2023-1003310

Rec.\$40.00 Total:\$40.00

12/21/2023 09:27 AM

R.O. ANDERSON ENGINEERING INC.

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APN's: 1122-00-001-009, 1122-00-001-001, 1221-00-002-043, 1222-00-002-025, 1222-00-002-004, and 1222-00-002-009.



SHAWNYNE GARREN, RECORDER

Mail tax statements to:

BENTLY FAMILY LLC 1597 Esmeralda Ave. Minden, NV 89423

When Recorded, Mail to:

Chris D. Nichols, Esq. Incline Law Group, LLP 264 Village Blvd., #104 Incline Village, NV 89451

The undersigned, hereby affirms that this document submitted for recording does not contain the Social Security number of any person or persons. (Per NRS 239B.030)

DEED RESTRICTION FOR OPEN SPACE AND CONSERVATION AND PROTECTION OF CERTAIN FOREST AND RANGE LAND ("DEED RESTRICTION")

This Deed Restriction for Open Space and Conservation and Protection of Certain Forest and Range Land (the "Deed Restriction") is made this D' day of December 2023 by Bently Family LLC, a Nevada limited liability company, f/k/a Bently Family Limited Partnership, a Nevada limited partnership ("Landowner"), with respect to certain of Landowner's real property more specifically identified herein below.

RECITALS

A. Landowner is the sole owner in fee simple of certain real property consisting of approximately 5121.87 acres, located in Douglas County, Nevada, as further described in Exhibits A through F, inclusive and attached hereto and incorporated herein by reference (the "Protected Property") and as depicted in Exhibit G attached hereto and incorporated herein by reference (the "Protected Property Map"). Landowner desires to restrict the use and development of portions of the Protected Property and to conserve and protect it for open space as forest and rangeland.

B. The Protected Property consists of a rangeland and associated wildlife habitat. The Protected Property does not include 200 acres of "Excluded Areas" as more particularly described in the attached legal description(s) and maps attached hereto as Exhibits A through G, and such

excluded areas shall not be subject to the covenants, restrictions, prohibitions and limitations of this Deed Restriction.

- C. The Protected Property is located in areas as shown in the 1996 Douglas County, Nevada, Master Plan, as amended, ("Master Plan"), wherein development rights on certain real property situated in A-19 and FR-19 districts in Douglas County, Nevada, may be transferred to real property situated in designated receiving areas as shown in the Master Plan, subject to the requirements and provisions of the Master Plan and Douglas County Ordinances, including Chapter 20.500 governing Transfer Development Rights.
- D. Pursuant to **Chapter 20.500.020 of the Douglas County Ordinances**, in order for a property owner to transfer development rights a certificate must be obtained from Douglas County that the property is eligible for the transfer or acquisition of development rights. As a condition to the issuance of a certificate, the property owner must record a deed restriction or grant a perpetual open space easement.
- E. Landowner has certain development rights on the Protected Property that it wants to transfer from the Protected Property, and accordingly desires to restrict the use and development of portions of the Protected Property, in perpetuity, pursuant to Douglas County Code Chapter 20.500, entitled, Transfer of Development Rights, and particularly Section 20.500.020 therein, to assure that the rangeland productivity, wildlife habitat and open space values (referred to herein as the "Conservation Values") will be conserved and sustained in perpetuity as provided herein, and that uses of the land that are inconsistent with these Conservation Values will be prevented or corrected.
- F. Landowner desires to conserve and encourage in harmony all of the Conservation Values of the Protected Property, which are of great importance to Landowner, and the people of Douglas County. The Landowner therefore intends by this Deed Restriction to establish certain covenants, restrictions and standards respecting and protecting the development, use and operation of the Protected Property in perpetuity.

DECLARATIONS AND COVENANTS, CONDITIONS AND RESTRICTIONS

NOW, THEREFORE, for and in consideration of the right to transfer development rights from portions of the Protected Property, Landowner hereby declares that portions of the Protected Property are and shall be held, conveyed, subdivided, encumbered, leased, used, occupied, improved and otherwise affected in any manner subject to the provisions of this Deed Restriction, all of which are hereby declared to be in furtherance of creating, enhancing, maintaining, and protecting the nature of the Protected Property as open space and rangelands and forest with associated wildlife, of the nature and character described in this Deed Restriction.

