

## Falls Creek Ranch and High Meadows Ranch Summary of Agreement

This Summary contains limited information derived from an Agreement recorded October 12, 1988 in the records of the La Plata County Clerk at Reception Number 569189. The recorded Agreement contains important legal information concerning Falls Creek Ranch roadways and common property, as well as properties adjacent to Falls Creek Ranch. Anyone wishing to understand the Agreement in detail should obtain and read a copy from the La Plata County records; this summary is intended to outline the elements of the Agreement which affect the day to day usage and enjoyment of living at Falls Creek Ranch. usage and enjoyment of living at Falls Creek Ranch.

Following this chart is a copy of the full text of the Agreement as recorded by the LaPlata County Clerk, minus the numerous pages of signatures, exhibits, and attachments. The full document may be obtained from the Clerk's office.

<b>Summary - High Meadows Ranch / Falls Creek Ranch Access Agreements</b>				
Type Activity	Falls Creek Ranch		High Meadows Ranch	
	FCR Residents	HMR Residents	FCR Residents	HMR Residents
Automobiles	yes	yes <u>Notes</u> - FCR Main road only - emergency escape route via Mason Cabin Road for fire evacuation purposes - HMR pays dues to FCR for road maintenance	no <u>Note</u> - FCR residents have access to emergency escape route for fire evacuation purposes.	yes
Motorcycles	no	no	no	yes
4-wheelers	no	no	no	yes
Off Road 4-wheeling	no	no	no	no
Snowmobiles	no	no	no	yes
Bicycle Riding	yes	yes <u>Note</u> - Main road only	yes <u>Note</u> -main road and USFS trails only	yes <u>Note</u> - main road and USFS trails only
Walking/Jogging/Hiking	yes	yes <u>Note</u> - main road only	yes	yes
Cross-country skiing	yes	yes	yes	yes
Snowshoe walking	yes	yes	yes	yes
Dogs/Horses	yes	yes <u>Notes</u> - dogs on leash - horse riders may pass thru on main road only	yes <u>Notes</u> - dogs on leash - horse riders may pass thru on main road only	yes
Firearms/Shooting/Hunting	no	no	no	yes <u>Notes</u> - on your own property - no shooting in or across meadow - no shooting near HMR homes - guests must be accompanied by property owner
Fishing, swimming boating/ice skating	yes	no	na	na
Camp fires/slash burning/fireworks	no <u>Note</u> - Communal slash pile is burned once per year as authorized and controlled by FCR BOD	no	no	no
Wood cutting	yes <u>Note</u> - selective cutting per FCR rules.	no	no	yes <u>Note</u> - selective cutting per CC&Rs
Trash Disposal	yes	yes <u>Note</u> - HMR pays dues to FCR for trash disposal	na	na
Mailboxes	yes	yes <u>Note</u> - FCR has allowed HMR residents use of their mailboxes until such time as HMR installs their own in accordance, agreement and support of Durango Post Master.	na	na

Date: September, 2009

Reviewed and Approved: John Ritchey, John Neese

**Note in addition to above agreement:**

Residents of Falls Creek Ranch have non-motorized access rights through the Watson property. Watson property residents have the right to use Falls Creek Main to access their property. Watsons have the right to pay a proportionate share and utilize the trash facilities at Falls Creek Ranch.

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RECEPTION # 569189 La Plata County, Recorder  
Recorded at 3:40 o'clock P. M. Oct 12, 1988  
State of Colorado La Plata County

