

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF THE COMPLAINT
OF SHOSHONE CONDOMINIUM
HOTEL OWNERS ASSOCIATION, A
MONTANA CORPORATION,
Complainant,

v.

ABACO ENERGY SERVICES, LLC a
North Dakota Limited Company,
Defendant.

UTILITY DIVISION

Docket No. D2013.9.71

**PREFILED DIRECT TESTIMONY OF STACY TSCHIDER
MARCH 29, 2016**

1 **Q. Please state your name, title, and business address for the record**

2 A. My name is Stacy Tschider. I am the President of ABACO Energy Services, LLC
3 and my business address is 8606 Island Road, Bismarck, ND 58503. I am submitting this
4 testimony on behalf of ABACO Energy Services, LLC (“ABACO”).

5 **Q. Have you testified to this Commission before?**

6 A. No. I have provided prior affidavit testimony in this Docket, but I have never
7 appeared before this Commission in any other proceeding.

8 **Q. Please describe your educational background.**

9 A. I attended Bismarck State College, University of North Dakota and Comair
10 Aviation School.

11 **Q. Please describe your professional background.**

12 A. I am a senior executive and commodity trading professional with 21 years of
13 experience. I am a decisive leader with a proven record of building and leading business
14 ventures derived from trading, marketing, and innovative structured products. I possess
15 expertise in trading and marketing of physical/financial Propane, Electricity, Natural Gas
16 throughout the US, Canada and Mexico. I have proven bottom-line results and solid
17 leadership skills.

18 **I. BACKGROUND AND BUSINESS OF ABACO ENERGY SERVICES, LLC.**

19 **Q. Please describe what ABACO Energy Services, LLC is, who its owners are,
20 and what its business is.**

21 A. ABACO Energy Services, LLC is a North Dakota company that has been in
22 business since 2007. ABACO is duly registered to conduct business in the State of
23 Montana, and is in good standing with the Montana Secretary of State. ABACO is not an
24 off-shore company and has no affiliation with any business in the Bahamas or elsewhere
25 as has previously been suggested by board members of the Shoshone Condominium
26 Hotel Owner’s Association.

27 ABACO is owned by four people: Stacy Tschider; Su Lin Tschider; Jeffrey
28 Jonson; and Deborah Jonson. Jeff and I have been involved in the energy marketing and

1 trading business in various locations throughout the country for the past 21 years with
2 various business enterprises and ventures; however, ABACO's business is limited to
3 providing safe and reliable propane delivery services to ABACO's limited customers in
4 the Big Sky Mountain Village at the Big Sky Ski Resort. ABACO does not engage in
5 any business up or down the Lone Mountain, in Moonlight, Spanish Peaks, or the
6 Yellowstone Club. ABACO does not engage in any business in the Big Sky Meadow
7 area, or down the Gallatin Canyon. ABACO's operating footprint is very limited. A map
8 of our limited service area is attached as **Exhibit 1**.

9 **Q. Does Boyne, USA have any ownership interest in ABACO?**

10 A. No. No owners or shareholders of Boyne, USA have any affiliation with,
11 ownership of, or control over ABACO either presently or at any time in the past. Boyne,
12 USA did not create ABACO and has no financial, economic, or other interest in ABACO.

13 **Q. How did ABACO come to own the propane distribution system in the Big
14 Sky Mountain Village at the Big Sky Ski Resort?**

15 A. ABACO's owners have conducted business with NorthWestern Energy, and with
16 the Montana Power Company before it, since the mid-1990s. In 2006, NWE approached
17 ABACO's owners about purchasing some of NWE's small propane distribution systems
18 it no longer wanted to operate, including the system at Big Sky. In 2007, ABACO
19 acquired the system from NWE.

20 **Q. Specifically, what facilities does ABACO own?**

21 A. Generally speaking, ABACO owns the pipes, meters and operational equipment
22 for the pipeline distribution system. A more complete description is provided in the
23 testimony of Kevin Shuttlesworth, and a complete description of our assets can be found
24 in Kevin's testimony and in our responses to data requests. . ABACO does not own any
25 assets downstream of the meter. It does not own pipes into the buildings, or boiler
26 systems or other assets to deliver propane from the meter to the burner tips. ABACO
27 does not service, maintain or repair, any assets or systems that it does not own.

