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Kay Mainland Routt County, CO AGREE R 51.00 D 0.00

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

6065247

This Declaration of Covenants, Conditions and Restrictions for Regarding Road Maintenance (the "Declaration") is made on the date hereinafter set forth by Jerald T. Kelton of Routt County, Colorado, referred to herein as "Declarant"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Routt, State of Colorado, referred to herein as Parcels 2, Parcel 3 and Parcel 4 and described in Exhibit "A" which is attached hereto and incorporated herein by this reference; and

WHEREAS, each of the Parcels will be subject to and benefitted by an easement over which a private roadway is or will be located, which roadway provides access to each Parcel; and

NOW, THEREFORE, Declarant does hereby declare that all of the Parcels, as defined herein, shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, and liens, which are for the purpose of providing for, maintaining, protecting, and improving ingress and egress to and from the said Parcels, thereby protecting the value and desirability of the said Parcels, and does further declare that the terms and provisions of this instrument shall run with all of the said Parcels and be binding on all parties having any right, title or interest in any or all of the said Parcels or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I - DEFINITIONS

For all purposes of this Declaration, the following definitions shall apply:

1.1 "Declaration" shall mean this instrument and all amendments hereto.

1.2 "Access Easement" shall mean that certain perpetual and non-exclusive easement for ingress and egress and for installation, construction, replacement and maintenance of utility lines and appurtenances, appurtenant to each Parcel, more fully described in Exhibit "A", attached hereto and incorporated herein by this reference.

1.3 "Access Road" shall mean a graveled roadway to be constructed and improved within the Access Easement, not to exceed twenty feet (20') in width, together with appurtenant drainage and snow storage areas within the Access Easement.

1.4 "Accessed Parcel" shall mean a Parcel that is accessed by its Owner, either directly or through an agent or invitee of the Owner, by traveling over the Access Road or the Access Easement but only if the Owner has either (i) constructed an improvement such as a house, barn, corral, lean to or other structure on said Owner's Parcel, or (ii) constructed an

improved driveway or turnoff from the Access Road into said Owner's Parcel. For purposes of the foregoing sentence, "construct" does not include creation of a two track driveway or livestock trail. An Accessed Parcel is obligated to pay an allocated portion of the Road Maintenance Expenses pursuant to the provisions of this Declaration. Notwithstanding the foregoing, until and before October 1, 2006 any Parcel owned by the Declarant which is held for sale shall not be deemed an Accessed Parcel.

1.5 "Parcel" or "Parcels" shall mean any one or more of those parcels of land described in Exhibit "A", which are defined therein as Parcel 2, Parcel 3 and/or Parcel 4, as the context requires.

1.6 "Owner" or "Owners" shall mean each and all of the owners of Parcels who accept title to a Parcel subject hereto and shall include the heirs, representatives, successors and assigns of such Owner or Owners.

1.7 "Road Maintenance" shall mean the maintenance, repair, snow removal and operation of the Access Road in the Access Easement to a reasonable level and expense commensurate with the reasonable needs of the Parcels as residential and agricultural homesites. Road Maintenance shall mean maintenance and repair of the Access Road at least as follows: (i) grading of the Access Road and maintaining ditches for proper drainage; (ii) replacing gravel as needed so that the Access Road contains at least ten inches of gravel (pit run and/or road base); (iii) snow plowing and snow removal from the Access Road; (iv) installing, repairing and maintaining culverts in and under the Access Road; and (v) paving, changing the surface material, widening or relocating the Access Road, but said paving, changing the surface material, widening or relocating shall occur only if approved in writing in advance by the Owners of all the Parcels who are then obligated to pay for any portion or share of the costs of Road Maintenance.

1.8 "Road Maintenance Costs" and "Road Maintenance Expense" shall mean all of the costs and expense of Road Maintenance, together with the fees of the Road Agent, together with any other cost described in this Declaration as a Road Maintenance Cost.

1.9 "Road Construction Costs" shall mean the initial costs of construction of the Access Road, including without limitation expenses for labor, equipment and materials. Once the Access Road is originally constructed, costs of improving, widening, relocating, reconstructing, etc. shall be deemed Road Maintenance Costs, regardless of the nature of such work. The Access Road shall be constructed to standards which meet any applicable requirements of Routt County, but in any event not less than the following minimum standards: (i) not less than twelve feet (12') wide; (ii) not less than eight inches (8") of pit run and four inches (4") of road base; re-seeding of any cuts or fills with native meadow grasses; and (iii) installation of ditches and culverts where necessary.



ARTICLE II - ROAD MAINTENANCE AND CONSTRUCTION

2.1 The Road Maintenance Costs shall be the joint liability of each of the Owners of Accessed Parcel(s). The Road Maintenance Costs shall be borne and shared among such Owners in the proportion described in Article IV herein.

