

**SECOND AMENDED
AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS**

THIS SECOND AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS (the "Declaration") is made, effective as of the date of its recording in the real property records of Rio Arriba County, New Mexico, by and through the Ticonderoga Owner's Association, Inc., a New Mexico nonprofit corporation.

Recitals

A. On or about April 19, 2001, Mundy Ranch, Inc., a New Mexico corporation ("Mundy Ranch") executed that certain Declaration of Protective Covenants (the "Original Declaration"), and caused such Original Declaration to be filed for record, on April 19, 2001, as Document No. 211866, and recorded in Book 337, at pages 180-199, in the records of Rio Arriba County, New Mexico, thereby imposing the covenants, conditions, restrictions, easements and other provisions of the Original Declaration on that certain real estate described in the Original Declaration;

B. Pursuant to the terms and provisions of the Original Declaration, by the following described instruments (the "Annexation Declarations"), Mundy Ranch and others (as the owners of record of the respective real estate respectively affected thereby), caused certain additional real estate to be subjected to and benefitted by the covenants, conditions, restrictions, easements, and other provisions of the Original Declaration:

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Mundy Ranch, and filed for record, on June 15, 2001, as Document No. 213502, and recorded in Book 345, at pages 372-373, in the records of Rio Arriba County, New Mexico;

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Elvira M. Flynn, a single woman, and Mundy Ranch, and filed for record, on June 15, 2001, as Document No. 213503, and recorded in Book 345, at pages 374-375, in the records of Rio Arriba County, New Mexico;

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Michael G. and Sandra S. Douglas, husband and wife, and Mundy Ranch, and filed for record, on June 15, 2001, as Document No. 213504, and recorded in Book 345, at pages 376-377, in the records of Rio Arriba County, New Mexico;

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Moises A. Morales, Jr., County Clerk & Recorder Rio Arriba, New Mexico



Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by James A. and Leslie Elizabeth Derrenbacher, husband and wife, and Mundy Ranch, and filed for record, on June 15, 2001, as Document No. 213505, and recorded in Book 345, at pages 378-379, in the records of Rio Arriba County, New Mexico;

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Print W. Mundy, a single man, Cache D. and Teresa G. Mundy, husband and wife, and Mundy Ranch, and filed for record, on June 27, 2001, as Document No. 213791, and recorded in Book 347, at pages 22-24, in the records of Rio Arriba County, New Mexico;

Agreement regarding Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Claudia and David L. Ladensohn, husband and wife, and Mundy Ranch, and filed for record, on July 20, 2001, as Document No. 214353, and recorded in Book 350, at pages 205-208, in the records of Rio Arriba County, New Mexico;

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Mundy Ranch, and filed for record, on November 8, 2002, as Document No. 227266, and recorded in Book 418, at pages 361-362, in the records of Rio Arriba County, New Mexico;

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Harold B. Eudaly, Jr., MD, a married man dealing in his sole and separate property, and Mundy Ranch, and filed for record, on December 17, 2002, as Document No. 228343, and recorded in Book 423, at pages 632-633, in the records of Rio Arriba County, New Mexico; and,

Additional Property to Be Annexed under the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS, executed by Dierdre Duchene, joined by her husband, Alan Wilson, and Mundy Ranch, and filed for record, on September 4, 2003, as Document No. 236652, and recorded in Book 461, at pages 156-157, in the records of Rio Arriba County, New Mexico.

Additional Property to be Annexed under the Jurisdiction of the AMENDED AND RESTATED DECLARATION OF PROTECTIVE

**Second Amended and Restated
Declaration of Protective Covenants**



COVENANTS executed by Mundy Ranch, Inc. and filed for record on February 8, 2008 as Document No. 200800949 and recorded in Book 531, page 949, in the records of Rio Arriba County, New Mexico

C. By that certain Property to be RELINQUISHED from the Jurisdiction of the DECLARATION OF PROTECTIVE COVENANTS (the "Relinquished Declaration")(the Original Declaration, Annexation Declarations and Relinquished Declaration hereafter shall be referred to collectively as the "Prior Declarations"), executed by Mundy Ranch and the Ticonderoga Association, Inc., and filed for record, on August 22, 2003, as Document No. 236181, and recorded in Book 459, page 454,455, of the records of Rio Arriba County, New Mexico and by the STIPULATED DISMISSAL WITH PREJUCE AND ORDER of the First Judicial District Court for the County of Rio Arriba filed for record on July 25, 2015 in Book 537 at page 4346 as Document No. 2014-04345, -certain real estate described in such Relinquished Declaration was released from the covenants, conditions, restrictions, easements and other provisions of the Original Declaration;

D. Pursuant to the provisions of Section 7.4 of the Original Declaration, the Mundy Ranch and the other parties, as the owners and holders of record title to, and real estate contract purchasers of, seventy-five percent (75%) or more of the total acreage of all of the real estate described in the Prior Declarations, and, therefore, the holders of seventy-five percent (75%) or more of the voting power of the Ticonderoga Association, Inc., a New Mexico non-profit corporation, being the Association referred to in the Original Declaration, amended, combined, and restated the Prior Declarations in their entirety by that certain Amended and Restated Declaration of Protective Covenants recorded on March 31, 2005 in Book 528 at page 2300 of the records of Rio Arriba County, New Mexico (the "Amended Declaration")

E. The members of the Ticonderoga Owners Association, Inc. and the Ticonderoga Recreational Association, Inc., have each, pursuant to their respective Articles of Incorporation, agree to merge the two Associations, with the surviving Association to be the Ticonderoga Owners Association. Pursuant to the provisions of Section 7.4 of the Amended Declaration, the owners and holders of record title to, and real estate contract purchasers of, seventy-five percent (75%) or more the voting power of the Ticonderoga Owners Association, Inc. and of the Ticonderoga Recreational Association, Inc. (the "Owners") desire to amend and restate the Amended Declaration to reflect the foregoing merger of the Associations.

NOW, THEREFORE, the Owners, by and through the Ticonderoga Owners Association, hereby completely amend, restate the Amended Declaration as follows, and hereby declare that all of the Property, as defined below, shall be, and is, subject to the following covenants, conditions, restrictions, and easements, which shall run with the title to the Property and which shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to the Property, or any part thereof:

Article 1 - Definitions

Second Amended and Restated
Declaration of Protective Covenants

In addition to such other terms as are specifically defined in this Declaration, when used in this Declaration, the following initially capitalized terms shall have the following meanings.

- 1.1. **“Association”** shall mean the Ticonderoga Owners Association, Inc.
- 1.2. **“Association Rules”** means the currently existing Association Rules and Regulations as the same hereafter may be supplemented, amended, repealed, and or replaced by either the Board of the Association, or the Owners, as provided in this Declaration, and any and all rules and regulations hereafter adopted, and in effect, from time to time by the Board of the Association or the Owners, pursuant to the authority granted by this Declaration, all in effect from time to time, and regulating the use and enjoyment of the Lots, Common Areas, Common Easements and Common Facilities.
- 1.3. **“Board”** means the Board of Directors of the Association and the governing body of any respective, successor association or entity.
- 1.4. **“Common Areas”** means any and all portions of the Property, if any, now or hereafter owned or leased by the Association, or which are now or hereafter intended and designated for either the exclusive, or non-exclusive, common use by the Owners, and their guests and invitees. The Common Areas specifically shall exclude the Recreational Areas and Common Easements.
- 1.5. **“Common Easements”** means (i) those certain portions of the “50' access & utility easement” (which easements are depicted on the Plat) that are indicated on the reduced copy of the Plat attached hereto and incorporated herein by this reference as Exhibit B, (ii) that certain existing roadway, running from New Mexico State Highway 512 to and through Tract 6, as shown on the Plat, known as “Brass Cap Road,” and (iii) such other roadways and easements, now existing or hereafter granted or created, that are intended for, and likely will be used by, substantially all of the Owners, and their guests and invitees, for vehicular, pedestrian, bicycle, and/or equestrian access, or the installation, maintenance, repair and replacement of utilities, as the Board of the Association shall hereafter accept for maintenance by the Association.
- 1.6. **“Common Facilities”** means all structures and improvements, if any, now or hereafter constructed and located within or along the Common Areas or Common Easements which are owned by the Association, or are intended and designated for common use by the Owners, and their guests and invitees, including, but not limited to, any common entrance gates, common mailboxes, etc.
- 1.7. **“Conservation Easement”** means that certain Deed of Conservation Easement Chavez Creek I, NM, dated February 28, 2000, by Mundy Ranch to the Rocky Mountain Elk Foundation, Inc., a Montana non-profit corporation, recorded in Book 304, pages 495 to 534 of the real property records of Rio Arriba County, New Mexico, pertaining to the Conservation Easement Area.



1.8. “Conservation Easement Area” means that certain, approximately 395.57 acre, portion of the Property depicted on the Plat as “Conservation Easement.” The Conservation Easement Area is the area of the Property that is the subject of, and subject to, the Conservation Easement. The Conservation Easement Area shall be included in, and is part of, the Recreational Areas.

