

NOTICE TO TITLE COMPANY: This Deed of Conservation Easement in gross requires one-hundred dollars (\$100.00) be paid to Aspen Valley Land Trust or its successor organization by the recipient at the time of every transfer of this Property, as described in Section 16. This payment is exempt from the transfer fee restrictions contained within C.R.S. 38-35-127.

DEED OF CONSERVATION EASEMENT IN GROSS

Two Shoes Ranch – Pitkin County

THIS DEED OF CONSERVATION EASEMENT IN GROSS (“**Easement**”) is granted this ___ day of _____, 2011, by 2343 COUNTY ROAD, LLC, a Colorado limited liability company (“**Grantor**”), to and for the benefit of ASPEN VALLEY LAND TRUST, a Colorado nonprofit corporation having offices at 320 Main Street, Suite 204, Carbondale, Colorado 81623 (the “**Trust**”)(collectively, the “**Parties**”).

The following exhibits are attached hereto and incorporated in this Easement by reference:

- Exhibit A: Property Legal Description,
- Exhibit B: Map of Property.

RECITALS

WHEREAS, Grantor is the sole owner in fee simple of 1,240 acres of real property, more or less, (formerly known as “Federal Parcel A”) acquired via land exchange with the United States Bureau of Land Management and located in Pitkin County, State of Colorado, more particularly described in Exhibit A herein (the “**Property**”);

WHEREAS, the Property possesses natural, scenic, open space, agricultural, and wildlife values (collectively, “**Conservation Values**”) of importance to Grantor, the Trust, and the people of the State of Colorado that are worthy of preservation;

WHEREAS, the Conservation Values of the Property are documented more specifically in the Baseline Documentation, described in Section 4 herein, and generally include the following, the protection of which are recognized under §170(h)(4)(A) of the Internal Revenue Code of 1986, as amended (“**IRC**”), and §1.170A-14(d) of the Treasury Regulations as valid conservation purposes:

- Relatively Natural Habitat [§ 1.170A-14(d)(3)]. The Property provides outstanding and varied natural habitat for many wildlife and plant species. Portions of Potato Bill Creek,

Thomas Creek, and other tributaries and drainages cross the Property, providing valuable wildlife and riparian habitat as well as helping to shape important areas of upland habitat, including high-quality sagebrush habitat, which is declining in Colorado and important to several species that depend on it. Notably, the Potato Bill drainage and Lion's Mane provide critical habitat for the Mount Sopris bighorn sheep herd, as well as potential nesting grounds for peregrine falcon. The Property also provides important winter habitat for mule deer and elk, calving grounds for elk, and habitat for songbirds sensitive to human disturbance. The northern half of the Property is located within the Crown Potential Conservation Area, designated by the Colorado Natural Heritage Program ("CNHP") as a conservation priority for its biodiversity rank of B2 (very high significance). A portion of the property is also habitat for Harrington penstemon (*penstemon harringtonii*), a plant species recognized as a "sensitive" plant species by Colorado BLM.

- Open Space [§ 1.170A-14(d)(4)]. The Property qualifies as open space because it will be preserved for the scenic enjoyment of the general public and is pursuant to a clearly delineated federal, state or local governmental conservation policy and will yield a significant public benefit.
 - Scenic Enjoyment. The Property lies on the northwestern flanks of Mount Sopris, and as such is a large part of the scenic rural landscape surrounding Mount Sopris from the Crystal River Valley and the Town of Carbondale. The Property consists of rolling and steep hillsides and open terrain visible to the general public from the West Elks Scenic Byway (State Highway 133) and Prince Creek Road (County Road 5), as well as from the public land on and surrounding Mount Sopris managed by the Bureau of Land Management ("BLM") and US Forest Service. These roads and natural areas are all open to and actively used by residents of Pitkin and Garfield Counties and the State of Colorado. The Property and surrounding areas are notable for a striking geographic feature known as the "Lion's Mane" that rises up from the north side of Potato Bill Creek, and is visible from Highway 133. The terms of the Easement do not permit a degree of intrusion or future development that would interfere with the essential scenic quality of the land.
 - Agriculture. The Property is currently used as agricultural range land, which use is compatible with other land use in the vicinity, as adjacent properties are also used for ranching and other agricultural production.
 - Governmental Policies. Conservation of the Property is promoted by the following governmental policies, laws and regulations of the State of Colorado, which support conservation of the Property relative to its scenic, wildlife habitat and natural area values:
 - The State of Colorado has recognized the importance of private efforts toward the preservation of natural systems in the State by the enactment of Colorado Revised Statutes ("C.R.S.") §§38-30.5-101 *et seq.* In addition, C.R.S. §33-1-101 provides in relevant part that "it is the 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. §38-30.5-102 provides for the creation of conservation easements to maintain land “in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest or other use or condition consistent with the protection of open land . . .”

- The Property contains significant sagebrush habitat and its conservation is therefore promoted by Colorado Parks and Wildlife (formerly the Colorado Division of Wildlife) (hereafter “CPW”), which lists sagebrush as a Key Habitat and Priority Action Area in its 2006 Comprehensive Wildlife Conservation Strategy and Wildlife Action Plans (“Plan”). In addition, the Property contains Tier 1 (including peregrine falcon) and Tier 2 (including bighorn sheep) Species of Greatest Conservation Need identified in this Plan.
- Significant Public Benefit. The Property is located in a rural, agricultural, mountainous area of Pitkin County, where there is a current and foreseeable trend of development in the vicinity of the Property. The Town of Carbondale lies three miles north of the Property, and there is a strong likelihood that residential or mineral development of the Property would contribute to degradation of the scenic and natural character of the area and the Highway 133 West Elk Scenic Byway. Preservation of the Property will continue to provide an opportunity for the general public to appreciate its scenic values, and will increase the amount of conserved land on the Crystal Island and Two Shoes Ranches and surrounding areas, which have been identified by the CPW, Colorado Natural Heritage Program and the Trust as a high priority for protection. The Property lies between and connects two existing conservation easements totaling 1,067 acres of Crystal Island Ranch, and the Trust holds conservation easements over an additional 422 acres land within one mile of the Property, all of which add to the habitat connectivity, open space and scenic integrity of the area.

