

WALKER RANCHES EXPERT REPORT

Prepared by:

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1.0 PURPOSE OF THIS REPORT

1.1 Introduction

This document is submitted as an expert witness report in the case of the City of Colorado Springs v. Walker Ranches, LLLP (Case No. 2011-CV-313). Specifically, this report provides documentation for the Conservation Values of the 65,000 acre Walker Ranches Property (the "Property"). In addition, the Conservation Values are analyzed in the context of 1) the range condition of the Property, and 2) the reclamation protocols and reclamation progress of the Southern Delivery System (SDS) pipeline that crosses a portion of the Property. This report includes rebuttals to selected assertions made by consultants retained by Colorado Springs Utilities.

1.2 Personal Background with Walker Ranches

Beginning in February 2005, and continuing through April of 2011, I prepared the Easement Documentation Reports (EDRs) for the eight conservation easements that exist on 22,372 acres of the Property that were part of establishing an open space buffer around Fort Carson (LREP, Inc. 2005, 2006, 2007 a & b, 2008, 2009 and 2011 a & b). I completed this work as an independent consultant retained by The Nature Conservancy, the holder, or Grantee, of the eight conservation easements. The EDRs are required by federal regulations and state policies, and include the following components:

1. Descriptions of ecological characteristics, current land uses, historical management and status of improvements on the area under conservation easement.
2. Provide evidence of Conservation Values.
3. Establish a baseline condition in order to assure that any future changes in the use of the land under each conservation easement will be consistent with the terms of the Conservation Easement.

Each report had to be reviewed and approved by the United States Army and The Nature Conservancy's legal review team. In completing these eight reports, I have logged over 100 hours of field work on the Property, and over 300 hours of report preparation.

Although these EDRs did not cover the area of the SDS pipeline, three reports covered an area one-half mile to the west of the entire SDS right-of-way through Walker Ranches. These three conservation easement parcels share three grazing management units with the SDS right-of-way (the Big Bailey, North Highline and South Highline Management Units, from north to south). These three management units cover the entire SDS pipeline on the Property. Accordingly, many of the ecological descriptions, particularly the condition of vegetation, are relevant to this case.

Other relevant professional qualifications are attached to this report.

2.0 CONSERVATION VALUES

2.1 Definition of Conservation Values

"Conservation Values", as used in this report, are the specific characteristics of a given property that justify the use of federal and state tax deductions and credits, and/or the use of public funds that accrue to the Grantor (landowner) of a conservation easement. Conservation Values are broadly defined by §1.170A-14 of the Treasury Regulations. State policies (such as the policies of Great Outdoors Colorado) and national land trust standards incorporate the definitions of the Treasury Regulations. The most important applicable Conservation Values in the Treasury Regulations are Relatively Natural Habitat and Open Space.

Relatively Natural Habitat includes preservation of land for:

1. Significant habitat and ecosystems for wildlife and plants.
2. High quality natural areas.
3. Natural areas that contribute to the ecological viability of local, state or national parks, wildlife refuges, wilderness areas, or similar conservation areas.

Open Space includes preservation of land pursuant to a clearly delineated federal, state or local governmental conservation policy, and yields a significant public benefit. Scenic open space may be preserved under these criteria if the land in question is preserved for the scenic enjoyment of the general public and yields a significant public benefit.

The State of Colorado and many counties and cities have well defined conservation policies which are critical to providing evidence of sufficient Conservation Values for priority conservation lands within their respective jurisdictions. These policies are usually contained in comprehensive plans, open space plans, and long term strategic plans.

2.2 Methodology for Determination of Conservation Values

Conservation Values are documented by means of appropriate maps, project plans, aerial and ground photography, natural resource file searches and literature reviews, and site specific narrative descriptions of the relevant natural and cultural resources. The methodology must satisfy the Treasury Regulations, and other due diligence requirements by participating agencies and funders.

