BLC/10095/1000

PETER G. MORROS, Director

ALLEN BIAGGI, *Administrator*

775) 687-4670

TDD 687-4678

Administration
Water Pollution Control
Facsimile 687-5856

Mining Regulation and Reclamation
Facsimile 684-5259

STATE OF NEVADA
KENNY C. GUINN
Governor

Waste Management
Corrective Actions
Federal Facilities

Air Quality
Water Quality Planning
Facsimile 687-6396

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138

Carson City, Nevada 89706-0851

March 27, 2000

Mr. Dan H. Stewart
President and Chief Executive Officer
Basic Environmental Company
875 West Warm Springs Road
Henderson, Nevada 89015

RE: No Further Action Determination (Nevada Power Substation Property)

Dear Mr. Stewart:

The Nevada Division of Environmental Protection ("NDEP") has completed its review of Basic Environmental Company's renewed request, dated December 28, 1999, for a no further action determination for the Nevada Power Substation Property (the "Property") within the BMI Industrial Complex in Clark County, Nevada. The Property is more fully described in the attached legal description and letter of request, which is incorporated by this reference.

Our review has included available information regarding environmental conditions on the Property including without limitation the Phase I Environmental Conditions Assessment (ECA) for the Basic Management, Inc. Industrial Complex, Clark County, Nevada by Geraghty & Miller, Inc. dated April 14, 1993; the Draft Environmental Conditions Investigation (ECI) Report for the BMI Common Areas, Henderson, Nevada by ERM-West, Inc. dated August 1996; and the letter to NDEP by ERM, dated September 28, 1999, regarding Environmental Conditions in Proposed Nevada Power Substation Vicinity (EC Letter).

Based on our review of this information, we have concluded that no further actions are required or necessary with respect to the soils on the Property to protect human health or the environment. NDEP hereby excludes the soils on the Property from any further environmental assessment or other response action. It should be noted, however, that the groundwater in the upper alluvium (shallow aquifer) below this Property may contain contaminants of concern from sources other than the Property (e.g., waste disposal operations at the BMI Complex), and may be subject to remedial action. Access to the Property may be required to facilitate remediation of this groundwater by the responsible parties. If groundwater is intercepted during construction activities, applicable state and local requirements must be followed.

Based on the same review, NDEP fully releases and discharges the Property from any and all terms, requirements and obligations of those certain Consent Agreements which were entered into by the NDEP respecting the BMI Industrial Complex, dated April 25, 1991 (note 1 below), and February 23, 1996 (note 2 below), and hereby releases, discharges and covenants not to hold any purchaser, tenant, lender or other third party which acquires an interest in the Property, or any of their officers, directors, partners, employees, agents, successors, affiliates or assigns, (individually "Third Party" and collectively "Third Parties") liable or responsible as owners, operators or in any other manner, in law or in equity, under any statute, regulation or any federal, state or common law, for contamination known to exist at or on the Property and described in the ECA Report, Draft ECI Report, EC Letter, legal description and letter of request. The Division reserves, and the foregoing sentence is without prejudice to, all

of its authorities with respect to the discovery of contaminated conditions at, on, in or below the Property that are not described in the ECA Report, Draft ECI Report, and EC Letter, and the receipt by the Division of information, previously unknown to the Division, in the event that either such condition or information indicate an actual or potential threat to human health or the environment. The Division acknowledges that Basic Environmental Company, its parent and affiliate business entities and Third Parties may rely on the covenants in this paragraph in connection with any action by the Division respecting environmental conditions at, on, in or below the Property, and consents to such reliance. Nothing in this letter shall constitute or be construed as any representation or warranty by the Division regarding environmental conditions at, on, in or below the Property. The Division consents to the recordation of these covenants or a recordable notation of them in the Clark County Recorder's Office.

Sincerely,

Allen Biaggi
Administrator

AB:rck

cc: Robin Bain, Basic Environmental Company, 875 West Warm Springs Road, Henderson, NV 89015
David Tundermann, Parsons Behle & Latimer, P.O. Box 45898, Salt Lake City, UT 84145-0898
Barry Conaty, Cutler & Stanfield, 700 14th St., NW, Washington, DC 20005
Philip Speight, City Manager, 240 Water St., Henderson, NV 89015

Notes:

1. The other parties to the consent agreement are Chemstar, Inc., Kerr-McGee Chemical Corporation, Montrose Chemical Corporation of California, Pioneer Chlor Alkali Company, Inc., Stauffer Management Company, Inc., and Titanium Metals Corporation.

