

SAN MIGUEL COUNTY PLANNING COMMISSION REVISED AGENDA

December 14, 2016

Placerville School House, 400 Front Street, Placerville

- 8:30 AM Leave Courthouse for Placerville
- 9:00 AM Approval of Minutes; Planning Commission Comments and Staff Comments
- 9:10 AM County Road Vacation Recommendation: CR 60M, east end of San Miguel County on East Wilson Mesa, and west of Telluride
- 9:50 AM Special Use Permit Worksession: Tri-State Transmission Line Rebuild of an Above-ground 115-kilovolt (kV) Electric Transmission Line to operate at 230-kV, located in the within the West End Zone District

Adjourn

**For more information on the above proposal contact the
Planning Department at (970) 728-3083**

**Times are approximate; items may begin earlier (except public hearings)
or later than scheduled.**

Public Meeting Record
County Planning Commission

Application: County Road Vacation Recommendation: CR 60M, east end of San Miguel
County on East Wilson Mesa, and west of Telluride

Date: December 14, 2016

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).
2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).
3. Memorandum to the San Miguel County Planning Commission from the San Miguel County Planning Department Staff dated December 14, 2016.
4. Application submitted by Michael D. Hockersmith, P.C., on behalf of Homewood Family Limited Partnership and Alexander Ranch, LLLP, dated October 17, 2016.
5. Applicant's "Certification of Compliance with the Public Noticing Requirements" of C.R.S. § 24-65.5-103(1) and County Land Use Code Section 3-9 dated November 21, 2016 and November 14, 2016. (By Reference Only).
6. Email from Jim Boeckl, Telluride Fire Marshall, to Karen Henderson dated October 27, 2016.
7. Email from Telluride Mountain Club to Mike Rozycki dated November 3, 2016.
8. Email from Mike Horner, County Road and Bridge Superintendent, to Mike Rozycki dated November 16, 2016.
9. Letter from Samuel Dearstyne, Acting BLM Uncompahgre Field Office Manager, to San Miguel County Board of County Commissioners c/o Planning Department dated November 18, 2016.
10. Email from Lynn Padgett, County Natural Resources Department, to Mike Rozycki dated November 18, 2016.
11. Email from Janet Kask, County Open Space & Recreation Coordinator, to Karen Henderson dated November 30, 2016.
12. Email from Rob Roberts to Mike Rozycki dated November 30, 2016.
13. Email from Hans Jones to Mike Rozycki dated December 2, 2016.
14. Email from Guy Saperstein to the County Planning Commission dated December 2, 2016.

15. Email from Samantha Lyn Samuelson to Karen Henderson dated December 2, 2016.
16. Email from Tim Cannon to Karen Henderson dated December 2, 2016.
17. Email from Paul Allaire to Karen Henderson dated December 3, 2016.
18. Letter from the Board of Directors of the Ptarmigan Ranch Homeowners Association to the San Miguel Planning Commission c/o Mike Rozycki dated December 5, 2016.
19. Letter from Ron Krystyniak to the San Miguel County Board of County Commissioners c/o Planning Department dated December 5, 2016.
20. Email from Alana Mynyk to Karen Henderson dated December 6, 2016.
21. Letter from Amy Cannon to the County Planning Commission dated December 7, 2016.

MEMORANDUM

TO: San Miguel County Planning Commission
FROM: San Miguel County Planning Department Staff
RE: Road Vacation Recommendation: Portion of County Road 60M
DATE: December 14, 2016 [text/word/cr.60m.vac.homewood]

Summary of Application

San Miguel County has been asked to consider an application submitted by the Homewood Limited Partnership and Alexander Ranch, LLP (“Applicants”) to vacate a portion of County Road 60M, located on property on East Wilson Mesa west of Bilk Creek. The Homewood parcel is approximately 1,837 acres and the Alexander parcel is approximately 1,121 acres. Both properties are zoned Rangeland Grazing (RG). The Applicants state that the approximate 4.75 mile portion of CR60M that is proposed to be vacated, with the exception of a short stretch that briefly enters public lands administered by the U.S. Bureau of Land Management, is located entirely on the Homewood and Alexander Properties.

County Road 60M (Silver Pick Road) starts at State Highway 145, near the confluence of Big Bear Creek and the San Miguel River, heads south, then east onto East Wilson Mesa, then northerly to the Homewood property, then north and east across the Homewood property where it crosses onto the Alexander property, then CR 60M dead-ends as a public road at the boundary of the Price property where CR 60M was previously vacated in 2000 as a County Road. In vacating the portion of CR 60M that entered and crossed the Price property the BOCC obtained a 20 foot wide “non-motorized recreational access and usage easement from the Prices to the County for the benefit of the public including “hiking, running, bicycling, horse riding, Nordic skiing, and snowshoeing and any combination thereof”, that extends easterly to the portion of CR 60M in the vicinity of Bilk Creek that has not been vacated.

Both Applicants use CR 60M in conjunction with their cattle and farming operations. As a result of said cattle and farming operations, there is regular traffic on the road by heavy equipment and other vehicles. Any vehicular use by the public would conflict with the Applicants’ use of the road, and could thus create a dangerous situation with potential attendant liabilities. In addition, both Applicants report an on-going problem with trespassers onto their properties, especially during hunting season, who use this road. Access to the public lands, through which CR 60M briefly runs, will not be impeded, since the general public can enter these lands at an alternative location (see Exhibit 4 included in packet).

The Applicants state they are willing to allow the County to retain an easement over the vacated portion of CR 60M for pedestrian use only. However, because the road essentially dead-ends in their private property, continued vehicular access by the public serves no useful purpose and is not needed for any future use by the public.

The Applicants state:

1. There is no proposed relocation of the road.
2. The Applicants are owners of record for all private property adjacent to the portion of CR 60M that is proposed to be vacated.

application that includes, at a minimum, the following information:

- a. A complete and accurate legal description of the portion(s) of the roadway or right-of-way proposed for vacation;
- b. The reason for such vacation;
- c. Whether the roadway is to be relocated;
- d. The names and addresses of all owners of record whom own land adjacent to the roadway or right-of-way;
- e. The names and addresses of all utility companies, or other persons, with easements or other rights in or adjacent to the subject roadway or right-of-way; and
- f. A description as to whether the adjacent parcels will have access to a public road upon any such vacation, and if not, any other provision for reasonable access to a public road proposed by the applicant.

- II. The County may require the applicant to prepare plat maps and other legal documents for review and consideration by the Planning Commission, pursuant to C.R.S. 30-28-110(1)(d), before review by the Board of County Commissioners, which materials may be necessary to vacate the roadway or right-of-way and vest title to the vacated portions thereof;

Background CR 60M

In July of 1992 the Homewood Family Limited Partnership brought suit against the Board of County Commissioners to quiet title for the portion of CR 60M that runs through their property.

The County's position was that CR 60M is a public County Road. After a trial the District Court determined (Order of May 19, 1993) that a sufficient showing had been established to show adverse use in excess of 20 years pursuant to C.R.S. §43-2-201 (1) (c) and that the County had established the effected portion of CR 60M as a public road by virtue of a prescriptive easement.

Following the Court Order a discussion and debate occurred over the width of the right-of-way for maintenance purposes. The County has maintained CR 60M since at least 1975. The traveled part of the single lane road runs between 7½ and 12 feet in width which can restrict the usage of the road. All property outside the traveled way is private land. A critical component for maintenance is the existence of a ditch. The average width necessary for maintenance based on Foley surveying field work is 20.7 feet or 10.35 feet on either side of a centerline. This Court Order establishing the width of the right-of-way for CR 60M does not appear to include provisions for a vehicle turnaround(s) on the Homewood property. .

In March of 2000, Silver Mountain Industries, Inc. (SMI) sought to vacate portions of County Roads 60M, 61K, and 62K, located on property located adjacent to Bilk Creek in San Miguel Canyon. The SMI stated that they were prepared to grant private access easements, pursuant to state law, to adjacent property owners. At that time the parcel was under contract to a party (Charles & Jessie Price) who stated that they would not consider a trail easement across the parcel along the portion of 62K that would be vacated. At that time County Road Superintendent, Mike Horner, did not support the vacation of the CR 60M portion for the

(1) guest house, on (1) detached garage, and one (1) barn or equipment shed so long as there shall be no more than one (1) primary residence, which shall be limited to a single-family residence". The Conservation Easement required the property owner to reduce the number of development rights on their approximately 440-acre property, the "Bilk Creek Parcel" from twelve (12) 35-acre parcels (development rights) to two parcels for Single-family residences and associated out buildings.

The County Road Superintendent states this section of CR 60M is accepted for maintenance by the County but is not maintained in the winter months (November 1st to May 1st) and receives maintenance once or twice during the summer or other times of the year. Mr. Horner has also advised that County Road maintenance crews are able to exit CR 60M through the vacated portion of CR 60M through the "Price" property.

Referral Agents

This road vacation application was referred to Mike Horner, County Road Superintendent, Janet Kask, County Park/Open Space Director, Steven Zwick, County Attorney, Matt Zumstein, U.S. Forest Service, Teresa Pfifer, Bureau of Land Management, Jim Boeckel, Telluride Fire Protection District, Bill Masters, County Sheriff, Tor Anderson, Telluride Mountain Club, Brad Zaporski, San Miguel Power Association.

The Applicants sent notice of the proposed road vacation application to all owners within 500 feet of the subject parcels, and property owners, who own property adjacent to or along CR 60M from its intersection with CR 59H to the Homewood property, and posted signs noticing the Planning Commission meeting on the subject properties.

Public Comment

The Planning Department has received a letter from the Ptarmigan Ranch Owner's Association Board of Director, as well as letters from several other landowners on East Wilson Mesa stating that they are opposed to the application and are requesting that the County not agree to vacate any remaining portion of CR 60 M for various reasons set out in the submitted letters. A copy of each of these letters are being provided to the Planning Commission as part of their packet and back-up for the December 14, 2016 public meeting. The Planning office to date has received two (2) letters from neighboring landowners on East Wilson Mesa in support of the application to vacate and close the road to public vehicular access.

Telluride Fire Protection District Comments

In an October 27, 2016 email, Fire Marshall Jim Boeckel states that TFPD has no objection to the vacation as outlined in the application provided that any and all gates that are installed have a Knox Pad Lock installed on them to facilitate Fire Department access in an emergency.

This is not a reasonable or feasible alternative for the public to have to climb the canyon wall in order to get to the public land on top of the mesa where they have vehicle access to now. In addition, in order for the public to have to try to navigate in order to stay on the public land from the canyon bottom to the top of the mesa would be very difficult as it would require them to have to go through two very narrow and steep strips of public land only a couple of hundred feet wide and cross the Muddy Creek drainage if accessing public land from the southern access point which is only approximately a 300 foot stretch along CR 60 M below. We anticipate this would result in more trespass on the other private landowners along the steep canyon wall than to those landowners on top of the mesa. Therefore, we do not see public access to public land from CR 60M from below as an alternative.

We also do not see pedestrian use only along CR 60M as an alternative as that would require the public to have to walk upwards of 1.5 miles to get to the same public land that they can drive to now. Further, CR 60M provides legal vehicle access to the top of the mesa to those landowners along the canyon wall who have land on top of the mesa, and we have been approached by some of those landowners in the past in order to obtain access across public land from CR 60M to get to their property on top of the mesa. To vacate the road as proposed would cut off their existing legal access as well. However, we would not oppose vacation of CR 60M on top of the mesa where it leaves the public land at the furthest northeast corner of lot 9 section 33, T43 N, R 10 W, NMPM, shown at the "X" on the [attached map] because there is no public land beyond this point.

3. If CR 60M were to no longer be a public road, then it would put the burden on any parties including the Applicants for this petition and/or those landowners along the canyon wall who would want to use and/or maintain the road on public land beyond casual use to obtain a right-of-way under the Federal Land Policy and Management Act of 1976 (FLPMA) for those portions of the road on public land. Any right-of-way would be subject to processing and monitoring administrative fees, annual rent, and terms and conditions of use.

County Parks & Open Space Coordinator

In a November 30, 2016 email Open Space Coordinator Janet Kast states she agrees with Mike Horner's recommendations.

County Government Services & Natural Resources Comments

In a November 18, 2016 email Lynn Padgett, County Government Services (UFO) states recent comments provided by the County to the BLM Uncompahgre Field Office discussed Land Disposals. The BLM parcel in this area, accessible by CR 60M is actually recommended under the preferred alternative for disposal. San Miguel County specifically requested two things in the UFO comments: 1. that this parcel not be disposed of because it had important riparian habitat and 2. Because it was within the potential expanded San Miguel ACEC that the county desires. For consistency, it makes sense that the county not vacate any portion of 60M that provides BLM land access and also that it be pointed out to the BLM that their letter to us further supports them designating the BLM land shown on page 30 of the attached comments as 1. Not designated for

County's policies concerning access to public land.

3. The Planning Commission could recommend denial of this road vacation application in its entirety as requested by the Ptarmigan Ranch Owner's Association, Board of Directors and several other land owners on Wilson Mesa and the general public citing that this section of CR 60M provides public access to important and desirable scenic vistas occurring along this portion of Wilson Mesa. *Additionally, unlike the 2000 vacation of a portion of CR 60M on and over the "Bilk Creek" parcel the applicants have not offered or proposed any substantial benefits to the County or the public for divesting its property interest in this section of CR 60M. It is acknowledged that this road vacation application differs from the one that was approved by the BOCC in 2000 in that at that time CR 60M was a looped roadway and at present CR 60 M is not a continuous looped public road but rather it currently dead ends at the Price property.*

HOCKERSMITH LAW, P.C.

ATTORNEY & COUNSELOR at LAW

Alpine Bank Building
917 Main Street (2nd Floor)
Post Office Box 646
Ouray, CO 81427-0646

t: 970.325.4414
f: 970.325.7333
michael@mdhlawpc.com

Michael D. Hockersmith

October 17, 2016

San Miguel County Planning Department
333 W. Colorado Avenue, 3rd Floor
PO Box 548
Telluride, CO 81435

Re: Petition to vacate portion of County Road 60M

Dear Sir or Madam:

The undersigned represents the Homewood Family Limited Partnership (“Homewood”) and Alexander Ranch, LLLP (“Alexander”). Homewood and Alexander shall collectively be referred to as the “Applicants.” Homewood is the owner of certain real property located in San Miguel County, more particularly described in Exhibit 1, attached hereto and incorporated herein by this reference (the “Homewood Property”). Alexander is the owner of the certain real property located in San Miguel County, more particularly described in Exhibit 2, attached hereto and incorporated herein by this reference (the “Alexander Property”). Homewood and Alexander are requesting that the San Miguel County Board of County Commissioners vacate a portion of a road shown on the San Miguel County Road Map as San Miguel County Road 60M (“CR 60M”). Pursuant to Section 5-501 L. I. a. through f., of the San Miguel County Land Use Code, the following information is provided in support of this request.

1. A complete and accurate legal description of the portion(s) of the roadway or right-way-way proposed for vacation:

See Exhibit 3, attached hereto for a complete and accurate depiction of the portion of CR 60M proposed to be vacated.

2. The reason for such vacation:

The portion of CR 60M that is proposed to be vacated, with the exception of a short stretch that briefly enters public lands administered by the U.S. Bureau of Land Management, is located entirely on the Homewood and Alexander Properties. The road dead-ends at the boundary of property owned by H. Charles Price. San Miguel County has previously vacated the portion of CR 60M that entered the Price property. Both Applicants use this road in conjunction

with their cattle and farming operations. As a result of said cattle and farming operations, there is regular traffic on the road by heavy equipment and other vehicles. Any vehicular use by the public would conflict with the Applicants' use of the road, and could thus create a dangerous situation with potential attendant liabilities. In addition, both Applicants report an on-going problem with trespassers onto their properties, especially during hunting season, who use this road. Access to the public lands, through which CR 60M briefly runs, will not be impeded, since the general public can enter these lands at an alternative location as depicted on Exhibit 4, attached hereto. In any event, the Applicants are willing to allow the County to retain an easement over the vacated portion of CR 60M for pedestrian use only. However, because the road essentially dead-ends in their private property, continued vehicular access by the public serves no useful purpose and is not needed for any future use by the public. For these reasons, the requested vacation is appropriate.

3. Whether the roadway is to be relocated: There is no proposed relocation of the road.
4. The names and addresses of all owners of record whom own land adjacent to the roadway or right-of-way:

The Applicants are the owners of record for all private property adjacent to the portion of CR 60M that is proposed to be vacated. As noted above, CR 60 M does briefly enter public lands administered by the BLM. The BLM can be contacted at its offices located at 2505 S. Townsend Ave., Montrose, CO 81401.

5. The names and addresses of all utility companies, or other persons, with easements or other rights in or adjacent to the subject roadway or right-of-way:

The only utility company with any right or easement in the subject roadway is San Miguel Power Association, Inc., located at PO Box 817, Nucla, CO 81424. In accordance with C.R.S. §43-2-303(3), upon vacation of the subject section of CR 60M, any such easement shall be reserved for continued use by said utility. No other persons are known by the Applicants to have any easements or other rights in or adjacent to the subject roadway or right-of-way.

6. A description as to whether the adjacent parcels will have access to a public road upon any such vacation, and if not, any other provision for reasonable access to a public road proposed by the applicant:

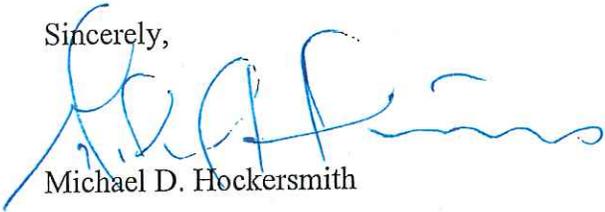
As shown on Exhibit 4, the general public will continue to have access to the public lands in the areas where CR 60M is proposed to be located. With regard to the Homewood Property, the Alexander Property and the property owned by H. Charles Price, it is the Applicants' intent to grant reciprocal access easements to each other, and to Mr. Price, over the vacated roadway so that the title to the vacated roadway shall be subject to said access easements in accordance with C.R.S. §43-2-302(1)(f).

Enclosed with this letter, please find our Check No. 1113 in the amount of \$500.00, made payable to San Miguel County, as the application fee for this requested vacation. We are aware

San Miguel Planning Department
October 17, 2016
Page 3 of 3

that this request requires a two-step review by the Planning Commission and the Board of County Commissioners and look forward to an early scheduling of these review hearings. Thank you for your consideration. Please do not hesitate to contact me if you require any additional information.

Sincerely,



Michael D. Hockersmith

xc: Homewood
Alexander

**EXHIBIT 1
HOMWOOD PROPERTY**

Township 42 North, Range 10 West, N.M.P.M.:

N2NW4 AND SW4NW4, SECTION 2
W2, NE4 AND NE4SE4, SECTION 3
E2NE4, SECTION 4

ALSO A TRACT OF LAND IN SE4 SEC 3 T42 R10 DESB AS FOLLOWS BEG AT CORNER NO 1 IDENTICAL WITH S4 CORNER OF SAID SEC 3, THENCE NORTH 2°24' E ALONG QUARTER SEC LINE 1320 FT TO CORNER NO 2, THENCE SOUTH 89°51' E ON A LINE PARALLEL TO SECTION LINE 437.25 FT TO CORNER NO 3, THENCE SOUTH S°24' W 809.3 FT TO CORNER NO 4, THENCE S 40°32' W 672 FT TO CORNER NO 1, THE PLACE OF BEGINNING.

LESS AND EXCEPT property described in warranty deed recorded at Reception No. 274906.

AND INCLUDING property described in warranty deeds recorded at Reception Nos. 274905 and 401462.

Township 43 North, Range 10 West, N.M.P.M.:

SW4SW4, SECTION 26
S2SE4, S2SW4 AND NW4SW4, SECTION 27
SE4SE4, SECTION 28
E2NE4, SECTION 33
ALL OF SECTION 34
W2, W2NE4, NE4NE4, SECTION 35

LESS AND EXCEPT property described in warranty deeds recorded at Reception No. 359691 and 359692.

San Miguel County, State of Colorado

EXHIBIT 2
ALEXANDER PROPERTY

Lots One (1) and Two (2), Southwest Quarter Northeast Quarter ($SW\frac{1}{4}NE\frac{1}{4}$), West Half Southeast Quarter ($W\frac{1}{2}SE\frac{1}{4}$), Section One (1), Township Forty-two (42) North, Range Ten (10) West of the New Mexico Principal Meridian.

Lots Three (3) and Four (4), South Half Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$), North Half Southwest Quarter ($N\frac{1}{2}SW\frac{1}{4}$), Section One (1), Township Forty-two (42) North, Range Ten (10) West of the New Mexico Principal Meridian.

Lots One (1) and Two (2), South Half Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$), Northeast Quarter Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$), South Half Southeast Quarter ($S\frac{1}{2}SE\frac{1}{4}$), Section Two (2), Township Forty-two (42) North, Range Ten (10) West of the New Mexico Principal Meridian.

North Half Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$), Section Eleven (11), Township Forty-two (42) North, Range Ten (10) West of the New Mexico Principal Meridian.

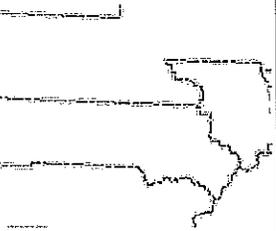
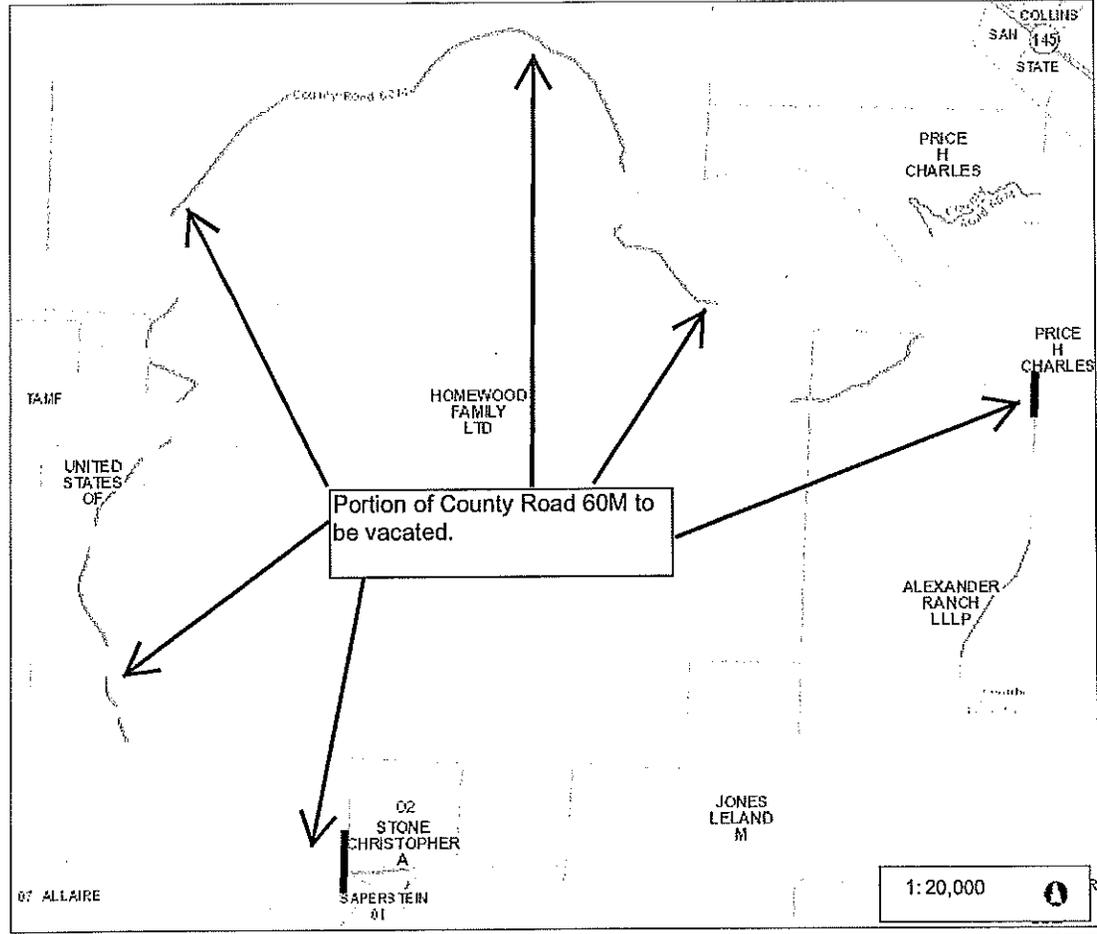
West Half Northeast Quarter ($W\frac{1}{2}NE\frac{1}{4}$), Northwest Quarter Southeast Quarter ($NW\frac{1}{4}SE\frac{1}{4}$), Section Twelve (12), Township Forty-two (42) North, Range Ten (10) West of the New Mexico Principal Meridian.

Southeast Quarter Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$), Southeast Quarter ($SE\frac{1}{4}$), Section Thirty-five (35), Township Forty-three (43) North, Range Ten (10) West of the New Mexico Principal Meridian.

San Miguel County, State of Colorado



EXHIBIT 3

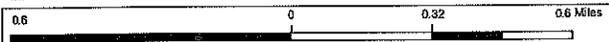


Legend

- County Boundaries
- Parcel Boundaries
- SANMCO_ROADS 10k-50k**
 - ARTERIAL
 - MAJOR COLLECTOR
 - MINOR COLLECTOR
 - LOCAL
 - PRIMITIVE
- R10_ROADS**
 - <all other values>
 - SECONDARY
- DOLOCO_ROADS**
- UTAH_ROADS**

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9/21/16 11:57 AM.

