

After Recording, please return to:  
Department of Fish, Wildlife and Parks  
Land Unit  
P.O. Box 200701  
Helena, MT 59620-0701

## **Lone Tree**

### **DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT ("Easement") is granted this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by Brian M. Gasvoda and Dana L. Gasvoda, 7750 Eagleton Road, Big Sandy, Montana 59520, and Lone Tree Cattle Co., a Montana Corporation, 7750 Eagleton Road, Big Sandy, Montana 59520 ("Landowners") to the Montana Department of Fish, Wildlife and Parks, an agency of the State of Montana, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 ("Department").

The following Exhibits are attached hereto and incorporated into this Deed of Conservation Easement by this reference.

**Exhibit A** - Legal Description of the Lone Tree Conservation Easement

**Exhibit B** - Map of the Land

**Exhibit C** - FWP Minimum Standards for Grazing Livestock

**Exhibit D** - Map of the Existing Residential/Agricultural Building Areas, Parking Areas, and Designated Access Roads.

**Exhibit E** –Land to be Converted to Native Range, Non-native Range, or Hayland.

**Exhibit F** – Land Designated for Cropland or Hayland.

**Exhibit G** - Water Rights Existing at the Time of Execution of This Easement.

#### **I. RECITALS**

- A. The people of the State of Montana recognize that certain native plant communities and important fish and wildlife habitat are worthy of perpetual conservation, and have authorized the Department to acquire perpetual conservation easements, as described in § 76-6-101 *et seq.*, Montana Code Annotated ("MCA"), from willing Landowners by voluntary, cooperative means to conserve native plant communities, habitat and other natural resource of value.

*Lone Tree Conservation Easement  
Gasvoda to FWP  
September 2020*

- B. The Landowners are the owners of the Lone Tree Ranch, which is that certain real property in Blaine County, Montana (the "Land"), legally described in Exhibit A. The Conservation Easement boundary is depicted in Exhibit B and encompasses approximately 11,285.32 acres.
- C. The Land possesses significant agricultural values and communities of native plants, fish and wildlife habitat, natural and scenic open-space lands, and public recreational opportunities, all of which are collectively termed "Conservation Values" and are valuable to the people of Montana and worthy of perpetual conservation.
- D. The Conservation Values of the Land can be protected in perpetuity by the Landowner and the Department through the grant of a conservation easement ("Easement") to the Department with the Landowner retaining fee title to the Land and overall management of the Land consistent with the terms and conditions of this Easement.
- E. Landowner and Department agree that the Conservation Values of the Land will be preserved and maintained by the continuation of land use patterns that do not significantly impair or interfere with the protection and preservation of these Conservation Values, in perpetuity.
- F. The Land provides important opportunities for public recreational hunting, trapping, and wildlife viewing and the Landowner and the Department specifically intend that this Easement afford public hunting access for recreational purposes and for wildlife management purposes.
- G. The Landowner intends, by executing this Easement, freely, without restriction, and voluntarily, to grant to the Department this Easement, and its associated rights, to preserve and protect the Conservation Values in perpetuity.

Notice is hereby given that the conservation easement described above is being acquired all or in part using funds provided by a grant from the Montana Fish and Wildlife Conservation Trust (the "Trust") established in accordance with the provisions of the Canyon Ferry Reservoir, Montana, Act (Title X of Public Law 105-277 - October 21, 1998). This land acquisition is intended to be used for the purposes of the Montana Fish and Wildlife Conservation Trust, which was created to acquire publicly accessible land and interests in land and this specific project was approved to:

- (A) Restore and conserve fisheries habitat, including riparian habitat;
- (B) Restore and conserve wildlife habitat;
- (C) Enhance public hunting, fishing and recreational opportunities; and
- (D) Improve public access to public land.

Accordingly, this Conservation Easement provides for outdoor public recreational use as well as associated provisions, including:

access to the general public for recreational hunting, fishing, wildlife viewing and trapping, including allowing 400 "hunter-days" of free public hunting. The public may hunt game animals and game birds of all sex and age classes; identification of access roads and parking areas to serve public recreation; members of the public with permission to recreate on the Property will be allowed to use the identified roads or hike from parking areas to access adjacent public lands; the Conservation Easement will limit subdivision, cultivation or

destruction of native habitat and complete habitat improvements including implementation of a rest-rotation grazing system and the reseeded of about 2769 acres of cultivated habitat to perennial grass cover.

Montana Department of Fish Wildlife and Parks acknowledges that, under the requirements of the Trust grant, this Property may not be encumbered, developed, or disposed of in any manner not provided for above or used for purposes inconsistent with public outdoor recreational use without the prior written approval of the Montana Fish and Wildlife Conservation Trust. The Grantee shall conduct reasonable monitoring of the Project with the Trust to ensure compliance with the provisions above.

Further, the Conservation Easement cannot be terminated unless the Trust is reimbursed for its proportionate share of the market value of the Property at the time of its termination; provided, however, that the Trust may exercise discretion to consent to such termination upon the State's tender of equal valued consideration acceptable to the Trust.

The Trust's proportionate share is 1.5% of the market value of the Conservation Easement, which was determined by dividing the Trust's contribution to the acquisition of the Conservation Easement by the value of the acquisition, at the time the Conservation Easement was acquired, and expressing the result at a percentage. The market value of this interest in the Conservation Easement or the portion thereof that is terminated shall be the market value of such interest immediately before the termination as determined by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) and is completed by a certified general appraiser.

## **II. AGREEMENT**

In consideration of the sums paid by the Department, and in further consideration of the recitals, mutual covenants, and terms contained in this Easement and pursuant to the laws of the State of Montana and in particular to the Open-Space and Voluntary Conservation Easement Act, §§ 76-6-101, *et seq.*, MCA; the Department's wildlife habitat acquisition authority, §§ 87-1-209, *et seq.*, MCA; and Title 70, Chapter 17, MCA, the Landowner voluntarily grants and conveys to the Department, and the Department accepts, a conservation easement in perpetuity, with warranties of title, consisting of the following rights and restrictions over and across the Land described in Exhibit A and shown on Exhibit B.

### **A. PURPOSES**

1. A purpose of this Easement is to preserve, protect, and restore, upon mutual agreement with the Landowner, in perpetuity, the Conservation Values of the Land, including but not limited to the habitat the Land provides for a variety of fish and wildlife species, and to prevent any use that will interfere with the Conservation Values of the Land. The Landowner and the Department intend this Easement to limit the uses of the Land to those activities that are consistent with the Conservation Values and the purposes of the Easement.

2. An additional specific purpose of this Easement is to provide to the Department pursuant to its authority to acquire interests in land at § 87-1-209, MCA, on behalf of the public, the right of reasonable access to the Land for recreational uses, in accordance with the terms and conditions set forth in Paragraph II.B.5 below.
3. 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 purpose of the Easement may be accomplished. The Department and Landowner recognize that changes in economic conditions, in agricultural technologies, in accepted farm, ranch and forest management practices, and in the situation of the Landowner may result in an evolution of agricultural, silvicultural, and other uses of the Land, and such uses are permitted provided they are and remain consistent with the Purposes of this Easement.
4. Pursuant to the terms of § 76-6-107, MCA, the Land preserved by this Easement as natural land, may not, except as specifically provided herein and pursuant to statute, be converted or diverted to any uses other than those provided for by this Easement.

## **B. RIGHTS CONVEYED TO THE DEPARTMENT**

The rights conveyed to the Department in perpetuity by this Easement are the following:

1. **Identification and Protection.** To identify, preserve, protect, and enhance by mutual agreement, in perpetuity, the Conservation Values; subject, however, to the rights reserved by the Landowner in this Easement in Section C below, and further subject to all third-party rights of record in and to the Land that are not subordinated to the terms and conditions of this Easement.
2. **Access.** Upon **Prior Notice** to the Landowner, to enter upon and to inspect the Land; to observe, study, and make scientific observations of the Land's wildlife, wildlife habitat and ecosystems; and to establish and maintain vegetation monitoring transects and enclosures, all to assure that the Department's rights in the Land are maintained and all in a manner that will not unreasonably interfere with the use of the Land by the Landowner. The Department shall also have the right to enter the Land to enforce the rights granted to the Department in this Easement, and Landowner expressly conveys to the Department a right of immediate entry onto the Land if, in the Department'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 in this paragraph and in Paragraph II.B.5., this Easement does not grant the Department, nor the public, any rights to enter upon the Land.
3. **Injunction and Restoration.** Subject to Paragraph C.II.14, to enjoin any activity on the Land or use of the Land which is inconsistent with the purposes and terms of this Easement, or which may have a significant adverse impact on the Conservation Values, and to enforce the reasonable restoration of any Conservation Values that may be damaged by such activities.

