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DEED OF CONSERVATION EASEMENT

Pigg Ranch II

Any time the Property is transferred by Grantor to any third party, Grantor shall pay a transfer fee of \$100 to Grantee and notify Grantee pursuant to the requirements of Section 11 of this Deed.

NOTICE: THIS CONSERVATION EASEMENT HAS BEEN ACQUIRED IN PART WITH A GRANT ("GRANT") FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND ("BOARD"). THIS DEED CONTAINS RESTRICTIONS ON THE USE AND DEVELOPMENT OF THE PROPERTY WHICH ARE INTENDED TO PROTECT ITS OPEN SPACE VALUES. THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND HAS FOUND THAT THE ADOPTION OF THESE DEED RESTRICTIONS IS IN THE PUBLIC INTEREST.

THIS CONSERVATION EASEMENT HAS ALSO BEEN ACQUIRED IN PART WITH FUNDS FROM THE COMMODITY CREDIT CORPORATION, THROUGH THE FARM AND RANCH LANDS PROTECTION PROGRAM, WHICH IS ADMINISTERED BY THE NATURAL RESOURCES CONSERVATION SERVICE ("NRCS," hereinafter, collectively, "the United States").

THIS DEED OF CONSERVATION EASEMENT ("Deed" or "Easement") is granted on this 19th day of November, 2004, by GEORGE WESLEY PIGG and LISA A. PIGG, whose address is 5380 I-25 South, Pueblo, CO 81004 ("Grantor"), to COLORADO OPEN LANDS, a Colorado non-profit corporation ("Grantee"), whose address is Suite 320, 274 Union Boulevard, Lakewood, CO 80228.

RECITALS:

A. **Description of Property.** Grantor is the owner of the fee simple interest in the subject Property legally described in **Exhibit A** attached hereto and made a part of this Deed, which consists of approximately 200 acres of land, together with buildings, other improvements, mineral rights and water rights associated with or appurtenant to the Property, located in Pueblo County, State of Colorado (the "Property"). The Property is a part of the 640-acre "Pigg Ranch" owned by the Grantor.

B. **Qualified Organization.** Grantee is a "qualified organization," as defined in §170(h) of the Internal Revenue Code and a charitable organization as required under §§38-30.5-104 (2), Colorado Revised Statutes (C.R.S.).

C. **Conservation Values.** The conservation values set forth in this section may hereinafter be collectively referred to as the "Conservation Values." The Property possesses open space, and wildlife values of great importance to Grantor, the people of Pueblo County, Colorado, and the people of the State of Colorado. Specifically, the Property possesses open space and scenic



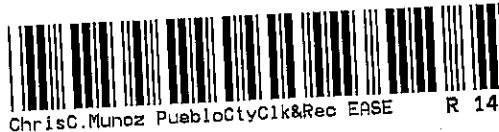
values that can be seen by the public from Burnt Mill Road. The Property is also located on the eastern slope of the Wet Mountains, a mountain backdrop for both the city of Pueblo and the I-25 corridor through Pueblo County. The Property contains important agricultural resource associated with productive grazing lands, including soils designated as being Farmland of Statewide Importance by the NRCS. The Property generally provides habitat for local populations of elk, deer, mountain lion, black bear, wild turkey and other species of wildlife. According to the Colorado Natural Heritage Program (CNHP), the Property is located in an area that possesses the Round-Leaf Four O'Clock, a globally and statewide imperiled plant species. Also according to CNHP, the Property is located in an area that also supports Simius Roadside Skipper, Rhesus Skipper, and Eaton's Lip Fern, rare and/or imperiled species. The location of the Property is important in that it is in close proximity or adjacent to other lands that have been protected by conservation easements held by the Grantee.

These Conservation Values are of great importance to Grantor, the people of Pueblo County, Colorado, the people of the State of Colorado, and citizens of the United States of America.

D. State Policy Concerning Conservation Easements. C.R.S. §§33-1-101, *et seq.*, provides in relevant part that "it is the declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of agricultural land for the production of feed and other agricultural products." Additionally, C.R.S. §§35-1-101, *et seq.*, provides in relevant part that "it is the declared policy of the State of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors." C.R.S. §§38-30.5-101, *et seq.*, provides for the creation of conservation easements to maintain land "in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural ... or other use or condition consistent with the protection of open land having wholesome environmental quality or life-sustaining ecological diversity."

E. Other Supporting Government Policy. The Pueblo Regional Development Plan ("Plan") identifies several development principles. For rural development, the Plan identifies the following principles: "Achieve a balance between urban and agricultural interests... Preserve agricultural land by promoting development in areas adjacent to the urbanized area. Discourage 'leap-frog' development on prime agricultural land. Preserve land through purchase or donation of development rights, including landowner education of the estate planning benefits of such conservation actions. Protect water resources necessary for agricultural uses. Preserve character of the Region's rural areas and communities. Promote 'right-to-farm' laws. Promote benefits of the local agricultural industry. Encourage subdivisions in rural areas to develop as 'cluster developments' with smaller lots surrounded by large areas of common open space."

The Plan also identifies several environmental quality principles. It states, "plan growth to enhance the region's natural and historic character. Determine methods to enhance and preserve the natural and historic features (e.g., preservation via conservation easements).... Encourage the integration of open space into the Region's land use plan. Define open space by habitat, agriculture, parks, buffers & wildlife corridors. Provide a Regional Plan that recognizes the importance of the natural environment to the Region's future."



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The Plan also states "The *Production Agriculture* category pertains to prime agricultural land located east of the St. Charles River and within the bottomlands adjacent to Fountain Creek, north of Pueblo. These prime agricultural areas are known to possess rich, fertile soils, and NRCS has classified the soils as being prime for agricultural use. There remain a number of viable farm operations within these areas despite increasing pressures from suburban development. The protection and preservation of the prime agricultural lands is the primary purpose of this land use designation."

