



0134971

APN: 005-021-05

After Recording, Return to:
Southern Nevada Water Authority
Attn: General Counsel
1001 South Valley View Blvd.
Las Vegas, NV 89153

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

Escrow NCS-419822-ms

**Grant of Conservation Easement
 Cave Valley Ranch, Nevada**

THIS GRANT OF CONSERVATION EASEMENT ("**Easement**"), dated this 7th day of December, 2009, is made by Cave Valley Ranch, LLC a Nevada limited liability company whose address is 2216 Timber Rose Drive, Las Vegas, Nevada 89134-5915 (the "**Grantor**"), and the Southern Nevada Water Authority, a political subdivision of the State of Nevada whose address is 1001 South Valley View Blvd., Las Vegas, Nevada 89153 (the "**Grantee**", and together with Grantor, the "**Parties**");

RECITALS:

A. The Grantor is the sole owner in fee simple of certain real property in White Pine County and Lincoln County, Nevada, described in Exhibit "A" attached hereto and incorporated herein by this reference (the "**Property**"), which Property is approximately located on the map attached hereto as Exhibit "B" and incorporated herein by this reference, and owns the rights to identify, to conserve and protect in perpetuity, and to enhance by restoration the Property's significant, relatively natural habitat of fish, wildlife and plants and the Conservation Purposes identified in Section 170(h)(4)(A) of the Internal Revenue Code (the "**Code**").

B. Grantor is the sole owner in fee simple of the water rights described in Exhibit "C" attached hereto and incorporated herein by this reference ("**Water Rights**"), which Water Rights are currently used on, and appurtenant to, the Property.

C. The protection of the Property's Conservation Values (as such term is defined in Recital D below, retains or protects natural resources, assures the availability of the Property to perpetuate certain Grantor uses, maintains or enhances the quality of air or water, and is authorized by and recognized in the Nevada Uniform Conservation Easement Act, NRS 111.390 through 111.440, inclusive (the "**Act**"). Grantor intends to convey this Easement pursuant to the Act and other applicable provisions of Nevada Revised Statutes. Grantee is a governmental body empowered



to hold an interest in real property and is qualified to act as a "Holder" pursuant to NRS 111.410(2)(a).

D. The Property constitutes a valuable element of the relatively natural habitat of the Cave Valley watershed and associated ecosystem. The Property provides significant habitat for elk and sage grouse, as well as habitat for mule deer, antelope, and other regional Nevada wildlife, and the maintenance of such natural habitat helps support wildlife populations. For purposes of this Easement, the term "**Conservation Values**" means:

(i) The Property's relatively natural habitat for native plants, fish, and wildlife, including significant habitat and crucial summer and winter range for elk and critical habitat for sage grouse, mule deer, antelope and other regional Nevada wildlife, containing thermal cover for elk and critical winter forage and water resources for elk and sage grouse. Further, the Property is adjacent to public lands administered by the Bureau of Land Management including the Mt. Grafton Wilderness Area, and is near the South Egan Wilderness Area and the Far South Egan Wilderness Area, and the protection of the Property contributes to the ecological viability of these public lands by ensuring the relatively natural habitat, historic and archeological values of the Property; and

(ii) Other characteristics described as Conservation Values in the "**Baseline Documentation**" described in Section X hereof.

The Conservation Values are of great importance to the Grantor and to the people of the State of Nevada, and are worthy of conservation. In addition to protecting the Conservation Values, it is the purpose of the Conservation Easement (defined below) granted in this Agreement to provide a significant public benefit by protecting and preserving in perpetuity the highly scenic and open views and associated vegetation across the fields on the Property, which are enjoyed by the general public who travel and live in the area of the Property, to preserve the traditional and scenic rural, ranching, and agrarian character of the Protected Property, and to maintain and enhance the quality of water provided by Grantee to the residents of the Las Vegas Valley. Grantor intends that the Conservation Values be preserved and maintained by the continuation of the natural and agricultural land uses on the Property, which will require that the Water Rights remain in use on, and appurtenant to, the Property.

E. The Grantor desires and intends that the Conservation Values of the Property be conserved and maintained by the continuation, initiation, or introduction of activities on the Property that will not interfere with or substantially disrupt the Conservation Values, including the Permitted Uses identified in Section III.

F. Grantor and the Grantee recognize the Conservation Values of the Property, and have the common purpose of the conservation and protection in perpetuity of the Property through the use of restrictions granted in perpetuity on use of the Property as described in § 170(h)(2)(C) of the Code as well as the other restrictions set forth in this Easement, and the Parties intend the grant of such restrictions and rights to qualify as a "qualified conservation contribution" under § 170(h) of the Code.

G. Grantor recognizes that the Grantee, as a qualified organization, in accepting this Easement, undertakes the obligation, in perpetuity, to monitor and protect the Conservation Values existing on the Property; to enforce the terms and conditions of the Easement against actual or



potential violation; and to defend the Easement against any and all legal and equitable claims or challenges. Grantor further recognizes that the obligations hereby undertaken by the Grantee create a substantial financial burden and responsibility for the Grantee.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and pursuant to the Act and other applicable provisions of Nevada Revised Statutes, the Parties covenant and agree as follows:

Section I

Easement Grant, Purpose, and Effect

A. **Grant and Purpose:** Grantor hereby grants, conveys and warrants to the Grantee, under the terms, conditions, and limitations set forth herein, a perpetual Easement over the Property for the purposes set forth in this Section I(A). It is the purpose of this Easement to protect the Conservation Values in perpetuity through private conservation efforts, and to prevent any use of the Property that is not consistent with the Easement and which will significantly impair or interfere with the Conservation Values.

B. **Perpetual Restrictions:** This Easement shall run with the land and encumber the title to the Property in perpetuity and shall bind the Grantor and all future owners, tenants, licensees, occupants and users of the Property.

C. **Permitted Uses in General:** This Easement shall confine the use of the Property to the Permitted Uses, discussed in Section III below, which are to be conducted in a manner consistent with the purposes and terms of this Easement. Any activity on or use of the Property inconsistent with the purposes or terms of this Easement or detrimental to the Conservation Values is expressly prohibited.

D. **Dedication of Property:** Pursuant to the terms of the Act, the Property conserved by this Easement is declared to be relatively natural habitat for elk and sage grouse, as well as habitat for mule deer, antelope and other regional Nevada wildlife and may not be converted or directed to any uses other than those provided in this Easement.

Section II

Rights of Grantee

The rights conveyed by the Grantor to the Grantee to perpetually maintain the Conservation Values of the Property in this Easement include the following:

A. **Identification and Protection:** The Grantee has the right to identify, to conserve and protect in perpetuity, and to enhance by mutual agreement the Conservation Values on the Property in the manner set forth in this Easement, subject, however, to the Grantor's reserved rights in this Easement.

B. **Access:** The general public is not granted access to the Property under this Easement. The Grantee shall have the right of immediate entry upon the Property after making a good faith attempt to provide notice to Grantor, if, in the Grantee's sole judgment, such entry is necessary to prevent immediate damage to or the immediate destruction of the Conservation Values of this Easement.

The Grantee also has the right to enter upon the Property to inspect, monitor, and enforce compliance with this Easement at reasonable times. The Grantee also has the right to enter upon the Property with advance notice to and permission from the Grantor or Grantor's agent to undertake observations or ecological studies of natural resources protected by this Easement in a manner that will not unreasonably interfere with the use of the Property by the Grantor.

C. **Water Rights:** Grantee has the right to prevent the transfer or severance of the Water Rights from the Property.

D. **Conservation, Enforcement, Injunction, and Restoration:** The Grantee has the right to enjoin or otherwise prevent any practice or use on the Property that violates the terms of this Easement and to enforce the restoration of such areas of the Property that may be damaged by such prohibited practice or use and to seek and recover damages and costs, all pursuant to Section VI, below.