2.2 During the month of September of each year, a meeting of the Owners of Accessed Parcels ("Voting Owners") shall be held (the "Annual Meeting"). A Special Meeting (in addition to an Annual Meeting) may be called at any time by the Voting Owners or two or more Accessed Parcels. Voting Owners may appear at such Annual Meeting in person or by telephone. At the Annual Meeting, the Voting Owners of a majority of the Accessed Parcels shall annually elect a person (herein called the "Road Agent") to be responsible for arranging for and carrying out the Road Maintenance from the time of said election until the next Annual Meeting, to be held in September of the following year. A Road Agent must be a Voting Owner. In electing the Road Agent, each Accessed Parcel is allotted one vote. The Annual Meeting shall be called by the Road Agent, or in the absence of a Road Agent, by the Owners of Parcel 4. A Road Agent shall serve until his successor is elected by Voting Owners of a majority of Accessed Parcels. Such Road Agent shall be deemed the agent of all Owners only for the limited purposes of performing Road Maintenance and shall serve at the pleasure of the Voting Owners of a majority of the Accessed Parcels. Upon the death, resignation, disability or bankruptcy of the Road Agent, the Voting Owners shall promptly designate a new Road Agent. The Road Agent may be paid a periodic fee agreed to by the affirmative vote of the Voting Owners of a majority of Accessed Parcels, which fee shall be deemed a Road Maintenance Expense.

2.3 In the event of a tie in any vote of Voting Owners, said issue shall first be put to a second vote at same meeting. If the second vote still results in a tie, then the issues shall be resolved by a coin flip, with the Road Agent flipping the coin, where heads will result in a yes vote or passage of the contested issue, and tails will result in a no vote or denial of the contested issue. Any issue resolved by a coin flip may not be revisited or raised again at the same meeting.

2.4 The Road Agent shall be responsible for arranging, supervising, hiring and contracting for Road Maintenance, and shall maintain a checking account for maintenance of funds used to pay Road Maintenance Costs and Expenses (the "Road Maintenance Fund"). The Road Agent shall also maintain books of account for receipts from Owners and disbursements for costs and expenses. All books and records of the Road Agent shall be open and available for inspection by any Owner or his attorney or agent on any business day during business hours within 48-hours after receipt by Road Agent of a written request. The Road Agent shall promptly pay all Road Maintenance Expenses as the same fall due, except to the extent the Road Agent disputes any such Road Maintenance Expense. Said payments of Road Maintenance Expenses shall be made from funds collected from Owners as described below.

2.5 The estimated annual budget for Road Maintenance Expenses shall be recommended to the Voting Owners by the Road Agent but shall require the affirmative vote of the Voting Owners of a majority of the Accessed Parcels at the Annual Meeting held each

September. The Owners of each Accessed Parcel shall pay to the Road Agent, for deposit into the Road Maintenance Fund, within ten days after said Annual Meeting, not less than one-half (½) of said Parcels' allocated share of such estimated annual Road Maintenance Expense amount, as determined under Article IV below. The balance of said allocated portion of the annual Road Maintenance Expense for said Parcel shall be paid to the Road Agent for deposit into the Road Maintenance Fund within sixty days after said Annual Meeting. Monies in such Road Maintenance Fund shall be expended from time to time by the Road Agent only for Road Maintenance Costs. In the event the actual Road Maintenance Expenses exceed the agreed upon annual budget, then the Road Agent shall have the right to make a special assessment billing to the Owners of the Parcels in accordance with the each Parcel's allocated liability for Road Maintenance Expenses as described in Article IV below. The ownership interest of the Owner or Owners of a Parcel in the monies in such Road Maintenance Fund shall be deemed appurtenant to, and pass with title to, such Parcel.

2.6 The Road Agent shall take such action as from time to time may be reasonable and necessary for the preservation of the Access Road as a private roadway and for the maintenance of the Access Road as a convenient, safe and clean access to the Parcels. The Road Agent shall not be liable to any Owner for any act or omission of the Road Agent which was performed or was not performed in good faith and pursuant to this Declaration. The Road Agent may curtail access to the Access Road to any person not an Owner or family member, guest, tenant, or invitee of an Owner, and may gate the Access Road from time to time as necessary to keep other persons from perfecting a prescriptive easement in the Access Road, provided that if so gated, every Owner shall immediately be given a key or combination to any lock on such gate. An Owner may install a gate across the Access Road only if such gate is on the Owner's boundary and is a necessary part of a fence that is used for agricultural or equestrian purposes. Such agricultural gates shall never be locked. Users of the Access Road shall leave all gates open or closed, as they were found.