1.9. “Lot” means each and every legally platted lot, parcel and tract of real estate, improved or unimproved, now or hereafter located within and comprising a portion of the Property.

1.10. “Owner” and “Owners” means every person or entity that holds record title to a fee or undivided fee interest in any Lot. Notwithstanding the foregoing, an Owner shall include the holders of equitable title (e.g. the purchasers), and shall exclude the holders of record title (e.g. the sellers) of a Lot under a real estate contract, so long as the real estate contract is not in default. If a real estate contract is in default, then the holders of record title (e.g. the sellers) to the Lot in question shall be an Owner, and the holders of equitable title (e.g. the purchasers) shall be excluded from being an Owner. The foregoing is not intended to include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation. An Owner may, but need not, be a Recreation Member of the Association.

1.11. “Plat” means that certain plat of survey filed for record, on November 3, 2000, as Document Number 207840, and duly recorded in Plat Book U-057, page 6988 of the real property records of Rio Arriba County, New Mexico.

1.12 “Property” means the real estate more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

1.13. “Recreational Areas” means all portions of the Property now or hereafter owned or leased by the Association, or which are now or hereafter intended and designated, and accepted by the Board of the Association, for either the exclusive, or non-exclusive, common use by the Recreation Members and their guests and invitees, for recreational or other purposes, which specifically shall include (i) the Conservation Easement Area (ii) those areas designated on the Plat as “Greenbelt A,” “Greenbelt B,” and “Greenbelt C,” and (ii) that area contained within twenty-five (25) feet of the highest possible water level and waterline of that certain pond, commonly referred to as “Hidden Pond,” located in Tract 14 (as such Tract 14 is shown and designated on the Plat), together with an area, of sufficient width, for the installation, maintenance, repair and replacement of a road from the nearest existing roadway to such Hidden Pond. The Recreational Areas specifically shall exclude the Common Areas, the Common Easements and that certain existing pond and surrounding area now known as “Mariposa Pond” and formerly referred to as “Dierdre’s Pond” (which pond is more particularly shown on that certain plat of survey entitled *Plat of Lot Line Adjustment Between Dierdre B. Duchene and Alan P. Wilson and Mundy Ranch Inc. . . .*, filed for record on April 30, 2004, and recorded in Book D-1, page 92, of the real property records of Rio Arriba County, New Mexico), the 25 foot fishing easement around the circumference of such pond and the vehicular access to such pond, granted in Section 3.1.7.3 of the Original Declaration, being



hereby expressly vacated, released and relinquished.

1.14. "Recreational Area Rules" means the currently existing Recreational Area as the same hereafter may be supplemented, amended, repealed, and or replaced by either the Board of the Association, or the Recreation Members, as provided in this Declaration, and any and all rules and regulations hereafter adopted, and in effect, from time to time by the Board of the Association or the Recreation Members, pursuant to the authority granted by this Declaration, all regulating matters pertaining to the use and enjoyment of the Recreational Areas or Recreational Facilities.

1.15. "Recreational Facilities" means any and all structures and improvements now or hereafter constructed and located within the Recreational Areas which are owned by the Association, or are intended and designated for common use by the Recreation Members of the Association, and their guests and invitees, for recreational purposes, including but not limited to any picnic tables, picnic shelters, pond linings, check dams, aeration equipment, etc.

1.16. "Recreation Members" shall mean all the Owners who have rights to use the Recreational Areas, including Active Recreation Members, namely those Members whose rights to use the Recreational Areas in an active status, and Dormant Recreation Members, namely those Recreational Members whose rights to use the Recreational Areas is in a dormant status, as more fully set forth in Section 4.2 of this Declaration Association and the Recreational Area Rules. As more fully set forth in Section 4.2 of this Declaration, not all Owners have rights to use the Recreational Areas, and such rights are limited as set forth in this Declaration

1.17. "Review Committee" means the architectural review committee of the Association established pursuant to Section 2.5.

Article 2 - Common Scheme Restrictions and Requirements

The following restrictions and requirements are imposed as a common scheme upon the applicable portions of the Property:

2.1. Uses.

2.1.1. Except as otherwise expressly provided in this Declaration, Lots containing less than thirty-five (35) acres shall be used primarily for single-family residential purposes. Lots containing thirty-five (35) acres or more may be used for recreational (including hunting), ranching and agricultural purposes, including the raising of crops, orchards, horticulture, animal husbandry, and/or poultry, in addition to single-family residential purposes. No Lot shall be occupied by more than one (1) family (e.g. a guest house or other structure on a Lot may not be rented for residential purposes separate and apart from the main residence). The foregoing, however, shall not prevent the shared ownership and use of a Lot by two or more families, provided that the families do not occupy the Lot at the same time on a long term basis (i.e for a period of time of more than one month). In addition, the foregoing shall not prevent guests of a family from temporarily (i.e. for a period of time



of less than one month) residing with such family on a Lot. No single family residence or accessory quarters shall be used as a boarding house or divided into apartments or rooms for rental purposes. The foregoing, however, shall not prevent the long term (i.e. for a period of time of more than one month) rental or lease of an entire Lot by the Owner thereof, but any such rental or lease must be by a written agreement which requires the tenant to observe the provisions of this Declaration and the Association Rules, and makes a breach of this Declaration or the Association Rules a breach of such rental agreement or lease. The short term (i.e. for a period of time of less than one month) rental of a Lot is prohibited.

2.1.2. Except for ranching and agricultural uses of and activities on Lots containing thirty-five (35) acres or more, no business or commercial activity of any nature shall be conducted upon or from any Lot, except as otherwise provided below in this Paragraph 2.1.2. So-called "home occupations" shall be permitted on a Lot if the activity associated with such occupation does not result in any significant traffic to the Lot by persons who are not occupants of the dwellings on the Lot, or otherwise does not unreasonably interfere with or unreasonably disturb the occupants of other Lots.

2.2. Permitted Structures. No structure shall be erected, altered, placed or permitted to remain on any Lot other than: one single family residence; a guest house; a studio; a non-commercial garage (attached or unattached); a barn; a car port or cover; a storage shed; a generator shed; a well house; a greenhouse; and other improvements incidental to the allowed use of the Lot and not otherwise restricted by this Declaration. All of the above shall be of the same general style and color as the main single family residence. An Owner shall maintain the interior of any carport on such Owner's Lot in a neat, clean and sightly condition. No carport shall be used for storage; and no construction or power equipment, hobby shop, carpenter shop or the like shall be maintained under any carport, nor shall automobile or recreational vehicle overhaul, repair or maintenance work be conducted thereunder. All roofs, aluminum doors, windows or arcadia doors must be anodized in a natural, earth tone color and approved in advance by the Review Committee. Modular or prefabricated homes shall be allowed on Lots, provided that they comply with the remaining provisions of this Declaration.

2.3. Prohibited Structures. No mobile home, single or double wide house trailer, geodesic domes, or similar structure shall be kept, placed, or permitted to remain on any Lot at any time. No tent or recreational vehicle shall at any time be used as a permanent residence on a Lot. A tent or recreational vehicle, however, may be temporarily located on a Lot and occupied by the Owner of the Lot and such Owner's family members and guests for not more than ninety (90) nights per year (e.g. used for "camping" on a Lot). All tents, recreational vehicles, and other camping equipment utilized for camping on a Lot shall be removed at the end of each camping period. Recreational vehicles (motor homes, travel trailers, etc.) used solely by the Owner of the Lot and such Owner's family members, may be kept and stored on a Lot provided the same is maintained in a neat, clean, and sightly condition, screened from view from adjoining Lots, the Common Areas, the Recreational Areas and the Common Roads, and providing that an existing home is located on the same Lot. Modular or prefabricated homes shall be allowed on Lots, provided they comply with the remaining provisions of this Declaration.

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2.4. Architectural Style and Construction of Structures. Any and all structures constructed and located on a Lot shall be based upon, but need not adhere strictly to "Swiss Chalet," "A-Frame," "Log Cabin," "Ranch" or "Northern New Mexico" architectural styles. The exterior color of all structures shall be predominantly earth or natural tones. No metal sided house, barn, garage, storage building or other structure may be placed or erected on a Lot. Metal roofs, however, are allowed. All exterior construction, including the final exterior finishes, paint, trim, etc. shall be fully completed within twenty-four (24) months after commencement of construction. All construction shall be conducted during the hours of 7:00 a.m. to 8:00 p.m.

2.5. Review Committee.

2.5.1. Composition. The Board of the Association shall appoint the three (3) members of the Review Committee for the following terms:

- Position 1: Three (3) years
- Position 2: Two (2) years
- Position 3: One (1) year

Upon the expiration of the term of each of the Review Committee member initially appointed by the Board, the Board shall elect a successor to such position, who shall serve for a period of three (3) years, such that the terms of the Review Committee members are staggered. A Review Committee member shall serve until his or her term expires, the member resigns or is unable to serve, or the member is removed by a majority vote of the Board with or without cause, as Review Committee members shall serve at the pleasure of the Board. Any vacancy in the Review Committee occurring before the end of a term shall be filled by a person elected by the Board. The affirmative vote of a majority of the members of the Review Committee shall be required for approval of any matter; provided, however that a majority of the members of the Review Committee may designate one member to act on behalf of the Review Committee.

