

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

That Phoenix Title and Trust Company, an Arizona corporation, as Trustee, being the owner of all of the following described premises, situate within the County of Gila, State of Arizona, to-wit:

Lots One (1) to Seventy-two (72) Inclusive, KOHL'S TONTO CREEK RANCH, according to the plat thereof recorded June 20, 1952 in the office of the County Recorder of Gila County, Arizona, in Map File, Map No. 112;

and desiring to establish the nature of the use and enjoyment thereof, does hereby declare said premises subject to the following express covenants, stipulations and restrictions as to the use and enjoyment thereof, all of which are to be construed as restrictive covenants running with the title to said premises and with each and every part and parcel thereof, to-wit:

1. The lots in this subdivision, except Lots 56 and 59, shall be conveyed by the Phoenix Title and Trust Company, as Trustee, in units consisting of two or three lots per unit. The unit number and the lots comprising said units shall be determined at the time of such conveyance and will be shown in the deed or agreement for sale. The lots will be so distributed into units so that there will not be over thirty units in said subdivision. After the original conveyance or agreement for sale by the Phoenix Title and Trust Company, Trustee, of each unit, none of said units or lots shall be divided or re-divided in any fashion and all future conveyances or encumbrances of said lots, except necessary conveyances for public utilities, shall include all of the lots in the said unit and shall be conveyed by the unit number as well as the lot number. Any conveyance or attempted conveyance or encumbrance of less than the number of lots in the unit as shown on the original conveyance from the Phoenix Title and Trust Company, Trustee shall be a violation of these restrictions.

2. All of said lots and units in said KOHL'S TONTO CREEK RANCH shall be known and described as residential lots and units.

3. All structures on said lots and units shall be of new construction.

4. No garage or other building whatsoever shall be erected on any of said lots or units until a dwelling house shall have been erected or until a contract with a reliable and responsible contractor shall have been entered into for the construction of a dwelling which shall comply with the restrictions as herein contained. Prior to the erection or after the erection of such dwelling house, no garage or other out-building shall be used for residential purposes; provided, however, that this restriction shall not prevent the inclusion of guest or servant quarters in such garage or other out-building.

5. No structure shall be erected, altered, placed or permitted to remain on any of said lots or units other than one detached single-family dwelling and a private garage for each unit.

6. No dwelling house having a reasonable cost of less than \$3,000.00 and having a ground floor area of less than 400 square feet, exclusive of open porches, pergolas or attached garages.

PURSUANT TO SEC. 804 (C) TITLE VII OF THE CIVIL RIGHTS ACT OF 1968, 42 USC 3601, ET SEQ. RESTRICTIONS HEREIN, IF ANY, BASED ON RACE, COLOR, RELIGION OR NATIONAL ORIGIN ARE DELETED OR OMITTED.

if any, shall be erected, permitted or maintain on any of said lots or units.

7. None of said lots or units shall be used for residential purposes prior to installation thereon of water flush toilets and all bathrooms, toilets or sanitary conveniences shall be inside the buildings permitted hereunder. Until such time as sewers may be available, all bathrooms, toilets or sanitary conveniences shall be connected to septic tanks and cesspools constructed in accordance with requirements and standards of County and State laws, rules and regulations and in accordance with sound engineering, safety and health practices.

8. No structures of any kind shall be erected on the easements reserved for public utilities, as shown on the said plat of KOHL'S TONTO CREEK RANCH.

9. No livestock or poultry shall be kept on any of said lots or units, and no store, office or other place of business of any kind and no hospital, sanitarium or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, saloon or other place of entertainment shall ever be erected or permitted upon any of said lots or units, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence on said lots or units.

10. No structure shall be commenced or erected on any of said lots or units until the design and location of such structure and the kind of materials to be used in such structure have been approved, in writing, by MICHAEL KIZOL, or his nominee.

11. None of the foregoing restrictions shall apply to any portions of KOHL'S TONTO CREEK RANCH other than Lots 1 through 72 as they are shown on said plat, and all other lands and tracts shown on said plat are exempted from these restrictions.

The foregoing restrictions and covenants run with the land and shall be binding on all persons owning any of said lots or units in KOHL'S TONTO CREEK RANCH until January 1, 1975, at which time said covenants shall be automatically extended for successive periods of ten years each, unless by a vote of a majority of the then owners of the units in said KOHL'S TONTO CREEK RANCH it is agreed to change the said covenants in whole or in part.

