

1 -- I'm sorry, before the closing, right?

2 A. That is correct.

3 Q. Okay. So at this point in time had you --
4 was the property under contract?

5 A. I don't know. I don't know if the
6 property was under contract on March 12.

7 Q. Do you know what commitments you had made
8 by this time for a public trail system on the ranch?

9 A. I don't know.

10 Q. Okay. Do you know what commitments, if
11 any, you had made regarding the future construction
12 of a wilderness cabin?

13 A. I don't know.

14 Q. Okay. Part of the way down it says that,
15 in the second to the last paragraph: We have
16 recently applied for a special use permit, do you
17 see that, for the handicapped facility and a land
18 preservation subdivision, and it says in parenthesis
19 Agate Creek Preserve?

20 A. Yes, I see that.

21 Q. Okay. This was a land use -- these were
22 land use applications you had applied for with Routt
23 County?

24 A. Yes.

25 Q. And the Agate Creek Preserve, was that the

1 residential project?

2 A. It was a land preservation subdivision,
3 yes.

4 Q. Okay. And that was to help fund the
5 overall transaction?

6 A. That is correct.

7 Q. Okay. Did you -- do you remember
8 discussing at all the public trail system in
9 connection with those proceedings before the county
10 commissioners?

11 A. I don't remember.

12 Q. Okay. How about -- do you remember
13 talking at all about the future construction of a
14 wilderness cabin in discussing the project with
15 Board of County Commissioners?

16 A. I don't remember.

17 Q. Okay. And I should probably go back one
18 question. Did you personally go before the county
19 commissioners and represent Humble Ventures on these
20 applications?

21 A. Yes.

22 Q. Okay. Do you remember talking to anyone
23 else in the process of trying to gain support for
24 the Agate Creek Preserve about the construction of a
25 future wilderness cabin?

1 A. No.

2 Q. The words here, "to open the ranch for a
3 public trail system" on Exhibit B, do you remember
4 what you contemplated when you used those terms?

5 A. No, I don't.

6 Q. Were -- at the time were you in
7 negotiations with the City with respect to the Elk
8 Lane Easement or the Primitive Mountain Easement?

9 A. I don't remember if we were in negotiation
10 with the City at the time of this letter.

11 Q. Okay. Do you remember how long -- how --
12 how many weeks, how many months, prior to the
13 closing that you were in negotiations with the City
14 over those easements?

15 A. No.

16 Q. And you would agree with me that one of
17 the components of the closing was the execution of
18 the conservation easement with the Yampa Valley Land
19 Trust; is that correct?

20 A. That is correct.

21 Q. And we have -- your attorney has
22 previously marked that as Exhibit 3, I think in
23 Ms. Dorsey's deposition, and I'd like to utilize
24 that copy because I think it has the recorded deed
25 of conservation easement.

1 MR. DEIHL: I don't have a copy with me.
2 I can go downstairs and get it.

3 MR. LYONS: I think I have it, Josh.

4 MR. MARKS: We can do it another way then.

5 MR. DEIHL: I can go get it, I just didn't
6 bring it with me. I've got a copy that's all marked
7 up that isn't the recorded copy.

8 MR. MARKS: Let's do this then. Have
9 these marked then. It's in here.

10 MR. LYONS: Are you going to give one to
11 everybody or -- you don't care much about trees.

12 MR. CAMERON: The conservation easement
13 I've got one, but --

14 (Whereupon, Deposition Exhibit O was
15 marked for identification by the reporter.)

16 Q. (By Mr. Marks) There you go.

17 MR. LYONS: O as in Oscar.

18 Q. (By Mr. Marks) I'm handing you what we've
19 marked as Exhibit O, and the front page of this
20 exhibit indicates it's the Baseline Inventory Report
21 for the Humble Ranch property. Does this document
22 look familiar to you at all?

23 A. I believe I looked at it this morning.

24 Q. Okay. Was this a document that was given
25 to you at some point within the first year after the

1 closing of the property?

2 A. I don't know.

3 Q. Even though you saw it this morning, did
4 it look familiar to you at all?

5 A. No.

6 Q. Okay.

7 A. Ten years is a long time.

8 Q. Well, we've marked on the lower right-hand
9 version -- lower right-hand corner of this document
10 some labeling, and I'm going to ask you if you can
11 turn to YVLT 00044. Do you see on that page there's
12 -- it's -- there's a deed of conservation easement,
13 Yampa Valley Land Trust, you see that marked --

14 A. I see that.

15 Q. Okay. And does this appear to be the
16 version, if you want to look at that page and the
17 roughly 21 pages that are after that first page,
18 does that appear to be the recorded version of the
19 conservation easement?

