



SCOTT DOYLE, CLERK  
LARIMER COUNTY CO

RCPTN# **2006-0013982**  
PAGES - 16 FEE \$86.00 DOC \$0.00

02/27/2006  
16:02:18  
#570472



SCOTT DOYLE, CLERK  
LARIMER COUNTY CO

RCPTN# **2005-0011113**  
PAGES - 14 FEE \$71.00 DOC \$0.00

02/09/2005  
16:11:10  
#434007

**AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
BONNER PEAK LANDOWNERS' ASSOCIATION**

THIS DECLARATION is made this 8 day of February, 2005, by BONNER PEAK LANDOWNERS' ASSOCIATION, a Colorado nonprofit corporation, hereinafter referred to as "the Association."

WITNESSETH:

WHEREAS, the Declaration of Covenants, Conditions, and Restrictions for Bonner Peak Landowners' Association dated June 16, 1978, was recorded June 16, 1978, in Book 1866 at Pages 0084-0092, inclusive, Reception No. 254535, of the Larimer County, Colorado, records ("the Original Declaration").

WHEREAS, the First Supplement to the Declaration of Covenants, Conditions, and Restrictions for Bonner Peak Landowners' Association dated November 28, 1978, was recorded November 28, 1978, in Book 1910 at Pages 0515-0516, inclusive, Reception No. 281794, of the Larimer County, Colorado, records ("the First Supplement").

WHEREAS, the Second Supplement to the Declaration of Covenants, Conditions, and Restrictions for Bonner Peak Landowners' Association dated June 12, 1980, was recorded June 12, 1980, in Book 2048 at Pages 0909-0910, inclusive, Reception No. 365257, of the Larimer County, Colorado, records ("the Second Supplement").

WHEREAS, the First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Bonner Peak Landowners' Association was recorded April 4, 1985, at Reception No. 85015927 of the Larimer County, Colorado, records ("the First Amendment").

WHEREAS, the Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Bonner Peak Landowners' Association was recorded August 29, 2001, at Reception No. 2001076331 of the Larimer County, Colorado, records ("the Second Amendment").

WHEREAS, the real property described in the Original Declaration, the First Supplement, the Second Supplement, the First Amendment and the Second Amendment is legally described on Exhibit "A" attached hereto and incorporated herein by reference ("the Ranch").

WHEREAS, the Original Declaration, the First Supplement, the Second Supplement, the First Amendment, and the Second Amendment shall hereinafter be referred to collectively as "the Protective Covenants."

WHEREAS, Article IX, Section 4, of the Original Declaration as amended by the Second Amendment provides that the Protective Covenants may be amended by Owners in good standing in the Association and entitled to vote holding 67% or more of all votes of all Owners.

WHEREAS, Bonner Peak Landowners' Association a Colorado nonprofit corporation, is the Association to which reference is made in the Protective Covenants. The responsibilities of the Association are to ensure the lasting beauty, value, and enjoyment of the Ranch; maintain and administer the Roads; administer

✓ RETURN TO -  
BONNER PEAK LANDOWNERS ASSN. 1  
13173 - NO. HIGHWAY 287  
LA PORTE CO 80535

✓ ~~HASLER, FONFARA AND MAXWELL~~  
~~125 SOUTH HOWES, 6TH FLOOR~~  
~~POST OFFICE BOX 2267~~  
~~FORT COLLINS, CO 80522~~

7  
and enforce the covenants and restrictions of this Declaration; and collect and disperse the charges and assessments hereinafter created.

WHEREAS, Owners in good standing in the Association and entitled to vote, holding 67% or more of all votes of all Owners have approved and adopted the following Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Bonner Peak Landowners' Association.

NOW, THEREFORE, the Association hereby declares that the Protective Covenants shall be and are hereby amended and restated in their entirety and hereafter the Ranch shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to only the following easements, covenants, conditions, and restrictions which shall run with the Ranch and which are for the purpose of protecting the value and desirability of the land and every portion thereof and shall be binding upon and inure to the benefit of all the parties having any right, title, or interest in the Ranch or any portion thereof, their heirs, personal representatives, successors, and assigns.

## **ARTICLE I. DEFINITIONS**

Section 1. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 2. "Common Expenses" shall mean and refer to the cost of repair or renovation of any property owned by the Association and any structures thereon; casualty, public liability, Directors and Officers and other insurance; taxes; Road construction, repair, maintenance, and renovation; trash removal; management and administration costs; wages; legal and accounting fees; operational fees, expenses, and liabilities incurred by the Association; the elimination of any deficit remaining from a previous period; the creation of a reasonable contingency or reserve fund; other sums declared common expenses by the provisions of this Declaration; and all other sums determined to be common expenses by the Association. The Board of Directors shall present an annual budget of common expenses of the Association at an Association meeting. This budget shall not become effective until approved by a majority vote of all Owners present in person or by proxy at a meeting of the Association members at which a Quorum is present.

Section 3. "Lot" shall mean and refer to each of the existing 82 parcels of the Ranch. Each Lot is a legal lot and shall contain approximately thirty-five (35) contiguous acres. Lots may not be combined or subdivided; however, boundary changes may be made between Owners with the approval of Larimer County as long as the total number of Lots on the Ranch remains the same and all Lots continue to consist of a minimum of approximately thirty-five (35) contiguous acres.

Section 4. "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of any Lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Roads" shall mean and refer to all roads presently existing on the Ranch which are necessary to provide vehicular access from United States Highway 287 to Lots on the Ranch and to adjacent properties owned by the United States Forest Service. The general location of the Roads is shown on the map attached to this Declaration as Exhibit B.