4. **Markers.** To place and replace, during inspections authorized above, small markers to identify boundaries, corners, and other reference points on the Land. Landowner shall not remove such markers without **Prior Approval** to the Department and without the Department's consent, which will not be unreasonably denied, as provided in Paragraph II.G below.
5. **Public Recreational Access.** The right, on behalf of the general public, of access for the purpose of recreational hunting, fishing, wildlife viewing, and trapping on the Land and across the Land to adjacent public land as provided for in the Management Plan and in accordance with the following terms and conditions:
- a. The Landowner has the right to manage the distribution of the public on the Land to address reasonable concerns for the safety of persons and property, including livestock.
  - b. The public may hunt game animals and game birds of all sex and age classes in accordance with hunting regulations adopted by the State of Montana.
  - c. When requested by members of the public during all hunting seasons set by the state of Montana, Landowner must permit a minimum of 400 hunters on the Land per year ("hunter days") on a first-come, first-served basis.
    - i. A "hunter day" is defined as one hunter hunting on the Land for one day, or any part of one day, measured from midnight to midnight.
    - ii. The Landowner, Landowner's immediate family, Landowner's shareholders, partners, employees, and immediate family of shareholders, partners, and employees of the Landowner are not defined as members of the general public by this Easement for the purpose of calculating "hunter days." The term "immediate family" is defined to include spouses, children, in-laws, and parents.
    - iii. Public access for hunting must be managed on a non-preferential and nondiscriminatory basis.
  - d. The hunting seasons during which the public is allowed access to the Land for hunting under this paragraph must be set and may be changed from time to time by the State of Montana in accordance with applicable laws, regulations, and policies.
  - e. The grant of hunting rights by the Landowner to the Department contained in this Paragraph II.B.5. shall be deemed exclusive to the Department for the benefit of the public and are specifically conveyed pursuant to: (i) § 70-17-102(1), MCA, and thereby this grant creates a servitude running with the Land, and (ii) the Montana Open Space Land and Voluntary Conservation Easement Act, § 76-6-101 *et seq.*, MCA, and thereby this grant creates a conservation easement for the purpose of protecting significant open-space land protected and preserved for recreational purposes under § 76-6-104(3)(a), MCA.

f. Those members of the public who have access to the Land pursuant to Paragraph II.B.5 shall have motor vehicle access to Parking Areas as shown on Exhibit D and described in the Management Plan. The public may not drive off these roads, routes, and trails for any purpose, except with the express permission of the Landowner or the Landowner's agent. The public may travel on foot from Parking Areas, or from other publicly accessible areas to hunt, trap, and/or view wildlife throughout the Land for the purposes and in the manner prescribed in this Paragraph II.B.5. of this Easement. Furthermore, the public may travel by foot from the parking areas to access the adjacent publicly accessible land that allows public recreational use. Upon agreement with the Landowner, the Department may open additional designated roads and parking areas, as allowed for in the Management Plan.

g. Furthermore, the Department reserves the right to temporarily restrict the public's access to the Land as deemed necessary or appropriate to protect the Land, wildlife or wildlife habitat, or the public.

h. Notwithstanding any provision that may be construed to the contrary, Landowner may deny access to anyone who is not conducting, or has not in the past conducted, herself or himself in a prudent, responsible, and safe manner and denial of access for this reason shall not be deemed preferential or discriminatory.

i. Public access for fishing, trapping and wildlife viewing will be directed by the Management Plan. Those members of the public participating in these activities will not count toward the minimum hunter days outlined in Paragraph II B.5. above.

j. Except as specifically set forth in this Paragraph II.B.5., this Easement does not grant public access to any portion of the Land for any reason. This Easement does not grant any public right of overnight camping.

k. The Landowner may participate in programs offered by the Department or other entities intended to reimburse or compensate the Landowner for the impacts of hunter use of the Land. However, the Landowner and the Department acknowledge that any such hunter-impact program is administered separately from this Easement; that such program may or may not persist through time; that such program may or may not be offered for the Landowner's participation; and that nothing in this Easement provides any assurance that the Landowner will be offered the opportunity for or be accepted into any such program.

## **C. LANDOWNER'S RIGHTS**

The Landowner reserves to itself, and to its heirs, successors and assigns, all rights accruing from ownership of the Land, including the right to enter and manage the Land and engage in or permit others to engage in all uses of the Land that (a) are not expressly conveyed to the Department; (b) are not prohibited or restricted by this Easement; (c) are consistent with the purposes of this Easement; and (d) do not harm the Conservation Values of the Land. Some of these reserved

*Lone Tree Conservation Easement  
Gasvoda to FWP  
September 2020*

rights identified in this Paragraph II.C. are subject to specified conditions or to the requirement of, and procedures for, obtaining the Department's **Prior Approval** or **Prior Notice** as described in Paragraph II.G. of this Easement. Without limiting the generality of the previous statements and subject to the restrictions on Landowner's activities in this Easement set forth in Paragraph II.D. hereof, the Landowner expressly reserves the following rights;

1. **Livestock Grazing.** The right to raise, pasture and graze livestock, and the right to lease pasture to another agricultural operator to raise, pasture, and graze livestock; provided that any livestock grazing is consistent with a grazing system as approved in writing by the Department as part of the Management Plan described in Paragraph II.E. of this Easement; is in accordance with the "Standards for Grazing Livestock," more particularly described in Exhibit C attached hereto and incorporated herein by this reference; and is consistent with other specific terms in this Easement governing livestock grazing. The Management Plan provides the details of livestock grazing on the Land, including schematic diagrams of the pasture systems to be used. Any changes in the Management Plan must be adopted in a manner consistent with Paragraph II.E. in this Easement, and any grazing system so adopted or revised must continue to conform to the FWP Minimum Standards for Grazing Livestock as described in Exhibit C. For the purposes of this Easement, livestock is defined as cattle; provided, however, that other species of grazing animal may be substituted for cattle with **Prior Approval**.
2. **Agricultural Activities.** The right to use the Land and to use equipment on the Land for agricultural purposes and to manage habitat for wildlife, all in a manner consistent with the following provisions:
  - a. Landowner shall convert approximately 2,788.56 acres of previously cultivated land to Native Range, Non-native Range, and Hayland as shown in Exhibit E. Approximately 672 acres of land presently in used as Cropland will remain in crops (Exhibit F). With **Prior Approval**, Landowner may convert remaining Cropland or Hayland as shown on Exhibit F to Native Range or Non-native Range.
  - b. Cultivation shall be restricted to cultivated land shown on Exhibit F.
  - c. Haying shall be restricted to Hayland shown in Exhibit F. Hayland shall remain in permanent cover, except for periodic temporary cultivation to reseed or otherwise invigorate hay production.
  - d. Livestock grazing on the Land must be consistent with the provisions of Paragraph II.C.1.
3. **Leasing the Land.** With **Prior Notice**, the Land may be leased to another agricultural operator for agricultural purposes, provided that:
  - a. A written lease must be entered into by the Landowner and the lessee(s);

- b. The lease must require the lessee to follow the terms of the Easement, as well as any applicable provisions of the Management Plan; and
  - c. A copy of the executed lease must be provided to the Department prior to the lease taking effect to allow the Department to provide input for the Landowner and lessee(s) to assist in compliance with the Conservation Easement, Management Plan and grazing system.
  - d. Landowner retains responsibility under this Easement for ensuring compliance with the terms of the Easement and Management Plan by lessee(s).
4. **Habitat Restoration and Enhancement.** The right to conduct fish and wildlife habitat restoration and enhancement projects, in cooperation with the Department and consistent with the Management Plan. Any habitat restoration or enhancement project not specifically provided for in the Management Plan requires **Prior Approval**.
5. **Water Resources and Facilities.** The right to use, develop, and maintain water resources, including stock water ponds, ditches, irrigation structures and equipment, canals, pumps and pump sites, pipelines and water wells, necessary for grazing, wildlife, habitat restoration and improvement, and all agricultural purposes that are allowed by this Easement; provided, however, any new water development or change in water use or water distribution that would have a significant adverse impact on a perennial or ephemeral river or stream, streamflow, wetlands, riparian vegetation, or wildlife habitat, wildlife movement, or migration on or through the Land is prohibited. Maintenance of canals, ditches, culverts and drains, including the periodic removal of vegetation as necessary to keep water management facilities in operational condition, is not a violation of this Easement. Additionally, it is understood that maintenance of reservoirs, ditches and other water-resource facilities may involve removal and deposit of accumulated soil and organic matter, and the Department hereby agrees that such soil and organic matter may be removed from the water-resource facilities and deposited on the Land at or near the location of the removal activity in a manner customary to such.
6. **Man-made Structures.** Landowner has the following rights pertaining to man-made structures (in addition to those rights for structures and facilities for water use and irrigation development that are provided in Paragraph II.C.5.):
- a. **Residential/Agricultural Building Areas.** The purpose of the Residential/Agricultural Building Areas is to allow Landowner flexibility in the use of the residences and outbuildings and to cluster residential uses and agricultural structures on the Land. If necessary, wells and drain fields and buried propane tanks and associated buried pipelines may be located outside of the Residential/Agricultural Building Areas.
    - i. There are presently three existing Residential/Agricultural Building Areas on the Land as shown on Exhibit D. Two are approximately 10 acres each, and one is approximately 4 acres.



- ii. With **Prior Approval**, the Landowner may delineate one Cabin Site not to exceed one-acre in size. Landowner must submit the proposed location and dimensions of said cabin site to the Department. Cabin must be for seasonal use only, have no year-round plumbing or power, and not be used for year-round habitation.
- iii. If the Cabin Site is approved pursuant to this Paragraph II.C.6, the Department may file in the public records of the affected county a “Notice of Exercise of Reserved Development Right” that documents the location of the Cabin Site for the information and benefit of Landowner, Department, and their respective successors and assigns, and the public.
- iv. No more than three Residential/Agricultural Building Areas and one Cabin Site are permitted on the Land.

**b. Residences.** The right to place or construct, alter, improve, remove, replace, and maintain a total of four single-family residences, and associated non-residential improvements to be located within the two 10 acre and one 4 acre Residential/Agricultural Building Areas. Landowner may relocate or replace any of the four single-family residences and associated non-residential improvements to any one or more of the three allowed Residential/Agricultural Building Areas.

- i. All new residential structures and related improvements must be located within the Residential/Agricultural Building Areas.

**c. Agricultural/Commercial Structures.** The right to construct, remove, maintain, renovate, repair or replace agricultural and commercial structures, including, but not limited to corrals, loafing sheds, machine sheds, and barns as long as these structures are located within the Residential/Agricultural Building Areas. The right to place new agricultural structures outside of the Residential/Agricultural Building Areas with **Prior Approval**.

**d. Fences.** The right to construct, remove, maintain, renovate, repair, or replace fences (including corrals and other livestock containment structures) necessary for generally accepted agricultural land management purposes. Any fence or other barrier that would significantly impact wildlife habitat or wildlife movement or migration on or through the Land is prohibited; however, this prohibition does not apply to corrals, windbreaks and other structures necessary to confine livestock, or protect silage storage, or haystacks.

