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RECD B HITCH-SANPETE COUNTY RECORDER
2000 OCT 31 16:49 PM FEE \$50.00 BY
RECORD: SKYLINE MOUNTAIN RESORT
13-14-4
89, 0, 15, 16, 17, 18, 20, 21-4-52

WATER AND ROAD LEASE AGREEMENT

This Lease Agreement ("Agreement" or "Lease") is entered into this 26 day of Oct, 2000, by and between the Skyline Mountain Special Service District, a valid Utah governmental entity (hereinafter referred to as "District") and Sports Haven International, Inc. d.b.a. Skyline Mountain Resort, a valid Utah, not for profit corporation, doing business in Sanpete County, Utah (hereinafter referred to as "Resort").

RECITALS

- WHEREAS:** It is the desire of the Resort to provide culinary water, where practical, and road construction and maintenance services for its members, and
- WHEREAS:** It is advisable to have a governmental or quasi-governmental entity provide said road and water services, and
- WHEREAS:** Skyline Mountain Special Services District ("District") was formed for the specific purpose of providing road and water services to the resort, and
- WHEREAS:** The Resort is the owner of an existing road system, certain water rights, and an existing water system which the District requires for its intended purposes, and
- WHEREAS:** The Resort is willing to lease, under the following condition, Resort's roads, water system, and water rights, and
- WHEREAS:** The district is willing to be bound by said conditions, and
- WHEREAS:** The district is willing to improve and maintain the water system and roads within the Resort

NOW THEREFORE, In consideration of the mutual covenants herein contained and the sufficiency of said consideration being hereby acknowledged, the parties agree as follows:

**SECTION I.
TERM**

1. Lessor agrees to lease the existing road system, herein after discribed and made a part of this agreement in Exhibit A, domestic water system, and any and all owned water rights consisting of but not limited to: (a) all rights in "SMR Club Well" (Water Right 65-368), (b) all rights in "Shelley" or Manager Cabin well, (c) all Hollow (Water Right 65-23), e. all rights in the 8 unnamed springs (Water Right 65-1713), f. all rights connected with SMR's ownership of 49.5 class A shares in Birch Creek Irrigation Company, to the

District, commencing on the date of this Lease and continuing for a period of Forty Nine (49) years subject to lessor's and Lessee's unqualified right to terminate the lease as provided herein.

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2. District shall have the right to automatically renew this lease, with sufficient written notice, if done so at least 6 months prior to the termination of lease granted herein.

**SECTION II.
PRICE**

3. The District shall pay the sum of Ten Dollars (\$10) per year for the lease of the existing water system and water rights, and Forty Dollars (\$40) per year for the lease of the Road System. Such Lease payment shall be made before December 31 of the preceding year.

**SECTION III.
RIGHT TO TERMINATE LEASE**

4. Resort's Right to Terminate Lease:

- A. The parties understand that this agreement is made for the sole benefit of Resort's members, and Resort may immediately terminate this agreement if the roads, water system and/or water rights leased herein are used for the benefit of any person, persons, or entity which are not a member of members of Resort, unless such use by or for guests, governmental agencies, irrigation districts or others is for the material benefit of members of the Resort.
- B. District shall put all leased water rights to Beneficial Use as defined by the State of Utah Department of Water Resources. Failure to do so shall amount to a material breach of this lease agreement and vest Resort with right to terminate said lease.
- C. Resort's right to terminate shall be limited in so far as water system, or water rights may be previously encumbered by the State of Utah, any of its agencies or other lending institution(s), provided said financing was for the sole purpose and benefit of Resort's members. It is acknowledged and agreed that this provision shall apply to all or any part of the water or water rights covered by this agreement.
- D. Resort may also terminate this agreement if District is in breach thereof.

5. District's Right to Terminate Lease:

- A. District shall have the right to terminate this agreement, upon giving written notice of termination to Resort, at least ninety (90) days prior to the date of said requested termination.
- B. District shall have the right to immediately terminate this agreement in the event

that District is dissolved, annexed or in any way disbanded by Sanpete County.