2.5.2. Submittal Requirements. Before anyone shall commence the erection, installation, construction, reconstruction, remodeling, or material alteration of, or material addition to, any improvement or structure of whatsoever nature on a Lot, including but not limited to, a fence, wall, entrance gate, roadway, utilities, etc., they shall submit for approval to the Review Committee plans and specifications, or other written description, clearly showing or describing the nature of the work proposed and the location thereof, as shall enable the Review Committee to evaluate whether the proposed construction, alteration, installation, etc., will comply with terms and provisions of this Declaration. No erection, installation, construction, reconstruction, remodeling, or material alteration of, or material addition to, any improvement or structure of whatsoever nature, including but not limited to, a fence, wall, entrance gate, roadway, utilities, etc., shall be commenced unless and until the plans and specifications or other description submitted to the Review Committee shall have received the approval of the Review Committee. The Review Committee shall approve or disapprove, in writing, the plans and specifications or other description submitted to it within thirty (30) days after receipt. If the Review Committee shall fail to approve or disapprove the plans and



specifications within thirty (30) days after receipt of the necessary plans and specifications or other description, then approval shall be deemed given, provided that any work proposed to be done shall be done in a manner which does not violate any of the terms and provisions of this Declaration. During construction the Review Committee shall have the right to periodically review progress of the work to ensure its compliance with the approved plans and specifications, or other written description of the work, upon reasonable advance notice to the Owner.

2.5.3. Approval Standards. The Review Committee shall have the right to disapprove any plans and specifications or other written descriptions submitted to it for any one or more of the following reasons:

(i) If the plans and specifications or other written description are not in sufficient detail, or are incomplete.

(ii) If, in the opinion of the Review Committee, the architectural design, location, size, etc., of the proposed improvements, as shown by the plans and specifications or other written description, are not in compliance with all requirements and provisions of this Declaration.

2.5.4. Liability. Neither the Review Committee nor the Board of the Association shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of:

(i) The reasonable approval, conditional approval or disapproval of any plans, drawings, and specifications, whether or not defective;

(ii) The construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or,

(iii) The development or manner of development of any Lot. By the acquisition of title to any Lot, and in consideration thereof, each Owner thereby waives any right, and agrees not, to file suit against the Review Committee, the Board of the Association, or any member thereof, to recover damages in connection with any of the foregoing events.

2.5.5. Appeal of Review Committee Action. An Owner may appeal a Review Committee action to the Board of the Association by requesting, in a writing delivered to the President of the Association, a hearing before the Board of the Association. Upon such a request, the Board of the Association shall schedule a special meeting, pursuant to the Bylaws of the Association, no later than twenty (20) days from the date of such Board's receipt of such a request. At such special meeting, the Owner's evidence will be heard, and the Board of the Association will decide whether or not to uphold the Review Committee's decision. The decision of the Board of the Association on any appeals shall be final.

2.6. Setbacks. Except for entrance gates and appurtenant walls and fences allowed



pursuant to Paragraph 2.7 below, no portion of any building or structure, including porches, yard walls, yard fences, tanks, etc. shall be located, and no vehicle, trailer, equipment, property or items of any kind shall be parked or left stored, whether or not covered, nearer than fifty (50) feet to any boundary line of a Lot.

2.7. Fences and Walls. It is the intent of this Declaration to preserve an open and unobstructed terrain, generally free of fences and walls. Accordingly, Owners shall not fence or wall any portion of the perimeter or boundary of a Lot, except for (i) those boundaries along the exterior boundaries of the Property and (ii) entrance gates, and fences and walls appurtenant to and in the area of, such entrance gates (e.g. fences along the roadway frontage on a Lot). Entrance area fences shall be constructed of metal pipe, split wood rail, wood post and metal cable, or similar fencing material, and shall not exceed three (3) feet in height except at the immediate area of the entrance gate. Entrance walls shall be stone or plastered, and shall not exceed three (3) feet in height except at the immediate area of the entrance gate. No barbed or other wire, chain link, metal mesh, or similar fencing is allowed at entrance areas. Interior fences or yard walls, located around the structures on a Lot (i.e., to enclose a yard, garden or the like), are allowed, provided that such fences and walls (i) shall not exceed eight (8) feet in height, and (ii) comply with the setback requirements set forth in Paragraph 2.6 above. Chain link, metal mesh and similar fencing, although discouraged, may be used to enclose a specific garden or yard area to keep out pests and predators. Corral fencing shall not exceed eight (8) feet in height, and shall comply with the setback requirements set forth in Paragraph 2.6 above.

2.8. Driveways and Landscaping. All driveways shall be surfaced by the Owners of a Lot with gravel or other material to prevent dust and shall be maintained so as to reduce erosion and eliminate unsightly conditions. Adequately sized culverts (at least 12") shall be installed where the driveway meets the roadway. Any landscape improvements made to any Lot shall be compatible and harmonious with the existing native landscape.

2.9. Storage of Building Materials. No storage of building materials, other than during construction, shall be permitted. No storage yard for materials other than those commonly and regularly used for allowed residential, ranching or agricultural use on a Lot, or for purposes of construction of the infrastructure of the Lot, shall be permitted.

2.10. Refuse. No garbage or refuse shall be thrown, dumped or allowed to accumulate on a Lot, the Common Areas, the Common Easements, or the Recreational Areas. This does not prevent the construction of composting areas on a Lot, which are maintained in a neat and orderly manner. On site burning of garbage or trash is prohibited. No garbage or trash shall be placed on the exterior of any structure, except in appropriate, sealed, rigid containers that are maintained in a neat and orderly fashion and screened and concealed from view at all times. All rubbish, trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. The placement, maintenance and appearance of all such containers may be subject to further regulation pursuant to any Association Rules.



2.11. Nuisance.

2.11.1. No Lot shall be used for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be visually offensive or obnoxious, toxic, dangerous, or unhealthy, and no substance, thing or article may be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will disturb the peace, quiet, comfort, or serenity of any occupant of a Lot or user of the Common Area or Common Easements.

2.11.2. No vehicles, parts of vehicles of any type, or large unsightly equipment or machinery shall be permanently or semi-permanently parked on any Lot, the Common Area, the Common Easements or the Recreational Areas, for purposes of repairs, reconstruction or storage.

2.11.3. Structures located on, and the grounds of, each Lot shall be maintained in a neat and attractive manner.

2.11.4. Except in the event of an emergency, chainsaw use is prohibited in any portion of the Property, including any and all Lots, the Common Area, the Common Easements, and the Recreational Areas, from 8:00 p.m. until 8:00 a.m.

2.11.5. No snowmobile, all-terrain vehicle, motorcycle, or other similar vehicle, that emits unreasonably foul or obnoxious odors, or causes unreasonable noise that disturbs the reasonable peace, quiet, comfort, and serenity of Owners, shall be used in any manner in any portion of the Property, including any and all Lots, the Common Area, the Common Easements, and the Recreational Areas.

2.12. Stored Items. All clothes lines, mechanical and other equipment, wood piles, campers, horse trailers, extra automobiles, boats and boat trailers, travel trailers, recreational vehicles and similar vehicles shall be located and kept on a Lot in a neat and attractive manner, in unexposed yards, and only when screened from public view and view from adjacent Lots. Parking of vehicles on any of the Common Easements or their shoulders shall be limited to guests of Lot Owners and shall be temporary in nature.

2.13. Storage Tanks. No elevated tanks of any kind, including tanks for the storage of water, liquefied petroleum gas and fuel oil, gasoline, or oil shall be erected, placed or permitted on a Lot, unless screened by vegetation, walls or fences from view from other Lots, the Common Areas, the Common Easements and the Recreational Areas.

2.14. Utilities. All extensions of utilities shall be underground at all locations. No electrical or telephone lines shall be maintained above ground; provided, however, that any above ground utilities existing prior to the initial recording of this Declaration shall be permitted to continue and need not be buried. Any disturbance of natural ground cover and vegetation necessitated by the installation of utility service lines on a Lot shall be restored by the Owner of the



Lot by replanting. All utilities shall be installed on a Lot in or adjacent to the driveway, where feasible. Generators used for production of electrical power may only be used when operated inside a properly insulated building, so that the noise created by the operation of the generator does not create a nuisance to any adjacent Lot Owners.

