

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION, made on the date hereinafter set forth by Apishapa River Ranch Joint Venture (hereinafter referred to as the "Declarant").

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain real property (the "Property" or "Tracts") located in the County of Las Animas, State of Colorado, legally described as follows:

SEE ATTACHED EXHIBIT "A"

WHEREAS, Declarant desires to convey said Property, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the following restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, restrictions and conditions shall run with the Property and shall be binding upon all of the parties having or acquiring any right or interest in the described Property or any part thereof, and shall inure to the benefit of each owner thereof, their heirs, successors and assigns.

Fences

All fences constructed on the Property shall comply with all statutes of the State of Colorado, and any regulations of any administrative agencies having jurisdiction over the Property involved and the construction of fences on the Property, and in addition thereto, all decorative fences must be maintained in a functional and attractive condition. Until each Tract is fenced, the Declarant shall retain all grazing rights on all the Property. Owners are permitted to fence their Tracts, but no gate or closure device shall be erected across any roadways, however, cattle guards are permissible.

Livestock

Livestock will be permitted on the Property. In order to protect the area's wildlife, all dogs must be kept on a leash at all times or they will be deemed as predators and as nuisances in accordance with Colorado law. Notwithstanding the above, commercial feed lots and swine shall be prohibited.

Owners' Easements of Enjoyment

Every owner shall have a right and easement of enjoyment, ingress and egress over all roadways which shall be appurtenant to and shall pass with the title to every Tract or parcel. This right of ingress and egress shall apply to all surveyed and platted roadways, without regard to the actual ownership of the roadway.

Easements and Rights-of-Way

Further, Declarant specifically reserves to itself, its successors and assigns, easements and access ways for, to and over each and every Tract over and across the entirety of the Property to a dedicated road or other public way. In the case of an existing road, said easement and access way shall be 30 feet on both sides of the centerline of said existing road. In the case of Tracts over which no roadway exists at the time of recording of this Declaration, said easement and right-of-way shall be 60 feet wide, the exact location and course of said easement and access way to be later determined. Until such determination, said easement and right-of-way shall be across the entirety of said Tracts. In addition, Declarant shall have the right to construct, continue and extend any roadway across any Tract, in a reasonable manner, in order to provide access to other Tracts either within or outside of the Property. In addition, Declarant specifically reserves to itself, its successors and assigns, easements and access ways which shall be 30 feet on either side of all Tract boundaries.

Location of Structures, Improvements and Landscaping

No structure, improvements, fences, walls or landscaping shall be located on any Tract in such a manner as to be within 100 feet of any Property boundary line nor within 40 feet to the boundary of any road, access or utility right-of-way or easement.

Sewerage

No outside toilets or privies shall be permitted on any Tract at any time. All toilet facilities must be of a modern type connected with a proper sanitary system approved by the appropriate governmental entity. No owner may use his Tract for any purpose which would result in the draining or dumping into any channel or upon the Property of any refuse, sewerage or the like. Each owner shall be responsible for the provision of his own sewerage disposal system.

Temporary Structures

No mobile and/or trailer homes, campers or motor homes shall be permitted on any of the Property. No structure of a temporary character, recreational vehicle, tow trailer, tent, and the like, shall be placed on any Tract for a period exceeding 90 days for

each calendar year. No motor vehicles of any kind shall be parked on any road. No stripped down, partially wrecker, or junk motor vehicle or sizable part thereof, shall be permitted to be parked on any road or on any Tract except in a closed structure. Notwithstanding the above, trailer houses may be used on the Tracts for up to twelve months while building a permanent residence if in compliance with Las Animas County, Colorado ordinances.

Wood Harvesting/Mining

Commercial wood harvesting, mining (including the removal of soil, gravel and rock) is prohibited.

Enforcement

Any owner of any Tract on the Property shall have the right to enforce, by an proceeding at law or in equity, all restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration. Failure of any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event any action is brought in a court of competent jurisdiction to enforce any covenants or restrictions contained herein, the successful party shall be entitled to an award of its reasonable attorney's fees incurred in the legal action and for any legal services required after judgment to enforce the court's orders and decrees.

Failure to comply with any of the terms of this Declaration by an Owner, his family, guests, employees, invitees, or tenants, shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure or lien, private nuisance or any combination thereof. Any Owner or Declarant shall be entitled to bring such an action to enforce this Declaration. Each remedy provided for in this Declaration or at law shall be cumulative and not exclusive or exhaustive.

Use

All Tracts on the Property shall be used for residential and recreational purposes as provided for and allowed by State law and County regulations. Not more than one residence shall be built on any one Tract. [Property shall not be used in any way or for any purpose which may endanger the health or unreasonably disturb any other owner or resident of the Property.] Provided, however, the Declarant, its agents and assigns shall be allowed to conduct reasonable business activities, install reasonable signs and billboards and perform reasonable construction and maintenance of any improvements on the Property, if any.