C. District may also terminate this agreement is Resort is in breach thereof.

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SECTION IV.
TERMS AND CONDITIONS OF USE

6. The roads, water system, and water rights agreed to be leased herein, shall be used by District for the benefit and best interest of the members of Resort, and only after District has established one or more Special Improvement District(s) pursuant to Sec. 17A-2-301, et seq. UCA (1953) or other applicable Utah State laws. Further, it is agreed and understood that the creation of a Special Improvement District(s) by District is for the sole purpose of providing representation for all of Resort's property interest holding members. Levies to cover normal repair and maintenance are exempt from this provision.
7. District shall specifically, under this agreement, be permitted to incumber Resort's water rights, so long as said encumbrances are for the purpose of financing the improvement, construction, maintenance and/or administration of the infrastructure, delivery of culinary water, or acquisition of additional water for the benefit of, and or sale of Resort's water by District to District's financing source(s), District understands and agrees that UCA Sec. 16-6-61 UCA (1952) is made a condition of this agreement and shall be fully complied with.
8. District agrees to use said water in strict compliance with this agreement, and also to use such water in accordance with the laws of the State of Utah and as approved by the Utah State Engineer and/or State of Utah Safe Drinking Water Board. District further agrees to beneficially use such water leased herein on a continual basis and to the fullest extent possible and that specific records of this use shall be maintained by District and made available to Resort upon request by Resort.
9. Resort specifically agrees to allow District to immediately, upon execution of this agreement, to assume Resort's responsibility for providing culinary water to existing members of Resort. In addition, District shall be responsible for invoicing and collecting the costs associated with providing Resort members culinary water. Pursuant to District's responsibility under this lease to provide culinary water to members of resort, District shall also have the right, so long as District is not in breach of this lease, to place and maintain existing and future water lines in the Resort's roads, provided that District maintain, improve and/or construct existing and future roads as needed or requested by Resort. All road improvements, maintenance and or construction shall be performed through a Special Improvement District in the same manner as the development and maintenance of the water delivery system. Further, District shall be responsible for proper signing, patrolling, and regulation of the road system to maintain safe access for Resort members.
10. Resort has previously collected funds for the purpose of providing culinary water to its

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members and agrees to use said funds as seed money for District. Provided, however, that District first presents a budget to Resort for Resort's review. Any money granted under this paragraph shall be expended for the sole purpose of maintaining and/or providing culinary water for Resort's members. It is expected by both parties that District will provide Resort with copies of budgets and financial statements as requested.

11. Pursuant to District's obligation to provide water under this agreement, District agrees to be solely responsible for all legal and administrative actions to transfer water to areas within Resort. Further, District shall also be solely responsible for purchasing, at reasonable prices, all required water to meet Resort's culinary, recreational and irrigation needs. District will be responsible to deliver irrigation water to Resort's holding tanks, and/or reservoir. Resort will be responsible for operation and maintenance of Resort's irrigation system.

12. It is agreed and understood that the financial arrangements as and between the Resort and the District shall be as follows:

A. In order for the Resort to provide 'seed money' to the District for the purpose of providing a financial basis for the District to cover set-up costs, maintenance and emergency repair needs that may occur prior to the adoption of the first annual SSD budget, a sum of money equal to the "Water bill annual income" for the year of 2000 shall be transferred by Resort to the District within 5 days of the execution of this Lease Agreement. For the period ending 12/31/2000, any maintenance expenses greater than \$100, such as pump replacement etc., will be paid for by Resort.

B. It is recognized and agreed by the parties that the water system's repair, maintenance, and extension, along with the repair, maintenance, and upgrading of the road system, constitutes a significant portion of Resort's function. To assure adequate funding of the District following its assumption of these functions and to assure that member costs are held at reasonable levels, it is agreed that:

(1) Beginning with the month of January of the year 2001, an amount of \$10 per dues paying member, per month, shall be paid by Resort to District on or about the last day of the month.

(2) It is agreed that the above mentioned \$10 shall be derived by the Resort from the current Member Dues, without an increase to such except as future needs may dictate, and Resort enabling documents allow.