In addition, Sections 1238H and 1238I of the Food Security Act of 1985, as amended, authorize the Farm and Ranch Lands Protection Program under which the Secretary of Agriculture, acting through the Natural Resource Conservation Service, may acquire conservation easements or other interests in land for the purpose of protecting prime, unique or productive soils by limiting nonagricultural uses of the land.

F. **Documentation of Present Conditions.** The Conservation Values and the characteristics, current use, and status of improvements on and development of the Property of the date of this Deed are further documented in a "Present Conditions Report," dated October 1, 2004 and prepared by Jennifer Meyer of ALTUS Environmental, which report is acknowledged as accurate as of the date of this easement by Grantor and Grantee. The Present Conditions Report will be used by Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Deed. However, the Present Conditions Report is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use.

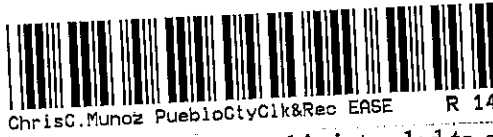
G. **Charitable Donation.** Grantor intends to create a conservation easement under Article 30.5 of Title 38, Colorado Revised Statutes, and hereby makes a charitable gift of a portion of the property interest conveyed by this Deed to Grantee.

ACKNOWLEDGEMENT OF INTENT:

As a guide for future generations to the interpretation of this Deed and administration of the Conservation Easement ("Easement" or "Conservation Easement") created by this Deed, Grantor and Grantee, for themselves, and for their successors and assigns, herein expressly declare their agreement and dedication to the following purpose and intent:

1. **Purpose.** The purpose (the "Purpose") of this Easement is to preserve and protect in perpetuity the Conservation Values of the Property. This Purpose is in accordance with §170(h) of the Internal Revenue Code. In order to achieve this Purpose, Grantor intends to convey this Deed to Grantee to ensure that the Conservation Values of the Property will be preserved and protected forever.

2. **Intent.** Subject only to the Purpose set forth above, the intent of the parties is to permit all other uses of the Property which are not inconsistent with the preservation and protection of the Conservation Values as determined by Grantee in its sole discretion and which



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are not expressly prohibited herein. Nothing in this Deed is intended to compel a specific use of the Property, such as agriculture, other than of the preservation and protection of the Conservation Values.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee mutually agree as follows:

1. **Conveyance of Easement.** Grantor voluntarily grants and conveys to Grantee and Grantee voluntarily accepts, a perpetual Conservation Easement in gross, an immediately vested interest in real property defined by C.R.S. §§38-30.5-101, *et seq.*, and of the nature and character described in this Deed, for the purpose of preserving and protecting the Conservation Values of the Property in perpetuity.

2. **Rights of Grantee.** To accomplish the Purpose of this Easement the following rights are hereby conveyed to Grantee, its employees and its representatives:

A. To preserve and protect the Conservation Values of the Property.

B. To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that, except in cases where Grantee determines that immediate entry is required pursuant to those provisions in Section 8, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use, management and quiet enjoyment of the Property.

C. To prevent any activity on or use of the Property that is inconsistent with the Purpose of this Easement and, except as limited by Section 7 below, Grantee may require the restoration of such areas or features of the Property that may be damaged by an inconsistent activity or use.

Nothing in this section shall preclude the right of Grantee to enforce the preservation and protection of the Conservation Values of the Property or any other provisions of this Deed.

3. **Rights Retained by Grantor.** Grantor retains the right to perform any act not specifically prohibited or restricted by this Easement. These ownership rights include, but are not limited to, the retention of the economic viability of the Property provided that such acts and uses are not inconsistent with the preservation and protection of the Conservation Values.

4. **Property Improvements.** The parties agree that the current use as a ranch and improvements to the Property are not inconsistent with the preservation and protection of the Conservation Values and are permitted. Without limiting the generality of any of the foregoing, Grantor and Grantee here by acknowledge and agree:

A. **Existing Improvements.** At the time of granting of this Deed, there are on the Property:



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(1) **Residential Improvements.** There are currently no residential improvements on the Property.

(2) **Agricultural Improvements.** There are fences and temporary two-track roads currently existing on the Property.

B. **Construction of Improvements.** The construction or reconstruction of any improvement, except those existing on the date of this Deed, is prohibited except as described below. The total area of all impervious surfaces shall not exceed two (2) percent of the total area encumbered by this Easement. Currently, impervious surfaces total .001% of the total area encumbered by this Easement. Impervious surfaces include, but are not limited to, concrete, pavement and roofs.

(1) **Existing Improvements Construction.**

a. **Agricultural Improvements.** Grantor may maintain, repair, replace, and reasonably enlarge the existing agricultural improvements at their current location without further permission of the Grantee.

(2) **New Improvements Construction.**

a. **Residential Improvements.** Grantor hereby reserves the right to construct or otherwise locate one (1) new single-family residence, which residence shall not exceed 5,000 square feet of enclosed floor area ("Enclosed Floor Area") together with associated residential appurtenances such as garages and sheds, all of which will be located within the residential building envelope ("Residential Building Envelope"), depicted on **Exhibit B** attached hereto and made a part of this Deed. The Residential Building Envelope shall be no greater than 5-acres in size and shall include all residential structures and improvements. In no case, shall the maximum cumulative Enclosed Floor Area for all residential structures including residential appurtenances exceed the 7,500 square foot limitation set forth above.