1. **Purpose.** The purposes of this Deed Restriction are to identify, sustain, and forever protect the Conservation Values from impairment ("Conservation Purposes"). The Protected Property may only be used in perpetuity for the Conservation Purposes including wildlife habitat, range land and forest open space, unless otherwise provided or described in this Deed Restriction and Exhibits A through G attached hereto. Landowner intends that this be achieved through

continued ranching and grazing uses, as well as other forest and range uses, of the Protected Property as herein provided. Landowner declares that some changes in the current forest and range land uses, as hereinafter permitted in this Deed Restriction, may be necessary to promote the continuing commercial viability of the forest and range uses of the Protected Property, and in achieving the Conservation Purposes. The Landowner shall maintain, use, and manage the Protected Property consistent with this Deed Restriction and the Douglas County, Nevada ordinances.

Under this Deed Restriction, "impairment" of Conservation Values means a material adverse change in Conservation Values. The determination of actual and potential impacts of a particular activity or use on Conservation Values shall take into account the impacts of the activity or use in question as well as the cumulative impacts of other uses and activities on the Protected Property. In every evaluation of whether impairment of Conservation Values has occurred or is threatened, both the magnitude and the duration of the actual or potential changes(s) shall be considered.

- 2. Landowner's Permitted Uses. Except as prohibited or otherwise limited by the provisions of Section 4, below, and subject to all other applicable requirements of this Deed Restriction, Landowner reserves the right to use and enjoy, and to authorize others to use and enjoy, the Protected Property in any manner and to such extent as is consistent with the Conservation Purposes. Landowner's reserved rights shall include, but are not limited to:
- (a) Structures. The right to construct within the Protected Property any structures, improvements or accessory uses as may be allowed under the terms of this Deed Restriction or that are not otherwise prohibited under the terms of this Deed Restriction. The use of undeveloped portions of the Protected Property shall be restricted to use as open space for wildlife habitat, forest and range land purposes.
- (b) **Third Parties.** The right to grant third-party authorizations for the exercise of Landowner's reserved rights.
- (c) Access. This Deed Restriction permits and includes private rights of access to and through the Protected Property for access to Excluded Areas and for required or necessary access to any large parcels resulting from a land division map permitted under Section 4 (a) of this Deed Restriction. Notwithstanding the foregoing, nothing contained in this Deed Restriction shall be construed to convey to the public any right of access, to or for the use of the Protected Property, including through Excluded Areas or any third-party real properties not otherwise expressly granted in this Deed Restriction.
- (d) **No Obligation.** It is understood that this instrument imposes no obligation on the Landowner and no restrictions on the development of the Protected Property or the making or construction of improvements thereon in furtherance of the uses of the Protected Property, specifically reserved and set forth in **Sections 1 and 2** above. Nothing contained herein shall be construed to interfere with the right of the Landowner, its successors, assigns, licensees and any party claiming under them to utilize the Protected Property in such a manner as they may deem desirable within the scope of the uses herein reserved to Landowner.

- 3. Enforcement. The Parties agree that Landowner and its successors and assigns and Douglas County, a political subdivision of the State of Nevada, shall have the right to enforce this Deed Restriction in the event of any breach and shall have the right to and be permitted access to, and to enter upon the Protected Property. The Landowner acknowledges and agrees that Douglas County, Nevada is an intended beneficiary of this Deed Restriction and shall have the right to seek injunctive relief and/or damages for any breach of this Deed Restriction. Moreover, Landowner shall have access at all times to the Protected Property. Douglas County shall have access to, and be permitted to enter upon the Protected Property at all reasonable times for the purpose of inspection and in order to monitor and enforce and assure compliance with the terms and conditions contained in this Deed Restriction. Douglas County shall give Landowner 24-hour advance notice of its intent to enter the Protected Property during daylight hours on regular business day.
- 4. **Prohibited Uses of Protected Property**. The following are prohibited uses and actions concerning the Protected Property:
- (a) **Subdivision.** Except for a division of land into large parcels creating parcels at least 40 acres in size, the subdivision of the Protected Property, whether physical, legal or any other process, is prohibited.
- (b) **Development Rights.** Except as expressly reserved by Landowner under the provisions of **Section 2**, above, all development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Protected Property are terminated and extinguished and may not be used on or transferred to any portion of the Protected Property as it now or hereafter may be bounded or described.
- (c) Non-Forest and Range Uses, Except as Provided by the Terms of this Deed Restriction.
- (d) Interference with Protected Property. Any use that will result in significant impairment or interference with the Conservation Values for the Protected Property.
- 5. Responsibilities of Landowner and Douglas County Not Affected. Other than as specified herein, this Deed Restriction is not intended to impose any legal or other responsibility on Douglas County, or in any way to affect any existing obligation of the Landowner as owner of the Protected Property.
- 6. Landowner Transfer of Protected Property and Notification. Any time the Protected Property itself or any interest in it, including but not limited to, an instrument granting an authorization, conveyance, assignment, license, easement, or a lease, is transferred by the Landowner to any third party, the Landowner shall notify Douglas County, Nevada in writing prior to the transfer of the Protected Property, and the deed of conveyance or other instrument, shall expressly refer to this Deed Restriction and require compliance with the terms and conditions of the Deed Restriction. Failure to notify Douglas County or to include the required reference to this Deed Restriction in the deed or other instrument shall not affect the continuing validity and enforceability of this Deed Restriction.

