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Lincoln County - NV
Leslie Boucher - Recorder

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Page 1 of 12

RPTT:

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Book- 277 Page- 0573



0142919

RECORDING REQUESTED BY:

First American Title

WHEN RECORDED RETURN TO:

First American Title
5310 Kietzke Lane Ste 100
Reno, Nevada 89511

APN: LINCOLN Co. 005-021-05
005-021-07

Assignment, Amendment and Assumption of
Conservation Easement and Reservation of a
Right of Enforcement

Title of Document

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

THIS DOCUMENT, HAVING FIRST BEEN RECORDED IN WHITE PINE COUNTY, IS ALSO BEING RECORDED IN LINCOLN COUNTY.



Lincoln Co. APN 005-021-05 & 005-021-07
White Pine Co. APN 012-660-06
012-670-03 through 07

**RECORDING REQUESTED BY
AND WHEN RECORDED, RETURN TO:**
Rocky Mountain Elk Foundation
Attn: Lands and Conservation Programs
P.O. Box 8249
Missoula, MT 59807-8249

RECORDED ELECTRONICALLY
ID 3161822 County White Pine
Date 4-5-13 Time 9:03
simplifile www.simplifile.com 800.460.5657

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)

2407612

ASSIGNMENT, AMENDMENT AND ASSUMPTION OF CONSERVATION EASEMENT, AND RESERVATION OF A RIGHT OF ENFORCEMENT

THIS ASSIGNMENT, AMENDMENT AND ASSUMPTION OF CONSERVATION EASEMENT, AND RESERVATION OF A RIGHT OF ENFORCEMENT (this "Assignment") is made this 2nd day of February, 2012²⁰¹³ by and among the Southern Nevada Water Authority, a political subdivision of the State of Nevada ("SNWA"), the Rocky Mountain Elk Foundation, Inc., a Montana non-profit corporation ("RMEF"), and Cave Valley Ranch, LLC, a Nevada limited liability company ("CVR").

RECITALS

A. SNWA is presently the "Grantee" under, and "Holder" of, that certain "Grant of Conservation Easement" by and between SNWA and CVR dated December 7, 2009 and recorded in the official records of Lincoln County, Nevada on December 10, 2009, as Document Number 0134971, and also recorded in the official records of White Pine County, Nevada on December 11, 2009 as Document Number 0347840 (the "Conservation Easement"), and SNWA is a "Qualified Organization" within the meaning of Internal Revenue Code § 170(h)(3) and is qualified to act as a "Holder" pursuant to NRS § 111.410(2)(a);

B. CVR is the "Grantor" of the Conservation Easement and the owner of the real property burdened by the Conservation Easement, which real property is located in White Pine County and Lincoln County, Nevada and is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference;

C. RMEF is a "Qualified Organization" within the meaning of Internal Revenue Code § 170(h)(3) and is qualified to act as a "Holder" pursuant to NRS § 111.410(2)(b);



D. Pursuant to Section IX of the Conservation Easement, CVR has requested that SNWA convey its interest as “Grantee” under, and the “Holder” of, the Conservation Easement to RMEF; and

E. SNWA acknowledges that RMEF is assuming obligations to monitor and defend the Conservation Easement, and that these obligations may involve significant costs and expenses, and RMEF has agreed to assume these obligations; and

F. On the terms and conditions set forth in this Assignment, and subject to SNWA’s reservation of a right of enforcement by a third person, SNWA has agreed to assign its rights in, and obligations under, the Conservation Easement to RMEF, and RMEF has agreed to assume SNWA’s obligations rights in, and obligations under, the Conservation Easement.

G. The parties have noticed a clerical error in the legal description of the Conservation Easement, and SNWA and CVR wish to amend the Conservation Easement as provided below to correct the clerical error. SNWA and CVR agree and acknowledge that the Conservation Easement, as amended herein, will become the Conservation Easement to conserve, protect and encumber the lands covered by the original Conservation Easement as amended herein, and this amendment will amend, replace, restate and relate back to the original Conservation Easement, but will not affect the effective date or the perpetual duration of the original Conservation Easement and will be immediately filed and placed of record.