2.7 The designation of a Parcel as an Accessed Parcel shall be made by the Road Agent in accordance with the terms of this Declaration, and shall, when made, be communicated by written notice to the Owners of all Parcels.

2.8 Road Construction shall be accomplished by the first Owner who wishes to utilize the Access Road. The Owner(s) of a Parcel which becomes an Accessed Lot within five (5) years after the initial Road Construction Costs are incurred by the Owner of the first Accessed Parcel shall contribute to said building Owner for a share of the Road Construction Costs in accordance with Article IV below.

ARTICLE III-INSURANCE

3.1 The Road Agent shall obtain and pay the premiums for public liability insurance insuring all Owners against damage to or destruction of property and death or injury to any person arising on or adjacent to the Access Road. A true copy of each such insurance policy shall

be mailed to each Owner. All costs of premiums for appropriate public liability insurance for the Owners shall be a Road Maintenance Cost.

ARTICLE IV - ROAD MAINTENANCE COSTS AND ALLOCATION THEREOF

4.1 All Road Maintenance Costs shall be shared among the Owner(s) of the Accessed Parcel(s) so that each such Owner pays a fraction of the total Road Maintenance Cost, with the numerator of such fraction being the distance along the Access Road from the centerline of said Owner's driveway off of the Access Road (or in the case of Parcel 4, the end of the commonly maintained portion of the Access Road) to the centerline of Routt County Road 43 (the "Traveled Distance") and the denominator is the total of the Traveled Distances calculated for all of the Accessed Parcels.

(For example, if Parcels 2, 3 and 4 are all Accessed Parcels, and the Traveled Distance for Parcel 2 is 600 feet, the Traveled Distance for Parcel 3 is 1500 feet and the Traveled Distance for Parcel 4 is 2800 feet, then Parcel 2 will pay 600/4900 of the total Road Maintenance Costs, Parcel 3 will pay 1500/4900 of the total Road Maintenance Costs, etc.)

The Owner of a Parcel shall only be liable for Road Maintenance Costs which were incurred after the Owner's Parcel becomes an Accessed Parcel. Owners of a Parcel which has NOT become an Accessed Parcel shall not have any liability for Road Maintenance Costs incurred while such Parcel was not an Accessed Parcel.

The Owner(s) of a Parcel which becomes an Accessed Lot within five (5) years after the initial Road Construction Costs are incurred by the Owner of the first Accessed Parcel shall contribute, without interest, to said constructing Owner for a share of the Road Construction Costs by paying an amount equal to the Road Construction Costs multiplied by the fraction described above in this Section 4.1, where the numerator is the distance along the Access Road from the centerline of said Owner's driveway leaving the Access Road (or in the case of Parcel 4, the end of the commonly maintained portion of the Access Road) to the centerline of Routt County Road 43 (the "Traveled Distance") and the denominator is the total of the Traveled Distances calculated for all of the Accessed Parcels. If more than two Parcels become Accessed Parcels within five (5) years after the initial Road Construction Costs are incurred by the Owner of the first Accessed Parcel, then the Owner of the Third Accessed Parcel shall contribute to the Owners of the other two Parcels, without paying interest and based upon the fraction calculation set forth above, so that the amounts paid by each are the amounts each would have paid had each been an Accessed Parcel at the time of initial construction. The Owner of a Parcel which becomes an Accessed Lot more than five (5) years after the initial Road Construction Costs are incurred shall have no responsibility for Road Construction Costs, but shall be responsible for a portion of the Road Maintenance Costs as set forth above in the second subparagraph of this Section 4.1.

4.2 Where any Accessed Parcel is co-owned, each co-Owner is jointly and severally liable for all Road Maintenance Costs allocated to such Accessed Parcel.

4.3 All amounts assessed to Owners of a Accessed Parcel and not paid when due shall thereafter bear interest at the rate of 3% per month until paid. The Road Agent, on behalf of the Owners, is authorized and empowered to sue any delinquent Owner or Owners for collection of the share of the Road Maintenance Costs allocated to the Accessed Parcel of such Owner or Owners and to pursue any other legal or equitable remedy provided by law or in equity, including injunctive relief. In connection with any suit against an Owner to collect such Owner's share of liability for Road Maintenance Costs and interest thereon billed by the Road Agent, the Road Agent shall be entitled also to recover from such Owner all reasonable attorneys' fees and costs of discovery and suit incurred by the Road Agent.

ARTICLE VI - MISCELLANEOUS

5.1 The Road Agent, and any Owner, shall have the right to evict and prosecute trespassers on or within the Access Easement. Each Owner shall have the right to permit and grant personal license to any guest, friend, family member, tenant, or invitee to use the Access Road, provided that such use shall not deny the use thereof by any other Owner or the guests, friends, family members, tenants, or invitees of such other Owner at any time. Any such guest, friend, family member, tenant, or invitee shall not be deemed a trespasser.