E. **Signs:** The Grantee has the right to place signs on the Property which identify the Property as being protected by this Easement. The number, size and location of the signs are subject to the Grantor's approval.

Section III

Uses and Practices Reserved to Grantor

The following uses and practices of the Grantor, subject to the provisions below and any specific standards or conditions provided in connection with such use or practices, are consistent with the Conservation Purposes of, and are permitted by, this Easement. These uses and practices may not be precluded or prevented by this Easement, except when this Easement requires prior approval of an activity by the Grantee as provided in Section IV of this Easement or when such use or practice is conducted or allowed to take place in a manner which violates the terms of this Easement, poses a serious threat of material damage to the Conservation Values protected by this Easement, or constitutes a prohibited use or practice as set forth in Section V of this Easement. The Property shall remain available for Grantor's farming, ranching, timber, and recreational uses, as described herein.

A. **Residential Facilities:** There are no residential facilities or associated outbuildings on the Property, and none are permitted under the terms of this Easement.

B. **Recreational Uses:** Unless otherwise restricted herein, any recreational use that does not require, or potentially result in, surface alteration or other development of the land or impact the Conservation Values, in particular wildlife and wildlife habitat, is permitted. Hunting, fishing, trapping and predator control, in a manner consistent with state and federal laws and regulations, are

expressly permitted on the Property, as are non-motorized recreational activities. Grantor expressly reserves to itself all hunting rights inuring to an owner of the Property under Nevada law, together with the right to pursue and hold Property-based incentive or depredation tags under the Nevada Revised Statutes, if any.

C. Ranching Facilities: The Grantor may construct, maintain, replace, and repair, fences, stock tanks, stock wells, pipelines, windmills, generators for pumping water, corrals, livestock pens, livestock handling and loading facilities, covered hay storage, ranch/agricultural buildings, and other necessary livestock related ranching facilities for ranching/agricultural purposes. Improvements located on the Property as of the date of this Easement are identified in the Baseline Documentation described in Section X. Ranch/agricultural buildings built upon lands described in Section III.A above may be constructed of a size reasonably necessary to accommodate the structure's ranching or agricultural purposes. No such structure constructed, maintained, repaired or replaced for ranching/agricultural purposes may be used for a dwelling place or human habitation. Big game proof fences are permitted immediately around harvested crops (e.g., haystacks) without prior approval of Grantee. All other fences must be built to allow for the passage of wildlife and shall be built in accordance with recommendations made by the Nevada Department of Wildlife. Pursuant to Section IV, Subsection S, page 10, no other big game proof fences will be constructed on the Property.

D. Utilities/Renewable Energy Options: The Grantor may construct or install utility structures and/or systems, including renewable energy structures such as a windmill and solar panels or geothermal systems, which are necessary for the permitted ranching activities and/or facilities so long as such structures and/or systems do not adversely impact the Conservation Values. Any incidental sale of energy to the grid shall not be deemed in violation of this provision, provided the renewable energy system is primarily designed and scaled to solely provide energy for the Property and its permitted uses. The Grantor may not grant a major utility corridor right-of-way across the Property without the express written consent of Grantee; provided, however, that Grantor may grant easements on, over, or under, the Property, for utilities serving Grantor uses permitted by this Easement.

E. Roads: The Grantor may maintain existing roads, and with prior approval of the Grantee pursuant to Section IV may construct new roads as necessary for the permitted uses of the Property under the terms of this Easement. Provided, however, any road shall be sited, constructed, and maintained to minimize adverse effect on the Conservation Values of the Property. Other than roads permitted in Section III, Grantee may refuse to approve any new road which threatens to adversely impact the Conservation Values of the Property. Any road constructed for temporary use must be stabilized and protected from erosion and weed invasion within six (6) months after discontinued use. The Grantor may only grant right-of-way easements across the Property with the prior approval of the Grantee.

F. Range Management and Ranching Activities: The Grantor may use the Property for common or typical ranching and farming activities, including hay production, grazing, feeding, breeding, raising, and managing livestock and clearing brush, provided these activities do not materially jeopardize the Conservation Values. The term "livestock" includes livestock that are considered "traditional" at the time of the execution of this Easement and within the local area

surrounding the Property, provided that traditional livestock shall not include any of the game farm animals discussed in Section V of this Easement.

Sound range stewardship and livestock management are integral to the protection of the wildlife habitat and other Conservation Values protected by this Easement. As such, all activities affecting range health will be conducted in a manner that fosters and/or maintains the ecological function of the land, water processes and plant community succession.

Livestock grazing shall not exceed a degree of use described as full by the United States Department of Agriculture - Natural Resource Conservation Service, as identified in Exhibit D, attached hereto, and shall not materially degrade or deteriorate the range and aquatic resources and wildlife and riparian habitats. It is acknowledged by the Grantor and Grantee that due to the nature of feeding and watering livestock there may be localized areas of high impact on the Property. These high impact areas may permissibly exceed the degree of use described as full in Exhibit D, provided such overused areas are not representative of the overall range condition of the Property, comprise less than 10 percent of pasture area, are not a permanent condition on the Property in that they are provided an opportunity to recover from time to time throughout the year, and do not impair or interfere with the Conservation Values protected by this Easement.

If the Grantee, in its sole discretion, decides that the grazing on the Property exceeds the degree of use beyond the localized areas of high impact described above, or the Grantor decides to use a different grazing system, or range management is detrimental to the Conservation Values, the Grantor will prepare or have prepared a Grazing Management Plan ("**GMP**") to govern grazing activity on the Property. The GMP shall be prepared by a qualified natural resource specialist and reviewed and approved by the Grantee, as provided in Section IV. Any modifications to the GMP shall be reviewed and approved by the Grantee, as provided in Section IV. The Grantee reserves the right to have professional consultants review the GMP and make on-site evaluations to provide recommendations to the Grantee and the Grantor.

If a GMP is required, the GMP shall be prepared within one year of the Grantee's notice that a GMP is required and shall be paid for by the Grantor. The GMP will consider the long-term health of the range resource and wildlife habitat. The GMP will describe appropriate use levels, seasons of use, kinds of livestock that will be grazing and necessary management practices. The GMP must meet all applicable state and federal laws, policies, guidelines, and regulations. Once a GMP is approved by Grantee, all livestock grazing taking place on the Property must comply with the GMP.

G. Division or Subdivision of the Property: Notwithstanding that the Property may have been divided or subdivided prior to this Easement, the Property subject to this Conservation Easement may only be conveyed as a single tract, the right to divide, subdivide, or take any action that creates an actual or *de facto* division or subdivision of the Property being expressly prohibited in Section V. Notwithstanding the foregoing or any other contrary provision herein, Grantor may, at Grantor's sole discretion, and on one or more occasions, convey the Property or any portion or portions thereof to the United States or the State of Nevada, provided such Property portion(s) remains subject to this Easement.

H. Water Resources and Water Rights Reservation: Grantor reserves to itself the Water Rights. In accordance with applicable laws and regulations, the Grantor may maintain, restore, enhance and develop new or existing water resources and facilities on the Property for permitted



agricultural and ranching activities, domestic needs, fish and wildlife uses and private recreational uses or activities. Such activities may include stream bank stabilization, improvement to the quality and quantity of water available, and development of watering facilities, pipelines, stock tanks and ponds, provided such activities are conducted in a manner consistent with state and federal laws and regulations and do not conflict with the Conservation Values. The Grantor may maintain, replace and repair existing stream crossings, culvert and bridges on the Property according to all applicable, local, county, state and federal laws and regulations. Grantor expressly reserves the right to develop underground water resources within the Property for permitted uses on the Property or on any other lands owned or controlled by Grantor or Grantor's successors provided such underground water use does not adversely impact the Conservation Values. Notwithstanding the foregoing, Grantor may not sever any surface water rights appurtenant to the Property on the Effective Date as set forth in the Baseline Documentation, except to legally designate those water rights for in-stream flows. The Grantor will make reasonable efforts to ensure continuation of instream flows.