On approximately half of the conservation easement projects I work on, I am the primary author of the Conservation Values, subject to the approval of the Grantor and Grantee of the conservation easement. On the other half of the conservation easement projects I review, vet and comment on the Conservation Values determined by the Grantee (typically a private land trust or public open space agency), and this was the case for the eight conservation easements on Walker Ranches where the Conservation Values were determined by The Nature Conservancy. Further, it is my responsibility to document the presence of any Conservation Values on the land subject to a proposed conservation easement. In addition, each EDR must note any land use or existing condition on the land subject to the proposed conservation easement that could potentially damage or be inconsistent with the Conservation Values.

2.3 Walker Ranches Conservation Values

The overall Conservation Values of the Property were thoroughly documented during the implementation of the Compatible Use Buffers on Real Property Bordering Fort Carson project, resulting in the above referenced eight conservation easements on the Property.

2.3.1 Relatively Natural Habitat

Vegetation Resources

The Property includes outcroppings of the Fort Hays Limestone and Smoky Hill Shale with shallow, rocky soils and sparse vegetative cover. These sites are known as the Arkansas Valley Barrens, or Limestone and Shale Barrens, and have distinctive vegetation, including pinyon/juniper woodland and the rare Endemic Species round-leaf four o'clock (*Oxybaphus rotundifolius*), Arkansas River feverfew (*Bolophyta tetraeuris*), Arkansas Valley evening primrose (*Oenothera harringtonii*), and Pueblo goldenweed (*Oonopsis puebloensis*). The dominant vegetation on the Property is shortgrass prairie, which is a biodiversity and land conservation priority in Colorado.

Wildlife Resources

The Property provides potential habitat for several species of wildlife restricted to and dependent upon shortgrass prairie habitat including ferruginous hawk, burrowing owl, mountain plover, black-tailed prairie dog, swift fox and triploid checkered whiptail, all Colorado Species of Concern. The Property also provides overall range for black bear and elk, mule deer summer and winter range, and winter concentration range for pronghorn. Since the granting of the eight conservation easements, the Property has been used as a release site for the black-footed ferret, a federal and state endangered species.

Preservation of shortgrass prairie is a high wildlife conservation priority in Colorado (CPW 2006a). The Property is within a "High Priority Habitat-Acquisition Area" for shortgrass prairie and grassland species, as designated by the Colorado Parks and Wildlife Colorado Species Conservation Program (CPW 2006b).

2.3.2 Open Space

Clearly Delineated Federal or State Conservation Policy

The Property is an untilled landscape with a relatively low density of roads within the Arkansas Tablelands section of the Central Shortgrass Prairie Ecoregion as designated in The Nature Conservancy's Central Shortgrass Prairie Ecoregional Plan (Figures K and L in Neely *et al.* 2006). This plan was prepared by numerous experts and public agencies, including Colorado Parks and Wildlife, Colorado Natural Heritage Program, US Environmental Protection Agency, US Forest Service, Natural Resources Conservation Service, and US Fish & Wildlife Service. The Ecoregional Plan represents the most comprehensive effort to preserve prairie habitat in Colorado. In the Ecoregion Plan the Property is within the Arkansas Valley Conservation Area (#24). This conservation Area is ranked "Very High" for conservation value, and has a "High" vulnerability ranking. The ecoregional plan conservation site is based upon the Pumpkin Hollow, Beaver Creek and Turkey Creek Potential Conservation Areas (PCA's) designated by the Colorado Natural Heritage Program that have biodiversity ranks of B1 (outstanding significance) and B2 (very high significance), protection urgency ranks of P2 (high urgency) and P3 (moderate urgency), and management urgency ranks of M3 (moderate urgency) and M4 (low urgency). The PCA's are based upon the presence of five imperiled or vulnerable plant species, two vulnerable plant communities, one imperiled wildlife species, and one wildlife species of concern.

Ecoregional plans are "coarse level filters" used for locating lands of above average ecological significance at a broad landscape level, particularly lands that have ecological value beyond their intrinsic merit, that contribute to ecological integrity of much larger landscapes. Because the ecoregional plans function best at the landscape level of analysis, and were compiled in cooperation with state and federal agencies, the ecoregional plan assessment is as much of a policy statement as it is a data source of ecological analysis. Inclusion in the ecoregional plan demonstrates that the Property is open space of significant state and regional value.