Deeds of conveyance of said property, or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made in such deeds, or any thereof, each and all of such restrictive covenants shall be valid and binding upon the respective grantees. Violation of any one or more of such covenants may be restrained by any court of competent jurisdiction and damages awarded against such violator; provided, however, that a violation of these restrictive covenants, or any one or more of them, shall not affect the lien of any mortgage now of record, or which hereafter may be placed of record, upon said units.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

Witness my hand and seal this _____ day of _____, 19____.

Notary Public for the State of _____

shall in nowise affect any of the other provisions, which shall

IN WITNESS WHEREOF, the Phoenix Title and Trust Company, as Trustee, has hereunto caused its corporate name to be signed and its corporate seal to be affixed and the same to be attested by the signatures of its duly authorized officers, this 4th day of NOVEMBER, 1952.

Seal Phoenix Title and Trust Company
Established 1910 Arizona
Corporate Seal

PHOENIX TITLE AND TRUST COMPANY, TRUSTEE

By L. J. Taylor
Vice President

Attest Charles S. Voigt
Assistant Secretary

STATE OF ARIZONA) ss.
County of Maricopa)

On this, the 4th day of NOVEMBER, 1952, before me, the undersigned officer, personally appeared L. J. TAYLOR and CHARLES S. VOIGT, who acknowledged themselves to be the Vice President and Assistant Secretary, respectively, of the Phoenix Title and Trust Company, a corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation, as Trustee, by themselves as such officers respectively.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Seal Helen Ware
Notary Public
Maricopa County, Ariz.

Helen Ware
Notary Public

My commission expires: April 4, 1956

Filed and recorded at the request of Globe Title & Trust Company on the 6th day of November, A. D., 1952, at 25 minutes past 11 o'clock A. M.

Joseph Kinsman, County Recorder.

Compared
1954/7

In the Superior Court of Arizona in and for the County of Gila

In the latter of the Estates of

DAVID E. PRIETO and
CERBA GARCIA PRIETO, his wife,

Deceased.

No. 5044-C

DEGREE SETTLING FIRST AND FINAL
ACCOUNT AND REPORT OF ADMINISTRATION
AND FULL DISTRIBUTION

DAVID E. PRIETO, as the administrator of the estates of DAVID E. PRIETO and CERBA GARCIA PRIETO, his wife, deceased, having on the 11th day of November, 1952, caused and filed herein a full account and report of her administration of said estates, which said

JOSEPH KINSMAN, County Recorder.

Joseph Kinsman

02551

DOCKET 5 120

AMENDED DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the PHOENIX TITLE AND TRUST COMPANY, an Arizona corporation, as Trustee, did by that certain instrument dated November 4, 1952, and recorded November 6, 1952, in Book 15 of Miscellaneous Records, Page 2 thereof, records of Gila County, Arizona, declare the following-described premises, situate within the County of Gila, State of Arizona, to-wit:

Lots One (1) to Seventy-two (72), inclusive, KOHL'S TONTO CREEK RANCH, according to the plat thereof recorded June 20, 1952, in the office of the County Recorder of Gila County, Arizona, in Map File, Map No. 112;

to be subject to certain express covenants, stipulations, and restrictions as to the use and enjoyment thereof; and

WHEREAS, W. J. ROHMER and JULIA ROHMER, his wife, are now the owners of Lot Fifty-six (56) of said KOHL'S TONTO CREEK RANCH, and WILLIAM C. DURHAM and VIRGINIA DURHAM, his wife, are the owners of Lots Sixty-six (66) and Sixty-seven (67) of said KOHL'S TONTO CREEK RANCH; J. V. GUERIN and ESTHER R. GUERIN, his wife, are the equitable owners of Lots Sixty-three (63), Sixty-four (64), and Sixty-five (65) of said subdivision, the deed to them of said property not having yet been recorded; and JAMES CHIPMAN and MARGARET CHIPMAN, his wife, and W. F. RANOW and HELEN RANOW, his wife, having an equitable interest in Lot Fifty-nine (59) of said subdivision; and PHOENIX TITLE AND TRUST COMPANY, an Arizona corporation, as Trustee, being the owner of all the remaining lots in said KOHL'S TONTO CREEK RANCH; and no other person having an interest in any lots in said subdivision; and said owners

desiring to amend those certain restrictions above described and now existing on said premises by revoking Article 1 of said restrictions so as to permit the sale or encumbrance of single lots if desired by the owners thereof, without said sale or encumbrance being in violation of said restrictions;

NOW, THEREFORE, the undersigned, being all of the owners of or persons having an interest in the following-described premises, situate within Gila County, Arizona, to-wit:

Lots One (1) to Seventy-two (72), inclusive, KOHL'S TONTO CREEK RANCH, according to the plat thereof recorded June 20, 1952, in the office of the County Recorder of Gila County, Arizona, in Map File, Map No. 112;

do hereby declare said premises subject to the following express covenants, stipulations, and restrictions as to the use and enjoyment thereof, and none other, all of which shall be construed as restrictive covenants running with the title to said premises and with each and every part and parcel thereof, to-wit:

1. All lots in KOHL'S TONTO CREEK RANCH shall be known and described as residential lots.
2. All structures on said lots shall be of new construction.
3. No garage or other building whatsoever shall be erected on any of said lots until a dwelling house shall have been erected or until a contract with a reliable and responsible contractor shall have been entered into for the construction of a dwelling which shall comply with the restrictions as herein contained. Prior to the erection or after the erection of such dwelling house, no garage or other outbuilding shall be used for residential purposes; provided, however, that this restriction shall not prevent the inclusion of guest or servant quarters in such garage or other outbuilding.
4. No structure shall be erected, altered, placed, or permitted to remain on any of said lots other than one detached single-family dwelling and a private garage.
5. No dwelling house having a reasonable cost of less than \$8,000.00 and having a ground floor area of less than 400 square feet, exclusive of open porches, pergolas, or attached garage, if any, shall be erected, permitted, or maintained on any of said lots.

3. None of said lots shall be used for residential purposes prior to installation thereon of water flush toilets, and all bathrooms, toilets, or sanitary conveniences shall be inside the buildings permitted hereunder. Until such time as sewers may be available, all bathrooms, toilets, or sanitary conveniences shall be connected to septic tanks and cesspools constructed in accordance with requirements and standards of County and State laws, rules, and regulations and in accordance with sound engineering, safety, and health practices.

7. No structures of any kind shall be erected on the easements reserved for public utilities, as shown on the said plat of KOHL'S TONTO CREEK RANCH.

8. No livestock or poultry shall be kept on any of said lots, and no store, office, or other place of business of any kind and no hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, saloon, or other place of entertainment shall ever be erected or permitted upon any of said lots or any part thereof. No business of any kind or character whatsoever, whether of a type previously mentioned or any other type, shall be conducted in, on, or from any residence or building on said lots.

9. No structure shall be commenced or erected on any of said lots until the design and location of such structure and the kind of materials to be used in such structure have been approved in writing by MICHAEL MIKOL, or his nominee.

10. None of the foregoing restrictions shall apply to any portions of KOHL'S TONTO CREEK RANCH other than Lots 1 through 72 as they are shown on said plat, and all other lands and tracts shown on said plat are exempted from these restrictions.

The foregoing restrictions and covenants run with the land and shall be binding on all persons owning any of said lots in KOHL'S TONTO CREEK RANCH until January 1, 1975, at which time said covenants shall be automatically extended for successive periods of ten years each, unless by a vote of a majority of the then owners of the lots in said KOHL'S TONTO CREEK RANCH, it is agreed to change the said covenants in whole or in part.

Deeds of conveyance of said property, or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made in such deeds, or any thereof, each and all of such restrictive covenants shall be valid and binding upon the respective grantees. Violation of any one or more of such covenants may be restrained by any court of competent jurisdiction and damages awarded against such violator, provided, however, that a violation of these restrictive covenants, or any one or more of them, shall not affect the lien of any mortgage now of record or which hereafter may be placed of record upon said lots.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

The undersigned, by affixing their signatures hereto, hereby expressly revoke the covenants, stipulations, conditions, agreements, and restrictions contained in that certain Declaration of Restrictions recorded November 6, 1962, in Book 15 of Miscellaneous Records, Page 2 thereof, records of Gila County, Arizona, insofar as the same may conflict with the express covenants, stipulations, and restrictions contained herein, and the parties agree that all improvements heretofore placed on the premises are satisfactory although the same shall not be used as a standard for future construction.

