

DEED OF CONSERVATION EASEMENT

This DEED OF CONSERVATION EASEMENT is made this 20TH day of JANUARY, 2000 by WILD BASIN RANCH, LLC, a Colorado limited liability company (hereinafter referred to as "Grantor") to ESTES VALLEY LAND TRUST, a Colorado nonprofit corporation having an address at P.O. Box 663, Estes Park, Colorado 80517 (hereinafter referred to as "Grantee").

RECITALS:

A. Grantor is the owner in fee simple of the certain real property located in Larimer County, Colorado (the "Property"), described in Exhibit A attached hereto and made a part hereof.

B. The Property possesses significant open space, scenic, wildlife and plant habitat and other aesthetic and ecological values (the "Conservation Values") of great importance to Grantor, the people of Larimer County and the people of the State of Colorado.

C. Grantor has made available to Grantee, and Grantee has independently developed, prior to the execution of this Conservation Easement, information sufficient to document the Conservation Values of the Property, including the current features and status of the Property and the specific characteristics giving it the Conservation Values, photographs and a description of current uses of the Property (the "Baseline Documentation"). The parties agree that the Baseline Documentation provides an accurate representation of the Property as of the date hereof and is intended to serve as an objective information baseline for purposes of monitoring and enforcing compliance with the terms of this instrument. It is not intended, however, to preclude the use of other evidence of the present condition of the Property.

D. Grantor intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity.

E. Grantee is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); has been classified as a publicly supported charity under Sections 509(a)(1) and 170(b)(1)(a)(vi) of the Code; is an eligible recipient of conservation easements under Colorado Revised Statutes Secs. 38-30.5-104(2), et seq.; and has as its primary purpose the preservation and

RETURN TO: KENNETH R. OLDRAM
POST OFFICE BOX 1465
ESTES PARK, COLORADO 80517

2

conservation of natural areas for scenic, open space, aesthetic and ecological purposes.

F. Grantee agrees by accepting this grant to honor the intentions of the Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Property. The parties agree, however, that certain current uses of the Property are consistent with the conservation purposes of this Conservation Easement, and that the commercial uses and residential development of the Property hereinafter provided for may occur without impairing the Conservation Values.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, terms and conditions herein contained, Grantor hereby voluntarily grants and conveys to Grantee, and Grantee hereby voluntarily accepts, a perpetual conservation easement in gross (an immediately vested interest in real property defined by Colorado Revised Statutes Secs. 38-30.5-101, et seq.) over the Property, of the nature and character and to the extent hereinafter set forth (the "Conservation Easement").

1. PURPOSE. The purpose of this Conservation Easement is to preserve and protect in perpetuity the Conservation Values of the Property.

2. RIGHTS OF GRANTEE. To accomplish the purpose of this Conservation Easement the following rights are conveyed to Grantee by this Deed:

(a) To preserve and protect the Conservation Values of the Property, subject to the terms of this Deed;

(b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Conservation Easement; provided that Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property (In the absence of evidence of the Grantor's violation of this Agreement or of a threat to the Conservation Values of the Property, such inspections shall take place no more frequently than twice annually. Grantee shall provide Grantor with reasonable prior notice of such inspections, so that Grantor's representatives may participate.); and

(c) To enjoin any activity on or use of the Property that is inconsistent with the terms of this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3

3. PROHIBITED USES. The following activities and uses are expressly prohibited:

(a) Construction of Buildings and Other Structures. The construction of any new buildings, mobile homes, or other structures or improvements is prohibited, except in accordance with paragraph 5 below; provided, however, that any buildings or structures existing on the date hereof may be renovated, remodeled or reconstructed.

(b) Timber Harvesting. Commercial timber harvesting on the Property shall be prohibited.

(c) Mining. Commercial dredging, mining, quarrying, drilling or extraction of sand, gravel, rock, oil, natural gas and fuel is prohibited. In the event Grantor undertakes mining and extraction of mineral substances other than hydrocarbons such operations shall employ underground mining methods only. The mining of mineral substances by strip, open pit, auger, hydraulic or other surface mining methods is prohibited.

(d) Dumping, Changes in Natural Topography. The dumping or uncontained accumulation of any kind of trash, garbage, refuse, industrial waste, toxic and hazardous material, other organic or inorganic waste, on the Property is prohibited. The placement on the Property of soil or other substance or material, such as landfill or dredging spoils is also prohibited except:

- (i) where reasonably necessary in connection with the development, redevelopment or reclamation of a Dwelling Unit (hereinafter defined) or other permitted improvement,
- (ii) where reasonably necessary in connection with reclamation of previous land disturbances, provided such reclamation enhances the Conservation Values of the Property or
- (iii) where reasonably necessary to maintain or replace existing roads or other improvements and such activity does not have an adverse impact on the Conservation Values of the Property.

(e) Commercial or Industrial Activity. All uses consistent with a commercial ranching operation shall be allowed on the Property, including haying, grazing and the breeding and sale of horses and cattle, provided, that the scale of such ranching operation shall be regulated and limited so that it does not result in overgrazing or material environmental degradation of the Property. It is also contemplated that the Property may be used as a

4

horseback riding, fishing, packing and/or hunting destination and venue by customers of commercial lodges, stables and resorts and that the existing facilities in the "homestead" and "lake" areas may be used as overnight accommodations; provided, that such uses shall not result in material environmental degradation of the Property. No other commercial or industrial uses shall be allowed on the Property. No billboards, signs or other advertising materials may be placed on the Property except as follows: Grantor may erect signs identifying the Property, posting it as private property and providing notice that trespassing and hunting are prohibited, marking historic sites and features, identifying particular areas, providing the names of roadways and for other reasonable informational purposes. This section shall not prohibit the purchase and sale of a residence (or signs therefor).

(f) Fences. Grantor may repair or replace existing fences and new fences may be built for separation of uses and to discourage trespassing.

Nothing in subparagraphs (a) through (f) above shall apply to or prohibit any activities undertaken in connection with the exercise of the rights and uses reserved and permitted in paragraphs 4 and 5 hereof.

4. RESERVED RIGHTS AND PERMITTED USES. Grantor reserves to itself and to its heirs, personal representatives, successors and assigns, all rights accruing from its ownership of the Property, including the following rights:

- (a) the right to exclude any member of the public from trespassing on the Property;
- (b) the right to permit Grantor and its invitees or guests to hike, camp, horseback ride and cross-country ski on the Property;
- (c) the right to keep and graze horses and cattle on the Property in connection with a commercial ranching operation regulated and limited as provided in subparagraph 3(e) above;
- (d) the right to operate and ride all-terrain vehicles and other motorized vehicles "off road" on the Property, provided such uses shall not result in material environmental degradation of the Property;
- (e) the right to plant trees on the Property; and

5

(f) the right to convey the Property to anyone Grantor may choose subject to the restrictions imposed by this Conservation Easement.

(g) the right to make other uses of the Property not expressly prohibited by the terms hereof, so long as such other uses are consistent with the terms of this Conservation Easement.

X

5. ALLOWED STRUCTURES AND SUBDIVISION.

(a) Grantor may inhabit, maintain, repair, reconstruct, improve and enlarge the existing residence located on the Property.

(b) (i) Grantor may, in addition, place or construct on the Property no more than four (4) additional dwelling units ("Dwelling Unit").

(ii) A Dwelling Unit shall consist of a single-family residence and accessory structures or improvements, such as garages, guesthouses, stables, barns, satellite dishes and private recreational facilities (such as swimming pools and tennis courts).

(iii) All structures and improvements comprising each Dwelling Unit must be located within a reasonable compact area no larger than five (5) acres (the "Development Envelope"); provided that the barn proposed to be constructed as an accessory structure to the existing residence referred to in subparagraph 5(a) above may be located outside the five acre Development Envelope of such residence at Grantor's discretion.

(iv) The lot or parcel of the Property associated with each Dwelling Unit may be of any size (subject to applicable laws, ordinance and regulations of the State of Colorado and Larimer County and all applicable governmental approvals) and, subject to the restriction contained in subparagraph 5(b)(v) below, may be located anywhere on the Property selected by Grantors.

(v) No structure or improvement associated with any permitted Dwelling Unit may be located within 300 feet of the maximum-capacity shoreline of the lake situated in the S $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, T. 4 N., R. 72 W. of the 6th P.M. Grantor may construct a picnic shelter within 300 feet of the shoreline.

(vi) In connection with the Dwelling Units, Grantor may (either within or outside Development

4

Envelopes) (1) construct, maintain and repair driveways for access to and from the Dwelling Units; (2) construct and maintain such utility lines as may be desired for the Dwelling Units, provided that all utility lines shall be buried to the extent practicable in the reasonable judgment of Grantor; and (3) construct and maintain a domestic water well and septic system to serve each Dwelling Unit, and/or otherwise develop a domestic water source and wastewater treatment system for each Dwelling Unit.

(vii) Any Dwelling Unit may be replaced, expanded or modified as Grantor desires, provided the above restrictions are not violated. Grantor may repair and maintain all existing roads and structures located on the Property. Grantor may also place, construct, maintain, repair and replace existing or future barns, sheds, corrals, fences and other structures on the Property normal and customary for small ranching operations, provided that all new structures (except for peripheral or boundary fencing) must be located within a Development Envelope.

(c) The legal description of the Property contained in Exhibit A describes the Property by references to various "subdivisions" established by the official United States Government survey. Notwithstanding the form of the legal description, the real property comprising the Property is declared by Grantor and Grantee, for all purposes of this Conservation Easement, to be a single tract or parcel of land under the common ownership of Grantor. Although the lots or parcels associated with the residential Dwelling Units contemplated by paragraph 5(b) hereof may be of any size, Grantor and Grantee hereby agree that the number of separately-owned lots or parcels into which the Property may hereafter be divided or subdivided, whether by physical or legal process, shall not exceed the number of Dwelling Units permitted under subparagraph 5(b)(i) of this Conservation Easement, as amended, plus one (1).

6. NOTICE OF COMMENCEMENT OF CONSTRUCTION. Before commencing any construction under paragraph 5 above, Grantor will notify Grantee in writing not less than 45 days prior to the date Grantor intends to commence construction. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed construction. Notwithstanding anything contained herein to the contrary, Grantee shall not have architectural control or design review approval rights with regard to any such proposed construction.

7. RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED. Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligation of Grantor as owner of the Property. Among other things, this shall apply to:

(a) Taxes. Grantor, or its successors, shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor, or its successors, will reimburse Grantee for the same.

(b) Upkeep and Maintenance. Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property, to the extent it may be required by law. Grantee shall have no obligation for the upkeep or maintenance of the Property.

8. HOLD HARMLESS. Grantor shall indemnify, defend, and hold Grantee and its members, officers, directors, employees, agents, contractors and permitted assignees (collectively, the "Indemnified Parties") harmless from and against any and all liabilities, penalties, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way related to: (i) injury to or the death of any person, or damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence or intentional acts of any of the Indemnified Parties; (ii) the obligations specified in paragraph 3 and subparagraphs 7(a) and 7(b) above; or (iii) the presence of hazardous or toxic substances on, under or about the Property. For the purpose of this paragraph, hazardous or toxic substances shall mean any substance that is regulated under any federal, state, or local law.

9. ENFORCEMENT. Grantee shall have the right to prevent and correct or require correction of violations of the terms and purposes of this Deed. Grantee may enter the Property as provided in subparagraph 2(b) for the purpose of inspecting for violations. If Grantee finds what it believes is a violation, Grantee shall immediately notify Grantor in writing of the nature of the alleged violation. Upon receipt of such written notice, Grantor shall either (a) restore the Property to its condition prior to the violation or (b) provide a written explanation to Grantee of the reason why there is no violation or why the alleged violation should be permitted. If the condition described in clause (b) above occurs, both parties agree to meet as

4

soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. Grantor shall discontinue any activity that could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute within a reasonable time (not to exceed sixty (60) days), Grantee may, at its discretion, take appropriate legal action. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may obtain an injunction to stop it, temporarily or permanently. In such instance, a court may also issue an injunction to require Grantor to restore the Property to its condition prior to the violation. Grantee's remedies described in this paragraph 9 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of scenic or environmental values.

10. COSTS OF ENFORCEMENT. In the event Grantee prevails in any enforcement action, any costs incurred by Grantee in seeking to enforce the terms of this Conservation Easement against Grantor, including, without limitation, costs of suit and attorneys' fees and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement, shall be borne by Grantor. In the event Grantor prevails in any such enforcement action, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

11. GRANTEE'S DISCRETION. Enforcement of the terms of this Conservation Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No failure of Grantee to discover a violation or delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

12. ACTS BEYOND GRANTOR'S CONTROL. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, earth movement and unauthorized actions of third parties.

9

13. TRANSFER OF EASEMENT. With the prior written approval of Grantor, which shall not be unreasonably withheld, Grantee shall have the right to transfer the Conservation Easement created by this Deed and assign its rights and obligations hereunder to any public agency or private nonprofit organization that, at the time of transfer, is a "qualified organization" under Sec. 170(h) of the U.S. Internal Revenue Code, and under Colorado Revised Statutes Secs. 38-30.5-101, et seq. and only if the assignee agency or organization expressly agrees to assume the responsibility imposed on Grantee by this Conservation Easement. If Grantee ever shall cease to exist or no longer qualifies under federal or state law, a court with jurisdiction shall transfer the Grantee's rights and obligations under this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility.

14. TRANSFER OF THE PROPERTY. Any time the Property is to be the subject of a transfer by Grantor to any third party, Grantor shall notify Grantee in writing, and the document of conveyance shall expressly refer to this Conservation Easement. The failure of Grantor to comply with this notice requirement will not invalidate the conveyance (provided the conveyance complies with the provisions hereof), but the third party grantee shall nevertheless be bound by the provisions hereof relating to the rights and obligations of the Grantor herein.

15. TERMINATION OF EASEMENT. If a court with jurisdiction determines that conditions on or surrounding the Property change so much that it becomes impossible to maintain any significant amount of the Conservation Values intended to be preserved by this Conservation Easement, the court, upon application of either Grantor or Grantee, may terminate the easement created by this Deed.

16. ACCESS. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

17. WATER MATTERS. Notwithstanding anything herein to the contrary, Grantor shall have the unimpaired right to own, operate, maintain, utilize, and develop water, water rights, and water facilities on the Property, including development of additional storage reservoirs, buried storage tanks, inlet and outlet facilities, ditches, springs, buried pipelines and wells, as may be reasonably necessary to provide water to or permit the use of water on the Property. Such facilities can be located anywhere on the Property. It is the intent of the parties hereto that this paragraph allow for the development of the water resources on the Property. Grantor may divert water off the Property and may

10
separate the water rights from the ownership of the Property; provided, that Grantor must retain sufficient water and water rights to maintain the Conservation Values of the Property and to maintain the conservation values of the adjacent property which is subject to the Deed of Conservation Easement to Grantee dated June 30, 1998 and recorded July 17, 1998 at Reception Nos. 98060097 and 98060098 of the Larimer County records. Grantor shall provide Grantee with reasonable prior notice of the nature and extent of any proposed diversion of water or transfer of water rights from the Property.

18. AMENDMENT. In the event of unexpected circumstances that render an appropriate amendment to or modification of the terms of this Conservation Easement necessary or desirable to preserve or enhance its purposes, Grantor and Grantee may amend this Conservation Easement by means of a written instrument signed by each of them, provided that no such amendment shall be made that shall (a) adversely affect the status of the easement as a "qualified conservation" easement and its contribution by Grantor as a "qualified conservation" contribution within the meaning of Section 170(h) of the Code; (b) adversely affect the status of Grantee as an organization eligible to hold conservation easements under all applicable laws, including Colorado Revised Statutes, Secs. 38-30.5-101, et seq. and Section 170(h) of the Code; (c) be inconsistent with the purposes of this Conservation Easement; or (d) affect the perpetual duration of this Conservation Easement.

19. JURISDICTION. Any mediation or arbitration concerning this Conservation Easement shall take place in Larimer County, Colorado. If a court action, it will take place in the United States District Court for the District of Colorado, provided federal jurisdiction is present. Grantor and Grantee consent to personal jurisdiction in Larimer County, Colorado.

20. INTERPRETATION. This Conservation Easement shall be interpreted under the laws of Colorado, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

21. PERPETUAL DURATION. The Conservation Easement created by this Deed shall be a servitude running with the land in perpetuity. This Deed shall be recorded in the real property records of Larimer County, Colorado promptly following its execution and delivery. Every provision of this Deed that applies to Grantor or Grantee shall also apply to their respective agents, successors and assigns as their interests may appear.

11

22. NOTICES. Any notices required by this Deed shall be in writing and shall be personally delivered to or sent by first class mail to Grantor and Grantee respectively at the following addresses, or at a subsequent changed address if a party has been notified in writing by the other party of such a change of address:

GRANTOR: Wild Basin Ranch, LLC
c/o Kevin Moersch, Manager
P.O. Box 16
Allenspark, CO 80510

GRANTEE: Estes Valley Land Trust
P.O. Box 663
Estes Park, CO 80517

23. GRANTOR'S TITLE WARRANTY. Grantor warrants that it has good and sufficient title to the Property as herein described, free and clear of all liens and encumbrances, subject to restrictions, easements and covenants of record, and hereby promises to defend title to the Property against all claims that may be made against the same by any person claiming by, through, or under Grantor.

24. ACCEPTANCE. Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement.

25. GENERAL PROVISIONS.

(a) Entire Agreement. This Deed sets forth the entire agreement and understanding of the parties with respect to the Conservation Easement and supersedes all prior agreements, arrangements and understanding relating to the Conservation Easement, all of which are merged herein.

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

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

(d) Counterparts. The parties may execute this Deed in two counterparts that shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it;

12
both counterparts, when taken together, shall constitute this Deed.

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

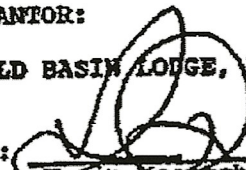
26. AUTHORIZATION. Grantee is authorized to accept and enter into this Conservation Easement by virtue of a resolution adopted by its Board of Directors on the 20th day of JANUARY, 2000.

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

IN WITNESS WHEREOF, Grantor and Grantee have executed this Deed of Conservation Easement, to be effective as of the day and year first above written, notwithstanding the actual date of execution.

GRANTOR:

WILD BASIN LODGE, LLC

By: 

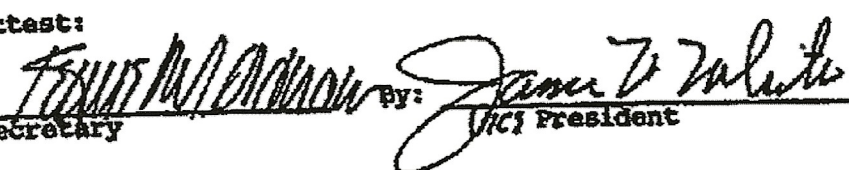
Kevin Meersch, Sole Manager

GRANTEE:

ESTES VALLEY LAND TRUST,
a Colorado nonprofit corporation

Attest:

Assst. Secretary

By: 

Vic President

STATE OF Colorado)
COUNTY OF Larimer) ss:

The foregoing instrument was acknowledged before me this 10th day of January, 2000 by Kevin Moersch as Sole Manager of Wild Basin Lodge, LLC.

Witness my hand and official seal.



Jacqueline L. Oldham
Notary Public

My commission expires: 8/24/00

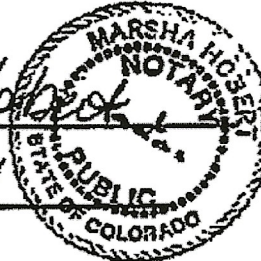
STATE OF COLORADO)
COUNTY OF LARIMER) ss:

VICE The foregoing instrument was acknowledged before me this 20th day of JANUARY, 2000 by JAMES V. WHITE, as President, and by RENAE R. OLHAM, as Secretary, of ASSISTANT Estes Valley Land Trust, a Colorado nonprofit corporation.

Witness my hand and official seal.

Marsha Hobert
Notary Public

My commission expires: 8-1-01



05/14

EXHIBIT A
TO
DEED OF CONSERVATION EASEMENT
FROM
WILD BASIN RANCH, LLC
TO
ESTES VALLEY LAND TRUST

T.4 N., R.72 W., 6th P.M.

Section 28: S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 33: W $\frac{1}{2}$ W $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$

Section 34: NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$

Larimer County, Colorado