28

1 **II. PRIOR REGULATION OF THE PROPANE DISTRIBUTION SYSTEM.**

2 **Q. Was the propane distribution system ever regulated by the Montana Public**
3 **Service Commission prior to ABACO's acquisition of the system from NWE in**
4 **2007?**

5 A. No, not to our knowledge. In fact, when we were negotiating with NWE for the
6 purchase of the system, NWE specifically represented to us that they system was
7 unregulated, and as such did not fit within its core operations systems – which were those
8 of a regulated public utility. For these reasons, NWE opted to sell this unregulated
9 system. ABACO relied upon those representations when making its decisions to
10 purchase this system.

11 **III. COSTS FOR SERVICES AND SUPPLY.**

12 **Q. Prior to the complaint filed by Shoshone in this Docket, did Shoshone have**
13 **any direct contact with ABACO about any charges for services?**

14 A. No. At the time we purchased the system, we believed the only customer on the
15 system was Boyne, USA. In 2010, Boyne, USA contacted us because they were having
16 difficulty explaining to their end users at the Village Center what Boyne's costs and
17 charges for propane service are. To assist them in their conversations with the Village
18 Center, Boyne asked us to participate in a conference call with the Village Center to
19 explain ABACO's RFP process and what its costs to Boyne are. We did so. In 2012,
20 Boyne again contacted ABACO because it was having difficulty communicating with
21 Shoshone. Boyne asked us to prepare a letter to Shoshone explaining ABACO's services
22 to Boyne. We did so, and did not hear back from anyone at Shoshone.

23 **Q. Please describe how ABACO determines its cost of propane and its charges**
24 **for services.**

25 A. ABACO's charges are based on rates and procedures previously established by
26 NWE prior to ABACO's acquisition of the system, and are then adjusted for standard
27 cost of living increases and to include services not previously directly reflected in NWE's
28 rates because they were services provided by NWE's regulated utility personnel.

1 ABACO uses its more than 20 years of experience in energy marketing to negotiate and
2 offer the best prices available to its customers. ABACO uses a competitive bid process to
3 obtain its propane supply for the Big Sky system. Each year, ABACO sends a detailed
4 RFP to six or seven propane suppliers soliciting bids. As its primary and single largest
5 customer, Boyne, USA is consulted about the bid results. ABACO then selects the best
6 prices from the most dependable and reliable suppliers. Propane commodity costs are
7 passed through to Boyne, USA and other customers without any markup by ABACO.

8 With respect to our costs for services, those amounts were negotiated amounts
9 between ABACO and Boyne, USA and are reflected in section 7 of our Agreement to
10 Provide Propane Services with Boyne..

11 **IV. ABACO'S CUSTOMERS, CONTRACTS AND ANNUAL SALES.**

12 **Q. Please describe your customer base.**

13 A. ABACO has never solicited new customers, and does not hold itself open to the
14 general public for services. All residences and buildings currently served by ABACO
15 were customers of the system when ABACO acquired it from NWE (or are successors to
16 prior customers obtained when the original customer sold their building, home, or
17 condominium to a new person), with one limited exception: Boyne, USA has added new
18 condominium phases to its existing Powder Ridge subdivision. When Boyne, USA built
19 new units, those units were added to ABACO's system as part of a previously planned
20 and started subdivision. ABACO has not added any other new buildings to its system.
21 When ABACO purchased the system from NWE, ABACO understood the system's
22 operations were limited to serve the benefit of Boyne, USA and its existing
23 developments. There were never plans to expand the system, and ABACO understood its
24 primary customer was Boyne, USA and always would be Boyne, USA. Indeed, under the
25 Contract, Boyne, USA has the right to purchase the entire system (which sits entirely on
26 Boyne, USA property) after a certain period of time, and therefore, ABACO's ownership
27 and operation of the system is for a finite period of limited duration.

