



# COLORADO

## Parks and Wildlife

Department of Natural Resources

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To: Steve Jose, Jacque Trout, Maria Sanchez, Amanda Horvath  
 USFWS Region 6 WSFR  
 From: Jim Guthrie  
 Date:  
 Re: Horse Creek Farms Conservation Easement Termination

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On September 23, 2004, Region 6 WSFR approved a State Wildlife Grants Program grant for the acquisition of a 20-year term conservation easement on Horse Creek Farms in southeast Colorado (T-9 - Horse Creek Farms/Esch Easement). The approved grant was for \$190,875 in State Wildlife Grants funds, matched by \$190,875 in state funds.

Section 14 of the conservation easement allowed for the grantor (Horse Creek Farms) to terminate the easement at its sole discretion with a written 30-day notice to Colorado Parks and Wildlife. Section 14 also provided a methodology to calculate the refund the grantor would provide to the state as a refund or reimbursement for the unused portion of the conservation easement. The text of Section 14 is provided below:

14. Termination of Easement at Will. Grantor may, at any time and at its sole discretion, terminate this Easement by providing written notice to the State not less than thirty (30) days before the date chosen by Grantor for termination; provided, however, that Grantor shall be required first to refund to the State the unused portion of the Easement consideration paid by the State for this Easement (the "Refund").

*The Refund shall be calculated as follows:*

A. Multiply the number of months between the date of termination and the expiration of the 30 year term of this Easement (including the month in which the desired date of termination will occur), times ONE THOUSAND FORTY FIVE DOLLARS AND FOURTEEN CENTS, (\$1,045.14). For example, if the date of termination is August 15, 2015, and this Easement were to expire on December 31, 2025, then this calculation would be 125 months X \$1,045.14 = \$130,642.50.

B. Increase the amount of money calculated above to account for the rate of inflation between the Effective Date of this Easement and the date of termination. The adjustment shall be based upon the then most recently published Consumer Price Index. As used herein, the term "Consumer Price Index" means the United States Department of Labor, Bureau of Labor Statistics' Consumer Price Index All Urban Consumers All Items, Denver, Colorado (1982-82 equals 100), or the successor of such Index.

Payment of the Refund by Grantor shall be by check or money order made payable to "The State of Colorado, Division of Wildlife." Payment of the Refund to the State must be made no later than fifteen (15) days prior to the designated date of termination. If



*such payment is not made by then, the termination shall not be effective until thirty (30) days from the date of full and complete payment. Within ninety (90) days of receipt by the State of full and complete payment of the Refund, the State shall, if requested to do so in writing, execute and deliver to Grantor a quit claim deed disclaiming any further interest in this Easement.*

In late 2016, Horse Creek Farms notified Colorado Parks and Wildlife that it intended to terminate the easement per the Section 14 process. The easement was formally terminated on December 28, 2016.

Horse Creek Farms provided a payment of \$296,693.30 representing 223 months of the unused portion of the conservation easement (January 2017 through July 2035) multiplied by the \$1,045.14 monthly value established in the conservation easement, and further multiplied by 1.273 (the applicable Consumer Price Index value for the period from July 2005 when the easement was purchased through December 2016).

$$223 \text{ months} \times \$1,045.14/\text{month} \times 1.273 = \$296,693.30$$

State Wildlife Grants Program funds accounted f