- 7. **Amendment of Deed Restriction.** This Deed Restriction may be amended or revoked, in whole or in part, only with the prior written consent of the Landowner and Douglas County, a political subdivision of the State of Nevada. Any such amendment shall be consistent with the purposes of this Deed Restriction. This Deed Restriction and all amendments hereto, shall refer to this Deed Restriction and shall be recorded in the official records of Douglas County, Nevada.
- 8. No Public Dedication or Public Access. Nothing contained in this Deed Restriction shall be deemed to be a gift or dedication of any portion of the Protected Property for use by the general public. This instrument does not convey a general right of access to the public.
- (a) **Existing Easements.** Nothing in this section shall limit the holder of any existing easement over the Protected Property, in existence at the time of recording of this Deed Restriction, from improving, maintaining, or further dedicating said easements.
- 9. Landowner's Title Warranty; No Prior Conservation Easements. Landowner represents and warrants that Landowner has good fee simple title to the Protected Property, free from all liens or encumbrances, and hereby promises to defend the same against all claims that may be made against it. Landowner represents and warrants that the Protected Property is not subject to any other deed restrictions or conservation easement. Landowner may grant any subsequent easements, licenses or deeds on the Protected Property provided that they do not interfere with the Conservation Purposes of this Deed Restriction. Douglas County, Nevada shall be notified at least ninety days in advance, in writing, of any proposed easement for the Protected Property, which notice shall include the proposed easement.
- 10. **Interpretation.** This instrument shall be interpreted under the laws of the State of Nevada, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its Conservation Purposes. If any provision of this Deed Restriction, or the application thereof to any person or circumstances, is found to be invalid, the remainder of the provisions of this Deed Restriction, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.
- 11. **Perpetual Duration and Benefits and Burdens.** This Deed Restriction shall be deemed a covenant running with the land in perpetuity or an equitable servitude, as the case may be, and shall apply to and be binding on Landowner and its successors, assigns, lessees, licensees, heirs, transferees, lenders, lien and encumbrance holders and all persons acquiring or owning any interest in the Protected Property. Douglas County shall be deemed and agreed to be a third-party beneficiary of this Deed Restriction, and as such, can enforce the provisions of this Deed Restriction.
- 12. **Disclosure of Deed to Subsequent Purchasers**. Declarant shall disclose the obligations of this Deed Restriction to any purchaser of the Property or any interest in the Property.

13. **Notices.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by other common method whereby receipt is confirmed, and addressed as follows or such other address as either party from time to time shall designate by written notice to the other.

To LANDOWNER:

Bently Family, LLC

Attn. Jeff Jarboe, Chief Financial Officer

1597 Esmeralda Ave Minden, Nevada 89423

To DOUGLAS COUNTY

Douglas County c/o County Manager

P.O. Box 218

Minden, Nevada 89423 Phone: (775) 782-9821

- 14. Laws Currently in Effect. All references in this Deed Restriction to statutes, regulations, Douglas County ordinances and other laws shall be deemed to refer to those statutes, ordinances, regulations and laws currently in effect in the State of Nevada. The ordinances, resolutions, rules, orders and regulations applicable to the Protected Property and the transfer development rights derived from the Protected Property are those in effect on the Effective Date of this Deed Restriction as defined below in Section 19.
- 15. **Recordation.** Once approved, Landowner shall promptly record this instrument in the official records of Douglas County, Nevada, above, and promptly notify Douglas County, Nevada through the mailing of a conformed copy of the recorded Deed Restriction.
- 16. **Entire Agreement.** This instrument sets forth the entire restrictions on the use and development of the Protected Property not otherwise provided for or addressed in the existing grant deed for the Protected Property, or addressed by the laws, statutes, rules, regulations and ordinances of the State of Nevada and Douglas County, Nevada with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings or agreements relating to the Protected Property and this Restricted Deed all of which are herein merged.
- 17. **Compliance with Applicable Laws.** Landowner remains solely responsible for obtaining any applicable governmental permits or other approvals for any activity or use allowed under this Deed Restriction. No right or privilege granted in this Instrument, nor any right retained by Landowner, shall be interpreted as exempting Landowner from complying with all statutes, laws, ordinances, rules, regulations, codes, orders, or other restrictions applicable to the Protected Property.