- 8. **Roads.** To construct new and maintain existing roads and bridges or waterway crossings as herein permitted. Any road, bridge, or waterway crossings constructed shall be sited and maintained so as to minimize adverse impacts on the Conservation Values. Any new road construction (but not including maintenance of existing roads) shall be subject to **Prior Approval** of the Department, as set forth in Paragraph II.G of this Easement. The Department’s approval shall be contingent on confirmation that (a) the road’s intended purpose is permitted by this Easement, (b) its location will not result in significant soil erosion, and (c) the new road shall not materially disturb wildlife or wildlife habitat or

other protected Conservation Values. The Landowner's written request for approval shall include a construction plan describing the purpose of the road, its location on a topographic map and, to the extent deemed necessary by the Department, discussion of the following: road grade, drainage, erosion/sedimentation impacts and mitigating efforts, areas of cut and fill, and special concerns like culvert placement, bridges, fords, buffer strips between roads and streams, and fish and wildlife impacts and mitigating efforts. Seeding and reestablishment of cover vegetation, which is native or is representative of adjacent perennial plant species, and control of noxious weeds on exposed cuts, fills and banks is required on any new road construction.

9. **Noncommercial Recreational Use.** Landowner reserves to themselves and to their immediate family the right to use the Land for noncommercial recreational purposes, including hunting and fishing, in accordance with Paragraph II.B.5. and Paragraph II.D.9.

10. **Utilities.**

a. Existing Utilities. Landowner retains the right to maintain, repair, and upgrade utilities existing on the Land at the time of the grant of this Easement, including utility structures, lines, conduits, cables, wires, or pipelines ("Utilities").

b. New Utilities on the Land. Subject to **Prior Approval**, Landowner retains the right to install and construct new Utilities upon, over, under, within, or beneath the Land to existing and subsequently constructed structures and improvements that are expressly permitted on the Land by this Easement. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.10.d. ("Utility Plan") below.

c. New Utilities Serving Adjacent Properties. Subject to **Prior Approval**, the Landowner retains the right to construct new Utilities and grant any associated Utility right-of-way easement serving adjacent properties. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.10.d. below.

d. Utility Plan. Prior to preparation of the Utility Plan, the Landowner shall contact the Department to obtain the required information for inclusion in the Utility Plan. Landowner and the Department will mutually determine the completeness of the Utility Plan and its adherence to the general and specific intentions of this Easement prior to the Department's approval of the Utility Plan. Any new and expanded Utilities and associated right-of-way easements must be memorialized in a written agreement that is recorded in the public records of affected counties, signed by the Landowner, the Department, and the utility service provider prior to construction.

11. **Renewable Energy Generation for Use On the Land.** With **Prior Approval**, Landowner reserves the right to construct wind, solar, hydropower and other types of renewable energy generation facilities ("renewable energy generation") solely for use on the Land, except that any incidental surplus energy may be sold commercially for use off the Land or credited to Landowner's utility service. Design and location of facilities and

fixtures associated with renewable energy generation is subject to the provisions of Paragraph II.C.10.

**12. Pesticide Application and Weed Management.**

a. Landowner shall have the right to use legally authorized pesticides (as defined by MCA 80-8-102) in Residential/Agricultural Building Areas as described in Paragraph II.C.6. Except as provided in Paragraph II.C.12.b. below, **Prior Approval** is required to use pesticides on the Land in other than Residential/Agricultural Building Areas. Any pesticide use shall be only in the amount and frequency constituting the minimum necessary based on pesticide label use instructions and all applicable state and federal regulations concerning use to accomplish reasonable control of the targeted pest species.

b. **Weed Management.** The right to use herbicides for control of noxious weeds, as defined by the state of Montana or other lawful authority with jurisdiction, and other invasive nonnative plants. Such use must be in the amount and frequency of application constituting the minimum necessary to accomplish reasonable control of weeds, and in a manner that will minimize damage to native plants. The Landowner shall have the right to use biological control agents for weed control, provided that these biological agents have been approved for the specified use by appropriate governmental agencies; and further provided that livestock used for weed control shall comply with the grazing system in Exhibit C unless otherwise authorized by **Prior Approval**.

c. **Prior Approval** is required for aerial application of any pesticide or biological control agent on the Land.

**13. Regulation of Public Use.** The right to regulate public use of the Land at all times; subject, however, to the right of public hunting, fishing, trapping, and wildlife viewing access granted to the Department in Paragraph II.B.5.

**14. Oil, Gas, or Mineral Exploration and Extraction.** Subject to, and without limiting any obligations of Landowner under MCA §§ 82-11-202, Landowner shall not mine or extract soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Landowner as of the date of this Easement or later acquired by Landowner, using any surface mining, subsurface mining, or dredging method; provided however, with **Prior Approval**, Landowner may conduct limited mining activity for materials (e.g., sand, gravel, rock) used for agricultural operations on the Land where the extraction of materials used for such agricultural operations is limited, localized, and does not harm the Conservation Values or the agricultural uses of the Land.

a. The existing extraction sites, if any, are identified in the Baseline Report.

b. Landowner shall use or develop no more than two areas of no more than two acres each at any time. Extraction locations constructed by Landowner, or existing extraction locations must be reclaimed within one year of cessation of use. Seeding and reestablishment of cover vegetation, which is native or is representative of adjacent perennial plant species, and control of noxious weeds is required.

c. If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this Easement is executed, and their interests have not been subordinated to the Easement, the Landowner must notify the Department as soon as practical after Landowner becomes aware of any proposed exploration or extraction activity by such third party, which is not subject to the terms of this Easement unless expressly subordinated thereto. Landowner and the Department shall confer to review the proposed activity and to determine proposals to best mitigate any potential impact on the Land and the Conservation Values of the proposed activities. Subject to MCA §§ 82-10-504, Landowner and the Department shall subsequently cooperate in an effort to encourage the third party to adopt recommended mitigating measures in the third party's exploration and development activities.

d. This Easement does not restrict any third parties owning or leasing any of the oil, natural gas, or any other mineral substances under the Land from a right of ingress or egress or prevent such third parties use and occupancy of the surface of the Land. Nothing herein shall require the Landowner to indemnify the Department for exploration or extraction activity by any third-party mineral interest owner.

**15. Subdivision and Conveyance of Land Ownership.** The Landowner and the Department agree for the purposes of this Easement that subdivisions of and conveyances of the Land shall specifically meet the following requirements:

- a. The Land may be sold, conveyed, exchanged, mortgaged, quit-claimed, devised, gifted or otherwise transferred (such actions all termed a "transfer") in its entirety or in up to 2 separate parcels, provided that such parcels be conveyed expressly subject to all the terms, conditions, rights, restrictions, and obligations contained in this Easement, and further that any other parcel designation existing at or subsequent to the date of the conveyance of this Easement, including but not limited to government lots, aliquot parts, and certificates of survey, are considered to be an integral part of the unit within which they are located. At no time in the future shall the Land be held by more than two landowners, with no more than one Management Plan per parcel.
- b. Notwithstanding any other provision of this Paragraph II.C.15., transfer of a portion of the Land to a federal or state agency for ownership and management as public land is permitted and does not constitute a division or transfer under the limits provided in Paragraph II.C.15.a.
- c. The Landowner shall provide **Prior Notice** to the Department of any pending real property transfer, and such transfer must be effected with an express provision in the instrument of conveyance stating that the Land is subject to the terms and conditions of this Easement. The Department may provide a copy of the Easement and any related documents to the purchaser or other prospective successor in interest to the Landowner.
- d. Landowner shall furnish the Department with a copy of the conveyance document utilized to effect the transfer of the Land within thirty (30) days of the execution of said

document, and the Department shall record in the Public Records of Blaine County a “Notice of Exercise of Reserved Development Right Under Deed of Conservation Easement” to document the exercise of such rights for the benefit and information of the Landowner, the Department, and the public.

- e. With **Prior Approval** the restrictions contained in this Paragraph do not prohibit the Landowner from entering into a de minimis boundary line adjustment with a neighboring landowner to address encroachments.
- f. Subsurface mineral rights severed prior to the grant of this Easement do not constitute a prohibited or restricted division or subdivision for purposes of this Paragraph.
- g. The restrictions on land division and subdivision contained in this Paragraph do not apply to the right to sell stumpage, as long as the timber rights are not permanently severed.

**16. Industrial or Commercial Uses.** The right to:

- a. Conduct agricultural production and related activities as provide for in this Easement and the Management Plan.
- b. With **Prior Approval**, conduct timber harvest and related activities.
- c. With **Prior Approval**, conduct temporary or seasonal outdoor activities or events, as provided in the Management Plan.
- d. With **Prior Approval**, and provided it does not significantly increase vehicular traffic to or through the Land, operate home-based businesses, small-scale manufacturing of products and distribution of those products, small-scale commercial enterprises related to agriculture or forestry including but not limited to agri-tourism, processing, packaging, and marketing of farm or forest products, farm and machinery repair, and small-scale commercial enterprises compatible with agriculture or forestry.

**D. RESTRICTIONS ON LANDOWNER’S ACTIVITIES**

Any activity on or use of the Land that is inconsistent with the purposes and terms of this Easement is prohibited. Without limiting this general prohibition, the following activities and uses are expressly prohibited or restricted.

- 1. **Timber.** Landowner shall not transfer, encumber, sell, lease, or otherwise sever any timber right from the Land; except, however, with **Prior Approval** Landowner may harvest or contract the rights to harvest timber for a specific forest management action authorized and approved under the provisions of Paragraph II.D.2.
- 2. **Vegetation Removal.** The destruction, removal, control, or manipulation of native vegetation, sagebrush, or permanent cover is prohibited, except as part of or incidental to

the agricultural activities and other land uses specifically allowed by this Easement or as specifically provided for in the Management Plan. Harvest of hay is prohibited except as provided for in Paragraph II.C.2. Harvest of vegetation is prohibited except as provided in II.C.I. The removal of live or standing dead trees is prohibited without **Prior Approval**; however, the Landowner does not require **Prior Approval** to remove trees and other woody vegetation that pose a threat to human safety, travel ways, or structures.