NOW THEREFORE, in consideration of the Recitals above, which are true and correct and are incorporated herein by this reference, and for other consideration, the receipt and sufficiency of which is agreed to by the parties hereto, SNWA, RMEF, and CVR hereby agree as follows:

A G R E E M E N T

I. Amendments to the Conservation Easement. SNWA and CVR hereby agree that the **Exhibit “A”** attached to this Assignment shall replace the original Exhibit A that was attached to the Conservation Easement. The Exhibit A attached to this Assignment corrects a clerical error in the legal description of the Conservation Easement and reflects the original intent of SNWA and CVR regarding the land encumbered by the Conservation Easement. Additionally, SNWA and CVR hereby agree that the **Exhibit “B”** attached to this Assignment shall replace the original Exhibit B that was attached to the Conservation Easement. The Exhibit B attached to this Assignment is a map of the Conservation Easement property that reflects the correct legal description of the Conservation Easement. The Conservation Easement, with amended Exhibit “A” and Exhibit “B” as provided herein, shall be referred to in this Assignment as the “Conservation Easement as Amended”. SNWA and CVR intend that these clerical amendments to Exhibits “A” and “B” shall: i) apply retroactively to the



initial effective date of the Conservation Easement; ii) that any encumbrances that have attached to the property described in the revised versions of Exhibits "A" and "B" between the initial effective date of the Conservation Easement (December 7, 2009) and the date of this Assignment be subordinated to these clerical amendments, and iii) that for purposes of determining priority of SNWA's and RMEF's rights with regard to any third party rights in or to the Property, this Conservation Easement as Amended relates back to the initial effective date of the original Conservation Easement (December 7, 2009). SNWA and CVR agree that this Conservation Easement as Amended is intended to reaffirm and preserve the conservation purposes enumerated in the original Conservation Easement, and to amend, replace, restate and relate back to the original Conservation Easement.

2. Assignment of SNWA's Rights and Obligations. Subject to SNWA's reservations in Section 3 of this Assignment, SNWA hereby assigns, transfers, sets over and conveys to RMEF all of SNWA's rights and obligations as the "Grantee" under, and "Holder" of, the Conservation Easement as Amended, including, without limitation, all rights of Grantee under Section II of the Conservation Easement as Amended.

3. Assumption by RMEF of SNWA's Rights and Obligations. RMEF hereby accepts the foregoing assignment of rights by SNWA and assumes, undertakes, and agrees to perform any and all obligations of the "Grantee" under, and the "Holder" of, the Conservation Easement as Amended. RMEF agrees to diligently enforce all terms and provisions of the Conservation Easement as Amended.

4. SNWA's Reservation of a "Right of Enforcement by a Third Person". CVR and RMEF acknowledge that SNWA created and retained an NRS 111.410(3) "right of enforcement by a third person" in the Conservation Easement and the Conservation Easement as Amended. SNWA hereby reaffirms, and CVR and RMEF hereby consent to, SNWA's retention of a right of enforcement by a third person pursuant to NRS 111.410(3). It is acknowledged by CVR and RMEF that, in accordance with Section IX of the Conservation Easement as Amended and NRS 111.410(3), SNWA's right of enforcement by a third person allows SNWA to enforce each and every term of the Conservation Easement as Amended, including, without limitation, the Restrictions (as that term is defined in the Conservation Easement as Amended), and those terms restricting the severance and transfer of the Water Rights (as that term is defined in the Conservation Easement as Amended).

