

**AMENDMENT #1
TO
DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR GURLEY LAKE RANCH**

This **Amendment #1 To Declaration Of Covenants, Conditions, Restrictions And Easements For Gurley Lake Ranch** (herein "Amendment #1"), made the 20th day of October, 2006 by **Gurley Lake Land and Cattle Company**, a Colorado general partnership whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "GLLCC") and by **Gurley Lake Ranch Owners Association, Inc.**, a Colorado non profit corporation whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "Association").

WITNESSETH:

WHEREAS, On August 1, 1997, the GLLCC caused a certain plat entitled Gurley Lake Ranches, Filing 2 recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Plat Book 1 at page 2263, as modified by an Affidavit of Correction recorded April 2, 2003 in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception # 356228 (herein the "Gurley Plat-Filing 2" and the lands which are the subject thereof are herein called the "Gurley Lake Ranches"); and

WHEREAS, On August 1, 1997, the GLLCC, as the 'Declarant', caused a certain Declaration of Covenants, Conditions, Restrictions and Easements for Gurley Lake Ranch to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book 584, page 896 at Reception #313680 (herein the "Declaration"), which subjects the Gurley Lake Ranches to all of its terms and provisions (unless otherwise defined herein, defined terms in the Declaration shall have the same meaning herein); and

WHEREAS, at the annual meeting of the Association in 2006 the Association voted by a margin in excess of 2/3rds of all eligible votes in favor of amending the Declaration in certain respects, directing the Board of Directors to prepare, execute, and record a document that accomplishes such amendments; and

WHEREAS, the Declarant joins in executing this Amendment #1,

NOW THEREFORE, in consideration of the mutual benefits to be gained by the amendments set forth below, the Declaration is hereby amended by the Association and the Declarant as follows:

A. Article II, Section 2 is hereby amended to read in its entirety as follows:

Section 2. Voting. Owners shall be entitled to one vote for each Lot owned.



(a) (i) If only one of the multiple persons or entities comprising an Owner of a Lot is present at a meeting of the Association, such person or entity is entitled to cast the vote allocated to that Lot. If more than one of the multiple persons or entities comprising an Owner is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the persons or entities comprising such Owner. There is majority agreement if any one of the multiple persons or entities comprising an Owner casts the vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other persons or entities comprising the Owner of the Lot.

(ii) Votes for positions on the Board of Directors shall be taken by secret ballot and, upon the request of one or more Lot Owners, a vote on any other matter affecting the Subdivision on which all Lot Owners are entitled to vote shall be by secret ballot. Ballots shall be counted by a neutral third party or by a Lot Owner who is not a candidate, who attends the meeting at which the vote is held, and who is selected at random from a pool of two or more such Lot Owners. The results of the vote shall be reported without reference to names, addresses, or other identifying information.

(b) (i) Votes allocated to a Lot may be cast pursuant to a proxy duly executed by a Lot Owner. A proxy shall not be valid if obtained through fraud or misrepresentation. Unless otherwise provided in the Bylaws, appointment of proxies may be made substantially as provided in §7-127-203 Colorado Revised Statutes 2005, as the same may be amended from time to time in the future.

(ii) If a Lot is owned by more than one person or entity, each person or entity comprising an Owner may vote or register protest to the casting of votes by the other persons or entities through a duly executed proxy. Multiple proxies for a given Lot shall be subject to the majority in interest rule set forth in (a) above. A proxy given pursuant to this subsection may not be revoked except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise.

(iii) The Association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation if the Secretary or other office or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the Lot Owner.

(iv) The Association and its officers or agents who accept or reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation in good faith and in accordance with the standards of this section are not liable in damages for the consequences of the acceptance or rejection.

(c) No vote allocated to a Lot owned by the Association may be cast.

~

B. Article II shall have a new **Section 4** added which shall read as follows:

Section 4. Association Duties.

(a) The Association shall provide to all Owners, at least once per year, a written notice stating the name of the Association; the name of the Association's designated agent or management company, if any; the physical address and telephone number for both the Association and the designated agent or management Company, if any, the name of the common interest community (*i.e.* North Gurley Reserve); and the initial date of recording of the Declaration and the reception number of the main document that constitutes the Declaration. If the Association's address, designated agent or management company, if any, changes, the Association shall provide all Owners with an amended notice within ninety (90) days after the change.