## **ARTICLE II. OWNERS' RIGHTS**

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Roads and all property owned by the Association which shall be

3

appurtenant to and shall pass with the title to every Lot. An Owner's right and easement of enjoyment in and to the Roads and other property owned by the Association shall not be exercised in any manner which substantially interferes with the rights and easements of any other Owner with respect thereto and shall be subject to the following:

A.. The right of the Association to charge reasonable fees and assessments to meet the estimated Common Expenses;

B. The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his/her Lot remains unpaid;

C. The right of the Association to dedicate or transfer all or any part of the Roads and other property owned by the Association to any public agency, authority, or utility company for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless approved by two-thirds (2/3<sup>rd</sup>s) of the votes entitled to be cast by Owners present in person or by proxy at a meeting called for such purpose as provided in the Articles of Incorporation or By-Laws of the Association; and

D. The right of the County of Larimer and any other governmental or quasi-governmental body having jurisdiction over the Ranch to have access and rights of ingress and egress over and across the Roads and other property owned by the Association for purposes of providing police and fire protection and providing any other governmental or municipal service.

Section 2. Association Rules and Regulations. The Association shall have the right and power through its Board of Directors, to adopt such rules and regulations as it, in its sound discretion, shall determine, from time to time, necessary to regulate and govern the use of the Roads and other property owned by the Association provided, however, that said rules and regulations shall not be discriminatory.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with this Declaration and the By-Laws of the Association, his/her right of enjoyment of the Roads and other property owned by the Association, to the members of his/her family, his/her guests, invitees, tenants, or contract purchasers who reside on the Ranch. Invitees who are not members of the family of an Owner shall hunt on a Lot only if accompanied by an Owner of that Lot.

### **ARTICLE III. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

Every Owner of a Lot shall become a member of the Association upon acquisition of said Lot. Membership shall be appurtenant to and may not be separated from ownership of the Lot. Membership shall pass by operation of law upon the sale of such Lot, which sale may be by deed or by installment land contract. Each Owner shall have one (1) vote per Lot and shall be entitled to vote as provided in the Articles of Incorporation and By-Laws of the Association. When more than one (1) person or entity holds a beneficial interest in a Lot as a joint tenant, tenant in common, or otherwise, all such persons shall be members of the Association, but shall be considered as only one (1) Owner for voting purposes.

### **ARTICLE IV. ROAD EASEMENTS AND MAINTENANCE**

There is hereby established a non-exclusive perpetual Road easement sixty feet (60') in width over and across and thirty feet (30') on each side of the centerline of all the Roads for the use and benefit of all Owners, their heirs, personal representatives, successors, assigns, and invitees.

✓  
The Association shall provide for the maintenance, repair, and renovation of the Roads until such time as the Roads have been approved and accepted for maintenance by the County of Larimer, State of Colorado. The Association shall maintain liability insurance in such amounts as the Board of Directors deems appropriate.

In the event any maintenance, repair or renovation of the Roads or other property owned by the Association is necessitated by damage caused by a particular Owner or his/her invitees, or tenants, including by example and not limitation, damage to the Roads caused by trucks or other heavy equipment of any contractor or employee of an Owner during the construction of a residential dwelling or any other improvement on such Owner's Lot, then the Association shall make the necessary repairs or renovations but the costs thereof shall be assessed as a special assessment against the Owner of the Lot who causes such damage or whose agents and employees or tenants caused such damage. Any special assessment made in connection with the repair or renovation of the Roads or other Ranch property pursuant to the terms of this paragraph shall be due and payable thirty (30) days after notice of the special assessment is given to the Owner of the Lot subject to the assessment, and in the event of the nonpayment of any special assessment, the Association shall have a lien upon the Owner's Lot pursuant to the terms and provisions of Article VI hereinafter.

Any change to the Roads including, but not limited to, cattle guards, culverts, and turnarounds must have the prior approval of the Architectural Control Committee and the Board of Directors of the Association.

#### **ARTICLE V. ASSESSMENT FOR COMMON EXPENSES**

Section 1. Personal Obligation of Owners for Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay all assessments imposed by the Association to meet the estimated Common Expenses. Assessments for the estimated Common Expenses shall be due yearly or at such other intervals as may be set by the Association from time to time. The Board of Directors shall prepare and deliver by mail to each member a statement for the yearly assessment.

Section 2. Amount of Assessments. Assessments made for the Common Expenses shall be based upon the cash requirements deemed to be the aggregate sum which the Association shall, from time to time, determine to be paid by the Owners to provide for the Common Expenses. The amount of the assessment which shall be paid by each Owner of a Lot shall be determined by dividing the aggregate sum the Board of Directors determines to be paid by the Owners as hereinabove provided, by the total number of Lots; and the Owner of each Lot shall pay his/her proportionate share of said aggregate sum based upon the number of Lots owned by that Owner within the Ranch.

Section 3. Interest. Assessments which are not paid within thirty (30) days after the due date shall bear interest at the greater of (i) eighteen percent (18%) per annum, or (ii) four (4) percentage points above the 'prime rate' as published in the *Wall Street Journal* from time to time.

Section 4. Provision for Maintenance by Board of County Commissioners. In the event the Association fails to maintain the Roads or other property owned by the Association in reasonable order and condition, the Board of County Commissioners of the County of Larimer may assume the responsibilities and duties of the Association and may assess and collect the cost of such maintenance in the same manner as real property taxes are assessed and collected.

