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DISTRICT COURT, COUNTY OF SUMMIT, STATE OF COLORADO

Civil Action No. 2285

ORDER INCLUDING THE TIMBER CREEK ESTATES SUBDIVISION PROPERTY INTO  
THE BRECKENRIDGE SANITATION DISTRICT

IN THE MATTER OF THE INCLUSION OF THE TIMBER CREEK ESTATES,  
SUBDIVISION PROPERTY INTO THE BRECKENRIDGE SANITATION DISTRICT

THIS MATTER, coming on for consideration of the foregoing Motion for Order Including the Timber Creek Estates Subdivision Property into the Breckenridge Sanitation District, and the Court finding same to be meritorious, does grant the Motion.

IT IS THEREFORE ORDERED that the Timber Creek Estates Subdivision Property, as more fully described in Exhibit A attached hereto be and is hereby made a part of the Breckenridge Sanitation District subject to the terms and conditions of the District's Inclusion Resolution, attached hereto as Exhibit B.

IT IS FURTHER ORDERED that a certified copy of this Order, together with Exhibits A and B, be filed for record in the Office of the Summit County Clerk and Recorder.

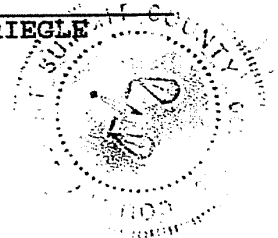
IT IS FURTHER ORDERED that the Summit County Clerk and Recorder shall notify the Summit County Assessor of this inclusion action and shall file a certified copy of such notice with the Division of Local Government, Department of Local Affairs.

Done this 12<sup>th</sup> day of August, 1994.

BY THE COURT:

W. Terry Ruckriegle

JUDGE W. TERRY RUCKRIEGLE



482620  
JAN 16 1995  
COUNTY RECORDER

EXHIBIT A

**Legal Description  
of the  
Timber Creek Estates Subdivision Property**

A tract of land being a portion of a replat of part of the DOT Subdivision, a Subdivision located in the Town of Blue River, Summit County, Colorado and filed for record under Reception No. 168484 in the Office of the Summit Clerk and Recorder. Said tract being more particularly described as follows:

Beginning at Corner No. 2 of the DOT Placer, U.S. Mineral Survey No. 13358 also being the Northeast corner of said DOT Subdivision; thence along the boundary of said the DOT Subdivision for the following eight courses:

1. South  $12^{\circ}34'21''$  West, a distance of 2289.07 feet to Corner No. 3 of said DOT Placer;
2. North  $67^{\circ}59'48''$  West, along the 3-4 Line of said DOT Placer, a distance of 1839.70 feet to a point of intersection with the Easterly right of way line of Colorado State Highway No. 9;
3. North  $21^{\circ}53'04''$  East, along said Easterly right of way line a distance of 229.48 feet;
4. 169.77 feet along said Easterly right of way line and along the arc of a curve to the right, having a central angle of  $11^{\circ}46'09''$  and a radius of 826.52 feet;
5. North  $33^{\circ}39'13''$  East along said Easterly right of way line, a distance of 658.44 feet;
6. 319.03 feet along said Easterly right of way line and along the arc of a curve to the left, having a central angle of  $03^{\circ}24'23''$  and a radius of 5366.29 feet;
7. North  $30^{\circ}14'50''$  East along said Easterly right of way line, a distance of 817.40 feet to a point of intersection with the 1-2 Line of said DOT Placer;
8. South  $72^{\circ}36'00''$  East, along said 1-2 line a distance of 1146.56 feet to the Point of Beginning.

**EXCEPTING THEREFROM**

Tract C of said replat of part of the DOT Subdivision, being more particularly described as follows:

Beginning at the Northeast corner of said the DOT Subdivision; thence South  $84^{\circ}58'42''$  West, a distance of 1067.13 feet to the

(Continued)

Northeast corner of said Tract C, being the True Point of Beginning;  
thence South  $13^{\circ}39'59''$  West, a distance of 160.00 feet to the  
Southeast corner of said Tract C;  
thence North  $72^{\circ}24'00''$  West, a distance of 131.43 feet to the  
Southwest corner of said Tract C;  
thence North  $13^{\circ}39'59''$  East, a distance of 160.00 feet to the  
Northwest corner of said Tract C;  
thence South  $72^{\circ}24'00''$  East, a distance of 131.43 feet to the True  
Point of Beginning.

