

Deed of Conservation Easement

THIS GRANT DEED OF CONSERVATION EASEMENT is made this ____ day of _____, 2003, by J. Patrick and Pamela D. Jones, having an address at 3320 County Road 203, Durango, CO 81301 ("Grantor"), in favor of Animas Conservancy, a nonprofit Colorado corporation qualified to do business in Colorado, having an address at: 1032 ½ Main Avenue, #24, Durango, Colorado 81301 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Sections 28 and 33, Township 36 North, Range 9 West, N.M.P.M. in La Plata County, Colorado, more particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, the Property possesses agricultural, wildlife, and open space values (collectively "Conservation Values") of great importance to Grantor, the people of La Plata County and the people of the State of Colorado; and

WHEREAS, in particular, the Property's irrigated pastures provide grazing for domestic livestock and its pastures, pond, and riparian areas provide the necessary requirements for many wildlife species including large and small mammals, waterfowl, neo-tropical birds, and birds of prey; and

WHEREAS, the specific Conservation Values of the Property are further described in an inventory of relevant features of the Property on file at the offices of Grantee and incorporated by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by permitting only those land uses on the Property that do not significantly impair or interfere with them, including, without limitation, those land uses relating to grazing of livestock, equine use, agricultural use, and limited residential use; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, the Conservation Values of the Property to be protected by this Deed are recognized by the following clearly delineated governmental conservation policies:

(a) Colorado Revised Statutes Sec. 38-30.5-101, et seq., providing for the establishment of conservation easements to maintain land "in a natural, scenic or open condition, or for wildlife habitat, or for agricultural...or other use or condition consistent with the protection of open land having wholesome environmental quality or life sustaining ecological diversity."

(b) The Colorado Wildlife and Parks and Outdoor Recreation statutes, Colorado Revised Statutes Sec. 33-1-101, et seq., which provide that "it is the policy of the State of Colorado that the wildlife and their environment and the natural, scenic, scientific, and outdoor recreation areas of this state are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and visitors to this state."

WHEREAS, Grantee is a publicly supported, tax-exempt nonprofit organization and a qualified organization under Sections 501(c)(3) and 170 (h), respectfully, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Internal Revenue Code"), whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the law of Colorado and in particular Sec. 38-30.5-101, et seq., Colorado Revised Statutes 1973, as amended, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in gross, hereinafter referred to as the "Easement," in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.

1. Purpose. It is the primary purpose of this Easement to protect the Property's irrigated pastures for agricultural and equine use, and it is the secondary purpose to protect and enhance the Property's existing wildlife habitat and to assure that the Property will be retained forever predominately in its open space condition and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. The Grantor intends that this Easement will confine the use of the Property to such activities, including those involving grazing of livestock, equine use, agricultural use, and limited residential use, as are not inconsistent with the purpose of this Easement.

2. Rights of Grantee. To accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

(a) To preserve and protect the Conservation Values of the Property;

(b) To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with Section 6; provided that such entry shall be upon

prior reasonable notice to the Grantor and except with respect to a good faith belief that a violation has occurred or is threatened, entry for the purpose of monitoring compliance shall be limited to no more than one occasion each year. Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property, except as may be unavoidable to prevent, halt, or mitigate a violation of this Easement; and

(c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in section 6.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(a) The impairment of the Conservation Values within and upon the Property, except as otherwise provided herein.

(b) The division or Subdivision of the Property in fact or in law, except as permitted in paragraph 4.

(c) The depositing or dumping of hazardous or toxic wastes upon the Property, except for the effluent from structures permitted hereunder, or from other governmental or private suppliers of effluent in accordance with the rules and regulations of La Plata County and the State of Colorado.

(d) Any commercial or industrial uses of or activities on the Property other than those related to agriculture and horticulture, home occupations and "de minimus" equestrian activities, as permitted under paragraph 4 of this Easement.

