

AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND  
RESTRICTIONS OF THE RIDGE

This Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions of The Ridge (this "Declaration") is made as of November 12, 2010, by Justin X. Duprie and wife, Gina L. Duprie, and Frio Pecan Farm, L.P., a Texas limited partnership (collectively referred to herein as "Declarant").

RECITALS

- A. Declarant has entered into the Declaration of Covenants, Conditions, Easements and Restrictions of The Ridge dated April 15, 2010, filed of record in Volume 38, Page 693 of the Official Public Records of Real County, Texas (the "Original Declaration").
- B. The Original Declaration provides that Declarant may unilaterally amend the Original Declaration for any purpose until December 31, 2015.
- C. Declarant desires to amend and restate the Original Declaration in its entirety, as provided in this Declaration.
- D. The Original Declaration and this Declaration cover all that certain real property ("the Property") located in Real County, Texas, described as follows:
- Tracts 1 to 42 of The Ridge, a subdivision located in Real County, Texas, as more completely described in the plat recorded in Volume 1, Page 173 of the Plat Records of Real County, Texas (as may be amended from time to time hereafter, the "Plat"), together with the Common Areas (as defined below).

The Property is also described in Exhibit "A" attached hereto and made a part hereof for all purposes.

- E. Individually numbered tracts or parcels of land shown on the Plat are referred to herein individually as a "Tract" and collectively as the "Tracts."
- F. Declarant has devised a general plan for the development of the Property as a whole, with specific provisions for particular parts and tracts of the Property. This general plan provides a common scheme of development designed to perpetuate the natural environment of the Property, preserve and propagate the wildlife on the Property for the use of the Owners, and protect and safeguard the value of the Property.
- G. This general plan will benefit the Property in general, each Tract, Declarant, each Owner, and each successive owner of an interest in the Property or any Tract.

Doc# BK  
5469 OR

Vol Ps  
44 409

COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

NOW THEREFORE, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, Declarant hereby restricts the Property according to the following covenants, conditions, easements and restrictions in furtherance of this general development plan for the Property and declares that all of the Property and each Tract shall from and hereafter the date hereof be held, sold, and conveyed subject to the following covenants, conditions, easements and restrictions:

1. Each Tract and the Common Areas are subject to all of the covenants, conditions, easements and restrictions set forth in this Declaration, shown on the Plat, or filed of record in the real property records of Real County, Texas, and each Owner shall be deemed to have taken notice of all such covenants, conditions, easements and restrictions.
2. "ACC" means the Architectural Control Committee of the Association.
3. "Association" means The Ridge Property Owners Association, a Texas non-profit corporation, its successors and assigns. The Association will have all those powers, duties and responsibilities set out herein, and such other powers, duties and responsibilities not inconsistent herewith provided for in its Certificate of Formation and its Bylaws as the same may be amended from time to time by proper action of its members.
4. "Board of Directors" means those persons duly elected to and serving as a member of the Board of Directors of the Association. The affairs of the Association shall be managed by the Board of Directors, as provided in the Bylaws of the Association. The initial Board of Directors shall serve until their annual terms expire according to the Bylaws of the Association, at which time the Members shall elect a new Board of Directors, all as more particularly set forth in the Bylaws of the Association.
5. "Common Areas" means those areas indicated on the Plat and such other property as may hereafter be included in the definition of "Common Areas" by amendment of the terms hereof.
6. "Guest" means any person, other than an Owner, on the Property at the direction, consent or request of Declarant, any Owner, or the Association.
7. "Member" means a person entitled to membership in the Association. Every Owner shall be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Tract. Ownership of a Tract shall be the sole qualification for membership. The membership held by an Owner shall not be alienated, transferred, or pledged in any way except by the sale or encumbrance of such Tract or as otherwise set forth in this Declaration.
8. "Owner" means the record owner, whether one or more persons or entities, of fee simple title to any Tract, including contract seller(s), but excluding those having such

interest merely as security for the performance of an obligation.

Doc#	BK	Vol	Ps
5469	OR	44	410

9. "Resident" means any resident on any Tract.

10. "Water Supply System" means the water wells, pumps, pipes, tanks, and related equipment and materials necessary to provide water to each of the Tracts, as now or hereafter constructed, improved, or extended, including additional water wells made a part of the Water Supply System.

11. The Common Area on the west side of Texas Ranch Road 1120 may be used only for the common recreational use of the Owners and Guests, with such use subject to rules adopted by the Association. No improvements, other than a covered pavilion, utilities, and roads, are permitted in the Common Area on the west side of Texas Ranch Road 1120.

12. The Common Area on the east side of Texas Ranch Road 1120 consists primarily of the internal roads serving the Property, the maintenance of which will be as determined by the Association.

