

**ORDINANCE NO. 27**

**SERIES 2010**

**AN ORDINANCE APPROVING THE AMENDMENT TO  
THE RESTATED DEED OF CONSERVATION  
EASEMENT FOR THE PEANUT MINE PROPERTY**

**WHEREAS**, the Town of Crested Butte, Colorado ("**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

**WHEREAS**, the Town and the Peanut Mine, Inc. ("**PMI**") are parties to that certain Amended and Restated Deed of Conservation Easement recorded in the Office of the Clerk and Recorder of Gunnison County, Colorado on September 24, 2009 at Reception No. 594214, Page 4-17 ("**Amended CE**") by which the Town holds a conservation easement in and to that certain real property described therein ("**Easement Area**");

**WHEREAS**, PMI desires to amend the Amended CE in order to allow the square footage of new buildings to be measured off of the ground level footprint measured from the outsides or exterior walls, or upper level cantilevered walls;

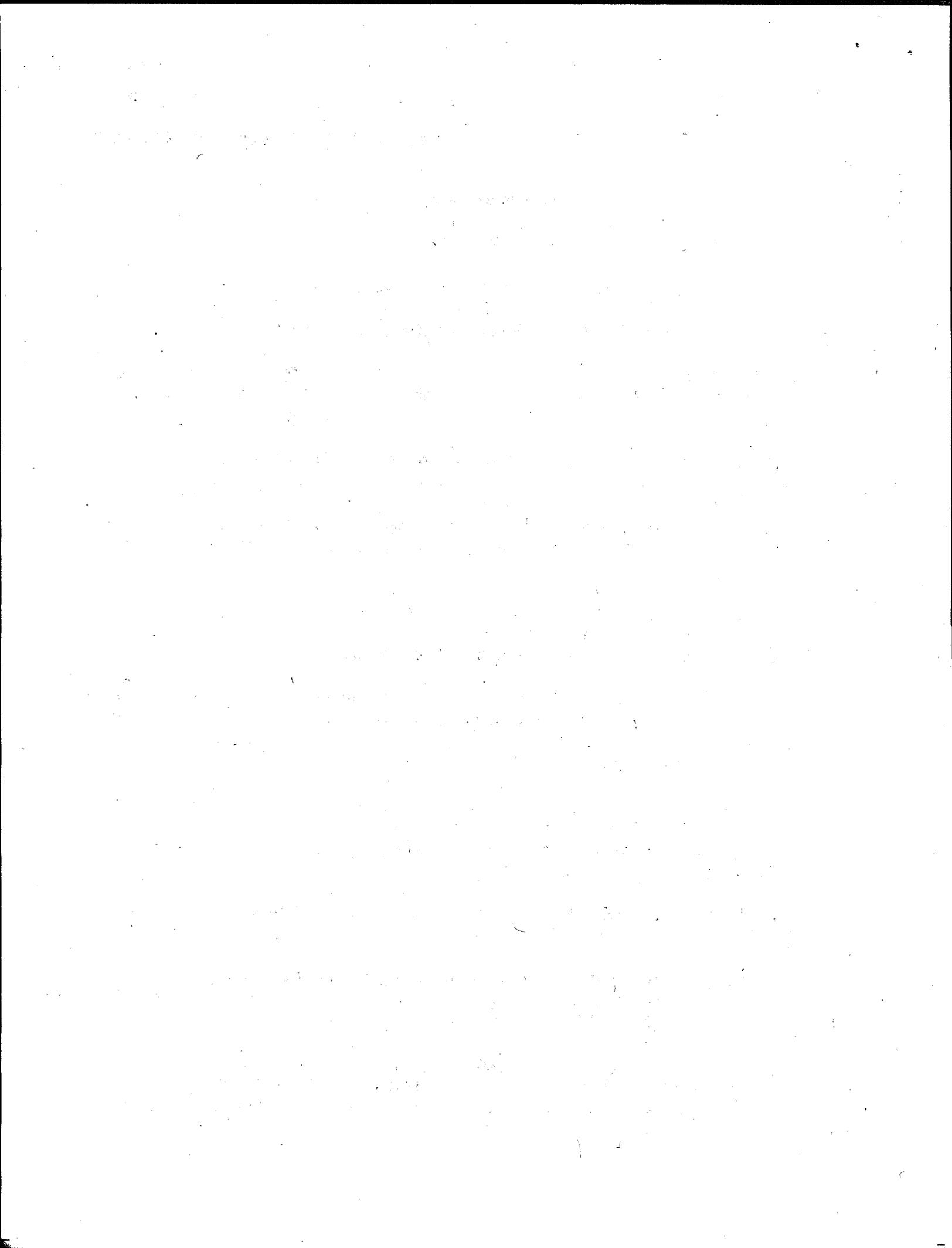
**WHEREAS**, the Town staff has determined that amending the Amended CE as contemplated herein will uphold the Conservation Values (as defined in the Amended CE) of the Easement Area and, therefore, recommends to the Town Council that the Town make the amendments set forth herein; and