(3) The Resort shall provide the \$10 per dues paying member, per month, to the District as long as District uses such funds for the purposes and in the manner prescribed by the Lease agreement. The Resort and District recognize that Resort's members have the right, by a vote of the membership, or by a vote of their duly elected Trustees to terminate this

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agreement, but such termination shall not be effective until the end of the last approved budget cycle (refers to the current or 'last' county commission approved budget cycle). This right to terminate is also limited by any encumbrance of such funds that arises from financial agreements or commitments that the District has made in good faith pursuit of its obligations under the Lease Agreement between Resort and District.

**SECTION V.
GENERAL TERMS AND CONDITIONS**

13. **Integration Clause:** This document and those incorporated by reference constitute the entire agreement between the parties and may not be amended except in writing, and must be signed by the Parties.
14. **Exhibits Incorporated:** Each Exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.
15. **Attorneys' Fees:** In the event of any action or suit by a Party against the other Party for any reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable attorneys' fees.
16. **Governing Law:** It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this agreement or any provision thereof shall be instituted only in the courts of the State of Utah.
17. **Remedies for Breach:** In addition to any other remedies allowed under law or equity, the Parties shall specifically be entitled to Specific Performance of the terms and conditions under this agreement.
18. **Successors and Assigns of the Parties:** This Agreement shall be binding upon the Parties and their successors and assigns.
19. **Headings:** The paragraph headings of this Agreement are for the purposes of performance only and shall not limit or define the provisions of this Agreement or any of said provisions.
20. **Severity of Partial Validity:** If any term, covenant, paragraph or condition of this Agreement or the application thereof, to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each such term, covenant or condition of this Agreement shall be valid and

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enforceable to the full extent permitted by law.

21. **Warranty of Authority:** Each Party signing or executing this agreement warrants that they have full authority to sign this Agreement and by signing said Agreement do bind the Parties thereto.

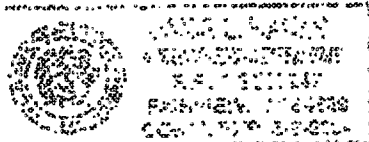
IN WITNESS WHEREOF, Sports Haven International, Inc. (d.b.a. Skyline Mountain Resort) and Skyline Mountain Special Service District have executed this agreement effective as of the date first above written.

FOR: SPORTS HAVEN INTERNATIONAL, INC.
d.b.a. Skyline Mountain Resort


M. Roy Fox, President of Board of Trustees

STATE OF UTAH)
)
)
County of SAN PETE)

Personally appeared before me M. Roy Fox and signed the foregoing WATER AND ROAD LEASE AGREEMENT in his capacity as President of Sports Haven International, Inc. (d.b.a. Skyline Mountain Resort) pursuant to a grant of corporate authority from Skyline Mountain Resort Board of Trustees and as evidenced by RESOLUTION no. 00-10-01 attached as exhibit "A", on this 21st day of OCTOBER, 2000.

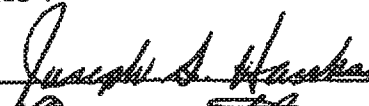
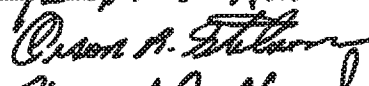



my Commission expires

5-7-2004

Gonia K. Jones
P.O. Box 247
Cannonville, Utah 84629

SKYLINE MOUNTAIN SPECIAL SERVICE DISTRICT

By: 
Its: 


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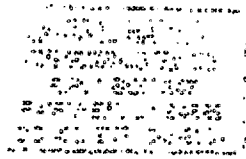
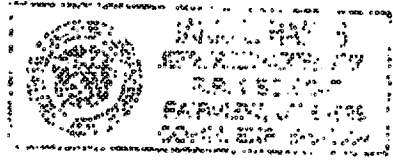
JOSEPH S. HANKS - CHAIRMAN
ORSON R. STILSON - TREASURER
CHARLES L. RIDDLE - SEC.