5

## **ARTICLE VI. LIEN FOR NON-PAYMENT OF ASSESSMENTS**

Section 1. Effect of Non-Payment of Assessments, Remedies of the Association. It shall be the duty of each Owner to pay a proportionate share of the Common Expenses, special assessments, and any other expenses as set forth in this Declaration and as assessed by the Association. Payment thereof shall be in such amounts and at such times as may be determined by the Association. If any Owner shall fail or refuse to make any such payments when due, the amount thereof including interest, shall constitute a lien on that Owner's Lot prior to all other liens and encumbrances, recorded or unrecorded, except (a) taxes, special assessments, and special taxes theretofore or thereafter levied by any political subdivision or municipal corporation of this state, and other state or federal taxes which by law are a lien on the interest of such Owner prior to the pre-existing recorded encumbrances thereon; and (b) all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance and including additional advances made thereon prior to the arising of this lien.

Section 2. Evidence of Lien. The Board of Directors may prepare a written notice signed by the President setting forth the amount of the unpaid assessments, and interest rate, the name of the Owner of the Lot, and a legal description of the Lot, and may record such notice in the Office of the Clerk and Recorder of the County of Larimer. Such lien shall attach from the date of recording in the office of the Clerk and Recorder and may be enforced by foreclosure by the Association of the defaulting Owner's Lot in like manner as mortgages on real property. The lien provided herein shall be in favor of the Association or its assigns and for the benefit of all members of the Association. In any such foreclosure, the Owner of the Lot shall be required to pay all costs and expenses of such proceedings, the costs, expenses, and attorneys' fees for filing the notice of lien, and all reasonable attorneys' fees incurred in connection with such foreclosure. The Owner shall also be required to pay to the Association any assessments and interest, which may become due and owing during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same. The Association, on behalf of the members, shall have the power to bid on the Lot at the foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. Any encumbrancer holding a lien on a Lot may, but shall not be required to, pay any unpaid assessments due and owing with respect thereto; and upon such payment, such encumbrancer shall have a lien on such Lot for the amount paid of the same rank as the lien of his/her or its encumbrance.

## **ARTICLE VII. OWNERS' OBLIGATION FOR PAYMENT OF ASSESSMENTS**

Section 1. Personal Obligation to Pay Assessments. Assessments made and interest charged by the Association against each Owner shall be the personal and individual debt of the Owner at the time the assessment is made, or the interest is charged. If a Lot is owned by more than one (1) Owner, all Owners shall be jointly and severally liable for payment of any unpaid assessments and interest. Suit to recover a money judgment for unpaid assessments and interest shall be maintainable without foreclosing or waiving the lien securing the same. No Owner may exempt himself or herself from liability for payment of any amount due to the Association by waiver of the use and enjoyment of the Roads or other property owned by the Association or by abandonment of the Lot.

Section 2. Liability of Grantee. The grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments and interest against the Lot, assessed and due prior to 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, provided, however, that upon payment of a reasonable fee, not to exceed twenty dollars (\$20) and upon written request, any such prospective grantee shall be entitled to a statement from the Association setting forth: the amount of the unpaid assessments, interest, and other amounts, if any, with respect to the subject Lot; the amount of the current assessment; the period covered by the current assessment; the date the current assessment comes due; and the amount of any credit for advance payments or for prepaid items. Such

6  
statement shall be conclusive upon the Association. Unless such a request for a statement of indebtedness shall be complied with by the Association within fourteen (14) days of such request, then such grantee shall not be liable for, nor shall the Lot be conveyed subject to, a lien for any unpaid assessments or interest against the subject Lot.

## **ARTICLE VIII. COMMITTEES**

Section 1. "Committees" shall mean and refer to groups of Owners appointed by the Board of Directors or elected by the Owners to perform specific functions for the Association. No member of a Committee shall be a member of the Board of Directors while serving on that Committee.

Section 2. Standing Committees. The standing Committees are the Architectural Control Committee and the Animal and Livestock Control Committee. Decisions made by these committees may be appealed by any affected Owner to the Board of Directors.

Section 3. Ad Hoc Committees. The Board of Directors shall determine the need for and appoint members of Ad Hoc Committees. Ad Hoc Committees shall be advisory committees to the Board of Directors. Ad Hoc Committee members shall collect, research, and evaluate data; and make recommendations to the Board of Directors.

Section 4. Liability. Neither the Board of Directors nor the Committees of the Association shall be liable to any Owner or any other person or entity for any loss, cost, expense or damage, including attorneys' fees, suffered by such person or entity as a result of any decision made by a Committee or the Board of Directors, or as a result of any action or failure to act on the part of a Committee, unless such action or failure to act was in bad faith or with malice against a particular Owner.

## **ARTICLE IX. ARCHITECTURAL CONTROL COMMITTEE**

Architectural Control Committee. The Architectural Control Committee is a Standing Committee that consists of five (5) members who shall be elected by a vote of the majority of the votes entitled to be cast by members present in person or by proxy at an annual meeting or a special meeting called for such purpose. Vacancies in the members of the Architectural Control Committee caused by any other reason than the removal of a member by a vote of the Association shall be filled by a vote of a majority of the members of the Board of Directors of the Association, and each person so elected shall remain in office until the next annual meeting of the members at which time an election shall be held to fill the vacancy an unexpired term. At any regular or special meeting of the members of the Association duly called any one or more of the members of the Architectural Control Committee may be removed with or without cause by a vote of a majority of the votes entitled to be cast by members of the Association present in person or by proxy at such meeting, and a successor may then and there be elected to fill the vacancy and unexpired term thus created. Any member of the Architectural Control Committee whose removal has been proposed by the membership of the Association shall be given an opportunity to be heard at such meeting. At all meetings of the Architectural Control Committee a majority of the members shall constitute a quorum for the transaction of business and the acts of the majority of the members of the Architectural Control Committee present at a meeting at which a quorum is present shall be the act of the committee. Meetings of the Architectural Control Committee may be called by any member of the committee on 24 hours notice to each member given personally or by mail, telephone or email. Before or at any meeting of the Architectural Control Committee any member may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the committee shall constitute a waiver of notice by him of the time and place thereof.