(b) Within ninety (90) days after the end of the Period of Declarant Control (or the voluntary surrender by the Declarant of its right to appoint and remove officers and directors) and within ninety (90) days after the end of each fiscal year thereafter, the Association shall make the following information available to the Owners: (i) the date on which its fiscal year commences; (ii) the budget for the current year; (iii) the current years assessments, including both regular and special assessments; (iv) the annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure; (v) the results of any financial audit or review for the fiscal year immediately preceding the current annual disclosure; (vi) a list of all Association insurance policies, disclosing for each such policy, the company name, policy limits, policy deductibles, additional named insureds and expiration dates; (vii) all the Association's Bylaws, Articles of Incorporation and rules and regulations; (viii) the minutes of the Board meetings and member meetings for the fiscal year immediately preceding the current annual disclosure; and (ix) the Association's responsible governance policies adopted under subsection (d) below.

(c) The Association may make the materials required by subsection (b) preceding available to the Owners by any one or more of the following methods: (i) posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; (ii) the maintenance of a literature table or binder at the Association's principal place of business; or (iii) mail or personal delivery. The cost of such distribution shall be accounted for as a common expense liability.

(d) In order to promote responsible governance, the Association shall: (i) maintain accounting records using generally accepted accounting principles; and (ii) adopt policies, procedures and rules and regulations concerning: collection of unpaid assessments; handling of conflicts of interest involving Board members; conduct meetings which may refer to applicable provisions of the Colorado Revised Nonprofit Corporation Act or other recognized rules and principles; enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines; inspection and copying of Association records by Owners; investment of reserve funds; and procedures for the adoption and amendment of policies, procedures and rules.

~

(e) The Board may authorize, and account for as a common expense, reimbursement of Board members for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance or owners' associations. The course content of such educational meetings and seminars shall be specific to Colorado, and shall make reference to applicable sections of the Act.

(f) The Association shall provide, or cause to be provided, education to Owners at no cost on at least an annual basis as to the general operations of the Association and the rights and responsibilities of the Owners, the Association and its Board under Colorado law. The criteria for compliance with this section shall be determined by the Board.

C. Article V, Section 1. clause (f) is hereby amended to read in its entirety as follows:

(f) Trees and Landscaping.

(i) Existing trees shall be disturbed as little as possible to accommodate building sites and view corridors. Landscaping shall be of native species and blend with the ranch environment. Except for fire hazards and maintaining or improving plant health and vigor, or for removal of insect or disease affected vegetation, or for approved driveways, approved pastures and construction of approved structures, or for maintenance of mountain views on approved site plans, no indigenous trees or perennial bushes may be cut or removed, no action affecting drainage direction or affecting other property, and no grading of the land surface shall be done within a Lot except upon a variance granted by the Committee as hereafter authorized. Application for such a variance shall be accompanied by such drawings, plans or photographs as may be reasonably required to show the nature of the proposed cutting, removal or grading. It is desirable to preserve the natural character of the area and therefore to limit cutting, removal and grading to that which is necessary to the reasonable use and enjoyment of the Owner's Lot. Approval of applications for variances within the contemplation of this subsection may be conditioned upon installation of appropriate drainage facilities to be installed at the applicant's expense.

(ii) The foregoing clause (i) shall not be deemed to prohibit the removal by a Lot Owner of trees, shrubs, or other vegetation to create defensible space around a dwelling for fire mitigation purposes, so long as such removal complies with a written 'defensible space' plan created fro the Lot by the Colorado State Forest Service, an individual or company certified by a local governmental entity to create such a plan, or the fire chief, fire marshal, or fire protection district within whose jurisdiction the lot is located, and is no more extensive than necessary to comply with such plan. The plan shall be filed and registered with the Association at least 15 days before the commencement of work. The Association, acting through the Committee, may require changes to the plan if the Committee obtains the consent of the person, official, or agency that originally created the plan. The work shall otherwise comply with all applicable provisions of this Declaration and the architectural standards and specifications and any other rules and regulations promulgated by the Association.

✓

Owners are encouraged to have such a plan prepared for their property and to thereafter maintain the area around their improvements in accordance with the plan.

D. **Article V, Section 5.** is hereby amended to read in its entirety as follows:

Section 5. Mining and Drilling Activities Strictly Regulated. Water well drilling is permitted upon compliance with the requirements of the Colorado Division of Water Resources. Any use of the surface of any Lot for oil, gas, mineral, geothermal or oil shale exploration, development, mining or drilling activities of any kind whatsoever is expressly and absolutely prohibited, except as is expressly specified in this Section. For the purposes of this Section, a distinction is made between the mineral owners and the surface owners. As of the date of this amendment, Gurley Lake Ranch lot owners recognize that most or all of the mineral rights in Gurley Lake Ranch Unit 1 and Filing 2, including all common area easements and open space easements, are owned by outside parties. **In order to deal with the intense development interest in developing the natural gas resources in the region, the requirements of this Section have been developed to enable a reasonable degree of gas and oil development to occur on the Properties while protecting the health and safety of the surface owners and neighbors, and ensuring the preservation of the scenic values of the Properties and ensuring for the peaceful enjoyment of the Properties by the surface owners, livestock and wildlife. All parties recognize that the Properties are an important area for the raising of livestock and for habitat for wildlife, in particular breeding, and summer and winter range for deer and elk.** Thus any plan submitted by the working interest operator for drilling sites and access to them must give a high priority to the protection of these issues while satisfying the criteria that follow. With respect to all matters related to the surface use, the Association (acting through the Board of Directors) may grant variances to the following requirements or establish different requirements as the particular situation may, in the judgment the Board of Directors for the Association, require. It is understood that surface use to be made of any of the property located in Gurley Lake Ranch shall be governed by the Gurley Lake Ranch Owners Association.