Notes



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

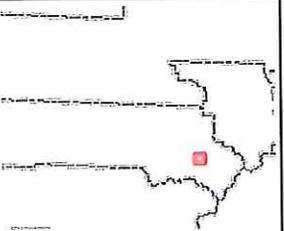
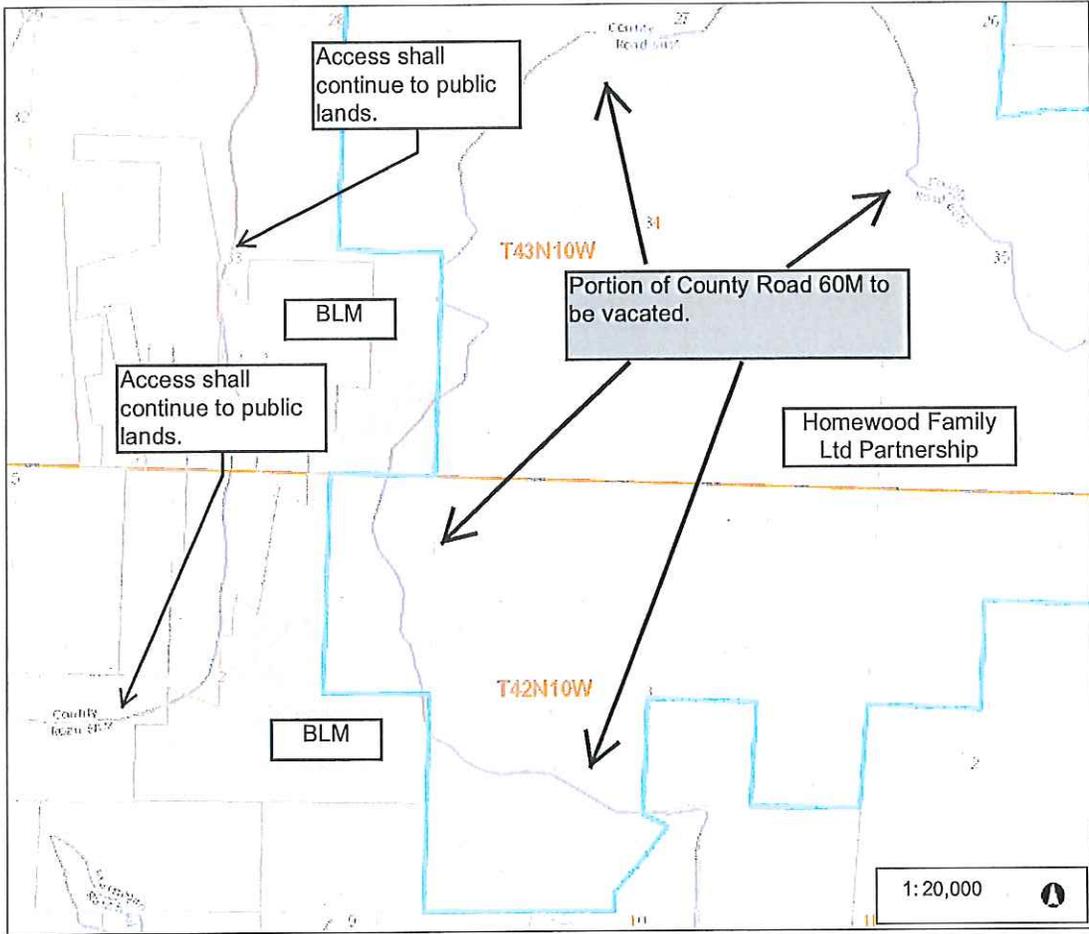
THIS MAP IS NOT TO BE USED FOR NAVIGATION

www.sanmiguelcountyco.gov



webMap
San Miguel County, Colorado

EXHIBIT 4

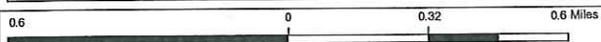


Legend

- County Boundaries
- Parcel Boundaries
- Township and Range Sections
- SANMCO_ROADS 10k-50k**
 - ARTERIAL
 - MAJOR COLLECTOR
 - MINOR COLLECTOR
 - LOCAL
 - PRIMITIVE
- R10_ROADS**
 - <all other values>
 - SECONDARY
- DOLOCO_ROADS**
- UTAH_ROADS**
- Public Lands**
 - BLM
 - CDOW
 - PRIVATE OR OTHER EXEMPT
 - STATE OF COLORADO
 - USFS

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Notes



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Karen Henderson <karenh@sanmiguelcountyco.gov>

Vacation of Portion of County Road 60M: Homewood & Alexander

1 message

Jim Boeckel <jim@telluridefire.com>
To: karenh@sanmiguelcountyco.gov

Thu, Oct 27, 2016 at 10:44 AM

Karen,

After review of the above referenced application and discussion with the Chief's we have no objection to the vacation of the portion of County Rd. 60M as outlined in the application. We do however have one requirement;

1. Any and all gates that are installed shall have a Knox Pad Lock installed on them to facilitate Fire Department access in an emergency.

If you have any questions regarding the above, please contact me.

Jim Boeckel

Fire Marshal

Telluride Fire Protection District

P.O. Box 1645

Telluride CO. 81435

Phone [970-728-3801](tel:970-728-3801) Cell [970-729-1454](tel:970-729-1454)

e-mail jim@telluridefire.com



Mike Rozycki <miker@sanmiguelcountyco.gov>

Re: Vacation of Portion of County Road 60M: Homewood & Alexander

1 message

Telluride Mountain Club <telluridemountainclub@gmail.com>

Thu, Nov 3, 2016 at 3:39 PM

To: Mike Rozycki <miker@sanmiguelcountyco.gov>

Thanks for your help Mike,

We were able to sort it out on our end, I appreciate you getting back to me.

Telluride Mountain Club
www.telluridemountainclub.org
PO Box 1201, Telluride, CO 81435

On Mon, Oct 31, 2016 at 11:00 AM, Mike Rozycki <miker@sanmiguelcountyco.gov> wrote:
Heidi,

I know everyone's busy but I suggest you either look at the County web map using the ownership layer to identify the public land in this area or you could stop in and Karen or John can show you a large map of the portion of 60M that is requested by two large landowners to be vacated and the location of the public land that may be affected by the proposed road vacation. The application indicates that the applicants are willing to reserve an easement over the vacated ROW for pedestrian access only.

Mike Rozycki

On Mon, Oct 31, 2016 at 10:27 AM, Telluride Mountain Club <telluridemountainclub@gmail.com> wrote:
Hi Mike,

We received the following email from John. The mountain club is curious what public access this could affect, if any. Let me know when you get a chance. Thanks so much,

Heidi

Telluride Mountain Club
www.telluridemountainclub.org
PO Box 1201, Telluride, CO 81435

----- Forwarded message -----

From: **John Huebner** <johnh@sanmiguelcountyco.gov>
Date: Thu, Oct 27, 2016 at 9:25 AM
Subject: Vacation of Portion of County Road 60M: Homewood & Alexander
To: Mike Horner <mikeh@sanmiguelcountyco.gov>, Janet Kask <janetk@sanmiguelcountyco.gov>, Matt Zumstein <mzumstein@fs.fed.us>, teresa_pfifer@blm.gov, Bill Masters <sheriffbillmasters@gmail.com>, telluridemountainclub@gmail.com, Jeremy Fox <jeremy@smpa.com>

All,



Karen Henderson <karenh@sanmiguelcountyco.gov>

Re: Vacation of Portion of County Road 60M: Homewood & Alexander

1 message

Mike Horner <mikeh@sanmiguelcountyco.gov>

Wed, Nov 16, 2016 at 10:18 AM

To: John Huebner <johnh@sanmiguelcountyco.gov>, Karen Henderson <karenh@sanmiguelcountyco.gov>, Mike Rozycki <miker@sanmiguelcountyco.gov>

Mike,

Please consider the following comments regarding the Homewood/Alexander request to vacate a portion of County Road 60M.

The section of CR 60M that is the subject of this request extends approximately 4.75 miles through the applicants property on East Wilson Mesa. The road currently passes through two short sections of public land administered by the Bureau of Land Management (BLM).

A portion of CR 60M was vacated in 2000 in accordance with Board of Commissioners Resolution 2000-19 through the Price property and is subject to a 20 foot wide "non-motorized recreational access and usage easement to the County for the benefit of the public" including, "hiking, running, bicycling, mountain bicycling, horse riding, nordic skiing, and snowshoeing and any combination thereof".

Road and Bridge is recommending approval of the road vacation application with the following conditions.

1. To be consistent and not create a dead end for pedestrian access across Wilson Mesa, the road vacation, if approved should be subject to the same non-motorized recreational access easement that was approved in BOCC Resolution 2000-19 for that portion of CR 60M that traverses the Price property.
2. I would request that a sign be placed on each end of the vacated section to indicate, "NON-MOTORIZED PEDESTRIAN ACCESS, STAY ON ROAD". The Road Department could install these signs in the spring, if approved.
3. All gates must remain unlocked or the property owners must install pedestrian access gates sufficient to allow unrestricted passage of bicycles or horses.
4. I realize access to public land may be an issue however, the first section of BLM land is only .53 miles from the west property gate and the second is 1.15 miles from the west gate. I believe hunters or hikers will still have reasonable pedestrian access to the public land. There are no roads or motorized trails on this section of public land so foot or horseback travel is simply extended about a half mile.
5. If approved by the Planning Commission with a recommendation to the Board of Commissioners, I would request that the BOCC public hearing notice also include language according to CRS 43-2-110 to consider the exclusion of CR 60M from the County Road Maintenance System.

Please let me know if you have questions.

Mike

On Thu, Oct 27, 2016 at 9:25 AM, John Huebner <johnh@sanmiguelcountyco.gov> wrote:

All,

The San Miguel County Planning Department has received an application to vacate a portion of County Road 60M located on Sunshine Mesa from the Homewood Family LTD Partnership and Alexander

Ranch LLLP. Please review the attached application and provide your comments by November 23, 2016. Please contact the Planning Department if you have questions. Thanks.

John

John Huebner
Planning Technician
San Miguel County
333 W. Colorado Ave, 3rd Floor
PO Box 548
Telluride, CO 81435
P:[970-369-5437](tel:970-369-5437)
E:johnh@sanmiguelcountyco.gov
W:www.sanmiguelcountyco.gov

--

Mike Horner, Superintendent
San Miguel County Road Department
PO Box 426
Norwood, CO 81423
[970-327-4835](tel:970-327-4835)
www.sanmiguelcountyco.gov



Karen Henderson <karenh@sanmiguelcountyco.gov>

RE: Vacation of Portion of County Road 60M: Homewood & Alexander

1 message

Lynn Padgett <lynnp@sanmiguelcountyco.gov>

Fri, Nov 18, 2016 at 3:29 PM

To: Mike Rozycki <miker@sanmiguelcountyco.gov>, Joan May <joanm@sanmiguelcountyco.gov>, Kris Holstrom <kholstrom@gmail.com>, Hilary White <hilary@mountainfreak.com>

Cc: Steve Zwick <stevez@sanmiguelcountyco.gov>, Mike Horner <mikeh@sanmiguelcountyco.gov>, Karen Henderson <karenh@sanmiguelcountyco.gov>, Janet Kask <janetk@sanmiguelcountyco.gov>

Hi, in our recent 11/1/2016 BLM Uncompahgre Field Office (UFO) comments, pages 22-30 we discussed Land Disposals. What is interesting is that a BLM parcel in this area, accessible by 60M is actually recommended under the preferred alternative for disposal. San Miguel County specifically requested two things in the UFO comments: 1. That this parcel not be disposed of because it had important riparian habitat and 2. Because it was within the potential expanded San Miguel ACEC that the county desires.

So, for consistency, it makes sense that the county not vacate any portion of 60M that provides BLM land access and also that it be pointed out to the BLM that their letter to us further supports them designating the BLM land shown on page 30 of the attached comments as 1. Not designated for land disposal, 2. RMP decision should expand the San Miguel ACEC which would include this parcel, and 3. RMP should expand the proposed SMRA boundary to also include this parcel.

I can provide a less busy, clearer exhibit for staff presentation to BOCC if desired (the one on pg 30 of the attached doc is busy).

Best,

LynnP

From: Mike Rozycki [mailto:miker@sanmiguelcountyco.gov]

Sent: Friday, November 18, 2016 2:40 PM

To: Joan May <joanm@sanmiguelcountyco.gov>; Kris Holstrom <kholstrom@gmail.com>; Hilary White <hilary@mountainfreak.com>

Cc: Steve Zwick <stevez@sanmiguelcountyco.gov>; Mike Horner <mikeh@sanmiguelcountyco.gov>; Karen Henderson <Karenh@sanmiguelcountyco.gov>; Janet Kask

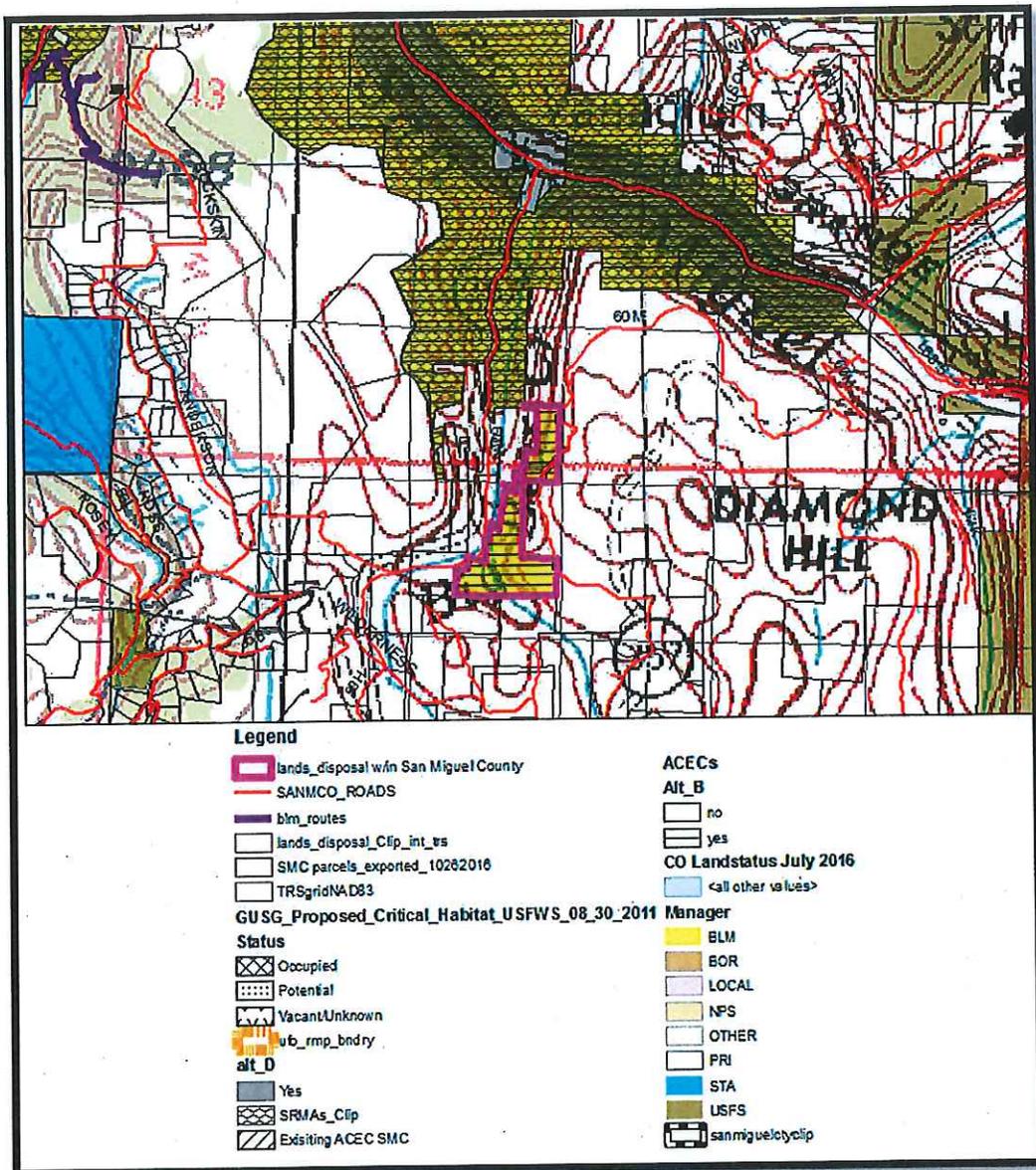


Figure 7e. Showing the Big Bear Creek Area parcels. If sold for private development, there would be impacts to the scenic and primitive qualities of these areas, as well as the important riparian ecosystem and wildlife. Alternatives B and D do not recommend these parcels for disposal. San Miguel County believes it is best for the public and for the protection of valuable river corridors and riparian habitat if these parcels are not disposed of. The San Miguel River Expansion ACEC should be designated, and it would include these parcels. The San Miguel River SRMA boundary should be expanded to include all of these parcels and the expansion ACEC.

Section 8. Wildlife management.

San Miguel County urges the BLM to further consult and consider the Colorado Parks and Wildlife (CPW), formerly Colorado Department of Wildlife (CDOW), detailed list of Best Management Practices (BMPs) for oil and gas development titled "Actions to Minimize Adverse Impacts to Wildlife Resources." with species-specific BMPs, including recommendations on protective buffers, timing information, and recommendations on surface density caps, referenced in their letter to BLM State Director Helen Hankins dated December 13, 2010.



United States Department of the Interior



Bureau of Land Management
Uncompahgre Field Office
2505 South Townsend Avenue
Montrose, Colorado 81401
(970) 240-5300

In Reply Refer to:
COC-39221 (CO-S050)

November 18, 2016

Via Email: karenh@sanmiguelcountyco.gov

San Miguel County Board of County Commissioners
c/o San Miguel County Planning Department
333 West Colorado Ave
Telluride, Colorado 81435

RE: Petition to vacate portion of County Road 60M

Dear Commissioners:

We received the notice for public hearing and comment regarding the petition to vacate portion of County Road 60M. We also appreciate the opportunity to participate in the onsite. We provide the following comments on the subject:

1. County Road 60M was included in the 1984 filing by San Miguel County for public highways under Revised Statute (R.S.) 2477, and serialized under case file COC-39221, and as such provides public access to public land.
2. We are opposed to any vacation or reduction of public access including vehicle use to public land along County Road 60M. We have been approached in the past in a similar request and our position is the same as it was before. County Road 60M provides public access including vehicle use to public land on top of the mesa which is not reasonably accessible from County Road 60M below along Big Bear Creek. See the enclosed map which depicts County Road 60M, the BLM land status, and the steep topography. To have to access from County Road 60M below along Big Bear Creek would require that the public cross Big Bear Creek and ascend the canyon wall which is extremely rugged and steep with slopes upwards to 50%. This is not a reasonable or feasible alternative for the public to have to climb the canyon wall in order to get to the public land on top of the mesa where they have vehicle access to now. In addition, in order for the public to have to try to navigate in order to stay on the public land from the canyon bottom to the top of the mesa would be very difficult as it would require them to have to go through two very narrow and steep strips of public land only a couple of hundred feet wide and cross the Muddy Creek drainage if accessing public land from the southern access point which is only approximately a 300 foot stretch along County Road 60M below. We anticipate this would result in more trespass on the other private landowners along the steep canyon wall than to those landowners on top of the mesa. Therefore, we do not see public access to public land from County Road 60M from below as an alternative. We also do not see pedestrian use only along County Road 60M as an

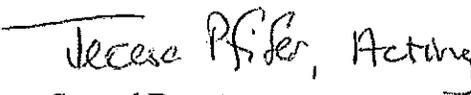
alternative as that would require the public to have to walk upwards of 1.5 miles to get to the same public land that they can drive to now. Further, County Road 60M provides legal vehicle access to the top of the mesa to those landowners along the canyon wall who have land on top of the mesa, and we have been approached by some of those landowners in the past in order to obtain access across public land from County Road 60M to get to their property on top of the mesa. To vacate the road as proposed would cut off their existing legal access as well. However, we would not oppose vacation of County Road 60M on top of the mesa where it leaves the public land at the furthest northeast corner of lot 9, section 33, T. 43 N., R. 10 W., NMPM, shown at the "X" on the enclosed map because there is no public land beyond this point.

We do want to point out that the current sign on County Road 60M on top of the mesa says there is no access to public land which is incorrect and needs to be changed. We can post signs along County Road 60M on top of the mesa where it enters and leaves public land in order to assist the public to stay on public land.

3. If County Road 60M were to no longer be a public road, then it would put the burden on any parties including the applicants for this petition and/or those landowners along the canyon wall who would want to use and/or maintain the road on public land beyond casual use to obtain a right-of-way under the Federal Land Policy and Management Act of 1976 (FLPMA) for those portions of the road on public land. Any right-of-way would be subject to processing and monitoring administrative fees, annual rent, and terms and conditions of use.

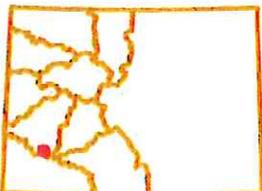
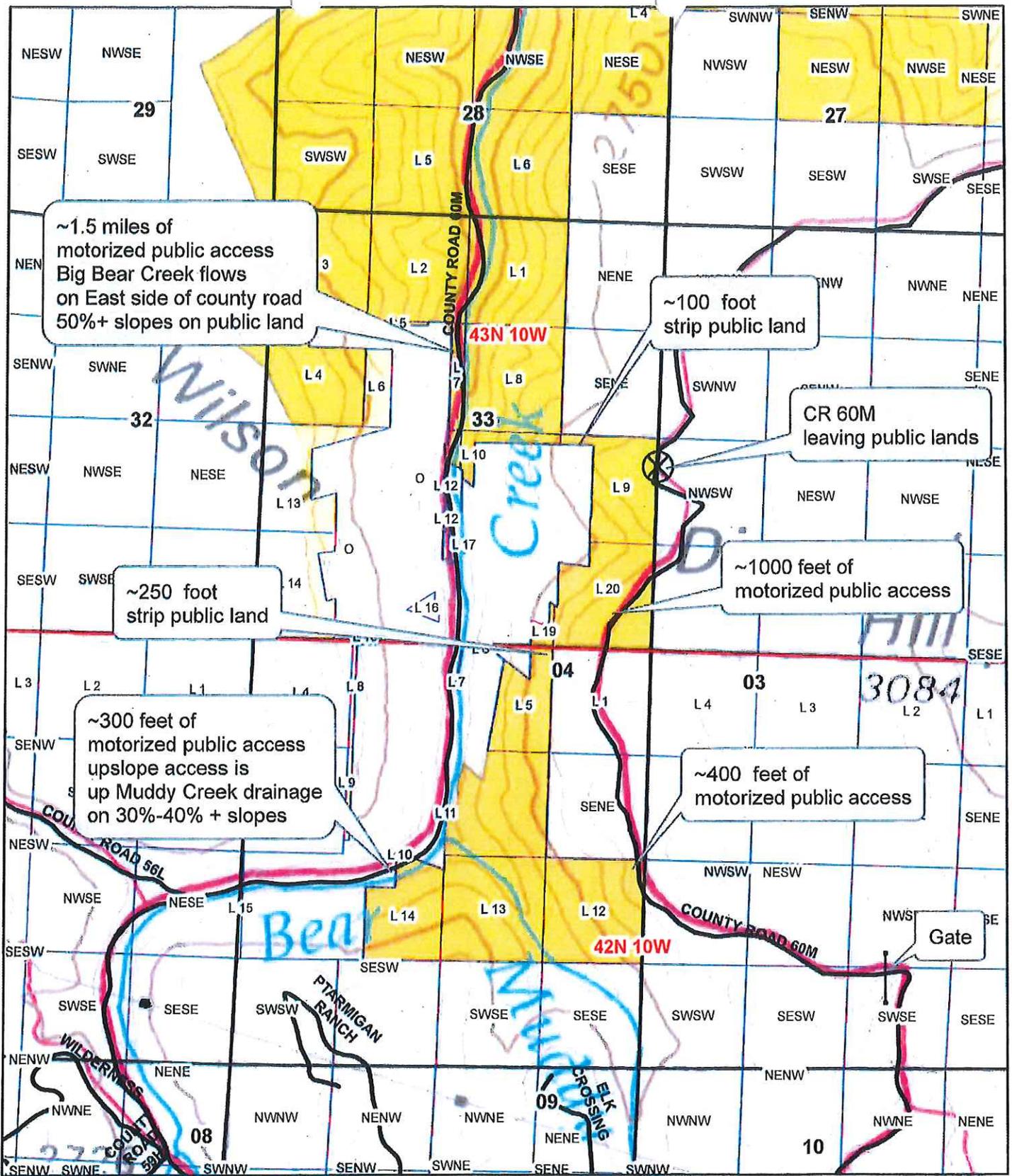
If you should have any further questions, please feel free to contact Teresa Pfifer of my staff at 240-5316. Thank you for your consideration of our comments.

Sincerely,


for Samuel Dearstyne
Acting Field Manager

Enclosure (1)

1 - Map



San Miguel County County Road 60M Public Lands Access



No Warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual

0 0.5 Miles

Date: 11/18/2016



Karen Henderson <karenh@sanmiguelcountyco.gov>

Re: referral CR 60M vacation

1 message

Janet Kask <janetk@sanmiguelcountyco.gov>
To: Karen Henderson <karenh@sanmiguelcountyco.gov>

Wed, Nov 30, 2016 at 2:01 PM

Hi Karen,
I've been reading the emails as they come in.
I just re-read everything once again dating back to 9/22.

My biggest concern would be public access.
It appears the applicant has agreed to allow continued use.
Yes, I realize it's limited to only pedestrian traffic.
However, motorized vehicles were never encouraged.
Therefore, I agree with Mike Horner's recommendations.

I also understand the positions of Lynn P. and the BLM.
BLM stressed concerns about the grade of the slope.
However, I'd have to visit the site to fully understand this.
I realize Lynn P. is objecting for consistency purposes.

Is this issue on the 12/7 BOCC agenda for discussion/approval?
Janet

On Tue, Nov 29, 2016 at 7:46 AM, Karen Henderson <karenh@sanmiguelcountyco.gov> wrote:
By the end of the week if you can.

On Sun, Nov 27, 2016 at 5:53 PM, Janet Kask <janetk@sanmiguelcountyco.gov> wrote:
Hi Karen,
Sorry, I was out of town for the holiday.
And, I have meetings in Norwood on 11/28.
What is your deadline?
Janet

On Tue, Nov 22, 2016 at 2:36 PM, Karen Henderson <karenh@sanmiguelcountyco.gov> wrote:
Hi Janet,

Just checking to see if you were going to provide comments on the CR 60M vacation.

Karen

--
Karen Henderson
Associate Planner
San Miguel County
970-728-3083
PO Box 548
Telluride, CO 81435
karenh@sanmiguelcountyco.gov



Mike Rozycki <miker@sanmiguelcountyco.gov>

Re: neighbor notices

1 message

Mike Rozycki <miker@sanmiguelcountyco.gov>
To: Rob Roberts <rroberts@du.edu>

Wed, Nov 30, 2016 at 1:13 PM

Rob,

In checking our file ... We certified the application complete and sent out the referral memo to various entities on October 27th we provided the notice info and list of folks that needed to be noticed which included SMC Investments LLC in October ... In double checking the draft list and notice was sent to Michal Hockersmith who then sent out the notice on 11/21, as you indicated per the post mark ... This notice was sent out the requisite 15 days prior to the CPC public meeting scheduled for December 14th ...

Sorry for the confusion

Mike Rozycki

On Wed, Nov 30, 2016 at 10:47 AM, Rob Roberts <rroberts@du.edu> wrote:

Mike,

Concerning the timing of the notices that were sent out to neighbors concerning the Homewood/Alexander application, I received mine a few days ago. It is postmarked 11/21 (sent from Hockersmith Law). Paul Allaire, another neighbor, received his today. Guy Saperstein received his a few days ago.

You indicated that notices were sent out in October. Are you referring to a different notice, perhaps from the County?

Rob

--

Mike Rozycki
Planning Director
Phone: 970.728.3083
miker@sanmiguelcountyco.gov

SECTION 2-32: ACCESS TO PUBLIC LANDS

It is the policy of the County to preserve existing access points to public lands and to strive to secure new access points to public lands. To this end it is the policy of the County to:

2-3201

Insure open access to public lands while protecting the rights of private landowners;

2-3202

Favor pedestrian and non-motorized forms of access in pursuit of exercise, camping, hunting and fishing, nature study and similar uses minimizing impacts and preserving the natural environment over other types of access;

2-3203

Favor the maintenance of access into areas along routes that have been used in the past over the development of new access routes, unless the Master Plan recommends the development of a new route or if it is found that the abandonment of old access routes and the development of new ones will lead to significant reductions in environmental impacts and superior public access;

2-3204

Identify access routes in which the County has a legal interest and pursue the establishment of such interests by appropriate means;

2-3205

Identify those access routes of which preservation is essential to the maintenance of appropriate uses and activities, and take appropriate steps to secure those routes for ongoing public use; and

2-3206

Favor permanent and irrevocable rights of access over conditional or temporary rights.

