



|   |                                       |
|---|---------------------------------------|
| DISTRICT COURT, EL PASO COUNTY, COLORADO<br>Court Address:<br>20 East Vermijo Avenue<br>Colorado Springs, CO 80903                            |                                       |
| IN RE THE ORGANIZATION OF THE BANNING<br>LEWIS RANCH METROPOLITAN DISTRICT NO. 5,<br>CITY OF COLORADO SPRINGS, COUNTY OF EL PASO,<br>COLORADO | ▲ COURT USE ONLY ▲                    |
| By the court  | Case No. 05 CV 3833<br>Div.: 5 Ctrm.: |
| <b>ORDER AND DECREE TO CREATE DISTRICT</b>  |                                       |

THIS MATTER coming for consideration by the Court, and it appearing that the election, held on the 1st day of November, 2005, at which there was submitted the matter of the organization of Banning Lewis Ranch Metropolitan District No. 5 (the "District"), City of Colorado Springs, County of El Paso, State of Colorado, the election of Directors for such District and the question necessary to implement the provisions of Section 11 of Article XVIII of the Colorado Constitution as applied to the new special district, was duly held by the Judges of Election appointed as specified in the Order of Court entered on the 12<sup>th</sup> day of October, 2005;

AND IT FURTHER appearing that the required Notice of Organizational Election was duly published in compliance with the aforementioned Order in the Daily Transcript, a newspaper of general circulation in the proposed District, by publication as defined in Section 32-1-103(15) and 1-5-207(2), C.R.S. as shown in the Proof of Publication on file in this proceeding, and further that written notice was duly posted at the office of the Designated Election Official at least ten days prior to the election and until two days after the election, all in compliance with law, and the Order of this Court; and that all of said ballots were cast at said election by eligible electors of the proposed District who were registered to vote pursuant to the Uniform Election Code of 1992 (parts 1 to 13 of Title 1, C.R.S.), as amended, and who either had been residents of the proposed District for not less than thirty (30) days, or who or whose spouse own taxable real or personal property situated within the boundaries of the proposed District, whether said person resides within the proposed District or not, or who are obligated to pay taxes under a contract to purchase taxable property within the boundaries of the proposed District. That the following qualified persons were duly elected as Directors of the District for the indicated terms following the year of organization of the District:

| NAME                | TERM                                      |
|---------------------|---|
| Gregory J. Barbuto  | Until the second regular election in 2008 |
| Courtney L. Barbuto | Until the second regular election in 2008 |

The following ballots were cast on the question of organization of the proposed District:

**BALLOT QUESTION MM**

Shall the Banning Lewis Ranch Metropolitan District No. 5 be organized?

| BALLOT QUESTION MM | NUMBER OF VOTES<br>CAST |
|--------------------|-------------------------|
| Yes                | TWO (2)                 |
| No                 | ZERO (0)                |

The following ballots were cast on the question concerning the provisions of Section 11 of Article XVIII of the Colorado Constitution as applied to the new special district:

**BALLOT QUESTION NN**

Shall members of the Board of Directors of Banning Lewis Ranch Metropolitan District No. 5 be authorized to serve without limitation on their terms of office pursuant to the right granted to the voters of the District in Article XVIII, Section 11 of the Colorado Constitution to lengthen, shorten, or eliminate the limitations on the terms of office imposed by such Section?

| BALLOT QUESTION NN | NUMBER OF VOTES<br>CAST |
|--------------------|-------------------------|
| Yes                | TWO (2)                 |
| No                 | ZERO (0)                |

AND IT FURTHER appearing that the election was held in accordance with Articles 1 to 13 of Title 1, C.R.S. (the Uniform Election Code of 1992, as amended), Article 1 of Title 32, C.R.S. (the Special District Act), the Election Rules of the Colorado Secretary of State, Section 20 of Article X of the Colorado Constitution, and other relevant law;

AND IT FURTHER appearing that all of the provisions of law, and more particularly all of the requirements of Title 32, Article 1, Part 3, Colorado Revised Statutes, as amended, have been complied with, met and performed, in the organization of the District;

AND the Court being fully advised in the premises, hereby ORDERS AND DECREES that:

The District has been duly and regularly organized and shall be known as "Banning Lewis Ranch Metropolitan District No. 5" in the City of Colorado Springs, County of El Paso, State of Colorado. The organization of the "Banning Lewis Ranch Metropolitan District No. 5" shall be effective as of the date of this Order as set forth below.

