefore, building permits and building codes are administered by the City of Alamogordo Code Enforcement Department. The plumbing code governing new construction in this subdivision will be the 2000 INTERNATIONAL PLUMBING CODE, and subsequent revisions. **This plumbing code requires the use of water conserving fixtures and equipment in all new construction.**

Restrictive Covenants for this subdivision limit all residential lots to single family, single-story dwellings. The allocation of 2.0 acre feet per year per lot (1785 gallons per day, average) is adequate for household use and maintenance of typical landscaping and lawns on 1/4 acre lots.

**3. WATER AVAILABILITY. (Fourth paragraph of OSE comments). (Appendix C, Para. C.3.A.1&2; Para. C.3.B.3; Para.C.3.E.1a, 2.a., b., c., &d.**

Running Indian Estates Subdivision is a Type Two subdivision and Paragraph C.3.B.3 requires information in accordance with Section C.3.E. The paragraph designations used below correspond to Section C.3.E.

**E.1.a.** The name of the utility company is EILEEN ACRES SERVICE CORPORATION. The letter of intent is contained in EXHIBIT C.

**E.2.a** Refer to EXHIBIT A WATER QUALITY ANALYSIS for a tabulation of water production for the wells of Eileen Acres Service Corporation. The total well production for the year 2000-2001 was 38.059 acre feet.

GPL, INC.  
4001 North Scenic Drive  
Alamogordo, NM 88310 (505)437-2358

The present water supply commitment of 125 acre feet per year (AFY) is for Eileen Acres Subdivision and Shady Grove Mobile Home Park. This all of the present commitment of Eileen Acres Services Corp.

The declared water rights of Eileen Acres Services Corp. are 758 acre feet per year. See EXHIBIT B WELL LOGS for copies of the declaration. The ultimate water requirement for Eileen Acres and Shady Grove Mobile Home Park is 125 AFY at full development. The ultimate water requirement for Running Indian Estates is 80 AFY at full development. These water rights are not limited to any time period. The combined total of the commitment of Eileen Acres Service Corp. after full development of all subdivisions and parks is 205 AFY. This leaves 553 acre feet per year of water rights uncommitted.

**E.2.b.** A copy of the latest report submitted to the New Mexico Public Utilities Commission is contained in EXHIBIT J.

**E.2.c.** Refer to the preliminary plat for a plan of the existing water system of Eileen Acres Service Corp.



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER  
SANTA FE

THOMAS C. TURNEY  
State Engineer

November 26, 2001

BATAAN MEMORIAL BUILDING, ROOM 101  
POST OFFICE BOX 25102  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6175  
FAX: (505) 827-6188

Mr. Dale Palkki  
Otero County Planning Coordinator  
1000 New York Ave Rm 101  
Alamogordo, NM 88310-6935

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

Re: Running Indian Estates Subdivision

Dear Mr. Palkki:

The Office of the State Engineer (OSE) has reviewed the subdivision plans for the Running Indian Estates Subdivision pursuant to the Otero County Subdivision Regulations and provisions of the New Mexico Land Subdivision Act. The developer has provided sufficient information regarding water availability, conservation and quantification of the amount of water available for indoor and outdoor uses; however, it is suggested that the county require the subdivider to provide information addressing the maximum allowed acreage (turf area) that each lot will be allowed to irrigate. A favorable opinion regarding the water proposal for this subdivision will be issued at this time.

A copy of this letter and staff memorandum should be provided to the subdivider. An opinion issued by the State Engineer that the subdivider can fulfill his water proposals does not imply a guarantee that water in sufficient quantities to meet the needs of the subdivision will be obtained for the period of time specified, if any, in the disclosure statement.

If the language of this letter is summarized or otherwise modified by the subdivider, approval must be obtained from this office prior to its incorporation into the subdivider's disclosure statement.

Sincerely,

Brian C. Wilson, P.E., Chief, Water Use & Conservation Bureau

Attachment  
Jtr:bcw

**MEMORANDUM****New Mexico Office of the State Engineer***Water Use & Conservation Bureau*

**Date:** November 26, 2001

**To:** Brian C. Wilson, P.E., Chief, Water Use & Conservation Bureau

**From:** John T. Romero, Water Master I 

**Subject:** Running Indian Estates, Preliminary Plat Review, Otero County

---

The proposal is a request to develop a Type II subdivision containing 36 parcels on approximately 23-acres of land. The land is located in Section 33, Township 15 South, Range 10 East, New Mexico Principal Meridian. This proposal was reviewed pursuant to the Otero County Subdivision Regulations and provisions of the New Mexico Subdivision Act.

The subdivider proposes that Eileen Acres Service Corporation will provide all the water for the proposed development. The subdivider has quantified the maximum amount of water for indoor and outdoor purposes by the subdivision to be 70 acre-feet per year at full build out plus 10 acre-feet per year for commercial purposes. This translates to approximately 2.0 acre-feet per parcel per year. Otero County Subdivision Regulations allow up to 2.0 acre-feet per parcel per year. Additionally, the subdivider has provided the required letter of intent from the water utility stating that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision for at least 40-years.

The subdivider has also addressed water conservation pursuant to Appendix C, Section C.2 of the Otero County Subdivision Regulations. It is once again recommended that the county require the subdivider to refer to Office of the State Engineer (OSE) Technical Report 48 entitled "Water Conservation and Quantification of Water Demands in Subdivisions" (Wilson, 1996) for the purpose of calculating the amount of irrigated turf area each parcel will be allowed to irrigate based on the amount of water available to each lot in the subdivision.

The subdivider has met the minimum requirements for water availability by referring to the Otero County, 40-year water plan performed by Mr. John Shoemaker. The plan addresses the life expectancy of the proposed water supply showing sustained production of water over a 40-year period. The subdivider has also submitted information addressing water availability pursuant to Appendix C, Section C3.A & B of the Otero County Subdivision Regulations for review.

---

Page 2  
Running Indian Estates  
November 26, 2001

The subdivider has also submitted a fire protection plan pursuant to Appendix C, Section C.5 of the Otero County Subdivision Regulations. A fire protection plan is required for all subdivisions containing more than one hundred (100) parcels and supplied water by a community water system. While it is recognized that the total amount of parcels will not exceed the 100-parcel threshold, it is again recommended to the county that they require the subdivider to submit a fire protection plan to the local Fire Marshal or appropriate authority for review and approval.

It is my opinion that the subdivider's water proposal is now in conformance with the Otero County Subdivision Regulations. A favorable opinion regarding the water proposal for this subdivision will be issued at this time.



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER  
SANTA FE

THOMAS G. TURNEY  
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101  
POST OFFICE BOX 25102  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6175  
FAX: (505) 827-6188

December 28, 2001

Mr. Dale Palkki  
Otero County Planning Coordinator  
1000 New York Ave RM 101  
Alamogordo, NM 88310-6935

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

Re: Running Indian Estates Subdivision

Dear Mr. Palkki:

The Office of the State Engineer (OSE) issued a favorable opinion on November 26, 2001 for the referenced preliminary plat proposal. This opinion was issued with the understanding that the water provider, Eileen Acres Service Corporation could provide water to the development. Our Las Cruces office has informed us that the proposed subdivision will not be located in the service area of Eileen Acres Service Corporation. They have also informed our office of a pending water right application (T-3954) to appropriate water. If approved, this application would solve the service area issue. Therefore, our favorable opinion issued November 26, 2001 is now contingent upon the said water right application being approved by the OSE, Water Rights Division in Las Cruces. A copy of this letter should be provided to the subdivider.

If the subdivider has any questions regarding this letter or the attached memorandum they may call Mr. John T. Romero at (505) 827-4187.

Sincerely,

Brian C. Wilson, P.E.  
Chief, Water Use & Conservation Bureau

Jtr:bcw

GPL, INC.  
4001 North Scenic Drive  
Alamogordo, NM 88310 (505)437-2358

Bk 1027 Pg 275

EXHIBIT G  
DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES  
**NEW MEXICO ENVIRONMENT DEPARTMENT COMMENTS**

---

GARY E. JOHNSON  
GOVERNORState of New Mexico  
ENVIRONMENT DEPARTMENT

District III Office

1170 N. Solano Drive

Las Cruces, New Mexico 88001

Telephone (505) 524-6300

Fax (505) 526-3891

PETER MAGGIORE  
SECRETARY

December 31, 2001

Mr. Dale Palkki  
Subdivision Coordinator  
County of Otero  
1000 New York Avenue, Rm. 101  
Alamogordo, NM 88310

**RE: Running Indian Estates Subdivision**

Dear Dale:

Thank you for extending the opportunity to comment on the proposed Preliminary Plat for Running Indian Estates Subdivision. I understand that the proposal would subdivide 22.6 acres into 36 lots. Drinking water would be supplied by Eileen Acres Service Company. We anticipate no problems with either quality or quantity. The disclosure statement also indicates that wastewater treatment would be provided by Eileen Acres, which has a NMED Ground Water Discharge Permit (DP-398). I spoke with Mr. Jerzy Kulis at the NMED Ground Water Quality Bureau (GWQB) about the proposed addition of the discharge from the proposed 36 homes to the Eileen Acres facility. Mr. Kulis is the staff person assigned to DP-398. Although the wastewater plant is currently operating at less than the design flow, Mr. Kulis also indicated that the plant is not functioning as well as it could for the level of loading it currently receives.

Mr. Kulis explained that, although Eileen Acres is currently in compliance with the terms of its Ground Water Discharge Permit, the current permit will expire in June 2002. NMED typically requires wastewater treatment facilities that are applying for or renewing a ground water discharge permit to meet certain effluent standards and to comply with NMED's effluent reuse guidelines. For similar site-specific conditions, NMED currently requires that treated and disinfected effluent discharged from a wastewater treatment facility does not exceed 20 milligrams per liter total nitrogen ( $\text{NO}_3\text{-N} + \text{TKN}$ ) and 1,000 fecal coliform colony forming units (CFU)/100 ml. In addition, for facilities which land-apply their effluent, the total nitrogen loading on the land application area shall not exceed 125 % of expected nitrogen uptake of harvested crops. In order to have the permit renewed, Eileen Acres will be required to comply with these new requirements. The proposed addition of 36 homes would put more burden on the

Page 2  
Letter to Mr. Dale Palkki  
December 31, 2001

wastewater treatment system. Therefore, I am recommending that any approval by your office for the proposed subdivision be contingent upon the following:

- A. Submittal by Eileen Acres to NMED of a Ground Water Discharge Permit Renewal Application that includes the discharge from the proposed subdivision, and;
- B. NMED's approval of plans by Eileen Acres to improve their treatment process and effluent management practices to meet the effluent standards and total nitrogen loading on the land application area as specified above.

Please contact me at 505-647-7971 if you have any questions.

Sincerely, *Frank Fiore*  
Frank Fiore, Health Program Manager

cc: Jerzy Kulis, GWQB

STATE OF NEW MEXICO } ss.  
 OTERO COUNTY  
 FILED FOR RECORD IN MY OFFICE  
 This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 At \_\_\_\_\_ o'clock \_\_\_\_\_ M and duly recorded  
 in Book No. \_\_\_\_\_ Page \_\_\_\_\_  
 The records of Otero County, New Mexico  
 \_\_\_\_\_  
 County Clerk, Otero County, New Mexico  
 \_\_\_\_\_ Deputy

GPL, INC.  
4001 North Scenic Drive  
Alamogordo, NM 88310 (505)437-2358

Bk 1027 Pg 278

EXHIBIT H  
DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES  
**NATURAL RESOURCES CONSERVATION COMMISSION**

---

**OTERO SOIL AND WATER  
CONSERVATION DISTRICT**

*EXHIBIT H*

2920 N. WHITE SANDS BLVD.  
ALAMOGORDO, N. M. 88310 PHONE - (505) 437-3100

Bob Nichols, Chairman  
Eddie Vigil, Vice Chairman  
Greg Mendez, Secretary/Treasurer

W.F. Gage, Member  
Robert Bishop, Member  
Robert Bell, Member  
Rick Baish, Member

September 26, 2001

Otero County Planning Commission  
1000 New York Ave. Room 101  
Alamogordo, N.M. 88310

Re: Preliminary Plat – Running Indian Estates

Dear Mr. Palkki:

We have reviewed the subject subdivision proposal and find the terrain management plan to be complete. Surface storm water drainage is recognized and provided for in the plan.

Soil limitations for foundations is recognized and stated in the plan. We recommend that a fill pad of 1 to 1 ½ inch compacted depth be prepared for each dwelling.

The terrain management plan encourages owners not to remove native vegetation; however, if the shrub species (including mesquite and creosote brush) are removed or thinned, native grasses will become established.

This is a well-prepared proposal and Mr. George P. Light is to be commended. The Otero Soil and Water Conservation District recommends approval of this subdivision.

Sincerely,

Bob Nichols  
Chairman



~~STATE OF NEW MEXICO } S.S.  
OTERO COUNTY~~

~~FILED FOR RECORD IN MY OFFICE~~

~~This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_~~

~~At \_\_\_\_\_ o'clock \_\_\_\_\_ M and duly recorded~~

~~in Book No. \_\_\_\_\_ Page \_\_\_\_\_~~

~~The records of Otero County, New Mexico~~

~~\_\_\_\_\_~~  
County Clerk, Otero County, New Mexico

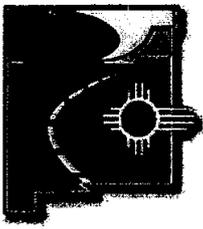
~~\_\_\_\_\_~~  
Deputy

EXHIBIT I

DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES

**NEW MEXICO STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
COMMENTS**

---



NEW MEXICO STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT  
AN EQUAL OPPORTUNITY EMPLOYER

Bk 1027 Pg 281  
EXHIBIT L  
Page 1

GARY E. JOHNSON  
GOVERNOR

COMMISSION

Holm Bursum, III  
Chairman, Socorro

Edward T. Begay  
Vice-Chairman, Gallup

Peter T. Mocho, Sr.  
Secretary, Albuquerque

Sherry Galloway  
Member, Farmington

Ray Litherland  
Member, Las Vegas

Sidney G. Strebeck  
Member, Poriales

DEPARTMENT

Secretary  
Pete K. Rahn

General Office  
P.O. Box 1149  
Santa Fe, NM  
87504-1149  
(505)827-5100

District One Office  
P.O. Box 231  
Deming, NM  
88031-0231  
(505)546-2603

District Two Office  
P.O. Box 1457  
Roswell, NM  
88202-1457  
(505)624-3300

District Three Office  
P.O. Box 91750  
Albuquerque, NM  
87199-1750  
(505)841-2700

District Four Office  
P.O. Box 30  
Las Vegas, NM  
87701-0030  
(505)454-3600

District Five Office  
P.O. Box 4127  
Coronado Station  
Santa Fe, NM  
87502-4127  
(505)827-9500

District Six Office  
P.O. Box 2159  
Millan, NM 87021  
(505)285-3200

October 5, 2001

Mr. Dale Palkki  
Planning Coordinator  
County of Otero  
1000 New York Avenue, Room 101  
Alamogordo, New Mexico 88310-6935

RE: **Running Indian Estates Subdivision**

Dear Mr. Palkki:

The appropriate engineers of the New Mexico State Highway and Transportation Department, have reviewed the material submitted on the above referenced development and do not have any further comments except the following:

**Drainage:** "The residential density of the subdivision at about ¼ acre per lot for 35 lots will significantly increase the runoff into the downstream properties. The County may consider requiring the developer to provide centralized detention basin or to grade the site toward south into Ritas Draw, in order to maintain historic flows and prevent future drainage problems."