5. Coordination Between SNWA and RMEF. Following the recordation of this Assignment, RMEF shall have primary responsibility for, and right of, enforcing the terms and conditions of the Conservation Easement as Amended; provided, however, that SNWA reserves its right to enforce any and all of the terms and conditions of the Conservation Easement as Amended through its right of enforcement by a third person. RMEF agrees to periodically apprise SNWA of the status of the property encumbered by the Conservation Easement as Amended and to invite SNWA to accompany RMEF on inspections of the property burdened by the Conservation Easement as Amended. RMEF further agrees to allow SNWA to periodically review RMEF's records relating to the Conservation Easement as



Amended. RMEF shall promptly notify SNWA of any material change to the condition of the property encumbered by the Conservation Easement as Amended, or any proposed change that could detrimentally impact the property encumbered by the Conservation Easement as Amended or the Conservation Values (as that term is defined in the Conservation Easement). In the event that SNWA disagrees with RMEF's actions or inaction regarding the enforcement of the terms and conditions of the Conservation Easement as Amended, SNWA shall send written notice to RMEF stating SNWA's disagreement and advising RMEF of the actions SNWA believes are necessary to enforce the terms and conditions of the Conservation Easement as Amended. Should RMEF fail to promptly cure the issues raised by SNWA, or should RMEF and SNWA fail to agree to an alternative course of action, SNWA may, in SNWA's sole discretion, then proceed to directly enforce any and all of the terms and conditions of the Conservation Easement as Amended. Notwithstanding anything to the contrary contained in this Assignment, nothing in this Assignment is intended to limit SNWA's rights under NRS 111.430(1)(c) to independently bring an action to enforce the terms and conditions of the Conservation Easement as Amended after providing RMEF with notice and opportunity to cure.

6. Further Assignment. As set forth in Section IX of the Conservation Easement as Amended, except through operation of law or in the event that RMEF or SNWA is dissolved, RMEF may not assign the Conservation Easement as Amended or RMEF's rights or obligations under the Conservation Easement as Amended; provided, however, that upon sixty (60) days' prior written notice, RMEF may assign the Conservation Easement as Amended and all of its rights and obligations under the Conservation Easement as Amended to SNWA, with such assignment being at no cost to RMEF or SNWA, and SNWA shall agree to such assignment and, if so assigned, to assume all obligations and rights as Grantee under, and Holder of, the Conservation Easement as Amended. If SNWA is dissolved, RMEF may assign its rights and obligations under the Conservation Easement as Amended to The Nature Conservancy, or another Qualified Organization and Holder as provided in Section IX of the Conservation Easement as Amended.

7. Amendments. The Conservation Easement as Amended may not be amended except through a recorded instrument executed by each of SNWA, RMEF, and CVR, or as set forth in this Section 7 below. CVR and RMEF may bilaterally amend the Conservation Easement as Amended to the extent that such amendment would not: (i) restrict the rights of Grantee under the Conservation Easement as Amended; or (ii) abrogate or interfere with SNWA's right of enforcement by a third person. The Parties acknowledge that any amendment that would serve to restrict the rights of Grantee under the Conservation Easement as Amended or abrogate or interfere with SNWA's right of enforcement by a third person, in each instance regardless of the materiality of the amendment, shall have no force or effect until and unless such amendment is consented to by SNWA.