AGREEMENT

THIS AGREEMENT is entered into this 21<sup>st</sup> day of June, 1988, by and between JOHN S. WATSON and JANET F. WATSON (hereinafter collectively referred to as "Watson"); ARTHUR A. THOMPSON and DONNA L. THOMPSON, and TAMMY L. GOODWIN, aka TAMMY THOMPSON, and WHITE CREEK MINING COMPANY, and COLORADO MINING PROPERTIES, INC. (hereinafter collectively referred to as "Thompson"); DANIEL L. FELLER and ROBERT L. FELLER and NOEL FRIZZEL (all of whom from Arthur A. Thompson through Noel Frizzel sometimes collectively referred to as "Mining Interests"); FALLS CREEK RANCH, INC., a Colorado Corporation and FALLS CREEK RANCH ASSOCIATION, a Colorado Corporation (hereinafter collectively referred to as "Falls Creek"); RONALD L. RODGERS, F. M. BRUSSEAU, DOUGLAS N. MATHESON, EDWARD J. RUWALDT and HIGH MEADOWS RANCH PARTNERSHIP (hereinafter collectively referred to as "High Meadows"); and the BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO (hereinafter referred to as "La Plata").

P R E M I S E S

1. The parties to this Agreement are involved in two actions currently pending in the District Court, La Plata County, Colorado, those being Case Nos. 86CV13 and 82CV294.
2. The litigation in both actions arises out of or relates to the use of roads extending from or existing beyond County Road 205 in La Plata County.

*Will [unclear]*

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3. The parties desire to resolve the issues pending in their various disputes pursuant to the terms and conditions described herein.

4. The parties own or claim the properties and mining claims and mineral rights described in Exhibit "A" hereto.

IT IS THEREFORE AGREED as follows:

1. The road passing through the Falls Creek Ranch designated as "Main" on the Amended Plat of Falls Creek Ranch, Units I, II, and III, recorded with the Clerk and Recorder of La Plata County, Colorado, at Reception No. 541554 and known as "Falls Creek Main" as it exists within the boundaries of the Falls Creek Ranch property, is a private road, not a public road, and not a part of the County Road system. To the extent any party has any claim to the contrary, such claim is hereby unconditionally and irrevocably waived. This Agreement shall have no affect upon the status of County Road 205 or any extension thereof except as exists within the Falls Creek Ranch properties. The parties contend, admit and agree that what is sometimes designated as County Road 205 does not, in fact, extend through the Falls Creek Ranch properties because any road through those properties is a private road. It is agreed that the contents of this paragraph are as a result of negotiated settlement of disputed issues and as such the contents of this Agreement shall not be deemed to be an admission by any party in any proceeding concerning any roadway, except Falls Creek Main, and except between the undersigned for

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the purposes of this Agreement.

2. Falls Creek shall grant to the other parties written non-exclusive access and underground utilities (if necessary) easements, 60 feet in width, appurtenant to their respective properties along the Falls Creek Main Road necessary to allow access to their property interests as described herein. Watsons shall grant to the other parties written non-exclusive access and underground utilities easements appurtenant to their respective properties over and across the road easement through Watsons' property according to a surveyed center line description, which easement shall be 15 feet in width, to permit uses as hereinafter set forth. The access and utilities easements for Watson and High Meadows shall allow for development consistent with the succeeding sections of this Agreement. The access and utilities easements granted to the Mining Interests shall be limited to ingress and egress and utilities directly related to the development and operation of each party's existing mineral interests only, and for no other purpose.

The Watsons reserve the right to erect and maintain gates at each end of the access easement. The Watsons may maintain locks on the gates, provided, that the other parties are furnished access to keys to the locks.

High Meadows shall have the right to survey the centerline of the easement being granted to it, at its own cost. If so

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surveyed, the centerline description may be placed of record in the records of the La Plata County Clerk and Recorder by High Meadows by recording a copy of the registered land surveyor's plat and centerline legal description.

In the event High Meadows should develop its property in such a manner as to extend the existing roadway from the termination of the Falls Creek Main Road at its common boundary with the High Meadows property through the High Meadows property and continuing to County Road 203 in the West Animas Valley, High Meadows shall grant to Falls Creek an easement to use said roadway through High Meadows, for access purposes. No party hereto shall have any obligation to improve, upgrade, or maintain said roadway. If said roadway is improved to a condition comparable to the existing Falls Creek Main Road and such road connects to Falls Creek Main Road, Falls Creek agrees to pay its proportionate share of maintenance of said road, based upon the actual use of the parties.