2. The other parties to the consent agreement are Basic Management, Inc., Kerr-McGee Chemical Corporation, Montrose Chemical Corporation of California, Pioneer Chlor Alkali Company, Inc., Stauffer Management Company, and Titanium Metals Corporation.

BEC/1009E/N 1

Basic Environmental
COMPANY

December 28, 1999

Mr. Robert C. Kelso, P.E.
Supervisor, Remediation Branch
Bureau of Corrective Actions
Nevada Division of Environmental Protection
333 West Nye Lane
Carson City, Nevada 89706-0866

Subject: Nevada Power Substation NFA Request

Dear Mr. Kelso:

Basic Environmental Company ("BEC") hereby renews its request, originally submitted on 9 September 1999, for a no further action ("NFA") determination by the Nevada Division of Environmental Protection ("NDEP") regarding the so-called Nevada Power substation parcel ("parcel"). The property is more fully described in the legal description attached to the 9 September 1999 letter, and is incorporated by this reference. The parcel is in the BMI Common Areas, the subject of the Preliminary Draft Remedial Alternatives Study (ERM, April 30, 1999) and the Final Draft Remedial Alternatives Study (ERM/NewFields, December 21, 1999)("RAS").

As you know, NDEP has previously indicated its willingness to issue NFA determinations for individual parcels within the BMI Common Areas. In its letter to Basic Management, Inc. ("BMI") dated 8 March 1994, NDEP stated, "if the [environmental] assessment for a particular parcel indicates no public health or environmental problems are present, the Division will issue a letter indicating development may proceed on the property." As explained further below, BEC submits that environmental and risk assessments have been performed which demonstrate that no further action is necessary regarding this parcel under the Consent Agreements between NDEP and the Henderson Industrial Site Steering Committee.

In addition to the environmental assessments cited in BEC's original NFA request, and at NDEP's request, BEC provided a supplemental evaluation of site conditions (ERM letter dated 28 September 1999). As further support, BEC provided an evaluation of the potential nexus between soil and ground water conditions at the Common Areas (ERM, November 1999, *Soil/Groundwater Nexus Evaluation – BEC Common Areas – Henderson, Nevada*). This report demonstrated that (1) the

RECYCLED PAPER

875 West Warm Springs, Henderson, Nevada 89015 • Phone 702.567.0465 • Fax 702.567.0473

chemical concentrations in site soils do not pose a threat to ground water conditions and (2) chemical concentrations in ground water do not pose a threat to human health under future development scenarios.

Finally, Appendix D to the Risk Assessment presented in the RAS evaluates risks to construction workers and resident children from direct exposure to groundwater (i.e., incidental ingestion) and exposure to possible VOC and radon emissions emanating from groundwater. This evaluation considered exposure to the highest concentrations of constituents of potential concern ("COPCs") in the groundwater underlying the BMI Upper Ponds in the vicinity of this parcel, i.e., groundwater downgradient of the active Timet Ponds. It concludes that resulting carcinogenic and non-carcinogenic risks are well below acceptable risk thresholds.

BEC believes that the property has been adequately characterized and does not require remediation. With regard to potential groundwater impacts from potential upgradient sources, including the active Timet Ponds, the available data indicate that there are no adverse health risks from groundwater to the subject property. Therefore, BEC requests that NDEP provide a letter documenting a No Further Action determination and written assurance regarding lack of future liability for the subject parcel. BEC also requests a release of the property from the terms, requirements and obligations of the Consent Agreements entered into by the NDEP respecting the BMI Industrial Complex, dated April 25, 1991 and February 23, 1996.

Thank you for your consideration and assistance.

Sincerely,
BASIC ENVIRONMENTAL COMPANY

Dan H. Stewart
President and Chief Executive Officer

DHS:REB:reb

cc: Tom Whalan, NDEP
David Tundermann, Esq.
Barry Conaty, Esq.
Philip Speight
Robin E. Bain
Jill Quillin, ERM
Mark Jones, Newfields

Basic Environmental
COMPANY

September 9, 1999

Mr. Robert C. Kelso, P.E.
Supervisor, Remediation Branch
Bureau of Corrective Actions
Nevada Division of Environmental Protection
333 West Nye Lane
Carson City, Nevada 89706-0866

Subject: NFA Request

Dear Bob:

Basic Environmental Company ("BEC") hereby requests a no further action determination and a written assurance regarding future liability for the area described as Nevada Power Substation ("Property"), within the BMI Industrial Complex in Henderson and Clark County, Nevada. The property is more fully described in the legal description, which is attached as Exhibit A, and an aerial topographic map attached as Exhibit B, and incorporated by this reference. BEC also requests a release of the Property from the terms, requirements and obligations of the Consent Agreements entered into by the NDEP respecting the BMI Industrial Complex, dated April 25, 1991 and February 23, 1996.