1

Section 1. Rules and Regulations. The Architectural Control Committee may adopt reasonable rules and regulations specifying in greater detail the information which must be submitted to the Architectural Control Committee for its review. The Secretary of the Association will keep the official copy of the Architectural Committee's Rules and Regulations. Such rules and regulations shall not become effective until: 1) the rules and regulations have been approved by a vote of a majority of the votes entitled to be cast by members present in person or by proxy at an annual meeting or a special meeting called for such purpose at which a Quorum is present; and 2) the rules and regulations have been distributed to all Owners.

Section 2. Land Use and Building Type.

Section 2.1 General Provisions. Except as otherwise provided herein, no building shall be erected, altered, placed, or permitted to remain on any Lot other than single-family residential dwellings with attached or unattached garages; unattached pump houses; one residential guest-house; and non-residential outbuildings and structures such as barns, stables or corrals for use specifically in connection with the care of livestock, as permitted under these covenants, or the maintenance of equipment. No residential dwelling shall be erected, altered, or permitted to remain on any Lot unless the ground floor area thereof, exclusive of basement, open porches, and garages, shall be not less than One Thousand Two Hundred (1,200) square feet for a one-story dwelling. The minimum square footage for two-story and other multi-level dwellings shall be determined on a case-by-case basis by the Architectural Control Committee. The Architectural Control Committee may grant relief from these provisions for good cause.

Section 2.2 Building Location and Easements. In addition to the Road easements hereinabove established (i.e., thirty (30) feet) on each side of the center of the Road), there shall be a ten (10)-foot nonexclusive perpetual utility easement adjacent to, parallel with, and on each side of all such Road easements, all section and quarter section lines, and the boundary lines of all Lots. There shall be utility guying easements on all Lots as required by the utility involved.

Section 2.3 Temporary Residence. No structure of a temporary character, including, by example and not limitation, trailers, mobile homes, pickup campers, camper trailers, basements, tents, barns, outbuildings, or other accessory buildings, shall be used or occupied on any portion of the Ranch for residential purposes either temporarily or permanently. If a residential dwelling has been constructed and is being occupied for residential purposes on a Lot, then pickup campers and camper trailers may be stored on such Lot, so long as said pickup campers and camper trailers are stored in a garage or are otherwise screened by fence or landscaping such that no pickup camper or camper trailer stored on any lot, tract or parcel of the Property is visible from any Road or from any other lot, tract or parcel of the Property. A pickup camper or camper trailer may occupy a Lot for a period not to exceed six (6) months for construction purposes during the construction of a residential dwelling on such Lot, so long as said pickup camper, camper trailer is not used for residential purposes. A pickup camper, or camper trailer, tent or other temporary residence may occupy a Lot, and may be used for recreational purposes, including overnight occupancy so long as both of the following conditions are met: the pickup camper, camper trailer, tent, or other temporary structure may not occupy a Lot for more than twenty-one (21) consecutive days, and may not occupy a Lot for more than a total of one-hundred-twenty (120) days during any one calendar year. The Architectural Control Committee may grant relief from this provision upon the written request of an owner for good cause.

Section 2.4 Mobile Homes. Mobile homes are not permitted as a permanent structure on the Ranch. "Mobile home" shall mean any portable structure without motive power used or designed to be used for dwelling purposes, either temporarily or permanently, and designed in such a manner as to be occasionally transportable over the public highways, either as a single dwelling unit (a single-wide mobile home), or in two, separate pieces (a double-wide mobile home). Any such portable structure shall be deemed to be a mobile home for purposes of these protective Covenants, whether or not wheels and axles previously maintained

2  
thereon have been removed, and whether or not the mobile home is resting upon a temporary or permanent foundation. Factory-built houses, modular homes, or kit homes which do not have a permanently attached undercarriage consisting of springs, axles, wheels and hubs, shall not be considered mobile homes for the purposes of these protective Covenants, but shall nonetheless be governed by and approved by the Architectural Control Committee as any other Residence, all as more fully set forth below.

Section 2.5 Refuse and Rubbish. Rubbish, refuse, garbage, and other wastes shall be kept within sealed containers, shall not be allowed to accumulate on the Ranch, and shall be disposed of in a sanitary manner. No Lot or easement shall be used or maintained as a dumping ground for such materials. All containers shall be kept in a neat, clean, and sanitary condition. No trash, litter, or junk shall be permitted to remain exposed upon a Lot and visible from Roads or adjoining or nearby Lots. Burning of trash on any Lot is prohibited.

Section 2.6 Fences. Fences shall be permitted provided, however, that any fence shall be constructed so as not to interfere with the Road easements hereinabove established and required for access to adjoining lands unless cattle guards are installed in place of gates. All fences shall be approved by the Architectural Control Committee.

Section 2.7 Trees. The clearing of trees shall not be permitted from any Lot unless approval has been obtained from the Architectural Control Committee.