Easements granted shall state that the easements shall be limited in their use to residential or agriculture uses for Watson and High Meadows, and for development of existing Mineral Interests and claims with respect to Mining Interests.

Falls Creek and High Meadows shall each allow residents of the other to hike, cross-country ski, ride horses, and engage in other forms of non-motorized recreation on their respective

properties so long as such usages do not interfere with the residents' privacy or use of their own properties. Nothing in this agreement shall grant motor vehicular or snowmobile access through Watson property for the benefit of Falls Creek of High Meadows; nothing in this agreement shall grant snowmobile access through Falls Creek for the benefit of Watson or High Meadows; and nothing in this agreement shall grant motor vehicular or snowmobile access through the High Meadows property for the benefit of any other party to this agreement except as specifically provided above upon the contingency of development of the High Meadows property in such a manner as to extend the existing roadway from the termination of Falls Creek main road at its common boundary with High Meadows property through the High Meadows property and continuing to County Road 203 in the West Animas Valley. Nothing in this agreement shall be construed to allow any other parties or persons not residents of Falls Creek to fish in the lake located on the Falls Creek property.

3. Maintenance of the Falls Creek Main Road and the road connecting the Falls Creek Main Road to County Road 205 shall be performed by Falls Creek. The other parties to this Agreement shall have an obligation to contribute to the maintenance of such roads, including contribution for indirect costs, such as a percentage of the salaries of maintenance employees, depreciation of equipment and other similar charges. The obligation of the

other parties shall be to pay a proportionate share of fifty percent (50%) of the total road budget for Falls Creek (hereinafter referred to as "Road Budget"), and shall be as follows:

a. Watson and High Meadows: Neither shall have any obligation to contribute until a building permit is issued on its property. Thereafter, for each new residential building permit (not remodels, additions, servant quarters, guest houses, or outbuildings) issued on property owned by either Watson or High Meadows, such party shall be obligated to pay a proportionate share of fifty percent (50%) of the total Road Budget. Such proportion shall be equal to one share for each building permit issued on either Watson or High Meadows property, plus 100 (100 being the number of lots in Falls Creek) plus one for each Mining Interests contributing to maintenance above \$100.00 per year as set forth in the next following subparagraph.

b. Each owner of a Mining Interest shall pay \$100.00 per year each to Falls Creek for contribution toward road maintenance, regardless of how many claims are owned by such owner. Upon any of the Mining Interests commencing commercial hauling of ore, and in lieu of the \$100.00 per year payment as described in the preceding subparagraph, such person shall pay a proportionate share of the total Road Budget for Falls Creek as if he, she, they, or it were issued one building permit pursuant to

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subparagraph a. of this Section. All such mining interest users of the road shall be required to repair any damage caused by their use of the road or access easements through Falls Creek or Watson, normal wear and tear excepted.

For purposes of this Agreement, Thompson, as defined in the preamble of this Agreement, shall be deemed to have one mining interest so long as ownership is in one of the names listed in the preamble or in any successor entity(s) comprised of the same individuals as principals or shareholders; Daniel L. Feller and Robert L. Feller shall be deemed to be one mining interest no matter how many claims they own so long as the ownership is held in one or the other of their names. To the extent of a conveyance of any portion of their claims, but less than 100 percent, to any person not a party to this Agreement, such person shall pay a separate share of the road maintenance as described in this Section.

c. Falls Creek agrees to provide reasonable documentation to the other parties as to current and projected road maintenance costs, along with an assessment for each party's share of such costs. The assessments shall be due and payable within thirty (30) days after mailing of the notice of assessment by Falls Creek Ranch. The other parties shall have the right, upon reasonable notice and from time to time, to audit the books of Falls Creek with respect to the Road Budget. In the event of



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any dispute as to the amounts of each party's share of the maintenance budget, such dispute shall be resolved pursuant to the then existing rules of the American Arbitration Association

d. None of the parties hereto shall have any obligation to contribute to any up-grading or improvement of any existing roadway, other than those associated with normal repairs and maintenance. Specifically, but not by way of limitation, no party shall have any obligation to make any improvement to Falls Creek Main Road required in connection with the development of the claims or properties of any other party hereto.