SECTION 2-33: PRIVATE LANDS SURROUNDED BY PUBLIC LANDS (INHOLDINGS)

It is the policy of the County to promote and encourage the transfer of private inholdings to public ownership with the objective of promoting consistent management of the public lands to reduce conflicts between private owners and developers and the public at large. To this end it is the policy of the County to:



John Huebner <johnh@sanmiguelcountyco.gov>

Request to decline the Homewood and Alexander Application to vacate County Road 60M

1 message

timothy.cannon@usbank.com <timothy.cannon@usbank.com>

Fri, Dec 2, 2016 at 9:23 AM

To: karenh@sanmiguelcountyco.gov, mikeh@sanmiguelcountyco.gov, miker@sanmiguelcountyco.gov, johnh@sanmiguelcountyco.gov, hiliary@mountainfreak.com, joanm@sanmiguelcountyco.gov, janetk@sanmiguelcountyco.gov, kholstrom@gmail.com, telluridemountainclub@gmail.com

Hello,

It has come to my attention that the Homewood and Alexander families have submitted an application to vacate 4.75 miles of County Road 60M on East Wilson Mesa. This is a scenic area between what is known as the Homewood and Price Gates. Please see the attachments which are public record. This is a two step public process, first going to the SMC Planning Commission next week on December 7th and then on to the Board of County Commissioners.

The first attachment pertains to the Homewood and Alexander application. They propose pedestrian access on the road but eliminate vehicle access with exceptions provided to SMPA. The applicants site public safety concerns and the fact that the road dead ends at the Price Gate on the far eastern edge of East Wilson Mesa.

The second attachment is comment from the BLM, as public lands are traversed by the road. The BLM comments only to preserve access to the lands under their management but not beyond that point, which is 1.5 miles inside what is termed The Homewood Gate. You will also find other SMC memos on the application.

The County has recently approved two County Road Vacations on Wilson Mesa. The first was with the Price application on County Road 60M from the entrance area of Bilk Creek proceeding to the escarpment on the eastern edge of East Wilson Mesa. This allows for pedestrian access only. The second instance was the Nichol's application on upper County Road 59H, which did access Silver Pick Basin. Both roads were historic access points to scenic areas on Wilson Mesa and a part of an extended road network used by the public. Both were instances of wealthy land owners developing homes using these public roads only later to provide arguments why the roads should be vacated.

I would like to offer other observations and comments. I request that you interview others on this important subject.

1. Applications such as these are elitist. No American should purchase and develop private lands by way of public roads and then claim the road should be used in a future fashion that they dictate or negotiate. This application is a Taking by the entitled at the expense of all Americans. For years the Homewoods and Alexanders have paid low agricultural tax rates that support ranching, which is viewed as many as a public benefit. County Roads and an extended network of other public roads, both County, State and Federal provide vital access to and from their exclusive holdings. All tax payers have support them on that basis.
2. Public Roads are Public Lands. Simply being on the public road is enough to be considered a public place. The BLM's position is unfortunate, because the BLM's viewpoint is limited to their tracts and not looking at the greater good of the public.
3. The fact that the road is a dead end, as the County unfortunately allowed the east end of County Road 60M to be vacated is a poor point. There are multiple county roads in the region that dead end and are used by the public. Out and back journeys in vehicles are common and worthwhile in scenic areas.
4. The Homewoods and Alexanders are showing discrimination by wanting the road on their terms, limiting its use to only pedestrians, while using vehicles themselves. Pedestrian only is discriminatory of those with disabilities and limits any American to traverse or to

enjoy nature on what is now public property. We extend this benefit to all individuals of the world. Furthermore, a County official who have approved pedestrian only access on what were public roads should be held accountable to the American Disabilities Act. Quote:

The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits **discrimination** against **individuals** with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

1.

5. The Price Gate is currently locked. While this has nothing to do with the current application it is against the county's access agreement and is not being enforced. How is an individual with disabilities or otherwise to proceed through a locked gate? Is the County enforcing its previous agreements? Is it safe to assume that if the lock gate is locked and is entirely on the Price's land, that they locked it? A locked gate is against the agreement. Is the pedestrian gate at the base area of Bilk Creek functional for pedestrians? Take a look.

6. The Homewoods have several signs at the gate of their land to the west. I suggest you read the signs. As the BLM points out, the road does access public lands, whereas the Homewoods indicates it does not. Other signs on their property are full of warnings and highly intimidating, as well as difficult to discern if you can continue on the road or not.

7. With regards to points 5 and 6 above, both gates indicate a feeling to "Stay Out". Why should such people be afforded special accommodations in our community?

8. Please get the word out through your publication. Alert those interested in trails, scenic wonders and all those, particularly the disabled who wish to use public roads.

9. The Town of Telluride is a Civil Liberty Safe Zone and the County Seat of San Miguel County. The Town adapted the following principal, **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TELLURIDE, COLORADO:**

Section 1. That the Town of Telluride has been, and remains, firmly committed to the protection of civil rights and civil liberties for all people." I believe the Town should not be silent on this application due to its commitment.

10. Importantly, please make it known that entitled individuals should not entice or influence public officials to surrender public lands or limit their use from us. Yes, Public roads are a civil rights and civil liberties issue of high importance. Public roads are one of the life lines that keeps all Americans equal. To take them away in a high fashion to serve the Prices, Homewoods, Alexanders and the Nichols is wrong. It is time to fight those that stop us in our tracks and tell us to stay out with their signs, their locks and their lawyers.

Please enter into public record this email.

Thank you,

Tim Cannon

cell (970) 708-1444

PO Box 4015. Residential Address: 634 County Road 59H, Telluride, CO 81435

U.S. BANCORP made the following annotations

Electronic Privacy Notice. This e-mail, and any attachments, contains information that is, or may be, covered by electronic communications privacy laws, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing this information in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.

4 attachments

 **referral.comments.pdf**
2333K

Bus letter 11/18/16 in packet

 **ATT00001.htm**
1K

 **RVAC-10-16-2745.application.pdf**
2299K

Applicant Application 10/17/16 in packet

 **ATT00002.htm**
2K



Karen Henderson <karenh@sanmiguelcountyco.gov>

Request to decline the Homewood and Alexander Application to vacate County Road 60M

1 message

SamanthaLyn Samuelson <slynsamuelson66@gmail.com>

Fri, Dec 2, 2016 at 4:21 PM

To: karenh@sanmiguelcountyco.gov, mikeh@sanmiguelcountyco.gov, miker@sanmiguelcountyco.gov, johnh@sanmiguelcountyco.gov, hilary@mountainfreak.com, joanm@sanmiguelcountyco.gov, janetk@sanmiguelcountyco.gov, kholstrom@gmail.com, telluridemountainclub@gmail.com

To the people that make decisions effecting the public's use of PUBLIC County Roads:

I do not believe that public road 60M should be closed (at the whim of land owner's desires) for any reason. 60M is a designated public county road.

I drive & photograph on this particular road, as it has very unique views, lighting & features.

Why is there a lock now on a gate that accesses public roads?

Also, the nasty signs have no place on public roads &, yet, there has always been nasty threatening signs around the gate on 60M.

These signs at the gate are insulting, and they insinuate that it is not a public road when it is a public road.

Please do not take away 60M! I am the public!! It is my road to use!!

There is no way I could ever carry my photographic equipment as far as any "pedestrian right of way goes". I need my car!

Wealthy & elite land owners influencing the decisions to vacate a county roads is not something I wish to see happening in San Miguel County.

I cannot image anyone other than "the wealthy" making this type of request! Imagine me asking you to close a county road, cuz "I didn't want cars there!"

It is not in fair order of public land access to keep out the public from public lands!

I believe those "posted nasty signs" are erroneous saying that "No Public Lands are accessed by this road 60M!"

Also, I might mention that I have had a very aggressive male truck driver follow me on 60M & then, scare me. His truck came roaring of the last residence before the gate on 60M! It is scary to have a big truck with a man pursue me on a public road & then, park & watch me photograph!

Cell phones do not always work in remote spots. I really have no use for this type of behavior that has happened to me! Looked to me like some form of intimidation...but I just waved at him and smiled!! I could see exactly where the truck came from, so I know it was from the residence mentioned!! Not very appropriate behavior!! I am a senior (67 years old), and felt that for whatever reason, this person was attempting to harass me. Why would anyone watch me get out of my car, get my tripod & camera to take landscape scenic images? How about me reporting him to Bill Masters? It would have been his word against mine!

Now vacating the road for the wishes of land owners? Public Road! OH, please, just let these people move away and build their own "private roads" and not take away public roads!! In my view point, it is your job to represent the public & public roads, not cater to special interests!! Maybe these people should not

have moved where they moved as they knew it was a public road!!! The road was there when they moved!! They can now move away to build their own private access roads to their homes, instead of trying to take public (my!) access away!

Decline the Homewood & Alexander Applications to vacate 60M which is one of my VERY favorite photographic spots.

Respectfully submitted,
Samantha Lyn Samuelson
slynsamuelson66@gmail.com

12/5 Hocken Smith



Karen Henderson <karenh@sanmiguelcountyco.gov>

Proposed Vacation of CR 60M

1 message

Guy Saperstein <gts@saperstein.com>

Fri, Dec 2, 2016 at 6:21 PM

To: karenh@sanmiguelcountyco.gov

To The Planning Commissioners:

For many years, I was a Planning Commissioner in the City of Berkeley, so I feel your pain! Actually, I know the job and how diligent you need to be to do it well, so I thank you in advance for your public service.

Also, along with my wife Jeanine, I am the owner of Lap Dog Ranch, 6800 CR 60M, which is immediately adjacent to the Homewood Ranch and adjacent to the portion of CR 60M proposed for vacation.

When we bought our property five years ago, the ability to drive up CR 60M to the BLM land and beyond was a real amenity. [Note, I am a disabled person, so vehicular use is significant to me] It is still an amenity and one we happily share with the public, despite the fact that everyone going that route drives past our property.

I understand this road has been a public road for a long time---someone told me 100+ years; I have no confirmation of that---but for a very long time the public has been enjoying access on that road. Extinguishing public access would diminish the expectations we had when we bought our property, diminish our use and diminish the value of our land. In my opinion, it would be highly unfair to the public to extinguish public rights for the benefit of three families, especially when the public has been using this road for so many years.

As a related matter, there is a gate next to my property that the Homewood Ranch has erected with the obvious intention of deterring public use. A number of the warnings on the signs are wrong as a matter of law and should be corrected so that the public is not intentionally confused about rights to use this road.

Best Regards,

Guy T. Saperstein
6800 County Road 60M
[510/595-1452](tel:5105951452)

"Be the person your dog thinks you are." Moxie and Wookie



Mike Rozycki <miker@sanmiguelcountyco.gov>

Fwd: Request from the Homewood Family and Alexander Family to close a short portion of County 60 M that goes nowhere and you can't turn around.

1 message

Henson Jones <hensonj@me.com>
To: Mike Rozycki <miker@sanmiguelcountyco.gov>

Fri, Dec 2, 2016 at 6:50 PM

Mike I would like to add to this that there are four gates across the Homewood property to keep the various pastures separated. These gates are heavy and you have to lift them to get them open. The only way to avoid this is for the County to install cattle guards and they are expensive.

Begin forwarded message:

From: Henson Jones <hensonj@me.com>
Subject: Request from the Homewood Family and Alexander Family to close a short portion of County 60 M that goes nowhere and you can't turn around.
Date: December 2, 2016 at 3:57:00 PM PST
To: Mike Rozycki <miker@sanmiguelcountyco.gov>

Dear Mike,

I have read the objection letter from Tim Cannon of US Bank to the closing of the road.

I have been a neighbor of the Homewoods and the Alexanders since 1969. I believe the Homewood Family purchased their land in 1943 or 54. The Alexander Family has owned their land since the early 1900's. Neither one of these families can be considered "wealthy land owners developing homes". These are hard working farming and ranching families trying to keep the agricultural heritage of San Miguel County alive and not be a subdivision as implied.

I also find it offensive to refer to the Homewood Family and the Alexander Family as "elitist". They are hard working ranching and farming families and few of us could keep up with them doing a day's work. They are as far as you can get from being "elitist".

I have personally see people drive through the gate, park their car on the Homewood's property, unload baskets and have a picnic on the Homewood's land both off the road or up on Diamond Hill. I can't count the number of times I have told people they are trespassing and they don't listen to me. Bill Masters has had to send a deputy up to Wilson Mesa on numerous occasions to issue a trespass to someone.

Another problem is that people will go through the gates and leave them open. Then the cows get out and someone will take two days to try and get them all back where they belong.

I support the closing of the road. Some years ago a judge declared the road was only 20 feet wide all the way through. So it is virtually impossible for a vehicle to drive from one end to the other and turn around. They would have to back up the entire way to stay on the road.

We know there has been a drought and grass is not what it used to be. Just look at the valley floor. When someone drives in the Homewood gate and decides to drive out on a point to look at the view or to have a picnic it destroys the grass.

Another problem these families face is the liability of someone going off the road or trespassing and getting injured.

The Homewoods and the Alexanders are not "gentlemen farmers" who do this as a hobby. They are serious ranchers. They have cows on West Wilson Mesa, Iron Springs Mesa, Horsefly Mesa, in Norwood and out near Paradox. They do not need to have their work made harder.

The portion of County Road 60M they are talking about is in very poor condition, only 20 feet wide and goes nowhere. You can get the same vistas and scenery from the rest of 60 M that leads up to their gate. There are miles and miles of paved or well maintained roads in San Miguel County with gorgeous vistas for people to drive on if they find it difficult to walk or climb on them.

I believe that Mike Horner who is head of the County Roads Dept has recommended the closing of this portion. He told me that would support it when I spoke with him.

I support the Homewoods and Alexanders petition and Mike Horner's recommendation.

Regards,

Hans

Hans Jones
hensonjones@gmail.com
510-527-0334
970-729-0000(c)

Hans Jones
hensonjones@gmail.com
510-527-0334
970-729-0000(c)

12/5 Hoalce... PA



Karen Henderson <karenh@sanmiguelcountyco.gov>

Re: Proposed Vacation of CR 60M

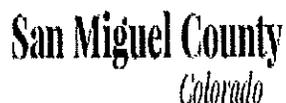
1 message

Paul Allaire <pallaire010@gmail.com>

Sat, Dec 3, 2016 at 12:55 PM

To: karenh@sanmiguelcountyco.gov

- > On Dec 3, 2016, at 2:45 PM, Paul Allaire <pallaire010@gmail.com> wrote:
- >
- > I am the owner of the home and property at 700 Elk Crossing which is off 60M and part of Ptarmigan Ranch.
- > I write to oppose the proposed Vacation of 60M. We have enjoyed the natural beauty afforded by public access
- > to this road. The ability of our family to access this area would be severely limited if Vehicle traffic was not allowed.
- > This would diminish our enjoyment of our life on the Mesa and I believe also diminish the Value of our Property.
- > Keeping public access clearly increases traffic past our property but I believe that all our county tax payers
- > have a right to enjoy this public road and the wonderful vistas it provides.
- > I recommend that you reject this Vacation Proposal.
- >
- > Thank You.
- > Paul Allaire



Karen Henderson <karenh@sanmiguelcountyco.gov>

Ptarmigan Board letter re Homewood/Alexander application

1 message

Rob Roberts <rroberts@du.edu>

Mon, Dec 5, 2016 at 8:57 PM

To: Karen Henderson <karenh@sanmiguelcounty.org>

Cc: Mike Rozycki <miker@sanmiguelcountyco.gov>

Hi Karen & Mike,

I am submitting this letter from the Board of Directors of Ptarmigan Ranch. The other documents are supporting materials referred to in the letter.

Thanks,

Rob Roberts

6 attachments

 **Ptarmigan BOD letter 12-5-16.pdf**
72K

 **334226.pdf**
282K

 **335271.pdf**
1166K

 **335279.pdf**
438K

 **335280.pdf**
509K

 **335281.pdf**
378K

Ptarmigan Ranch Owner's Association, Inc.

December 5, 2016

VIA EMAIL

San Miguel County Planning Commission
and Board of County of County Commissioners
c/o Mike Rozycki, County Planning Department

San Miguel Planning Commission,

We are submitting this letter for the Ptarmigan Ranch Owner's Association Board of Directors.
Some of our owners may submit individual letters as well.

Some members of our HOA received the public hearing notice concerning an application ("Application") proposing to vacate a portion of County Road 60M. The Application was submitted on behalf of Homewood Family Limited Partnership and Alexander Ranch, LLLP (collectively, the "Applicant").

The Applicant describes the portion of CR 60M proposed for vacation is located largely within their holdings, with the exception of a short segment that crosses BLM property and point out that CR 60M dead-ends at the point where their property intersects with property owned by the Price family. The Applicant points out that the County had vacated a portion of CR 60M through the Price property. The Applicant is looking to achieve a similar outcome with this Application. The Applicant claims that vacation is appropriate because of concerns relating to safety associated with conflicts between heavy equipment and vehicles used by applicant and the public using the road. In addition, the Applicant expressed concerns over trespasses which are said to occur onto their property, which they claim is facilitated by the public access over CR 60M through their property.

We are opposed to the Application and respectfully request that the County not agree to vacate any remaining portion of CR 60M for the following reasons:

1. CR 60M currently provides public access to important and desirable scenic vistas occurring along this portion of Wilson Mesa. While we agree with the position taken by the BLM in its November 18, 2016 letter urging the County to not vacate the portion of CR 60M that extends through its holdings to insure continued public access to public lands, the Association takes the further position that the section of the road beyond the BLM property is still a very valuable and important resource, which allows the public to drive along a very scenic stretch of County Road. And although this section of road does not necessarily provide access to other public land, keep in mind that the road itself is public land, which affords access to these amazing scenic vistas. While the Applicant is proposing to grant pedestrian access to the County to enable public continued access along the vacated portion of CR 60M, not all members of the public would be able to walk or ride a bike along the road for various reasons such as age, health, ADA factors/consideration, etc. The Association urges the County not to forego full public access to a public land.

2. The Applicant suggests that a reason justifying the vacation of CR 60M is to avoid/eliminate possible safety concerns attributable to interactions with the Applicant's vehicles and equipment and public use. There is no evidence that the safety conditions and concerns noted by Applicant actually occur. We are not aware of such circumstances. Of course, the applicant's proposal would still have the public using CR 60M, albeit in a more vulnerable position as a pedestrian or biker or equestrian user, so the issue is not avoided.

3. The Applicant also suggests that an additional reason justifying the vacation of CR 60M is to better manage trespassers (largely hunters) who access the applicant's property along CR 60M. The issue could be handled many other ways, with less impact to the public as would result from the vacation of CR 60M, such as signage, cameras and security patrols.

4. The Applicant points to the fact that the County previously agreed to vacate a portion of CR 60M that crosses certain property referred to by the Applicant as the Price property to the north. As noted in BOCC Resolution 2009-19 recorded on May 16, 2000 in Reception No. 334226, which approved the vacation of a portion of CR 60M that crosses the Price property, the facts and circumstances surrounding the County's election to vacate was much different from the facts and circumstances presented by this Applicant. Of note and as reflected in BOCC Resolution 2009-19, the vacation of CR 60M was part of a larger comprehensive plan concerning various property rights and interests surrounding what was commonly referred to as the "Bilk Creek Parcel", a 440 acre holding that extended along the northerly edge of Wilson Mesa and included lower portions of the Bilk Creek riparian area). Other transactions that occurred along with the vacation of CR 60M, which were identified by the County as considerable public benefits, including the conveyance to the County of certain parcels that were created from the Bilk Creek Property to accommodate a parking lot and a climbing wall that were popular for use by the public, a recreational trail easement which was granted to the County to enable the public use of a recreational trail along Bilk Creek through the property, the placement of a conservation easement on the Bilk Creek property restricting its development from the potential twelve "use by right 35 acre parcels" to two parcels, with further limits on the size of development on one of the parcels that could be developed, and a recreational trail easement which was granted to the County to enable public non-motorized use of a recreational trail along the portion of CR 60M being vacated.

Copies of these documents are being forwarded to the County with this letter.

Quite obviously, the public gained substantial benefits in the package of gives and gets that occurred in the transaction involving the vacation of CR 60M through the Bilk Creek/Price property.

An application involving the vacation of a public ROW is a discretionary action by the County and the County is under no obligation to grant the requested vacation. In this Application, there is little or no public benefit, as the public already has the right to use CR 60M for all of the uses and activities that the Applicant is willing to give back to the County. There is really no public benefit in this Application and certainly nothing close to the public benefits derived by the County in connection with the vacation of CR 60M through the Bilk Creek/Price property. For these reasons, we urge the County to deny the Application seeking to vacate CR 60M through the Applicant's property.

Sincerely,

Board of Directors of the Ptarmigan Ranch Home Owners Association

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF SAN MIGUEL COUNTY, COLORADO
CONDITIONALLY VACATING SPECIFIED PORTIONS OF THE
ROADWAYS FOR COUNTY ROADS 60M, 61K AND 62K**

Resolution #2000 - 19

WHEREAS, Silver Mountain Industries, Inc., (SMI) as the owner of a parcel of real property legally described as the Northwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, except those lands contained in the Valley Placer, USMS, 15120 (the subject parcel), has submitted an application on behalf of itself and the contract purchasers of the parcel, H. Charles Price and Jessie H. Price, to vacate specific portions of the roadways for County Roads (C.R.) 60M, 61K and 62K that traverse the parcel, as more fully described in its application; and,

WHEREAS, J. David Reed, attorney for H. Charles Price and Jessie H. Price, by letter dated March 15, 2000, to Karen Henderson, Associate San Miguel County Planner, represented that in consideration for the Board of Commissioners approving SMI's road vacation application for C.R. 60M, 61K, and 62K, the Prices would grant an easement to San Miguel County for recreational trails uses by the public, consistent with Section 5-506 B. of the San Miguel County Land Use Code (LUC), to be located within and upon the historic public road rights-of-way for C.R. 60M and 61K proposed to be vacated, provided that the easements to be granted would not be subject to LUC Section 5-506 A; and,

WHEREAS, the San Miguel County Planning Commission (CPC), pursuant to section 30-28-110, C.R.S., and LUC section 3-601 J., considered SMI's application to vacate specified portions of C.R. 60M, 61K, and 62K at a regular meeting on April 12, 2000, at which the CPC voted unanimously to recommend to the Board of County Commissioners (BOCC) that the application be denied; and,

WHEREAS, pursuant to section 43-2-303, C.R.S., the BOCC considered SMI's application to vacate certain portions of C.R. 60M, 61K, and 62K at a duly noticed regular meeting on May 3, 2000, in Telluride, Colorado, the statutory requirement of notice to adjoining landowners having been satisfied by the applicant, at which meeting the BOCC received and considered evidence and testimony from representatives of the applicant, the Prices, their attorneys, as well as representatives of various groups and members of the public, regarding the appropriateness of vacating the portions of C.R. 60M, 61K, and 62K specified in SMI's roadway vacation application: and,

WHEREAS, section 43-2-303(2)(a), C.R.S., provides that, "No platted or deeded roadway or part thereof or unplatted or undefined roadway which exists by right of usage shall be vacated so as to leave any land adjoining said roadway without an established public road or private-access easement connecting said land with another established public road." and the applicant recognizes and agrees that any BOCC approval of the roadway vacation application must and would be expressly conditional upon it satisfying this statutory requirement and granting those appropriate private access easements as may be required to assure that adjoining parcels would have access to another established public road; and,

WHEREAS, during the BOCC's May 3, 2000 meeting, the Prices represented to the BOCC that they were prepared to grant permissive hiking and biking access to members of the public along that portion of C.R. 62K sought to be vacated, such access to be administered by The Nature Conservancy, as the Grantee of a Deed of Conservation Easement to be imposed upon the subject property should the Prices acquire title to it, in consultation with the Prices, and subject to the right of The Nature Conservancy, pursuant to a Trail Usage and Administration Agreement between the Prices and The Nature Conservancy to close or restrict public access and usage of that portion of C.R. 62K under certain conditions to be specified in the Trail Usage and Administration Agreement; and the Prices further represented to the BOCC that should they install a locked gate on the portion of C.R. 60M proposed to be vacated, to be located in the immediate vicinity of that road's intersection with C.R. 62K, that access will be provided to San Miguel County Road and Bridge Department, the San Miguel County Sheriff's Department, and the Telluride Fire Protection District, at any time such agencies determine that emergency access to the vacated portion of C.R. 60M is required; and,

WHEREAS, the BOCC does hereby find and determine that no private land adjoining C.R. 60M, 61K, and 62K would be left without an established public road or private-access easement connecting said land with another established public road, should the application, as presented be granted and approved, since any such approval would be expressly conditioned upon the applicant granting any required private-access easements to owners of adjoining private lands to become effective upon the vacation of the portions of C.R. 60M, 61K, and 62K specified in the application; and,

WHEREAS, the BOCC does further find and determine, based upon the evidence and testimony received at the public meeting on SMI's application, that the requested vacation of the specified portions of C.R. 60M, 61K, and 62K, that are the subject of the application, is reasonable, appropriate, and in the public interest, provided the following conditions are satisfied: a) the Prices acquire title to the subject property from SMI, subject to a Deed of Conservation Easement to The Nature Conservancy permitting no more than two home sites on the subject parcel; b) the dismissal, with prejudice, of the ongoing litigation initiated by SMI and Leucadia National Corporation against the BOCC, Case No. 98-WM-1860, United States District Court for the District of Colorado, and Case No. 00 CV 15, Div. 1, District Court, San Miguel County, Colorado; and, c) the Prices granting non-motorized recreational access

and usage easements to the County, for the benefit of the public, for those portions of C.R. 60M and 61K to be vacated, and for that portion of C.R. 62K to be vacated, granting a permissive non-motorized public recreational access and usage easement to The Nature Conservancy, to be limited to hiking and biking uses, to be administered by the Nature Conservancy, in consultation with the Prices, in accordance with applicable terms and conditions of the Deed of Conservation Easement for the subject property and a Trail Usage and Administration Agreement between the Prices and The Nature Conservancy, the purpose of which shall be to foster the Prices' intent to provide the public with a tranquil, contemplative environment in which to enjoy the natural beauty of the area, said Agreement granting the right and the power to The Nature Conservancy to close or restrict public access and usage of the vacated portion of C.R. 62K in accordance with gradual methods of implementation, as appropriate under the circumstances, should The Nature Conservancy determine, in consultation with the Prices, that the Prices intent as set forth herein is being violated by the occurrence of verified incidents of trespass, vandalism, adverse environmental impacts, substantial littering, and such other parameters as in the judgment of the Nature Conservancy, violate the Prices' intent, but prohibiting any capricious or arbitrary exercise of such right, such closure or restriction to be effective upon notice to, and consultation with, the BOCC.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. SMI's application to vacate the public roadway for that section of C.R. 60M located within the subject parcel, beginning at a point at the intersection of the centerlines of County Roads 60M and 62K from which the center $\frac{1}{4}$ corner of Section 36, Township 43 North, Range 10 West, New Mexico Principal Meridian. bears $87^{\circ}46'33''$ E, 146.26 feet, and continuing a distance of approximately 5,500' to its intersection with C.R. 61K, is hereby conditionally granted and approved, such approval being expressly subject to the Applicant, both SMI and/or the Prices, as appropriate, satisfying the specific conditions set forth hereinbelow.

2. SMI's application to vacate the public roadway for that section of C.R. 62K located within the subject parcel, beginning at a point at the intersection of the centerlines of County Roads 60M and 62K from which the center $\frac{1}{4}$ corner of Section 36, Township 43 North, Range 10 West, New Mexico Principal Meridian bears $87^{\circ}46'33''$ E, 146.26 feet, and continuing a distance of approximately 3000', is hereby conditionally granted and approved, such approval being expressly subject to the Applicant, both SMI and/or the Prices, as appropriate, satisfying the specific conditions set forth hereinbelow.

3. SMI's application to vacate the public roadway for that section of C.R. 61K located within the subject parcel, beginning at a point at the intersection of the centerlines of County Roads 60M and 61K, and continuing in a southerly direction approximately 1950', is hereby conditionally granted and approved, such approval being expressly subject to the Applicant, both SMI and/or the Prices, as appropriate, satisfying the specific conditions set forth hereinbelow.

