



YELLOWSTONE COUNTY BOARD OF PLANNING
 CITY OF BILLINGS AND
 YELLOWSTONE COUNTY, MONTANA



AGENDA
 WEDNESDAY, MAY 29, 2024 MEETING TIME: 6:00 p.m.
 1st Floor Large Conference Room, Miller Building
 2825 3rd Avenue North, Billings, Montana 59101

NOTICE TO THE PUBLIC

***In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.

Citizens are invited to:

- . Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- . View the meeting live online at Facebook: <https://tinyurl.com/yckr478k>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- . Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - . Email: plnonline@billingsmt.gov
- . Call in during the Public Comment periods as indicated on the agenda:
 - . Citizens may call in during specific Public Comment periods at **406.237.6165**. All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary. Future delivery methods may be explored as best practice is learned.

NOTICE: All meetings and official activities of the MPO are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify the Planning Division Office, at 406-247-8610.

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
2. **APPROVAL OF AGENDA*** - including any additions or deletions to agenda. The agenda for a regular meeting will be closed at 5:00 p.m. three (3) working days prior to the date of the meeting.
 - a. **Meeting Minutes: March 26, 2024**
4. **PUBLIC COMMENT PERIOD** -- As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
 - 4a) **Comments on items not on agenda and requests to add items to future agendas**
 - 4b) **Comments on items on the non-public hearing agenda items**
5. **DISCLOSURE OF CONFLICT OF INTEREST**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.

7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
 - a. Board Discussion. Recommendation. Subdivision Regulation Updates for Billings and Yellowstone County Presented by: David Green.
8. **NEW BUSINESS:** (Agenda items new to this meeting).
 - a. Conservation Easement. No Action. Submitted by Dave Green, Planner II
9. **OTHER BUSINESS:**
 - a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
10. **ADJOURNMENT**

Planning Board Meeting 2 (4th Wednesday))

Meeting Date: 05/29/2024

Information

Subject

Meeting Minutes: March 26, 2024

Attachments

Minutes of March 26, 2024

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

Tuesday, March 26, 2024, 2024 at 6:00pm

1 Board Attendance Roster: Please note: "E" stands for excused absence, "A" stands for un-excused absence, "1" stands for present, "Z" stands for Zoom participation. **BYLAWS, YELLOWSTONE COUNTY BOARD OF PLANNING, (Amended. May 25, 2004) Section 4. Absences and Removal** A. Each member shall inform the Planning Director at least one day before the meeting of his/her inability to attend a Board or Committee meeting. Such an absence shall be considered an excused absence. If any Board member accrues three (3) or more consecutive unexcused absences from regular meetings, notice of which has been given at his/her usual place of work or residence, or by announcement at a meeting attended by him/her, the President may call such absences to the attention of the Board which may then recommend to the appointing authority that such member be asked to resign and that another person be appointed to serve out the unexpired term. Schedule: (** denotes a Wednesday meeting)

	Position	01/09/2024	01/23/2024	02/13/2024	02/27/2024	03/12/2024	03/26/2024	04/09/2024	04/23/2024	05/14/2024	05/28/2024	06/11/2024	06/25/2024	07/09/2024	07/23/2024	08/13/2024	08/27/2024	09/10/2024	09/24/2024	10/08/2024	10/22/2024	11/12/2024	11/26/2024	12/10/2024
Jim Ronquillo	Mayor/Billings Ward I	A	1	A	1	A	1																	
Roger Gravgaard	Mayor/Billings Ward II	1	V	1	V	1	1																	
Dennie Stephenson	Mayor/Billings Ward III	1	1	1	1	1	1																	
John Staley	Mayor/Billings Ward IV	1	1	A	1	V	1																	
David Nordel	Mayor/Billings Ward V	A	1	1	1	V	V																	
Troy Boucher	YC District 1	V	V	A	A	V	A																	
Dennis Cook	YC District 2	A	1	1	1	1	1																	
Vacant	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Woody Woods	YC District 5	1	1	1	1	1	1																	
Alexis Bonogofsky	YC District 6	1	V	V	V	A	V																	
Morgan Tuss	YC District 7	1	A	A	A	A	A																	

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Vacant	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Scott Reiter	Ex-Officio SD2	A	V	A	A	A	V														

Call the Meeting to Order: President Woods called the meeting to order at 6:00 p.m. on Tuesday, March 12, 2024.

Introduction of Planning Board Members and Planning Department Staff

President Woods called for introductions of the members of the Planning Board and staff.

Participating Planning staff members: Dave Green, Planner II; Lora Mattox, Transportation Planning Coordinator; Elyse Monat, Active Transportation Planner; Brenda Berns, Planning Clerk

Virtual Participation: Board member Alexis Bonogofsky; Board member Dave Nordel; Scott Reiter, Ex-Officio SD2

Others in Attendance: Mac Fogelsong, Engineering; Mike Pigg, Parks & Rec Director; Steve Simonsen, Board of Realtors; Henry Jagodzinski; Kelsey Murray, IMEG; Anna Vickers, IMEG.

2. Approval of Agenda: Motion by Board member Ronquillo, seconded by Board member Staley to approve the agenda as submitted. The motion was carried with a unanimous vote.

3. Approval of Minutes: March 12, 2024

Motion by Board member Staley, seconded by Board member Cook to approve the March 12, 2024, minutes as submitted. The motion was carried with a unanimous vote.

4. Public Comment: As required (3 minute maximum per person). Any member of the public might be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time but could choose to add an item to the next meeting agenda for discussion. There were no comments from the public.

5- 6. Disclosure of Outside (Ex-Parte) Communication or Conflicts of Interest - Board Members and Planning Staff. Board member Cook advised he has knowledge of communications regarding item 7c. Subdivision Regulations. Dave Green, Planner stated he did not believe it was a conflict.

Tuesday, March 26, 2024, 2024 at 6:00pm

7. Old Business

7a. Motion. Staff recommends that the Planning Board forward a recommendation of approval of the Safe Routes to School Plan Update, Phase II. Elyse Monat, Active Transportation Planner.

Elyse Monat stated that Sanderson Stewart, the consultant on the plan gave a presentation at the previous meeting, therefore staff is requesting a recommendation of approval to forward to the Policy Coordinating Committee (PCC).

Discussion

There was none.

Motion

Board member Staley made a Motion, seconded by Board member Cook to forward staff recommendations for approval of the Safe Routes to School Plan Update Phase 2 to the Policy Coordinating Committee.

7b. Public Hearing/Public Hearing Participation Guidelines. President Woods read the guidelines for public input.

7c. Subdivision Regulation Updates 2024. Public Hearing. Motion. David Green, Planner II.

Staff recommends the Planning Board forward a recommendation of approval of the Subdivision Regulation Updates for Billings & Yellowstone County. Dave Green, Planner gave an overview of the regulation updates for the Board and members of the public. Dave stated there were legislative and policy changes requested by City and County departments. The City references items as ‘Chapters’, the County references ‘Sections’.

Section / Chapter 1: General Provisions: There were no changes to this section.

Section / Chapter 2: Definitions: There were updates to some of the definitions to add more information and clarity. Definitions have been updated to reflect the new terms for the various subdivision types. The most significant addition was to Multi-Modal trail types.

Section / Chapter 3: Subdivision Review Procedures:

There was cleanup done to remove reference through much of this section / chapter regarding paper copies. All subdivision paperwork is submitted electronically.

There was clarification regarding Expedited subdivisions, Abbreviated Review, and Minor subdivisions qualifying for Administrative Review.

Tuesday, March 26, 2024, 2024 at 6:00pm

Section / Chapter 4: Development Requirements: It is being proposed that the requirements in zoning for size, orientation, and block length be moved to this section / chapter.

There was discussion regarding originally proposed Street Lighting and alternate options.

Dead-End Streets and Cul-de-Sacs: Dave mentioned that Cul-de-sacs could lead to parking problems, potentially obstructing fire and emergency personnel. An alternative proposal suggests that a permanent cul-de-sac street should not exceed 25% of the total roadway miles in a subdivision unless approved through a variance.

Further discussions revolved around additional county regulations:

All community drain fields or water systems will be on public land with a Rural Special Improvement District (RSID) created for maintenance.

- All private roads shall be gated with electronic opening gates.
- All subdivisions creating 4 or more lots are required to install a 30,000-gallon dry hydrant tank.
- All dry hydrants must be on a public road, cannot be on an arterial street.

Chapter 5; Guarantee of Public Improvements: HB0211 Phased Development & Expedited.

All phases included within the phasing plan, if completed within 5 years of final plat approval, are not required to go through the public hearing process; otherwise, there must be a public hearing to open a phase.

Section / Chapter 6: Developments Providing Multiple Spaces for Rent or Lease for Recreational Vehicles, Mobile Homes, and Manufactured Homes.

This chapter has edits to clarify existing requirements and updated references to the fire code.

Section / Chapter 7: Cluster Developments and Planned Neighborhood Developments:

Some minor edits for clarity in cluster developments. The planned neighborhood developments section is proposed to be removed since it is covered in the new zoning.

Section / Chapter 8: Condominiums and Townhomes: No Changes to this section.

Chapter 9; Environmental Assessment: There are no changes to the City section. The County section has some new language in what is required.

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Section / Chapter 10: Dedication of Parks, Trails, and Open Space:

Yellowstone County will no longer accept private park land toward the required park land dedication.

Current Park Land Street Frontage Opening definition:

Street frontage requirements for parks is 200 continuous, linear, feet for each park of one acre, and 30 feet of frontage for every acre after that. The 30-foot segments are not required to be continuous with the original 200 feet.

Alternative wording provided to allow more street frontage for parks.

Chapter 11; Administrative Provisions:

A family transfer is now allowed within a platted subdivision, so long as the subdivider meets the requirements of zoning, if any exists. SB0158 Gift or sale exempt in subdivision.

Discussion

Tim Miller, YCPW Director. Tim highlighted the concern regarding the need for a Traffic Impact Study (TIS). He explained that although individual subdivisions on arterial roads might not individually trigger the requirement for a TIS, the cumulative effect of multiple developments could result in significant vehicle traffic and other impacts. Consequently, the County now prefers to require a TIS for all developments. Developers have the option to formally request approval from the County without a TIS, but they will receive a written decision in response to their proposal.

Mac Fogelson, City Engineering. Mac discussed the issue of street lighting, emphasizing the balance between safety and cost, which falls outside the purview of the Public Works department. Nonetheless, he offered several considerations. It was suggested that there should be standardization for street lights across different types of streets such as residential, collector, arterial, and at intersections. Three key points were proposed for street lighting: 1) utilizing full cut-off fixtures to prevent light from spilling into residential yards, 2) opting for LED lights for their cost-effectiveness, and 3) setting a maximum height for street light poles while allowing for design flexibility. Mac also delved into the cost aspect. He provided examples from past city projects, where the cost ranged around \$80 per lineal foot, although these lights were slightly more intense than those typically used in residential neighborhoods. The primary concern lies in determining the appropriate lighting for residential streets, with the possibility of upscale poles costing up to \$1.43 per square foot of lot area. Once the City Council establishes a street light policy, Public Works will consider up to four different types of lighting to mitigate maintenance costs, with the average estimated cost ranging from \$0.70 to \$1.40 per square foot of lot area.

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Mike Pigg, Billings Parks and Recreation Director. Mike presented an overview of how city parks' street frontage impacts their usage, emphasizing that parks with greater street frontage tend to foster a safer environment, as evidenced by measurements taken across town. The city's initiative to increase street frontage serves two purposes: improving public utilization of parks and facilitating city maintenance. Moreover, there's a safety concern regarding small trail openings to parks, where law enforcement lacks visual oversight, potentially making residents feel unsafe in park areas.

To address these concerns, the requirement for a continuous 200 feet of street frontage and multiple 30-foot access points to enter the park benefits the entire community. Mike supported his arguments to the Board with photographs illustrating both successful and unsuccessful parks in reducing crime and providing adequate street frontage access within the city.

Mike emphasized that the Parks and Recreation Department aims to have the criteria for street frontage clearly defined in regulations, streamlining the process and avoiding negotiation for every project. The department seeks to collaborate with developers to ensure that park land dedications are usable and do not pose maintenance challenges, such as swamps or ditches. It's crucial that stormwater recedes within 48 hours. Mike underscored that parks are essential amenities for children and families, highlighting their positive impact on communities.

Public Hearing

Steve Simonsen, Association of Realtors. Steve pointed out that Billings is facing an affordability challenge concerning starter homes, potentially contributing to a trend of increased renting nationwide. The Home Builders and Realtors, the groups most affected by real estate pricing, have not been consulted in the decision-making process. The Billings Association of Realtors is requesting a postponement in the implementation of the regulations until they have had the chance to thoroughly examine the new regulations.

Hank Jagodzinski, Billings Central High School Student. Hank expressed gratitude for the comments made thus far but wished to ensure that the board was not led astray. He emphasized that adhering to the 25% cul-de-sac standard would not promote housing affordability, as connectivity is essential. Hank urged the Board to discontinue the use of cul-de-sacs, emphasizing their lack of purpose and advocating for city development that prioritizes connectivity. He stressed the importance of constructing neighborhoods with longevity in mind, incorporating amenities such as street lights, sidewalks, and parks into subdivisions. Hank encouraged the Board to vote in favor of adopting the proposed regulation updates.

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Dan Brooks, The Billings Chamber of Commerce. Dan expressed support for lighting installations for Crime Prevention Through Environmental Design (CPTED) purposes. They emphasized the longstanding understanding that insufficient lighting and unclear pathways contribute to crime. They noted that those who implement lighting changes typically experience positive results and see the most effective improvements in property security.

Dan expressed a desire to see CPTED principles applied, though he did not necessarily advocate for their inclusion in the regulations. He appreciated the three stipulations regarding lighting: the avoidance of glare, the use of LED lights, and a maximum height restriction of 30 feet.

Mr. Brooks expressed openness to a delay to allow for further discussion but favored the adoption of the regulation updates.

Anna Vickers IMEG. Ms. Vickers expressed her support for integrating Crime Prevention Through Environmental Design (CPTED) principles into the standard for lighting in subdivisions and suggested that the Planning Board recommend this as an alternative approach. She also advocated for further clarification regarding undeveloped or unsubdivided land. Additionally, Ms. Vickers acknowledged that cul-de-sacs can be suitable for certain design concepts, particularly when there is adjacent undeveloped land.

Regarding parks, she believed that the 200-foot linear frontage standard represents a positive step forward and thanked Tim Miller from YCPW for clarifying the necessity of a Traffic Impact Study for all County subdivisions.

Public Hearing closed.

Discussion

There was discussion regarding the specific timeframe for postponing the approval of the subdivision regulations. Dave Green clarified that there is no formal deadline, and the Board could motion to delay pending further consideration by the Planning Board.

Further deliberation ensued regarding the importance of street lights, parklands, and the necessity for developers to integrate them at the initial phase of subdivision development. The Board addressed concerns about potentially higher costs incurred from delaying the addition of sidewalks and street lights until later years, which could impose a significant burden on homeowners through a Special Improvement District (SID).

Board member Cook emphasized the need for additional discussion regarding sidewalks and street lights and proposed a 60-day delay.

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Motion

A motion was proposed by Board member Cook to delay the recommendation for approval of the Subdivision Regulation Updates by 60 days, and it was seconded by Board member Staley. The motion passed unanimously.

8. New Business. There was no discussion on this topic.

9. Other Business. There was no discussion on this topic.

9a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects. There was no discussion on this topic.

ADJOURNMENT 7:38PM

10. Future Agenda Items. There was no discussion on this topic.

DRAFT—TO BE APPROVED BY A MOTION AT THE NEXT SCHEDULED MEETING

-Brenda J Berns, Planning Clerk

Planning Board

Date: 05/29/2024
Title: Subdivision Regulation Updates for Billings and Yellowstone County
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend to the City Council adoption of the amended City subdivision regulations. Staff proposes the Planning Board recommend to the Board of County Commissioners' adoption of the amended County subdivision regulations.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Planning staff, after consultation with other departments and divisions of the city and county, is bringing forward the proposed updated subdivision regulations for both the City of Billings and Yellowstone County.

The Planning Division has diligently worked on updating the subdivision regulations to incorporate recent state legislative amendments and to align them with new documents and policies within the city and county. In addition, staff is proposing general document updates, including electronic submission requirements.

During the past several months, staff has consulted with other divisions within the city and county. Those divisions include City Engineering, Public Works, City Fire Department, City Parks, Transportation, the Alternate Modes Coordinator and Zoning.

For county-related updates, we consulted with County Public Works, County Parks, fire departments providing fire service in the county, the Alternate Modes Coordinator and Zoning.

On February 13, 2024, staff made a presentation to developers and engineers for their input on the proposed subdivision update. That meeting was held in the Billings Library Community Room.

On March 12, 2024 there was a discussion meeting with the Planning Board where further input from the board and members of the public were received.

A public hearing was held on March 26, 2024, at which time the Planning Board delayed the subdivision regulation updates 60 days.

Since that time, the Planning Department, Engineering, Parks and County Public Works have had two other public meetings to further discuss the proposed updates and additions to the subdivision regulations. Those meetings took place on April 23 and May 7. Both meetings were attended by members of the public.

The new subdivision regulations have three main drivers for the subdivision regulations update:

1. Changes required by State Statutes because of legislative changes/updates
2. Moving regulations from zoning to subdivision regulations for consistency and a single point of reference
3. Changes to the subdivision regulations requested by other City and County Departments.

See Attachments for a run-down of each section / chapter of the proposed modifications to the subdivision regulations.

STAKEHOLDERS

As is noted, the development community is the most directly affected by the changes proposed to the regulations. There are benefits to the community overall as well to increase consistency of requirements, clarity and some long-term development improvements for future subdivisions. However, the main focus by staff is to ensure the developers and firms that assist in development applications are aware of the changes and will operate under the new requirements in an informed and consistent manner.

On March 12, the Planning Board held a discussion meeting for the proposed updated subdivision regulations. Staff gave a presentation to the board going through each Section / Chapter of the regulations. After the presentation, the board president opened the floor for discussion.

A public hearing was held on March 26, 2024 at which time the Planning Board delayed the subdivision regulation updates

60 days.

Since that time the Planning Department, Engineering, Parks and County Public Works have had two other public meetings to further discuss the proposed updates and additions to the subdivision regulations. Those meetings took place on April 23 and May 7. Both meetings were attended by members of the public.

The two main topics of discussion were lighting required in residential subdivision and electric gates across private streets in the county. The argument was that those two items will add extra cost to the purchasers of land in the subdivision. It was felt neither one should be required. One option mentioned was to have residential street lighting as an option but not required.

The two main topics of discussion were lighting required in residential city subdivisions and electric gates across private streets in the county. The argument was that those two items would add extra cost to the purchasers of land in the subdivision. It was felt neither one should be required.