13. Declarant reserves from each Tract a ten (10) foot wide easement and building setback line along and parallel to each side and rear boundary line of such tract, and along and parallel to the outer boundary of each public roadway on or adjacent to the Property (the "Utility Easement"), for the benefit of Declarant and each Owner. The Utility Easement may be used for the purposes of (a) installing and maintaining water, electric, telephone and other utility lines, poles and/or anchor systems, (b) cutting and/or trimming trees, bushes, shrubs and other vegetation within or adjacent to the Utility Easement which at any time interfere or threaten to interfere with such lines, poles and/or anchor systems, and (c) ingress and egress by employees, agents and/or contractors of utility companies owning or maintaining such lines, poles and/or anchor systems. No vehicle may be parked on the Utility Easement unless such vehicle is temporarily parked for the purpose of providing utilities, police, fire protection or other services to a Tract. No building, fence or other improvement shall encroach on any portion of the Utility Easement.

14. All buildings, improvements, and temporary structures on each Tract (except for fences and driveways) must be located at least fifty (50) feet from each side boundary line of such Tract and at least two hundred (200) feet from the front boundary line of such Tract.

15. The operation of four wheelers, motorcycles, go carts or other similar motorized non-passenger vehicles is prohibited on the Property, except for (a) golf carts and passenger-type all terrain vehicles (i.e., Rangers and Mules) that do not create a noise nuisance on the Property; and (b) four wheelers while used by an Owner or an Owner's guests (i) on such Owner's Tract, or (ii) for ingress and egress to the Common Areas. All motorized vehicles operated on the Property must be operated by a licensed driver over 18 years of age.

16. No Tract may be subdivided except for Tract 26 and Tract 27. Tract 26 and Tract 27 may only be subdivided with the prior written consent of Declarant, which Declarant may withhold in Declarant's sole discretion.

17. An Owner may consolidate one or more adjacent Tracts into one building site (a "Combined Tract"), in which event the Utility Easement shall be measured from the resulting property lines of such combined building site rather than from the boundary lines of each Tract (as shown on the Plat) included in such building site; provided, however, that no consolidation of adjoining Tracts shall alter the Utility Easement as it exists along and parallel to each road in or adjacent to the Property. Once accepted by the Association, the Combined Tract thereafter shall be limited to one Vote (as defined below) and shall be subject only to assessment as if the Combined Tract was only one (1) Tract. Thereafter, should one or more of the Tracts comprising such Combined Tract be transferred to another Owner, the status of the transferred Tract(s) and other Tract(s) for voting and assessments thereafter will cease to be a Combined Tract. If a Combined Tract is created, the change in voting rights and assessment obligations to a Combined Tract basis shall not become effective until January 1 of the calendar year following acceptance by the Association.

18. No oil, gas or other mineral exploration of any type is permitted on the Property except as approved by the Association.

19. Water located on or under the Property shall be for domestic and wildlife use only. No commercial development of water resources is permitted on the Property, except with the previous written consent of the Association. Water may not be drawn directly from the Frio River to supply any Tract.

20. The Association will own, operate, install, maintain, and repair the Water Supply System. The Water Supply System will be equipped and operated as necessary to insure a reasonably adequate water supply for the normal household use for the Living Unit on each Tract. As used in this Declaration, "normal household use" (a) means the water use of reasonable, prudent, water conservation minded persons in Real County, Texas, (b) includes water for drinking, bathing, cooking, laundry, and landscaping, (c) includes water for one (1) swimming pool on each Tract, and (d) specifically does not include water for lake.

21. Declarant reserves from each Tract, for the benefit of the Association, an easement over and across each Tract for the installation, operation, maintenance, improvement, extension, construction, modification, and repair of the Water Supply System, including the right of the Association to drill one or more water wells on such Tract to be made a part of the Water Supply System. The Association, acting by and through its officers, directors, and agents, may enter upon any Tract as and to the extent necessary to accomplish any installation, operation, maintenance, or repair of the Water Supply System.

22. Declarant reserves from each Tract, for the benefit of the Association, a sanitary control easement over, across, and through the property contained within a one hundred and fifty (150) foot radius of each water well that or will be is drilled on any Tract and included in the Water Supply System (each a "Sanitary Control Easement"). No construction and operation of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, cemeteries, underground petroleum or chemical storage tanks, liquid transmission pipelines, stock pens, feedlots, dump grounds, privies, cesspools, or other construction or operations that could create an unsanitary condition is permitted within any Sanitary Control Easement.

23. In the event:

(a) The Water Supply System is deemed to be a public water supply or otherwise becomes subject to the regulatory authority of any governmental agency or political subdivision (including but not limited to the Texas Commission on Environmental Quality or its successor agency),

(b) Due to a cause beyond the reasonable control of the Association, the Water Supply System becomes inadequate for providing an adequate water supply for the normal household use for the Living Unit on each Tract, or

(c) With the written consent of at least eighty percent (80%) of the Votes (as defined below) at any time after January 1, 2016, then:

(y) The Association may partition the Water Supply System and distribute portions of the Water Supply System to various groups of Owners as necessary to provide for a reasonably adequate water supply for the normal household use for the Living Unit on each Tract, and

(z) Each such group of Owners will enter into a well sharing agreement, under terms provided by the Association, under which such group of Owners will jointly own that portion of the Water Supply System and will jointly operated, maintain, and repair that group's portion of the Water Supply System.