4. The roadway vacation grants specified in this Resolution shall become effective only upon satisfaction of all the following conditions:

- a. the conveyance of fee title for the subject parcel from SMI to the Prices, subject to the Deed of Conservation Easement to The Nature Conservancy allowing the construction and occupancy of not more than two single family residences and associated outbuildings within the subject parcel, such Deed of Conservation Easement to be drafted in consultation with the San Miguel County Attorney;
- b. the dismissal, with prejudice, of the ongoing litigation initiated by SMI and Leucadia National Corporation against the BOCC, Case No. 98-WM-1860, United States District Court for the District of Colorado, and Case No. 00 CV 15, Div. 1, District Court, San Miguel County, Colorado;
- c. the Prices granting non-motorized recreational access and usage easements to the County, for the benefit of the public, for those portions of C.R. 60M and 61K to be vacated;
- d. the Prices granting a permissive non-motorized public recreational access and usage easement, running with the land, to The Nature Conservancy for that portion of C.R. 62K to be vacated, to be limited to public hiking and biking uses, to be administered by The Nature Conservancy, in consultation with the Prices, in accordance with applicable terms and conditions of the Deed of Conservation Easement for the subject property and a Trail Usage and Administration Agreement, to run with the land, between the Prices and The Nature Conservancy, the purpose of which shall be to foster the Prices' intent to provide the public with a tranquil, contemplative environment in which to enjoy nature and the natural beauty of the area, said Agreement granting the right and the power to The Nature Conservancy to close or restrict public access and usage of the vacated portion of C.R. 62K in accordance with gradual methods of implementation, as appropriate under the circumstances, should The Nature Conservancy determine, in consultation with the Prices, that the Prices intent as set forth herein is being violated by the occurrence of verified incidents of trespass, vandalism, adverse environmental impacts, substantial littering, and such other parameters as in the judgment of the Nature Conservancy, violate the Prices' intent, but prohibiting any capricious or arbitrary exercise of such right, such closure or restriction to be effective upon notice to, and consultation with, the BOCC;
- e. the Prices granting any statutorily required private-access easements to owners of adjoining private lands to become effective upon the vacation of the portions of C.R. 60M, 61K, and 62K specified in the application;

f. the Prices conveying fee title to the San Miguel County by warranty deed, free and clear of any liens, encumbrances, or security interests, of record, for those parcels of real property described in the subdivision exemption application for Essential Community Facilities submitted by SMI, as conditionally approved by the BOCC at its May 3, 2000 meeting; such conveyance to be subject to: i) the Deed of Conservation Easement to the Nature Conservancy; ii) the Easement and Agreement regarding trail usage and administration for the vacated portion of C.R. 62K, and, iii) any access easements reserved for the benefit of the Prices and adjoining land owners.

5. Should the owner of the subject parcel install a locked gate on the portion of C.R. 60M vacated pursuant to this Resolution, any such gate shall be located in the immediate vicinity of that road's intersection with C.R. 62K and shall include an auxiliary gate allowing for the passage of equestrians, pedestrians and bicyclists. The owner shall make appropriate arrangements for providing vehicular access to the San Miguel County Road and Bridge Department, the San Miguel County Sheriff's Department, and the Telluride Fire Protection District, at any time such agencies determine that emergency access to the vacated portion of C.R. 60M is required. Such appropriate arrangement shall include, but not be limited to, the owner providing functioning keys for the gate lock(s) and/or lock combinations to the designated agencies.

6. Pursuant to section 43-2-302, C.R.S., all of San Miguel County's right, title, and interest in the vacated portions of C.R. 60M, 61K, and 62K road rights-of-way, as described herein, shall vest in Silver Mountain Industries, Inc., and its successors in interest, as the owner of the land abutting such vacated portion of the specified County road rights-of-way, upon satisfaction of the conditions set forth in section 4.- a., b., c., d., e., and f., hereinabove.

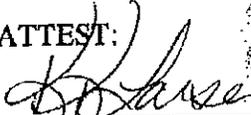
At its May 3, 2000 meeting, the BOCC approved the Motion to conditionally vacate the specified portion of C.R. 61K by a vote of 2 - 1, with Zivian opposed; the BOCC approved the Motion to conditionally vacate the specified portion of C.R. 62K by a vote of 2 - 1, with Zivian opposed; and the BOCC approved the Motion to conditionally vacate the specified portion of C.R. 60M by a vote of 2 - 1, with Ebert opposed.

Done and Approved at Telluride, Colorado, on May 10, 2000.

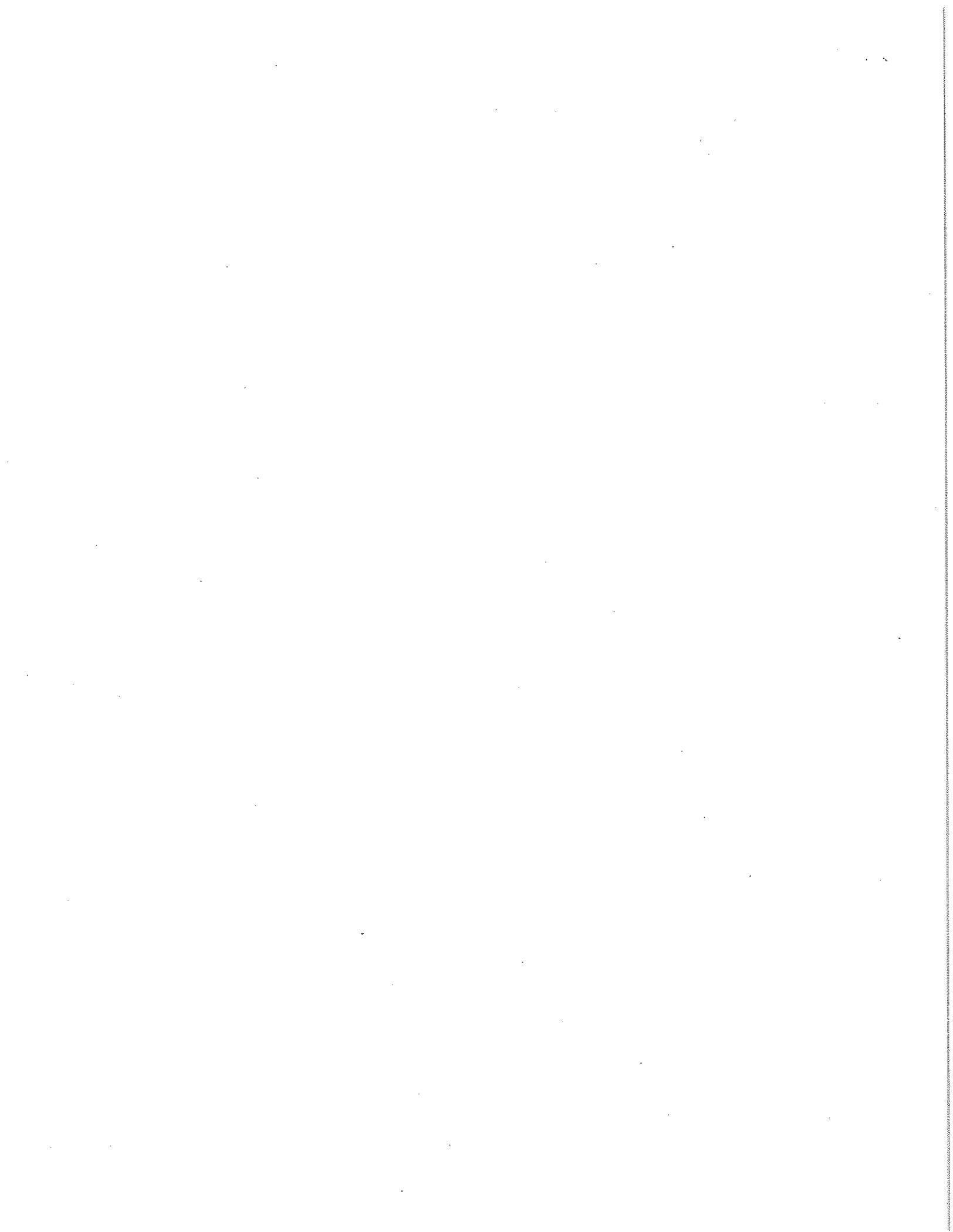
BOARD OF COUNTY COMMISSIONERS
SAN MIGUEL COUNTY, COLORADO


Vernon E. Ebert - Chair Pro-tem

ATTEST:


K. K. Larsen, Deputy Clerk to the Board





**DEED OF CONSERVATION EASEMENT
BILK CREEK**

(San Miguel - Bilk Creek/Silver Mountain Industries) - Colorado

THIS DEED OF CONSERVATION EASEMENT is made this 12th day of June, 2000, by and between SILVER MOUNTAIN INDUSTRIES, INC., a Utah corporation, whose address is 529 East South Temple, Salt Lake City, Utah 84201 (the "Grantor"), and THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation, whose principal address is 4245 North Fairfax Drive, Suite 100, Arlington, Virginia 22203 (the "Conservancy").

Exhibits to this Deed of Conservation Easement include the following:

- Exhibit A – Legal Description of the Property
- Exhibit B – Map of the Property
- Exhibit C – Acknowledgment of Easement Documentation Report
- Exhibit D – Climbing Wall Parcel
- Exhibit E – Parking Area Parcel
- Exhibit F – Climbing Wall Access Easement

WITNESSETH THAT:

Grantor is the owner of certain real property in San Miguel County, Colorado, consisting of 439 acres, more or less, more particularly described and shown in **Exhibit A** and **Exhibit B** attached hereto and incorporated herein by this reference (the "Property").

The Property currently remains in a substantially undisturbed, natural state and has significant ecological and open-space values as defined in C.R.S. §§ 38-30.5-101 to 38-30.5-111, and provides significant relatively natural habitat for native plants and wildlife.

The Property includes a portion of Bilk Creek, a tributary to the San Miguel River.

Protection of the Property will contribute to the ecological integrity of Bilk Creek and the San Miguel River, and will conserve significant relatively natural habitat for wildlife and plants.

The Property's significant and relatively natural habitat and ecological values include a variety of natural vegetation communities such as aspen/spruce/fir woodlands, and cottonwood/willow-dominated riparian areas and provides relatively natural habitat for native wildlife, including elk (*cervus elephus*) and Rocky Mountain mule deer (*Odocoileus hemionus*).

The Property is in close proximity to the Uncompaghre National Forest and the Lizard Head Wilderness Area. Protection of the Property contributes to the natural values found in the Uncompaghre National Forest and the Lizard Head Wilderness Area.

The State of Colorado has recognized the importance of private efforts to protect natural, scenic, open and agricultural lands in the State by the enactment of C.R.S. §§ 38-30.5-101 to

38-30.5-111. Conservation of the Property's Conservation Values by the grant of a conservation easement as set forth in this Deed will further the purpose of C.R.S. §§ 38-30.5-101, *et seq.*, which provide for the establishment of conservation easements to maintain land "predominantly in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, recreational, forest or other use or condition consistent with the protection of open land having wholesome environmental quality or life-sustaining ecological diversity ..."

Protection of the Property will also further the following established governmental and public policies:

C.R.S. § 35-3.5-101, which provides in part that "it is the declared policy of the state of Colorado to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products."

San Miguel County Open Space Commission Mission Statement, which in part "seeks to protect and conserve open space for people, natural habitat for flora and fauna, and agricultural lands for the farming and ranching communities through San Miguel County for this and future generations."

Section 2-12 of the San Miguel County Land Use Code, which provides, in part, that "[I]t is the policy of the County to preserve the scenic quality of the lands within the County for the benefit of its residents and the continued viability of a resort economy which is dependent upon the quality of its rural and natural setting. To this end, it is the policy of the county to:

2-1201 Preserve the natural appearance of the mountain slopes ... [and]

2-1205 Preserve and create scenic views of the surrounding mountains from public places within the County ..."

All of these natural elements and ecological values are of great importance to Grantor and to the people of San Miguel County and the State of Colorado, and are worthy of preservation.

Grantor, as owner of the Property, owns the affirmative rights to identify, preserve, and protect in perpetuity its open space character and its significant relatively natural features and values.

Grantor desires and intends to transfer such rights to the Conservancy.

The Conservancy is a private organization organized to protect and conserve natural areas and ecologically significant land for scientific, charitable, and educational purposes, and is a "charitable organization" under the terms of C.R.S. § 38-30.5-104(2) and is a "qualified organization" within the provisions of Section 170(h) of the Internal Revenue Code of 1986, as amended (the "IRS Code"), qualified to acquire and hold conservation easements, and meets the requirements of the IRS Code as a § 501(c)(3) exempt organization.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants contained herein, pursuant to C.R.S. §§ 38-30.5-101 to 38-30.5-111, Grantor hereby grants and conveys to the Conservancy, its successors and assigns, a perpetual Conservation Easement consisting of the rights and restrictions enumerated herein, over and across the Property (the "Easement").

1. Purposes. It is the purpose of the Easement to preserve and protect in perpetuity and, in the event of their degradation or destruction, to enhance and restore the open space and significant relatively natural features and values of the Property. It is further the specific purpose of this Easement to conserve important habitat for wildlife; to protect rare or unique native plants currently known or later identified; and to conserve the diverse forest, meadow, and riparian vegetative communities and the wildlife inhabiting these communities. In achieving these purposes, it is the intent of the Easement to permit such uses of the Property as may be conducted consistent with the conservation values protected herein.

Pursuant to the terms of C.R.S. §§ 38-30.5-101 to 38-30.5-111, the Property preserved hereby as natural land may not be converted or directed to any uses other than those provided herein.

2. Easement Documentation Report. Competent naturalists familiar with the Property have prepared a collection of baseline data on the Property and its resources. The data and explanatory text are presented in the "Bilk Creek Easement Documentation Report" dated June 7, 2000 (the "Report"). A copy of the Report is on file with both Grantor and the Conservancy and by this reference made a part hereof. The parties acknowledge that the Report is intended to establish the condition of the Property subject to the Easement as of the date written above and that both Grantor and the Conservancy have acknowledged in a signed statement, a copy of which is attached hereto as **Exhibit C**, that the Report accurately represents the condition of the Property at the time of conveyance.

The parties agree that, in the event a controversy arises with respect to the nature and extent of the biological or physical condition of the Property, the parties shall not be foreclosed from utilizing all other relevant or material documents, surveys, reports, and other information to assist in the resolution of the controversy.

3. Rights of the Conservancy. The rights conveyed to the Conservancy by the Easement are the following:

a. To identify, to preserve and protect in perpetuity, and, in the event of their degradation or destruction, to restore or to enforce the restoration of the open space and significant relatively natural ecological features and values of the Property.

b. To perform such activities on the Property as the Conservancy reasonably determines are necessary or convenient to carry out these rights granted by this Easement.

c. To enter upon the Property to enforce the rights herein granted, to study and make scientific observations of its ecosystems, and to determine that Grantor's activities are in compliance with the terms of the Easement, all upon prior notice to Grantor and in a manner that does not unreasonably disturb the use of the Property by Grantor consistent with the Easement. The Conservancy shall also have the right of immediate entry to the Property if, in its sole judgment, such entry is necessary to prevent damage to or the destruction of the conservation values protected by the Easement.

d. To enjoin any activity on or any use of the Property that is inconsistent with the Easement.

4. Consistent Uses of the Property. The following uses and practices by Grantor, though not an exhaustive recital of consistent uses and practices, are consistent with the Easement. Certain of these consistent uses and practices are identified as being subject to specified conditions or to the requirement of and procedures for prior approval by the Conservancy; procedures for prior approval are provided below. The remainder of these consistent uses shall not be precluded, prevented, or limited by the Easement.

a. Construction and use of a house ("House 1"), caretaker's unit, and associated outbuildings located within a five acre building envelope (the "Five Acre Building Envelope") on a 35-acre parcel of the Property. Construction and use of another house ("House 2") and associated outbuildings located within a two-acre building envelope on a 35-acre parcel of the Property. The building envelope locations are subject to prior approval by the Conservancy, which approval shall not be unreasonably withheld, and no building shall be constructed within 50 feet of the center of Bilk Creek. House 2 shall not exceed 3,000 square feet of habitable useable space as defined by the San Miguel County Building Department, but excluding all porches, decks, and garages. House 1, the caretaker's unit, and all other buildings within the Five Acre Building Envelope shall not exceed 12,000 square feet of floor area in the aggregate, excluding all porches and decks (the residential buildings shall be measured by habitable useable space as defined by the San Miguel County Building Department). Exterior features shall be constructed of non-reflective materials, except that windows, solar electric panels, and galvanized metal roofing are permitted.

b. Maintenance, repair, and, in the event of destruction, reconstruction of the buildings permitted in this Easement or construction of new buildings permitted hereunder.

c. Construction or improvement of roads to access any new dwelling or buildings or for other purposes subject to prior approval by the Conservancy, which approval shall not be unreasonably withheld, provided that no roads shall be paved or covered with concrete (other than driveways adjacent to buildings). Access to the houses and other buildings permitted herein by motor vehicle, non-motorized vehicle, and foot by Grantor, its invitees, and contractors.

d. Grazing and pasturing horses, cattle, mules, and llamas, provided that range conditions shall be maintained at, or improved from, those documented in the attached Report. Grazing of other livestock species shall be subject to prior approval by the Conservancy.

e. Maintenance, repair, and, if destroyed, reconstruction of existing fencing, and the construction of new fences. Boundary or pasture-division fences shall not unduly restrict or exclude wildlife use of the Property.

f. Maintenance, repair, and, if destroyed, reconstruction of the existing water facilities, if any, and subject to prior approval of the Conservancy, which approval shall not be unreasonably withheld, development of new water resources and facilities for domestic and livestock use. All water rights, if any, associated with the Property shall be retained with the Property to maintain the conservation values of the Property, and Grantor shall not transfer or otherwise sever the title to such water rights from the Property, unless the conservation values of the Property can be maintained after such transfer or severance of title.

g. Use of agricultural chemicals for the following purposes and under the following conditions:

i. For the control of noxious weeds, as required by Colorado state law, and for the control of other invasive exotic plant species; provided that chemical herbicides may be used only in those amounts and with a frequency of application that constitute the minimum necessary for control; and that the herbicide is not applied by aerial spraying.

ii. For the control of agricultural or forest pests, subject to prior approval by the Conservancy.

h. Use of biological weed and insect control agents, subject to prior approval by the Conservancy.

i. Construction of utility systems for the uses permitted in this Easement; provided, however, that Grantors shall bury, if economically and otherwise possible, all utility systems or extensions of existing utility systems constructed in the future.

j. Provided that the conditions below are met, the selective harvesting of timber only for the following purposes: controlling forest disease; protecting persons or property from the hazards of falling trees or branches or wildfire; providing firewood for domestic use on the Property; constructing the buildings and roads authorized in this easement; maintaining existing fields and open pastures; and enhancing wildlife habitat. The conditions below apply to both living and standing dead trees.

i. Timber harvest must be conducted using Best Management Practices, including stringent protection of soil and watershed values, riparian areas, and wildlife habitat.

ii. The harvesting of any tree on the flood plain or within 50 feet of Bilk Creek or the San Miguel River shall require the prior approval of the Conservancy.

k. Keeping domestic pets; provided that each pet is under the control of a responsible person, does not harass wildlife, and is not kept in a manner that attracts wildlife.

l. Personal recreational use, excepting those practices listed below among Inconsistent Uses of the Property below.

m. Public recreational access to and usage of the climbing wall as located and described on the survey plat attached hereto as **Exhibit D** (the "Climbing Wall Parcel"). Such public recreational usage of the climbing wall shall include the right to replace any fixed climbing protection and temporarily place recreational climbing equipment within and upon the area described in **Exhibit D**. No additional improvements or structures shall be constructed within or upon the climbing wall area described in **Exhibit D**, except as may be determined necessary for safety purposes upon the prior written approval of the Conservancy, which approval shall not be unreasonably withheld. Public usage of the Climbing Wall Parcel shall be limited to recreational rock climbing activities only. Camping, fishing, hunting, horseback riding, bicycling, skiing, the discharge of firearms, and any other activities engaged in by members of the public that are not specifically related to recreational rock climbing activities within the designated Climbing Wall Parcel are also prohibited. The existing access trail to the top of the cliff on the Climbing Wall Parcel may be replaced, provided that the new trail location is subject to the approval of the Conservancy, which approval shall not be unreasonably withheld, provided that the new trail location takes into account environmental impacts and public safety, and provided further that there is a plan for the long term maintenance of the trail, including weed management.

n. Public access to and use of a parking area for motorized vehicles as located and described in **Exhibit E** (the "Parking Area Parcel"). Such public vehicular parking area shall have capacity for up to five vehicles. Public, pedestrian only, access from the parking area to the climbing wall as located and described in **Exhibit F** (the "Climbing Wall Access Easement").

o. Public recreational trail easements (collectively, the "Trail Easements") described below. The operation of motorized vehicles, including, but not limited to, cars, trucks, sport utility vehicles, motorcycles, snowmobiles, and all terrain vehicles, within and upon such recreational trails by members of the public is prohibited, except as provided in Paragraph 4(q) below. Camping, fishing, hunting, the discharge of firearms, and any other activities engaged in by members of the public that are not specifically authorized public recreational uses of the trails are also prohibited.

i. A public recreational trail easement may be granted to San Miguel County, Colorado, within and upon the vacated public right of way for San Miguel County Road 60M as it traverses the Property (the "60M Trail Easement"). Public use of the 60M Trail Easement shall be limited to hiking, bicycling, mountain bicycling, horseback riding, and nordic skiing, as well as emergency vehicular access for the San Miguel County Road and Bridge Department, the San Miguel County Sheriff's Department, and the Telluride Fire Protection District and the San Miguel Power Association.

ii. A public recreational trail easement may be granted to San Miguel County, Colorado, within and upon the vacated public right of way for San Miguel County Road 61K as it traverses the Property (the "61K Trail Easement"). Public use of the 61K Trail Easement shall be limited to hiking, bicycling, mountain bicycling, horseback riding, and nordic skiing.

p. Grantor may grant a permissive easement to the Conservancy within and upon the vacated public road right of way for San Miguel County Road 62K as it traverses the Property (the "62K Permissive Easement") which permits the public usage for hiking, bicycling, and mountain bicycling, so long as such use is consistent with Grantor's intent to provide the public with a tranquil, contemplative environment in which to enjoy nature and the natural beauty of the area. The operation of motorized vehicles, including, but not limited to, cars, trucks, sport utility vehicles, motorcycles, snowmobiles, and all terrain vehicles, within and upon such trail by members of the public is prohibited, except as provided in Paragraph 4(q) below. Camping, fishing, hunting, the discharge of firearms, and any other activities engaged in by members of the public that are not specifically authorized uses of the trail are prohibited.

q. Private ingress and egress to an existing adjoining property owner over an existing road or roads; provided, however, that use of vacated Road 62K by the adjoining property owner shall be limited to historic use, or as otherwise required by Colorado law, unless the Conservancy approves any expanded use (but not for development), and such approval by the Conservancy shall not be unreasonably withheld.

5. Inconsistent Uses of the Property. The following uses and practices on the Property shall be prohibited, except as specifically provided in Paragraph 4:

a. The storage, dumping, or other disposal of toxic and/or hazardous materials. Notwithstanding anything in this Easement to the contrary, this prohibition does not make the Conservancy an owner of the Property, nor does it permit the Conservancy to control any use of the Property by the Grantor which may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, that the Conservancy may bring an action to protect the conservation values of the Property, as described in this Easement. This prohibition does not impose liability on the Conservancy, nor shall the Conservancy be construed as having liability as a "responsible party" under CERCLA or similar federal or state statutes.

b. Dumping or other disposal of non-compostable refuse, wildlife-attracting materials, or any other material which could reasonably be considered debris.

c. The change, disturbance, alteration, or impairment of the significant relatively natural ecological features and values; or the destruction of other significant conservation interests on the Property.

d. Conversion of native vegetation to exotic cover species or the introduction of non-native plant species; farming, plowing, or any type of cultivation is prohibited except that gardening for personal use and residential landscaping are permitted within the building envelopes. In the event that a garden or other planting becomes an attraction for wildlife or brings wildlife into contact with people, the garden or other planting shall be removed.

e. Introduction or release of nonnative animal species.

f. Establishment and operation of a livestock feedlot or any wild game farming or ranching facilities, which shall be defined for purposes of this Easement as a permanently constructed confined area or facility within which the land is not grazed or cropped annually, for purposes of engaging in the business of the reception and feeding of livestock for hire.

g. Filling, excavating, dredging, mining, drilling, and the exploration for or extraction of minerals, hydrocarbons, soils, sand, gravel, rock, or other materials on or below the surface of the Property, except for purposes specifically permitted in this Easement.

h. Division, subdivision, or *de facto* subdivision of the Property; provided, however, that Grantor shall be entitled to subdivide and convey the Climbing Wall Parcel and the Parking Area Parcel in fee, and the Climbing Wall Access Easement to San Miguel County, Colorado, or any other government entity or charitable organization, subject to the terms of this Easement. The Climbing Wall Parcel, the Parking Area Parcel, and the Climbing Wall Access Easement shall comprise one parcel of land which must remain under common ownership, but which may be conveyed from time to time to any governmental entity or charitable organization, subject to the terms of this Easement. The Property has been divided into lots and parcels by that certain Plat recorded December 23, 1997, in Plat Book 1 at Page 2315 of the records of the Clerk and Recorder of San Miguel County, Colorado (the "Plat"). Except for the permitted subdivision and conveyance of the Climbing Wall Parcel, the Parking Area Parcel, and the Climbing Wall Access Easement, all other lots and parcels created by the Plat shall remain under one ownership, and no lots or parcels shall be conveyed or encumbered separately from the rest of the Property. Grantor reserves the right to vacate the Plat and create a new Plat which may designate the house building envelopes or parcels as separate lots or parcels; provided that such lots or parcels may not be separately conveyed or encumbered and must remain under common ownership with the rest of the Property.

i. Construction or placement of any buildings of any sort, mobile homes, signs, billboards or other advertising materials, or utility towers or other structures, except as permitted in this Easement and except that vehicular campers owned by Grantor or guests may be parked on the Property as appropriate to accommodate normal visitation.

j. Construction of roads or vehicle trails, and paving or covering with concrete of any existing or new roads (other than driveways adjacent to buildings).

k. Use of snowmobiles, all-terrain vehicles, motorcycles, or other motorized vehicles off of roads or travelways, except for agricultural or property maintenance purposes.

l. Cutting, removing, or destruction of native vegetation, except by grazing, haying, non-commercial harvest of timber, herbicide application, pond management, or building-related construction activities.

m. Animal trapping for purposes other than control of predatory animals which demonstrably have caused damage to property. Trapping methods employed must be selective for the target species and administered as humanely as is possible.

- n. Application of biocides, herbicides, defoliants, chemical fertilizers, or other chemicals.
- o. Changing the topography of the Property by placing on it any soil, dredging spoils, land fill, or other material, except as necessary to conduct authorized construction activities.
- p. Establishment of any commercial activity other than a home office, including, but not limited to, operating a commercial lodging, outfitting, guiding, or guest ranch facility.
- q. Any activity or use on the Property that violates any applicable federal, state, county, or local law, rule, ordinance, or regulation.
- r. Construction of any temporary living quarters, except during any period of construction for the houses permitted hereunder.

6. Prior Notice and Approval. Grantor shall not undertake or permit any activity requiring prior approval by the Conservancy without first having notified and received approval from the Conservancy as provided herein.