| reference: | Exhibits A through F, inclusive: Exhibit G: | Protected Property Description Protected Property map |
|----------------------|---|--|
| 19. Official Reco | Effective Date. This Deed Restriction is eards of Douglas County, Nevada (the "Effect | |
| | ITNESS WHEREOF, BENTLY FAMILY, I above written. | LLC, has executed this Deed Restriction |
| LANDOW | NER: | |
| By: | oe/Chief Financial Officer NEVADA) ss. | Keelen |
| APPROVE | D AS TO FORM | |
| DOUGLAS NEVADA: | COUNTY, A POLITICAL SUBDIVISIO | ON OF THE STATE OF |
| Its: 🔼 | /2 / | ANDREA L. PAWLING NOTARY PUBLIC STATE OF NEVADA Appt. No 17-3228-5 My Appt. Expires August 2, 2025 |
| (\ |) ss. F DOUGLAS) Instrument was acknowledged before me on | December 15, 2023, by |
| Signature of No. | tarial Officer | |

Exhibits. The following exhibits attached hereto are incorporated herein by this

18.

EXHIBITS A THROUGH G

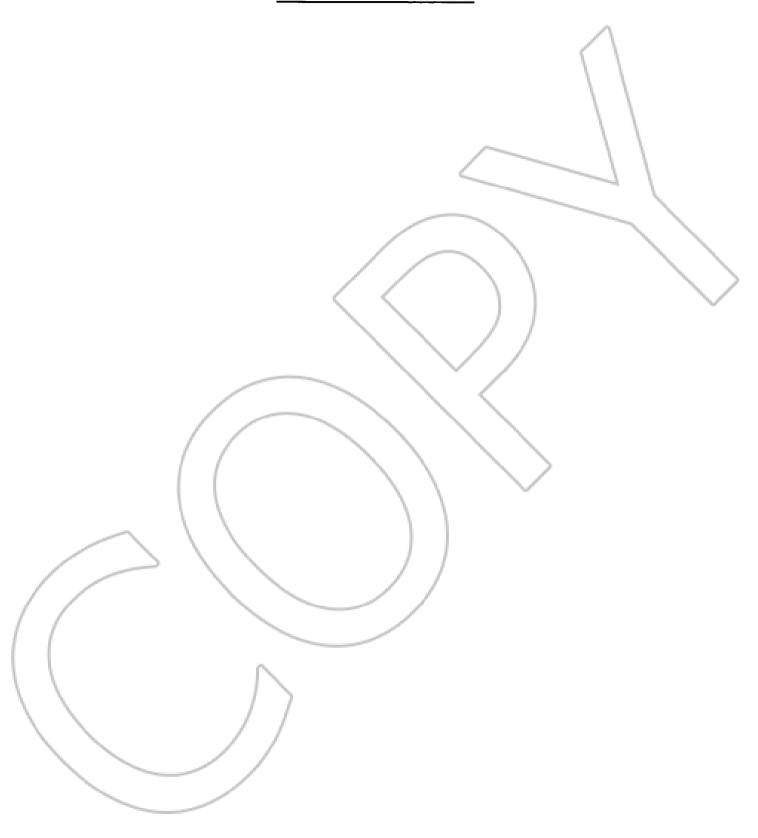


EXHIBIT A CONSERVATION AREA BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1222-00-002-009)

All that real property situate in the County of Douglas, State of Nevada, described as follows:

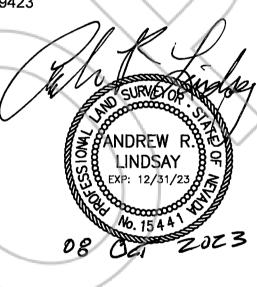
A strip of land for conservation purposes being a portion of Section 21, Township 12 North, Range 22 East, M.D.&M., more particularly described as follows:

Section19: Southeast 1/4 of the Northwest 1/4, containing 40.00 acres, more or less.

Prepared by: R. O. ANDERSON ENGINEERING, INC.