One option mentioned was to have residential street lighting as an option but not required.

There was one individual that felt street lighting would be a positive requirement. Residential street lighting would provide visibility and additional safety to neighborhoods.

Attached to this staff report are the documents provided at the two meetings that took place on April 23 and May 7.

Discussion

There was discussion regarding the cost of creating the street lighting infrastructure, which would be paid for by the developer. The cost to maintain electricity for the lights is that of the homeowners via a Light District, which would be a percentage allocated to each homeowner. Another question that was asked was the type of lighting that would be required to be installed. The board discussed other potential costs for family transfers, parkland, and roads.

Public Comment:

Doug Wilde 4712 Audubon Way, Billings 59102.

Mr. Wilde stated he owns a development company and said the costs to the developer are passed on to the homeowner. The City pays for lighting costs if associated with an arterial street, the State pays if a designated US Hwy. Mr. Wilde also stated, if only a portion of an arterial street lies by a new subdivision, it would not make sense to have sporadic lighting. This section should be taken out of the regulations entirely.

Dave Green stated that the board may make a recommendation to withdraw new language from the regulations that is not required by legislative updates or new processes.

Steve Simonson 5342 Cabernet Lane, Billings 59106 ;

Mr. Simonson stated that owning a home is the cornerstone of building wealth. Some regulation changes will increase housing costs and cause people to not be able to afford to purchase a home. Realtors and Home Builders are asking for more time to answer questions and consider changes being proposed.

ALTERNATIVES

The Planning Board may recommend

- Approval of the draft regulations, or
- Approval of the draft regulations with specific board approved amendments; or
- Recommend denial of the draft regulations.

Given that some of the changes are state-required legislative changes, it is important to make sure that they are recognized as different from local proposed amendments if proposed changes are made. The legislative changes need to be included in the amendments to align with state law.

FISCAL EFFECTS

There will be no fiscal effects on the Planning Division because of the Subdivision Regulation updates.

Attachments

Subdivision regs overview
Pros and cons of Cul de sacs
Pros and cons of lighting

Pros and cons of park access

Northwest energy light comparison

Lighting installation options

The new subdivision regulations have three main drivers for the subdivision regulations update.

1. Changes required by State Statutes because of legislative changes/updates
2. Moving regulations from zoning to subdivision regulations
3. Changes to the subdivision regulations requested by other City and County Departments.

City Section 23-100	County Chapter Chapter 1
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General Provisions:

No changes to this part of the subdivision regulations.

City Section 23-200	County Chapter Chapter 2
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Definitions:

There are some updates and new definitions. They either clarify by providing the correct current name or definition of the section / chapter. Some definitions are completely new based on the new legislature requirements, or clearly defining an item such as, Multi-Modal Trail Types, Parkland Amenities and Phased Development.

City Section 23-300	County Chapter Chapter 3
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Subdivision Review Procedures:

This section/chapter of the subdivision regulations go through processes. This one had a lot of clean up in it because the current regulations tell you how many paper copies need to be submitted with every subdivision process. Those submittals are now done electronically and do not require a paper submittal.

Expedited Review for Certain Subdivisions.

This section/chapter also contain the new legislature requirements for subdivision processes. There is the new Expedited Review for Certain Subdivisions. This option gives the developer the opportunity to have an expedited review of a subdivision with any number with 6 or more lots. The up-front process is the same as a major subdivision and requires pre-app, completeness and sufficiency review and departmental review then resubmittal of all documents which starts the maximum 35 working days to go through the planning board and then go before the governing body. HB0211

Minor Subdivisions Qualifying for Administrative Review

The administrative review is the same process as a minor subdivision with a pre-app, completeness and sufficiency, then submittal to the Planning Department. It is reviewed by staff and an administrative result is determined, approved, conditionally approved or denied. Once the determination is made then the planning staff mails a letter to each property owner of record whose property is immediately adjoining the land included in the preliminary plat and each

purchaser under contract for deed of property immediately adjoining the land included in the Preliminary Plat.

If, and only if, a party objects to the Planning Director or designee's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body.
SB0170

What was previously known as an Expedited Subdivision is now called an Abbreviated Review.

The exemption Gift or Sale to family member, can now be done within a subdivision. SB0158

City Section	County Chapter
23-400	Chapter 4

Development Requirements:

This section / chapter is where what was in zoning, Size and Orientation Block Length and Perimeter is proposed to be moved to subdivision.

There are a few other items in this section / chapter that have been updated or modified to be clearer on what is required for subdivisions.

In this section/chapter at a public meeting held with engineers and developers present there was a fair amount of discussion around the two items below. In the two meetings held after the delay proposed by the planning board the greatest opposition was to the requirement proposed for street lighting.

Both Street lighting and the cul-de-sac requirements are city only.

- 14. Residential Street lights shall be designed by a licensed professional engineer in accordance with the American National Standard Practice for Roadway Lighting RP-8, current edition.

New Street Lighting

- a) Residential Light Fixture Configuration. Street light fixtures installed after the effective date of these regulations shall be equipped with full cutoff optics, and positioned to minimize any glare source and not create light spillover
- b) Mercury Vapor Bulbs or Lamps. Mercury Vapor bulbs or lamps may not be used in Residential street lights installed after the effective date of this ordinance. LED type luminaires shall be utilized in new street lights.
- c) Residential Street light mounting Height. Residential Street Light fixtures installed after the effective date of this ordinance shall not be mounted higher than 30 feet above grade.

Exceptions to (a), (b), and (c):

- 1) Traffic signals and other traffic safety and control devices
- 2) Historic streetlights

Cul-de-sac streets in subdivisions

a. Permanent cul-de-sac streets may not represent more than 20% of total roadway miles in a subdivision unless approved by a variance.

1. Exceptions to this do not require a variance but can be approved administratively. Exception provision are:

- Infill projects where a dead-end cul-de-sac is the only viable road option.
- Long narrow parcels that are not wide enough for more than a single road that is less than 1,000 feet long.
- Topography that does not allow for a grid system as outlined in the subdivision regulations.

b. Developments with cul-de-sacs, must provide non-motorized access easements that connect the ends of cul-de-sacs with future subdivisions, or provide non-motorized access to existing or reasonable expected future streets, schools, shopping, parks, trails or open space, bus stops and community facilities.

In both cases the board may forward a recommendation to not include these proposed amendments to the subdivision regulations.

In the county subdivision regulations there is a requirement for an electronic gate on subdivisions that have private roads.

Private Roads: Private roads may be allowed within a subdivision; a 'Private Road' sign shall be provided at the beginning point of the proposed new private road. See Section 4.6.b.16 for required street signs. It shall be located on the same sign pole as the new street name. A private road easement shall be provided meeting the criteria listed under Section 4.6.C.6 above. A mechanism for maintenance of any private roads shall be established prior to final plat approval and referenced in the Subdivision Improvement Agreement. All private roads shall be gated with electronic opening gates. If a gate is locked, it must be equipped with a KNOX box that is approved by the Fire Department and the Fire Department shall be provided a key for access.

Some language was removed from city subdivision regulations because they were in reference to wells and septic systems.

In the county updates the chapter on Traffic Impact Studies, TIS, has been expanded to include all the information expected by the county in a TIS.

The county also proposes to require all community septic system drain fields to be in a public county parcel with a Rural Special Improvement District (RSID) created for maintenance of the drain field and mowing.

The same is true with a community water system as the community septic system.

In the county it has been required to provide water suppression tanks for fighting fires. In the past 3 to 5 lots required a 10,000-gallon dry hydrant and 6 or more lots required a 30,000-gallon dry hydrant. The county proposes to require a 30,000-gallon dry hydrant for a subdivision that has 4 or more lots proposed.

Under no circumstance will an open water pond or stream be used as an alternative to a pressurized system or in ground dry hydrant tank.

Dry hydrants shall be located on a public street.

City Section	County Chapter
23-500	Chapter 5

Guarantee of Public Improvements:

This section / chapter includes Phased Development. State legislation a few years ago changed phased development to require a public hearing with each opening of a phase. Legislation in 2023 amended the process of phasing: All phases included within the phasing plan, if completed within 5 years of final plat approval, are not required to go through the public hearing process. They will only be required to obtain a “Release and Certificate” to open each phase. If the subdivider applies to open any phase after 5 years of the approval of the final plat, then the governing body will hold a public hearing in order to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval.
HB0211

City Section	County Chapter
23-600	Chapter 6

Developments Providing Multiple Spaces for Rent or Lease for Recreational Vehicles, Mobile Homes, and Manufactured Homes:

This section /chapter is for developments for lease or rent, mobile home parks, RV parks. This chapter has edits to clarify existing requirements and update references to fire code.

City Section	County Chapter
23-700	Chapter 7

Cluster Developments and Planned Neighborhood Developments:

This section / chapter referred to cluster development and planned neighborhood developments. It has had some edits for clarification and the planned neighborhood developments portion removed because that is covered in the zoning code.

City Section County Chapter
23-800 Chapter 8

Condominiums and Townhomes

This section / chapter is unchanged

City Section County Chapter
23-900 Chapter 9

Environmental Assessment:

There are no changes in the city section.

The county chapter has some additional language in it about what is required for Environmental Assessments.

City Section County Chapter
23-1000 Chapter 10

Dedication of Parks, Trails, and Open Space:

The parks section / chapter has been modified to define more clearly what is acceptable parkland and what is not. In the definitions section of the subdivision regulations a short list of Parkland Amenities has been included. There is also clarification and more information about Linear Park dedications.

Street frontage requirements for parks is 200 continuous, linear, feet for each park of one acre, and 30 feet of frontage for every acre after that. The 30 feet segments are not required to be continuous with the original 200 feet. Example: 5-acre park requires 200 linear feet for first acre and 4 x 30 =120 for the others for a total of 320 linear feet. The developer shall coordinate park street frontage openings with the City of Billings Parks Department before the preliminary plat is completed. Minimum width for access into parkland shall be 30 feet.

A proposed amendment was suggested at the last public meeting on May 7 about parkland frontage. Many subdivisions do not require an acre of parkland because they are not that large of a development. A required amount of parkland may only be 20,000 square feet or smaller. It has been suggested the required frontage of parks less than one acre be a percentage of the 200 feet. For example:

20,000 square feet is what is required by sub regs, 20,000 divided by 43,560 equals 46%. 200 times 46% equals 92 feet of frontage. With a minimum frontage of 60 feet.

Additional language would be added to the above proposed paragraph that requires park frontage be a percentage of the 200 feet frontage requirement, based on the square footage provided as parkland dedication.

The board may choose to forward a recommendation that no change be made to existing parkland street frontage requirements.

In the County private parkland will no longer count towards required parkland dedication. This is following 76-3-621 MCA.

City Section	County Chapter
23-1100	Chapter 11

Administrative Provisions:

There was one edit to this section removing reference to the county in city subdivision regulations.

City Section	County Chapter
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Appendices: because all subdivision forms and templates are on line the appendices are proposed to be removed. The exception to that is the reference to the subdivision Evasion Criteria.

RECOMMENDATION

Staff proposes the Planning Board recommend to the City Council / Board of County Commissioners adoption of the amended subdivision regulations.

2024 Subdivision Revisions



Limiting Cul-de-Sac Streets



Purpose for Recommended Changes

The purposes of these regulations are to promote the public health, safety and general welfare by the coordination of roads within subdivided land with the existing and planned transportation network and avoid and minimize traffic congestion” MCA 76-2-501 (1.b)

PROS

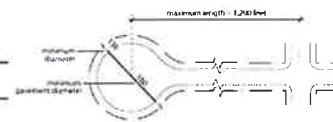
limit number and length of cul-de-sac streets

- Increase connections with neighbors
- More accessible for public services
- Puts less traffic on arterial streets
- Cost of public services and maintenance is lower per residence
- Allows for future connections to new developments
- More room for on-street parking
- Safer access and improved ability to leave in an emergency
- Fosters neighborhood cohesion and resilience

CONS

limit number and length of cul-de-sac streets

- Lots on cul-de-sac streets are in high demand
- Reduced perception of safety on connected streets
- High visibility between neighbors on cul-de-sac streets
- Less traffic on cul-de-sac street
- Larger back yards for lots on cul-de-sac streets
- Creates mini-community
- Reduced noise



Recommendation

Recommendation: Planning staff recommends changing the maximum length of a cul-de-sac street from 600 ft to 1,000 ft - Section 23-406.A.5

Recommendation: The Planning staff recommends limiting the combined length of cul-de-sac streets in a subdivision to no more than 20 to 25 percent of the combined length of all streets - Section 23-406.B.16

Recommendation: Planning staff recommends the limitation include criteria where exceptions are allowed on the limits for cul-de-sac streets - Section 23-406.B.16

2024 Subdivision Revisions



Requiring Street Lighting



Purpose for Recommended Changes

The purposes of these regulations are to promote the public health, safety and general welfare by reducing the risk from accidents, and increase safety by providing a well-lit public space in neighborhoods

MCA 76-2-501 (1.b)

PROS

install street lights at the time of development

- *Cuts crime by increasing natural surveillance of public activity on the street*
- *Lowers accidents by increasing visibility of potential walking or driving hazards*
- *Reduced cost to install at start of development*
- *Energy efficient options - e.g solar, motion sensors, led lighting*
- *Provides a safe space for walking or arriving home after work, school or recreation*
- *Increased property value and marketability*
- *Builds neighborhood cohesion*

CONS

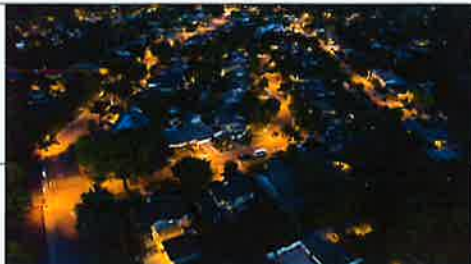
install street lights at the time of development

- *Up front costs passed on to home buyers*
- *On going cost of maintenance and energy to home owner*
- *Decreased night sky visibility*
- *Disruptive for some wildlife*
- *Incorrect choice of lighting fixture can cause glare*
- *Natural sleep/wake cycles for people may be disrupted*



Recommendation

Recommendation: *Planning staff recommends requiring the installation of street lights on public or private streets in new residential subdivisions Section 23-406.B.14*



2024 Subdivision Revisions



Access for Public Parks

Purpose for Recommended Changes

The purposes of these regulations are to promote the public health, safety and general welfare by the promotion of adequate open spaces for travel, light, air, and recreation. MCA 76-3-501 (1.b)

<h3>PROS</h3>	<h3>CONS</h3>
<p>minimum public street frontage for public parks</p> <ul style="list-style-type: none"> ❖ Promotes public health by enhancing access to parks ❖ Increases natural surveillance of public park spaces = public safety ❖ Improves access for proper maintenance of parks ❖ Improves neighborhood "ownership" of park space - vandalism and other crime is reduced ❖ Eliminates perceptions of fear or opportunities for crime to occur ❖ Reduces the number of isolated places where crime can take place unseen 	<p>minimum public street frontage for public parks</p> <ul style="list-style-type: none"> ❖ Up-front cost will increase cost of new lots ❖ Parks will have to maintain more street frontage ❖ Fewer public parks in new subdivisions (builder chooses cash-in-lieu of parkland dedication) ❖ Fewer public parks will increase social isolation and loneliness ❖ Fewer public parks will decrease public health by reducing recreational activity

Recommendation

Recommendation *Planning staff recommends the adoption of minimum street frontage for public parks in subdivisions - Section 23-1002.C.1*



LED LIGHTING PRODUCT HEIGHT COMPARISON FOR UNDERGROUND INSTALLATIONS

Northwestern Energy 5/3/2024

Cobra heads
Mounting Heights 25'
29.5' & 34' - Gray Poles

Shoebbox
Mounting Height 20', 25' and 30'
Bronze Pole

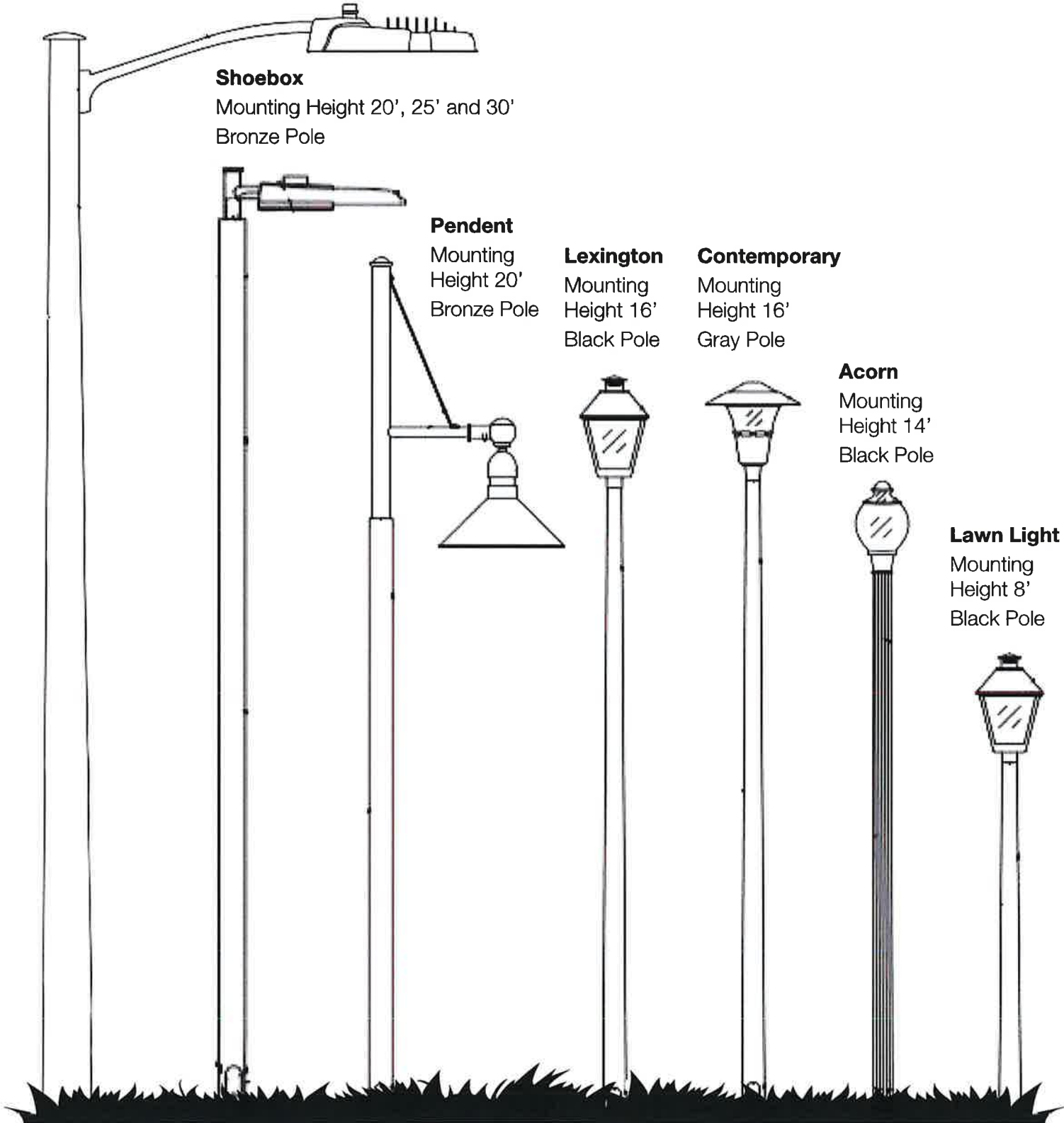
Pendent
Mounting Height 20'
Bronze Pole

Lexington
Mounting Height 16'
Black Pole

Contemporary
Mounting Height 16'
Gray Pole

Acorn
Mounting Height 14'
Black Pole

Lawn Light
Mounting Height 8'
Black Pole



Commercial or Residential

Commercial or Residential

Residential

Residential

Residential

Residential

Residential

These drawings are not to scale, but are reflective of height differences between different types of fixtures.