(a) Architectural Review Committee Approval of Sites. No surface rights anywhere in the Properties can be used for oil and gas exploration and development until a site plan has been filed with and approved by the Association together with such conditions and requirements as may be necessary or desirable for enforcing the covenants herein. After such approval has been obtained, a compensation arrangement with the affected surface Lot Owner (*i.e.* the then surface Owners or the Gurley Lake Ranch Owners Association) must be negotiated and entered into with a copy of the compensation arrangement to be furnished to the Association by the applicant.

(b) Set Backs from Housing Sites. No wells shall be located within 500 feet of a home site (as used herein, to be evidenced by the presence of a home or as designated by the Association on a site map to be furnished to a working interest owner). Drilling multiple wells from a single site is strongly encouraged and a plan showing



only one well per site will be rejected, unless strong justification is presented by the applying party. Well sites should be selected that have significant natural screening based on terrain and/or existing vegetation, it being understood that in all likelihood, these sites will also be the ultimate tank sites which must meet the requirements of subsection c) below. All stem valves used during drilling and production shall be double valved, and they shall all be bunkered in such a way as to protect against the effect of any potential blowout.

(c) Tanks/Screening. All tank locations must be approved by the Association. Tanks that are not over eight feet (8') in height above surrounding grades shall be permitted in special zones designated by the Association and any tanks in other areas must be buried with no more than three feet (3') of tank above surrounding grades. Under no circumstances may any tanks exceed eight feet (8') in height above the surrounding grades. When the tanks are installed, screening of natural vegetation shall be planted and watered until established such that the plantings can survive on natural rainfall. **The landscaping, together with berming, shall be such that all home sites, driveways and internal and county roads are completely screened from the tanks and other structures on the site. If such screening cannot be achieved for the chosen site, a different site where such screening can be accomplished must be selected.**

(d) Compressors/Noise. No large compressors and no large staging areas may be located anywhere on the Properties or adjacent property such as to create any visual or auditory impacts on any surface Lot owners. **If any compressors are required in connection with the production of a well on the Properties, it shall be of a type, and shall be so located, such that no noticeable noise from its operation can be heard at any home site.** Screening for any such compressor or staging areas shall be the same as for a tank as set forth in Tank/Screening section above.

(e) Roads & Access. All entry roads to well, tank and compressor sites are to be laid out so as to be non obtrusive and of a curved design keeping sight lines to one-hundred fifty feet (150') or less. The roads shall be well maintained and magnesium chloride shall be periodically applied in as small an amount as is necessary to keep dust under control. If any existing county or internal roads are to comprise part of the access plan, such roads shall be improved to the extent deemed by the San Miguel County Supervisor of Roads and Bridges to be required for the weight and frequency of travel of the vehicles and equipment to make use of such roads. Except during drilling and in the case of emergencies, there shall be no access to the well, tank and compressor sites except during the normal business hours of 9 AM to 5 PM, Mondays through Fridays. There shall be no access through to adjacent lands on either these entry roads or from existing roads within the Properties without Association approval which shall be withheld if there is no road maintenance agreement with the adjoining owner(s) or if any increased traffic resulting could be of annoyance to surface Lot owners adjacent to the affected roads.

(f) Well Protection. Prior to commencing the conduct of any seismic testing and then again prior to spudding in any well, the working interest owner shall be required at its sole cost and expense to commence, and to thereafter continue, to monitor all water wells located on any of the Properties by performing periodic volumetric

measurements and periodic test sampling of water samples from all such water wells testing for all forms of contaminants usually associated with drilling and production activities of the type to be conducted on the Properties. If any material reduction in volume or any contaminants show up in any samples or tests, the working interest owner shall immediately take all necessary steps to discover and correct the cause of such volume reduction and/or contamination and the owner of the well shall be compensated for all damages incurred. Without limiting the generality of the foregoing, upon any contamination or decrease in out put appearing to result from the working interest owner's activities, the working interest owner shall at its sole cost and expense provide the well owner with an alternate source of water equal to, or better than, the quality and volume of the original well.