Prior to the commencement of any such activity, Grantor shall send the Conservancy written notice of his/her intention to undertake or permit such activity. The notice shall inform the Conservancy of all aspects of the proposed activity, including location, design, and materials (to the extent required for approval under Paragraph 4 hereof) or equipment to be used, dates and duration, and any other relevant information, and shall be sent by registered or certified mail, return receipt requested, to:

The Nature Conservancy
Colorado Field Office
1881 9th Street, Suite 200
Boulder, CO 80302

with a copy to:

Western Regional Attorney
The Nature Conservancy
2060 Broadway, Suite 230
Boulder, CO 80302

or to such other addresses as Grantor may from time to time be informed of in writing by the Conservancy.

The Conservancy shall have 30 days from receipt of the notice, as indicated by the date of the return receipt, to review the proposed activity and to notify Grantor of any objections thereto; provided that the 30-day period shall not begin until such time as the Conservancy has received adequate information from Grantor to evaluate the proposed activity. In the event that the Conser-

vancy requires additional information to evaluate the proposed activity, the Conservancy shall request the information from Grantor as soon as practicable and in any case not later than 15 days after the receipt of the notice of the proposed activity.

The Conservancy's decision to approve or disapprove the activity proposed by Grantor shall be sent by registered or certified mail, return receipt requested, to Grantor at the address first stated above, or to such other address as the Conservancy may from time to time be informed of in writing by Grantor.

A decision by the Conservancy to disapprove a proposed activity must be based upon the Conservancy's determination that the proposed activity is inconsistent with the conservation purposes of the Easement. If in the Conservancy's judgment it is possible that the proposed activity can be modified to be consistent with the easement, the Conservancy's decision notice shall inform Grantor of such modification(s). Once modification is made to the satisfaction of the Conservancy or the Conservancy otherwise concurs with the matters set forth in Grantor's notice, the proposed activity may thereafter be conducted in a manner that is acceptable to the Conservancy.

Should the Conservancy fail to post its response to Grantor's notice within 30 days of its receipt of notice or within 30 days of the time that the Conservancy has received adequate information to evaluate the proposed activity, whichever is later, the proposed activity is automatically deemed consistent with the terms of the Easement, the Conservancy having no further right to object to the activity identified by such notice.

Any other notices to the Conservancy shall be sent as provided above. Any notice to Grantor shall be in writing and shall be sent by certified mail, return receipt requested, to:

Silver Mountain Industries, Inc.
Attn: President
529 East South Temple
Salt Lake City, UT 84102-1004

with a copy to:

Morton M. Steinberg, Esq.
Piper Marbury Rudnick & Wolfe
203 North LaSalle Street, Suite 1800
Chicago, IL 60601-1293

or to such other addresses as the Conservancy may from time to time be informed of in writing by Grantor.

7. Remedies, Breach, and Restoration. In the event a violation of any restriction contained herein comes to the attention of the Conservancy, the Conservancy shall notify Grantor in writing of the violation. Grantor shall have 30 days after the receipt of such notice to undertake actions, including restoration of the Property, that are reasonably calculated to swiftly correct the conditions caused by

such violation. If Grantor fails to take such corrective action, the Conservancy may at its discretion undertake such actions, including appropriate legal proceedings, as are reasonably necessary to effect such corrections, and the cost of the corrections, including the Conservancy's expenses, court costs, and legal fees, shall be paid by Grantor, provided either Grantor, Grantor's family, any shareholders in the Property, agents, guests, employees or other persons permitted by Grantor are determined to be responsible for the violation. Grantor shall not be responsible to take corrective action as a result of any violation of any restriction contained herein caused by any member of the general public using the Trail Easements, Climbing Wall Parcel, Parking Area Parcel, or Climbing Wall Access Easement.

In the event that Grantor undertakes any activity requiring approval of the Conservancy without or in advance of securing such approval, or undertakes any activity in violation of the terms of the Easement, the Conservancy shall have the right to force, by appropriate legal or equitable action, including an action for injunction or specific performance, the restoration of that portion of the Property affected by the activity to the condition that existed prior to the undertaking of the unauthorized activity. In such case, the costs of restoration and the Conservancy's costs of suit, including reasonable attorneys' fees, shall be borne by Grantor or those of his/her heirs, personal representatives, or assigns against whom a judgment is entered, or, in the event that the Conservancy secures redress without a completed judicial proceeding, by Grantor or those of his/her heirs, personal representatives, or assigns who are otherwise determined to be responsible for the unauthorized activity.

Enforcement of the terms and provisions of this Easement shall be at the discretion of the Conservancy. Any forbearance on behalf of the Conservancy to exercise its rights hereunder in the event of any breach by Grantor or his/her respective heirs, personal representatives, or assigns shall not be deemed or construed to be a waiver of the Conservancy's rights hereunder in the event of any subsequent breach.

8. Liabilities. Subject to the limitations on liability set forth in this Easement, Grantor shall hold harmless, indemnify, and defend the Conservancy and the Conservancy's members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with the release by Grantor of any hazardous material or substance of any kind on the Property. Notwithstanding the foregoing, the liability of Silver Mountain Industries, Inc. ("SMI"), the original Grantor of this Easement, shall be limited only to acts of SMI first occurring on or after the date this Easement is recorded in the records of the Clerk and Recorder of San Miguel County, Colorado, and prior to the conveyance by SMI of fee title to the Property to a third party. SMI shall automatically be released and discharged from any and all liability under this paragraph effective immediately and without notice upon the conveyance by SMI of the fee interest in the Property. This paragraph shall not apply with respect to any liability, penalty, cost, loss, damage, claim, or other matter whatsoever, in whole or in part due to or arising out of any hazardous material or substance in any manner placed, or suffered or permitted to be placed, on the Property at any time by members of the public, or by the Conservancy or any one or more of the Conservancy's contractors, members, directors, officers, employees, representatives, or agents. In the event any action is commenced by the Conservancy under this paragraph, should the Conservancy not be the prevailing party in such action, then the Conservancy shall pay to the defendants in such action their respective

reasonable costs and expenses (including reasonable attorneys' fees) incurred in connection with such action.

9. Provisions Pertaining to San Miguel County. To the extent San Miguel County, Colorado, (the "County") becomes the grantee of the 60M Trail Easement, the 61K Trail Easement, or the Climbing Wall Access Easement, or the owner of the Climbing Wall Parcel or the Parking Area Parcel, the following provisions shall apply to the County as to such easements and parcels in lieu of the provisions of Paragraph 8 above:

a. The County shall obtain and maintain comprehensive public entity or commercial general liability insurance coverage which shall cover any and all claims, liabilities, damages, settlements, and judgments arising from or associated with usage of the Trail Easements, the Climbing Wall Parcel, the Parking Area Parcel, or the Climbing Wall Access Easement, as described in subparagraphs 4.m and 4.n, by members of the public.

b. The County shall also obtain and maintain comprehensive environmental liability insurance coverage for the Climbing Wall Parcel and the Parking Area Parcel as described in subparagraphs 4.m and 4.n.

c. The Conservancy, Grantor, and Grantor's successors shall be added as an additional named insured to such liability insurance coverages. The limits of such liability insurance coverages shall meet or exceed the liability limits required by the Colorado Governmental Immunity Act, as such limits may be amended from time to time. However, the minimum liability limits of such comprehensive environmental liability insurance coverage shall be at least \$1,000,000 per claim. Such required insurance coverages shall be in effect as of the date of the execution of this Easement and shall remain in effect during the term of this Easement. The County shall annually obtain from the liability insurance carrier providing the insurance coverages specified herein a certificate of insurance evidencing such coverages and naming the Conservancy as an additional insured for such coverages, which insurance certificate shall be provided to the Conservancy. Such insurance certificate shall provide that the coverages described therein may not be canceled, revoked, rescinded, or otherwise terminated unless the insurer provides at least 30 days prior written notice to the Conservancy. In the event of the cancellation, revocation, rescission, or termination of such liability insurance coverages, the Conservancy may, at its discretion, prohibit public usage of the Trail Easements, the Climbing Wall Parcel, the Parking Area Parcel, and the Climbing Wall Access Easement, as described hereinabove, until such time as it is provided with the required certificate(s) of insurance.

d. The County will be deemed to make the indemnity set forth in Paragraph 8 above to the extent authorized under applicable Colorado law, but the County's liability under Paragraph 8 above shall be limited to any recovery from the insurance policies described in this Paragraph 9.

10. Taxes. Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Property and to bear all costs of operation, upkeep, and maintenance of the Property, and does hereby indemnify the Conservancy therefor.

11. Access. Nothing herein contained shall be construed as affording the public access to any portion of the Property, except as may be permitted under the Trail Easements and by San Miguel County, Colorado, but only to the extent of its interest, if any, in the Property.

12. Assignment. The Conservancy may assign the Easement with Grantor's prior written consent, which consent shall not be unreasonably withheld; provided that:

a. The Conservancy requires, as a condition of such transfer, that the conservation purposes of the Easement continue to be carried out; and

b. An assignment may be made only to an organization qualified at the time of transfer as an eligible donee (other than a governmental entity) under the IRS Code and C.R.S. §§ 38-30.5-101 to 38-30.5-111.

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

14. Subsequent Sale, Exchange, or Involuntary Conversion. Grantor and the Conservancy agree that the granting of this Easement immediately vests the Conservancy with a property right, and the fair market value of this property right is 49% of the full fair market value of the Property excluding any buildings or other improvements constructed after the date of this Easement, based on the ratio of the Easement's value to the value of the Property, as unencumbered by the Easement at the time of the grant of this Easement. Grantor and the Conservancy agree that this ratio shall remain constant, so that should this Easement be extinguished by a change in conditions, the Conservancy shall be entitled to a portion of the proceeds from any subsequent sale, exchange or involuntary conversion equal to 49% of such proceeds at the time of such sale, exchange or involuntary conversion, less the value of any buildings or other improvements constructed after the date of the easement.

The Conservancy may be compensated for the value of this property right only in the event of a condemnation or other change in conditions resulting in the extinguishment of the Easement (as provided in Treas. Reg. Section 1.170A-14(g)(6)(i)). The Conservancy shall apply its share of the proceeds in a manner consistent with the conservation purposes of the Easement or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in Internal Revenue Code Section 170(h)(4)(a)(ii), as amended, and in regulations promulgated thereunder.

15. Amendment. If circumstances arise under which an amendment to or modification of the Easement would be appropriate, Grantor and the Conservancy may jointly amend the Easement; provided that no amendment shall be allowed that affects the qualification of the Easement under the IRS Code or C.R.S. §§ 38-30.5-101 to 38-30.5-111. Any such amendment shall be consistent with the purposes of the Easement, shall not affect its perpetual duration, shall not permit additional development or improvements to be undertaken on the Property other than development or improvements currently permitted by the Easement, and shall not impair any of the significant conservation values of the Property. Any such amendment shall be recorded in the official records of the county in which the Property is located.

16. Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether with respect to all or part of the Property, by judicial proceeding in a court of competent jurisdiction.

17. Interpretation. The provisions of this Easement shall be liberally construed to effectuate their purpose of preserving and protecting habitat for wildlife, unique native plants, and diverse forest, meadow and riparian vegetative communities. No remedy or election given by any provision in this Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party and its counsel have reviewed and revised this Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Easement. In the event of any conflict between the provisions of this Easement and the provisions of any use and zoning restrictions of the state or county in which the Property is located, or any other governmental entity with jurisdiction, the more restrictive provisions shall apply. This Easement shall be interpreted in accordance with the laws of the state of Colorado.

18. Miscellaneous.

a. Definitions. The terms "Grantor" and "Conservancy" as used herein shall be deemed to include, respectively, the Grantor, the Grantor's heirs, successors, personal representatives, and assigns, and the Conservancy, its successors and assigns; provided, however, that the rights and obligations of every person or entity owning an interest in the Property or this Easement shall terminate upon the transfer of such party's interest in the Property or this Easement, except that, other than as provided in Paragraph 8 to the contrary, liability for acts occurring prior to transfer shall survive the transfer.

b. Binding Effect. Grantor intends that the Easement shall run with and burden title to the Property in perpetuity, and shall bind Grantor, his/her heirs, successors, personal representatives, and assigns.

c. 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 hereof and the application of such provision to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

d. Entire Agreement. This instrument sets forth the entire agreement of 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. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Paragraph 15 above.

e. Notices. Any and all notices required or permitted to be given hereunder shall be sent to the address(es) set forth Paragraph 6 hereof by certified mail, return receipt requested, and shall be deemed given three (3) business days after deposit in the U.S. Mail.

TO HAVE AND TO HOLD the said Easement unto the said Conservancy, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor has hereunto set its hand this 29th day of June, 2000.

GRANTOR:

SILVER MOUNTAIN INDUSTRIES, INC., a Utah corporation

By *[Signature]*
Its President

UTAH)
STATE OF ~~KXXLORXDX~~) ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 29 day of June, 2000, by Patrick Bienvenue, the President of Silver Mountain Industries, Inc., a Utah corporation.

WITNESS my hand and official seal.

My commission expires: 01/15/2001



[Signature]
Notary Public

EXHIBIT A

Legal Description of the Property

All that certain real estate situated in San Miguel County, Colorado, more particularly described as follows:

The Northwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian,
EXCEPT those lands contained in the Valley Placer, USMS 15120,
County of San Miguel,
State of Colorado.

EXHIBIT B

Map of the Property

[Please see the attached map]

EXHIBIT C

Acknowledgment of Easement Documentation Report

Grantor and the Conservancy acknowledge that each has read the "Bilk Creek Easement Documentation Report" dated June 7, 2000, and that the report accurately reflects the condition of the Property subject to the Easement as of the date of conveyance of the Easement.

SILVER MOUNTAIN INDUSTRIES, INC., a Utah corporation

By _____
Its _____

THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation

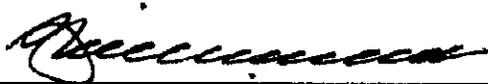
By *Jim Hall*
Its *Land Protection Specialist - Colorado*

EXHIBIT C

Acknowledgment of Easement Documentation Report

Grantor and the Conservancy acknowledge that each has read the "Bilk Creek Easement Documentation Report" dated June 7, 2000, and that the report accurately reflects the condition of the Property subject to the Easement as of the date of conveyance of the Easement.

SILVER MOUNTAIN INDUSTRIES, INC., a Utah corporation

By 
Its PRESIDENT

THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation

By _____
Its _____

EXHIBIT D

Climbing Wall Parcel

**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385, TELLURIDE, CO 81435
970-728-6153**

LEGAL DESCRIPTION

Parcel A of the Bilk Creek Exemption according to the Plat recorded in the office of the Clerk and Recorder in Plat Book 1 at page _____, located within a portion of the NE1/4 of the SW1/4 and the NW1/4 of the SE1/4 of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, San Miguel County, Colorado.

Reserving unto Grantor, Grantors heirs, successors and assigns a perpetual exclusive easement for ingress and egress including but not limited to vehicular access to the Price parcel as described in Recital A hereof, said easement for ingress and egress legally described as follows:

An easement 20 feet wide lying 10 feet on each side of the following described centerline of vacated County Road 62K, located within said Parcel A:

Beginning at a point from which the center 1/4 corner of said Section 36 bears N 87°46'33" E, 146.26 feet;

Thence 61.68 feet along a curve concave to the east with a radius of 100.00 feet, a delta angle of 35°20'17", a chord which bears S 17°17'23" W for a chord distance of 60.70 feet;

Thence 47.54 feet along a reverse tangential curve concave to the west with a radius of 100.00 feet and a delta angle of 27°14'14";

Thence S 07°43'17" E, 111.46 feet to the True Point of Beginning, being on the north boundary of said Parcel A at a point from which the northwest corner of said Parcel A bears N 90°00'00" W, 18.16 feet;

Thence 30.78 feet along a tangential curve concave to the west with a radius of 50.00 feet and a delta angle of 35°16'17";

Thence 63.67 feet along a reverse tangential curve concave to the east with a radius of 40.00 feet and a delta angle of 91°11'48";

Thence S 63°38'48" E, 12.67 feet;

Thence 48.27 feet along a tangential curve concave to the southwest with a radius of 110.00 feet and a delta angle of 25°08'34" to the south boundary of said Parcel A, County of San Miguel, State of Colorado.

The sidelines at the beginning and at the end of this legal description are extended or shortened as necessary to intersect with the boundaries of said Parcel A.

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J. David Foley P. E. S. #24954



EXHIBIT D

D-1

EXHIBIT E

Parking Area Parcel

**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385
TELLURIDE, CO 81435
970-728-6153**

LEGAL DESCRIPTION

Parcel B of the Bilk Creek Exemption according to the Plat recorded in the office of the Clerk and Recorder in Plat Book 1 at page _____, located within a portion of the SE1/4 of the NW1/4 of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, San Miguel County, Colorado,



J. David Foley,

P.L.S. #24954

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EXHIBIT E

E-1

EXHIBIT F

Climbing Wall Access Easement

FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
 P. O. BOX 1385
 TELLURIDE, CO 81435
 970-728-6153

LEGAL DESCRIPTION

A portion of the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4 of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, San Miguel County, Colorado being centered on an existing gravel road, further described as follows:

Beginning at a point from which the center 1/4 corner of said Section 36, being a BLM brass cap monument, bears N 22°49'07" E, 229.70 feet;

Thence N 90°00'00" W, 14.13 feet;

Thence N 07°43'17" W, 110.52 feet;

Thence 44.21 feet along a tangential curve concave to the west with a radius of 93.00 feet and a delta angle of 27°14'15";

Thence 89.68 feet along a reverse tangential curve concave to the east with a radius of 107.00 feet and a delta angle of 48°01'20";

Thence 12.09 feet along a reverse tangential curve concave to the west with a radius of 293.00 feet and a delta angle of 02°21'53";

Thence S 79°18'05" E, 14.00 feet;

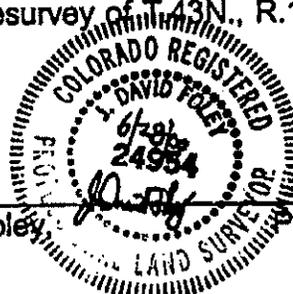
Thence 12.67 feet along a non-tangential curve concave to the west with a radius of 307.00 feet, a delta angle of 02°21'53", a chord bearing of S 11°52'52" W and a chord distance of 12.67 feet;

Thence 77.95 feet along a reverse tangential curve concave to the east with a radius of 93.00 feet and a delta angle of 48°01'20";

Thence 50.87 feet along a reverse tangential curve concave to the west with a radius of 107.00 feet and a delta angle of 27°14'15";

Thence S 07°43'17" E, 112.42 feet to the Point of Beginning.

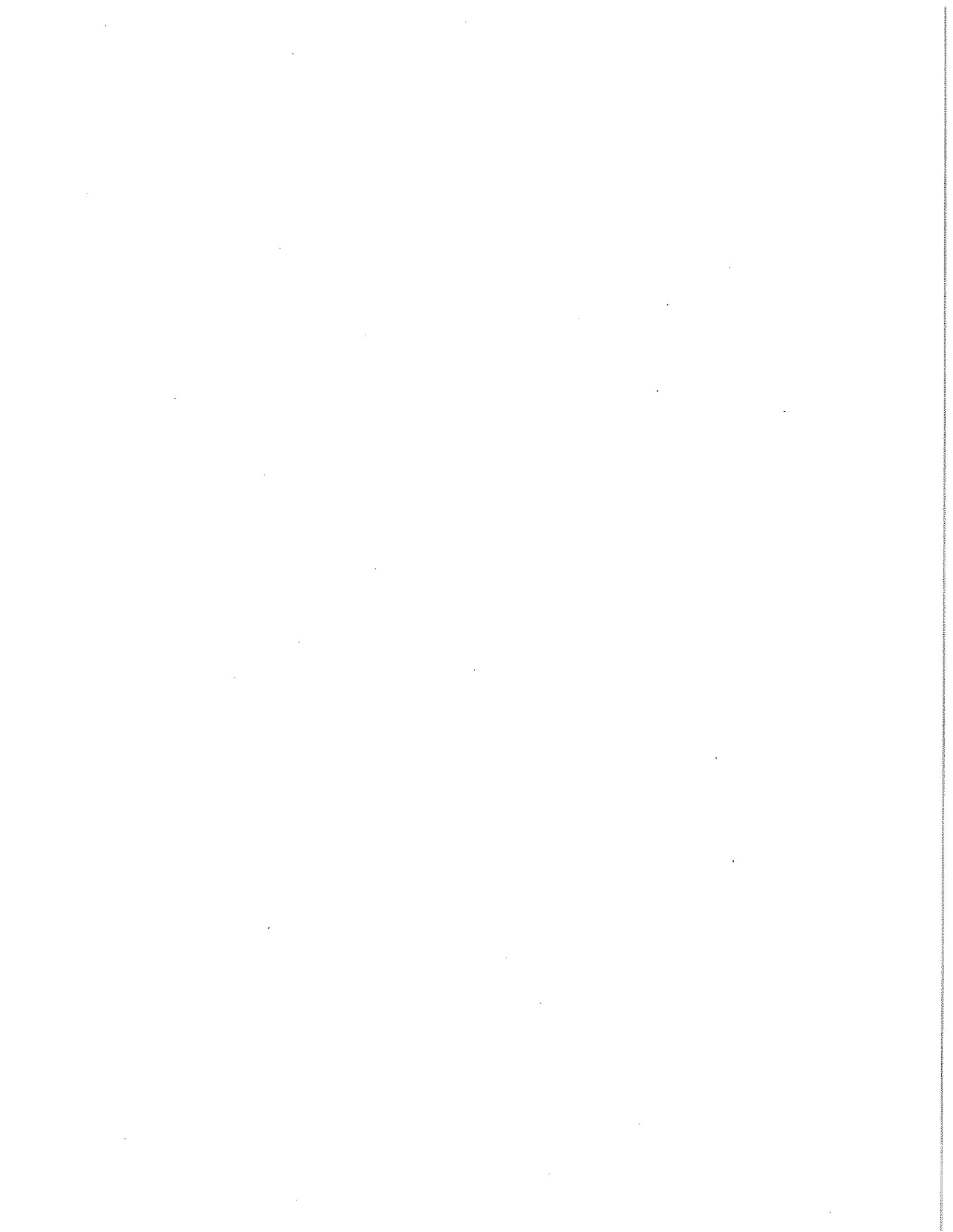
The basis of bearings for this legal description are based upon the bearing from the BLM brass cap monument at the northwest corner of Section 36 to the BLM brass cap witness corner monument for the north 1/4 corner of Section 36 assumed as the record bearing of S 89°45'00" E according to the BLM Dependent Resurvey of T. 43N., R. 10W., N.M.P.M. approved December 6, 1988.

J. David Foley,  L.S. #24954

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EXHIBIT F

F-1



CLIMBING WALL/ASSOCIATED PARKING DEED AND ACCESS EASEMENT AGREEMENT

THIS CLIMBING WALL/ASSOCIATED PARKING DEED AND ACCESS EASEMENT AGREEMENT ("Deed/Easement") is made and entered into this 30th day of June, 2000, by and between H. CHARLES PRICE and JESSIE H. PRICE ("Grantors") and SAN MIGUEL COUNTY, COLORADO, acting by and through its BOARD OF COUNTY COMMISSIONERS, ("Grantee").

I. RECITALS

- A. Grantor is the fee simple owner of a certain 440 acre parcel situate in the County of San Miguel, State of Colorado and more particularly described as:
- The Northwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, except those lands contained in the Valley Placer, USMS, 15120 (the "Price Parcel").
- B. On May 3, 2000 the San Miguel County Board of County Commissioners (the "BOCC") approved the partial and conditional vacation of County Roads (C.R.) 60M, 61K and 62K that traverse the Price Parcel which approval was subsequently reduced to a written resolution of the BOCC dated May 10, 2000 (Resolution #2000-19).
- C. As partial consideration for the partial and conditional vacation of C.R. 60M, 61K and 62K, the BOCC required Grantors to convey fee title to Grantee to that portion of the Price Parcel described in the subdivision exemption application for Essential Community Services submitted by Silver Mountain Industries, Inc., as conditionally approved by the BOCC at its May 3, 2000 meeting.
- D. The purpose of this conveyance and easement is to accommodate the following limited public recreational activities (the "Allowed Uses"):
1. Access to and use by the public of a certain climbing wall for climbing and directly related purposes as denoted on Exhibit "A" (the "Plat") as the "Climbing Wall" and referred to herein as (the "Climbing Wall") which exhibit is attached hereto and incorporated herein by this reference.
 2. Public parking in an area designated for public parking as denoted on the Plat as the "Parking Area" and referred to herein as (the "Associated Parking ") for users of the Climbing Wall only.
 3. Access to an area designated for public ingress and egress from the Associated Parking to the Climbing Wall and referred to herein as (the "Access Easement").

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- E. Grantee or its designee is responsible for maintaining, repairing and overseeing the use of the Climbing Wall, the Associated Parking and the Access Easement (collectively, the "Climbing Wall Property").
- F. Grantor is willing to enter into this Deed/Easement Agreement and convey/grant the Climbing Wall Property but only expressly subject to the conditions and covenants set forth below.
- G. Grantee is willing to accept this Deed/Easement and the conveyance/grant of the Climbing Wall Property, subject to the limitations provided for herein, and agrees to perform all obligations created herein in such manner as to protect the Price Parcel and the Grantor's fee simple interests and improvements appurtenant thereto, and so as to prevent any liability of the Grantor from the recreational uses to be permitted on the Climbing Wall Property.
- H. The Parties, in entering into this Deed/Easement Agreement and granting and accepting the conveyances herein, desire to avail themselves of the maximum immunities, benefits and protections which may be available to each of them pursuant to the public recreational use statute, CRS Section 33-41-101, et seq., the Colorado landowner liability statute, CRS Section 13-21-115 (1.5) and the Colorado Governmental Immunity Act, CRS Section 24-10-114 (collectively, the "Colorado Landowner Protection Statutes").

II. AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, including the aforementioned recitals which are hereby incorporated, the parties hereto agree as follows:

1. Conveyance of the Climbing Wall. Grantor hereby sells and conveys to Grantee the Climbing Wall as more particularly described on Exhibit "B" which is attached hereto and incorporated herein by reference, subject to the terms, conditions and limitations set forth hereinbelow and the easement reservations of Grantor for ingress and egress to the Price Parcel as set forth on Exhibit "B". Grantor will warrant and defend the title to Grantee and its assigns against all persons who may lawfully claim the same, by, through or under Grantor.

2. Conveyance of the Associated Parking. Grantor hereby sells and conveys to Grantee the Associated Parking as more particularly described on Exhibit "C" which is attached hereto and incorporated herein by reference, subject to the terms, conditions and limitations set forth hereinbelow and the easement reservations of Grantor for ingress and egress to the Price Parcel as set forth on Exhibit "C". Grantor will warrant and defend the title to Grantee and its assigns against all persons who may lawfully claim the same, by, through or under the Grantor.

3. Grant of Access Easement. Grantor hereby grants to Grantee, a perpetual, non-exclusive access easement between the Climbing Wall and the Associated Parking as more particularly described on Exhibit "D" which is attached hereto and incorporated herein by reference, subject to the terms, conditions and limitations set forth hereinbelow.

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4. Limitations on Grant and Conveyances. In conveying the Climbing Wall and Associated Parking and granting the Access Easement, Grantor expressly represents that Grantor does not:

- A. Extend any assurance that the Climbing Wall Property is safe for any purpose.
- B. With respect to the Access Easement, confer upon any member of the public the legal status of an invitee or licensee to whom a duty of care is owed by Grantor, and
- C. Assume responsibility or incur liability for any injury to person or property or for the death of any person caused by the use of the Climbing Wall Property.