Assumptions for all:

- 500 FT of trenching
- 6 lights
- Pull boxes on each light

Shoebox – 25FT Fiberglass square pole – Code F 125-foot spacing-(brighter)

\$75 / Month / Light 625 feet road x 2 = 1250 feet frontage/75 foot lot = 16 lots
\$28/lot/month--houses on both sides of road and 2024 prices.

Pendant – 20 FT Fiberglass round pole – Code C

\$100 / Month / Light

Lexington – 16 FT Fiberglass Round Pole – Code C (60 foot spacing)

\$60 / Month / Light

Subdivision Lighting Cost Concepts 4/23/2024

Options for Installation

- Private Contract
 - Developer Installed, with Light District for Maintenance
 - Example—Hallowell Lane
 - Installed Cost \$75-100/Lineal foot of Street
 - 75-foot lot would be \$3750 installed plus on-going power

- Northwestern Energy Light District
 - Installed by Northwestern Energy with Light District for Maintenance
 - Example from Northwestern Energy
 - Cost \$2.10-2.70/Lineal foot of Street Frontage per year
 - 75-foot lot would be \$202.50/year or \$16.88/month

- Special Improvement District
 - Installed through SID and Light District for Maintenance Created
 - Costs spread over 15-years; then assessment sunsets
 - Example—Annafeld Subdivision, High-end Light Fixtures
 - \$1.22/square foot of Lot Area assessed; then \$3-6/month after 15 years for power
 - Average Assessment \$6,725.00

□

Planning Board Meeting 2 (4th Wednesday)

Meeting Date: 05/29/2024

Information

INTRODUCTION

Michael and Cassidy Grewell of Joliet, Montana, working with Montana Land Reliance, would like to place a conservation easement on approximately 1,644 acres of property in Yellowstone County and Carbon County located approximately 6 miles south of Laurel, east of Silesia, with Cottonwood Creek Road running through the property proposed as the conservation area. The property is currently used for grazing and other agricultural purposes. A full list of allowed uses is in the easement document, Exhibit B, Permitted uses and Practices. There is wildlife on the land and in the easement document there are allowances for some hunting. There is an area in the conservation easement that currently has agricultural buildings. Those are to remain. The easement will also allow a single family home with a maximum of 2,500 square feet, measured around the perimeter of the building, and a maximum of 3 stories.

MCA 76-2-206 states: "In order to minimize conflict with local comprehensive planning, all conservation easements shall be subject to review prior to recording by the appropriate local planning authority for the county within which the land lies. It shall be the responsibility of the entity acquiring the conservation easement to present the proposed conveyance of the conservation easement to the appropriate local planning authority. The local planning authority shall have 90 days from receipt of the proposed conveyance within which to review and to comment upon the relationship of the proposed conveyance to comprehensive planning for the area. Such comments will not be binding on the proposed grantor or grantee but shall be merely advisory in nature. The proposed conveyance may be recorded after comments have been received from the local planning authority or the local planning authority has indicated in writing it will have no comments or 90 days have elapsed, whichever occurs first."

This area is located within an undeveloped part of the county and there are no area-specific plans that impact this property. The County Growth Policy does recognize agricultural uses as being important to the economy of Yellowstone County and has been a dominating economic driver for the County. None of the land in the proposed easement is located in a zoning district. The Planning Board should review the proposal and provide comments, if any.

RECOMMENDATION

Planning staff recommends the Board review and provide comment on the proposed conservation easement in accordance with Montana Code Annotated (MCA) 76-6-206. There is no formal action required other than to consider the item and provide comment, if any.

VARIANCES REQUESTED

Not applicable.

PROCEDURAL HISTORY

The Planning Board may:

- Provide comments on the proposed easement; or
- Not provide comments on the proposed easement.

PLAT INFORMATION

Not Applicable

Attachments

Easement Information
Easement Document

GREWELL (MICHAEL) PROPERTY

Mike Grewell would like to sell a conservation easement on 1,644 acres of his ranch located approximately 3 miles east of Rockvale in Carbon County. The proposed conservation easement is located within general sage-grouse habitat with a well-known lek nearby. The ranch consists of grasslands, sagebrush habitat, haylands, and riparian areas along Cottonwood Creek. The ranch borders lands managed by the Bureau of Land Management. The landowner currently uses the property for cattle ranching and limited hay production. The landowner intends to claim a tax deduction for any donated portion of the easement's value. Mike Grewell also participates in FWP's Block Management Program and Pheasants Forever public access programs. Mike Grewell owns the property outright.

Conservation Values

The property is a working ranch that provides scenic open space for the public from Cottonwood Road and adjacent public lands. The ranch consists of habitat suitable for a variety of wildlife, including the threatened greater sage-grouse, sharp-tailed grouse, and other prairie species of concern. In addition, the easement would conserve the property's open space pursuant to a number of government conservation policies, including the Montana Open-Space Land and Voluntary Conservation Easement Act, and Carbon County Growth Policy.

Existing Structures and Improvements

- There are no structures within the proposed conservation easement boundary.

Permitted Structures and Improvements

- Allow for one additional residential dwelling units and unlimited non-residential outbuildings within two separate 3-acre building envelopes.

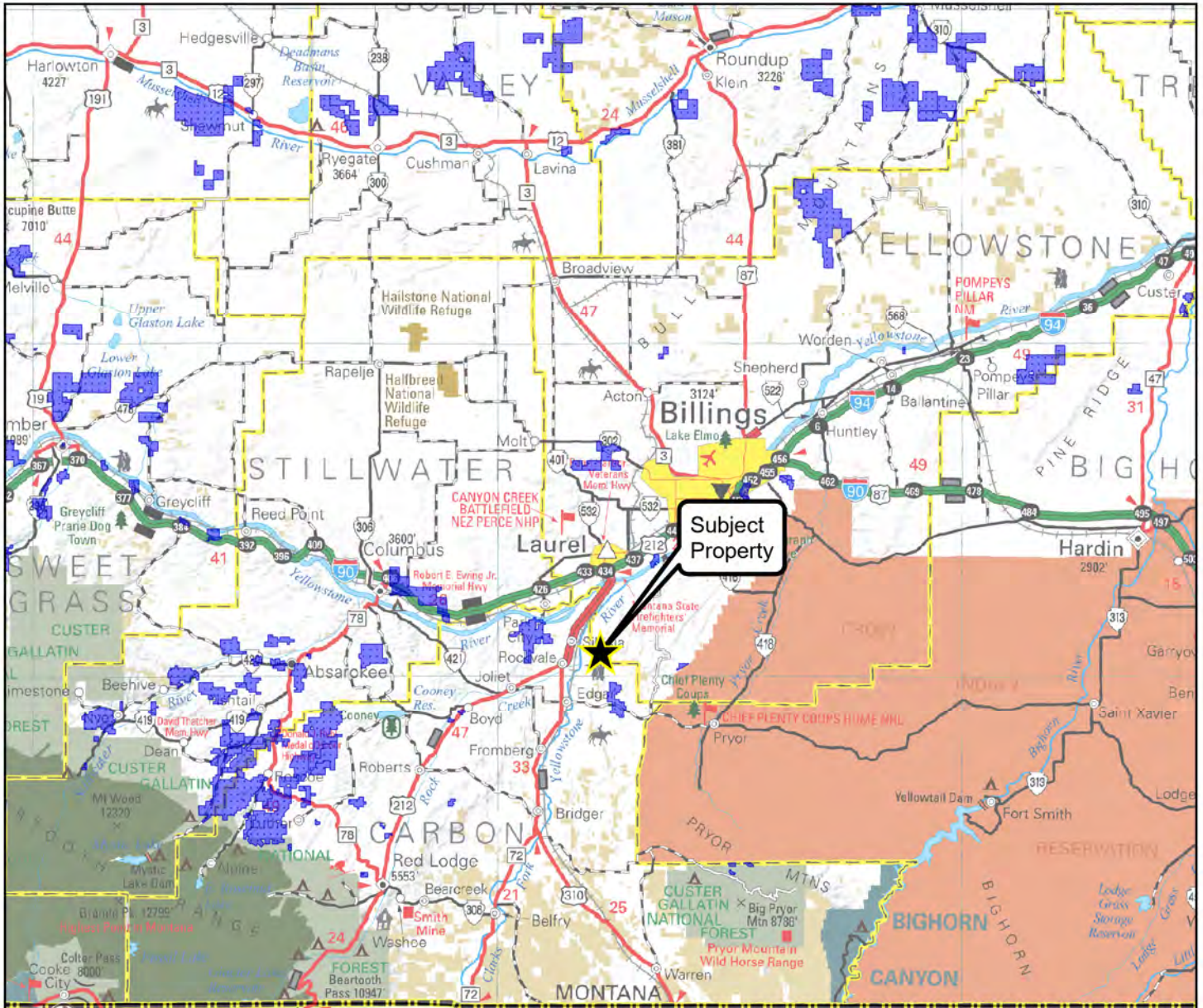
Other Easement Terms

- Property would transfer as 1 parcel only.
- NRCS Minimum Deed Terms for Grasslands of Special Environmental Significance (GSS) Sage-Grouse easements would apply.

How the Easement Terms Will Protect the Conservation Values

- Location of development: Existing and permitted residential dwelling units, and agricultural and non-residential outbuildings, will be confined to the building envelopes described above. The size and location of these building envelopes will be carefully selected by MLR and the landowner to protect the conservation values while respecting the functionality and suitability of the current development on the property. New roads may not be paved or constructed of any impervious material, must be sited and maintained so as to minimize adverse impact on the conservation values, and are subject to MLR's prior written approval to ensure protection of the conservation values. New utilities are also subject to MLR's prior written approval to ensure protection of the conservation values.
- Cumulative extent of development: The cumulative size of the building envelopes constitutes 0.36% of the total conserved property area, leaving the remaining 99.64% of the property as scenic open space.

- Other easement terms: Other rights reserved by the landowner in the easement will be sufficiently restricted by the easement terms to ensure the protection of conservation values. Height limitations will apply to all permitted residential dwelling units, along with a square footage limitation to limit size. The easement broadly prohibits uses and activities that have an adverse impact on the conservation values or that would permit destruction of other significant conservation interests, and specifically prohibits the construction of unauthorized structures, improvements, or alteration of the surface of the land or natural waterways.



Wyoming

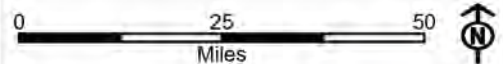
Montana State Highway Map 2021

Grewell (Michael) Property

Acres: 1,670

Subject Property

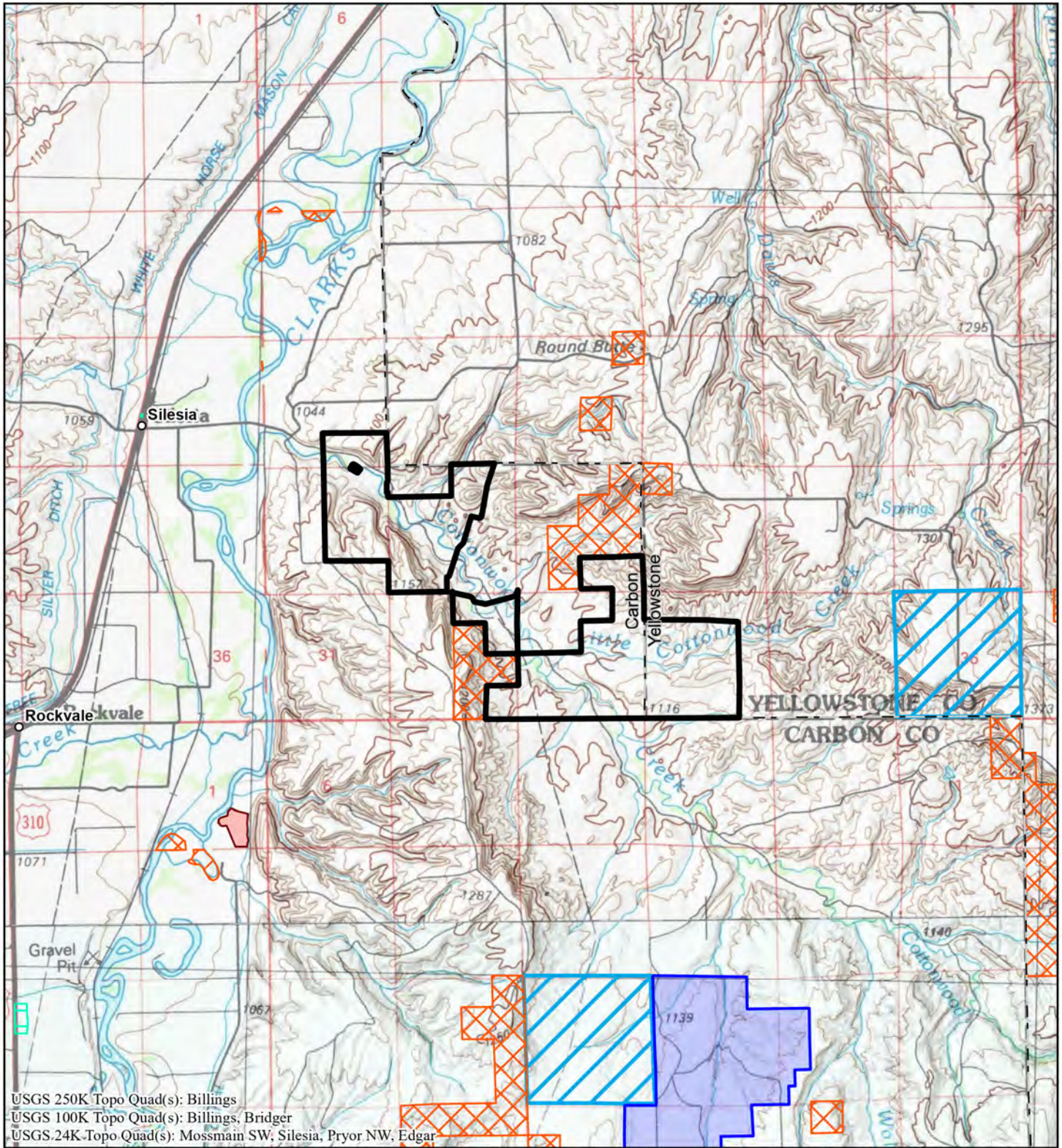
MLR Conservation Easements



Map Center Coordinates (WGS 84):
 Latitude: 45.539135°N
 Longitude: 108.778576°W



Created On: 08/10/2023



Grewell (Michael) Property

Acres: 1,670

Subject Property

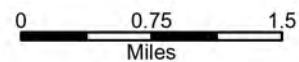
MLR Conservation Easement

Other Conservation Easements

State Trust Lands

Local Government

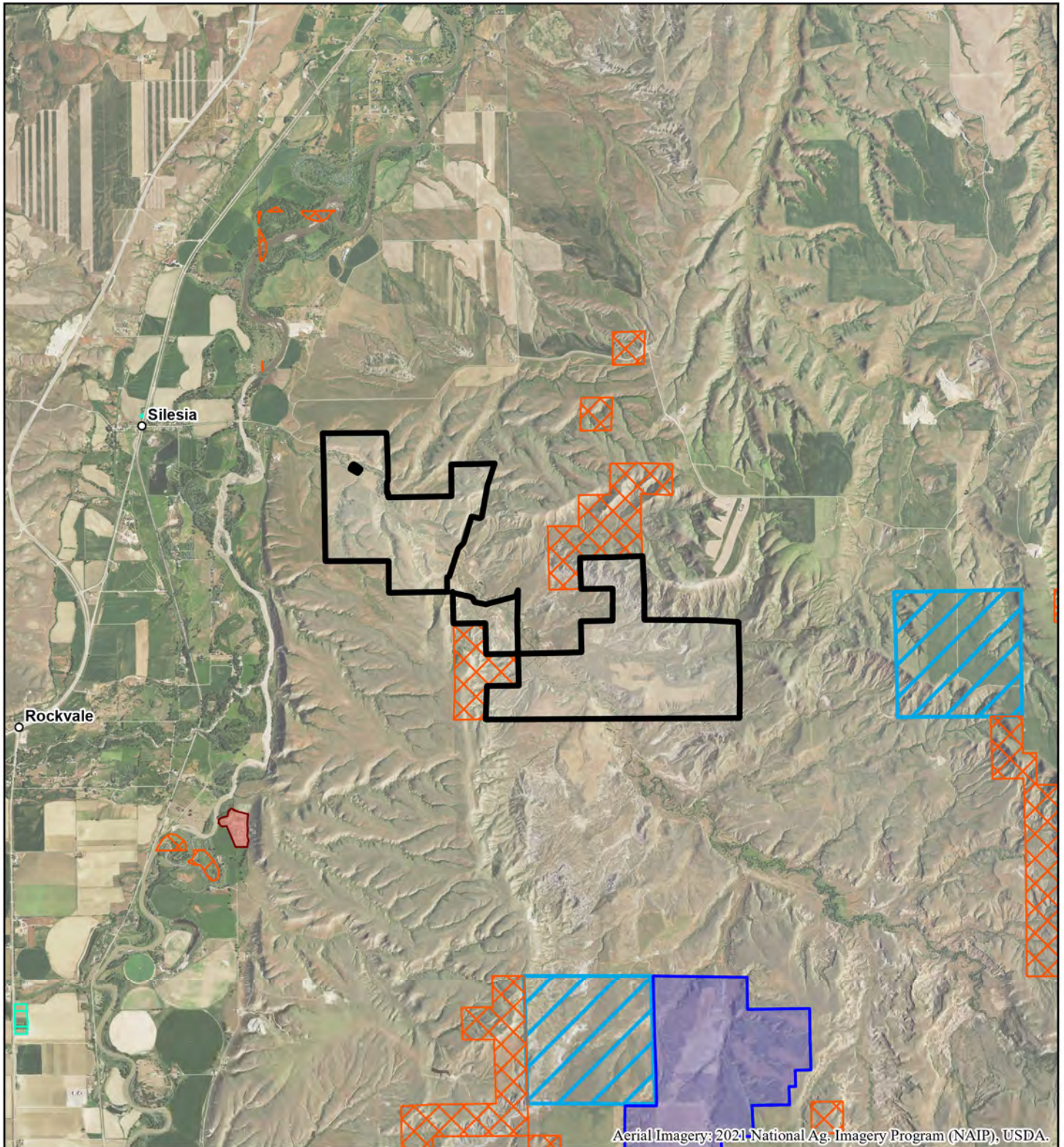
BLM



Map Center Coordinates (WGS 84):
 Latitude: 45.539131°N
 Longitude: 108.778574°W




Created On: 08/10/2023





Grewell (Michael) Property


Acres: 1,670

 Subject Property

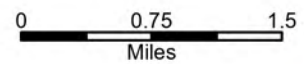
 MLR Conservation Easement

 Other Conservation Easements

 State Trust Lands

 Local Government

 BLM



Map Center Coordinates (WGS 84):

Latitude: 45.539131°N

Longitude: 108.778574°W



Created On: 08/10/2023

AFTER RECORDING RETURN TO:

THE MONTANA LAND RELIANCE
P.O. BOX 355
HELENA, MT 59624

TO ENSURE THAT THE MONTANA LAND RELIANCE RECEIVES PROPER NOTICE WHEN ANY PROPERTY ENCUMBERED BY THIS DEED OF CONSERVATION EASEMENT IS SOLD OR TRANSFERRED, SECTION 12 OF THIS DEED OF CONSERVATION EASEMENT MAY REQUIRE GRANTORS TO PAY GRANTEE A TRANSFER FEE OF ONE HUNDRED DOLLARS (\$100.00) AT THE TIME OF TRANSFER. PLEASE CONTACT THE MONTANA LAND RELIANCE FOR FURTHER INFORMATION.