1 **Q. How much of ABACO's services did you believe would be directed to Boyne,**
2 **USA or Boyne's previous developments?**

3 A. When we purchased the system in 2007, all of it. After acquiring the system, we
4 learned that there were several customers of the system who are individuals who
5 purchased residential units from Boyne, and they received their propane directly from
6 MPC or NWE and not through Boyne. We kept that same arrangement, but we believe
7 each of those customers were originally developments of Boyne or of Boyne's
8 predecessors. Today, ABACO sells approximately 80% of its propane (approximately
9 700,000 gallons) directly to Boyne, USA under a single written negotiated long-term
10 contract signed by the parties on July 25, 2007.

11 As mentioned above, all other customers of ABACO were customers of the
12 system when ABACO purchased it, and all of those were previous developments of
13 Boyne, USA or its predecessors or development partners. The system ABACO
14 purchased is indeed a closed system. It was built at the request of Boyne, USA or its
15 predecessors and development partners to serve a selected area within the Big Sky Ski
16 Resort footprint. Its customer base was designed to be limited to Boyne, USA and its
17 predecessors, or their development partners and the persons to whom they sold homes,
18 condominiums, and buildings. It is a private contained market, not a public market. The
19 system is located entirely on private property owned by Boyne, USA, and not on city,
20 town, or governmental rights of ways. Access to the system is by permission only; we
21 have not granted access to any new developments that were not previously on the system
22 prior to our purchase.

23 Contrary to representations and misleading maps recently circulated by Shoshone
24 Hotel board members during a hearing of the House Federal Relations, Energy, and
25 Telecommunications Committee in January 2016, at which PSC Commissioners,
26 attorneys, and safety specialists were in attendance, ABACO **does not** serve Alpenglow,
27 Beaverhead, Big Horn, Black Eagle or Moosewood Meadows. ABACO **does not** serve
28 any individual end users in the Huntley, the Lone Peak Center, the Shoshone Hotel,

1 Snowcrest, or the Summit. ABACO sells propane to Boyne, USA at meter locations
2 designated by Boyne, USA under its Contract, and ABACO has no input into charges or
3 allocations Boyne, USA imposes on any ultimate end user.

4 ABACO does provide service to individual end users in Cedar Creek, Powder
5 Ridge, Stillwater and the Lodges at Elkhorn Creek. Stillwater was developed by Boyne,
6 USA's predecessor; Powder Ridge was developed by Boyne, USA; and Cedar Creek and
7 the Lodges at Elkhorn Creek are within the footprint of the Boyne USA's resort area and
8 were signed up for service by either MPC or NWE.

9 **V SCOPE OF PROPANE SERVICES IN BIG SKY**

10 **Q. Shoshone has implied that ABACO is the only company that provides**
11 **propane service in Big Sky and that it is required to purchase propane from**
12 **ABACO. Is that true?**

13 A. No. ABACO does not have a monopoly on propane service in Big Sky. There
14 are at least seven other propane suppliers in the area, including: Amerigas; Farstad Oil;
15 Gibson Energy US; Propane Services, Inc.; Northern Energy; Heritage Propane; Madison
16 River Propane; Turner Gas; and Western Gas Liquids. Shoshone is not required to
17 purchase propane from ABACO, and indeed they do not purchase propane from
18 ABACO. The only customer required to purchase propane from ABACO is Boyne, USA
19 under the terms of the parties' negotiated take-or-pay contract. ABACO delivers propane
20 to Boyne, USA at locations as directed by Boyne, USA. Any other ABACO customer
21 either has or can install alternate supplies of power and heat (including electric baseboard
22 or electric forced air) or use other propane suppliers. Last fall, one such customer
23 advised ABACO it had installed its own system and desired to terminate ABACO's
24 services. Whether the end users in Shoshone have other propane supply options or other
25 power supply options is an issue between those end users, the Shoshone Hotel, and/or
26 Boyne, USA. If their restrictive covenants do not currently allow for alternate fuel
27 sources other than propane, then the unit owners as a group have the sole and collective
28 power to amend their restrictive covenants if they see fit. If their restrictive covenants do

1 not currently allow for the acquisition of propane from a source other than from Boyne,
2 USA, then the unit owners as a group have the sole and collective power to amend their
3 restrictive covenants if they see fit. Those decisions are outside of the control or
4 knowledge of ABACO.