Personally appeared before me _____ and signed the foregoing
WATER AND ROAD LEASE AGREEMENT in his/her capacity as _____ of
Skyline Mountain Special Service District and warrants the same as having legal authority to so
bind Skyline Mountain Special Service District on this 26th day of October, 2000.

Joseph S. Hanks Chairman _____

Orson R. Stilson _____ Treas.

Charles L. Riddle _____



my commission expires
5-8-2004

Joseph S. Hanks
P.O. Box 247
Zanville, Utah
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**RESOLUTION OF BOARD OF TRUSTEES FOR
SKYLINE MOUNTAIN RESORT**

Number 00-10-01

WHEREAS: It is the desire of the Resort to provide culinary water, where practical, and road construction and maintenance services for its members, and

WHEREAS: It is advisable to have a governmental or quasi-governmental entity provide said road and water services, and

WHEREAS: Skyline Mountain Special Services District ("District") was formed for the specific purpose of providing road and water services to the resort, and

WHEREAS: The Resort is the owner of an existing road system, certain water rights, and an existing water system which the District requires for its intended purposes, and

WHEREAS: The Resort is willing to lease, under the following condition, Resort's roads, water system, and water rights, and

WHEREAS: The district is willing to be bound by said conditions, and

WHEREAS: The district is willing to improve and maintain the water system and roads within the Resort

NOW THEREFORE,

At a meeting of the Board of Trustees for Sports Haven International, Inc., doing business as Skyline Mountain Resort, a non-profit corporation incorporated in the State of Utah, said meeting having been held on the 11th day of October, 2000, at Lehi, Utah, it was duly moved and resolved as follows:

RESOLVED: That Sports Haven International, Inc., d.b.a. Skyline Mountain Resort, has the authority, pursuant to its Bylaws and Conditions, Covenants, and Restrictions, to enter into the attached contract with the Skyline Mountain Special Services District; and

RESOLVED: That the Board of Trustees authorizes Mr. Roy Fox in his capacity as President, to execute and sign said attached contract and thereby binding Skyline Mountain Resort to its terms and conditions; and

RESOLVED: That the Board of Trustees are empowered under Utah State law to lease said assets pursuant to a two-thirds vote of the trustees.

I, Max Henrie, Secretary of the Board of Trustees for Sports Haven International, Inc.,

d.b.a. Skyline Mountain Resort, a Utah non-profit corporation, do certify that the above and foregoing is a true copy of the resolution adopted at a valid regular meeting of the Board of Trustees of said non-profit corporation held at the time and place above-recited. I certify further that the Amended Articles of Incorporation, Amended Bylaws, and Amended Covenants, Conditions, and Restrictions of said non-profit corporation empower the Board of Trustees to pass said resolution.

IN WITNESS THEREOF, I have hereunto subscribed my name as Secretary of said non-profit corporation and affixed the corporate seal thereof this 14th day of October, 2000.



Max Henrie

MAX HENRIE

Secretary of the Board of Trustees for
Sports Haven International, Inc., d.b.a.
Skyline Mountain Resort

PARCEL ONE:

Beginning at the south Quarter corner of Section 8, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence West 15 chains, thence North 15 chains, thence East 15 chains, thence North 10 chains, thence East 5 chains, thence North 10 chains, thence East 5 chains, thence North 5 chains, thence East 5 chains, thence North 5 chains, thence East 10 chains, thence North 5 chains, thence East 10 chains to the East line of Section 8, thence South 10 chains, thence West 15 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 15 chains, thence West 5 chains, thence South 15 chains, thence West 5 chains to the point of beginning.

PARCEL TWO:

Beginning at the West Quarter Corner of Section 9, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence North 30 chains, thence East 10 chains, thence North 10 chains, thence East 60 chains, thence South 10 chains, thence East 10 chains, thence South 55 chains, thence West 5 chains, thence South 10 chains, thence West 5 chains, thence South 5 chains, thence West 20 chains, thence North 10 chains, thence West 15 chains, thence South 10 chains, thence West 20 chains, thence North 5 chains, thence East 10 chains, thence North 20 chains, thence West 10 chains, thence North 15 chains, thence West 15 chains to the point of beginning.