I. Agrichemicals and Biological Controls: The Grantor may use agrichemicals and biological controls, including but not limited to insects, fertilizers, biocides, herbicides, pesticides, insecticides and rodenticides, but only in accordance with all applicable laws and in those amounts and with that frequency of application constituting the minimum necessary to accomplish reasonable ranching and grazing objectives and/or to improve wildlife habitat. The use of such agents shall be conducted in such a manner as to minimize any adverse effect upon the natural values of the Property and to avoid any impairment of the natural ecosystems and their processes.

J. Forest Management: Maintenance of a healthy forest and tree cover is integral to wildlife, wildlife habitat, and water quality. As such, all activities affecting the forest and tree cover will be conducted in a manner that maintains healthy forest conditions over time and sustains and perpetuates the mix of naturally occurring species in representative ages and group sizes, in accordance with sound silvicultural practices and with best management practices for the benefit of wildlife.

The Grantor may: (i) cut trees for posts and poles; (ii) cut and gather dead, dying and down trees for firewood and to abate disease and infestation; (iii) cut or prune trees and brush, which constitute a hazard to persons, property, or road; (iv) cut trees for non-commercial uses on the Property; and (v) thin Pinion - Juniper through harvesting or controlled burns in order to enhance grasses and forage for livestock and wildlife.

Any commercial timber harvesting, will be conducted in accordance with an approved Timber Management Plan ("*TMP*") prepared by a qualified natural resource manager or professional forester. The *TMP* must be approved by the Grantee, as provided in Section IV, prior to any tree cutting activity other than that listed in parts i-iv in the immediately preceding paragraph. The Grantee reserves the right to have professional consultants review the *TMP* and make on-site evaluations to provide recommendations to the Grantee and the Grantor.

The *TMP* will encompass the long-term management of the forestland to provide diverse habitat for elk and other wildlife, to perpetuate a healthy forest, and to abate fuels and erosion. Timber harvest activity will be undertaken at times and by methods that will have the most reasonably minimum impact on the use of the Property by wildlife. All applicable state and federal forestry laws, plans, practices, guidelines and regulations must be met.



K. Cultivation or Farming: The Grantor may plow, cultivate and/or farm on those lands identified as plowed, cultivated or farmed lands, or sub-irrigated hay meadows in the Baseline Documentation referred to in Section X. The introduction of any noxious or detrimental plant species is expressly prohibited in accordance with the provisions of Section V. Any other plowing, cultivation or farming on the Property, including plowing associated with planting food plots or for weed control, must have the Grantee's prior written approval, pursuant to Section IV of this Easement.

L. Habitat Improvement: Subject to other provisions of this Easement, the Grantor reserves the right to undertake habitat improvement projects, including controlled burns, that will enhance aquatic and terrestrial wildlife habitat, with an emphasis on improving the land as elk habitat. All such activities shall be undertaken in order to protect the Conservation Values of the Property. Pursuant to Section V, the Grantor will not introduce into the Property any plant species as defined or listed as noxious or detrimental to wildlife by local, state, or federal land or wildlife agencies. The Grantor may reseed disturbed areas with high quality, certified weed-free seed that is commonly used and that is acceptable to the natural resource agencies in Nevada.

M. Residual Rights: Except as limited by this Easement, the Grantor may exercise and enjoy all rights as owner of the Property, including the right to use the Property for any purpose consistent with this Easement.

Section IV

Prior Approval of Actions by Grantee

If any provision of this Easement requires the Grantor to obtain the prior approval of the Grantee before performing any activity or undertaking any use on the Property, or if the Grantor proposes to undertake any activity or use that is contemplated but not expressly addressed in Section III or Section V of this Easement, then the Grantor shall not perform that activity or undertake that use until Grantor has satisfied the notice and approval provisions of this Section. Nothing in this Section shall prohibit or limit in any manner the ability of the Grantee to obtain writs or injunctive relief relating to any violation of this Easement.

A. Grantor's Written Notice: Prior to the commencement of any activity in or use of the Property which requires the Grantee's approval or notice to Grantee, the Grantor will notify the Grantee in writing of the activity or use which the Grantor intends to undertake. This notice must inform the Grantee of all material aspects of such proposed activity or use. The Grantor will send such notices to the Grantee by registered or certified mail, return receipt requested, or by recognized commercial courier service, addressed to the Grantee at 1001 South Valley View Blvd., Las Vegas NV 89153 (for commercial courier delivery), Attention: General Counsel, or to such other address as the Grantee may designate in writing. In the event notice only is required, such notice is complete upon Grantee's receipt of the notice.

B. Grantee's Response: If Grantor's proposed activity requires approval, the Grantee shall have forty five (45) days from the date that it receives such notice to review the proposed activity or use and to approve such use or to notify the Grantor of any objections that it may have. The objections, if any, shall be based upon the Grantee's opinion that the proposed activity or use may cause material damage to the Conservation Values, or otherwise be in violation of the



provisions of this Easement, and is therefore inconsistent with the Conservation Purpose and/or provisions of this Easement. If in Grantee's sole opinion, the notice does not inform Grantee of all material aspects of such proposed activity or use, the Grantee's response may be a temporary objection, specifically requesting additional material information. Grantee shall then have forty five (45) days from the date it receives additional requested information, as indicated by the registered or certified return receipt, to review the proposed activity, use, and to notify the Grantor of any objections that it may have to the activity, or use. If, in the Grantee's judgment, the proposal set forth by the Grantor can be modified to avoid material damage to the Conservation Values and therefore conform with the Conservation Values and provisions of this Easement, then the response shall inform the Grantor of the manner in which the proposed activity or use can be modified to be consistent with this Easement. Except as provided in Subsection C of this Section, the Grantor may commence or conduct the proposed activity or use only if it receives the Grantee's express written approval, and only in the manner explicitly proposed by the Grantor and approved by the Grantee. The Grantee will send such response to the Grantor by registered or certified mail, return receipt requested, addressed to the Grantor at 2216 Timber Rose Drive, Las Vegas, NV 89134, or to such other address as the Grantor may designate in writing.

C. Grantee's Failure to Respond: If the Grantee fails to post its response to a proposal sent to it by the Grantor within forty five (45) days after it receives the proposal, then the proposed activity or use shall automatically be deemed consistent with the terms of this Easement, and the Grantee will have no further right to object to the activity, use or enterprise described in the proposal.

D. Force Majeure: The Grantor will not be obligated to send any prior notice to the Grantee, and the Grantee will not be entitled to bring any action against the Grantor, with respect to any prudent, good faith activity undertaken by the Grantor to prevent, abate, or mitigate injury to the Property immediately before, during, or immediately following fire, flood, storm, earth movement, acts of war, and similar causes beyond the control of the Grantor. The Grantor will promptly inform the Grantee of injury to the Property caused by such events or actions. In the event the Grantor wishes to take reasonable actions, not otherwise permitted under this Easement to prevent, abate or mitigate less immediate threats to the Property, Grantor and Grantee must mutually agree in writing to any action. Grantee shall not unreasonably withhold approval of any such action that does not materially impact the Conservation Values this Easement protects.

Section V

Prohibited Uses and Practices

Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement or which is likely to cause material damage to the Conservation Values is expressly prohibited. The Grantor states and agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are deemed to be inconsistent with the purposes of this Easement, and shall be prohibited.

A. Residential, Commercial or Industrial Facilities and Activities: Any commercial or industrial activities that damage or interfere with wildlife or wildlife habitat are prohibited. The Grantor will not establish, allow or conduct any residential, commercial or industrial facilities or

activities on the Property, other than those expressly permitted in any Subsection of Section III of this Easement. Prohibited commercial uses include, but are not limited to, any restaurant, night club, campground, trailer park, bed and breakfast, motel, hotel, guest ranch, commercial swimming pool, snowmobiling, gas station, equestrian park, ski area, retail outlet or facility for the manufacture or distribution of any product that would likely cause material damage to the Conservation Values.