Notwithstanding any of the foregoing, at least thirty (30) days in advance of any proposed construction Grantor shall notify Grantee in writing of such construction and will provide Grantee with documentation and plans necessary to ensure compliance with the standards set forth in this section. Grantee's written approval shall be given if construction complies with the standards set forth in this Section 4B(2)a. Further, Grantor may maintain, repair, enlarge and replace improvements in accordance with the standards set forth in this Section 4B(2)a.

b. **Agricultural Improvements.** New minor, unenclosed agricultural improvements such as corrals, loafing sheds, hayracks, headgates, ditches, culverts, stock tanks, or other minor agricultural structures may be constructed on the Property without permission of



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Grantee. Grantor hereby reserves the right to construct or otherwise locate new agricultural buildings, which agricultural buildings shall not exceed 7,500 square feet of Enclosed Floor Area, within the agricultural building envelope ("Agricultural Building Envelope") depicted on **Exhibit B**. No single agricultural building shall exceed 5,000 square feet of Enclosed Floor Area. Construction of new agricultural buildings in excess of 5,000 square feet of Enclosed Floor Area in the Agricultural Building Envelope or the construction of any agricultural building other than minor agricultural improvements outside the Agricultural Building Envelope is prohibited, unless Grantee in its sole discretion determines that the proposed construction is not inconsistent with the preservation and protection of the Conservation Values. In no case, shall the maximum cumulative square feet of all agricultural buildings and/or improvements exceed the 7,500 square foot limitation set forth above.

(3) **Maintenance of Improvements.** Grantor may maintain, repair, enlarge and replace improvements in accordance with the standards set forth in Sections 4B(1) and 4B(2). In the event of replacement or enlargement, Grantor shall notify Grantee so that its records may be updated.

(4) **Definition of Enclosed Floor Area.** For purposes of Sections 4B(1) and 4B(2), Enclosed Floor Area is defined as all finished and unfinished enclosed space covered by a roof and with or without walls.

(5) **Other Improvements.**

a. **Road Construction and Paving.** Grantor reserves the right to construct a bridge over the St. Charles River. The bridge shall be located to minimize disturbance to the riparian vegetation and to ensure solid bedrock footings. No roads or driveways shall be constructed or established except for those existing roads or driveways depicted on **Exhibit B**, or those deemed necessary for agricultural purposes. The paving or otherwise surfacing of roads or driveways with concrete, asphalt, or any other impervious paving material is prohibited unless Grantee determines that said surfacing is not inconsistent with the preservation and protection of the Conservation Values and in accordance with the Conservation Plan (defined below). Paved or surfaced roads and driveways are subject to the two (2) percent total impervious surface limitation based upon the total area encumbered by this Easement. Gravel roads are not subject to the two (2) percent total impervious surface limitation.

b. **Fences.** Existing fences may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife not



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inconsistent with the preservation and protection of the Conservation Values without any further permission of Grantee. All agricultural fencing shall be in accordance with the Conservation Plan (defined below).

c. **Utilities.** Existing utilities may be repaired, replaced and relocated with a similar structure without any further permission of Grantee. Grantor may install new utility lines provided such new utility lines shall be related to the improvements on the Property and shall be installed underground in the existing roads or driveways as depicted on **Exhibit B. UTILITIES TO BOWLING'S ENVELOPES MAY BE OVERLAP.**

d. **Billboards and Signs.** Signs existing on the Property at the time of execution of this Deed are permitted and may be replaced with signs similar in character and size. Grantor may not construct, maintain, or erect any signs or billboards on the Property that are inconsistent with the Conservation Values. Notwithstanding the foregoing, customary ranch signs, signs alerting the public to the availability of the Property for purchase or lease, "no trespassing" signs, signs regarding the private leasing of the Property for hunting, fishing or other low impact recreational uses, and signs informing the public of the status of ownership are permitted.

e. **Irrigation Ditches.** It is not the intention of this Easement to restrict access for maintenance of existing irrigation ditches. Irrigation ditch maintenance is allowed in all areas without further permission from Grantee. Enlargement of existing irrigation ditches or installation of new irrigation ditches that serve only the subject Property is considered a minor agricultural improvement and is allowed without further permission from Grantee, provided it is in accordance with the Conservation Plan (defined below).

5. **Resource Management.** Grantor recognizes the importance of good resource management and stewardship to preserve and protect the Conservation Values. Resource management shall be conducted in a manner consistent with the Conservation Plan (defined below). The Conservation Plan shall be completed by the date of this Deed and shall be updated at least every five (5) years. The following uses of the Property shall be conducted in accordance with the provisions below.

A. **Agriculture.** As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct all agricultural operations on the Property in a manner consistent with a conservation plan prepared in consultation with NRCS and approved by the Conservation District (the "Conservation Plan"). This Conservation Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect as of the date of this Easement. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards



and specifications. NRCS shall have the right to enter upon the Property, with advance notice to Grantor, in order to monitor compliance with the Conservation Plan.

In the event of noncompliance with the Conservation Plan, the NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the Conservation Plan, NRCS will inform Grantee of the Grantor's noncompliance, and Grantee shall notify the Board in writing. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan following written notification from the NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the Conservation Plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Grant based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

If agriculture is no longer a use, the Property shall not be converted to non-agricultural uses. "Conversion" refers to the physical manipulation of the land surface that results in a permanent loss of soil, or soil properties, that makes agricultural production no longer possible.

B. **Timber.** Timber harvesting is prohibited except as set forth below. On a limited and localized basis, trees may be cut to control insects and disease, to control invasive non-native species, to prevent personal injury and property damage, and for domestic uses on the Property such as firewood and construction of permitted buildings and fences. Tree thinning activities may take place to maintain the character and nature of the habitat. Timber harvesting other than the foregoing on the Property shall be conducted in substantial accordance with a forest management plan prepared at Grantor's expense, approved by Grantee, by a professional forester. A copy of the final, Grantee-approved plan will be sent to the Board and the United States.

C. **Minerals and Other Deposits.** Minerals and other deposits shall be subject to the following provisions.

(1) **Mining.** The exploration, development, mining or other extraction of minerals, coal or peat is prohibited.

(2) **Oil, Gas and Geothermal Resources.** The exploration, development, mining or other extraction of geothermal resources and hydrocarbons is prohibited.



