

PAGE () INDEX () ABSTRACT () PLAT () CHECK ()

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PG. 196-203

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Kimball, Parr, Waddoups, Brown & Gee
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Salt Lake City, Utah 84111

00188200 Bk00327 Pg00196-00203
WASATCH CO RECORDER-ELIZABETH M PARCELL
1996 JUL 17 10:19 AM FEE \$25.00 BY PR
REQUEST: IVIE STEVE

MUTUAL DECLARATION
OF
EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DECLARATION (this "Declaration") is executed as of the 4th day of July, 1996, by the undersigned.

FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the undersigned agree as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the indicated meaning:

(a) "Easement Area" means the real property located in Wasatch County, Utah, described as follows:

An area sixty (60) feet in width, consisting of thirty (30) feet on either side of the center line of the existing access road, which access road generally runs in a Northerly direction from Lake Creek Road, through Parcel A and Parcel B: Commencing at the point where the existing access road leaves Lake Creek Road and enters Parcel A and continuing thence in a Northerly direction to where the existing access road leaves Parcel A and enters Parcel B; continuing thence in a Northerly direction to the point where the existing access road leaves Parcel B and re-enters Parcel A; continuing thence in a Northerly direction to the point where the existing access road intersects a Wasatch County right of way commonly known as Big Pole Road, shown on the official records, all as approximately shown on the Plat.

(b) "Mortgage" means a mortgage or a deed of trust recorded in the official records.

(c) "Mortgagee" means the mortgagee under a mortgage, or the beneficiary under a deed of trust, recorded in the official records.

(d) "Official records" means the official records of the Wasatch County Recorder, State of Utah.

(e) "Owner" means the person that at the time concerned is the legal owner of record (in the official records) of a whole or undivided fee interest in any portion of any Parcel. If there is more than one Owner of a Parcel at the time concerned, the obligations and liabilities of each such Owner for performance under, and compliance with, the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term "Owner" shall not mean

a Mortgagee unless and until such Mortgagee has acquired title to the Parcel concerned pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

(f) "Parcel A" means the real property located in Wasatch County, Utah, approximately outlined on the Plat in red, and described as follows:

Beginning at a point 106 rods East of the Northwest Corner of Lot 3, Section 3, Township 4 South, Range 6 East, Salt Lake Base and Meridian; thence East 132.54 rods, more or less, to the Northeast Corner of said Section 3; thence South along the East side of the Section to the Southeast Corner of said Section 3; thence West along the South line of the said Section 3, 132.54 rods; thence Northerly 323 rods, more or less, to the point of beginning.

(g) "Parcel B" means the real property located in Wasatch County, Utah, approximately outlined on the Plat in blue, and described as follows:

Beginning South 89°27' West 2301.55 feet and South 00°26'41" West 2187.4 feet from the Northeast corner of Section 3, Township 4 South, Range 6 East, Salt Lake Base and Meridian; thence South 89°27' West 1593.36 feet; thence South 00°26'41" West 480.3 feet; thence South 88°38'36" West 1472.59 feet; thence North 00°08'52" West 2706.83 feet; thence North 89°27' East 3093 feet, plus or minus; thence South 00°26'41" West 2187.4 feet, more or less, to the point of beginning. (Approximately 171.48 acres).

(h) "Parcels" means Parcel A and Parcel B, collectively, and "Parcel" means either Parcel A or Parcel B, individually, where no distinction is required by the context in which such term is used.

(i) "Plat" means the plat attached as Exhibit A, incorporated in this Declaration by this reference.

2. Grant of Rights-of-Way and Easements.

2.1 Access Right-of-Way and Easement. The Parcels (but no other real property) shall have appurtenant thereto and shall be benefitted by, and the Easement Area shall be subject to and shall be burdened by, a perpetual, non-exclusive right-of-way and easement for pedestrian and vehicular ingress and egress on, over and across the Easement Area.

2.2 Utilities Right-of-Way and Easement.

2.2.1 Grant of Utilities Right-of-Way and Easement. Except as limited in Section 2.2.2, the Parcels (but no other real property) shall have appurtenant thereto and shall be benefitted by, and the Easement Area shall be subject to and shall be burdened by, a perpetual, non-exclusive right-of-way and easement for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, sewage, storm drainage and all types of water) under, through and across the Easement Area.