WHEREAS, the Parties acknowledge that this Easement is intended to satisfy in part a provision of an administrative land exchange between Grantor and the U.S. Bureau of Land Management (the “Land Exchange”), and that this Easement is hereby being executed by Grantor and the Trust to be held in escrow by the Land Title Guarantee Company, and placed on the Property immediately upon acquisition of the Property by Grantor via the Land Exchange;

WHEREAS, Grantor intends, as owner of the Property, to convey to the Trust the right to preserve and protect the Conservation Values in perpetuity and the Trust agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values for the benefit of this generation and the generations to come;

WHEREAS, the Trust is a charitable organization as described in IRC §501(c)(3), and is a publicly-supported organization as described in IRC §170(b)(1)(A) whose primary purpose

is to permanently preserve and protect the natural, scenic, agricultural, historical, and open space resources of the greater Roaring Fork and Colorado River Valleys, including the area in which the Property is located, and who is a "qualified organization" to do so within the meaning of IRC §170(h)(3), possessing the resources and commitment to protect and defend the conservation purposes of this grant and Conservation Values identified herein;

WHEREAS, the Trust also meets requirements of Colorado law as a qualified recipient for a conservation easement under C.R.S. §38-30.5-104, and is accredited by the Land Trust Accreditation Commission for the term ending August 31, 2013; and

WHEREAS, the Board of Directors of the Trust has duly authorized the Trust's Executive Director or her designee to execute and accept conservation easements on behalf of the Trust.

AGREEMENT

NOW, THEREFORE, in consideration of the matters above, the mutual covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. GRANT

Grantor hereby voluntarily and irrevocably grants and conveys to the Trust a perpetual Conservation Easement in gross ("**Easement**"), pursuant to C.R.S. §§38-30.5-101 *et seq.*, through the terms mutually agreed to in this Easement, consisting of the rights and restrictions enumerated herein, over and across the Property, to hold said Easement unto the Trust and its successors and assigns forever. Grantor agrees that the donation of the Easement gives rise to a property right, immediately vested in the Trust, which shall constitute a binding servitude upon the Property and shall be subject to prior reservations, easements, encumbrances and exceptions of record, except as otherwise set forth herein.

2. PURPOSES

Pursuant to the terms of C.R.S. §§38-30.5-101 *et seq.*, the purposes of the Easement are to assure that the Property will remain forever predominantly in its scenic, natural and open space condition, subject to the uses of the Property permitted hereunder, including ongoing grazing and agricultural use, to protect and preserve the Conservation Values in perpetuity, to prevent any use of the Property that is inconsistent with the preservation and protection of the Conservation Values and, in the event of their degradation or destruction, to restore such Conservation Values as required herein. The primary purposes of this Easement are: 1) to preserve and protect important natural habitat, including critical bighorn sheep habitat on Potato Bill Creek and the Lion's Mane; 2) to protect scenic resources visible to the public; 3) to prevent subdivision and residential development on the Property; 4) to prevent mineral development of the Property; and 5) to preserve the Property's agricultural and ranching heritage. (This paragraph collectively describes the "**Purposes**" of this Easement.)

3. INTENT

Subject to the express reservations and prohibitions below, the intent of the Parties is to permit all specified uses of the Property and any other uses that are not inconsistent with the preservation and protection of the Conservation Values as determined by the Trust in its sole discretion. Nothing in this Easement is intended to prevent Grantor's quiet and reasonable enjoyment of the Property, or to compel a specific use of the Property other than the preservation and protection of the Conservation Values.

4. BASELINE DOCUMENTATION

The Parties acknowledge that a Baseline Documentation of the Conservation Values and relevant features of the Property has been prepared by Colorado Wildlife Science, LLC of Basalt, Colorado, a company familiar with conservation easements, the Property, and the environs, and is on file with the Parties. The Trust and Grantor acknowledge and agree that by the execution of this Easement, they hereby approve, acknowledge, and accept the Baseline Documentation as an accurate representation of the condition of the Property at the time of this grant. The Parties agree that the Baseline Documentation is not intended to preclude the use of other evidence to establish the present condition of the Property should a controversy arise over its use.

5. RIGHTS OF THE TRUST

To fulfill the Purposes of this Easement, Grantor hereby conveys to the Trust a property right and interest in the form of this Easement, which immediately vests with the Trust (as agreed in Section 1 and stipulated in Section 14.3, herein), and includes the following affirmative rights:

5.1. All development rights deriving from, based upon, or attributable to the Property in any way ("Trust's Development Rights"), except those expressly reserved by Grantor in Section 7 herein, and the Parties agree that Trust's Development Rights shall be held by the Trust in perpetuity in order to fulfill the Purpose of this Easement, and to ensure that such rights are forever released, terminated and extinguished as to Grantor. The grant of this Easement shall not entitle Grantor to increase development density on adjacent properties owned by Grantor, or to create any transferrable development rights from the Property onto such adjacent properties;

5.2. The right to preserve and protect the Conservation Values in perpetuity;

5.3. The right to enter upon the Property at least annually at reasonable times agreed to mutually by Grantor and the Trust to inspect the Property thoroughly, to monitor Grantor's compliance with, and otherwise enforce the terms of this Easement; provided that such entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property, with the exception that, upon an advanced good faith attempt to contact Grantor verbally or electronically, the Trust may immediately enter upon the Property in the event the Trust

reasonably believes that such entry is essential to prevent or mitigate a violation of the Easement;

5.4. The right, as an interest owner in the Property, to prevent or enjoin Grantor or third parties (whether or not invitees of Grantor) from conducting any activity on, or use of, the Property that is inconsistent with the purposes of the Easement; and the right to require Grantor or third parties, as may be responsible, to restore such areas or features of the Property that are damaged by any inconsistent activity or use, subject to the qualifications of Section 13.5 herein;

5.5. Any other rights that the Parties may approve consistent with the purposes of the Easement, including adding additional purposes or defining additional Conservation Values; and

5.6. The right, as an interest owner in the Property, to receive notification of and to join Grantor as a necessary party to any condemnation or eminent domain proceedings, or agreements, damage agreements or rights-of-way that may be proposed, granted or required as a result thereof with the potential to impact the surface of the Property or its Conservation Values.

