



**ROCKY MOUNTAIN  
ELK FOUNDATION**

*Sent via E-mail*

October 14, 2019

Lara Knoerr  
Broker/Owner  
Exclusively Real Estate, Ltd.  
100 W Colorado Ave #220, PO Box 3827  
Telluride, CO 81435  
[lara@telluriderealestatepro.com](mailto:lara@telluriderealestatepro.com)

RE: Wilson Mesa Conservation Easement aka Sound of Music Ranch

Dear Lara,

Thank you for taking the time to research the RMEF-held Deed of Conservation Easement for your potential buyer of a parcel of land located on the Sound of Music Ranch. To formulate our responses, we reviewed the following documents:

- Amended Deed of Conservation Easement ("Deed"), recorded in San Miguel County on August 3, 2000, Reception Number 335849;
- Second Amendment to the Wilson Mesa, CO, Deed of Conservation Easement ("Second Amendment"), recorded in San Miguel County on November 9, 2016, Reception Number 444903; and
- Notice of Exercise of Reserved Right Pursuant to Deed of Conservation Easement ("Notice"), recorded in San Miguel County on November 9, 2016, Reception Number 444904.

Regarding your client's questions about the future homesites (residences) permitted on the Parcel known as BR, this parcel can currently be divided into three properties, each with its own single 5-acre building area. The homesites could be clustered, as this is not restricted by the Deed, and RMEF would be supportive of clustering the three building areas and associated homesites, as clustering decreases and localizes impacts to wildlife. However, in the Deed's current form, the owner would need to pay particular attention to where the division lines would be delineated to ensure there is only one (1) building area per division. The owner should also check with San Miguel County concerning construction and subdivision regulations.

Refer to Section III.A. Residential and Lodging Facilities of the Deed, which applies to the questions surrounding the residences, Section III. B. Subdivision or Parceling of the Deed, which covers the divisions of BR, as well as the Second Amendment and Notice.

Susanne Roller | Colorado Lands Program Manager  
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5705 Grant Creek Rd. | Missoula, MT 59808-8249 | (800) CALL ELK | [WWW.RMEF.ORG](http://WWW.RMEF.ORG)

RMEF would be open to discussing the possibility of amending the Deed in order to strengthen the conservation easement while at the same time meeting the owner's goals. For example, if the owner would like to maintain BR as one large property, we could eliminate the ability to subdivide. At the same time, we could state that two residences could be built within one 10-acre building area, if the owner desired to eliminate the third building area and associated residence. Combining all three residences into one building area would also be possible with an amendment.

To begin an amendment, RMEF would need a formal written request for the amendment to enable our staff to work through the proper amendment process. RMEF would be in favor of an amendment that would combine the residences into one building area and eliminate the ability to subdivide BR. Additionally, the owner could also choose to eliminate the accessory building areas that are permitted within each of the three parcels.

In amending the Deed in this manner, there may also be tax benefits for the landowner due to eliminating the ability to subdivide, and/or eliminating one or more of the building areas and the accessory building area(s).

Please feel free to contact me by phone or email with additional questions or concerns at [sroller@rmef.org](mailto:sroller@rmef.org) or (720) 883-1990. Thank you again for consulting with us. We appreciate your time and planning efforts to limit impacts to the Conservation Values on your client's potential property.

Sincerely,

A handwritten signature in black ink that reads "Susanne Roller". The script is cursive and fluid, with the first name "Susanne" written in a larger, more prominent hand than the last name "Roller".

Susanne Roller  
Colorado Lands Program Manager

CC: Stephanie Strickland, Conservation Easement Program Manager

Inlc: RMEF Conservation Easement Amendment Policy

**APPENDIX 2**  
**ADOPTED JULY 20, 2001**

**CONSERVATION EASEMENT AMENDMENTS**

**Proposed process and policy regarding amending conservation easements (for internal guidance as well as for review by Landowners requesting an amendment):**

The Rocky Mountain Elk Foundation uses conservation easements to provide perpetual protection to a property's conservation values including wildlife habitat. Any proposed amendment must be carefully scrutinized to be sure it allows the Elk Foundation to pass the protected conservation values on to future generations and to retain the trust of its members, landowners and other conservation partners. Furthermore, a proposed amendment of a conservation easement may have tax implications for the Landowner. Finally, as a 501(c) (3) organization and as a qualified organization eligible to accept conservation easements, the Elk Foundation has a duty to demonstrate its commitment to protect the conservation purposes of its conservation easements.