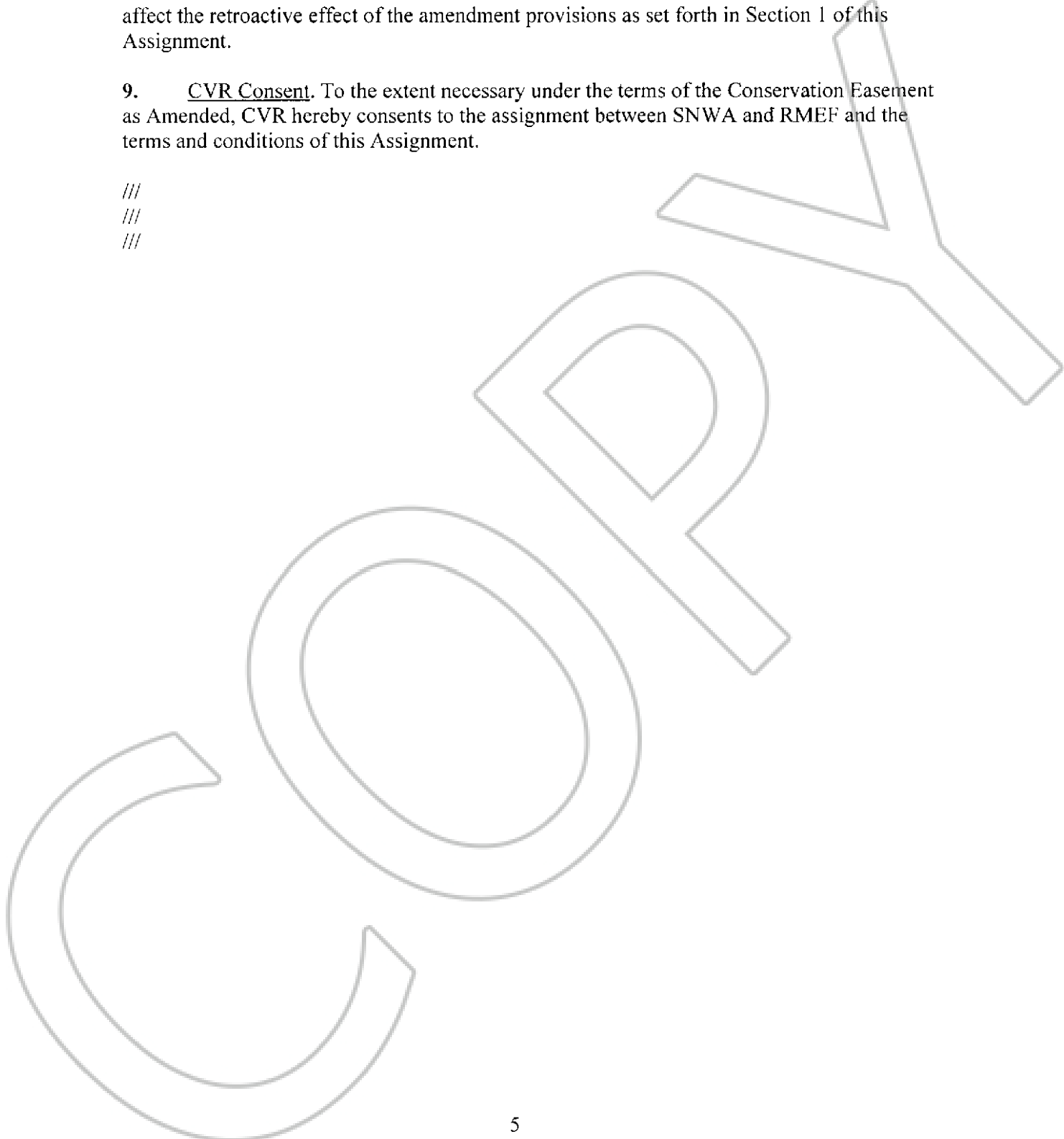
8. Effective Date. The effective date of this Assignment shall be the date on which this Assignment has been recorded in the official records of both White Pine County, Nevada and Lincoln County, Nevada. Provided, however, that nothing in this Section 8 shall alter or



affect the retroactive effect of the amendment provisions as set forth in Section 1 of this Assignment.

9. CVR Consent. To the extent necessary under the terms of the Conservation Easement as Amended, CVR hereby consents to the assignment between SNWA and RMEF and the terms and conditions of this Assignment.

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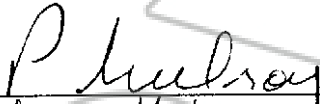




IN WITNESS WHEREOF, the Parties have executed this Assignment as of the date and year first above written.