Said District shall be a quasi-municipal corporation and political subdivision of the State of Colorado with all the powers thereof. The facilities, services, programs, and financial arrangements of the District shall conform as far as practicable to the approved Service Plan and Resolution of the City Council of the City of Colorado Springs, Colorado Approving the Consolidated Service Plan for Banning Lewis Ranch Metropolitan District Nos. 1-7. The approved Service Plan and Resolution of Approval required by Title 32, Article 1, Part 2, Colorado Revised Statutes, as amended, previously filed in the within action shall be and the same are hereby incorporated by reference in this Order, and may be amended in the future as provided by law.

In accordance with Section 32-1-305.5(5), C.R.S., and under the authority of the Clerk of the Court, the Designated Election Official shall issue certificates of election for the directors elected.

The Court finds that the ballot questions set forth above passed.

The District consists of approximately 111.4 acres and is located within the City of Colorado Springs, El Paso County, Colorado, as more particularly described as provided in **Exhibit A**, attached hereto and incorporated herein by reference.

The Board of Directors shall hereafter take such steps and proceedings as the needs of the District require.

DONE IN OPEN COURT this 1 day of Dec, 2005.

BY THE COURT:

*[Signature]*  
District Court Judge

State of Colorado, County of El Paso  
Certified to be a true, and correct  
copy of the original in my custody.

DEC 09 2005

M. V. PERRY

CLERK OF THE DISTRICT/COUNTY COURT  
By *[Signature]* Deputy





EXHIBIT A  
**SURVCON INC.**  
 PROFESSIONAL SURVEYORS

7800 E. DORADO PLACE  
 SUITE 101  
 GREENWOOD VILLAGE, CO 80111  
 TELEPHONE: 303/858-0404  
 FACSIMILE: 303/858-0606

**LEGAL DESCRIPTION - SPECIAL DISTRICT 5**

A PORTION OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 65 WEST, 6<sup>TH</sup> PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SECTION 34, TOWNSHIP 13 SOUTH, RANGE 65 WEST, 6TH P.M., BEING MONUMENTED AT THE SOUTHEAST CORNER OF SAID SECTION 34 BY A RECOVERED AND ACCEPTED 2.5 INCH ALUMINUM CAP STAMPED "DREXEL, BARRELL & CO., L.S. 17664, 1985" IN CONCRETE AND AT THE EAST ONE-QUARTER CORNER OF SAID SECTION 34 BY A RECOVERED AND ACCEPTED 2.5 INCH ALUMINUM CAP STAMPED "DREXEL, BARRELL & CO., L.S. 17664" IN CONCRETE, BEARING N 01°13'51" E. 2,648.58'.

THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN.

CONTAINING 39.14 ACRES, MORE OR LESS.

