



Parks & Open Space

5201 St. Vrain Road • Longmont, CO 80503
303-678-6200 • POSinfo@bouldercounty.gov
www.BoulderCountyOpenSpace.gov

March 24, 2025

Patrick Lennberg
Division of Reclamation, Mining and Safety
1313 Sherman St. Room 215
Denver, CO 80203

Re: Dutch Park Lode Conservation Easement and Application for Permit Conversion to
M1977410 (Cross Gold Mine)

Dear Patrick,

The Dutch Park Lode, Boulder County parcel number 158308000014, is included in the proposed increased permit area from 9.99 acres to 205.7 acres. This property is encumbered by a conservation easement recorded on 4/22/2004 at Reception # 2579391 in the Real Estate Records of Boulder County, Colorado.

The conservation easement restricts uses that can occur on the property. A copy is attached to this letter for reference. While the materials I reviewed do not appear to propose surface disturbance to the Dutch Park Lode, any activities related to the increased permit area shall not impair the conservation values of the surface of the property.

While this is not a full list of the restrictions, the conservation easement generally prohibits the grading, contouring, berming, reshaping, or otherwise altering the topography of the property without written consent from Boulder County; the building of any structures; the accumulation of trash and debris; and any new draining of any surface or sub-surface water. Most directly related to this proposal, Paragraph 4(k) of the conservation easement prohibits the mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance upon the surface of the property, but sub-surface mining not disturbing the surface of the property shall continue to be permitted. See the attached conservation easement for a complete list of restrictions.

Please reach out to me if you have any additional questions and let the applicants know they can do the same.

Thank you,

Liz Northrup
Conservation Easement Program Supervisor
303-678-6253
enorthrup@bouldercounty.gov

Attachment: Dutch Park Lode conservation easement



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DEED OF CONSERVATION EASEMENT IN GROSS

THIS DEED OF CONSERVATION EASEMENT IN GROSS (the "Easement") is entered into this 21st day of April, 2004 by and between **James S. Keith**, an individual ("Grantor"), and the **County of Boulder**, a body corporate and politic ("Grantee") (collectively the "Parties").

RECITALS

A. Grantor is the sole owner of certain real property within the County of Boulder, State of Colorado, legally described in Exhibit 1 (the "Property"). The Property is comprised of approximately 1.336 acres of forestry land. 161

B. The Property consists of meadows, aspen groves and pine forests on moderate south-facing slope, and is an important part of the remaining wildlife habitat for the fox and herds of elk that congregate on the Property for much of the year. Rare and critically imperiled plants found on the Property include *Botrychium echo* (Reflected Moonwort), *Botrychium hesperium* (Western Moonwort), *Botrychium lanceolatum* (Lance-Leaved Moonwort), *Botrychium pallidum* (Pale Moonwort), *Listera convallarioides* (Broad-Leaved Twayblade), and *Botrychium minganense* (Mingan Moonwort). The Property also provides habitat for a variety of additional wildlife species, including small mammals and migratory and resident birds.

C. The Property's significant environmental attributes and open space, scenic and wildlife habitat values are of great importance to Grantor, Grantee, the people of Boulder County and the State of Colorado and are worthy of preservation, which preservation can be conducted in harmony with future underground mining in the area that does not result in any new disturbance of the surface of the Property.

D. The current use of the Property is for forestry, wildlife habitat, open space and recreational purposes. The Property is within the Indian Peaks Environmental Conservation Area, and adjacent to Caribou Park Willow Carr Critical Wildlife Habitats, as designated by the Boulder County Comprehensive Plan ("Comprehensive Plan").

E. Grantor desires to continue use of the Property in a manner that protects the Property's open space character, scenic qualities, wildlife habitat, ecological and water resources.

F. Grantor and Grantee intend to preserve the Property in its present form and prevent any development or building on the surface of the Property.

G. As set forth in the Comprehensive Plan, it is the policy of Boulder County to encourage preservation and protection of open space and wildlife habitat. Grantee recognizes the public benefit to be served by such preservation as described in the Comprehensive Plan Environmental Resources and/or Open Space Sections.