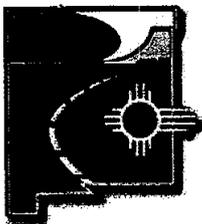
If you have any further questions, please contact Phillip Lujan of our Property Management Unit at (505) 827-5167.

/PL

Sincerely,

Robert Lopez  
Property Management Supervisor

XC: Douglas Stewart, District 2  
Bob Bracher, Traffic  
File



NEW MEXICO STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT  
AN EQUAL OPPORTUNITY EMPLOYER

Bk 1027 Pg 282

EXHIBIT I  
Page 2

GARY E. JOHNSON  
GOVERNOR

COMMISSION

Holm Bursum, III  
Chairman, Socorro

Edward T. Begay  
Vice-Chairman, Gallup

Peter T. Mocho, Sr.  
Secretary, Albuquerque

Sherry Galloway  
Member, Farmington

Ray Litherland  
Member, Las Vegas

Sidney G. Strebeck  
Member, Portales

DEPARTMENT

Secretary  
Pete K. Rahn

General Office  
P.O. Box 1149  
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District One Office  
P.O. Box 231  
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P.O. Box 1457  
Roswell, NM  
88202-1457  
(505)624-3300

District Three Office  
P.O. Box 91750  
Albuquerque, NM  
87199-1750  
(505)841-2700

District Four Office  
P.O. Box 30  
Las Vegas, NM  
87701-0030  
(505)454-3600

District Five Office  
P.O. Box 4127  
Coronado Station  
Santa Fe, NM  
87502-4127  
(505)827-9500

District Six Office  
P.O. Box 2159  
Millan, NM 87021  
(505)285-3200

January 2, 2002

Mr. Dale Palkki  
Planning Coordinator  
County of Otero  
1000 New York Avenue, Room 101  
Alamogordo, New Mexico 88310-6935

RE: **Running Indian Estates Subdivision**

Dear Mr. Palkki:

The appropriate engineers of the New Mexico State Highway and Transportation Department, have reviewed the material submitted on the above referenced development and have the following comments.

**Drainage:** "The submittal did not include addressing our comments of September 24, 2001. The terrain slopes away from US 70/54, however, there is an existing culvert crossing the highway and the flow is directed to the site. What happens with the water discharging toward the subdivision? What will the developer do about the water that is being conveyed from east toward west into the development? The developer must address this situation before the County or the Department approves the plan."

If you have any further questions, please contact Phillip Lujan of our Property Management Unit at (505) 827-5167.

/PL

Sincerely,

Robert Lopez  
Property Management Supervisor

XC: Douglas Stewart  
Bob Bracher, Traffic  
File

Bk 1027 Pg 283

EXHIBIT I  
Page 3**Van Hoven, Raymunda (Rae) A**

---

To: Lujan, Phillip (Phil) M  
Cc: Lopez, Robert (Bob) L.; Valerio, Max E  
Subject: Running Indian Estates Subd. Otero County

Phil,

I talked to Paul Light of GPL, Inc. yesterday about addressing our comments on the subject subdivision. He then faxed me the revised drainage plan where he added ponding areas and outlet pipes to convey the flows from our culverts that discharge into the site. The flows from these culverts will drain across the site and finally discharge into the existing flow path to the west of the subdivision.

I found the revised drainage plan to be reasonable and will not cause drainage problem to the highway right of way. The ponds must be maintained to keep positive drainage. The Drainage Section has no further comments and grants approval of the drainage plan.

I will send you a copy of the drainage plan by inter-office mail.

Rae Van Hoven

*Rae*

EXHIBIT J

DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES

**EILEEN ACRES SERVICE CORP. ANNUAL REPORT TO  
NEW MEXICO PUBLIC UTILITIES COMMISSION**

---

NEW MEX STATEMENT OF GROSS REC PTS

EXHIBIT J

Remit report and payment to:

Public Regulation Commission
ASD - Inspection and Supervision
P. O. 1269
Santa Fe, NM 87504-1269

Pursuant to Section 62-8-8 NMSA 1978, each utility doing business in this state and subject to the control and jurisdiction of the Commission with respect to its rates or service regulations shall pay annually to the state a fee for the inspection and supervision of such business in an amount equal to one-half of one percent of its gross receipts from business transacted in New Mexico for the preceding calendar year.

Part I

Business information

A. Legal Name: Eileen Acres Sewice Long
DBA:
Address: P.O. Box 6298
Address:
City, State, ZIP: Texarkana, TX 75505
Contact Person: J.W. Patterson
Title: Bookkeeper
Phone: (903) 838-8597

Part II

Detail of New Mexico Gross Receipts for the Year Ended December 31, 2000

Table with 5 columns: A. Account Number, B. Account Title, C. Gross Receipts Per Books, D. (Less: ) Exemptions, E. Amount Reported. Includes rows for operating revenues (sewer and water) and a TOTALS row.

F. Total of Column E, Part II 37,214.38 x .005 = 186.07
G. Amount remitted with NM Stmt of Gross Receipts (Due 2/28/01)
H. Balance due (Total of F less G) liable for penalty and interest \$ 186.07

- \*Notes: 1. Account numbers as prescribed by the Uniform System of Accounts
2. Exemptions: A. Sale for Resale - To another utility which is regulated by this Commission
B. Inter-State Sales
C. Un-collectable Amounts

Part III

Statement

The undersigned officer of Eileen Acres Sewice Long states under oath that the gross receipts of the company for public utility business transacted in New Mexico for the calendar year 2000 amount to \$ 37,214.38 as shown on Column E, Part II, herein.

STATE OF Texas
COUNTY OF Bowie

Subscribed and sworn to me this 27th day of September, 2001.

(Seal)

Notary Public

My Commission Expires:

10/31/2004

EXHIBIT K  
DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES  
**TRUTH IN LENDING REGULATION Z**

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## Regulation Z - Truth-in-Lending

### Scope

Regulation Z applies only to credit offered, applied for, or extended to an individual for a consumer purpose. The first requirement, therefore, is that the borrower be a live human being. Loans to entities such as corporations, partnerships, churches, associations, governmental agencies, and estates are not covered. Loans to trusts are not covered except loans to land trusts where they are used to hold title to property for financing convenience, such as is common in the state of Illinois.

The second requirement is that the loan be for a consumer purpose rather than a business, commercial, or agricultural purpose. In most instances, it is clear-cut whether a loan is or is not for a consumer purpose, but sometimes the distinction is not clear. Where a loan has a "mixed" use, that is, some of the proceeds will be used for a business purpose and some for a consumer purpose, the commentary to the regulation indicates that the primary purpose of the loan controls. The better policy is to apply Regulation Z to any loan where a significant part of the proceeds are used for a consumer purpose, particularly if the loan will be secured by the borrower's principal residence and the right of rescission might apply.

Loans to purchase or improve rental property (or the refinancing of those loans) have some special rules. If the property will not be owner-occupied, a purchase money or improvement loan is considered to be for a business purpose and Regulation Z does not apply. A property is considered nonowner-occupied if the owner does not intend to occupy it for more than 14 days during the coming year.

For owner-occupied rental property (such as a duplex), if the loan is to purchase the property and the property contains more than two units, it is for a business purpose. On the other hand, if the loan is to improve or maintain the property, it is a consumer, Regulation Z covered loan unless the property contains more than four units. For loans secured by rental property, for purposes other than acquisitions or home improvement, regardless of the number of

units in the property, determine the use of the proceeds of the loan and if it is a consumer purpose, Regulation Z applies.

A loan for more than \$25,000 is exempt from Regulation Z unless it is secured by real estate or a dwelling. If the loan is secured by real estate or a dwelling, there is no dollar exemption limit. For this purpose, real estate means dirt. Thus a loan of any amount, to an individual, for a consumer purpose is subject to Regulation Z if it is secured by vacant land, a home, an office building, or any other structure where land is included. A dwelling is a residential structure of one to four units, regardless of whether it is attached to land. Thus a mobile home or a houseboat is a dwelling if it is used as a residence. What this means in practice is that an automobile loan for more than \$25,000 is not covered by Regulation Z. Similarly, an education loan or other consumer-sounding loan is not covered by Regulation Z if the loan amount exceeds \$25,000 and the loan is not secured by real estate or a dwelling.

### Definitions

Regulation Z has some specifically defined terms. As with other regulations, frequently these defined terms have a different meaning than their normal "dictionary" meaning or their meaning as used in other regulations. Whenever you read a regulation, the first step is to make sure you recognize and understand the defined terms.

**Business Day.** A business day is any day a lender's offices are open to the public for carrying on substantially all of its business functions. If a bank has only its drive-through tellers open for handling deposit account transactions, but is not open to take loan inquiries or loan applications, it is not substantially open. For the purpose of the right of rescission, "business days" has a different definition. For rescission, every day except Sunday and federal public holidays is a business day. Saturday is a business day for determining a rescission period regardless of whether the bank is open.

**Open-End Credit.** An open-end credit is a loan where the borrower may redraw amounts previously paid. A credit card account is the most common open-end credit. The converse is a "closed-end credit." A closed-end credit is a loan where the



the position that if fees are frequently refunded, then they are not being charged to all applicants.

- Charges for a violation of the loan terms by the consumer. Late fees, delinquency fees, default charges, charges for exceeding a credit limit, and other similar fees imposed on a consumer for violating the terms of a loan agreement are not finance charges.
- Fees for participating in a credit plan are not finance charges if they are assessed periodically. An annual fee for a credit card or a fee imposed quarterly for a home-equity credit line are not finance charges.

In transactions secured by real property and in residential mortgage transactions there are a series of other charges that are not finance charges. Recognize that if these fees are charged in a transaction that is not secured by real estate and is not a residential mortgage transaction, they are finance charges. One of the excluded charges is a charge for a credit report. Accordingly, on a loan to purchase a mobile home to be used as the purchaser's principal dwelling and secured by the mobile home only (a residential mortgage transaction), a charge to the consumer for a credit report is not a finance charge. On a loan to refinance that purchase money loan, or if the mobile home were to be used as a second home, the transaction would not be a residential mortgage transaction and the charge for the credit report would be a finance charge. In working with Regulation Z or any other regulation, be very cautious to read every word and not allow logic to cause you to read into the language something that is not there or read out something that is there.

The fees and charges imposed on the customer in real property secured or residential mortgage transactions that are not finance charges are as follows:

- Fees for title examination
- Fees for an abstract of title
- Title insurance premiums
- Survey fees (includes fees for an initial determination of whether a property is in a flood hazard area)

- Document preparation charges
- Notary fees
- Appraisal fees
- Credit report fees
- Amounts paid into escrow if the items being escrowed for are not finance charges.

As to the items enumerated, the finance charge exclusion extends also to the cost of verifying or confirming the information in the item. There are two additional requirements that the charge must meet to qualify for the finance charge exclusion. First, the amount must be reasonable. Second, the charge must be incurred for a service performed in connection with the underwriting or settlement of the loan. Charges for a service performed after the closing of a loan is a finance charge even though it would have been exempt had the service been performed at or prior to loan closing, even though the consumer may pay for the service prior to or at settlement. An example is flood insurance determinations. The charge for an initial determination of whether a property is or is not in a flood hazard area, done prior to loan closing, to determine whether flood insurance is required on the loan is not a finance charge. A charge for future determination, to be made during the life of the loan, is a finance charge. Additionally, the fact that the lender performs the service and retains the fee does not affect the exclusion. If a bank performs an appraisal with its own personnel, the fee it charges the consumer for the appraisal is not a finance charge so long as it is reasonable and bona fide.

**Insurance.** The premium for insurance written in conjunction with a credit transaction is or is not a finance charge depending generally on the type of insurance involved and whether or not the creditor requires it. Premiums for credit life, accident and health, income continuation, and other similar types of insurance are not finance charges if the creditor does not require the coverage, provides an appropriate disclosure of the premium, and the consumer signs or initials an affirmative written request for the insurance. If the creditor requires this type insurance coverage it is always a finance charge.

Premiums for casualty insurance such as fire and extended coverage or flood on a home, or collision and comprehensive on an automobile are not finance



like, the rescission provisions of Regulation Z are not applicable, even though the home-equity plan disclosure requirements are applicable.

Because home-equity plans have become complex, with many variations and combinations of those variations in use across the country, the Regulation Z disclosure requirements for them are quite complex, as well. Any bank that offers such plans must develop detailed policies, procedures, and forms tailored to its own plans and to the portions of the regulation that apply to plans with those particular features.

### **Closed-End Credit**

Regulation Z defines only "open-end" credit. For the purpose of the regulation, if a credit is not an open-end credit, it is a closed-end credit. Fundamentally, a closed-end credit is one in which the borrower may not draw principal that has been previously repaid. The loan may be one from which multiple draws of principal can be made, such as a construction loan, and still be a closed-end loan. The test is whether principal that has been paid may be redrawn, such as with a credit card. If it can, the loan is open-end, not closed-end.

