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Eastern Sierra Land Trust
P.O. Box 755
Bishop, CA 93515

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Documentary Transfer Tax: \$0.00
(not applicable)

GRANT DEED OF CONSERVATION EASEMENT

Conway and Mattly Ranches

THIS GRANT DEED OF CONSERVATION EASEMENT ("Conservation Easement" or "Easement") is made this _____ day of _____, 2014, by **COUNTY OF MONO**, a political subdivision of the State of California ("Grantor"), in favor of **EASTERN SIERRA LAND TRUST**, a California nonprofit public benefit corporation ("Grantee"). Grantor and Grantee are collectively referred to herein as the "Parties" and individually as a "Party." As providers of funds for the protection of the real property described in this Easement, California Department of Transportation, California Department of Parks and Recreation, and National Fish and Wildlife Foundation have certain rights hereunder as set forth herein.

RECITALS

A. Grantor is the owner in fee simple of certain real property located in Mono County, California, consisting of approximately 806 acres, as more particularly described in **Exhibit A** attached hereto and incorporated by this reference ("Property"). The Property is comprised of twelve (12) parcels of land and is also identified as (i) Assessor Parcel Numbers 19-100-020, 19-100-019, 19-110-016, 11-200-009, 11-200-010, 11-280-021, 19-100-008 (7 Assessor Parcels), and (ii) Conway Ranch Subdivision parcels consisting of Assessor Parcel Numbers 19-200, parcels 1 through 6, 10 through 12, 17 through 50 (43 Assessor Parcels,) and 19-210, parcels 6 through 11, and 16 through 59 (50 Assessor Parcels), all as shown on the sketch maps of the Property attached hereto as **Exhibit B-1** ("Property Sketch Map, Conway Ranch") and **Exhibit B-2** ("Property Sketch Map, Mattly Ranch"). Certain existing improvements, including, but not limited to aquaculture ponds, ditches, and raceways (collectively, "Aquaculture Improvements") are located within one area of the Property, consisting of approximately 75 acres, shown on the sketch map attached hereto as **Exhibit B-3** ("Aquaculture Area Sketch Map") and legally described in **Exhibit C** attached hereto ("Aquaculture Area"). The Aquaculture Improvements and other existing improvements on the Property, such as roads, fences, irrigation ditches, water

diversion infrastructure, corrals, and historic buildings located in various places on the Property, are more specifically described in that certain "Baseline Documentation Report" referred to in Recital K below. Existing improvements described in the Baseline Documentation Report, used for permitted purposes, shall be deemed to comply with this Easement.

B. Grantor is the owner of certain water rights ("Water Rights") in use or available for use on the Property or otherwise appurtenant to the Property, which include, but are not limited to surface and subsurface waters, springs, wells and groundwater, appropriative and adjudicated and other rights in and to the use of water. The adjudicated water rights are described in **Exhibit D** attached hereto ("Mill Creek Adjudicated Water Rights" and "Virginia Creek Adjudicated Water Rights" jointly, the "Adjudicated Water Rights"). The water use on the Property is more specifically described in the Baseline Documentation Report referred to Recital K.

C. The Property possesses natural, scenic, open space, habitat, and historic values described more particularly below (collectively, "Conservation Values") of great importance to Grantor, the people of the surrounding Mono Basin, the people of Mono County, the people of the State of California, and the people of the United States of America. The Conservation Values are more specifically identified and described in the Baseline Documentation Report, and include, without limitation, all of the following:

1. Plant, Wildlife Species and Habitat, such as wildlife migration corridor (mule deer, mountain lions) resident wildlife, songbirds and waterfowl, plant and butterfly species: The Property contains plant communities and plant species that are associated with wetlands, freshwater springs, meadows, riparian areas, and sage-brush scrub. The Property contains significant relatively natural habitat for mule deer, mountain lion, red-tailed hawk, northern harrier, great blue heron, and various other species of raptors, songbirds, and waterfowl. As noted in the multi-agency Bi-State Action Plan (2012), the Property contains habitat of the Bi-State sage-grouse, which is currently proposed to be listed as threatened by the United States Fish and Wildlife Service. The Property serves as a critical component of the migration corridor for the Mono Lake mule deer herd. The natural habitat on the Property includes Great Basin mixed scrub, an important food and cover source for mule deer. The Conway Ranch and immediate area form a natural conduit of habitat types for mule deer and mountain lions to follow in migration. Conway Ranch is used on occasion by pronghorn antelope during the spring and summer when they seek other foraging areas away from the nearby Bodie Hills. The Property holds wet meadows that contain the larval host plant, the Northern bog violet, for an uncommon species of butterfly.

2. Water Resources and Wetlands, Meadows, Riparian Habitats, and Perennial Freshwater Springs: The Property's surface and groundwater resources are essential to the maintenance of its unique combination of habitats. The Property consists primarily of meadows, wetlands, perennial springs, the riparian corridor of Wilson Creek, and surrounding uplands holding sagebrush scrub. Specific locations of these habitats are described in the Baseline Documentation Report. Water resources, plant communities, land use history, and location of wetlands are generally documented in a report produced by Mono County, the Mono Basin Watershed Assessment (March 2007).

3. Open Space and Scenic Resources: The Property has significant scenic value due to its proximity to Mono Lake and the Mono Basin National Forest Scenic Area. It is adjacent to State designated Scenic U.S. Highway 395 and is highly visible from the scenic overlook on Conway Summit to the north.

4. Historic Resources: homestead, ranch buildings, corrals, and Native American cultural resources: The Property contains prehistoric and historic period resources, with sites dating from the ranching present to some 10,000 years ago, as described in the Conway Ranch Cultural Resources Study, by Foothill Resources, Ltd., January 2002. Found on the Property are ethnographic Paiute use areas and ranch residences and facilities, including the oldest pioneer ranch house in the Mono Basin (portions of the historic Conway family homestead).

5. Public Access: The Property's natural and historic resources provide educational and recreational opportunities to the public. The continued use of the Property by the public for educational and recreational purposes as limited hereby and in a manner that protects the Conservation Values is consistent with the goals of this Conservation Easement.

6. Connectivity to other Public and Protected Open Space Lands: The Property is adjacent to federally-owned land that is managed by the Bureau of Land Management ("BLM") and State-owned land that is managed by the California Department of Fish and Wildlife for habitat and historic resources purposes. The Property is located approximately one quarter mile from the Mono Basin National Forest Scenic Area and approximately two miles from Mono Lake and the Mono Lake Tufa State Reserve. Additionally, the Property is adjacent to State-designated California Scenic U.S. Highway 395, and approximately one mile away from the BLM "Conway Summit Area of Critical Concern," which is protected for waterfowl and migratory bird purposes.

D. A portion of the Property (Exhibit B-2, Aquaculture Area) is the location of a commercial fish-rearing operation that contributes to the region's recreational opportunities and economy. The continued use of the Property for sustainable commercial aquaculture as limited hereby and in a manner that protects the Conservation Values is consistent with the goals of this Conservation Easement.

E. The Property has been managed and irrigated to support livestock grazing since the mid-1800s. The continued use of the Property for sustainably managed livestock grazing as limited hereby and in a manner that protects the Conservation Values is consistent with the goals of this Conservation Easement.

F. Grantee is a nonprofit entity formed under the laws of the State of California authorized to hold conservation easements under California Civil Code Section 815.3(a), and is an organization described in Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986 as amended (the "Code"), and is an entity which meets the requirements of Section 509(a)(2) of the Code. The primary mission of Grantee is the preservation, protection, or enhancement of land in its natural, scenic, agricultural, forested and/or open space condition.

G. Acquisition of the Property (and other real property) by Grantor took place in phases in 1998 and 2000, using grants and funds from the following entities:

1. California Department of Transportation (“Caltrans”) utilizing California Environmental Enhancement and Mitigation Program (“EEMP”) funding: Cycle 7 (1997/98), Applicant-State Agreement No. 09-097-32, dated June 30, 1998, \$200,000.00; Cycle 8 (1998/99), Applicant-State Agreement No. 09-098-28, dated June 8, 1999, \$250,000.00; and Cycle 9 (1999/2000), Applicant-State Agreement No. 09-99-32, dated September 29, 1999, \$500,000.00;

2. Caltrans utilizing California Transportation Enhancement Activities (“TEA”) funding: 2000 State Highway Operation and Protection Program (SHOPP), Round 1, Contribution Agreement, District Agreement 9-253, dated Feb. 28, 2000, \$400,000.00;

3. California Department of Parks and Recreation (“State Parks”) utilizing Habitat Conservation Fund, Deer and Mountain Lion Habitat Program (“HCF”) funding: (1997/98) Project Agreement, Project No. HD-26-001, \$492,500.00; and (1998/99) Project Agreement, Project No. HD-26-002, dated October 6, 1998, \$100,000.00; and

4. National Fish and Wildlife Foundation (“NFWF”) utilizing U.S. Fish and Wildlife Service (“NFWS”) funding: Grant Agreement, Project No. 98-066, Grant Period: 01/01/1998 to 01/01/1999, \$100,000.00.

Caltrans, State Parks, and NFWF may collectively be referred to herein as the “Funders.” The grant agreements referenced above, as they may be amended to date, may collectively be referred to herein as the “Grant Agreements.” The Grant Agreements are incorporated herein by this reference, for the purpose of acknowledging in this Easement Grantor’s pre-existing and independent obligations to the Funders under the Grant Agreements. Grantor acknowledges that funds to acquire the Property have been provided pursuant to the terms of the Grant Agreements between Grantor and each of the Funders. Grantor acknowledges that the Grant Agreements impose certain requirements on the use and ownership of the Property and provide certain rights to the respective Funders in the event of noncompliance. Notwithstanding the foregoing, the Grant Agreements and their respective restrictions apply only to those portions of the Property acquired with the funds provided by each of said Grant Agreements. Nothing in this Easement gives Grantee the right or obligation to enforce the Grant Agreements. In the event of any conflict between this Easement and the Grant Agreements, the Grant Agreements shall control, provided that, if the Easement contains terms and conditions respecting the use of the Property that are consistent with, but more restrictive than, the conditions and terms in the Grant Agreements, the more restrictive terms and conditions of this Easement shall control as between the Parties hereto. Conway Ranch, the acquisition phases and the funding sources used to acquire them are shown on **Exhibit E** attached hereto and incorporated herein by this reference (“Map of Conway Ranch Phases and Funding Sources”). The Grant Agreements require that the Funders approve this Easement. The respective Funders have approved this Easement as evidenced by authorized signatures on their behalf on **Exhibit F** attached hereto and incorporated herein by this reference.

H. In conjunction with the Grant Agreements, and as a condition thereof, Caltrans and TEA grant restrictions encumbering the Property were recorded in the Mono County Recorder’s Office as follows:

1. EEMP, Cycle 7 (1997/98), Agreement Declaring Restrictive Covenants (ADRC) recorded on Dec. 31, 1998 in Vol 0832 Page 022, Mono County Official Records,;
2. EEMP, Cycle 8 (1998/99), Agreement Declaring Restrictive Covenants (ADRC) recorded on March 30, 2000 in Vol 897 Page 137, Mono County Official Records,;
3. EEMP, Cycle 9 (1999/2000), Agreement Declaring Restrictive Covenants (ADRC) recorded on March 30, 2000 in Vol. 897 Page 124, Mono County Official Records, March 30, 2000; and
4. Caltrans - TEA, Agreement Declaring Restrictive Covenants (ADRC), recorded on March 30, 2000 in Vol. 897 Page 114, Mono County Official Records.

The ADRCs listed above have been amended pursuant to those certain Amendments to Agreement Declaring Restrictive Covenants, recorded herewith.

I. Grantor and Grantee intend that the Conservation Values of the Property be preserved and maintained in perpetuity by imposing certain restrictions on land use and by allowing for land uses and practices permitted herein, including but not limited to aquaculture, livestock use, and grazing activities, that do not impair the Conservation Values and that can, in certain ways, support and enhance the Conservation Values.

J. The conservation purposes of this Easement are recognized by, and the grant of this Easement will serve, the following clearly delineated governmental conservation policies:

Section 815 of the California Civil Code in which the California Legislature declares that the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California, and further declaring it to be the public policy and in the public interest of the state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations.

California Constitution Article XIII, section 8, California Revenue and Taxation Code, sections 421.5 and 422.5, and California Civil Code section 815.1, under which this Easement is an enforceable restriction, requiring that the Property's tax valuation be consistent with restriction of its uses for purposes of recreation, enjoyment of scenic beauty, use of conservation of natural resources, or production of food or fiber.

Section 51220 of the California Government Code, which declares a public interest in the preservation of agricultural lands.

The California General Plan law, section 65300 et seq., and section 65400 et seq. of the California Government Code, and the Mono County General Plan (2010), which includes as one of its goals of the Conservation/Open Space Element to maintain an abundance of wildlife types in Mono County, with particular emphasis on threatened species, including support for purchased easements in important habitat areas.

The Mono County General Plan has documented in its Land Use Element (February

2009) the county's future goals for the Mono Basin. Goal One: Provide for the orderly growth of Mono Basin communities in a manner that retains the small town character, coincides with infrastructure expansion, facilitates economic and community development, and protects the area's scenic, recreational, and natural resources. The primary objective is to "Direct future development to occur in and adjacent to Lee Vining."

California Streets and Highways Code Section 164.56, establishing the Environmental Enhancement and Mitigation Program Fund, to undertake projects that contribute to mitigation of the environmental effects of transportation facilities, including acquisition or enhancement of resource lands to mitigate the loss of, or the detriment to, resource lands lying within the right-of-way acquired for transportation improvements;

Section 133(d) (2) of 23 United States Code Annotated Transportation Enhancement (TE) Program Transportation Equity Act for the 21st Century U.S. Code, Title 23 Sections 104b(3) and 133d(2) authorized the funding of California Transportation Enhancement Activities (TEA), 2000 State Highway Operation and Protection Program (SHOPP), to fund transportation enhancement activities related by function, proximity or impact to surface transportations systems, including acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs (including the provision of tourist and welcome center facilities) and historic preservation;

California Wildlife Protection Act of 1990 (Prop 117), California Fish and Game Code, Div. 3, Ch. 9, declaring that protection, enhancement, and restoration of wildlife habitat and fisheries are vital to maintaining the quality of life in California and establishing the Habitat Conservation Fund, including the Deer and Mountain Lion Habitat Program, in order to preserve, maintain, and enhance California's diverse wildlife heritage and the habitats upon which it depends, including deer, mountain lion, and other wildlife habitat within the Sierra Nevada; and

National Fish and Wildlife Foundation Establishment Act, Public Law 98-244, approved March 26, 1984, 98 Stat. 107, as amended through Public Law 107-136, Jan. 24, 2002, established the National Fish and Wildlife Foundation as a charitable nonprofit corporation for the purposes of, among other things undertaking and conducting such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans.