D. **Recreation.** Commercial and noncommercial recreation on the Property is prohibited, except that those low-impact non-developed recreational uses not inconsistent with the Conservation Values and purposes of this Easement, such as hunting, outfitting, and bird watching, are permitted. No term or condition of this Easement shall be construed or interpreted as a prohibition, restriction, or curtailment of the right of the Grantor, its licensees, invitees, and assigns, to hunt and fish on the Property, provided that such activity is in compliance with all applicable laws and regulations and that such activity is consistent with the preservation and protection of the Conservation Values of the Property.

E. **Motorized Vehicles.** Motorized vehicles may be used in carrying out the activities permitted herein provided such use shall not result in any new trails or other visible impacts on the Property or any other impacts that are inconsistent with the preservation and protection of the Property's Conservation Values.

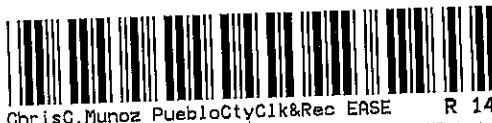
F. **Water.** The Property subject to this Easement includes any and all decreed and undeclared water rights, ditches and ditch rights, springs and spring rights, reservoir and reservoir rights, wells and groundwater rights, and any other types of rights related to the ownership of water, tributary, non-tributary and not non-tributary, appurtenant to or customarily or historically used or associated with or upon the Property, together with any and all of the rights associated with the historical and beneficial use of any of the embankments, flumes, headgates, measuring devices or any other structures that are appurtenant to those water rights, along with all easements and rights of way therefor including but not limited to those specifically described in **Exhibit C** attached hereto and made a part of this Deed (collectively, the "Water Rights"). Grantor shall not transfer, encumber, sell, lease or otherwise separate the Water Rights from the Property. Grantor shall not change the historic use of the Water Rights without the prior written consent of, and determination by, Grantee that such change is not inconsistent with the preservation and protection of the Conservation Values.

If Grantor shall fail to maintain the historic use of the Water Rights upon the Property, or those rights necessary to preserve and protect the Conservation Values of the Property, Grantee shall have the right, but not the obligation, to enter upon the Property and undertake any and all actions reasonably necessary to continue the historic use of the Water Rights in order to preserve and protect the Conservation Values of the Property.

Grantor shall not abandon or allow the abandonment of, by action or inaction, any of the Water Rights. If the Water Rights are under threat of abandonment, Grantor shall convey ownership of said Water Rights to Grantee and Grantee shall have the right to use said Water Rights for beneficial conservation purposes on the Property or elsewhere in Pueblo County consistent with Grantee's mission. In addition, Grantor shall otherwise cooperate with Grantee to help assure the continued use of the Water Rights for beneficial conservation purposes.

6. **Restricted Practices.**

A. **Subdivision.** The division or subdivision of the Property into two or more parcels of land is prohibited except that Grantor may sell or exchange a portion of their Property



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with the adjacent property owned by Frederick Louis Fass, if the sale or exchange will better consolidate or improve the agricultural operations on the respective properties and will not result in a remaining parcel not viable for use in agriculture. Any sale or exchange shall require the prior written approval of the Grantee and all of the Property shall remain subject to the terms of this Deed.

In seeking Grantee's approval, Grantor shall provide Grantee with a map, a legal description and a written request outlining how the sale or exchange will better consolidate or improve the agricultural operations on the respective properties. In the event Grantee approves the sale or exchange, Grantor shall provide Grantee copies of all final conveyance documents, and Grantee shall provide copies to the Board.

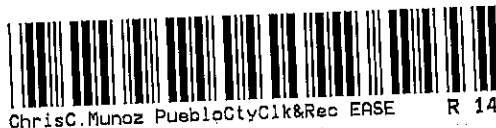
B. **Commercial or Industrial Activity.** All commercial or industrial uses on the Property are prohibited. However, commercial uses such as ranching activities, home businesses carried out within the Building Envelopes permitted under Section 4, and recreational activities permitted under Section 5.D. are permitted, provided that such uses are conducted in a manner that is consistent with §170(h) of the United States Internal Revenue Code and the Treasury Regulations adopted pursuant thereto, are consistent with the purpose of this Easement, and are not inconsistent with the preservation and protection of the Conservation Values of the Property.

C. **Feed Lot.** The establishment or maintenance of a feed lot is prohibited. For purposes of this Deed, "feed lot" is defined as a permanently constructed confined area or facility within which the Property is not grazed or cropped regularly, and which is used and maintained continuously for the exclusive purpose of feeding livestock. Nothing in this section shall prevent Grantor from seasonally confining livestock into an area, including corrals or other facilities, for feeding, calving, branding, pasturing bulls, or for other routine agricultural operations or from leasing pasture for the grazing of livestock owned by others.

D. **Public Access.** Nothing contained herein shall be construed as affording the public access to any portion of the Property, although the Grantor may permit public access to the Property on such terms and conditions as it deems appropriate, provided that such access is not inconsistent with the preservation and protection of the Conservation Values of the Property.

E. **Trash.** The dumping, accumulation, storage or burying of any kind of trash, waste, sludge, refuse, debris, machinery not in use on the Property, broken machinery radioactive or hazardous waste, or other materials is prohibited. However, the storage and/or composting of agricultural products and by-products produced on the Property is permitted provided that such storage or composting is in accordance with all applicable government laws and regulations and is not inconsistent with the preservation and protection of the Conservation Values.

F. **Hazardous Materials.** Grantor may use agri-chemicals on the Property in accordance with all applicable federal, state or local law. Otherwise, the treatment, permanent storage, disposal or release of hazardous materials (as defined in Section 22(B)) on, from or under the Property is prohibited. Notwithstanding anything in this Deed to the contrary, this



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prohibition does not impose any liability on Grantee, the Board, or the United States for hazardous materials nor does it make Grantee, the Board, or the United States an owner of the Property, nor does it permit or require Grantee, the Board, or the United States to control any use of the Property that may result in the treatment, storage, disposal or release of hazardous materials within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA").

G. **Weed Control.** The Property shall be managed to control noxious weeds to the extent reasonably possible, in accordance with the Conservation Plan and State and local regulations.