### **Disclosures**

As with most consumer protection regulations, the primary purpose of Regulation Z is disclosure to the consumer of the terms of the credit that he or she is receiving. The required disclosures have a very rigid format so that consumers can more easily compare apples to apples when they shop for credit. Three rules apply to all Regulation Z disclosures. Number one, the disclosures must be clear, conspicuous, in writing, and in a form that the consumer may keep. Number two, the required disclosures must be grouped together, segregated from all other information, and the segregated information must not contain any information not directly related to the required disclosures. Third, the terms "finance charge" and "annual percentage rate," when required to be disclosed, shall be "more conspicuous" than any other disclosure other than the creditor's identity. These three requirements have spawned the famous or infamous "Fed Box."

The required disclosures must be provided to the consumer prior to consummation of the transaction. In some variable-rate transactions, some disclosures must be given with the application. In some residential loan transactions, the disclosures must be given within three days after a creditor receives an application from a consumer. The specific rules for those early disclosures are described later in this article.

The fundamental requirement of all disclosures is that they accurately describe the legal obligation between the parties. In calculating the annual percentage rate for the disclosures, some minor discrepancies may be ignored, such as the occurrence of a leap year, the fact that months have different numbers of days and, within limits, that there is an irregular amount of time until the first payment is due. If a loan is payable on demand, the disclosures should assume a term of one year. If a loan is payable on a maturity date or upon demand, then the disclosures should be based on the stated maturity date. If disclosures are required to be given before consummation of a loan, all of the details of the loan may not be known at the time the disclosures are prepared. In that case, the disclosures should be prepared on the best information reasonably available and the estimated items should be noted as such by placing "(e)" beside them. Frequently, if one disclosure is estimated that affects other disclosures. For example, if the finance charge is estimated, then the APR must be an estimate also. The (e) may be placed after each estimated item or after only the item that was primarily affected.

If early disclosures are given to a consumer and subsequent events make them inaccurate, and if the actual annual percentage rate varies from the disclosed rate by more than one-eighth of one percentage point in a regular transaction, or one-fourth of one percentage point in an irregular transaction, then the changed terms must be redisclosed before the loan is closed. Note that it is only an excessive variance in the APR that requires a redisclosure. Additionally, there is no requirement to redisclose every time that there is a change between when the early disclosures are given and the closing. The early disclosures are given based on the information available at that time and if changed conditions require redisclosure, the only redisclosure necessary is immediately prior to closing.



**Content of Disclosures.** The following is the information that must be contained in the disclosure:

- The identity of the creditor.
- The amount financed. The "amount financed" is the amount of the loan minus any prepaid finance charges. A prepaid finance charge is a finance charge that is paid by the consumer prior to or at closing. For example, interest is a finance charge. Interest collected at closing is a prepaid finance charge.
- An itemization of the amount financed. The creditor must enumerate the proceeds of the loan distributed to the consumer, the amount credited to the consumer's account with the creditor, amounts paid to third parties by the creditor on the consumer's behalf, identifying who was paid each amount, and the prepaid finance charge. In a RESPA-covered loan, the good faith estimate can substitute for this disclosure. Alternatively, rather than providing this disclosure, a creditor may give the consumer written notice that the itemization is available and a space for the consumer to check to indicate that the consumer requests the disclosure.
- The amount of the finance charge.
- The annual percentage rate.
- The number, amounts, and timing of payments scheduled to repay the obligation.
- The total of payments the consumer will pay to satisfy the obligation.
- If the loan has a demand feature, that must be disclosed. Also, if the disclosures were based on an assumed maturity of one year, that must be disclosed.
- If a penalty will be imposed for prepayment, that must be disclosed. Additionally, if a consumer will receive a rebate of any finance charge upon prepayment of the loan, that must be disclosed.
- If charges will be imposed for late payment of an installment, the dollar or percentage charge that will be imposed.
- If the loan will be secured, a description of the collateral.
- If credit life or other similar insurance is being purchased and is excluded from the finance charge, then there must be a disclosure of the premium and a space for the consumer to affirmatively request the insurance coverage.
- If taxes on the transaction, recording fees, and other similar costs are to be excluded from the finance charge, they must be itemized and disclosed.
- A statement that the consumer should refer to the loan documents for information about nonpayment, default, the creditor's right to demand full payment of the loan, and prepayment penalties and rebates.
- In a residential mortgage transaction, a statement of whether or not a purchaser of the dwelling will be allowed to assume the remaining obligation on its original terms.
- If a creditor requires the consumer to maintain a deposit as a condition of a transaction (such as a loan secured by a time deposit), a statement that the APR does not reflect the effect of the required deposit. If the account earns interest at the rate of 5 percent or more, this disclosure is not required. An escrow account is not a deposit for this purpose.

**Variable-Rate Loans.** A variable-rate loan is one in which the APR may increase after the loan is consummated or closed. If the loan is not secured by the consumer's principal dwelling, or if the loan is so secured and has a term of less than one year, then the disclosure statement must contain the following information:

- The circumstances under which the rate may change
- Any limitations on the increase
- The effect of an increase
- An example of the payment terms that would result from an increase.

If a variable-rate loan is secured by a consumer's principal dwelling and has a term greater than one year, then the disclosure must state that the loan contains a variable-rate feature and that the variable-rate disclosures have been given earlier. The "earlier" disclosure, generally referred to as



is documented. If a lender agrees to allow a subsequent purchaser to assume a residential mortgage transaction and become primarily obligated for its payment, new disclosures are required.

An adjustment to the interest rate on a loan with a term greater than one year secured by a consumer's principal residence requires that a disclosure of the changes be provided to the consumer. The disclosure must be given at least once each year that an interest rate change is implemented, and it must be given not less than 25 days or more than 120 days before a payment change is made. The disclosure must state the following:

- The current and prior interest rates.
- The index values on which the current and prior rates are based.
- The extent to which the creditor has foregone any increase in the interest rate.
- The payment that will be due after the adjustment and the loan balance. If the payment will not fully amortize the loan over its term, the disclosure must state the payment that would amortize the loan.

### **Finance Charge and Annual Percentage Rate Tolerance**

The regulation requires that a creditor make all disclosures accurately using the best information reasonably available. It also establishes tolerances for the accuracy of the "finance charge" and the "annual percentage rate."

**Finance Charge Tolerance.** The general rule is that a finance charge disclosure is considered accurate if the amount disclosed is not more than \$10 above or below the exact finance charge in a transaction involving an amount financed of more than \$1,000 or not more than \$5 above or below the exact finance charge in a transaction involving an amount financed of \$1,000 or less.

For a closed-end transaction secured by real estate or a dwelling, a finance charge disclosure shall be considered accurate if it does not understate the actual finance charge by more than \$100. Accordingly, for this class of transactions, an

overstated finance charge disclosure or a disclosure that understates the finance charge by \$100 or less is considered accurate. Recognize that this greater tolerance is available only for transactions secured by real estate or a dwelling. The finance charge disclosure for a loan secured by an automobile, for example, falls under the old \$10/\$5 rule. On that same automobile loan, if real estate or a dwelling is added as additional collateral, the new rule applies. Note also, the real estate can be any category of real estate and the dwelling need not be the person's principal dwelling.

For the purpose of rescission, the new law makes the tolerance even greater. One of the triggers that starts the three-day rescission period ticking is delivery of accurate disclosures to the customer. For this purpose, the finance charge disclosure is accurate if it does not understate the actual finance charge by more than one-half of one percent of the amount of the loan. If the loan is a refinance and no new funds are being extended, the finance charge disclosure is accurate if it does not understate the actual finance charge by more than one percent of the loan amount.

An anomaly occurs if the borrower raises the right of rescission as a defense to a foreclosure action. In that event, the finance charge disclosure tolerance drops to \$35. Assume a bank made a consumer loan of \$50,000 secured by the consumer's principal dwelling and the finance charge disclosure is understated by \$50. As long as the consumer pays the loan, there is not a right of rescission; the disclosure is within the \$250 tolerance level for that loan. But the consumer stops paying and the bank files for foreclosure. Bingo. The disclosure tolerance drops to \$35, the loan is rescinded, and there is nothing left to foreclose on. The consumer wins. In other words, the consumer is rewarded for failing to meet his or her obligation. Some influential member of Congress had to have a big contributor whose home was being foreclosed on and the finance charge was underdisclosed by \$36. In any event, a bank's preforeclosure procedure should include a finance charge check if the loan is less than three years old.

**Annual Percentage Rate Tolerance.** The general rule is that an APR disclosure is accurate if the APR disclosed is within one-eighth of one percent of the actual APR in a regular transaction or within one-quarter of one percent of the actual APR in an

Subpart A—General

- 226.18 Content of disclosures.
- 226.19 Certain residential mortgage and variable-rate transactions.
- 226.20 Subsequent disclosure requirements.
- 226.21 Treatment of credit balances.
- 226.22 Determination of annual percentage rate.
- 226.23 Right of rescission.
- 226.24 Advertising.

Subpart D—Miscellaneous

- 226.25 Record retention.
- 226.26 Use of annual percentage rate in oral disclosures.
- 226.27 Spanish language disclosures.
- 226.28 Effect on State laws.
- 226.29 State exemptions.
- 226.30 Limitation on rates.

Subpart E—Special Rules for Certain Home Mortgage Transactions

- 226.31 General rules.
- 226.32 Requirements for certain closed-end home mortgages.
- 226.33 Requirements for reverse mortgages.

APPENDIX A TO PART 226—EFFECT ON STATE LAWS

APPENDIX B TO PART 226—STATE EXEMPTIONS

APPENDIX C TO PART 226—ISSUANCE OF STAFF INTERPRETATIONS

APPENDIX D TO PART 226—MULTIPLE ADVANCE CONSTRUCTION LOANS

APPENDIX E TO PART 226—RULES FOR CARD ISSUERS THAT BILL ON A TRANSACTION-BY-TRANSACTION BASIS

APPENDIX F TO PART 226—ANNUAL PERCENTAGE RATE COMPUTATIONS FOR CERTAIN OPEN-END CREDIT PLANS

APPENDIX G TO PART 226—OPEN-END MODEL FORMS AND CLAUSES

APPENDIX H TO PART 226—CLOSED-END MODEL FORMS AND CLAUSES

APPENDIX I TO PART 226—FEDERAL ENFORCEMENT AGENCIES

APPENDIX J TO PART 226—ANNUAL PERCENTAGE RATE COMPUTATIONS FOR CLOSED-END CREDIT TRANSACTIONS

APPENDIX K TO PART 226—TOTAL ANNUAL LOAN COST RATE COMPUTATIONS FOR REVERSE MORTGAGE TRANSACTIONS

APPENDIX L TO PART 226—ASSUMED LOAN PERIODS FOR COMPUTATIONS OF TOTAL ANNUAL LOAN COST RATES

SUPPLEMENT I TO PART 226—OFFICIAL STAFF INTERPRETATIONS

AUTHORITY: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

SOURCE: Reg. Z, 46 FR 20892, Apr. 7, 1981, unless otherwise noted.

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the Federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). This regulation also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100-86, 101 Stat. 552). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB number 7100-0199.

(b) The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The regulation gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not govern charges for consumer credit. The regulation requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home equity plans that are subject to the requirements of § 226.5b and mortgages that are subject to the requirements of § 226.32.

(c) *Coverage.* (1) In general, this regulation applies to each individual or business that offers or extends credit when four conditions are met: (i) The credit is offered or extended to consumers; (ii) the offering or extension of credit is done regularly; (iii) the credit is subject to a finance charge or is payable by a written agreement in more than 4 installments; and (iv) the credit is primarily for personal, family, or household purposes.

(2) If a credit card is involved, however, certain provisions apply even if

<sup>1</sup>The meaning of *regularly* is explained in the definition of *creditor* in § 226.2(a).

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(8) *Cardholder* means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of § 226.12(a) and (b), the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(9) *Cash price* means the price at which a creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. At the creditor's option, the term may include the price of accessories, services related to the sale, service contracts and taxes and fees for license, title, and registration. The term does not include any finance charge.

(10) *Closed-end credit* means consumer credit other than *open-end credit* as defined in this section.

(11) *Consumer* means a cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under §§ 226.15 and 226.23, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

(12) *Consumer credit* means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(13) *Consummation* means the time that a consumer becomes contractually obligated on a credit transaction.

(14) *Credit* means the right to defer payment of debt or to incur debt and defer its payment.

(15) *Credit card* means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit. *Charge card* means a credit card on an account for which no periodic rate is used to compute a finance charge.

(16) *Credit sale* means a sale in which the seller is a creditor. The term includes a bailment or lease (unless ter-

minable without penalty at any time by the consumer) under which the consumer:

(i) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(ii) Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

(17) *Creditor* means: (i) A person (A) who regularly extends consumer credit<sup>3</sup> that is subject to a finance charge or is payable by written agreement in more than 4 installments (not including a downpayment), and (B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(ii) For purposes of §§ 226.4(c)(8) (discounts), 226.9(d) (Finance charge imposed at time of transaction), and 226.12(e) (Prompt notification of returns and crediting of refunds), a person that honors a credit card.

(iii) For purposes of subpart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than 4 installments.

(iv) For purposes of subpart B (except for the credit and charge card disclosures contained in §§ 226.5(a) and 226.9(e) and (f), the finance charge disclosures contained in §§ 226.6(a) and 226.7(d) through (g) and the right of rescission set forth in § 226.15) and subpart C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than 4 installments.

<sup>3</sup>A person regularly extends consumer credit only if it extended credit (other than credit subject to the requirements of § 226.32) more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension that is subject to the requirements of § 226.32 or one or more such credit extensions through a mortgage broker.

subpart A—General

- 226.18 Content of disclosures.
- 226.19 Certain residential mortgage and variable-rate transactions.
- 226.20 Subsequent disclosure requirements.
- 226.21 Treatment of credit balances.
- 226.22 Determination of annual percentage rate.
- 226.23 Right of rescission.
- 226.24 Advertising.

Subpart D—Miscellaneous

- 226.25 Record retention.
- 226.26 Use of annual percentage rate in oral disclosures.
- 226.27 Spanish language disclosures.
- 226.28 Effect on State laws.
- 226.29 State exemptions.
- 226.30 Limitation on rates.