K. The specific Conservation Values of the Property, its current use and state of improvement are documented and described in a baseline documentation report ("Baseline Documentation Report" or "Baseline"), which the Parties hereto have prepared, dated [REDACTED], 2014, so as to be able to provide accurate photographs and documentation of the vegetation patterns and topography of the Property. The parties agree that the Baseline Documentation Report, which consists of reports, maps, photographs, and other documentation, will provide an accurate and complete representation of the Property and its Conservation Values at the time of this grant and is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement. Grantor and

Grantee acknowledge, as set forth in Exhibit G, attached hereto and incorporated herein, that each has received a copy of the Baseline Documentation Report. Grantor and Grantee shall retain duplicate originals of the Baseline Documentation Report.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of California and in particular California Civil Code sections 815 et seq., Grantor hereby voluntarily grants and conveys to Grantee this Conservation Easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.

1. Conservation Purpose. The purpose of this Easement is to preserve and protect in perpetuity the Conservation Values for the benefit of the public generally, and to prevent any uses of the Property that will impair or interfere with the Conservation Values (“Conservation Purpose” or “Purpose”). Grantor and Grantee agree that this Conservation Easement will restrict the use of the Property to activities that are consistent with the Conservation Purpose of this Easement and will prohibit and prevent any use of the Property that will impair or interfere with the Conservation Values of the Property. More particularly, the Conservation Purpose of this Easement is to:

- (a) Ensure that the Property will be retained forever in its relatively natural, scenic, and open-space condition, and that the Conservation Values will be protected;
- (b) Protect plant, wildlife species and habitat, such as wildlife migration corridor (mule deer, mountain lions) resident wildlife, songbirds and waterfowl, plant and butterfly species;
- (c) Protect surface and groundwater resources and the wetlands, meadows, riparian habitats, and perennial freshwater springs that they support;
- (d) Protect open space and scenic resources;
- (e) Protect historic resources, including homestead, ranch buildings, corrals, and Native American cultural resources;
- (f) Allow for public access for passive recreation and educational purposes; and
- (g) Protect connectivity to other public and protected open space properties.

Under this Easement, “impairment” (or any derivation thereof, as applicable) of Conservation Values means a material adverse impact to the Conservation Values. The consideration of actual and potential impacts of a particular activity or use on Conservation Values shall take into account the impacts of the activity or use in question as well as the cumulative impacts of other uses and activities on the Property. In every evaluation of whether impairment of Conservation Values has occurred or is threatened, both the magnitude and the duration of the actual or potential change(s) shall be considered.

2. Extinguishment of Development Rights; Prohibition on Subdivision.

(a) Except as otherwise reserved to the Grantor in this Easement, all development rights that were previously, are now, or hereafter allocated to, implied, reserved, appurtenant to, or inherent in the Property are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property. This Easement shall not create any development rights.

(b) The division, subdivision, de facto subdivision or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process, is prohibited. The Property is currently comprised of twelve (12) parcels of land and is also identified as (i) Assessor Parcel Numbers 19-100-020, 19-100-019, 19-110-016, 11-200-009, 11-200-010, 11-280-021, 19-100-008 (7 Assessor Parcels), and (ii) Conway Ranch Subdivision parcels consisting of Assessor Parcel Numbers 19-200, parcels 1 through 6, 10 through 12, 17 through 50 (43 Assessor Parcels) and 19-210, parcels 6 through 11, and 16 through 59 (50 Assessor Parcels) described in **Exhibit A**. Grantor will not apply for or otherwise seek recognition of additional legal parcels within the Property based on certificates of compliance or any other authority. Grantor shall treat the Property as a single legal parcel and shall not separately sell, exchange, convert, transfer, assign, mortgage or otherwise encumber, alienate, or convey any parcel associated with the Property or any portion of any parcel of the Property, provided, however, that a license or lease of a portion of the Property for uses allowed by this Easement is permitted, provided that no such license or lease shall impair the Conservation Values and shall be subject to this Easement.

3. Rights of Grantee. To accomplish the Purpose of this Easement, the following rights are conveyed to Grantee:

(a) To carry out the Conservation Purpose of this Easement and to preserve and protect in perpetuity the Conservation Values of the Property;

(b) To enter upon the Property, in accordance with the terms set forth herein, in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement;

(c) To prevent any activity on or use of the Property that is not permitted by or consistent with the terms 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;

(d) To review and determine the suitability of those activities and projects described in Section 8, and to grant, grant with conditions, or deny permission therefor, subject to the standards specified in Section 8; and

(e) To place a sign(s) at access points to the Property, subject to the mutual agreement of Grantor, Grantee, and the Funders regarding text, design and location, to indicate the participation of the Parties and the Funders in the creation of this Conservation Easement.

4. Reserved Rights. Grantor reserves to itself, and its successors in interest, all rights accruing from its fee ownership of the Property which are not transferred and conveyed hereby,

or which are not expressly granted to Grantee or prohibited herein and which are not inconsistent with the Conservation Purpose, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly proscribed or limited hereby and are not inconsistent with the terms of this Easement. Grantor reserves the following:

(a) *Water Rights*: all Water Rights in, on, under, to and benefiting or associated with or appurtenant to the Property, *provided that*, lease, sale, severance, conveyance, diversion or encumbrance of Water Rights separately from the underlying title to the Property, or other action or inaction that abandons, forfeits, diminishes or extinguishes such Water Rights, or use of any water or Water Rights for any purpose or in any manner other than for permitted uses of the Property consistent with the requirements of this Easement and the “Management Plan” described in Section 13 is prohibited. In connection with leases or licenses for permitted uses, the aforesaid prohibition shall not preclude Grantor from licensing or leasing a right to use *on the Property* any water or Water Rights for permitted uses of the Property consistent with the requirements of this Easement and the Management Plan, provided however, all of said leases and licenses shall be subject to and subordinate to this Easement and the Management Plan and shall incorporate the terms of this Easement and then-current Management Plan by reference, and shall include provisions that acknowledge the quantity or right to use water or Water Rights is not guaranteed and may be adjusted during the term of the lease or license, if necessary, based on changes in conditions on or about the Property and based on restrictions described in this Easement and the then-current Management Plan. Grantor shall consult with Grantee regarding the proposed language for the lease or license intended to satisfy this Section 4(a).

(b) *Geothermal Resources, Oil, Gas and Mineral Rights*: geothermal resources, oil, gas, minerals and mineral rights appurtenant to the Property, *provided that*, severance, conveyance, diversion or encumbrance of such resources or rights appurtenant to the Property, separately from the underlying title to the Property, or other action or inaction that diminishes or extinguishes such resources or rights is prohibited, as is exploration, extraction or use for any purpose or in any manner other than as permitted by this Easement.

5. General Requirements for All Uses.

(a) *Compliance with Terms, Conditions and Conservation Purpose of this Easement.* All activities on the Property shall be conducted in a manner that is consistent with the Conservation Purpose of this Easement, and in accordance with the specific terms set forth in this Easement.

(b) *Protection of Conservation Values.* All uses and activities on the Property shall be undertaken in a manner reasonably designed to minimize adverse impacts to the Conservation Values, including minimizing soil degradation and erosion and unauthorized diversion or use of, pollution to, or degradation of, any surface or subsurface waters.

(c) *Compliance with Laws and Management Plan.* All activities and uses permitted on the Property pursuant to this Easement shall be subject to, and undertaken in accordance with any and all legal requirements applicable to the Property (collectively, the “Applicable Laws”) and the Management Plan. As part of the obligation to comply with Applicable Laws, all future activities involving a physical change to the natural environment within the Property boundaries that constitute “projects” subject to the California Environmental Quality Act (“CEQA”) shall be

reviewed in compliance with CEQA, regardless of whether the project is proposed by a private party or by Grantor (Mono County itself). Mono County shall be the lead agency for CEQA purposes on all such projects, including well development, and shall conduct CEQA review as required by law.

6. **Prohibited Uses.** Any activity on or use of the Property which is inconsistent with the Conservation Purpose or terms of this Easement or in violation of Applicable Laws is prohibited (collectively, “Prohibited Uses”). Grantor shall not engage in, or allow others to engage in, any Prohibited Uses. The Parties agree that this Section 6 is not an exhaustive recital of all Prohibited Uses and that there may be other existing or future uses not expressly listed therein that are inconsistent with the Conservation Purpose. Without limiting the generality of the foregoing, and except as expressly provided otherwise herein, the following uses, practices, and improvements are inconsistent with the Conservation Purpose of this Easement and are Prohibited Uses that are expressly prohibited:

(a) *Construction or Reconstruction of Improvements.* The construction or reconstruction of any buildings, other structures, or other improvements, except as may be permitted, or permitted with the prior consent of Grantee, in Sections 7 or 8;

(b) *Billboards and Advertising.* The erection of any billboards or other type of advertising;

(c) *Mining.* The exploration, mining, extraction or removal from the Property of soil, rock, sand, gravel, oil, geothermal resources, natural gas, fuel or any other hydrocarbon or mineral substance using any exploration, mining, extraction or removal method;

(d) *Mobile Homes, Trailers, Heavy Equipment.* The construction or placement of any mobile homes, trailers or heavy equipment, except as may be permitted in the “Building Envelope” within the Aquaculture Area as described in Section 8(a)(i) and Section 7(j);

(e) *Storage and Disposal of Unsightly and Offensive Materials.* The dumping, burying, storage or accumulation of any kind of trash, refuse, derelict equipment, vehicles, ashes, garbage, or other unsightly, or offensive materials, except for limited and/or temporary uses as provided in Section 7(j);

(f) *Development and Manipulation of Wetlands and Water Resources.* The draining, diversion, filling, dredging, diking, damming or other alteration, development or manipulation of wells, watercourses, springs and wetlands or use, extraction, pumping, or manipulation of any water or Water Rights for any purpose or in any manner other than for permitted uses of the Property, including uses permitted, or permitted with the prior consent of Grantee, in Sections 7 or 8, consistent with the requirements of this Easement and the Management Plan;

(g) *Removal of Native Plants.* The removal of living native plants or trees located on the Property, except during the regular maintenance of existing or permitted irrigation ditches, water supply system, roads, grazing meadows, and except as specified by Section 7 and 8;

(h) *Motorized Vehicles.* The use of motorized vehicles on the Property apart from use on existing (or permitted) roads and except for over-the-snow vehicles consistent with the

Management Plan and for uses reasonably related to permitted uses not otherwise prohibited and emergency vehicles responding to an emergency;

(i) *New Roads and Paving of Existing Roads.* The construction or paving with any impervious surfacing materials of any new roads on any part of the Property or the paving of any existing roads on any part of the Property and except as specified by Section 8;

(j) *Landscaping.* Landscaping or planting the Property (excluding the Aquaculture Area or Building Envelope, as defined in Section 8(a)(i), other than for Grantee- approved restoration or enhancement purposes as set forth in Section 8 and in accordance with the Management Plan;

(k) *Commercial Use.* Any commercial use of any portion of the Property, except as may be permitted by Section 7 and 8;

(l) *Residential and Industrial Use.* Any residential use, except as provided in Section 7(m) (regarding limited overnight security and oversight of aquaculture and livestock ranching operations) or industrial use of any portion of the Property;

(m) *Commercial Power Generation and Transmission.* Except as may be permitted in Section 8(d) (limited solar power collection, generation and sale for own use), commercial power generation, collection or transmission facilities, including solar or windmills or facilities;

(n) *Hazardous Materials.* The use, storage, disposal, transport and/or release of any “Hazardous Materials” as defined in Section 14(f), except as expressly provided in this Easement in conjunction with permitted uses under Section 7;

(o) *Commercial Recreational Structures, Airstrips, Helicopter Pads.* Construction or use of resort structures, golf courses, swimming pools, tennis courts, equestrian facilities, playing fields, or any other commercial recreational structure; airstrips, helicopter pads; operation of a stable and the commercial raising, training and boarding of horses; and any activity that requires artificial lighting or prepared grounds or courses; and

(p) *Subsequent Easements.* The grant of any subsequent easements (including, but not limited to conservation easements, and easements for roads and utilities), other interests in land, or use restrictions that might interfere with the Conservation Purpose, or impair the Conservation Values or be otherwise inconsistent with this Easement, except as provided in Section 8(h) (regarding an agreement with Southern California Edison (“SCE”) about the “Lundy Powerhouse Tailrace” and any associated infrastructure described in Section 17(b)).