ALSO EXCEPTING THEREFROM

Tracts I, J and K of said replat of part of the DOT Subdivision, being  
more particularly described as follows:

Beginning at said Northeast corner to the DOT Subdivision  
thence South  $71^{\circ}54'59''$  West, a distance 821.86 feet to the  
Southern-most common corner of said Tracts I and J being the True  
Point of Beginning;  
thence along the boundary of said Tracts I, J and K for the following  
thirteen courses:

1. 232.07 feet along the arc of a curve to the right having a  
central angle of  $29^{\circ}54'12''$ , a radius of 444.62 feet and a chord which  
bears South  $76^{\circ}52'01''$  West, 229.15 feet distant;
2. 50.54 feet along the arc of a curve to the right having a central  
angle of  $11^{\circ}50'48''$ , a radius of 244.41 feet and a chord which bears  
North  $82^{\circ}15'25''$  West, 50.44 feet distant;
3. North  $13^{\circ}39'59''$  East, a distance of 122.69 feet;
4. North  $74^{\circ}07'45''$  East, a distance of 185.07 feet;
5. South  $28^{\circ}05'10''$  East, a distance of 5.15 feet;
6. North  $47^{\circ}42'41''$  East, a distance of 156.09 feet;
7. South  $57^{\circ}19'11''$  East, a distance of 5.71 feet;
8. North  $16^{\circ}05'02''$  East, a distance of 172.52 feet;
9. South  $76^{\circ}24'58''$  East, a distance of 53.40 feet;
10. 145.91 feet along the arc of a curve to the right having a  
central angle of  $223^{\circ}02'50''$ , a radius of 37.50 feet and a chord which  
bears South  $76^{\circ}24'58''$  East, 69.77 feet distant;
11. South  $76^{\circ}24'58''$  East, a distance of 10.33 feet;

(Continued)

12. 217.59 feet along the arc of a curve to the right having a central angle of  $28^{\circ}02'24''$ , a radius of 444.62 feet and a chord which bears South  $18^{\circ}39'37''$  West, 215.43 feet distant;

13. 226.86 feet along the arc of a curve to the right having a central angle of  $29^{\circ}14'01''$ , a radius of 444.62 feet and a chord which bears South  $47^{\circ}17'50''$  West, 224.40 feet distant to the True Point of Beginning.

ALSO EXCEPTING THEREFROM

Tract E and Lot 35, said replat of part of the DOT Subdivision, being more particularly described as follows:

Beginning at the Northeast corner of the DOT Subdivision, thence South  $67^{\circ}36'43''$  West, a distance of 1043.35 feet to the Northeast corner of said Lot 35, being the True Point of Beginning; thence along the boundary of said Lot 35 for the following five courses:

1. South  $08^{\circ}51'00''$  East, a distance of 177.80 feet;
2. South  $70^{\circ}35'00''$  West, a distance of 127.98 feet;
3. North  $85^{\circ}10'00''$  West, a distance of 134.00 feet;
4. North  $34^{\circ}06'30''$  East, a distance of 121.00 feet;
5. 135.58 feet along the arc of a curve to the left having a central angle of  $20^{\circ}26'31''$ , a radius of 380.00 feet and a chord which bears North  $23^{\circ}53'15''$  East, 134.86 feet distant to the Southeast corner of said Tract E;

thence along the boundary of said Tract E for the following three courses:

1. North  $13^{\circ}39'59''$  East, a distance of 80.00 feet;
2. South  $76^{\circ}20'01''$  East, a distance of 55.00 feet;
3. South  $13^{\circ}39'59''$  West, a distance of 80.00 feet to an angle point on the North Line of said Lot 35;

thence South  $86^{\circ}00'00''$  East, a distance of 51.09 feet to the True Point of Beginning,

ALSO EXCEPTING THEREFROM

(Continued)

That portion of subject property conveyed by Gibraltar Finance Company to the Town of Blue River by Deed recorded October 16, 1973, in Book 241 at Page 620, at Reception No. 137409, being more particularly described as follows:

Tract A of said replat of part of the DOT Subdivision, being more particularly described as follows:

Beginning at Corner No. 2 of said DOT Placer, also being the Northeast corner of said Tract A;  
thence South  $12^{\circ}34'21''$  West, a distance of 2289.07 feet to Corner No. 3 of said DOT Placer, also being the Southeast corner of said Tract A;  
thence North  $67^{\circ}59'48''$  West, along the 3-4 Line of said DOT Placer a distance of 223.01 feet to the Southwest corner of said Tract A;  
thence North  $12^{\circ}34'21''$  East, a distance of 2271.11 feet to the Northwest corner of said Tract A;  
thence South  $72^{\circ}36'00''$  East, a distance of 220.78 feet to the Point of Beginning; and

Tract B of said replat of part of the DOT Subdivision, being more particularly described as follows:

Beginning at the Southwest corner of said Tract B,  
thence Northerly along the West line of said Tract B for the following three courses:

1. North  $21^{\circ}53'04''$  East, a distance of 229.48 feet;
2. 169.77 feet along the arc of a curve to the right having a central angle of  $03^{\circ}24'23''$  and a radius of 5366.29 feet;
3. North  $33^{\circ}39'13''$  East, a distance of 483.44 feet to the Northwest corner of said Tract B;

thence South  $56^{\circ}37'20''$  East, a distance of 160.00 feet to the Northeast corner of said Tract B;  
thence South  $33^{\circ}22'40''$  West, a distance of 350.00 feet;  
thence South  $22^{\circ}14'04''$  West, a distance of 496.90 feet to the Southeast corner of said Tract B;  
thence North  $67^{\circ}59'48''$  North a distance of 200.00 feet to the Point of Beginning.

