

BIRKBECK

BIG PINE RANCH OF COLORADO Ltd.  
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DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
BIG PINE RIDGE RANCHETTS

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DECLARATION OF RESTRICTIVE COVENANTS FOR  
BIG PINE RIDGE RANCHETTS

THIS DECLARATION, made on the date hereinafter set forth by BIG PINE RANCH OF COLORADO, LTD., a Colorado Corporation (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:

BIG PINE RIDGE RANCHETTS  
(Tracts 44 to 79)

County of Las Animas, State of  
Colorado.

WHEREAS, Declarant desires to convey said real 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 real property. These covenants, restrictions and conditions shall run with the real 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.

ARTICLE I

Membership in Association

Every owner of a tract in the property for this Declaration, shall be a member of the Big Pine Ridge Land Owners Association (the "Association"). No owner of any tract shall have more than one membership. Membership shall be appurtenant to and may not be separated from an owner's interest in any tract which is subject to assessment by the Association. Ownership of a tract shall be the sole qualification for membership.

ARTICLE II

Voting Rights in Association

The Association shall have two classes of voting membership as follows:

A. Class A. Class A members shall be all of the owner of tract, other than Declarant. Class A members shall be entitled to one vote for each tract owned required for membership by Article I. If more than one person holds an interest in any tract, all such persons shall be members. The vote for such tract shall be exercised as the owners may among themselves determine, and in no event shall more than one vote be cast with respect to any tract.



B. Class B. The Class B member shall be the Declarant, and notwithstanding anything contained herein to the contrary, Declarant shall be entitled to elect all members of the Board of Directors of the Association. Provided, however, the Class B membership may be converted to a Class A membership at the option of the Class B member, its successors and assigns, by its written notice to the Secretary of the Association, and shall be converted to a Class A membership upon the conveyance of fifty percent (50%) of the tracts in the property, or August 1, 1984, whichever is earlier.

### ARTICLE III

#### Covenant for Maintenance Assessments

SECTION 1. Creation of the lien and personal obligation of assessments. The Declarant, for each tract upon which it owns, hereby covenants, and each owner by acceptance of a conveyance of a tract, whether or not it shall be so expressed in such assignment and conveyance, are deemed to covenant and agree to pay to the Association annual assessments to pay for maintenance of the access easements on the property.

SECTION 2. The annual assessment shall be due and payable on August 1 of each year, beginning on August 1, The annual assessment, together with interest thereon at the rate of eighteen percent (18%) per annum from August 1, 1984, and costs of collection thereof and reasonable attorney's fees as hereinafter provided, shall be a charge on each owner's interest in his tract and shall be continuing upon said tract. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the tract at the time when the assessment became due. This personal obligation shall not pass to the successor in interest to the tract unless expressly assumed by them.

SECTION 3. Basis and Payment of Annual Assessments. Annual assessments shall be estimated by the Board of Directors of the Association for the payment of the maintenance of the access easements only.

SECTION 4. Effective Nonpayment of Assessment-Remedies of the Association. Any assessment installment which is not paid when due shall be delinquent. If the assessment installment is not paid by August 1 of each year, the assessment installment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the owner personally obligated to pay the delinquent installments. In addition to each action, or as an alternative thereto, the Association may foreclose a lien against the owner's interest in the tract. Such foreclosure may be conducted as follows, but it is in no way subject to such procedure. The Association may file with the Clerk and Recorder of Las Animas County a Statement of Lien with respect to the tract, setting forth the owner, the legal description of the tract, the name of the Association, and the amount of delinquent assessments due and owing, which statement shall be duly signed and acknowledged by the president or a vice-president of the Association, and which shall be served upon the owner of the tract by mail to the address of the tract or at such other address as the Association may have in its records for the owner. Thirty (30) days following the mailing of such notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. In the event that the Association

completes a foreclosure, the Association shall become the owner of the tract. In either a personal or foreclosure action, the Association shall be entitled to recover as part of the action, the interest, costs and reasonable attorney's fees with respect to the action. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the access easement or his tract.

#### SECTION 5. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust duly recorded. Sale or transfer of any tract shall not affect the assessment lien. However, the sale or transfer of any tract which is subject to any first mortgage or deed of trust, pursuant to a decree of foreclosure under such mortgage, or proceedings in lien of foreclosure thereof, including sale under a deed of trust shall extinguish any lien of an assessment which becomes a lien prior to such sale or transfer. Such sale or transfer shall not release such tract from liability from any assessment thereafter becoming due or from the lien thereof.

### ARTICLE IV

#### 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.

### ARTICLE V

#### Architectural Control

All dwellings and any other improvements erected or placed on any portion of the real property shall be harmonious in architectural design, material and appearance with the aesthetics of the mountain environment. No building, fence, wall or other structure shall be commenced, erected or maintained upon any part of the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, elevation, material, and location of the same shall have been submitted to and improved in writing as to harmony of external design and location in relation to the surrounding structures and topography by the architectural control committee composed of three (3) or more representatives appointed by the Board of Directors of the Association. In the event that the architectural control committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

### ARTICLE VI

#### Temporary Structures

No mobile and/or trailer homes shall be permitted on any of the property, provided, however, campers and motor homes may be maintained on the property as long as they are currently registered in accordance with the laws of the State of Colorado, and display a current license plate issued



by the State of Colorado. Further, no basement, tent, shack, garage, barn or other outbuilding erected on any of the property shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

#### ARTICLE VII

##### Exterior Maintenance

The properties must have a neat appearance and no trash or refuse may be deposited or left on any tract in the property. No abandoned cars will be permitted on the property. Surplus lumber and miscellaneous equipment may not be stored outside of and enclosure, but rather must be enclosed and hidden by at least a solid fence.

#### ARTICLE VIII

##### Setbacks

No building or any other improvement other than a fence shall be erected on any tract less than one hundred (100) feet from any property line unless approved by the architectural control committee.

#### ARTICLE IX

##### Signs

All signs must be harmonious with the mountain environment and approved by the architectural control committee. No permanent signs may be placed inside access easements.

#### ARTICLE X

##### Livestock

Livestock will be permitted on the properties. 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 in accordance with Colorado State Statute.

#### ARTICLE XI

##### Enforcement

Any owner of any tract on the property shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration. Failure by 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 be reimbursed for a reasonable attorney's fee incurred in the legal action.

#### ARTICLE XII

##### Use

All tracts on the property shall only be used for residential and recreational purposes as provided for and allowed by State law and County regulations, except those fronting along the County Road. On those tracts fronting along the County Road reasonable business activities may be conducted along the County Road provided the proper zoning permits are obtained.

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.

ARTICLE III

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 seventy percent (70%) of the tracts in the property.

ARTICLE XIV

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.

ARTICLE XV

Severability

Invalidation of any one or more of these covenants or restrictions by a judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, having executed this instrument this 15<sup>th</sup> day of February, 1983.

BIG PINE RANCH OF COLORADO, LTD.,  
A Colorado Corporation,

By Dave Shaw  
President

ATTEST

W. Clark Johnson  
Secretary

STATE OF COLORADO )  
COUNTY OF LAS ANIMAS ) SS.

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this 15<sup>th</sup> day of February, 1983, by Dave Shaw as President and W. Clark Johnson as Secretary of BIG PINE RANCH OF COLORADO, LTD., A Colorado Corporation.

WITNESS my hand and seal.

My commission expires 12-6-86

Marion M. [Signature]  
Notary Public