7. Permitted Uses. Without limiting the generality of the foregoing, the uses and practices set forth in sub-sections (a) – (n) below, though not necessarily an exhaustive recital of all uses and practices consistent with the Conservation Purpose, are permitted, subject to the limitations set forth herein:

(a) *Fences, Gates, Roads*. Maintenance, repair, replacement and removal of existing and approved fences, gates, and roads at currently existing levels of improvement, including associated trimming of brush and trees as reasonably necessary for safety and security. Grantor shall design and construct any replacement fencing, including boundary fences, using current best management practices for wildlife friendly fencing that accommodates wildlife movement, in accordance with the Management Plan. Where ownership or right to maintain fences is shared with another party, such as on property boundaries, to the extent that Grantor has control, newly constructed or replaced fences shall be designed using currently accepted standards for wildlife friendly fencing that accommodates wildlife movement;

(b) *Property Signs*. Construction or erection of reasonable, non-illuminated signs, including no trespassing or no hunting signs or signs regarding County regulations on public use of the Property, or other appropriate markers in prominent locations on the Property, including boundary fences, access roads and entries to support and manage permitted uses of the Property;

(c) *Livestock Grazing*. Grazing of sheep, cattle, and goats ("Livestock") on the Property, and use of temporary fencing for Livestock on the Property, with proceeds from grazing lease dedicated to the maintenance and operation of the Property, in accordance with current best management practices and the Management Plan;

(d) *Surface Water*. Management and utilization of water and Water Rights (surface water) as reasonably necessary, but not impairing the Conservation Values in connection with: (i) the maintenance, repair, and replacement of water storage and delivery systems, including ponds and irrigation ditches, and any associated removal of living native plants or trees as permitted under Section 6(g); (ii) maintenance of existing meadows and irrigated areas; (iii) the restoration and enhancement of natural resources permitted under Section 8(f); and (iv) carrying out permitted aquaculture operations and Livestock grazing and supporting permitted public uses, all in accordance with Sections 7 and 8 and the Management Plan (note: this Section 7(d) shall not be construed as limiting the County's ability to use its full Water Rights when and as it sees fit);

(e) *Property Leases and Licenses*. Leasing or licensing of the Property, or portions thereof, to third parties for permitted uses, subject to the terms and conditions of this Easement, with Written Advisement to Grantee in accordance with Section 9(a);

(f) *Dangerous Trees and Plants*. Removal of diseased, damaged or otherwise dangerous trees and plants on the Property;

(g) *Commercial Activities*. Except as expressly provided otherwise in this Easement, with Written Advisement to Grantee in accordance with Section 9(a), commercial activities on the Property, other than Livestock grazing and aquaculture, are limited to, non-motorized activities not otherwise specifically prohibited by the terms of this Easement, provided that: (i) these uses require no surface alteration, permanent facilities or other development of land; (ii) the proceeds

from said limited commercial use are dedicated to the maintenance and operation of the Property; (iii) said commercial uses comply with the Management Plan; and (iv) said commercial uses do not impair the Conservation Values;

(h) *Film Production.* Commercial or private film production, including the filming of commercials; with Written Advisement to Grantee in accordance with Section 9(a), provided that: (i) any motorized activities occur only on existing roads, (ii) uses require no surface alteration, permanent facilities or other development of land; (iii) the proceeds from said limited commercial use are dedicated to the maintenance and operation of the Property; (iv) said film production complies with the Management Plan; and (v) said film production does not impair the Conservation Values;

(i) *Aquaculture.* Commercial aquaculture and public fishing in the Aquaculture Area and maintenance and repair of existing aquaculture facilities and public fishing, subject to the limitations set forth in this Easement and the Management Plan, with any monetary proceeds Grantor may receive from commercial aquaculture dedicated to the maintenance and operation of the Property;

(j) *Storage.* Vehicles, equipment, building materials, machinery and supplies required for permitted uses; compost piles; and wood piles may be stored within the Building Envelope or Aquaculture Area (aquaculture uses), or within reasonably close proximity to the existing or permitted structures located elsewhere on the Property (Livestock grazing uses), provided that vehicles, equipment, building materials, machinery, and supplies used and stored around the Property for Livestock grazing purposes shall be removed after Livestock grazing season. Vegetation and other biodegradable non-manmade materials generated from the Property shall not be considered as waste material, refuse or debris, and need not be removed from the Property; temporary storage of waste generated in the ordinary course of permitted uses on the Property for regular, periodic removal off-site is permitted; as is the use and storage of agricultural products, agricultural chemicals, agricultural byproducts and agricultural equipment. Composting of organic materials from the Property is also permitted provided that the Conservation Values of the Property are not impaired;

(k) *Public Use.* Public use for passive, non-motorized recreation, including, but not limited to hiking, cross country skiing, snowshoeing, bicycling, picnicking, wildlife viewing, bird watching or other nature study, horseback riding, visiting historical sites, painting, photography, hunting (to the extent permitted by County regulations regarding public use of the Property), and fishing, scientific research and education, consistent with the Management Plan. Grantor may adopt reasonable regulations regarding public use of the Property that is otherwise consistent with this Easement and the Management Plan;

(l) *Historic Resources.* With Written Advisement to Grantee in accordance with Section 9(a), the maintenance and/or restoration of historic resources on the Property undertaken in accordance with the Management Plan;

(m) *Overnight Use.* Overnight use by aquaculture employees or contractors and seasonal livestock managers only as needed to oversee the overnight operations and security of the aquaculture and livestock ranching operations; permanent residential use is prohibited (e.g. an

employee may not live on the Property with his or her family nor otherwise use it as a “home” or domicile for any purpose); and

(n) *Other Uses.* Any other use expressly permitted without prior consent by Grantee by the then-current Management Plan, provided it is conducted in accordance with that Plan.

8. Uses of Property with Grantee’s Prior Consent. The following uses of the Property shall be prohibited unless the prior written consent of Grantee is obtained in accordance with Section 8(a)(v), with respect to Section 8(a) activities; or Section 9, with respect to Section 8(b)-(i) activities:

(a) *Aquaculture; Public Fishing; Public Educational or Interpretive Facilities Related to Aquaculture.*

(i) Within the approximately two (2) acre building envelope of the Aquaculture Area shown in **Exhibit B-3** (“Building Envelope”), and sited to avoid and minimize impacts to wetland or wildlife habitat, Grantor shall have the right to construct, expand, renovate, replace, repair, and/or remove an existing commercial aquaculture operation, public fishing operations, and/or public educational or interpretive facilities, and may construct additional customary appurtenances and infrastructure associated with such improvements, such as landscaping, fences, telephone, electric, gas and other utility conduits, connections, and meters; a septic system and/or sewer connections; a driveway from the nearest public road to the Building Envelope of the Aquaculture Area (including customary appurtenant structures), provided that all new utilities are located and designed to avoid impacts to the Conservation Values.

(ii) The aggregate footprint of buildings within the Building Envelope shall not exceed six thousand (6,000) square feet. There shall be no more than three (3) buildings and four (4) storage buildings. Buildings shall be of varied heights, but shall not exceed thirty-five (35) feet in height and will be constructed with materials designed to blend into the landscape using harmonious earth tone colors, non-reflective roofing and siding, and appearing rustic and historic. Storage buildings shall have a footprint of no larger than eight feet by twenty feet (8’ x 20’) each, constructed with materials designed to blend into the landscape using harmonious earth tone colors, non-reflective roofing and siding, and appearing rustic and historic, and constructed below grade as much as reasonably feasible. Night lighting shall conform to the Mono County Dark Sky Ordinance as described in the Baseline Documentation Report referred to in Recital K, and shall be switch-operated and/or motion-sensor activated. Any noise-generating equipment that is permanently installed as part of a building or operations system shall be enclosed within noise-attenuating structures. New impervious surfaces, other than permitted buildings, ponds and raceways, shall be less than two feet (2’) in height above ground level and are not to exceed five thousand (5000) square feet. Roads within the Aquaculture Area may be improved with road-base or pavement for the purpose of protecting Conservation Values from erosion, dust, or other impairments. Additional raceways, ditches, ponds, or other aquaculture infrastructure, as permitted herein, shall be constructed within the Aquaculture Area.

(iii) Commercial aquaculture operations will be designed to function primarily on surface water consisting of the Mill Creek Adjudicated Water Rights. Any extraction of groundwater will be limited to the following purposes and amounts (“Groundwater Extraction Limit”): (A) no more than 303 acre feet a year for the purposes of human consumption and sanitation in conjunction with permitted uses, disinfection of equipment, and taking, hatching and raising of fish eggs; and (B) no more than 216 acre feet per year in total from two support wells, each to be located at the head of a raceway, to respond to extreme heat and/or cold conditions in the fish raceways. In the case of a catastrophic water supply or water quality emergency involving Wilson Creek, groundwater pumping of 6 cfs for seven (7) days (“Emergency Water Supply Limit”) will be allowed to provide time to evacuate fish stock. Based on these limited uses, the total annual Groundwater Extraction Limit is 519 acre feet and the Emergency Water Supply Limit is 83 acre feet to be used only in a qualified emergency, defined as a catastrophic water quality or quantity emergency involving Wilson Creek that requires immediate evacuation of fish stock, with Written Advisement to Grantee for the use of water under the Emergency Water Supply Limit. Written Advisement respecting the use of water under the Emergency Water Supply Limit will be given to Grantee by telephone and email within twelve (12) hours of the emergency event and will be followed by a written report to Grantee giving details of the event, duration and amount of groundwater pumping, and advisement of the proposed follow-up response to emergency.

Any proposed pumping or extraction of groundwater for aquaculture purposes or permitted facilities must be evaluated through a Grantor-funded environmental study (“Water Study”), and associated monitoring program (“Groundwater Monitoring Program”) to determine the amount of water that can be extracted, not to exceed the Groundwater Extraction Limit and the Emergency Water Supply Limit, that will avoid the risk of impairing the Conservation Values or adversely affecting any wells within a two (2) mile radius from the point of extraction. The Water Study will be considered adequate if conducted by a certified hydro-geologist, agreed to in advance by Grantor and Grantee. The proposed Water Study Scope of Work for said hydro-geologist will also be agreed to in advance by Grantor and Grantee. The Water Study Scope of Work may include a temporary pump test if recommended by the hydro-geologist conducting the Study and, in that event, the nature and duration of the test would be specified in the agreed-upon Scope of Work and the testing activity specified in the Scope of Work would not be subject to any other Grantee prior approval requirement. Grantor will provide the complete Water Study, recommended pumping amounts, proposed monitoring measures, and pump test data to Grantee. Grantor will provide all monitoring data and the proposed extraction amount for the coming year in an Operations Plan (“Operations Plan”) to Grantee by April 1 of each year. Grantee shall determine whether any proposed extraction would create a risk of impairing the Conservation Values. Proposed groundwater extraction will be considered a risk to Conservation Values if it is projected to remove groundwater from the root zone of groundwater dependent vegetation on the Property. Further, any projected adverse effect on springs, surface water, wetlands, or meadows from groundwater depletion will be considered a risk to Conservation Values. Grantee can approve the proposed use, approve with conditions (including the installation of monitoring wells) and can disapprove the proposed use. Conditions placed on or disapproval of proposed groundwater extraction will be protective of the Conservation Values even during drought conditions. In addition to any

conditions imposed by Grantee to protect Conservation Values, Grantor shall adopt and implement such additional conditions (if any) and/or monitoring requirements as may be recommended or indicated by the Water Study and Groundwater Monitoring Program to avoid any adverse effects on wells within a two (2) mile radius from the point of extraction.

(iv) Aquatic Species Recovery Area.

An aquatic species recovery area ("Recovery Area") may be located within the Aquaculture Area shown in **Exhibit B-2**, subject to the limitations set forth in Section 8(a)(i-iii), unless the sponsoring State or Federal wildlife agency determines that location is not feasible, in which case a Recovery Area may instead be located at a site on the Property outside of the Aquaculture Area if all of the following requirements are met: (i) a State or Federal wildlife agency shall sponsor the development and operation of a raceway for the recovery of an endangered or threatened aquatic species *and* shall provide funding for the Recovery Area, and associated operations, maintenance, and restoration of the land if the project ceases; (ii) Grantor receives approval for the Recovery Area from the Funders and Grantee; (iii) the Recovery Area is located in an existing irrigation ditch and is constructed entirely at or below ground level (other than fencing), with no buildings, storage, or groundwater extraction; (iv) the Recovery Area is used only for federally listed endangered or threatened species; (v) the facility is located and designed to avoid impairment to the Conservation Values; (vi) development of the Recovery Area complies with Applicable Laws; (vii) the site is restored to its pre-project condition if it ceases to be used for the recovery of endangered or threatened species; (viii) funding to Grantee is provided for long term monitoring, stewardship, and the review and approval process in accordance with Section 8(a)(v), related to planning, constructing and operating the facility; (ix) any lining of the raceway and/or removal of vegetation shall be mitigated by a 1.5 acre enhancement to wetland areas on the Property to a 1 acre loss; and (x) Grantee's approval shall be in Grantee's sole and exclusive discretion.

(v) Grantee Consent. Grantee's consent or approval is required for activities under Section 8(a) and, except for the additional applicable conditions and standard of review set forth in Section 8(a)(iii), and (iv), shall be handled in accordance with this Section 8(a)(v). At least ninety (90) days prior to seeking any regulatory permit (such as construction, well-drilling, and/or grading permit) or initiating any activities allowed under Section 8(a), Grantor shall submit a written request for approval describing the nature, scope, design, location, timetable, and any other material aspects of the proposed activity, building or facility in sufficient detail, including the provision of the Water Study and Groundwater Monitoring Program under Section 8(a)(iii), in addition to any proposed use of groundwater in the aquaculture operation, to establish that the proposed use or activity will not impair the Conservation Values and to permit Grantee to assess compliance with this Easement and to keep its records current.

Within sixty (60) days of Grantee's receipt of the request, Grantee will notify Grantor if the information provided is adequate to permit Grantee to evaluate the request or to request additional information. Except as provided in Section 8(a)(iv), (in which Grantee's sole and exclusive discretion shall govern decisions), in reviewing the request, Grantee shall exercise Grantee's reasonable discretion and Grantee may place reasonable conditions on the use of groundwater, size, design, and location of the building(s) or facilities to avoid

impacts to the Conservation Values and ensure consistency with the Conservation Purpose, but cannot prohibit altogether the construction of a building(s) or facility(ies) that is in compliance with Section 8(a) and the Management Plan, except if the aforementioned Grantor-funded Water Study and Groundwater Monitoring Program determines that any proposed groundwater extraction will create a risk of impairing the Conservation Values, in which event, the provisions of Section 8(a)(iii) shall apply.

Prior to any new construction or construction-related activities, including grading, Grantor, at Grantor's sole cost and expense, shall survey the Building Envelope and set boundary markers on the Property locating both the Building Envelope and the Aquaculture Area on the ground, and shall provide said survey of the Building Envelope and information on the boundary markers to Grantee for the purposes of supplementing the Baseline Documentation Report. Where the consent or approval of any of the Funders is required under this Easement, said approval shall in all cases be obtained by Grantor prior to taking the proposed action. No construction shall be carried out prior to receipt of approval from Grantee and delivery of the required survey of the Building Envelope and boundary marker information on the Building Envelope and Aquaculture Area to Grantee.