EXHIBIT ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

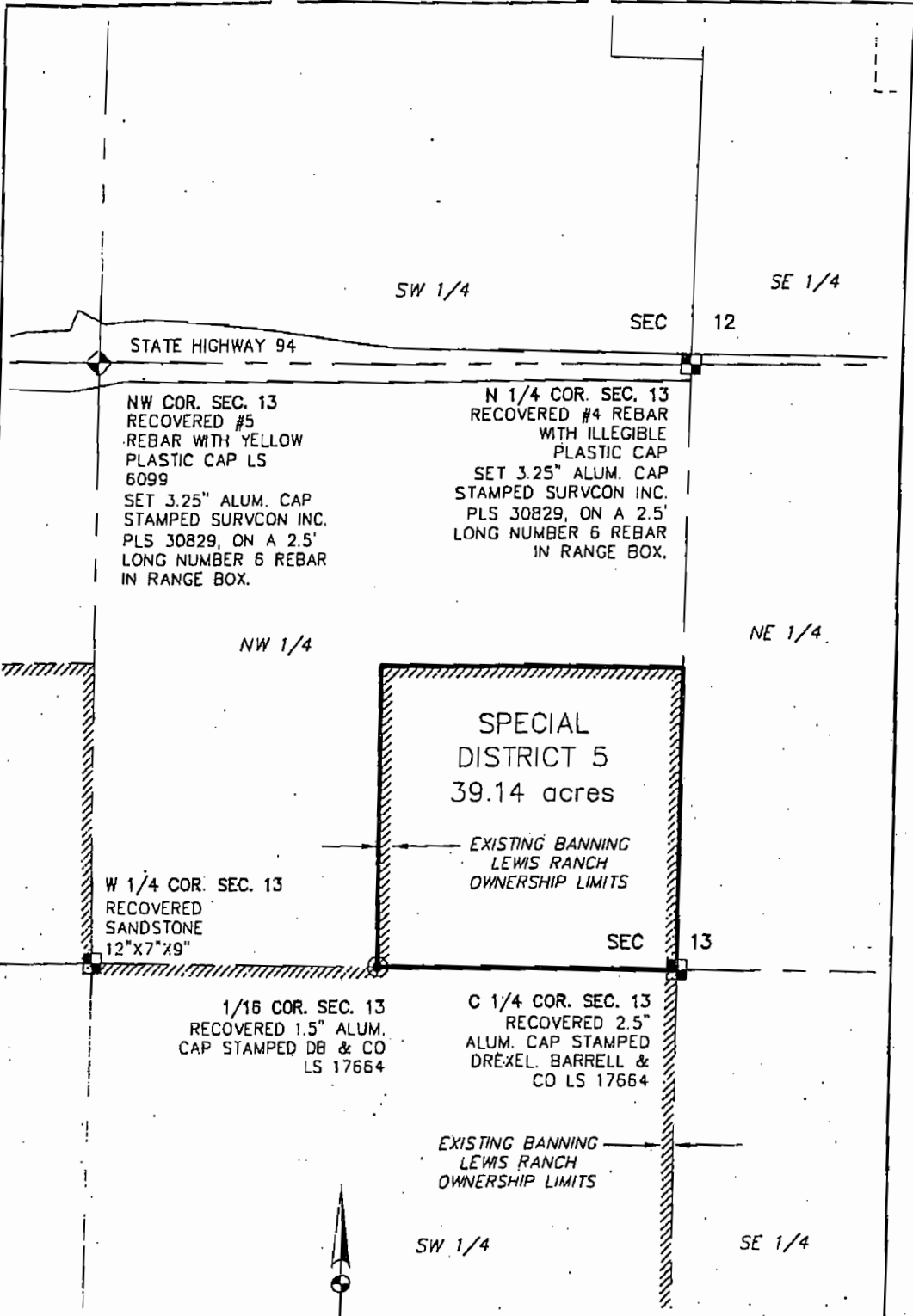
LEGAL DESCRIPTION STATEMENT

I, JEFFREY E. KISTNER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

*Jeffrey E. Kistner*

10-18-2007  
 DATE

JEFFREY E. KISTNER, PROFESSIONAL LAND SURVEYOR  
 COLORADO NO. 30829  
 FOR AND ON BEHALF OF SURVCON INC.  
 7800 E. DORADO PL., STE. 101  
 GREENWOOD VILLAGE, CO 80111



NW COR. SEC. 13  
RECOVERED #5  
REBAR WITH YELLOW  
PLASTIC CAP LS  
6099  
SET 3.25" ALUM. CAP  
STAMPED SURVCON INC.  
PLS 30829, ON A 2.5'  
LONG NUMBER 6 REBAR  
IN RANGE BOX.

N 1/4 COR. SEC. 13  
RECOVERED #4 REBAR  
WITH ILLEGIBLE  
PLASTIC CAP  
SET 3.25" ALUM. CAP  
STAMPED SURVCON INC.  
PLS 30829, ON A 2.5'  
LONG NUMBER 6 REBAR  
IN RANGE BOX.

W 1/4 COR. SEC. 13  
RECOVERED  
SANDSTONE  
12"x7"x9"

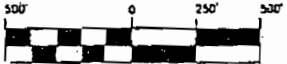
1/16 COR. SEC. 13  
RECOVERED 1.5" ALUM.  
CAP STAMPED DB & CO  
LS 17664

C 1/4 COR. SEC. 13  
RECOVERED 2.5"  
ALUM. CAP STAMPED  
DREXEL BARRELL &  
CO LS 17664

EXISTING BANNING  
LEWIS RANCH  
OWNERSHIP LIMITS

EXISTING BANNING  
LEWIS RANCH  
OWNERSHIP LIMITS

GRAPHIC SCALE




( IN FEET )  
1 inch = 500 ft.