Subpart E—Special Rules for Certain Home Mortgage Transactions

- 226.31 General rules.
- 226.32 Requirements for certain closed-end home mortgages.
- 226.33 Requirements for reverse mortgages.

APPENDIX A TO PART 226—EFFECT ON STATE LAWS

APPENDIX B TO PART 226—STATE EXEMPTIONS

APPENDIX C TO PART 226—ISSUANCE OF STAFF INTERPRETATIONS

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APPENDIX E TO PART 226—RULES FOR CARD ISSUERS THAT BILL ON A TRANSACTION-BY-TRANSACTION BASIS

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SUPPLEMENT I TO PART 226—OFFICIAL STAFF INTERPRETATIONS

AUTHORITY: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

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(b) The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The regulation gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not govern charges for consumer credit. The regulation requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home equity plans that are subject to the requirements of § 226.5b and mortgages that are subject to the requirements of § 226.32.

(c) *Coverage.* (1) In general, this regulation applies to each individual or business that offers or extends credit when four conditions are met: (i) The credit is offered or extended to consumers; (ii) the offering or extension of credit is done regularly; (iii) the credit is subject to a finance charge or is payable by a written agreement in more than 4 installments; and (iv) the credit is primarily for personal, family, or household purposes.

(2) If a credit card is involved, however, certain provisions apply even if

<sup>1</sup>The meaning of *regularly* is explained in the definition of *creditor* in § 226.2(a).

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(8) *Cardholder* means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of § 226.12(a) and (b), the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(9) *Cash price* means the price at which a creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. At the creditor's option, the term may include the price of accessories, services related to the sale, service contracts and taxes and fees for license, title, and registration. The term does not include any finance charge.

(10) *Closed-end credit* means consumer credit other than *open-end credit* as defined in this section.

(11) *Consumer* means a cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under §§ 226.15 and 226.23, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

(12) *Consumer credit* means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(13) *Consummation* means the time that a consumer becomes contractually obligated on a credit transaction.

(14) *Credit* means the right to defer payment of debt or to incur debt and defer its payment.

(15) *Credit card* means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit. *Charge card* means a credit card on an account for which no periodic rate is used to compute a finance charge.

(16) *Credit sale* means a sale in which the seller is a creditor. The term includes a bailment or lease (unless ter-

minable without penalty at any time by the consumer) under which the consumer:

(i) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(ii) Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

(17) *Creditor* means: (i) A person (A) who regularly extends consumer credit<sup>3</sup> that is subject to a finance charge or is payable by written agreement in more than 4 installments (not including a downpayment), and (B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(ii) For purposes of §§ 226.4(c)(8) (discounts), 226.9(d) (Finance charge imposed at time of transaction), and 226.12(e) (Prompt notification of returns and crediting of refunds), a person that honors a credit card.

(iii) For purposes of subpart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than 4 installments.

(iv) For purposes of subpart B (except for the credit and charge card disclosures contained in §§ 226.5(a) and 226.9(e) and (f), the finance charge disclosures contained in §§ 226.6(a) and 226.7(d) through (g) and the right of rescission set forth in § 226.15) and subpart C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than 4 installments.

<sup>3</sup>A person regularly extends consumer credit only if it extended credit (other than credit subject to the requirements of § 226.32) more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension that is subject to the requirements of § 226.32 or one or more such credit extensions through a mortgage broker.

subpart A—General

- 226.18 Content of disclosures.
- 226.19 Certain residential mortgage and variable-rate transactions.
- 226.20 Subsequent disclosure requirements.
- 226.21 Treatment of credit balances.
- 226.22 Determination of annual percentage rate.
- 226.23 Right of rescission.
- 226.24 Advertising.

Subpart D—Miscellaneous

- 226.25 Record retention.
- 226.26 Use of annual percentage rate in oral disclosures.
- 226.27 Spanish language disclosures.
- 226.28 Effect on State laws.
- 226.29 State exemptions.
- 226.30 Limitation on rates.

Subpart E—Special Rules for Certain Home Mortgage Transactions

- 226.31 General rules.
- 226.32 Requirements for certain closed-end home mortgages.
- 226.33 Requirements for reverse mortgages.

APPENDIX A TO PART 226—EFFECT ON STATE LAWS

APPENDIX B TO PART 226—STATE EXEMPTIONS

APPENDIX C TO PART 226—ISSUANCE OF STAFF INTERPRETATIONS

APPENDIX D TO PART 226—MULTIPLE ADVANCE CONSTRUCTION LOANS

APPENDIX E TO PART 226—RULES FOR CARD ISSUERS THAT BILL ON A TRANSACTION-BY-TRANSACTION BASIS

APPENDIX F TO PART 226—ANNUAL PERCENTAGE RATE COMPUTATIONS FOR CERTAIN OPEN-END CREDIT PLANS

APPENDIX G TO PART 226—OPEN-END MODEL FORMS AND CLAUSES

APPENDIX H TO PART 226—CLOSED-END MODEL FORMS AND CLAUSES

APPENDIX I TO PART 226—FEDERAL ENFORCEMENT AGENCIES

APPENDIX J TO PART 226—ANNUAL PERCENTAGE RATE COMPUTATIONS FOR CLOSED-END CREDIT TRANSACTIONS

APPENDIX K TO PART 226—TOTAL ANNUAL LOAN COST RATE COMPUTATIONS FOR REVERSE MORTGAGE TRANSACTIONS

APPENDIX L TO PART 226—ASSUMED LOAN PERIODS FOR COMPUTATIONS OF TOTAL ANNUAL LOAN COST RATES

SUPPLEMENT I TO PART 226—OFFICIAL STAFF INTERPRETATIONS

AUTHORITY: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

SOURCE: Reg. Z, 46 FR 20892, Apr. 7, 1981, unless otherwise noted.

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## H-13—Mortgage with Demand Feature Sample

## Mortgage Savings and Loan Assoc.

Glenn Jones  
700 Oak Drive  
Little Creek, USA

Date: April 15, 1981

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.
14.85 %	\$156,551.54	\$44,605.66	\$201,157.20

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
360	\$558.77	Monthly beginning 6/1/81

This obligation has a demand feature.

You may obtain property insurance from anyone you want that is acceptable to Mortgage Savings and Loan Assoc.. If you get the insurance from Mortgage Savings and Loan Assoc. you will pay \$150/-/year

Security: You are giving a security interest in:

- the goods or property being purchased.

Late Charge: If a payment is late, you will be charged \$ N/A / 5 % of the payment.

Prepayment: If you pay off early, you may have to pay a penalty.

Assumption: Someone buying your house may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

a means an estimate

EXHIBIT L  
DISCLOSURE STATEMENT  
FOR  
RUNNING INDIAN ESTATES  
CULTURAL RESOURCES SURVEY

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**Archaeological Survey of  
Running Indian Estates Subdivision,  
Otero County, New Mexico**

by Peter L. Eidenbach

INTRODUCTION

Bolin Travel Centers, Inc. plans to subdivide a 22.6 acres of privately-owned property in the vicinity of La Luz, NM into 36 parcels for residential (35) and commercial (1) use.

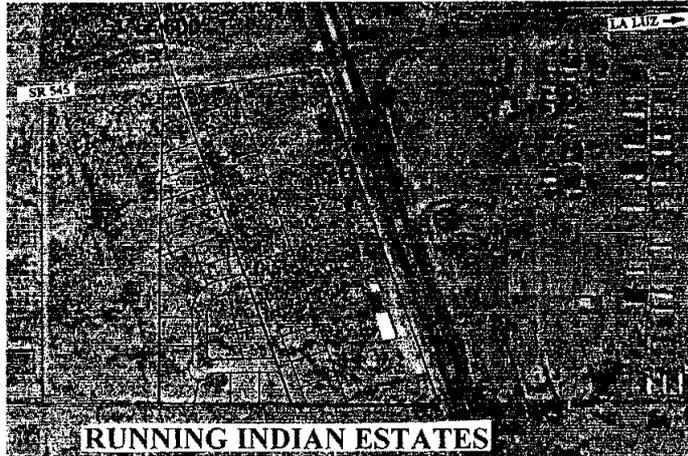


Figure 1. Aerial View of proposed Running Indian Estates.  
scale: 1"=600'

On November 27, 2001, Peter L. Eidenbach conducted archaeological inventory survey totaling approximately 22.6 acres within the North Half of the Northeast Quarter of Section 33, Twp. 15 South, Range 10 East, NMPM, on private lands in Otero County, owned by Bolin Travel Centers, Inc., Mesilla Park, NM.

The study area occupies the toe of the alluvial slope below and west of La Luz Canyon, which flows westward from the west slope of the Sacramento Mountains. The eastern property boundary of Running Indian Estates is adjacent to the west shoulder of U.S. Highway 54-70; the north property boundary line borders State Road 545.

Surface and subsurface ownership is private. No collections were made; no excavation was undertaken. No permit was required for the project survey.

Archaeological survey was initiated at the request of George P. Light, Alamogordo, acting for the client. Pre-field investigations, consultation, and records checks were conducted during November by Peter Eidenbach. Field investigations were conducted on November 27, 2001 by Peter Eidenbach.

This report is submitted in support of the client's Disclosure Statement prepared by G. P. Light on behalf of the client for submission to the Otero County Planning Commission, acting for the County Commissioners, pursuant to NMSA 47-6 - New Mexico Subdivision Act. Following Planning Commission review, this report will be submitted to the New Mexico Historic Preservation Division for comment.

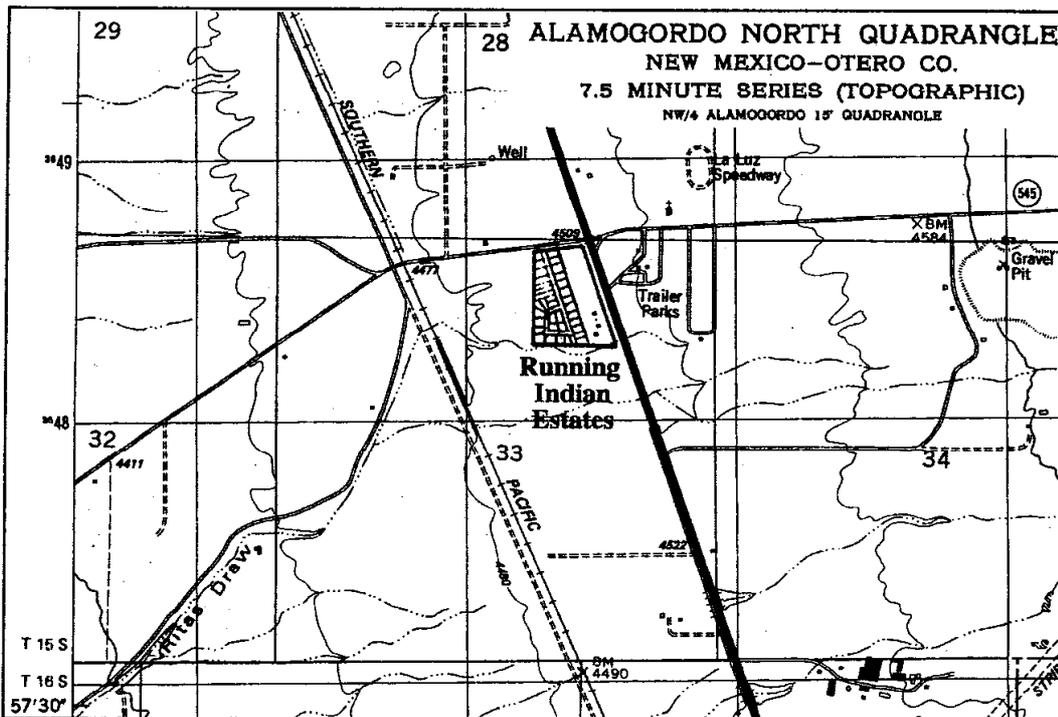


Figure 2. Location of Running Indian Estates. scale: 1:24,000

The purpose of the survey and this report is to: 1) identify, locate, and describe cultural properties potentially eligible to the National Register of Historic Places and/or the New Mexico Register of Cultural Properties; 2) evaluate the potential for encountering human remains during development/construction; and 3) identify potential cultural property assets and/or liabilities.

No eligible cultural properties were identified within the Running Indian Estates property; consequently, no cultural property assets and/or liabilities are thought to exist. No evidence suggests that human remains are likely to be encountered during development/construction. However, lack of surface evidence does not preclude the possibility of such remains. The developer and contractor(s) should be aware that compliance with NMSA 18-6-11.2 (attached) regarding excavation of unmarked burials applies to any such remains.

#### ENVIRONMENTAL SETTING

The survey area is located at the base of the alluvial fan below La Luz Canyon on the west side of the Sacramento Mountains in the Tularosa Basin of south-central New Mexico, at an elevation of 4500 ft msl. At present, several unimproved vehicle trails and a power pole line with its associated access road cross the property. The area has been used recently as an unapproved trash dump site. Parts of the property may have been chained to remove brush in the past, producing large numbers of mesquite stumps, particularly within the northern third of the property. No evidence of historic or prehistoric land use was evident. No historic or prehistoric artifacts were recorded, in part because the current alluviated surface is recent and still actively depositing soils in sheet deposits from upslope.

NRCS soil surveys identify three soil associations within the subdivision property: Alamogordo Fine Sandy Loam, Largo-Ogral Complex, and Prelo Silt Loam. The terrain consists of low, gravelly ridges interspersed with wide, shallow, alluviated runoff channels. The latter are still active, as indicated by partially buried recent and early modern trash. Climatic conditions in the survey area are semi-arid similar to those at Alamogordo, New Mexico, with average annual precipitation of 10 in., mean maximum temperature of 95° F, and mean minimums of 30° F.



Figure 3. NRCS Soils in the vicinity of Running Indian Estates.



Figure 4. 90° panorama view from NW corner of Running Indian Estates, looking southeast.

The subdivision property lies within Brown and Lowe's (1980) Chihuahuan Desertscrub biotic community. In order of dominance, shrub species include Creosote (*Larrea*), Pricklypear (*Opuntia*), Mesquite (*Prosopis*), Tarbush (*Flourensia*), Cholla and Christmas Cholla (*Opuntia*), and Four-wing Saltbush (*Atriplex*).