Section 2.8 Water Storage Facilities. No facilities for the storage or transportation of water, including by example and not limitation, dams, lakes, reservoirs, irrigation ditches, pipes, storage tanks or other facilities, shall be constructed, erected, installed or altered on any Lot without the prior approval of the Architectural Control Committee. Notwithstanding approval by the Architectural Control Committee as hereinabove required for any facility for the storage or transportation of water, the Owner of the Lot upon which such water storage or transportation facility is to be constructed or installed shall obtain the approval of all appropriate governmental agencies or authorities having jurisdiction over the construction and installation of water storage and transportation facilities. Before approving the construction or installation of any water storage or transportation facility, the Architectural Control Committee may require that the Owner proposing such construction establish to the reasonable satisfaction of the Architectural Control Committee that s/he is the Owner of the water rights which will be transported or stored in or through the facility to be constructed on his/her Lot.

Section 2.9 Storage Tanks and Containers. No elevated tanks of any kind shall be erected, placed or permitted on any Lot, including tanks for storage of gas or oil, refrigeration, cooling, or heating apparatus, unless properly screened by fencing or landscaping.

Section 2.10 Drainage. No Owner of any Lot shall alter the topography of such Lot in any manner which would cause unusual quantities of water from any source to flow from the Owner's Lot onto any other portion of the Property or onto any Road or public right-of-way.

Section 2.11 Mineral Extraction. No oil drilling, oil development operations, oil refining, quarrying, mining operations, or other extraction of oil, gas, gravel, minerals, metals or other substances of any kind shall be conducted on any portion of the Ranch without the prior approval of the Board of Directors of the Association. No Owner of any Lot shall lease, license or otherwise grant permission to any person or entity to perform any mining operations or mineral extractions from such Owner's Lot without the prior approval of the Board of Directors of the Association.



9

### Section 3. Procedural Steps.

Section 3.1 Approval Required. No building or other structure, including but not limited to, dwellings, sheds, garages, outbuildings, fences, tennis courts, swimming pools, corrals, rodeo and roping arenas, or any other improvements, shall be erected, placed or altered on any Lot until the plans and specifications, including a plot plan showing the location of the proposed improvement, have been approved by the Architectural Control Committee.

Section 3.2 Approval Not Required. Architectural Committee approval is not required for minor alterations of the natural terrain, such as gardening, landscaping or tree or shrub planting.

Section 3.3 Submittal of Plans and Specifications. An Owner requesting approval of the proposed construction or alteration of improvements on his/her Lot shall submit to the Architectural Control Committee in duplicate, detailed plans and specifications which shall include, by example and not limitation, the size and height of the proposed improvement, exterior design of the proposed improvement, and the materials and finish to be used on the exterior of the improvement. The Owner shall also submit a plot plan which shall designate the location of the proposed improvement, all improvements presently constructed on the Lot, all fences, telephone and electric lines and poles presently constructed or to be installed on the Lot, whether above ground or underground, the location of any existing well or septic system, or any well or septic system proposed to be constructed on the Lot, all Roads presently located or to be constructed on the Lot, any communication tower or dish, and all other external improvements, whether presently existing or to be constructed on the Lot in connection with the building or other improvement to be approved by the Architectural Control Committee.

Section 3.4 Approval Process. Within ten (10) days after the submittal of a request for approval of any improvements to be constructed or installed on a Lot, the Architectural Control Committee shall notify the Owner that the documents submitted are adequate for review by the Architectural Control Committee, or shall notify the Owner that the documents are inadequate and specify the additional information required by the Architectural Control Committee for its review of the proposed improvement. The Architectural Control Committee shall have thirty (30) days after all documents reasonably required by the Architectural Control Committee have been submitted to it within which to approve or disapprove of the proposed improvement. If the proposed improvement is not approved by the Architectural Control Committee, the Architectural Control Committee shall notify the Owner in writing of such disapproval and shall specify in the written notice the reason for the disapproval. In the event the Architectural Control Committee fails to approve or disapprove the proposed improvement within thirty (30) days after all documents have been properly submitted to the Committee, then such approval shall not be required and shall be deemed to have been given provided, however, that no building or other structure shall be altered or allowed to remain on any Lot which violates any of the covenants or restrictions contained herein.

Section 3.5 Appeal Process. Any Owner who has submitted a request for approval of improvements to be constructed or installed on his/her Lot in compliance with the terms and provisions of this Section 2, and who has had his/her request for approval denied by the Architectural Control Committee, may appeal such decision of denial to the Board of Directors of the Association. Such Owner shall submit written notice of appeal to the President or Secretary of the Association within 30 (thirty) days after the Architectural Control Committee has given notice to the Owner of its decision denying approval of the requested improvements. (Notice from the Architectural Control Committee shall be deemed given when deposited in the United States Mail, postage prepaid, addressed to the Owner at the address included on the application for approval submitted by the Owner to the Architectural Control Committee.) The Owner shall submit to the Board of Directors all documents and information previously submitted to the Architectural Control Committee. The Board of Directors shall review the documents submitted by the Owner and may reverse the decision of the Architectural Control Committee and direct that the Architectural Control Committee approve the plans and

10  
specifications as submitted by the owner, but only if the board of Directors finds that the decision of the Architectural Control Committee was arbitrary, capricious or an abuse of its discretion. A decision by the Board of Directors to reverse the decision of the Architectural Control Committee shall require the affirmative vote of a majority of all members of the Board of Directors. The decision of the Board of Directors shall be made within ten (10) days after all documents previously submitted to the Architectural Control Committee have been submitted to the Board of Directors.

Section 3.6 Commencement of Construction. Construction of any improvement approved by the Architectural Control Committee shall commence within six (6) months after the date of approval. The outside and exterior finish of any improvements properly approved by the Architectural Control Committee shall be completed within twelve (12) months after commencement of construction. The Architectural Control Committee may grant extensions of time within which to commence or complete construction upon the written request of an Owner for good cause.