5.2 Each of the Owners does hereby indemnify and agrees to hold Road Agent, free and harmless from any and all damages, liability, claims and demands for maintenance, failure of maintenance, or any other act or omission with respect to the Access Road and the Access Easement, and waives any and all such claims for any such damages or liabilities. Each Owner, prior to acquisition of an interest in a Parcel, shall inspect the Access Road, and shall conclusively be deemed to have accepted the condition of the Access Road and its adjacent barrow pits and culverts in its "as is" condition as of the time of such acquisition of interest.

5.3 In the event the entire Access Road or the entire Access Easement shall at any time be dedicated to and accepted by a governmental body, or taken through condemnation by a governmental body, then this Declaration shall terminate as of the date of such dedication or the date of taking possession in condemnation, subject to all prior existing rights and liabilities.

5.4 In the event of a dispute between any of the Owners concerning any provisions, term, condition or obligation under this Declaration, any Owner may submit such dispute to binding arbitration as the exclusive method for resolving disputes under this Agreement. Notwithstanding the foregoing, the Road Agent shall have the option of using (i) the state courts located in Routt County, Colorado or (ii) arbitration under this paragraph for the collection of amounts due from an Owner for payment of Road Maintenance Expenses and related costs, attorneys fees and interest.

Arbitration shall commence when an Owner gives written notice to the other Owners, of his or her intent to arbitrate an issue. The Owners shall jointly select one arbitrator who is experienced in property management and/or private road maintenance and construction trades, as applicable to the dispute. In the event the Owners cannot agree, they may apply to the appropriate state court in Routt County, Colorado for appointment of such an arbitrator. The



arbitrator shall be entitled to reasonable compensation for the time spent. An arbitration hearing before the arbitrator selected shall be held not more than ten days after notice of intent to arbitrate the necessity or propriety of reconstruction, maintenance or repairs to the Access Road is given. The arbitrator shall issue a ruling at the time of the arbitration hearing and shall have the right to hear evidence and make findings concerning this Agreement. The Owners, and their successors and assigns, agree to be bound by such ruling and such ruling may be made a judgment, in accordance with C.R.S. §13-22-201 et. seq. In any arbitration, the substantially prevailing Owner(s) shall recover from the non-prevailing Owner(s) all costs of the arbitration process, including without limitation fees of arbitrator and attorneys fees, and shall receive an award of such prevailing party's costs and expenses arising from such arbitration process, all as determined in the discretion of the arbitrator. To the extent necessary to resolve issues or to supplement the procedures set forth above in this subparagraph, the provisions of the Colorado Uniform Arbitration Act of 1975, C.R.S. §13-22-201 et seq shall apply. The intention of this arbitration provision is to provide quick and inexpensive resolution of disputes concerning this Declaration. Due to the frequent urgency to resolve repair and maintenance issues and other issues which may arise under this Declaration, the parties acknowledge that time is of the essence in arbitrating disputes as provided herein.

5.5 All notices, demands, requests, consents, approvals, offers, statements and other instruments or communications required or permitted to be given hereunder to the Owners of a Parcel, shall be in writing and shall be deemed to have been given when personally delivered to all Owners of a Parcel, or forty-eight (48) hours after having been deposited in the U.S. mail, postage prepaid, certified mail, return receipt requested, addressed to all Owners of a Parcel at the address of record of such Owners as contained in the office of the Routt County Assessor. All notices, demands, requests, consents, approvals, offers, statements and other instruments or communications required or permitted to be given hereunder to the Road Agent shall be in writing and shall be deemed to have been given when personally delivered to such Road Agent, or forty-eight (48) hours after having been deposited in the U.S. mail, postage prepaid, certified mail, return receipt requested, addressed to the Road Agent at the address of record of such Road Agent as contained in the office of the Routt County Assessor.

5.6 Invalidity of any one of these covenants, restrictions, or agreements by judgment or court order shall in no way affect other provisions which shall remain in full force and effect.

5.7 The covenants and restrictions of this Declaration shall run with and bind the Parcels and shall inure to the benefit of and be enforceable by the Road Agent and the Owner of each Parcel subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended or revoked by an instrument which specifically refers to this Declaration and which is signed by each of the then existing Owners. Any amendment made must be properly recorded in the Office of the Routt County Clerk and Recorder.



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Exhibit A

(This Exhibit A is attached to and made a part of the Declaration of Covenants, Conditions and Restrictions dated April 7, 2004 in which Jerrold T. Kelton is the Declarant.)