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (“Easement”) is made this ____ day of _____, 20____, by **MICHAEL V. GREWELL** of 153 Cottonwood Road, Joliet, Montana 59041 and **CASSIDY GREWELL AKA CASSIDY (GREWELL) JUDA AKA CASSIDY L. GREWELL** of 153 Cottonwood Road, Joliet, Montana 59041 (together with their heirs, personal representatives, successors, and assigns, collectively “Grantors”), and **THE MONTANA LAND RELIANCE**, a Montana nonprofit corporation with a principal office at 324 Fuller Avenue, Helena, Montana 59601, and with a mailing address of P.O. Box 355, Helena, Montana 59624 (“Grantee”), and with a right of enforcement conveyed to the **UNITED STATES OF AMERICA** (the “United States”), acting by and through the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”) on behalf of the Commodity Credit Corporation (“CCC”).

RECITALS

1. This Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (ACEP) 16 U.S.C. Section 3865 et seq., and 7 CFR Part 1468 for the purpose of protecting grazing uses, protecting sensitive or declining native grasslands, and related conservation values by restoring or conserving the Property, and preserving, protecting, and enhancing the Conservation Values, in perpetuity, and preventing any use of, or activity on, the Property that will impair the Conservation Values or permit destruction of other significant conservation interests, in accordance with § 170(h)(5)(A) of the Code, Treasury Regulation § 1.170A-14(e)(2), and § 76-6-101, *et seq.*, MCA (the “Purpose of the Easement”). Baseline conditions of the Property are set forth in a Resource (Baseline) Documentation Report, a copy of which is maintained in the files of Grantee and in the office of the Montana NRCS, as further described in Section 9 of this Easement;

2. Grantors own real property in Carbon and Yellowstone Counties, Montana, described in Exhibit A and depicted on Exhibit F, both attached hereto and incorporated by this reference (“Property”) totaling approximately 1,644 acres;

3. Preservation of the Property by this Easement will yield significant public benefits to the people of the State of Montana, Carbon and Yellowstone Counties, and the United States by protecting, preserving, and providing the following significant resources, in perpetuity, in compliance with § 170(h)(4)(A) of the Internal Revenue Code of 1986, as amended (the “Code”) and § 76-6-101, *et seq.*, Montana Code Annotated (“MCA”):

a. Open-space land which maintains the rural, agricultural, and natural scenic qualities of the area, provides opportunities to continue traditional ranching practices in perpetuity, and protects sensitive or declining grasslands, as encouraged and supported by the following clearly delineated federal, state, and local governmental conservation policies:

(1) The Agricultural Conservation Easement Program, 16 U.S.C. Section 3865 *et seq.*, which facilitated and provided funding for the purchase of this Easement, for the purpose of protecting grazing uses, protecting sensitive or declining native grasslands, and related conservation values by restoring or conserving the Property;

(2) The 2020 Carbon County Growth Policy, adopted on March 17, 2020, which recognizes the importance of preserving open space and agricultural lands in Carbon County, and which specifically encourages the voluntary preservation of open space in the county; and,

(3) The Montana Open-Space Land and Voluntary Conservation Easement Act, § 76-6-101, *et seq.*, and § 76-6-201, *et seq.*, MCA (the “Act”);

b. Open-space land which preserves significant views of working agricultural lands and Bureau of Land Management lands for the scenic enjoyment of the general public traveling on Cottonwood Road and recreating on adjacent Bureau of Land Management lands; and,

c. Open-space land which serves a variety of other purposes, including for the benefit of plants, biotic communities, fish and wildlife, including, but not limited to, greater sage-grouse, sharp-tailed grouse and other prairie species of concern, all of which use the Property,

(collectively referred to as the “Conservation Values”);

4. Preservation of the Property’s open space by this Easement will yield significant public benefit consistent with Treasury Regulation § 1.170A-14(d)(4)(iv)(A)(1)-(7), as the Property is unique to the area, under threat of development which would degrade the natural character of the area, in close proximity to both public and private lands managed for conservation purposes, and the general public has the opportunity to appreciate scenic open space views provided by the Property;

5. Grantors own the rights to identify, preserve, and protect in perpetuity the Conservation Values of the Property, which are of great importance to Grantors and to the public, and are worthy of preservation in perpetuity;

6. By conveying this Easement and its associated rights freely, voluntarily, and irrevocably to Grantee, Grantors intend to preserve and protect in perpetuity the Conservation Values of the Property;

7. Grantors, Grantee, and NRCS acknowledge that this Easement is acquired by Grantee the purpose of protecting grazing uses, protecting sensitive or declining native grasslands, and related conservation values by restoring or conserving the Property, thereby preserving and protecting in perpetuity the multiple, interrelated land features which are critical to agricultural lands, open space, and wildlife habitat; and,

8. Grantee is a qualified organization under § 76-6-104(5) and § 76-6-204, MCA, that is organized to conserve land for open space purposes. Grantee is also an organization described in § 170(h)(3) of the Code that is qualified to receive and hold conservation easements. By accepting this Easement, Grantee agrees that it is committed to protect the conservation purposes of this Easement and has the resources to enforce the restrictions in this Easement in perpetuity, as required by Treasury Regulation § 1.170A-14(c)(1).

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, including Grantors' express intention and agreement to make an absolute, unconditional, unrestricted, irrevocable, and voluntary gift of part of the value of this Easement, Grantors hereby gives, grants, and conveys to Grantee, and the successors and assigns of Grantee, with warranties of title, this perpetual Easement on, over, and across the Property in accordance with the terms and conditions set forth below. Other than the bargain purchase price received by Grantors, no goods or services were provided in consideration of the grant of this Easement, which Grantee received as of the date noted on page 1 of this Easement.

SECTION 1. PURPOSES AND GENERAL EFFECT OF EASEMENT

A. Purposes. The purposes of this Easement are protecting grazing uses, protecting sensitive or declining native grasslands, and related conservation values by restoring or conserving the Property, and preserving, protecting and enhancing the Conservation Values, in perpetuity, and preventing any use of, or activity on, the Property that will impair the Conservation Values or permit destruction of other significant conservation interests, in accordance with § 170(h)(5)(A) of the Code, Treasury Regulation § 1.170A-14(e)(2), and § 76-6-101, *et seq.*, MCA.

In achieving these purposes, it is the mutual intention of Grantors and Grantee to permit the continuation of such pre-existing uses of the Property at the time of the grant of this Easement that do not conflict with the purposes and terms of this Easement. If one or more of the purposes of this Easement may no longer be accomplished, such failure of purpose shall not be deemed sufficient cause to terminate the entire Easement as long as any other purposes of the Easement may be accomplished.

Grantors and Grantee recognize that changes in natural conditions, landscapes, technologies, accepted farm, ranch, and forest management practices, and the situation of Grantors may result in an evolution of land uses and practices related to the Property, which are allowed, provided that such uses and practices are consistent with protection of the Conservation Values in perpetuity and the purposes and terms of this Easement. If any uses of the Property which are prohibited by this Easement become more economically valuable than the uses permitted by this Easement, Grantors and Grantee agree that any such economic changes shall not be considered to be "changed conditions" or a "change in circumstances" impairing the validity of this Easement, and shall not justify the amendment, judicial termination, or extinguishment of this Easement.

B. Perpetual restrictions. This Easement shall run with the land and burden title to the Property in perpetuity and shall bind Grantors, Grantee, and their respective heirs, successors, agents, assigns, lessees, licensees, occupants, invitees, and users of the Property, and any other person claiming under them, any and all of whom must comply with all terms and conditions of this Easement, and therefore, this Easement constitutes a restriction granted in perpetuity on the use which may be made of the Property in accordance with § 170(h)(2)(C) of the Code.

C. Dedication. The Property is hereby declared to be "open-space land" as defined in § 76-6-104(3), MCA, and may not be converted or diverted from open-space land uses, except as set forth in § 76-6-107, MCA and Section 10 of this Easement.

D. Incorporation of Recitals. The parties agree that the foregoing Recitals are true and correct and that they are incorporated into the terms and conditions of this Easement.

SECTION 2. RIGHTS CONVEYED

The rights conveyed by this Easement to Grantee are the following:

A. Identification and protection. To identify, preserve, and protect in perpetuity the Conservation Values of the Property, including, but not limited to, its significant open space and scenic values, subject, however, to Grantors' reserved rights as herein provided and further subject to all third-party rights of record in the Property existing at the time of conveyance of this Easement and not subordinated to this Easement. Even if the Property consists of more than one parcel for real estate tax or any other purpose, or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Property as a whole.

B. Access. To enter the Property to inspect and monitor Grantors' compliance with the terms of this Easement in a manner that will not unreasonably interfere with the use of the Property by Grantors. Grantee shall also have the right to enter the Property to enforce the rights granted to Grantee in this Easement, and Grantors convey to Grantee a right of immediate entry onto the Property if, in Grantee's sole judgment, such entry is necessary to prevent damage to or destruction of the Conservation Values protected by this Easement. Aside from the rights of access granted to Grantee in the preceding sentences, and any access rights granted to the United States, or its agents pursuant to this Easement in this Section 2, paragraphs D and E, and Section 5, paragraph F, this Easement does not grant to Grantee, nor to the public, any rights to enter upon the Property.

C. Enforcement, injunction, and restoration. To enforce the terms and conditions of this Easement, to enjoin any activity on, or use of, the Property which is inconsistent with the purposes or terms of this Easement, including those activities which may have an adverse impact on the Conservation Values or would permit destruction of significant conservation interests, and to enforce the restoration of such areas or features of the Property as may be damaged by such activities or uses.

D. The United States' right of enforcement. Pursuant to 16 U.S.C. Section 3865 *et seq.*, the United States is granted the right of enforcement that it may exercise only if the terms of this Easement are not enforced by Grantee. The Secretary of the United States Department of Agriculture (the "Secretary") or the Secretary's assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under state or federal law if Grantee, or its successors or assigns, fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from Grantors, including, but not limited to, attorney's fees and expenses related to Grantors' violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce this Easement against Grantors, up to the amount of the United States' contribution to the purchase of this Easement.

E. The United States' rights of inspection and entry. Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that Grantee and Grantors are in compliance with this Easement. If the annual monitoring report is insufficient or is not provided annually, or if the United States has a reasonable and articulable belief of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of this Easement and the United States ALE-Agreement with Grantee, the United States will have reasonable access to the Property. Prior to its inspection of the Property, the United States shall provide advance notice to Grantee and Grantors and provide Grantee and Grantors a reasonable opportunity to participate in the inspection.

In the event of an emergency, the United States may enter the Property to prevent, terminate, or mitigate a potential or unaddressed violation of this Easement and will give notice to Grantee and Grantors at the earliest practicable time.

SECTION 3. RESERVED RIGHTS AND PROHIBITED USES

A. Reserved rights. Grantors reserve to themselves and to their heirs, personal representatives, successors, and assigns all rights accruing from ownership of fee title to the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not prohibited herein, that do not destroy or impair the Conservation Values or other significant conservation interests, and that are not inconsistent with the terms or purposes of this Easement. The Conservation Values have not been, and will not be, materially adversely affected by allowing uses of the Property which now exist on the Property or which are permitted by this Easement. Further, the limited additional development of the Property permitted by this Easement will not impair the Conservation Values or other significant conservation interests. Without limiting the generality of the foregoing sentences, those uses and practices described in Exhibit B, attached hereto and incorporated by this reference, are expressly permitted, subject to any prior written approval requirements and any other conditions specified in Exhibit B.

B. Prohibited uses. Any activity on, or use of, the Property that impairs or destroys the Conservation Values or that is inconsistent with the terms or Purpose of this Easement is prohibited. Without limiting the generality of the foregoing sentence, the activities and uses described in Exhibit C, attached hereto and incorporated by this reference, are expressly prohibited.

C. Continuation of pre-existing uses. The Property is currently used for grazing and other agricultural purposes. Grantors and Grantee agree that the Conservation Values have not been, and will not be, adversely affected by continuing to allow such pre-existing uses of the Property after the grant of this Easement. Accordingly, and as described in Exhibit B, Grantors may continue pre-existing uses of the Property which do not conflict with the conservation purposes of this Easement.

D. Agricultural Land Easement Plan. Grantee shall prepare an Agricultural Land Easement Plan (the "ALE Plan") in consultation with Grantors and as needed NRCS. Grantee agrees to update the ALE Plan, in consultation with Grantors and as needed, NRCS, in the event the agricultural uses or ownership of the Property change. A copy of the current ALE Plan is kept on file with Grantee. The ALE Plan shall include a grassland management plan that describes the grassland resource; the management system and practices that conserve, protect, or enhance the viability of the grassland; and as applicable any habitat, species, or sensitive natural resources requirements, permissible and prohibited activities, and any associated restoration plans.

SECTION 4. PRIOR NOTICE AND APPROVAL

Any enterprise, use, or activity proposed to be done or undertaken by Grantors requiring Grantee's prior approval, consultation, notification, or mutual agreement (including any provision of Exhibit B or Exhibit C expressly requiring the prior approval of Grantee), or which may impair, harm, or destroy the Conservation Values or other significant conservation interests, may be commenced only after satisfaction of the notice and approval conditions of this Section 4. A purpose of requiring notice and prior approval is to afford Grantee the opportunity to ensure the proposed use or activity is consistent with the purposes and terms of this Easement and does not adversely impact the Conservation Values.

A. Grantors' written request for approval. Prior to the commencement of any enterprise, use, or activity for which Grantee's prior approval is required, or which may have an adverse impact on the Conservation Values, Grantors must send Grantee written notice of Grantors' intention to

commence or undertake such enterprise, use, or activity. Said notice must inform Grantee of all aspects of such proposed enterprise, use, or activity, including, but not limited to, the nature, siting, size, capacity, and number of structures, improvements, facilities, or uses, and the dates and duration of the activity or uses, as appropriate.

Grantors must notify the United States and/or NRCS (including the Chief of NRCS) when the United States has exercised its enforcement rights under this Easement or where specifically required under the provisions of this Easement.

B. Grantee's, and NRCS's addresses. Grantors' requests for approval shall be delivered in person to Grantee at Grantee's principal office located at 324 Fuller Avenue, Helena, Montana 59601; sent by United States mail or by commercial carrier or delivery service, addressed to Grantee at P.O. Box 355, Helena, Montana 59624; or to such other address as Grantors from time to time may be informed of in writing by Grantee; or conveyed by email, as provided below.

Grantors shall address the United States' notice to the State Office of NRCS at Federal Building, Room 443, 10 East Babcock Street, Bozeman, Montana 59715, or to such other address as Grantors from time to time may be informed of in writing by NRCS.

Grantors' request must provide the physical and electronic addresses to which a response may be sent, and the names, addresses, and contact information of persons authorized by Grantors whom may be contacted about the request.

Any request for approval of a proposed enterprise, activity, or use shall be:

(1) Delivered to the Grantee, and to NRCS if required, in person at the physical address stated above with a signed and dated proof of delivery;

(2) Sent to the Grantee, and to NRCS if required, by registered or certified United States mail at the mailing address stated above, return receipt requested;

(3) Sent to the Grantee, and to NRCS if required, by Federal Express or other reputable carrier or delivery service, provided that the sender obtains a signed and dated proof of delivery; or

(4) Conveyed to Grantee's Stewardship Director or current equivalent, and to NRCS if required, by email. If notice is conveyed by email, it shall be considered effective notice in accordance with this Section 4 only if Grantors receives a non-automated email response from Grantee, and from NRCS if required, confirming receipt of Grantors' email within ten (10) calendar days of the date that Grantors' email notice was sent. If Grantors does not receive a non-automated email response from Grantee, and from NRCS if required, confirming receipt of Grantors' email notice within ten (10) calendar days, Grantors shall re-send the notice using one of the other notice methods provided for in this Paragraph B, above.

C. Time for Grantee's response. Within thirty (30) days from Grantee's receipt of a request for approval, as indicated by the date of delivery receipt, which for email notice is the date of Grantee's non-automated email response as described in Section 4, paragraph B, Grantee shall review the proposed enterprise, use, or activity and notify Grantors of any objection thereto. The thirty (30) day period shall not begin until such time as Grantee has received adequate information from Grantors to evaluate the proposed activity. If Grantee requires additional information to evaluate the proposed activity, Grantee shall request the information from Grantors as soon as practicable and in any case not later than twenty (20) days after receiving the request for approval. Notwithstanding any approval by NRCS, Grantors may not proceed with any action for which

Grantors must obtain prior approval from Grantee without first receiving Grantee's express written consent.

Grantee's failure to respond within the time period specified above shall be deemed Grantee's constructive denial of approval, without prejudice, and Grantors may resubmit the same or a similar request for approval of Grantee.