4. Development of the Watson and High Meadows properties shall be limited as follows:

a. High Meadows agrees that future development of its property shall be limited to 20 single family residential units. Such units may be clustered or spread and may be free-standing structures, townhouse type units, or condominium units, or any combination of the above without limitation.

b. Watson agrees that its property shall be limited to 8 single family residential units. Such units may be clustered or spread and may be free-standing structures, townhouse type units, or condominium units, or any combination of the above without limitation.

c. Falls Creek Ranch Association, Inc. agrees to provide both High Meadows and Watson with resolutions of its Board

of Directors, authorized by a two-thirds vote of its membership, that the densities of residential development contained in this section are appropriate and supported by Falls Creek. Falls Creek further agrees that, if requested by either High Meadows or Watson or their successors in the future, it will then provide an updated resolution of support, consistent with this Agreement, and that it will not in any manner oppose applications by High Meadows or Watson for development of their respective properties on a density in accordance with the provisions of this Agreement.

5. Watson shall grant to each of the Mining Interests a separate easement across their property consistent with the Watts/Baker correspondence dated March 24, 1987 and April 15, 1987, copies of which are attached hereto, marked Exhibit "B" and incorporated herein. Those provisions are modified as stated herein and by the fact that construction of the road shall commence on or after May 16, 1988 and shall be completed prior to August 31, 1988. Each party (Falls Creek, Watson, Thompson and High Meadows) agrees to pay into the Trust Account of CRANE & LEAKE, P.C., \$2,500.00 which sum shall be used to survey and construct the road pursuant to the Watts/Baker letters. Construction shall be done by United Construction Company according to the contract signed by it and attached hereto and incorporated herein. None of the parties shall be obligated to make any payment beyond the \$2,500.00 specified in this Agreement.

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In the event that the surveying and road construction required by this paragraph is completed at a total cost of less than \$10,000.00, the parties hereto shall each receive an equal prorata refund from the monies deposited under this paragraph.

No party may agree on behalf of any other party hereto for the incurring of any expense in excess of the \$2,500.00 agreed to by it, without its express, prior, written permission. Each party agrees to hold the other harmless from any such obligation. Falls Creek and Watson shall post notices pursuant to the provisions of C.R.S. Section 38-22-105 prohibiting the filing of any mechanic's liens.

The road may be used by the Mining Interests at any time during the year; PROVIDED, HOWEVER, that use shall be limited to vehicles normally licensed as highway vehicles, snowmobiles or other snow track vehicles; and that no snowplowing of the road shall be done at any time. The road shall be maintained by Thompson and the other Mining Interests. The construction contractor shall sign an indemnification and hold harmless agreement with respect to Watson, Falls Creek and the Mining Interests for construction of the gravel road on the easement and shall provide lien waivers at or prior to the time of payment.

During the period of time after the execution of this Agreement and prior to the construction of the road contemplated by this Section, Thompsons and the other Mining Interests shall

have the right to access to their claims for purposes of operating their claims, and consistent with limitations caused by construction, weather and the like, and subject to limitations herein. Such Mining Interests shall be obligated to repair any damage caused to the roadway or adjacent property caused by their use of such roadway.

6. Falls Creek Ranch agrees to grant an easement to Watson and the Mining Interests for that portion of the Falls Creek property located between Falls Creek Road and the boundary of Watson's property. Such easement shall be limited consistent with the easement granted by Watson and shall be constructed and maintained consistent with such easement.

7. All parties agree that they will not use and they will prohibit the use of motorcycles, snowmobiles, and all-track vehicle and the like on the Falls Creek Road or within the Falls Creek Ranch boundaries, consistent with the Covenants at Falls Creek. The parties further agree that access across Watsons' property by anyone having an easement across such property shall be limited to non-motorized vehicles, except vehicles used in connection with mining operations. In addition, the parties agree that speed limits reasonably imposed by Falls Creek and Watson on easements through their respective properties shall be observed.