B. Game Farming or Game Farm Animals: The Grantor shall not construct, conduct, or operate a game farm, or raise or hold game farm animals or alternative livestock on the Property. Game farm animals include penned, enclosed or privately-owned caribou, black bear, grizzly bear, mountain lion, white-tailed deer, mule deer, black-tailed deer, coues deer, elk, moose, antelope, mountain sheep, mountain goat, red deer, and any other cloven-hoofed ungulate which is indigenous to Nevada and any non-indigenous or exotic cloven-hoofed ungulate which could interbreed with or spread disease to any cloven-hoofed ungulate indigenous to Nevada, provided however that "traditional" domestic livestock, including domestic cattle, domestic sheep, domestic goats, domestic pigs, domestic buffalo and domestic llamas are not included in the definition of game farm animals.

C. Wildlife Harassment: Harassment of elk or other wildlife, as defined by Nevada law, by people, vehicles or domestic animals is prohibited. Lawful hunting and hazing of wildlife as directed and recommended by the Nevada Department of Wildlife to protect cultivated crops from wildlife depredation or as a wildlife management technique is not wildlife harassment.

D. Alteration of Watercourses and Topography: The Grantor shall not change, disturb, alter, excavate, or impair any watercourse or wetland on the Property, except as expressly reserved in Section III of this Easement. The Grantor will not change the topography of the surface of the Property except as incidental and necessary to expressly reserved uses and activities.

E. Noxious and Detrimental Species. The Grantor shall not introduce into the Property any plant species designated as noxious or detrimental to wildlife by local, state, or federal land or wildlife agencies.

F. Subdivision: Notwithstanding that the Property may have been subdivided prior to the granting of this Conservation Easement, except as expressly reserved in Section III of this Easement, The Grantor does not have the right to divide, subdivide, or take any action which creates an actual or *de facto* subdivision of the Property.

G. Construction: The Grantor shall not construct any structures or facilities except as expressly reserved in Section III. The Grantor shall not construct, modify or use any structure for human habitation or dwelling.

H. Roads: The Grantor shall not construct any new roads except as expressly reserved in Section III.

I. Off-Road Vehicles: The Grantor shall not use vehicles off of existing roads and travelways in a manner that may result in significant erosion or compaction of the soil, impact on the natural appearance of the Property, damage or destruction to vegetation, or interference with use of the natural habitats by the wildlife species occurring on the Property. Off-road vehicle use shall be expressly allowed for uses necessary for fire suppression, emergency or severe weather access; normal maintenance, reserved agricultural uses, as may be necessary in property management and for



retrieval of harvested big game animals, and such limited use is therefore expressly permitted, provided that all reasonable efforts are made to minimize any adverse impact of the use, consistent with the terms and intent of this Easement. Any off-road vehicle use must not constitute wildlife harassment.

J. Commercial Feed Lot: The Grantor shall not establish or maintain any commercial feedlot. For the purposes of this Easement, a commercial feed lot shall be defined as a confined area or facility where livestock is fed and fattened for commercial slaughter as opposed to the grazing of livestock on growing vegetation in open fields or pastures.

K. Dumping and Deposit of Hazardous Waste: No trash, debris, ashes, sawdust, and other non-compostable refuse may be dumped or otherwise disposed of on the Property, except that waste generated by the uses permitted in this Easement, and permitted by applicable state and federal laws may be disposed of on the Property so long as there are no adverse impacts to the Conservation Values. If the Grantor becomes aware of any accidental, illegal, or other placement or spillage of hazardous waste or toxic materials on the Property, the Grantor shall notify the Grantee on a timely basis.

L. Utilities: Other than those expressly permitted by Section III, additional utility structures and systems are prohibited. Without limiting the foregoing, commercial solar and wind farms are expressly prohibited.

M. Mineral Activities and Reservation: Grantor expressly reserves to itself Grantor's right, if any, to explore for and extract any oil, gas, mineral, or geothermal resource located within, on, under, or accessible from the Property; provided, however, there shall be no extraction or removal of minerals by any surface mining method within the meaning of Section 170(h)(5)(b) of the Code and the regulations promulgated thereunder, and any surface mineral extraction activities in compliance with Section 170(h)(5)(b) of the Code and the regulations promulgated thereunder, must be exercised only for non-commercial use on the Property. To the extent consistent with the Conservation Values and applicable law, Grantor may explore for and extract any oil, gas, mineral, or geothermal resource located under or which is accessible from the Property; provided, however, that any surface disturbance resulting from permitted exploration or extraction activities shall be restored upon completion of such activities to a condition similar or equivalent to its state prior to the disturbance by restoring soils and replanting suitable native vegetation.

N. Timber Harvesting: The Grantor does not have the right to harvest timber on the Property except as expressly permitted by Section III.

O. Billboards: The Grantor shall not construct, maintain, or erect any commercial signs or billboards on the Property. Small signage may, however, be displayed to state the name of the owner and the Property and that the Property is protected by this Easement, to prohibit any unauthorized entry or use, or to advertise for the sale of the Property or goods produced on the Property.

P. Aircraft Facilities: The Grantor shall not construct or erect any aircraft facilities or aircraft landing facilities on the Property.



Q. **Cultivation or Farming:** Farming, plowing or any type of cultivation outside the areas authorized in Section III is prohibited.

R. **Game Proof Fences:** Grantor shall not construct any big game proof fences, defined as any fence which cannot be crossed by elk, deer or other big game wildlife, except as temporarily placed around harvested crops or sensitive agricultural areas such as cultivated crops experiencing depredation by big game as documented by the Nevada Department of Wildlife, calving areas, etc. or as specifically permitted in Section III.

Section VI

Breach, Restoration, and Remedies

A. **Right to Injunction:** The Grantor and Grantee recognize that money damages, or other non-injunctive relief, may not adequately remedy a violation of the terms of this Easement. Therefore, the Grantor and Grantee hereby agree that any violation shall be subject to injunctive proceedings, including the imposition of temporary restraining orders, preliminary injunctions, specific performance, or any other legal means. The Parties also agree that no proof of damages, or the inadequacy of other remedies, shall be required of either Party, in seeking any such injunctive relief.

B. **Right to Restoration.** In addition, Grantee shall have the right to enforce the restoration of any, and all, of the Conservation Values damaged by activities in violation of this Easement. Such restoration shall be, as nearly as possible, to the condition that existed prior to such injury.

C. **Right to Recover Damages.** In the event of a violation of the terms of this Easement, in addition to the other remedies provided for in this Section VI, and any other remedies available in law or equity, the Grantee shall also be entitled to recover from the person violating the Easement all damages necessary to place the Grantee in the same position that it would have been in before the violation, including, but not limited to, the costs of restoration of the Property as provided in Section VI.B above.

D. **Costs and Attorney's Fees.** In addition to any other damages to which it may be entitled, Grantee shall be entitled to recover from the person violating the Easement the costs of enforcement of any of the terms of this Easement, including actual attorney's fees, expenses and court costs, provided that it is, at least in substantial part, the prevailing party in any such action.

E. **Cumulative Remedies:** The remedies of the Grantee set forth in this Easement are cumulative. Any, or all, of the remedies may be invoked by the Grantee if there is an actual or threatened violation of this Easement.

F. **Delay in Enforcement:** Any forbearance on behalf of the Grantee to exercise its rights hereunder in the event of any breach by Grantors or their respective heirs, personal representatives, or assigns shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent breach.



G. **Other Parties:** These remedies may be sought by any other party authorized by state law to enforce the terms and conditions of conservation easements; provided, however, that the Parties do not intend that any third party shall inure to the benefit of, or be entitled to enforce, any provision of this Easement other than as may be expressly provided by state or federal statutes; provided, however, that this Section VI.G is not intended to, and indeed does not, abrogate in any manner Grantee's "right of enforcement by a third person" in the event the Conservation Easement is assigned pursuant to Section IX.