**3. Wetland and Riparian Areas.**

- a. For the purpose of this Easement, riparian areas are defined as vegetation zones adjacent to streams, springs, and wetlands including banks and adjacent uplands and are influenced by adjacent flowing or standing water or groundwater. Wild hay fields, cultivated land, active river channels, or eroded riverbanks devoid of effective wildlife cover, are not considered riparian areas.
- b. The draining, filling, dredging, leveling, burning, ditching, or diking of any natural or manmade wetland or riparian area, streambank stabilization, or any other activity that significantly impacts any such area is prohibited. However, wetland areas may be restored, developed or enhanced, by either the Landowner or the Department, to benefit wildlife and to further the purposes of the Easement as a part of a restoration activity approved under Paragraph II.C.4.
- c. The control, removal, or manipulation of any trees, willows, or other woody vegetation by any means is prohibited, except as needed for the ordinary course of maintaining fences and ditches provided for and allowed under this Easement or as may be allowed by the Department as part of an approved plan specifically directed to improve fish or wildlife habitat.

**4. Subdivision.** The partition, division, subdivision or de facto subdivision of the Land is prohibited, except as specifically provided for in Paragraph II.C.15.

The Landowner may not indirectly subdivide all or any part of the Land through the allocation of property rights among partners, shareholders, or members of any legal entity (including a homeowners' association), the creation of a horizontal property regime, interval or time-share ownership arrangement, leasing, partitioning among tenants-in-common, judicial partition, or by any other means. The Landowner and the Department mutually intend that the entire Land shall be maintained in unified title as a single unit. Notwithstanding any other provision of this paragraph to the contrary, however, the Landowner may lease the Land for agricultural purposes subject to the terms of this Easement and the Management Plan described in Paragraph II.E. of this Easement.

The Land may not be used as open or natural space or park land for any subdivision or development purposes or requirements on land not covered by this Easement, nor may Landowner transfer any development rights on or to the Land separate from the Land. For Purposes of this Easement, development rights include, without limitation, all rights,

however designated, now or hereafter associated with the Land or any other property that may be used to compute development density, lot yield, or any other development variable of or pertaining to the Land or any other property.

5. **Water Rights.** Landowner may not transfer, encumber, sell, lease, abandon, or otherwise separate water rights from the Land, including any water rights existing at the time of execution of this Easement as shown in Exhibit F, as well as any water rights later determined to have existed at the time of this Easement and any water rights acquired by the Landowner after execution of this Easement. If Landowner receives notice or becomes aware of a situation under which water rights may be lost from the Land, Landowner shall notify the Department, and the parties may work cooperatively to address the situation.
6. **Agricultural Chemicals.** The use of herbicides, biological control agents, and pesticides in a manner other than as provided for in Paragraph II.C.12 is prohibited.
7. **Roads.** The construction of roads in a manner other than as provided for in Paragraph II.C.8. is prohibited.
8. **Surface Alteration.** The cultivation or farming of any portion of the Land is prohibited, except as allowed for in Paragraph II.C.2, or for habitat restoration or enhancement activities authorized pursuant to the terms of this Easement.
9. **Commercial Recreation.** The sale or lease of access to the Land for hunting, fishing, or wildlife viewing purposes, whether or not as a part of a commercial outfitting or guiding business, is prohibited. Operating a commercial hunting, fishing, or wildlife viewing operation, or charging fees (sometimes known as trespass fees) for hunting, fishing, or wildlife viewing on the Land or for access across the Land to reach public land or other private land, is prohibited.
10. **Mineral Exploration and Extraction.** Landowner may not engage in, authorize, or contract for any exploration for, or development and extraction of minerals, coal, ore, bentonite, oil and gas, other hydrocarbons, soil, rock, sand, gravel, or similar materials, except as provided for Paragraph II.C.14. Any other mineral exploration, development, or extraction is prohibited.

If Landowner owns a minority interest in the oil, natural gas or any other mineral substances under the Land, Landowner may not initiate or participate in any attempt by other minority interest owners to initiate a pooling of interests to reach majority status for the purpose of proposing or pursuing exploration or extraction activity.

11. **Man-Made Structures.** The construction of any Man-Made Structures on the Land or any portion thereof is prohibited, other than as provided for in Paragraph II.C.
12. **Commercial Feedlot.** The establishment or operation of a commercial feedlot is prohibited. A commercial feedlot is defined for purposes of this Easement as a

permanently constructed confined area or facility within which the Land is not grazed or cropped annually, for the purposes of engaging in the business of the reception and feeding of livestock for hire. Nothing in this Easement shall be construed to prevent Landowner from seasonally confining livestock in areas for feeding, calving, or similar activities, and nothing herein shall prevent Landowner from leasing pasture, corrals and agricultural improvements to third parties, subject to the terms of this Easement.

13. **Shooting Preserve, Wildlife Propagation and Related Activities.** The use of the Land as a game farm, game bird farm, shooting preserve, fur farm, zoo or menagerie, or in connection with the ownership, leasing, keeping, holding, capture, propagation, release, introduction, or trade in any animal that may pose a genetic or disease threat to any mammalian, avian, reptilian, aquatic or amphibian wildlife species, whether or not indigenous to Montana, is prohibited; however, Landowner have the right to have ranch dogs and household pets on the Land. This prohibition does not apply to common domestic livestock, or to the introduction, transplantation or release of fish or wildlife species on the Land by the Department, which must have the consent of the Landowner for any such introduction, transplantation or release on the Land. Domestic livestock is allowed per Paragraph II.C.1
14. **Commercial and Industrial Use.** Except as permitted in Paragraph II.C., the establishment or operation of any commercial or industrial uses of or activities on the Land, including, but not limited to, outfitting, restaurant, campground, trailer park, motel, commercial swimming pool, gas station, retail outlet, or facility for the manufacture or distribution of any product other than products to be grown or produced on the Land in connection with agricultural purposes is prohibited.
15. **Waste Disposal.** The processing, dumping, storage or disposal of waste, refuse and debris on the Land is prohibited, except within a single landfill for disposing of and containing personal household and agricultural rubbish and other non-toxic materials in accordance with state law and in a manner and location as provided for in the Management Plan. Abandoned homesteads and preexisting dump sites described in the Baseline Report are exempt from this provision, and with **Prior Notice** may be buried on-site or otherwise disposed of. No new material may be added to these preexisting sites unless with **Prior Notice**, one of the preexisting dump sites is designated as the single landfill described above. The deposit of natural organic material derived from livestock and crop production on the Land, and the deposit of material from water-resource facility maintenance activities provided for in Paragraph II.C.5., are not considered waste disposal.
16. **Hazardous Materials.** Any petroleum products, explosives, hazardous substances, toxic substances, and any other substance which may pose a present or potential hazard to human health or the environment shall not be released or dumped on the Land at any time, and shall not be stored or used, except as lawfully stored and used in necessary quantities for agricultural purposes. The installation of underground storage tanks is prohibited.



## **E. MANAGEMENT PLAN**

The parties to this Easement developed a Management Plan for grazing management, public access and public use management, wildlife habitat enhancement and restoration, wildlife passage improvement measures, and other matters pertaining to the management of the natural resources of the Land under this Easement. The Management Plan has been signed by the Landowner and the Department, and represents a contractual agreement between the parties to abide by its specific requirements, management actions, and restrictions. However, if there is any inconsistency between the terms of the Management Plan and this Easement, the terms of this Easement control. The parties shall meet periodically as needed to review the Management Plan and, if considered necessary, to propose amendments. Any amendment to the Management Plan must have the written consent of both parties.

In the event that the Land is to be conveyed or has been conveyed to a new owner ("Successor in Interest"), the Department agrees to enter into discussions with the Successor in Interest for the purpose of reviewing the existing Management Plan and determining any revisions that might be appropriate to facilitate management of the Land in a manner consistent with the terms of the Easement and protection of the Conservation Values. The Successor in Interest may sign, acknowledge, and thereby continue the Management Plan that is in effect at the time of the transfer of ownership, or the Successor in Interest may sign and acknowledge a revised Management Plan agreed upon by the Department. However, in the event that the Successor in Interest has not executed with the Department a continuation of the existing Management Plan or a revised Management Plan, then the Management Plan in effect at the time of the ownership transfer shall remain in full force and effect.

## **F. EASEMENT BASELINE REPORT**

The parties agree that Conservation Easement Baseline Report (Baseline Report), including photographs, maps, surveys, studies, reports, and other documentation, has been completed by a Department biologist or natural resource professional familiar with the area, reviewed by the Department and Landowner, and acknowledged by them in writing, to be an accurate representation of the physical and biological condition of the Land and its physical improvements as of the date of the conveyance of this Easement. The original Baseline Report shall be maintained in the files of the Department and shall be made available to Landowner for inspection and reproduction at Landowner's request. The parties intend that the Baseline Report shall be used by the Department to monitor Landowner's compliance with the terms and conditions of this Easement. In the event a controversy arises with respect to the nature of the biological and/or physical condition of the Land and its improvements, the parties may use the report, as well as all other relevant or material documents, surveys, reports, or other information to assist in the resolution of the controversy. From time to time, with the agreement by the Landowner, the Department may prepare (or have prepared) an Updated Easement Baseline Report to document any habitat restoration or other improved habitat conditions. Upon review and approval of the updated report by the Landowner and the Department, the improved conditions documented in the Updated Easement Baseline Report shall be considered the baseline conditions to be conserved and against which the impacts of future activities shall be evaluated.

## G. PRIOR NOTICE AND PRIOR APPROVAL

1. Whenever **Prior Notice** is required under this Easement, Landowner must notify the Department as provided for in this section in writing not less than 30 days prior to the date the Landowner intends to undertake such activity, unless, for safety reasons, a shorter period is necessary in which case Landowner shall give the Department as much notice as is possible under the circumstances. The purpose of requiring the Landowner to notify the Department prior to undertaking certain permitted activities is to afford the Department an opportunity to ensure that such activities are designed and carried out in a manner consistent with this Easement and its Purposes.
2. Whenever **Prior Approval** is required under this Easement, Landowner must notify the Department in writing not less than 60 days prior to the date the Landowner intends to undertake the activity. The notice must be sent by courier service, or registered or certified mail, return receipt requested, or personal delivery, or email with confirmation requested, and must describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Department to make an informed judgment as to its consistency with this Easement and its Purposes. The Department has 60 days from its receipt of such notice to review the proposed activity and to notify the Landowner of any objections to the proposed activity. If it is possible that the proposed activity can be modified to be consistent with the terms of the Easement, the Department shall inform the Landowner of the manner in which the proposed activity as modified may be conducted. The Department's response to Landowner's notice shall be sent by registered or certified mail, return receipt requested, or delivered by courier, or personal delivery service, or electronic mail with confirmation. In the event the Department denies the Landowner's proposed activity, the Department may provide a written determination with analysis of why such activity would significantly impact the Conservation Values of the Land.
3. If the Department fails to respond to Landowner's notice of Prior Approval within 60 days of their receipt of the notice, the proposed activity shall be deemed to be inconsistent with the terms of this Easement and thereby denied.
4. The Landowner shall be under no liability or obligation for any failure to give Prior Notice or seek Prior Approval for any activity undertaken by Landowner necessitated by virtue of fire, flood, acts of God, or other element, or any other emergency reasonably deemed by Landowner to exist; provided, however, after such an event, if there is damage to the Conservation Values, the Landowner shall notify the Department of any such damage as soon as practicable.
5. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by registered or certified mail, return receipt requested, electronic mail with confirmation, or delivered by courier, or personal delivery service with documentation of receipt and the date of delivery. A notice is considered given on the date of its receipt; a

response is considered given on the date of its posting by the respondent.  
Communications should be addressed as follows:

To Landowner:

Brian M Gasvoda and Dana L. Gasvoda  
7750 Eagleton Road  
Big Sandy, Montana 59520

Lone Tree Cattle Co., a Montana Corporation  
7750 Eagleton Road  
Big Sandy, Montana 59520

To Department:

Department of Fish, Wildlife & Parks  
Attention: Administrator, Wildlife Division  
1420 E. Sixth Avenue  
P.O. Box 200701  
Helena, MT 59620-0701

With a copy to:

Department of Fish, Wildlife & Parks  
Attention: Regional Supervisor  
1 Airport Rd  
Glasgow, MT 59230

or to such other address as either party from time to time shall designate by written notice to the other.

## **H. REMEDIES FOR UNAUTHORIZED USES AND PRACTICES**

If the Department determines that the Landowner has violated the terms of this Easement, or if the Landowner undertakes any activity requiring approval of the Department without first obtaining such approval, the Department shall give written notice to the Landowner of the violation and demand corrective action sufficient to cure the violation, and, when the violation involves injury to the Land resulting from any use or activity inconsistent with the terms of this Easement, to restore the portion of the Land so damaged. If the Landowner:

1. fails to cure the violation within 30 days after receipt of notice from the Department, or
2. under circumstances where the violation cannot reasonably be cured within a 30 day period, fails to begin curing the violation within the 30 day period (or, within 30 days of Landowner's receipt of notice from the Department, if Landowner fails to agree with the Department in writing on a date by which efforts to cure such violation will reasonably begin), or

3. fails to continue diligently to cure such violation until finally corrected,

the Department may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement. The Department may seek to enjoin the violation, by temporary or permanent injunction, to require the restoration of the Land to the condition that existed prior to any such injury, and, if restoration is not possible to fully compensate for injury to the Conservation Values, to recover monetary damages for to which it may be entitled for violation of the terms of this Easement.

If the Department, 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, the Department may pursue its remedies under this paragraph without prior notice to the Landowner or without waiting for the period provided for cure to expire.

The Department's rights under this provision apply equally in the event of either actual or threatened violation of the terms of this Easement. The Landowner agrees that the Department's remedies at law for any violation of the terms of this Easement are inadequate. Accordingly, the Department is entitled to the injunctive relief. If injunctive relief is inadequate to restore the Conservation Values as a result of a violation and to compensate the Department and the public for the loss and damage to the Department's rights, the Department 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 scenic, aesthetic, or natural resource values. Without limiting Landowner's liability therefore, the Department, in its sole discretion may apply any damages recovered to the cost of undertaking any corrective action on the Land. The Department's remedies described in this section are cumulative and are in addition to all remedies available at law or in equity.

Nothing contained in this Easement may be construed to entitle the Department to bring any action against the Landowner for any injury to or change in the Land resulting from causes beyond the Landowner's control, including, without limitation, fire, flood, storm, and natural earth movement, or from any prudent action taken to prevent, abate, or mitigate significant injury to the Land resulting from such causes.

Enforcement of the terms of this Easement is at the discretion of the Department, and any forbearance by the Department to exercise its rights under this Easement in the event of any breach of any term of this Easement by the Landowner may not be deemed or construed to be a waiver by the Department of that term or of any subsequent breach of the same or any other term of this Easement. No delay or omission by the Department in the exercise of any right or remedy upon any breach by Landowner may impair the right or remedy or be construed as a waiver, nor may any forbearance or delay give rise to a claim of laches, estoppel or prescription.

Costs of restoration of the Conservation Values that are attributable to Landowner's violation or breach of the terms of this Easement shall be borne by Landowner, unless a court orders otherwise or unless the parties mutually agree to share such costs. In the event of such litigation to enforce the terms of this Easement, each side shall bear its own costs and attorneys' fees.

If a dispute arises between Landowner and the Department concerning interpretation of the meaning of this Easement or concerning the consistency of any proposed use or activity with the terms or purposes of this Easement, and if Landowner agrees in writing not to proceed with the use or activity pending resolution of the dispute, either Landowner or the Department may refer the dispute to mediation by request made in writing to the other party. Within 10 days of receipt of such referral, Landowner and the Department will select an impartial mediator who shall conduct the mediation and thereby assist the parties in resolving the dispute cooperatively. Each party shall pay an equal share of the mediator's fee. In referring any matter arising under this Easement to mediation, Landowner and the Department 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 Paragraph II.H.

#### **I. HOLD HARMLESS AND INDEMNITY**

The Landowner shall hold harmless and indemnify the Department and its employees, agents, and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, 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 act, omission, condition, or other matter related to or occurring on or about the Land, as a result of the negligence or willful misconduct of the Landowner or their agents, employees or contractors, unless due to the negligence or willful misconduct of the Department or its agents, employees, or contractors. Nothing herein shall create any indemnity obligation by the Landowner to the Department for any hunter, angler, or recreational user of the property, unless such loss or injury is due to the negligence or willful misconduct of the Landowner or their agents, employees or contractors.

The Department similarly agrees to hold harmless and indemnify the Landowner and their employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, 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 action, omission, condition, or other matter related to or occurring on or about the Land, as a result of the Department's exercise of its rights granted under this Easement, unless due to the negligence or willful misconduct of the Landowner or their agents, employees or contractors.

#### **J. TERMINATION, EXTINGUISHMENT, CONDEMNATION, REIMBURSEMENT**

This Easement constitutes a real property interest immediately vested in the Department. It is the unequivocal intention of the parties that the conservation purposes of this Easement are carried out in perpetuity. If, however, circumstances arise in the future that render the purposes of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The

parties agree that changed economic conditions may not be considered as circumstances justifying the modification, termination or extinguishment of this Easement.

If this Easement is extinguished by judicial proceedings or should any interest in the Land be taken by the exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation with the **Prior Approval** of the Department, the Department is entitled to a proportional share of the proceeds of any sale, exchange, or involuntary conversion of the Land formerly subject to this Easement. The Landowner and the Department shall act jointly to recover the full value of the property interests in the Land subject to the taking or in lieu purchase and all direct costs or incidental damages to which each is entitled.

For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Land unencumbered by the Easement remains constant as determined as of the date of this grant. The parties agree that this ratio is \_\_\_\_ percent, as was determined by independent appraisal at the time of the grant of this Easement, and the parties further agree that the value of any future interest of the Department will not include any value attributable to authorized improvements to the Land made by the Landowner after the date of this grant. Therefore, in the event of any whole or partial judicial extinguishment, or eminent domain or purchase in lieu of condemnation, Landowner shall be entitled to receive from the financially liable party \_\_\_\_ percent of the unencumbered value of the real property and the Department shall be entitled to receive \_\_\_\_ percent of the unencumbered value of the real property. The Department shall use all such proceeds that it receives in a manner consistent with the conservation purposes of this Easement.

#### **K. ASSIGNMENT**

This Easement is transferable, but the Department may assign this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under the laws of the state of Montana. As a condition of any assignment, the Department shall require that the conservation purposes of this Easement are to be carried out in perpetuity.

#### **L. AMENDMENT**

If circumstances arise under which an amendment to or modification of this Easement would be appropriate as set forth in the Department's Amendment Policy, the Landowner and the Department are free to jointly amend this Easement; provided that no amendment may be allowed that will affect the compliance with or the qualification of this Easement under any applicable laws, including § 76-6-101, *et seq.*, MCA, or §170(h) of the Internal Revenue Code, as amended. Any amendment must be consistent with the purposes of this Easement, may not affect its perpetual duration, and either must enhance, or must have no effect on, the Conservation Values which are protected by this Easement. Furthermore, any amendment must not result in prohibited inurement or private benefit to the Landowner or any other parties. Any Easement amendment must be in writing, signed by both parties, and recorded in the public records of affected county.

## **M. RECORDING**

The Department shall record this instrument in a timely fashion in the official records of the affected county and may re-record it at any time as may be required to preserve its rights in this Easement.