5. Condition Precedent.

Notwithstanding the conveyances and grant herein, the Climbing Wall Property shall be usable only upon the occurrence of the following precondition:

- A. Grantee shall obtain and maintain insurance and name Grantor as an additional insured on its general liability insurance policy, which shall cover those claims and liabilities arising in connection with use of the Climbing Wall Property by Grantee and members of the public. The limits of such insurance coverage must meet or exceed liability limits allowed from time to time under the Colorado Governmental Immunities Act ("Insurance Coverage"). Annually and sooner upon reasonable demand, Grantee shall cause to be obtained and forwarded to Grantor a certificate of insurance showing Grantor named as an insured thereunder. The insurance certificate must provide that Grantor shall receive notice of cancellation of Grantee's policy at least 10 days prior to its termination. Without limiting Grantee's obligation to obtain and maintain insurance denoting Grantor as an insured thereunder, Grantor may, but need not, obtain its own insurance coverage.
- B. Unless and until the aforementioned precondition has occurred, Grantee shall not have any right of use of the Climbing Wall Property and Grantee shall prohibit any member of the public from any such use and shall take all reasonable and appropriate action to prevent any such use.

6. Conditions Subsequent.

- A. Grantor shall have no responsibility for maintaining, inspecting, and policing the Climbing Wall Property and generally managing the Climbing Wall Property. Any such responsibility shall be solely that of the Grantee. As used herein, "managing the Climbing Wall Property" is intended to mean the entire range of activities associated with controlling, directing,

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allowing, and administering the use, operation, protection, development, and maintenance of the Climbing Wall Property.

- B. Grantee shall maintain the Insurance Coverage. Grantor shall have no obligation to insure or indemnify Grantee for any injury, claim or damage to any person or property while using the Climbing Wall Property. Nothing herein is intended to waive any limits on liability afforded to the parties under the Colorado Landowner Protection Statutes.

7. Use Restrictions.

- A. The Climbing Wall Property may be used by the Grantee, its citizens, residents, visitors, licensees and invited guests.
- B. The Climbing Wall Property shall only be used for the Allowed Uses. No other uses, express or implied, are authorized by this Agreement. Without limiting their generality, the following uses are strictly prohibited.
- i. No motorized vehicles, except motorized vehicles authorized or used by Grantor, motorized vehicles being specifically prohibited from any use within the Climbing Wall Property. Grantee is authorized to have motorized access solely for the limited purposes of overseeing, maintaining, and inspecting the Climbing Wall Property.
 - ii. All hunting, fishing, camping, picnicking, horseback riding, snowshoeing, cross country skiing, riding or driving motorized recreational vehicles, swimming, tubing, diving, spelunking, hang gliding, kite flying, roller skating, gold panning, discharging of firearms, ice skating, fishing, or engaging in any other form of sports or other recreational activity, other than the Allowed Uses by the general public on the Price Parcel or the Climbing Wall Property, without the prior written consent of Grantor, which consent can be withheld for any reason or no reason, is strictly prohibited.
 - iii. Littering, the creation of any unsanitary condition, defacing the Price Parcel or the Climbing Wall Parcel, impeding access to the Price Parcel or property belonging to adjoining landowners by Grantor or Grantor's guests, licensees, invitees or holders of easements from Grantor, removing any survey staking, collecting and removing water, firewood, rocks, artifacts and plants, if any, and harassment or injury to wildlife. Users of the Climbing Wall Property shall not bring dogs or other domestic animals onto the Climbing Wall Property.
 - iv. It is contemplated that a new trail will be constructed to provide access to the top of the Climbing Wall. Upon completion,

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climbers shall ascend or descend by this trail or the Climbing Wall only.

- v. Use of the Associated Parking Area by any member of the general public other than members of the general public actually using the Climbing Wall Property for the Allowed Uses. Parking shall be limited to daytime use only.
- C. Grantee's and the general public's use of the Climbing Wall Property shall be subordinate to and shall not interfere with the conservation easement to The Nature Conservancy burdening the Price Parcel and to the Grantor's concurrent use of the Price Parcel for all lawful purposes for which Grantor may use said property. Climbers shall have a duty to safely but expeditiously vacate and clear the road from an approaching motor vehicle.
- D. The Climbing Wall Property and Associated Parking are presently in a natural, essentially undisturbed state. Because of the beauty of the area and the fact that it is located within the Price Parcel, any improvements shall conform with the conservation easement burdening the property, be kept to a minimum, be designed to blend harmoniously with the landscape, and be submitted to Grantor for written approval.
- i. No signs will be permitted without specific written approval of Grantor other than a sign at the Associated Parking designating it to be for "Climbers Only" and stating a maximum of five cars may be parked. Wood is the preferred material.
 - ii. No trash receptacles, storage bins, or portable toilets are allowed. Everything brought in must be taken out.
 - iii. No fences are allowed without Grantor's prior written approval.
 - iv. If a base is put in the Associated Parking, it must be a permeable, recessive material. Asphalt or concrete are not permitted.
 - v. Damage to trees, particularly in the Associated Parking, must be avoided.
- E. Neither Grantor nor Grantee shall impose any fees or charges upon any member of the general public entering upon and making use of the Climbing Wall Property for the Allowed Uses. It is the intention of the parties that Grantor shall derive full benefit of the protections afforded a landowner allowing public recreational access under the Colorado Landowner Protection Statutes.

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8. Miscellaneous.

- A. The Climbing Wall and the Associated Parking may not be further conveyed by Grantee nor shall the Access Easement be transferred or assigned by Grantee without the prior written consent of Grantor.
- B. All notices or other documents required or authorized to be sent by one party to the other shall be in writing and shall be deemed given to a party when personally delivered, or when deposited in the United States mail, sufficient postage prepaid, return receipt requested, addressed as follows:

If to Grantor:

H. Charles and Jessie H. Price
9839 Rockbrook Drive
Dallas, Texas 75220
Facsimile: (214) 350-4687

With a copy to:

J. David Reed
P.O. Box 2470
Telluride, Colorado 81435
Facsimile: (970) 728-3474

If to Grantee:

San Miguel County Board of County Commissioners
333 W. Colorado Ave.
P.O. Box 1170
Telluride, Colorado 81435
Facsimile: (970) 728-3718

With a copy to:

Office of the County Attorney
333 W. Colorado Ave.
P.O. Box 791
Telluride, Colorado 81435
Facsimile: (970) 728-3718

A party shall notify the other party if their address changes from time to time.

- C. Grantee agrees to be bound by all covenants, terms, conditions, restrictions and limitations expressed herein.

Handwritten signatures: CE, JHP

EXHIBIT B

**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385, TELLURIDE, CO 81435
970-728-6153**

LEGAL DESCRIPTION

Parcel A of the Bilk Creek Exemption according to the Plat recorded in the office of the Clerk and Recorder in Plat Book 1 at page 274 located within a portion of the NE1/4 of the SW1/4 and the NW1/4 of the SE1/4 of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, San Miguel County, Colorado.

Reserving unto Grantor, Grantors heirs, successors and assigns a perpetual exclusive easement for ingress and egress including but not limited to vehicular access to the Price parcel as described in Recital A hereof, said easement for ingress and egress legally described as follows:

An easement 20 feet wide lying 10 feet on each side of the following described centerline of vacated County Road 62K, located within said Parcel A:

Beginning at a point from which the center 1/4 corner of said Section 36 bears N 87°46'33" E, 146.26 feet;

Thence 61.68 feet along a curve concave to the east with a radius of 100.00 feet, a delta angle of 35°20'17", a chord which bears S 17°17'23" W for a chord distance of 60.70 feet;
Thence 47.54 feet along a reverse tangential curve concave to the west with a radius of 100.00 feet and a delta angle of 27°14'14";

Thence S 07°43'17" E, 111.46 feet to the True Point of Beginning, being on the north boundary of said Parcel A at a point from which the northwest corner of said Parcel A bears N 90°00'00" W, 18.16 feet;

Thence 30.78 feet along a tangential curve concave to the west with a radius of 50.00 feet and a delta angle of 35°16'17";

Thence 63.67 feet along a reverse tangential curve concave to the east with a radius of 40.00 feet and a delta angle of 91°11'48";

Thence S 63°38'48" E, 12.67 feet;

Thence 48.27 feet along a tangential curve concave to the southwest with a radius of 110.00 feet and a delta angle of 25°08'34" to the south boundary of said Parcel A,
County of San Miguel, State of Colorado.

The sidelines at the beginning and at the end of this legal description are extended or shortened as necessary to intersect with the boundaries of said Parcel A.

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J. David Foley



EXHIBIT C

**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385
TELLURIDE, CO 81435
970-728-6153**

LEGAL DESCRIPTION

Parcel B of the Bilk Creek Exemption according to the Plat recorded in the office of the Clerk and Recorder in Plat Book 1 at page 274, located within a portion of the SE1/4 of the NW1/4 of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, San Miguel County, Colorado,



J. David Foley,

P.L.S. #24954

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EXHIBIT D

**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385
TELLURIDE, CO 81435
970-728-6153**

LEGAL DESCRIPTION

A portion of the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4 of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, San Miguel County, Colorado being centered on an existing gravel road, further described as follows:

Beginning at a point from which the center 1/4 corner of said Section 36, being a BLM brass cap monument, bears N 22°49'07" E, 229.70 feet;
Thence N 90°00'00" W, 14.13 feet;
Thence N 07°43'17" W, 110.52 feet;
Thence 44.21 feet along a tangential curve concave to the west with a radius of 93.00 feet and a delta angle of 27°14'15";
Thence 89.68 feet along a reverse tangential curve concave to the east with a radius of 107.00 feet and a delta angle of 48°01'20";
Thence 12.09 feet along a reverse tangential curve concave to the west with a radius of 293.00 feet and a delta angle of 02°21'53";
Thence S 79°18'05" E, 14.00 feet;
Thence 12.67 feet along a non-tangential curve concave to the west with a radius of 307.00 feet, a delta angle of 02°21'53", a chord bearing of S 11°52'52" W and a chord distance of 12.67 feet;
Thence 77.95 feet along a reverse tangential curve concave to the east with a radius of 93.00 feet and a delta angle of 48°01'20";
Thence 50.87 feet along a reverse tangential curve concave to the west with a radius of 107.00 feet and a delta angle of 27°14'15";
Thence S 07°43'17" E, 112.42 feet to the Point of Beginning.

The basis of bearings for this legal description are based upon the bearing from the BLM brass cap monument at the northwest corner of Section 36 to the BLM brass cap witness corner monument for the north 1/4 corner of Section 36 assumed as the record bearing of S 89°45'00" E according to the BLM Dependent Resurvey of T. 43N., R. 10W., N.M.P.M. approved December 6, 1988.



J. David Foley, P.L.S. #24954

**GRANT OF PUBLIC RECREATIONAL TRAIL
AND
EMERGENCY ACCESS EASEMENTS
FOR PORTIONS OF SAN MIGUEL COUNTY ROADS 60M AND 61K
VACATED PURSUANT TO BOARD OF COUNTY COMMISSIONER'S
RESOLUTION NO. 2000 - 19**

THIS GRANT of PUBLIC NON-MOTORIZED RECREATIONAL TRAIL EASEMENTS AND EMERGENCY ACCESS EASEMENT for those portions of San Miguel County Roads 60M and 61K vacated pursuant to San Miguel County Board of Commissioners' Resolution No. 2000-19 ("**Easement Agreement**") is made this 30th day of JUNE, 2000, by and between **H. CHARLES PRICE and JESSIE H. PRICE ("Grantors")** and **SAN MIGUEL COUNTY, COLORADO**, acting by and through its **BOARD OF COUNTY COMMISSIONERS, ("Grantee")** for and on behalf of the residents of San Miguel County, Colorado, and the members of the public.

I. RECITALS

- A. Grantor is the fee simple owner of a certain 440 acre parcel situate in the County of San Miguel, State of Colorado and more particularly described as:
- The Northwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, except those lands contained in the Valley Placer, USMS, 15120 (the "Price Parcel").
- B. The County owns, inventories and/or maintains as public/county roads County Roads (C.R.) 60M, 61K, and 62K which traverse the Price Parcel.
- C. On May 3, 2000 the San Miguel County Board of County Commissioners (the "BOCC") approved the partial and conditional vacation of County Roads (C.R.) 60M, 61K and 62K that traverse the Price Parcel, which the parties reasonably believed to be public and/or county roads, which approval was subsequently reduced to a written resolution of the BOCC dated May 10, 2000 (Resolution #2000-19).
- D. As consideration for the partial and conditional vacation of C.R. 60M and 61K, the BOCC required Grantors to grant non-motorized recreational access and usage easements to San Miguel County, for the benefit of the public, for those portions of C.R. 60M and 61K to be vacated.
- E. The easements in this Easement Agreement are being granted for the following purposes:
1. To provide uninterrupted non-motorized public access to public lands in

the upper Bilk Creek area across County Road 61K.

2. Access to and use by the public of the recreational trail easements for hiking, running, bicycling, mountain bicycling, horseback riding, nordic skiing, snowshoeing, or any combination thereof over and across those vacated portions of San Miguel County Roads 60M and 61K as legally described on Exhibit "A" which exhibit is attached hereto and incorporated herein by this reference (the "Allowed Uses").
 3. Emergency motorized vehicular access to the San Miguel County Road and Bridge Department, the San Miguel County Sheriff's Department, the Telluride Fire Protection District, and the San Miguel Power Association, Inc. over and across those vacated portions of San Miguel County Road 60M as legally described on Exhibit "B" which exhibit is attached hereto and incorporated herein by this reference (the "Emergency Uses").
- F. Grantee or its designee is responsible for overseeing the use of the easements described on Exhibits "A" and "B" (the "Recreational Trail Easements" and "Emergency Access Easement" respectively, and together, the "Easement Areas").
- G. Grantor is willing to enter into this Easement Agreement and grant the easements to the Easement Areas but only expressly subject to the conditions and covenants set forth below.
- H. Grantee is willing to accept this Easement Agreement and the grant of the Easement Areas, subject to the limitations provided for herein, and agrees to perform all obligations created herein in such manner as to protect the Price Parcel and the Grantor's fee simple interests and improvements appurtenant thereto, and so as to prevent any liability of the Grantor from the Allowed Uses and the Emergency Uses to be permitted on the Easement Areas.
- I. The Parties, in entering into this Easement Agreement and granting and accepting the conveyances herein, desire to avail themselves of the maximum immunities, benefits and protections which may be available to each of them pursuant to the public recreational use statute, CRS Section 33-41-101, et seq., the Colorado landowner liability statute, CRS Section 13-21-115 (1.5) and the Colorado Governmental Immunity Act, CRS Section 24-10-114 (collectively, the "Colorado Landowner Protection Statutes").

II. AGREEMENT

NOW THEREFORE, in consideration of and reliance upon the mutual covenants and agreements hereinafter set forth, including the aforementioned recitals which are hereby incorporated, the parties hereto agree as follows:

1. **Grant of Recreational Trail Easements.** Grantor hereby grants to Grantee,

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perpetual, non-exclusive public recreational trail easements on, over and across those vacated portions of San Miguel County Roads 61K and 60M as more particularly described on Exhibit "A" (the "Recreational Trail Easements").

2. Grant of Emergency Access Easement. Grantor hereby grants to Grantee, a perpetual, non-exclusive emergency access easement on, over and across those vacated portions of San Miguel County Road 60M as more particularly described on Exhibit "B" (the "Emergency Access Easement").

3. Limitations on Grant. In granting the Recreational Trail Easements and the Emergency Access Easement, Grantor expressly represents that Grantor does not:

- A. Extend any assurance that the Easement Areas are safe for any purpose.
- B. Confer upon any member of the public the legal status of an invitee or licensee to whom a duty of care is owed by Grantor, and
- C. Assume responsibility or incur liability for any injury to person or property or for the death of any person caused by the use of the Easement Areas.

4. Condition Precedent.

Notwithstanding the grant herein, the Easement Areas shall be usable only upon the occurrence of the following precondition:

- A. Grantee shall obtain and maintain insurance and name Grantor as an additional insured on its general liability insurance policy, which shall cover those claims and liabilities arising in connection with use of the Easement Areas by Grantee and members of the public. The limits of such insurance coverage must meet or exceed liability limits allowed from time to time under the Colorado Governmental Immunities Act ("Insurance Coverage"). Annually and sooner upon reasonable demand, Grantee shall cause to be obtained and forwarded to Grantor a certificate of insurance showing Grantor named as an insured thereunder. The insurance certificate must provide that Grantor shall receive notice of cancellation of Grantee's policy at least 10 days prior to its termination. Without limiting Grantee's obligation to obtain and maintain insurance denoting Grantor as an insured thereunder, Grantor may, but need not, obtain its own insurance coverage.
- B. Unless and until the aforementioned precondition has occurred, Grantee shall not have any right of use of the Easement Areas and Grantee shall prohibit any member of the public from any such use and shall take all reasonable and appropriate action to prevent any such use.

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5. Conditions Subsequent.

- A. Except as otherwise hereinafter provided, Grantor shall have no responsibility for maintaining, inspecting, and overseeing the Easement Areas and generally managing the Easement Areas. Any such responsibility shall be solely that of the Grantee. As used herein, "managing the Easement Areas" is intended to mean the entire range of activities associated with controlling, directing, allowing, and administering the use, operation, protection, development, and maintenance of the Easement Areas for the Allowed Uses.
- B. Grantee shall have the right to maintain the Emergency Access Easement to a standard passable by a four-wheel drive vehicle for Emergency Uses.
- C. Grantor shall be responsible for providing any keys or combinations for gate locks necessary for access to the Emergency Access Easement to the San Miguel County Sheriff's Department, the San Miguel County Road and Bridge Department, the Telluride Fire Protection District, and the San Miguel Power Association, Inc.
- D. Grantee shall maintain the Insurance Coverage. Grantor shall have no obligation to insure or indemnify Grantee for any injury, claim or damage to any person or property while using the Easement Areas. Nothing herein is intended to waive any limits on liability afforded to the parties under the Colorado Landowner Protection Statutes.

6. Use Restrictions.

- A. The Easement Areas may be used by the Grantee, its citizens, residents, visitors, licensees and invited guests.
- B. The Easement Areas shall only be used for the Allowed Uses or Emergency Uses. No other uses, express or implied, are authorized by this Agreement. Without limiting their generality, the following uses are strictly prohibited.
 - i. No motorized vehicles, except motorized vehicles authorized or used by Grantor or those permitted to Grantee pursuant to the Emergency Access Easement, motorized vehicles being specifically prohibited from any use within the Easement Areas. Grantee is authorized to have motorized access solely for the limited purposes of emergencies, overseeing, maintaining, and inspecting the Easement Areas.
 - ii. All hunting, fishing, camping, picnicking, or driving motorized recreational vehicles, discharging of firearms, fishing, or engaging

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in any other form of sports or other recreational activity, other than the Allowed Uses by the general public on the Easement Areas, without the prior written consent of Grantor, which consent can be withheld for any reason or no reason, is strictly prohibited.

- iii. Littering, the creation of any unsanitary condition, defacing the Price Parcel or the Easement Areas, trespass onto the Price Parcel outside of the Easement Areas, impeding access to the Price Parcel or property belonging to adjoining landowners by Grantor or Grantor's guests, licensees, invitees or holders of easements from Grantor, removing any survey staking, collecting and removing water, firewood, rocks and artifacts, if any, harassment or injury to wildlife or plants, or any other activity which might threaten the protection and preservation of the Easement Areas and the Price Parcel in its present natural, essentially undisturbed state, and Grantor's use and enjoyment of the Price Parcel.
 - iv. No dogs or other domestic animals are permitted on the Easement Areas except to the extent allowed by applicable county regulations. All such domestic animals must be confined by leash or other means to the Easement Areas.
- C. Grantee's and the general public's use of the Easement Areas shall be subordinate to and shall not interfere with the conservation easement to The Nature Conservancy burdening the Price Parcel and to the Grantor's concurrent use of the Price Parcel for all lawful purposes for which Grantor may use said property.
 - D. Neither Grantor nor Grantee shall impose any fees or charges upon any member of the general public entering upon and making use of the Easement Areas for the Allowed Uses. It is the intention of the parties that Grantor shall derive full benefit of the protections afforded a landowner allowing public recreational access under the Colorado Landowner Protection Statutes.

7. Miscellaneous.

- A. The Recreational Trail Easements and Emergency Access Easement may not be transferred or assigned by Grantee without the prior written consent of Grantor.
- B. All notices or other documents required or authorized to be sent by one party to the other shall be in writing and shall be deemed given to a party when personally delivered, or when deposited in the United States mail,

UEW *JALP*

sufficient postage prepaid, return receipt requested, addressed as follows:

If to Grantor:

H. Charles and Jessie H. Price
9839 Rockbrook Drive
Dallas, Texas 75220
Facsimile: (214) 350-4687

With a copy to:

J. David Reed
P.O. Box 2470
Telluride, Colorado 81435
Facsimile: (970) 728-3474

If to Grantee:

San Miguel County Board of County Commissioners
333 W. Colorado Ave.
P.O. Box 1170
Telluride, Colorado 81435
Facsimile: (970) 728-3718

With a copy to:

Office of the County Attorney
333 W. Colorado Ave.
P.O. Box 791
Telluride, Colorado 81435
Facsimile: (970) 728-3718

A party shall notify the other party if their address changes from time to time.

- C. Grantee agrees to be bound by all covenants, terms, conditions, restrictions and limitations expressed herein.
- D. The Recreational Trail Easements and Emergency Access Easement granted herein and all provisions of this Agreement shall run with the land and shall be applicable to, binding upon and inure to the benefit of the parties, their respective transferees, representatives, successors and assigns.
- E. This Agreement contains the entire understanding of the parties. There are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
- F. This Agreement may not be modified or amended except in writing signed by all the parties hereto. The laws of the State of Colorado shall

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govern the validity, performance and enforcement of this Agreement. Venue is limited to the District or County Court for San Miguel County, Colorado. In the event of litigation arising from a dispute under this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney fees from the non-prevailing party.

- G. Time is of the essence in the performance of the obligations and requirements provided for herein.
- H. A waiver of a breach of any term of this Agreement will not be considered a waiver of a further breach of the same term, a waiver of a breach of any other term, or a waiver of such waiving party's right to declare an immediate or a subsequent default.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTORS:

H. Charles Price
H. CHARLES PRICE

Jessie H. Price
JESSIE H. PRICE

STATE OF TEXAS)
)ss.
COUNTY OF)

ACKNOWLEDGED before me by H. Charles Price and Jessie H. Price on the 26th day of June, 2000.

WITNESS my hand and official seal.
My commission expires: 8-16-03

Julie Mitchell
Notary Public



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GRANTEE:

THE BOARD OF COUNTY
COMMISSIONERS OF SAN MIGUEL
COUNTY, COLORADO

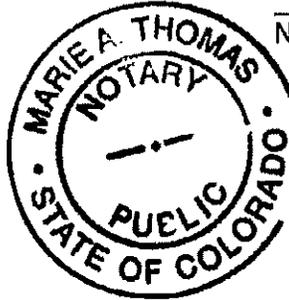
By *Vern Ebert*
VERNON E. EBERT, Chair Pro Tem

STATE OF COLORADO)
)ss.
COUNTY OF SAN MIGUEL)

ACKNOWLEDGED before me by Vern Ebert, who acknowledged himself to be the Chair Pro Tem of the Board of County Commissioners on this 28th day June, 2000.

WITNESS my hand and official seal,
My commission expires: 02/05/2001

Marie A. Thomas
Notary Public



VE *MT* *JEP*

EXHIBIT A

**FOLEY ASSOCIATES, INC.
 CIVIL ENGINEERING AND LAND SURVEYING
 P. O. BOX 1385 TELLURIDE, CO 81435
 970-728-6153**

LEGAL DESCRIPTION

An easement 20 feet wide lying 10 feet on each side of the following described centerline of vacate County Road 60M, located within the NW1/4 and the SW1/4 of Section 36, Township 43 North, Range 10 West, New Mexico Principal Meridian:

Beginning at a point from which the center 1/4 corner of said Section 36 bears N 87°46'33" E, 146.26 feet;
 Thence S 86°48'25" W, 5.39 feet;
 Thence 44.52 feet along a tangential curve concave to the north with a radius of 50.00 feet, a delta angle of 51°01'08";
 Thence 128.25 feet along a reverse tangential curve concave to the southwest with a radius of 500.00 feet and a delta angle of 14°41'48";
 Thence 125.01 feet along a reverse tangential curve concave to the northeast with a radius of 275.00 feet and a delta angle of 26°02'46";
 Thence N 30°49'30" W, 360.39 feet;
 Thence 416.90 feet along a tangential curve concave to the south and southwest with a radius of 380.00 feet and a delta angle of 62°51'34";
 Thence 99.21 feet along a reverse tangential curve concave to the north with a radius of 200.00 feet and a delta angle of 28°25'20";
 Thence N 65°15'44" W, 166.74 feet;
 Thence 40.20 feet along a tangential curve concave to the southeast with a radius of 15.00 feet and a delta angle of 153°33'25";
 Thence S 38°49'09" E, 546.07 feet;
 Thence 32.97 feet along a tangential curve concave to the southwest with a radius of 500.00 feet and a delta angle of 03°46'40";
 Thence S 35°02'29" E, 158.47 feet;
 Thence 44.06 feet along a tangential curve concave to the northwest with a radius of 15.00 feet and a delta angle of 168°17'32";
 Thence N 46°44'57" W, 56.89 feet;
 Thence 95.81 feet along a tangential curve concave to the southwest with a radius of 400.00 feet and a delta angle of 13°43'27";
 Thence N 60°28'24" W, 601.71 feet;
 Thence 238.16 feet along a tangential curve concave to the northeast with a radius of 1700.00 feet and a delta angle of 08°01'37";
 Thence N 52°26'47" W, 268.42 feet;
 Thence 139.01 feet along a tangential curve concave to the south with a radius of 100.00 feet and a delta angle of 79°38'50";

Thence 140.96 feet along a reverse tangential curve concave to the north with a radius of 60.00 feet and delta angle of 134°36'16";
 Thence N 02°30'39" E, 75.81 feet;
 Thence 81.46 feet along a tangential curve concave to the southwest with a radius of 80.00 feet and a delta angle of 58°20'26";
 Thence N 55°49'47" W, 100.39 feet;
 Thence 27.19 feet along a tangential curve concave to the northeast with a radius of 70.00 feet and a delta angle of 22°15'11";
 Thence N 33°34'36" W, 276.50 feet;
 Thence 64.20 feet along a tangential curve concave to the southwest with a radius of 1070.00 feet and a delta angle of 03°26'17";
 Thence N 37°00'53" W, 308.51 feet;
 Thence 142.36 feet along a tangential curve concave to the southwest with a radius of 270.00 feet and a delta angle of 30°12'34" to the west boundary of said Section 36, from which the northwest corner of said Section 36 bears N 00°29'21" E, 950.40 feet,

TOGETHER WITH

Beginning at a point on the west boundary of said Section 36 from which the West 1/4 corner of said Section 36 bears N 00°35'28" E, 179.81 feet;
 Thence S 75°00'17" E, 279.31 feet;
 Thence 97.04 feet along a tangential curve concave to the south with a radius of 500.00 feet and a delta angle of 11°07'13";
 Thence S 63°53'04" E, 266.69 feet;
 Thence 117.89 feet along a tangential curve concave to the southwest with a radius of 100.00 feet and delta angle of 67°32'41";
 Thence S 03°39'37" W, 142.93 feet;
 Thence 24.34 feet along a tangential curve concave to the west with a radius of 50.00 feet and a delta angle of 27°53'24" to the intersection with County Road 61K,

County of San Miguel, State of Colorado.

