

SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual General Release of Claims (hereinafter referred to as the "Agreement") is effective as of the date of the last signature appearing below (the "Effective Date") and is by and between a) Heidi Marie Fresquez, James Patrick Fresquez, Marc Wilson, Sara Ann Wilson, Carmen Richards, Joseph Richards, Jerry Barnes and Ann Kost, who are named Plaintiffs in a lawsuit filed against Defendants (the "Named Plaintiffs"), and Michelle Blake and Donna Barnes, who are not parties to the lawsuit, and b) Santa Fe Trail Ranch Property Owners Association (the "Association"), a Colorado nonprofit corporation, and Robert L. Scott (hereinafter referred to as "Defendants"). The Named Plaintiffs, Michelle Blake and Donna Barnes are collectively referred to hereinafter as "Plaintiffs." Plaintiffs and Defendants are referred to in this Agreement collectively as the "Parties," and each of them as a "Party."

The Named Plaintiffs have filed a lawsuit in the Las Animas County District Court, State of Colorado, which is styled as Plaintiffs, Heidi Marie Fresquez, James Patrick Fresquez, Marc Wilson, Sara Ann Wilson, Carmen Richards, Joseph Richards, Jerry Barnes and Ann Kost v. Defendants, Santa Fe Trail Ranch Property Owners Association, a Colorado nonprofit corporation, and Robert L. Scott, Case No. 2021CV30026 (hereinafter, the "Lawsuit"), wherein the Named Plaintiffs assert claims against Defendants to enforce their rights under the documents that govern the Association and for breach of the Association's Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions ("Declaration") regarding the Association's roads and for ingress and egress to the Ranch, all as set forth in more detail in the Lawsuit.

The Named Plaintiffs, Michelle Blake and Defendants participated in a settlement mediation conference on October 14, 2024. Ed Shields served as the mediator and assisted the Parties in reaching a negotiated settlement consistent with the terms of this Agreement.

Plaintiffs and Defendants are desirous of settling the Lawsuit and all claims that Plaintiffs and Defendants have against each other.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the Parties agree to be legally bound by the following terms and conditions, which constitute full settlement of any and all disputes between them:

1. Definitions.
 - a. The "Exit 2 Road" is an 1100-foot unpaved road more or less appearing on the Unit 10 Plat (Reception No. 609522) which crosses Lots G and G17 and extends from Alpine Meadows Drive to the East boundary of the Ranch on Lot G17 and ends at the BNSF right-of-way. It does not extend into the BNSF right-of-way.
 - b. "BNSF" refers to Burlington Northern Santa Fe Railway.
 - c. The "Exit 2 Road Extension" refers to the 200-foot continuation of the Exit 2 Road across the BNSF Right of Way and through the Tunnel.
 - d. The "Tunnel" is an arched stone structure through which the Exit 2 Road Extension traverses beneath BNSF railroad tracks.
 - e. The "Tunnel Barriers" are I-beam stanchions installed by BNSF in late November 2021 at each end of the Tunnel, which block vehicular traffic from passing through the Tunnel.
 - f. The "BNSF Right of Way" is a 200-foot right-of-way owned or controlled by BNSF along the eastern boundary of the Ranch.
 - g. The "Security Gate" is the yellow gate constructed by the Association on the Exit 2 Road in April 2018. The Gate is comprised of a "Swinging Gate Member" which swings to open or close the gate and two vertical "Posts" which support the Swinging Gate Member.
 - h. "Board" refers to the then-members of the Board of Directors for the Association.

2. Removal of the Swinging Gate Member. Following dismissal of the Lawsuit with prejudice, the Association shall promptly remove the Swinging Gate Member from its hinges.

3. Posts. When the Association removes the Swinging Gate Member, the Association may leave the Posts in place at its discretion.