D. Grantee's response to requests for approval. Only upon Grantee's express written approval may the proposed enterprise, use, or activity be commenced and/or conducted, and only in the manner explicitly represented by Grantors and approved by Grantee. Grantee shall not approve any request for approval of any exercise of a reserved right that would have a material adverse effect on this Easement's conservation purposes. For purposes of clarity, consistent with Section 3(A) hereof, the conservation purposes of this Easement have not been, and will not be, materially adversely affected by allowing the limited additional development and uses of the Property expressly permitted by this Easement.

Grantee's decision to approve or disapprove the activity proposed by Grantors shall be sent by email, registered or certified mail, return receipt requested, or by other delivery or carrier service with signed and dated proof of delivery, to Grantors at the address provided to Grantee in Grantors' request. If Grantee responds to Grantors' prior approval request by email, it shall be considered an effective response in accordance with this Section 4 only if Grantee receives a non-automated email response from Grantors confirming receipt of Grantee's email within ten (10) calendar days of the date that Grantee's email was sent. If Grantee does not receive a non-automated email response from Grantors confirming receipt of Grantee's email within ten (10) calendar days, Grantee shall send its decision regarding Grantee's prior approval request by registered or certified mail or other delivery or courier service, as provided in this paragraph. A decision by Grantee to disapprove a proposed activity shall be based upon Grantee's reasonable determination that the proposed enterprise, use, or activity is inconsistent with the purposes or terms of this Easement. If, in Grantee's judgment, conformity with the purposes or terms of this Easement is possible, Grantee's response shall inform Grantors of the manner in which the proposed enterprise, use, or activity can be modified to be consistent with this Easement.

E. Acts beyond Grantors' control. Grantors shall have no liability or obligation for any failure to give notice to Grantee regarding any prudent action taken by Grantors under emergency conditions to prevent, abate, or mitigate significant injury to the Property, or to any person, resulting from causes beyond Grantors' control, including, without limitation, fire, flood, storm, and earth movement, or from any other cause beyond the control of Grantors similar to those occurrences specified. Grantors shall provide notice to Grantee and NRCS of any emergency actions taken pursuant to this paragraph.

F. Rejection or refusal. Rejection or other refusal to accept notices, or objections, or approvals by any party hereto shall be deemed receipt thereof.

SECTION 5. BREACH AND RESTORATION

A. Grantee's remedies. If Grantee determines that Grantors, or third parties under Grantors' authority and control or acting with Grantors' knowledge or consent, are in violation of this Easement, Grantee shall give written notice to Grantors of such violation. In said notice of violation, Grantee shall demand corrective action by Grantors sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes or terms of this Easement, to restore the portion of the Property so injured. If Grantors:

(1) fail to cure the violation within thirty (30) days after receipt of notice thereof from Grantee;

(2) under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing the violation within thirty (30) days (or within thirty (30) days of Grantors' receipt of notice from Grantee, fail to agree with Grantee in writing on a date by which efforts to cure such violation will reasonably begin); or

(3) fail to continue diligently to cure such violation until finally cured,

Grantee may bring an action in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by a temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, and to require the restoration of the Property to the condition that existed prior to any such injury, or to the condition at the time of the grant of this Easement, in Grantee's sole discretion.

If Grantee, in its sole discretion, determines that a violation is threatened or imminent or that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, Grantee may pursue its remedies under this paragraph without giving notice of violation required above and without waiting for the period provided for a cure to expire.

Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantors agree that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. If injunctive relief is inadequate to restore the Conservation Values as a result of a violation, and to compensate Grantee and the public for the loss and damage to Grantee's rights, Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Value protected by this Easement including, without limitation, damages for the loss of open space, scenic, aesthetic, or natural resource values. Without limiting Grantors' liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

B. Costs of enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantors, including staff time, expert and consultant fees, reasonable costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantors' violation of the terms of this Easement, shall be borne by Grantors.

C. Forbearance not a waiver. Enforcement of the terms of this Easement shall be at the discretion of Grantee, and forbearance by Grantee in the exercise of its rights under this Easement if there is a breach of any provision of this Easement shall not be deemed a waiver by Grantee of such provision or of any subsequent breach of this Easement, or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantors shall impair such right or remedy or be construed as a waiver.

D. Waiver of certain defenses. Grantors hereby expressly waives any defense of laches, estoppel, or prescription.

E. Acts beyond Grantors' control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantors for any injury to or change in the Property resulting from causes beyond Grantors' control including, without limitation, fire, flood,

storm, and earth movement, or from any other cause beyond the control of Grantors similar to those occurrences specified, or from any prudent action taken by Grantors under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. Grantors shall provide notice to Grantee of any emergency actions taken pursuant to this paragraph as soon as reasonably practical.

F. Enforcement rights of the United States—NRCS. The United States is granted contingent rights of enforcement of this Easement, as set forth in Section 2, paragraphs D and E.

G. Mediation. If a dispute arises between the parties concerning the consistency of any use or activity with the terms or purposes of this Easement, and if Grantors agree in writing not to proceed with the use or activity pending resolution of the dispute, either party may request of the other party, in writing, that the matter be mediated. Within fifteen (15) days of the receipt of such a request, the two parties may jointly appoint a single independent third-party mediator to hear the matter. Each party shall pay an equal share of the mediator's fee. In referring any matter arising under this Easement to mediation, Grantors and Grantee agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation and is therefore often preferable to litigation. Nevertheless, mediation pursuant to this paragraph shall be voluntary, and this mediation provision shall not be interpreted as precluding or limiting the parties from seeking legal or equitable remedies available under this Section 5.

H. Third parties. Grantee shall have the right, but not the obligation, to pursue all legal and equitable remedies provided under this Section 5 against any third party responsible for any violation of this Easement. Grantors shall cooperate fully with Grantee in enforcement of this Easement against any third parties, and at Grantee's option, shall assign Grantors' right of action against any third party to Grantee, join Grantee in any action against a third party, or appoint Grantee as attorney-in-fact for the purpose of pursuing an enforcement action against a third party. This paragraph shall not be construed to relieve Grantors of any obligation to restore the Conservation Values when damaged or to take all reasonable actions to prevent violations of the Easement by third parties, and nothing herein shall prohibit Grantee from bringing an action against Grantors resulting from Grantors' failure to take reasonable actions to prevent violations of the Easement by third parties.

SECTION 6. COSTS AND TAXES

Grantors shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including responsibility for the control of noxious weeds in accordance with Montana law. Grantors shall pay any and all taxes, assessments, fees, and charges levied by competent authority on the Property, except any tax or assessment on this Easement. Any lawful tax or assessment on this Easement shall be paid by Grantee. Grantors shall also be responsible for and shall bear all costs associated with ensuring compliance with all federal, state, and local laws, regulations, rules, and ordinances.

SECTION 7. INDEMNITIES

A. Control of risks associated with Property ownership. Grantors and Grantee acknowledge and agree that Grantors retain ownership of fee title to the Property and therefore Grantors control day-to-day activities on, and access to, the Property, except for the rights conveyed to Grantee in this Easement and any third-party rights of record at the time of the grant of this Easement. Grantors therefore agree that general liability for risks, damages, injuries, claims, or costs arising by virtue of Grantors' continued ownership, use, and control of the Property shall remain with Grantors as a normal and customary incident of the right of real property ownership, except as specifically provided in paragraph C of this Section 7. Nothing in this Easement or the ALE Plan described in Section 3, paragraph D shall be construed as giving rise to any right or ability

in Grantee to exercise physical or managerial control over activities on the Property or to become an “owner” or “operator” of the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.* (“CERCLA”), or the Montana Hazardous Waste Act, §§ 75-10-401, *et seq.*, and 75-10-601 *et seq.*, MCA, and any successor statutes, and similar state and federal statutes.

B. Grantors’ obligation to indemnify. Grantors agree to hold harmless and indemnify Grantee from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, Grantee’s reasonable attorneys’ fees and costs of defense, arising from or in any way connected with the following:

- (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, except as set forth in paragraph C below;
- (2) the obligations specified in Section 6; and
- (3) the obligations arising from past, present, or future presence of any hazardous substance on the Property, and any obligation associated with the generation, discharge, transport, containment, or cleanup of any such hazardous substance. The term “hazardous substance” shall mean any chemical, compound, material, mixture, or substance that is now or hereafter defined or classified as hazardous or toxic by federal, state, or local law, regulation, or ordinance.

C. Grantee’s obligation to indemnify. Grantee shall hold harmless and indemnify Grantors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including reasonable attorneys’ fees and costs of defense, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any of Grantee’s acts or omissions while Grantee is on the Property in the course of carrying out the duties and obligations of Grantee under the terms of this Easement.

D. Scope of indemnity. For purposes of this Section 7, Grantors’ and Grantee’s agreement to hold each other harmless and indemnify each other extends to the other’s respective directors, members, partners, officers, employees, and agents and their heirs, personal representatives, successors, and assigns.

SECTION 8. ASSIGNMENT OF EASEMENT

Grantee may transfer or assign this Easement, in whole or in part, provided that any such assignment or transfer must be made only to a “qualified organization” and “eligible donee” within the meaning of § 170(h)(3) of the Code and Treasury Regulation § 1.170A-14(c)(1), and to a “qualified private organization” or a “public body” qualified to hold conservation easements under §§ 76-6-104(4) and 76-6-104(5), MCA. Grantee shall require, as a condition of transfer or assignment of all or any portion of this Easement, that the transferee or assignee continue to carry out the conservation purposes of this Easement. In the event assignment of this Easement becomes necessary, Grantee shall seek an assignee which is mutually acceptable to Grantee and Grantors. Grantee agrees that it will make a reasonable effort in the event of any assignment to suggest an assignee which is a qualified organization other than a governmental unit referred to in § 170(c)(1) of the Code, which has protection of open space or other Conservation Values protected by this Easement as an organizational purpose. Grantee further represents to Grantors that its present intent is to assign its interest in this Easement only in connection with a dissolution of Grantee.

SECTION 9. DOCUMENTATION

Grantors have made available to Grantee, prior to the execution of this Easement, information sufficient to document the condition of the Property, including the condition of its Conservation Values, at the time of the grant of this Easement. This information is based in part upon a site visit to the Property by Grantee or Grantee's agents, and consists of mapping of physical features and resources, building envelopes, photographs of structures, developments, and improvements, a description of current and historical uses of the Property, and gathering of other appropriate information to document the condition of the Property and its Conservation Values as of the date of this Easement. The parties acknowledge that this information has been developed into a Resource Documentation Report, dated _____. The parties have signed a written acknowledgment, attached hereto as Exhibit D and incorporated by this reference, that a copy of the Resource Documentation Report has been provided to Grantors and Grantee, and that the Resource Documentation Report accurately represents the condition of the Property as of the date of the grant of this Easement in accordance with Treasury Regulation § 1.170A-14(g)(5)(i). The Resource Documentation Report shall be maintained on file with Grantee.

The parties intend that the Resource Documentation Report shall be used by Grantee to monitor Grantors' future uses of the Property and practices thereon, and compliance with the terms and conditions of this Easement. The parties agree that, in the event a controversy arises with respect to the condition of the Conservation Values, the parties shall not be foreclosed from utilizing any other relevant document, survey, or report to assist in the resolution of the controversy. The parties further agree that if the Resource Documentation Report contains any summaries of, or representations about, the terms or conditions of this Easement, including Exhibit F hereof, any conflict or inconsistency between the terms and conditions of this Easement and the Resource Documentation Report shall be governed by the express terms, conditions, and exhibits herein and not in the Resource Documentation Report.

SECTION 10. EXTINGUISHMENT: GRANTEE'S ENTITLEMENT TO PROCEEDS

A. Extinguishment and condemnation—ALE requirements. This Easement vests a real property interest in the Grantee, and a right of enforcement in Grantee and the United States. The interests and rights under this Easement may only be extinguished or terminated with written approval of Grantee and the United States. Due to the Federal interest in this Easement, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Property.

With respect to a proposed extinguishment, termination, or condemnation action, Grantors, Grantee, and the United States stipulate that the appraised fair market value of this Easement for bargain-sale acquisition purposes totals **[written number]** dollars (**[\$number]**). The United States contributed **[written number]** dollars (**[\$number]**), or **[written percent]** percent (**[number percent]%**) of the acquisition value of the Easement (the "Bargain Purchase Price").

The difference between the appraised fair market value of the Easement for acquisition purposes and the Bargain Purchase Price, **[written number]** dollars (**[\$number]**), or **[written percent]** percent (**[number percent]%**) of the value of the Easement, represents the value that the Grantors contributed or donated to Grantee towards the acquisition of this Easement.

The sum of these contributions, as divided by the fair market value of the land unencumbered by this Easement, **[written number]** dollars (**[\$number]**) at the time of the creation of this Easement, is hereinafter referred to as the "Proportionate Share." The Proportionate Share equals **[written percent]** percent (**[number percent]%**) of the appraised fair market value of the Property unencumbered by this Easement at the time of its creation and will remain constant over time.

If this Easement is extinguished, terminated, or condemned, in whole or in part, then the Grantors must reimburse Grantee and the United States in an amount of proceeds equal to the Proportionate Share of the fair market value of the Property unencumbered by this Easement after extinguishment, termination or condemnation in accordance with this Paragraph A and, if a federal income tax deduction is claimed by the Grantors, in accordance with Paragraph B below. The fair market value of the Property for the purposes of determining the proceeds due to the parties will be determined at the time all or a part of this Easement is terminated, extinguished, or condemned.

Unless otherwise provided in Paragraph B, the allocation of the proceeds received after Easement extinguishment, termination, or condemnation between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, **[written percent] percent ([number percent]%)** of the Proportionate Share, or the proportionate value established by paragraph B below, whichever is greater; and (b) to the United States **[written percent] percent ([number percent]%)** of the Proportionate Share (less the higher amount of proceeds due to Grantee required by the Treasury regulations in paragraph B, if applicable).

Until such time as the Grantee and the United States receive the Proportionate Share from the Grantors or the Grantors' successors or assigns, Grantee and the United States each shall have a lien against the Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, as required by Paragraph B below, or to the United States, each party agrees to reimburse the other parties up to the amount of the allocation of Proportionate Share to which they are entitled, as set forth in this Paragraph A, unless the federal Treasury regulations require otherwise. Grantee agrees that all such proceeds it receives from termination, extinguishment or condemnation must be used in a manner which is consistent with the conservation Purpose of this Easement. If Grantee receives more than its Proportionate Share as set forth in this Paragraph A because of the Treasury Regulation requirements of Paragraph B below, Grantee must obtain the United States' written approval of its use of such additional funds to achieve conservation purposes that are consistent with the Purposes of this Easement.

B. Extinguishment and Condemnation for Purposes of a Federal Income Tax Deduction.
As provided for in § 1.170A-14(g)(6)(i) of the Treasury Regulations, if a subsequent unexpected change in the conditions surrounding the Property arise in the future which makes impossible or impractical the continued use of the Property for the conservation purposes set forth herein, this Easement may be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. For the purposes of Grantors' claim of a federal income tax deduction under IRC § 170(h) and associated Treasury Regulations, the fair market value of the Easement at the time of condemnation, termination or extinguishment shall be determined by multiplying (i) the fair market value of the Property unencumbered by the Easement at the time of termination by (ii) the ratio of the value of the Easement at the time of this grant to the value of the Property without deduction for the value of the Easement at the time of the grant. The ratio referred to in the preceding sentence shall be established by a qualified appraisal for federal income, gift and estate tax deduction purposes, pursuant to Treasury Regulation § 1.170A-13 and § 1.170A-14(h), and the ratio shall remain constant.

Pursuant to Treasury Regulation § 1.170A-14(g)(6)(ii), after termination of this Easement, in whole or in part, on a subsequent sale, exchange or involuntary conversion of the Property, Grantee must be entitled to a portion of the proceeds that is at least equal to the proportionate value of the Easement as established by this Subparagraph B. All of Grantee's proceeds, as determined above, must be used by the Grantee in a manner consistent with the conservation purposes of the original contribution.

SECTION 11. GRANTORS' REPRESENTATIONS AND WARRANTIES

A. General warranties and representations. Grantors represent and warrant that, after reasonable investigation and to the best of their knowledge, as of the date of the conveyance of this Easement:

(1) Grantors have clear title to the Property, Grantors have the right to convey this Easement to Grantee, and the Property is free and clear of any encumbrances, except those encumbrances that have been expressly approved by Grantee.

(2) Any handling, transportation, storage, treatment, or use of any substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements. No deposit, disposal, or other release of any hazardous substance has occurred on or from the Property, in violation of applicable law.

(3) No underground storage tanks are located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with the applicable federal, state, and local laws, regulations, and requirements.

(4) Grantors and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use.

(5) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property, other than the ongoing statewide adjudication of water rights in Montana.

(6) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failing to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantors might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

B. The United States' general disclaimer and Grantor warranty. The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantors' negligent acts or omissions or Grantee's or Grantors' breach of any representation, warranty, covenant, or agreements contained in this Easement, or violations of any federal, state, or local laws, including all Environmental Laws (defined below) including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Property.

Grantors must indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which United States may be subject or incur relating to the Property, which may arise from, but are not

limited to, Grantors' negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Easement or violations of any federal, state, or local laws, including all Environmental Laws (defined below).

C. Grantors' Environmental Warranty. For the purposes of this Easement, the terms "Environmental Law" or "Environmental Laws" mean any and all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

For the purposes of this Easement, the term "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

Grantors warrant that Grantors are in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantors warrant that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with, or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantors further warrant that Grantors have no actual knowledge of an undisclosed release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law. Furthermore, Grantors warrant the information disclosed to Grantee and United States regarding any past violations or non-compliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

Moreover, Grantors hereby promise to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath, or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantors or any other prior owner of the Property. Grantors' indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantors with respect to the Property or any restoration activities carried out by Grantee on the Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Property by Grantee.

SECTION 12. MISCELLANEOUS PROVISIONS

A. Partial invalidity. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

B. "Grantors" and "Grantee." The terms "Grantors" and "Grantee," as used herein, and any pronouns used in place thereof, shall mean and include the above-named Grantors and their heirs, personal representatives, successors, and assigns, and Grantee and its successors and assigns, respectively. If the Property has been transferred by the original Grantors, then the term "Grantors" means the then-current owner of the Property.

C. Titles. Section and paragraph titles and subtitles are for convenience only and shall not be deemed to have legal effect.

D. Subsequent transfers. Grantors agree that reference to this Easement, its recording reference, and the date of its recording in the public records of Carbon and Yellowstone Counties, Montana, will be made in any subsequent deed or other legal instrument by which Grantors convey any interest in the Property, including any leasehold interest. Grantors agree to incorporate the terms and conditions of this Easement by express recording reference to the Easement in any deed by which Grantors convey title to all or any portion of the Property. Any failure to comply with the terms of this paragraph shall not impact the perpetual term of this Easement and shall not render this Easement or any term or condition herein unenforceable.