For these reasons, the Rocky Mountain Elk Foundation will only consider amendments that are ministerial in nature or that clearly strengthen and will further the purpose of the conservation easement. The Elk Foundation encourages amendments with the sole purpose of strengthening the conservation protections on the protected property (for example, by giving up a homesite) or extending conservation protections to adjacent properties. Any proposed amendment that would generally strengthen the conservation easement, but also involves some trade-off or potential detriment to some of the conservation values on the protected property, will be carefully scrutinized using the following process:

1. The Landowner of record must submit a request to amend the conservation easement in writing. This request must be accompanied by any documentation necessary for RMEF to evaluate the amendment. That documentation should include the legal description of the portion of the Property subject to the conservation easement and the proposed terms of the revision.
2. A Landowner contribution is required to defray the staff costs of the amendment.  
*[Alternatively, the Landowner must agree to pay for all of out of pocket costs associated with the amendment.]* This contribution may only be waived by the Vice President of Lands.
3. The Lands and Legal staff will perform due diligence on each proposed amendment. The due diligence will include on-site review of the Property by the Lands staff, considering the impact of the proposed amendment.
  - a. The Staff will determine if the proposed amendment is ministerial in nature or clearly serves exclusively to strengthen the easement (with no accompanying detriment to any of the terms of the conservation easement). Such an easement is

subject to staff approval and recordation, as delegated by the Lands and Conservation Committee.

- b. Under all other circumstances, the proposed amendment is subject to Board approval. The staff will perform due diligence on the proposed amendment and make a recommendation to the Lands and Conservation Committee.

The RMEF will consider the following elements in determining whether or not to grant a request to amend a conservation easement:

#### Conservation impact

1. Is the request consistent and compatible with the intent and purposes of the original easement and the Elk Foundation?
2. Does the requested amendment strengthen the conservation easement as a whole? Does the owner offer additional conservation measures on the same or adjacent properties that will offset any detriment to the Conservation Values of the Property?

#### Legal considerations

1. The legal staff will determine if the proposed amendment potentially constitutes an impermissible “private benefit” or “private inurement” to the Landowner. This review may involve an appraisal, at the Landowner’s expense.
2. Title work must be performed to ensure that no intervening rights exist which may impact the proposed amendment. Again, this title work will be at the Landowner’s expense.
3. Any approval must be conditional upon the Landowner complying with all applicable laws and regulations, including zoning and land use ordinances.
4. The amendment itself must satisfy federal and state requirements, requirements of the RMEF, and the requirements of the easement itself.

#### Tax Considerations

1. If the Landowner obtains value from the amendment, the RMEF will notify the Landowner of this potential value.
2. If the Landowner conveys additional rights or land, the Landowner may be entitled to an additional tax deduction, which must be supported by an appraisal and other conservation easement documentation. The Landowner should consult their tax advisor.

Communications with Third Parties:

1. The Elk Foundation will consider if there are any other parties who need to be notified. At a minimum, any partners in the conservation easement and required governmental authorities will be notified.
2. The Elk Foundation will also consider if the proposed amendment will erode confidence in RMEF supporters or partners regarding RMEF's intent and ability to enforce its conservation easements. Neighboring Landowners and other stakeholders in the community may be contacted for input on the amendment.

General considerations:

1. The Elk Foundation will consider whether the proposed amendment sets an unfavorable precedent or otherwise creates a risk of a negative impact on the Elk Foundation.

The Staff shall notify the Landowner in writing of any final RMEF action taken.

NOTE: When a Landowner has property encumbered by a conservation easement and later desires to place contiguous property under a conservation easement, the action should generally be considered an amendment to the original conservation easement. In such circumstances, the Landowner will be asked to cover the costs of such amendment.

NOTE: When considering a conservation easement amendment, the staff should attempt to use the opportunity to update the easement to current standards, clarify identified ambiguities, increase protection, and respond to changed conditions.

NOTE: All amendments shall restate all continuing terms and shall take the form of a legal deed, and be executed and recorded as such.