W. J. Rohmer
W. J. Rohmer

Julia Rohmer
Julia Rohmer

William C. Durham
William C. Durham

Virginia Durham
Virginia Durham

J. V. Guerin
J. V. Guerin

Esther R. Guerin
Esther R. Guerin

James Chipman
James Chipman

Margaret Chipman
Margaret Chipman

W. F. Rannow
W. F. Rannow

Helen Rannow
Helen Rannow

PHOENIX TITLE AND TRUST COMPANY

By Charles S. Voigt
Vice-President

Attest:

STATE OF ARIZONA)
) ss
County of Maricopa)

On this the 5 day of April 1954, before me, the undersigned Notary Public, personally appeared J. V. GUERIN and ESTHER R. GUERIN, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Mari del S. [Signature]
Notary Public



My commission expires

June 19, 1955

STATE OF ARIZONA)
) ss
County of Maricopa)

On this the 2 day of April 1954, before me, the undersigned Notary Public, personally appeared JAMES CHIPMAN and MARGARET CHIPMAN, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Mary [Signature]
Notary Public



My commission expires

STATE OF ARIZONA)
)
) SS
County of Maricopa)

On this the 3rd day of April 1954, before me, the undersigned Notary Public, personally appeared W. F. RANNO and HELEN RANNO, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Charles A. Smith



Commission expires
5-10-54

STATE OF ARIZONA)
)
) SS
County of Maricopa)

On this the 7th day of April 1954, before me, the undersigned Notary Public, personally appeared Charles S. Voigt and J. S. Hull, who acknowledged themselves to be the Vice-President and Asst. Secretary, respectively, of the PHOENIX TITLE AND TRUST COMPANY, a corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation as trustee by themselves as such officers.

In witness whereof I hereunto set my hand and official seal.

Helen W. [Signature]



EASEMENT

THIS EASEMENT, dated this 13th day of March, 1986, from the UNITED STATES OF AMERICA, acting by and through the Forest Service, Department of Agriculture, hereinafter called Grantor, to the Gila County Board of Supervisors, hereinafter called Grantee.

WITNESSETH:

WHEREAS, the Grantee has applied for a grant of an easement under the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 532-538), for a road over certain lands or assignable easements owned by the United States in the County of Gila, State of Arizona, and administered by the Forest Service, Department of Agriculture.

NOW THEREFORE, Grantor does hereby grant to Grantee an easement for a public road and highway across a strip of land, hereinafter defined as the right-of-way over and across lands in the County of Gila, State of Arizona, as described on Exhibit A attached hereto and made a part hereof.

The word "right-of-way" when used herein means said strip of land whether or not there is an existing road or highway located thereon. Except where it is defined more specifically, the word "highway" shall mean roads or highways now existing or hereafter constructed on the right-of-way or any segment of such roads or highways.

The right-of-way is shown and specifically described on the map, entitled, "Record of Survey, Portion of the East Half of the S.E. Quarter of the N.W. Quarter Section 21, Township 11 N., Range 12 E., G. & S. R. B. & M., Gila County, Arizona," attached hereto and made a part hereof.

This grant is made subject to the following terms, provisions, and conditions:

1. Outstanding valid claims, if any, existing on the date of this grant.
2. The easement herein granted is limited to use of the described right-of-way for the purpose of construction, operation, and maintenance of a highway and does not include the grant of any rights for nonhighway purposes or facilities; Provided, That the right of the Forest Service to use or authorize the use of any portion of the right-of-way for nonhighway purposes shall not be exercised when such use would interfere with the free flow of traffic or impair the full use and safety of the highway; and Provided further, That nothing herein shall preclude the Forest Service from locating National Forest and other Department of Agriculture information signs on the portions of the right-of-way outside of construction limits.