24. Declarant does not make any representation or warranty as to the quality or quantity of water that will or may be produced or available from the Water Supply System. Each party receiving water from the Water Supply System (the "Indemnifying Party") shall indemnify and hold harmless Declarant and the Association (each an "Indemnified Party") from any loss, damage, cost, expense, including attorney's fees, that may arise in any way from or through the installation, operation, maintenance, and/or repair of the Water Supply System, including but not limited to attorney's fees.

25. Each Owner must, at his or her own expense, maintain all fences and/or walls on such Owner's Tract in good condition and repair, including all fences in existence on the date hereof. No front or side fences or walls may exceed four (4) feet in height. All front and side fences and/or walls must be of rock and/or wood and in conformity with the existing fence along Texas Ranch Road 1120, unless otherwise approved in advance by the ACC.

26. No activity or use of any Tract or the Common Areas or the erection or maintenance of any structure on any Tract or the Common Areas which violates in any way any law, statute, ordinance, regulation or rule of any governmental entity with applicable jurisdiction shall be permitted. Vol Pg 44 413

27. No modification of existing topography of any Tract shall be permitted which would result in the ponding or accumulation of surface water on any other Tract, any roadway on the Property, or any public roadway on or adjacent to the Property. Culverts are required under all driveways and roads on a Tract as needed to prevent ponding or accumulation, unless such requirement is waived in writing by Declarant or the ACC.

28. No hunting or discharging of firearms or any other device capable of killing, injuring or causing property damage is permitted on the Property.

29. No trash, garbage, refuse, used lumber, or unsightly items may be maintained, kept, thrown, dumped, or otherwise disposed of on any Tract or the Common Areas. Trash, garbage and other waste for pickup must be kept in containers in an enclosed structure that is shielded from view from Texas Ranch Road 1120, any other Tract, and the Common Areas, and protected from scattering by animals or other means.

30. No inoperative vehicle or equipment shall be permitted to remain on any Tract longer than sixty (60) days after the vehicle or equipment becomes inoperative.

31. Generally recognized household/family pets of a reasonable number shall be permitted on a Tract provided they are not kept or maintained for commercial purposes. No swine, game chickens, emus, ostriches, exotic or dangerous animals of any type (i.e. pit bulls, boa constrictors, etc.) are permitted on any Tract. Notwithstanding the foregoing, 4-H or FFA livestock projects (including swine but not including game chickens, emus, ostriches, exotic or dangerous animals of any type) shall be permitted on a Tract during the project period provided they are fed and kept in confinement. Any animal (a) which endangers any Owner or Resident, (b) which creates a nuisance or unreasonable disturbance, or (c) is not a common household pet or a 4-H or FFA livestock project specifically permitted above must be removed from the Property within seven (7) days' after written notice to the Owner of the Tract upon which such animal is located.

32. All tents, travel trailers, motor homes, other recreational vehicles, and temporary or transient style shelters (collectively referred to herein as "Temporary Shelters") on the Property must be stored within applicable setback lines and fully screened from view from Texas Ranch Road 1120, any other Tract, and the Common Areas. No overnight stay in any Temporary Shelter is permitted on the Property, except under the following terms and conditions:

(a) "Overnight Event" means a period of overnight stay by an Owner in any Temporary Shelter on such Owner's Tract, whether for a single night or for consecutive nights (for example, if an Owner stays in a recreational vehicle on his Tract for one night, but not on the night before or the night after, then such one-night stay constitutes an

Overnight Event; and if an Owner stays in a recreational vehicle on his Tract for two consecutive nights, but not on the night before or the night after such two-night stay, then such two-night stay constitutes one Overnight Event).

- (b) No Overnight Event on any Tract may exceed 7 consecutive nights.
- (c) Not more than 8 Overnight Events are permitted in any calendar year on any Tract.
- (d) No Overnight Event is permitted unless the Temporary Shelter is connected or has access to (i) a safe electrical source, and (ii) a potable water source and a septic tank/waste disposal system which have been permitted and approved by Real County, the State Health Department, Real-Edwards Conservation and Reclamation District, or other governmental agency or political subdivision controlling water wells and septic systems.

33. No Tract may be used for any commercial purpose, except that:
- (a) Nothing herein shall be construed to prevent an Owner or Resident from rendering professional services of a purely personal nature as long as (i) such services do not attribute to the Tract any appearance of a commercial or non-residential use, and (ii) no sign of any nature indicating such services is displayed on or near the Tract.
  - (b) A "bed and breakfast," lodging rentals (short and/or long term), and/or tourist lodging are allowed on a Tract provided that the use of a Tract for such purposes will not release any Owner from compliance (by such Owner and such Owner's Guests with any of the obligations and duties as an Owner under this Declaration.
  - (c) Any Tract may be placed in a rental pool, provided (i) such pool is operated by one or more of the persons or entity included in "Declarant," a person or entity affiliated with one or more of the persons included in "Declarant," or a person or entity approved by or in contract with the Association, and (ii) the improvements on such Tract are rented on a nightly basis in accordance with written policies and procedures adopted by the Association and Declarant.