(b) *Fencing*. The construction of new permanent fences on the Property; Grantor shall design and construct any replacement fencing, including boundary fences, using currently accepted standards for wildlife friendly fencing that accommodates wildlife movement;

(c) *Infrastructure for Public Access, Education and Recreation*. Except as otherwise provided in Section 8(a) pertaining to aquaculture, the construction of infrastructure related to public access, education, and passive recreation on the Property, including informational signage, picnic tables, parking area, and pit-toilet facility;

(d) *Solar Power Facilities*. The installation of solar power collection and transmission facilities within the Aquaculture Area for limited production of power to be used on the Property, sited to avoid and minimize impacts to wetland or wildlife habitat, and scenic resources, not to exceed two thousand (2000) square feet. Power generated in excess of requirements on the Property may be sold to public or private utility companies;

(e) *Vegetation Management*. The implementation of vegetation thinning based on current best management practices for fire safety and fuels reduction;

(f) *Planting for Restoration or Enhancement*. The planting of the Property with native plants or seeds, or other ecologically beneficial activities for restoration or enhancement purposes, in accordance with current best management practices and the Management Plan;

(g) *Small-scale, Organic Agriculture*. The planting of agricultural crops, grown using organic practices, within the Aquaculture Area in already disturbed areas, not to exceed two (2) acres. Agriculture shall utilize only surface water or effluent from aquaculture operations. Such activities shall be carried out in accordance with the Management Plan;

(h) *Southern California Edison Lundy Powerhouse Tailrace and Associated Infrastructure*. With respect to SCE's Lundy Powerhouse Tailrace and associated infrastructure described in Section 17(b), the right to enter into an agreement with SCE, as manager of the hydropower

plant, or their successor in interest, to provide for the reasonable maintenance, repair, improvement, and replacement of the Lundy Powerhouse Tailrace and associated infrastructure, including reasonable temporary access to said infrastructure for such purposes, provided that restoration of areas disturbed by construction shall be required, such agreement to be in accordance with the Management Plan; and

(i) *Uses and Improvements not Expressly Addressed.* Uses and improvements that might be consistent with the Conservation Purpose of this Easement that are not expressly addressed in the Easement may possibly be permitted with prior approval of Grantee obtained pursuant to Section 9.

9. Written Advisement; Grantee Consent.

(a) *Written Advisement.* As described in this sub-section, below, and as set forth elsewhere in this Easement, certain actions by Grantor will require the prior written notice of Grantee. Where expressly required in this Easement and, prior to undertaking certain activities or improvements on the Property as permitted herein or exercising any reserved right that may impair the Conservation Values or Purpose of this Easement, and expressly including any activity requiring a building, grading, well-drilling, or zoning permit or environmental regulatory review or permit, Grantor shall give Grantee at least sixty (60) days' advance written notice thereof (except where a longer period is expressly required), ("Written Advisement") sent in accordance with the notice provisions of Section 21. The Written Advisement must provide Grantee with adequate information, documents and plans so as to enable Grantee to confirm compliance with this Easement and enable Grantee to keep its records current.

(b) *Grantee Consent.* Where Grantee's consent or approval is required under this Easement, said approval (i) shall not be unreasonably delayed by Grantee, (ii) shall be sought at least sixty (60) days in advance of the desired action and given in writing, and (iii) shall in all cases be obtained by Grantor prior to taking the proposed action. Where the consent or approval of any of the Funders is required under this Easement, said approval shall in all cases be obtained by Grantor prior to taking the proposed action. In seeking approval, Grantor will describe the nature, scope, design, location, timetable, and any other material aspects of the proposed activity in sufficient detail to establish that the proposed use or activity will not impair the Conservation Values and to permit Grantee to confirm compliance with this Easement and to keep its records current. Within sixty (60) days of Grantee's receipt of the request, Grantee will notify Grantor if the information provided is adequate to permit Grantee to evaluate the request or to request additional information. Grantee shall grant approval only where Grantee, acting in Grantee's reasonable discretion (except where Grantee's discretion is expressly stated to be in Grantee's sole and exclusive discretion) and in good faith, determines that the proposed action will not impair the Conservation Values or otherwise be inconsistent with the terms and Conservation Purpose of this Easement and the Management Plan. Grantee's approval of a proposed use may be subject to reasonable conditions to ensure consistency with the Conservation Purpose and protection of the Conservation Values. Pending the determination by Grantee, the use or activity may not be conducted.

10. Monitoring. Grantee shall manage its responsibilities for the Easement, including but not limited to, annual monitoring, such additional monitoring as circumstances may require,

record keeping, and enforcement, for the purposes of preserving the Property's enumerated Conservation Values in perpetuity. With forty-eight (48) hours' advance oral notice, except in the event of an emergency or suspected emergency, in which case a shorter, but reasonable oral notice shall be given, Grantee has the right to enter upon, inspect, observe, and evaluate the Property to identify the current condition of, and uses and practices on the Property to determine whether they are consistent with this Easement. The Funders may accompany Grantee on its annual monitoring visits. This monitoring will be supported through the Baseline Documentation Report and subsequent reviews, using photographs and narrative descriptions, among other evaluation tools. Monitoring will consider issues such as changing conditions in the vicinity of the Property and impacts to Conservation Values, water conditions, weather and climate conditions, unusual natural events, vegetative variety and quality and trends in resource conditions. Failure of Grantee to carry out these responsibilities shall not impair the validity of the Easement or limit its enforceability in any way. Grantee shall indemnify, defend with counsel of Grantor's choice, and hold Grantor harmless from, all expense, loss, liability, damages and claims, including Grantor's reasonable attorneys' fees, if necessary, arising out of Grantee's entry on the Property, unless caused by a violation of this Easement by Grantor or by Grantor's negligent action or omission or willful misconduct.

11. Disputes and Remedies. If Grantee determines that Grantor or third party is conducting or allowing a use, activity, or condition on the Property which is prohibited by the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation, and, where the violation involves damage to the Property resulting from any use or activity inconsistent with the Conservation Purpose of this Easement, to restore the portion of the Property so damaged to the condition in which it existed prior to the damage.

(a) *Consultations Regarding Interpretation and Enforcement of Easement.* When any disagreement, conflict, need for interpretation, or need for enforcement arises between the Parties to this Easement, each Party shall first consult with the other party in good faith and attempt to resolve the issue without resorting to mediation or legal action.

(b) *Mediation.* Grantor and Grantee agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation. Mediation is therefore the Parties' preferred dispute resolution procedure when circumstances do not require Grantor or Grantee to seek immediate injunctive relief from the courts. If a dispute arises between the Parties concerning the meaning, requirements, interpretation, or implementation of the Easement, including the consistency of any proposed use or activity with the terms of this Easement that they cannot resolve through unassisted consultation between themselves, and Grantor agrees not to proceed with, or shall discontinue, the use or activity, or to compel a third party to not proceed or to discontinue the use or activity, pending resolution of the dispute, either party may refer the dispute to mediation by request made in writing upon the other. The non-requesting Party shall have ten (10) days after receipt of a mediation request to consent thereto or refuse to mediate the dispute.

(i) Procedure. Within ten (10) days after Grantor and Grantee agree to mediation of a dispute, the Parties shall mutually select a trained and impartial mediator. Mediation hearings shall remain informal, with each party being permitted to

present such facts and evidence as it may reasonably believe supports that Party's position. Costs and expenses of mediation shall be divided equally between Grantor and Grantee; provided, however, that each Party shall pay its own attorneys' fees.

(ii) Limitations. The mediation is not intended to result in any express or *de facto* modification or amendment of the terms, conditions or restrictions of this Easement. Notwithstanding any provision to the contrary, the mediation procedure set forth herein shall in no way be construed to deprive Grantor or Grantee of any judicial remedy provided at law or in equity, or by agreement herein, and is intended solely as an informal dispute resolution mechanism. Neither Grantor nor Grantee shall have the right to compel performance of mediated solutions, unless such solutions are reduced to a binding written agreement between Grantor and Grantee at the conclusion of the mediation process. The parties hereto intend that each conflict and dispute submitted to mediation shall be unique, with facts, circumstances, and recommended resolutions to be determined on a case-by-case basis, without reference to prior conflicts, disputes, or the resolutions thereto.

(iii) Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the Parties or their respective counsel. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission of a party.

(iv) Time Period. Neither party shall be obligated to continue the mediation process beyond a period of ninety (90) days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.

(c) Other Remedies. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Values and to require the restoration of the Property to the condition that existed prior to any such violation or injury. Grantee's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Easement. These remedies shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from doing so as a later time.

(d) Damages. Grantee is entitled to recover damages for violation of the terms of this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any violation or damage. Without limiting Grantor's liability, Grantee shall apply any damages recovered to the cost of undertaking corrective action on the Property. Should the restoration of lost values be impossible or impractical for whatever reason, after reimbursing

Grantee for all costs of enforcement, any and all remaining damages recovered shall be paid to the Funders as determined in accordance with Section 16(b), or as otherwise directed by the Funders.

(e) *Equitable Remedies.* Grantee's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor and Grantee expressly agree that the Property, by virtue of its Conservation Values, is unique and that a violation of this Easement, and the ensuing harm or alteration of the Property, may result in damages that are irremediable and not subject to quantification. Grantor agrees that Grantee's remedies at law for a violation of the terms of this Easement may be inadequate and that Grantee may seek the injunctive relief described in this Section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee may bring an equitable action in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Section without prior notice to Grantor or without waiting for the period provided for cure to expire.

(f) *Recovery of Costs.* If Grantee prevails in any action to enforce the terms of this Easement, any and all costs incurred by Grantee in enforcing the terms of this Easement against Grantor or against others where Grantor had the legal right and had the legal obligation to have acted in a manner that would have made such enforcement action unnecessary, including, without limitation, costs of suit and reasonable attorneys' fees, and any and all costs of restoration resulting from Grantor's violation of the terms of this Easement shall ultimately be the responsibility of Grantor, provided that, in an action against a third party, Grantee shall make good faith reasonable efforts to first recover any costs from the third party whose actions or omissions were responsible for the legal action. If Grantor prevails in any action to enforce the terms of this Easement, any and all costs incurred by Grantor, including, without limitation, costs of suit and reasonable attorneys' fees, shall be the responsibility of Grantee. The prevailing party also shall be entitled to recover all such costs and fees that may be reasonably incurred in enforcing any judgment or award, and this provision shall not be merged into any judgment but shall survive any judgment.

(g) *Grantee's Discretion.* Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantee's permission to carry out, or failure to object to, any proposed use or activity shall not constitute consent to any subsequent use or activity of the same or any different nature, nor shall it permit any activity prohibited by law.

(h) *Waiver of Certain Defenses.* Grantor hereby waives any defense of laches, estoppel, prescription, unclean hands or the doctrine of changed circumstances in any action or proceeding, including but not limited to any mediation brought by Grantee to enforce or to interpret the provisions of this Easement.

(i) *Acts Beyond Grantor's Control.* Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from any natural cause, including fire not caused by Grantor, flood, storm, extreme temperatures, drought, and earth movement or other acts of God, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to any person or to the Property resulting from such causes. Notwithstanding the foregoing, Grantor's failure to comply with any applicable restrictions on use of the Property, including the use of water and Water Rights, arising from fire, flood, storm, extreme temperatures, drought, and earth movement or other acts of God shall be subject to the enforcement provisions of this Easement (e.g., in the event of a drought, if water use restrictions are imposed pursuant to the Easement, Management Plan or Applicable Laws).

12. Public Access. Grantor shall not be obligated to allow public access to the Aquaculture Area.

13. Management Plan. Grantor and Grantee have prepared a management plan for the Property, dated _____, 2014, incorporated herein by this reference, ("Management Plan"), providing for sustainable livestock grazing, commercial aquaculture, public access, and the protection and preservation of water resources (water and Water Rights), wetland, riparian and other sensitive habitats, flora, fauna and other sensitive resources, historic resources, and natural features of the Property. The Management Plan provides that livestock grazing and aquaculture operations shall be conducted only in a manner and to an extent that will not impair the Conservation Values and that are consistent with the terms and Purpose of this Easement and with all Applicable Laws. An Operations Plan for livestock grazing, aquaculture, public access activities and infrastructure, and any other planned activities, including a detailed report on the use of water and Water Rights for the prior year, will be provided to Grantee by Grantor prior to an annual meeting to be held by April 1 of each year. Grantor shall provide the annual Operations Plan and any updates or adjustments of the Management Plan to the public so that interested parties can provide comments and input. Both Parties acknowledge receipt of a copy of the Management Plan. The Management Plan shall be updated and adjusted as necessary, upon mutual agreement of Grantor and Grantee, but in no event less frequently than every five (5) years. If livestock grazing or aquaculture operations cease or are downsized, as determined by mutual agreement of Grantee and Grantor, Grantor will undertake restoration and irrigation activities (if necessary), as described in the Management Plan. Grantee shall have the right to monitor and enforce the specific terms and restrictions of the Management Plan, the same as any other term or provision of this Easement.

14. Costs and Liabilities. Grantor retains all rights and privileges of ownership that are not prohibited or restricted by this Easement, and Grantor retains all responsibilities of ownership. Nothing contained in this Easement shall be construed as giving rise to any right or ability in Grantee or the Funders to exercise physical or management control over the day-to-day operations of the Property, or any of Grantor's permitted activities on the Property. Other than as

specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any obligations of Grantor as owner of the Property. Neither Grantee, nor the Funders, shall have responsibility for the operation of the Property, monitoring of hazardous conditions on it, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Neither Grantee, nor the Funders, shall be liable to Grantor or other person or entity in connection with consents given or withheld, or in connection with any entry upon the Property occurring pursuant to this Easement, or on account of any claim, liability, damage or expense suffered or incurred by or threatened against Grantor or any other person or entity, except as the claim, liability, damage, or expense is the result of the gross negligence or intentional misconduct of Grantee or the Funders.

(a) *Liability Insurance.* Grantor shall maintain comprehensive general liability insurance in the amount of no less than two million dollars (\$2,000,000) (either in a stand-alone general liability policy, or as part of any umbrella coverage, or a combination of the two) for the Property. Grantor shall cause all such policies of insurance to name Grantee as an additional insured and provide Grantee with a certificate of insurance for each such policy and all renewals thereof.

(b) *Taxes.* To the extent applicable to Grantor, 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. If Grantee pays any taxes or assessments to protect Grantee's interest in the Property, Grantor will reimburse Grantee for the same, together with interest at the legal rate from the date of the payment by Grantee.

(c) *Upkeep and Maintenance.* Grantee shall have no obligation for the upkeep and maintenance of the Property.

(d) *Compliance with Laws.* Nothing in this Easement shall be construed as limiting Grantor's ability or relieving Grantor of its obligation to undertake activities on the Property to comply with any statute, law, ordinance, rule, regulation, code, order, or other restriction or requirement applicable to the Property which currently exists or is enacted or otherwise promulgated by any federal, state, county, municipal, or other governmental body (whether legislative, administrative, or judicial), or by any competent official of any of the foregoing (collectively, the "Applicable Laws"). Nothing in this Easement shall be construed as granting Grantor any rights not permitted by local land use and/or zoning regulations at the time of construction, demolition, occupation, or other regulated use.

