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No fee

## LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into this 1<sup>st</sup> day of March, 20  , by and between **ELK MOUNTAIN CATTLE COMPANY** whose address is P.O. Box 514, Hartsel, CO 80449-0514 (herein called Lessor) and the **BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PARK, COLORADO**, a Colorado county whose address is 501 Main Street, PO Box 1373, Fairplay, CO 80440 (herein called Lessee).

Lessee hereby agrees to lease from Lessor the premises situated in the County of Park and State of Colorado, described in Exhibit A hereto, upon the following TERMS and CONDITIONS with special conditions set forth in exhibit B.

**1. Term and Rent.** Lessor leases a 5 acre portion of the above premises for a term of 5 years, with an annual renewal thereafter with the mutual consent of both parties, commencing on January 29th, 2018 and terminating on January 29th, 2023, at the annual rental of four thousand eight hundred forty dollars (\$4,840.00) payable on the first day of February or the first working day thereafter for current lease year. All rental payments shall be made to Lessor, at the address specified above.

**2. Use.** Lessee shall use and occupy the premise solely for the purpose of mining clay for use on Park County roads and draining ways. Lessor represents that the premises may lawfully be used for such purpose.

**3. Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by Lessee.

**4. Regulatory Agencies.** It is understood by the parties that a mining operation shall be conducted on the premises and is subject to the Mine Safety Health Administration (MSHA) which are very rigid and may subject parties to citations and fines if violations are found by MSHA. The mined area is permitted for mining and shall continue to be permitted by Division of Reclamation, Mining & Safety (DRMS) and Park County Department of Development Services and shall be subject to periodic inspections to ensure boundary compliance, safety and ongoing reclamation planning. All permits, citations, and fines are the responsibility of the Lessee.

**5. Utilities.** There are no improvements or utilities located except temporary facilities placed by the lessee for the purpose of mining on the property.

**6. Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the properties at reasonable times and upon reasonable notice, for the purposes of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this lease, to place upon the premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the premises thereafter. Due to the regulatory agencies cited in paragraph 4 above persons entering the mining site must be accompanied by a properly trained and certified Park County employee. Park County shall make every reasonable effort to accommodate the Lessor and or the

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Debra A Green  
Park County Clerk

Lessor's agent.

**7. Possession.** It is understood by the parties that this lease is a new lease; however, the Lessee has mined the subject property and for all intents and purposes already occupies the property.

**8. Liability.** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the leased premises or any part thereof. Nothing herein contained shall be deemed or construed to waive any of the protections afforded to Lessee by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* (the "GIA").

**9. Insurance.** Lessee, at his expense, shall maintain public liability insurance, or self-insurance, including bodily injury in an amount not less than the limits of liability contained in the GIA as it may be amended from time to time. Lessee shall provide Lessor with a Certificate of Insurance showing compliance with this paragraph. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

**10. Taxes.** Lessee is currently exempt from the payment of real property taxes. In the event that during any year of the term of this lease real property taxes are levied on the premises, Lessee shall pay to Lessor upon presentation of paid tax bills an amount equal to 100% of the taxes upon the land and building in which the leased premises are situated. In the event that such taxes are assessed for a tax year extending beyond the term of the lease, the obligation of Lessee shall be proportionate to the portion of the lease term included in such year. Upon release of permit #M1977365 from DRMS and expiration of said lease taxes will be based on the lessors current use of the land.

**11. Attorney's Fees.** In case suit should be brought for recovery of the property or for any sum due hereunder, or because of any act which may arise out of the possession of the property, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorney's fee.

**12. Notices.** Any notice which either party may, or is required to give, shall be given mailing same, postage prepaid, to the address shown above, or at such other places as may be designated by the parties from time to time.

**13. Heirs, Assigns, Successors.** This lease is binding upon and inures to the benefit of the heirs, successors in interest to the parties.

**14. Non-appropriation.** As required by Article X, Section 20 of the Colorado Constitution, any financial obligations of Lessee not to be performed during the current fiscal year contained in this Lease are subject to annual appropriation of sufficient funds by the Board of County Commissioners. Should the Board, in any year during the term of this lease, not appropriate sufficient funds for the performance of its obligations herein contained the premises shall be vacated and possession returned to the Lessor on the last day for which a valid appropriation exists.

**15. Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only in a writing signed by both parties.

**LESSEE:**

BOARD OF COUNTY  
COMMISSIONERS OF THE  
COUNTY OF PARK

**LESSOR:**

By: \_\_\_\_\_

Mike Brazell, Chairman



By: \_\_\_\_\_

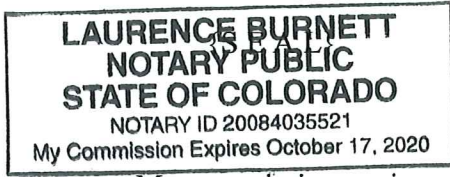
*Monte Downare*

ATTEST:

*Debra A Green*  
Clerk

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Park )

Before me this 01 day of February, 2018 personally appeared  
Monte Downare who executed the above Lease.



My commission expires: 10/17/2020

Laurence Burnett  
Notary Public

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3/1/2018 3:00 PM  
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Debra A Green  
Park County Clerk

Exhibit A

Property Description

No fee

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1 of 2

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R\$0.00 D\$0.00

Debra A Green  
Park County Clerk

QUIT CLAIM DEED

STATE DOCUMENTARY FEE

DATE 5-30-17

\$ 0

THIS DEED, dated this 25 day of May, 2017, between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PARK, COLORADO, grantor, and Elk Mountain Cattle Company whose legal address is P. O. Box 514, Hartsel, CO 80449, grantee:

WITNESSETH, That the grantor, for and in consideration of the sum of Twelve Thousand Dollars (\$ 12,000.00 ), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantees, their heirs and assigns forever, all the grantor's interest in real property, together with improvements, if any, situate, lying and being in the County of Park, State of Colorado, described as follows:


T12, R74, S11, SE4 NE4SE4 11-12-74, Hartsel  
Park County, Colorado

Assessor's schedule or parcel number: 36776

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantees, their heirs and assigns forever

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

  
Mike Brazell, Chairman  
Board of County Commissioners of the County of  
Park, State of Colorado

M.V.D.