SCALE: 1"=500'

EXHIBIT

|  |            |          |                         |
|--|------------|----------|-------------------------|
|  <b>SURVCON INC.</b><br>PROFESSIONAL SURVEYORS<br>7510 E. DORADO PL., STE. 101<br>GREENWOOD VILLAGE, CO 80111<br>PH. 303.838-0404 |            |          |                         |
| SCALE:   | 1" = 500'  | JOB NO.  | 110-054                 |
| DATE:  | 09-01-2004 | DRAFTING | Metro Districts\BoseMap |
| DRAWN BY:  | CB         | SHEET    | 2 OF 2                  |

NOTE: THIS EXHIBIT DOES NOT REPRESENT A  
MONUMENTED SURVEY. IT IS INTENDED ONLY TO  
DEPICT THE ATTACHED DESCRIPTION.



**SURVCON INC.**  
PROFESSIONAL SURVEYORS

7800 E. DORADO PLACE  
SUITE 101  
GREENWOOD VILLAGE, CO 80111  
TELEPHONE: 303/858-0404  
FACSIMILE: 303/858-0606

**Additional Property Also Included  
Within Boundary of District No. 5**

A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST, 6<sup>TH</sup> PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SECTION 34, TOWNSHIP 13 SOUTH, RANGE 65 WEST, 6<sup>TH</sup> P.M., BEING MONUMENTED AS SHOWN HEREON, BEARING N 01°13'51" E, 2,648.58'.

COMMENCING AT THE EAST ONE-QUARTER CORNER OF SAID SECTION 34; THENCE N 29°51'40" E A DISTANCE OF 21,367.81 FEET TO THE NORTH RIGHT-OF-WAY LINE OF FALCON HIGHWAY (RIGHT-OF-WAY VARIES) FROM WHENCE THE SOUTHEAST CORNER OF SAID SECTION 12 BEARS S 44°09'22" E A DISTANCE OF 42.32 FEET, AND THE POINT OF BEGINNING;

THENCE N 89°18'23" W ALONG SAID NORTH RIGHT-OF-WAY LINE AND 30 FEET NORTH OF AND PARALLEL TO (AS MEASURED AT RIGHT ANGLES) THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER OF SECTION 12 A DISTANCE OF 2,659.99 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 24 (RIGHT-OF-WAY VARIES);

THENCE THE FOLLOWING SEVEN (7) COURSES AND DISTANCES ALONG THE EASTERLY AND SOUTHERLY LINES OF SAID U.S. HIGHWAY 24:

1. N 28°27'37" E A DISTANCE OF 4.40 FEET;
2. N 26°55'23" W A DISTANCE OF 102.86 FEET;
3. N 28°28'37" E A DISTANCE OF 13.87 FEET TO A POINT OF CURVATURE;
4. ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2815.00, A CENTRAL ANGLE OF 13°15'24" AND AN ARC LENGTH OF 651.31 FEET;
5. N 50°06'15" E A DISTANCE OF 1,078.12 FEET;
6. N 89°23'58" W A DISTANCE OF 46.15 FEET;
7. N 50°06'21" E A DISTANCE OF 851.34 FEET;

THENCE S 39°53'39" E ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF 8<sup>TH</sup> STREET (60 FOOT RIGHT-OF-WAY) A DISTANCE OF 1,030.76 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1,560.00 FEET, A CENTRAL ANGLE OF 08°56'40" AND AN ARC LENGTH OF 243.53 FEET TO THE WEST RIGHT-OF-WAY LINE OF MERIDIAN ROAD (RIGHT-OF-WAY VARIES);


THENCE S 05°26'23" E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 924.71 FEET TO THE POINT OF BEGINNING.

CONTAINING 72.26 ACRES.