(e) *Hold Harmless.* Grantor shall hold harmless, indemnify, and defend Grantee and the Funders, and their respective 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 all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, orders, liens, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, or causes of action or cases and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the

Indemnified Parties may be subject or incur relating to, or occurring on the Property or the Easement, arising out of Grantor's acts or omissions, including, but not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Easement, or violations of any Applicable Laws, including all "Environmental Laws" as defined below, except to the extent caused by the active negligence or willful misconduct of the Indemnified Parties.

(f) *Environment Matters.* Notwithstanding any other provision of this Easement to the contrary, the parties do not intend and this Easement shall not be construed such that it creates in Grantee or the other Indemnified Parties: (1) the obligations or liabilities of an "owner" or "operator" or "arranger" or "generator" as those words are defined and used in "Environmental Laws," as defined below, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC, sections 9601 *et seq.* and hereinafter "CERCLA"); or (2) the obligations or liabilities of a person described in CERCLA at 42 USC section 9607(a)(3) or (4); or (3) the obligations of a responsible person under any applicable Environmental Laws; (4) the right or duty to investigate and remediate any "Hazardous Materials," as defined below, associated with the Property; or (5) any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

Grantor represents, warrants and covenants to Grantee that Grantor is in compliance with all applicable Environmental Laws and Grantor's use of the Property shall comply in all material respects with all applicable Environmental Laws. Grantor further represents, warrants and covenants to Grantee that Grantor has no actual knowledge of a release or threatened release of Hazardous Materials on the Property and hereby promises to indemnify, defend and hold the Indemnified Parties harmless from any and all loss, cost, claim (without regard to merit), administrative actions, liability or expense (including reasonable attorneys' fees and investigation, testing and remediation costs) arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws.

If at any time after the grant of this Easement there occurs a release in, on or about the Property (excluding any release caused by an Indemnified Party, its employees, agents, consultants or contractors) of Hazardous Materials, Grantor agrees to take all steps that may be required under federal, state or local law necessary to assure its containment and remediation, including any cleanup.

For the purposes of this Easement:

(i) The term "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal sources, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, asbestos-containing materials, radioactive materials, infectious materials and any other element, compound,

mixture, solution or substance which may pose a present or potential hazard to human health or the environment or any other material defined and regulated by Environmental Laws.

(ii) The term “Environmental Laws” means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, Hazardous Materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

(g) *Compliance with Grant Agreements.* Nothing in this Easement shall be construed as relieving Grantor of its obligation to comply with the terms and conditions of the Grant Agreements. Nothing in this Easement shall be construed as limiting or extinguishing the rights and legal authority of the Funders, or any of them, to enforce the terms and conditions of the Grant Agreements against Grantor.

15. Termination of Easement. It is the intention of the Parties that the Conservation Purpose of this Easement shall be carried out forever, notwithstanding economic or other hardship or changed conditions of any kind. No inaction or silence by Grantee shall be construed as abandonment of the Easement. The fact that the Property is not in agricultural or aquaculture use, or that the Property’s natural and historic resources are diminished, are not reasons for termination of this Easement. Nonetheless, if circumstances arise in the future such that render the Purpose of this Easement impossible to accomplish, this Easement shall only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment shall be determined as provided in Section 16 below, unless otherwise provided by California law and applicable Federal law at the time. Grantee shall distribute all such proceeds in a manner consistent with this Easement.

16. Condemnation.

(a) This Easement constitutes a real property interest immediately vested in Grantee. If all or any part of or interest in the 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 acknowledge that Grantee and the Funders are entitled to certain rights of notice, comment and compensation as provided in section 1240.055 of the California Code of Civil Procedure. If Grantor or Grantee is notified that the Property may be acquired for public use by eminent domain, the party receiving such notice shall notify the other party and the Funders of the potential acquisition no later than fifteen (15) days after first receiving such notice. Prior to the inspection of the Property by the appraiser pursuant to section 7267.1 of the California

Government Code or any other provision of law, Grantor shall notify Grantee that it or its designated representative may accompany the appraiser during his or her inspection. Within seven (7) days of receiving any notice of the hearing on the resolution of necessity pursuant to section 1245.235 of the California Code of Civil Procedure, Grantor shall provide Grantee and the Funders a copy of the notice of the hearing. As provided in sections 1250.220 and 1250.230 of the California Code of Civil Procedure, in any eminent domain proceeding to acquire all or a portion of or interest in the Property, Grantee shall be named as a defendant and may appear in the proceedings.

(b) If all or any part of or interest in the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantor, Grantee and the Funders shall act collectively to recover from the condemning authority the full value of the property or interest so taken or purchased, and all direct or incidental damages resulting therefrom. The Funders or their respective successors shall be entitled to the proportionate share of the Award (as defined below) as determined in accordance with the Grant Agreements.

Grantee has also contributed indirect costs and services to the acquisition of this Easement and contributed administrative costs of ongoing easement monitoring and enforcement. Those contributions shall be deducted from the total proceeds prior to the proportional division set forth above. All expenses incurred by Grantor and Grantee in connection with the taking or in-lieu purchase and Grantee's contribution for Easement monitoring and enforcement shall first be paid out of the total amount recovered and the net amount shall then be distributed to each of the Funders in accordance with their respective proportionate shares. If only a portion of the Property is subject to such exercise of the power of eminent domain or in-lieu purchase, this Easement shall remain in effect as to all other portions of the Property, and the deduction for Grantee's contributions of indirect costs and services shall likewise be proportional. Grantor shall promptly notify Grantee of any notices or actions pertaining to the actual or potential condemnation of all or any part of the Property. For purposes of this Agreement, the "Award" shall mean all compensation awarded, paid or received on account of the Property so taken or purchased, and all direct or incidental damages resulting from the taking or purchase, less all out-of-pocket expenses reasonably incurred by Grantee in connection with the taking or purchase.

17. Grantor's Title Warranty.

(a) Except as disclosed in Section 17(b), below, Grantor represents and warrants that Grantor has good fee simple title to the Property, that the Property is not subject to any other conservation easement whatsoever and that **Exhibit H** attached hereto sets forth all senior liens and encumbrances affecting the Property ("Prior Encumbrances"). If Grantor discovers at any time that any old or new interest in the Property exist that is not disclosed herein, Grantor shall immediately notify Grantee of the discovery of the interest and shall take all necessary steps to make the discovered interest subject to this Easement.

(b) A portion of the Property (as shown on **Exhibit B-2**, the Southern California Edison ("SCE") "Lundy Powerhouse Tailrace" and associated infrastructure) is the location of infrastructure related to the facility on an adjacent property known as the "Lundy Powerhouse," which is part of the Lundy Hydroelectric Project.

18. Perpetuation of Easement. This Easement shall be of perpetual duration, pursuant to California Civil Code section 815.1. No merger of title, estate or interest shall be deemed effected by any previous, contemporaneous or subsequent deed, grant or assignment of an interest or estate in the Property, or any portion thereof. It is the express intent of the Parties that this Easement shall not be extinguished by, or merged into, any other interest or estate in the Property now or hereafter held by Grantee or Grantee's successor or assignee.

19. Transfer of Easement by Grantee. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement, only with Grantor's and the Funders' consent, which shall not be unreasonably withheld, and only to an organization that is a qualified organization at the time of transfer under section 170(h) of the Code (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under California Civil Code section 815.3 (or any successor provision then applicable). If Grantor fails to respond to a written request for assignment by Grantee within thirty (30) days of Grantee's request therefor, such lack of response shall be deemed consent on the part of Grantor to the assignment. If no such private nonprofit organization exists or is willing to assume the responsibilities imposed by this Easement, then this Easement may be transferred to a public agency authorized to hold interests in real property as provided in section 815.3(b) of the Civil Code of California. Such a transfer may proceed only if the transferee agency or organization expressly agrees to assume the responsibility imposed on Grantee by this Easement pursuant to an assignment and assumption agreement. Any such assignment shall be in writing, shall refer to this Easement by reference to its recordation data, and shall be recorded in the Official Records of Mono County, California. The remainder of the Stewardship Endowment, if any, will be transferred with the Easement.

20. Subsequent Transfers. To the extent required by the Grant Agreements, Grantor shall obtain written approval of the Funders before any conveyance of the fee simple interest in the Property. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest or a license. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer, along with a copy of the proposed instrument of transfer. The failure of Grantor to perform any act required by this Section 20 shall not impair the validity of this Easement or limit its enforceability in any way or excuse the transferee from complying with the terms of this Easement.

21. 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, or orally as provided in Section 10. Notice shall be sufficiently given for all purposes as follows:

(a) Personal Delivery. When personally delivered to the recipient, notice is effective on delivery.

(b) Overnight Delivery. When delivered by overnight delivery, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

(c) Facsimile Transmission. When sent by facsimile to the last facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (i) a duplicate copy of the notice is promptly given by certified mail or by overnight delivery as set forth above, or (ii) the receiving party delivers a written confirmation of receipt. Any notice given by facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) on a nonbusiness day.

(d) *Email Notices.* Written notice for Written Adviseements may be given by email to the parties at the email addresses set forth below. Notices transmitted by email shall be deemed given on the date the receiving party confirms receipt by return email.

Addresses for purpose of giving notice are as follows:

To Grantor: Board of Supervisors
Attn: Clerk of the Board
P.O. Box 715
Bridgeport, CA 93517
(760) 932-5530
Email: lromero [@mono.ca.gov](mailto:lromero@mono.ca.gov)

To Grantee: Eastern Sierra Land Trust
Attn. Executive Director
Post Office Box 755
Bishop, California 93515
Telephone: (760) 873-4554
Email: kay@eslt.org

To Funders:

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

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

22. Recordation. This Easement shall be recorded in the Official Records of the County of Mono, State of California, according to the requirements of the County of Mono.

23. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may jointly amend this Easement; provided that no amendment shall be allowed that will adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including California Civil Code section 815.3 or section 170(h) of the Code, and any amendment shall be consistent with the Conservation Purpose of this Easement and with Grantee's easement amendment policies and procedures and shall not impair the Conservation Values, nor affect its perpetual duration. Any amendment of this Easement shall require the prior written consent of the Funders and any amendment made without this consent shall be void. Any such amendment shall be recorded in the Official Records of Mono County, California.

24. Executory Limitation. If Grantee ceases to exist or no longer qualifies to hold the Easement under section 170(h) of the Internal Revenue Code or applicable state law, a court of competent jurisdiction shall, upon consultation with Grantor and the Funders, transfer Grantee's interest in this Easement to another qualified organization as defined in Section 19 having similar purposes that agrees to assume the responsibilities imposed by this Easement or to a public agency that is willing and authorized to hold interests in real property as provided in section 815.3(b) of the Civil Code of California. The remainder of the Stewardship Endowment, if any, will be transferred with the Easement.

25. Third-Party Beneficiaries. Except as expressly provided below, there shall be no third-party beneficiaries of the Easement. The Funders are, jointly and severally, intended third-party beneficiaries of this Easement for the sole purpose of enforcing the provisions of this Easement against the Grantor, as authorized by California Civil Code sections 1085 and 1559 and common law and hold the right to enforce its terms in accordance with applicable law and policy; provided, however, the Funders may exercise this right of enforcement only if Grantee, or its successors or assigns, fails to enforce any of the terms of this Easement.

26. Miscellaneous Provisions.

(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California.

(b) 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 California Civil Code Section 815.1. 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.

(c) 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 circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement, all of which are merged herein.

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

(f) 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.

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

(h) 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.

(i) Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all 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.

(j) Exhibits and Recitals. All of the exhibits attached to this Easement are hereby incorporated into this Easement by this reference. All recitals in this Easement are accurate and shall constitute an integral part of this Easement, and this Easement shall be construed in light of those recitals.

(k) Initial Stewardship Endowment. The administration of this Easement by Grantee requires considerable time and expense, for which Grantee has received an initial Stewardship Endowment from Grantor pursuant to that certain Conveyance Agreement between the Parties dated ___ ("Conveyance Agreement" incorporated herein by this reference, as it may be amended from time to time). Grantee shall bear all routine stewardship and administrative expenses related to the Easement including, but not limited to the following activities: routine easement monitoring and reporting and review of proposed leases, licenses, and other agreements relating to activities on the Property other than development activities described in Section 8(a) of the Agreement. Grantor agrees to pay the reasonable expenses of Grantee for non-routine administration of the Easement including, but not limited to Easement amendment requests of Grantor, and the stewardship endowment and cost reimbursement pertaining to aquaculture development as set forth in Section 26(1)

(l) Second Stewardship Endowment and Cost Reimbursement for Aquaculture. The Parties recognize and agree that further development of the Property in accordance with Section 8(a) of the Easement (Aquaculture) will result in an additional burden on the monitoring and

enforcement responsibilities of Grantee. Pursuant to that certain Conveyance Agreement between the Parties, dated _____ (“Conveyance Agreement,” incorporated herein by this reference, as it may be amended from time to time), as a condition to Grantee’s consideration of proposed new aquaculture facilities development under Section 8(a) of the Easement, Grantor shall contribute to Grantee additional funds (referred to in the Conveyance Agreement as the “Second Stewardship Endowment”) and pay certain costs (referred to in the Conveyance Agreement as the “Cost Reimbursement”) for the administration, stewardship, monitoring and enforcement of the Easement with respect to such aquaculture facilities, in the amount and on the terms and conditions set forth in the Conveyance Agreement. Grantor understands that Grantee will act in reliance on Grantor’s agreement to make the Second Stewardship Endowment and the Cost Reimbursement in accordance with the provisions of the Conveyance Agreement. Any dispute between the Parties regarding the Second Stewardship Endowment and the Cost Reimbursement shall be resolved in accordance with the provisions of the Conveyance Agreement.

27. Acceptance. As attested by the signatures of their authorized parties affixed hereto, in exchange for consideration, Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Grant Deed of Conservation Easement.

TO HAVE AND TO 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.

GRANTOR:

GRANTEE:

COUNTY OF MONO, a political
subdivision of the State of California

EASTERN SIERRA LAND TRUST,
a California nonprofit public benefit
corporation

By: _____
Name: _____
Its: Chair, Board of Supervisors

By: _____
Name: _____
Its: Executive Director

Approved as to form:

Marshall Rudolph, County Counsel

ACKNOWLEDGMENTS

State of _____)
) ss.
County of _____)

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Notary Public

State of _____)
) ss.
County of _____)

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Notary Public

EXHIBIT A
Legal Description of Property

PARCEL 1:

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 2 NORTH, RANGE 25 EAST MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE.