(e) The establishment or maintenance of any commercial feedlot, which is defined for the purposes of this Easement as a confined area or facility within which the land is not grazed or cropped at least annually and which is used to receive livestock that has been raised off the Property for feeding and fattening for market.

(f) The placement of any signs or billboards on the Property except those signs whose placement, number, size, and design do not significantly diminish the Conservation Values of the Property. Any such signage may be displayed to:

i state the name and address(s) of the Property and the names of persons living on the Property, and the name of any agricultural or equine use of the Property or home occupation on the Property as permitted in paragraph 4,

ii. advertise the Property or any portion thereof for sale or rent,

iii. post the Property to control unauthorized entry or use, and

iv. designate the Property as a conservation easement-protected property.

(g) The use of motorized recreational vehicles in a manner that would disturb wildlife or degrade or destroy wildlife habitat and/or agricultural land.

(h) The separation of water rights from the Property that are necessary to support the agricultural uses of the Property and existing wildlife habitat on the Property, and which are identified in the Baseline Documentation on file at the office of the Grantee. Grantor shall transfer seven (7) of its owned fourteen

(14) "A" shares in the Animas Consolidated Ditch to the 24 Acres covered under this conservation easement, in the event such 24 Acres is sold, assigned to a related entity or developed. Notice of such transfer shall be delivered to Grantee within thirty (30) days from the date of transfer.

(i) The surface disturbance, to the extent to which Grantor can control such disturbance, for exploration for and/or development and extraction of minerals and hydrocarbons. The possibility of such disturbance is considered by the Grantor and Grantee, based on current law and geological data, to be so remote as to be negligible.

4. Reserved Rights. The Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in, or permit others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, and subject to the terms of paragraph 3, the following rights are expressly reserved:

(a) To engage in agricultural and animal-oriented uses of the Property, consisting of grazing of livestock, hay and equipment storage, and the growing of orchards and crops, and activities such as boarding, riding, instruction, seminars, shows, training, cross country courses and other equine or animal-related events etc, provided that:

- i. the Property is not overgrazed, according to generally accepted agricultural practice
- ii. grazing activity does not significantly impair the wildlife value of the Property's riparian (wetland) areas, and
- iii. agri-chemicals used for fertilization and pest and weed control be applied with generally accepted agricultural management principles and uses consistent with the Conservation Values of the Property.

(b) To engage in wildlife habitat improvements and generally accepted wildlife management practices for the benefit of resident and migratory wildlife species, including, but not limited to food planting, shrub and tree thinning, placement of nesting structures, and construction and/or enhancement of ponds, wetlands and water courses. Any construction, alteration and/or enhancement of water resources shall be subject to approvals and permits from local, state, and federal agencies that may be required by law. Grantee recommends that Grantor follow current Colorado Division of Wildlife guidelines for improving habitat and managing land for wildlife.

(c) To control noxious weeds in a manner required by governmental law or regulation.

(d) To control pests and varmints according to sound, generally accepted agricultural practice.

(e) To engage in and permit others to engage in recreational uses of the Property for personal enjoyment, provided such activities are in no way commercial, except for the equine or animal-related events and activities permitted in paragraph 4(a), are not detrimental to the Conservation Values of the Property, and require no significant surface alteration or other development of the land other than creation of ponds, waterways, wildlife habitat, wetlands, and pedestrian and equestrian trails. Commercial recreation activity that is more than "de minimus" as set forth in Section 2031(c)(8)(B) of the Internal Revenue Code and the Treasury regulations adopted thereto, is prohibited.

(f) To divide or subdivide the Property into not more than six (6) parcels or areas, five of which shall be residential building lots located in the northwest portion of the Property as approximately shown on Exhibit C, attached hereto. The sixth area shall consist of the eastern portion of the Property as approximately shown on Exhibit C as well as subdivision entrance and other common areas, which sixth

area shall be non-residential open space and undivided common area for uses consistent with the terms of this Easement.