Legal Description of Parcels 2, 3 and 4

A tract of land in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., or more particularly described as follows:

Beginning at AP 5 of said Tract 43; thence N 03°01'00" E 1336.60 ft. to a point on the north line of said Tract 43;
Thence S 89°39'26" W along the north line of said Tract 43 1312.11 ft. to AP 2 of said Tract 43, said AP 2 being the S1/4 corner of Section 32, Township 6N, Range 85W;
Thence S 04°41'50" W along the west line of said Tract 43 1331.37 ft. to a point;
Thence East 1350.77 ft. to AP 5 of said Tract 43, The Point of Beginning, containing 40.67 acres, more or less ("Parcel 2");

AND,

A tract of land in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., or more particularly described as follows:

Beginning at AP 5 of said Tract 43;
Thence West 1350.77 ft. to a point on the west line of said Tract 43;
Thence S 04°41'50" W along said west tract line 1275.04 ft. to AP 4 of Tract 45;
Thence N 89°19'35" E 1358.23 ft. to a point on the east line of said Tract 43;
Thence N 04°25'22" E along said east tract line 1258.54 ft. to AP 5 of said Tract 43,
The Point of Beginning, containing 39.25 acres, more or less ("Parcel 3");

AND,

A tract of land in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., or more particularly described as follows:

Beginning at AP 4 of said Tract 43;
Thence S 89°32'46" W along the south line of said Tract 43 1339.55 ft. to AP 3 of said Tract 43;
Thence N 03°35'30" E along the west line of said Tract 43 1251.89 ft. to AP 4 of Tract 45;
Thence N 89°19'35" E 1358.23 ft. to a point on the east line of said Tract 43;
Thence S 04°25'22" W along said east tract line 1258.54 ft. to AP 4 of said Tract 43, The Point of Beginning, containing 38.74 acres, more or less ("Parcel 4").



Exhibit A (page2)

Legal Description of Easements

(30-60 Ft. Wide Access And Utility Easement)

A varying width access and utility easement located in the W1/2 of Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., said easement starting out being 10 feet right (West) and 50 feet left (East) of the following described line:

Beginning at a point on the north line of said Tract 43, from which AP 2 of said Tract 43 bears S 89°39'26" W 13.31 ft.; Thence

- 1) S 04°58'29" W 259.50 ft.;
- 2) S 05°53'48" W 50.37 ft. to a point where the 60 ft. access easement narrows to 30 ft., being 15 ft. on each side of the following described centerline:
- 3) S 19°04'28" E 33.02 ft.;
- 4) S 17°40'34" E 49.99 ft.;
- 5) S 30°21'44" E 73.64 ft.;
- 6) S 10°06'56" E 60.13 ft.;
- 7) S 07°54'18" W 55.42 ft.;
- 8) S 17°48'56" W 136.91 ft.;
- 9) S 07°35'29" W 105.53 ft.;
- 10) S 07°55'10" W 216.30 ft.;
- 11) S 23°21'46" W 193.33 ft.;
- 12) S 04°07'01" W 1342.18 ft.;
- 13) S 55°28'59" E 56.83 ft.;
- 14) S 68°15'31" E 15.87 ft. to the Point of Termination on the south line of Parcel 3, from which AP 4 of Tract 45 Bears S 89°19'35" W 96.55 ft.

(20 Ft. Wide Utility Easement)

A 20 ft. wide utility easement located in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., said utility easement being more particularly described as follows:

Beginning at a point on the North line of said Tract 43, from which AP 1 of Tract 43 bears N 89°39'26" E 1298.81 ft.; thence the 20 ft. utility easement lies 20 ft. west of and parallel to the following two (2) courses:

- 1) S 03°01'00" W 1336.60 ft. to AP 5 of said Tract 43;
- 2) S 04°25'22" W along the east line of said Tract 43 1258.54 ft. to the Point of Termination



**AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

This Amendment to Declaration of Covenants, Conditions and Restrictions Regarding Road Maintenance (the "Amended Declaration") is made and done on the date of full execution as set forth below.

WITNESSETH:

WHEREAS, a Declaration of Covenants, Conditions and Restrictions was recorded on April 9, 2004 at Reception No. 600183 of the Routt County, Colorado real estate records (the "Declaration"), which Declaration provided for construction of an Access Road within an Access Easement and ongoing maintenance of such Access Road; and

WHEREAS the Declaration encumbers certain real property located in Routt County, Colorado, referred to in the Declaration as Parcel 2, Parcel 3 and Parcel 4 and described in Exhibit "A" to the Declaration; and

WHEREAS, the Access Road has been constructed in a location which is outside of the Access Easement, but which is deemed preferable to the location described in the Declaration as the Access Easement; and