(APN: 19-100-19)

PARCEL 2:

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 26 EAST MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

(APN: PORTION 19-110-16)

PARCEL 3:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 26 EAST MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF FILED IN THE DISTRICT LAND OFFICE ON DECEMBER 17, 1857.

(APN: PORTION 19-110-16)

PARCEL 4:

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 26 EAST, M.D.M., IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLACE THEREOF.

(APN: PORTION 19-110-16)

PARCEL 5:

LOTS A, 5 THROUGH 14, INCLUSIVE, 17 THROUGH 21 INCLUSIVE AND LOTS 24 THROUGH 108, INCLUSIVE, IN TRACT NO. 34-13, IN BOOK 9, PAGES 53 TO 53H, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

(APNS: 19-200-01 THROUGH 06; 19-200-09 THROUGH 13; 19-200-16 THROUGH 50 AND 19-210-05 THROUGH 59/**NOTE: THE APNS MAY OR MAY NOT MATCH THE LOT NUMBERS**)

EXCEPTING FROM PARCEL 5, LOTS 5, 17, 24 AND 105 THROUGH 108, INCLUSIVE, IN TRACT NO. 34-13, IN BOOK 9, PAGES 53 TO 53H, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

(APNS: 19-200-09, 19-200-13, 19-200-16, 19-210-05, 19-210-12 THROUGH -15, INCLUSIVE)

PARCEL 6:

THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER; THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, ALL IN SECTION 1 TOWNSHIP 2 NORTH, RANGE 25 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF. EXCEPT THEREFROM THAT PORTION OF SAID LAND CONVEYED TO THE STATE OF CALIFORNIA IN DEED RECORDED MARCH 29, 1961 IN BOOK 50 PAGE 224 OF OFFICIAL RECORDS.

(APN: PORTION 19-100-20)

PARCEL 7:

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER; THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER; THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 6, TOWNSHIP 2 NORTH, RANGE 26 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

(APN: PORTION 19-110-16)

PARCEL 8:

THE SOUTH HALF OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 25 EAST, MDM IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF

(APN: 19-100-08)

PARCEL 9:

THE NORTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER IN SECTION 1 TOWNSHIP 2 NORTH, RANGE 25 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF. EXCEPT THEREFROM THAT PORTION OF SAID LAND CONVEYED TO THE STATE OF CALIFORNIA IN DEED RECORDED MARCH 29, 1961 IN BOOK 50 PAGE 224 OF OFFICIAL RECORDS.

(APN: PORTION 19-100-20)

PARCEL 10:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 25 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF. EXCEPT THEREFROM, THAT PORTION OF SAID LAND AS CONVEYED TO THE STATE OF CALIFORNIA IN DEED RECORDED MARCH 29, 1961 IN BOOK 50 PAGE 224 OF OFFICIAL RECORDS.

(APNS: 11-200-09 &10)

PARCEL 11:

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 3 NORTH, RANGE 26 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

(APN: 11-280-21)

PARCEL: 12:

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER; THE WEST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER; THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; ALL IN SECTION 6, TOWNSHIP 2 NORTH, RANGE 26 EAST, MDM, IN THE COUNTY OF MONO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

(APN: PORTION 19-110-16)

TOGETHER WITH A RIGHT OF INGRESS AND EGRESS OVER THE ROADS SHOWN
ON TRACT MAP 34-13 FOR EASEMENT MONITORING AND ENFORCEMENT
PURPOSES

DRAFT

EXHIBIT B-1

Property Sketch Map – Conway Ranch

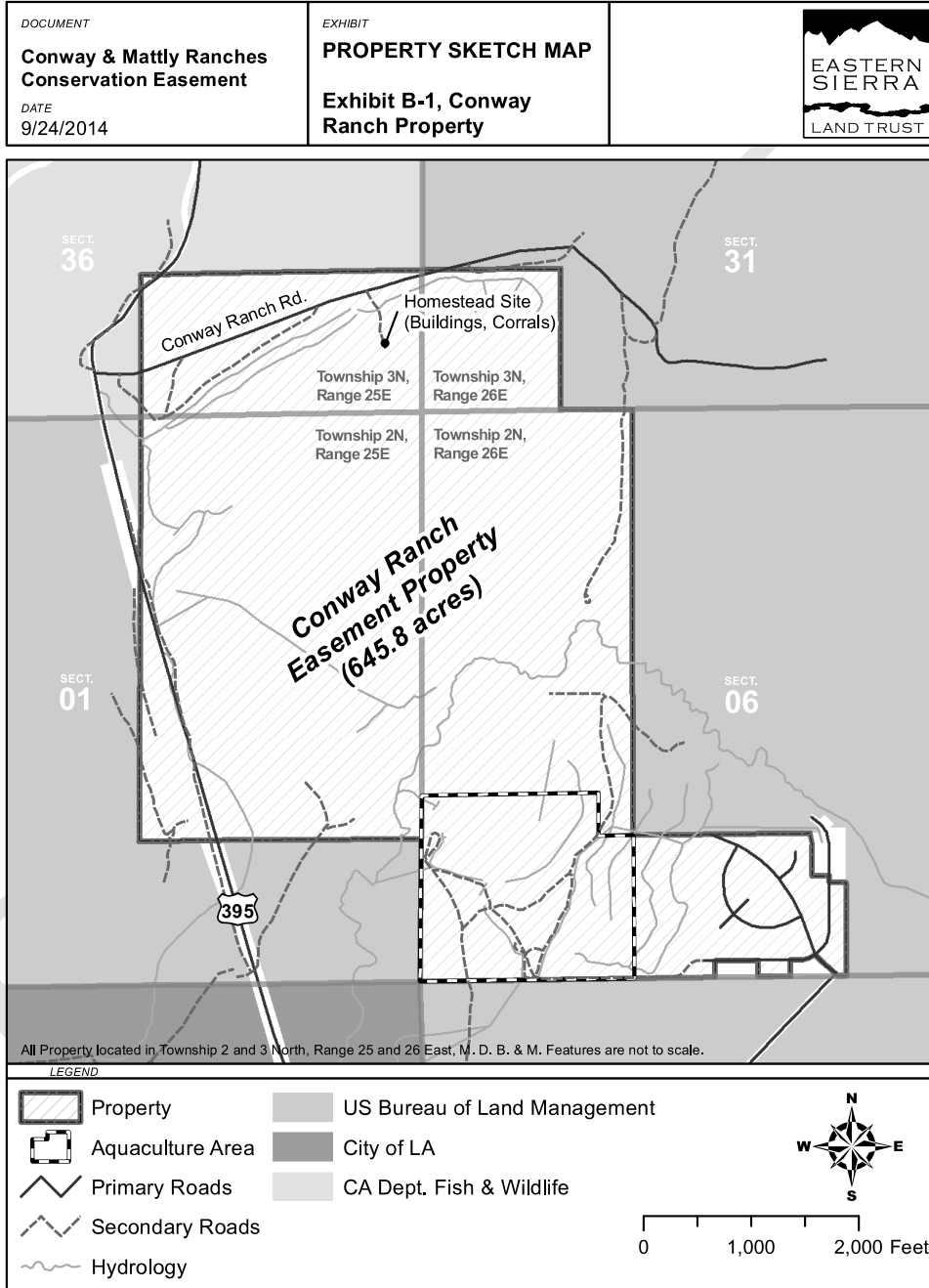


EXHIBIT B-2 Property Sketch Map – Mattly Ranch

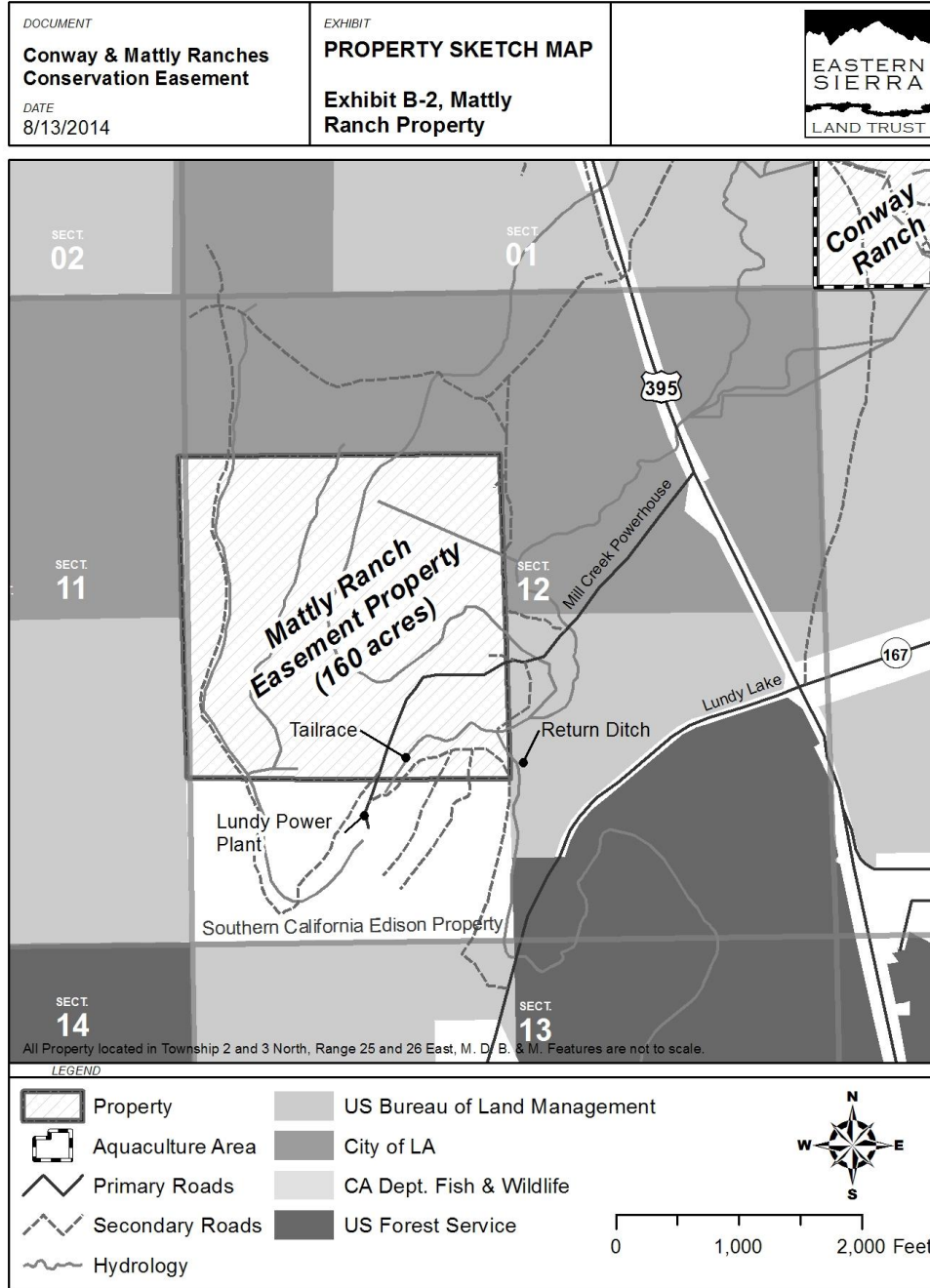


EXHIBIT B-3

Aquaculture Area Sketch Map

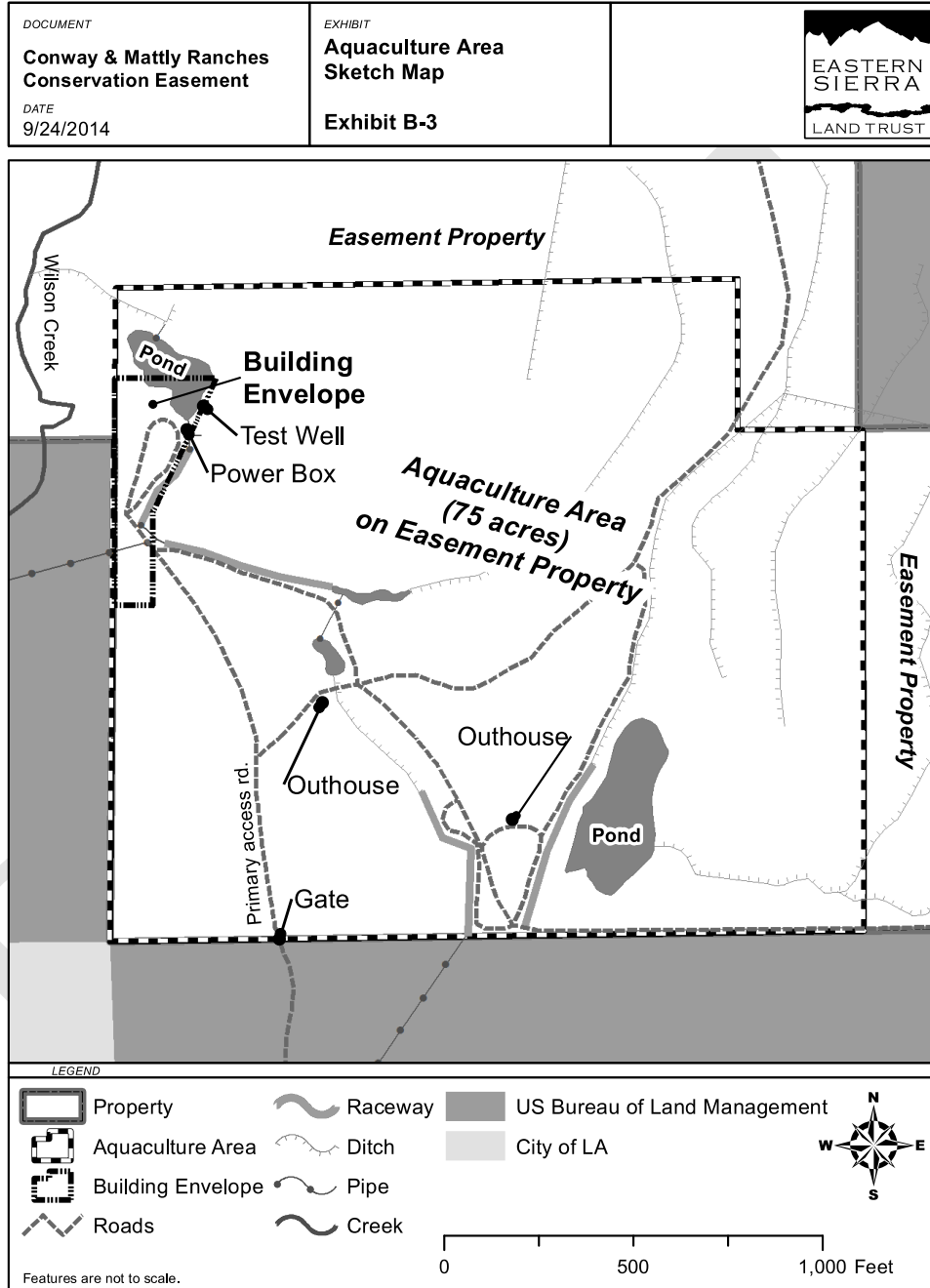


EXHIBIT C

Legal Description of Aquaculture Area

All of that portion of the southwest 1/4 of Section 6, Township 2 North, Range 26 East, Mount Diablo Meridian, more particularly described as; Southwest 1/4 of the Southwest 1/4 of Section 6; And the Southwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 6; And the northwest 1/4 of the southeast 1/4 of the Southwest 1/4 of section 6; And the South 400 feet of the Northwest 1/4 of the Southwest 1/4 of Section 6; And the South 400 feet of the West 1/2 of the Southwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 6; in the County of Mono, State of California, according to the Official Plat thereof, approved December 17, 1857.