H. The State of Colorado has recognized the importance of private efforts to preserve land in a natural, scenic, historical or open condition, and for wildlife habitat and other uses consistent with the protection of open land having undisturbed or restored environmental quality, by the enactment of C.R.S. sections 38-30.5-101 *et seq.*



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I. Grantee is a "qualified conservation organization" as defined by the Internal Revenue Code.

J. Grantor desires to donate this Easement to Grantee in order to ensure preservation of the surface of the Property in perpetuity.

K. Grantee desires to accept a donation of this Easement in order to ensure preservation of the surface of the Property in perpetuity for the environmental conservation, open space and wildlife habitat functions it serves and to prohibit structural development on the Property.

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L. The forestry, ecological and other characteristics of the Property and its current use and state of improvement will be described in a Baseline Report (the "Baseline Report") to be prepared by Grantee with the cooperation of Grantor, which Baseline Report is subject to approval by both Grantor and Grantee. The Baseline Report will be used by Grantee to ensure that any future changes in the use of the surface of the Property are consistent with the terms of this Easement.

M. The Parties intend to create a management plan that will govern the operation and management of the Property (the "Management Plan"). The Management Plan shall be updated every five years.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of Colorado, Grantor hereby voluntarily grants and conveys to Grantee, its successors and assigns, a perpetual Conservation Easement in Gross, an immediately vested interest in real property as defined by C.R.S. sections 38-30.5-101 *et seq.*, consisting of the rights and restrictions enumerated herein, over and across the Property.

1. Purpose. It is the purpose of this Easement to preserve and protect in perpetuity the significant natural environmental, open space and wildlife habitat attributes of the Property (the "Conservation Values") and to limit the uses of the surface of the Property.

2. Affirmative Rights Conveyed. The affirmative rights and interests granted and conveyed to Grantee by this Easement are the following:

- (a) To preserve and protect in perpetuity the Conservation Values of the Property.
- (b) To require that the Property be managed consistent with sound environmental conservation principles.
- (c) To enter upon the Property, upon reasonable notice to Grantor, to inspect and enforce this Easement and the Management Plan in a manner that will not unreasonably interfere with the proper uses being made of the Property at the time of such entry.



- (d) To be considered an owner of an interest in the Property, and therefore a co-applicant, for the purpose of any application for zoning change, annexation to a municipality, variance to or exemption from the land use regulations of the controlling jurisdiction, right-of-way vacation, building permit, grading permit or other permit pertaining to a use of the Property which is regulated by a governmental authority and not otherwise provided for in this Easement. The County's status as owner of an interest in the Property shall be limited to the right to sign or refuse to sign the aforementioned applications and shall carry no further obligation, financial or otherwise, except as provided in the Condemnation Paragraph herein.
- (e) To review and approve or deny applications from Grantor for uses neither expressly granted nor specifically prohibited by this Easement but which may be conducted in a manner consistent with environmental conservation as the primary use of the surface of the Property and which do not compromise the value of the land as forestry land. Approval, if granted, shall be by resolution of the Board of County Commissioners of Boulder County and recorded in the office of the County Clerk and Recorder. 15-3
- (f) The ownership of any and all development rights associated with the surface of the Property including, without limitation, all rights, however designated, that may be exercised pursuant to applicable zoning laws, or other governmental laws or regulations, to compute permitted size, height, bulk, or number of structures, development density, lot yield, or any similar development variable on or pertaining to the Property.
- (g) The first right to purchase the Property. In the event Grantor desires to sell the Property and receives a *bona fide* offer for such sale to someone other than Tom Hendricks, Calais Resources Colorado, Inc., or Calais Resources, Inc., the Property shall be offered to Grantee who shall have a first right to purchase such offered fee interest for the same terms and conditions as the *bona fide* offer or for an amount and terms equally acceptable to Grantor. Written notice of such *bona fide* offer shall be given to Grantee who shall have thirty (30) days from the date of receipt of the written notice to accept such offer, and if not accepted, the sale may be made to such third party purchaser. Nothing herein shall require Grantee's consent to transfer the fee simple interest in the Property to Tom Hendricks, Calais Resources Colorado, Inc., or Calais Resources, Inc. Pursuant to C.R.S. subsections 15-11-1102(1)(a) and (b), if the right of first refusal conveyed to Grantee under this Easement does not vest within 90 years after the date of execution of this Easement by the Parties, said interest shall automatically be severed from the remainder of the interests conveyed herein and shall automatically terminate.