BEC's request is based on several assessments of the Property, including the following:

- *Phase I Environmental Conditions Assessment for the Basic Management, Inc., Industrial Complex, Clark County, Nevada* (Geraghty & Miller, Inc., April 1993)
- *Draft Environmental Conditions Investigation Report - BMI Common Areas, Henderson, Nevada* (ERM, August 1996);
- *Letter to NDEP responding to comments on BMI Common Areas ECI draft report (ERM-West, 20 January 1997).*

P.O. Box 2065, Henderson, Nevada 89009 • Phone 702-565-6485 Fax 702-565-9489

- *Village East project (Sunset North Area) letter describing environmental conditions and workplan for remediation (ERM, August 24, 1999)*

On August 27, 1999, NDEP conditionally approved the August 24, 1999 Sunset North Workplan (last reference cited above) which found this Property to have no public health or environmental problems. BEC believes these reports and maps adequately describe and characterize environmental conditions on the Property and fulfill the environmental assessment requirements of NDEP's letter to Basic Management, Inc., dated March 8, 1994. That letter states, "if the [environmental] assessment for a particular parcel indicates no public health or environmental problems are present, the Division will issue a letter indicating development may proceed on the property". BEC desires to develop the Property, and requests a letter stating that no further actions are necessary with respect to the Property, certifying that development may proceed without environmental restriction and assuring third parties that the NDEP will not seek to hold them liable for any environmental conditions on the Property.

Thank you for your consideration and assistance.

Sincerely,
BASIC ENVIRONMENTAL COMPANY

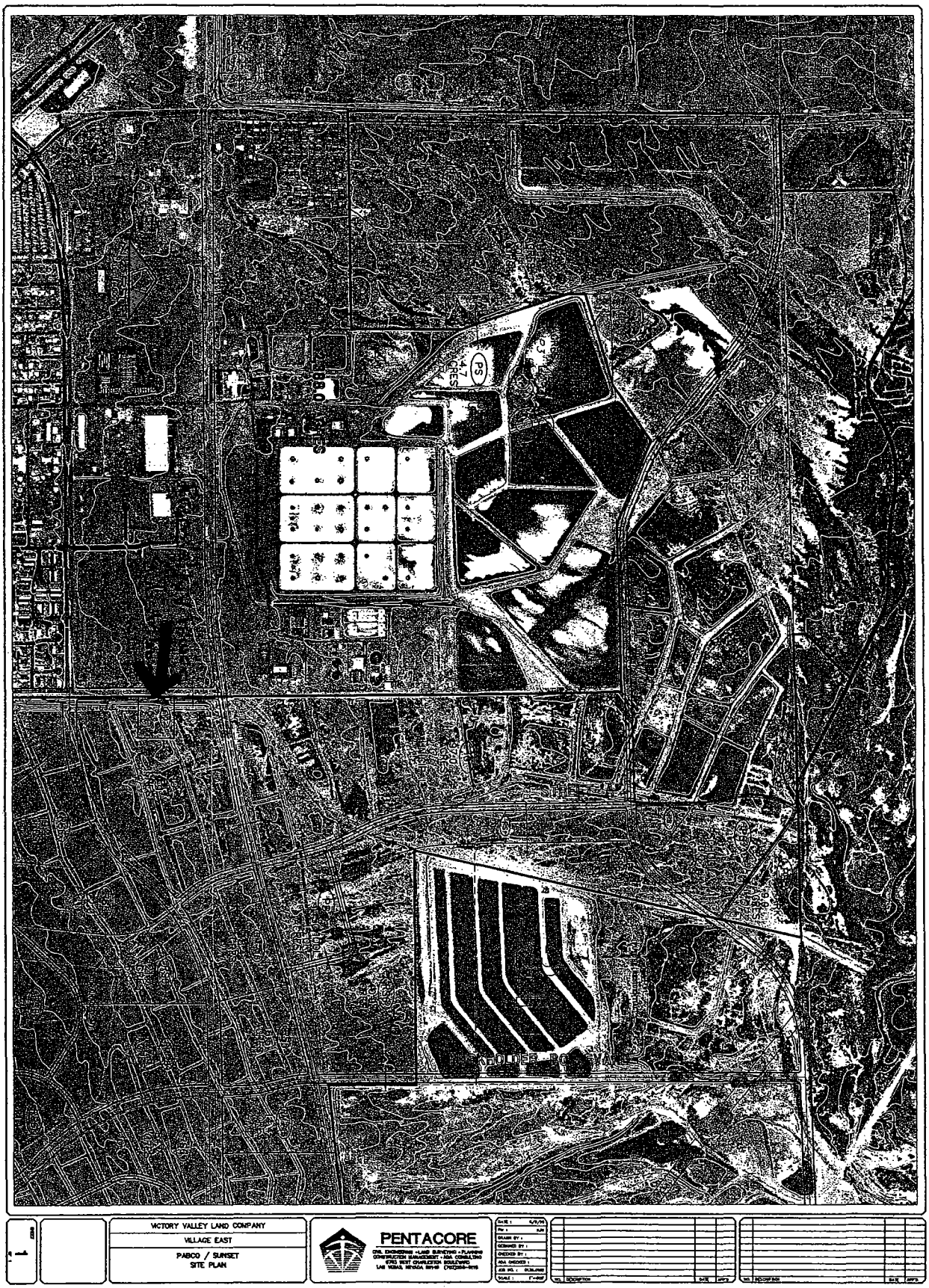
Dan H. Stewart
President and Chief Executive Officer