5 **Q. Is ABACO's business of delivery of propane different from the business of**
6 **delivery of propane by a traditional propane supplier who uses trucks and tanks?**

7 A. No. While the daily operation of a pipeline system may be more difficult to
8 administer and to ensure appropriate safety requirements are met, the fact that the
9 business is to provide propane to customers is no different. The method of delivery,
10 whether to a single propane tank, or to a group of tanks that serves a single residential
11 subdivision (as occurs in several locations in the Big Sky meadow area and other
12 subdivisions throughout the state), or to a group of tanks that serves an underground
13 pipeline system, may be different; but attempts to draw distinctions between the types of
14 services and the proposition that one should be regulated as a public utility service while
15 the others should not be, are artificial. If a propane pipeline distribution system is
16 considered a regulated utility, so too should a supplier who delivers propane to a tank
17 farm that serves several homes or condominium developments. The business purpose is
18 the delivery of propane, and if one methodology is subject to regulation, all of them must
19 be regulated.

20 ABACO has been open and transparent. ABACO has filed annual operations and
21 system reports with the PSC every year since it acquired the system in 2007. ABACO's
22 predecessors likewise filed reports with the PSC. ABACO has submitted information to
23 and offered to make additional presentations to Boyne, USA and its end users, including
24 to the Shoshone Hotel. Offers to meet were rejected by Shoshone Hotel representatives.
25 ABACO produced approximately 2600 pages of documents to Shoshone Hotel without
26 objection in response to a subpoena issued in the lawsuit Shoshone Hotel is litigating
27 against Boyne, USA, even though ABACO is not a party to that lawsuit. We engage in a
28 detailed RFP process before selecting a propane supplier and we consult with Boyne,

1 USA during that process. Finally, we also provide Boyne, USA with a detailed
2 accounting each year, in which we justify our O&M charges.

3 **VI. ADDITIONAL ISSUES.**

4 **Q. The Commission has raised an additional issue in this Docket that was not**
5 **raised by Shoshone. Specifically, the Commission has inquired: “if the Commission**
6 **finds it has subject-matter jurisdiction over ABACO after a full review of the**
7 **evidentiary record in this case, what ratemaking procedures should the Commission**
8 **use to establish schedules of rates, tolls, and charges for ABACO?” Will you please**
9 **comment?**

10 A. ABACO does not believe it should be regulated as a public utility for all the
11 reasons set forth in its testimony and other documents and information it has filed in this
12 Docket. However, should ABACO’s pipeline distribution system be declared to
13 constitute a public utility subject to rate making regulation by this Commission, ABACO
14 believes it would be entitled to earn an appropriate rate of return (12-14%) based on the
15 replacement costs for the current system, plus a pass through/recovery of our total cost of
16 operations, including, without limitation, labor, insurance, safety, O&M, administrative,
17 legal, and regulatory compliance.