#### SURVEY RESULTS

Intensive surface reconnaissance at an interval of approximately 15 m failed to identify any cultural properties or isolated historic or prehistoric artifacts. The property does not appear to contain cultural properties potentially eligible or included in National Register of Historic Places and/or the New Mexico Register of Cultural Properties. A records check in the New Mexico ARMS files identified three sites within one mile of the subdivision property:

- LA 67759 - a multicomponent artifact and trash scatter, dating to the Archaic, Jornada Mogollon, and Territorial through early Statehood periods;
- LA 67760 - an unidentified fire-cracked rock scatter; and,
- LA 67761 - an unidentified fire-cracked rock scatter.

Generally, Mogollon village sites likely to contain human remains lie higher up the alluvial slopes than the subdivision property, and are usually close to major drainage channels. Thus, village sites are unlikely in the survey area. Other archaeological materials, particularly non-structural artifact scatters may exist subsurface, below recent alluviums, but remain undetectable.

## CULTURAL PROPERTY ASSETS AND LIABILITIES

From the perspective of property development, cultural properties may represent liabilities or assets. Typical property liabilities would include marked and unmarked graves, or other human remains (prehistoric, historic, and modern) which are protected by NMSA 18-6-11.2. That statute and its permitting regulations stipulate that all costs incurred in the removal, analysis, treatment, and disposition of cultural significant human remains will be borne by the permittee, and ultimately, the landowner.

On the other hand, cultural properties that qualify under NMSA 137 (The Cultural Properties Preservation Easement Act) may provide significant federal tax credits, and thus, may represent specific property assets. In fact, many of the cultural properties which pose potential liabilities, due to the presence or possibility of human remains, can be converted to assets through the grant of preservation easements.

No marked or unmarked graves were identified within the Running Indian Estates property, and none are anticipated. No significant cultural properties were identified within the property.

Therefore, the Running Indian Estates property does not appear to contain any cultural property assets or liabilities.

## RECOMMENDATIONS

This report constitutes documentation that the subdivider has complied with NMSA 47-6-11 regarding the protection of cultural properties, archaeological sites, and unmarked burials as required by the Cultural Properties Act.

This report concurs with the Otero Soil and Water Conservation District recommendation (cited in subdivider's Disclosure Statement, p. 9) that structure pads be raised a minimum of 24 inches above grade. Structure pads will further reduce the possibility that unidentified, subsurface cultural properties will be exposed and/or disturbed.

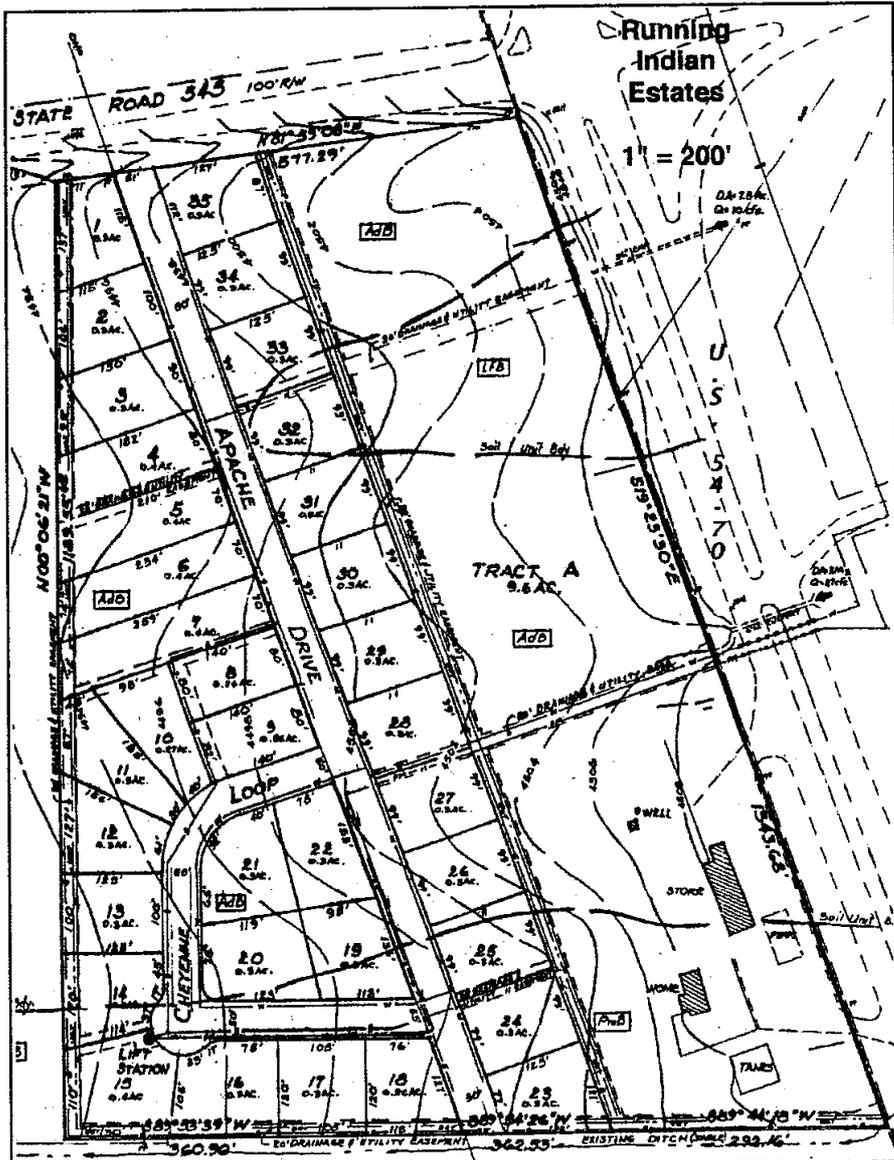


Figure 5. Subdivision Plat Plan for Running Indian Estates.

New Mexico Statutes Annotated 1978  
CHAPTER 18 LIBRARIES AND MUSEUMS  
ARTICLE 6 CULTURAL PROPERTIES

18-6-11.2. Permit required for excavation of unmarked burials; penalty.

A. Each human burial in the state interred in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition.

B. A person who knowingly, willfully and intentionally excavates, removes, disturbs or destroys any human burial buried, entombed or sepulchered in any unmarked burial ground in the state, or any person who knowingly, willfully and intentionally procures or employs any other person to excavate, remove, disturb or destroy any human burial buried, entombed or sepulchered in any unmarked burial ground in the state, except by authority of a permit issued by the state medical investigator or by the committee with the concurrence of the state archaeologist and state historic preservation officer, is guilty of a fourth degree felony and shall be punished by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment for a definite term of eighteen months, or both. The offender shall upon conviction forfeit to the state all objects, artifacts and human burials excavated or removed from an unmarked burial ground in violation of this section, and any proceeds from the sale by the offender of any of the foregoing shall also be forfeited. As used in this section:

(1) "unmarked burial ground" means a location where there exists a burial or burials of any human being which is not visibly marked on the surface of the ground in any manner traditionally or customarily used for marking burials and includes any funerary object, material object or artifact associated with the burial or burials; and

(2) "human burial" means a human body or human skeletal remains and includes any funerary object, material object or artifact buried, entombed or sepulchered with that human body or skeletal remains.

C. Any person who discovers a human burial in any unmarked burial ground shall cease any activity that may disturb that burial or any object or artifact associated with that burial and shall notify the local law enforcement agency having jurisdiction in the area. The local law enforcement agency shall notify the state medical investigator and the state historic preservation officer.

D. The state medical investigator may, consistent with the statutes governing medical investigations, have authority over or take possession of any human burial discovered in the state, in which case the provisions of Subsections E and F of this section shall not apply.

E. Permits for excavation of a human burial discovered in an unmarked burial ground shall be issued by the committee within sixty days of receipt of application when the applicant:

(1) submits written authorization for that excavation from the owner of the land on which the human burial is located or the applicant is the owner of the land;

(2) demonstrates appropriate efforts to determine the age of the human burial and to identify and consult with any living person who may be related to the human burial interred in the unmarked burial ground;

(3) complies with permit procedures and requirements established by regulations authorized in this section to ensure the complete removal of the human burial and the collection of all pertinent scientific information in accordance with proper archaeological methods; and

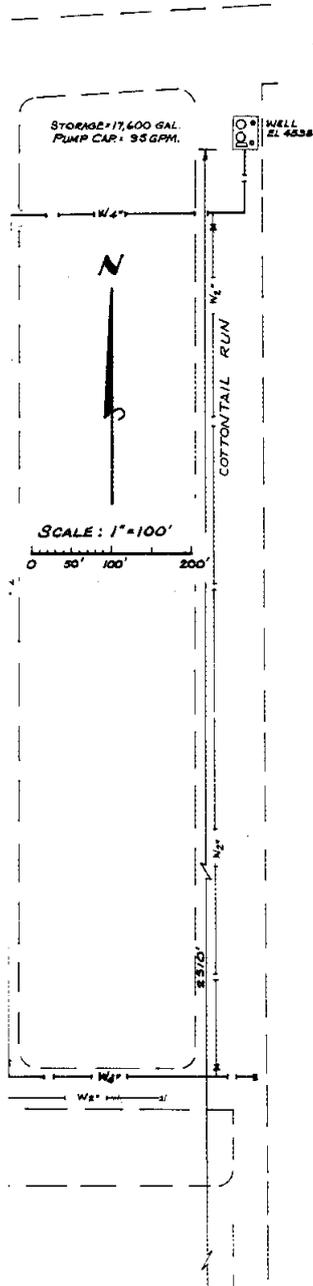
(4) provides for the lawful disposition or reinterment of the human burial either in the original or another appropriate location and of any objects or artifacts associated with that human burial consistent with regulations issued by the state historic preservation officer, except that the committee shall not require, as a condition of issuance of a permit, reinterment or disposition, any action that unduly interferes with the owner's use of the land.

F. Permits for the excavation of any human burial discovered in the course of construction or other land modification may be issued by the committee with the concurrence of the state archaeologist and the state historic preservation officer on an annual basis to professional archaeological consultants or organizations.

G. Except when the committee requires as a condition of the permit that any object or artifact associated with a human burial be reinterred or disposed of with that burial, that object or artifact shall be the property of the person owning the land on which that burial is located.

H. Any object or artifact and any human burial excavated or removed from an unmarked burial ground in violation of this section shall be forfeited to the state and shall be lawfully disposed of or reinterred in accordance with regulations issued by the state historic preservation officer; provided that no object or artifact so forfeited shall ever be sold by the state; and provided further that any object or artifact removed from the land without the owner's consent and in violation of this section shall be returned to the lawful owner consistent with Subsection G of this section.

I. The state historic preservation officer shall issue regulations with the concurrence of the state medical investigator for the implementation of this section.



**PRELIMINARY PLAT AND TERRAIN MANAGEMENT MAP OF  
RUNNING INDIAN ESTATES**

A SUBDIVISION OF A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 33, T15S., R10E., N.M.P.M.

**OWNERS:** BOWLIN TRAVEL CENTERS, INC., P.O. BOX 1409, MESILLA PARK, NM 88047

**LEGAL DESCRIPTION:** A TRACT OF LAND IN THE NORTH ONE-HALF OF THE NORTHEAST QUARTER OF SECTION 33, T15S., R10E., N.M.P.M., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

STARTING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 33 AND GOING S72°34'31"E A DISTANCE OF 456.33 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREBY DESCRIBED, THENCE N81°59'08"E ALONG THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD No. 543 A DISTANCE OF 577.29 FEET TO THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY No. 54-70, THENCE S19°23'50"E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 1343.68 FEET, THENCE S89°44'18"W A DISTANCE OF 292.16 FEET, THENCE S89°54'26"W A DISTANCE OF 362.53 FEET, THENCE S89°43'39"W A DISTANCE OF 360.90 FEET TO THE NORTH-SOUTH ONE-QUARTER LINE OF SAID SECTION 33, THENCE N00°06'21"W ALONG SAID ONE-QUARTER LINE A DISTANCE OF 1189.35 FEET TO THE PLACE OF BEGINNING AND CONTAINING 27.6923 ACRES, MORE OR LESS.

**LOCATION:** AT THE SOUTHWEST CORNER OF THE INTERSECTION OF US HIGHWAY No. 54-70 AND STATE ROAD No. 543 (LA LUZ ROAD).

**SUBDIVISION TYPE:** TWO

**NUMBER OF LOTS:** THIRTY-SIX (36)

**MINIMUM LOT SIZE:** ONE-QUARTER (1/4) ACRE.

**WATER SUPPLY:** EILEEN ACRES SERVICE CORP.

**LIQUID WASTE:** EILEEN ACRES SERVICE CORP.

**SOLID WASTE:** OTERO-LINCOLN COUNTY REGIONAL LANDFILL. CONTRACT COLLECTION SERVICES AVAILABLE. (BUYER'S RESPONSIBILITY).

**ROADS:** 24 FEET WIDE BITUMENOUS SURFACE OVER SIX (6) INCH THICK COMPACTED BASE COURSE WITH THREE (3) FOOT WIDE SIDEWALKS AT EACH SIDE.

**CULTURAL FEATURES:** THERE ARE NO KNOWN REGISTERED ARCHAEOLOGICAL, HISTORICAL, OR CULTURALLY SIGNIFICANT FEATURES ON THE SITE.