DHS:REB:reb

enclosures

cc: Tom Whelan, NDEP
David Tundermann, Esq.
Barry Conaty, Esq.
Philip Speight
Robin E. Bain, P.E

D:\christir WMI\PABCO-SUN SITEPLAN 11x17.dwg Thu Sep 09 08:13:02



VICTORY VALLEY LAND COMPANY

VILLAGE EAST

PABCO / SUNSET
SITE PLAN

PENTACORE

EXHIBIT "B"

EXHIBIT "A"

PENTACORE

Civil Engineering
Surveying • GPS
Land Planning • GIS
Landscape Architecture
Environmental and Natural Resources Management
Construction Administration
Program Management
ADA Consulting
Measurement Technologies

0138.0067
FILE: PARCEL-1.DOC
MARCH 8, 1999
BY: P.D.
CKD: F.W.O.

PROFESSIONAL LAND SURVEYOR
FREDERICK W. ORBAN
No. 4541
STATE OF NEVADA
7/12/99

EXPLANATION

THIS LAND DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED SOUTH OF ATHENS AVENUE AND EAST OF PABCO ROAD.

LAND DESCRIPTION

A PORTION OF SECTION 6, TOWNSHIP 22 SOUTH, RANGE 63 EAST, M.D.M., CLARK COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, MARKED BY A CITY OF HENDERSON BRASS CAP STAMPED "PLS 7740"; THENCE SOUTH 00°09'55" WEST ALONG THE WEST LINE OF SAID SECTION 6, COMMON WITH THE EAST LINE OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 62 EAST, AND COINCIDENT WITH THE EAST RIGHT-OF-WAY LINE OF PABCO ROAD (80 FEET WIDE), 343.41 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 89°50'05" EAST DEPARTING SAID WEST LINE, SAID EAST LINE AND SAID EAST RIGHT-OF-WAY LINE, 375.00 FEET; THENCE SOUTH 00°09'55" WEST, 330.00 FEET; THENCE NORTH 89°50'05" WEST, 375.00 FEET TO THE WEST LINE OF SAID SECTION 6, COMMON WITH THE EAST LINE OF SAID SECTION 1 AND COINCIDENT WITH THE EAST RIGHT-OF-WAY LINE OF SAID PABCO ROAD; THENCE NORTH 00°09'55" EAST ALONG SAID WEST LINE, SAID EAST LINE AND SAID EAST RIGHT-OF-WAY LINE 330.00 FEET TO THE **POINT OF BEGINNING**;

CONTAINING 2.84 ACRES, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

NORTH 89°48'33" EAST, BEING THE BEARING OF THE NORTH LINE OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 6, TOWNSHIP 22 SOUTH, RANGE 63 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN ON THAT CERTAIN MAP ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN FILE 79 OF SURVEYS, AT PAGE 11.

