AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Conservation Easement Amendment Concurrence; Viking Valley; Razor Creek Ranch, LLC; Greg Peterson

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
See attached letter from J Wenum, Colorado Parks and Wildlife Area Manager

Fiscal Impact: None

Submitted by: Katherine Haase **Submitter's Email Address:** khaase@gunnisoncounty.org

Finance Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ● Required ○ Not Required

Comments:

The idea behind the letter sounds great, but it does not contain any specifics about the actual amended easment. In other words, you are being asked to approve a concept without specifics on the ground -some discussion about what is being proposed on the record may be appropriate.

Reviewed by: ATrezise Discharge Date: 7/18/2013 Certificate of Insurance Required

Yes ○ No ●

County Manager Review:

Comments:

Reviewed by: KHaase Discharge Date: 7/30/2013

○ Consent Agenda ● Regular Agenda ○ Worksession Time Allotted: 5 minutes

Agenda Date: 8/6/2013 Follow Up Agenda Date: N/A

Revised April 2013

The 1989 FHA conservation easement ("CE") that created Viking Valley SHA was deficient in its protection language and the fact that mapping of the three habitat areas (riparian, hay and sage) was flawed. In addition, the description of the property conveyed in the CE failed to identify legally, and with certainty, five 40 acre quarter-quarters that CPW considers part of Viking Valley SHA. The opinion of two attorneys in the Attorney General's Office confirmed that it is uncertain whether this 200 acre portion of the CE is, in fact, legally burdened by the 1989 CE. To address these two issues, CPW and the landowner, Razor Creek Ranch, LLC (Greg Peterson) have agreed to the following.

1. Razor Creek will convey to CPW a Conservation Easement for the five quarter-quarters in question incorporating the same updated language of the CE Amendment. With the execution of this new CE, all the property originally intended to be included in the 1989 CE will be protected.

2. CPW and Razor Creek will execute a Conservation Easement Amendment amending the 1989 original CE by strengthening the habitat protection language by substituting and incorporating contemporary conservation easement language; clarifying and refining the mapping of the three habitat areas; making reference to a recent baseline report of the SHA; and including in the CE Amendment a recent management plan agreed to by the parties.

The new conservation easement and the conservation easement amendment make reference to each other and state that the overall intent is that Viking Valley SHA be governed by a single set of protective standards, maps and management plan.

COLORADO PARKS & WILDLIFE

300 W New York Ave • Gunnison, Colorado 81230
Phone (970) 641-7060 • FAX (970) 641-7883
wildlife.state.co.us • parks.state.co.us

Gunnison Board of County Commissioners
Attention Paula Swenson
200 E. Virginia St.
Gunnison, CO 81230

RE: Conservation Easement Amendment

July 11, 2013

Dear Gunnison County Commissioners,

Colorado Parks and Wildlife is in the process of amending a 1989 conservation easement for property located long the Gunnison/Saguache County line approximately 20 miles SE of Gunnison. Greg Peterson and his family have owned the Viking Valley State Habitat Area for several years. They have added several conservation easements on adjacent properties to help protect their interests and ensure the land can remain in agricultural production and a viable part of their ranching operation. Mr. Peterson approached CPW about working to clean up, modernize and clarify the original Viking Valley easement. CPW is very agreeable to this request and feels it will help resolve some unsettled and vague issues concerning the original Farmers Home Administration easement tied to the property.

Mr. Peterson has been working with CPW staff to clarify and update the easement language which was confusing, inadequate, and included inaccurate mapping of the habitat areas to be protected. In addition, five 40 acre parcels intended to be included in the easement were not legally defined sufficiently to make it certain that they are burdened by the easement. A complicated history of amendments to the original easement increased the confusion. To avoid costly and undesired litigation Mr. Peterson and CPW have worked to update the conservation easement and its language and coverage in a cooperative manner.

CPW and Peterson will execute a Conservation Easement Amendment which will provide updated language to address today's conservation easement needs and legal requirements. In addition, Mr. Peterson will convey to CPW a new conservation easement for the five 40 acre parcels to clarify the inclusion of this property in the easement and remove confusion as to the legal status of the parcels in question. The total land involved will be approximately 1120 acres and includes important Gunnison sage grouse habitat. Mr. Peterson is on the Gunnison Basin Sage grouse Strategic Committee and is fully aware of the importance of protecting habitat for Gunnison sage grouse, as well as his ranching operations.

STATE OF COLORADO
John W. Hickenlooper, Governor • Mike King, Executive Director, Department of Natural Resources
Rick D. Cables, Director, Colorado Parks and Wildlife
Parks and Wildlife Commission: Robert W. Bray • Chris Castilian • Jeanne Horne
Bill Kane, Vice-Chair • Gaspar Perricone • James Pribyl • John Singletary, Chair
Mark Smith, Secretary • James Vigil • Dean Wingfield • Michelle Zimmerman
Ex Officio Members: Mike King and John Salazar

As part of its conservation easement process CPW seeks concurrence from the local Boards of County Commissioners for the involved counties and from the local State Representative and Senator. In this case the property straddles the county line for Gunnison and Saguache Counties and both counties will be contacted. The county line is also the dividing line between legislative districts for both the State Senate and House. Therefore this letter will be provided to Senators Schwartz and Crowder and Representatives Hamner and Vigil. CPW's easement process includes the letters of concurrence, approval by the Capital Development Committee of the Colorado Legislature and approval by the Parks and Wildlife Commission.

If you concur with the above conservation easement amendment please sign the concurrence agreement at the bottom and return the letter with your signature to:

Colorado Parks and Wildlife
Real Estate Section-Attention Jay Cooper
6060 Broadway
Denver, CO 80216

Or by faxing it to (303) 291-7456 or emailing a scanned copy of it to Jay Cooper at jay.cooper@state.co.us. Receipt of the letter by August 15 would be greatly appreciated and help with continuing to move the project forward in a timely manner.

If you have questions or need further clarification please contact me at (970) 641-7069 or at j.wenum@state.co.us. Thank you for considering this important effort to conserve agriculture and wildlife including Gunnison sage grouse habitat.

Sincerely,

J Wenum
Area Wildlife Manager-Gunnison

Cc: Jay Cooper, CPW Real Estate Specialist

We, Gunnison Board of County Commissioners, concur with the amendment of a conservation easement known as Viking Valley on approximately 1120 acres of land, owned by Greg Peterson (Razor Creek Ranch LLC), southeast of Gunnison in Gunnison and Saguache Counties.

Signature:_____ Date:_____