34. As used herein:
- (a) "Living Unit" means one or more residential structures that are integrated in design to accommodate a cohesive group of persons. A Living Unit may be a traditional primary residential structure (either with or without an adjoining or separate guesthouse or servant's quarters) or may be several independent bedrooms or casitas with a central cooking area (but no more than seven (7) independent bedrooms or casitas). A Living Unit does not include traditional multi-family housing units, apartments, condominiums, or similar structures. The ACC will determine whether a proposed structure is a "Living Unit" for the purposes of this Declaration.
  - (b) "Outbuilding" means a non-residential structure such as a pump house, well house, workshop, barn, or tool shed.

35. Improvements on each Tract must meet the following requirements:
- (a) Only one (1) Living Unit is allowed on each Tract, except that two (2) Living Units are allowed on Tract 26 and Tract 27 if such Tract is not subdivided.
  - (b) Each single-story Living Unit must contain no less than one thousand six hundred (1,600) square feet of living area. A multiple story Living Unit may be not more

than two (2) stories in height and must contain no less than one thousand eight hundred (1,800) square feet of living area, including not less than one thousand two hundred (1,200) square feet of living area on the ground floor and not less than six hundred (600) square feet of living area on the second story. The minimum square footage of living area of a Living Unit shall be that area which is heated and cooled and shall be calculated exclusive of attached closed car garages, covered carports, porches, breezeways.

(c) The exterior portion of any Living Unit not constructed of masonry, brick, or stone shall be stained or painted. All metal roofing on Living Units must be galvalume or another material of better grade or durability than galvalume. All living units will have a minimum 5/12 roof pitch except for porches, patios, and living units of southwestern design.

(d) No Living Unit or portion of a Living Unit may be moved onto any Tract. Each Living Unit must be constructed and erected on-site and permanently attached on pier and beam and/or slab foundation. Mobile, modular, pre-manufactured and/or industrial built homes may not be used as Living Unit or any portion of a Living Unit, nor stored on any Tract for any reason.

(e) Outbuildings must be permanent in nature. The exterior portion of any Outbuilding not constructed of brick or stone shall be stained or painted. All metal roofing on Outbuildings must be galvalume or another material of better grade or durability than galvalume.

(f) The construction of any Living Unit must be completed not later than ten (10) months after the commencement of the construction of such Living Unit. The construction of any Outbuilding must be completed not later than three (3) months after the commencement of the construction of such Outbuilding.

(g) Above ground butane, propane, and other compressed gas storage tanks and water tanks, pressure tanks, and well equipment on each Tract must be fully screened from view of Texas Ranch Road 1120, each other Tract, and the Common Areas.

(h) All air conditioning and heating units on each Tract must be fully screened from view of Texas Ranch Road 1120, each other Tract, and the Common Areas. No window unit or other non-central air conditioning or heating apparatus is permitted on any Tract.

36. No exterior lighting of any sort shall be installed or maintained on any Tract or the Common Areas where the light is offensive to any Owner or Resident; provided, however, that reasonable security, landscape, tennis court, deck, patio or swimming pool lighting is permitted.

37. No exterior horns, bells, whistles or other sound devices shall be placed or used on any Tract or the Common Areas; provided, however, that residential security alarm systems are permitted.

38. Each Owner shall be responsible for the maintenance of the exterior of all improvements located on such Owner's Tract at a standard in keeping with the level of maintenance exhibited by a majority of the improvements in the Property. Each Owner's maintenance obligations shall include repairs to roofs, glass windows and doors and all structural elements, as well as plumbing, electrical equipment, foundation maintenance



and repairs, landscaping and all other improvements on such Owner's Tract and any driveways extending to Texas Ranch Road 1120.

39. As to any matter that is subject to the vote of the Owners under this Declaration or applicable law, (a) one vote (a "Vote") will be allocated to each Tract, (b) each Vote must be in writing and signed by a representative of the Tract as to which the Vote is allocated, (c) if more than one person or entity owns an interest in a Tract, the Vote allocated to such Tract will be cast as determined by the person, persons, entity, or entities owning a majority of the ownership interest in such Tract, by and through one designated representative identified in a writing signed by all of the persons or entities owning an interest in such Tract, with such writing delivered to the Association in advance of the casting of such Vote, and (d) no Vote may be divided, split, or otherwise cast as a fraction or percentage.

40. The ACC is hereby created.

(a) Until Declarant has sold more than eighty percent (80%) of the Tracts, the ACC will initially consist solely of a single person designated by Declarant. After Declarant has sold more than eighty percent (80%) of the Tracts (i) the ACC will consist of three (3) persons designated by Declarant, and (ii) any ACC member may be removed from the ACC by at least seventy percent (70%) of the Votes. The ACC will develop and promulgate all written standards for the construction of improvements on the Property, which standards will supplement but not contradict the terms of this Declaration.

(b) Neither the ACC nor the individual members of the ACC will be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. All actions of and by the ACC will be by a majority vote of the ACC's members.