## **ARTICLE X. ANIMAL AND LIVESTOCK CONTROL COMMITTEE**

Animal and Livestock Control Committee. The Board of Directors of the Association shall establish an Animal and Livestock Control Committee by appointing three (3) Owners to serve on this Committee. The Animal Control Committee is a standing Committee and shall have the authority to determine compliance with the terms and provisions of this Article X, and in the event of non-compliance by any Owner, shall report such non-compliance to the Board of Directors of the Association which may take appropriate action to enforce the terms and provisions of these protective Covenants.

Section 1. Rules and Regulations. The Animal and Livestock Control Committee may adopt additional rules and regulations not inconsistent with these Protective Covenants to regulate and control animals on the Ranch. The Secretary of the Association will keep the official copy of the Animal and Livestock Control Committee's Rules and Regulations. The rules and regulations of the Animal and Livestock Control Committee shall not become effective until: 1) the rules and regulations have been approved by a vote of a majority of the votes entitled to be cast by members present in person or by proxy at an annual meeting or a special meeting called for such purpose at which a Quorum is present and 2) the rules and regulations have been distributed to all Owners.

### Section 2. Fencing of Animals.

a) Resident Animal Owners. Each Owner shall be entitled to openly graze on the Ranch four (4) animals for each Lot owned, provided that said animals are owned by the Owner of a Lot and the Owner resides on his lot, tract or parcel of the Ranch on a permanent, year-around basis.

b) Non-resident Animal Owners. An Owner of a lot, tract or parcel of the Ranch who does not reside on the Ranch on a permanent, year-round basis may nonetheless openly graze on the Ranch four (4) animals for each Lot of the Ranch owned, provided that an Owner who does reside on the Ranch on a permanent, year-around basis has agreed in writing to accept responsibility to supervise, maintain and care for the non-resident Owner's animals. The written agreement of a resident owner to assume responsibility for the supervision, maintenance and care of a non-resident Owner's animals openly grazing on the Ranch shall be submitted to the Animal and Livestock Control Committee before such animals are permitted to openly graze on the Ranch.

c) Non-Resident Owned Animals. Animals which are not owned by the Owner of a Lot, may be kept and maintained on such Lot but only if confined to the Lot by a fence constructed in the manner hereinafter described, and only if properly cared for by the Owner of the Lot upon which the animals are being kept.

d) Owner's Responsibilities. It shall be the responsibility of the Owner of a Lot to fence his property when more than four animals are to be kept or maintained on such Lot. Fences for restraining animals shall, at a minimum, consist of either a three-rail pole fence, or a well-constructed, three or four-strand, wire fence with substantial wood or metal posts set at a distance of not more than ten (10) feet apart, and sufficient to turn ordinary horses, cattle and sheep.

e) Fence Out. Any Owner who does not wish to permit his Lot to be used for open grazing shall protect his property with a fence constructed in the manner hereinabove described. If the Owner of a Lot has protected his property by a fence constructed in the manner hereinabove described, such person shall be entitled to recover damages from the Owner of any animals openly grazing on the Ranch for any damage caused by such animals having broken through the Owner's fence.

f) Fencing and Open Grazing. Any Owner who has fenced 50% or more of his Lot so as to prevent open grazing thereon shall not be entitled to openly graze animals on the Ranch and shall keep all animals confined within his Lot.

Section 3. Nuisance. The Animal and Livestock Control Committee may determine that an animal being openly grazed by an Owner constitutes a nuisance, and based upon such determination may require that the Owner confine the animal to his/her Lot by a fence constructed in the manner hereinabove described.

Section 4. Animals. For purposes of this Article the term "animals" shall include horses, cattle, mules, asses, goats, sheep, swine, buffalo, geese, chickens, peacocks, and all other animals of whatever kind or nature, including domestic or household pets such as dogs and cats.

Section 5. Quarantine. All animals shall be confined to an Owner's Lot for a period of one week after arrival on the Ranch, and shall not be permitted to openly graze on the Ranch until such time as the Owner of the animal has notified the Animal and Livestock Control Committee that he intends to permit the animal to openly graze on the Ranch and has furnished evidence of ownership of the animal to the Animal and Livestock Control Committee. The Animal and Livestock Control Committee shall have the authority to require that the Owner of the animal also establish that the animal has been appropriately vaccinated.

Section 6. Overgrazing. Overgrazing of Lot is hereby expressly prohibited. The Animal Control Committee may require that the Owner of Lot remove one or more animals from the Ranch if the Owner's Lot is being overgrazed.

Section 7. Horses and Mules. All horses and mules kept or maintained on any portion of the Ranch shall be subject to the following rules and regulations:

a) The horse or mule must be vaccinated with the vaccines currently recommended by the Animal and Livestock Control Committee.

b) The Owner of the horse or mule must present to the Animal Control Committee a bill of sale, brand inspection papers, registration papers or such other proof of ownership as may be reasonably required by the Animal and Livestock Control Committee.

c) All horses and mules must be Coggins-tested before arrival on the Ranch.

Section 8. Stallions and Bulls. No stallions over the age of one year, and no bulls over the age of six months, shall be permitted on the Ranch unless confined at all times within the Owner's Lot by a wooden fence having a minimum of four rails, supported by wooden posts not more than ten (10) feet apart, which fence shall have a minimum height of six (6) feet, or such other height and construction as may be necessary to fully and completely restrain and confine such stallions and bulls.