Revocation and Amendment

This Declaration shall not be revoked nor shall any of the provisions herein be amended unless approved in writing by owners representing at least fifty-one percent (51%) of the surface acres included in the Property. The instrument of amendment must be properly recorded in Las Animas County, Colorado. Notwithstanding any other provision in this Declaration, the prior written approval of Declarant, as developer of the Property, will be required before any amendment shall become effective, which amendment occurs during the first five (5) years from the date of this Declaration or which amendment would impair or diminish the rights of Declarant to complete the development or sell Tracts therein.

Annexation

Additional Property may be annexed to the covenants, conditions and restrictions, by the recording of a statement to that effect by the Declarant, its successors and assigns. Said statement shall set forth the exact legal description of the Property to be annexed to this Declaration, and shall state that all Property annexed shall be subject to the terms of the Declaration. Likewise, prior to entering into a contract for its sale, the Declarant may delete all or any portion of the Property from these covenants by filing of record a statement to that effect.

Reserved Rights

Nothing in this Declaration shall limit, and no owner shall do anything to interfere with the right of, the Declarant to grant utility easements, easements of ingress and egress, or to subdivide or resubdivide other Property owned by the Declarant which other Property is contiguous or adjacent to any part of the Property covered by this Declaration.

Improvements to Property

Any owner constructing improvements on the Property, or allowing the same to be constructed, shall comply with all governmental regulations and laws, especially those requiring permits for such construction.

Noxious Activities

No Owner and no Owner's guest shall do anything or keep anything in or on the Property which would be immoral, improper, offensive or in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

No noxious or offensive activity shall be carried on or upon any part of the Property nor shall anything be done or placed on

or in any part of the Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be conducted on any part of the Property and no improvements shall be made or constructed on any part of the Property which are or might be unsafe or hazardous to any person or Property. No sound shall be emitted on any part of the Property which is unreasonably loud or annoying. No odor shall be emitted on any part of the Property which is noxious or offensive to others. No light shall be emitted from any part of the Property which is noxious or offensive to others.

Off Road, Three-Wheel All Terrain Vehicles,
Motorcycles and Motorbikes

Off road, three-wheel and all terrain vehicles are prohibited on any part of the Property, unless they are mounted on a trailer designed for their transport. This provision shall not apply to four-wheel drive vehicles designed primarily for normal highway usage.

Motorcycles and motorbikes designed primarily for normal street and highway usage may be used on the maintained or graded roadways on the Property, provided the sound emitted from such machines is properly muffled so as not to disturb Property owners and constitute a nuisance.

Severability

The provisions hereof shall be deemed independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provisions hereof.

Covenants Cumulative

Each of these covenants is cumulative and independent and is to be construed without reference to any other provisions dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

Action in Writing

Notices, approvals, consents, extensions, applications and other action provided for or contemplated by these covenants shall be in writing and shall be signed on behalf of the party who originates the notice, approval, consent, application or other action. Permission, consent or approval of Declarant or any other person or entity under these covenants is not effective unless in writing.

Notices

Any communication from Declarant or to an Owner, shall be sufficiently served if delivered by mail or otherwise: (a) to the dwelling situate on the Tract owned by that Owner; or (b) if there is no dwelling, then to the address furnished by the Owner to Declarant and if the Owner has not furnished an address, then to the most recent address of which Declarant has a record.

Assignment, Conveyance or Transfer of Declarant's Interest


Declarant shall have the full right, without approval of the other owners, to assign, transfer and convey all of its rights, title, interest and obligation pursuant to this Declaration to any third party or entity of Declarant's choosing.


PERPETUITIES SAVING CLAUSE

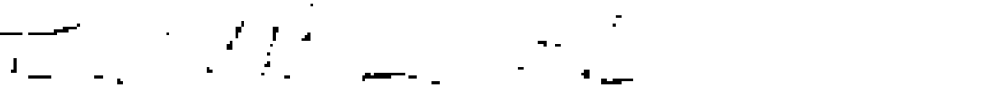
As to any provision in this Declaration of Restrictive Covenant, the Declarant does not intend that there shall be any violation of the Rule against Perpetuities or any related rule. If any such violation should inadvertently occur, it is the wish of the Declarant that the appropriate court shall reform such provision in such a way as to approximate most closely the intent of the Declarant within the limits permissible under such Rule or related rule.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, having executed this instrument this 5th day of January, 19 29.

APISHAPA RIVER RANCH JOINT VENTURE


Bill J. Jacobson, Joint Venturer


Charles L. Davis, Joint Venturer


Paul T. Lawlis, Joint Venturer

STATE OF Texas)
County of Travis) ss.

The foregoing Declaration of Covenants, Conditions, and Restrictions, was acknowledged before me this 21 day of