H. **Other Restricted Uses.** Sod farms, helicopter pads and airstrips are prohibited.

7. **Responsibilities of Grantor and Grantee Not Affected.** Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee or the United States, or in any way to affect any existing obligations of Grantor as owner of the Property. Additionally, unless otherwise specified below, nothing in this Deed shall require Grantor to take any action to restore the condition of the Property after any Act of God or other event over which Grantor had no control. Grantor shall continue to be solely responsible and Grantee and the United States shall have no obligation for the upkeep and maintenance of the Property and Grantor understands that nothing in this Deed relieves Grantor of any obligation or restriction on the use of the Property imposed by law. Among other things, this shall apply to:

A. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including weed control and eradication and including the maintenance of adequate comprehensive general liability insurance coverage. Except as permitted in Section 20, Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

B. **Taxes.** Grantor shall continue to be solely responsible for payment before delinquency of all taxes and assessments levied against the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor will reimburse Grantee for the same. If for any reason Grantor fails to pay any taxes, assessments or similar requisite charges, Grantee may pay such taxes, assessments or similar requisite charges, and may bring an action against Grantor to recover all such taxes, assessments and similar charges plus interest thereon at the rate charged delinquent property taxes by the county assessor's office in which the Property is located.

C. **Liability.** Grantor shall indemnify, defend, and hold Grantee and its members, officers, directors, employees, agents, and contractors (collectively, the "Indemnified Parties") harmless from and against any and all loss, damage, cost, or expense, including reasonable attorneys' fees, arising from or in any way related to: (i) injury to or the death of any person, or damage to property, occurring on or about or related to the Property, unless due solely to the gross negligence or intentional acts of any of the Indemnified Parties; (ii) the obligations



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under this Section 7 or (iii) the presence or release of hazardous materials on, under, or about the Property under Section 6(F) and (iv) the violation or alleged violation of, or other failure to comply with any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and state hazardous waste statutes, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property. Grantee shall indemnify, defend and hold Grantor and its assigns, successors and heirs harmless from and against any and all loss, cost or expense, including reasonable attorney's fees, arising from or in any way related to injury to or death of any person occurring on or about or related to the Property arising out of the Indemnified Parties' actions on the Property.

In addition, Grantor shall indemnify, defend and hold harmless the United States from and against any and all loss, damage, cost or expense, including reasonable attorneys' fees arising from or in any way related to: (i) injury to or the death of any person, or damage to property, occurring on or about or related to the Property, unless due solely to the gross negligence or intentional act of the United States and (ii) the obligations under this Section 7. The United States shall not be held accountable for any acts committed by Grantee or Grantor in violation of the terms of this Deed or applicable state, local or federal laws.

8. **Enforcement.** Grantee shall have the right to prevent and correct or require correction of violations of the terms of this Deed and Purposes of this Easement anywhere on the Property. In those cases where Grantee determines that immediate entry is required to inspect for, prevent, terminate, or mitigate a violation of this Easement, Grantee may enter the Property without advance notice. If Grantee finds what it believes is a violation that cannot be resolved after discussions with the Grantor, Grantee shall notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall immediately cease the alleged violation and either (a) if necessary, restore or remediate the Property to its condition prior to the violation or (b) provide a written plan for restoration and remediation of the Property acceptable to Grantee. If within sixty (60) days of Grantor's receipt of said written notice, Grantor is unable or unwilling to cease the immediate alleged violation, restore or remediate the Property to its condition prior to the violation or provide a written plan for restoration and remediation of the Property acceptable to Grantee, Grantee shall notify the Board and the United States in writing of the nature of the alleged violation. Grantor or Grantee may mutually decide to mediate easement violation issues. However, at any time, either party may bring an action in a court of competent jurisdiction to resolve enforcement matters. At any point in time, the Grantor or Grantee may take appropriate legal action including an injunction to stop the alleged violation. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit, and attorneys' fees and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor unless the deciding body determines that Grantee has acted in bad faith in seeking to enforce this Easement, in which case, each Party shall be responsible for their own costs. The parties will share equally in the mediation fees. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of Conservation Values. The failure of Grantee to discover a violation or to take action shall not waive any of Grantee's rights, claims or interests in pursuing any such action at a later date.



9. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee. Any forbearance by Grantee to exercise its rights under this Easement shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

10. **Transfer of Easement.** Grantee shall have the right to transfer this Easement to any public agency or private non-profit organization that, at the time of transfer, is a "qualified organization" under § 170(h) of the U.S. Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and under C.R.S. §§38-30.5-101, *et seq.*, and only if the agency or the organization expressly agrees to assume the responsibility imposed on Grantee by this Easement. Except if in the event the United States has assumed the role of Grantee as set forth in Section 16, Grantee shall obtain permission from Grantor in advance of any proposed transfers, and such permission shall not be unreasonably withheld. Additionally, Grantee shall provide the Board and the United States with a written request to assign the Easement at least forty-five (45) days prior to the date of the assignment transaction, and the receiving agency or organization must be approved in writing as a transferee by the Board and the United States. Grantor intends that any "qualified organizations" receiving this Easement be committed to sustaining agricultural opportunities for the Property if feasible. Examples of such organizations include the Colorado Cattlemen's Agricultural Land Trust and the American Farmland Trust. If Grantee desires to transfer this Easement to a qualified organization having similar purposes and mission as Grantee and that agrees to assume responsibility of enforcing this Easement, but Grantor, the Board, or the United States unreasonably refuses to approve the transfer, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes and mission as Grantee and that agrees to assume responsibility of enforcing this Easement, provided that Grantor, the Board, and the United States receive notice of and an opportunity to participate in the court proceeding. The Board shall have the right to require Grantee to assign its rights and obligations under this Easement to a different organization if Grantee ceases to exist, no longer qualifies under federal or state law, or for any reason fails or refuses to enforce the terms and provisions of this Easement. If Grantee ceases to exist or no longer qualifies under federal or state law prior to an assignment of this Easement and if the United States declines to exercise its rights as set forth in paragraph 16, then the Easement shall automatically revert to an organization designated by the Board that is a qualified organization at the time of transfer under § 170(h) of the U.S. Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and under C.R.S. §§38-30.5-101, *et seq.*, and having similar purposes and mission as Grantee.