3. Permitted Uses and Practices. Grantor intends that this Easement shall restrict the future use of the surface of the Property to forestry, environmental conservation, and the other related or compatible uses described herein. The following uses and practices are permitted under this Easement:

- (a) Use of the Property for recreational, scientific and/or educational activities which are occasional in nature, are limited to Grantor and Grantor's invited guests



and in no way interfere with or are detrimental to the Conservation Values of the Property.

- (b) Grantor has the right to cut and remove from the Property: (1) trees and shrubs, consistent with ecological principles and conservation forestry management, in order to control any imminent threat of disease or insect infestation, to simulate natural ecological processes and to prevent forest fires; (2) dead, diseased or downed trees and shrubs that present a safety hazard; and (3) invasive non-native species. Grantor may conduct prescribed fires on the Property upon receipt of all required approvals from entities having jurisdiction at the time of the fire and upon receipt and approval of a prescribed burn plan by Grantee's Forestry Division. Grantor also has the right to add native existing species of trees and shrubs to the Property to enhance wildlife habitat. 15-4
- (c) Maintenance, repair, replacement and use of all roads legally existing on the Property as of the date of this Easement, substantially in their present width, or, where applicable, as reasonably necessary for the uses permitted on the Property, or where others have rights of passage for mining and other purposes on adjacent or nearby properties, to the limit of their legal rights.
- (d) Use of pesticides, but only in those amounts and with that frequency of application necessary to maintain a healthy native ecosystem. Grantor shall control all noxious weeds according to the provisions of Title 35 of Colorado Revised Statutes and/or the administrative rules and regulations promulgated by the Commissioner of Agriculture of the State of Colorado or by the Board of County Commissioners of Boulder County.
- (e) Grantor retains the right to apply to Grantee for permission to conduct other uses and activities on the Property that are neither expressly granted nor specifically prohibited by this Easement but which may be conducted in a manner consistent with environmental conservation as the primary use of the Property. Approval, if granted, shall be by resolution of the Board of County Commissioners of Boulder County and recorded in the office of the County Clerk and Recorder.

4. Prohibited Uses and Practices. The following uses and practices are inconsistent with the purposes of this Easement and shall be prohibited upon or within the Property:

- (a) The change, disturbance, alteration, or impairment of the Conservation Values of the Property except as otherwise provided herein.
- (b) The construction of any structures on the Property. For the purposes of this Easement, structures shall mean a combination of materials forming an edifice or building of any kind.



- (c) Those uses which are consistent with the Boulder County Zoning Resolution as it applies to the surface of the Property but which may be detrimental to preservation and protection of the Conservation Values of the surface of the Property.
- (d) Any use not expressly permitted by the Boulder County Zoning Resolution as it applies to the Property.
- (e) The construction, placement or erection of any sign or billboard without consent of Grantee, except signs of less than twenty (20) square feet advertising the Property for sale and then only if such signs are consistent with Boulder County land use regulations.
- (f) The dumping or accumulation of trash, ashes, garbage, waste or other unsightly or offensive material on the Property. The storage, dumping or other disposal of toxic and/or hazardous materials on the Property is prohibited.
- (g) Any division of the Property (whether or not a subdivision as defined by state law) without the express written consent of Grantee. The Property shall be held as one unit. Without the express written consent of Grantee or by operation of law, Grantor may not convey any portion of the Property as said conveyance would constitute an impermissible division of the Property under this Easement. If Grantee does approve a division of the Property, or the Property is divided by operation of law, all terms of this Easement shall attach to the entirety of the Property and shall survive any division.
- (h) The conveyance of any right-of-way, the paving of any roadway, or the construction of any roadways without the written consent of Grantee, which consent shall be in Grantee's sole discretion. Any such permitted roadways shall be constructed so as to minimize the impact on the Conservation Values of the surface of the Property. This section shall not be interpreted to prevent delineation of the route and width of legally existing roads on the Property and their reduction to deeded interest.
- (i) Except as allowed under any existing utility easements, or under any additional utility easements that may be established pursuant to an exercise of eminent domain. No new utility transmission lines or other utility facilities shall be constructed or allowed on the Property, without the written consent of Grantee, which consent shall be in Grantee's sole discretion. Any such permitted utility transmission lines or facilities shall be constructed so as to minimize the impact on the Conservation Values of the Property.
- (j) Grantor shall not transfer, encumber, lease, sell, or otherwise separate any surface or sub-surface water rights from the Property.
- (k) The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance shall be prohibited upon the surface of the Property, but sub-surface mining not disturbing the surface of the Property shall continue to be