PARCEL THREE:

Beginning at the West Quarter Corner of Section 10, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence North 5 chains, thence East 10 chains, thence South 10 chains, thence West 10 chains, thence North 5 chains to the point of beginning.

PARCEL FOUR:

Beginning at the West Quarter Corner of Section 15, Township 14 South, Range 5 East, Salt Lake Base and Meridian, thence North 15 chains, thence East 5 chains, thence North 5 chains, thence East 5 chains, thence North 10 chains, thence East 5 chains, thence South 5 chains, thence East 5 chains, thence South 15 chains, thence West 5 chains, thence South 5 chains, thence East 10 chains, thence South 30 chains, thence West 10 chains, thence North 5 chains, thence West 10 chains, thence North 5 chains, thence West 5 chains, thence North 15 chains to the point of beginning.

PARCEL FIVE:

Beginning 10 chains East of the North Quarter corner of Section 16, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence East 15 chains, thence South 5 chains, thence West 5 chains, thence South 10 chains, thence West 5 chains, thence South 20 chains, thence West 10 chains, thence North 20 chains, thence East 5 chains, thence North 15 chains to the point of beginning.

PARCEL SIX:

Beginning 5 chains West of the Center of Section 16, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence West 10 chains, thence North 5 chains, thence East 10 chains, thence South 5 chains to the point of beginning.

PARCEL SEVEN:

Beginning at the South Quarter corner of Section 16, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence West 15 chains, thence North 15 chains, thence East 15 chains, thence North 5 chains, thence East 10 chains, thence North 5 chains, thence East 5 chains, thence North 5 chains, thence East 5 chains, thence North 15 chains, thence East 5 chains, thence North 5 chains, thence East 10 chains, thence North 5 chains, thence East 5 chains, thence South 10 chains, thence West 5 chains, thence North 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 10 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, to the point of beginning.

PARCEL EIGHT:

Beginning at the North Quarter corner of Section 17, Township 14 South Range 5 East, Salt Lake Base and Meridian; thence East 5 chains, thence South 5 chains, thence West 10 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 15 chains, thence West 20 chains, thence South 5 chains, thence West 5 chains, thence North 30 chains, thence East 25 chains, thence North 5 chains, thence East 15 chains to the point of beginning.

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PARCEL NINE:

Beginning 10 chains South of the Northwest corner of Section 20, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence East 80 chains to the East line of Section 20, thence South 10 chains, thence West 32.41 chains, thence North 70° West 6.52 chains, thence North 51° West 1.8° chains, thence North 60°30' West 2.78 chains, thence South 80°30' West 2.30 chains, thence South 23° West 1.00 chains, thence North 55° West 1.83 chains, thence North 88° West 3.89 chains, thence North 86°30' West 2.90 chains, thence South 87°30' West 4.13 chains, thence South 60°30' West 1.00 chains, thence South 86° West 1.71 chains, thence South 4 chains, thence West 20 chains, thence North 10 chains to the point of beginning.

PARCEL TEN:

Beginning 10 chains South of the Northwest corner of Section 21, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence East 10 chains, thence North 5 chains, thence East 10 chains, thence North 5 chains, thence East 15 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 5 chains, thence South 5 chains, thence West 20 chains, thence North 10 chains to the point of beginning.

PARCEL ELEVEN:

The Southeast Quarter of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 13, Township 14 South, Range 4 East, Salt Lake Base and Meridian.

PARCEL TWELVE:

Beginning at the Northwest Corner of the Southeast Quarter of the Southeast Quarter of Section 13, Township 14 South, Range 4 East, Salt Lake Base and Meridian; thence South 7.14 chains, thence North 70°15' East 6.24 chains, thence North 63°15' East 7.53 chains, thence North 66°30' East 1.71 chains, thence North 74°30' East 1.38 chains, thence West 14.92 chains to the point of beginning.