2.15. Exterior Lights. All exterior lights on a Lot must be located so as not to be directed toward surrounding Lots, the Common Area, the Common Easements or the Recreational Areas. Bright, glaring lights on rooftops, poles, walls or elsewhere are prohibited. Any exterior lighting installed on any Lot shall be indirect or of such controlled focus and intensity as not to disturb the residents of other Lots. All luminaries (fixtures) must be 45E cut off type. No lights mounted on a pole or otherwise suspended more than ten feet (10') feet above the ground and designed to illuminate an area from dusk to dawn shall be placed on a Lot. No mercury, sodium vapor or similar bright lights of any kind shall be allowed. Temporary Christmas lights and luminaries shall be permitted.

2.16. Billboards and Signs. No sign, billboard or advertisement of any kind, other than one entrance gate sign containing the name of the residents and address of the Lot, and one "For Rent" or "For Sale" sign, both to be of reasonable size, shall be erected or maintained on any Lot.

2.17. Antennas and Towers. No exterior antenna of any sort, including television antennas and satellite dishes over five (5) feet above the highest roof line of the appurtenant structure on a Lot, shall be installed or maintained on any Lot. All antennas, including television antennas and satellite dishes, must be screened from view from other Lots, the Common Areas, the Common Easements and the Recreational Areas. No radio or television transmission towers shall be erected, placed or permitted in the Property. Exceptions to the foregoing may, in reasonable circumstances, be granted by the Review Committee.

2.18. Animals and Horses.

2.18.1. Subject to Paragraph 2.18.2 below, only recognized household pets and barnyard animals, in reasonable numbers, may be kept on Lots containing less than thirty-five (35) acres, as pets for the pleasure and use of the occupants, but not for any commercial use or purpose. No animals may be kept on a Lot, of any size, in any manner or number which is a nuisance or offensive to the occupants of neighboring Lots, whether by reason of noise, habits, odors or otherwise.

2.18.2. No horses may be kept on Lots containing less than five (5) acres. On Lots containing five (5) acres or more, the number of horses allowed on such Lots shall be limited to two (2) horses for each full five (5) acres contained within such Lot, provided the "nuisance" portions of this Declaration are not violated. All allowed horses must be kept in a stable and/or corral area when not being ridden.

2.18.3. Other livestock, animals and poultry may be kept on Lots containing

thirty-five (35) acres or more, provided the “nuisance” portions of this Declaration are not violated. All livestock, animals and poultry must be kept in a stable, pen and/or corral area.

2.19. Hunting and Firearms. Except as otherwise provided below, no hunting shall be permitted on Lots containing less than thirty-five (35) acres, the Common Areas, the Common Easements, or the Recreational Areas. Subject to compliance with state and federal laws, rules and regulations, hunting shall be permitted on Lots containing thirty-five (35) acres or more.

2.20. Mining and Drilling. In no event shall any Lot, the Common Areas, the Common Easements or the Recreational Areas be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, except for the Association for the purpose of removing of rocks, stones, gravel and earth in connection with the construction of Recreational Facilities, water ponds, roadways, structures, etc.

2.21. No Fires. Except as otherwise may be permitted by applicable governmental authorities under a burn permit or burn license, no open fires are permitted outside the structures located on a Lot unless properly and safely contained in an appropriate fireplace.

2.22. Tennis Courts and Swimming Pools. Tennis Courts and swimming pools will be permitted only if, in the judgment of the Review Committee, after proper application and submission of plans, the proposed tennis court or pool is not detrimental to the view from surrounding Lots, the Common Areas, the Common Easements or the Recreational Areas, and does not materially interfere with the harmonious and orderly development of the Property or necessitate unreasonable destruction or alteration of the natural growth and terrain of the Property. The granting by the Review Committee of approval of any application and plans and specifications of any Owner for a tennis court or swimming pool shall not entitle any other Owner to have such Owner’s application and plans and specifications for a swimming pool or tennis court granted.

2.23. No Access to Adjoining Properties. Except as permitted by existing easements, no Lot Owner shall grant any access or utility easement to, or permit access by, the owners of property outside the Property, across that Owner’s Lot. The Association reserves the right to grant easements and rights-of-way in, through, under, over, across, and upon all of the Common Areas, Common Easements, Recreational Areas, and all Lots of which it is the Owner, for the installation, construction, operation, maintenance, inspection, repair, and replacement of lines and appurtenances for public or private water, sewer, drainage, telephone, cable television, gas, power, or other utilities.

2.24. Minimum Lot Sizes. No Lot within the Property shall contain less than five (5) acres, except for those Lots less than five (5) acres that are existing as of the date of the initial recording of this Declaration.

2.25. Solar Panels. No solar panel that is over five (5) feet above the highest roof line of the appurtenant structure on a Lot, shall be installed or maintained on any Lot. Notwithstanding the foregoing, all solar panels shall be substantially screened from view from other Lots, the Common

Areas, the Common Easements and the Recreational Areas.

Article 3 - Common Areas, Common Easements and Common Facilities; Recreational Areas and Recreational Facilities: Rights, Uses, Restrictions.

3.1. Common Areas, Common Easements and Common Facilities. Subject to the reservations and limitations hereinafter set forth, and subject to the Association Rules, easements are hereby granted over the Common area for the non-exclusive, common use of the Owners, and their guests and invitees, for vehicular, pedestrian, bicycle, and/or equestrian access and the installation, maintenance, repair and replacement of underground utilities. Subject to the reservations and limitations hereinafter set forth, and subject to the Association Rules, every Owner shall have a non-exclusive easement of use and enjoyment, in common with other Owners, for the intended purposes, in and to the Common Areas, Common Easements and Common Facilities. Subject to the reservations and limitations hereinafter set forth, and subject to the Association Rules, an Owner may delegate his or her easement of use and enjoyment to the Common Areas, Common Easements and Common Facilities to family members, tenants, etc., who reside on and are occupying the Owner's Lot. An Owner's non-exclusive easement of use and enjoyment shall be appurtenant to and shall automatically pass with, and shall not be severed from, the title to a Lot.

3.1.1. The Common Areas, Common Easements and Common Facilities shall not be open to public use, but shall be available to, and for use by, all Owners, and their family members and tenants residing on and occupying the Owner's Lot, and a reasonable number of guests and invitees, subject (i) the right of the Association, acting through the Board of the Association and the Owners, to regulate such use of the Common Areas, the Common Easements and Common Facilities pursuant to the Owners' Association Rules, (ii) the right of the Association to suspend the right of an Owner (and such Owner's guests, invitees and tenants) to use the Common Areas and Common Facilities for any period during which any assessment levied by the Association against the Owner's Lot remains unpaid, or for a reasonable period for any infraction of the Bylaws of the Association, Association Rules, or this Declaration, as amended from time to time, (iii) the right of the Association to limit the use of the Common Areas, Common Easements and Common Facilities by non-Owners, as the Association deems appropriate, and the right of the Association to limit the number of guests of Owners using the Common Areas, Common Easements and Common Facilities.

3.1.2. The Owners' non-exclusive easements of use and enjoyment in and to the Common Areas, Common Easements and Common Facilities, and the Association's rights and powers with respect thereto, also shall be subject to the following:

3.1.2.1. Such easements as may have been previously granted or reserved by the Association; and,

3.1.2.2. Such other easements as may from time to time be granted or conveyed by the Association pursuant to this Declaration.



3.1.3. The Association shall have the right, power, and responsibility, to improve, maintain, repair, replace, etc. the Common Areas, Common Easements and Common Facilities, including, but not necessarily limited to, the maintenance, repair and replacement of all existing roadways and pedestrian, bicycle, and equestrian trails, and the installation of new pedestrian, bicycle, and equestrian trails within the Common Areas and Common Easements. There shall be no improving, maintaining, repairing, replacing, etc. of Common Areas, Common Easements or Common Facilities, except by and through the Association, and except for the installation of underground utilities and driveways to individual Lots by Owners.

3.1.4. The Association shall have the right to regulate and control access to the Common Areas, Common Easements and Common Facilities; however, the Association shall not impair the Owners' right of access to their Lots.

3.1.5. Each Owner shall be liable to the Association for all damage to the Common Area, Common Easements, and Common Facilities, caused by such person, his invitees, licensees, tenants, etc.

3.1.6. The rights of the Association and the Owners to the Common Areas and Common Easements shall be subject to the following easement and encroachment rights:

3.1.6.1. Each Owner of a Lot, served by utility connections, lines or facilities, including, but not limited to, those for water, telephone, and electrical services, shall have the right, and is hereby granted a non-exclusive easement, to the full extent necessary therefor, to enter upon the Common Areas and Common Easements and/or to have utility companies enter upon the Common Areas and Common Easements where such connections, lines or facilities or any portion thereof may lie, to repair, replace and generally maintain the same. Whenever utility connections, lines or facilities installed within the Property serve more than one Lot, the Owner of each Lot served thereby shall be entitled to the full use and enjoyment of the portions thereof which service such Owner's Lot. The Association hereby reserves to itself easements over, under, through the Common Areas and Common Easements for installation of such utility connections, lines or facilities for the benefit of the Property or as may otherwise be needed for the development of the Property together with the right, as the Association deems necessary or appropriate, to grant and transfer such easements to utility companies or governmental agencies, or authorities within whose jurisdiction the Property lies, and other appropriate entities and individuals.

