

## VACATION OF EMERGENCY ACCESS EASEMENT AGREEMENT

THIS VACATION OF EMERGENCY ACCESS EASEMENT AGREEMENT ("Agreement") is made this 7<sup>th</sup> day of February, 2005 by **Cuchara River, LLC, a Colorado limited liability company ("Company")**.

### RECITALS:

- A. The Company owns certain undeveloped real property located in Huerfano County, CO, known as "Cuchara River Ranch" comprising approximately 164 acres and more particularly described on Exhibit A attached hereto and incorporated herein ("Cuchara River Ranch").
- B. Cuchara River Ranch lies appurtenant to or near certain real property developed by the Company known as "Cuchara River Estates" and "Raspberry Mountain Ranch" located in Huerfano County, CO (collectively called "Property") as depicted on subdivision plats for such property recorded September 23, 1999 at Reception No. 341110, recorded September 29, 2000 at Reception No. 346143, recorded February 14, 2001 at Reception No. 347789, recorded September 8, 2003 at Reception No. 359946, recorded October 25, 2004 at Reception No. 365417, recorded February 11, 2005 at Reception No. 366641 of the Huerfano County, CO real estate records (collectively "Plats"). As of the date of this Agreement, the Company owns in excess of the majority of the real property within Cuchara River Estates and Raspberry Mountain Ranch.
- C. Pursuant to that certain Grant of Easement dated September 29, 2000 and recorded September 29, 2000 at Reception No. 346144 of the Huerfano County, CO records ("Grant of Easement"), the Property benefits from that certain 30-foot wide emergency ingress, egress, and utility easement over and across Cuchara River Ranch as more particularly described on Exhibit H and depicted on Exhibit H-1, respectively, to the Grant of Easement, and described on Exhibit B and depicted on Exhibit B-1, respectively, attached hereto and incorporated herein ("Old Easement").
- D. Pursuant to the Grant of Easement, Cuchara River Estate Property Owners Association, a Colorado not for profit corporation ("Association") is responsible for maintaining the Old Easement. As of the date of this Agreement, the Company controls the Association.
- E. The Company desires to enter into this Agreement to vacate and abandon portions of the Old Easement, subject to the express terms and provisions contained below.



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NOW, THEREFORE, the Company, on behalf of itself, its successors and assigns, and for good and valuable consideration, receipt and adequacy of which are hereby received, hereby states as follows:

**ARTICLE I  
VACATION AND EXTINGUISHMENT**

1.1 Incorporation. The above Recitals are hereby incorporated herein as if fully set forth in this section.

1.2 Vacation. Subject to the terms below, the Company hereby revokes, vacates, terminates, and extinguishes only that portion of the Old Easement comprising the emergency access, effective immediately upon recordation of this Agreement. In the event of any conflict between the Plats, Grant of Easement and this Agreement as to the Old Easement, this Agreement shall control. Notwithstanding anything contained herein, this Agreement does not affect that portion of the Old Easement comprising the utility easement.

**ARTICLE II  
MISCELLANEOUS**

2.1 Run with Land. This Agreement shall run with the Cuchara River Ranch and the Property, shall be appurtenant to the Cuchara River Ranch and the Property, shall be binding upon Cuchara River Ranch and the Property and all present and future owners of the Cuchara River Ranch, the Property, and their successors and assigns.

2.2 Entire Agreement. This Agreement contains the entire agreement and understanding between the parties as to the subject matter contained herein. All prior representations, stipulations, warranties, agreements and understandings with respect to the subject matter of this Agreement are herewith merged.

2.3 Governing Law. This Agreement has been negotiated, executed and delivered within the State of Colorado, and shall be construed, interpreted and applied in accordance with the laws of the State of Colorado.

2.4 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstance, is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such fact shall not affect the remaining provisions hereof or the application of such provisions to persons or circumstances other than those to which it is held invalid, and in lieu of each such provision, there shall be substituted a new provision as similar as possible to the provision declared invalid, illegal or unenforceable.

2.5 Execution in Counterparts. This Agreement, including facsimile copies of this Agreement, may be executed in several counterparts, each of which shall be deemed an original

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but all of which shall constitute one and the instrument. In the event facsimile copies of this Agreement are executed, the original signatures shall be compiled and attached to form the original Agreement.