WHEREAS, the Declaration provides, at Section 5.7, that "[t]he covenants and restrictions of this Declaration may be amended or revoked by an instrument which specifically refers to this Declaration and which is signed by each of the then existing Owners."; and

WHEREAS, all of the Owners of Parcels 2, 3 and 4 have agreed to amend the Declaration as set forth below; and

NOW, THEREFORE, the undersigned Owners of the Parcels, being all of the Owners of the Parcels, do hereby amend the Declaration as follows:

1. The text of Exhibit "A" to the Declaration is amended so that it reads as follows:

Legal Description of Parcels 2, 3 and 4

A tract of land in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., or more particularly described as follows:

Beginning at AP 5 of said Tract 43; thence N 03°01'00" E 1336.60 ft. to a point on the north line of said Tract 43;

Thence S 89°39'26" W along the north line of said Tract 43 1312.11 ft. to AP 2 of said Tract 43, said AP 2 being the S1/4 corner of Section 32, Township 6N, Range 85W;
Thence S 04°41'50" W along the west line of said Tract 43 1331.37 ft. to a point;
Thence East 1350.77 ft. to AP 5 of said Tract 43, The Point of Beginning, containing 40.67 acres, more or less ("Parcel 2");

AND,

A tract of land in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., or more particularly described as follows:

Beginning at AP 5 of said Tract 43:

Thence West 1350.77 ft. to a point on the west line of said Tract 43;

Thence S 04°41'50" W along said west tract line 1275.04 ft. to AP 4 of Tract 45;

Thence N 89°19'35" E 1358.23 ft. to a point on the east line of said Tract 43;

Thence N 04°25'22" E along said east tract line 1258.54 ft. to AP 5 of said Tract 43,

The Point of Beginning, containing 39.25 acres, more or less ("Parcel 3");

AND,

A tract of land in Tract 43, Section 5, Township 5N, Range 85W of the 6th P.M., or more particularly described as follows:

Beginning at AP 4 of said Tract 43;

Thence S 89°32'46" W along the south line of said Tract 43 1339.55 ft. to AP 3 of said Tract 43;

Thence N 03°35'30" E along the west line of said Tract 43 1251.89 ft. to AP 4 of Tract 45;

Thence N 89°19'35" E 1358.23 ft. to a point on the east line of said Tract 43;

Thence S 04°25'22" W along said east tract line 1258.54 ft. to AP 4 of said Tract 43, The Point of Beginning, containing 38.74 acres, more or less ("Parcel 4").

30 Ft. Wide Access And Utility Easement

Thirty Foot wide Access and Utility Easement located in Parcels 2 and 3 of a portion of Tract 43, located in Section 5, T5N, R85W, Routt County, Colorado

Centerline description of thirty foot wide Access and Utility Easement located in Parcels 2 and 3 of a portion of Tract 43, located in Section 5, T5N, R85W, Routt County, Colorado, said easement being fifteen feet wide parallel with the following centerline description;

Commencing at the northwest corner of Parcel 2 common as the angle point two of Tract 43, T5N, R85W monumented by a found 2 ½" aluminum cap on #6 rebar, PLS 24318; thence N89°39'26"E, 32.08 feet along the north line of said Tract 43 to the point of beginning;

Thence departing said north line S04°47'49"E, 16.88 feet to a point of curvature; thence 82.11 feet along a curve to the left having a radius of 100.00 feet, a delta angle of 47°02'44" and a chord which bears S28°19'11"E, 79.82 feet to a point tangency; thence S51°50'33"E, 97.46 feet to a point of curvature; thence 116.87 feet along a curve to the