Andrew R. Lindsay, P.L.S. 15441

P.O. Box 2229



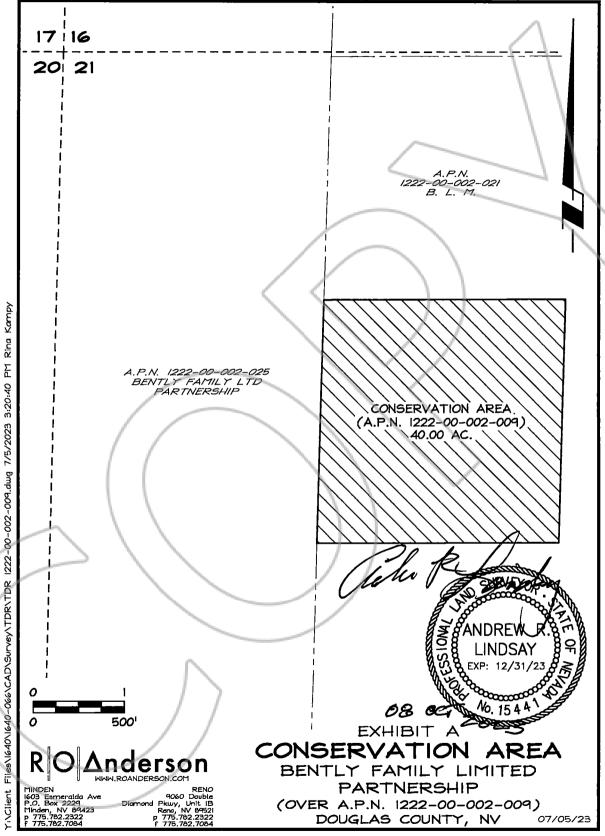


EXHIBIT B CONSERVATION AREA BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1122-00-001-001)

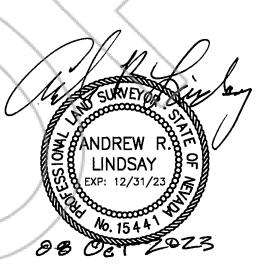
All that real property situate in the County of Douglas, State of Nevada, described as follows:

A strip of land for conservation purposes being portions of Sections 5 and 6, Township 11 North, Range 22 East, M.D.&M., more particularly described as follows:

Section 5: Northwest 1/4 of the Southwest 1/4; Southwest 1/4 of the Northwest 1/4 Section 6: Southeast 1/4 of the Northeast 1/4; Northeast 1/4 of the Southeast 1/4, containing 160.00 acres, more or less.

Prepared by: R. O. ANDERSON ENGINEERING, INC. Andrew R. Lindsay, P.L.S. 15441

P.O. Box 2229



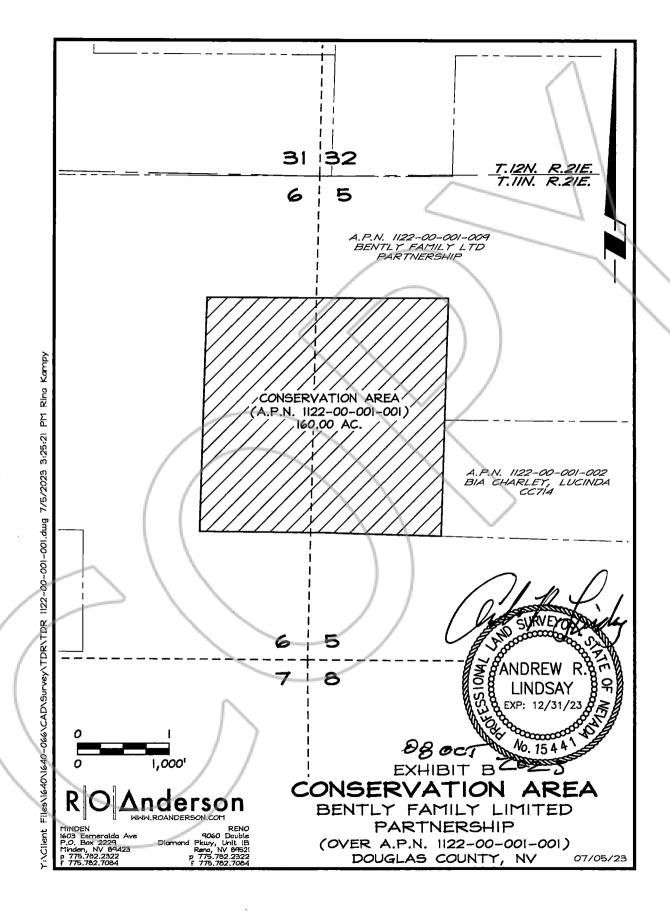


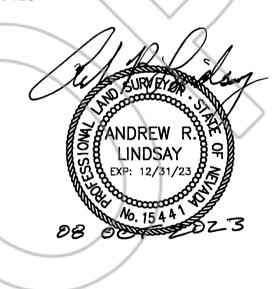
EXHIBIT C CONSERVATION AREA BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1221-00-002-043)

All that real property situate in the County of Douglas, State of Nevada, described as follows:

A strip of land for conservation purposes being a portion of Section 36, Township 12 North, Range 21 East, M.D.&M., more particularly described as follows:

Section 36: Southeast 1/4 of the Southeast 1/4, containing 40.00 acres, more or less.