**WHEREAS**, the Town Council finds that the amendments to the Amended CE provided for herein will uphold the Conservation Values of the Easement Area, and, accordingly, such amendments are in the best interest of the health, safety and welfare of the Town, its residents and visitors.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,**

**Section 1. Approval and Acceptance of Amendment to Amended CE.** The Town Council hereby approves and accepts the Amendment to the Amended CE attached hereto as **Exhibit "A" ("Amendment")**.

**Section 2. Authorization for Execution.** The Town Council hereby authorizes the Mayor, the Mayor Pro tem and other appropriate Town officials to execute, deliver and record, as necessary, any and all documents necessary and convenient for the purpose of accepting and entering into and effectuating the Amendment.





**Section 3. Severability.** If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

**Section 4. Savings Clause.** Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 16<sup>th</sup> DAY OF August, 2010.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 7<sup>th</sup> DAY OF September, 2010.

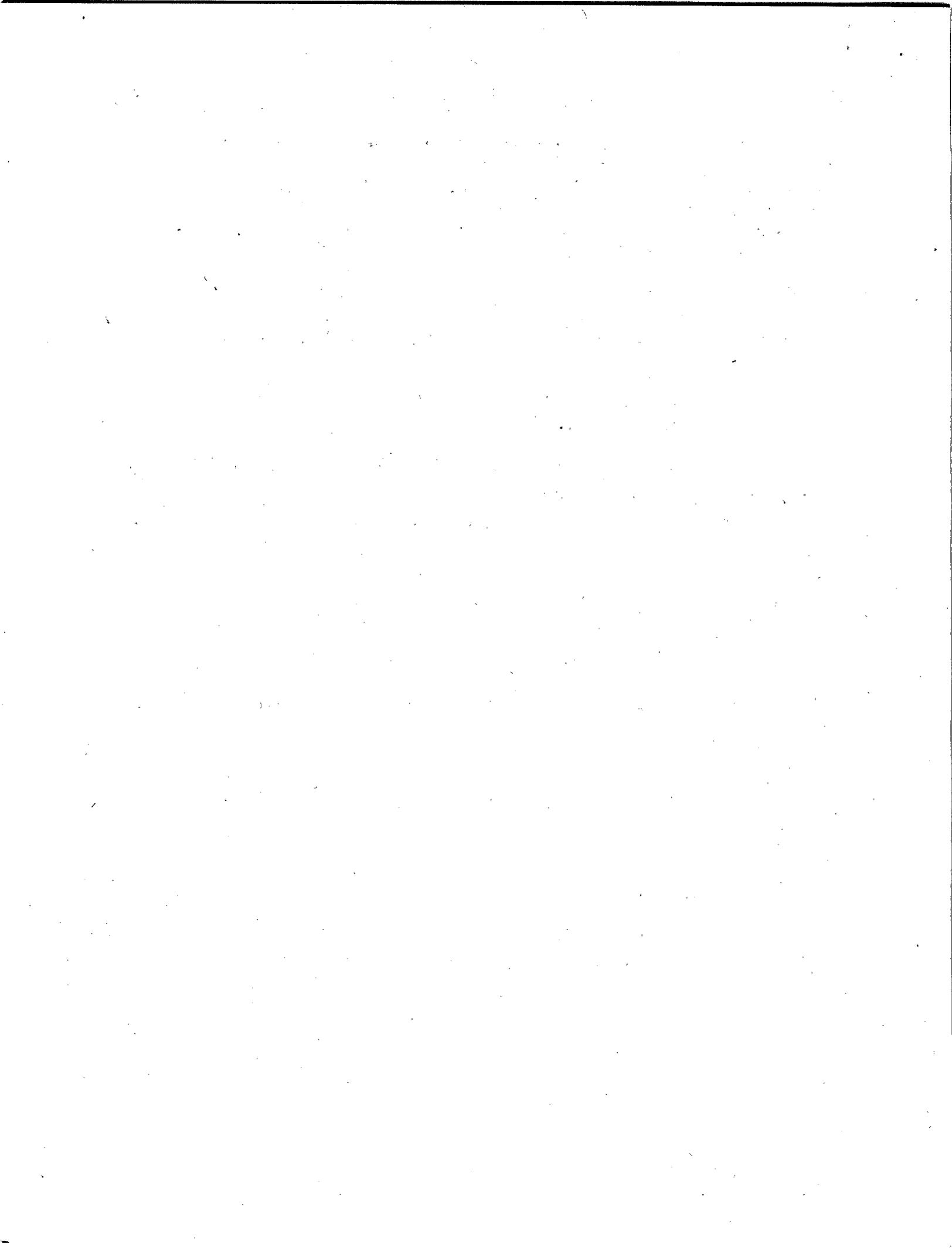
TOWN OF CRESTED BUTTE, COLORADO,

By: *Leah B. Williams*  
Leah B. Williams, Mayor

ATTEST:

*Eileen Hughes*  
Eileen Hughes, Town Clerk

(SEAL)



**Exhibit "A"**

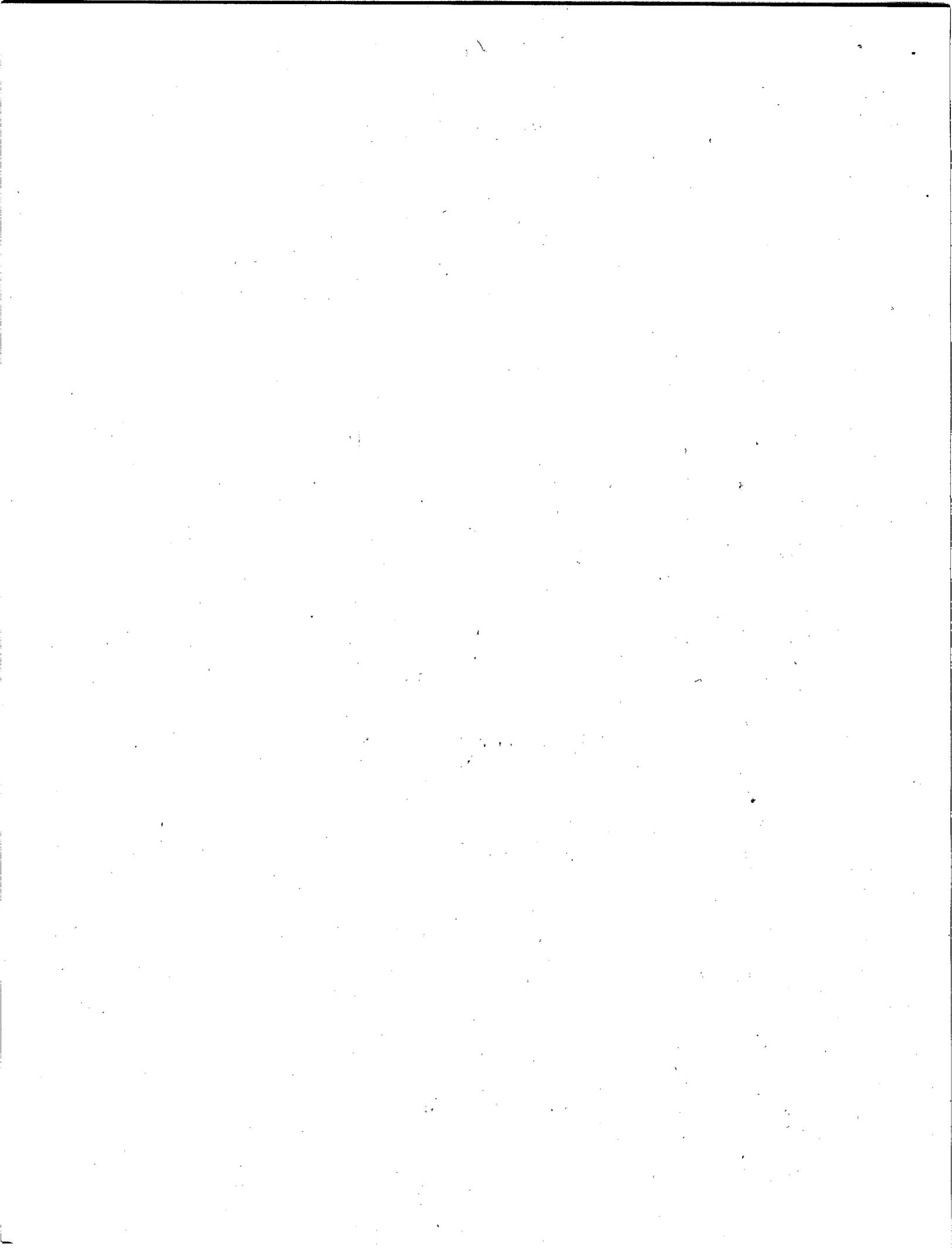
**FIRST AMENDMENT TO AMENDED AND RESTATED DEED OF  
CONSERVATION EASEMENT**

**NOTICE: THIS DEED CONTAINS RESTRICTIONS ON THE USE AND  
DEVLEOPMENT OF THE PROPERTY WHICH ARE INTENDED TO  
PROTECT ITS OPEN SPACE VALUES.**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED DEED OF  
CONSERVATION EASEMENT is made this 9<sup>th</sup> day of September, 2010, by Peanut  
Mine, Inc., a Colorado nonprofit corporation, having an address at P.O. Box 1167,  
Crested Butte, Colorado 81224, ("Grantor"), with the Town of Crested Butte, a Colorado  
home rule municipality, having an address at P.O. Box 39, Crested Butte, Colorado  
81224 ("Grantee").

**RECITALS:**

- A. Grantor is the sole owner in fee simple of certain real property in  
Gunnison County, Colorado, more particularly described in **Exhibit A** attached hereto  
and incorporated herein by this reference (the "Property").
- B. On January 2, 2002, the Crested Butte Land Trust, a Colorado nonprofit  
corporation, as Grantor, recorded that certain Deed of Conservation Easement  
encumbering the Property at Reception No. 517022 of the official records of Gunnison  
County.
- C. On October 7, 2003, the Crested Butte Land Trust, a Colorado nonprofit  
corporation ("CBLT"), created Peanut Mine, Inc. and conveyed the Property to Peanut  
Mine, Inc. for the purpose of having Peanut Mine, Inc. complete certain environmental  
clean-up and remediation of the Property.
- D. On September 24, 2009, the Grantor and Grantee entered into that certain  
Amended and Restated Deed of Conservation Easement encumbering the Property which  
was recorded at Reception No. 594214 of the official records of Gunnison County.
- E. Pursuant to Paragraph 24.i. of the recorded Amended and Restated Deed  
of Conservation Easement, the Grantor and Grantee wish to amend and restate the  
provisions of paragraph 3.c. of the Amended and Restated Deed of Conservation  
Easement as set forth below. The parties acknowledge and agree that this amendment is  
consistent with the conservation purposes of the Amended and Restated Deed of  
Conservation Easement and do not affect its perpetual duration. The Grantee shall cause  
this First Amendment to Amended and Restated Deed of Conservation Easement to be  
forthwith recorded in the official records of Gunnison County, Colorado.



1. Grantor and Grantee hereby agree to amend and restate the provisions of paragraph 3.c. of the Amended and Restated Deed of Conservation Easement as follows:

3. Prohibited Uses.

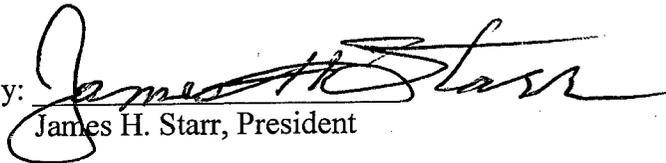
c. New Structures and Improvements. A new nonresidential agricultural and/or nordic ski building, other related structures and improvements, and an entrance gate to serve as access to the McElroy Tract which is the south 35 acre parcel located immediately adjacent to and north of the Property, may be constructed on the Property with the advanced written permission of Grantee. No new building shall have a ground level footprint larger than 1,100 square feet measured from the outsides of exterior walls, excluding any dirt area covered by a visor on one side, or be more than 24 feet high. Grantee shall give such permission within a reasonable time, if it reasonably determines that the proposed building, structure or improvement will not substantially diminish or impair the Conservation Values of the Property.

2. Except as amended hereby, the recorded Amended and Restated Deed of Conservation Easement shall remain in full force and effect.

IN WITNESS WHEREOF, Grantor and Grantee have executed this First Amendment to Amended and Restated Deed of Conservation Easement to be effective as of the date and year first above written.

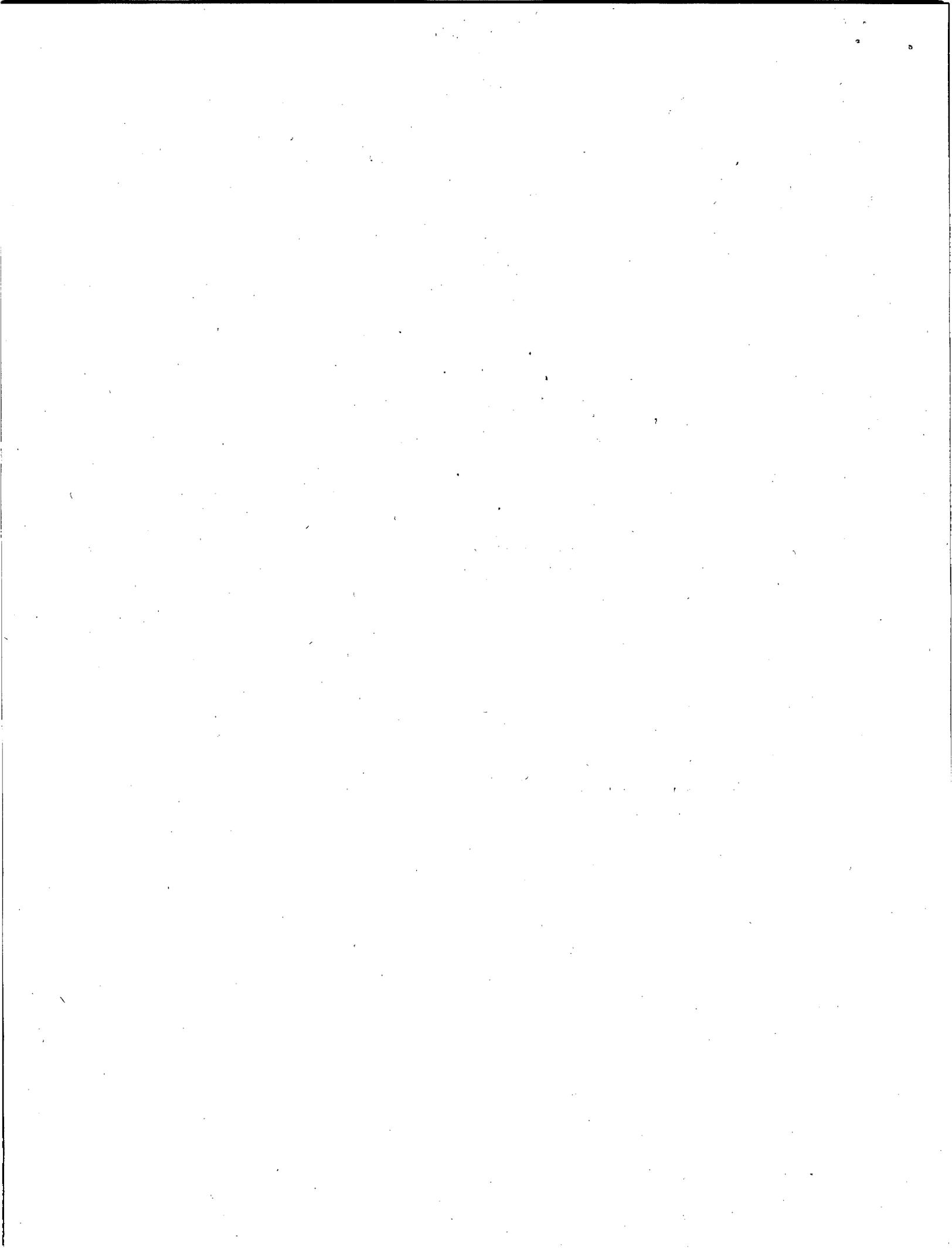
**GRANTOR:**

PEANUT MINE, INC.,  
a Colorado nonprofit corporation

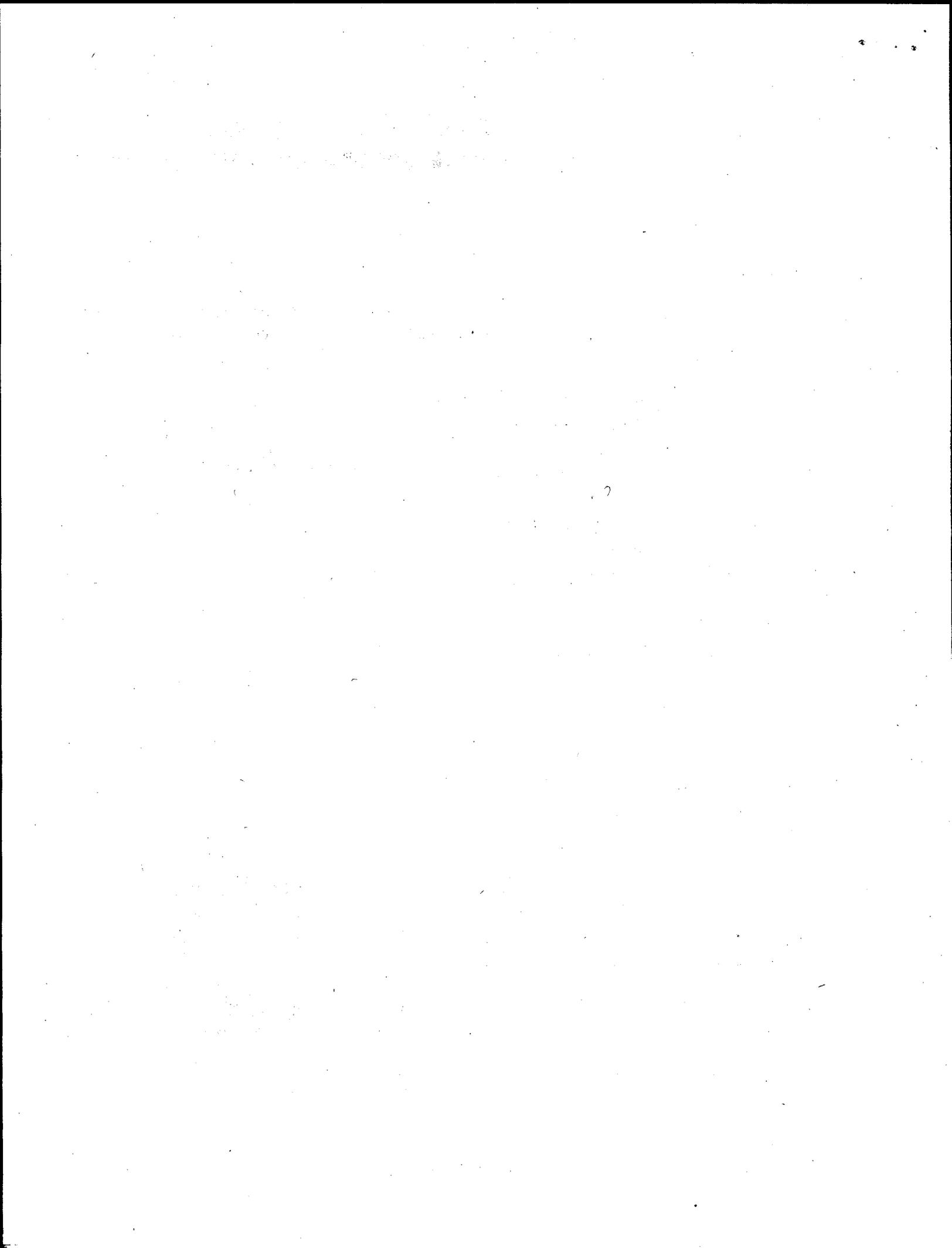
By:   
James H. Starr, President

**ATTEST:**

  
John F. Hess, Secretary







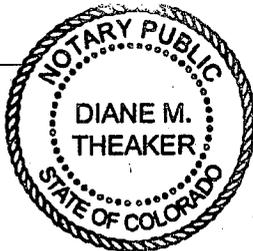
STATE OF COLORADO )  
 ) ss.  
County of Gunnison )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of September, 2010, by Leah B. Williams as MAYOR and Eileen Hughes as Town Clerk of the Town of Crested Butte, a Colorado home rule municipal corporation.

Witness my hand and official Seal.

(SEAL)

