

DISTRICT COURT, PARK COUNTY COLORADO 300 – 4 th Street Fairplay, Colorado 80440	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/>
<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 O'CONNELL</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>	
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>	Case Number: 2010 CV 65 Div.: 1
REQUESTS FOR ADMISSION TO KEVIN O'CONNELL	

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

1. Kevin O'Connell is the owner of Lot 38, Block 1, Elk Falls subdivision, located at 34676 Circle Drive, Pine, Jefferson County, Colorado (hereinafter the "O'Connell Property").

2. Circle Drive is a public road.

3. The O'Connell Property was acquired by Kevin O'Connell in 1987 and since that time the residence on the O'Connell Property has been occupied by Kevin O'Connell and Kay O'Connell.

4. No portion of the Disputed Roads referred to by the Plaintiffs in this action is a way of necessity to the O'Connell Property.

5. The chain of title to the O'Connell Property contains no easement of record over and across any portion of the Disputed Roads.

6. The plat of Elk Falls subdivision, Block 1, contains no dedication of any portion of the Disputed Roads for the benefit of lots or lot owners within the Elk Falls subdivision, Block 1.

7. 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.

8. Kevin O'Connell has been a dues paying member of the Elk Falls Ranch Sportsmen's Club (the "Club") for more than seven of the 23 years since 1987.

9. As a dues paying member of the Club, Kevin O'Connell was granted access to the property owned by the Elk Falls Ranch Development Company, including access over and across the Disputed Roads.

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

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

12. Kevin O'Connell has no factual or legal basis for claiming any right, title or interest in and to the Disputed Roads by virtue of preexisting use.

13. Kevin O'Connell has no factual or legal basis for claiming any right, title or interest in and to the Disputed Roads by virtue of estoppel.

14. Kevin O'Connell's claim that he has the right to use the Disputed Roads by virtue of necessity is substantially groundless, substantially frivolous, and without substantial justification.

15. Kevin O'Connell's claim that he has the right to use the Disputed Roads by virtue of preexisting use is substantially groundless, substantially frivolous and without substantial justification.

16. Kevin O'Connell's claim that he has the right to use the Disputed Roads by virtue of estoppel is substantially groundless, substantially frivolous and without substantial justification.

17. Kevin O'Connell's 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.

18. Kevin O'Connell's claim that the Disputed Roads are public roads is substantially groundless, substantially frivolous, and without substantial justification.

19. Kevin O'Connell's claim that he 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 KEVIN O'CONNELL** was sent electronically via LexisNexis File and Serve, properly addressed to:

Kirk B. Holleyman
Kirk Holleyman, P.C.
1050 – 17th St., Suite 1750
Denver, CO 80265

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Michael W. Jones
Monica Lester
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1125 – 17th St., Suite 600
Denver, CO 80202

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