The sidelines of this legal description are extended or shortened as necessary to intersect with the west boundary of said Section 36.



J. David Foley

P.L.S. 24954

EXHIBIT A

**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385 TELLURIDE, CO 81435
970-728-6153**

LEGAL DESCRIPTION

An easement 20 feet wide lying 10 feet on each side of the following described centerline of vacate County Road 61K, located within the SW1/4 of Section 36, Township 43 North, Range 10 West, New Mexico Principal Meridian:

Beginning at a point on the west boundary of said Section 36 from which the southwest corner of said Section 36 bears S 00°35'28" W, 1987.32 feet;
Thence S 89°17'53" E, 644.32 feet to the True Point of Beginning;

Thence 18.92 feet along a tangential curve concave to the northwest with a radius of 50.00 feet and a delta angle of 21°40'57";

Thence S 53°13'58" W, 34.70 feet;

Thence 26.49 feet along a tangential curve concave to the southeast with a radius of 40.00 feet and delta angle of 37°56'50";

Thence S 15°17'08" W, 49.22 feet;

Thence 130.13 feet along a tangential curve concave to the east with a radius of 358.13 feet and a delta angle of 20°49'08";

Thence 526.19 feet along a reverse tangential curve concave to the west with a radius of 950.00 feet and delta angle of 31°44'07";

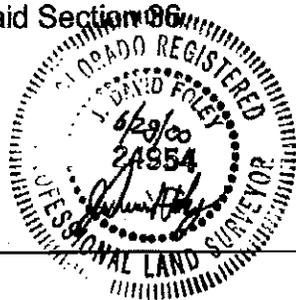
Thence S 29°30'18" W, 322.41 feet;

Thence 584.15 feet along a tangential curve concave to the east with a radius of 3000.00 feet and a delta angle of 11°09'23";

Thence S 18°20'55" W, 183.72 feet to the west boundary of said Section 36 from which the southwest corner of said Section 36 bears S 00°35'28" W, 254.67 feet,

County of San Miguel, State of Colorado.

The sidelines of this legal description are extended or shortened as necessary to intersect with the west boundary of said Section 36.



J. David Foley
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P.L.S. 24954

EXHIBIT B

**FOLEY ASSOCIATES, INC.
 CIVIL ENGINEERING AND LAND SURVEYING
 P. O. BOX 1385
 TELLURIDE, CO 81435
 970-728-6153**

LEGAL DESCRIPTION

An easement 20 feet wide lying 10 feet on each side of the following described centerline of vacated County Road 60M, located within the NW1/4 and the SW1/4 of Section 36, Township 43 North, Range 10 West, New Mexico Principal Meridian:

Beginning at a point from which the center 1/4 corner of said Section 36 bears N 87°46'33" E, 146.26 feet;
 Thence S 86°48'25" W, 5.39 feet;
 Thence 44.52 feet along a tangential curve concave to the north with a radius of 50.00 feet, a delta angle of 51°01'08";
 Thence 128.25 feet along a reverse tangential curve concave to the southwest with a radius of 500.00 feet and a delta angle of 14°41'48";
 Thence 125.01 feet along a reverse tangential curve concave to the northeast with a radius of 275.00 feet and a delta angle of 26°02'46";
 Thence N 30°49'30" W, 360.39 feet;
 Thence 416.90 feet along a tangential curve concave to the south and southwest with a radius of 380.00 feet and a delta angle of 62°51'34";
 Thence 99.21 feet along a reverse tangential curve concave to the north with a radius of 200.00 feet and a delta angle of 28°25'20";
 Thence N 65°15'44" W, 166.74 feet;
 Thence 40.20 feet along a tangential curve concave to the southeast with a radius of 15.00 feet and a delta angle of 153°33'25";
 Thence S 38°49'09" E, 546.07 feet;
 Thence 32.97 feet along a tangential curve concave to the southwest with a radius of 500.00 feet and a delta angle of 03°46'40";
 Thence S 35°02'29" E, 158.47 feet;
 Thence 44.06 feet along a tangential curve concave to the northwest with a radius of 15.00 feet and a delta angle of 168°17'32";
 Thence N 46°44'57" W, 56.89 feet;
 Thence 95.81 feet along a tangential curve concave to the southwest with a radius of 400.00 feet and a delta angle of 13°43'27";
 Thence N 60°28'24" W, 601.71 feet;
 Thence 238.16 feet along a tangential curve concave to the northeast with a radius of 1700.00 feet and a delta angle of 08°01'37";
 Thence N 52°26'47" W, 268.42 feet;

Thence 139.01 feet along a tangential curve concave to the south with a radius of 100.00 feet and a delta angle of 79°38'50";
 Thence 140.96 feet along a reverse tangential curve concave to the north with a radius of 60.00 feet and delta angle of 134°36'16";
 Thence N 02°30'39" E, 75.81 feet;
 Thence 81.46 feet along a tangential curve concave to the southwest with a radius of 80.00 feet and a delta angle of 58°20'26";
 Thence N 55°49'47" W, 100.39 feet;
 Thence 27.19 feet along a tangential curve concave to the northeast with a radius of 70.00 feet and a delta angle of 22°15'11";
 Thence N 33°34'36" W, 276.50 feet;
 Thence 64.20 feet along a tangential curve concave to the southwest with a radius of 1070.00 feet and a delta angle of 03°26'17";
 Thence N 37°00'53" W, 308.51 feet;
 Thence 142.36 feet along a tangential curve concave to the southwest with a radius of 270.00 feet and a delta angle of 30°12'34" to the west boundary of said Section 36, from which the northwest corner of said Section 36 bears N 00°29'21" E, 950.40 feet,

TOGETHER WITH

Beginning at a point on the west boundary of said Section 36 from which the West 1/4 corner of said Section 36 bears N 00°35'28" E, 179.81 feet;
 Thence S 75°00'17" E, 279.31 feet;
 Thence 97.04 feet along a tangential curve concave to the south with a radius of 500.00 feet and a delta angle of 11°07'13";
 Thence S 63°53'04" E, 266.69 feet;
 Thence 117.89 feet along a tangential curve concave to the southwest with a radius of 100.00 feet and delta angle of 67°32'41";
 Thence S 03°39'37" W, 142.93 feet;
 Thence 24.34 feet along a tangential curve concave to the west with a radius of 50.00 feet and a delta angle of 27°53'24" to the intersection with County Road 61K,

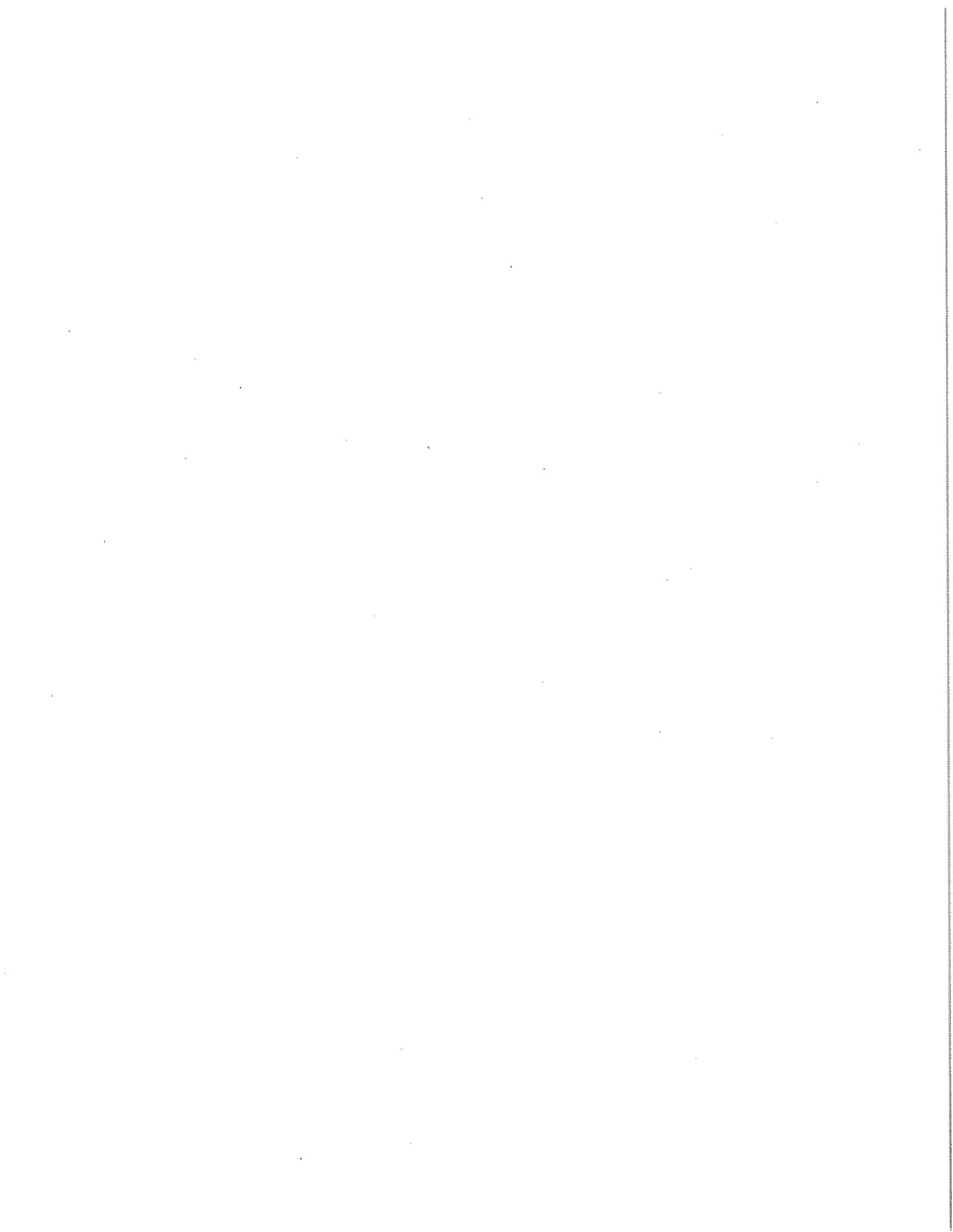
County of San Miguel, State of Colorado.

The sidelines of this legal description are extended or shortened as necessary to intersect with the west boundary of said Section 36.



J. David Foley,

P.L.S. #24954



C.R. 62K HIKING/BIKING EASEMENT AGREEMENT

THIS C.R. 62K HIKING/BIKING EASEMENT AGREEMENT this "Agreement") is made and entered into this 30th day of JUNE, 2000, by and between H. CHARLES PRICE and JESSIE H. PRICE, whose address is 9839 Rockbrook Drive, Dallas, TX 75220 (together, the "Grantor") and THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation, whose principal address is 4245 North Fairfax Drive, #100, Arlington, VA 22203 (the "Grantee").

I. RECITALS

- A. Grantor is the fee simple owner of a certain 440 acre parcel situate in the County of San Miguel, State of Colorado and more particularly described as:
- The Northwest $\frac{1}{4}$ and the South $\frac{1}{2}$ of Section 36, Township 43 North, Range 10 West of the New Mexico Principal Meridian, except those lands contained in the Valley Placer, USMS, 15120 (the "Price Parcel").
- B. The County owns inventories and/or maintains as public/county roads County Roads (C.R.) 60M, 61K and 62K which traverse the Price Parcel.
- C. On May 3, 2000 the San Miguel County Board of County Commissioners (the "BOCC") approved the partial and conditional vacation of County Roads (C.R.) 60M, 61K and 62K that traverse the Price Parcel which approval was subsequently reduced to a written resolution of the BOCC dated May 10, 2000 (Resolution #2000-19).
- D. As consideration for the vacation of C.R. 62K, Grantor agreed to grant a permissive non-motorized public recreation access and usage easement (the "Easement") to the Grantee for that portion of C.R. 62K to be vacated, to be limited to public hiking and biking uses.
- E. The Grantee is a private organization organized to protect and conserve natural areas and ecologically significant land for scientific, charitable, and educational purposes, and is a "charitable organization" under the terms of C.R.S. § 38-30.5-104(2) and is a "qualified organization" within the provisions of Section 170(h) of the Internal Revenue Code of 1986, as amended, (the "IRS Code"), and meets the requirements of the IRS Code as a § 501(c)(3) exempt organization.
- F. The purpose of the Easement is to accommodate non-motorized public recreational access and usage of C.R. 62K, to be limited to hiking and biking, to be administered by the Grantee, in consultation with the Grantor, in accordance with applicable terms and conditions of the Deed of Conservation Easement (the "Conservation Easement") dated _____, 2000 by and between Grantor and Grantee, encumbering the Price Parcel, and in a manner consistent with the Grantor's intent to provide the public with a tranquil, contemplative environment in which to enjoy the natural beauty of the area. This Agreement shall grant to Grantee the right and the power to close or restrict public access and usage of the Easement in accordance

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with gradual methods of implementation, as appropriate under the circumstances, should the Grantee determine, in consultation with the Grantor, that the Grantor's intent as set forth herein is being violated by the occurrence of verified incidents of trespass, vandalism, adverse environmental impacts, substantial littering, and such other parameters as in the judgment of the Grantee, violate the Grantor's intent, but prohibiting any capricious or arbitrary exercise of such right. Such closure or restriction to be effective upon notice to, and in consultation with, the Board of County Commissioners of San Miguel County.

- G. Grantee or its designee agrees to be responsible for overseeing and monitoring the use of the Easement.
- H. Grantor is willing to grant the Easement subject to the conditions and covenants set forth herein.
- I. Grantee is willing to accept the Easement subject to the limitations provided for herein, and agrees to perform all obligations created herein in accordance with the terms and conditions set forth herein.
- J. The Parties, in entering into this Agreement, desire to avail themselves of the maximum immunities, benefits and protections which may be available to each of them pursuant to the public recreational use statute, CRS Section 33-41-101, et seq., and the Colorado landowner liability statute, CRS Section 13-21-115 (1.5) (collectively, the "Colorado Landowner Protection Statutes").

II. AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, including the aforementioned recitals which are hereby incorporated, the parties hereto agree as follows:

1. Conveyance of Hiking/Biking Easement. Grantor hereby grants to Grantee a permissive, perpetual and non-exclusive Easement as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, subject to the terms, conditions and limitations set forth herein. Notwithstanding the foregoing, this Agreement is subject to the terms and conditions of the Conservation Easement. If circumstances arise in the future that result in the termination of the Conservation Easement pursuant to its terms, then this Agreement and the Easement shall terminate and be of no further force or effect.

2. Limitations on Grant and Conveyances. In granting the Easement, Grantor expressly represents, and Grantee agrees, that Grantor does not:

- A. Extend any assurance that the Easement is safe for any purpose.
- B. Confer upon any member of the public the legal status of an invitee or licensee to whom a duty of care is owed by Grantor, and
- C. Assume responsibility or incur any liability for injury to person or property or for the death of any person caused by the use of the Easement.

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3. Management of the Easement.

- A. Grantee shall oversee and manage the Easement so as to promote protect and preserve the Easement and the Price Parcel in its present natural, essentially undisturbed state, and the Grantor's use and enjoyment of the Price Parcel. Such oversight and management shall be consistent with the concepts and general principles contained in Recital F of this Agreement.
- B. Grantor shall have no responsibility for maintaining, inspecting, and policing the Easement or generally managing the Easement. Grantee or its designee shall be responsible for monitoring and overseeing the use of the Easement, and enforcing the terms of the Easement, pursuant to the terms set forth herein.
- C. Grantor shall have no obligation to insure or indemnify Grantee for any injury, claim or damage to any person or property while using the Easement, except for acts performed by Grantor. Grantee shall have no obligation to insure or indemnify Grantor for any injury, claim or damage to any person or property while using the Easement, except for acts performed by Grantee. Nothing herein is intended to waive any limits on liability afforded to the parties under the Colorado Landowner Protection Statutes.

4. Use Restrictions.

- A. The Easement may be used by the Grantee and members of the public subject to the terms of this Agreement and the Conservation Easement. For purposes of this Agreement, member of the public are defined as the citizens, residents, visitors licensees, and invited guests of San Miguel County.
- B. The Easement shall only be used for hiking and biking. No other uses, express or implied, are authorized by this Agreement. Without limiting their generality, the following uses are strictly prohibited.
 - i. Motorized vehicles, except motorized vehicles authorized or used by Grantor or any adjacent landowner as permitted under the Conservation Easement, are specifically prohibited from any use within the Easement. Grantee is authorized to have motorized access solely for the limited purposes of overseeing, maintaining, and inspecting the Easement.
 - ii. Public usage of the Easement shall be limited to hiking and bicycling. The operation of motorized vehicles, including, but not limited to cars, trucks, sport utility vehicles, motorcycles, snowmobiles, and all terrain vehicles, within and upon the Easement by members of public is prohibited. Camping, fishing, hunting, the discharge of firearms, and any other activities engaged in by members of the

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public that are not specifically authorized by this Easement are also prohibited.

- iii. Any other form of sports or other recreational activity, other than hiking and biking by the general public on the Easement, shall be prohibited without the prior written consent of the Grantor, which consent can be withheld for any reason or no reason.
 - iv. Littering, the creation of any unsanitary condition, defacing the Price Parcel or the Easement, impeding access to the Price Parcel or to property belonging to adjoining landowners by Grantor or Grantor's guests, licensees, invitees or holders of easements from Grantor, removing any survey staking, collecting and removing water, firewood, rocks and artifacts, or any other activity that results in the harassment or injury of wildlife or plants, is strictly prohibited. Users of the Easement shall not bring dogs or other domestic animals on the Easement.
- C. Neither Grantor nor Grantee shall impose any fees or charges upon any member of the general public entering upon and making use of the Easement. Furthermore, it is the intention of the parties that Grantor shall derive full benefit of the protections afforded a landowner allowing public recreational access under the Colorado Landowner Protection Statutes.

5. **Compliance.** In the event that non-compliance with any restriction contained herein or under the Conservation Easement with respect to the Easement comes to the attention of Grantee, Grantee shall notify the Grantor and the County in writing of such non-compliance. Grantee shall have the right to perform restoration of the Price Parcel to its condition prior to the non-compliance, as necessary in Grantee's discretion. Grantee shall consult with the Grantor and the County and may elect to close or restrict further the public's use of the Easement indefinitely in accordance with gradual methods of implementation, as appropriate under the circumstances, should the Grantee determine, following consultation with the Grantor, that the Grantor's intent as set forth herein or the Conservation Easement is being violated by the occurrence of verified incidents of trespass, vandalism, adverse environmental impacts, substantial littering, and such other parameters as in the judgment of the Grantee, violate the Grantor's intent. If San Miguel County or the citizens of San Miguel County provide, in good faith, a remedy for such violation, Grantee agrees to consider such remedy in its decision to restrict future uses of the Easement. Further, Grantee shall have the right to undertake such actions, including appropriate legal proceedings, including an action for injunction or specific performance, as are reasonably necessary to effect such corrections. Provided, however, that Grantee shall not exercise its authority regarding implementation of sanctions for non-compliance with such restrictions in a capricious or arbitrary manner. Grantee shall provide prior notice to, and consult with, the County, before any decision of Grantee to restrict or close public access or use of the easement shall become effective. Grantor shall not be responsible for taking corrective action as a result of any violation of any restriction contained herein caused by any member of the general public using the Easement.

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6. Miscellaneous.

- A. The Easement may not be further conveyed by Grantee nor transferred or assigned by Grantee without the prior written consent of Grantor which consent shall not be unreasonably withheld, provided such transferee or assignee subscribes to and agrees to enforce the purposes and intent set forth in this Agreement, and is a "charitable organization" under the terms of C.R.S. § 38-30.5-104(2) and is a "qualified organization" within the provisions of Section 170(h) of the IRS Code.
- B. All notices or other documents required or authorized to be sent by one party to the other shall be in writing and shall be deemed given to a party when personally delivered, or when deposited in the United States mail, sufficient postage prepaid, return receipt requested, addressed as follows:

If to Grantor:

H. Charles and Jessie H. Price
9839 Rockbrook Drive
Dallas, Texas 75220
Facsimile: (214) 350-4687

With a copy to:

J. David Reed
P.O. Box 2470
Telluride, Colorado 81436
Facsimile: (970) 728-3474

If to Grantee:

The Nature Conservancy
1881 Ninth Street, #200
Boulder, Colorado 80302
Facsimile: (303) 444-2986

With a copy to:

Western Regional Attorney
The Nature Conservancy
2060 Broadway, Suite 230
Boulder, CO 80302
(303) 541-0346

Each party shall notify the other party if its address changes from time to time.

- C. Grantee agrees to be bound by all covenants, terms, conditions, restrictions and limitations expressed herein.

- D. This Agreement is subject to the terms and conditions of the Conservation Easement. To the extent there exists a conflict in terms or conditions between the Conservation Easement and this Agreement, the Conservation Easement shall control.
- E. The Easement granted herein and all provisions of this Agreement shall run with the land and shall be applicable to, binding upon and inure to the benefit of the parties, their respective transferees, representatives, successors and assigns.
- F. This Agreement contains the entire understanding of the parties. There are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
- G. This Agreement may not be modified or amended except in writing signed by all the parties hereto. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Venue is limited to the District or County Court for San Miguel County, Colorado. In the event of litigation arising from a dispute under this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney fees from the non-prevailing party.
- H. Time is of the essence in the performance of the obligations and requirements provided for herein.
- I. A waiver of a breach of any term of this Agreement will not be considered a waiver of a further breach of the same term, a waiver of a breach of any other term, or a waiver of such waiving party's right to declare an immediate or a subsequent default.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Signatures and notarles on next page:

GRANTOR:

H. Charles Price
H. CHARLES PRICE

Jessie H. Price
JESSIE H. PRICE

Texas
STATE OF COLORADO)
Dallas)
COUNTY OF SAN MIGUEL) ss.

ACKNOWLEDGED before me by H. Charles Price and Jessie H. Price on the 26th day of June, 2000.

WITNESS my hand and official seal.

Julie Mitchell
Notary Public

My commission expires: 8-16-03



GRANTEE:

THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation

By _____

STATE OF _____)
) ss.
COUNTY OF _____)

ACKNOWLEDGED before me by _____, who acknowledged herself/himself to be the _____ on this ___ day _____, 2000.

WITNESS my hand and official seal.

Notary Public

My commission expires:

Handwritten initials/signature

EXHIBIT A

**FOLEY ASSOCIATES, INC.
 CIVIL ENGINEERING AND LAND SURVEYING
 P. O. BOX 1385
 TELLURIDE, CO 81435
 970-728-6153**

LEGAL DESCRIPTION

An easement 20 feet wide lying 10 feet on each side of the following described centerline of vacated County Road 62K, located within the SW1/4 and the SE1/4 of Section 36, Township 43 North, Range 10 West, New Mexico Principal Meridian:

Beginning at a point from which the center 1/4 corner of said Section 36 bears N 87°46'33" E, 146.26 feet;
 Thence 55.44 feet along a curve concave to the east with a radius of 100.00 feet, a delta angle of 31°45'57", a chord which bears S 04°56'07" W for a chord distance of 54.73 feet;
 Thence 47.54 feet along a reverse tangential curve concave to the west with a radius of 100.00 feet and a delta angle of 27°14'14";
 Thence S 07°43'17" E, 170.32 feet;
 Thence 30.78 feet along a tangential curve concave to the west with a radius of 50.00 feet and a delta angle of 35°16'17";
 Thence 63.67 feet along a reverse tangential curve concave to the east with a radius of 40.00 feet and a delta angle of 91°11'48";
 Thence S 63°38'48" E, 12.67 feet;
 Thence 105.55 feet along a tangential curve concave to the southwest with a radius of 110.00 feet and a delta angle of 54°58'39";
 Thence S 08°40'09" E, 85.56 feet;
 Thence 19.91 feet along a tangential curve concave to the west with a radius of 50.00 feet and a delta angle of 22°48'59";
 Thence S 14°08'49" W, 39.87 feet;
 Thence 147.91 feet along a tangential curve concave to the east with a radius of 155.00 feet and a delta angle of 54°40'29";
 Thence 71.90 feet along a reverse tangential curve concave to the west with a radius of 100.00 feet and a delta angle of 41°11'48";
 Thence S 00°40'08" W, 144.24 feet;
 Thence 56.33 feet along a tangential curve concave to the east with a radius of 140.00 feet and a delta angle of 23°03'07";
 Thence S 22°22'58" E, 69.08 feet;
 Thence 149.58 feet along a tangential curve concave to the west with a radius of 250.00 feet and a delta angle of 34°16'55";
 Thence S 11°53'57" W, 97.95 feet;
 Thence 91.83 feet along a tangential curve concave to the east with a radius of 135.00 feet and a delta angle of 38°58'20";

Thence S 27°04'24" E, 94.85 feet;
Thence 35.85 feet along a tangential curve concave to the west with a radius of 100.00 feet and a delta angle of 20°32'26";
Thence S 06°31'57" E, 82.30 feet;
Thence 79.54 feet along a tangential curve concave to the west with a radius of 115.00 feet and a delta angle of 39°37'36";
Thence S 33°05'39" W, 26.87 feet;
Thence 97.38 feet along a tangential curve concave to the east with a radius of 135.00 feet and a delta angle of 41°19'41";
Thence S 08°14'02" E, 80.90 feet;
Thence 173.86 feet along a tangential curve concave to the west with a radius of 1700.00 feet and a delta angle of 05°51'35";
Thence 14.98 feet along a reverse tangential curve concave to the east with a radius of 50.00 feet and a delta angle of 17°09'52";
Thence 84.60 feet along a reverse tangential curve concave to the west with a radius of 500.00 feet and a delta angle of 09°41'40";
Thence S 09°50'39" E, 524.56 feet to the south boundary of said Section 36, County of San Miguel, State of Colorado.

The sidelines at the end of this legal description are extended or shortened as necessary to intersect with the south boundary of said Section 36.



J. David Foley,

P.L.S. #24954



John Huebner <johnh@sanmiguelcountyco.gov>

Fwd: COC-39221 CR60M VACATE - HOMEWOOD

1 message

Karen Henderson <karenh@sanmiguelcountyco.gov>

Tue, Dec 6, 2016 at 9:51 AM

To: Michael Hockersmith <michael@mdhlawpc.com>

Cc: Mike Rozycki <miker@sanmiguelcountyco.gov>, John Huebner <johnh@sanmiguelcountyco.gov>

----- Forwarded message -----

From: **Ron Krystyniak** <ronk145co@gmail.com>

Date: Mon, Dec 5, 2016 at 10:13 PM

Subject: COC-39221 CR60M VACATE - HOMEWOOD

To: karenh@sanmiguelcountyco.gov

Dear Commissioners,

Please read the attached letter relating to the vacation of CR60M on the Homewood property. I am sending in response to the request for public comment

Sincerely

Ron Krystyniak

Karen Henderson
Associate Planner
San Miguel County
970-728-3083
PO Box 548
Telluride, CO 81435
karenh@sanmiguelcountyco.gov

 **CR60M Vacation.docx**
15K

In reply to:

COC-39221

December 5, 2016

Via Email:karenh@sanmiguelcountyco.gov

San Miguel County Board of County Commissioners

c/o San Miguel Planning Department

333 West Colorado Ave

Telluride, CO 81435

Dear Commissioners:

This letter is in response to the Homewood's application to vacate a section of County Road 60M. I own two lots within the Ptarmigan Ranch community and I am one of five members on the HOA's Board of Directors. I am also one of the closer Ptarmigan lot owners to the Homewood property. I voted against the letter sent on behalf of only the HOA board members and not the owners within the community.

