

DISTRICT COURT, PARK COUNTY COLORADO 300 – 4 th Street Fairplay, Colorado 80440	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: 2010 CV 65 Div.: 1
<p>Plaintiffs: ELK FALLS PROPERTY OWNERS ASSOCIATION, a Colorado corporation; KATHRYN WELLS; THE PAUL VASTOLA AND SUZANNE G. NELSON LIVING TRUST, U/A DATED 8/10/01; ROBERT W. PHELPS; and KEVIN O'CONNELL</p> <p>Defendants: VERA B. DUNWODY and DRAYTON D. DUNWODY, and FARM CREDIT OF SOUTHERN COLORADO, ACA, an agricultural credit association</p> <p>Plaintiffs in Intervention: PETER J. BRAUN and RENAE J. BRAUN</p>	
Victor F. Boog, No. 2561 Amanda B. Cruser, No. 30601 Boog & Cruser, P.C. 3333 S. Wadsworth Blvd., Suite D201 Lakewood, CO 80227 303-986-5769 Fax 303-985-3297 <i>Attorneys for Defendants Vera B. Dunwody and Drayton D. Dunwody</i>	<p style="text-align: center;">REQUESTS FOR ADMISSION TO PAUL J. VASTOLA AND SUZANNE G. NELSON LIVING TRUST, U/A DATED AUGUST 10, 2001</p>

Defendants, Vera B. Dunwody and Drayton D. Dunwody, pursuant to C.R.C.P. 36(a), submit the following requests for admission to Paul J. Vastola and Suzanne G. Nelson Living Trust, U/A Dated August 10, 2001 (hereinafter the "Trust"):

1. The Trust is the owner of Lot 115, Block 2, Elk Falls subdivision, located at 33629 Berg Lane, Pine, Jefferson County, Colorado (hereinafter the "Trust Property").
2. The Trust Property was acquired by the Trust in 1988 and since that time the residence on the Trust Property has been occupied by Paul Vastola and Suzanne G. Nelson.

3. The Trust Property has legal and physical access via Berg Lane to Upper Ranch Road, a public road.

4. No portion of the Disputed Roads referred to by the Plaintiffs in this action is a way of necessity to the Trust Property.

5. The chain of title to the Trust Property contains no easement of record over and across any portion of the Disputed Roads.

6. The plat of Elk Falls subdivision, Block 2, Jefferson County, Colorado contains no dedication of any portion of the Disputed Roads for the benefit of lots or lot owners within the Elk Falls subdivision, Block 2, Jefferson County, Colorado.

7. No portion of the Disputed Roads has ever been dedicated to Park County for the benefit of the public or lot owners within the Elk Falls subdivision.

8. Paul Vastola and Suzanne G. Nelson have been dues paying members of the Elk Falls Ranch Sportsmen's Club (the "Club") for more than six of the 22 years since 1988.

9. As dues paying members of the Club, Paul Vastola and Suzanne G. Nelson were granted access to the property owned by the Elk Falls Ranch Development Company, including access over and across the Disputed Roads.

10. Park County has never included any portion of the Disputed Roads within official Park County maps depicting public roads within Park County.

11. Park County has never maintained any portion of the Disputed Roads.

12. Park County has never claimed that any portion of the Disputed Roads are public roads.

13. The Trust has no factual or legal basis for claiming any right, title or interest in and to the Disputed Roads by virtue of preexisting use.

14. The Trust has no factual or legal basis for claiming any right, title or interest in and to the Disputed Roads by virtue of estoppel.

15. The Trust's claim that all homeowners within the Elk Falls subdivision, including the Trust, have the right to use the Disputed Roads by virtue of necessity is substantially groundless, substantially frivolous and without substantial justification.

16. The Trust's claim that all homeowners within the Elk Falls subdivision, including the Trust, have the right to use the Disputed Roads by virtue of preexisting use is substantially groundless, substantially frivolous and without substantial justification.

17. The Trust's claim that all homeowners within the Elk Falls subdivision, including the Trust, have the right to use the Disputed Roads by virtue of estoppel is substantially groundless, substantially frivolous and without substantial justification.

18. The Trust's claim that all homeowners within the Elk Falls subdivision, including the Trust, have the right to use the Disputed Roads by virtue of recorded subdivision plats is substantially groundless, substantially frivolous, and without substantial justification.

19. The Trust's claim that the Disputed Roads are public roads is substantially groundless, substantially frivolous, and without substantial justification.

20. The Trust's claim that it has prescriptive rights to the Disputed Roads is substantially groundless, substantially frivolous, and without substantial justification.

Dated this 1st day of October, 2010.

BOOG & CRUSER, P.C.

*/s/ Victor F. Boog – original signature on file
at the offices of Boog & Cruser, P.C.*

Victor F. Boog, No. 2561

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2010, a true and correct copy of the foregoing **REQUESTS FOR ADMISSION TO PAUL J. VASTOLA AND SUZANNE G. NELSON LIVING TRUST, U/A DATED AUGUST 10, 2001** was sent electronically via LexisNexis File and Serve, properly addressed to:

Kirk B. Holleyman
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*/s/ Bonnie J. Cowell – original signature on file
At the offices of Boog & Cruser, P.C.*