Section VII

Costs and Taxes

The 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 responsibility for the control of noxious weeds in accordance with any applicable laws. The Grantor shall pay before delinquency any and all lawful taxes, assessments, fees, and charges (collectively "taxes") levied by competent authority on the Property. The Grantee is authorized, but in no event obligated, to make or advance any payment of taxes upon 3 days prior written notice to the Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the Grantor shall be obligated to repay Grantee for all costs it incurs in making such payment, together with interest at the maximum rate allowed by law until all sums are paid by the Grantor.

Section VIII

Indemnity

The Grantor shall hold harmless, indemnify, and defend the Grantee and the Grantee's members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, actual attorney's fees, arising from or in any way connected with the presence or release of any hazardous material or substance of any kind on the Grantor's Property. This paragraph shall not apply in the case of any hazardous material or substance in any manner placed on the Grantor's Property by the Grantee or the Grantee's representatives or agents.

Section IX

Assignment of Easement

At any time during a period extending to twenty (20) years from the Effective Date (defined below), Grantee, at no cost to Grantee and upon Grantor's written request, shall convey Grantee's interest in the Conservation Easement as the "Holder" of the Conservation Easement to the Rocky Mountain Elk Foundation, the Nature Conservancy, or other natural resource, wildlife or habitat preservation entity that is a "**Qualified Organization**" (within the meaning of IRC §170(h)(3)) and is qualified to act as a "Holder" pursuant to NRS 111.410(2)(b) and is organized or operated primarily or substantially for one or more of the conservation purposes specified in IRC §170(h)(4)(a), and which is not engaged in as of the Effective Date, and has not engaged in as of the date of the



requested assignment, litigation against Grantee or the Project ("**End User**"). End User shall agree to enforce the Conservation Easement. Any consideration paid by End User upon conveyance of the Conservation Easement by Grantee pursuant to this Section shall accrue to Grantee in total, and Grantor and/or End User shall bear all costs of any such conveyance. The Conservation Easement shall not be assignable by End User except in the limited circumstance where such assignment is made necessary by either operation of law or upon dissolution of the End User, in which event the Conservation Easement shall be assigned to another Qualified Organization. Notwithstanding anything to the contrary contained in this Agreement, in the event that Grantee assigns its rights as the holder of the Conservation Easement, Grantee shall retain, and does hereby create and retain, a "right of enforcement by a third person", as that term is defined in NRS 111.410(3), to enforce each and every term of the Conservation Easement, including, without limitation, the Restrictions, and those terms restricting the severance and transfer of the Water Rights. Grantee's right of enforcement by a third person shall not be impacted by any future legislative changes to the Act.

Section X

Baseline Documentation

The parties agree that the specific Conservation Values of the Property and other natural resources and development on the Property are documented in the Baseline Documentation, which report will be furnished by the Grantor to the Grantee to be kept on file at the offices of the Grantee, and which documentation the parties agree provides an accurate representation of the Property as of the Effective Date in accordance with Treasury Regulation §1.170A-14(g)(5)(i). The Baseline Documentation is intended to serve as an objective baseline for monitoring compliance with the terms of this Easement. Notwithstanding the foregoing, in the event of a controversy arising with respect to the nature of the biological and/or physical condition of the Property, the parties shall not be foreclosed from using any and all other relevant or material documents, surveys, reports and other information to assist in the resolution of that controversy.

In the event that range or habitat conditions significantly improve on the Property, the parties may agree to prepare an updated Baseline Documentation to reflect the improved conditions. The updated inventory of baseline data must be approved in writing by the parties. Upon approval by the parties, the updated Baseline Documentation will be used as the baseline for future monitoring and compliance with the terms of this Easement.

Section XI

Extinguishment of Development Rights

The Grantor and Grantee hereby acknowledge the extinguishment of all development rights except as specifically reserved by the Grantor in Section III, herein. For the purpose of this Section XI, development rights shall be deemed to include all potential rights that are now or hereafter allocated to or inherent in the division of the Property or density for industrial, commercial or residential units on the Property including, but not limited to, all subdivision and density rights as well as the right to use any of the acreage of the Property in any acreage calculation having the effect of creating or contributing to additional development on or off the Property. The Grantor



unconditionally and irrevocably relinquishes the right to transfer any such development rights. The Grantor and Grantee agree that all such development rights are hereby terminated and extinguished.

Section XII

Extinguishment or Involuntary Conversion

The Grantor and the Grantee agree that the conveyance of this Easement gives rise to a property right, immediately vested in the Grantee. The Grantee's property right in this Easement shall be based on the condition and improvements on the Property at the time that the Easement is established, and this condition shall be documented as referred to in Section X, above. For purposes of this Section, the Grantee's property right shall be deemed to have a fair market value at least equal to the proportionate value that this Easement bears to the entire value of the Property as a whole at the time of its creation. In the event Grantor undertakes an appraisal in association with the conveyance of this Easement, the values established in that appraisal shall be used to determine the proportionate value that the Easement bears to the entire value of the Property as a whole at the time of its creation. ***In the event no appraisal is undertaken, the parties agree to a proportionate value of 75%, which value is a reasonable estimation of the value the Easement bears to the entire value of the Property at the time of its creation.*** That proportionate value of the Grantee's property rights shall remain constant. Should a change in conditions give rise to the extinguishment of this Easement, as provided in Treasury Regulation §1.170A-14(g)(6)(i), or extinguishment of a portion of the Grantee's rights under this Easement due to an exercise of eminent domain, a condemnation action, or an involuntary conversion of the Property or a portion of the Property, the Grantee shall be entitled to a portion of the proceeds at least equal to such proportionate value of this Easement as established at the time of its creation, unless otherwise provided by Nevada law.

All interpretations of the Grantee's property rights shall follow Treasury Regulation Section 1.170A. The Grantor hereby agrees to provide Grantee with a copy of the appraisal used to support any tax deduction associated with the donation of this Easement, for valuation purposes.

In the event all or part of the Property is taken in exercise of eminent domain, or under claim of rights of eminent domain, by public, corporate, or other authority, by condemnation action or an involuntary conversion, so as to abrogate the restrictions imposed by this Easement, the Grantor shall and the Grantee may join in appropriate actions to recover the full value of the Property taken and all incidental or direct damages resulting from such taking. All reasonable expenses incurred by the Grantor and the Grantee in any such action shall first be reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between the Grantor and the Grantee in proportion to their interest in the Property, as provided in the first paragraph of this Section. If the recovered proceeds are not sufficient to reimburse all reasonable expenses incurred by the Grantor and the Grantee, the recovered proceeds shall be divided between the Grantor and the Grantee in proportion to their reasonable expenses.

If a subsequent unexpected change in conditions surrounding the Property render the Conservation Purposes of this Easement impossible or impractical to accomplish, this Easement may be extinguished, whether in whole or in part, by a non-appealable final determination by a court of competent jurisdiction as provided for in Treasury Regulations Section 1.170A-14(g)(6)(i). All of Grantee's proceeds, from such a subsequent sale, exchange or involuntary conversion of all or any



portion of the Property, shall be used by Grantee in a manner consistent with the protection of the Conservation Purposes of the original conveyance of this Easement.

Section XIII

Subsequent Sale

The Grantor agrees that reference to this Easement will be made in any subsequent deed, or other legal instrument, by means of which any interest in the Property (including any leasehold interest) is conveyed, and that a reference will be made that any use of this Property shall be subject to the terms and conditions of this Easement, which Easement shall be attached as an exhibit to in any subsequent deed, or other legal instrument, by means of which any interest in the Property (including any leasehold interest) is conveyed. The Grantor will notify the Grantee in writing of any conveyance of interest by sending written notice to the Grantee as provided in Section IV. The Grantor agrees to provide notice of this Easement to successor owners of interest, and to any potential purchasers or subsequent owners. In the event the Grantor elects to sell the Property, the Grantor agrees to provide notice of this Easement in any sale or solicitation materials or information. Any failure to comply with the terms of this paragraph shall in no manner render this Easement or any provisions of this Easement unenforceable. Failure to comply with the requirements of this paragraph shall in no way impact the perpetual nature or enforceability of this Easement.