Prepared by: R. O. ANDERSON ENGINEERING, INC. Andrew R. Lindsay, P.L.S. 15441 P.O. Box 2229



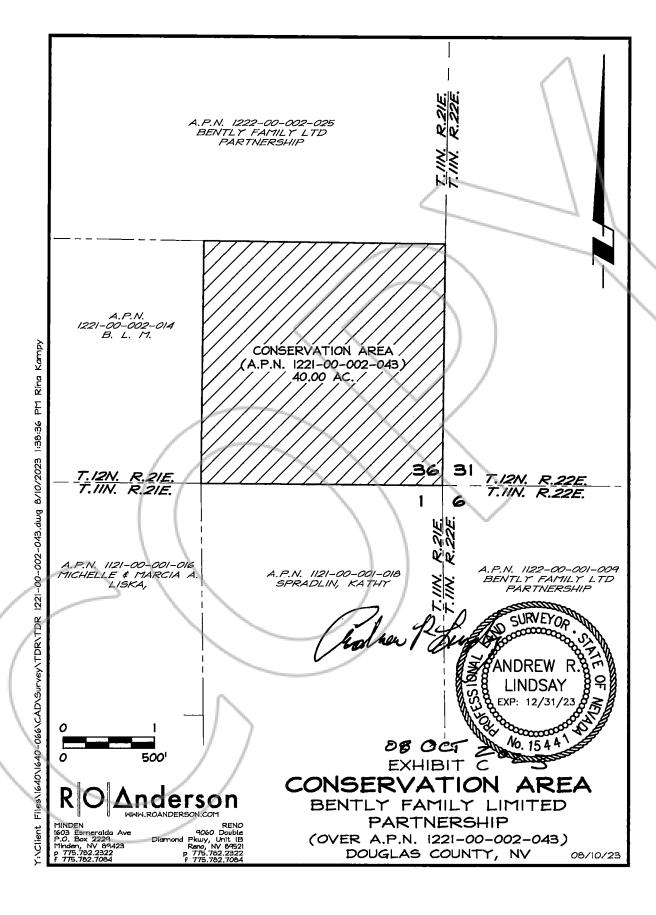


EXHIBIT D CONSERVATION AREA BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1222-00-002-025)

All that real property situate in the County of Douglas, State of Nevada, described as follows:

A strip of land for conservation purposes being portions of Section 25 and 36, Township 12 North, Range 21 East, along with portions of Section 16, 17, 20, 21, 28, 29, 30, 31, 32, and 33, Township 12 North, Range 22 East M.D.&M., more particularly described as follows:

Section 25: East 1/2 of the Southeast 1/4; Southwest 1/4 of the Southeast 1/4

Section 36: Northeast 1/4; North 1/2 of the Southeast 1/4

Section 16: Southwest 1/4 of the Southwest 1/4

Section 17: Northwest 1/4 of the Southeast 1/4; East 1/2 of the Southeast 1/4

Section 20: East 1/2 of the East 1/2; South 1/2 of the Northwest 1/4; Southwest 1/4 of the Northeast 1/4;

Section 21: West 1/2 of the West 1/2

Section 28: Northwest 1/4 of the Northwest 1/4

Section 29: All of Section 29, excepting the Northeast 1/4 of the Southeast 1/4

Section 30: East 1/2 of the Northeast 1/4; Southwest 1/4 of the Northeast 1/4;

Southeast 1/4; East 1/2 of the Southwest 1/4, Lot 3 of the Southwest 1/4

(Northwest 1/4 of the Southwest 1/4); Lot 4 of the Southwest 1/4 (Southwest 1/4) of the Southwest 1/4)

Section 31: Lot 1 of the Northwest 1/4 (Northwest 1/4 of the Northwest 1/4); Lot 2 of the Northwest 1/4 (Southwest 1/4 of the Northwest 1/4); Lot 3 of the Southwest 1/4

(Northwest 1/4 of the Southwest 1/4); Lot 4 of the Southwest 1/4 (Southwest 1/4 of the

Southwest 1/4); East 1/2 of the Southwest 1/4, South 1/2 of the Southeast 1/4;

Section 32: Northwest 1/4; North 1/2 of the Northeast 1/4

Section 33: North 1/2 of the Northwest 1/4;

EXCEPTING THERE FROM:

Area 1: Southwest 1/4 of the Southeast 1/4 of Section 25 and the Northwest 1/4 of the Northeast 1/4 of Section 36 containing 80.00 acres more or less.