right having a radius of 80.00 feet, a delta angle $83^{\circ}42'19''$ and a chord which bears $S09^{\circ}59'23''E$, 106.75 feet to a point of tangency; thence $S31^{\circ}51'46''W$, 76.27 feet to a point of curvature; thence 89.83 feet along a curve to the left having a radius of 100.00 feet, a delta angle $51^{\circ}28'12''$ and a chord which bears $S06^{\circ}07'40''W$, 86.84 feet to a point of tangency; thence $S19^{\circ}36'25''E$, 63.78 feet to a point of curvature; thence 23.94 feet along a curve to the left having a radius of 200.00 feet, a delta angle $6^{\circ}51'34''$ and a chord which bears $S16^{\circ}10'38''E$, 23.93 feet to a point of tangency; thence $S12^{\circ}44'51''E$, 149.78 feet to a point of curvature; thence 38.33 feet along a curve to the right having a radius of 90.00 feet, a delta angle $24^{\circ}24'07''$ and a chord which bears $S00^{\circ}32'48''E$, 38.04 feet to a point of tangency; thence $S11^{\circ}39'16''W$, 128.04 feet to a point of curvature; thence 40.53 feet along a curve to the left having a radius of 300.00 feet, a delta angle $7^{\circ}44'24''$ and a chord which bears $S07^{\circ}47'04''W$, 40.50 feet to a point of tangency; thence $S03^{\circ}54'52''W$, 179.76 feet to a point of curvature; thence 75.58 feet along a curve to the left having a radius of 400.00 feet, a delta angle $10^{\circ}49'34''$ and a chord which bears $S01^{\circ}29'55''E$, 75.47 feet to a point of tangency; thence $S06^{\circ}54'42''E$, 237.76 feet to a point of intersection with the south line of said Parcel 2 of the land survey of Tract 43 common with the north line of Parcel 3 from which the southwest corner of said parcel 2 bears $S90^{\circ}00'00''W$, 274.45 feet as monumented by a found $1\frac{1}{2}''$ red plastic cap on #5 rebar, PLS 24318; thence $S06^{\circ}54'42''E$, 203.32 feet to a point of curvature; thence 37.82 feet along a curve to the right having a radius of 300.00 feet, a delta angle $7^{\circ}13'22''$ and a chord which bears $S03^{\circ}19'08''E$, 37.79 feet to a point of tangency; thence $S00^{\circ}17'32''W$, 179.73 feet to a point of curvature; thence 111.55 feet along a curve to the left having a radius of 400.00 feet, a delta angle $15^{\circ}58'40''$ and a chord which bears $S07^{\circ}41'47''E$, 111.18 feet to a point of tangency; thence $S15^{\circ}41'07''E$, 124.72 feet; thence 71.71 feet along a curve to the right having a radius of 300.00 feet, a delta angle $13^{\circ}41'43''$ and a chord which bears $S08^{\circ}50'16''E$, 71.54 feet to a point of tangency; thence $S01^{\circ}59'24''E$, 228.55 feet to a point of curvature; thence 61.98 feet along a curve to the left having a radius of 600.00 feet, a delta angle $5^{\circ}55'09''$ and a

chord which bears $S04^{\circ}56'58''E$, 61.96 feet to a point of tangency; thence $S07^{\circ}54'33''E$, 218.84 feet to a point of curvature; thence 12.63 feet along a curve to the right having a radius of 100.00 feet, a delta angle $07^{\circ}14'08''$ and a chord which bears $S04^{\circ}17'29''E$, 12.62 feet to a point of tangency; thence $S00^{\circ}40'25''E$, 25.06 feet to a point of intersection and termination with the south line of said Parcel 3 from which the angle point four of Tract 45 common with the angle point of Tract 46 bears $S89^{\circ}19'35''W$, 508.87 feet as monumented by a found $2\frac{1}{2}''$ aluminum cap on #5 rebar, both sides of easement terminating on south line.

Basis of Bearing

$N04^{\circ}41'50''E$, 1275.04 feet along the west line of Parcel 3 according the to land survey plat of a portion of Tract 43 as recorded in Routt County records File # _____, from the southwest corner of said Parcel 4 as monumented by a found $2\frac{1}{2}''$ aluminum cap on #5 rebars, labeled as angle point four Tract 45, angle point one Tract 46 and point on line Tract 43 and found $1\frac{1}{2}''$ red plastic cap on #5 rebar, PLS 24318 at northwest corner of said Parcel 3

2. The 30-60 Ft. Wide Access And Utility Easement which was originally described in Exhibit "A" to the Declaration has been vacated and terminated, as evidenced by quitclaim deeds from the Owners of the dominant estates to the Owners of the respective servient estate(s), such quitclaim deeds being recorded in the Routt County real estate records immediately prior to this Amendment.

3. The relocated Access Easement, in the location described in the amended Exhibit "A" (as set forth above in paragraph 1), has been created by delivery of quitclaim deeds from the Owners of the respective servient estates to the Owners of the dominant estates, such quitclaim deeds being recorded in the Routt County real estate records immediately prior to this Amendment. The benefits and burdens of such relocated Access Easement shall run with the Parcels and be binding on the successors and assigns of the undersigned Owners.

4. Section 2.6 of the Declaration is amended so that it reads as follows:

"2.6 (a) The Road Agent shall take such action as from time to time may be reasonable and necessary for the preservation of the Access Road as a private roadway and for the maintenance of the Access Road as a convenient, safe and clean access to the Parcels. The Road Agent shall not be liable to any Owner for any act or omission of the Road Agent which was performed or was not performed in good faith and pursuant to this Declaration. The Road Agent may curtail access to the Access Road to any person not an Owner or family member, guest, tenant, or invitee of an Owner, and may gate the Access Road from time to time as necessary to keep other persons from perfecting a prescriptive easement in the Access Road, provided that if so gated, every Owner shall immediately be given a key or combination to any lock on such gate.