2.2.2 Exercise of Utilities Right-of-Way and Easement. Any Owner may, but shall not be obligated to (a) enter on the Easement Area in order to accomplish the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of the utilities and facilities referred to in Paragraph 2.2.1, and (b) in connection with such utilities and facilities, excavate or conduct construction activities on the Easement Area, so long as such excavation or construction activities are performed in a good and workmanlike manner and are prosecuted diligently to completion as soon as reasonably possible. On completion of such excavation or construction activities, such Owner shall immediately restore any portion of the Easement Area to the same condition as existed prior to the commencement of such excavation or construction activities, using the same type and quality of materials previously used.

3. No Interference. Except to the extent necessary (on a temporary basis) for reasonable construction, for repair and maintenance, for traffic regulation and control or to prevent a public dedication or the accrual of any rights to the public, no fence, gate, wall, barricade or other obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded use of the rights-of-way and easements granted in Paragraph 2 shall be constructed or erected, nor shall any Owner in any other manner obstruct or interfere with the use of such rights-of-way and easements.

4. Maintenance. Each Owner may improve or maintain the Easement Area, but no owner shall have any obligation to do so.

5. Duration. This Declaration and each right-of-way, easement, covenant and restriction set forth in this Declaration shall be perpetual.

6. Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Parcels for the general public or for any public purpose whatsoever, it being the intention of the undersigned that this Declaration be strictly limited to the purposes expressed in this Declaration.

7. Appurtenances to Parcels; Covenants Run with Land; Various Events.

7.1 Appurtenances to Parcels. Each right-of-way, easement, covenant and restriction created by this Declaration is an appurtenance to the Parcel benefited by such right-of-way, easement, covenant and restriction (but no other real property) and may not be transferred, assigned or encumbered except as an appurtenance to the benefitted Parcel. For the purposes of each such right-of-way, easement, covenant and restriction, the benefitted Parcel shall constitute the dominant estate and the burdened Parcel shall constitute the subservient estate.

7.2 Covenants Run with Land; Various Events.

7.2.1 Covenants Run with Land. Each right-of-way, easement, covenant and restriction contained in this Declaration (whether affirmative or negative in nature) shall (a) create an equitable servitude on the burdened Parcel in favor of the benefitted Parcel (but no other real property), (b) constitute a covenant running with the land, (c) benefit and bind every person having any fee, leasehold, Mortgage lien or other interest in any portion of the Parcel concerned to the extent that such portion is affected or bound by the right-of-way, easement, covenant or restriction in question, or to the extent that such right-of-way, easement, covenant or restriction is to be performed on such portion.

and (d) benefit and bind any Owner whose title is acquired by judicial foreclosure, trustee's sale, deed in lieu of foreclosure or other means.

7.2.2 Transfer of Parcel. If any Owner transfers all or any portion of the Parcel owned by such Owner, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants of such Owner contained in this Declaration, and if the transferring Owner has by such transfer transferred all of such Owner's ownership interest in such Parcel, such transferring Owner shall be released and discharged from all obligations under this Declaration that accrue after the date of recordation in the official records of the instrument effecting such transfer.

7.2.3 Effect of Breach. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration (but such limitation shall not affect any other right or remedy or limit any obligation that any Owner may have under this Declaration by reason of any such breach), or defeat or render invalid the lien of any Mortgage made in good faith and for value as to any Parcel.

7.2.4 Identical Ownership. The ownership of both Parcels by the same person shall not result in the termination of this Declaration.

7.2.5 Priority of Declaration. The interests in and rights concerning any portion of the Parcels held by or vested in the undersigned or any other person on or after the date of this Declaration shall be subject and subordinate to the arrangement provided for in this Declaration, and the arrangement provided for in this Declaration shall be prior and superior to such interests and rights, as may be necessary to effectuate all of the terms and provisions set forth in this Declaration. The undersigned are the sole Owners of the Parcels.