(g) To lease or otherwise transfer for a term the eastern portion of the Property to related entities or others for agricultural and other uses and activities which are permitted in paragraph 4(a) of this Easement. Such leases, joint ventures, licenses, etc. shall include a provision subjecting the lessee or responsible party to the restrictions set forth in this Easement.

(h) To place or construct, maintain, remodel, renovate, or replace one (1) single-family dwelling and one (1) attached or detached guest quarters as allowed under La Plata County land use codes and subject to approval by the La Plata County Building Department, within the Building Envelopes, as approximately shown on Exhibit C, within each of the five lots in the northwest portion of the Property. To construct a road and driveway access, traffic control signs, entry gate, mail receipt facilities and to provide utilities to each such lot, including, but not limited to, the installation of water wells and individual sanitation disposal systems outside the Building Envelope and all necessary utility and sewer transmission lines thereto.

(i) To place or construct, maintain, repair, and replace one (1) loafing shed or small (maximum four-stall) barn to shelter horses or other permitted animals as well as store hay and feed, and one (1) corral, outside of the Residential Building Area on each of the five lots in the northwest portion of the Property. Such loafing shed or small barn and corral in combination with other Homeowner Association permitted hay storage facilities, paddocks, confinement pens or similar structures related to agricultural or domestic pet use outside of the Residential Building Area on each of the five lots shall not exceed 20% of the individual lot size.

(j) To place or construct, maintain, repair, and replace recreational amenities, such as putting greens, tennis or volleyball courts, children's playgrounds or play houses and swimming pools, within the Residential Building Area for each of the five lots in the northwest portion of the Property. Such amenities shall not be included in the 20% of the individual lot size calculation covered in the preceding paragraph. Recreational amenities of this type shall not be allowed in the eastern portion of the property, as approximately displayed in Exhibit C. As an alternative to constructing recreational amenities within individual lots, if the homeowners and Homeowners Association shall determine that such amenities shall be for common use of the development homeowners, said amenities may be located in common areas to be added in the final development plan. In such case, recreational amenities shall be placed along the 600' western property boundary and the individual lot lines shall be adjusted accordingly. Recreational amenities shall not significantly diminish the Conservation Values by being placed where they can significantly impede wildlife passage.

(k) To maintain, repair, and replace existing fences and to construct new fences such as are consistent with agricultural uses, provided such fences are designed to allow for the relatively safe and natural passage of wildlife through the Property in accordance with sound wildlife management practices, and to construct higher fences or corrals of appropriate materials to protect hay storage areas, gardens, and orchards, and to protect and confine domestic pets and livestock.

(l) To contract with the Colorado Department of Wildlife, Colorado Department of Transportation, Southwest Riparian Partnership and other qualified entities to construct and maintain new ponds, wetlands, trails and wildlife habitat within the eastern portion of the Property in accordance with state and federal policies. Grantor shall be permitted to construct an elevated bridal path designed with the purpose of flood control of the Property, management of irrigation water flow, movement of maintenance equipment within the Property and enhancement of views. Any such improvements to the eastern portion of the property shall require notice to and approval of the Grantee in accordance with paragraph 5 of this Easement.

(m) Grantor shall, however, not be required to improve or maintain the eastern portion of the Property other than what would normally be expected for pasturing of livestock or growing of crops. Grantor shall likewise not be required to develop the Property as described herein and may choose to continue to use the

property for agricultural and limited residential purposes. However, with respect to future development, any departure from the development plan as described within this Grant Deed and pictorially displayed in Exhibit C shall: not exceed five individual home sites, adhere to the reserved rights and permitted uses of paragraph 4 and respect the Conservation Values contemplated by Grantor and Grantee.

(n) Excepting only improvements that require a building permit under current and existing La Plata County land use codes, improvements in the approximate 12 Acre area designated for the development of five (5) building lots shall not require notice to Grantee and prior approval before commencement of such improvement activity. Grantor shall provide notice to Grantee whenever such improvements requiring building permits are planned in accordance with paragraph 5 of this Easement.