(c) No foundation, building, wall, landscaping, fence, or other improvement of any character may be erected or placed or the erection thereof begun, or changes made in the design thereof after original construction, on any Tract until construction plans and specifications showing at least the following have been submitted to and approved in writing by the ACC: the location of the structure or improvements, the size, roof pitch, exterior stone type and pattern, quality of material, and harmony of external design, materials and color scheme with existing and proposed structures, location with respect to topography, finish grade elevation, and otherwise as to compliance with this Declaration.

(d) In the event the ACC fails to indicate its approval or disapproval within thirty (30) days after the ACC's receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied with respect to the plans and specifications that were provided to the ACC. The approval or lack of disapproval by the ACC shall not be deemed to constitute any warranty or representation by such ACC including, with limitation, any warranty or representation relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations.

(e) The approval of any construction that is not commenced within six (6) months after approval by the ACC shall be void.

(f) Notwithstanding anything to the contrary herein contained, a majority of the ACC is hereby authorized and empowered, at its sole and absolute discretion, to make

and permit reasonable modifications of and reasonable deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in construction of any building or improvement on any Tract and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of a majority of the ACC, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the property and its improvements as a whole.

Doc # BK Vol Pg  
44 417

(g) The ACC may require the submission to it of such documents and items (including as examples, but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for variance. If a majority of the ACC shall approve such request for a variance, the ACC shall evidence such approval, and grant its permission for such a variance, only by written instrument, addressed to the Owner of the Tract(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the ACC to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the time limitation of such approved variance, if any, the type of alternate materials to be permitted, or specifying the location, plans and specifications applicable to the approved outbuilding), and signed by a majority of the then members of the ACC. Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval by the ACC; or (b) failure by the ACC to respond to the request for variance within thirty (30) days after the ACC's receipt of written notice of such request for variance. In the event the ACC or any successor to the authority thereof shall not then be functioning and/or the term of the ACC shall have expired, no variance from the covenants of this Declaration shall be permitted.

41. Each Owner, by acceptance of a deed to a Tract, whether or not expressed in such deed, shall be deemed to covenant and agree to pay the Association: (a) Regular Assessments; (b) Special Assessments for capital improvements; and (c) the Initial Association Capitalization Fee. Regular Assessments and Special Assessments are referred to herein collectively as "Assessments" and individually as an "Assessment." All sums assessed as provided for in this Declaration that remain unpaid, together with interest, costs of collection and reasonable attorneys' fees, shall be a continuing lien and charge upon the Tract against which each such Assessment is made, which shall bind and be a continuing charge upon such Tract. Each Assessment, together with interest, cost of collection and reasonable attorneys' fees shall also be the personal obligation and debt of each person who was the Owner of the Tract at the time when the Assessment fell due.

42. The Assessments, and all funds derived therefrom, shall be used exclusively for (a) the installation, operation, maintenance, and repair of the Water Supply System, (b) the maintenance, repair and care of the Common Areas (including recreational areas and private streets), and improvements to or on the Common Areas and Tracts for which the Association is herein given responsibility, (c) the furtherance and fulfillment of the

Doc. # BK Vol P#  
5669 06 44 418

purposes of this Declaration and other herein provided responsibilities of the Association, (d) the promotion of the recreation, health, safety and welfare of the Owners, and (e) administrative costs and other costs and expenses of the Association, which costs and expenses may include fidelity insurance for acts of directors, managers, officers and employees of the Association responsible for the handling of Association funds; liability insurance covering the Common Areas and all damage and injury caused by the negligence of the Association, its employees and agents; mowing grass, caring for the grounds and for improvements that may be placed upon the Common Areas; maintenance and improvement of the Common Areas; discharge of any liens on the Common Areas; payment of fees to managing agents, accountants, attorney and other parties providing professional and /or other services to the Association in connection with the performance of the Association's duties and responsibilities; and other charges required by this Declaration or as to which the Association is authorized to incur which the Association shall determine to be necessary or desirable to benefit the Owners, including the establishment and maintenance of a reserve for repair, maintenance, replacement and other charges as specified herein (herein collectively called "Association Expenses").

43. The Initial Association Capitalization Fee will be One Thousand and No/100ths Dollars (\$1,000.00) per Tract, payable at the closing of the initial purchase of such Tract from Declarant. The Board of Directors may change the Initial Association Capitalization Fee from time to time. Thereafter, Regular Assessments include both Annual Assessments and the Transfer Fee Assessment set forth herein. The Board of Directors may change the Regular Assessments from time to time.

- A. Annual Assessments. Beginning on January 1, 2012, and until changed in accordance herewith by the Association, (i) the Annual Assessment for any Tract that is not a part of a Combined Tract (as such term is defined in the Association's Certificate of Formation) shall be One Thousand Two Hundred and No/100ths Dollars (\$1,200.00), (ii) the Annual Assessment for any Combined Tract made up of two (2) Tracts shall be One Thousand Eight Hundred and No/100ths Dollars (\$1,800.00), and (iii) the Annual Assessment for any Combined Tract made up of three (3) or more Tracts shall be Two Thousand Four Hundred and No/100ths Dollars (\$2,400.00).
- B. Transfer Fee Assessment. In addition to the Annual Assessments, until changed in accordance herewith by the Association, each Owner shall pay to the Association a Transfer Fee Assessment of One Thousand and No/100ths Dollars (\$1,000.00) upon each conveyance of a Tract.