12

## ARTICLE XI. GENERAL PROVISIONS

Section 1. Nuisance. Nothing which may be or may become annoying or a nuisance to other Owners shall be permitted on any Lot. No obnoxious or offensive activity and no obnoxious or offensive commercial business or trade shall be conducted on any Lot. For purposes of these Protective Covenants, ungaraged, inoperative automobiles, machines, or other equipment, which remain on any Lot for more than thirty (30) days, shall be deemed to be a nuisance.

Section 2. Indemnification. Neither the Association nor any officer or member of the Board of Directors, the Architectural Control Committee, the Animal and Livestock Control Committee, or any ad hoc committees appointed by the Board of Directors shall be liable to any party for any matter arising by, through, or under this Declaration or the Association's Articles of Incorporation and By-Laws if the action, or failure to act, was made in good faith. The Association shall indemnify and hold harmless the officers or members of the Board of Directors, the Architectural Control Committee, the Animal and Livestock Control Committee, and the members of any ad hoc committees appointed by the Board of Directors from and against any and all losses, costs and expenses, including reasonable attorneys' fees, incurred by such officers or members in connection with or as a result of their actions taken while serving in such capacity for the Association.

Section 3. Enforcement. Enforcement of this Declaration and these covenants, conditions, and restrictions shall be by appropriate proceedings at law or in equity against those persons violating or attempting to violate any covenant or covenants. Such judicial proceeding shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, for recovery of assessments and interest due, or for such other and further relief as may be available. Such judicial proceedings may be prosecuted by any Owner or by the Association on behalf of its members, and the Association may assess the cost of such prosecution as a Common Expense. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof of a further or continued violation, whether said violation shall be of the same or of a different provision within these Covenants.

Section 4. Severability. Should any part or parts of this Declaration be declared invalid or unenforceable by any court of competent jurisdiction, such shall be reformed as minimally as possible to make it valid and enforceable, and such decision shall not affect the validity of the remaining Covenants.

Section 5. Term of Declaration. The covenants, conditions and restrictions of this Declaration shall run with the land, and shall be binding upon all persons now owning Lots and any persons hereafter acquiring said Lots; and shall be in effect in perpetuity unless amended or terminated as provided herein.

Section 6. Amendments and Repeal. Any provisions, covenants, conditions, or restrictions contained in this Declaration, including the term of this Declaration, may be amended or repealed upon approval of the amendment or repeal by Owners in good standing in the Association and entitled to vote, holding sixty-seven percent (67%) or more of all votes of all Owners. The approval of any such amendment or repeal shall be effective upon the recording in the office of the Clerk and Recorder of Larimer County, Colorado, of a certificate executed by the appropriate officer of the Association setting forth the amendment or repeal that has been approved by Owners.

Section 7. Costs of Litigation. In the event the Association commences an action, in any court at law or in equity for the purpose of removing a violation, restraining a future violation, recovering damages for any violation, recovering assessments and interest due; or otherwise enforcing the covenants, conditions and restrictions contained within this Declaration, then the court, as part of its final judgment in such action, shall award to the prevailing party all costs and reasonable attorneys' fees incurred in connection with such action,

3

suit or proceeding.

Section 8. Mediation. Any controversy between the Association and an Owner may be submitted for mediation by either party to the controversy prior to the commencement of any legal proceeding, as provided for in the "Colorado Common Interest Ownership Act," effective July 1, 1992:

a) The mediation agreement, if one is reached, may be submitted to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice.

b) If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief.

Section 9. General Reservations. The Association shall have the right to bring additional adjacent properties within the scheme of these protective covenants and the structure of the Association. Such additions shall be made by filing of record of a supplement to these protective covenants reciting that this Declaration is amended by adding thereto as part of the Ranch the additional property to be embraced within these covenants and the structure of the Association. In no event, however, shall such supplement revoke, modify or add to the covenants and restrictions established by these protective covenants with respect to the Ranch. The Board of Directors of the Association must approve such additions and the supplement describing them.

12/14

IN WITNESS WHEREOF, the Association has caused this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Bonner Peak Landowners' Association ("this Amended Declaration") to be executed the day and year first above written. The Association, acting by and through its duly elected President and Secretary, hereby certifies that this Amended Declaration was approved by (i) the record Owners of at least sixty-seven percent (67%) of the land area of the Ranch, and (ii) Owners in good standing in the Association and entitled to vote holding at least sixty-seven percent (67%) of all votes of all Owners.

BONNER PEAK LANDOWNERS' ASSOCIATION,  
a Colorado Nonprofit Corporation

By Douglas W. Burnett  
Doug Burnett, President

By Sophie Sawyer  
Sophie Sawyer, Secretary

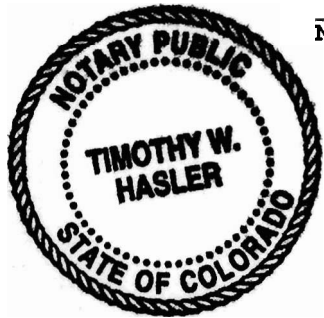
STATE OF COLORADO            )  
  )        ss.  
COUNTY OF LARIMER         )

The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bonner Peak Landowners' Association was subscribed, sworn to, and acknowledged before me this 8th day of February, 2005, by Doug Burnett, as President, and Sophie Sawyer, as Secretary, of BONNER PEAK LANDOWNERS' ASSOCIATION, a Colorado Nonprofit Corporation.

WITNESS my hand and official seal.