(o) To allow or deny access to the Property by the general public. Allowing public access shall require notice to and approval of the Grantee in accordance with paragraph 5 of this Easement - except for Property access normally provided to the five subdivision homeowners, including their guests, invitees, vendors, etc. and the public in connection with the permitted activities described in paragraph 4(a).

5. Notice and Approval.

5.1. Notice of Intention to Undertake Certain Permitted Actions. The purpose of requiring the Grantor to notify Grantee prior to undertaking the activities specified in paragraph 4(l), 4(n) and 4(o), is to afford Grantee an adequate opportunity to monitor the activities planned in the eastern portion of the property to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever notice is required, the Grantor shall notify Grantee in writing, immediately, if warranted, or not less than thirty (30) days prior to the date the Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

5.2. Grantee's Approval. Where Grantee's approval is required, as set forth in paragraph 4(l) and 4(m), Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request therefore or within five (5) working days, if timing of the request is designated by Grantor as "immediate". Approval shall not unreasonably be withheld or delayed. If such notification is not received by Grantor within the 30 day period, the absence of notification shall constitute approval and Grantor may proceed without further delay. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

6. Grantee's Remedies.

6.1 If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Easement, Grantor agrees not to proceed with the use or activity pending resolution of the dispute as hereinafter provided. Either party may request a meeting between the Grantor and Grantee, made in writing to the other, along with appropriate facts and information concerning the subject matter in dispute. Within ten (10) days of the receipt of such a request, the parties shall meet to attempt to resolve their differences. If such resolution is not successful at said meeting, the parties shall proceed to arbitration, as described below.

6.2 Arbitration. If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Easement, and a prior meeting to resolve the dispute between the Grantor and Grantee was not successful, either party may refer the dispute to arbitration by request made in writing to the other. Within thirty (30) days of the receipt of such a request, the parties shall select a single arbitrator to hear the matter. If the parties are unable to agree on the selection of a single arbitrator, then

each party shall name one arbitrator and the two arbitrators thus selected shall select a third arbitrator; provided, however, if either party fails to select an arbitrator, or if the two arbitrators selected by the parties fail to select the third arbitrator within fourteen (14) days after the appointment of the second arbitrator, then in each such instance the American Arbitration Association, on petition of a party, shall appoint the second or third arbitrator on both, as the case may be. The decision rendered by this arbitration procedure shall be the full and final settlement of the said dispute. Said Arbitration shall be conducted in accordance with the arbitration rules promulgated by the American Arbitrators Association. If the Grantee prevails, then Grantee shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration, including, without limitation, the fees and expenses of the arbitrators, which shall be determined by the arbitrators. If the Grantor prevails, then Grantor shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration, including, without limitation, the fees and expenses of the arbitrators, which shall be determined by the arbitrators.

6.3. Notice of Violation; Corrective Action. If Grantee determines in the exercise of reasonable judgment that violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee. If there is disagreement between the parties regarding the alleged violation and/or corrective action, the foregoing paragraphs 6.1 and 6.2 shall apply.

6.3. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action, including a Notice of Violation, against the Grantor for any injury to or change in 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.

7. Access. No right of access by the general public to any portion of the Property is conveyed by this Easement except as provided in paragraphs 4(a) and 4(o).

8. Costs, Liabilities, Taxes, and Environment Compliance.

8.1. Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of liability insurance coverage; provided, however, the foregoing statement shall not be construed to create new obligations under this easement or increase the burden of existing obligations of Grantor under this easement. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement.

8.2. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"),

including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

8.3. Representations and Warranties. Grantor represents and warrants that to the best of its knowledge:

(a) No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, or across the Property;

(b) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;

(c) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;

(d) There are no pending or threatened litigation in any way affecting, involving, or relating to the Property; and

(e) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

8.4. Remediation. If, at any time, there occurs a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor, or by any third party for which grantor is not responsible consistent with section 6.3.