20 A. It appears to be the recorded version of
21 the conservation easement.

22 Q. Okay. And on the page that's marked YVLT
23 00066 there's your signature there.

24 A. What was your question?

25 Q. Does your signature appear on this page?

1 A. Yes.

2 Q. Did you have any input into the creation
3 of this document? I'm talking about the
4 conservation easement.

5 A. I'm sure that my attorney and myself had
6 input into the conservation easement.

7 Q. Okay. Why don't you turn to Section 4-I
8 which is structures, which is on YVLT 00053.

9 A. Okay.

10 Q. Okay. See that paragraph?

11 A. I do.

12 Q. Okay. And would you agree with me that
13 this paragraph mentions the community cabin that you
14 have been talking and you've referred to earlier
15 today?

16 A. I see that it refers to the community
17 cabin.

18 Q. Okay. Do you recall whose idea was it to
19 insert language with respect to the community cabin
20 in this conservation easement?

21 A. I believe it was mine.

22 Q. Okay. And do you remember how that idea
23 was received by the Yampa Valley Land Trust?

24 A. No.

25 Q. Do you know if the idea of a community

1 cabin had -- had been something that was
2 contemplated by this conservation -- I'm sorry, let
3 me rephrase it.

4 Do you know if the idea of a community
5 cabin had been discussed between you and the land
6 trust prior to the drafts of this conservation
7 easement?

8 A. I don't remember.

9 Q. Okay. Do you know if the concept of a
10 community cabin had been discussed within the
11 Steamboat Springs community as being part of a
12 future conservation easement prior to the execution
13 of all this?

14 A. As it relates to the conservation easement
15 I don't know.

16 Q. Did someone from the community come to you
17 and ever indicate to you that the community desired
18 a community cabin up in the Humble Venture land?

19 A. I don't remember.

20 Q. Okay. Why did you want a community cabin
21 put into the conservation easement?

22 A. We wanted to reserve a site that enabled
23 the public to access it at some time -- at some
24 point in the future.

25 Q. And I assume that was consistent with your

1 representations at least you had had to your
2 neighbors, right? Of doing that kind of concept,
3 right?

4 A. Yes.

5 Q. Okay. Did -- I know I'm moving ahead a
6 little bit, but you subsequently went and developed
7 the Agate Creek Preserve, correct?

8 A. That's correct.

9 Q. Okay. And you received revenue from that
10 project?

11 A. Yes.

12 Q. Did you ever take any of the monies from
13 that and throw it into a fund for the construction
14 of the community cabin?

15 A. No.

16 Q. Why not?

17 A. We didn't feel it was necessary.

18 Q. Do you remember representing to your
19 neighbors that the funding for the project, the
20 Humble Ranch project, would come from the revenues
21 from that reserve?

22 A. No.

23 Q. Okay. Did you ever -- is that a no that
24 you don't recall or are you saying you don't -- you
25 never represented to your neighbors that you were

1 going to use the revenues from the reserve -- or the
2 preserve residential project to help fund the things
3 you wanted to do on the Humble Ranch?

4 A. Can you restate your question.

5 Q. Yeah. I want to just clarify your answer.
6 Are you saying you just don't recall making those
7 statements or are you saying you never made those
8 kinds of statements?

9 A. Exactly what statement are you referring
10 to?

11 Q. The statement that you were going to use
12 the revenues from the residential project to help
13 fund what you wanted to do on Humble Ranch.

14 A. I believe we never made that statement.

15 Q. Okay. Look at Exhibit B, and read through
16 that and tell me whether you think Exhibit B is a
17 representation that you were going to use the funds
18 from the Agate Creek Preserve to help fund the
19 Humble Ranch project including future construction
20 of a wilderness cabin.

21 A. I don't understand the question.

22 Q. Okay. Well, in Exhibit B you indicated
23 that you wanted to create a visitation facility for
24 physically handicapped children on the Humble Ranch
25 if you were to acquire it, right?