Containing approximately 74.67 acres.

DRAFT

EXHIBIT D
Adjudicated Water Rights

Mill Creek Adjudicated Water Rights

Grantor is the sole owner of those certain adjudicated water rights as set forth in the Mill Creek Water Adjudication; Mono County Superior Court Case No. 2088 dated June 17, 1915, but entered into nunc pro tunc as of November 30, 1914, incorporated herein by this reference (“Mill Creek Adjudication”).

Summary Table of Present Day Mill Creek Adjudicated Water Rights
Table compiled by Don Mooney, consulting attorney for Mono County, for North Mono Basin
Watershed/Landscape Analysis (2001).

Priority Right	Right Holder ¹	Quantity of Right (cfs) ²	Cumulative LADWP	Cumulative Conway (Mono Co.)	Cumulative Total
1st	LADWP	1	1	0	1
2nd	Mono Co.	2	1	2	3
3rd	BLM	2	1	2	5
4th	Mono Co.	8	1	10	13
5th	LADWP	9.2	10.2	10	22.2
6th	Simis	1.8	10.2	10	24
7th	LADWP	14	24.2	10	38
8th	Mono Co.	5	24.2	15	43
9th	USFS	12.6	24.2	15	55.6
10th	LADWP	18	42.2	15	73.6
11th	Mono Co.	1	42.2	16	74.6

¹ Right Holders are identified as follows:

LADWP: City of Los Angeles, Department of Water and Power

Mono Co.: Mono County

BLM: United States Department of the Interior, Bureau of Land Management

Simis: J.O. Simis, private landowner

USFS: United States Forest Service

Note. The Right Holders identified above are the present day successors in interest to the parties identified in the Mill Creek Adjudication.

² Quantity of right is measured in cubic feet per second (cfs).

The water rights held by Grantor at the present day being a combination of adjudicated rights originally assigned under the Mill Creek Adjudication and passing to Grantor as eventual successor in interest as established below.

TOGETHER WITH all right, title and interest to a portion of the water rights appurtenant to the Property as follows: a total of 4.0 cubic feet per second ("cfs") (the "Conveyed Water Rights") of the 14 cfs of water annually which is an allocated proportion of the pre-1914 appropriative and adjudicated water rights as confirmed and adjudicated pursuant to the Mono County Superior Court in Hydro Electric Company vs. J.A. Conway, et al., Judgment and Decree No. 2088 rendered by said Superior Court on June 17, 1915, but entered *nunc pro tunc* as of November 30, 1914 (the "Decree") which awarded John A. Conway 14 cfs to waters flowing in Mill Creek for reasonable and beneficial purposes on the land referred to in the Decree. A summary of the water rights adjudicated by the Decree is attached hereto and incorporated herein at Exhibit B. The Conveyed Water Rights are more particularly the following:

(A) a total of 3 cfs of the 12 cfs decreed to be owned by J.A. Conway under the Decree, which are "Priority 2" rights, which are further agreed to be the sixth (6th) cfs, the seventh (7th) cfs and the eighth (8th) cfs of said 12 cfs; and

(B) a total of 1 cfs of the 2 cfs decreed to be owned by J.A. Conway under the Decree, which are "Priority 9" rights, which is further agreed to be the first (1st) of said 2 cfs.

TOGETHER WITH all right, title and interest to a portion of the water rights appurtenant to the Property as follows: a total of 12 cubic feet per second ("cfs") (the "Mill Creek Conveyed Water Rights") of the 18 cfs of water annually that is an allocated proportion of the pre-1914 appropriative and adjudicated water rights as confirmed and adjudicated pursuant to the Mono County Superior Court in Hydro Electric Company v. J.A. Conway, et al., Judgment and Decree No. 2088 rendered by said Superior Court on June 17, 1915, but entered *nunc pro tunc* as of November 30, 1914 (the "Mill Creek Decree") which awarded John A. Conway 14 cfs and F.D. Mattly 4 cfs, to water flowing in Mill Creek for reasonable and beneficial purposes on the land referred to in the Mill Creek Decree. A summary of the water rights adjudicated by the Mill Creek Decree is attached hereto and incorporated herein at Exhibit B.

The Mill Creek Conveyed Water Rights are more particularly the following:

(A) a total of 7 cfs of the 12 cfs decreed to be owned by J.A. Conway under the Mill Creek Decree, which are "Priority 2" rights, which are further agreed to be the first (1st), second (2nd), fifth (5th), ninth (9th), tenth (10th), eleventh (11th) and twelfth (12th) of said 12 cfs as identified in Exhibit B attached hereto.

(B) a total of 3 cfs of the 3 cfs decreed to be owned by F.D. Mattly under the Mill Creek Decree, which are "Priority 8" rights as identified in Exhibit B attached hereto;

(C) a total of 1 cfs of the 2 cfs decreed to be owned by J.A. Conway under the Mill Creek Decree, which are "Priority 9" rights as identified on Exhibit B attached hereto, which are further agreed to be the second (2nd) of said 2 cfs; and

(D) a total 1 cfs of the 1 cfs decreed to be owned by F.D. Mattly under the Mill Creek Decree, which is "Priority 12" rights as identified on Exhibit B attached hereto.

SUMMARY OF WATER RIGHTS
FOR MILL CREEK

Based on: Case #2088
Hydro Electric Co. v. John A. Conway et al
(November 30, 1914)

<u>Priority</u>	<u>Decreed Owner</u>	<u>Amount (cfs)</u>	<u>Total</u>
1	N.C.P.C.	1	1
2	J.A. Conway	12	13
3	Hydro Electric Co.	6	19
4	Mary Felosina	2.4	21.4
4	A.G. Allen	1	22.4
4	Thomas Sylvester	1.6	24
7	Hydro Electric Co.	14	38
8	F.D. Mattly	3	41
9	J.A. Conway	2	43
10	L.W. Dechambeau	12.6	55.6
11	Mary Felosina	3	58.6
12	F.D. Mattly	1	59.6
13	J.S. Cain	6	65.6
14	Hydro Electric Co.	1	67.6
other	Pacific Power Co.	300	Power
	Pacific Power Co.	300	Irrigation
	Pacific Power Co.	300	all surplus for power

Note. This table is referred to as "Exhibit B" in the preceding paragraphs and is provided here for the purpose of confirming the rights associated with the property

TOGETHER WITH all right, title and interest in and to a portion of the water rights appurtenant to the Property as follows: a total of 2 cubic feet per second ("cfs") (the "Mill Creek Conveyed Water Rights") of the 14 cfs of water annually that is an allocated proportion of the pre-1914 appropriative and adjudicated water rights as confirmed and adjudicated pursuant to the Mono County Superior Court in *Hydro Electric Company v. J.A. Conway, et al.* Judgment and Decree No. 2088 rendered by said Superior Court on June 17, 1915, but entered *nunc pro tunc* as of November 30, 1914 (the "Mill Creek Decree") which awarded John A. Conway 14 cfs to water flowing in Mill Creek for reasonable and beneficial purposes on the land referred to in the Mill Creek Decree. A summary of the water rights adjudicated by the Mill Creek Decree is attached hereto and incorporated herein as Exhibit B.

The Mill Creek Conveyed Water Rights are more particularly the following: a total of 2 cfs of the 12 cfs decreed to be owned by J. A. Conway under the Mill Creek Decree, which are "Priority 2" rights, which are further agreed to be the third (3rd) and the fourth (4th) of said 12 cfs as identified in Exhibit B attached hereto; and

Those rights assigned to J.A. Conway and and F.D. Mattly in the Mill Creek Adjudication passing to Grantor as eventual successor in interest in the Property.

Virginia Creek Adjudicated Water Rights

Grantor is the sole owner of those certain adjudicated water rights as set forth in the Walker River Decree in Equity (C-125), entered April 14, 1936 and amended April 24, 1940 ("Walker River Decree").

The water rights held by Grantor at the present day being a combination of adjudicated rights originally assigned under the Walker River Decree and passing to Grantor as eventual successor in interest as established below.

TOGETHER WITH all right, title and interest in and to a portion of the water rights appurtenant to the Property as follows: a total of 3 cfs (the "Virginia Creek Conveyed Water Rights") of the 6 cfs of water annually that is an allocated proportion of the pre-1914 appropriative and adjudicated water rights as confirmed and adjudicated in *United States v. Walker River Irrigation, et al.* Case in Equity, C-125 ("Walker River Decree"), which final decree was entered April 14, 1936 and amended April 24, 1940, to waters flowing in Virginia Creek for reasonable and beneficial purposes on the lands referred to in said decree.

The Virginia Creek Conveyed Water Rights are more particularly the following: a total of 3 cfs of the 6 cfs of water from Virginia Creek decreed to J.A. and R.P. Conway under the Walker River Decree, which consists of the first (1st), third (3rd), and fifth (5th) cfs of said 6 cfs. As provided in the Walker River Decree, of the 3 cfs of the Virginia Creek Conveyed Water Rights, 1.56 cfs has a relative priority date of 1860 and 1.44 has a relative priority date of 1863.

TOGETHER WITH all right, title and interest in and to a portion of the water rights appurtenant to the Property as follows: a total of 3 cfs (the "Virginia Creek Conveyed Water Rights") of the 6 cfs of water annually that is an allocated proportion of the pre-1914 appropriative and adjudicated water rights as confirmed and adjudicated in *United States v. Walker River Irrigation, et al.* Case in Equity, C-125 ("Walker River Decree"), which final decree was entered April 14, 1936 and amended April 24, 1940, to waters flowing in Virginia Creek for reasonable and beneficial purposes on the lands referred to in said decree. The Virginia Creek Conveyed Water Rights are more particularly the following: a total of 3 cfs of the 6 cfs from Virginia Creek decreed to J.A. and R.P. Conway under the Walker River Decree, which consists of the second (2nd), the fourth (4th) and the sixth (6th) cfs of said 6 cfs. As provided in the Walker River Decree, of the 3 cfs of the Virginia Creek Conveyed Water Rights, the second (2nd) cfs has a priority date of 1860 and the fourth (4th) and the sixth (6th) cfs have a priority date of 1863.

Those rights assigned to J.A. Conway and R.P. Conway in the Walker River Decree passing to Grantor as eventual successor in interest in the Property.

EXHIBIT E

Map of Conway Ranch Phases and Funding Sources

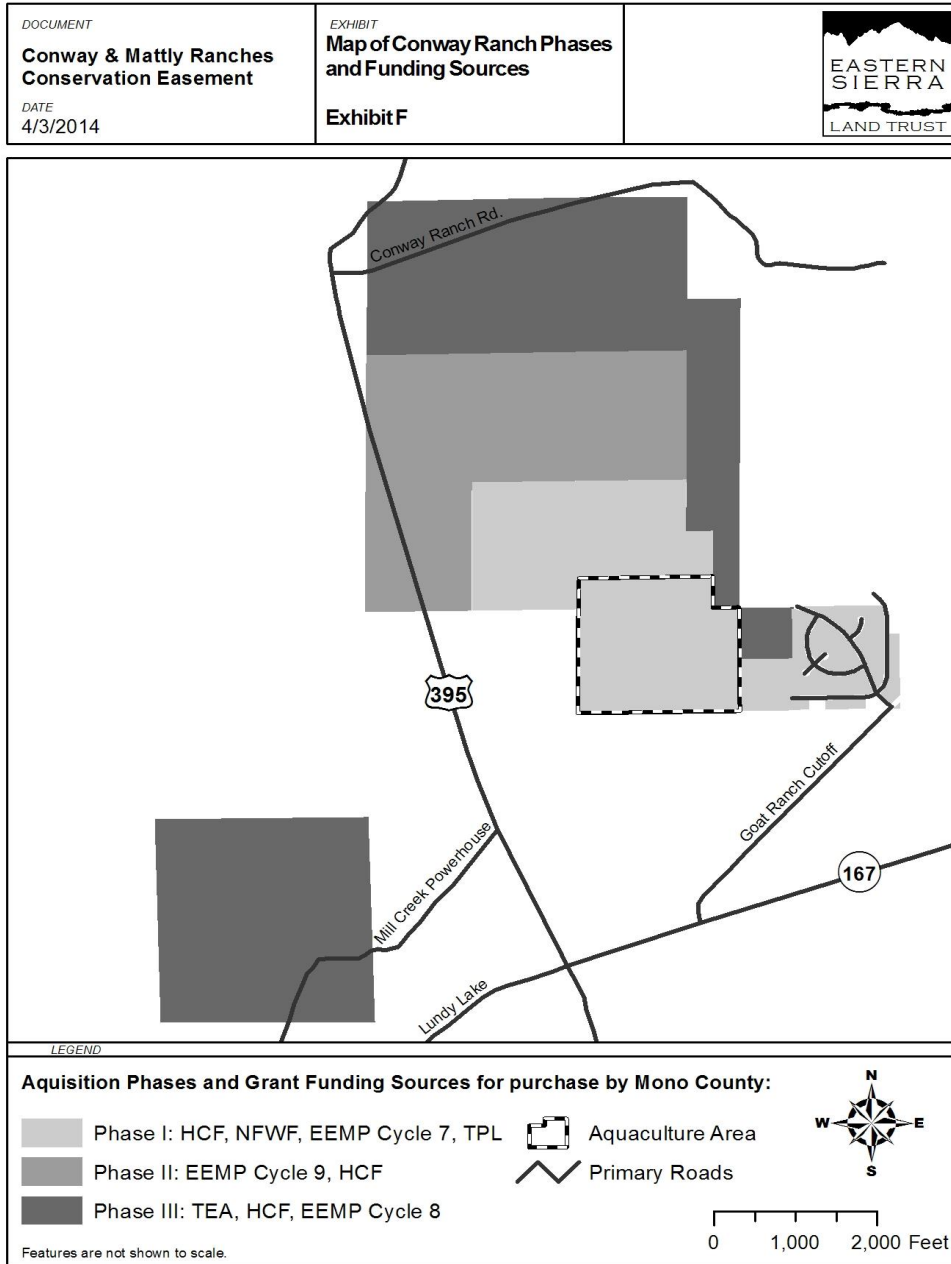


EXHIBIT F
Approval of Funders

The undersigned Funders, duly authorized, hereby approve the foregoing Grant Deed of Conservation Easement:

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: _____
THOMAS P. HALLENBECK

Title: District 9 Director _____

Date: _____

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

By: _____

Title: _____

Date: _____

NATIONAL FISH & WILDLIFE FOUNDATION

By: _____

Title: _____

Date: _____

EXHIBIT G
Acknowledgement of Baseline Documentation Report

**Conway and Mattly Ranches
Conservation Easement**

Baseline Documentation Report

Acknowledgement of Property Condition

In compliance with 26 CFR Section 1.170A-14(g)(5), the undersigned accept and acknowledge that this Baseline Documentation Report is an accurate representation of the property at the time the Conservation Easement was transferred to the grantee on _____, 2014.