E. Transfer fee. To ensure that Grantee receives proper notice, any time the entire Property, as described in Exhibit A, or any interest in the Property, is granted, sold, exchanged, devised, gifted, disposed of, or otherwise conveyed or transferred (collectively “transferred”) by the transferring Grantors to any third party, including any third party under the transferring Grantors’ control or ownership, Grantee shall have the right (but not the obligation) to require the transferring Grantors to pay a \$100 transfer fee to Grantee. The transferring Grantors shall notify Grantee of such transfer within thirty (30) days of such transfer or conveyance in writing as provided in Section 4.

F. Relationship of Easement to the Act. The State of Montana has expressly authorized the creation of conservation easements pursuant to the Act. This Easement is granted in accordance with the Act, but the existence of this Easement shall not be dependent on the continuing existence of the Act or any provisions thereof.

G. Subordination. No provision of this Easement is to be construed as impairing the ability of Grantors to use the Property as collateral for any loan, provided that any mortgage or lien arising after the date of execution of this Easement shall be subordinate to the terms of this Easement.

H. Notice of suit. Grantors shall immediately provide Grantee with notice of any lawsuit or administrative action involving the Property or which threatens Grantee’s interest in this Easement. Grantors shall send the notice to Grantee’s mailing address in Section 4, paragraph B, and shall include a copy of any lawsuit or administrative action filed or other relevant documentation. Grantors agree not to object to Grantee’s intervention in any such lawsuit or action. Such lawsuit or action could include, but is not limited to, quiet title action, partition, condemnation or eminent domain, foreclosure, bankruptcy, tax deficiency, environmental clean-up or enforcement, or any other lawsuit or action affecting the title to the Property and/or potentially affecting the Conservation Values on the Property.

I. Governing law. In the event any dispute arises over the interpretation or enforcement of the terms and conditions of this Easement, the laws of the State of Montana shall govern resolution of such dispute, without regard to conflict of laws.

J. Amendment. This Easement may be amended only if, in the sole and exclusive judgment of Grantee and the United States, by and through the Chief of NRCS, such amendment is consistent with the Purpose of this Easement and complies with all applicable laws and regulations, including but not limited to § 76-6-101, *et seq.*, MCA, and the Code; with Grantee’s conservation easement amendment policies then in effect; and with the following limitations: (a) no amendment shall be allowed that affects the perpetual duration of this Easement, or the status of Grantee as an eligible holder of conservation easements, under state or federal law; (b) any amendment must be consistent with the purposes of this Easement; (c) any amendment either must enhance, or must have no effect on, the Conservation Values which are protected by this Easement; and (d) no

amendment may confer prohibited private benefit or inurement on Grantors or other third parties. Any such amendment must be executed in writing by Grantors and Grantee and shall be recorded in the public records of Carbon and Yellowstone Counties, Montana. Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recording of the amended Easement in Carbon and Yellowstone Counties, such amendments must be mutually agreed upon by Grantee, Grantors and the United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void. Grantee retains sole and unlimited discretion whether to consent to any amendment and to make determinations regarding the criteria contained in this paragraph, subject to any determinations to be made by the United States as provided for above.

K. Conservation intent. Any ambiguities in this Easement shall be construed in a manner which best effectuates perpetual protection and preservation of the Conservation Values and the policy and purposes of § 76-6-101, *et seq.*, MCA. The parties acknowledge that each party and its counsel have reviewed and revised this Easement, and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Easement.

L. Entire agreement and merger of previous understanding. This Easement, including all Exhibits attached hereto, constitutes the entire understanding between the parties hereto with respect to Grantors' grant of this Easement on and over the Property, and all prior or contemporaneous negotiations, communications, conversations, understandings, and agreements had between the parties hereto, oral or written, are merged in this Easement.

M. Disclaimer. Grantee does not warrant, guarantee, or otherwise offer any assurance as to the deductibility, if any, of the contribution of this Easement, or its qualification under any applicable state or federal laws. Grantors have been advised by Grantee to secure qualified independent legal, tax, and other professional advice pertaining to the grant of this Easement, and Grantors have had ample opportunity to do so.

N. Separate counterparts. This instrument may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.

O. Calculation of days. When this Easement refers to a specified number of days for purposes of determining a certain amount of time during which a party may, or is obligated to, complete an action, those days shall be considered calendar days for purposes of determining the amount of time.

P. Joint obligation. The obligations imposed on Grantors by this Easement shall be joint and several.

IN WITNESS WHEREOF, Grantors and Grantee have executed this Easement on the dates set forth by the respective notaries below, and this Easement shall be considered effective when it is recorded in the public records of Carbon and Yellowstone Counties, Montana.

[Signatures on following page(s)]

GRANTORS:

MICHAEL V. GREWELL

**CASSIDY GREWELL AKA CASSIDY (GREWELL) JUDA
AKA CASSIDY L. GREWELL**

State of _____)
County of _____)

This instrument was acknowledged before me on the ____ day of _____, 2024, by
MICHAEL V. GREWELL.

(Signature of Notarial Officer)
(Affix Official Stamp To Left)

State of _____)
County of _____)

This instrument was acknowledged before me on the ____ day of _____, 2024, by
CASSIDY GREWELL AKA CASSIDY (GREWELL) JUDA AKA CASSIDY L. GREWELL.

(Signature of Notarial Officer)
(Affix Official Stamp To Left)

GRANTEE:

THE MONTANA LAND RELIANCE,
a Montana Nonprofit Corporation

By _____
Name: George S. Olsen
Title: Director

State of Montana)
County of _____)

This instrument was acknowledged before me on the ____ day of _____ 2024, by
GEORGE S. OLSEN on behalf of THE MONTANA LAND RELIANCE.

(Signature of Notarial Officer)
(Affix Official Stamp To Left)

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

CARBON COUNTY:

Township 3 South, Range 24 East of the Principal Montana Meridian, Carbon County, Montana

Section 19: S1/2SE1/4 EXCEPTING therefrom the following 3 tracts of land:

1. Certificate of Survey No. 2444 FT
2. SE1/4SW1/4SE1/4
3. SW1/4SE1/4SE1/4

Section 30: N1/2NE1/4 EXCEPTING therefrom the following 4 tracts of land:

1. Certificate of Survey No. 2047AM
2. Certificate of Survey No. 2444 FT
3. N1/2NE1/4NW1/4NE1/4
4. NW1/4NW1/4NE1/4NE1/4

Section 32: SE1/4SE1/4, SE1/4NE1/4, N1/2NE1/4, EXCEPTING therefrom the following 2 tracts of land:

1. Relocation Parcel E of Certificate of Survey No. 2438 RB
2. Certificate of Survey No. 2438 FT

Section 33: SW1/4

Township 3 South, Range 24 East of the Principal Montana Meridian, Carbon County, Montana

Section 28: S1/2SE1/4

Section 33: NE1/4NE1/4, S1/2NE1/4, SE1/4

Township 3 South, Range 24 East of the Principal Montana Meridian, Carbon County, Montana

Section 29: S1/2NW1/4, NW1/4NE1/4, N1/2SW1/4, SW1/4SW1/4,

SW1/4NE1/4 EXCEPTING therefrom Relocation Parcel B of Certificate of Survey No. 2438 RB,

SE1/4SW1/4 EXCEPTING therefrom Relocation Parcel D of Certificate of Survey No. 2438 RB

INCLUDING:

That part of Section 29, Township 3 South, Range 24 East, of the Principal Montana Meridian, in Carbon County, Montana, described as Relocation Parcels A and C, of Certificate of Survey No. 2438 RB on file in the office of the Clerk and Recorder of said County, under Document #376801.

Section 30: S1/2NE1/4, N1/2SE1/4

YELLOWSTONE COUNTY:

Township 3 South, Range 24 East of the Principal Montana Meridian, in Yellowstone County, Montana.

Section 34: SW1/4, W1/2SE1/4, SW1/4NE1/4, S1/2NW1/4

ALL OF THE FOREGOING DESCRIBED PROPERTY IS CONVEYED SUBJECT TO all third-party rights of record in the Property existing at the time of conveyance of this Easement and not subordinated to this Easement.

EXHIBIT B
PERMITTED USES AND PRACTICES

The following uses and practices, though not an exhaustive recital of consistent uses and practices, may be conducted consistent with the terms and purposes of this Easement and are permitted as described herein. Some of these consistent land uses and practices are identified below as being subject to specified conditions or to the provisions of Section 4 of this Easement requiring Grantee's prior written approval. All uses of the Property, and any construction, maintenance, or development on the Property, must be conducted in a manner consistent with the terms and purposes of this Easement.

1. Agricultural activities. The provisions of this Easement limit the types of agricultural operations that can occur on the Property to those that promote the Purpose of the Easement. No uses will be allowed that violate federal laws, including federal drug laws, or that decrease the Easement's protection for the Purpose of this Easement. Allowed agricultural uses of the Property include the following activities, subject to the qualifications stated below:

a. The production, processing, and marketing of agricultural crops and livestock provided these activities are conducted in a manner consistent with the terms of this Easement, and the ALE Plan described in Section 3, paragraph D.

b. Grazing, haying, harvesting for hay and non-crop seed production, mowing, constructing fire breaks, conducting fire suppression and rehabilitation activities, and conducting common grazing practices, including cultural practices, consistent with the provisions of this Easement and Purpose of this Easement are allowed. The term "common grazing practices" means those practices customary to the region where the Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Property. Outside the areas identified as "hayland" in Exhibit G, Grantors must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline. Determinations of birds whose populations are in significant decline, nesting seasons for such birds, and the areas of the Property affected by this restriction will be set forth within the Resource Documentation Report, the ALE Plan, and the grassland management plan described in Section 3, Paragraph D. If grassland bird populations that use the Property are later determined in writing by Grantee and NRCS to have recovered and are no longer in significant decline, Grantee, NRCS, and Grantors may update and amend the ALE Plan's determinations for which the restrictions on mowing, haying, and seed harvesting apply.

c. Except for grazing uses, no-till hay production in the areas identified as "hayland" in Exhibit G, totaling 102 acres which is six percent (6%) of the Property, and grassland restoration and conservation, the cultivation or production of crops, non-perennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial non-grassland agricultural product is prohibited.

2. Recreational activities. To use the Property for recreational activities, including, but not limited to, hunting of game animals and birds, fishing, hiking, wildlife viewing, and quiet enjoyment by Grantors and invitees, provided that all such recreational activities on the Property must remain consistent with protection and preservation of the Conservation Values, including maintaining the Property for the Purpose of this Easement. Commercial uses of the Property for recreation are permitted only as set forth in this Exhibit B, paragraph 11. This paragraph shall not be construed to permit construction of any recreational facilities, structures, or improvements on the Property, except for those structures that are specifically permitted in this Exhibit B, paragraph 4.

3. Water resources and surface alteration. Subject to the impervious surface limitation in Exhibit C, paragraph 11, to maintain, enhance, and develop water resources on the Property for permitted agricultural activities, fish and wildlife uses, and domestic needs. Permitted uses may include, but are not limited to, the following: the right to restore, enhance, and develop water resources, including existing ponds, wetlands, rivers, and streams; to locate, construct, repair, and maintain irrigation systems; and to develop and maintain stock watering facilities and domestic groundwater wells. The construction of new ponds or other new water features on the Property is subject to the prior approval of Grantee pursuant to Section 4 of this Easement.

Provided Grantors obtain prior approval of Grantee pursuant to Section 4, to develop new ponds pursuant to a plan approved by Grantee for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement, or creation; to disturb the soil surface for purposes of erosion and sediment control pursuant to a plan approved by Grantee; to conduct soil disturbance activities required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the Purpose of this Easement; and, to conduct agricultural activities and related conservation activities in accordance with the terms and conditions of this Easement, and the ALE Plan described in Section 3, paragraph D.

4. Structures and Building Envelopes. Subject to the impervious surface limitation in Exhibit C, paragraph 11, to construct, maintain, repair, remodel, and make limited additions to, and in the event of their removal or destruction, to replace structures on the Property only as allowed by this paragraph 4. Except as otherwise permitted in this Exhibit B, all structures and improvements must be located within the Building Envelopes defined in subparagraph 4c below. New or replacement structures must be constructed in a manner consistent with protection of the Conservation Values and must adhere to any height and square footage limitations described herein. Grantee retains sole discretion to make determinations regarding the criteria contained in this paragraph 4.

a. Residential dwelling units. For the purpose of this Easement, the term “residential dwelling unit” means a structure, or a portion thereof, with sleeping accommodations and kitchen facilities that is provided, used, constructed, converted, remodeled, added onto, or replaced for habitation or occupation by one or more people. The definition of residential dwelling units includes, but is not limited to, structures used as residences; apartments or suites that are a part of non-residential outbuildings allowed in subparagraph 4b below; guest houses; employee houses; cabins; and mobile homes, trailers, and other moveable living units.

No residential dwelling units currently exist on the Property, and no more than one (1) residential dwelling unit is permitted on the Property. The residential dwelling unit, and replacements thereof, must be located within the designated Building Envelopes defined in subparagraph 4c below and adhere to the following square footage and height limitations. No other habitations, living, or sleeping quarters are permitted on the Property.

The one (1) permitted residential dwelling unit’s footprint may not exceed 2,500 square feet, measured by exterior dimensions and not including decks or porches. Further, any construction of, remodel of, addition to, or replacement of the one (1) permitted residential dwelling unit may not exceed three (3) stories in height, as measured from the highest point above finished grade.

To ensure that permitted new, remodeled, and replacement residential dwelling units are constructed in a manner consistent with protection of the Conservation Values and with the criteria herein, Grantors must submit copies of architectural/construction plans to Grantee for prior approval, as provided in Section 4 hereof.

b. Non-residential outbuildings. Non-residential structures and improvements, which are used for permitted agricultural or recreational activities or used in association with the permitted residential dwelling unit (“non-residential outbuildings”), are permitted only within the Building Envelopes defined in subparagraph 4c, and include, but are not limited to, barns, shelters, corrals, other agricultural facilities and improvements, garages, workshops, and sheds, all used for non-residential purposes.

c. Building Envelopes. All new or replacement structures and improvements must be located within the Building Envelopes delineated in Exhibit F, as further provided in this subparagraph.

(1) Agricultural Building Envelope. The “Agricultural Building Envelope” depicted and delineated in Exhibit F attached hereto and incorporated by reference, consists of approximately three (3) acres. New non-residential outbuildings are permitted within the Agricultural Building Envelope.

(2) Residential Building Envelope. The “Residential Building Envelope” depicted and delineated in Exhibit F attached hereto and incorporated by reference, consists of approximately three (3) acres. The one (1) permitted residential dwelling unit and all its non-residential outbuildings must be located within the Residential Building Envelope. New non-residential outbuildings are permitted within the Residential Building Envelope.

The purposes of the Building Envelopes are to limit development to locations on the Property consistent with preservation and protection of the Conservation Values, in perpetuity; to allow Grantors flexibility in use of the residential dwelling units and non-residential outbuildings; and to cluster residential uses and other structures on the Property. Grantors and Grantee have carefully selected the location and sizes of the permitted Building Envelopes to ensure that Grantors’ reserved rights must be exercised consistently with perpetual protection of the Conservation Values and other significant conservation interests. If necessary, wells and drain fields may be located outside of the Building Envelopes.

d. Temporary structures. For purposes of this subparagraph, “temporary structures” are defined as structures that are not constructed or permanently anchored in the ground, and that are used in conjunction with and are supportive of, agricultural or other activities permitted by this Easement. Subject to Grantee’s prior approval pursuant to Section 4 of this Easement, temporary structures may be located anywhere on the Property, provided such locations are consistent with protection of the Conservation Values, and neither individually nor collectively have an adverse impact on the Purpose of the Easement. Temporary structures do not include pole barns, sheds, or any structures utilizing a foundation or posts permanently anchored in the ground, which permanently anchored structures are considered non-residential outbuildings for purposes of this Easement and must be located within the Building Envelopes. Grantee’s prior approval is not required to locate temporary structures within the Building Envelopes described in subparagraph 4c.

5. Transfer of land. Grantors and Grantee agree and intend that the Property will remain as one whole, intact, single piece of real estate. Grantors may grant, sell, exchange, devise, gift, dispose of, or otherwise convey or transfer (collectively “transfer”) all or any portion of Grantors’ right, title, estate, and interest in the Property in unified title and as one (1) parcel only, subject to the terms, conditions, rights, restrictions, and obligations contained in this Easement. Accordingly, separate conveyance of a portion of the Property or division or subdivision of the Property is prohibited. The Property shall be conveyed expressly subject to all terms, conditions, rights, restrictions, and obligations contained in this Easement.

Grantors shall furnish Grantee with a copy of any document or instrument of conveyance utilized to effect the transfer of the Property within thirty (30) days of the execution of said document or conveyance. **ANY SUCH TRANSFER MUST COMPLY WITH THE TRANSFER FEE REQUIREMENTS AS DESCRIBED IN SECTION 12(E) OF THIS EASEMENT.**

Nothing in this Easement shall be construed to prevent Grantors from owning the Property in co-tenancy or joint tenancy, wherein each co-tenant or joint tenant shall have undivided interests in the whole of the Property, as described in Exhibit A. Grantors also retain the right to enter into leases, licenses, or other transfers of a right to use the Property or to occupy a residential dwelling unit, provided such agreements are made expressly subject to the terms and conditions of this Easement. Grantors expressly convey to Grantee the right to enforce this Easement against, and to seek and recover all remedies for violation of the terms of this Easement from tenants, lessees, licensees, occupants, invitees, and users of the Property with Grantors' knowledge or consent.

All leases, including all short-term leases or rental agreements that confer rights of use or occupancy, must include reference to this Easement and include an obligation of the lessee to comply with the terms and conditions of this Easement.

6. Limited mineral activity. Subject to the prior approval of Grantee and Chief of NRCS as provided in Section 4 of this Easement, to explore for or extract subsurface oil, gas, or other subsurface minerals (or to lease, sell or otherwise dispose of the rights thereto) in or under the Property, subject, however, to the following conditions. The requirements of this paragraph 6 shall govern and control any and all rights to any mineral substance owned by Grantors as of the date of this Easement or later acquired by Grantors.

a. Surface mining prohibited. As provided in Exhibit C, paragraph 2, there shall be no extraction or removal of any minerals by any surface mining method, in accordance with § 170(h)(5)(B) of the Code and applicable Treasury Regulations.