Section XIV

Miscellaneous Provisions

A. **Partial Invalidity:** If any provision of this Easement, or the application of this Easement, or the application of this Easement to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement, and the application of such provisions to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

B. **Enforcement:** The Grantor intends that enforcement of the terms and provisions of this Easement shall be at the discretion of the Grantee, and that the Grantee's failure to exercise its rights under this Easement, in the event of any breach of this Easement by the Grantor, shall not be deemed or construed to be a waiver of the Grantee's rights under this Easement in the event of any subsequent breach.

C. **"Grantor" and "Grantee":** The term "Grantor," as used in this Easement, and any pronouns used in place thereof shall mean and include the above-named Grantor, and its successors and assigns. In the event the Property encumbered by this Easement has been transferred by the original Grantor, then the term "Grantor" shall then refer to such successor or assign. The term "Grantee," as used in this Easement, and any pronouns used in place thereof shall mean the Southern Nevada Water Authority and its successors and assigns.

D. **Titles:** Section and Subsection titles and subtitles are for convenience only and shall not be deemed to have legal effect.

E. **Liberal Construction:** This Easement shall be liberally construed in favor of maintaining the Conservation Values of the Property, and in accordance with the Act.



F. **Perpetuity of Easement:** This Easement shall run with and burden the title to the Property and the Water Rights in perpetuity and is binding upon, and will inure to the benefit of the Grantor's and the Grantee's successors in interest and assigns. All subsequent owners of the Property and the Water Rights, and any portion thereof or interest therein, are bound to all provisions of this Easement to the same extent as the Grantor.

G. **Governing Law:** This Easement will be construed in accordance with Nevada law.

H. **Entire Agreement:** This Easement sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

I. **Compliance With Law:** All uses and practices permitted by this Easement, including the Permitted Uses, will not exceed or violate but will be in full compliance with all applicable state and federal laws.

J. **Amendment:** If an amendment to or modification of this Easement is made, the amendment or modification must be in compliance with the terms of this Easement, must strengthen the protection of the Conservation Values protected by this Easement and may not affect its perpetual duration. Any amendment must be in writing, signed by both the parties and any other party required by law, and recorded in the official records of Lincoln and White Pine Counties, Nevada. The Grantor or, in the event of the Grantor's death, the personal representative of the Grantor may amend this Easement to be more restrictive regarding commercial recreational activities, in order to comply with the *de minimis* standard set forth in 26 U.S.C. §2031(c).

K. **Effective Date:** This Easement shall be effective when signed by all parties (the "**Effective Date**"), and it is the intent of the parties that this Easement shall be effective in the year 2009.

L. **Counterparts:** The Parties may execute this Agreement in two counterparts. Each counterpart shall be deemed an original instrument.

M. **Recordation:** Grantor may record this Agreement in the official records of Lincoln County and White Pine County, Nevada, as well as the records of the Nevada State Engineer.

N. **Recitals:** The Recitals to this Agreement are true and correct and are incorporated herein by this reference.

[signature page follows.]



IN WITNESS WHEREOF, Grantor and Grantee execute this Agreement.

Grantor:

Cave Valley Ranch, LLC,
a Nevada limited liability company

By: Signed in Counterpart
Michael K. McBeath, its Manager

Grantee:

Southern Nevada Water Authority, a political
subdivision of the State of Nevada

By: *Patricia Mulroy*
Patricia Mulroy, General Manager

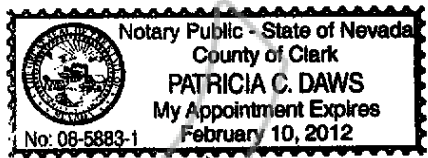
STATE OF NEVADA)
 ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on _____, 2009, by Michael K. McBeath, as Manager of Cave Valley Ranch, LLC, a Nevada limited liability company.

Notary Public
My Commission Expires: _____

STATE OF NEVADA)
 ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on December 7th, 2009, by Patricia Mulroy, as General Manager of Southern Nevada Water Authority, a political subdivision of the State of Nevada.



Patricia C. Daws
No 08-5883-1
Expires February 10, 2010

Patricia C. Daws
Notary Public
My Commission Expires: 2/10/2012



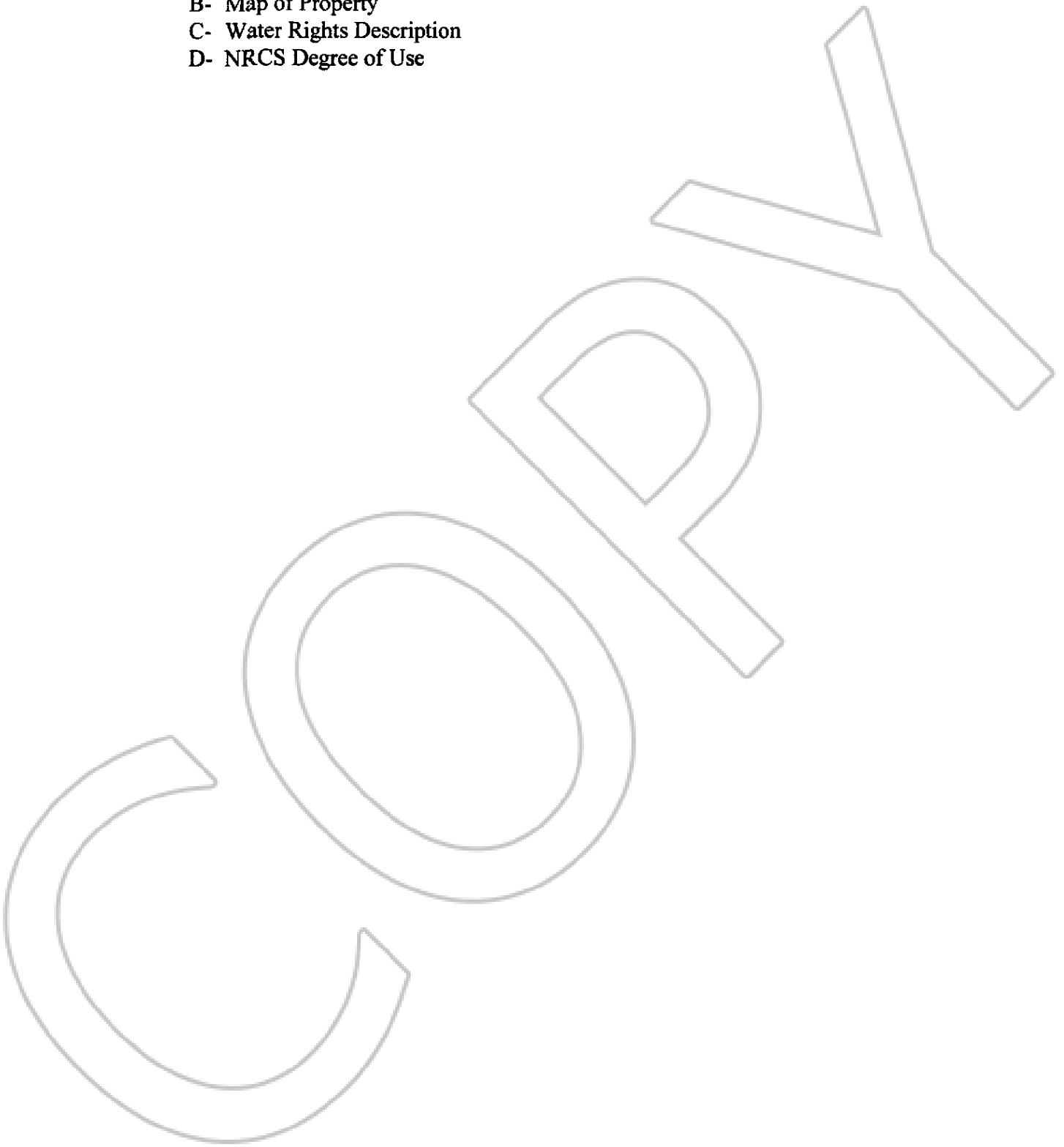
0134971

Book 252
Page: 610

12/10/2009
Page 20 of 25

Exhibits:

- A- Legal Description of Property
- B- Map of Property
- C- Water Rights Description
- D- NRCS Degree of Use



**Exhibit A
To Conservation Easement**

Legal Description

TOWNSHIP	RANGE	SECTION	¼ SECTION	ACRES
10N	63E	25	E1/2NE1/4	80
10N	64E	19	W1/2SW1/4	80
10N	64E	19	S1/4NW1/4	40
10N	64E	22	SE1/4SE1/4	40
10N	64E	27	SE1/4SW1/4	40
10N	64E	27	S1/2NW1/4	80
10N	64E	27	NW1/4NE1/4	40
10N	64E	27	S1/2NE1/4	80
10N	64E	28	S1/2NE1/4	80
10N	64E	30	W1/2SW1/4	80
10N	64E	30	W1/2NW1/4	80
10N	64E	31	W1/2NW1/4	80
10N	64E	31	SW1/4	160
10N	64E	34	E1/2SE1/4	80
9N	64E	4	N1/2NE1/4	80
10N	64E	26	SW1/4NW1/4	40
9N	64E	15	SW1/4NW1/4	40
9N	64E	15	NW1/4SW1/4	40
9N	64E	16	S1/2NE1/4	80
9N	64E	16	SE1/4	160
TOTAL ACRES				1480

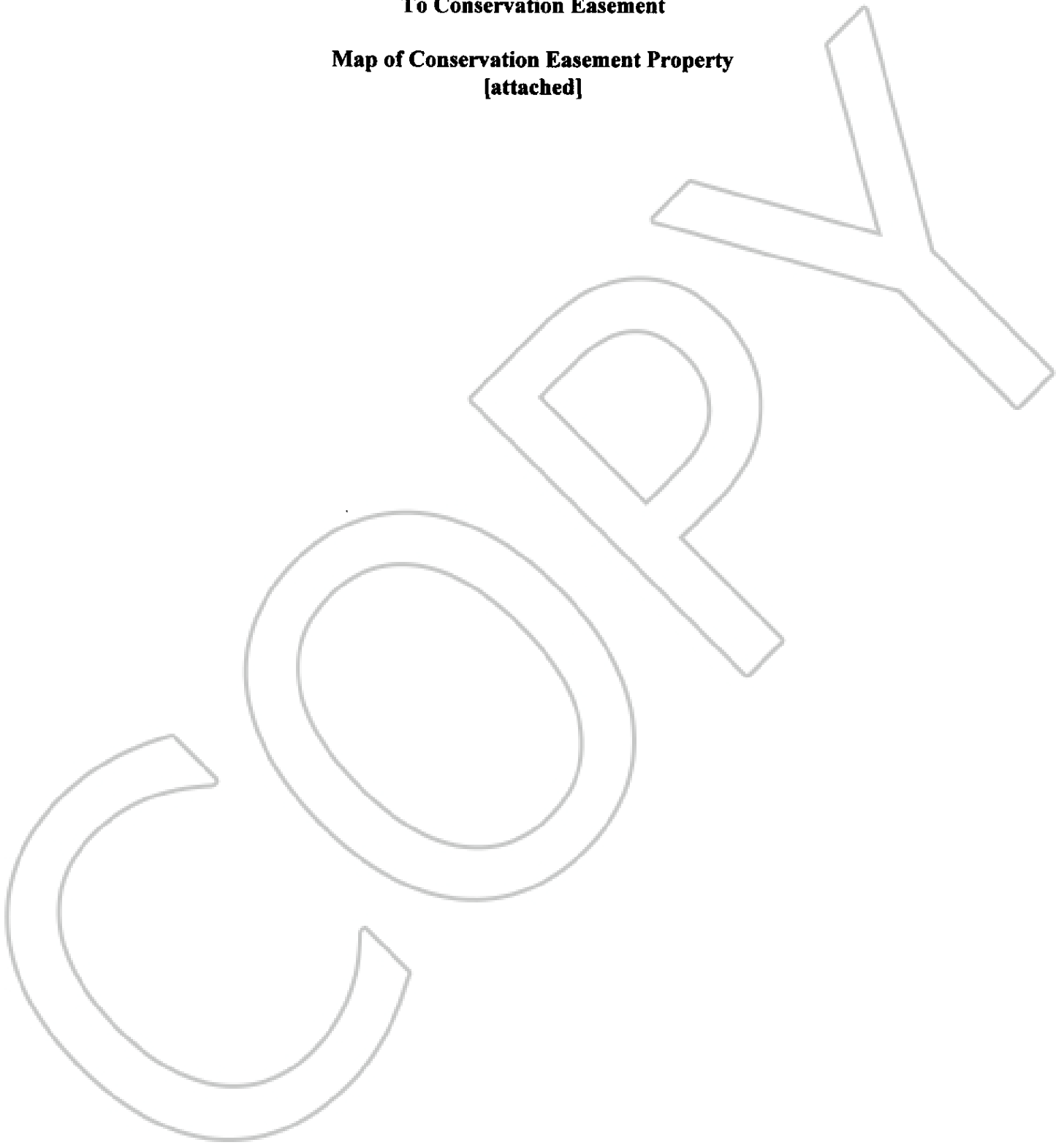


0134971

Book 252
Page 612

12/10/2009
Page 22 of 25

**Exhibit B
To Conservation Easement
Map of Conservation Easement Property
[attached]**



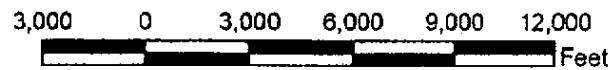
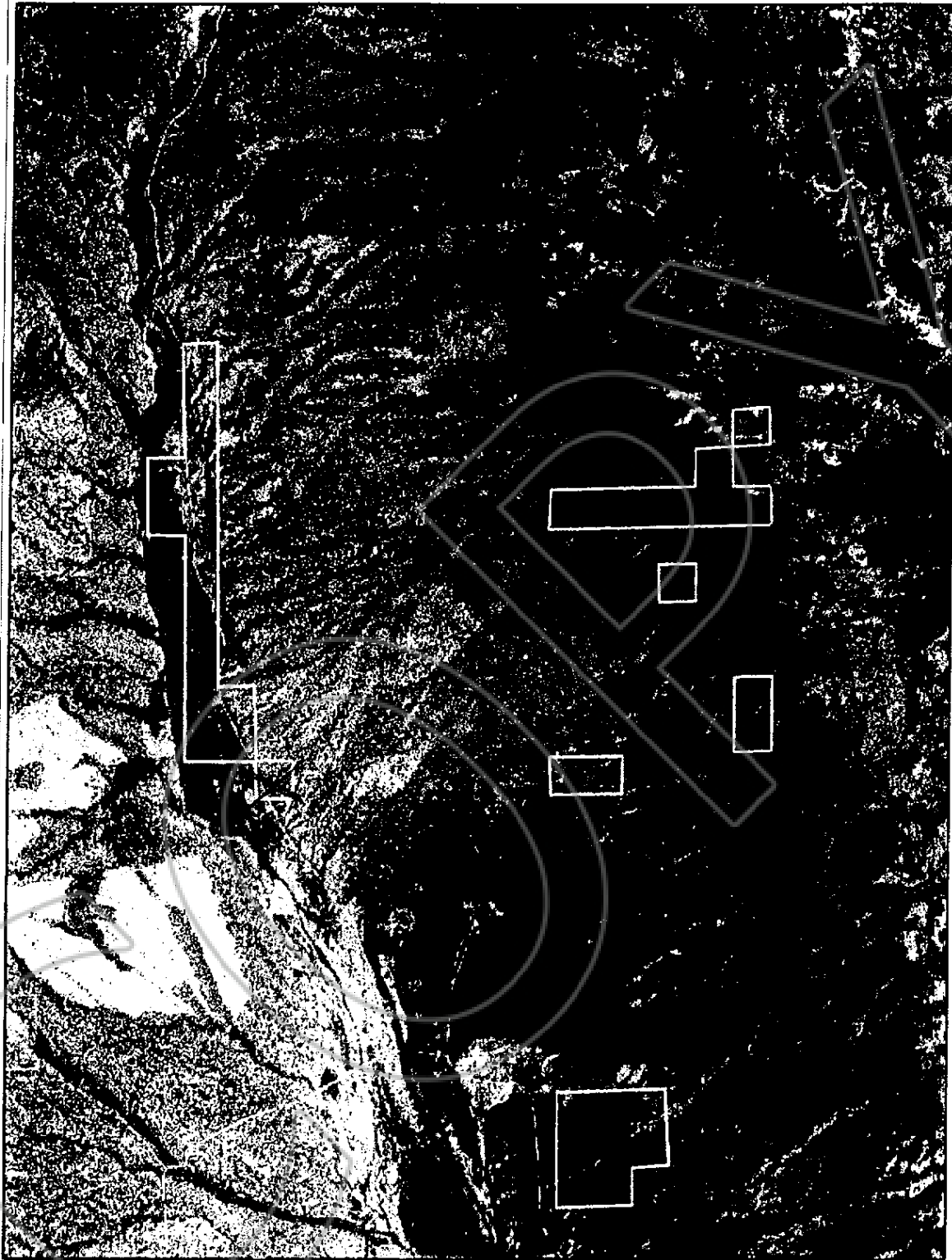