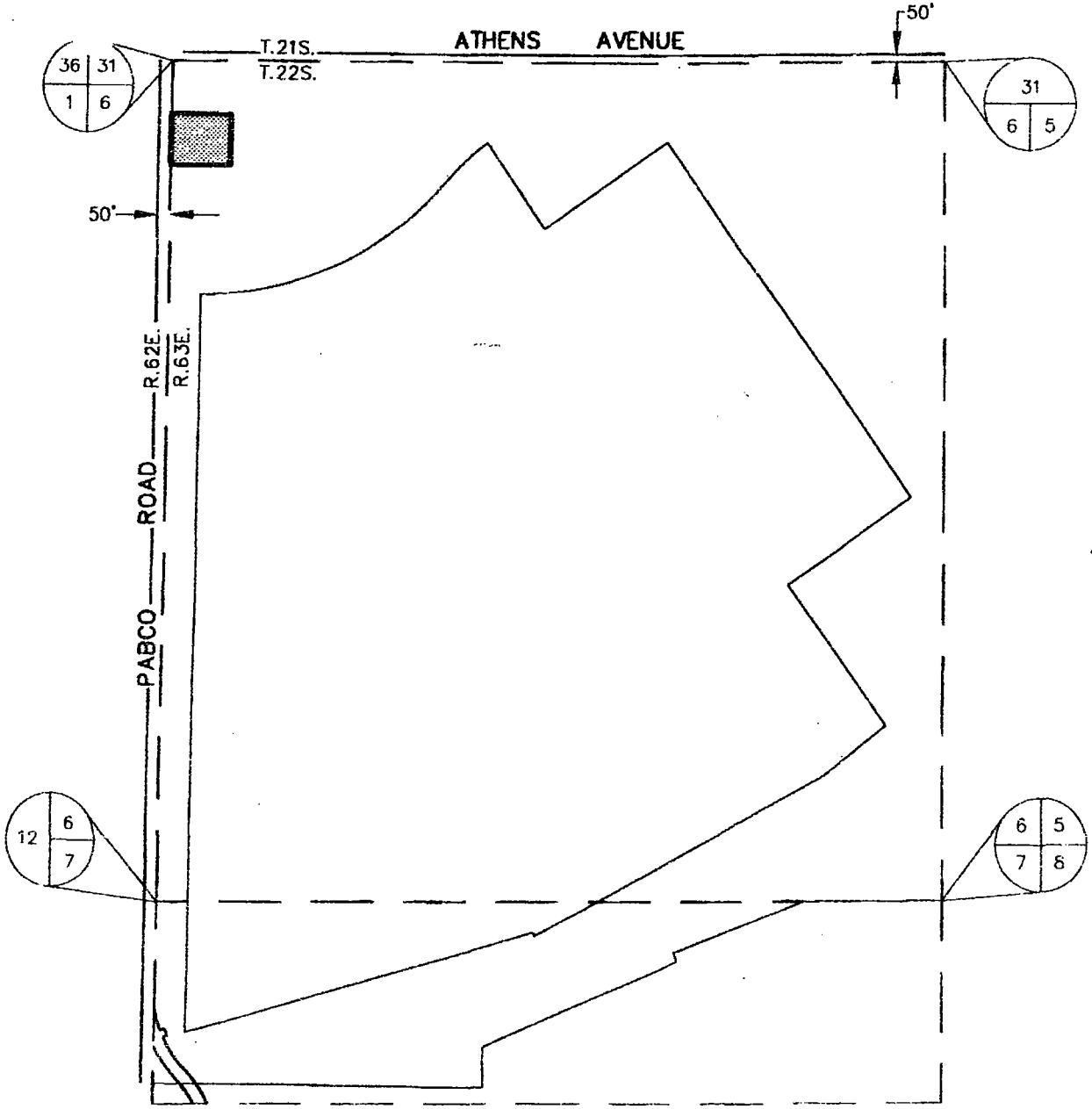
END OF DESCRIPTION.

6763 West Charleston Boulevard • Las Vegas, Nevada 89146

Engineering
Tel. 702.258.0115 • Fax 258.4956

Surveying
Tel. 702.258.4110 • Fax 258.4790

ADA Consulting
Tel. 702.258.0202 • Fax 258.0294



NORTH
NOT TO SCALE

PENTACORE
CIVIL ENGINEERING · LAND SURVEYING · PLANNING
CONSTRUCTION MANAGEMENT · ADA CONSULTING
6763 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89146 (702)258-0115

S:\0138\0100\0067\EXHIBIT\ADJUSTED.DWG P.D.