EXHIBIT ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

LEGAL DESCRIPTION STATEMENT

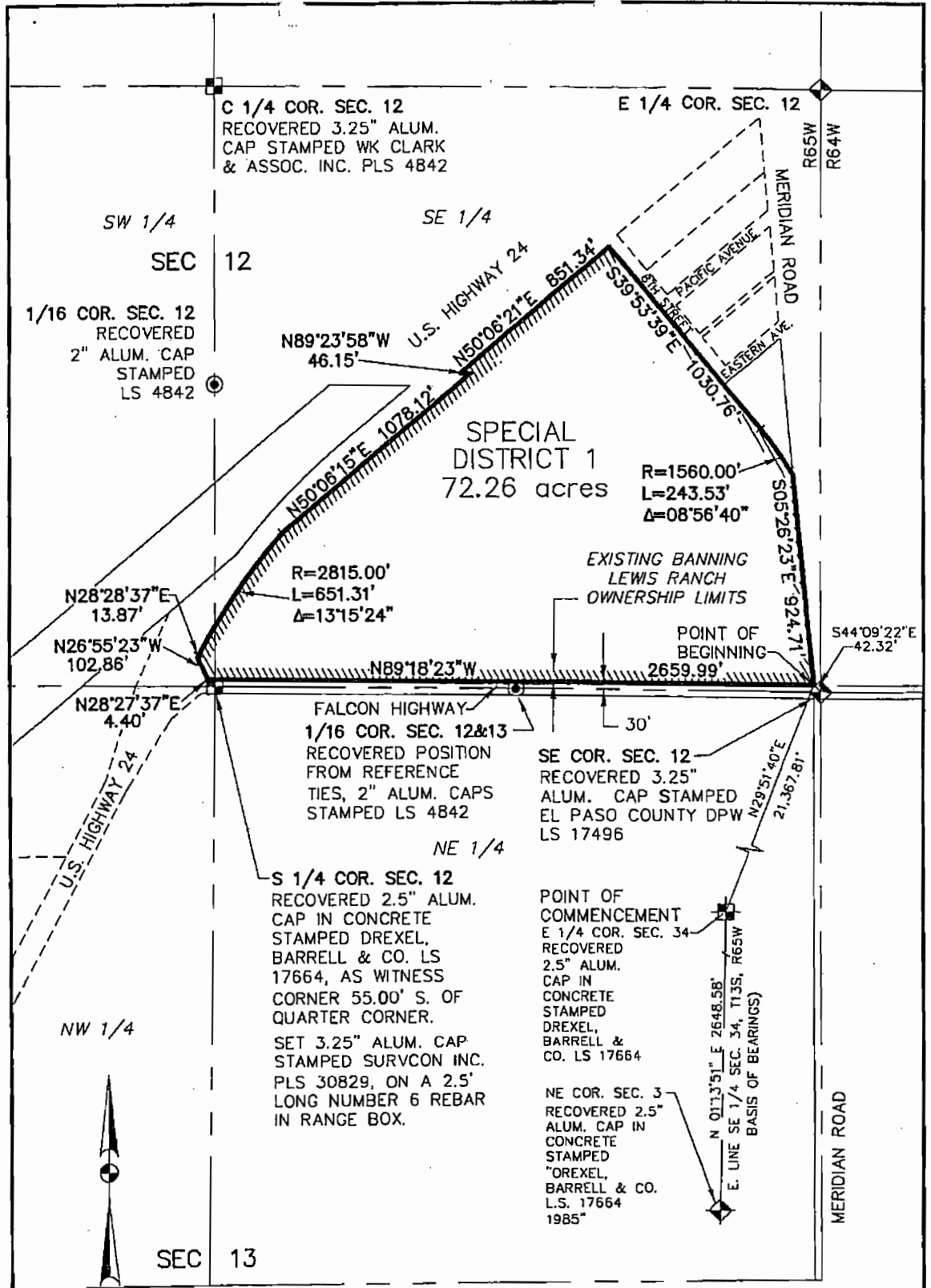
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*Jeffrey E. Kistner*

JEFFREY E. KISTNER, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 30829  
FOR AND ON BEHALF OF SURVCON INC.  
7800 E. DORADO PL., STE. 101  
GREENWOOD VILLAGE, CO 80111

10-18-2004  
DATE




**GRAPHIC SCALE**



( IN FEET )  
1 inch = 500 ft.

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

**EXHIBIT**

|   |            |          |                         |
|---|------------|----------|-------------------------|
|  <p><b>SURVCON INC.</b><br/>PROFESSIONAL SURVEYORS<br/>7800 E. DORADO PL., STE. 101<br/>GREENWOOD VILLAGE, CO 80111<br/>PH. (303) 858-0104</p> |            |          |                         |
| SCALE:  | 1" = 500'  | JOB NO.  | 110-054                 |
| DATE:   | 09-02-2004 | DRAFTING | Metro Districts\BoseMap |
| DRAWN BY:   | CB         | SHEET    | 3 OF 3                  |