2.6 Time of Essence. Time is of the essence to this Agreement.

2.7 Drafting. The parties hereto have participated in the drafting and negotiation of this Agreement, and it is agreed that any claim as to ambiguity shall not be construed for or against either party as a result of such drafting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Cuchara River, LLC,  
a Colorado limited liability company

By: James E Young  
Its: Managing Member

The undersigned hereby acknowledges and consents to the terms and provisions of this Agreement.

Cuchara River Estates Property Owners Association, Inc.,  
a Colorado non-profit corporation

By: James E Young  
Its: President

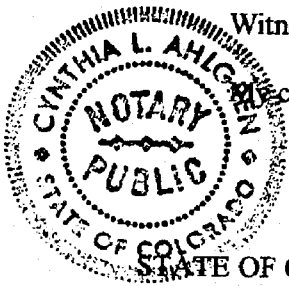


STATE OF COLORADO )  
 ) ss.  
COUNTY OF El Paso )

The above and foregoing Vacation Agreement was acknowledged before me this 7<sup>th</sup>  
day of February, 2005 by James E. Young as Managing Member of  
Cuchara River, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: May 23, 2006



Cynthia L. Ahlgren  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF El Paso )

The above and foregoing Vacation Agreement was acknowledged before me this 7<sup>th</sup>  
day of February, 2005 by James E. Young as President of  
Cuchara River Estates Property Owners Association, Inc., a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires: May 23, 2006



Cynthia L. Ahlgren  
Notary Public

# EXHIBIT A

## Real Property - Cuchara River Ranch

### PARCEL 1

A TRACT OF LAND LYING IN PART OF SECTIONS 7 AND 18, TOWNSHIP 30 SOUTH, RANGE 88 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF HUERFANO, STATE OF COLORADO, BEING A PART OF THAT TRACT OF LAND AS SHOWN ON A PLAT OF "GOEMMER RANCH, BY WACHOB AND WACHOB, INC., COLORADO CITY, COLORADO, DATED MARCH 30, 1995 FOR MR. J. LOWELL GOEMMER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 7, THENCE N 00°06'31" W, ALONG THE WEST LINE OF SAID SECTION 7, 522.09 FEET TO A POINT ON THE WESTERLY BOUNDARY OF MOUNTAIN VALLEY ROAD; THENCE ALONG THE WESTERLY BOUNDARY OF SAID MOUNTAIN VALLEY ROAD THE FOLLOWING (9) COURSES:

N 58°50'02" E, 192.41 FEET TO A POINT;  
N 48°26'20" E, 103.18 FEET TO A POINT;  
N 59°14'40" E, 358.12 FEET TO A POINT;  
N 77°31'31" E, 183.97 FEET TO A POINT;  
N 67°49'18" E, 389.88 FEET TO A POINT;  
N 73°44'07" E, 188.98 FEET TO A POINT;  
N 58°57'41" E, 315.17 FEET TO A POINT;  
N 58°43'08" E, 301.15 FEET TO A POINT;  
N 28°59'08" E, 154.20 FEET TO A POINT;

THENCE DEPARTING THE WESTERLY BOUNDARY OF SAID MOUNTAIN VALLEY ROAD, N 79°21'11" E, OVER AND ACROSS SAID MOUNTAIN VALLEY ROAD, 60.78 FEET TO A POINT ON THE NORTHEASTERLY BOUNDARY OF THE CUCHARA RIVER RANCH ROAD; THENCE ALONG THE NORTHEASTERLY BOUNDARY OF SAID CUCHARA RIVER RANCH ROAD THE FOLLOWING (5) COURSES:

S 34°43'43" E, 182.90 FEET TO A POINT;  
S 35°45'53" E, 125.96 FEET TO A POINT;  
S 42°42'05" E, 153.16 FEET TO A POINT;  
S 48°18'48" E, 188.06 FEET TO A POINT;  
S 45°43'16" E, 129.32 FEET TO A POINT;

THENCE DEPARTING THE NORTHEASTERLY BOUNDARY OF SAID CUCHARA RIVER RANCH ROAD, N 32°03'48" E, 584.45 FEET TO A POINT; THENCE S 86°42'51" E, 1899.29 FEET TO A POINT ON THE WESTERLY BOUNDARY OF COLORADO HIGHWAY 12 AS PRESENTLY LOCATED; THENCE ALONG THE WESTERLY BOUNDARY OF SAID HIGHWAY 12 THE FOLLOWING (5) COURSES:

S 05°43'48" E, 560.77 FEET TO A POINT;  
S 07°54'35" W, 117.08 FEET TO A POINT;  
S 18°27'41" W, 154.28 FEET TO A POINT;  
S 05°11'58" E, 202.60 FEET TO A POINT;  
S 04°49'33" E, 704.02 FEET TO A POINT;



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THENCE DEPARTING THE WESTERLY BOUNDARY OF SAID HIGHWAY 12, S 78°22'57" W, 528.36 FEET TO A POINT IN THE CENTERLINE OF THE CUCHARA RIVER AS OF THIS DATE, THENCE ALONG THE CENTERLINE OF SAID CUCHARA RIVER THE FOLLOWING (7) COURSES:

S 15°18'23" W, 74.75 FEET TO A POINT;  
S 51°59'22" W, 94.95 FEET TO A POINT;  
S 07°40'15" W, 88.06 FEET TO A POINT;  
S 65°31'48" W, 85.72 FEET TO A POINT;  
S 84°17'02" E, 57.37 FEET TO A POINT;  
S 02°29'31" W, 84.58 FEET TO A POINT;  
S 32°47'46" E, 64.80 FEET TO A POINT;

THENCE DEPARTING THE CENTERLINE OF SAID CUCHARA RIVER, N 81°24'01" W, 1677.29 FEET TO A POINT; THENCE N 00°46'42" E, 577.22 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 7; THENCE S 89°21'23" W, 2360.91 FEET TO THE POINT OF BEGINNING.

SAVE AND EXCEPTING FROM THE ABOVE DESCRIBED CUCHARA RIVER RANCH A 60 FOOT WIDE EASEMENT FOR INGRESS, EGRESS AND UTILITIES, LYING ACROSS THE WESTERLY PART OF THE ABOVE DESCRIBED CUCHARA RIVER RANCH, LYING IN PART OF THE S1/2 OF SAID SECTION 7, SAID EASEMENT BEING 60 FEET EASTERLY OF THE FOLLOWING DESCRIBED WESTERLY LINE:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 7; THENCE N 00°06'31" W, ALONG THE WEST LINE OF SAID SECTION 7, 522.09 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A POINT ON THE WESTERLY BOUNDARY OF SAID EASEMENT, SAID EASEMENT BEING KNOWN AS, MOUNTAIN VALLEY ROAD; THENCE ALONG THE WESTERLY BOUNDARY OF SAID MOUNTAIN VALLEY ROAD THE FOLLOWING (9) COURSES:

N 58°50'02" E, 192.41 FEET TO A POINT;  
N 46°26'20" E, 103.18 FEET TO A POINT;  
N 59°14'40" E, 358.12 FEET TO A POINT;  
N 77°31'31" E, 183.97 FEET TO A POINT;  
N 67°49'18" E, 389.88 FEET TO A POINT;  
N 73°44'07" E, 188.98 FEET TO A POINT;  
N 58°57'41" E, 315.17 FEET TO A POINT;  
N 58°43'08" E, 301.15 FEET TO A POINT;  
N 28°59'08" E, 154.20 FEET TO A POINT,  
SAID POINT BEING THE POINT OF TERMINUS OF THE ABOVE DESCRIBED 60 FOOT INGRESS, EGRESS AND UTILITY EASEMENT



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## EXHIBIT B

### Old Easement

A 30 FOOT WIDE EASEMENT FOR THE PURPOSE OF EMERGENCY ACCESS AND FOR UTILITIES, ACROSS THE CUCHARA RIVER RANCH, LOCATED IN PART OF THE S1/2 OF SECTION 7, TOWNSHIP 28 SOUTH, RANGE 68 WEST OF THE 6th P.M., HUERFANO COUNTY COLORADO, SAID EASEMENT BEING 15 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 7; THENCE N 00°06'31" W, ALONG THE WEST LINE OF SAID SECTION 7, 522.09 FEET TO A POINT ON THE WESTERLY BOUNDARY OF MOUNTAIN VALLEY ROAD; THENCE ALONG THE WESTERLY BOUNDARY OF SAID MOUNTAIN VALLEY ROAD THE FOLLOWING (9) COURSES:

- 1) N 58°50'02" E, 192.41 FEET TO A POINT;
- 2) N 46°26'20" E, 103.18 FEET TO A POINT;
- 3) N 59°14'40" E, 358.12 FEET TO A POINT;
- 4) N 77°31'31" E, 183.97 FEET TO A POINT;
- 5) N 67°49'18" E, 389.88 FEET TO A POINT;
- 6) N 73°44'07" E, 188.98 FEET TO A POINT;
- 7) N 58°57'41" E, 315.17 FEET TO A POINT;
- 8) N 58°43'08" E, 301.15 FEET TO A POINT;
- 9) N 28°59'08" E, 154.20 FEET TO A POINT;

THENCE DEPARTING THE WESTERLY BOUNDARY OF SAID MOUNTAIN VALLEY ROAD, N 79°21'11" E, 40.02 FEET TO A POINT IN THE CENTER OF CUCHARA RIVER RANCH ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE ALONG THE CENTERLINE OF SAID CUCHARA RIVER RANCH ROAD THE FOLLOWING (37) COURSES:

- 1) S 31°18'09" E, 193.14 FEET TO A POINT;
- 2) S 35°45'53" E, 128.05 FEET TO A POINT;
- 3) S 42°42'05" E, 156.45 FEET TO A POINT;
- 4) S 48°18'48" E, 188.85 FEET TO A POINT;
- 5) S 45°43'16" E, 268.02 FEET TO A POINT;
- 6) S 48°03'59" E, 169.13 FEET TO A POINT;
- 7) S 62°12'25" E, 103.62 FEET TO A POINT;
- 8) S 84°38'34" E, 150.29 FEET TO A POINT;
- 9) N 83°29'23" E, 155.05 FEET TO A POINT;
- 10) S 74°06'56" E, 136.22 FEET TO A POINT;
- 11) S 40°13'11" E, 69.82 FEET TO A POINT;
- 12) S 88°30'24" E, 43.95 FEET TO A POINT;
- 13) N 77°30'53" E, 104.28 FEET TO A POINT;
- 14) N 65°12'34" E, 281.07 FEET TO A POINT;
- 15) N 83°19'24" E, 65.14 FEET TO A POINT;
- 16) S 76°01'37" E, 145.06 FEET TO A POINT;
- 17) N 69°05'42" E, 85.30 FEET TO A POINT;
- 18) S 68°30'42" E, 32.51 FEET TO A POINT;
- 19) S 25°13'02" E, 46.30 FEET TO A POINT;
- 20) S 18°48'10" E, 65.46 FEET TO A POINT;
- 21) S 26°10'58" E, 85.27 FEET TO A POINT;
- 22) S 31°28'28" E, 49.88 FEET TO A POINT;
- 23) S 49°10'37" E, 54.02 FEET TO A POINT;
- 24) S 24°14'01" E, 32.33 FEET TO A POINT;



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- 25) S 06°06'50" N, 40.05 FEET TO A POINT;
- 26) S 28°08'53" E, 28.63 FEET TO A POINT;
- 27) S 47°57'59" E, 68.14 FEET TO A POINT;
- 28) S 77°42'54" E, 60.91 FEET TO A POINT;
- 29) N 73°39'05" E, 18.72 FEET TO A POINT;
- 30) N 57°54'01" E, 64.91 FEET TO A POINT;
- 31) S 83°15'59" E, 49.97 FEET TO A POINT;
- 32) S 70°16'36" E, 191.84 FEET TO A POINT;
- 33) ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF  
68.37 FEET, AN ARC LENGTH OF 138.00 FEET (THE CHORD OF SAID  
CURVE BEARS N 51°53'58" E, 115.74 FEET) TO A POINT;
- 34) N 05°55'28" N, 99.39 FEET TO A POINT;
- 35) N 09°53'09" E, 43.48 FEET TO A POINT;
- 36) N 27°37'20" E, 37.66 FEET TO A POINT;
- 37) N 35°23'01" E, 60.08 FEET TO A POINT, A

SAID POINT BEING ON THE WESTERLY BOUNDARY OF COLORADO HIGHWAY 12 AS CURRENTLY  
LOCATED, SAID POINT BEING THE POINT OF TERMINUS OF THE ABOVE DESCRIBED 30  
FOOT EMERGENCY ACCESS AND UTILITY EASEMENT.



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