8. Modification. This Declaration and any right-of-way, easement, covenant or restriction contained in this Declaration may not be terminated, extended, modified or amended without the consent of each Owner, and any such termination, extension, modification or amendment shall be effective on recordation in the official records of a written document effecting the same, executed and acknowledged by each Owner; provided, however, that no such termination, extension, modification or amendment shall affect the rights of any Mortgagee holding a Mortgage constituting a lien on any Parcel unless such Mortgagee consents to the same in writing.

9. Mutual Indemnification. Each Owner (the "Indemnitor") agrees to indemnify, defend and hold the other Owner (the "Indemnitee") harmless from and against any and all losses, damages, claims, suits, actions, judgments, liabilities and expenses, including, without limitation, reasonable attorneys' fees (collectively, "Losses"), arising out of, or with respect to the use of the Easement Area by the Indemnitor or any party using or claiming a right to use the Easement Area by, through or under the Indemnitor; provided, however, that the indemnification obligation created by this Paragraph shall be expressly conditioned upon the Indemnitee (i) delivering to the Indemnitor prompt notice of any event giving rise to such indemnification obligation, and (ii) providing the Indemnitor the opportunity to defend against any Losses.

10. Relocation of the Easement Area. At any time, or from time to time, either Owner may relocate all or any portion of Easement Area located on such Owner's Parcel. If an Owner decides to relocate the Easement Area, such Owner shall give the other Owner sixty (60) days notice of such

relocation. An Owner's relocation of the Easement Area shall in no event require relocation of the Easement Area on the other Owner's Parcel, unless the other Owner agrees in writing to such relocation. Upon relocation of the Easement Area, the relocating Owner shall construct or cause to be constructed improvements in the relocated Easement Area that are of at least the same quality as the improvements existing in the portion of the Easement Area being relocated at the time of the relocation. Upon an Owner's relocation of the Easement Area in accordance with the terms and conditions of this Paragraph 10, each Owner shall execute and cause to be recorded in the official records, an amendment to this Declaration that amends Paragraph 1(a) so as to accurately describe the relocated Easement Area. As of the date of such amendment, all rights and interests of an Owner in and to any portion of the former Easement Area that is not a part of the Parcel owned by that Owner and not then included in the description of the Easement Area, as amended, shall terminate and be of no further force and effect.

11. Attorneys' Fees. If any Owner brings suit to enforce or interpret this Declaration or for damages on account of the breach of any provision of this Declaration, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

12. General Provisions. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. This Declaration shall inure to the benefit of, and be binding on, each Owner and the heirs, personal representatives, successors and assigns of each Owner. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration.

THE UNDERSIGNED have executed this Declaration on the respective dates set forth below, to be effective as of the date first set forth above.

PARCEL A OWNER:

KWIK-FIT HOLDINGS PLC,
a British Public Company

By Kenneth McGill
~~Robert Huthersall~~ KENNETH MCGILL
Secretary

Date: 4 July 1996

00188200 Bk00327 Pg00200

PARCEL B OWNER:

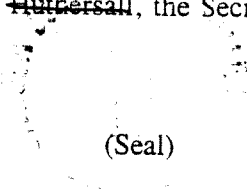
EAST MOUNTAIN, INC.
a Utah Corporation

By: Steven J. Fris
Its: President

Date: 7-11-96

Country of Scotland)
City of Edinburgh) :SS

The foregoing instrument was acknowledged before me this 4 day of ^{July} ~~May~~, 1996, by ~~Robert~~ ^{Kenneth} ~~Huthersall~~, the Secretary of Kwik-Fit Holdings plc.



(Seal)

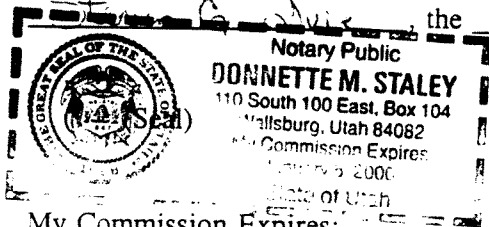
JRM MacQueen
NOTARY PUBLIC

My Commission Expires:
N/A

Residing at:
EDINBURGH - SCOTLAND.