My commission expires: 6-21-08

Timothy W. Hasler  
Notary Public



## EXHIBIT "A"

### ATTACHED TO AND MADE A PART OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BONNER PEAK LANDOWNERS' ASSOCIATION

#### Legal Description

##### Township 9 North, Range 70 West of the 6th P.M.

Section 3: SE ¼;

Section 10: SW ¼ NE ¼, W ½ SE ¼;

Section 11: All;

Section 13: All

Section 14: NE ¼, N ½ NW ¼, SE ¼ NW ¼, E ½ SE ¼, SW ¼ SE ¼,  
N ½ SW ¼, SE ¼ SW ¼;

Section 15: NE¼ NE ¼, E ½ SE ¼;

Section 21: E ½ SE ¼;

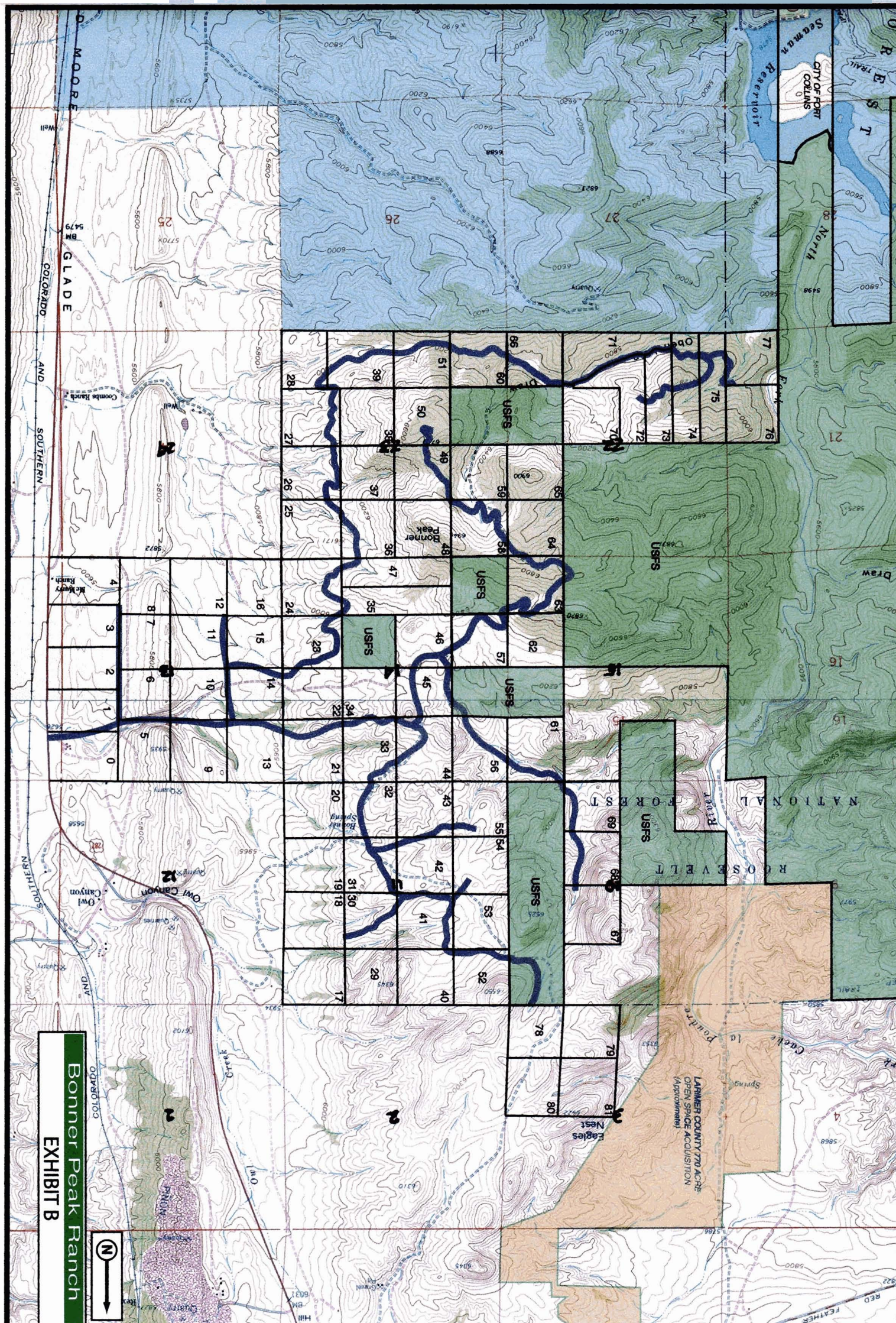
Section 22: E ½ NE ¼, NW ¼ SE ¼, S ½ SE ¼, SW ¼;

Section 23: N ½, SE¼, NE¼ SW¼, S ½ SW¼.

##### Township 9 North, Range 69 West of the 6th P.M.

Section 18: Beginning at the Northwest corner of Section 18, thence South 89° 50' East 365.2 feet to center of County Road (*Highway 287*), thence South along the center of said road 4426.6 feet; thence South 15° 21' West along road 876.7 feet to Section line; thence North 89° 43' West on Section line 134.5 feet to Southwest corner of said Section; thence North 0° 09' East along West Section line 5272.5 feet to place of beginning; EXCEPT parcel conveyed by deed recorded in Book 1379, Page 171, EXCEPT access rights conveyed by deed recorded in Book 1379, Page 173, and EXCEPT parcel conveyed by deed recorded in Book 593, Page 319.

Larimer County, Colorado.



**Bonner Peak Ranch**  
**EXHIBIT B**



LARIMER COUNTY 270 AC±  
OPEN SPACE ACQUISITION  
(Approximate)

ROOSEVELT  
NATIONAL  
FOREST

Eagles  
Nest

USFS

USFS

USFS

USFS

City of Fort Collins  
Sedgwick Reservoir

Opal

Opal

Opal

Opal

Opal

Opal

Opal

Opal

Opal