0134971

Book 252
Page 512

12/10/2009
Page 27 of 28

Cave Valley Easement Boundries





0134971

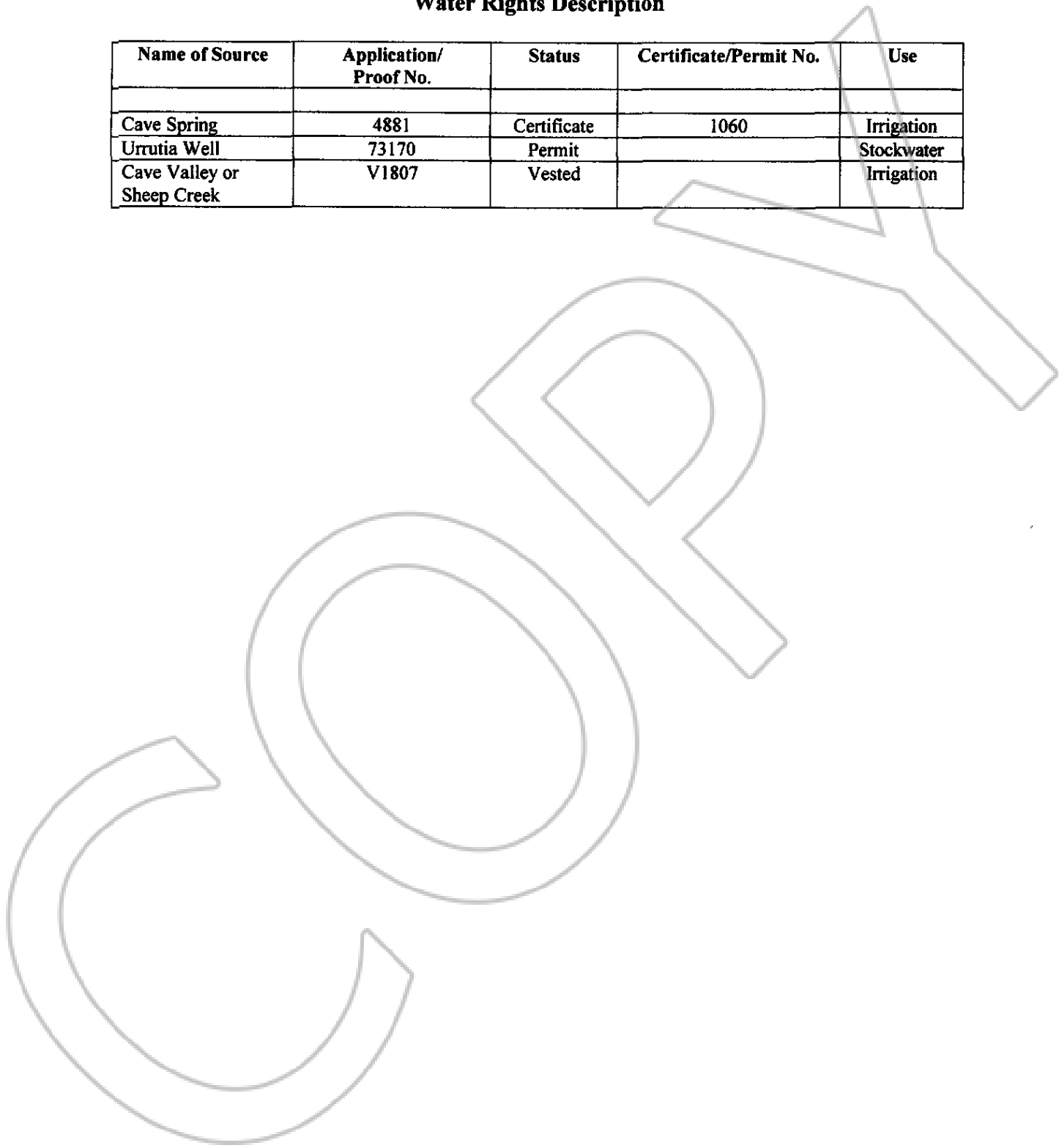
Book: 252
Page 614

12/10/2009
Page 24 of 25

**Exhibit C
To Conservation Easement**

Water Rights Description

Name of Source	Application/ Proof No.	Status	Certificate/Permit No.	Use
Cave Spring	4881	Certificate	1060	Irrigation
Urrutia Well	73170	Permit		Stockwater
Cave Valley or Sheep Creek	V1807	Vested		Irrigation





**Exhibit D
To Conservation Easement**

NRCS Degree of Use

UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service

MT-JS-WS-502
RANGE (Rev. July 1986)

Guide to Degree of Use

<i>Degree of Use</i>	<i>Description</i>
Unused 0 percent	No livestock use.
Slight 1-20 percent	Practically undisturbed. Only choice areas and Choice forage grazed.
Moderate 21-40 percent	Most of the accessible range shows grazing. Little or no use of poor forage. Little trailing to grazing.
Full (<i>This or less Use is Proper Use</i>) 41-50 percent	All fully accessible areas are grazed. Major sites have key forage species properly utilized. Overused areas less than 10 percent of pasture area.
Close 51-60 percent	All accessible range plainly shows use and major sections are closely cropped. Livestock forced to use much poorer forage.
Severe 61-80 percent	Key forage species almost completely used. Low-value forage carrying grazing load. Trampling damage is wide-spread in accessible area.
Extreme 81-100 percent	Range appears stripped of vegetation. Key forage species are weak from continual grazing of regrowth. Poor quality forage closely grazed.

1. Determine the degree of use at or near the end of the grazing period.
2. Proper use determination is based on key species on major sites, not total vegetation.
3. When properly grazed, the vegetation left will supply adequate cover for soil protection and will maintain or improve the quantity and quality of desirable vegetation.

Proper use of Annual Growth Depends on SEASON OF USE:

Spring Use	(Moderate)
Summer and Early Fall Use	(Full)
Late Fall and Winter Use	Dormant season (Close)

Remarks: