

**DECLARATION OF
RESTRICTIVE COVENANTS
FOR
McELROY RANCH NORTH**

Doc# 84650

Date: January 1, 2009

Declarant: LEONCITA CATTLE COMPANY, a Texas corporation

Declarant's Address:

Leoncita Cattle Company
P. O. Box 668
Alpine, Texas 79831-0668

Definitions

"Buyer" means any purchaser from Declarant subsequent to the date of this Declaration of Restrictive Covenants for McElroy Ranch North of any real property that is a part of McElroy Ranch North. Any purchaser from Declarant prior to the date of this Declaration of any real property that is a part of McElroy Ranch North, and any purchaser from Declarant of any real property that is not a part of McElroy Ranch North, shall be subject only to the covenants, conditions, and restrictions that were a part of and attached to such Buyer's deed, if any. The term Buyer includes all genders and the plural as well as the singular.

"Covenants" means all of the reservations, exceptions, restrictions, limitations, and conditions to use and occupancy contained in this Declaration of Restrictive Covenants of McElroy Ranch North ("this Declaration").

"Declarant" means Leoncita Cattle Company, a Texas corporation, and any successor that acquires all unimproved Tracts owned by Declarant within McElroy Ranch North for the purpose of development and is named as successor in a recorded document.

"McElroy Ranch North" means all of the lands and property consisting of 634.95 acres, more or less, described as Tract Number 2 and Tract Number 3 in Vol. 22, P. 718, Official Public Records of Brewster County, Texas, and being out of and a part of Surveys 92 and 93, Block 9, G.H. & S.A. Ry. Co. Surveys, Brewster County, Texas.

"Property" means each and all of the Tracts in and parts of McElroy Ranch North that are owned by Declarant on the date of this Declaration and that are subsequently sold by Declarant to Buyer.

Imposition of Covenants

1. Declarant imposes the Covenants on the Property. Buyer, by acceptance of a deed, agrees that each Tract purchased by Buyer is subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of McElroy Ranch North for the benefit of all Buyers. The Covenants run with the land.

3. Each Buyer agrees to comply with this Declaration and agrees that failure to comply with the Covenants may subject him to damages or injunctive relief.

Covenants

1. The property may be used for residential purposes and for professional services if they do not detract from the primarily residential character of the property and are reasonably consistent with the Covenants. Any professional services or other commercial activity must be reasonably approved by Declarant in advance of beginning the provision of services or commercial activity. "Residential purposes" includes the keeping and cultivating of livestock and agricultural products for personal use and enjoyment but not for commercial purposes. "Livestock" shall not include swine, which will not be permitted on the property. All animals shall be confined, and recognizing that the property is not large enough to support cattle or horses without overgrazing, all animals shall receive feed to preserve the open space characteristic of the property and to avoid a nuisance such as, without limitation, excessive dust or unsightliness.
2. No commercial signs or advertising will be permitted on the property except for one sign no larger than three feet by one foot (1) bearing the name of the professional or commercial activity permitted by the Covenants, if any, or (2) offering the property for sale by a licensed real estate broker.
3. All building supplies, equipment, or materials shall be stored behind or within walls or structures reasonably designed to shield them from public view from areas surrounding or in the vicinity of the property in order to minimize any unsightly effects and in order to promote the development of other property in the area owned by Declarant for residential or other purposes consistent with the Covenants.
4. The property may not be subdivided for a period of twenty years after Buyer acquires title and possession of the property unless as a result of condemnation by a public or private entity for public purposes. After the expiration of twenty years, the property may not be subdivided into tracts smaller than fifteen (15) acres.
5. All buildings and structures on the property shall be of new construction and architecturally harmonious with the primary residence. No temporary structures, mobile homes, motor homes, prefabricated housing, or recreational vehicles shall be erected, stored, or utilized on the property for longer than may be reasonably necessary in conjunction with the construction of permanent facilities and in no event longer than eighteen months. Any structure that is at least fifty (50%) percent complete when it is (or would be) brought on to the property will be a violation of this covenant. It is specifically provided, however, that the storage of a motor home or recreational vehicle on the property is not a violation of this covenant if the motor home or recreational

vehicle is stored in a garage or behind three walls or within or behind a structure that generally shields it from public view from areas surrounding or in the vicinity of the property.

6. All facilities constructed on the property by Buyer, or by Buyer's successors or assigns, shall meet the following requirements:
 - a. Buyer's principal residence or building shall consist of at least 1,500 square feet, exclusive of porches or garages. Any detached garage, car port, barn, or storage facility shall have a capacity (or equivalent size) of not less than two standard size automobiles.
 - b. No building shall be more than two stories in height.
 - c. The exterior walls of all buildings shall be of wood, adobe, brick, rock, stucco, or other masonry, although steel or composite materials may be used for structural components, and roofs may be constructed of steel provided that the steel shall be enameled or painted.
 - d. No construction material having a useful life of less than twenty-five years will be utilized.
 - e. All buildings constructed on the property shall be offset from all property lines by at least one hundred (100) feet.
 - f. The style of all buildings, and of all facilities and improvements, including fences, shall harmonize as much as may be reasonable and practicable with each other and with the heritage and historical architecture of the Big Bend area, which, although generally western, rural, Spanish, Mexican/New Mexican, Neo-Pueblo, and Territorial, is also acknowledged by Declarant to be impossible to characterize with precision. A more modern or contemporary style of construction will therefore be acceptable under this restriction, and Buyer shall nevertheless reasonably attempt to satisfy this restriction by utilizing landscaping or out-buildings to harmonize the principal structure or structures with the heritage and historical architecture of the area. All landscaping shall utilize native plants as much as practicable.
 - g. The plans (construction and architectural, if any, together with blueprints), for all buildings and other improvements shall be submitted to Declarant (or to a building approval committee that may be established by Declarant, if any, or to Declarant's designee if Declarant no longer owns property in the area or no longer has an interest in enforcing the Covenants) for Declarant's approval prior to beginning construction, which approval shall be granted promptly if the plans are in accordance with the Covenants.
 - h. In the event of a disagreement between Declarant and Buyer (or their successors and assigns) whether or not a proposed structure complies with the Covenants, each of Declarant and Buyer (or their successors and assigns) shall appoint two mediators, and the four mediators shall appoint a fifth mediator. The five mediators will determine whether or not the proposed structure should be allowed pursuant to the Covenants and the following general guideline: The goal of the Covenants is to promote the construction of buildings and other improvements that enhance the value of all property owned by Declarant (and by other Buyers) in the general area of the property and to prevent the construction of buildings and other improvements that detract from the value and desirability of other property in the general area of the property. Once the five mediators have determined whether or not a proposed structure complies with the Covenants and the preceding guideline, their decision shall be binding on Declarant, Buyer, and other buyers of other property from Declarant in McElroy Ranch North.
7. No alteration of the natural drainage or flow of water on the property shall be permitted.