NO REAL PROPERTY  
TRANSFERRED BY  
THIS DOCUMENT

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Debra A Green  
Park County Clerk

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Debra A Green  
Park County Clerk

STATE OF COLORADO )

) ss.

COUNTY OF PARK )

The foregoing instrument was acknowledge before me this 25 day of May, 2017,  
by Mike Brazell as Chairman of the Board of County Commissioners of the County of Park, State of  
Colorado.

  
Notary Public

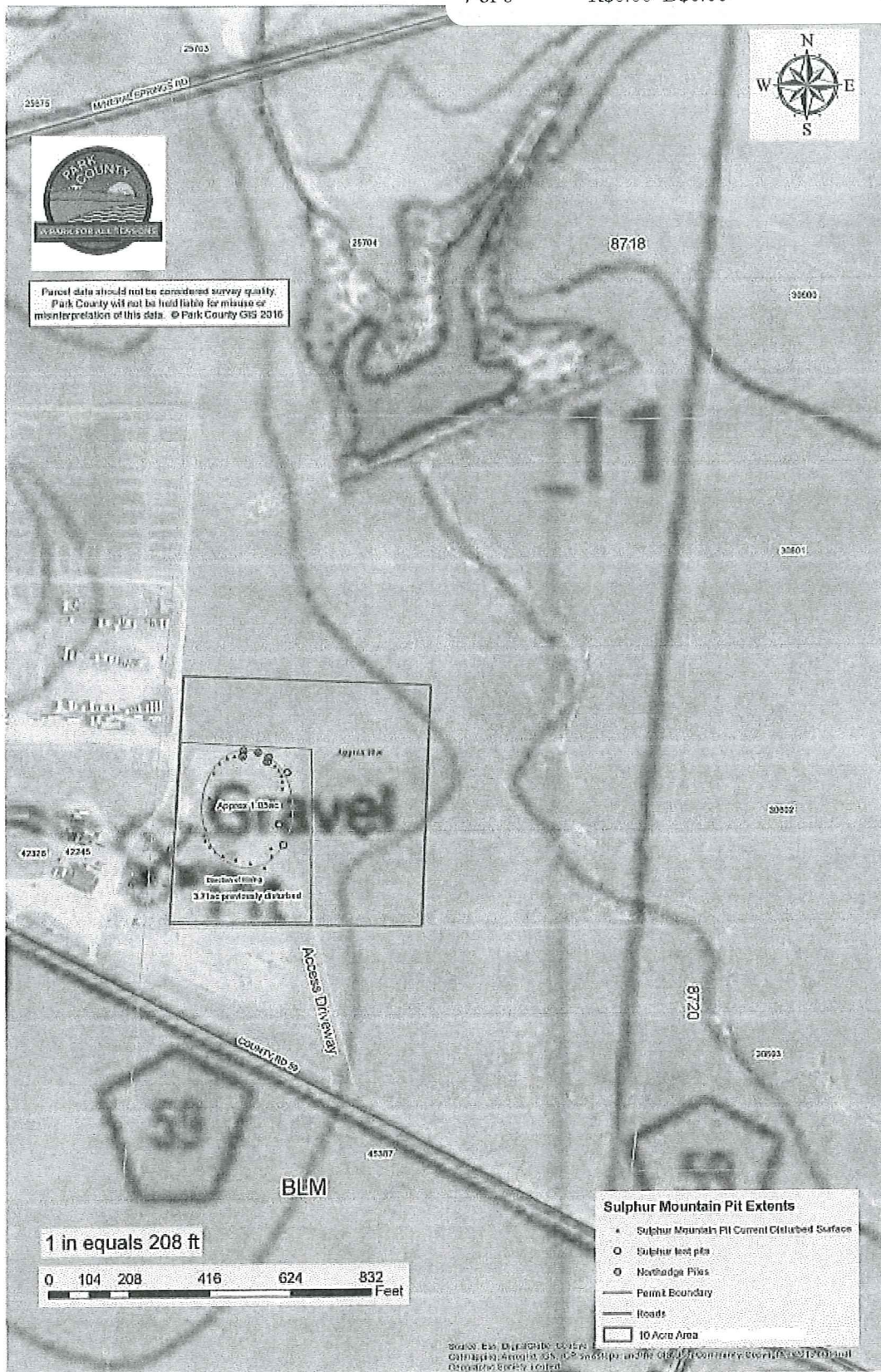
Witness my hand and official seal.

My commission expires: 7-24-18

GINA LYNN LAPPE  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 2014402811  
MY COMMISSION EXPIRES JULY 24, 2018

M.V.D.

Debra A Green  
Park County Clerk



**Exhibit B**

**Lease agreement between Elk Mountain Cattle Company and Board of County  
Commissioners of the County of Park, Colorado for lease of the Sulphur Mountain  
Pit.**

**Special Provisions**

1. A total of 10 acres will be leased for mining operations at the Sulphur Mountain Pit. Simultaneous reclamation will occur along with the mining operations to limit the total disturbed area to no more than 2 acres at any one time.
2. The direction of mining operations and subsequent reclamation will be based upon considerations of Elk Mountain Cattle Company as well as Park County.
3. A wire fence with a functional gate will be maintained around the area of active mining at all times for the protection of livestock.