

After Recording Please Return to:
Allan C. Beezley, P.C.
1919 14th Street, Suite 300
Boulder, CO 80302
303-440-5867
Attorney for Grantor

DEED OF CONSERVATION EASEMENT

(Colorado Open Lands - Conrad W. Nelson)

(Chaffee County)

THIS DEED OF CONSERVATION EASEMENT is granted on this 30th day of December 1998 by CONRAD W. NELSON, whose address is P.O. Box 609, Buena Vista, CO 81211 ("Grantor"), to COLORADO OPEN LANDS, a Colorado non-profit corporation ("Grantee"), whose address is Suite C-2050, 5555 DTC Parkway, Englewood, CO 80111. The following exhibits are made a part of this Deed of Conservation Easement:

- Exhibit A - Description of Property
- Exhibit B - Map of Property, including location of Parcels and Building Areas

RECITALS:

- A. 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 320 acres of land located in Chaffee County, State of Colorado (the "Property").
- B. Grantee is a "qualified conservation organization," as defined in Section 170(h) of the Internal Revenue Code and a charitable organization as required under Section 38-30.5-104 (2), Colorado Revised Statutes (C.R.S.).
- C. The Property possesses agricultural, ecological, riparian, educational, historic, open space, recreational, scenic and wildlife values (collectively, the "Conservation Values") of great importance to Grantor, the people of Chaffee County, Colorado, and the people of the State of Colorado. Specifically, the Property contains approximately 60 acres of mature and maturing forest at its west end, including ponderosa pine, Douglas fir, and piñon pine trees. This forest is being by extended by Grantor through the extensive planting of seedling trees on open hillsides and in gullies created by erosion. Silver Prince Creek runs diagonally through the Property, and its highly diverse ecology is an important area for protection and restoration. Sizable herds of elk and pronghorn frequently use the open and forested lands which make up the Property as grazing and browsing habitat.
- D. C.R.S. Section 33-1-101, *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." Additionally, C.R.S. Section 35-1-101, *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." C.R.S. Section 38-30.5-101, *et seq.*, provides for

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the establishment 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. The Conservation Values and the characteristics, current use, and status of improvements on and development of the Property as of the date of this Deed are further documented in a "Present Condition Report," which report will be acknowledged as accurate by Grantor and Grantee by February 15, 1999. The Present Condition 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 Condition 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.

F. Grantor intends to convey this Deed of Conservation Easement to Grantee for the exclusive purpose of assuring that the Conservation Values of the Property will be conserved and maintained forever, and that uses of the Property that are inconsistent with the Conservation Values will be prevented or corrected. The parties agree, however, that the current use of, and improvements to, the Property are consistent with the Conservation Values.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, 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. Section 38-30.5-101, *et seq.*, and of the nature and character described in this Deed, for the purpose of conserving and forever maintaining the Conservation Values of the Property.

1. **Purpose.** The purpose and intent of this Conservation Easement are to preserve and protect in perpetuity the Conservation Values of the Property. It is also the purpose of this Conservation Easement to permit other uses of the Property, which uses are expressly described herein, and which are consistent with the protection of the Conservation Values of the Property. It is also the purpose of this Conservation Easement to prevent unforeseen commercial or governmental intrusions into the Property, such as, but not limited to, cellular phone towers, roads, utility stations, etc.
2. **Rights of Grantee.** To accomplish the purpose of this Deed the following rights are hereby conveyed to Grantee:
 - A) To preserve and protect the Conservation Values of the Property;
 - B) To enter upon the Property at reasonable times, in order to monitor Grantors' compliance with and otherwise enforce the terms of this Deed; provided that, except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Deed, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and
 - C) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Deed and to require the restoration of such areas or features of the Property that may be damaged by an inconsistent activity or use.