The Property is located within a "Grassland Priority Conservation Area" with a "High" priority ranking, as identified in the North American Grassland Priority Conservation Areas (CEC and TNC 2005). The purpose of this report is "to provide guidance of where conservation action is immediately needed due to the trinational importance and...due to their ecological significance and threatened nature". This priority conservation area is the largest on the eastern plains of Colorado.

The Property is located adjacent to the Fort Carson Military Reservation. Due to the increasing ecological isolation of Fort Carson, and the increasing adverse impacts of development along its borders, the Army must spend increasing amounts of time and money in natural resource management in order to meet environmental compliance standards. In order to implement the Compatible Use Buffer program the Army, together with The Nature Conservancy and the US Fish & Wildlife Service have formed the Fort Carson Regional Partnership. This conservation partnership has worked to protect the natural habitat of endangered and imperiled species, while keeping the land surrounding the installation undeveloped for security, safety and management purposes. Preservation of the Property, particularly that portion that is under the eight conservation easements, contributes to maintaining the viability of the ecological resources of Fort Carson.

Clearly Delineated Local Governmental Policy

Pueblo's Comprehensive Plan (Pueblo County 2014) includes the Property in the Rural/Ranch land use designation, defined as follows.

A significant portion of the 1,900 square miles of developable land in the Pueblo Region is projected to remain in the category of *Rural/Ranch*. This is sparsely populated acreage devoted to traditional ranching operations, large rural land holdings and smaller "ranchettes". Often carved from large former ranch holdings, "ranchettes" have significant impact on the rural landscape. Without public water or paved streets, they are having significant impact on demand for public services for remote areas. Residential uses should be limited to large acreage tracts or in cluster developments that preserve open space and protect environmentally sensitive areas...

Other applicable sections from the plan are excerpted below.

Vision for Pueblo Region

- Continued preservation of open space and agricultural land.

Regional Opinion survey

- 96% agreed programs should be developed to protect productive agricultural/environmentally sensitive land.

Rural Development Principles

- Achieve a balance between urban and agriculture interests.

- Preserve land through purchase or donation of development rights, including landowner education of the estate planning benefits of such conservation actions.
- Preserve character of the region's rural areas and communities.
- Promote the benefits of the local agricultural industry.

Design Character & Environmental Quality Principles

- Plan growth to enhance the region's natural and historic character.
- Determine methods to enhance and preserve the natural and historic features (e.g., preservation via conservation easements).
- Encourage the integration of open space into the Region's land use plan.
- Define open space by habitat, agriculture, parks, buffers & wildlife corridors.
- Provide a Regional Plan that recognizes the importance of the natural environment to the region's future.
- Identify those lands deemed valuable to be maintained as part of the natural environment.

In regard to many of these sections of the Comprehensive Plan, Pueblo County (2014) has a map titled "Pueblo County Potential Conservation Areas" that closely follows the map of Potential Conservation Areas in the 2003 Colorado Natural Heritage Program report. The county map displays much of the Property as a Tier 1 Potential Conservation Area of "Outstanding Significance".

Scenic Open Space

US Highway 50, the primary east-west transportation corridor in Pueblo County, runs through the western portion of the Property. Purcell Boulevard, one of the primary transportation corridors in Pueblo West, runs through the eastern portion of the Property. Much of the Property is adjacent to the Pueblo West Metro District which encompasses 31,000 acres or 49 square miles, with 18,700 platted residential lots and extensive areas dedicated to commercial and industrial development.

The landscape context of the Property is the Great Plains of eastern Colorado near the base of the Rocky Mountains, and encompasses the essence of this landscape: sweeping vistas, broad horizons, traditional agricultural practices, and rolling prairies. The Property is fundamentally natural appearing and the scenic integrity of the Property is rated as high (appears unaltered). The desired landscape character of the Property is retention of the dominant natural and agricultural values, and the public interest in the visual resources of the Property is considered high. Preserving the scenic views of the Property is an important component of the open space value of the Property, as the scenic aspect of the Property is what most local residents are most acutely aware of. Preserving local scenic open space, agricultural lands and environmentally important sites are among the highest priorities of local citizens, as determined during the public facilitation meetings conducted for the Pueblo County Regional Development Plan.