Each Annual Assessment shall be due and payable on January 1<sup>st</sup> unless the Board of Directors by majority vote determines an alternate date for such payment. The obligation to pay Annual Assessments shall commence on the date of the sale, transfer or other conveyance of a Tract to another Owner. In fixing the amount of the Annual Assessments, the Board of Directors of the Association may, but shall not be required to, add reasonable anticipated depreciation and necessary replacement and repair of capital assets and improvements and may from time to time establish one or more funds or accounts to accumulate amounts deemed necessary therefore.

44. Notwithstanding anything to the contrary herein contained, and in addition to the Regular Assessments authorized above, the Association may levy in any calendar year one or more Special Assessments applicable to that calendar year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto. The consent of more than sixty-five percent (65%) of the Votes will be required if the total Special Assessments in any calendar year would exceed Five Hundred and No/100ths Dollars (\$500.00) for any Tract.

45. The Association shall fix the amount of the Regular Assessments for each calendar year at least thirty (30) days in advance of the commencement of such calendar year. Failure of the Association to meet or to fix the amount of the Regular Assessments as herein provided shall be deemed to constitute a setting of the amounts at the levels fixed for the previous calendar year. Written notice of any change in the Regular Assessments shall be mailed (by U.S. first class mail) to every Owner subject thereto. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Tract have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

46. All payments shall be made to the Association at its place of business in Real County, Texas or at such other place as the Association may direct. Any Assessment not paid within fifteen (15) days of its due date shall be subject to a one-time late fee of One Hundred Dollars (\$100.00). Any assessment not paid within thirty (30) days after the due date shall bear interest from such thirtieth date until paid at the rate of the commercial prime interest rate then in effect plus four percent (4%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Tract involved; and interest costs and attorney fees of any such action shall be added to the amount of the assessment. In no event shall the Association be liable to any Owner or other person or entity for failure or inability to enforce or attempt to enforce collection. No Owner may waive or otherwise escape liability for the assessments of his Tract. Further, the powers and enforcement granted to the Association in this paragraph shall be cumulative of, and shall be in addition to, all other remedies and powers of the Association.

47. Upon compliance with the notice provisions set forth herein below, the Association may foreclose the assessment lien against any Tract. Each undersigned Owner, and each subsequent Owner by his acceptance of a conveyance instrument as to a Tract, expressly grants and vests in the Association and its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property as provided in section 51.002 of the Property Code of the State of Texas, and

each undersigned Owner (and each subsequent Owner by acceptance of a conveyance instrument as to a Tract) expressly grants to the Association a power of sale in connection with said lien. The lien herein provided for shall be in favor of the Association for the benefit of all Owners. The Association acting on behalf of the Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same and to treat the proceeds of any such lease, mortgage or conveyance in the same manner as assessments hereunder.

Post BK Vol Ps  
44 420

Notice of Lien: No action shall be brought to foreclosure said assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date of notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of said Tract, and a copy thereof is recorded by the Association in the Office of the County Clerk of Real County. Said notice of claim must recite a good and sufficient legal description of any such Tract, the record owner or reputed owner thereof, the amount claimed (which may, at the Association's option, include any late charge and interest on the unpaid assessment as herein provided, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

Foreclosure Sale: Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Property Code of the State of Texas, as the same may be amended from time to time, or in any other manner permitted by law. The Association, through duly authorized agents and on behalf of the Owners, shall have the power to bid on the Tract at foreclosure sale and to acquire and hold, mortgage and convey same hereinabove provided.

48. The lien for the Assessment provided herein shall be superior to all other liens and charges against said Tract except only for tax liens, liens for purchase money and/or development costs and all first deed of trust liens of record (which shall include a deed of trust that secures a debt secured by a first deed of trust lien, including "wraparound" and "all inclusive" financing), which liens for such purposes shall be superior to the assessment liens herein provided with the understanding that assessments subsequent to a foreclosure of such a superior lien shall continue to bind the mortgaged property and be secured by an assessment lien as herein provided. The Association shall have the power to subordinate the assessment lien to any other lien, and to extinguish such lien and the underling debt, such powers being entirely within the discretion of the Association and exercisable in a writing duly adopted by the Board of Directors. Except as otherwise provided herein, no sale or transfer shall relieve such Tract from liability for any assessment thereafter becoming due or from the lien therefore, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Tract.