11. **Transfer of Property.** Any time the Property itself is transferred by Grantor to any third party, Grantor shall notify Grantee, the Board and the United States of the impending transfer prior to the date of such transfer, and Grantor shall pay a \$100 transfer fee to Grantee within five (5) business days after closing in writing using the form in **Exhibit D** attached hereto. The document of conveyance shall expressly refer to this Deed of Conservation Easement. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of all or a portion of the Property. The failure of Grantor to



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perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

12. **Real Property Interest.** This Easement constitutes a real property interest immediately vested in Grantee. The parties stipulate that this Easement has a fair market value equal to 56 percent (56%) of the full fair market value of the Property, as unencumbered by the Easement, on the date this Easement is first recorded. The values at the time of this Easement shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this Grant, pursuant to Section 170(h) of the Internal Revenue Code of 1986, as amended whether or not Grantee claims any deduction for federal income tax purposes. For the purposes of this Easement, the ratio of the value of the Easement to the value of the Property as unencumbered by the Easement shall remain constant.

13. **Condemnation or Other Extinguishment.** If the Grantor or Grantee becomes aware that all or any part of the Property or this Easement may be taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation so as to terminate this Easement in whole or in part, the Grantor or Grantee shall promptly notify and consult with the Board and the United States. Because of the United States' interest in this Easement, the United States must consent to any condemnation action. If this Easement is taken, in whole or in part, by exercise of the power of eminent domain, or if circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The total loss of all the Conservation Values and the inability to further the purposes of this Easement are the only grounds under which this Deed can be terminated. Each party shall promptly notify the other when it learns of such circumstances, and shall, in addition, notify the Board and the United States in writing of such circumstances. Upon such termination, Grantee may use the endowment funds associated with this Deed for purposes consistent with Grantee's organizational mission. Grantee shall be entitled to compensation in accordance with applicable law, after the satisfaction of prior claims, from any sale, exchange, condemnation, or other involuntary or voluntary conversion of all or any portion of the Property subsequent to such termination or extinguishment. Grantee's compensation shall be an amount equal to the Easement value percentage listed in Paragraph 12 above, multiplied by the amount of the full proceeds from any sale, exchange, condemnation, or other involuntary or voluntary conversion of all or a portion of the Property. Grantee's use of the proceeds shall comply with Treasury Regulation §1.170A-14(g)(6)(i). The Board shall be entitled to receive 61.1 percent (61.1% of Grantee's compensation, which figure is equal to that portion of the Board's grant attributable to the fair market value of the Easement (the "Board's Proceeds"). The United States shall be entitled to receive 38.6 percent (38.6%) of Grantee's compensation, which figure is equal to that portion of the United States' funds attributable to the fair market value of the Easement (the "United States' Proceeds"). Grantee shall remit promptly to the above parties their respective shares of the proceeds.

14. **Perpetual Duration.** This Easement shall be a servitude running with the land in perpetuity. Every provision of this Deed that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear; provided, however, that either party's rights and obligations under this



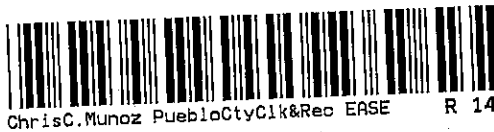
Easement shall terminate (as to such party, but not as to such party's successor, who shall be bound as provided herein) upon a transfer of such party's entire interest in this Easement or the Property (provided that the Board and the United States have consented to a transfer of this Easement), except that liability of such transferring party for act or omissions occurring prior to such transfer shall survive the transfer.

15. ***Change of Circumstance.*** The fact that any use of the Property that is expressly prohibited by this Easement, or any other use as determined to be inconsistent with the Purpose of this Easement, may become greatly more economically valuable than permitted uses, or that neighboring properties may in the future be put entirely to uses that are not permitted thereunder, has been considered by the Grantor in granting this Easement. It is Grantor's belief that any such changes will increase the benefit to the public of the continuation of this Easement, and it is the intent of both Grantor and Grantee that any changes should not be assumed to be circumstances justifying the termination or extinguishment of this Easement pursuant to this section. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment pursuant to this section.

16. ***Contingent Right in the United States of America.*** In the event that Grantee fails to enforce any of the terms of this Easement, as determined at the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture and his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Grantee attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this Easement or extinguish the Conservation Easement without the prior consent of the Secretary of the United States Department of Agriculture and payment of consideration to the United States, then, at the option of such Secretary, all right, title, and interest in this Easement shall become vested in the United States of America.

17. ***Notice of Intention to Undertake Certain Permitted Actions.*** The purpose of requiring Grantor to notify Grantee prior to Grantor undertaking certain permitted activities is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intend to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

18. ***Grantee's Approval.*** Where Grantee's approval is required Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.



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19. **Notices.** As specified here in, any notices required by this Deed shall be sent as appropriate to Grantor, Grantee, the Board, and the United States respectively at the following addresses, unless a party has been notified by the other of a change of address:

Grantor: George Wesley and Lisa A. Pigg
5380 I-25 South
Pueblo, CO 81004
Phone: (719) 676-7444

Grantee: Colorado Open Lands
274 Union Blvd., Suite 320
Lakewood, CO 80228
(303) 988-2373

To the Board: Executive Director
State Board of the Great Outdoors Colorado Trust Fund
1600 Broadway, Suite 1650
Denver, CO 80202

To the United States: State Conservationist
Natural Resources Conservation Service
655 Parfet St., Room E200C
Lakewood, CO 80215-5517

20. **Subsequent Liens on the Property.** No provisions of this Deed should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, agricultural operating loans, or other financial leveraging opportunity, provided that any mortgage or lien arising from such a borrowing would be subordinated to this Easement.