  
Notary Public  
My Commission Expires: 10-25-2012



My Commission Expires 10/25/2012

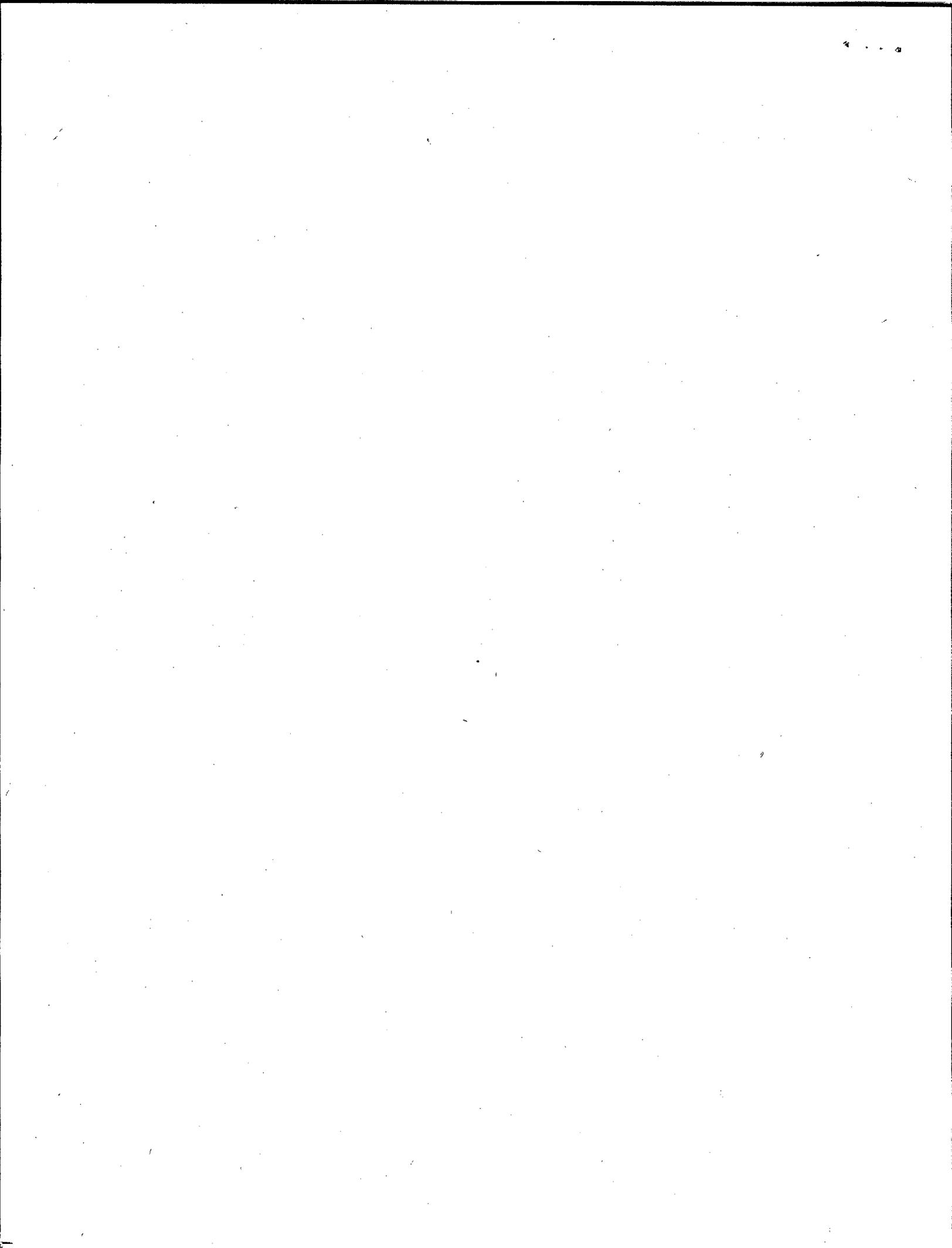


EXHIBIT A

Peanut Mine Legal  
QUITCLAIM DEED

THIS DEED is made this 11 day of December, 2001, by and between the CRESTED BUTTE LAND TRUST, a Colorado nonprofit corporation, Grantor, and the CRESTED BUTTE LAND TRUST, a Colorado nonprofit corporation, Grantee, whose address is P.O. Box 2224, Crested Butte, Colorado 81224.

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, have remised, released, sold, conveyed and QUITCLAIMED, and by these presents does remise, release, sell, convey and QUITCLAIM unto the Grantee, its successors and assigns, forever, all the right, title, interest, claim and demand which the Grantor has in and to the following described real property and improvements:

A tract of land located in the South Half of the Southeast Quarter and the South Half of the Southwest Quarter of Section 28, Township 13 South Range 88 West of the Sixth Principal Meridian, described by metes and bounds as follows:

Beginning at the Southeast Corner of said Section 28, a standard brass-capped monument;

Thence following the South Line of the said Southeast Quarter, S89°46'00"W a distance of 2,558.97 feet to the South Quarter Corner of said Section 28;

Thence following the South Line of the Southwest Quarter of said Section 28, S89°42'24"W a distance of 1,960.98 feet;

Thence leaving the Section Line N 1°57'50"W a distance of 666.72 feet;

Thence N89°42'24"E a distance of 1,960.98 feet, more or less, to the N-S Quarter Line of said Section 28;

Thence following the said N-S Quarter Line N 1°57'50"W a distance of 305.16 feet;

Thence leaving the said Quarter Line N89°59'59"E a distance of 2,572.33 feet to the East Line of the Southeast Quarter of said Section 28;

Thence following the said East Line S 1°11'14"E a distance of 961.11 feet to the point of beginning.

County of Gunnison,  
State of Colorado.

Basis for bearings is True North as determined from solar observation. GLO brass-cap markers in place determined bearings of Section Lines and Quarter Line.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date first set forth above.

CRESTED BUTTE LAND TRUST, a Colorado nonprofit corporation

By:   
David Baxter, President