2.4 Colorado Natural Heritage Program

The Colorado Natural Heritage Program (CNHP) designated 33 Potential Conservation Areas (PCAS) in Pueblo County in the report Survey of Critical Biological Resources of Pueblo County (CNHP 2003). Three of these PCAs are found on the Property. The Pumpkin Hollow PCA is located in the center of the Property and is the highest rated PCA in Pueblo County. The Beaver Creek and Turkey Creek PCAs are located in the western portion of the Property and are the fourth and eighth highest rated PCAs in Pueblo County.

CNHP also documents site specific element occurrence records (EOR's) for imperiled ecological communities and for threatened, endangered and sensitive plant species (CNHP 2008a and 2014). Significant collections of EORs are typically the basis for PCA designations. CNHP documents numerous EORs for the Property, or these elements have been confirmed by other parties, as displayed below in Table 1.

Table 1. Element Occurrences for Walker Ranches.

<i>Common Name</i>	<i>Occurrence</i>	<i>Global & State Rank</i>
Pueblo goldenweed (<i>Oonopsis puebloensis</i>)	Limestone and Shale Barrens and adjacent areas.	G2/S2 (imperiled globally and in Colorado)
Round-leaf four-o'clock <i>Oxybaphus [Mirabilis] rotundifolia</i>	Limestone and Shale Barrens.	G2/S2 (imperiled globally and in Colorado)
Golden blazingstar (<i>Nuttallia chrysantha</i>)	Limestone and Shale Barrens and adjacent areas.	G2/S2 (imperiled globally and in Colorado)
Rocky Mountain bladderpod (<i>Physaria calcicola</i>)	Limestone and Shale Barrens and adjacent areas.	G3/S3 (vulnerable globally and in Colorado)
Fendler's townsend-daisy (<i>Townsendia fendleri</i>)	Limestone and Shale Barrens and adjacent areas.	G2/S2 (imperiled globally and in Colorado)
Arkansas Valley evening-primrose (<i>Oenothera harringtonii</i>)	Limestone and Shale Barrens and adjacent areas.	G3/S3 (vulnerable globally and in Colorado)
Arkansas River [Barneby's] feverfew (<i>Parthenium [Bolophyta] tetraeuris</i>)	Limestone and Shale Barrens.	G3/S3 (vulnerable globally and in Colorado)
Dwarf milkweed (<i>Asclepias uncialis ssp. uncialis</i>)	Shortgrass Prairie.	G3G4T2T3/S2 (vulnerable globally and in Colorado)
One-seed juniper/New Mexico feathergrass [needlegrass] (<i>Juniperus monosperma/ Hesperostipa neomexicana</i>) Woodland	Pinyon-Juniper Woodland and Limestone and Shale Barrens.	G4/S3 (apparently secure globally, vulnerable in Colorado)

Table 1. Element Occurrences for Walker Ranches (continued).

<i>Common Name</i>	<i>Occurrence</i>	<i>Global & State Rank</i>
Frankenia/Indian ricegrass (<i>Frankenia jamesii</i> / <i>Achnatherum hymenoides</i>)	Limestone and Shale Barrens	G2/S2 (vulnerable globally and in Colorado)
Fourwing saltbush/James' galleta (<i>Atriplex canescens</i> / <i>Pleuraphis jamesii</i>) Shrubland	Shortgrass Prairie.	G3G5/S2 (vulnerable to secure globally, imperiled in Colorado)
Fourwing saltbush/blue grama (<i>Atriplex canescens</i> / <i>Bouteloua</i> <i>gracilis</i>) Shrubland	Shortgrass Prairie.	G3/S3 (vulnerable globally and in Colorado)
Cholla (<i>Opuntia imbricata</i>) Shrubland	Shortgrass Prairie.	GNA/S3 (vulnerable in Colorado)
Bigelow sage/Indian ricegrass (<i>Artemisia bigelovii</i> / <i>Oryzopsis</i> [<i>Achnatherum</i>] <i>hymenoides</i>) Shrubland	Limestone and Shale Barrens and adjacent areas.	G3Q/S3Q (vulnerable globally and in Colorado, but questionable taxonomy)
Triploid Colorado Checkered Whiptail (<i>Cnemidophorus</i> <i>neotesselatus</i>)	Pinyon-Juniper Woodland and Limestone and Shale Barrens.	G2Q S2 (uncertainty about taxonomic status, vulnerable in Colorado)
Burrowing Owl (<i>Athene</i> <i>cunicularia</i>)	Shortgrass Prairie.	G4 SB4 (apparently secure globally and in Colorado)
Ferruginous Hawk (<i>Buteo</i> <i>regalis</i>)	Shortgrass Prairie.	G4 S3B, S4N (apparently secure globally and in Colorado, vulnerable in the breeding season)
Mountain Plover (<i>Charadrius</i> <i>montanus</i>)	Shortgrass Prairie.	G2 S2B, SZN (imperiled globally and in Colorado, migrant populations not understood)
Black-tailed Prairie Dog (<i>Cynomys ludovicianus</i>)	Shortgrass Prairie.	G4 S4 (apparently secure globally and in Colorado)
Swift Fox (<i>Vulpes velox</i>)	Shortgrass Prairie.	G3 S3 (vulnerable globally and in Colorado)
Black-footed Ferret (<i>Mustela</i> <i>nigripes</i>)	Shortgrass Prairie.	G1/S1 (critically imperiled globally and in Colorado)

2.5 Conservation Values Specific to the SDS Pipeline Right-of-Way

Many of the above listed Conservation Values occur on the SDS pipeline right-of-way and adjacent portions of the Property. Following the same order of resources as displayed in Table 1, these Conservation Values include:

1. Five populations of Pueblo goldenweed (*Oonopsis puebloensis*) were mapped on the right-of-way.
2. Most of the right-of-way is mapped as shortgrass prairie.

3. The right-of-way includes potential habitat for ferruginous hawk, mountain plover and swift fox, and is mapped as pronghorn winter range.
4. The right-of-way is within the Arkansas Valley Conservation Area as mapped in the Central Shortgrass Prairie Ecoregional Plan, and the Grassland Priority Conservation Area as mapped in the North American Grassland Priority Conservation Areas.
5. The right-of-way is located one-half mile beyond the two mile wide Fort Carson buffer.
6. The right-of-way and adjacent areas are within the Rural/Ranch land use category in Pueblo's Comprehensive Plan, and fall within the policies for preservation of open space and agricultural land contained within this plan.
7. The right-of-way and adjacent areas are visible from public roads and private residences within Pueblo West, but are not considered of equivalent scenic importance as those portions of the Property adjacent to US Highway 50 and Purcell Boulevard.
8. It is my opinion that three of the CNHP tracked plant communities occurred within the right-of-way and remain in the adjacent areas: 1) Fourwing Saltbush/Blue Grama Shrubland, 2) Fourwing Saltbush/James' Galleta Shrubland, and 3) Cholla Shrubland. The vegetation descriptions I completed for the three conservation easements located one-half mile west of the right-of-way, and sharing the same three grazing management units with the right-of-way, fit the general descriptions of these communities.

2.5 Conservation Values Summary

The Property has an outstanding array of Conservation Values including both relatively natural habitat and open space categories. Both CNHP (2003) and Pueblo County (2014) document the Property as having the highest ranking conservation significance in the entire county. As an intact, working ranch of 65,000 acres located in the Front Range Urban Corridor, with one-third of the ranch under conservation easement, the Property represents an irreplaceable open space resource. I am not aware of any other property of this size and conservation significance located in the Front Range Urban Corridor between Interstate Highway 25 and the mountain front. In this context, the fragmentation of the shortgrass prairie by the SDS pipeline, particularly the fragmentation of the cholla and saltbush shrublands, and subsequent difficulties with reclamation, is a significant conservation concern.

2.6 Applicability of the Conservation Values to the SDS Pipeline

As detailed in Section 2.4 above these Conservation Values are found on and adjacent to the SDS pipeline. Many of these Conservation Values are confirmed by a report submitted by Renée Rondeau and Michael Menefee with the Colorado Natural Heritage Program, dated December 13, 2008 (CNHP 2008b). This report notes that the Property is within one of the largest intact patches of shortgrass prairie between Pueblo and Colorado Springs, and one of 34 remaining large, significant patches in Colorado. The report further notes the designations of ecological significance placed on the Property by Colorado Parks and Wildlife, CNHP and The Nature Conservancy. Finally, the report recommends that a CNHP trained ecologist survey the right-of-way for rare plants, animals and plant communities. Subsequent surveys completed by Colorado Springs Utilities have attempted to address the rare plants and animals, but to the best of my knowledge, the necessary research and recognition of the important shrubland plant

communities has never taken place. I would further note that most of the specific issues raised in the CNHP report, specifically the important shrubland plant communities and the full scope of Conservation Values of the Property, have subsequently never been substantively addressed by Colorado Springs Utilities, and the consultants retained by Colorado Springs Utilities.

3.0 RANGE CONDITIONS

3.1 Introduction

I will first state that I have worked on the EDRs for over 400 conservation easement projects in Colorado, totaling over 539,000 acres, including some of the largest and highest quality ranches in Colorado. In this context, I consider Walker Ranches to be among the elite conservation properties with the most outstanding Conservation Values and the most dedicated stewardship by the owners. Based upon my experience, I consider the Property to have one of the best range conditions of any prairie ranch I have worked on.

3.2 Prevailing Range Condition Factors

I noted in the EDRs I prepared for the eight conservation easements on the Property, and for other conservation easement projects I have worked on in southeast Colorado, that the primary factor impacting range condition is the series of droughts beginning in 2002, and in many areas, continuing into 2013. Even ranches with low stocking rates, and pastures with no recent grazing, have had poor to fair range conditions. Consultants retained by Colorado Springs Utilities, including Dr. Roy Roath, and Dr. David Buckner, have indicated that the range condition along the pipeline is generally poor due to overgrazing (pages 3 and 4, and pages 20-22 of the respective reports). From the time I worked on the Property from 2005 through 2011, in most years there were no stock on the ranch, because the Walkers refused to run stock under drought conditions. During the one conservation easement project where there was grazing, several hundred yearlings were moved onto the ranch that summer, and then removed shortly thereafter due to the resumption of drought conditions. I actually know of no other ranch in Colorado where livestock have been absent for such prolonged periods as Walker Ranches.

I have learned to my own chagrin that drought conditions are the prevailing factor for range conditions in recent years in southeast Colorado. I have made preliminary range assessments, concluding the range conditions on given properties were poor due to overgrazing, only to find out that after an ideal rainfall, range conditions improved dramatically, and drought was in fact the prevailing factor. This phenomenon I have observed in established, relatively undisturbed rangelands, includes the relatively sudden return of grasses that appeared to be uncommon or even absent. Fortunately, I worked on large ranches over a period of several months to a year or more, and had the opportunity to observe these sudden positive changes in range condition. Drought impacts cool season grasses in particular, when there is a lack of late winter and spring precipitation. In this regard, I completely disagree with Roath and Buckner that livestock grazing is the prevailing range condition factor, and Buckner's citing of a lack of cool season grasses as indicative of overgrazing (pages 20-22).

3.3 Specific Range Condition Rebuttals

Roath (pages 2 and 3) states that "many or most of the preferred grazing species were dramatically reduced or absent." On my field examination of the pipeline right-of-way on June 5 and 6, 2014, I observed vigorous growth in the undisturbed areas adjacent to the pipeline of fourwing saltbush, winterfat, alkali sacaton, James' galleta and blue grama. Upland areas on shale barrens had good growth of New Mexico feathergrass and Indian ricegrass.