21. **No Merger.** No merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement, unless the parties expressly state that they intend a merger of estates or interests to occur and the parties have also obtained the prior written consent of the Board and the United States approving such merger of estates or interests.

22. **Grantor's Representations and Warranties.**

A. Grantor warrants that Grantor has good and sufficient title to the Property, free from all liens and encumbrances securing monetary obligations except ad valorem property taxes for the current year, and hereby promises to defend title to the Property against all claims that may be made against it by any person claiming by, through, or under Grantor.

B. "Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water,



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solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property.

Grantor warrants that it has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Property. Moreover Grantor hereby promises to defend and indemnify the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Property by Grantee.

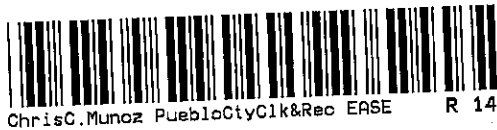
23. **Acceptance.** Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed.

24. **General Provisions:**

A. **Severability.** If any provision of this Deed, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

B. **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

C. **Waiver of Defenses.** Grantor hereby waives any defense of laches, estoppel or prescription and acknowledges and agrees that the one-year statute of limitation provided



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under C.R.S. § 38-41-119 does not apply to this Easement, and Grantor waives any rights of Grantor pursuant to such statute.

D. **Controlling Law and Interpretation.** This Easement shall be performed and broadly interpreted under the laws of Colorado and the laws of the United States, resolving any ambiguities and questions of the validity of specific provisions so as to favor maintaining the Conservation Values of the Property.

E. **Counterparts.** The parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it; all counterparts, when taken together, shall constitute this instrument.

F. **Amendment.** If the circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will confer a private benefit to the Grantor or any other individual greater than the benefit to the general public (see IRS Reg. 1.170A-14(h)(3)(i)) or result in private inurement for a Board member, staff or contract employee of Grantee (see IRS Reg. 1.501(c)(3)-1(c)(2)), or affect the qualifications of this Easement under any applicable laws and provided, further, that the prior written approval of the Board and the United States shall be required. Any amendment must not be inconsistent with the preservation and protection of the Conservation Values of the Property and shall not affect the perpetual duration of the Easement. Grantee shall have the right to charge a fee to Grantor for time and costs associated with any amendment. Any amendment must be in writing, signed by both parties, and recorded in the official records of Pueblo County, Colorado.

G. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the terms of this Easement and supercedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this Easement, all of which are merged herein.

H. **Termination of the Board.** In the event that Article XXVII of the Colorado Constitution, which established the State Board of the Great Outdoors Colorado Trust Fund, is amended or repealed to terminate the Board or merge the Board into another entity, the rights and obligations of the Board hereunder shall be assigned to and assumed by such other entity as provided by law, but in the absence of such direction, by the Colorado Department of Natural Resources or its successor.

I. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of C.R.S. §38-30.5-101 *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.



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J. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

K. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

25. **Development Rights.** Grantor hereby grants to Grantee all development rights except as specifically reserved herein, and the parties agree that such rights are terminated and extinguished.

26. **Recording.** The Grantor shall record this Deed in timely fashion in the official records of Pueblo County, Colorado, and Grantee may re-record it at any time as may be required to preserve its rights in this Easement.

TO HAVE AND TO HOLD, this Deed of Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.



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GRANTOR:

By:

George Wesley Pigg
George Wesley Pigg

By:

Lisa A. Pigg
Lisa A. Pigg

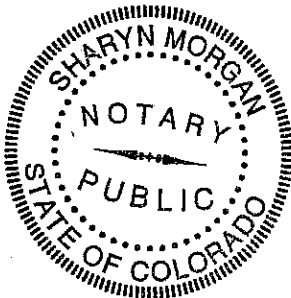
STATE OF COLORADO)

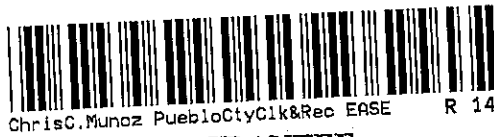
COUNTY OF Pueblo) ss.

The foregoing instrument was acknowledged before me this 19th day of November, 2004, by George Wesley Pigg and Lisa A. Pigg in their individual capacity as owners.

Witness my hand and official seal.

My commission expires:

10/21/06Sharyn Morgan
Notary Public

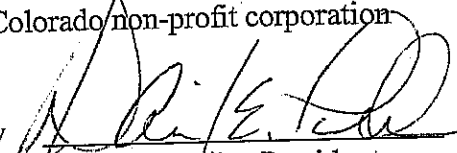


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GRANTEE:

COLORADO OPEN LANDS,
a Colorado non-profit corporation

By


Daniel E. Pike, President

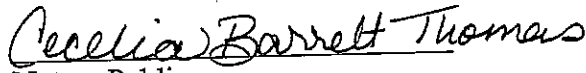


STATE OF COLORADO)
COUNTY OF Jefferson) ss.

The foregoing instrument was acknowledged before me this 18th day of November, 2004, by Daniel E. Pike as President of Colorado Open Lands, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires: 11-21-2004


Notary Public



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ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES CONSERVATION SERVICE

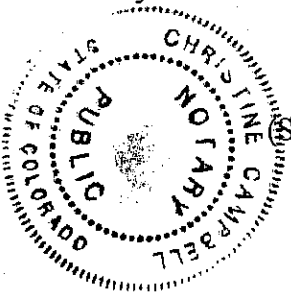
The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing conservation easement deed, and the rights conveyed therein, on behalf of the United States of America.

[Signature: Karen R. Garner]
 101 Authorized Signatory for the NRCS

COUNTY OF Jefferson)
) ss.
 STATE OF Colorado)

The foregoing instrument was acknowledged before me this 17th day of November, 2004, by KAREN R. GARNER, Acting State Conservationist (title) of the Natural Resources Conservation Service, United States Department of Agriculture, who is authorized to sign on behalf of the agency, and acknowledged and accepted the rights conveyed by the deed to be her/his voluntary act and deed.