(g) Under all circumstances, a working interest owner shall comply with all applicable governmental laws, rules and regulations related to drilling and production of the substances leased hereby. Moreover, such working interest owner shall also comply with any restrictions and special procedures relating to wildlife protection, habitat protection or source water protection required by any U.S. Government (BLM) oil and gas lease applicable to any lands within two miles of the borders of the Properties. Finally, this Declaration imposes various restrictions on use of the Properties in so far as fencing, pets, livestock and wildlife are concerned and all such provisions shall apply to the working interest owner and its agents and employees.

(h) Following the completion of drilling activities, those portions of the drill site not required in connection with production shall be restored to the original condition of the Properties as is possible. After production from the site is permanently abandoned (or this lease is otherwise terminated) all drilling sites, production sites, staging sites, tank sites and access roadways shall be restored to the original condition of the Properties as is possible.

E. Article VI, Section 1. is amended in its entirety to read as follows:

Section 1. Enforcement. The Declarant, the Association or any Owner, or the Board of County Commissioners of San Miguel County, Colorado shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and shall recover reasonable attorney's fees and costs for doing so. Such right of enforcement includes but is not limited to actions and suits to restrain and enjoin any breach or threatened breach of any provision of this Declaration or the rules, regulations and compliance sanctions adopted pursuant to Section 5 of this Article VI or the standards and specifications adopted pursuant to Section 3 of Article IV. Moreover, if any Owner fails to timely pay assessments or any money or sums due to the Association, the Association may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure without the necessity of commencing a legal proceeding. Similarly, in the event of any failure to comply with the provisions of the Act, or any provision of the Declaration, Bylaws, Articles of Incorporation or rules and regulations (including

architectural standards and specifications), other than payment of assessments or any money or sums due to the Association, the Association, any Lot Owner(s) or any class of Lot Owners adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. Failure by the Declarant, the Association, the County or any Owner to timely enforce any covenant or restriction herein contained shall in no event be deemed a waiver or abandonment of the right to do so at a later time, or under different or similar circumstances.

E. Article VI, Section 3. is amended in its entirety to read as follows:

Section 3. Amendment. The easements, covenants and restrictions of this Declaration shall be perpetual and shall run with and bind the land, and shall bind and inure to the benefit of the Declarant and the Owners, and all their respective heirs, successors and assigns.

(a) Except for instances involving condemnation of all or portions of Lot(s), boundary adjustments between lots and court ordered amendments, all such situations being governed by the Colorado Common Interest Ownership Act, and except as provided for in subsections (b) & (c) below, this Declaration and the plats establishing the subdivision may be amended by the affirmative vote or agreement of sixty-seven percent (67%) of the votes in the Association, and once so approved, the appropriate document shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

(b) No amendment to this Declaration shall result in conditions which are inconsistent with the general concept, harmony and values within the Subdivision. Any amendment must be recorded. For the purposes of this Section, Declarant and its assigns and successors are considered Lot Owners as to Lots held by Declarant, whether for development, investment or resale.

(c) Notwithstanding the foregoing provisions permitting amendment of this Declaration, it is expressly a condition hereof that this sentence, Article III Sections 1,8 and 9, Article IV Section 3, and subpart d of Section 7 of this Article, and Sections 9, 10 and 18 of this Article may not be amended under any circumstances. The foregoing partial prohibition on amendment is in compliance with San Miguel County requirements and Colorado Division of Wildlife requirements.

F. All other provisions of the Declaration continue in full force and effect.

Dated and effective as of October 20, 2006.

[Signature lines follow on the next page]

Gurley Lake Land and Cattle Company

By: William S. Nix, General Partner
William S. Nix, General Partner

Gurley Lake Ranch Owners Association, Inc.

By: William S. Nix, President
William S. Nix, President

STATE OF COLORADO)
) SS
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged be fore me this 20th day of October, 2006 by William S. Nix, General Partner of Gurley Lake Land and Cattle Company, a Colorado general partnership.

Witness my hand and official seal.
[Signature]
Notary Public

My Commission expires:
**KAY E. HARTMAN
NOTARY PUBLIC
STATE OF COLORADO**
My Commission Expires 09/23/2007

STATE OF COLORADO)
) SS
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged be fore me this 20th day of October, 2006 by William S. Nix, President of Gurley Lake Ranch Owners Association, Inc., a Colorado non profit corporation.

Witness my hand and official seal.
[Signature]
Notary Public

My Commission expires:
**KAY E. HARTMAN
NOTARY PUBLIC
STATE OF COLORADO**
My Commission Expires 09/23/2007