18 **Q. Does this conclude your pre-filed direct testimony?**

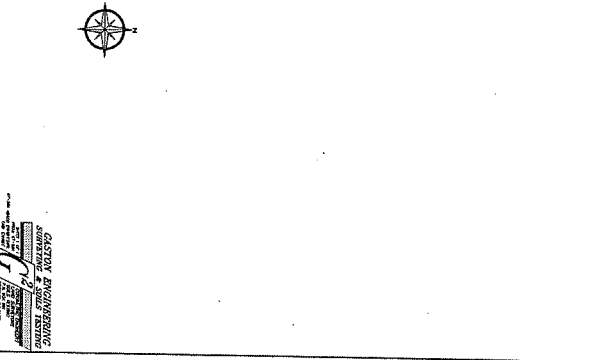
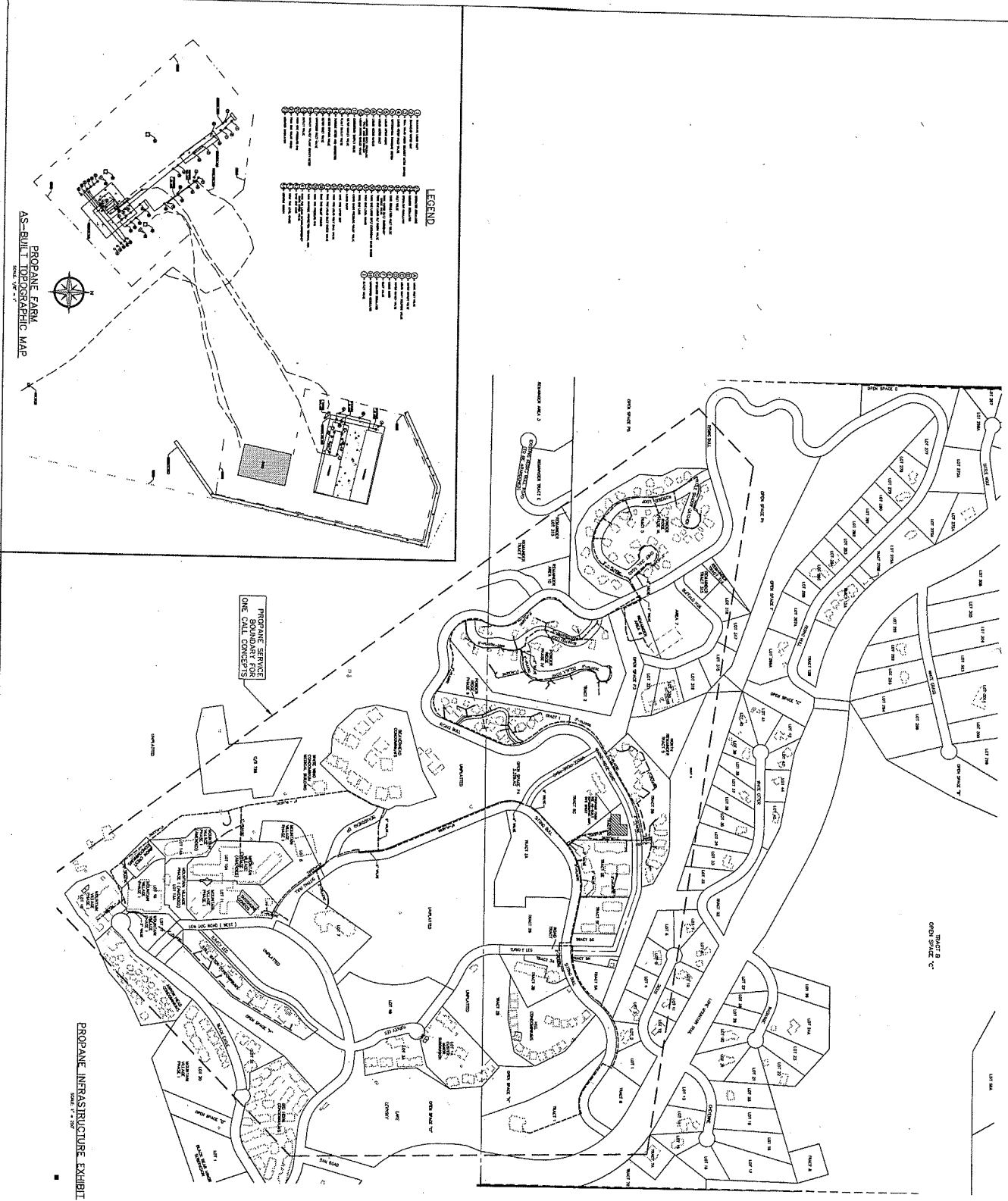
19 A. Yes.

EXHIBIT 1

FOR INFO CONTACT: GASTINE ENGINEERING, INC.
 200 SOUTH CHANDLER AVENUE, SUITE 200
 BOZEMAN, MONTANA 59717-3300
 (406) 592-4444