3.2. **Recreational Areas and Recreational Facilities.** Subject to the reservations and limitations hereinafter set forth, and subject to the Recreational Area Rules, every Active Recreation Member shall have the non-exclusive right and easement of use and enjoyment, in common with other Active Recreation Members of the Association, in and to the Recreational Areas and Recreational Facilities, including the right to use and enjoy the Recreational Areas and Recreational Facilities for recreational purposes other than hunting, including, but not necessarily limited to, hiking, horseback riding, bird watching, bicycling, picnicking, fishing, boating, and swimming, but specifically excluding hunting. An Owner shall not have any such right or easement to use or enjoy,

in any manner, the Recreational Areas or the Recreational Facilities, unless such Owner is also an Active Recreation Member of the Association; provided, however, that, subject to full compliance with, and unless otherwise prohibited by, the Recreational Area Rules, an Owner who is not an Active Recreation Member of the Association, including an Owner who is a Dormant Recreation Member, may utilize the Recreational Areas and Recreational Facilities as a guest of an Active Recreation Member of the Association. A Dormant Recreation Member of the Association also shall not have any such right or easement to use or enjoy, in any manner, the Recreational Areas or the Recreational Facilities, unless such Dormant Recreation Member is a guest of an Active Recreation Member and complies with the Recreational Area Rules regarding guests. Tenants, guests, invitees, etc. of Owners who are not Active Recreation Members also shall not have any such right or easement to use or enjoy, in any manner, the Recreational Areas or Recreational Facilities, unless as a guest of an Active Recreation Member of the Association, in compliance with this Declaration and the Recreational Area Rules.

3.2.1. In addition to not being open to use by Owners who are not Active Recreation Members, the Recreational Areas and Recreational Facilities shall not be open to public use, but shall be available to, and for use by, only Active Recreation Members of the Association, and, subject to compliance with the Recreational Area Rules, their immediate family members and guests and invitees, subject to (i) the right of the Association, acting through the Board of the Association and the Recreation Members of the Association, to regulate such use of the Recreational Areas and Recreational Facilities pursuant to the Recreational Area Rules, (ii) the right of the Association to suspend the right of an Active Recreation Member (and such Active Recreation Member's guests and invitees) to use the Recreational Areas and Recreational Facilities for any period during which any assessment levied by the Association against the Active Recreation Member's membership remains unpaid, or for a reasonable period of time for any infraction of the Bylaws of the Association, the Recreational Area Rules, or this Declaration, as the same are amended from time to time, (iii) the right of the Association to limit the use of the Recreational Areas and Recreational Facilities by Active Recreation Members, as the Association deems appropriate to protect the Recreational Areas and Recreational Facilities, and the right of the Association to limit the number of, and otherwise regulate, guests of Owners using the Recreational Areas and Recreational Facilities.

3.2.2. The Active Recreation Members' rights and easements of use and enjoyment in and to the Recreational Areas and Recreational Facilities, and the Association's rights, powers and responsibilities with respect thereto, also shall be subject to the following:

3.2.2.1. The terms, provisions and restrictions of the Conservation Easement;

3.2.2.2. Such easements and rights as may have been previously granted or are herein reserved by the Association;

3.2.2.3. Such other easements as may from time to time be granted or

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conveyed by the Association pursuant to this Declaration.

3.2.3. Subject to the limitations of and compliance with the Conservation Easement, the Association shall have the right, power and responsibility, to improve, maintain, repair, replace, etc. the Recreational Areas and Recreational Facilities, and roadways other than the Common Easements either located in the Recreational Areas, or serving the Recreational Areas and Recreational Facilities, including, but not necessarily limited to, the right to:

3.2.3.1. Subject to the limitations of Paragraph 3.2.4.3, install, maintain, repair and replace picnic and other recreational areas and improvements, and, in connection therewith, construct, install, maintain, repair and replace recreational facilities such as picnic tables, picnic shelters, barbecue pits, and other recreational structures, improvements and developments, and access roadways thereto;

3.2.3.2. Maintain, repair and replace all existing roadways and pedestrian, bicycle, and equestrian trails, exclusively serving the Recreational Areas or Recreational Facilities, or located within the Recreational Areas, and subject to compliance with the Conservation Easement and the limitations of Paragraph 3.2.4.3, install new roadways, pedestrian, bicycle, and equestrian trails to exclusively serve the Recreational Areas or Recreational Facilities, and/or to be located within the Recreational Areas (with any such installations outside of the Recreational Areas to be located within easements granted by the appropriate Owners for the same);

3.2.3.3. Maintain, repair and replace existing water ponds and related improvements, and construct, install, maintain, repair and replace one or more additional water ponds and related improvements, in appropriate locations in the Recreational Areas. There shall be no improving, maintaining, repairing, replacing, etc. of Recreational Areas or Recreational Facilities, or roadways exclusively serving or located in the Recreational Areas or Recreational Facilities, except by and through the Association. Only the Association may erect, construct, maintain, alter, repair or paint any Recreational Facilities, and any building, sign, dam, or other structure within the Recreational Areas. Further, only the Association may cut, dig up, or otherwise affect, any plant or vegetable matter located within the Recreational Areas. Any construction, maintenance, painting, landscaping, grading, horticultural activities, etc. by any Owner including Active Recreation Members of the Association, is strictly prohibited.

3.2.4. The Association shall conserve and maintain the open space character, wildlife habitat, recreational opportunities, and scenic qualities of the Recreational Areas. The following activities and uses of the Recreational Areas, including by Recreation Members, or the Association, are expressly prohibited:

3.2.4.1. Grazing or placement of any livestock, poultry or domestic animal of any kind in any portion of the Recreational Areas.

3.2.4.2. Placement of mobile homes, house trailers, camping trailers, or



any other type of mobile, non-permanent structure on the Recreational Areas.

3.2.4.3. Any activity which causes or is likely to cause significant soil degradation or erosion or water pollution of surface or subsurface waters.

3.2.4.4. Operation of snowmobiles, all terrain vehicles, and motorcycles on any portion of the Recreational Areas other than roadways and such trails, if any, designated by the Association for such uses; provided that the use of the same on such roadways and trails shall be subject to such reasonable limitations and restrictions as shall be set forth in the Recreational Area Rules, as amended from time to time.

3.2.4.5. Camping in any portion of the Recreational Areas.

3.2.4.6. The extraction or removal of minerals by any surface mining method, except for the removal of sand, gravel and rocks in connection with the construction of the water ponds specifically reserved and allowed pursuant to Paragraph 3.2.3.3.

3.2.5. The Association shall have the right to control and regulate access to and use of the Recreational Areas and Recreational Facilities, pursuant to the Recreational Area Rules.

3.2.6. Each Owner shall be liable to the Association for all damage to the Recreational Area and Recreational Facilities, caused by such Owner, or such Owner's guests, invitees, licensees, tenants, etc.

Article 4 - The Association

4.1 **The Association.** The Association has been duly incorporated according to New Mexico law pursuant to the filing of Articles of Incorporation with the New Mexico Public Regulation Commission (hereinafter collectively referred to as the "Association Articles"). If the Association, as a corporate entity, loses its corporate powers or is dissolved, a non-profit, unincorporated Association shall be formed forthwith and without further action or notice, and shall succeed to all rights and obligations of the Association hereunder until a qualified nonprofit corporation is formed. Said unincorporated Association's affairs shall be governed by the laws of the state of New Mexico, and to the extent not inconsistent therewith, by the Declaration, the Association Articles and the Bylaws of the Association ("Association Bylaws"), respectively, as if they were created for the purpose of governing the affairs of an unincorporated Association.

4.1.1. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a member of the Association. Notwithstanding the foregoing, membership shall include the holders of equitable title (e.g. the purchasers), and shall exclude the holders of record title (e.g. the sellers) of a Lot under a real estate contract, so long as the real estate contract is not in default. If a real estate contract is in default, then the holders of record title (e.g. the sellers) to the Lot in question shall be entitled to membership in the Association, and the holders of equitable title

(e.g. the purchasers) shall be excluded from membership in the Association. The foregoing is not intended to include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation. Membership in the Association shall be appurtenant to and may not be separated from record ownership of any Lot.

4.1.2. In addition to those matters set forth in this Declaration, the rights, powers and duties of members, and rights, powers and duties of the Association are more fully specified in the Association Articles and the Bylaws of the Association.

4.1.3. The Association has the duty, among others, to maintain, repair and replace, in a reasonably good order and condition, the Common Areas, Common Easements, and Common Facilities, and to enforce the provisions of this Declaration, including those provisions pertaining to the Recreational Areas and Recreational Facilities.

4.1.4. The President and Secretary of the Association, or any two (2) members of the Board of Directors, may execute, acknowledge and record a certificate of identity, stating the names of all of the members of the then current Board of the Association. The most recently recorded certificate shall be conclusive evidence of the identity of the persons then composing the Board of the Association in favor of any person relying thereon in good faith.