3. **Permitted and Prohibited Acts.** Any activity on or use of the Property inconsistent with the purpose of this Deed is expressly prohibited. Without limiting the generality of any of the foregoing, Grantor and Grantee hereby acknowledge and agree:
- A) **Designation of Parcels; Subdivision.** The Property may be divided into not more than two Parcels, referred to as "Parcel A" and "Parcel B", each of which may be separately owned, encumbered and conveyed but such separately divided parcels at all times shall remain subject to the terms and provisions of this Deed. It is anticipated that Parcel A will be approximately 240 to 260 acres in size and that Parcel B will be approximately 60 to 80 acres in size, and that the Parcels will be configured generally as shown on the attached Exhibit B. Any additional division or subdivision of the Property, whether by physical or legal process, is prohibited.
 - B) **Designation of Building Areas.** The Grantor has designated two Building Areas on the Property, one on Parcel A and one on Parcel B (the "Building Areas"). Building Area A is located on Parcel A and is an area of approximately forty (40) acres in size. Building Area B is located on Parcel B and is an area of approximately seven (7) acres in size. Both Building Areas are shown on the attached Exhibit B. The remainder of the Property is referred to as the "Open Area".
 - C) **Construction of Buildings and Other Structures.**
 - i) **Residential and Accessory Buildings.**
 - a) **Building Area A - Residential and Accessory Structures.** At the time of granting of this Deed, one single family Residence structure exists within Building Area A in the location shown on the Attached Exhibit B. The Residence is approximately 4,000 square feet with an attached garage of approximately 1,200 square feet. Grantor may construct, repair, maintain, reconstruct and reasonably enlarge (by not more than 50%) the single-family residence, together with reasonable appurtenances such as garages and sheds.
 - b) **Building Area A - Second House.** Within Building Area A the Grantor may construct, repair, maintain, reconstruct and reasonably enlarge (by not more than 50%) an additional single family residence, which residence shall not exceed 2,500 square feet of gross floor area (excluding basements), together with reasonable appurtenances such as garages (not to exceed 700 square feet of gross floor area) and sheds.
 - c) **Building Area B - Residential and Accessory Structures.** Within Building Area B, Grantor may construct, repair, maintain, reconstruct and reasonably enlarge one single-family residence, which residence shall not exceed 4,000 square feet of gross floor area (excluding basements) together with reasonable appurtenances such as garages and sheds.

- ii) ***Agricultural and Other Buildings and Structures.*** New agricultural buildings and improvements (i.e., barns, storage sheds, etc.) to be used solely for agricultural purposes, including the processing or sale of farm products predominantly grown or raised on the Property, may be constructed within the Building Areas on the Property without further approval of the Grantee. Agricultural buildings such as barns and storage sheds may be constructed on the Open Area of the Property with Grantee's prior written approval, which approval shall be given unless Grantee determines that the location of the proposed improvement materially adversely affects the Conservation Values of the Property. Structures which are associated with the production of energy to be principally consumed anywhere on the Property may be constructed, including wind, solar, hydroelectric, and wood-burning energy. Structures and facilities for the storage and treatment of animal waste solely produced on the Property, for irrigation of the Property, for farm pond impoundment, and for the purpose of soil and water conservation, are all permitted anywhere on the Property. Other buildings or structures, including microwave towers, are prohibited.
 - iii) ***Roads.*** The approximate location of the roads which access the Building Areas is shown on the attached **Exhibit B**. An additional road through Building Area A to the site of "Uncle Gus" cabin, the location of which is depicted on the attached **Exhibit B**, is permitted. The roads shall not be relocated, nor shall additional roads be constructed on the Property, without the approval of the Grantee, which approval Grantee may withhold unless Grantee determines that the location or relocation or any such road does not adversely affect the Conservation Values of the Property. Access to Building Area B will be from County Road 339, without entering Parcel A, unless forbidden by law.
 - iv) ***Fences.*** Grantor may repair or replace existing fences, and new fences may be built for purposes of reasonable and customary management of livestock and wildlife. Significant cross-fencing shall be discouraged (i.e., areas less than 20 acres within Parcel B and areas less than 30 acres in Parcel A.). Grantor may also construct fencing on the perimeter of and within a three (3) acre area surrounding each residence (the "Building Area fencing"). All fencing on the Property, with the exception of the Building Area fencing, shall be compatible with the movement of wildlife across the Property, as determined by the Colorado Division of Wildlife.
- D) ***Agricultural Uses.*** Agricultural uses of the Property are permitted. Those uses include:
- i) The use of non-forest land for the production of agricultural crops and livestock, limited to perennial forage, pasture crops, and agricultural crops which do not require significant tillage of the soil.
 - ii) Direct sale to the public of seasonal agricultural products, the majority of which shall have been produced on the Property.
 - iii) Production and grazing of livestock, equine animals, and fowl, including

breeding and training of such stock. Livestock operations are limited to no more than 10 animal units on the Property, with one animal unit being equal to 1,000 pounds of animal weight.