EXHIBIT of
BIG SKY MOUNTAIN VILLAGE PROPAANE INFRASTRUCTURE

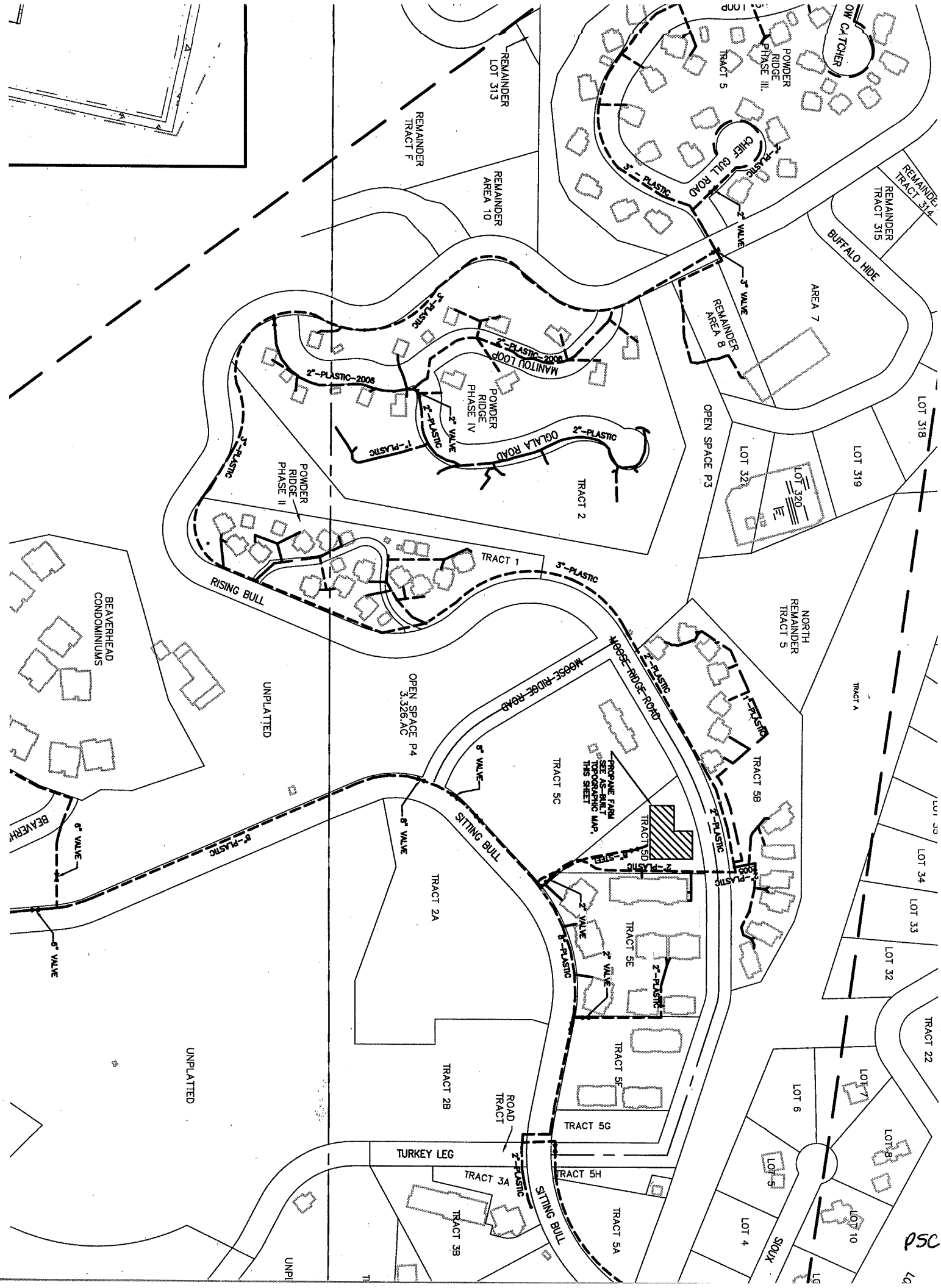
DATE: JAN 28, 2008
 DRAWN BY: J. GASTINE
 CHECKED BY: J. GASTINE
 PROJECT NO.: 08-001



PROPAANE SERVICE BOUNDARY FOR ONE CALL CONCEPTS

PROPAANE INFRASTRUCTURE EXHIBIT

GASTINE ENGINEERING
 ENGINEERS ARCHITECTS
 200 SOUTH CHANDLER AVENUE, SUITE 200
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PSC-001