SNWA:

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

By: 
Name: Patricia Mulroy
Title: General Manager

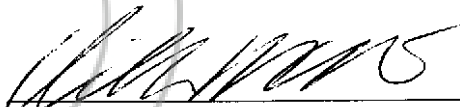
RMEF:

Rocky Mountain Elk Foundation, Inc.
a Montana non-profit corporation

By: 
Name: ROD TRIEDKE
Title: CEO

CVR:

Cave Valley Ranch, LLC,
a Nevada limited liability company

By: 
Name: William P. McBeath
Title: Manager

[notary pages follow]



STATE OF NEVADA)
)
County of Clark)

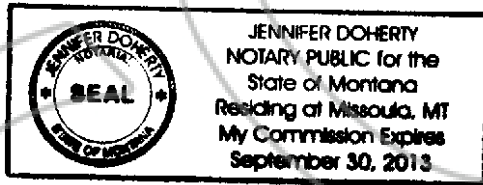
This instrument was acknowledged before me on January 2, ²⁰¹³~~2012~~, by Patricia Mulroy, as General Manager of Southern Nevada Water Authority, a political subdivision of the State of Nevada.



Joan S. Wakley
(Signature of Notarial Officer)

STATE OF Montana)
)
County of Missoula)

This instrument was acknowledged before me on Feb. 21, 201~~2~~³, by Robney J. Friecke as Chief Operating Officer of Rocky Mountain Elk Foundation, Inc., a Montana Non-Profit corporation.



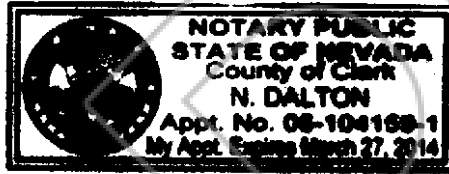
Jennifer Doherty
(Signature of Notarial Officer)



STATE OF NEVADA)
)
County of Clark)

This instrument was acknowledged before me on December 28th, 2012, by William P. McBeath, as Manager of Cave Valley Ranch, LLC, a Nevada limited liability company.

N. Dalton
(Signature of Notarial Officer)



COOPER



EXHIBIT "A"

To Assignment, Amendment and Assumption of Conservation Easement, and Reservation of a Right of Enforcement

Legal Description

| TOWNSHIP | RANGE | SECTION | ¼ SECTION | ACRES |
|--------------------|-------|---------|-----------|-------------|
| 10N | 63E | 25 | E ½ NE ¼ | 80 |
| 10N | 64E | 19 | W ½ SW ¼ | 80 |
| 10N | 64E | 19 | SW ¼ NW ¼ | 40 |
| 10N | 64E | 22 | SE ¼ SE ¼ | 40 |
| 10N | 64E | 27 | SE ¼ SW ¼ | 40 |
| 10N | 64E | 27 | S ½ NW ¼ | 80 |
| 10N | 64E | 27 | NW ¼ NE ¼ | 40 |
| 10N | 64E | 27 | S ½ NE ¼ | 80 |
| 10N | 64E | 28 | S ½ NE ¼ | 80 |
| 10N | 64E | 30 | W ½ SW ¼ | 80 |
| 10N | 64E | 30 | W ½ NW ¼ | 80 |
| 10N | 64E | 31 | W ½ NW ¼ | 80 |
| 10N | 64E | 31 | SW ¼ | 160 |
| 10N | 64E | 34 | E ½ SE ¼ | 80 |
| 9N | 64E | 4 | N ½ NE ¼ | 80 |
| 10N | 64E | 26 | SW ¼ NW ¼ | 40 |
| 9N | 64E | 15 | SW ¼ NW ¼ | 40 |
| 9N | 64E | 15 | NW ¼ SW ¼ | 40 |
| 9N | 64E | 16 | S ½ NE ¼ | 80 |
| 9N | 64E | 16 | SE ¼ | 160 |
| | | | | |
| Total Acres | | | | 1480 |



EXHIBIT "B"

To Assignment, Amendment and Assumption of Conservation Easement, and Reservation of
a Right of Enforcement

Map of Conservation Easement Property

(See attached.)