- iv) Other similar and directly associated agricultural uses which are compatible with the use of farm and ranch properties in Chaffee County, Colorado, and/or which are approved by Grantee upon written request of the Grantor.

- E) **Timber Harvesting.** Forest management activities are permitted, and trees may be cut to control insects and disease, to control invasive non-native species, and to prevent personal injury and property damage. Dead, deformed or diseased trees may also be cut for firewood and other uses on the Property. Tree thinning activities, including the conservative harvesting of mature trees, may take place to maintain or improve the character and nature of the habitat, and to preserve its value as winter range for deer, elk, pronghorn, and other wildlife. Tree planting activities are encouraged, but not required.

- F) **Mining.** The commercial mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance is prohibited. Notwithstanding the foregoing, soil, sand, gravel, or rock may be removed from portions of the Property only for use on the Property or in connection with the preservation, protection, or enhancement of wetlands located on the Property. The limited removal of soil, sand, gravel, and rock for use on the Property and for enhancement of wetlands on the Property shall be accomplished in a manner which is consistent with the Conservation Values expressed in this Deed and with Section 170(h) of the Internal Revenue Code and applicable regulations. Notwithstanding any other provision of this Deed, not more than one (1) surface acre of the property (which does not have to be contiguous) may be disturbed by mining or other extractive activities.

- G) **Trash.** The dumping or accumulation of any kind of trash or refuse on the Property is prohibited, except soil, sand, gravel, and tree refuse (such as branches, stumps, etc.) solely from the Property may be accumulated in gullies and other appropriate sites on the Property to achieve good conservation practices. This section shall not prevent the storage of agricultural products and byproducts on the Property, so long as the storage complies with all applicable governmental laws and regulations.

- H) **Water Rights.** Grantor shall retain, reserve, and preserve the right to use water rights associated with the Property, and shall not transfer, encumber, lease, sell or otherwise separate such water rights from title to the Property itself. Water rights legally owned from Silver Prince Creek or from legally established wells or purchased water augmentation may be used by Grantor to irrigate agricultural crops and supply livestock which are otherwise permitted under this Deed. To the extent that the Conservation Values would not be diminished or impinged, Grantor shall have the right to construct, maintain and improve irrigation fixtures, water wells and other water systems on the Property.

- I) **Commercial or Industrial Activity.** No commercial or industrial uses shall be allowed on the Property, except as otherwise expressly provided in this Deed.

- J) **Hazardous Materials.** The storage, dumping or the disposal of toxic and/or hazardous materials on the Property is prohibited. For the purpose of this paragraph, hazardous or toxic substances shall mean any hazardous or toxic substance which is regulated under any federal, state, or local law.
 - K) **Conservation Practices.** The property shall be managed in accordance with good conservation practices to prevent the following: (i) Overgrazing by livestock; (ii) Noxious weeds, to the extent reasonably possible; and (iii) Soil erosion.
 - L) **Recreation.** Noncommercial, passive recreational uses (i.e., hiking, picnicking, cross-country skiing, and snowshoeing) are permitted on the Property. Non-passive and/or commercial recreational use and development of the Property involving structures or significant acreage (i.e. golf courses, racetracks for uses other than equestrian riding and training, tennis courts and clubs, baseball, soccer and other ball fields, and other similar uses) are prohibited. Equine breeding and training facilities are not interpreted to be commercial recreational uses for purposes of this Deed. Motorized recreational vehicles, such as all terrain vehicles and snowmobiles may be used only as necessary for the agricultural, management and/or forestry activities allowed herein. Recreational uses of such vehicles, and use of motorcycles, dirt bikes and other similar vehicles, is prohibited.
 - M) **Signs.** No-trespassing signs are permitted. Other signs may not exceed the combined area of 25 square feet, and may be displayed only for purposes of stating the name of the Property, stating the name and address of the occupant, advertising on-site activity which is otherwise permitted herein, and advertising the Property for sale or rent.
4. **Rights Retained by Grantor.** Grantor retains the right to perform any act not specifically prohibited or limited by this Deed. These ownership rights include, but are not limited to, the right to exclude any member of the public from trespassing on the Property, the right to sell or otherwise transfer the Property to anyone Grantor chooses, and the right to honor existing and to grant additional access easements across the Property.
5. **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 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 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) **Taxes.** Grantor shall continue to be solely responsible for payment 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 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.

