

DISTRICT COURT, PARK COUNTY COLORADO 300 – 4 th Street Fairplay, Colorado 80440	<p>▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number: 2010 CV 65</p> <p>Div.: 1</p>
<p>Plaintiffs: ELK FALLS PROPERTY OWNERS ASSOCIATION, a Colorado corporation; KATHRYN WELLS; THE PAUL VASTOLA AND SUZANNE G. NELSON LIVING TRUST, U/A DATED 8/10/01; ROBERT W. PHELPS; and KEVIN WELLS</p> <p>Defendants: VERA B. DUNWODY and DRAYTON D. DUNWODY, and FARM CREDIT OF SOUTHERN COLORADO, ACA, an agricultural credit association</p> <p>Plaintiffs in Intervention: PETER J. BRAUN and RENAE J. BRAUN</p>	
<p>Victor F. Boog, No. 2561 Amanda B. Cruser, No. 30601 Boog & Cruser, P.C. 3333 S. Wadsworth Blvd., Suite D201 Lakewood, CO 80227 303-986-5769 Fax 303-985-3297 <i>Attorneys for Defendants Vera B. Dunwody and Drayton D. Dunwody</i></p>	
<p>REQUESTS FOR ADMISSION TO KATHRYN WELLS</p>	

Defendants, Vera B. Dunwody and Drayton D. Dunwody, pursuant to C.R.C.P. 36(a), submit the following requests for admission to Kathryn Wells:

1. Kathryn Wells is the owner of Lot 14, Block 3, Elk Falls subdivision, located at 35541 Upper Aspen Lane, Pine, Jefferson County, Colorado (hereinafter the "Wells Property").
2. Upper Aspen Lane is a public road.

3. The Wells Property was acquired by Kathryn Wells in 1993, and a residence was constructed on the Wells Property in 1994. Since 1994, the Wells Property has been occupied by Kathryn Wells and Fred Wells.

4. Kathryn Wells acquired the Wells Property from Dr. Frank J. and Maxine Gorishek. Dr. Gorishek was a shareholder of the Elk Falls Ranch Development Company and, by virtue thereof, had permissive use of the Disputed Roads referred to in the Plaintiffs' Complain herein.

5. No portion of the Disputed Roads referred to by the Plaintiffs in this action is a way of necessity to the Wells Property.

6. The chain of title to the Wells Property contains no easement of record over and across any portion of the Disputed Roads.

7. The plat of Elk Falls subdivision, Block 3, Park County, contains no dedication of any portion of the Disputed Roads for the benefit of lots or lot owners within the Elk Falls subdivision, Block 3, Park County, Colorado.

8. No portion of the Disputed Roads has ever been dedicated to Park County for the benefit of the public or lot owners within the Elk Falls subdivision.

9. Kathryn Wells and Fred Wells have been a dues paying members of the Elk Falls Ranch Sportsmen's Club (the "Club") for more than five of the 17 years since 1993.

10. As a dues paying members of the Club, Kathryn Wells and Fred Wells were granted access to the property owned by the Elk Falls Ranch Development Company, including access over and across the Disputed Roads.

11. Park County has never included any portion of the Disputed Roads within official Park County maps depicting public roads within Park County.

12. Park County has never maintained any portion of the Disputed Roads.

13. Kathryn Wells has no factual or legal basis for claiming any right, title or interest in and to the Disputed Roads by virtue of preexisting use.

14. Kathryn Wells has no factual or legal basis for claiming any right, title or interest in and to the Disputed Roads by virtue of estoppel.

15. Kathryn Wells' claim that she has the right to use the Disputed Roads by virtue of necessity is substantially groundless, substantially frivolous, and without substantial justification.

16. Kathryn Wells' claim that she has the right to use the Disputed Roads by virtue of preexisting use is substantially groundless, substantially frivolous and without substantial justification.

17. Kathryn Wells' claim that she has the right to use the Disputed Roads by virtue of estoppel is substantially groundless, substantially frivolous and without substantial justification.

18. Kathryn Wells' claim that all homeowners within the Elk Falls subdivision have the right to use the Disputed Roads by virtue of recorded subdivision plats is substantially groundless, substantially frivolous, and without substantial justification.

19. Kathryn Wells' claim that the Disputed Roads are public roads is substantially groundless, substantially frivolous, and without substantial justification.

20. Kathryn Wells' claim that she has prescriptive rights to the Disputed Roads is substantially groundless, substantially frivolous, and without substantial justification.

Dated this 1st day of October, 2010.

BOOG & CRUSER, P.C.

*/s/ Victor F. Boog – original signature on file
at the offices of Boog & Cruser, P.C.*

Victor F. Boog, No. 2561

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2010, a true and correct copy of the foregoing **REQUESTS FOR ADMISSION TO KATHRYN WELLS** was sent electronically via LexisNexis File and Serve, properly addressed to:

Kirk B. Holleyman
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*/s/ Bonnie J. Cowell – original signature on file
At the offices of Boog & Cruser, P.C.*