49. The failure of any Owner or Resident to comply with any covenant, condition, easement, or restriction in this Declaration will result in irreparable damage to Declarant and other Owners; thus the breach of any provision of this Declaration may not only give rise to an action for damages at law, but also may be enjoined or may be subject to an

action for specific performance in equity in any court of competent jurisdiction. In the event an action is instituted to enforce the terms hereof or prohibit violations hereof, and the party bringing such action prevails, then in addition to any other remedy herein provided or provided by law, such party shall be entitled to recover court costs and reasonable attorney's fees from the non-prevailing party. Declarant, the Association, and each Owner have the right, but not the obligation, to police, control or enforce the terms of this Declaration. These provisions are intended to strictly comply in full with all applicable law, as now existing or hereafter amended. If and to the extent that any provision this Declaration does not comply with applicable law, such provision is hereby altered, changed and amended to secure such compliance; and this covenant and condition shall be deemed paramount and control over all other provisions.

50. Declarant may unilaterally amend this Declaration for any purpose before December 31, 2015, provided Declarant owns a portion of the Property at such time. After December 31, 2015, (a) Declarant may unilaterally amend this Declaration, at any time and from time to time, if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which is in conflict therewith, necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property, or is required by an institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to enable it to make, purchase, insure or guarantee mortgage loans on any portion of the properties within the Property, and (b) this Declaration may be amended by no less than seventy percent (70%) of the Votes. Furthermore, waivers of the covenants, conditions, easements and restrictions set forth in this Declaration may be granted from time to time with respect to any Tract, or with respect to any Owner or Resident thereof, by any of Declarant, the Association, or no less than seventy percent (70%) of the Votes, for the purpose of relieving hardship or permitting good architectural planning to be effected.

51 No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or its respective assignee of such right or privilege.

52. The covenants, conditions and restrictions of this Declaration shall be effective for a term of twenty (20) years from the date this Declaration is recorded, after which period the covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years. Neither any amendment nor any termination shall be effective until recorded in the real property records of Real County, Texas, and all governmental approvals, if any, with regard to such amendment or termination have been obtained.

These covenants, conditions, easements and restrictions are for the purpose of protecting the value and the desirability of the Property; as such, they shall run with the Property, be for the benefit of the Property, each Tract and each Owner, and be binding on all parties having any right, title or interest in the Property or any Tract, in whole or part, and each of their respective heirs, successors and assigns.

Executed effective as of the date first set forth above.

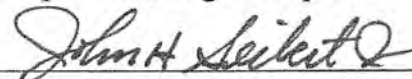
**DECLARANT:**

  
Justin X. Duprie

  
Gina L. Duprie

Frio Pecan Farm, L.P., a Texas limited partnership

By: Frio Pecan Farm Management, Inc., a  
Texas corporation, its general partner

By:   
Name: John H. Seibert, Jr.  
Title: President

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2010, by Justin X. Duprie.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2010, by Gina L. Duprie.

\_\_\_\_\_  
Notary Public, State of Texas

*see attached  
SP 11/12.*

State of California )  
County of Los Angeles )

CALIFORNIA ALL-PURPOSE  
CERTIFICATE OF ACKNOWLEDGMENT

on November 12, 2010 before me, Samantha Lee Poepping, Notary  
(here insert name and title of the officer)

personally appeared Justin X Duprie & Gina L. Duprie

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he/she/it~~ they executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/it~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Samantha Poepping

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Declaration of Covenants containing 15 pages, and dated 11/12/10.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) \_\_\_\_\_ Title(s)
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: \_\_\_\_\_

representing: \_\_\_\_\_  
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:  
 form(s) of identification  credible witness(es)

Notarial event is detailed in notary journal on:  
Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

Other

- Additional Signer(s)
- Signer(s) Thumbprint(s)
- \_\_\_\_\_



STATE OF TEXAS  
COUNTY OF Real

Doc#    BK    Vol    Ps  
5469    OR    44    424

This instrument was acknowledged before me on November 16, 2010, by John H. Seibert, Jr., President of Frio Pecan Farm Management, Inc., a Texas corporation, general partner of Frio Pecan Farm, L.P., a Texas limited partnership, on behalf of said limited partnership.



Shelly C. Collins  
Notary Public, State of Texas

Exhibit "A" Property Description

Prepared in the law office of and after recording return to: Garry A. Merritt, P.C.,  
P.O. Box 441, Leakey, TX 78873

**FIELD NOTES  
112.01 ACRES  
REAL COUNTY, TEXAS**

Being a 112.01 acre tract of land out of the Mary Metcalf Survey Number 605, Abstract Number 570, in Real County, Texas, said tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a found Cedar corner post at a three way fence corner in the east right of way line of F. M. 1120 for the southwest corner of the herein described tract, said point being  $S64^{\circ}26'25''E$  a distance of 3384.57 feet from the southwest corner of the John Metcalf Sur. No. 604 and the northwest corner of the Mary Metcalf Sur. No. 605;

**THENCE**  $N0^{\circ}07'02''W$  along the east right of way line of F. M. 1120 a distance of 1212.00 feet to a point for the northwest corner of the herein described tract;

**THENCE**  $N83^{\circ}06'40''E$  a distance of 4969.81 feet to a point in a fence for the northeast corner of the herein described tract;

**THENCE**  $S6^{\circ}24'51''E$  along said fence a distance of 722.30 feet to a found corner fence post for the most easterly corner of the herein described tract;

**THENCE** from found fence post to found fence post as follows:

$S83^{\circ}01'32''W$  - 2514.19 feet,

$S6^{\circ}27'09''E$  - 495.09 feet, and

$S83^{\circ}30'00''W$  - 2588.84 feet to the **POINT OF BEGINNING.**

Said tract containing 112.01 acres of land, more or less.