Grantor:

COUNTY OF MONO, a political
subdivision of the State of California

By: _____
Name: _____
Its: Chair, Board of Supervisors

Grantee:

_____ Date: _____

Kay Ogden
Executive Director
Eastern Sierra Land Trust

Grantee _____ Date: _____

Aaron Johnson
Lands Director
Eastern Sierra Land Trust

EXHIBIT H
Prior Encumbrances

1. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : STATE OF CALIFORNIA
FOR : STATE HIGHWAY
RECORDED : AUGUST 31, 1923, IN BOOK T, PAGE 474, OF DEEDS
AFFECTS : PARCELS 6, 9 AND 10

2. A WAIVER IN FAVOR OF THE STATE OF CALIFORNIA OF ANY CLAIMS FOR DAMAGES TO SAID LAND BY REASON OF HIGHWAY CONTIGUOUS THERETO, CONTAINED IN THE DEED
FROM : MRS. MARY A. CONWAY, R.P. CONWAY, CHRISTIAN MATTLY, MRS. M. FILOSENA, GRACE KIRKWOOD, MALLIS D. MC PHERSON, W.W. CUNNINGHAM.
FOR : ESTABLISHMENT OF SAID HIGHWAY
RECORDED : AUGUST 31, 1923, IN BOOK T, PAGE 474, OF DEEDS
AFFECTS : PARCELS 6, 9 AND 10

3. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : SOUTHERN SIERRAS POWER COMPANY
FOR : POLE LINES
RECORDED : JUNE 16, 1931, IN BOOK 7, PAGE 26, OF OFFICIAL RECORDS
AFFECTS : PARCEL 8

4. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : THE SOUTHERN SIERRAS POWER COMPANY
FOR : POLE LINE OR OTHER SUPPORTS
RECORDED : JULY 6, 1931, IN BOOK 7, PAGE 34, OF OFFICIAL RECORDS
AFFECTS : PARCELS 6 AND 9

5. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : INTERSTATE TELEGRAPH COMPANY
FOR : POLE LINES FOR TELEPHONE AND TELEGRAPH
RECORDED : OCTOBER 20, 1944, IN BOOK 20, PAGE 207, OF OFFICIAL RECORDS
AFFECTS : PARCELS 6 AND 9

6. A WAIVER IN FAVOR OF THE STATE OF CALIFORNIA OF ANY CLAIMS FOR DAMAGES TO SAID LAND BY REASON OF HIGHWAY CONTIGUOUS THERETO, CONTAINED IN THE DEED
FROM : GLADYS C. MILLNER, A MARRIED WOMAN, WHO ACQUIRED TITLE AS GLADYS C. CROSBY, A WIDOW, AND FRANK S. MILLNER, HER HUSBAND
RECORDED : MARCH 29, 1961, IN BOOK 50, PAGE 224, OF OFFICIAL RECORDS
AFFECTS : PARCELS 6, 9 AND 10

7. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AN INCIDENTAL PURPOSES,
 IN FAVOR OF : SOUTHERN CALIFORNIA EDISON COMPANY
 FOR : OVERHEAD AND UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS
 RECORDED : OCTOBER 9, 1969, IN BOOK 105, PAGE 435, OF OFFICIAL RECORDS
 AFFECTS : PARCELS 5 AND 8
8. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
 IN FAVOR OF : SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION
 FOR : UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEM
 RECORDED : FEBRUARY 8, 1982, IN BOOK 347, PAGE 295, OF OFFICIAL RECORDS
 AFFECTS : PARCELS 1, 6 AND 9
9. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AN INCIDENTAL PURPOSES,
 IN FAVOR OF : SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION
 FOR : UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEM
 RECORDED : APRIL 13, 1982, IN BOOK 352, PAGE 366, OF OFFICIAL RECORDS
 AFFECTS : PARCELS 1, 2, 3, 4, 6, 7, 9, 10, AND 12
10. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AN INCIDENTAL PURPOSES, SHOWN OR DEDICATED BY THE MAP OF
 TRACT : TRACT NO. 34-13
 FOR : OPEN SPACE AND PUBLIC UTILITY PURPOSES
 AFFECTS : LOT A

 SAID MATTER AFFECTS : PARCEL 5
11. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AN INCIDENTAL PURPOSES, SHOWN OR DEDICATED BY THE MAP OF
 TRACT : TRACT NO. 34-13
 FOR : DRAINAGE EASEMENT
 AFFECTS : LOTS 94 AND 95

 SAID MATTER AFFECTS : PARCEL 5
12. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AN INCIDENTAL PURPOSES, SHOWN OR DEDICATED BY THE MAP OF
 TRACT : TRACT NO. 34-13
 FOR : TEMPORARY TURNAROUND RIGHT-OF-WAY
 AFFECTS : LOTS 1, 2, 25, 26, 27, 57, 58 AND 80

 SAID MATTER AFFECTS : PARCEL 5
13. COVENANTS, CONDITIONS AND RESTRICTIONS IN THE DECLARATION OF RESTRICTIONS, BUT "OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS."
 EXECUTED BY : CONWAY RANCH PARTNERSHIP
 RECORDED : AUGUST 4, 1982, IN BOOK 360, PAGE 223, OF OFFICIAL RECORDS

WHICH PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT OR RENDER INVALID THE LIEN OF ANY MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

SAID COVENANTS, CONDITIONS AND RESTRICTIONS HAVE BEEN MODIFIED BY AN INSTRUMENT
EXECUTED BY : COUNTY OF MONO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA
RECORDED : MAY 31, 2000, IN BOOK 904, PAGE 216, OF OFFICIAL RECORDS

NOTE: SECTION 12956.1(B)(1) OF THE CALIFORNIA GOVERNMENT CODE PROVIDES THE FOLLOWING: IF THIS DOCUMENT CONTAINS ANY RESTRICTION, PREFERENCE, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, GENETIC INFORMATION, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SOURCE OF INCOME (AS DEFINED IN CALIFORNIA GOVERNMENT CODE §12955(P)) OR ANCESTRY, TO THE EXTENT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE 42 U.S.C. §3604(C) OR CALIFORNIA GOVERNMENT CODE §12955. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

SAID MATTER AFFECTS: PARCEL 5

14. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : CONWAY RANCH PARTNERSHIP
FOR : UTILITY SERVICES AND DRAINAGE PURPOSES
RECORDED : AUGUST 4, 1982, IN BOOK 360, PAGE 223, OF OFFICIAL RECORDS
AFFECTS : PARCEL 5
15. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION AND CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA, A CORPORATION
FOR : OVERHEAD AND UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS
RECORDED : AUGUST 4, 1982, IN BOOK 360, PAGE 231, OF OFFICIAL RECORDS
AFFECTS : PARCEL 5
16. A NOTICE OF NOMINATION TO ARCHITECTURAL CONTROL COMMITTEE ("NOTICE OF NOMINATION") DATED JANUARY 14, 1998 MADE BY AND BETWEEN ARNOLD S. BECKMAN ("BECKMAN" OR "NOMINATOR") AND THE TRUST FOR PUBLIC LAND ("TPL" OR "NOMINEE")
RECORDED : JANUARY 20, 1998, IN BOOK 786, PAGE 568, OF OFFICIAL RECORDS
AFFECTS : PARCEL 5
REFERENCE IS MADE TO SAID NOTICE FOR FURTHER PARTICULARS.
17. AN EASEMENT AFFECTING ALL OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : THE TRUST FOR PUBLIC LAND
FOR : INGRESS AND EGRESS
RECORDED : DECEMBER 31, 1998, IN BOOK 832, PAGE 003, OF OFFICIAL RECORDS
AFFECTS : PARCELS 1, 2, 3, 4, 5, 7 AND 12
18. INTENTIONALLY OMITTED.
19. A NOTICE OF NOMINATION TO ARCHITECTURAL CONTROL COMMITTEE ("NOTICE OF NOMINATION") DATED OCTOBER 21, 1998 MADE BY AND BETWEEN THE TRUST FOR PUBLIC LAND ("TPL" OR "NOMINATOR") AND COUNTY OF MONO ("COUNTY OR "NOMINEE")
RECORDED : DECEMBER 31, 1998, IN BOOK 832 PAGE 17 OF OFFICIAL RECORDS
AFFECTS : PARCEL 5
REFERENCE IS MADE TO SAID NOTICE FOR FURTHER PARTICULARS.

20. ENVIRONMENTAL ENHANCEMENT AND MITIGATION (EEM) PROGRAM AGREEMENT DECLARING RESTRICTIVE COVENANTS (ADRC) PROJECT NUMBER: 97-83 ENTERED INTO AS OF THE 30TH DAY OF JUNE, 1998, BY AND BETWEEN THE COUNTY OF MONO, AS "APPLICANT," AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS), HEREINAFTER AS "STATE,"
RECORDED : DECEMBER 31, 1998, IN BOOK 832 PAGE 21 OF OFFICIAL RECORDS

THIS AGREEMENT DECLARING RESTRICTIVE COVENANTS HAS BEEN MODIFIED BY AN INSTRUMENT

EXECUTED BY : COUNTY OF MONO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION
RECORDED : HEREWITH

AFFECTS : PARCELS 1, 2, 3, 4 (portion), AND 5

REFERENCE IS MADE TO SAID AGREEMENT FOR FURTHER PARTICULARS.

21. AN EASEMENT AFFECTING ALL OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : THE TRUST FOR PUBLIC LAND
FOR : INGRESS AND EGRESS
RECORDED : MARCH 30, 2000, IN BOOK 897, PAGE 108, OF OFFICIAL RECORDS
AFFECTS : PARCELS 2, 3, 4, 6, 7, 8, 9, 10, 11 AND 12

22. TRANSPORTATION ENHANCEMENT ACTIVITIES (TEA) PROGRAM AGREEMENT DECLARING RESTRICTIVE COVENANTS TEA PROJECT NUMBER STPE-P395 (186)N ENTERED INTO AS OF THE 13TH DAY OF MARCH, 2000, BY AND BETWEEN THE COUNTY OF MONO, AS "APPLICANT," AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS), "STATE"
RECORDED : MARCH 30, 2000, IN BOOK 897, PAGE 114, OF OFFICIAL RECORDS

THIS AGREEMENT DECLARING RESTRICTIVE COVENANTS HAS BEEN MODIFIED BY AN INSTRUMENT

EXECUTED BY : COUNTY OF MONO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION
RECORDED : HEREWITH

AFFECTS : PARCELS 8, 9, 10, 11, AND 12

REFERENCE IS MADE TO SAID AGREEMENT FOR FURTHER PARTICULARS.

23. ENVIRONMENTAL ENHANCEMENT AND MITIGATION (EEM) PROGRAM AGREEMENT DECLARING RESTRICTIVE COVENANTS, (ADRC) ENTERED INTO AS OF THE 5TH DAY OF MARCH, 2000, BY AND BETWEEN MONO COUNTY, AS "APPLICANT," AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS), AS "STATE"
RECORDED : MARCH 30, 2000, IN BOOK 897 PAGE 124, OF OFFICIAL RECORDS.

THIS AGREEMENT DECLARING RESTRICTIVE COVENANTS HAS BEEN MODIFIED BY AN INSTRUMENT

EXECUTED BY : COUNTY OF MONO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION
RECORDED : HEREWITH

AFFECTS : PARCELS 6 AND 7

REFERENCE IS MADE TO SAID AGREEMENT FOR FURTHER PARTICULARS.

24. ENVIRONMENTAL ENHANCEMENT AND MITIGATION (EEM) PROGRAM AGREEMENT DECLARING RESTRICTIVE COVENANTS, (ADRC) ENTERED INTO AS OF THE 5TH DAY OF MARCH, 2000, BY AND BETWEEN MONO COUNTY, AS "APPLICANT," AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS), AS "STATE"
RECORDED : MARCH 30, 2000, IN BOOK 897 PAGE 137, OF OFFICIAL RECORDS.

THIS AGREEMENT DECLARING RESTRICTIVE COVENANTS HAS BEEN MODIFIED BY AN INSTRUMENT
EXECUTED BY : COUNTY OF MONO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA AND THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION
RECORDED : HEREWITH
AFFECTS : PARCELS 8, 9, 10, 11 AND 12

REFERENCE IS MADE TO SAID AGREEMENT FOR FURTHER PARTICULARS.

25. AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION
FOR : DISTRIBUTING ELECTRICAL ENERGY AND FOR TRANSMITTING INTELLIGENCE BY ELECTRICAL MEANS
RECORDED : OCTOBER 21, 2008, AS INSTRUMENT NO 2008005002, OF OFFICIAL RECORDS
AFFECTS : PARCEL 4
26. AN EASEMENT AFFECTING ALL OF SAID LAND FOR THE PURPOSES STATED HEREIN, AND INCIDENTAL PURPOSES,
IN FAVOR OF : UNITED STATES OF AMERICA
FOR : ACCESS
RECORDED : JULY 1, 2011, AS INSTRUMENT NO. 2011003737, OF OFFICIAL RECORDS
AFFECTS : PARCEL 8