I agree with the BLM's position and further, I strongly urge the commission to grant a vacation of County Road 60M beyond the last touch point to government lands. It is not appropriate for the government or the general public to interfere on the usage of private land. I agree with the Homewood's arguments for the vacation and also believe illegal activities, such as hunting, littering and trespassing are real issues some of the general public do not care about which infringe on the rights of a land owner. The road's usefulness is no longer meaningful as it has become a dead end due to a previously granted vacation. This segment of CR60M is essentially a road to nowhere, serving no purpose. This previous vacation sets a precedent and justifies the requested vacation. If a vacation was not granted, the county should ensure the road satisfies county standards relating to size, quality and safety. In satisfying these standards to ensure usefulness, the road may require enlargement, continued maintenance, snowplowing, a large turn around at the dead end and fencing to prevent trespassing. These projects

would come at a significant expense to the tax payer and are unnecessary. An argument to maintain the county road based on denying the public of a vista is foolish and cannot equate to actual dollars that will need to be spent to improve and maintain the road segment. **Denying a grant of vacation beyond BLM land would be a costly mistake for all county residents and only favor a few local residents.**

I also support the BLM's stance necessitating a pedestrian easement WITHOUT threatening "No Trespassing" signs and locking of gates. Access must be assured. Also, I only support a pedestrian easement that is inclusive for all types of pedestrian activities. Further, I do not support any language regarding the leashing of dogs on the easement. At the appropriate time, I encourage the County to include the public in the granting of a pedestrian easement to ensure all activities considered important are included which the Homewood's are apparently amendable to.

Again, please grant the vacation beyond the last BLM touch point. Allow private landowners control of their land without government and public intervention!

Sincerely,

Ron Krystyniak

6515 CR60M and 480 Silverpick Rd – Ptarmigan Ranch



John Huebner <johnh@sanmiguelcountyco.gov>

Fwd: Homewood application to vacate county road 60M

1 message

Karen Henderson <karenh@sanmiguelcountyco.gov>
To: Michael Hockersmith <michael@mdhlawpc.com>, Mike Rozycki <miker@sanmiguelcountyco.gov>
Cc: John Huebner <johnh@sanmiguelcountyco.gov>

Tue, Dec 6, 2016 at 3:07 PM

FYI

----- Forwarded message -----
From: Alana Mynyk <alanakit@yahoo.com>
Date: Tue, Dec 6, 2016 at 2:26 PM
Subject: Homewood application to vacate county road 60M
To: "karenh@sanmiguelcountyco.gov" <karenh@sanmiguelcountyco.gov>

Good afternoon,

My husband and I, through our trust (TAMF), own the property west of the BLM land that 60M runs through. As I look at the map that was sent with the letter regarding the Homewood's request, I do not see how people will be able to access the top of the BLM property from Silver Pick road as your letter states.

Having talked to the Homewood family, and researched this contentious issue, it seems to me that they simply want to keep people from using the road that runs through their property. They have put up gates, changed the road location itself all to prevent people from using this road.

Therefore, we are stating our objections to the county allowing this application to proceed.

Sincerely,
Alana and Ted Mynyk (TAMF)

--
Karen Henderson
Associate Planner
San Miguel County
970-728-3083
PO Box 548
Telluride, CO 81435
karenh@sanmiguelcountyco.gov



John Huebner <johnh@sanmiguelcountyco.gov>

Fwd: Comment letter for Dec 14, 2016 Planning commission meeting

1 message

Karen Henderson <karenh@sanmiguelcountyco.gov>

Wed, Dec 7, 2016 at 12:51 PM

To: Michael Hockersmith <michael@mdhlawpc.com>

Cc: Mike Rozycki <miker@sanmiguelcountyco.gov>, John Huebner <johnh@sanmiguelcountyco.gov>

FYI

----- Forwarded message -----

From: **Amy Cannon** <timamycannon@msn.com>

Date: Wed, Dec 7, 2016 at 11:41 AM

Subject: Comment letter for Dec 14, 2016 Planning commission meeting

To: "karenh@sanmiguelcountyco.gov" <karenh@sanmiguelcountyco.gov>

Dear Karen,
Please submit this letter to the Planning Commission.
Thank you,
Amy Cannon

--

Karen Henderson
Associate Planner
San Miguel County
970-728-3083
PO Box 548
Telluride, CO 81435
karenh@sanmiguelcountyco.gov

 **To The Planning Commissioners.docx**
136K

To The Planning Commissioners,

December 7, 2016

Along with my husband, Tim, I own 634 County Rd 59H, an East Wilson Mesa property approximately three miles west of the Homewood gate on 60M where the Homewood Alexander proposal for county road vacation begins. My letter is intended to voice my opposition to any portion of County Road 60M being vacated from being a motor vehicle or otherwise accessed county public-right-of way.

I feel offended that the Homewood Alexander parties, fellow property owners here on East Wilson Mesa, seek to profit a public-right-of-way for their own privatizing. Being a nearby individual San Miguel County property owner who uses this entire road length a lot for all its public benefits; access to glorious wildlife vistas, including US Bureau of Land Management public property access, via foot, horseback, bicycle, motorized vehicles, cross-country skiing and snowshoeing, I am distressed.

In a previous county road vacation of a portion of CR 60M, even further east of the current application, the private property owners, the Prices, are not keeping their vow to maintain public access as agreed with the County and have erected a double padlocked and chained gate on the Wilson Mesa portion of their 60M vacation. This is a failure of the agreement of a private property owner as constructed and passed to the County "for public benefit." It is a failure because while vehicular traffic has been eliminated in that vacated portion of 60M from Bilk Creek west through the Price property to the Homewood Alexander

border, pedestrian, bicycle and equestrian access is allowed there through to the Bilk Creek road entrance. The gate is far too high to jump and an encumbrance for all, most particularly as it is a locked gate. This must be open as per the 2000 agreement.

I also feel acutely opposed to this application for vacation of 60M for the essential reasoning that this portion of road assures our own (and our neighbors) health, safety and welfare. I have always considered the portion of 60M beginning at the current Homewood gate and all the way through the Price property to be my strategy for emergency evacuation if the customary route to HWY 145 north of my property on Silver Pick Road, 60M, were impassable in the event of a forest fire. While I may not receive emergency fire truck help up from Bilk Creek through Price's to the Homewood Gate, via the Placerville Fire Department at this time, as it is not a route they currently would consider tactical with fire trucks, it is the only escape route for my family, my horses and our other domestic animals not to mention all other neighbors and their animals. It is simply unconscionable to vacate this portion of CR 60M because of this very possible scenario.

Additionally, I feel passionately and sad about previous vacations of San Miguel County and Forest Service roads, the ways we've already experienced limits on access to scenic corridors and a precipitating disquiet at a gut level. Those glorious corridors, linked together, created the sense of freedom we honor and cherish as a major reason to live in and trust San Miguel County. We simply cannot systematically lose our rights of public accesses by our County creating exclusive private developments by vacating County roads.

I ask you appointed San Miguel County Planning Commission members to whole-heartedly advise the Board of County Commissioners to deny this application to vacate any portions of County Road 60M.

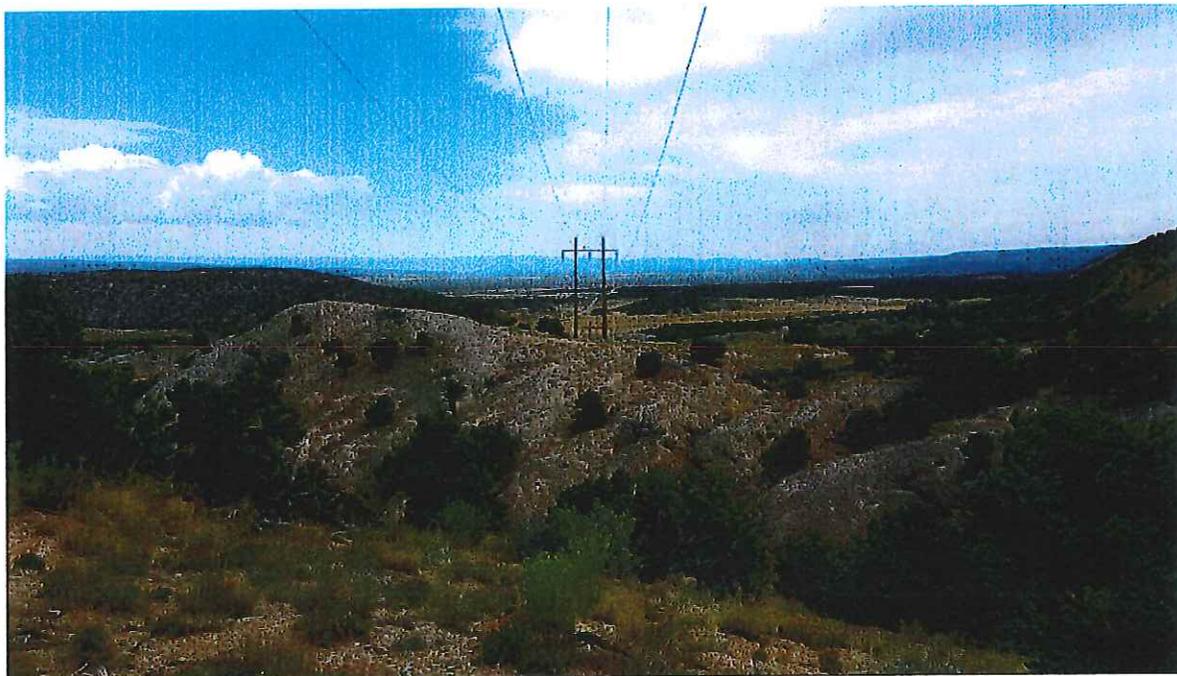
My best regards,
Amy Cannon

TO: San Miguel County Planning Commission
FROM: San Miguel County Planning Director, Michael Rozycki
RE: Work Session: Tri-State Transmission Line Rebuild, West End Zone District
DATE: December 14, 2016

Please find attached the summary for the Tri-State Transmission Line Rebuild and a copy of the Decision Granting Certificate of Public Convenience and Necessity for the Montrose-Nucla-Cahone Transmission Improvement Project for the work session. A complete packet and memorandum will be sent before the January 11, 2017 Planning Commission Meeting.

Application for Special Use Permit San Miguel County, Colorado

Maverick to Cahone 230-kV Transmission Line



Submitted to: San Miguel County Planning Department
333 W. Colorado Ave., Telluride, CO 81435

Submitted by: Tri-State Generation and Transmission Assoc., Inc.
1100 W. 116th Ave. Westminster, CO 80234



October 2016

**Application for Special Use Permit
San Miguel County, Colorado
Maverick to Cahone 230-kV Transmission Line**

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1.0 APPLICATION SUBMITTAL CONTENTS (ARTICLE 4, SUBMISSION REQUIREMENTS SECTION 4-2)

Land Use Code Section 4-2 establishes the minimum submission requirements for all development applications.

Introduction

Tri-State Generation and Transmission Association, Inc. (Tri-State) submits the following information to support San Miguel County's requirements for the request for a Special Use Permit for the rebuild of the existing Montrose-Nucla-Cahone 115-kilovolt (kV) transmission line to 230-kV. The Project will be rebuilt entirely along the existing 115-kV transmission line route and ROW in San Miguel County. The transmission line within San Miguel County will be about 25 miles in length: six miles crossing private lands, two miles crossing state land, 0.3 mile crossing Town of Telluride land and 16 miles crossing BLM-managed lands. See Table 1.

The portion of the transmission line that crosses San Miguel County is currently called the Nucla to Cahone 115-kV transmission line. However, the new line segment will be called the Maverick to Cahone 230-kV transmission line since the new line will connect at the new Maverick 230-kV substation instead of at the Nucla 115-kV substation (at the Nucla Generating Station).

4-201—General

Tri-State met with San Miguel Planning on July 13, 2016 for a pre-application meeting. That meeting was summarized in San Miguel County's pre-application conference summary letter dated August 5, 2016. Tri-State has prepared the enclosed application and related appendices in accordance with these pre-application items and San Miguel County Land Use Code.

4-202—Required Background Information

Owner

Tri-State will be the owner/operator of the new 230-kV transmission line. Tri-State does not own any of the lands crossed by the transmission line; legal access for the project on federal lands is obtained through federal authorization of right-of-way grants and special use permits and on State and private lands through easement agreements. Tables 1 and 2 below provide a summary of land ownership for the Nucla (from new Maverick 230-kV Substation) to Cahone transmission line right-of-way (ROW). Tri-State will also have a temporary 60-acre construction staging area off Highway 141 in Disappointment Valley which is the subject of a separate special use application. The transmission line is in the West End (WE) Zoning District of San Miguel County. Tri-State does own property at the Montrose, Nucla, Maverick, and Cahone substations, but these facilities are not located in San Miguel County.

Applicant's Name and Address

Tri-State Generation and Transmission Association, Inc.
1100 West 116th Avenue
Westminster, CO 80234
303-452-6111

Authorized Officer for the Applicant

Mr. Joel K. Bladow
Senior Vice President, Transmission

4-203—Parcel Description

Please see Figure 1 for the 8-1/2" x 11" vicinity map locating the project within San Miguel County. The transmission line spans approximately 25 miles in San Miguel County on lands administered by the Bureau of Land Management (BLM) Uncompahgre and Tres Rios Field Offices, State of Colorado, Town of Telluride, and private landowners.

A San Miguel County Map Atlas is included as Appendix 1 and shows the sections, townships, and ranges crossed by the transmission line and associated access roads. Table 1 lists the number of miles for each jurisdiction crossed in San Miguel County by the transmission line ROW.

The existing line crosses 6 miles of private lands in San Miguel County. Approximately 30 miles of access roads across private lands are currently used to construct, operate, and maintain the existing 115-kV transmission line in San Miguel County. This same road network will be utilized to construct, operate, and maintain the new 230-kV line rebuild.

Private landowners granting easements held by Tri-State for the existing 115-kV transmission line are listed in Table 2, which includes the mailing address and legal description.

Table 1: Transmission line mileage by jurisdiction in San Miguel County for the new 230-kV Montrose-Maverick Cahone Project

Miles by Jurisdiction	Federal			State	Other	Private	
Description	BLM Uncompahgre Field Office	BLM Tres Rios Field Office	Total Federal Lands	State of Colorado Lands	Town of Telluride	Private Lands	Total San Miguel Co.
Transmission Line (150' wide)	2.66	13.31	15.97	2.12	0.34	6.13	24.56

Table 2: Private Parcels Crossed in San Miguel County by Project by name, parcel no., address, and legal description

Name	Parcel #	Address, City/State, Zip Code	Section	Township	Range
David & Terri Andrews	429115200003	P. O. Box 523 Norwood, CO 81423	15	45N	15W
Mex and Sons, Colorado General Partnership	453115200029	P.O. Box 126 Norwood, CO 81423	5, 7, 13 18	44N	16W
State of Colorado Division of Wildlife	453324200917	6060 Broadway Street Denver, CO 80216	23, 24, 26	44N	16W
Town of Telluride	453335200025	P.O. Box 397 Telluride, CO 81435	35	44N	16W
Barrett Brothers Inc.	455103200002	P.O. Box 56 Redvale, CO 81431	3	43W	16W
Steve M. and Pamela Suckla	455118300001	12551 Highway 491 Cortez, CO 81321	18, 19, 24	43N	16W/17W
Steve M. and Pamela Suckla	454927200001	12551 Highway 491 Cortez, CO 81321	27, 34	43N	17W
Scott E. Williams	479516300022	11461 Road 22 Cortez, CO 81321	17	42N	17W
Michael William Anderegg and Clara Love	479517300021	P.O. Box Drawer C Cortez, CO 81321	17	42N	17W
Steve M. and Pamela Suckla	479516300001	12551 Highway 491 Cortez, CO 81321	17	42N	17W

4-204—Disclosure and Proof of Ownership

Within San Miguel County, no new landowners will be affected since the line is being rebuilt in place. All affected private property owners are listed above in Table 2. The pre-application conference summary letter from San Miguel County staff clarified that Notification of Surface Development requirements per CRS 24-65.51-103 does not apply with respect to applications for electric transmission lines.

4-205—Legal Access

Tri-State has right-of-way (ROW) easements for the existing 115-kV line (100-foot ROW) which are included in Appendix 2 - "Easements for ROWs on Private Lands." Tri-State has not yet perfected new expanded easements (150 feet) with landowners along the Maverick-Cahone 230-kV line. Table 2 lists landowners and legal descriptions along the existing 115-kV line, which will be the same for the new proposed 230-kV transmission line.

Tri-State assumed the land rights to the existing transmission line upon acquiring assets from Colorado-Ute in 1992. Tri-State will acquire new 150-foot wide transmission line easements together with access roads (without a current easement). The existing 115-kV transmission line carries a fiber optic ground wire (OPGW). The new 230-kV line will be fitted with a new OPGW to replace the OPGW that existed on the 115-kV line. Easement agreements for the OPGW were obtained in the early 2000s and cover the new OPGW since nothing is changing (capacity, fiber count, etc.) except it will be brand new cable. An example of Tri-State's standard easement for private land is included as Appendix 2 - "Easements for ROWs on Private Lands."

Tri-State has been in contact with San Miguel landowners about the proposed transmission line rebuild since early 2013. All "permissions to survey" for engineering and environmental purposes have been obtained. Tri-State will be negotiating ROW easements with landowners in San Miguel County in 2017. New easements will be recorded at that time with the San Miguel County Clerk.

4-206—Standards Report

A written report demonstrating that the proposed development complies with the applicable substantive review standards.

The Standards Report is included as Chapter 3 of this Application.

4-207—Pre-application Summary Sheet

The pre-application summary letter dated August 5, 2016 provided by the San Miguel County Planning Department is enclosed as Appendix 3.

4-208—Site Plan

Site Plan Requirement:

The number of copies of 24" x 36" and 8-1/2" x 11" site utilization maps as specified by the staff during the pre-application conference. During the pre-application conference, the Planning Office may authorize an applicant to consolidate or delete specific maps that may not be applicable to a particular development proposal. The 24" x 36" site utilization maps must be folded to fit

within a legal-size folder with the name of the application visible. Site maps shall include identification of Areas of Local and State Interest as set forth in Section 5-4 and Wetland Areas as set forth in Section 5-22, for all areas where development activity is proposed.

Tri-State is submitting the San Miguel County Map Atlas in Appendix 1 to meet the requirements of the Site Plan including property boundaries, existing structures and roads.

Descriptions of structure types and proposed construction methods are included in Appendix 4 – Project Description.

4-209—Copies of Application

Tri-State has submitted eight (8) copies of the application to San Miguel County per directions provided in the Pre-application Conference Summary letter.

4-210—Revegetation Plan

Appendix 4 includes a revegetation plan (aka reclamation plan) to address all temporary disturbances resulting from project construction. This would include overland access roads, pad sites, and staging areas. The reclamation plan also outlines specific seed mixes provided by the federal land management agencies and Colorado Parks and Wildlife (CPW) for the project including the Dry Creek Basin. Tri-State is collecting native seed through the Uncompahgre Partnership for the project. Tri-State will reseed private lands with seed mixes proposed by or acceptable to the landowners affected. Reclamation will be deemed complete once vegetation has been reestablished to 70 percent of pre-construction cover as required by Colorado Department of Public Health and Environment (CDPHE) stormwater regulations and our federal permitting requirements.

4-211—Weed Control Plan

Tri-State has collected noxious weed data throughout the past three years as part of our engineering and environmental field reviews. This information has been supplemented with available noxious weed data provided by the BLM and the USFS. Tri-State has prepared a framework noxious weed plan included as Appendix 7.

For noxious weeds on private lands Tri-State will consult with landowners and contract with certified weed sprayers to pre-treat weeds prior to construction and to treat them post-construction in the appropriate season according to species occurring in the ROW. Tri-State's treatment methods will be consistent with State law as well as those required by the San Miguel Weed Board. A copy of the plan has been submitted for review to Ron Maybrey, San Miguel Co. weed advisor.

All heavy equipment, including all-terrain vehicles (ATV), utilized during construction will be washed prior to departure from the equipment storage facility and will be regularly inspected and washed as required by the environmental monitor. All seed mixes and mulch used for reclamation activities will be certified weed-free. Pre-construction treatment of weeds in staging or temporary use areas and within the existing ROW will be conducted to suppress weeds before the ground is disturbed.

4-212—Employee Housing Mitigation Plan

The project will employ a temporary work force of 40–60 people spread across 12 months of construction over 40 miles. The project is not expected to have a long-term effect on local housing and will not require additional temporary housing. The project may have a short-term minor effect on hotel availability and short-term rentals in the project vicinity during the construction period; however, there are camping facilities and housing, and hotels to accommodate the work force in cities and towns such as Montrose, Ridgeway, Nucla, Naturita, Norwood, and Dove Creek, Colorado, outside of San Miguel County.

Decision No. C13-0893

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-0489E

IN THE MATTER OF THE APPLICATION OF TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE MONTROSE-NUCLA-CAHONE TRANSMISSION IMPROVEMENT PROJECT, AND FOR SPECIFIC FINDINGS WITH RESPECT TO MAGNETIC FIELDS AND AUDIBLE NOISE.

**DECISION GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY
FOR THE MONTROSE-NUCLA-CAHONE
TRANSMISSION IMPROVEMENT PROJECT**

Mailed Date: July 22, 2013

Adopted Date: July 17, 2013

I. BY THE COMMISSION

1. On May 7, 2013, Tri-State Generation and Transmission Association, Inc. (Tri-State or Company) filed an application requesting that the Colorado Public Utilities Commission (Commission) grant the Company a Certificate of Public Convenience and Necessity (CPCN) to construct the Montrose-Nucla-Cahone Transmission Improvement Project (Project) in accordance with § 40-5-101, C.R.S. *et seq.*; Rule 1303, of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1; and Rules 3102 and 3206 of the Commission's Rules Regulating Electric Utilities, 4 CCR 723-3, and a finding of reasonableness for noise and magnetic field mitigation.

2. Tri-State submitted sworn, direct testimony and exhibits from Joel K. Bladow, Mark H. Stout, Grant Lehman, and Dr. Robert L. Pearson. These witnesses presented the

description and rationale for the Project, alternatives, siting and permitting activities, and the results of audible noise and magnetic field studies.

3. There were no interventions filed into the proceeding.
4. The proposed Project will be located within the right-of-way (ROW) of the existing 115 kV transmission line interconnecting the Montrose, Nucla, and Cahone substations in the southwest corner of Colorado. The proposed Project will consist of approximately 80 miles of a new, single-circuit 230 kV transmission line consisting of 1272 kmil ACSR "Bittern" conductor. The 230 kV line will be built using wood H-frame towers on 150 feet ROW widths and single pole steel towers on 100 feet ROW widths. The Project will replace a 55-year-old 115 kV line on wood H-frame structures that has reached the end of its useful life, has frequent trips, and has inadequate capacity to support an estimated future load growth of over 60 MW by 2019. Further, the lack of capacity of the line will affect the TOT2A transfer capacity as new load comes on-line.
5. The Project will also include construction of three 230 kV substations to allow the new line to tie into the existing Montrose, Nucla, and Cahone Substations.
6. The estimated year 2018 cost of the Project, including the three new 230 kV substations, is \$90,681,900. Construction is scheduled to begin in 2017 with an in-service date in the fourth quarter of 2018.
7. Tri-State evaluated the following transmission alternatives to determine their suitability to address system needs: 1) Install phase raisers or new conductors on the existing structures; 2) Rebuild the Montrose-Nucla-Cahone 115 kV line on existing or new ROW and continue 115 kV operation; 3) Construct a new Montrose-Nucla-Cahone 230 kV transmission line on existing or new ROW using wood H-frame or steel monopole structures and single

circuit, double circuit, or double circuit capable designs; 4) Construct a new Montrose-Nucla-Cahone 345 kV transmission line on existing or new ROW using steel lattice structures and single circuit or double circuit designs.

8. Based on the analyses presented in Exhibit No. GDL-7, upgrading the existing Montrose-Nucla-Cahone 115 kV transmission line to a single-circuit 230 kV line was found to be the preferred and most cost effective project alternative that meets the following requirements: 1) To replace the present 115 kV transmission line; 2) To remove the operating limitations of Nucla Station generation on the transmission system in the area;¹ 3) To provide a load-serving path consistent with Tri-State's forecasted need and also consistent with the long term capability of the path and system in the area, without negatively impacting the TOT2A transfer capabilities or obligations of Tri-State; and 4) To provide for long-term planning by providing a 230 kV electrical path between Montrose and Cahone that can be extended to Lost Canyon Substation (where a 230 kV line now connects) in the future.

9. Tri-State modeled the magnetic field level using EMF Workstation: ENVIRO (Version 3.52) developed by the Electric Power Research Institute. The estimated magnetic field levels at the maximum thermal limit of the proposed 1272 KCMIL ACSR "Bittern" conductor (1584 A) are below 150 milliGauss at the ROW and are therefore considered reasonable pursuant to Commission Rule 3206(e) *et al.*

10. The Company modeled the expected audible noise of the Project using EMF Workstation: ENVIRO (Version 3.52). The model shows that the proposed line routes will

¹ The Nucla power plant is a 100 MW (net) coal-fired generating facility located near Nucla, Colorado. The availability of Nucla Station is an important factor in maintaining the transfer capability of TOT2A. When Nucla is operating at 80 MW, the TOT2A transfer capability is increased by 100 MW. Conversely, a loss of 80 MW from Nucla Station reduces the transfer capacity of TOT2A by 100 MW.

all have audible noise levels of 50 dB(A) or less measured 25 feet beyond the edge of the ROW under L50 rain conditions, and will therefore be in compliance with the Commissions transmission noise rules, 3206(f) *et al.*

11. Tri-State sent letters to transmission providers, Colorado Coordinated Planning Group members, and other stakeholders soliciting participation in the proposed Project. The Company sent information concerning the Project to potentially affected local governments in the Project area as part of its stakeholder outreach activities. Tri-State provided information to the relevant district and field offices of the Bureau of Land Management and the U.S. Forest Service. Tri-State is continuing coordination with these agencies. Also, Tri-State personnel met with representatives of San Miguel County to discuss the Project, as well as sent information to representatives of Delores, Montrose, and Ouray Counties as part of its Rule 3627 stakeholder outreach activities and in preparation for filing this CPCN Application.

12. The CPCN Application contains all of the information required by Commission Rules of Practice and Procedure, 4 CCR 723-1-1303(b) and was automatically deemed complete on June 24, 2013 pursuant to Rule 1303(b)(III).

13. The CPCN Application is unopposed. The Commission will determine this matter based upon the submitted written testimony and exhibits of Tri-State's witnesses as the written record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 CCR 723-1.

14. The Commission has reviewed the CPCN Application and associated testimony and exhibits filed by Tri-State. The Commission finds that the proposed Project is required to replace an aging transmission line that has reached the end of its useful life, serve new load

without negatively impacting TOT2A transfer capabilities, and to provide for the future extension of the line from Cahone Substation to Lost Canyon Substation.²

II. ORDER

A. The Commission Orders That:

1. The magnetic field values and the audible noise values presented in the studies meet the conditions of Commission Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3-3206(e)(III) and 3206(f)(III) and are therefore considered reasonable for the proposed Montrose-Nucla-Cahone Transmission Improvement Project.

2. The Certificate of Public Convenience and Necessity Application from Tri-State Generation and Transmission Association, Inc. for the construction of the Montrose-Nucla-Cahone Transmission Improvement Project is granted without a hearing.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

4. This Decision is effective on its Mailed Date.

² The granting of this CPCN application includes only the items listed in this Decision and, therefore, does not include the section of line from Cahone Substation to Lost Canyon Substation.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 17, 2013.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JAMES K. TARPEY

PAMELA J. PATTON

Commissioners

CHAIRMAN JOSHUA B. EPEL ABSENT.