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

8.6. Hold Harmless. Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal

representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorney's fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, except to the extent of the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation CERCLA and corresponding state statute, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property; (3) the presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, except to the extent of the negligence of any of the Indemnified Parties; and (4) the obligations, covenants, representations, and warranties of paragraphs 8.1 through 8.5.

8.6.1. Grantee's Hold Harmless. Grantee shall hold harmless, indemnify, and defend Grantor and its employees, agents, and contractors, and the heirs, personal representatives, successors, and assigns of each of them (collectively, "Grantor's Indemnified Parties") 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 injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring in, on, or about the Property, regardless of cause, except to the extent of the negligence of Grantee.

9. Extinguishment and Condemnation.

9.1. Extinguishment. If circumstances arise in the future that render the purpose of this agreement impossible to accomplish, the purposes of this Easement no longer viable, this Easement can be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction in La Plata County, Colorado. The amount of 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 the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with paragraph 9.2. Grantee shall have no interest or claim in or to such proceeds if the termination or extinguishment has occurred as a result of actions or omissions of Grantee.

9.2. Valuation. This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph 9.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant are or shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

9.3. Condemnation. If all or any Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests

in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in paragraph 9.2.

9.4. Application of Proceeds. Grantee shall use any proceeds received under the circumstances described in this section 9 in a manner consistent with its conservation purposes, which are exemplified by this grant.

10. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including Sec. 38-30.5-101 et seq., Colorado Revised Statutes 1973, as amended, or Section 170(h) or the Internal Revenue Code, and any amendment shall be consistent with the purpose of this Easement and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of La Plata County, Colorado.

11. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 107(h) of the Internal Revenue Code (or any successor provision then applicable), and authorized to acquire and hold conservation easements under Sec. 38-30.5-101, et seq., Colorado Revised Statutes 1973, as amended, (or any successor provision then applicable) or the law of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least twenty (20) days prior to the date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way. Notwithstanding anything herein to the contrary, this Easement shall not be partially assignable.

12. Subsequent Transfers. The Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which he divests himself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

13. Estoppel Certificates. Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement or otherwise evidences the status of this Easement. Such certificates shall be limited to the condition of the Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request therefore.

14. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: Patrick and Pamela Jones
3320 County Road 203
Durango, CO 81301

To Grantee: Animas Conservancy
1032 ½ Main Avenue, #24
Durango, CO 81301

or to such other address as either party from time to time shall designate by written notice to the other.

15. Recordation. Grantee shall record this instrument in timely fashion in the official records of La Plata County, Colorado, and may re-record it at any time as may be required to preserve its rights in this Easement.

16. General Provisions.

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

16.2. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of Colorado Revised Statutes 38-30.5-101, et seq.. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

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

16.4. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiation, 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 10.

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

16.6. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. Terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and his personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

16.7. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

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

16.9. Counterparts. The parties may execute this instrument in two or more counterparts, which 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. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

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

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

PATRICK JONES, Grantor

Patrick Jones

PAMELA JONES, Grantor

Pamela Jones

STATE OF COLORADO)

) ss.

COUNTY OF LA PLATA)

The foregoing instrument was signed and acknowledged before me this _____ day of _____, 2003 by Patrick Jones and Pamela Jones as Grantors.

Witness my hand and official seal.

My Commission Expires

Notary Public

Animas Conservancy, Grantee

_____, _____

STATE OF COLORADO)

)ss.

COUNTY OF LA PLATA)

The foregoing instrument was signed and acknowledged before me this _____ day of _____, 2003 by _____ as _____ of the Animas Conservancy.

Witness my hand and official seal.

My Commission Expires:

Notary Public

Attachments:

Exhibit A - Legal Description of property subject to easement

Exhibit B – Jones Boundary Adjustment Plat

Exhibit C – Conceptual Plan Showing Natural Features, Residential Building Lots, Building Envelopes, Residential Building Area and Eastern Portion of Property

Exhibit D – Baseline Documentation