4.1.5. The affairs of the Association shall be managed by the Board of the Association, which shall exercise all of the rights and powers and perform all of the duties and responsibilities of the Association set out in this Declaration and the Articles and Bylaws for the Association.

4.1.6. The Board of the Association shall have the initial authority, from time to time, to supplement, establish, promulgate, amend, and repeal the Association Rules. Any Association Rules established and promulgated by the Board of the Association may be ratified, amended, or repealed by a two-thirds (2/3rds) vote of all of the Owners, which vote may be taken at any regular meeting, or any special meeting (called for such purpose in accordance with the Bylaws for the Association) of the Owners. Further, the Owners, by a two-thirds (2/3rds) vote of all of the Owners, which vote may be taken at any regular meeting, or any special meeting (called for such purpose in accordance with the Bylaws for the Association) of the Owners, shall have the right to enact additional Association Rules.

4.1.7. The Board shall prepare an annual operating statement reflecting the money received by the Association and the expenditures of the Association for each fiscal year, and shall distribute such statement to each Owner.

4.1.8. The Association shall take such action as reasonably may be necessary to enforce or carry out the terms and provisions and purposes of this Declaration (other than those terms, provisions and purposes pertaining to the Association, Recreational Areas or Recreational Facilities), the Association Articles, the Association Bylaws, and the Association Rules.



4.2. The Recreation Members.

The total number of recreation memberships in the Association is, and shall be, limited to one hundred fifty (150) (the "Recreation Memberships"). Only Owners shall be allowed to be Recreation Members of the Association, although a Recreational Membership is not tied to the ownership of a specific Lot and may be transferred by one Owner to another Owner separate from the conveyance of a Lot. Recreation Membership in the Association shall be limited to the current Recreation Members and those other Owners who hereafter acquire a Recreation Membership in good standing from an existing Recreation Member or the Association as shown in the records of the Association.

4.2.1 There are two (2) classes of Recreation Memberships and Members in the Association, namely Active Recreation Memberships and Members ("Active Recreation Memberships" and "Active Recreation Members"), and Dormant Recreation Memberships and Members ("Dormant Recreation Memberships" and "Dormant Recreation Members"). An Active Recreation Membership entitles the Recreation Member holding such Active Recreation Membership to use the Recreational Areas and Recreational Facilities, in accordance with and subject to this Declaration and the Recreational Area Rules. Dormant Recreation Memberships are those Recreation Members that have never utilized, and are not currently utilizing, the Recreational Areas or Recreational Facilities. Dormant Recreation Members shall not be entitled to utilize the Recreational Areas or Recreational Facilities, except as a guest of an Active Recreation Member in accordance with the Recreational Area Rules.

4.2.2 A Dormant Recreation Membership can be activated, and converted to an Active Recreation Membership, at any time, by a written notice from the Dormant Recreation Member to the Association, accompanied by the payment to the Association of a Two Hundred Dollar (\$200) activation fee. An Active Recreation Membership may never be converted to or become a Dormant Recreation Membership, even if such Active Recreation Membership was once a Dormant Recreation Membership. Active Recreation Memberships and Dormant Recreation Memberships may, however, be relinquished to the Association, at any time, by written transfer, from the Active Recreation Member or Dormant Recreation Member holding the same, to the Association.

4.2.3 The Association, acting by and through the Board of the Association, also may acquire, for consideration, either Active Recreation Memberships, or Dormant Recreation Memberships, with the agreement of the subject Active Recreation Member or Dormant Recreation Member. The Association, however, shall not have or hold a right of first refusal to acquire any Active Recreation Membership or Dormant Recreation Membership, unless such right is otherwise granted, in writing, to the Association by the subject Active Recreation Member or Dormant Recreation Member. If an Active Recreation Membership or Dormant Recreation Membership shall be acquired, either by relinquishment, acquisition for consideration, or acquisition by foreclosure or similar proceeding, the subject Membership shall not be subject to assessments by the Association while held by the Association. The Memberships may be transferred, by sale, gift, bequest, etc. to

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any Owner, in accordance with the Recreational Area Rules.

4.2.4. The Association has the duty, among others, to monitor, regulate, maintain, repair and replace the Recreational Areas and Recreational Facilities and to enforce the provisions of this Declaration, with respect to not only Recreation Members, but also to all other Owners, and their guests, invitees, tenants, etc., pertaining to the Association, Recreational Areas and Recreational Facilities.

4.2.5. The Board of the Association shall have the initial authority, from time to time, to supplement, establish, promulgate, amend and repeal the Recreational Area Rules. Any Recreational Area Rules established and promulgated by the Board of the Association may be ratified, amended, or repealed by a two-thirds (2/3rds) vote of all of the Active Recreation Members, which vote may be taken at any regular meeting, or any special meeting (called for such purpose in accordance with the Bylaws for the Association) of the Active Recreation Members. Further, the Active Recreation Members, by a two-thirds (2/3rds) vote of all of the Active Recreation Members, which vote may be taken at any regular meeting, or any special meeting (called for such purpose in accordance with the Bylaws for the Association) of the Recreation Members, shall have the right to enact additional Recreational Area Rules.

Article 5 - Assessments by Association

5.1 Owner's Mutual Covenants to Pay Assessments. Each Owner, by acceptance of a deed to a Lot or real estate contract for the purchase thereof, covenants and agrees with each other Owner and with the Association, to pay all assessments levied by the Association, as provided under this Declaration and the Association Bylaws, whether or not such covenant is contained in such deed or contract or other conveyance.

5.2 Recreational Member's Mutual Covenants to Pay Assessments. Each Recreational Member, by acceptance of a deed to a Lot, or real estate contract for the purchase thereof, and acceptance or acquisition of a Membership, either an Active Membership, or a Dormant Membership, covenants and agrees with each other Recreational Member and with the Association, to pay all assessments levied by the Association, as provided under this Declaration whether or not such covenant is contained in such deed or contract or other conveyance. Further, each Recreational Member and each Owner who is not a Recreational Member of Association, by acceptance of a deed to a Lot or real estate contract for the purchase thereof, covenants and agrees with each other Owner, with Recreational Members and with the Association, to pay all special assessments levied by the Association for fines for violation of the provisions of this Declaration Association pertaining to the use of the Recreational Areas or Recreational Facilities, and for damages caused to the Recreational Areas and Recreational Facilities by such Owner or such Owner's guests, invitees, family members, tenants, etc.

5.3 Lien for Non-payment of Assessments. All sums assessed and fines imposed by the Association, including, without limitation, general assessments, special assessments, and



assessments for violations of this Declaration, the Association Bylaws, or the Owners Association Rules, together with reasonable costs and any attorney's fees incurred in connection with the collection thereof, chargeable to any Lot or its Owner, shall constitute a continuing lien on such Lot, from the date of assessment until paid.

5.3.1. If any assessment or other charge shall remain unpaid for thirty (30) days after the due date thereof, then a late fee of \$100.00 shall be assessed and be due and owing, and the unpaid assessment or charge shall bear interest at a rate equal to twenty percent (20%) per annum, commencing on the date such assessment or charge was due, until the date paid.

5.3.2. In any suit for collection or foreclosure of such lien, the Owner shall be required to pay the costs and expenses of such proceeding, all reasonable costs of collection and all reasonable attorneys' fees. The Owner shall also be required to pay to the Association any assessment due for the Lot during the period of foreclosure. The Association, acting by and through the Board or its managing agent, shall have the power to bid on the Lot at foreclosure sale, and to acquire, hold, lease, mortgage and convey the same.

5.3.3. Any person or entity holding a lien on a Lot may pay, but shall not be required to pay, any unpaid assessment due with respect to such Lot, and upon such payment such holder of such lien shall have a lien on such Lot of the same rank as the lien of his encumbrance for the amounts paid.

5.3.4. The Association shall give written notice to the Owner, and the holder of any lien on such Lot who provides a written request for the same to the Association, of any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

5.4 Personal Debt of Owner. Any assessment or charge against a Lot shall be the personal and individual debt of the Owner(s) thereof at the time the assessment is made. Suit to recover a money judgment for unpaid assessments or charges shall be maintainable against such Owner(s) without foreclosing or waiving the lien securing same.

5.5 Joint Liability for Assessments Upon Transfer of Lot. The grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments of the Association against the Lot at the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee established by the Association Board, and upon written request, any such prospective grantee shall be entitled to a statement from the managing agent or Association Board setting forth the amount of the unpaid assessments, if any, with respect to the subject Lot, the amount of the current yearly assessment, the date that such assessment becomes due, and credits for advanced payments or for prepaid items, which statement shall be conclusive upon the Association. If such statement is not tendered by the Association within ten (10) business days of actual receipt by the Association of such request, then such requesting grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the subject Lot unless such lien has been recorded with the Rio Arriba County Clerk prior to the date the request is received by the



Association.

5.6 No Waiver of Assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas, Common Easements or Common Facilities, by abandonment of his or her Lot, or by any other means whatsoever.

