

Modify
Rilling Canyon
C. Paralel



365316

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10/15/2004 02:19P

Huerfano Cty, CO Judy Benine EASE R 16.00 D 0.00

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("agreement") is made this 12 day of October 2004 by and between Cuchara River, LLC a Colorado Limited Liability Company ("Cuchara"), and Lon Cole Goemmer, L. Otto Goemmer, Jacque M. Goemmer, William Peter Goemmer & Jennie N. Goemmer, hereinafter referred to as ("Goemmer").

Recitals:

- A. Cuchara own certain undeveloped real property located in Huerfano County, Colorado, which will be part of Phase 3, Raspberry Mountain Ranch.
- B. Goemmer own certain real property located in Huerfano County, Colorado, which abuts the Cuchara Property to the North.
- C. Pursuant to that Grant of Easement dated May 18, 1990 and recorded June 25, 1990 at Book 9M Page 764 of the Huerfano County, Colorado records ("Grant of Easement"), Goemmer benefits from that certain non-exclusive easement to travel Rilling Canyon Road through Cuchara property to access Goemmer property to the North.
- D. Pursuant to Huerfano County Colorado District Court, case No. 1414; Goemmer is adjudicated Appropriation Priority No. 327. The point of diversion and portions of the ditch lie within the boundary of Cuchara property.

NOW, THEREFORE, the parties on behalf of themselves, successors and assigns, and for good and valuable consideration, receipt and adequacy of which are hereby received, hereby agree as follows:

**ARTICLE I
MODIFY/ALTER CURRENT RIGHT-OF-WAY**

1.1 Modification of Right of way. Cuchara affirms Goemmer's right to travel the Rilling Canyon Road; However, Cuchara desires to modify/alter a portion of the Rilling Canyon Road, as it exist in Township 30 South, Range 68 West, 6th P.M. Section 7 and Township 30 South, Range 69 West Section 12 south of the one sixteenth (1/16) corner. (see Exhibit A).

- A. Currently, there exists an East West fence, which divides Goemmer Section 7 and Section 12 North of the one sixteenth (1/16) corner from Cuchara Section 7 and Section 12 South of the one sixteenth (1/16) corner. Both parties agree that said fence is located North of the true one sixteenth (1/16) corner line. Cuchara will construct a road of similar quality to the road on Goemmer currently being used, to eliminate a portion of the curve in Rilling Canyon Road that penetrates approximately 300 feet into Cuchara, Section 7 and Section 12 South of the one sixteenth (1/16) corner line. The road will be constructed South of the existing fence with wide turnouts to allow a large tractor-trailer to conveniently make the turns from Rilling County Road to the modified/alter road. Said road will be twenty (20) feet in width (except where road is wider for wider for easy access for turns for tractor-trailers) and approximately one thousand five hundred (1500) feet in length.
- B. It is understood by Cuchara and Goemmer that the modify/alter road:
 - 1. will be partially in Section 7 and Section 12 North of the one sixteenth (1/16) and partially South of Section 7 and Section 12 South of the one sixteenth (1/16) corner line.
 - 2. which Cuchara builds a remuneration Two Thousand (\$2,000) dollars shall be paid by Cuchara to Goemmer for the use only of their land.
 - 3. shall be surfaced with material purchased from Goemmer pits, as long as said pits runs are priced at "fair market value".
 - 4. shall be non-exclusive in its use.



- 5. shall be used by large oil-field equipment to service wells on Goemmer lands.
 - 6. shall be the primary road for Goemmer, however, only the Cucharas Person/Persons who purchase the Lot/Tract, which abuts the road in Cuchara Phase 3, may use this modify/alter road.
- C. A second modify/alter access easement for Goemmer, which lies to the West, shall connect the Rilling Canyon Road with existing road net on Goemmer property located in Section 11 N½NE¼, the location of this road shall be mutually agreed upon. The surface of this twenty (20) foot wide easement shall be equal to and on the same terms as "B" paragraph 3, 4 & 5 above.

**ARTICLE II
WAIVERS**

Upon approval and completion of road "C", Goemmer waives any claim to travel the current road that the modify/alter road replaces. Goemmer agrees to maintain the Goemmer Ditch within its current in-use Rights-of-Way.

For Goemmer:

For Cuchara River, LLC

Lon Cole Goemmer
Lon Cole Goemmer

L. Otto Goemmer
L. Otto Goemmer

Jacque M. Goemmer
Jacque M. Goemmer

William Peter Goemmer
William Peter Goemmer

Jennie N. Goemmer
Jennie N. Goemmer

Jim Young
Jim Young, Managing Member

ACKNOWLEDGEMENTS

STATE OF COLORADO

ss. INDIVIDUAL

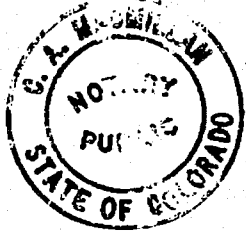
COUNTY OF HUERFANO

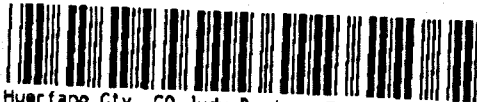
On this 12 day of Oct., 2004 before me, the undersigned Notary Public in and for said county and state, personally appeared Lon Cole Goemmer, L. Otto Goemmer, Jacque M. Goemmer, William Peter Goemmer & Jennie N. Goemmer known to me to be the person or persons whose names are subscribed to the foregoing instrument, and acknowledged that the same was executed and delivered as their free and voluntary act for the purposes therein set forth. In witness whereof hereunto I set my hand and official seal as of the date hereinabove stated.

My Commission Expires) 9/19/05

P. A. McArthur

SFALJ





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Huerfano Cty, CO Judy Benine EASE R 18.00

ACKNOWLEDGEMENTS

STATE OF COLORADO

COUNTY OF HUERFANO

ss. INDIVIDUAL

On this 11 day of Sept, 2004 before me, the undersigned Notary Public in and for said county and state, personally appeared Jim Young known to me to be the person or persons whose names are subscribed to the foregoing instrument, and acknowledged that the same was executed and delivered as their free and voluntary act for the purposes therein set forth. In witness whereof hereunto I set my hand and official seal as of the date hereinabove stated.

My Commission Expires) 9/19/05

C. A. MacMillan

SEAL)

