

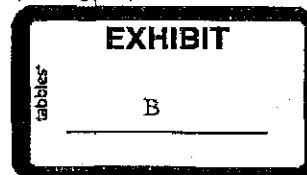
DISTRICT COURT, PARK COUNTY COLORADO 300 - 4 th Street Fairplay, Colorado 80440	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiffs: ELK FALLS PROPERTY OWNERS ASSOCIATION, a Colorado corporation; KATHRYN WELLS; THE PAUL VASTOLA AND SUZANNE G. NELSON LIVING TRUST, U/A DATED 8/10/01; ROBERT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

STATE OF COLORADO)
) ss
 County of Jefferson)

Wallace W. Williams II, being duly sworn upon his oath, states as follows:

I, Wallace W. Williams, II, former President of the Elk Falls Ranch Development Co. (hereinafter the "Development Co."), has personal knowledge of the truth of the following statements:

1. In December, 1966, Alice E. Berg conveyed to the Development Co. certain property including the property hereinbefore referred to as the Dunwody Property, as confirmed



by deeds attached to the Plaintiffs' Amended and Restated Complaint as Exhibit 4. (Plaintiffs' Amended and Restated Complaint, paragraph 19.) One such warranty deed in said Exhibit 4 was recorded on December 22, 1966, at Book 193, Pages 65-68 in the office of the Clerk and Recorder of Park County, Colorado. Said deed noted that the property conveyed thereby was subject to certain rights-of-way and easements "for ingress and egress over, on and through existing roads for access to and from Sections 15 and 16, Township 6 South, Range 72 West" Absent from such deed is any reference to easements for ingress and egress over, on, and through existing roads for access to Elk Falls, Block 1, Block 2, or the property now included in Elk Falls, Block 3.

2. On March 30, 1968, the Development Co. subdivided land west of Block 1 as Elk Falls – Block 3. A true copy of this plat is attached as Exhibits 5 and 5(a) to the Plaintiffs' Amended and Restated Complaint. (Plaintiffs' Amended and Restated Complaint, paragraph 20.)

3. Those portions of Juniper Road, Jensen Road, and Elk Creek Road which are the subject of the Plaintiffs' claims are not part of the metes and bounds description of the property included within the plat of Elk Falls – Block 3. Thus, the Disputed Roads are not part of the roads, lanes, circles, and drives which were dedicated for the use of the public by the plat of Elk Falls – Block 3.

4. When platting Elk Falls-Block 3, it was not the intention of the Development Co. to dedicate as a public road that portion of South Elk Creek Road beginning at the west line of the Alice E. Berg Property and continuing easterly to the southwest corner of Tract K; and no such dedication was made by the Plat of Elk Falls-Block 3.

5. When platting Elk Falls-Block 3, it was not the intention of the Development Co. to dedicate to the public those portions of Juniper Road and Jensen Road lying west of the north-south center line of Section 25, T 6 S, R 72 W of the 6th P.M., and no such dedication was made when platting Elk Falls-Block 3.

6. When platting Elk Falls-Block 3, it was not the intention of the Development Co. to grant non-exclusive easements over and across those portions of Juniper Road and Jensen Road lying west of the north-south center line of Section 25, T 6 S, R 72 W of the 6th P.M., to the owners of lots in Elk Falls-Blocks 1, 2, and 3; and no such non-exclusive easements were ever granted by the Elk Falls Ranch Development Co. to any of such lot owners.

7. The Development Co. conveyed the Dunwody Property to the Dunwodys on January 21, 2008 via a warranty deed, a true copy of which is attached to the Plaintiffs' Amended and Restated Complaint as Exhibit 6. (Plaintiffs' Amended and Restated Complaint, paragraph 22.)

8. The legal description of the Dunwody Property is set forth on Exhibit A to the warranty deed attached to the Plaintiffs' Amended and Restated Complaint as Exhibit 6.

9. A survey of the Dunwody Property, which is based on the description of the Dunwody Property set forth on Exhibit A to the warranty deed attached to Plaintiffs' Amended and Restated Complaint as Exhibit 6, is attached hereto as Exhibit 1.

10. The description of the Dunwody Property set forth on Exhibit A, to the warranty deed attached to the Plaintiffs' Amended and Restated Complaint as Exhibit 6, and the survey attached hereto as Exhibit 1, confirm that the Disputed roads are located on the Dunwody Property.

11. The Disputed Roads have never been improved or maintained by Park County.

12. Park County has never taken any official action to declare any portion of the Disputed Roads a public road; and Park County never took any action during the Development Co.'s ownership of the Dunwody Property between 1966 and 2008 to put the company on notice of any claim of right by the public to use the Disputed Roads.


13. It was the policy of the Board of Directors of the Development Co. that officers and shareholders of the Development Co. and members of the Sportsmen's Club and their guests, had permissive use of the roads on the property of the Development Co., including those portions of Juniper Road, Jensen Road, and South Elk Creek Road in dispute.

14. William H. Gorishek was a shareholder and officer of the Development Co. and, as such, had permission from the Development Co. to use the roads on the property of the Development Co. including the portions of Juniper, Jensen, and South Elk Creek Roads which are subject to the claims of the Plaintiffs in this action.

Further affiant sayeth naught.


Wallace W. Williams II

Subscribed and sworn to before me this 6th day of January, 2011, by Wallace W. Williams II.


Notary Public

My commission expires: 3-21-2011