(b) An Owner may install a gate across the Access Road only if such gate is on the Owner's boundary and is a necessary part of a fence that is used for agricultural or equestrian purposes. Such agricultural gates shall never be locked. Users of the Access Road shall leave all gates open or closed, as they were found. An Owner may install cattle guards across the Access Road, at a location within the Owner's Parcel and adjacent to a boundary of such Parcel. All costs relating to such cattle guards shall be paid by the installing Owner.

(c) Notwithstanding the foregoing, the Owners of Parcels 3 and 4 shall acquire, deliver and install a cattle guard and a solar gate across the Access Road within Parcel 2 when requested by the Owner of Parcel 2. Said Owners of Parcels 3 and 4 shall each pay one-half of the cost for such acquisition, delivery and installation. Said cattle guard and solar gate shall be the same width as the improved Access Road surface and shall be of typical design and quality for cattle guards and solar gates in Routt County. The cattle guard and solar gate shall be installed in the following locations: (i) the solar gate shall be adjacent to Routt County Road 43 and (ii) the cattle guard shall be adjacent to the boundary line between Parcel 2 and Parcel 3.

Jan. 12. 2009 9:25AM paul sachs

No. 2152 P. 2

5. Section 4.1 of the Declaration is amended by adding the following paragraph to the end of the existing language: "The Owner of Parcel 4 has contributed her share of the initial Road Construction Costs and her share of the cattle and solar guards referenced in Section 2.6(c). The Owner of Parcel 4 shall be responsible for her share of Road Maintenance Costs as described in the Declaration, however, until such time as a building is constructed on Parcel 4 the Owner of Parcel 4 shall not be responsible for any costs associated with snow removal and maintenance of snow removal equipment."

6. A new Section 4.4 is added to the Declaration, stating: "Upon contracting with Yampa Valley Electric Association to begin delivering electric power to Parcel 4, the then Owner of Parcel 4 shall pay to the then Owner of Parcel 3 the sum of \$11,843.79 and to the then Owner of Parcel 2 the sum of \$2,949.98 as its share of the costs of installing the Yampa Valley Electric Utilities that have been installed in the Access and Utility Easement."

IN WITNESS WHEREOF, the undersigned, being all of the Owners of the above described Parcels, have executed this Amendment on the date set forth below.

PARCEL 2 OWNER:


By: Douglas C. Shaffer


By: Tara L. Shaffer

PARCEL 3 OWNER:


By: Scott M. Parks


By: Veronica L. Parks

PARCEL 4 OWNER:


By: Elizabeth S. Rostermundt

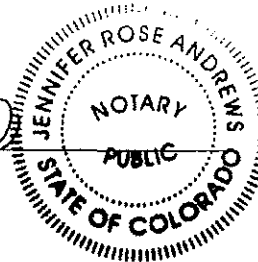

By: Leo Rostermundt

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 8th day of January 2009 by
Douglas J. Shaffer.

WITNESS my hand and official seal.


Notary Public



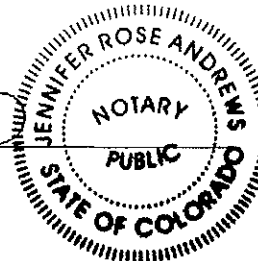
My commission expires: 09-18-2012

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 8th day of January 2009 by
Tara L. Shaffer.

WITNESS my hand and official seal.


Notary Public

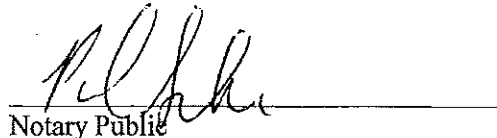


My commission expires: 09-18-2012

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 21 day of January 2009 by
Scott M. Parks.

WITNESS my hand and official seal.


Notary Public



My commission expires: 11/30/2009

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 21 day of January 2009 by
Veronica L. Parks.

WITNESS my hand and official seal.

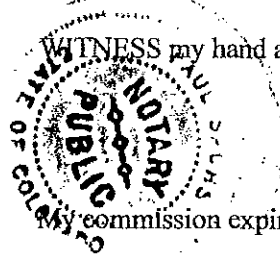


Paul Sachs
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 12 day of January 2009 by
Elizabeth S. Rostermundt.

WITNESS my hand and official seal.

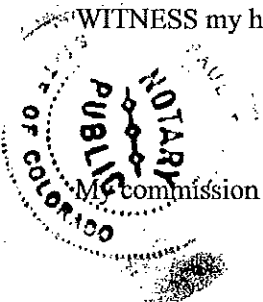


Paul Sachs
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 12 day of January 2009 by
Leo Rostermundt.

WITNESS my hand and official seal.



Paul Sachs
Notary Public

My commission expires: 11/30/2009