RESOLUTION 11  
Series 1994

CONCERNING THE PETITION FOR INCLUSION  
OF THE TIMBER CREEK ESTATES SUBDIVISION

WHEREAS, on or about April 22, 1994, the fee owners of 100± of a tract of land (hereinafter "Applicant") filed Petitions for Inclusion with the Board of Directors of the Breckenridge Sanitation District (hereinafter "District") requesting that the property as more fully described in the Petitions and as hereinafter referred to as the Timber Creek Estates Subdivision, be included into the District; and

WHEREAS, on or about June 9, 1994, the Board of Directors of the District heard the Applicant's Petitions for Inclusion at a public meeting after Publication of Notice of the filing of such Petition pursuant to C.R.S. §32-401; and

WHEREAS, no objections to the Petitions were filed with the District at or before such meeting; and

WHEREAS, the District is currently capable of serving the Timber Creek Estates Subdivision and desires to include the Property into the District under certain conditions and

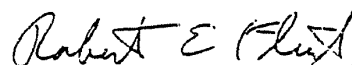
WHEREAS, the Applicant agrees with and consents to the conditions of the inclusion

NOW, THEREFORE, BE IT RESOLVED THAT


1. The Board of Directors of the District hereby grant the Applicant's Petition for Inclusion and that the Timber Creek Estates Subdivision be included within the District subject to the requirements of state law, the District's Rules and Regulations, and per the conditions as outlined in Resolution 7, Series 1994.

Approved this 9th day of June, 1994.

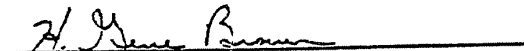
BRECKENRIDGE SANITATION DISTRICT

  
Robert E. Flint, President

ATTEST

  
Guy R. Bigelow, Secretary

FOR THE TIMBER CREEK ESTATES SUBDIVISION



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**AFFIDAVIT REGARDING TIMBER CREEK ESTATES  
PHASE I, TOWN OF BLUE RIVER, COLORADO,  
LOTS 1-8, 10-24, 28-34, AND 36 AND TRACT X**

STATE OF COLORADO )  
 )ss.  
COUNTY OF SUMMIT )

I, LARRY NELSON, Mayor of the Town of Blue River, Colorado, being first duly sworn, state and allege as follows:

1. On or about March 21, 1995, the Town of Blue River and Brown & Brown Developers, Inc. entered into a Fourth Amended Subdivision Agreement for Timber Creek Estates as recorded with the Summit County Clerk and Recorder's office on January 24, 1997, as Reception No. 532324.

2. On or about March 21, 1995, the Town of Blue River and Brown & Brown Developers, Inc. entered into the Subdivision Improvements Agreement for Timber Creek Estates Phase I as with the Summit County Clerk and Recorder's office on January 24, 1997, as Reception No. 532325.

3. On or about August 15, 1995, the Town of Blue River and Brown & Brown Developers, Inc. entered into the Supplement to the Fourth Amended Subdivision Agreement for Timber Creek Estates as recorded with the Summit County Clerk and Recorder's office on January 24, 1997, as Reception No. 532324. The Fourth Amended Subdivision Agreement, the Subdivision Improvements Agreement, and the Supplement to the Fourth Amended Subdivision Improvements Agreement shall be collectively referred to as the SIAs.

4. On or about April 10, 1996, the final plat of Timber Creek Estates Phase I, a replat of a portion of the DOT Subdivision, Town of Blue River, Summit County, Colorado, was recorded with the Summit County Clerk and Recorder's office as Reception No. 512866 (hereinafter "property").

5. Pursuant to the SIAs for Timber Creek Estates, Brown & Brown Developers, Inc. (hereinafter referred to as "Subdivider") was obligated to install and construct certain public improvements on and within the property. Such public improvements include but are not limited to road grading, road base and miscellaneous road work, the installation and construction of sanitary sewer lines, sewer manholes, and other miscellaneous sanitary sewer service line improvements, the construction and installation of water service lines and related improvements, fire hydrants, street name signs, electric, cable, and telephone service to the property, and the construction of a Town meeting building.

6. The Subdivider has defaulted under the terms and conditions of the SIAs by failing to install and construct the public improvements referenced in Paragraph 5, above.

7. The Subdivider still owns Parcels 1-8, 10-24, 28-34, and 36 and Tract X. The