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PARCEL THIRTEEN:

Beginning 9.94 chains North of the Southeast Corner of Section 13, Township 14 South, Range 4 East, Salt Lake Base and Meridian; thence North 10.06 chains, thence West 4.75 chains, thence South .25 chains, thence South 47°30' West 1.78 chains, thence South 66°30' West 1.71 chains, thence South 63°15' West 7.53 chains, thence South 70°15' West 6.24 chains, thence East 4.55 chains, thence South 2.42 chains, thence East 15.43 chains to the point of beginning.

PARCEL FOURTEEN:

Beginning at a point 17.75 chains South of the Northeast Corner of Section 18, Township 14 South, Range 5 East, Salt Lake Base and Meridian; thence South 30° West 2.25 chains, thence South 43° West 2.63 chains, thence South 1° West 2.00 chains, thence South 51°30' West 1.84 chains, thence South 12°30' West 1.60 chains, thence South 51°30' West 1.60 chains, thence South 98°30' West 1.45 chains, thence South 42° West 1.75 chains, thence South 71° West 2.05 chains, thence North 68°30' West 1.55 chains, thence South 57° West 1.27 chains, thence North 87° West 2.35 chains, thence North 80° West 2.12 chains, thence North 61°20' West 2.24 chains, thence North 73° West 1.60 chains, thence North 31°30' West 1.50 chains, thence North 42° West 2.00 chains, thence North 29°30' West 2.10 chains, thence North 36° West 2.25 chains, thence North 50° West 1.45 chains, thence North 75°30' West 1.38 chains, thence North 34° West 1.42 chains, thence North 43°30' West 2.00 chains, thence North 61° West 1.70 chains, thence North 26° West 3.16 chains, thence North 58°30' West 2.05 chains, thence North 44°30' West 4.00 chains, thence South 87° West 2.00 chains, thence South 0.91 of a chain, thence South 88° West 7.30 chains, thence South 87°45' West 12.87 chains, thence South 6.75 chains, thence West 20.00 chains, more or less, to the Northwest Corner of Lot 2, Section 18, thence South 40.00 chains, more or less, to the Southwest Corner of Lot 3, Section 18, thence East to the Southeast Corner of said Lot 3, thence East 40.00 chains, thence South 10 chains, thence East 8 chains, thence South 3 chains, thence East 12 chains to the East line of Section 18, thence North 57.25 chains to the point of beginning.

EXCERPTS FROM THE FOLLOWING RECORDS:
Beginning South 68°30' West 17.75 chains, thence North 30° West 2.25 chains, thence South 43° West 2.63 chains, thence South 1° West 2.00 chains, thence South 51°30' West 1.84 chains, thence South 12°30' West 1.60 chains, thence South 51°30' West 1.60 chains, thence South 98°30' West 1.45 chains, thence South 42° West 1.75 chains, thence South 71° West 2.05 chains, thence North 68°30' West 1.55 chains, thence South 57° West 1.27 chains, thence North 87° West 2.35 chains, thence North 80° West 2.12 chains, thence North 61°20' West 2.24 chains, thence North 73° West 1.60 chains, thence North 31°30' West 1.50 chains, thence North 42° West 2.00 chains, thence North 29°30' West 2.10 chains, thence North 36° West 2.25 chains, thence North 50° West 1.45 chains, thence North 75°30' West 1.38 chains, thence North 34° West 1.42 chains, thence North 43°30' West 2.00 chains, thence North 61° West 1.70 chains, thence North 26° West 3.16 chains, thence North 58°30' West 2.05 chains, thence North 44°30' West 4.00 chains, thence South 87° West 2.00 chains, thence South 0.91 of a chain, thence South 88° West 7.30 chains, thence South 87°45' West 12.87 chains, thence South 6.75 chains, thence West 20.00 chains, more or less, to the Northwest Corner of Lot 2, Section 18, thence South 40.00 chains, more or less, to the Southwest Corner of Lot 3, Section 18, thence East to the Southeast Corner of said Lot 3, thence East 40.00 chains, thence South 10 chains, thence East 8 chains, thence South 3 chains, thence East 12 chains to the East line of Section 18, thence North 57.25 chains to the point of beginning.