- B) **Upkeep and Maintenance.** Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property, including weed control and eradication, to the extent it may be required by law. Grantee shall have no obligation for the upkeep or maintenance of the property.
- 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 under this Section 5; or (iii) the presence or release of hazardous or toxic substances on, under, or about the Property. For the purpose of this paragraph, hazardous or toxic substances shall mean any hazardous or toxic substance which is regulated under any federal, state, or local law.

6. **Enforcement.** Grantee shall have the right to prevent and correct or require correction of violations of the terms and purposes of this Deed. With reasonable advance notice to Grantor, Grantee may enter the Property for the purpose of inspecting for violations. If Grantee finds what it believes is a violation, Grantee shall notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall either (a) restore the Property to its condition prior to the violation or (b) provide a written explanation to Grantee of the reason why the alleged violation should be permitted. If the condition described in clause (b) above occurs, both parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute as outlined in Section 7 below. Grantor shall discontinue any activity which could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute within 60 days of Grantee's notice to Grantor of the alleged violation, or by such other date as the parties may mutually agree, the parties may take appropriate legal action. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may get an injunction to stop it, temporarily or permanently. A court may also issue an injunction to require Grantor to restore the Property to its condition prior to the violation. Any costs incurred by Grantee in enforcing the terms of this Deed 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 Deed, shall be borne by Grantor unless a court with jurisdiction determines that Grantee has acted in bad faith in seeking to enforce this Deed. Grantee's remedies described in this paragraph 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 scenic or environmental values. Notwithstanding any requirement of mediation outlined herein, if Grantee, in its sole and absolute discretion, determines that there is imminent harm or danger to the Property or the Conservation Values, then Grantee may request a court of competent jurisdiction (via an *ex parte* hearing if necessary) to issue an injunction to stop it, temporarily or permanently. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from doing so at a later date.

7. **Mediation.** If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Deed, and Grantor agrees not to proceed with the use or activity pending resolution of the dispute, either party may refer the dispute to mediation by request made in writing upon the other. Within fifteen (15) days of the receipt of such request, the parties shall select a single trained and impartial mediator with experience in conservation easements and other land preservation tools. If the parties are unable to agree on the selection of a single mediator, then the parties shall, within fifteen (15) days of receipt of the initial request, jointly apply to a proper court for the appointment of a trained and impartial mediator with experience in conservation easements and other land preservation tools. Mediation shall then proceed in accordance with the following guidelines:
- A) **Purpose.** The purpose of the mediation is to: (i) promote discussion between the parties; (ii) assist the parties to develop and exchange pertinent information concerning the issues in dispute; and (iii) assist the parties to develop proposals which will enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or *de facto* modification or amendment of the terms, conditions, or restrictions of this Deed.
 - B) **Participation.** The mediator may meet with the parties and their counsel jointly or *ex parte*. The parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of the parties with settlement authority will attend mediation sessions as required by the mediator.
 - C) **Confidentiality.** All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the parties or their respective counsel. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceedings or construed as an admission of a party.
 - D) **Time Period.** Neither party shall be obligated to continue the mediation process beyond a period of 120 days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.
8. **Public Access.** Nothing herein contained 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 consistent with the terms of this Deed.
9. **Transfer of Easement.** Grantee shall have the right to transfer the easement created by this Deed to any public agency or private non-profit organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the United States Internal Revenue Code, and under C.R.S. Section 38-30.5-101, *et seq.*, only if the agency or the organization expressly agrees to assume the responsibility imposed on Grantee by this Deed, and only if the Grantor first approves the transfer in writing, which approval shall not be unreasonably withheld. If Grantee

ever ceases to exist or no longer qualifies under federal or state law, a court with jurisdiction shall transfer this easement to another qualified organization having similar purposes that is designated by the then owner of the Property and that agrees to assume the responsibility.