## **N. REPRESENTATIONS AND WARRANTIES**

Landowner represents and warrant that, after reasonable investigation and to the best of their knowledge:

1. Landowner has clear title to the Land; that Landowner has the right to convey this Easement; and that the Land is free and clear of any encumbrances, except those encumbrances that have been expressly approved by the Department.
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 anyway, harmful or threatening to human health or the environment, that has occurred on the Land 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 Land, in violation of applicable law.
3. No underground storage tanks are located on the Land, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Land in a manner not in compliance with the applicable federal, state, and local laws, regulations, and requirements.
4. Landowner and the Land are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Land and its use.
5. There is no pending or threatened litigation in any way affecting, involving, or relating to the Land, 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 Land or its use, nor do there exist any facts or circumstances that Landowner might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

## O. GENERAL PROVISIONS

1. Controlling Law. The interpretation and performance of this Easement will be governed by the laws of the State of Montana.
2. Construction. Any general rule of construction to the contrary notwithstanding, this Easement must be liberally construed in favor of the grant to effect the purposes of this Easement and the policy and purposes of § 76-6-101, *et seq.*, MCA. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid must be favored over any interpretation that would render it invalid.
3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Paragraph II.M above.
4. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or reversion of Landowner's title in any respect.
5. Successors. This Easement is binding upon, and inures to the benefit of the parties, their heirs, administrators, successors and assigns, and continues as a servitude running in perpetuity with the Land.
6. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Land, except that liability for acts or omissions occurring prior to transfer survive transfer.
7. Severability. If any provision of this Easement is found to be invalid, the remainder of the provisions of this Easement are not affected.
8. Subordination. No provision of this Easement is to be construed as impairing the ability of Landowner to use the Land 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.
9. Subsequent Deeds and Instruments. The Landowner agrees that reference to this Easement will be made in any subsequent purchase and sale agreements, deeds, or other legal instruments conveying an interest in the Property (including any leasehold interest).
10. Counterparts. This Easement may be executed in counterparts which, taken together, shall constitute one and the same instrument.
11. Joint Obligation. The obligations imposed by this Easement upon Landowner shall be joint and several.



TO HAVE AND TO HOLD unto the Department, its successors, and assigns FOREVER.

IN WITNESS WHEREOF, the Landowner and the Department have set their hands on the day and year first above written.

**SIGNATURE PAGES TO FOLLOW**

**GRANTED BY: LANDOWNER**

\_\_\_\_\_  
Brian M. Gasvoda

**STATE OF MONTANA**           )  
  : ss.  
**COUNTY OF BLAINE**        )

This instrument was signed before me on \_\_\_\_\_, 2020, by Brian M. Gasvoda,  
Landowner.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Dana L. Gasvoda

**STATE OF MONTANA**           )  
  : ss.  
**COUNTY OF BLAINE**        )

This instrument was signed before me on \_\_\_\_\_, 2020, by Dana L. Gasvoda,  
Landowner.

(SEAL)

\_\_\_\_\_  
Notary Public

**GRANTED BY: LONE TREE CATTLE CO.**

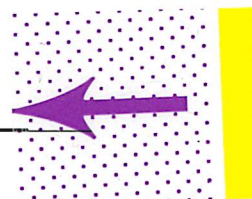
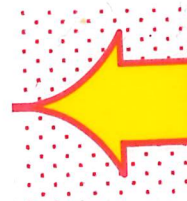
\_\_\_\_\_  
Brian M. Gasvoda, President

STATE OF MONTANA            )  
  : ss.  
COUNTY OF BLAINE         )

This instrument was signed before me on \_\_\_\_\_, 2020, by Brian Gasvoda as President of Lone Tree Cattle Co., a Montana Corporation.

(SEAL)


\_\_\_\_\_  
Notary Public




MAH way

STATE OF MONTANA )  
 : ss  
COUNTY OF LEWIS AND CLARK )

(SEAL)



**JENNIFER HERSOM**  
**NOTARY PUBLIC** for the  
 State of Montana  
 Residing at Helena, Montana  
 My Commission Expires  
 March 26, 2023

  
\_\_\_\_\_  
Notary Public

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE LONE TREE CONSERVATION EASEMENT**

**TRACT A**

TOWNSHIP 24 NORTH RANGE 18 EAST MPM

- Section 11: Lots 1 and 2, SE $\frac{1}{4}$ , EXCEPTING THEREFROM a tract of land described in Certificate of Survey No. 315155, recorded on October 28, 1992
- Section 12: Lots 3 and 4, N $\frac{1}{2}$ SW $\frac{1}{4}$

TOWNSHIP 25 NORTH RANGE 18 EAST MPM

- Section 22: E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$
- Section 23: S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$
- Section 24: W $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 25: W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 26: ALL
- Section 27: E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$
- Section 34: E $\frac{1}{2}$ E $\frac{1}{2}$
- Section 35: ALL; EXCEPTING THEREFROM a tract in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  deeded to Blaine County in Warranty Deed dated October 3, 1939, recorded on October 3, 1939 in Book 26 of Deeds at Page 219; EXCEPTING THEREFROM a tract in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  deeded to Otto Walter in Warranty Deed dated April 24, 1957, recorded on April 8, 1960 in Book 56 of Deeds at Page 183; EXCEPTING THEREFROM a tract of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  deeded to Fuel Resources Development Company in Grant Deed dated November 17, 1977, recorded on December 7, 1977 in Book 72 of Deeds at Page 492; EXCEPTING THEREFROM a tract of land in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  further described in Certificate of Survey No. 315155, recorded on October 28, 1992
- Section 36: NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; EXCEPTING THEREFROM a tract of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  deeded to Fuel Resources Development Company in Grant Deed dated November 17, 1977, recorded on December 7, 1977 in Book 72 of Deeds at Page 492

**TRACT B**

TOWNSHIP 23 NORTH RANGE 18 EAST MPM

- Section 3: SE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 5: Lot 1, N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ,
- Section 6: Lots 2, 3, 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 7: Lots 1 and 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$
- Section 8: E $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 9: ALL
- Section 10: NE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$
- Section 15: NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 16: E $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 17: N $\frac{1}{2}$ NE $\frac{1}{4}$

TOWNSHIP 24 NORTH RANGE 18 EAST MPM

- Section 10: Lots 1, 2 and 3, E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 11: Lots 3 and 4, SW $\frac{1}{4}$
- Section 12: Lots 1 and 2, SE $\frac{1}{4}$
- Section 14: N $\frac{1}{2}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 27: NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$

Section 28: SE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 31: SW $\frac{1}{4}$ SE $\frac{1}{4}$

TOWNSHIP 25 NORTH RANGE 18 EAST MPM

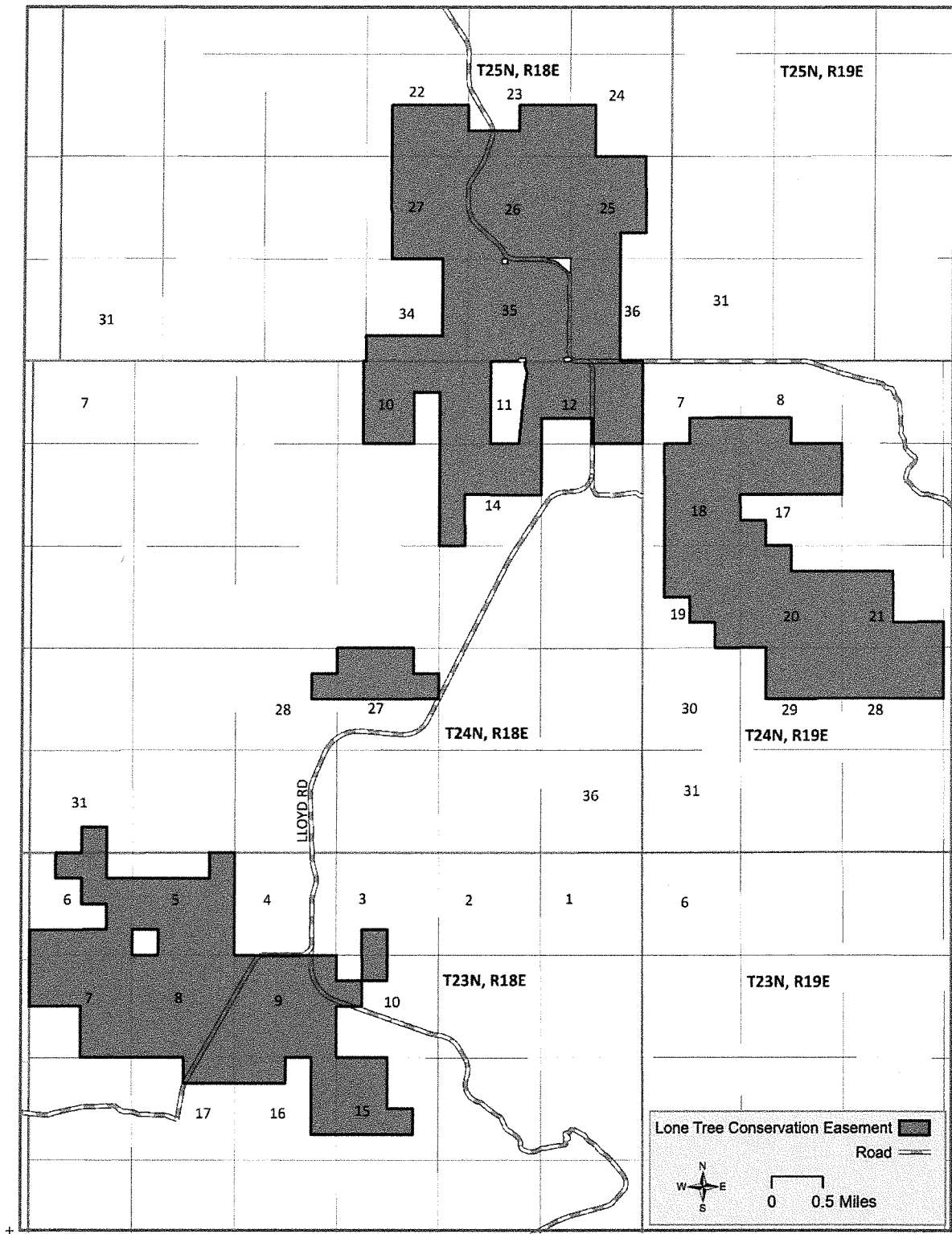
Section 34: S $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$   
Section 36: SE $\frac{1}{4}$ SW $\frac{1}{4}$

TOWNSHIP 24 NORTH RANGE 19 EAST MPM

Section 7: S $\frac{1}{2}$ SE $\frac{1}{4}$ ,  
Section 8: S $\frac{1}{2}$ SW $\frac{1}{4}$   
Section 17: N $\frac{1}{2}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$   
Section 18: E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$   
Section 19: E $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 20: NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$   
Section 21: S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$   
Section 28: NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$   
Section 29: S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$

**END OF EXHIBIT A**

# EXHIBIT B MAP OF THE LAND



END OF EXHIBIT B

*Lone Tree Conservation Easement  
Gasvoda to FWP  
September 2020*

## **EXHIBIT C**

### **FWP MINIMUM STANDARDS FOR GRAZING LIVESTOCK**

#### **Introduction**

The following grazing standards represent the minimum required by FWP of a landowner who reserves the right to pasture and graze livestock (private and public land). These standards apply to all FWP funded projects; at times it may be necessary to provide more rest from grazing than described as minimum to meet specific wildlife or fisheries habitat objectives. The minimum is most frequently applied (without additional adjustment for wildlife and fisheries needs) on projects like conservation easements and Upland Game Bird Habitat Enhancement Projects where the property remains in private ownership and agricultural use remains the primary objective. On FWP-managed Wildlife Management Areas (WMAs), wildlife production and habitat conservation are the primary objective and when livestock grazing occurs it is not unusual for the amount of rest from livestock grazing to exceed that required by the minimum standard. Also on WMAs, grazing intensity may be reduced to a level significantly lower than allowable by the minimum standard. These standards are designed to address management of both upland and riparian landforms.