6. RIGHTS OF GRANTOR

Grantor reserves to itself and to its personal representatives, heirs, successors, and assigns, all rights and obligations accruing from its ownership of the Property, including the right to engage in all uses of the Property not prohibited herein that are not inconsistent with the preservation and protection of the Conservation Values, pursuant to IRC §170(h)(3) and C.R.S. §38-30.5-102.

7. PROHIBITED AND PERMITTED USES

The following uses and practices by Grantor, though not an exhaustive recital, are either prohibited or permitted by this Easement. Certain of these uses, where specifically indicated, require notice to or approval from the Trust, or both, according to the procedures described in Sections 10 and 11 herein. Trust's prior notice and approval is required for uses not expressly described herein when there is a question as to consistency with the preservation and protection of the Conservation Values.

7.1. Development Rights and Improvements. The construction, improvement, placement, or replacement of any improvements (defined as buildings, structures, mobile homes or other physical, human-introduced development of or on the Property, including landscaping, fences, wells, roads, septic systems, utilities, etc.) are prohibited on the Property, except as follows:

A. Fencing. Grantor may repair and replace existing fences, provided any replacement fencing in a wildlife migration corridor is consistent with the then-current CPW guidelines so as to permit the movement of wildlife across the wildlife

migration corridor. Grantor may construct new fences needed for agricultural purposes (e.g. cattle and range management), provided such new fencing is consistent with CPW fencing guidelines. In addition, the existing fence line on the north end of the Property, between the Property and the adjacent Prince Creek Subdivision, shall be maintained by Grantor at Grantor's expense.

B. Roads, Bridges and Trails. Existing primitive roads may be maintained, but shall not be substantially improved, widened or relocated, nor additional roads constructed, without approval of the Trust. Paving of roads on the Property is prohibited. In particular, Grantor may maintain the primitive road that exists along Thomas Creek and make minor or low-impact (as defined in Section 21.1 herein) improvements to this road to permit safe transit across the Property by adding gravel, culverts, or repairing ruts, and may repair and maintain existing single-lane bridges. The construction of new bridges or replacement of existing bridges shall only be done with the approval of the Trust.

The development and use of unimproved, natural-surfaced trails not to exceed three feet in width is permitted for agriculture, property maintenance and other approved uses in a manner that minimizes erosion and disturbance to the Property's wildlife and scenic values. Any new trails within the Lion's Mane / Potato Bill Creek area of the Property shown on Exhibit B must be approved by the Trust in consultation with CPW.

C. Utilities, Wells and Other Technology. Grants of easements and rights-of-way for, and the installation of utilities, utility lines, pipelines, water wells, pumps, communications technologies and all related infrastructure (collectively "Utilities") is prohibited without prior approval from the Trust, except that:

a. Agricultural water wells, pumps, stock watering tanks, wildlife water guzzlers, and low-impact or portable water storage tanks are permitted as necessary for livestock and wildlife use, and management of the Property for such purposes, and any such existing structures or facilities shall be permitted to continue and may be maintained or replaced with similar structures or facilities;

b. Low-impact (as defined in Section 21.1) utilities, such as fence-mounted solar panels or network routers may be located on the Property without further notice to or approval from the Trust;

c. The Property may be used by Grantor for purposes of micro-hydro electric development in the Thomas Creek watershed only, as may be permitted in accordance with all applicable laws (as defined in Section 21.1) and upon prior notice to the Trust.

Grantor shall promptly reseed and restore any surface impacts that result from the installation or maintenance of any permitted Utilities or related improvements to

the Property to as close to the Property's original condition as possible within three months, weather permitting, or an alternate time period approved by the Trust.

7.2. Resource Management and Use. Grantor recognizes the importance of good resource management and stewardship to preserve and protect the Conservation Values. Accordingly, Grantor agrees not to alter the topography of the Property through placement or removal of soil, gravel, land fill, or other materials nor to impair the relatively natural habitat for native plants (including Harrington penstemon habitat), wildlife, or similar ecosystems within and upon the Property, except: (a) as necessary in emergencies, including for fire control and prevention; (b) for weed control as described in subsection F, below; (c) as approved by the Trust and any required permitting agencies for habitat enhancement or restoration purposes; (d) as specifically permitted for improvements described in Section 7.1 above; and (e) as necessary for the uses described below, which shall be conducted in a manner not inconsistent with the preservation and protection of the Conservation Values:

A. Agriculture and Livestock Grazing. Grazing of horses and livestock and leasing of grazing rights is permitted on the Property in a manner that does not result in degradation of wildlife habitat, or significant soil erosion or low soil quality as determined by the Natural Resource Conservation Service or its successor organization ("NRCS"). To that effect, grazing shall be managed in accordance with a grazing management plan prepared by a competent professional acceptable to the Trust and the CPW. Such plan may be periodically amended upon approval by the Trust in consultation with CPW. The following agricultural and livestock husbandry practices are specifically prohibited:

- a.* Intensive growth livestock farms or commercial feed lots, defined as confined areas or facilities on the Property, within which the land is not grazed or cropped annually, for purposes of extended feeding and finishing of large numbers of livestock for commercial purposes;
- b.* Grazing or keeping of domestic sheep on the Property without CPW consent;
- c.* Clearing or conversion of native rangeland or habitat to create new pastures without approval of the Trust in consultation with CPW;
- d.* Tilled cultivation of crops, including tree farms or sod farms;
- e.* Fish hatcheries or other aquaculture; and
- f.* Commercial horse boarding.

B. Use of Vehicles Off-Road. Grantor's private use of vehicles off roads is permitted only in a manner that does not result in erosion of or significant compaction to the Property's soils, harassment of wildlife, or damage to the natural vegetation, ecosystems or scenic values of the Property. Commercial or public use

of vehicles off roads is prohibited on the Property, except for private or guided hunting purposes permitted by Grantor, as described in the following paragraph;

C. Hunting. Hunting and the leasing of hunting rights on the Property is permitted in accordance with all applicable laws, and may include guided hunting for youth, veterans and handicapped individuals per agreement with CPW;

D. Trash. Grantor shall not dump, permanently accumulate, or dispose of trash, garbage, or other hazardous or unsightly refuse on the Property, except for agricultural by-products and compostable matter (including chipped, diseased or dead wood resulting from habitat improvement or fire control) produced or used on the Property;

E. Habitat and Vegetation Management. Grantor shall manage big game, habitat and vegetation on the Property according to a management plan prepared by a qualified expert satisfactory to the Trust and CPW, at Grantor's expense, which shall be designed to protect critical bighorn sheep and other wildlife habitat on the Property. Such plan may be periodically updated or amended upon approval by the Trust, and will recognize Grantor's right to cut, thin or burn trees and native vegetation on the Property on a limited and localized basis to control weeds, insects, fire and disease; to prevent personal injury and property damage; for domestic and agricultural uses on the Property such as firewood collection and construction of permitted fences; or to otherwise maintain the character and health of the wildlife habitat or ecosystem;

F. Weed Control. Grantor agrees to control noxious weeds and invasive plant species on the Property in accordance with the Colorado Noxious Weed Act (23 January 2006), or as such Act may be amended, and other applicable laws (as defined in Section 21.1), and shall not intentionally introduce noxious weeds or other invasive species to the Property;

G. Minerals. At the time of granting the Easement, Grantor owns all of the mineral rights associated with the Property. Grantor shall not lease, sever or separate the ownership of such rights from the Property, nor permit the exploration for, development or mining of or other extraction of any minerals, coal, peat, sand, gravel, rock, soil, geo-thermal resources, oil, oil shale, natural gas or other hydrocarbons from, on or below the surface of the Property;

H. Water Resources. Grantor shall not divert, dam, pollute, dredge, intentionally destabilize or degrade natural banks or shorelines, or otherwise alter Potato Bill Creek, Thomas Creek, or other naturally-occurring streams, springs, lakes, ponds, designated wetlands or other surface or subsurface water features that may occur on the Property, except as approved by the Trust, and except for any work or structures deemed necessary by Grantor, in consultation with CPW or other agency qualified at the time to oversee such work, to enhance, restore or control erosion or siltation of water resources on the Property in compliance with all applicable laws (as

defined in Section 21.1). The construction, installation, maintenance, improvement and replacement of ponds, wetlands, and irrigation structures (including ditches, pipelines, headgates and related equipment) are permitted for agricultural purposes or the enhancement of wildlife habitat, provided such activities are in compliance with applicable laws (as defined in Section 21.1). Soil, sand, rock and gravel produced during the excavation or construction of permitted ditches or ponds may be used or relocated on the Property in a manner not inconsistent with the preservation and protection of the Conservation Values;

I. Water Rights. There are no water rights included in or encumbered by this Easement.

7.3. Other Restricted Uses and Practices.

A. Subdivision and Ownership. The Property shall not be subdivided, and Grantor shall not undertake any legal proceeding to partition, condominiumize or divide the Property in any manner (including *de facto* subdivision); provided, however, that Grantor may sell or otherwise convey the Property subject to the terms and conditions of this Easement as a single parcel in the future;

B. Commercial and Industrial Activities. Grantor shall not conduct industrial activity or commercial recreational activity on the Property, except for guided hunting activities that may be approved by CPW and leasing of hunting rights;

C. Recreation. Private, low-impact recreational uses such as hiking, horseback riding, cross-country skiing, hunting, fishing and short-term camping are permitted on the Property, provided that recreational trails are limited pursuant to Section 7.1.B herein, and that any private recreational easements or agreements with neighboring landowners that predate the grant of this Easement shall be permitted.

8. ACCESS

By terms of this Easement, Grantor does not afford the public any more than visual access to any portion of the Property, although Grantor may permit guests or invitees to access the Property on such terms and conditions as it deems appropriate, provided that such access is consistent with the terms of this Easement. Access is prohibited by the general public in the Lion's Mane / Potato Bill Creek area of the Property indicated on Exhibit B herein.

9. REPRESENTATIONS AND WARRANTIES

Grantor represents and warrants that, after reasonable investigation and to the best of its actual knowledge:

9.1. Except for fuels customarily used or transported in connection with agricultural activities; no substance defined, listed, or otherwise classified pursuant to any federal, state, or

local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise or threatening to human health or the environment exists or has been used or released on the Property;

9.2. There are not now any underground storage tanks located on the Property, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable laws, regulations, and requirements;

9.3. Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use; and there is no existing, or pending litigation in any way affecting, involving, or relating to the Property;

9.4. Grantor has good and sufficient title to the Property and has lawful authority to grant and convey the Easement, that any mortgages or liens on the Property are subordinate to the terms of this Easement, and that Grantor shall warrant and forever defend the title to the Easement against all and every person or persons lawfully claiming by, through or under Grantor, the whole or any part thereof, except for rights-of-way, easements, restrictions, covenants and mineral reservations of record.

10. NOTICE OF INTENTION TO UNDERTAKE CERTAIN PERMITTED ACTIONS

The purpose of requiring Grantor to notify the Trust before undertaking certain activities or uses, as specifically identified in Section 7 or elsewhere herein, is to afford the Trust an opportunity to update its records and, if approval is required pursuant to Section 11 below, to ensure that the activities or uses in question are not inconsistent with the terms of this Easement. Grantor shall also notice Trust and seek its approval, pursuant to Section 11 below, for proposed activities or uses when there is a question as to consistency with the preservation and protection of the Conservation Values. Whenever notice and the Trust's approval are required, Grantor shall notify the Trust in writing not less than 45 days prior to the date Grantor intends to undertake the activity or use in question, unless this Easement provides otherwise, and describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity or use in sufficient detail to permit the Trust to make an informed judgment as to the activity or use's consistency with the terms of this Easement and the preservation and protection of the Conservation Values. Whenever notice is required without the Trust's approval, Grantor shall notify the Trust in writing not less than 14 days in advance of the proposed activity or use, unless the activity involves emergencies, such as fire fighting activities, in which case no notice is required.

11. THE TRUST'S APPROVAL

Whenever this Easement requires that Grantor obtain the Trust's approval for any activity or use of the Property, or if Grantor desires approval for any activity or use of the Property not specifically addressed herein, such approval shall be given in the Trust's sole discretion, according to whether the Trust determines that such activity or use of the Property is not inconsistent with the preservation and protection of the Conservation Values. Grantor has the burden to prove that Grantor's proposed uses are not inconsistent with the preservation and protection of the Conservation Values. Where the Trust's approval is required, the Trust

shall grant or withhold its approval in writing within 14 days of receipt of Grantor's written notice (as described in Section 10, above) of and request therefor. The Trust's approval may be withheld at the Trust's sole discretion if the Trust determines that the action as proposed would be inconsistent with the Conservation Values or the purposes or terms of this Easement. The reason(s) for such a determination shall be set forth with specificity by the Trust in a written notice to Grantor. Where a modification of the proposed use or activity by Grantor would render the same not inconsistent with the purposes of the Easement and the Conservation Values, the Trust may specify, in such written notice to Grantor, such modifications to render approval appropriate.

12. TRUST'S REMEDIES: ENFORCEMENT

The Trust shall have the right to prevent and correct or require correction of violations of the terms and purposes of this Easement. The Trust is not responsible for monitoring for or enforcing violations of any applicable laws (as defined in Section 21.1), permits or third party contracts affecting the Property now or in the future, except to the degree that any such violations may damage the Conservation Values, violate this Easement, or be otherwise inconsistent with the Purposes or terms of this Easement.

If the Trust finds what it believes is a violation, or a threat of a violation, the Trust shall notify Grantor of the nature of the alleged violation. Upon receipt of this notice, Grantor shall immediately discontinue any activity that could increase or expand the alleged violation and shall either: (a) restore the Property within 60 days as is best possible, subject to weather conditions and season, to its condition prior to the violation in accordance with a plan approved by the Trust, or if immediate restoration is not possible, Grantor shall submit such plan to the Trust within 60 days; or (b) provide a written explanation to the Trust of the reason why the alleged violation should be permitted. If the Trust is not satisfied with Grantor's written explanation, the Parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, the Parties agree to attempt to resolve the dispute pursuant to Section 12.1, below.

At any time, including if Grantor does not immediately discontinue any activity that could increase or expand the alleged violation while the Parties are attempting to resolve the alleged violation, or if the Trust believes an ongoing, imminent, or proposed activity violates the Easement, the Trust may, upon an advanced good faith attempt to contact Grantor verbally or electronically, take immediate, appropriate legal action to stop the activity, without prior notice to Grantor; without waiting for the period provided for cure to expire; and without waiting for the 60-day mediation period to expire. The Trust may bring an action at law or in equity, *ex parte* as necessary, in a court of jurisdiction, to enforce the terms of this Easement and to enjoin by temporary or permanent injunction a violation, which may require restoration of the Property to the condition that existed prior to the violation. The Trust's remedies described herein shall be in addition to all remedies now or hereafter existing at law or in equity, and shall include, without limitation, the right to recover damages for violation of the terms of this Easement or injury to the Conservation Values including damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefore, the

Trust, in its sole discretion, may apply any damages recovered to the cost of undertaking any restorative, remedial, corrective action on the Property.

Enforcement of the terms of this Easement shall be at the sole discretion of the Trust, and any forbearance by the Trust to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by the Trust of such term or any subsequent breach of the same or any other term of this Easement or of any of the Trust's rights under this Easement. No delay or omission by the Trust 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. The failure of the Trust to discover a violation or to take immediate legal action shall not bar the Trust from doing so within four years from the date upon which the violation is discovered.

All reasonable costs incurred by the Trust in enforcing the terms of this Easement, including, without limitation, costs and expenses of pursuing legal action and reasonable attorney's fees, shall be paid to the Trust by Grantor, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor, unless: (1) a court finds that the Trust acted in bad faith in seeking enforcement thereof, in which case the Trust shall pay Grantor's court-awarded costs and fees, or (2) if Grantor ultimately prevails in a judicial enforcement action, the Trust shall pay its own costs and fees.

12.1. Mediation. If a dispute arises between the Parties concerning the consistency of any proposed use or activity with the terms of this Easement, 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 written request upon the other. Within 10 days of the receipt of such request, the Parties shall select a trained and impartial mediator with experience in easements and other land preservation tools. If the Parties are unable to agree on a mediator, then the Parties shall each select a mediator with experience in conservation easements and other land preservation tools, and those two mediators shall select a mediator who shall alone mediate the dispute. Mediation shall then proceed in accordance with the following guidelines:

A. Purpose. The purpose of the mediation is to: (a) promote discussion between the Parties; (b) assist the Parties to develop and exchange pertinent information concerning the issues in dispute; and (c) 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 Easement;

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, except in cases when the Trust believes that Conservation Values are continuing to be harmed during the mediation process, in which case the Trust can suspend its involvement in the mediation to remedy this threat of ongoing violation. 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 in any subsequent litigation;

D. Time Period and Fees. Neither Party shall be obligated to continue the mediation process beyond a period of 60 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. The Parties shall equally share and each bear 50% of the mediator's fees.

13. COSTS, LIABILITIES, TAXES, AND ENVIRONMENTAL COMPLIANCE

13.1. Costs, Legal Requirements and Liabilities. Grantor retains all responsibilities and obligations and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the payment of property and other taxes related to the Property, and maintenance of liability insurance coverage. Grantor shall make best efforts to keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor, but Grantor shall have the right to bond over any disputed liens. Nothing in this Easement shall be construed or interpreted as prohibiting Grantor from obtaining loans secured by deeds of trust encumbering the Property, provided any such deeds of trust are subordinate to this Easement, and shall encumber the entire Property;

13.2. Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability of the Trust to exercise physical or managerial control over the day-to-day operations of the Property, or over any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and any Colorado state law counterpart;

13.3. Hold Harmless. Grantor shall hold harmless, indemnify and defend the Trust and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively, the "Trust Parties") from and against all liabilities including, without limitation, court awarded third-party attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the gross negligence or intentional act of any of the Trust Parties; (b) 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, by any person other than any of the Trust Parties, in any way affecting, involving, or relating to the Property; (c) the presence or release of hazardous or toxic substances in, on, from, or under the Property at any time, 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, unless caused solely by any of the Trust Parties; (d) payment of taxes imposed upon or incurred by the Property as a result of this Easement, including property taxes and the sale of income tax credits acquired as a result of this Easement; (e) tax benefits or consequences of any kind which result or do not result from entering into this Easement; and (f) the obligations, covenants, representations, and warranties described herein;

13.4. Waiver of Certain Defenses. No action shall be commenced or maintained to enforce the terms of any building restriction described in this Easement, or to compel the removal of any building or improvement, unless said action is commenced within four years from the date of discovery of the violation for which the action is sought to be brought or maintained. To the extent that any defense available to Grantor pursuant to C.R.S. §38-41-119 is inconsistent with the foregoing, Grantor waives that defense. Grantor waives the defenses of laches, estoppel and prescription with regard to the enforcement of all other terms of this Easement; and

13.5. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle the Trust to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control (including wild fire, landslides and avalanches) or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. Grantor is not responsible for acts of third parties not authorized to access the Property, but shall be responsible for those third parties, including guests or invitees, authorized by Grantor to access the Property. The Trust retains the right to enforce against third parties for violations of the Easement or damage to the Property pursuant to Section 5.5 herein.

14. EXTINGUISHMENT AND CONDEMNATION

14.1. Extinguishment. The Parties agree that any changes in the economic viability of the uses permitted or prohibited by this Easement, or changes to neighboring land and its use shall not be deemed circumstances justifying the termination or extinguishment of the Easement. In addition, the inability of Grantor, or Grantor's heirs, successors or assigns, to implement any or all of the uses permitted under this Easement shall not impair the validity of the Easement, or be considered grounds for termination or extinguishment of this Easement.

If circumstances arise in the future that render the purposes of this Easement impossible to accomplish, the Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction after the court has explored all options for importing other purposes for the Easement pursuant to the cy pres doctrine. Each Party shall promptly notify the other when it first learns of such circumstances. The amount of the proceeds to which the Trust shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination, shall be determined, unless otherwise provided by Colorado law at the time, in accordance with the Proceeds paragraph below, and such proceeds shall be used by the Trust in a manner consistent with the conservation purposes of the original Easement contribution, as required by §1.170A-14(g)(6)(i) of Treasury Regulations;

14.2. Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate the Easement in whole or in part, Grantor and the Trust shall act jointly to recover the full value of the interests in the Property subject to the taking or in-lieu purchase and all damages resulting therefrom. All expenses reasonably incurred by Grantor and the Trust in connection with the taking or in-lieu purchase shall be paid out of the amount recovered. The Trust's share of the balance of the amount recovered shall be determined by multiplying that balance by the percentage set forth in Proceeds paragraph below;

14.3. Proceeds. Grantor and the Trust stipulate that as of the date of this Easement, they are each vested with a real property interest in the Property. The Parties further stipulate that the Trust's interest in the Easement has a value of 15 percent (%) of the fair market value of the Property from this date forward, and such percentage interest shall remain constant in relation to any future fair market value of the Property. Such percentage interest shall be used only for determining the Trust's proportion of proceeds from any payment of damages or action resulting from circumstances described in the Extinguishment and Condemnation paragraphs above. The Parties agree that the value of any improvements to the Property made by Grantor after the date of this Easement is reserved to Grantor.

15. ASSIGNMENT OF EASEMENT

In the event the Trust is no longer able to carry out its duties and obligations under this Easement, or if circumstances change so that another similar organization is better able to carry out such duties and obligations, the Trust may, upon no less than 60 days prior notification to Grantor, elect to transfer the Easement and assign its rights and obligations under this Easement to either: (1) Colorado Open Lands, (2) the Colorado Cattlemen's Agricultural Land Trust, (3) Colorado Parks and Wildlife, or (4) a qualified non-governmental land conservation organization charged with a mission similar to that of the Trust; provided however, that any organization or entity selected to accept this Easement is, at the time of transfer: (a) willing and able to accept the transfer; (b) a qualified organization under §170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and its applicable regulations; and (c) authorized to acquire and hold conservation easements under Colorado law. The Trust shall consult with Grantor regarding any selection of a qualified assignee of the Easement, but shall ultimately have the right to select an organization as defined herein that is willing, able and qualified to hold the Easement (the "Assignee"), and to notify Grantor of its selection. As a condition of such transfer, the Trust shall require the Assignee to expressly agree, in writing, to carry out and uphold the purposes of the Easement and the Conservation Values and otherwise assume all of the obligations and liabilities of the Trust set forth herein or created hereby. After such transfer, the Trust shall have no further obligation or liability under this Easement. Should the Trust be unable to assign the Easement according to this procedure, a court with competent jurisdiction shall assign the Easement.

16. SUBSEQUENT TRANSFERS OF PROPERTY

Grantor agrees to notify any party who may purchase, lease, or otherwise hold interest in this Property of the existence and terms of this Easement, and to provide a copy of the Easement and the Baseline Documentation to such party if requested. Grantor further agrees to give notice to the Trust of the transfer of any such interest prior to transfer. The Trust shall be available for and welcome the opportunity to meet with any prospective buyers or transferees of the Property to explain the terms of this Easement to potential new owners prior to or after sale closing, or to answer any questions or concerns related to this Easement, or any of its supporting documentation, including the Baseline Documentation.

In addition, at any time Grantor transfers the Property to a third party, including all subsequent transfers, that party shall pay \$100.00 to the Trust to cover administrative costs associated with the transfer, as well as to put the third party recipient on notice of the terms of this Easement. This payment is exempt from transfer fee restrictions of C.R.S. §38-35-127 because it does not affect residential real property, and only affects agricultural land. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

17. NOTICES

Any communication that either Party desires or is required to give to the other shall be in writing and served personally or sent by first class mail, postage prepaid, addressed as follows or to such other address as either party from time to time shall designate by written notice to the other:

To Grantor: 2343 County Road, LLC
c/o Gideon Kauffman
315 Hyman Avenue, Suite 305
Aspen, CO 81611

To the Trust: Aspen Valley Land Trust
320 Main Street, Suite 204
Carbondale, CO 81623

18. RECORDATION

This instrument shall be held in escrow to be recorded immediately after acquisition of the Property by Grantor by the Title Company in the official records of Pitkin County, Colorado and may be re-recorded at any time as may be required to preserve its rights in this Easement.

19. AMENDMENT

If circumstances arise under which an amendment to this Easement would be appropriate to promote the purposes of the Easement, Grantor and the Trust may jointly amend this Easement. However, neither Grantor nor the Trust is under obligation to amend this Easement, and the Trust may decline any amendment in its sole discretion according to then-

current Trust policies, which shall be made available to Grantor upon request. Any amendment must be consistent with, and protect and preserve, the purposes of the Easement and the Conservation Values and may not affect the Easement's perpetual duration. Any amendment must be in writing, signed by all the Parties, and recorded in the records of the Clerk and Recorder of the appropriate Colorado County. Corrections to correct factual mistakes or typographical or clerical errors may be made at the discretion of the Trust. No amendment shall be allowed that affects the qualification of this Easement or the status of the Trust under any applicable laws, including C.R.S. §§38-30.5-101 *et seq.*, or IRC §170(h) or any regulations promulgated thereunder. No amendment shall be permitted that will confer a private benefit to Grantor or any other individual or entity (see IRS Reg. 1.170A-14(h)(3)(i)) greater than the benefit to the general public, or that will result in private inurement to a Board member, staff or contract employee of the Trust (see IRS Reg. 1.501(c)(3)-1(c)(2)).

20. SUBORDINATION

The Property is not subject to any mortgages or liens.

21. GENERAL PROVISIONS

21.1. Definitions.

A. The terms "Grantor" and "the Trust," wherever used herein, and any pronouns used in place of those terms, shall refer to, respectively, Grantor and its heirs, personal representatives, executors, administrators, successors and assigns, and the Trust and its successors and assigns;

B. The terms "Easement", "conservation easement", "Deed of Conservation Easement", and "Deed of Conservation Easement in gross" refer to the immediately vested interest in real property defined by Colorado Revised Statutes §§38-30.5-101 *et seq.*, and this legal document, consisting of the rights and restrictions enumerated herein, by which said Easement is granted;

C. Applicable Laws. The term "applicable laws" refers to all relevant federal, state, and local statutes, ordinances, judicial decisions, executive orders, codes, permits or regulations having the force and effect of law that have bearing on or may control certain uses allowed by the Easement;

D. Low-Impact. The term "low-impact" refers to activities or improvements whose location, use and construction have little or no impact on the Property and do not negatively impact the Conservation Values.

21.2. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Colorado;

21.3. Liberal Construction. This Easement shall be liberally construed in favor of the grant to effect the purposes of the Easement and the policy and purpose of C.R.S. §38-30.5-

over any interpretation that would render it invalid. The common law rules of disfavoring restrictions on the use of real property and construing restrictions in favor of the free and unrestricted use of real property shall not apply to interpretations of this Easement or to disputes between the Parties concerning the meaning of particular provisions of this Easement;

21.4. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement shall be deemed severable and remain in full force and effect;

21.5. Entire Agreement. This instrument sets forth the entire agreement between the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein;

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

21.7. Joint and Several Obligation. The obligations imposed by this Easement upon Grantor shall be joint and several. If the Property's ownership, now or in the future, is by a single entity consisting of multiple parties including shareholders, partners, or members, that entity is required to notify its shareholders, partners, or members of the entity's and their individual rights and responsibilities, including any monetary or other obligations set forth in this Easement. Grantor shall provide a copy of such notice at any time upon the Trust's request;

21.8. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Parties hereto and Grantor's respective personal representatives, heirs, successors, transferees, and assigns, and the Trust's successors, transferees, and assigns, and shall continue as a servitude running in perpetuity with the Property;

21.9. Termination of Rights and Obligations. A Party's rights and obligations under this Easement terminate upon transfer of the Party's interest in the Easement or the Property, unless the transferor assumes such obligations, except that liability for acts or omissions occurring prior to transfer shall survive transfer;

21.10. 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;

21.11. Counterparts. The Parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all the Parties; each counterpart shall be deemed an original instrument as against any Party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling;

21.12. Merger. Unless the Parties expressly state that they intend a merger of estates or interests to occur, no merger shall be deemed to have occurred hereunder or under any document executed in the future affecting this Easement;

21.13. Authority to Execute. Each party represents to the other that such party has full power and authority to execute and deliver this Deed of Conservation Easement, and perform its obligations under this Easement, that the individual executing this Easement on behalf of said party is fully empowered and authorized to do so, and that this Easement constitutes a valid and legally binding obligation of said party enforceable against said party in accordance with its terms; and

21.14. No Third Party Beneficiaries. This Easement is entered into by and between Grantor and the Trust with the intent that there are no intended third party beneficiaries that have the right or obligation to enforce the terms and provisions of this Easement. No person or entity, other than the Grantor or the Trust, shall have standing to enforce, nor the right or obligation to enforce, the terms and provisions of this Easement or to otherwise commence or intervene in any lawsuit pertaining to this Easement.

IN WITNESS WHEREOF, Grantor and the Trust have executed this Deed of Conservation Easement as of the date first written above.

GRANTOR:

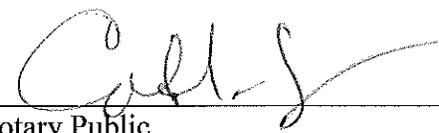
2343 COUNTY ROAD, LLC,
a Colorado limited liability company

By: 
Name: GIDEON KAUFMAN
Title: MANAGER

STATE OF Colorado
COUNTY OF Pitkin) ss.

The foregoing instrument was acknowledged before me this 14 day of October, 2011, by Gideon Kaufman as MANAGER of 2343 COUNTY ROAD, LLC, a Colorado limited liability company, as Grantor.

WITNESS my hand and official seal.
[SEAL]


Catalina Cruz
Notary Public Colorado
My commission expires: 8-21-2013

TWO SHOES RANCH CONSERVATION EASEMENT

EXHIBIT A

Legal Description of Property

Township 8 South, Range 88 West, Sixth Principal Meridian, Pitkin County, Colorado

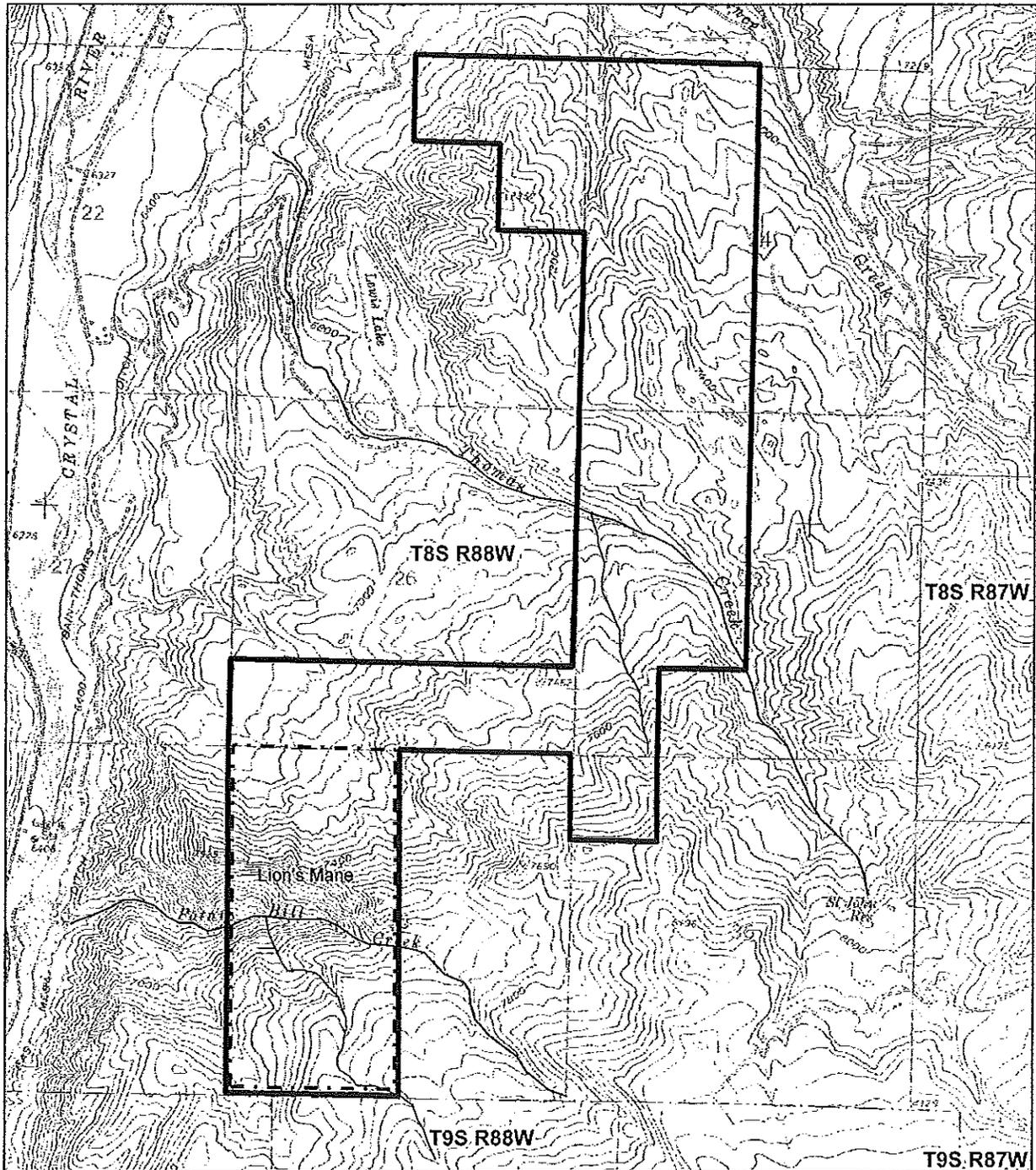
Section 23: N1/2NE1/4, SE1/4NE1/4
Section 24: W1/2
Section 25: NW1/4, N1/2SW1/4, SW1/4SW1/4
Section 26: S1/2S1/2
Section 35: W1/2
Section 36: NE1/4NE1/4

containing 1,240.00 acres.

County of Pitkin, State of Colorado.

TWO SHOES RANCH CONSERVATION EASEMENT

EXHIBIT B Map of Property



-  Subject Property
-  Lion's Mane / Potato Bill Creek Area