**TERRAIN MANAGEMENT**

**DATE:** AUGUST, 2001

**SUBDIVISION TYPE:** TWO

**LOCATION:** N1/2NE1/4 SECTION 33, T15S., R10E., N.M.P.M.

**OWNER/SUBDIVIDER'S NAME:** BOWLIN TRAVEL CENTERS, INC., P.O. BOX 1409, MESILLA PARK, NM 88047

**NUMBER OF LOTS:** 36

**MINIMUM LOT SIZE:** ONE-QUARTER ACRE. **MAXIMUM LOT SIZE:** 9.6 ACRES

**CONTOUR INTERVAL:** TWO (2) FEET

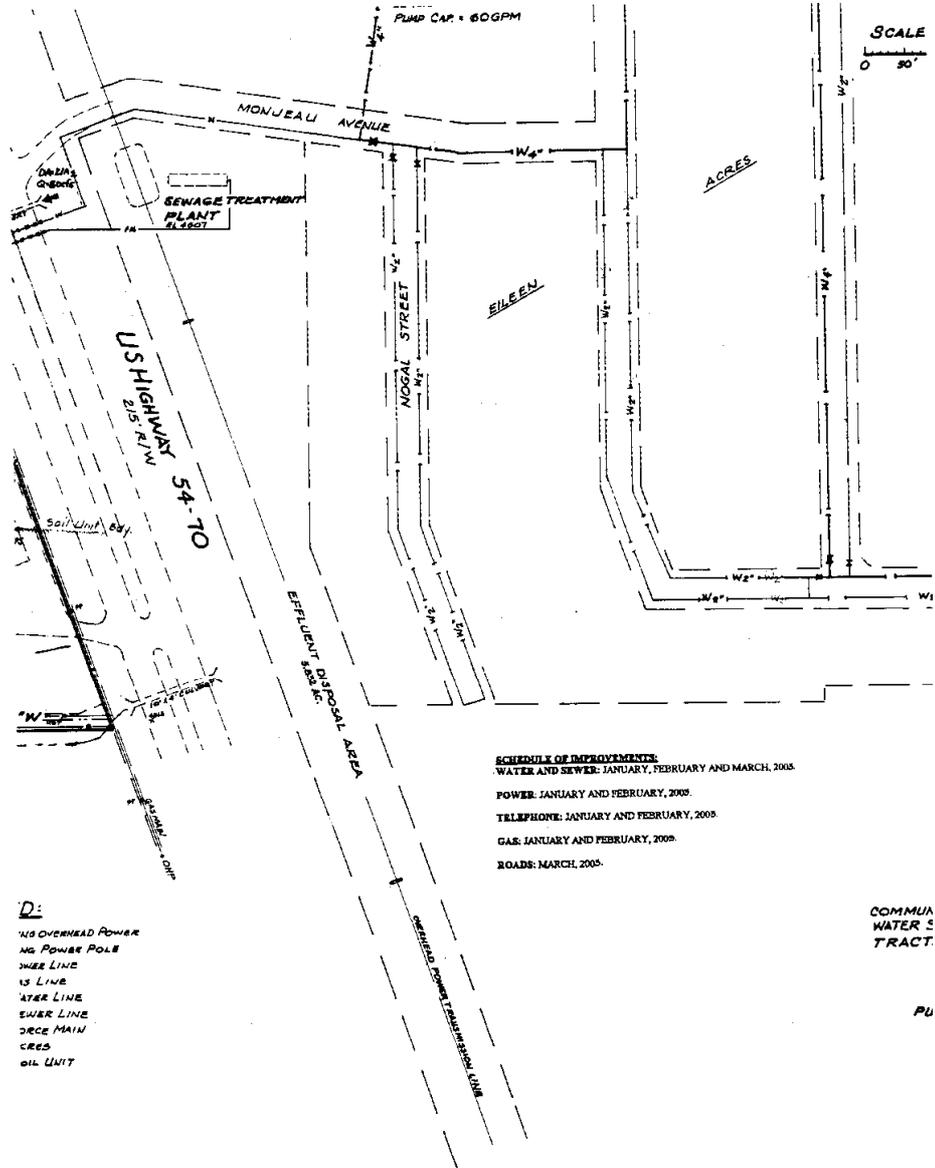
**ROADS:** 24 FEET WIDE BITUMENOUS SURFACE OVER SIX (6) INCH THICK COMPACTED BASE COURSE WITH THREE (3) FOOT WIDE SIDEWALKS AT EACH SIDE. OWNERSHIP AND MAINTENANCE RESPONSIBILITY SHALL BE THE COUNTY'S, UPON ACCEPTANCE OF THE ROAD. UNTIL THEN THE RESPONSIBILITY WILL BE THE OWNERS.

**FLOODING:** THERE ARE NO DESIGNATED FLOOD-HAZARD AREAS WITHIN, OR ADJACENT TO THIS SUBDIVISION. FIRM PANEL 350644 0013A COVERS THE AREA CONTAINING THIS SUBDIVISION. ALL NATURAL DRAINAGE CHANNELS AND WATER COURSES ARE SHOWN. THERE ARE NO DESIGNATED BUFFER STRIPS, WATER BODIES, FLOODWAYS, FLOOD FRINGS, OR FLOOD PLAINS IN THIS SUBDIVISION. THERE ARE NO ARROYOS ON THE PROPERTY AND THERE ARE NO SIGNIFICANT, WELL-DEFINED ARROYOS WHICH CONTRIBUTE STORM WATER TO THE SUBDIVISION.

**SOILS:** THE NRCS SOIL SURVEY SHOWS THREE CLASSIFICATIONS OF SOILS IN THIS SUBDIVISION. PLEASE REFER TO THE PRELIMINARY PLAT AND TERRAIN MANAGEMENT MAP FOR THE LOCATION OF EACH. THE BOUNDARIES OF SOIL TYPES ARE APPROXIMATE ONLY.

THE CLASSIFICATIONS ARE:

1. ABL - ALAMO-GORDO FINE SANDY LOAM 0 TO 3% SLOPE  
"THE SHALLOW DEPTH TO OXYRUM AND ITS BEREKITY PROPERTIES LIMIT FOUNDATIONS AND STREETS AND ROADS. GOOD DESIGN AND CAREFUL INSTALLATION AND THE USE OF SUITABLE FILL HELP TO OVERCOME THESE PROBLEMS. SEPTIC TANK ABSORPTION FIELDS ARE NOT RESTRICTED, BUT CONTAMINATION OF GROUNDWATER MAY RESULT FROM MODERATELY RATED PERMEABILITY. A HIGH CONCENTRATION OF FACILES, AND FORMATION OF PITS AS OXYRUM DISSOLVES. PERMEABILITY: 2.0 TO 6.0 DNHR, SHRINK-SWELL POTENTIAL: LOW, EROSION FACTORS: ABOVE AVERAGE."
2. LB - LARGO-OGRAL COMPLEX, 1 TO 3 PERCENT SLOPE  
"THE MODERATE SHRINK-SWELL POTENTIAL AND LOW STRENGTH OF THE LARGO SOILS LIMIT DWELLINGS AND LOCAL ROADS AND STREETS BUT CAN BE OVERCOME BY GOOD DESIGN AND CAREFUL INSTALLATION AND BY USE OF SUITABLE FILL MATERIAL. THE MODERATELY SLOW PERMEABILITY OF THE LARGO SOILS LIMITS SEPTIC TANK FILTER FIELDS BUT CAN BE OVERCOME BY INCREASING THE SIZE OF THE FILTER FIELD OR MODIFYING THE DESIGN. FILTER FIELDS ARE NOT RESTRICTED IN THE OGRAL SOILS, BUT BECAUSE OF THE SUBSTRATUM, UNDERGROUND WATER MAY BE CONTAMINATED. PERMEABILITY: 0.6-6.0 DNHR (VARIES WITH DEPTH), SHRINK-SWELL POTENTIAL: LOW TO MODERATE, EROSION FACTORS: ABOVE AVERAGE."
3. PMB - PRELO SILT LOAM, 1 TO 3% SLOPE  
"THIS SOIL HAS HIGH POTENTIAL FOR MOST URBAN USES. LOW STRENGTH, MODERATE SHRINK-SWELL POTENTIAL, AND SUSCEPTIBILITY TO PIPING CAN BE OVERCOME BY GOOD DESIGN AND CAREFUL INSTALLATION AND BY USE OF SUITABLE FILL MATERIAL FOR FOUNDATIONS. THE HIGH AMOUNT OF GYPSUM IN THE SUBSTRATUM CAN CORRODE UNDERGROUND UTILITIES. USE OF NONCORRODIBLE MATERIALS OVERCOME THIS LIMITATION. THE MODERATELY SLOW PERMEABILITY LIMITS SEPTIC TANK ABSORPTION"



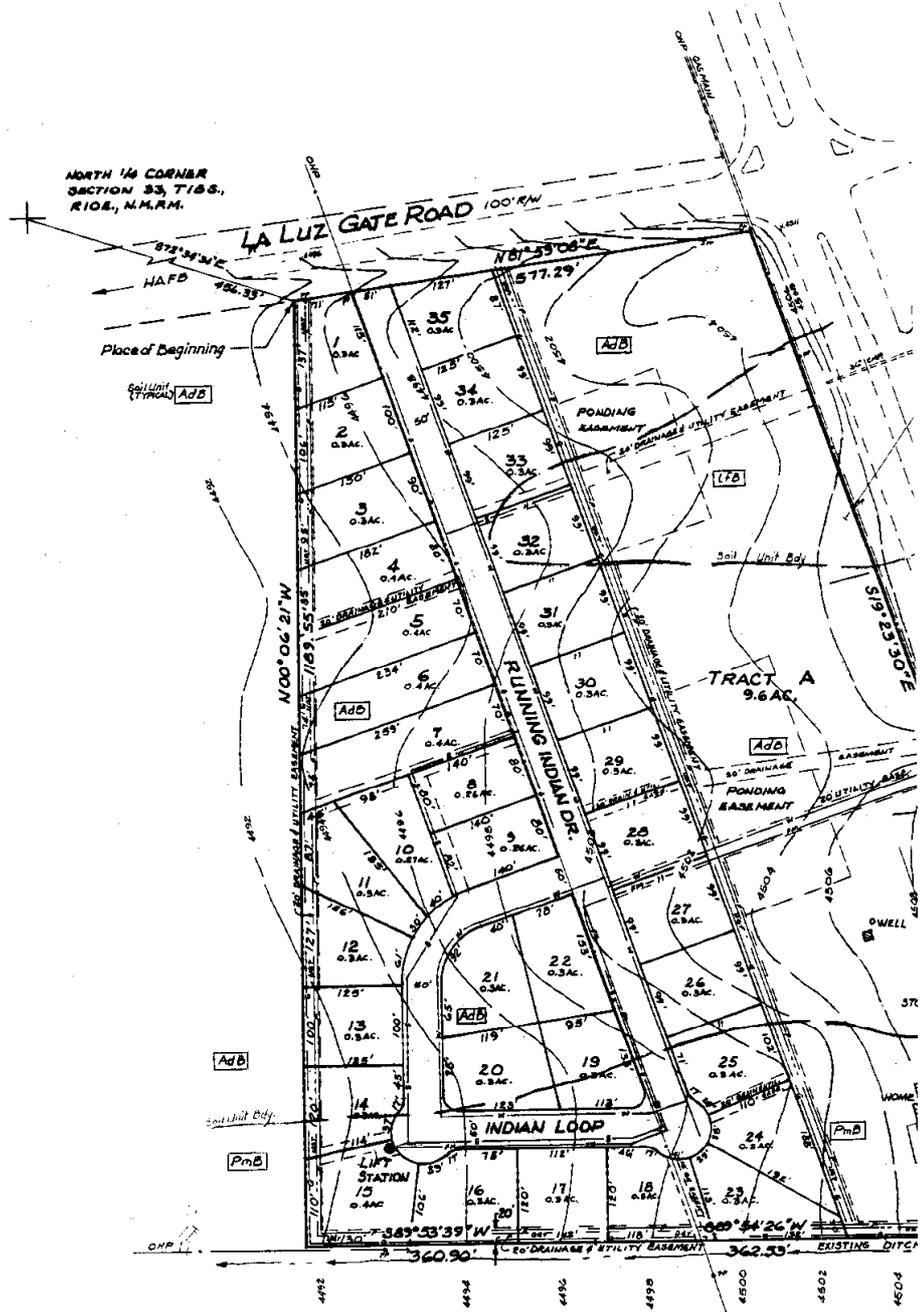
**SCHEDULE OF IMPROVEMENTS:**  
 WATER AND SEWER: JANUARY, FEBRUARY AND MARCH, 2005.  
 POWER: JANUARY AND FEBRUARY, 2005.  
 TELEPHONE: JANUARY AND FEBRUARY, 2005.  
 GAS: JANUARY AND FEBRUARY, 2005.  
 ROADS: MARCH, 2005.

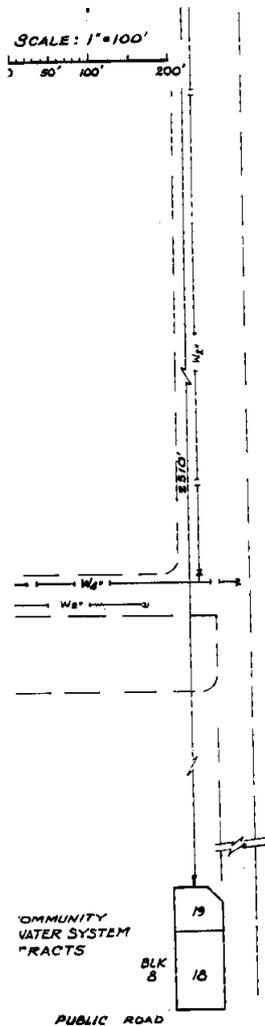
**D:**  
 1/8" OVERHEAD POWER  
 NO POWER POLE  
 3/4" LINE  
 1/2" LINE  
 1/4" LINE  
 SEWER LINE  
 DRAIN MAIN  
 CREEK  
 OIL UNIT

COMMUNITY  
 WATER TRACT

PU

11-18-01 Revised Lots 17, 18, 23, 24 & 25  
 11-18-01 Added to DRAINAGE EASEMENT ON Tr. A  
 11-05-01 Added existing water lines





THREE (3) FOOT WIDE SIDEWALKS AT EACH END.

**CULTURAL FEATURES**  
THERE ARE NO KNOWN REGISTERED ARCHAEOLOGICAL, HISTORICAL, OR CULTURALLY SIGNIFICANT FEATURES ON THE SITE.

**TERRAIN MANAGEMENT**

DATE: AUGUST 2001

SUBDIVISION TYPE: TWO

LOCATION: N1/2E1/4 SECTION 35, T15S, R10E, N.M.P.M.