4. Access to the Exit 2 Road. Upon the Effective Date and for three years thereafter, the Association agrees to and grants unfettered access to the Exit 2 Road to Owners¹ and Owners' guests for all lawful purposes. Additionally, the Association agrees to and grants unfettered access to the Exit 2 Road to all emergency personnel (including police, firefighters, and emergency medical providers) requiring access to or from the Ranch. The access granted by the Association does not extend to other third-parties, or licensees, such as delivery drivers and contractors, or to trespassers.

5. Petitioning BNSF for access to the BNSF Right-of-Way. Within three years following the Effective Date, Plaintiffs may petition BNSF for express permission for Owners and their guests to use the Exit 2 Road Extension through the Tunnel for purposes of ingress and egress to the Ranch. The Association will, promptly upon the Plaintiffs' request, write a letter to BNSF clearly in support of Plaintiffs' efforts for Owners and their guests to gain legal access to the Exit 2 Road Extension. All fees, costs and expenses incurred by or on behalf of Plaintiffs to petition BNSF for access to the BNSF Right of Way shall be borne by Plaintiffs.

6. If BNSF Grants Express Access to the Exit 2 Road Extension or Removes the Tunnel Barriers. If BNSF grants permission, a crossing, or an easement to Owners, their guests, and emergency personnel across the Exit 2 Road Extension within three years of the Effective Date, or removes the Tunnel Barriers so that vehicles can travel through the Tunnel within three years of the Effective Date, then:

- a. After receiving notice of BNSF's authorization for Owners, their guests, and emergency personnel to use the Exit 2 Road Extension or BNSF's removal of the Tunnel Barriers, the Association may reinstall the Swinging Gate Member or construct a modified gate at or near the current location of the Gate, which gate will permit access on or off the Ranch electronically via an electronic key card, keypad, code system, or key fob as determined by the Board in its sole discretion;
- b. The Association shall be responsible for all costs relating to the removal or reinstallation of the Swinging Gate Member or replacement of the Gate;
- c. There shall be no time limitation for Owners, their guests, and emergency personnel to have unfettered access to the Exit 2 Road for lawful purposes; and

¹ "Owners" shall have the same meaning as that term is defined in the Declaration.

- d. Notwithstanding paragraph 14 or any other provision of this Agreement, Plaintiffs and the Association shall negotiate in good faith an agreement by which the Association agrees to make a monetary payment to the Plaintiffs, which payment must be approved by a majority vote of Owners by those voting.

7. Maintenance of the Exit 2 Road. The Association agrees to reasonably maintain the Exit 2 Road as a Common Area within the Ranch consistent with its obligations as stated in the Declaration.

8. Mutual General Release. For and in consideration of the covenants stated herein, the Plaintiffs, on the one hand, and their respective heirs, estates, executors, and permitted assigns, and the Defendants, on the other hand, and their respective heirs, estates, executors, permitted assigns, agents, representatives, successors, and current and former Board members, hereby fully, forever, irrevocably, and unconditionally release and discharge each other from any and all claims, actions, causes of action, demands, obligations, or liabilities of every nature and kind whatsoever in law or in equity arising out of any act, omission, or representation occurring from the beginning of time to the Effective Date of this Agreement, whether now known or unknown, asserted or unasserted, including any and all matters claimed or which could have been claimed in the Lawsuit or other forums, and any acts, omissions, conduct or representations prior to the Effective Date of this Agreement.

The waiver and release of any and all claims set forth in this paragraph apply whether or not now known. Each of the Parties understands that the later discovery of facts different from or in addition to those facts currently known or believed to be true, does not invalidate the waivers and releases of this Agreement which will remain effective in all respects - despite such different or additional facts - and even if any one or more of the Parties would not have agreed to this Agreement if prior knowledge of such facts had been known. Each Party expressly, knowingly, and intentionally waives the benefits and rights of any statute, rule, doctrine, or common law principle of any jurisdiction whatsoever that provides that a general release does not extend to unknown claims.

The waiver and release provisions of this Agreement do not release Plaintiffs from any obligation to pay Association dues or assessments.

9. Accord and Satisfaction and Waiver of All Claims. The Parties agree that the covenants included in this Agreement are agreed to in full and complete settlement and in full accord and satisfaction of all claims and actions Plaintiffs may have against Defendants and which Defendants may have against Plaintiffs. Plaintiffs and Defendants further agree to waive all claims and actions they may have against each other arising out of acts, omissions or representations occurring prior to the Effective Date of this Agreement.

10. Interpretation of This Agreement. The Parties agree that this Agreement is intended to be interpreted in the broadest possible manner in favor of a complete resolution of all claims and actions the Plaintiffs may have against Defendants and which Defendants may have against Plaintiffs.

11. Non-Admission. Execution of this Agreement and compliance with its terms shall not be considered or deemed an admission of liability by any of the Parties to this Agreement, or as an admission of the violation of the rights of any other person, a violation of any order, law, statute or duty, or breach of any duty owed to any other person.

12. Risk of Mistake. The Parties understand and agree to undertake and assume the risk that the settlement underlying the execution of this Agreement was made on the basis of mistake or mistakes, mutual or unilateral.

13. Dismissal of Lawsuit. The Named Plaintiffs agree that upon the full execution of this Agreement, the Named Plaintiffs shall direct their attorneys to execute a Stipulation of Dismissal with Prejudice of the Lawsuit and will take all steps necessary to obtain dismissal of the Lawsuit with prejudice. The Named Plaintiffs authorize and direct their attorneys to execute and file all documents and make all representations necessary to obtain dismissal of the Lawsuit with prejudice.

14. Attorney's Fees. The Parties will bear their own costs and attorney's fees incurred in connection with the Lawsuit, and no Party nor any attorney for any Party shall seek or accept an award of attorney's fees under any statute, rule or order of court in connection with the Lawsuit.

15. General Provisions.

a. Amendment. This Agreement shall be binding upon the Parties and may not be amended, supplemented, changed, or modified in any manner, orally or otherwise, except by an instrument in writing signed by the Parties hereto;

b. Entire Agreement. This Agreement contains and constitutes the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof, and, except as otherwise provided herein, cancels all prior or contemporaneous oral or written understandings, negotiations, agreements, commitments, representations, and promises in connection with the subject matter hereof;

c. Construction. The Parties acknowledge and agree that each Party has participated in the drafting of this Agreement and has had the opportunity to have this document reviewed by the respective legal counsel for the Parties hereto and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be applied to the interpretation of this Agreement. No inference in favor of, or against, any Party shall be drawn from the fact that one Party has drafted any portion hereof;

d. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as

against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument;

- e. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, without regard to the conflicts of laws principles thereof. With respect to any litigation based on, arising out of, or in connection with this Agreement, the Parties expressly submit to the personal jurisdiction of the State of Colorado, and the Parties hereby expressly waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the venue of any such litigation brought in Las Animas County, including without limitation any claim that any such litigation has been brought in an inconvenient forum;
- f. Severability. Should any provision in this Agreement or any provision of any agreement incorporated or referenced herein be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected, and the illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement;
- g. Cooperation Clause. The Parties agree to cooperate fully and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement, including but not limited to, the execution of any further documents; and
- h. Representations and Warranties. The Parties specifically covenant and warrant that they have not assigned or transferred to any person or entity any portion of any claim that is being released and waived in this Agreement. The person(s) executing this Agreement on behalf of any Party who is not an individual person represents and warrants that they have full power and authority to execute the Agreement and bind such Party to the terms hereof.

16. Third-Party Beneficiaries. Even though all persons and entities released hereby are not signatories to this Agreement, it is understood and agreed they are third-party beneficiaries to the Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

HAVING ELECTED TO EXECUTE THIS AGREEMENT, TO FULFILL THE PROMISES AND COVENANTS HEREIN, YOU FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE, AND RELEASE ALL CLAIMS YOU HAVE OR MIGHT HAVE AS SET FORTH HEREIN.