Area 2: Lot 4 and the Southeast 1/4 of the Southwest 1/4 of Section 31 containing 80.00 acres more or less.

Area 3: Lot 3 of Section 31 containing 40.00 acres more or less.

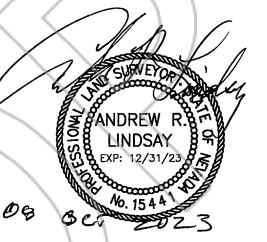
EXHIBIT D CONSERVATION AREA CONTINUE BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1222-00-002-025)

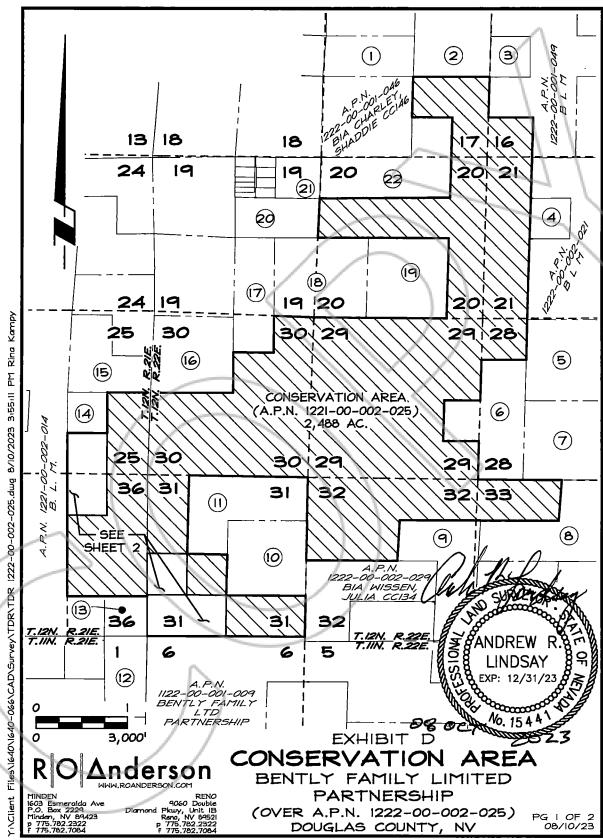
Overall conservation area contains 2,488.00 acres, more or less.

Prepared by: R. O. ANDERSON ENGINEERING, INC.

Andrew R. Lindsay, P.L.S. 15441

P.O. Box 2229





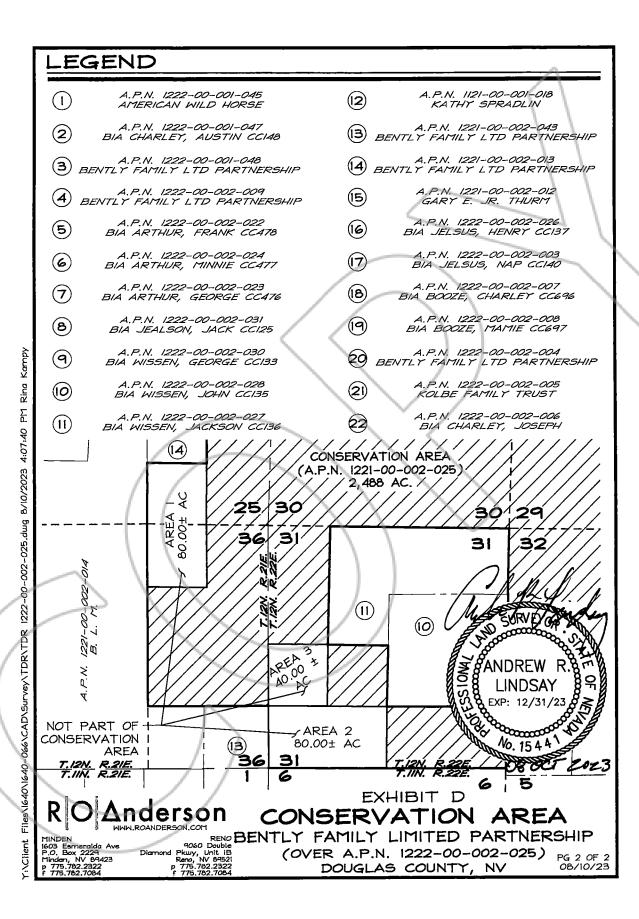


EXHIBIT E CONSERVATION AREA BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1222-00-002-004)

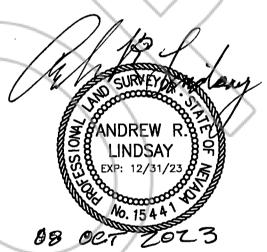
All that real property situate in the County of Douglas, State of Nevada, described as follows:

A strip of land for conservation purposes being a portion of Section 19, Township 12 North, Range 22 East, M.D.&M., more particularly described as follows:

Section 19: South 1/2 of the Northeast 1/4, containing 80 acres, more or less.