8. Falls Creek and the other parties hereto agree to waive any claim they may have against La Plata for development or

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maintenance, either past or future, of the Falls Creek Road from the south edge of the Falls Creek Ranch northward through Falls Creek property.

9. All parties agree to execute all documents, including, without limitation, stipulations, easements, resolutions, or other documents reasonably required of them to effectuate the terms of this Agreement.

Attached hereto as Exhibit "C" are copies of the easements to be granted by Falls Creek and Watsons, respectively, under this Agreement, which granting instruments contain all restrictions and limitations on use applicable to the easements granted. Shall any grantor fail or refuse to execute and deliver any such granting instrument upon completion of the road to be constructed under Paragraph 5, above, or on August 31, 1988, whichever comes first, the grantee(s) of any such instrument shall be entitled to a decree from any court of competent jurisdiction requiring specific performance of the grantor's duty to so execute and deliver said granting instrument, together with any and all other relief available at law or in equity, including costs and reasonable attorney's fees incurred in connection with obtaining such execution and delivery.

10. Watson and High Meadows shall have the right to pay a proportionate share of Falls Creek's trash hauling charges, along with the right to use Falls Creek's trash dumping station. Such

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right shall be conditional upon Falls Creek having adequate enforcement mechanisms.

11. All past due sums owed by any party to any other party shall bear interest at the rate of eighteen percent (18%) per annum. The parties agree that there are no sums due from one to the other as of the execution of this Agreement, except for the sums provided to be paid hereunder.

12. Nothing in this Agreement shall be deemed to create a joint venture, partnership, master/servant, employer/employee, or principal/agent relationship between any of the parties hereto. No party hereto shall have the right to bind any other party to any agreement concerning the subject matter of this Agreement.

13. Falls Creek recognizes and acknowledges that Falls Creek's agreement to provide now and in the future a resolution supporting the residential development densities contained herein is being relied upon by Watson and High Meadows, inducing them to substantially change their position with respect to the private nature of the Falls Creek Road. Falls Creek Ranch's representations concerning its support of the subject developments is a material factor being relied upon by both Watson and High Meadows in entering into this Agreement.

14. In the event of default or breach of any of the terms of this Agreement by any party hereto, the prevailing party or parties shall be entitled to be reimbursed attorney fees incurred

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in the prosecution or defense of the same.

15. This Agreement constitutes the entire agreement of the parties hereto and it is the intention of the parties that it will not be changed or modified except by a written instrument signed by all parties hereto and will not be merged upon the granting of the easements.

16. Each party's rights and obligations derived from or arising out of this Agreement may be freely assigned. The assignee of such rights and/or obligations shall be bound by the terms of this Agreement and it is the intention of the parties that this Agreement run with the land and property interests of the parties hereto and be binding upon the heirs, successors and assigns of the parties. Any assignment of the interests and obligations of any party hereunder shall relieve the assignor of any future obligations pursuant to the provisions of this Agreement, once notice of such assignment is given to the other parties hereto, and the assignee has assumed in writing the assignor's obligations hereunder and furnished copies of such assumption to all other parties hereto, and recorded the same.

17. Any notice required under the terms of this Agreement shall be deemed sufficient if given by sending such notice to the other parties at the addresses contained herein, certified mail, return receipt requested, with sufficient postage. The addresses may be changed by any party by providing written notice to all

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other parties hereto.

18. This Agreement shall be binding upon all parties hereto when signed by Falls Creek, Thompson, Watson, High Meadows, and La Plata.

19. Nothing in this Agreement shall be deemed to be a waiver by Thompson of any claim of access that they may have to High Meadows property as the result of mineral interests owned by it in such property, if any.

DATED this 21<sup>st</sup> day of June, 1988.