Buckner (page 20) comments on the low abundance of alkali sacaton in the Salt Flats Ecological Site, and that "return to the Historic Climax Plant Community (HCPC) would take 'a very long time' (longer than 40 years). On my field trip there were lush stands of alkali sacaton throughout this range site.

Roath (page 3) and Buckner (pages 20-22) compare pre-construction conditions adjacent to the right-of-way to the idealized Historic Climax Plant Community provided in the NRCS ecological site descriptions. First, I know of virtually no ranches on the plains of Colorado that can match these Historic Climax Plant Community descriptions, excepting very remote, rocky areas where livestock do not forage. More importantly, both Roath and Buckner have missed the conservation importance of the plant communities in their pre-existing condition, regardless of grazing, as these conditions generally match the descriptions of three shrubland plant communities of importance as described in Table 1 above: 1) Fourwing saltbush/James' galleta (*Atriplex canescens/ Pleuraphis jamesii*) Shrubland, Fourwing saltbush/blue grama (*Atriplex canescens/Bouteloua gracilis*) Shrubland, and Cholla (*Opuntia imbricata*) Shrubland. As such, Roath and Buckner are ignoring important Conservation Values of the Property.

4.0 RECLAMATION PLAN REBUTTALS AND CLARIFICATIONS

Buckner (page 23) states that the 90% of pre-existing cover performance standard has been met, but Dr. Warren Keammerer in his October, 2013 report states on page 3 that the cover performance standard has not been met, and areas where revegetation repair work will take place in 2014 will "not likely meet the standards in 2014". Based upon my June 5 and 6, 2014 field inspection, I would tend to agree with Keammerer, particularly on the south half of the pipeline reclamation where there is mostly bare ground and vegetation growth is completely dominated by Russian thistle.

Buckner also states that the 90% of pre-existing cover performance standard has been met, citing the "Protocol", and under the References in Appendix A citing the 2012 protocols. However, a 2014 protocols has been issued by CNHP. Which protocol is Buckner using?

Buckner (page 24) argues that the reclamation to date has established 90% of pre-existing cover, and therefore, the pipeline right-of-way should not be reseeded and regraded. This statement leaves out the fact that much of the southern half of the pipeline reclamation was washed away in the storms of August and September, 2013 (see Keammerer October, 2013, pages 2 and 3). And lacking adequate storm water drainage repairs and improvements, it is likely that more of the pipeline reclamation will erode away in the near future. I would assert that, particularly in the southern portion of the pipeline reclamation, the interests of successful reclamation would be best served by getting the proper storm water drainage mitigation features in place, and then doing a final regrading and reseeded that will have a much better chance to persist into the future.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michael G. Fijz". The signature is written in a cursive style with a large, prominent initial "M".

President, LREP, Inc.
June 18, 2014

5.0 INFORMATION SOURCES

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6.0 REPORT PREPARER

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Professional Interest

Mike's professional interest is in developing and implementing land and resource planning and management that is consistent with sustainable environmental and ecological practices. This interest, to be successful, is integrated with diverse and sometimes conflicting community interests.

Mike has thirty-three years experience in natural and cultural resource management, land use planning and public policy. Public sector experience includes municipal, county, state and federal governments, and private sector experience includes work with property owners, developers, corporations, environmental organizations, civic and neighborhood organizations, and homeowners associations. Management of natural and cultural resources includes inventory and baseline documentation, development of public planning policies, management plans, impact analysis and mitigation. He has participated in the identification and protection of hundreds of thousands of acres of ecologically significant land in the State of Colorado.

Conservation Easement Baseline Documentation Reports. 1989 to present. Natural and cultural resource inventories conducted on more than four hundred properties on over 538,000 acres of land in thirty-eight Colorado counties. Baseline reports are formatted and conducted to meet Internal Revenue Service regulations with respect to charitable contributions of real property interests for the purposes of land conservation. Reports also follow the recommendations of the Colorado Coalition of Land Trusts Standards and Practices for the Stewardship of Conservation Easement. Inventory reports establish specific resources to be protected by Conservation Easements, and the public interest served by these easements.