#### **Why a minimum standard?**

Livestock grazing is the predominant land use in Montana. As the state's primary fish and wildlife management agency, FWP is actively involved with livestock grazing as it influences fish and wildlife habitats throughout Montana. About 2.4 million cattle are maintained in Montana. Livestock grazing occurs on about 69% of the state's land surface. Potential impacts to fish, wildlife and their habitats caused by grazing are well documented in the literature. Also well documented are potential benefits for conservation that can be derived for some wildlife species through carefully planned livestock grazing strategies. Conserving wildlife habitat while continuing livestock grazing typically requires management strategies that differ from those employed for the sole purpose of maintaining a sustainable livestock forage base that maximizes livestock production. One reason for the difference in management strategies is because vegetation is much more than a forage base for wildlife. Vegetation species composition, structure, and diversity are important aspects of cover essential to the survival and production of wildlife. Healthy riparian communities are critical not only for aquatic species but for proper channel and flood plain function. Seventy-five percent of all Montana wildlife species rely on riparian areas for all or a portion of their lives. This includes many species covered in the FWP's Comprehensive Fish and Wildlife Strategy. When livestock grazing occurs, it is not unusual for cover to be the population limiting factor for many species. Aldo Leopold referred to this concept of habitat quality as 'Quality of Landscape'. Addressing cover is especially important in implementation of FWP's Comprehensive Fish and Wildlife Strategy. It is therefore possible that a livestock operator may be employing a grazing strategy that maintains a sustainable forage base on most of the property, but may not be providing adequate forage, cover, or floral diversity for important fish and wildlife species.

Sustainable livestock production often employs grazing strategies emphasizing production and maintenance of grass species while placing less emphasis on the maintenance of forbs and



woody plants. Many wildlife species require grazing strategies that emphasize healthy woody plants and availability of forbs and grass seed heads on at least portions of the landscape every year. The maintenance of robust woody vegetation and cover is also a very important component of healthy riparian systems. Healthy ecological systems are essential for a variety of aquatic and terrestrial riparian obligates.

The purpose of FWP's minimum grazing standards is to achieve a balance between maintaining sustainable agriculture and quality fish and wildlife habitat on working ranches and to provide flexibility to conserve and protect habitat needs on WMAs where wildlife habitat is the primary objective and agriculture is secondary. FWP has applied the standard successfully over the past 30 years on a variety of projects ranging from working cattle ranches to FWP WMAs. There are examples in Montana and other states where a grazing standard similar to FWP's is being applied by livestock operators independent of FWP.

## **Grazing Plan**

Prior to grazing livestock, the Landowner and FWP must agree upon and implement a grazing plan. A grazing plan includes a map of the pastures, a grazing formula specific to those pastures, the class of livestock, and other information pertinent to the management of livestock. Format for the grazing plan is included as part of the management plan template for conservation easements. The grazing plan will be included as part of the Management Plan for easement projects, and will define the limits and extent to which grazing may occur. The Management Plan may be amended by mutual consent, as more particularly described in Paragraph II.E. of the Conservation Easement. For other projects, the management plan will be included as an attachment to the grazing lease or contract. On conservation easements, the grazing plan will be enforceable only on lands covered by the easement.

## **Upland Minimum Grazing Standard for Summer/Fall Systems**

This standard applies to upland pastures in native plant communities (i.e. generally on soils that have never been plowed) and for all riparian pastures. The grazing plan must meet or exceed minimum levels of periodic rest from livestock grazing to allow native plants adequate opportunity to reproduce and replenish root reserves. The minimum amount of rest required for any pasture grazed in one year during the plant growing season is defined as rest throughout the following year's growing season (i.e. grazing deferred until seed-ripe), followed by one year of yearlong rest, as shown in Table 1.

Each pasture receives only one grazing treatment per year, and the treatments are rotated annually as shown in Table 1. The growing season is defined as beginning with the period of rapid plant growth (generally early to mid-May) until seed-ripe for the latest maturing native grasses, such as bluebunch wheatgrass or western wheatgrass (generally early August). Because the exact dates can vary as much as a few weeks depending on the location in Montana, specific dates for livestock movement are developed for each project. Occasionally it may be necessary for the grazing system to allow for some livestock to be in the pasture scheduled for the A treatment (Table 1) beyond the growing season.

A three-pasture grazing system is used as an example (Table 1) to show how the landowner

might typically rotate livestock through pastures to meet the minimum levels and required sequence of rest from livestock grazing. In practice, the landowner is not limited to any particular number of pastures; many projects include more than three pastures. In some instances, sub-pastures are employed to meet riparian or other objectives on the land. If livestock are grazed, they must be moved through the pastures in compliance with these standards and the grazing plan. Where grazing occurs during the growing season, the three-treatments outlined in Table 1 are essential and the total number of pastures and/or sub-pastures will vary between projects.

**Table 1. Livestock Grazing Formula using a three pasture approach as an example.**

<b>Grazing Seasons</b>	<b>Pasture 1</b>	<b>Pasture 2</b>	<b>Pasture 3</b>
<b>Year One</b>	A	B	C
<b>Year Two</b>	B	C	A
<b>Year Three</b>	C	A	B
When all treatments have been applied to all pastures, the grazing rotation begins again at year one.			
A = livestock grazing allowed during the growing season; B = livestock grazing begins after seed-ripe time; C = rest from livestock grazing yearlong.			

### **Winter and/or Early Spring Grazing**

In some situations, an early grazing treatment (prior to mid- May) may be considered. However, it must be kept in mind that grazing capacity and forage production in the year a pasture is grazed from winter to beyond mid-May, will be temporarily reduced. On projects where early spring grazing (prior to rapid plant growth) is combined with summer (active growing season) grazing the three grazing treatments described in Table 1 must be employed.

It is usually more efficient to manage winter grazing separately from spring-summer grazing. If livestock are to be grazed in a native range or riparian pasture in winter or early spring (generally December through early May), and a separate grazing formula is required, it must be coordinated with the summer-fall grazing system as follows: Minimum required rest in pastures where livestock are grazed and/or fed hay during winter is one winter of rest in every two (2) years. Hay, grain, salt, protein or other supplements will not be placed in riparian areas during winter or any other season.

Minimum required rest in pastures where livestock are grazed in spring, prior to early May, is one spring of rest in every two years. Any pastures grazed later in spring than early-mid May require the greater amount of rest shown in the table 1. As a minimum, when grazing is limited to winter or the non-growing season period, a two-pasture alternate use approach is frequently used. The area designated for winter grazing is divided into two pastures and each year one pasture is grazed during winter months and the other rested and use is alternated from year to year.

During winter months cattle tend to concentrate in wooded areas (shrub or tree- dominated areas) for shelter. This must be kept in perspective when assessing the impacts to woody

vegetation. It is often the case that with careful placement of hay, cattle impacts to woody vegetation can be kept to a small portion of the area. If this is not the case, it might be necessary to fence a portion of the woody vegetation to protect it from damage, but should only be done once efforts to control livestock distribution by other means have proven ineffective. An acceptable level of impact will vary depending on the objectives (i.e. a level of woody vegetation impact acceptable for a working cattle ranch may be much different than for a WMA).

## **Scope**

The goal is to include as much of the lands under easement as possible within the grazing system, but one must be realistic in recognizing the animal husbandry needs of a livestock operation. It may be necessary to set aside small areas as animal husbandry units to be used at the landowner's discretion. Such areas might include calving pastures, branding pastures, sorting pens, bull pastures, or holding corrals. As long as the majority of the lands involved are within a grazing system, meeting the minimum standards, this is acceptable.

## **Non-native Pasture**

It is common for livestock operators to have pastures on their land that are non-native range. The landowner's goal is usually to keep these pastures productive as non-native pasture. The pastures typically are seeded with an exotic pasture grass or grass mix.

On occasion forbs like dry-land alfalfa are included in the planting. The FWP minimum grazing standard does not apply to these pastures. In cases of non-native pasture, a grazing strategy that is coordinated with the grazing system and meets the needs of the ranch should be worked out. In the case of crested wheatgrass pasture it may be necessary to allow grazing early (late-winter or early spring) each year to maintain palatability. In the case of other pasture grasses, such as smooth brome, a deferred approach works well; a pasture is grazed during the growing season in year one then deferred from grazing until near seed-ripe in year 2 (about the time such grasses would normally be harvested as hay). This will maintain the productivity of the non-native species until replanting is necessary and, in some cases, maintain them as attractive feeding sites for large wild ungulates. It is important to keep in mind that these areas, unlike native range, are essentially cropland and whether grazed or left idle will eventually need some sort of agricultural practice to maintain their productivity.

It is usually best to leave irrigated pasture management to the landowner's discretion. If important riparian is included in the field, it might be necessary to fence the riparian zone from the irrigated pasture to protect it from livestock grazing. Usually grazing strategies employed on irrigated pasture are not consistent with proper management of key native riparian plants. In such situations, it may be necessary to apply the guideline *Series entitled: The Need for Stream Vegetated Buffers Parts 1 through 3*, Montana Department of Environmental Quality 2008.