Witness my hand and official seal.



(SEAL)

[Signature: Christine Campbell]
 Notary Public

My Commission Expires: February 14, 2006

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EXHIBIT ALegal Description of the Property

Section 3: The SE1/4, the NE1/4 of the SW1/4 South of Burnt Mill Road, and the triangular piece of property, formed by the following three points: the SE corner of the NE1/4 of the SQ1/4 of Section 3, a point 417 feet West of the first point, and a point 417 feet South of the first point.

All in Township 23 South, Range 66 West of the 6th P.M., County of Pueblo, State of Colorado.



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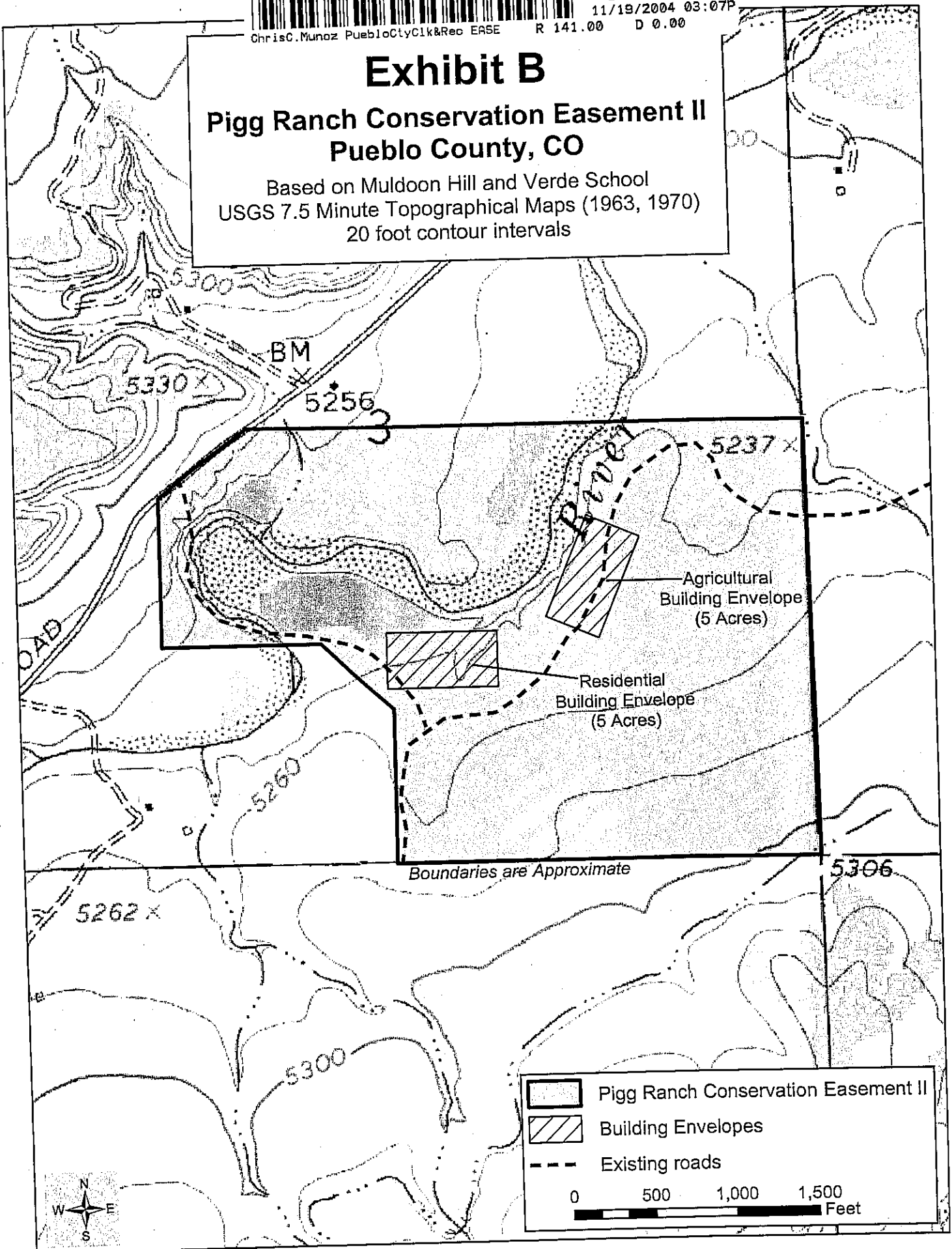
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Exhibit B

Pigg Ranch Conservation Easement II Pueblo County, CO

Based on Muldoon Hill and Verde School
USGS 7.5 Minute Topographical Maps (1963, 1970)
20 foot contour intervals



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EXHIBIT CWater Rights

An undivided 1/6 interest in the Pollard Ditch in accordance with the following table:

Upper St Charles priorities:

<u>ID</u>	<u>Ditch</u>	<u>Date</u>	<u>District Priority</u>	<u>Amt CFS</u>	<u>Cumm. CFS</u>
516	Pollard Ditch	12/15/1866	29	4.0	4.0
518	Pollard Ditch	12/31/1886	170	2.0	6.0



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EXHIBIT D

Sample Notice of Transfer of Property

To: Colorado Open Lands ("Grantee")
 From: [Insert name of fee owner] ("Grantor")

Pursuant to Section 10 of the Deed of Conservation Easement, Grantee is hereby notified by Grantor of the transfer of the fee simple interest in the subject Property legally described in **Exhibit A** attached hereto effective [insert date of closing] to [insert name of new Grantor], who can be reached at [insert name, legal address, phone and fax number].

GRANTOR:

By: _____
 Title: _____

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
 200__, by _____ as _____ of _____.

Witness my hand and official seal.
 My commission expires: _____

 Notary Public

Date: _____