Prepared by: R. O. ANDERSON ENGINEERING, INC. Andrew R. Lindsay, P.L.S. 15441

P.O. Box 2229



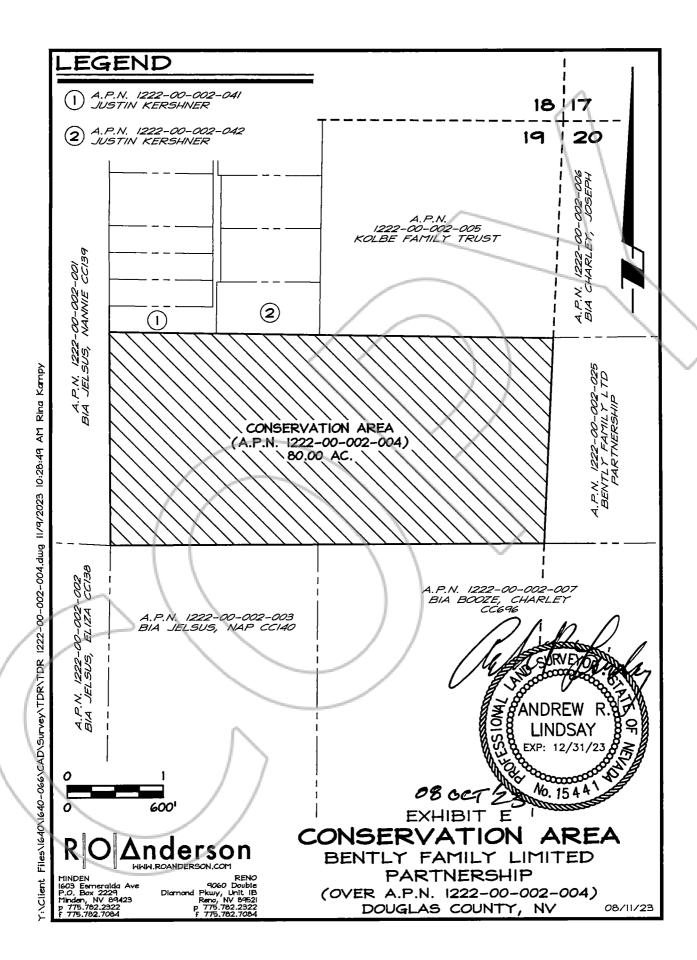


EXHIBIT F CONSERVATION AREA BENTLY FAMILY LIMITED PARTNERSHIP (OVER A.P.N. 1122-00-001-009)

All that real property situate in the County of Douglas, State of Nevada, described as follows:

A strip of land for conservation purposes being a portion of Section 32, Township 12 North, Range 22 East and Sections 4,5,6,7, and 8, Township 11 North, Range 22 East, M.D.&M., more particularly described as follows:

Section 32: Southeast 1/4 of the Southwest 1/4; Southwest 1/4 of the Southeast 1/4;

Section 4: Southwest 1/4 of the Northwest 1/4; Southwest 1/4;

Section 5: South 1/2 of the Southwest 1/4; Southwest 1/4 of the Southeast 1/4; South 1/2 of the Northwest 1/4; Lots 2, 3 & 4

Section 6: Lots 1, 2, 3, 4, 5 & 6; Southeast 1/4 of the Northwest 1/4; Northeast 1/4 of the Southwest 1/4; Southwest 1/4 of the Northeast 1/4; Northwest 1/4 of the Southeast 1/4; South 1/2 of the Southeast 1/4;

Section 7: East 1/2; East 1/2 of the West 1/2;

Section 8: West 1/2; Southeast 1/4; Northwest 1/4 of the Northeast 1/4, containing 2,120.00 acres, more or less.

Prepared by: R. O. ANDERSON ENGINEERING, INC Andrew R. Lindsay, P.L.S. 15441

P.O. Box 2229

Minden, Nevada 89423

YANDREW R. LINDSAY

EXP: 12/31/23