1 A. Uh-huh.

2 Q. And that's a -- I need you to say --

3 A. Oh, I'm sorry.

4 Q. -- yes.

5 A. Yes.

6 Q. And then secondly, your next priority was
7 to open up a public trail system including future
8 construction of a wilderness cabin in the Uplands.
9 Do you see that?

10 A. Yes.

11 Q. Okay. And then you also represented that
12 another priority of the project would be to preserve
13 the development of the Meadows?

14 A. That is correct.

15 Q. And the Meadows area is where your house
16 is, right?

17 A. That is correct.

18 Q. Okay. And then, right below those three
19 things, doesn't it say the project will be primarily
20 funded by a 16-home, low impact development, Agate
21 Creek Preserve, located on the hillsides above
22 Dakota Ridge?

23 A. Uh-huh.

24 Q. Okay.

25 A. Now, the project as you refer to project

1 here, this references the Humble Ranch project at
2 the top there. So I think we're talking about the
3 entire purchase of the ranch as being funded by this
4 16-home, low impact development.

5 Q. Okay. And not -- and so you're saying
6 that doesn't include the components --

7 A. It includes all the components.

8 Q. Okay. Including the future construction
9 of a wilderness cabin?

10 A. That's correct.

11 Q. Okay.

12 THE DEPONENT: Do you mind if I grab a
13 Coke?

14 MR. MARKS: No, go ahead.

15 Q. (By Mr. Marks) Do you recall any
16 discussions about how you would fund the future
17 construction of the wilderness cabin?

18 A. No.

19 Q. Okay. Have you done any preliminary
20 sketches or plans for the construction of that?

21 A. No.

22 Q. Have you asked anyone to begin any
23 drawings or sketch plans for that kind of facility?

24 A. No.

25 Q. Has any outside group come to you

1 indicating that they would be interested in creating
2 that facility?

3 A. No.

4 Q. Do you recall at the time that you
5 negotiated this conservation easement the
6 possibility that an outside group would come in and
7 own it or operate that wilderness cabin facility?

8 A. Certainly there's always an opportunity to
9 talk to anybody about facilitating the construction
10 of a cabin on our property.

11 Q. I'm talking about the time that the
12 conservation easement was negotiated, do you
13 remember any talk about the option of a third party
14 coming in and owning and/or operating that facility?

15 A. I don't remember.

16 Q. I'll have you turn back to the
17 conservation easement and --

18 A. Remind me the number on that page.

19 Q. Sure. Why don't you go back to YVLT
20 00053.

21 A. Okay.

22 Q. Still in the structures paragraph. And
23 about two-thirds of the way down in this paragraph
24 there's a sentence that starts off: Under no
25 circumstance. And if I can point it out to you, if

1 you don't mind me reaching over the table, it starts
2 right there.

3 And the sentence reads, "Under no
4 circumstances shall any of the land under the
5 community cabin or the private cabin be divided in
6 any way from the property or conveyed separately,
7 however, the community cabin structure may be held
8 in an ownership different from that of the grantor."
9 Do you see that.

10 A. I do see that.

11 Q. Okay. Do you remember how that very last
12 clause got into this document that the community
13 cabin structure may be held in different ownership?

14 A. No, I don't remember.

15 Q. You don't know if that was your idea or
16 someone else's idea?

17 A. I don't have any idea about that
18 statement.

19 Q. But would you agree with me that under the
20 terms of this language that the -- if you wanted to
21 -- that if you wanted an outside entity to come and
22 build a community cabin on your behalf you could do
23 that?

24 A. I believe that's true.

25 Q. Okay. And that an outside entity could

1 come in and even own the cabin itself, but maybe not
2 the land underneath it?

3 A. I believe according to this conservation
4 easement that's a possibility.

5 Q. Right. Okay. At the time the
6 conservation easement was negotiated and executed
7 had -- and the transaction closed, had you done
8 anything to assess what kind of hiking, public
9 hiking or public biking was happening on the Humble
10 Ranch property?

11 A. Prior to the closing?

12 Q. Yeah.

13 A. It was private property.

14 Q. Okay. But were you aware whether the
15 public was still accessing trails through the Humble
16 Ranch property?

17 A. Well, at that time it wasn't Humble Ranch
18 property.

19 Q. Well, the predecessors' property?

20 A. I don't know what public trespassing
21 issues were going on at that time.

22 Q. Okay.

23 A. Or if the -- what the predecessors were
24 doing with their lands or what uses they were
25 allowing on their lands.