10. *Transfer of Property.* Any time the Property itself, or any interest in it, is transferred by Grantor to any third party, Grantor shall notify Grantee at least thirty (30) days in advance in writing, and the document of conveyance shall expressly refer to this Deed of Conservation Easement. Grantor's failure to comply with this requirement will not invalidate the conveyance.
11. *Termination of Easement.* If a court with jurisdiction determines that conditions on or surrounding the Property change so much that it becomes impossible to fulfill any of its conservation purposes, the court, at the joint request of Grantor and Grantee, may terminate the easement created by this Deed. Grantor and Grantee agree that the granting of this Deed immediately vests Grantee with a property right, which the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable solely to improvements which are allowed by this Easement) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. Grantor and Grantee further agree that this ratio shall remain constant, so that should the easement created by this Deed be extinguished or terminated, Grantee shall be entitled to a portion of the proceeds from any subsequent sale, exchange or involuntary conversion. Grantee shall use the proceeds consistently with the conservation purposes of this Deed. This provision is intended to comply with Treasury Regulation Section 1.170A-14(g)(6)(i).]
12. *Perpetual Duration.* The easement created by this Deed 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 Deed 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 Deed or the Property, except that liability of such transferring party for act or omissions occurring prior to such transfer shall survive the transfer.
13. *Notices.* Any notices required by this Deed shall be in writing and shall be personally delivered to or sent by certified mail, return receipt requested, to Grantor and Grantee respectively at the following addresses, unless a party has been notified by the other of a change of address:

Grantor: Conrad W. Nelson
Box 609
Buena Vista, CO 81211

Grantee: Colorado Open Lands
Suite C-2050
DTC Parkway
Englewood, CO 80111

with a copy to Grantee's counsel:

William M. Silberstein, Esq.
Isaacson, Rosenbaum, Woods & Levy, P.C.
17th Street, Suite 2200
Denver, CO 80202

14. *Grantor's Representations and Warranties.*

- A) Grantor warrants that Grantor has good 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) Grantor represents and warrants that, after reasonable investigation and to the best of its knowledge:
 - i) No hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, deposited, or transported, in, on, or across the Property, and that there are not now any underground storage tanks located on the Property;
 - ii) Grantor and the Property are in compliance with all federal state, and local laws, regulations, and requirements applicable to the Property and its use;
 - iii) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and
 - iv) No civil or criminal proceeds or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use.

15. *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required.

16. *Acceptance.* Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Conservation Easement.

17. *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.
- D) *Interpretation.* This Deed shall be interpreted under the laws of Colorado, resolving any ambiguities and questions of the validity of specific provisions so as to give effect to its intended conservation purposes.
- 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 affect the qualifications of this easement under any applicable laws. Any amendment must be consistent with the conservation purposes of this easement and may not affect its perpetual duration. Any amendment must be in writing, signed by both parties, and recorded in the official records of Chaffee County, Colorado

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.

GRANTOR:

Conrad W. Nelson
Conrad W. Nelson

STATE OF COLORADO)
) ss.
COUNTY OF CHAFFEE)

The foregoing instrument was acknowledged before me this 30th day of December, 1998, by Conrad W. Nelson, as Grantor.

Witness my hand and official seal.

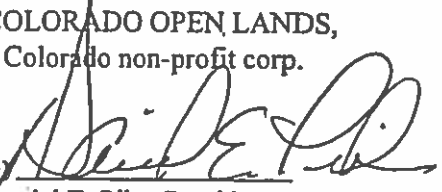
My commission expires: June 27, 2000

Linda K. Grover
Notary Public



GRANTEE:

COLORADO OPEN LANDS,
a Colorado non-profit corp.



By Daniel E. Pike, President

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 28th day of December, 1998, by Daniel E. Pike as President of Colorado Open Lands, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires: July 17, 2001



Notary Public

EXHIBIT A

Legal Description of the Property

Chaffee County, Colorado:

The South Half of Section 26, Township 14 South, Range 79 West of the 6th P.M., Chaffee County, Colorado, containing 320 acres, more or less.