OWNER/SUBDIVIDER'S NAME: HOWLIN TRAVEL CENTERS, INC. P.O. BOX 1409, MESILLA PARK, NM 88047

NUMBER OF LOTS: 36

MINIMUM LOT SIZE: ONE-QUARTER ACRE. MAXIMUM LOT SIZE: 9.6 ACRES

CONTOUR INTERVAL: TWO (2) FEET

**ROADS:** 24 FEET WIDE BITUMENOUS SURFACES OVER SIX (6) INCH THICK COMPACTED BASE COURSE WITH THREE (3) FOOT WIDE SIDEWALKS AT EACH SIDE. OWNERSHIP AND MAINTENANCE RESPONSIBILITY SHALL BE THE COUNTY'S, UPON ACCEPTANCE OF THE ROAD, UNTIL THEN THE RESPONSIBILITY WILL BE THE OWNERS

**FLOODING:** THERE ARE NO DESIGNATED FLOOD-HAZARD AREAS WITHIN, OR ADJACENT TO THIS SUBDIVISION. FIRM PANEL 35004 0013A COVERS THE AREA CONTAINING THIS SUBDIVISION. ALL NATURAL DRAINAGE CHANNELS AND WATER COURSES ARE SHOWN. THERE ARE NO DESIGNATED BUFFER STRIPS, WATER BODIES, FLOODWAYS, FLOOD FRINGES, OR FLOOD PLAINS IN THIS SUBDIVISION. THERE ARE NO ARROYOS ON THE PROPERTY AND THERE ARE NO SIGNIFICANT, WELL DEFINED ARROYOS WHICH CONTRIBUTE STORM WATER TO THE SUBDIVISION.

**SOILS:** THE NRCS SOIL SURVEY SHOWS THREE CLASSIFICATIONS OF SOILS IN THIS SUBDIVISION. PLEASE REFER TO THE PRELIMINARY PLAT AND TERRAIN MANAGEMENT MAP FOR THE LOCATION OF EACH. THE BOUNDARIES OF SOIL TYPES ARE APPROXIMATE ONLY.

THE CLASSIFICATIONS ARE:

1. A60-ALAMOGORDO FINE SANDY LOAM 0 TO 3% SLOPE  
"THE SHALLOW DEPTH TO GYPSUM AND ITS INHERENT PROPERTIES LIMIT FOUNDATIONS AND STREETS AND ROADS. GOOD DESIGN AND CAREFUL INSTALLATION AND THE USE OF SUITABLE FILL HELP TO OVERCOME THESE PROBLEMS. SEPTIC TANK ABSORPTION FIELDS ARE NOT RESTRICTED, BUT CONTAMINATION OF GROUNDWATER MAY RESULT FROM MODERATELY RAPID PERMEABILITY, A HIGH CONCENTRATION OF FACILITIES, AND FORMATION OF PITS AS GYPSUM DISSOLVES. PERMEABILITY: 3.0 TO 6.0 IN/HR. SHRINK-SWELL POTENTIAL: LOW. EROSION FACTORS: ABOVE AVERAGE."
2. L10- LARGO-OGRAL COMPLEX 1 TO 3 PERCENT SLOPE  
"THE MODERATE SHRINK-SWELL POTENTIAL AND LOW STRENGTH OF THE LARGO SOILS LIMIT DWELLINGS AND LOCAL ROADS AND STREETS BUT CAN BE OVERCOME BY GOOD DESIGN AND CAREFUL INSTALLATION AND BY USE OF SUITABLE FILL MATERIAL. THE MODERATELY SLOW PERMEABILITY OF THE LARGO SOILS LIMITS SEPTIC TANK FILTER FIELDS BUT CAN BE OVERCOME BY INCREASING THE SIZE OF THE FILTER FIELD OR MODIFYING THE DESIGN. FILTER FIELDS ARE NOT RESTRICTED IN THE OGRAL SOILS, BUT BECAUSE OF THE SUBSTRATUM, UNDERGROUND WATER MAY BE CONTAMINATED. PERMEABILITY: 0.6-0.9 IN/HR. VARIES WITH DEPTH. SHRINK-SWELL POTENTIAL: LOW TO MODERATE. EROSION FACTORS: ABOVE AVERAGE."
3. P60- PRELO SILT LOAM 1 TO 3% SLOPE  
"THIS SOIL HAS HIGH POTENTIAL FOR MOST URBAN USES. LOW STRENGTH, MODERATE SHRINK-SWELL POTENTIAL, AND SUSCEPTIBILITY TO PIPING CAN BE OVERCOME BY GOOD DESIGN AND CAREFUL INSTALLATION AND BY USE OF SUITABLE FILL MATERIAL FOR FOUNDATIONS. THE HIGH AMOUNT OF GYPSUM IN THE SUBSTRATUM CAN CORRODE UNDERGROUND UTILITIES. USE OF NONCORROSIONABLE MATERIALS OVERCOME THIS LIMITATION. THE MODERATELY SLOW PERMEABILITY LIMITS SEPTIC TANK ABSORPTION FIELDS BUT CAN BE OVERCOME BY INCREASING THE SIZE OF THE ABSORPTION AREA OR MODIFYING THE FILTER FIELD. PERMEABILITY: 0.6-0.9 IN/HR. VARIES WITH DEPTH. SHRINK-SWELL POTENTIAL: MODERATE. EROSION FACTORS: SLIGHTLY ABOVE AVERAGE."

**SURVEYOR'S CERTIFICATION**

I, GEORGE P. LIGHT, A NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR, CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

*George P. Light*  
NMP# NO. 4621

9-04-01  
DATE



**BOARD OF COUNTY COMMISSIONERS APPROVAL**

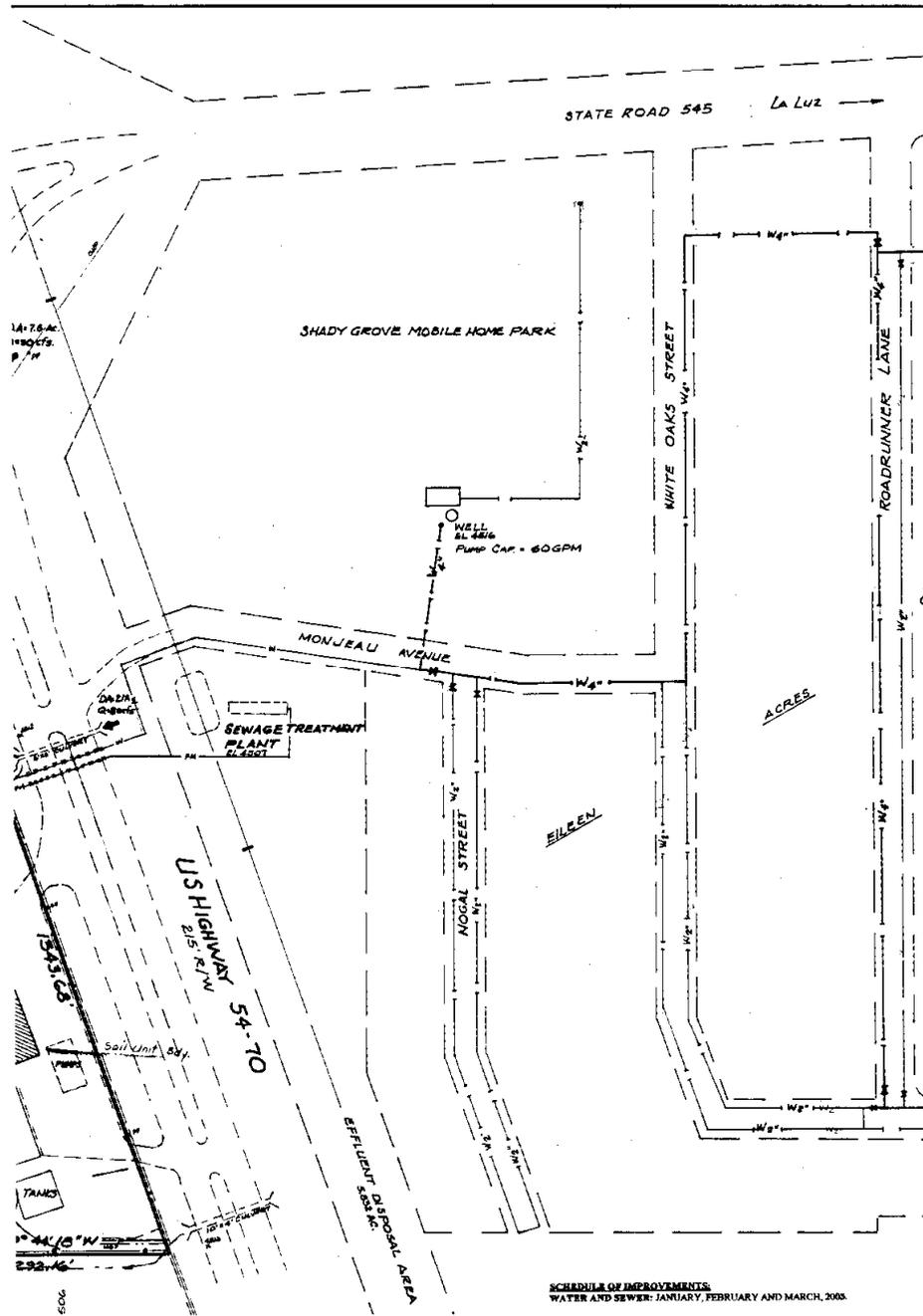
THIS PLAT HAS BEEN SUBMITTED TO, REVIEWED, AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY.