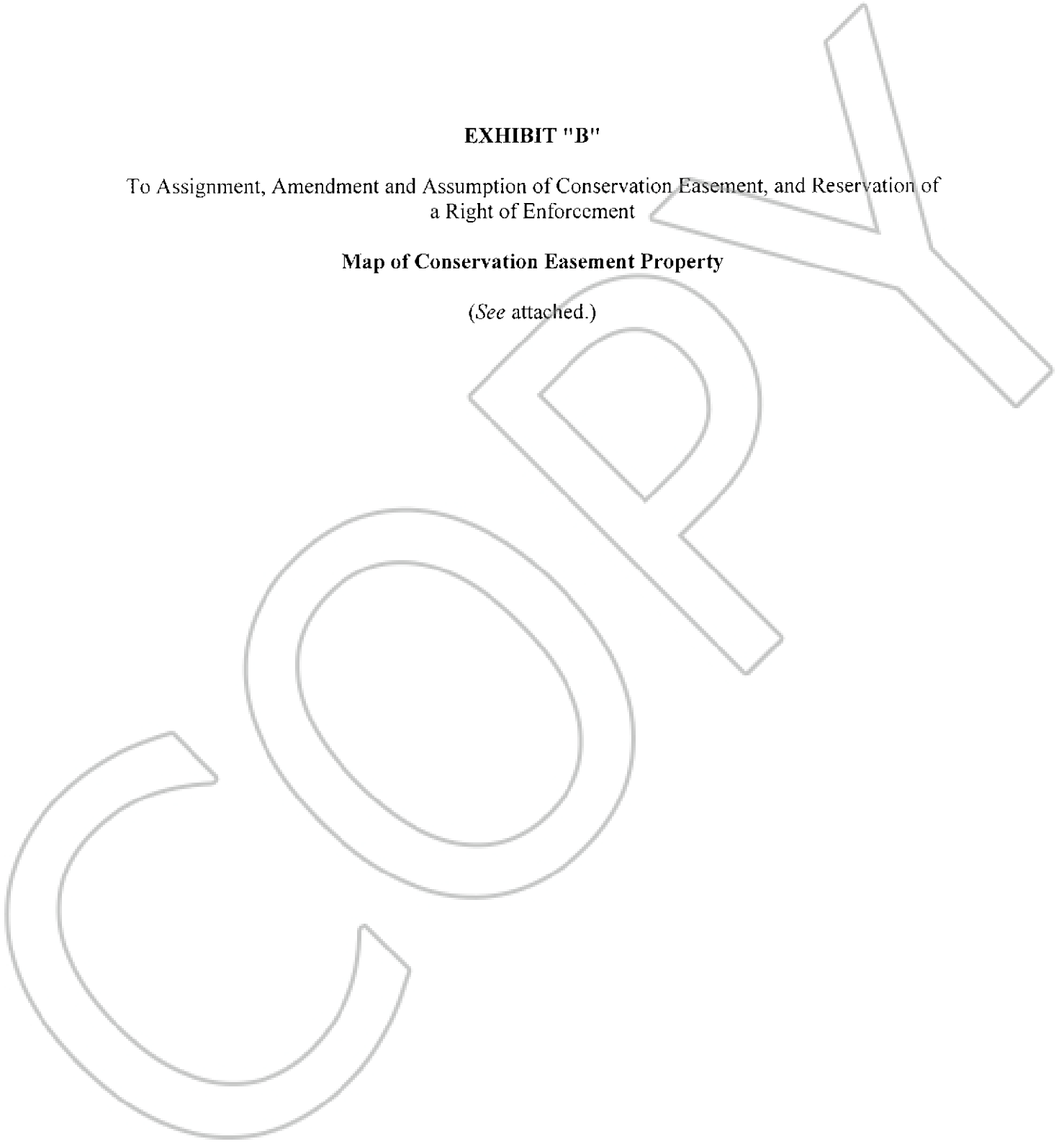




EXHIBIT B

Cave Valley Easement Boundaries