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permitted. Grantor shall not transfer, encumber, lease or otherwise separate the ownership of the soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral rights from the Property.

- (l) The introduction of non-native plant species.
- (m) Commercial or industrial activities of any type including, but not limited to, the commercial harvesting of timber, Christmas tree farming, and growing of commercial crops.
- (n) The use of snowmobiles, snowcats, or other similar vehicles, other than on existing roads, except for emergency purposes.
- (o) The use of motorcycles, motorized bicycles or tricycles or all-terrain vehicles except on roads legally existing at the time of the execution of this Easement.
- (p) Roaming of dogs or other household pets, or chasing or harassing of deer, elk or other wildlife.
- (q) Maintaining livestock on the premises.
- (r) The degradation or pollution of any surface or sub-surface water on the Property is prohibited.
- (s) Any new draining of any surface or sub-surface water on the Property is prohibited. The incidental drainage of underground waters due to subsurface mining on or near the Property shall not be considered "drainage" under this subsection, or "pollution," or "degradation" under subsection "r" above, unless the drainage violates applicable federal, state or local statutory or regulatory standards.
- (t) The erection, construction, installation, relocation or use of a communication facility, a telecommunication facility, a network element, telecommunication equipment, or any other equipment (except for Customer Premises Equipment) or material that may be used for telecommunications or to provide telecommunications services as such terms are defined in The Federal Telecommunications Act of 1996.
- (u) Grading, contouring, berming, reshaping, or otherwise altering the topography of the Property, without the written consent of Grantee.

5. Grantee's Approval. Whenever this Easement requires that Grantor obtain Grantee's approval of any activity on or use of the Property, Grantee's determination regarding Grantor's application for approval shall not be unreasonably withheld or delayed. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within forty-five (45) days of receipt of Grantor's written request therefore unless a different time



period is specified herein for the matter in question. If Grantee denies Grantor's application for approval of an activity or use, Grantee shall provide Grantor with the reason(s) for such determination in its written notice to Grantor. Where a reasonable modification of Grantor's proposed use or activity would render the same consistent with the purpose of this Easement, Grantee shall specify, in its written notice to Grantor, such required modifications.

6. Baseline Data. Grantee and Grantor acknowledge that the Property contains Conservation Values and that the Property shall be managed consistent with the Management Plan described herein. In order to establish a complete inventory of the present conditions of the Property and its Conservation Values so as to be able to properly monitor future uses of the Property and ensure compliance with the terms hereof, Grantee shall prepare or cause to be prepared an inventory of the Property's relevant features and conditions. Grantor shall allow Grantee, or Grantee's designated agent, access to the Property to conduct necessary studies in developing the Baseline Report, provided, however, that such access does not unreasonably restrict or interfere with normal operations as permitted under this Easement. The Baseline Report may include, but need not be limited to, aerial photographs, topographical maps, maps indicating the extent of permitted uses, and botanical and wildlife photographs and reports. The Parties acknowledge and agree that in the event a controversy arises with respect to the nature and extent of Grantor's use or the physical condition of the Property subject to this Easement as of the date hereof, the Parties shall not be foreclosed from utilizing all other relevant or material documents, surveys, reports, and other evidence to assist in the resolution of the controversy. 16-7

7. Management Plan. The Property shall be operated and managed in accordance with the Management Plan that is designed to protect the Conservation Values of the Property. The Management Plan shall be prepared by Grantor and accepted by Grantee within one year of the date of this Easement and shall be updated at least every five years. The Management Plan as developed shall not be inconsistent with legally occurring mining activity on nearby and adjacent properties.

8. Enforcement Rights of Grantee. In the event of a violation of any term, condition, covenant, or restriction contained in this Easement, after thirty (30) days' notice of violation to Grantor, Grantee may institute a suit to enjoin by temporary and/or permanent injunction such violation, or for damages for breach of covenant, or may take such other action as it deems necessary to ensure compliance with the terms, conditions, covenants and purposes of this Easement; provided, however, that any failure to so act by Grantee shall not be deemed to be a waiver or a forfeiture of the right to enforce any term, condition, covenant, or purpose of this Easement in the future. Notwithstanding the above-stated requirements in this Paragraph, when Grantee reasonably believes an ongoing or threatened imminent activity violates this Easement, Grantee may, in its sole discretion, take immediate legal action including, but not limited to, filing a civil action to seek a temporary restraining order and/or injunctive relief or may enter the Property to remove or eliminate any conditions or operations that violate the terms and covenants of this Easement. Restoration shall be limited to protection of the surface of the Property. This section shall not require the filling, or backfilling, of underground areas opened as a result of underground mining operations unless necessary for surface support.

9. Monitoring. Grantee shall have the right to enter upon the Property at reasonable times, upon 48 hours prior notice to Grantor, to monitor and enforce compliance with the terms and covenants of this Easement, except that no such notice shall be required in the event Grantee reasonably determines that immediate entry upon the Property is essential to prevent or mitigate a violation of this Easement. In the case where Grantee has determined that immediate entry is necessary, a reasonable attempt shall be made to notify Grantor. Grantor further intends that should any prohibited activity be undertaken on the Property, Grantee shall have the right to cause the restoration of that portion of the Property affected by such activity to the condition that existed prior to the undertaking of such prohibited activity. In such case, the cost of such restoration shall be borne by Grantor.

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

11. Maintenance, Costs and Taxes. Grantor agrees to bear all costs of operation, upkeep, and maintenance of the Property and does hereby indemnify Grantee therefrom. In addition, Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Property.

12. Indemnity. Grantor shall indemnify and hold harmless Grantee from any and all claims, suits, actions, damages and causes of action arising from the use of the Property or any environmental condition arising on the Property for personal injury, loss of life, or damage to property sustained, in or upon the Property or arising out of the use of the Property or any environmental condition arising on the Property, and from and against all costs, attorneys fees, expenses and liabilities incurred in and about any such claims, the investigation thereof or the defense of any action or proceedings brought thereon, and from any judgments, orders, decrees, or liens, resultant therefrom by virtue of the use of the Property or any environmental condition arising on the Property. By requiring this right to indemnification, Grantee in no way waives or intends to waive the limitations on liability which are provided to Grantee under the Colorado Governmental Immunity Act, C.R.S. sections 24-10-101, *et seq.*

13. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Conservation Values of the Property resulting from causes beyond Grantor's control including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

14. No Public Access. Nothing contained herein shall be construed as affording the general public access to any portion of the land subject to this Easement.



15. Grant in Perpetuity. This Easement and the covenants as set forth herein shall run with the land and be binding upon the Parties thereto, their heirs, successors, representatives, and assigns, and all persons who may hereafter acquire an interest in the Property.

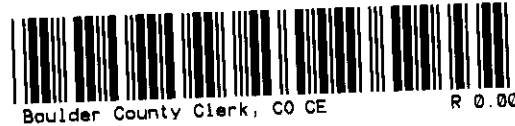
16. Condemnation. In the event of condemnation of all or a portion of the Property, Grantee shall be entitled to a share of the proceeds of the condemnation award, based on the value, at the time of the conveyance, of this Easement on the portion of the Property that is the subject of the taking. Such value shall be calculated by determining the value of the Property without this Easement at the time of the conveyance and subtracting the value of the Property with this Easement at the time of the conveyance, thereby determining the value of this Easement relative to the value of the remaining fee interest. This proportionate value shall remain constant and shall be applied on a per acre basis to any condemnation award. 16-9

17. Amendment. If circumstances arise under which an amendment would be appropriate, Grantor and Grantee may jointly amend this Easement, except that any such amendment shall be consistent with the purposes of this Easement and its conservation principles. Any such amendment shall not affect this Easement's perpetual duration, shall not permit additional development currently prohibited by this Easement, and shall not impair any of the Conservation Values of the Property. Any such amendment shall be by resolution of the Board of County Commissioners and be recorded in the office of the Boulder County Clerk and Recorder.

18. Assignment. Grantee may assign the Easement with or without Grantor's consent, provided that Grantor requires, as a condition of such transfer, that the conservation purposes of the Easement continue to be carried out and that an assignment may be made only to an organization qualified at the time of transfer as an eligible donee under the IRS Code and C.R.S. Sections 38-30.5-101 to 38-30.5-111 as amended. The assignment shall not be effective until such time as the qualified organization consents in writing to abide by the terms of the Easement.

19. Extinguishment and Termination. In giving this Easement, Grantor has considered the possibility that surface uses prohibited by the terms of this Easement may become more economically valuable than permitted uses and that neighboring properties may in the future be put entirely to such prohibited uses. Both Grantor and Grantee understand and acknowledge that adjacent and nearby properties have been actively used for mining activities in recent decades, and, historically, since 1869. It is the intent of both Grantor and Grantee that any such changes shall not be deemed circumstances justifying the termination or extinguishment of this Easement. In addition, the inability of Grantor, or Grantor's heirs, successors or assigns, to conduct or implement any or all of the uses permitted under this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or 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 in whole or in part, by judicial proceedings in a court of competent jurisdiction determining that such circumstances exist. Each party shall promptly notify the other when it first learns of such circumstances.



The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Colorado law at the time, in accordance with the ratio set forth in the Condemnation Paragraph herein.

20. Severability. If any of the provisions of this Easement are held to be invalid or unenforceable, then the remaining balance of this Easement shall be deemed severable and held to be in full force and effect.

21. Grantor's Warranty of Title. Grantor warrants that Grantor has good and sufficient title to the Property, that Grantor has good right, full power and lawful authority to grant and convey this Easement, that any mortgages or liens on the Property are and shall remain subordinate to the terms of this Easement, and Grantor hereby promises to warrant and forever defend the title to this Easement against all and every person or persons lawfully claiming by, through, or under Grantor, the whole or any part thereof, except for the rights-of-way, easements, restrictions, covenants, and mineral reservations of record, or apparent on the surface of the Property at the time of the execution of this Easement. 16-11

22. Grantor's Environmental Warranty. Grantor warrants that Grantor has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property and hereby promises to defend and indemnify Grantee against all litigation, claims, demands, penalties, and damages, including reasonable attorney's fees, arising from or connected with any release of hazardous waste or violation of federal, state, or local environmental laws by Grantor or persons under Grantor's direction or control, or with Grantor's acquiescence.

23. Annexation. Grantor shall not apply/petition for, or consent to, the annexation of the Property to any municipality without the consent of Grantee. Any such consent shall be by resolution of the Board of County Commissioners and be recorded in the office of the Boulder County Clerk and Recorder.

24. Notices. Whenever notice is required to be given hereunder, it shall be in writing and may be faxed or delivered to the party entitled thereto or mailed to the party entitled thereto, by registered or certified mail, return receipt requested. If delivered or faxed, said notice shall be effective and complete upon delivery or completion of the fax. If mailed, said notice shall be effective and complete as of the date of mailing. Unless changed by notice in writing, notice shall be given as follows:

To Grantee: The Director
Boulder County Parks and Open Space
P.O. Box 471
Boulder, Colorado 80306
Fax number: 303-441-4594

With copy to: The Boulder County Attorney's Office
P.O. Box 471
Boulder, Colorado 80306
Fax number: 303-441-4794



To Grantor: James S. Keith
2381 County Road 68J
Nederland, Colorado 80466
Fax number: 303-449-8554 (office)

25. Subsequent Liens on the Property. No provisions of this Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such borrowing shall be subordinated to this Easement and shall encumber the entire Property.

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26. Terms. The terms "Grantor" and "Grantee", whenever used herein, and any pronouns used in place thereof, shall mean and include the above-named Grantor and Grantor's heirs, personal representatives, executors, successors and assigns and the above-named Grantee and its successors and assigns, respectively.

27. Liberal Construction. This Easement shall be liberally construed in favor of this Easement to effect the purpose of this Easement and the policies and purpose of C.R.S. sections 38-30.5-101 *et seq.*

28. Entire Agreement. This instrument sets forth the entire agreement of the Parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this 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 the Amendment Paragraph herein.

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

30. Exhibits. All references to exhibits herein shall incorporate such exhibits by their reference.

31. Counterparts. This Easement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement. Facsimile signatures shall be acceptable to and binding upon the Parties.

32. Recording. This Easement shall be recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

33. Interpretation. If any reserved right of Grantor under this Easement is found to be not in compliance with Section 170(h) of the Internal Revenue Code, or any regulations promulgated thereunder, then such provision shall be interpreted and applied in such a manner as to be in compliance with Section 170(h) of the Internal Revenue Code, and any regulations promulgated thereunder; provided, however, nothing in this paragraph shall permit Grantor to divide, subdivide or partition the Property, or make any use of the Property or undertake any activity or development on the Property otherwise prohibited by this Easement. It is the intention



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of this paragraph to require that any restriction herein be interpreted no less strictly than necessary to be in compliance with Section 170(h) of the Internal Revenue Code, any regulation promulgated thereunder, and no less strictly than as specifically provided herein.

34. **Notice to County of Transfer of Property.** Grantor agrees to give written notice to Grantee of the transfer of the Property at the later of (a) thirty (30) days prior to conveyance of the fee interest, or (b) immediately upon entering into a contract to transfer the Property, but in no event later than 10 days before closing on a transaction to transfer the Property. Grantor agrees that reference to this Easement shall be made in any subsequent deed, or other legal instrument, by means of which Grantor conveys any interest in the Property (including a leasehold interest).

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

GRANTOR:

James S. Keith

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

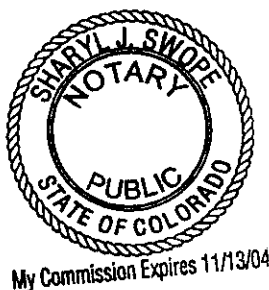
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The foregoing Deed of Conservation Easement in Gross was acknowledged before me this
21st day of April, 2004, by James S. Keith.

Witness my hand and official seal.

Sharyl J. Swope
Notary Public

My commission expires: 11-13-04



GRANTEE:

COUNTY OF BOULDER,
a body corporate and politic

By: Paul D. Danish
Paul D. Danish, Chair

By: Ronald K. Stewart
Ronald K. Stewart, Vice-Chair

By: Thomas A. Mayer 16-15
Thomas A. Mayer, Commissioner

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing Deed of Conservation Easement in Gross was acknowledged before me this 20th day of April, 2004, by Paul D. Danish, Chair, and Ronald K. Stewart, Vice-Chair, and Thomas A. Mayer, Commissioner, of the Board of County Commissioners of Boulder County.

Witness my hand and official seal.

Susan M. Ashcraft
Notary Public

My commission expires: 10/17/2005



My Commission Expires 10/17/2005



Boulder County Clerk, CO CE

R 0.00

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EXHIBIT 1
Legal Description of the Property

THE DUTCH PARK LODGE, U.S. Survey No. 16838, located in Section 8, Township 1 South, Range 73 West of the 6th P.M., in the Grand Island Mining District, County of Boulder, State of Colorado. Excepting any portion lying within U.S. Survey Nos. 39 (Silver Point), 115 (Grant County), 159 (Silver Brick), 227 (Monitor), 587 (Ophir), 5868 (Defiance), and 14246 (Last Chance), as excepted and excluded in Patent recorded April 21, 1937 in Book 452 at Page 128.

16-16

County of Boulder, State of Colorado.