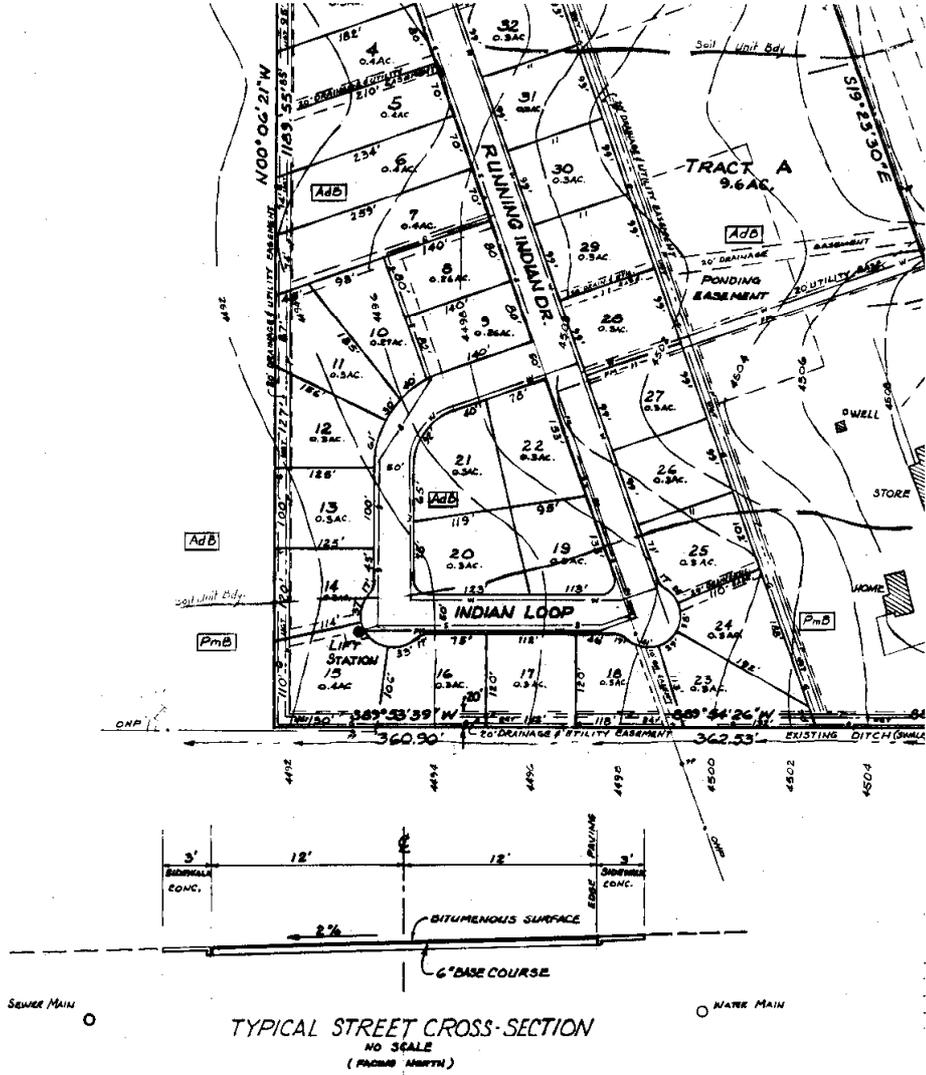
COMMISSION CHAIRMAN

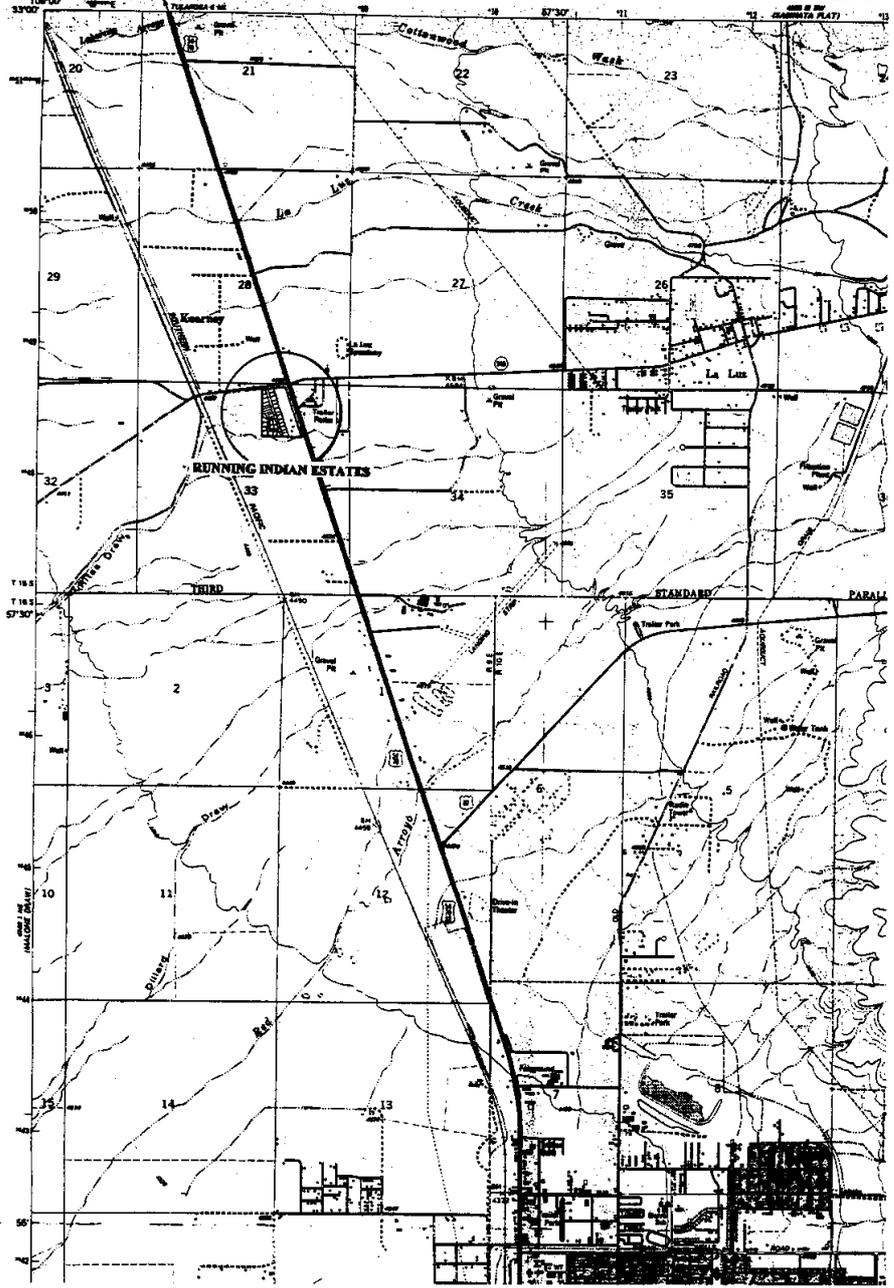
DATE OF APPROVAL

ATTEST: OTERO COUNTY CLERK

DATE

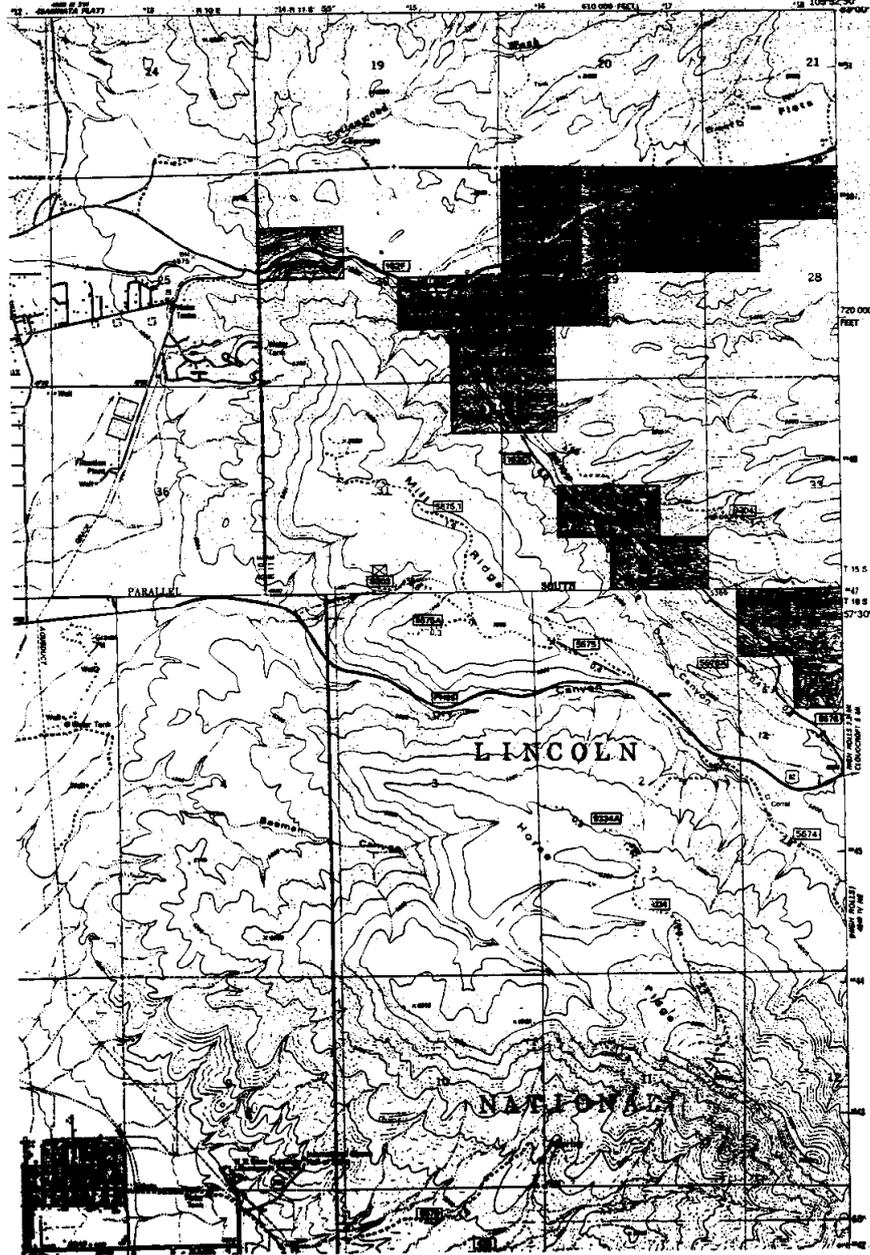


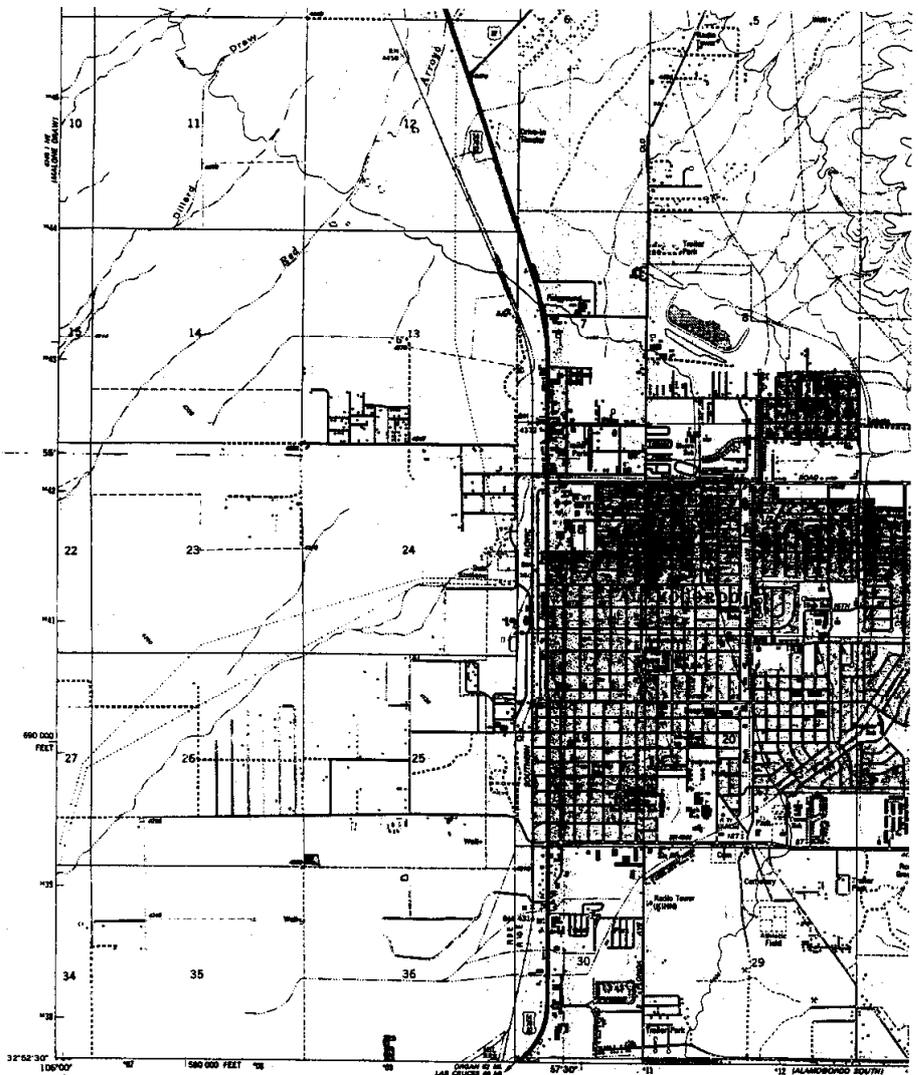




**NATIONAL FOREST**  
CROFT RANGER DISTRICT

ALAMOGORDO NORTH QUADRANGLE  
NEW MEXICO-OTERO CO.  
7.5 MINUTE SERIES





Mapped, edited, and published by the Geological Survey  
 Conducted by USGS and WOSHORNA  
 Topography by photogrammetric methods from aerial photographs taken 1975. Field checked 1975. Map edited 1981.  
 Projection and 10,000-foot grid ticks: New Mexico coordinate system, central zone (transverse Mercator); 1000-meter Universal Transverse Mercator grid, zone 13 1922 North American datum.  
 To place on the published North American Datum 1983, move the projection lines 6 meters south and 50 meters east as shown by dashed corner ticks.  
 Modification to USGS base map by the Geomagnetic Service Center from 1976 aerial photography and 1980 correction grids furnished by the Southwestern Region. Landmark revised according to additional Forest Service evidence.  
**FOREST SUPERVISORS HEADQUARTERS  
 ALAMOGORDO, NEW MEXICO**

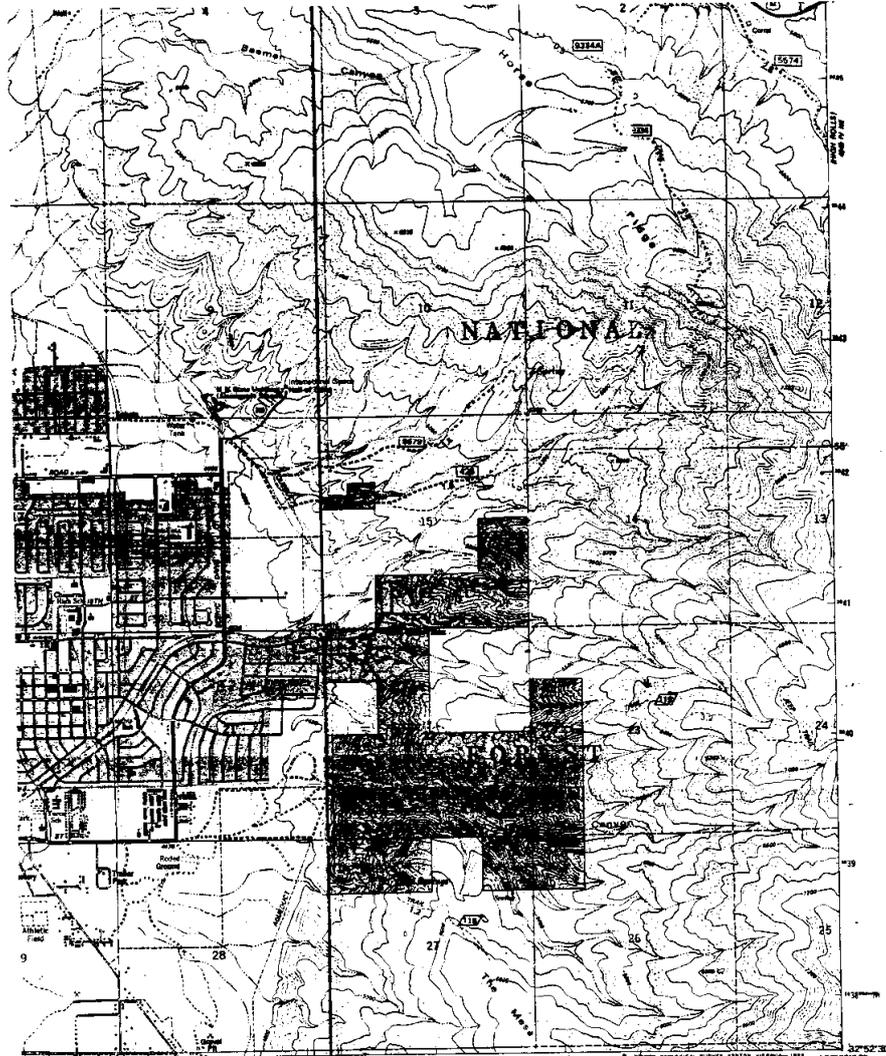


SCALE 1:24,000

CONTOUR INTERVAL 40 FEET  
 NATIONAL GEODETIC VERTICAL DATUM OF 1982

**LEGEND**

	Allocated Land Within the National Forest Boundary as of October 1982		1-Lane Paved
	National Forest Boundary		1-Lane Gravel
	TOWNSHIP AND SECTION LINE CLASSIFICATION		1-Lane Native
	Surveyed, Location Reliable		1-Lane Premish
	Surveyed, Location Approximate		Existing Trail
	Unsurveyed, Protraction		2-Lane Paved
			2-Lane Gravel
			2-Lane Native
			Planned Road



STATE OF NEW MEXICO } S.S.  
OTERO COUNTY

FILED FOR RECORD IN MY OFFICE

This 20 day of June, 2002  
At 4:30 o'clock P.M. and duly recorded  
in Book No. 1027 Page 215-316

The records of Otero County, New Mexico  
Mary D. Quintana  
County Clerk, Otero County, New Mexico

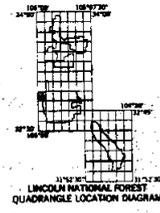
By Lynne Bottrada Deputy  
6341



VERTICAL INTERVAL 40 FEET  
(MAGNETIC VERTICAL DATUM OF 1985)

- LEGEND
- 1-Lane Paved
  - 1-Lane Gravel
  - 1-Lane Methe
  - 1-Lane Primitive
  - Existing Trail
  - 2-Lane Paved
  - 2-Lane Gravel
  - 2-Lane Native
  - Planned Road

- U.S. Highway
- State Highway
- County Road
- Forest Road
- Forest Trail
- Unimproved Road/Trail



TRANSPORTATION MAP  
ALAMOGORDO NORTH, N. MEX.

N3202.5-W10552.5/7.5  
1982  
DMA 4849 (7-N)-SERIES 1881  
NM-397NW  
1984