Notwithstanding any provision hereof to the contrary, Grantors retain the right to allow archaeological and paleontological investigation, exploration, and excavation, and the right to collect and transport off of the Property any paleontological or archaeological fossils, artifacts, or resources, provided that such activities have only limited, localized, and temporary impacts on the Property, that such activities are not irretrievably destructive of any Conservation Values, and further provided that Grantors must obtain Grantee's approval pursuant to Section 4 hereof prior to the beginning of any such activities to ensure such activities are conducted in a manner consistent with perpetual protection of the Conservation Values. Any such limited-impact archaeological or paleontological activities shall require Grantors to adhere to the conditions set forth in this paragraph 6 of this Exhibit B, expressly including, but not limited to, the requirement that any disturbed areas or excavation sites be reclaimed and revegetated to their original state by restoring land contours and topsoil, by replanting native vegetation, and by husbanding replanted native vegetation until the vegetation is mature, established, and self-perpetuating.

b. Limited subsurface mining conditionally permitted. Subject to the prior approval of Grantee and Chief of NRCS as provided in Section 4 of this Easement, Grantors reserve the right to explore for or extract oil, gas, or other subsurface minerals (or to lease, sell or otherwise convey the rights thereto) by subsurface mining methods, subject to and only in strict compliance with this paragraph 6 and Exhibit C, paragraph 2. There shall be no exploration for or extraction of oil, gas, or other minerals by any method of mining if such activity would impair any Conservation Value of the Property, in Grantee's sole judgment. Subsurface mineral exploration or extraction may be permitted only if the subsurface mining methods Grantors propose are approved in advance by Grantee as consistent with the purposes and terms of this Easement and only if the subsurface mining methods, as proposed and when implemented, either do not disturb the surface of the land, or

disturb the surface of the land in ways that are limited, localized, and temporary. No method of mining will be permitted by Grantee that is inconsistent with the conservation purposes of this Easement at any time, or that is irretrievably destructive of any significant conservation interest. Impervious surfaces, as defined in Exhibit C, paragraph 11, of this Easement include any surface disturbance or impervious surfaces associated with subsurface mineral development allowed by this paragraph.

Grantee and Grantors must demonstrate prior to the initiation of mineral development activity that such subsurface mineral development shall:

- (1) Be conducted in accordance with applicable state law;
- (2) Have a limited and localized impact;
- (3) Not harm the Purpose of this Easement;
- (4) Not materially alter or affect the existing topography, as determined by Grantee and the Chief of the NRCS;
- (5) Comply with a subsurface mineral development plan that includes a plan for the remediation of impacts to the Purpose of this Easement, which includes reclaiming and restoring all areas of the Property that are impacted by the subsurface mineral development and such plan is approved by Grantee and the Chief of the NRCS prior to the initiation of mineral development activity;
- (6) Not be accomplished by any surface-mining method;
- (7) Be within the impervious surface limits described in Exhibit C, paragraph 11; and,
- (8) Use practices and technologies that minimize the duration and intensity of impacts to the Purpose of this Easement.

c. Additional restrictions on subsurface mining. In addition, subsurface mining methods used must adhere to the following conditions:

(1) Water. No exploration for or extraction of minerals using subsurface mining methods shall take place beneath any stream, waterway, or protected wetland, and no subsurface mining methods may degrade the quality of any lake, pond, well, stream, groundwater, or surface water, including, but not limited to, any source of water utilized by Grantors for agricultural or residential purposes. Any wastewater resulting from permitted mineral exploration or extraction using subsurface mining methods which is of materially poorer quality than existing natural water sources or supplies must be treated so that its quality is substantially equivalent to existing natural water quality where the wastewater is discharged or released into surface waters on the Property and when groundwater is reinjected or otherwise disposed of under the Property.

(2) Restoration of surface disturbances. Any surface disturbance resulting from permitted mineral exploration or extraction activities using subsurface mining methods must be limited, localized, temporary, and approved in advance by Grantee as consistent with the purposes and terms of this Easement. Any such disturbances to the surface of the land shall be restored upon completion of subsurface mining activities to a condition equivalent to or better than its state prior to the disturbance. All areas of the Property that are impacted by subsurface mineral development pursuant to this section must be reclaimed and restored within a reasonable

time, as determined by the Grantee and Chief of NRCS, at cessation of subsurface mineral development activities. Surface restoration activities may include, but are not limited to, reshaping land contours, restoring soils, replanting native vegetation, and stewarding replanted native vegetation until the vegetation is mature, established, and self-perpetuating.

(3) Roads. Whenever possible, access to areas of the Property above the locations of subsurface exploration or extraction sites shall be by existing roads. Any new road shall be temporary, subject to prior approval by Grantee as provided in Section 4, and sited and maintained in accordance with this Exhibit B, paragraph 9, so as to minimize impacts to the Conservation Values. Any new, temporary roads shall be fully reclaimed after subsurface mineral exploration and extraction activities are concluded to a condition equivalent to or better than the condition of the surface of the Property prior to the construction of the temporary road.

(4) Temporary structures. The number and kind of temporary structures placed on the Property in connection with mineral exploration or extraction activities using subsurface mining methods shall be limited to the minimum necessary to accomplish said activities and shall be approved in advance by Grantee in accordance with Section 4. All such temporary structures shall be removed upon the termination of subsurface mining activities and the sites of any such structures shall be restored pursuant to subparagraph (2) above.

(5) Notice and extended approval period. Grantors shall advise Grantee in writing at least sixty (60) days prior to engaging in any mineral exploration or extraction activities using subsurface mining methods (or leasing, selling, or otherwise disposing of the rights thereto) whether or not such activities (or leasing, selling, or otherwise disposing of the rights thereto) could result in any surface disturbance. For the purpose of this paragraph, Grantee's period in which to grant or deny prior approval of any mineral exploration or extraction proposal under Section 4, paragraph C, shall be extended to sixty (60) days. The sixty (60) day period shall not begin until Grantee has received complete information with sufficient detail and particularity, in Grantee's judgment, to evaluate the request.

d. Surface use agreements. To ensure Grantee's ability to protect Grantee's vested property right in this Easement and to uphold its obligations under the terms of this Easement, Grantors grant to Grantee non-exclusive rights to negotiate and enter surface-use agreements, right-of-way agreements, leases, assignments, non-surface occupancy agreements, including agreements for the payment of surface damages, and any other agreements arising from or related to mineral, oil, gas, or hydrocarbon exploration and extraction, development, production, and removal activities conducted by third parties (collectively, "Mineral Activity Agreements"). Grantors and Grantee agree that neither party shall unilaterally enter into any Mineral Activity Agreements. Grantee shall have the right to receive notices of any proposed exercise of separated or severed mineral rights, if any. If Grantors is contacted regarding the exploration for or extraction of minerals by any severed mineral rights holder, Grantors shall provide notice to Grantee of said contact within ten (10) days. In any Mineral Activity Agreement, Grantors and Grantee shall require, to the greatest extent possible, that any mineral activities conducted by third parties are conducted in accordance with this Exhibit B, paragraph 6, and Exhibit C, paragraph 2.

7. Timber management. Forest management and timber harvesting is allowed, provided these activities are carried out, to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Property. Accordingly, Grantors may conduct forest management activities and selectively harvest timber on the Property in accordance with all federal, state, and local laws, regulations, rules, and ordinances, provided such activities protect and are consistent with the Conservation Values, as further detailed below.

a. Selective harvest for safety and permitted uses. Grantors reserve the right to remove select trees that present a hazard to persons or property, and to cut firewood, posts, and

poles for personal use, solely under the criteria set forth in this paragraph. All timber harvested by Grantors pursuant to this subparagraph must be used or disposed of on the Property. All selective timber harvests pursuant to this subparagraph must protect and minimize adverse impacts to the Conservation Values. In connection with the upkeep, maintenance, and repair of permitted structures and residential areas, Grantors specifically reserve the right to clear brush; to prune, trim, and remove trees; and to plant trees, shrubs, flowers, and other native or non-native species for landscaping or gardening purposes, all within the Building Envelopes described in paragraph 4 of this Exhibit B.

b. With prior written approval of a timber harvest plan pursuant to Section 4.

Upon obtaining the prior approval of Grantee as provided in Section 4 hereof, Grantors may selectively harvest timber for use off the Property, including selective timber harvests for the abatement of disease or insect infestations, and for sale, trade, exchange or use off the Property, provided such harvests are conducted consistently with protection of the Conservation Values and solely under the conditions in this paragraph. Any timber harvest permitted by this subparagraph must be consistent with the purposes of this Easement; must protect and minimize adverse impacts to the Conservation Values; and shall require preparation, at Grantors' expense, of a timber harvest plan by a qualified natural resource professional. Grantors shall contact Grantee prior to the preparation of a timber harvest plan to obtain the required information to be included in any such plan, which shall include an evaluation of the criteria in this subparagraph in addition to other information that Grantee may require, to ensure that the Conservation Values are protected in perpetuity. The timber harvest plan shall be furnished to Grantee in connection with Grantors' request for prior approval of any proposed timber harvest pursuant to this subparagraph, and any timber harvest, if approved by Grantee as provided in Section 4 hereof, shall be conducted in accordance with said plan. Grantors must obtain Grantee's written approval of such plan prior to the initiation of any timber harvest pursuant to this subparagraph. Notwithstanding the foregoing, Grantee shall not approve any timber harvest plan which is inconsistent with perpetual protection of the Conservation Values.

8. Fences. Fences may be maintained and replaced, and new fences installed if they are necessary for agricultural operations or other allowed uses on the Property or to mark boundaries of the Property. Maintenance, replacement, and installation of fences must be conducted in a manner consistent with the Purpose of this Easement and will not negatively impact the habitat, species, or sensitive natural resources identified for protection in the Resource Documentation Report. Grantors reserve the right to construct fences impassable to wildlife around building envelopes, haystacks, harvested crops, residential gardens, and kennels or enclosures for domestic animals other than pastured livestock.

9. Roads. Subject to the impervious surface limitation in Exhibit C, paragraph 11, to repair, maintain, and improve existing roads on the Property, as delineated in Exhibit F and as documented in the Resource Documentation Report, provided that existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee pursuant to Section 4, and necessary to carry out the agricultural operations or other allowed uses on the Property. For purposes of this Easement, "road" means a road that is intentionally constructed, periodically graded or maintained, has an improved surface and raised roadbed, consists of dirt, gravel, or paved surfaces, and may have excavated cut and fill areas where it traverses hillslopes. The term does not include "two-tracks" created incidentally by driving vehicles over the same path until the ground and vegetation show lasting signs, or tracks, of such use. Grantors may use and create unimproved trails and two-tracks that are necessary for the agricultural purposes protected by this Easement. Such unimproved trails and two-tracks may include two-track byways used by agricultural equipment and off-road vehicles for crop cultivation, field access, livestock management and monitoring purposes, and access to irrigation ditches, pumps, and infrastructure.

Grantors may construct new roads with the prior written approval of Grantee pursuant to Section 4 if such roads are (i) within the impervious surface limitation in Exhibit C, paragraph 11; (ii) necessary to carry out the agricultural operations or other allowed uses on the Property, which include but are not limited to the following: (a) for agricultural activities as permitted in this Exhibit B; (b) for access to the residential dwelling unit and other structures as permitted in this Exhibit B; (c) in connection with timber management activities as permitted in this Exhibit B; (d) for mineral activity as permitted in this Exhibit B; or (e) for access to Grantors' unencumbered property in sections 19, 30, and 33 of Township 3 South, Range 24 East; and (iii) located and constructed consistent with protection of the Conservation Values. In requesting Grantee's prior written approval, Grantors' written notice shall include a construction plan describing the purpose of the road and how it is consistent with protection of the Conservation Values, its location on a topographic map, and, to the extent deemed necessary by Grantee, discussion of the following: road grade, drainage, erosion/sedimentation impacts and mitigating efforts, areas of cut and fill, and special concerns such as culvert placement, bridges, fords, and buffer strips between roads and streams. Seeding and reestablishment of cover vegetation on exposed road cuts, fills, and banks shall be required.

Any new roads must be constructed in a location and manner that is consistent with the Purpose of the Easement and will not negatively impact the habitat, species, or sensitive natural resources identified for protection in the Resource Documentation Report.

Grantors may grant right-of-way easements to neighbors over existing roads. The granting or modification of right-of-way easements for roads is prohibited when the road will adversely impact the Purpose of this Easement as determined by Grantee in consultation with the Chief of NRCS.

10. Utilities. To install, maintain, repair, and replace utility structures, lines, conduits, cables, wires, or pipelines ("utilities" and "utility services") upon, over, under, within, or beneath the Property to existing and subsequently constructed structures and improvements permitted by this Easement, solely under the criteria set forth in this paragraph. Any such utilities or utility services must be buried where technically and economically feasible, and must not, whether individually or collectively, have an adverse impact on the Purpose of the Easement, and must not materially impair the Conservation Values, in Grantee's sole judgment.

Within the Building Envelopes Grantors may construct, maintain, repair, and, in the event of their removal or destruction, replace utilities and utility services and wind, solar, hydroelectric, geothermal, and other types of renewable energy generation facilities solely for uses permitted on the Property by this Easement, except that any incidental surplus energy may be sold commercially for use off of the Property or credited to Grantors' utility service (net metering). Renewable energy production is allowed for the purposes of generating energy for the agricultural needs of the Property. Renewable energy sources must be built and maintained within impervious surface limits set forth in Exhibit C, paragraph 11, and within the Building Envelope described in Exhibit B, subparagraph 4c, with minimal impact on the Conservation Values of the Property and consistent with the Purpose of this Easement.

With the prior approval of Grantee pursuant to Section 4 of this Easement, Grantors may also grant right-of-way easements for utility services to neighboring properties, provided that any such new right-of-way easements do not materially impair the Conservation Values protected by this Easement, in Grantee's sole judgment. The granting or modification of right-of-way easements for utilities is prohibited when the utility will adversely impact the Purpose of this Easement as determined by Grantee in consultation with the Chief of NRCS.

With the prior approval of Grantee pursuant to Section 4 of this Easement, Grantors may also permit the replacement, maintenance, and repair of existing utility distribution services running through the Property, including the reconstruction of new electrical utility distribution lines

to replace existing infrastructure (but not electrical transmission lines which are prohibited by Exhibit C, paragraph 10). Further, with prior approval of Grantee pursuant to Section 4, Grantors may grant new or upgraded utility distribution line right-of-way easements if the utility easement does not materially impair the Conservation Values protected by this Easement, in Grantee's sole judgment. Grantee's prior approval of new or upgraded utility distribution services and right-of-way easements (if allowed after Grantee's consultation with the Chief of the NRCS) will require submission by Grantors of a construction/installation plan to ensure that the Conservation Values are protected. Grantors shall contact Grantee prior to the preparation of the construction/installation plan to obtain the required information to be included in any such plan, which shall include, but not be limited to, a description of how such plan is consistent with protection of the Conservation Values. Any utility construction/installation, if approved by Grantee as provided in Section 4 hereof, must be conducted in accordance with said plan. Any new or upgraded utility distribution services with new or expanded associated right-of-way easements (if allowed after Grantee's consultation with the Chief of the NRCS) must be memorialized in a written agreement that is recorded in the public records of Carbon and Yellowstone Counties, signed by Grantors, Grantee, and the utility service provider prior to beginning construction.

11. Commercial activities. Businesses, trades, professions, arts, crafts, and other commercial activities (hereafter "commercial activities") that are consistent with protection of the Conservation Values are permitted on the Property as provided in this paragraph. Nothing in this Exhibit B, paragraph 11 shall apply to Grantors' rights to engage in commercial uses that are specifically reserved to Grantors elsewhere in this Exhibit B.

a. Agricultural production. Agricultural production and related uses in accordance with the terms and conditions of this Easement.

b. Sale of excess power. The sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the Purpose of the Easement and in accordance with the terms and conditions of this Easement.

c. Outdoor activities. Temporary or seasonal outdoor activities or events that do not harm the Purpose of the Easement and as permitted in Exhibit B paragraph 2.

d. Enterprises related to agriculture or forestry. Commercial enterprises related to agriculture or forestry including but not limited to agritourism; processing, packaging, and marketing of farm or forest products; and small-scale retail enterprises compatible with agriculture or forestry.

e. Home occupations. Persons living on the Property may conduct customary rural businesses, trades, or professions within existing or permitted structures in a manner that is consistent with the protection of the Conservation Values protected by this Easement.

f. Rental and commercial guest lodging. Grantors may lease or rent any residential dwelling unit, or portion thereof, on the Property, and may provide commercial guest lodging services in connection with such rental. Activities permitted by this subparagraph include short-term vacation rentals, bed and breakfast businesses, guest ranching, agritourism, and ecotourism.

g. Recreational uses. Grantors may engage in recreational uses of the Property as permitted commercial activities, including those recreational uses permitted by this Exhibit B, paragraph 2, provided that all such recreational activities on the Property must remain consistent with the criteria therein and protection and preservation of the Conservation Values.

h. Use of structures for permitted commercial activities. All existing and subsequently constructed structures and improvements permitted by this Easement may be used in conjunction with permitted commercial activities, except that only permitted residential dwelling units may be used for guest lodging, rentals, or other commercial activities permitted in subparagraph b. This paragraph shall not be construed to permit construction or development of any facilities, structures, or improvements on the Property, except as specifically permitted in this Exhibit B, paragraph 4.

i. Third-party agreements. Grantors may enter into agreements with third parties to operate, maintain, or engage in any permitted commercial activity under this Exhibit B, paragraphs 11a-11d, 11f and 11g if such agreements are (i) in writing; (ii) made expressly subject to the terms, conditions, and purposes of this Easement; and (iii) Grantee is expressly authorized in the agreement to enforce this Easement against third-parties who violate the terms, conditions, or purposes of the Easement. All commercial activities must be conducted in a manner and at levels of intensity consistent with perpetual protection of the Conservation Values.

12. Carbon. Grantors retain all rights relating to carbon, which are appurtenant to the Property, as such rights may exist on the date this Easement was executed, or as may be granted, discovered, created, declared, or developed in the future. Such carbon rights include, but are not limited to, the right to trade, sell, transfer, credit, or lease these rights, and the right to use, store, sequester, accumulate, and/or depreciate carbon within the Property by flora that exists, or may exist, on the Property. This Easement shall be interpreted to enhance the security and economic viability of any such carbon rights appurtenant to the Property.

----- END EXHIBIT B -----

EXHIBIT C PROHIBITED USES AND PRACTICES

Any activities inconsistent with the Purpose of this Easement are prohibited. The provisions of this Easement limit the types of agricultural operations that can occur on the Property to those that promote the Purpose of this Easement. The following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are hereby deemed to be inconsistent with the purposes of this Easement and are expressly prohibited, subject to the qualifications below and in Exhibit B:

1. Subdivision. Separate conveyance of a portion of the Property or division or subdivision of the Property is prohibited. Grantors and Grantee agree and intend that the Property will remain as one whole, intact, single piece of real estate. Accordingly, the entire Property described in Exhibit A must be maintained and granted, sold, exchanged, devised, gifted, transferred, or otherwise conveyed in unified title as no more than one (1) parcel. Even if the Property consists of more than one (1) parcel for real estate tax or any other purpose or if it may have been acquired previously as separate parcels, it will be considered one (1) parcel for purposes of this Easement. In all subsequent conveyances the restrictions and covenants of this Easement will apply to the Property as a whole.