STATE OF UTAH)
COUNTY OF WASATCH) :SS

The foregoing instrument was acknowledged before me this 11th day of May, 1996, by Steven J. Fris the President of East Mountain, Inc.

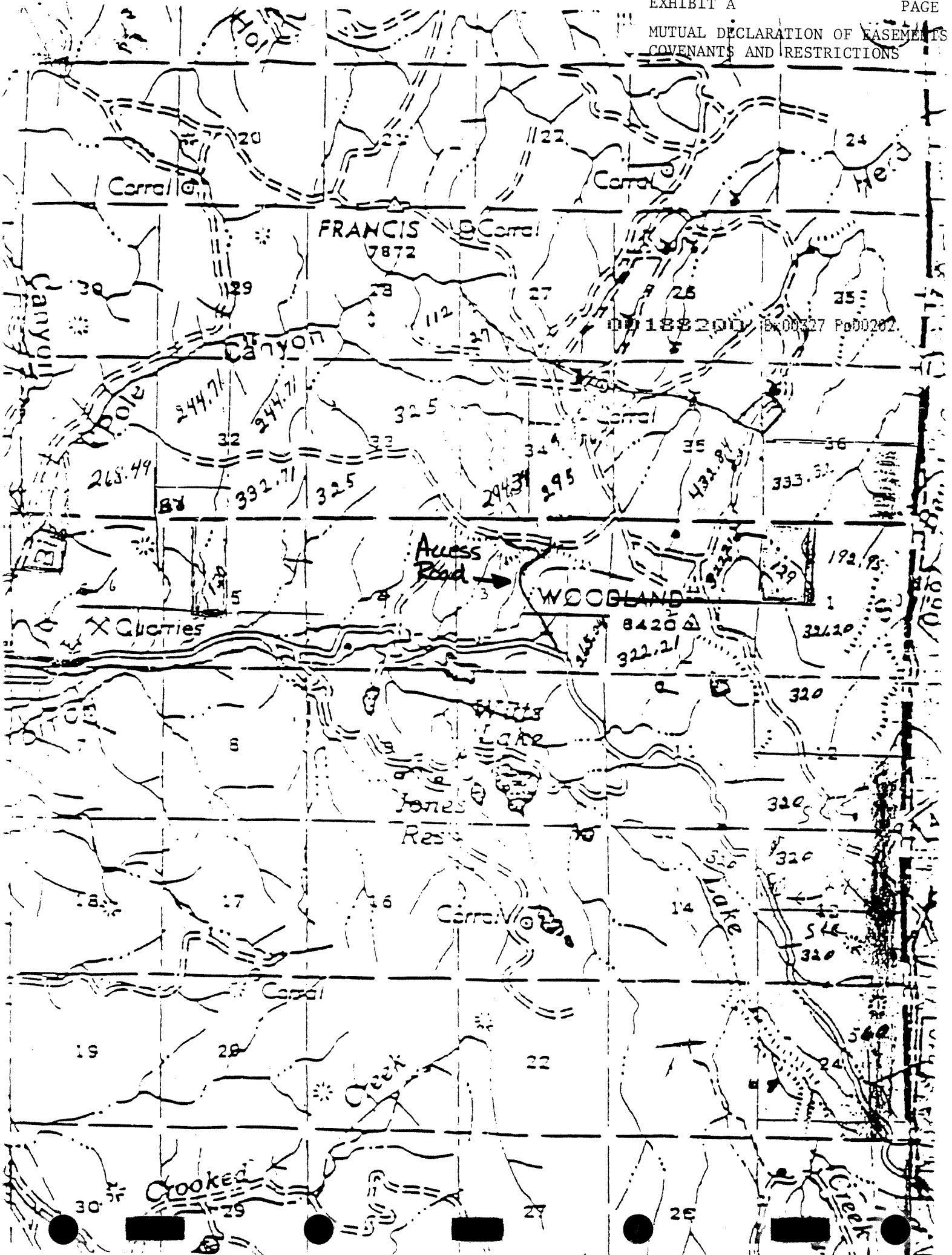


My Commission Expires:

1/5/2000

Donnette M. Staley
NOTARY PUBLIC

Residing at:
110 So. 100 East Wallsburg, UT 84032

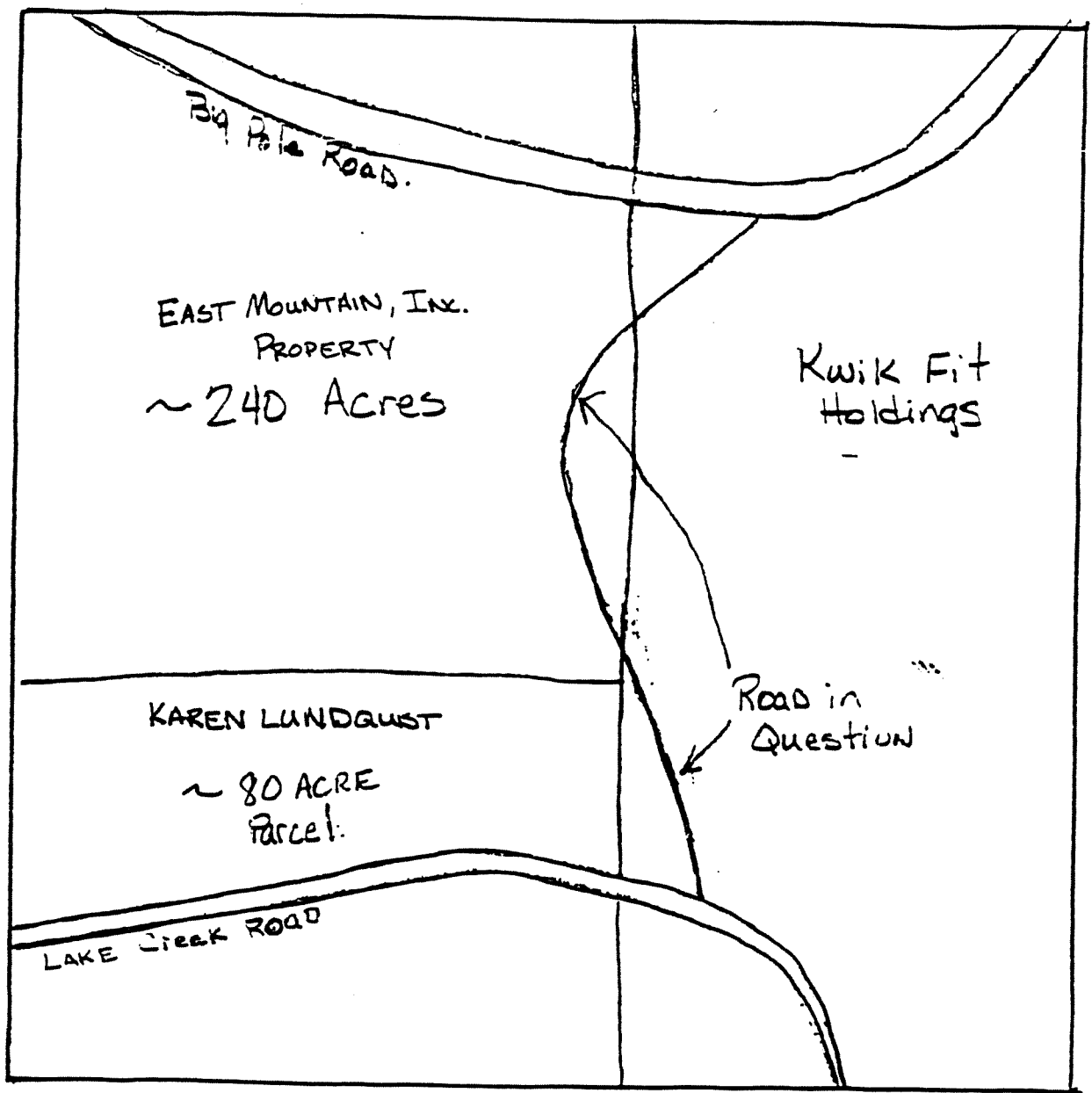


Lake Creek
SECTION 3 T4S, R6E, 5LB+M

N

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