Article 6 - Duties and Responsibilities of Owners

6.1 Owner's Responsibility to Maintain Lot. Each Owner shall be responsible for the maintenance and repair of his Lot and all structures located thereon, including, without limitation, the exterior of and areas surrounding the structures, the glass doors, windows and screens, the plumbing, electrical, heating and other systems servicing the structures, the parking areas, water laterals serving the Lot to the junction of the lateral with the utility line in the street, the structure's exterior surface and roof, including painting and surfacing, and for the prompt rebuilding of the structure in the event of partial or complete destruction. All maintained areas shall be kept in clean and orderly condition.

6.2 Maintenance of Landscaping. Each Owner shall maintain the landscaping of his Lot in a neat and attractive manner. All grass, mass plantings and other plantings shall be mowed, trimmed and cut as necessary at regular intervals.

6.3 Shared Maintenance of Roadways. Roadways, other than Common Easements, shall be maintained, repaired and replaced by the Owners' using the same. Each Owner using any such roadway shall equitably share, with the other Owners' using such roadway, in the maintenance, repair and replacement of such roadway, as such Owners' shall agree. The Association shall have no obligation to maintain, repair or replace any roadways other than the Common Easements.

6.4 Observance of Responsibilities. Each Owner and/or Recreation Member shall comply with the provisions of this Declaration and any applicable Association Rules and/or Recreational Area Rules and will cause the Owner's family, agents, guests, contractors, employees and any person renting or leasing the Owner's Lot to do likewise.

6.5 Rights of Action. The Owners Association and each Owner shall have a right of action against Owners for failure to comply with the maintenance and repair provisions of this Article 7 of the Declaration. In addition to any other enforcement rights, if an Owner fails to fulfill his maintenance responsibilities, after reasonable notice from the Association and an opportunity for the Owner to cure such failure, the Association may enter the Lot and perform such maintenance. The Board of the Association shall be entitled to recover all costs, expenses and reasonable attorney's fees incurred in the enforcement of this Article 7, and the same shall constitute a special assessment against such Lot.

Article 7 - General Provisions

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Receipt #: 26671 Page 23 of 30
Moises A. Morales, Jr. County Clerk & Recorder Rio Arriba, New Mexico



7.1 Enforcement. The Association and any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, other than those provisions pertaining to the Association, Recreational Areas and Recreational Facilities. The Association and any Recreation Member shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration pertaining to the Recreational Areas and Recreational Facilities. Failure by a party to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association and any Owner or Member shall be entitled to recover all costs, expenses and reasonable attorney's fees incurred in the substantially successful enforcement of the provisions of this Declaration.

7.2 Notices. Any notices required or permitted under this declaration shall be delivered to the respective addressee, transmitted by electronic mail, or deposited in the United States mails, postage prepaid, certified or registered mail, return receipt requested, addressed to the Owners and/or at the respective electronic mail or mailing, as applicable, addresses as shown in records maintained by the Association as applicable. Each Owner shall provide the Association with such Owner's current electronic mail and mailing address. Each Recreation Member shall provide the Association with such Member's current electronic mail and mailing address. Any Owner may change such Owner's respective address by giving notice thereof to the Association at such address as may be specified by the Association to Owners, in writing. Any Recreation Member may change such Member's respective address by giving notice thereof to the Association at such address as may be specified by the Association to Recreation Members, in writing.

7.3 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

7.4 Binding Effect; Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date that this Declaration is initially recorded in the real property records of Rio Arriba County, New Mexico, after which time they shall be automatically extended for successive periods of ten (10) years each; provided, however, that Owners holding at least seventy-five percent (75%) of the voting power of the Association may, by executing, and acknowledging an appropriate instrument, at any time, change, amend, modify or revise any of said restrictive covenants, with respect to all or any portion of the Property; provided, however, that any such amendment pertaining to or affecting, in any manner, the Recreational Areas or Recreational Facilities, must also be consented to by seventy-five percent (75%) of the Active Recreational Members. Every amendment must be recorded in the Office of County Clerk, Rio Arriba County, New Mexico.

7.5 Binding Effect. This Declaration shall be binding upon and shall inure to the benefit the Owners, Recreation Members and their respective heirs, successors and assigns, and shall run with the land and title to the Property.



7.6 **Counterparts.** This Declaration may be executed in any number of counterparts, which when taken together, shall constitute one and the same original instrument. In particular, the separate signature pages to this Declaration may be combined and compiled into a single instrument.

[The remainder of this page intentionally has been left blank.]



Exhibit A

All those certain tracts of land shown on plat of survey entitled "Plat of Division into 140+ acre parcels in Elk View & Ticonderoga Tracts...", filed for record on November 3, 2000, with the Country Clerk of Rio Arriba County, New Mexico, and appearing at Plat Book U-057 Page 6988 of the real property records of Rio Arriba County, New Mexico, less and expecting Tract 3-A; and

Tract C B North as shown on plat of survey filed for record on January 17, 2001, with the County Clerk of Rio Arriba County, New Mexico and appearing at Plat Book U-167 Page 7098 of the real property records of Rio Arriba County, New Mexico and;

Tracts A & B as shown on plat of survey filed for record on January 17, 2001, with the County Clerk of Rio Arriba County, New Mexico and appearing at Plat Book U-168 Page 7099 of the real property records of Rio Arriba County, New Mexico and;

Tract 1 and Tract 5 as shown on plat of survey entitled, "Plat of Lot Line Adjustment for Print W and Cache D. Mundy and David L. Ladensohn...", filed for record on June 26, 2000, with the County Clerk of Rio Arriba County, New Mexico, and appearing at Plat Book T-070 Page 6800 of the Real Property Records of Rio Arriba County, New Mexico and;

Tracts 2 and 5 as shown on plat of survey entitled "Plat of Lot Line Adjustment for Print W. and Cache D. Mundy...", filed for record on June 26, 2000 with the County Clerk of Rio Arriba County, New Mexico, and appearing at Plat Book T-070 Page 6800 of the real property records of Rio Arriba County, New Mexico and;

Plat of Boundary Survey for Mundy Ranch, Inc. a portion of the Historic E. D. Swayze Tract..., prepared by William H. Albert, NMPS #7241, dated April 26, 2002 and recorded in the Office of the County Clerk, Rio Arriba County, New Mexico on May 10, 2002 in Plat Book Y-007, page 7740; and;

Duchene Tract as shown on plat of survey entitled "Boundary Survey and Division for Christian Duchene...", filed for record on May 30, 1996, with the County Clerk of Rio Arriba County, New Mexico, and appearing at Plat Book O-1102 page 4206 of the real property records of Rio Arriba County, New Mexico and;

Eudaly Tract as shown on plat entitled "LOT LINE ADJUSTMENT BETWEEN HAROLD B. EUDALY AND MUNDY RANCH, INC. A PORTION OF THE TICONDEROGA TRACT...", filed in the Office of the County Clerk, Rio Arriba County, New Mexico, on October 26, 1999, in Plat Book R-141, page 6471, as Document #164678; and;

Tracts A & B, as shown on plat of survey entitled "Boundary Survey Plat for Elvira M. Flynn...", filed for record on June 26, 2000, with the County Clerk of Rio Arriba County, New Mexico, and appearing at Plat Book T-072 Page 6802 of the real property records of Rio Arriba County, New Mexico and;

Tract 14-A, as shown on plat of survey entitled "Plat Division for Mundy Ranch, Inc., Ticonderoga Tract 14...", filed for record on November 20, 2000, with the County Clerk of Rio Arriba County, New Mexico, and appearing at Plat Book U-087 Page 7018 of the real property records of Rio Arriba County, New Mexico and;

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Exhibit A (Continued)

Tract 3-A, as shown in the plat of survey entitled "Plat Division for Mundy Ranch, Inc. Elkview/Ticonderoga Tract 3 and Tract 3-A...", prepared by William H. Albert, NMPS #7241, dated December 7, 2000 and recorded in the Office of the County Clerk, Rio Arriba County, New Mexico, on January 22, 2001 in Plat Book U-171 Page 7102, and;

Tracts 3 & 4, as shown on plat of survey entitled "Plat of Lot line Adjustment for Print W. and Cache D. Mundy and David L. and Claudia S. Ladensohn...", filed for record on June 26, 2000 with the Office of the County Clerk, Rio Arriba County, New Mexico and appearing at Plat Book T-070 Page 6800 of the real property records of Rio Arriba County, New Mexico, and;

Hidden Mesa, 462.74 acres more or less, as shown on plat of survey entitled "Plat of Greenbelt Area for Mundy Ranch, Inc. 'Hidden Mesa' ...", filed for record on January 16, 2008, with the Office of the County Clerk, Rio Arriba County, New Mexico and appearing at Plat Book L-1, page 91 of the real property records of Rio Arriba County, New Mexico, and;

LESS AND EXCEPTING THEREFROM Leonard Nettles and Kay Nettles property, Lot 1 of the Boulders portion of the Ticonderoga Subdivision, more particularly described as : Boulders Tract 1 as shown on plat of Summary Review Division of 26.22 acres for Mundy Ranch, Inc. "Boulders Tract" ... , filed in the Office of the County Clerk, Rio Arriba County, New Mexico on October 31, 2002, in Plat Book Z-53, page 7933 as Document Number 227009 ("Leonard Nettles and Kay Nettles Property") is hereby relinquished from the jurisdiction of the Ticonderoga Owners' Association and Ticonderoga Recreational Association and/or any of their successor organizations.