Therefore, the division, subdivision, or de facto subdivision of the Property is expressly prohibited. Prohibited property divisions under this Easement include, but are not limited to, any subdivision, short subdivision into remainder tracts, platting, testamentary division, partitions in kind among tenants-in-common or joint tenants, judicial partitions in kind, partitions in kind in bankruptcy, allocation of title or real property interests among partners, shareholders, trustees or trust beneficiaries, or members of any business entity, time-share or interval ownership arrangements, or other process, including tax sales, by which the Property is divided in ownership or in which legal or equitable title to different portions of the Property (including any permanent structures or fixtures on the Property) are held by different owners. Partitions by sale, co-tenancy, or joint tenancy are not prohibited provided that title to the whole Property described in Exhibit A remains in unified, undivided ownership in which each cotenant or joint tenant shall have undivided interests in the whole of the Property. Grantors shall not sell, transfer, or otherwise convey any portion of the Property that constitutes less than the entire Property.

Notwithstanding any provision herein that may be construed to the contrary, the Property may be leased for agricultural purposes, provided any such leases are subordinate to the terms and purposes of this Easement and do not create a de-facto subdivision of the Property.

2. Surface and subsurface mineral exploration and extraction. Surface mining, including extraction or removal of surface or subsurface minerals by any surface mining method, is prohibited in accordance with § 170(h)(5)(B) of the Code and applicable Treasury Regulations. Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantors as of the date of this Easement or later acquired by Grantors, using any surface mining, subsurface mining, or dredging method, from the Property (or leasing, selling, or otherwise disposing of the rights thereto) is prohibited, except as expressly permitted by Exhibit B, paragraph 6. Further, there shall be no exploration for or extraction of oil, gas, or other minerals by any method of mining if such activity would impair any Conservation Value of the Property, in Grantee's sole judgment, and no method of mining will be permitted at any time by Grantee that is inconsistent with the conservation purposes of this Easement or that is irretrievably destructive of any significant conservation interest, consistent with Treas. Reg. 1.170A-14(g)(4)(i). If a third party owns or leases the oil, natural gas, or any other mineral rights associated with the Property at the time this Easement is executed, and their interests have not been subordinated to this Easement, Grantors and Grantee must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with

this Exhibit C, paragraph 2 and Exhibit B, paragraph 6. Any mineral leases or other conveyances of minerals entered into after the date of this Easement are subordinate to the terms of this Easement and must incorporate by reference this Easement.

3. Alteration of land surface or natural waters. Grading, blasting, filling, sod farming, earth removal or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Property is prohibited, except as expressly provided for in Exhibit B or in necessary conjunction with a use permitted by Exhibit B. Alteration of the surface of the land includes, but is not limited to, the movement, excavation, or removal of soil, rock, peat, or sod. Nothing in this paragraph shall be interpreted to preclude Grantors from taking emergency actions to mitigate flooding or wildfire risks, provided Grantors provides notice to Grantee of any such emergency actions taken as soon as reasonably practical.

4. Commercial activities and facilities. The establishment of any commercial or industrial activities or facilities on the Property is prohibited, except as provided in Exhibit B. Prohibited activities and facilities include, but are not limited to, commercial feed lots (defined as a confined livestock feeding operation where the owner or operator of the feedlot feeds livestock belonging to others for a fee), sales or service businesses, restaurants, night clubs, campgrounds, trailer parks, motels, hotels, gas stations, retail outlets, or manufacturing or distribution facilities. The retail sale of goods produced and manufactured by such businesses shall not take place on the Property. Commercial recreational activities and facilities are prohibited, except as specifically permitted in Exhibit B, paragraph 11.

5. Dumping and waste storage. The dumping, storage, or disposal of non-compostable refuse on the Property is prohibited, except for nonhazardous wastes generated by activities permitted in Exhibit B, including agricultural and timber management activities, provided such dumping and/or storage of non-hazardous waste does not harm the Conservation Values.

6. Construction. The construction or placement of any improvements, buildings, or other structures is prohibited, except for those structures specifically permitted in Exhibit B, paragraph 4.

7. Campers, trailers, and recreational vehicles. The placing or use of campers, trailers, and recreational vehicles on the Property is prohibited, provided, however, Grantors may store personal campers, trailers, and recreational vehicles within the Building Envelopes defined in Exhibit B, paragraph 4, and Grantors and Grantors' guests may park and use campers, trailers, or recreational vehicles on the Property on a temporary basis to accommodate short-term visitation. Except as provided in Exhibit B, paragraph 4, campers, trailers, or recreational vehicles may not be inhabited or used as residential dwelling units.

8. Billboards. The construction, maintenance, or erection of any billboards is prohibited. Roadside signs are permitted only for the purposes of posting the name of the Property, advertising any business permitted on the Property, controlling public access, providing public notification of this Easement, or advertising the Property for sale or lease.

9. Roads. The construction of roads and granting or reserving of right-of-way easements across or upon the Property are prohibited, except as provided in Exhibit B, paragraph 9. Off-road vehicle courses for all-terrain vehicles, motorcycles, or other motorized vehicles are expressly prohibited.

10. Utilities. The construction of utilities, utility services, or utility infrastructure, and the granting of utility line right-of-way easements is prohibited, except as permitted in Exhibit B, paragraph 10. The granting and expansion of utility transmission lines and utility transmission corridor right-of-way easements is expressly prohibited.

11. Impervious surfaces. Impervious surfaces may not exceed two percent (2%) of the Property, excluding NRCS-approved conservation practices. “Impervious surfaces” are defined as material that does not allow water to percolate into the soil on the Property, including, but not limited to, buildings with or without flooring, paved areas and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public or other roads owned and controlled by parties with rights superior to the rights conveyed to Grantee by this Easement.

12. Timber harvest. Except as provided in Exhibit B, paragraph 7, the harvest of timber on the Property is prohibited.

13. Conservation Values. Notwithstanding any other provision of this Easement, the impairment of any of the Conservation Values or other significant conservation interests on the Property is prohibited.

14. Farming and sodbusting. Farming, cultivating, and “sodbusting” are prohibited on the Property, except to restore native species after Grantors have obtained Grantee’s prior approval. Temporary non-native cover crops are permitted in native prairie and rangeland restoration activities. For purposes of this Easement, “sodbusting” is defined as any cultivation, discing, plowing, or disturbance of native soils and vegetation by mechanical means, including without limitation engine-powered tractors and other farm machinery and horse and mule drawn plows and discs.

----- END EXHIBIT C -----

EXHIBIT D
ACKNOWLEDGMENT OF RESOURCE DOCUMENTATION REPORT

In accordance with Treasury Regulation § 1.170A-14(g)(5)(i), **MICHAEL V. GREWELL** and **CASSIDY GREWELL AKA CASSIDY (GREWELL) JUDA AKA CASSIDY L. GREWELL**, as Grantors of this Easement, and **THE MONTANA LAND RELIANCE**, as Grantee of this Easement, hereby acknowledge, declare, and agree that they have reviewed the information contained in the Resource Documentation Report and that the Resource Documentation Report is an accurate representation of the condition of the real property and Conservation Values to be protected by this Easement at the time of this grant.

DATED this _____ day of _____, 20____.

MICHAEL V. GREWELL

**CASSIDY GREWELL AKA CASSIDY (GREWELL)
JUDA AKA CASSIDY L. GREWELL**

State of _____)
County of _____)

This instrument was acknowledged before me on the ____ day of _____, 2024, by
MICHAEL V. GREWELL.

(Signature of Notarial Officer)
(Affix Official Stamp To Left)

State of _____)
County of _____)

This instrument was acknowledged before me on the ____ day of _____, 2024, by
CASSIDY GREWELL AKA CASSIDY (GREWELL) JUDA AKA CASSIDY L. GREWELL.

(Signature of Notarial Officer)
(Affix Official Stamp To Left)

THE MONTANA LAND RELIANCE,
a Montana Nonprofit Corporation

By _____
Name: George S. Olsen
Title: Director

State of Montana)
County of _____)

This instrument was acknowledged before me on the ____ day of _____ 2024, by
GEORGE S. OLSEN on behalf of THE MONTANA LAND RELIANCE.

(Signature of Notarial Officer)
(Affix Official Stamp To Left)

EXHIBIT E
SAMPLE OF FORM TO BE USED FOR
ACKNOWLEDGMENT OF VALUE OF
CONSERVATION EASEMENT

_____ of _____, Grantor of a Deed of Conservation Easement dated _____, 20____, and recorded on _____, 20____, as Document No. _____, Records of _____ County, Montana; THE MONTANA LAND RELIANCE, of Helena, Montana, Grantee of said Conservation Easement; and, _____, appraiser of the property subject to the Conservation Easement, (the "Property"), hereby acknowledge, declare, and agree as follows:

1. That Grantor's qualified appraisal determined the value of the Property immediately prior to encumbrance by the grant of the Conservation Easement to be \$_____, and determined the value of the Property immediately after the conveyance of the Conservation Easement to The Montana Land Reliance to be _____ (\$_____). Therefore, Grantor's qualified appraisal determined the fair market value of the Conservation Easement on the date of the grant to be _____ (\$_____).

2. That for purposes of compliance with Treasury Regulation § 1.170A-14(g)(6), and pursuant to Section 10 of the Conservation Easement and the figures set forth in paragraph 1 above:

a. the numerator to be used in the calculation of the Proportionate Share is the fair market value of the Conservation Easement on the date of the grant, which was \$_____;

b. the denominator to be used in the calculation of the Proportionate Share is the fair market value of the Property as a whole, without deduction for the value of the Conservation Easement, on the date of the grant, which was \$_____;

c. The Proportionate Share established by the fraction created by the numerator and denominator above, expressed as a percentage, equals _____ percent (____%).

The original of this Acknowledgment is to be retained in the files of The Montana Land Reliance, or its successors and assigns, at its normal place of business.

DATE

DATE

THE MONTANA LAND RELIANCE

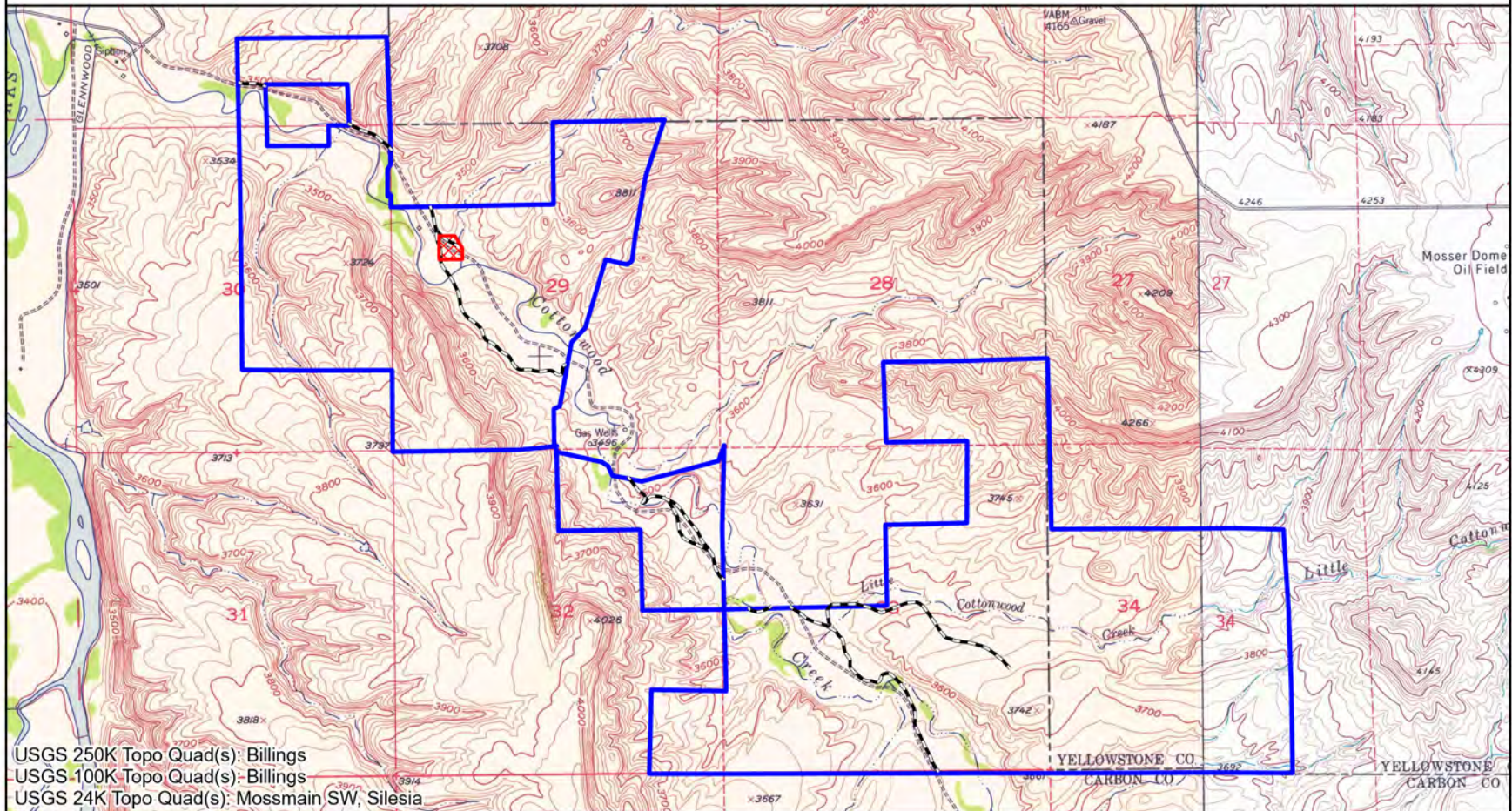
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APPRAISER

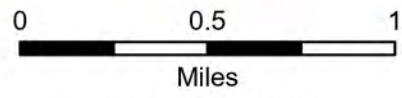
EXHIBIT F
BUILDING ENVELOPES, EXISTING ROADS, ETC.

EXHIBIT F-1
BUILDING ENVELOPES VERTICES

EXHIBIT F



-  Easement Boundary
-  Agricultural Building Envelope
-  Existing Roads



Location: T3S, R24E

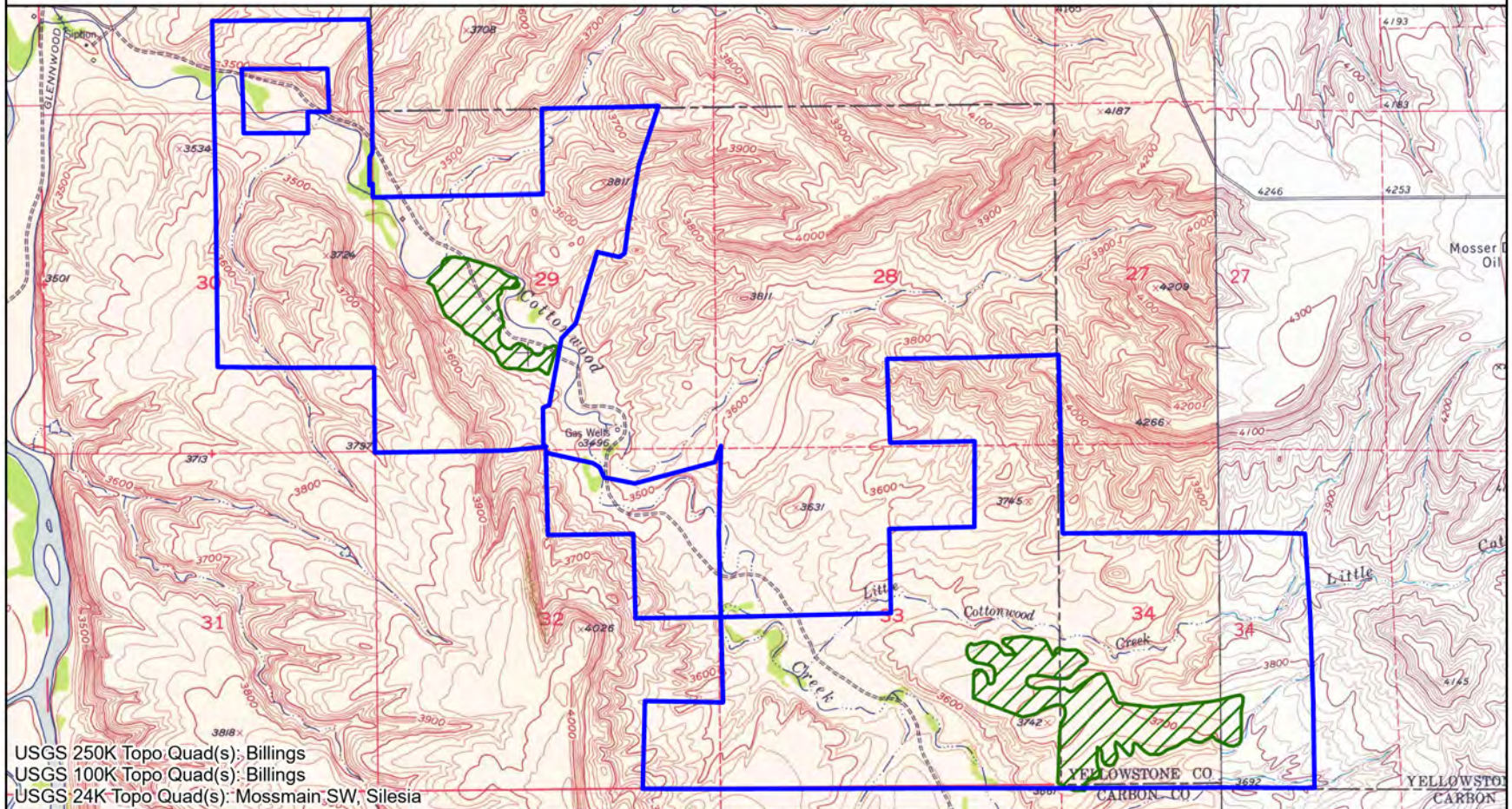




Grewell (Michael) Property

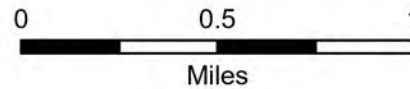
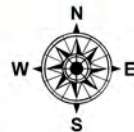
Map Date: April 12, 2024

EXHIBIT G
HAYLAND

EXHIBIT G



-  Easement Boundary
-  Hayland Area



Location: T3S, R24E



Grewell (Michael) Property

Map Date: April 17, 2024