3. All construction or reconstruction of a road or highway authorized by this right-of-way shall be in accordance with plans, specifications, and written stipulations approved by the Regional Forester prior to beginning such construction or reconstruction.
4. Consistent with highway safety standards, the Grantee shall:
 - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
 - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary during a joint review between the Regional Forester and Grantee prior to completion of the highway and the Grantee shall maintain all terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
5. The Grantee shall:

Establish no borrow, sand, or gravel pits; stone quarry; permanent storage areas; sites for highway-operation and -maintenance facilities; camps, supply depots; or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the Regional Forester.
6. The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Regional Forester. Application for such approval must be in writing and specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.
7. The Regional Forester shall make determination as to the necessity for archeological and paleontological reconnaissance and salvage within the right-of-way, and such reconnaissance and salvage to the extent determined necessary because of maintenance of the highway facility is to be undertaken by the Grantee in compliance with the act entitled, "An Act for the Preservation of American Antiquities," approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and State laws where applicable.

If, during excavation work, items of substantial archaeological or paleontological value are discovered, or a known deposit of such items is disturbed, the Grantee will cease excavation in the area so affected. Grantee will then notify the Forest Service and will not resume excavation until written approval is given.

8. The Grantee does by the acceptance of this document covenant and agree for itself, its assigns, and its successors in interest to the property herein granted, or any part thereof, that the covenant set forth below shall attach to and run with the land:

(a) That the described property and its appurtenant areas and its building and facilities whether or not on the land therein granted will be operated as a public road, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of Agriculture and in effect on the date of this document to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs or activities provided thereon; and

(b) That the United States shall have the rights to judicial enforcement of these covenants not only as to the Grantee, its successors and assigns, but also as to lessees and licensees doing business or extending services under contractual or other arrangements on the land herein conveyed.

In the event of a breach of any of the conditions set forth above, all right, title, and interest in and to the above described property shall, at the option of the Grantor, revert to and become the property of the United States of America, which shall have an immediate right of entry thereon, and the Grantee, its successors or assigns, shall forfeit all right, title, and interest in and to the above described property and in any and all of the tenements, hereditaments and appurtenances thereunto belonging; provided, however, that the failure of the Grantor to assist in any one or more instances upon complete performance of any of the said conditions shall not be construed as a waiver or a relinquishment of the future performance of any such conditions, but the obligations of the Grantee with respect to future performance shall continue in full force and effect.

9. Nothing within this easement shall be construed as preventing the Grantor from taking any measure it deems necessary in exercising its responsibilities of protecting the National Forests.

The Chief, Forest Service, may terminate this easement, or any segment thereof, (1) by consent of the Grantee, (2) by condemnation, or (3) after a five (5) year period of nonuse, by a determination to cancel after notification and opportunity for hearing as prescribed by law.

IN WITNESS WHEREOF, the Grantor, by its (Deputy) Regional Forester, Forest Service, has executed this easement pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, and the delegation of authority by the Chief, Forest Service, dated December 14, 1979 (44 FR 75690), on the day and year first above written.

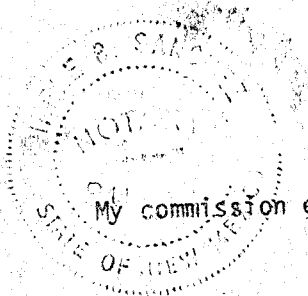
UNITED STATES OF AMERICA

William D. Zeedyk
for DAVID F. JOLLY
Deputy Regional Forester
USDA-Forest Service

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 13th day of March 1986, by William D. Zeedyk known to me to be the Acting Deputy Regional Forester Region 3, Forest Service, United States Department of Agriculture, who being by me duly sworn states that he signed said instrument on behalf of the United States of America under authority duly given, and he executed same as the free act and deed of the United States of America for consideration and purposes therein contained.

Lrene B. Sanchez
Notary Public



My commission expires: 11-22-86

In compliance with the conditions set forth in the foregoing deed, the County of Gila, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

GILA COUNTY BOARD OF SUPERVISORS

By Adolph B. Trujillo

STATE OF ARIZONA)
) ss.
COUNTY OF GILA)

The foregoing instrument was acknowledged before me this 7th day of April, 1986, by Adolph B. Trujillo known to me to be the Chairman, Bd of Supervisors, who being by me duly sworn states that he signed said instrument on behalf of the County of Gila under authority duly given, and he executed same as the free act and deed for consideration and purposes therein contained.

Rosemary Clark
Notary Public

My commission expires: 25 May 1987