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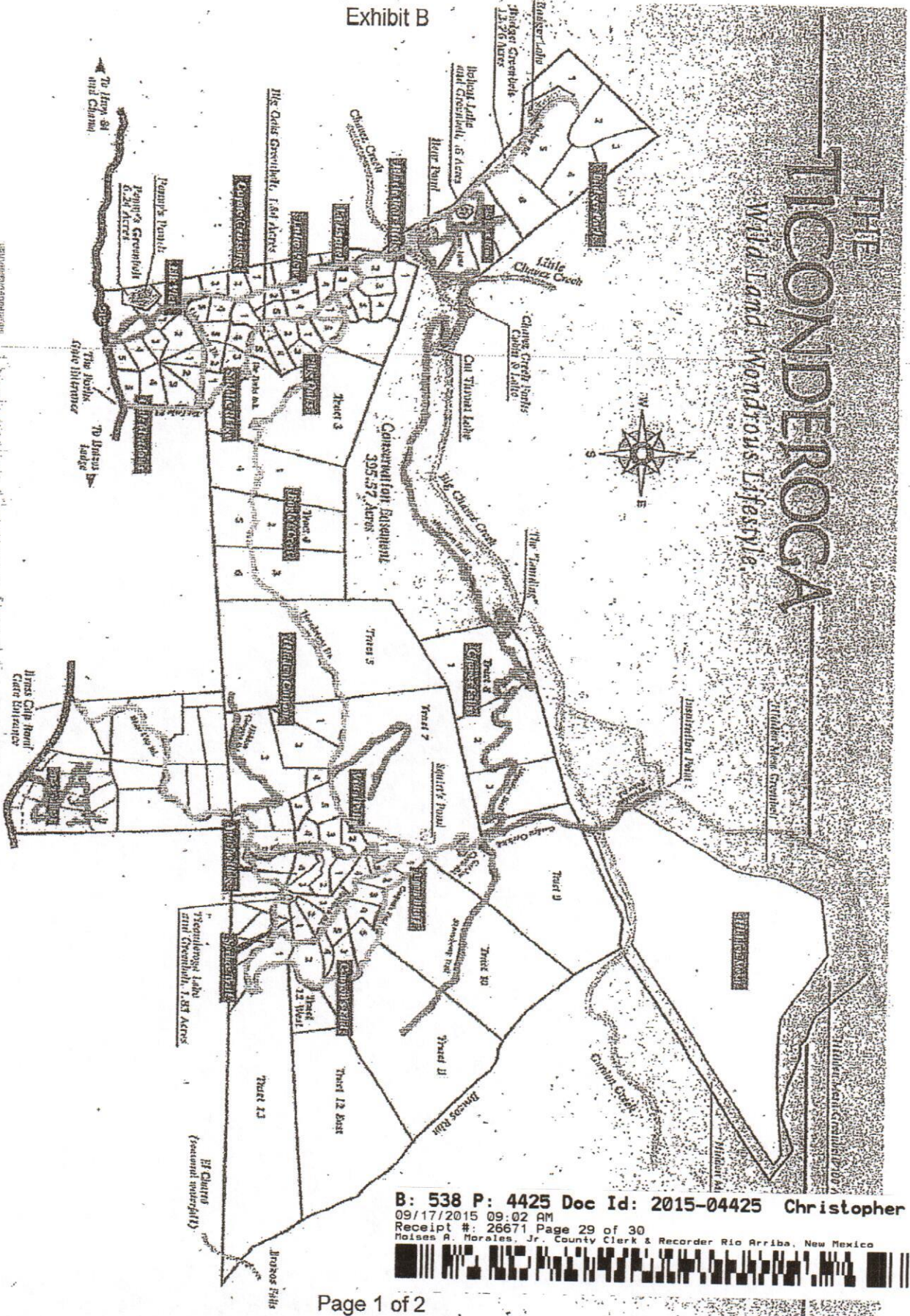
Heiseo A. Morales, Jr. County Clerk & Recorder Rio Arriba, New Mexico



THE TICONDEROGA

Wild Land Wondrous Lifestyle.

Exhibit B



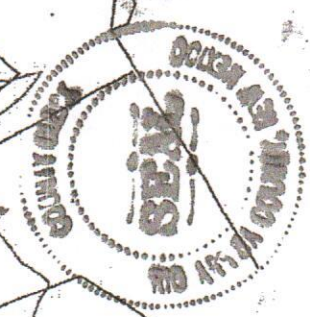
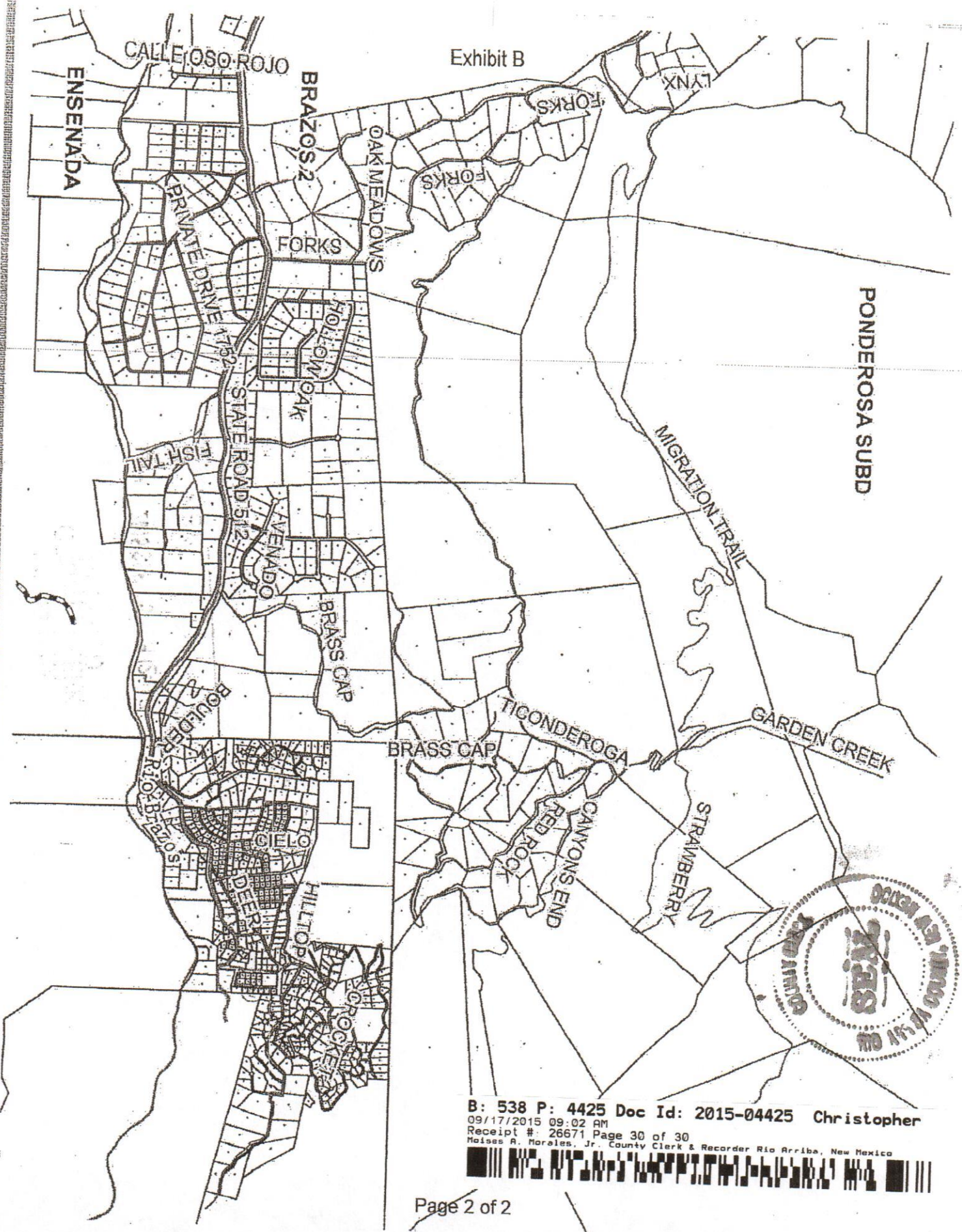
Roads no longer maintained by TOA/TRA pursuant to Amended Declaration

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Exhibit B



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Moises A. Morales, Jr. County Clerk & Recorder Rio Arriba, New Mexico



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BY: cm