These field notes are made from a survey and drawing made under my supervision dated May 10, 2001.

  
Byron R. Wilkinson  
Registered Professional Land Surveyor No. 1537



Doc# BK Vol Ps  
5469 DR 44 426

FIELD NOTES  
111.28 ACRES  
REAL COUNTY, TEXAS

Being a 111.28 acre tract of land in Real County, Texas, 44.42 acres being out of the John Metcalf Survey Number 604, Abstract Number 569, and 66.86 acres being out of the Mary Metcalf Survey Number 605, Abstract Number 570, said 111.28 acres being more particularly described by metes and bounds as follows:

BEGINNING at a found Cedar corner post at a three way fence corner in the east right of way line of F. M. 1120 for the northwest corner of the herein described tract, said point being N65°02'43"E a distance of 3402.91 feet from the southwest corner of the John Metcalf Sur. No. 604 and the northwest corner of the Mary Metcalf Sur. No. 605;

THENCE S84°10'10"E along a fence a distance of 2250.98 feet to a found corner fence post at a three way fence corner;

THENCE from found fence post to found fence post as follows:

- S7°41'54"E - 578.00 feet,
- S85°20'13"E - 60.20 feet, and
- N83°26'35"E - 2469.04 feet;

THENCE S6°24'51"E along a fence a distance of 578.21 feet;

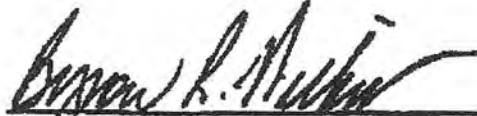
THENCE S83°06'40"W a distance of 4969.81 feet to a point in the east right of way line of F. M. 1120 for the southwest corner of the herein described tract;

THENCE N0°07'02"W along the east right of way line of F. M. 1120 a distance of 709.29 feet to a set iron rod;

THENCE in a northeasterly direction along the east right of way line of F. M. 1120 around a curve to the right having a delta angle of 2°42'06", a radius of 2824.79 feet, a long chord of 133.22 feet that bears N1°15'59"E, a distance of 133.23 feet to a set iron rod;

THENCE continuing along the east right of way line of F. M. 1120 N2°33'55"E a distance of 853.48 feet to the POINT OF BEGINNING.

Said tract containing 111.28 acres of land, more or less.

  
 Byron R. Wilkinson  
 Registered Professional Land Surveyor No. 1537



**FIELD NOTES  
0.685 ACRES  
REAL COUNTY, TEXAS**

Being a 0.685 acre tract out of the John Metcalf Survey Number 604, Abstract Number 569, in Real County, Texas, said tract being more particularly described by metes and bounds as follows:

BEGINNING at a set iron rod at a three way fence corner in the west right of way line of F. M. 1120 for the northeast corner of the herein described tract, said point being  $N64^{\circ}10'45''E$  a distance of 3333.73 feet from the southwest corner of the John Metcalf Sur. No. 604, Abs. No. 569, and the northwest corner of the Mary Metcalf Sur. No. 605, Abs. No. 570;

THENCE  $S2^{\circ}24'45''W$  along the west right of way line of F. M. 1120 a distance of 60.12 feet to a set iron rod for the southeast corner of the herein described tract;

THENCE  $N84^{\circ}02'22''W$  passing a set iron rod at 385.71 feet a total distance of 513.46 feet to a point in the Frio River at or near its centerline for the southwest corner of the herein described tract;

THENCE along or near the centerline of the Frio River  $N31^{\circ}22'33''E$  a distance of 60.49 feet and  $N28^{\circ}27'22''E$  a distance of 5.81 feet to a point for the northwest corner of the herein described tract;

THENCE  $S84^{\circ}02'22''E$  passing a set iron rod at 132.69 feet a total distance of 481.55 feet to the POINT OF BEGINNING.

Said tract containing 0.685 acres of land, more or less.

These field notes are made from a survey and drawing made under my supervision dated March 10, 2001.



Byron R. Wilkinson  
Registered Professional Land Surveyor No. 1537



Doc# 5469 BK OR Vol Ps 44 428

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS  
On: Nov 18, 2010 at 08:30A

Receipt#: 6476  
BK/Vol/Pg: OR 44 428  
Document Number: 5469  
Amount: 92.00

By D Green, Deputy

STATE OF TEXAS COUNTY OF REAL  
I hereby certify that this instrument was  
FILED on this date and time stamped hereon by  
me and was duly RECORDED in the OFFICIAL PUBLIC  
RECORDS OF REAL COUNTY, TEXAS in the volume  
and page as shown.

Bella Rubio, County Clerk  
Real county, Texas

By D. Ann Green, Deputy

Any provision herein which restricts the sale,  
rental or use of the described real property  
because of color or race is invalid and  
unenforceable under federal law.