By signing below, each of the Parties acknowledge that they have carefully read and fully understand all of the provisions of this Agreement and that they are voluntarily entering into this Agreement.

PLAINTIFFS:

Heidi Marie Fresquez

James Patrick Fresquez

Marc Wilson

Sara Ann Wilson

Carmen Richards

Joseph Richards

Jerry Barnes

Ann Kost

DEFENDANTS:

Santa Fe Trail Ranch Property
Owners Association

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Donna Barnes

Michelle Blake

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By signing below, each of the Parties acknowledge that they have carefully read and fully understand all of the provisions of this Agreement and that they are voluntarily entering into this Agreement.

PLAINTIFFS:

DEFENDANTS:

Heidi Marie Fresquez

Santa Fe Trail Ranch Property
Owners Association

James Patrick Fresquez

Robert L. Scott

Marc Wilson 10/21/24

Marc Wilson

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Sara Ann Wilson 10-21-24

Sara Ann Wilson

Donna Barnes

Carmen Richards

Michelle Blake

Joseph Richards

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PLAINTIFFS:

Heidi Marie Fresquez

James Patrick Fresquez


Marc Wilson

Sara Ann Wilson

Carmen Richards

Joseph Richards

Jerry Barnes

 10/22/2024

Ann Kost

DEFENDANTS:

Santa Fe Trail Ranch Property
Owners Association

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Donna Barnes

Michelle Blake

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PLAINTIFFS:

Heidi Marie Fresquez

James Patrick Fresquez

Marc Wilson

Sara Ann Wilson

Carmen Richards 10/30/2024

Carmen Richards

Joseph Richards 10-22-24

Joseph Richards

Jerry Barnes

Ann Kost

DEFENDANTS:

Santa Fe Trail Ranch Property
Owners Association

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Donna Barnes

Michelle Blake

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PLAINTIFFS:

Heidi Marie Fresquez 10/22/24
Heidi Marie Fresquez

James Patrick Fresquez 10/22/24
James Patrick Fresquez

Marc Wilson

Sara Ann Wilson

Carmen Richards

Joseph Richards

Jerry Barnes 10-22-24
Jerry Barnes

Ann Kost

DEFENDANTS:

Santa Fe Trail Ranch Property
Owners Association

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**



Michelle Blake

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James Patrick Fresquez

Marc Wilson

Sara Ann Wilson

Carmen Richards

Joseph Richards

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Ann Kost

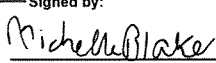
DEFENDANTS:

Santa Fe Trail Ranch Property
Owners Association

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Donna Barnes

Signed by:


Michelle Blake 10/25/2024

HAVING ELECTED TO EXECUTE THIS AGREEMENT, TO FULFILL THE PROMISES AND COVENANTS HEREIN, YOU FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE, AND RELEASE ALL CLAIMS YOU HAVE OR MIGHT HAVE AS SET FORTH HEREIN.

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PLAINTIFFS:

Heidi Marie Fresquez

James Patrick Fresquez

Marc Wilson

Sara Ann Wilson

Carmen Richards

Joseph Richards

Jerry Barnes

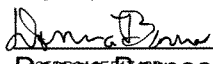
Ann Kost

DEFENDANTS:

Santa Fe Trail Ranch Property
Owners Association

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Signed by:


Donna Barnes 10/25/2024

Michelle Blake

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PLAINTIFFS:

Heidi Marie Fresquez

James Patrick Fresquez

Marc Wilson

Sara Ann Wilson

Carmen Richards

Joseph Richards

Jerry Barnes

Ann Kost

DEFENDANTS:

RL Scott President 21 Oct 24

Santa Fe Trail Ranch Property
Owners Association
RL Scott 21 Oct 24

Robert L. Scott

**PERSONS NOT NAMED AS
PLAINTIFFS:**

Donna Barnes

Michelle Blake