8. No towers, antennas, or other structures that would interfere with the operation of the Alpine Municipal Airport may be erected on the property.
9. All activities on the property shall be designed and conducted to cause no pollution or contamination of or to the water on or under the property, the air above it, or the soil of the property. Any septic tanks and drain-fields shall be constructed and maintained in accordance with such laws, regulations, and ordinances as may apply to subdivisions of Brewster County from time to time. No trash, garbage, construction debris, or other refuse may be dumped, burned, disposed of, stored longer than three months, or allowed to remain on the property.
10. All exterior lights constructed or utilized on the property shall be designed to interfere to the minimum degree practicable with astronomical observations and activities and shall be in accordance with any and all regulations or ordinances that may be in effect from time to time in Brewster and Jeff Davis Counties, Texas.
11. No hunting or the discharge of firearms shall be allowed on the property except to shoot feral hogs, coyotes, mountain lions, bobcats, porcupines, skunks, raccoons, and poisonous snakes.
12. An easement for utilities and access, thirty feet in width, is reserved around the outside boundary of the property for the benefit of any public utility operating in Brewster County, Texas, as well as for the benefit of Declarant and any subsequent buyers of real property from Declarant, to permit or allow for the construction, repair, maintenance, operation, and dedication to the public of a system or systems of electric light and power, telephone lines, television cable lines, gas, water, sanitary sewers, storm sewers, and any other utility or service, including roadways, which Declarant may find necessary or proper to provide to any Buyer. Nothing in this reservation shall be construed as imposing upon Declarant an obligation to provide any utilities or services. The right to sell, lease, or negotiate any lines, utilities, or other facilities for the providing of services or utilities is reserved by Declarant unless the right is specifically assigned to Buyer.
13. All utilities constructed or placed on the property by Buyer shall be buried.
14. Excepted from Declarant's covenant of general warranty are:
 - a. All prior mineral reservations or conveyances, and all other prior reservations, conveyances, or exceptions of record or that are visible and apparent from an actual inspection;
 - b. Any claims of third parties in and to lands not within the fences of Declarant, enclosing Declarant's lands;
 - c. The rights of the State of Texas under the so-called Land Relinquishment Act (Section 52.171 et seq., Texas Natural Resources Code) or otherwise;
 - d. Any defects in or to the surface or subsurface;
 - e. Taxes not yet due and payable.
15. In order to enhance Declarant's ability to supply water to Buyer, all subsurface water and water producing strata are also reserved by Declarant and excepted from this conveyance. Any efforts of Declarant to develop or produce any water reserved and excepted from this conveyance shall be done from adjacent lands of Declarant, insofar as may be practicable, and shall be designed to cause as little disturbance to or

interference with the use of the property by Buyer and Buyer's successors and assigns as may be reasonable and practicable. Declarant will not market the water reserved in this Covenant to any person or entity other than Buyer.

16. The property shall be utilized by Buyer and Buyer's successors and assigns in accordance with all laws, regulations, rules, and ordinances of the State of Texas, the United States of America, Brewster County, Texas, the Brewster County Groundwater Conservation District, and any other public entity that may have jurisdiction over the property. No activity shall be permitted on the property that a reasonable person would consider a nuisance that unreasonably interferes with the rights of other Buyers and residential owners in the area to enjoy their property.
17. The Covenants shall be binding for a period of twenty years, after which they shall be automatically extended for successive periods of ten years each unless Buyer (or their successors and assigns) may agree to change them by executing and recording the changes in the public records of Brewster County, Texas.
18. Declarant may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Buyer.
19. The provisions of this Declaration are severable. If any provision of this Declaration is invalidated or declared unenforceable, the other provisions shall remain valid and enforceable in all respects.
20. No third party or member of the general public shall have any right or standing to compel the enforcement of the Covenants or complain that they have been violated in any manner.

IN WITNESS WHEREOF, LEONCITA CATTLE COMPANY, a Texas corporation, has caused this Declaration of Restrictive Covenants for McElroy Ranch North to be executed as of the date mentioned above.

LEONCITA CATTLE COMPANY



TOM BEARD
President

THE STATE OF TEXAS §

COUNTY OF BREWSTER §

This instrument was acknowledged before me on February 13, 2009, by TOM BEARD as the President of LEONCITA CATTLE COMPANY, a Texas corporation.



Susan Bentley
Notary Public, State of Texas

My commission expires:

May 16, 2012

PREPARED IN THE OFFICES OF:

Beard & Beard
208 North 6th Street
P. O. Box 668
Alpine, Texas 79831-0668

AFTER RECORDING RETURN TO:

RTN:

Tom Beard
Leoncita Cattle Company
P. O. Box 668
Alpine, Texas 79831-0668

STATE OF TEXAS
COUNTY OF BREWSTER

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the Volume and Page of the Official Public Records of Brewster County, Texas.



Berta Rios Martinez
County Clerk, Brewster County, Texas

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For McElroy Ranch North
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