Livestock operators often place cows in hayfields during winter months. In such cases the field should be managed at the landowner's discretion and in some instances, it might be necessary to fence out riparian from the hayfield to protect it from grazing.

## **Stocking Rate**

Usually FWP does not require a maximum stocking rate as part of the grazing strategy on easements or Upland Game Bird Habitat Enhancement Projects. In such cases it is clearly stated in the grazing plan, that the maximum stocking rate will be ultimately determined by the operator's ability to conform to the grazing system. In other words, the livestock numbers may increase as long as the plan can be followed and livestock movement dates are not compromised. Such an approach is consistent with the reality that, for most easement projects, the primary use of the land is agricultural.

Occasionally a landowner has requested that an upper limit stocking rate be established as a stipulation in the easement. As long as the number of livestock is realistic this is not a problem.

On lands owned by FWP any grazing that occurs will be at stocking levels determined by the agency and approved by the FWP Commission.

## **Mineral and Other Supplements**

On privately owned grazing lands the landowner is given more discretion on locations for placement of mineral block than on FWP lands. However, regardless of land ownership the placing of mineral block within riparian areas will be strongly discouraged. On FWP lands the placement of mineral block will be described as part of the grazing plan. Supplements will be placed away from riparian areas, ponds, and roads. Rocky (stable soil) areas on ridge tops or in the trees are preferred sites.

On FWP lands livestock within pasture grazing systems are not to be fed hay.

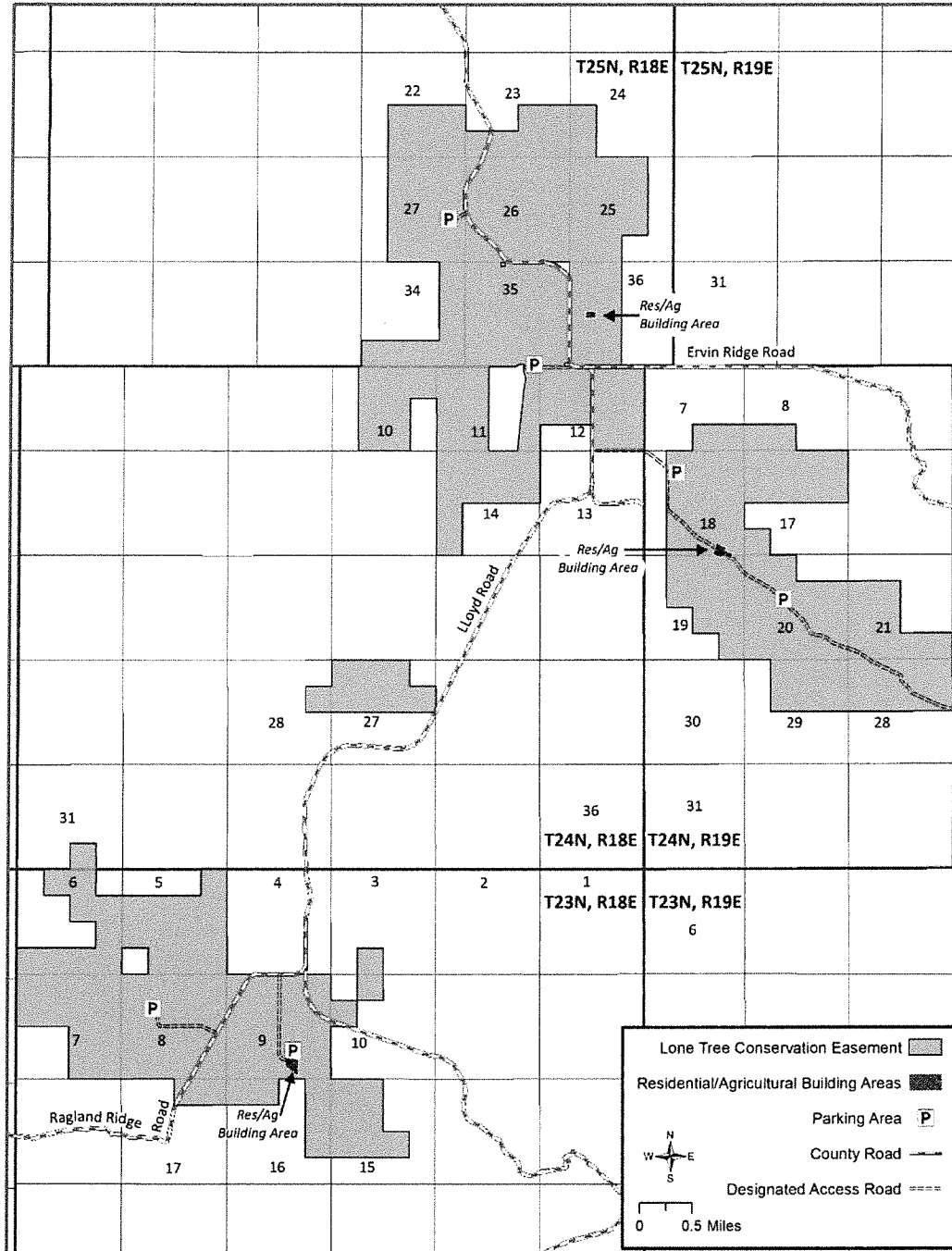
## **Flexibility**

Rarely, a severe environmental influence (i.e. fire, drought, grasshoppers) may require a onetime deviation from the prescribed grazing plan. In such cases the landowner is to notify the local FWP representative of the problem. In a timely manner the local FWP representative, Habitat Section representative, and landowner will meet to discuss the issue and work out a solution. It is important to keep in mind that short term adjustments to the grazing plan must be the exception rather than the rule. Allowing grazing to occur in a pasture scheduled for rest is always a last resort. FWP has managed grazing systems across Montana through a variety of severe environmental events. This experience has shown that when a legitimate problem exists an alternative can usually be found that avoids grazing the pastures scheduled for rest.

**END OF EXHIBIT C**

## EXHIBIT D

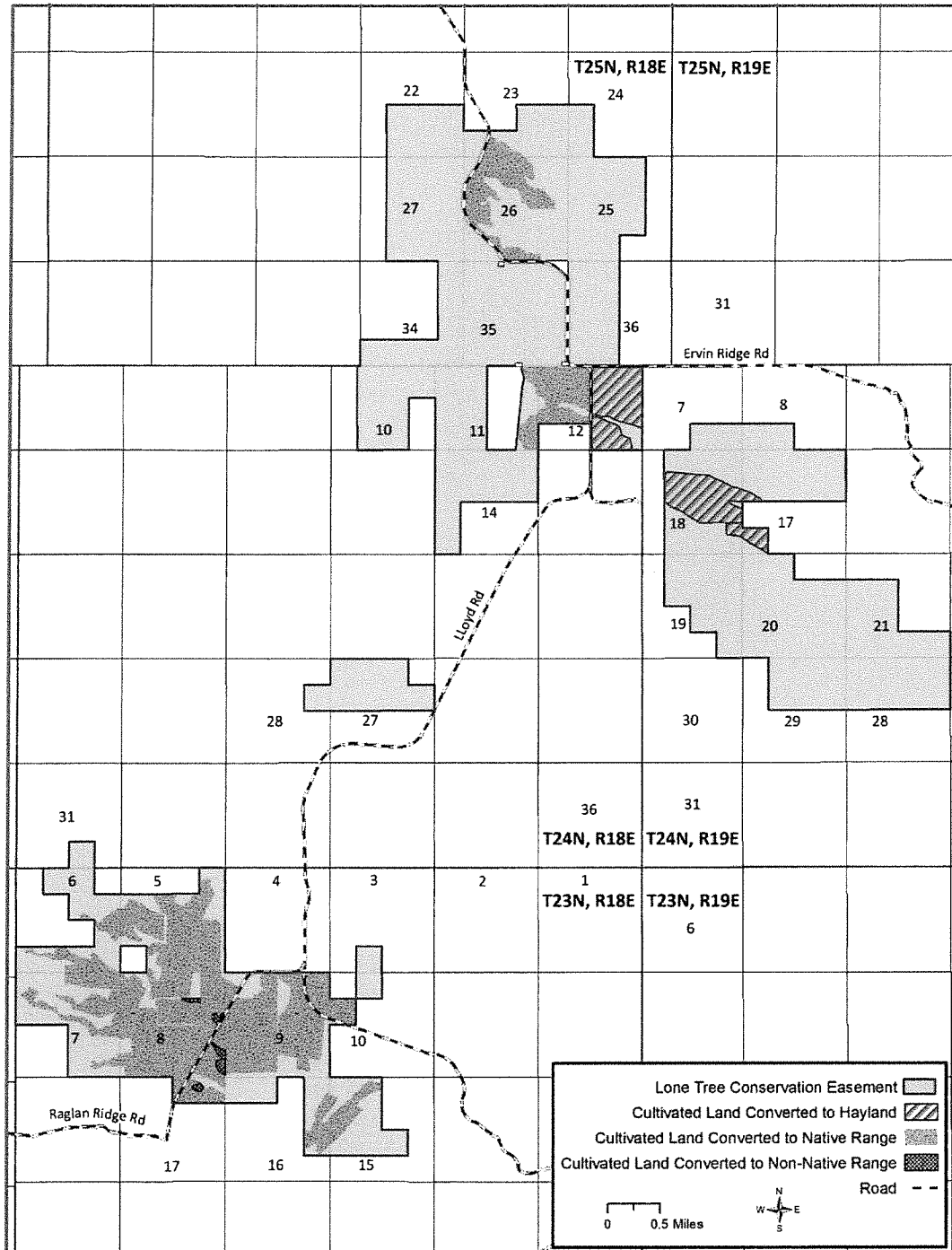
### MAP OF EXISTING RESIDENTIAL/AGRICULTURAL BUILDING AREAS, PARKING AREAS AND DESIGNATED ACCESS ROADS



END OF EXHIBIT D

## EXHIBIT E

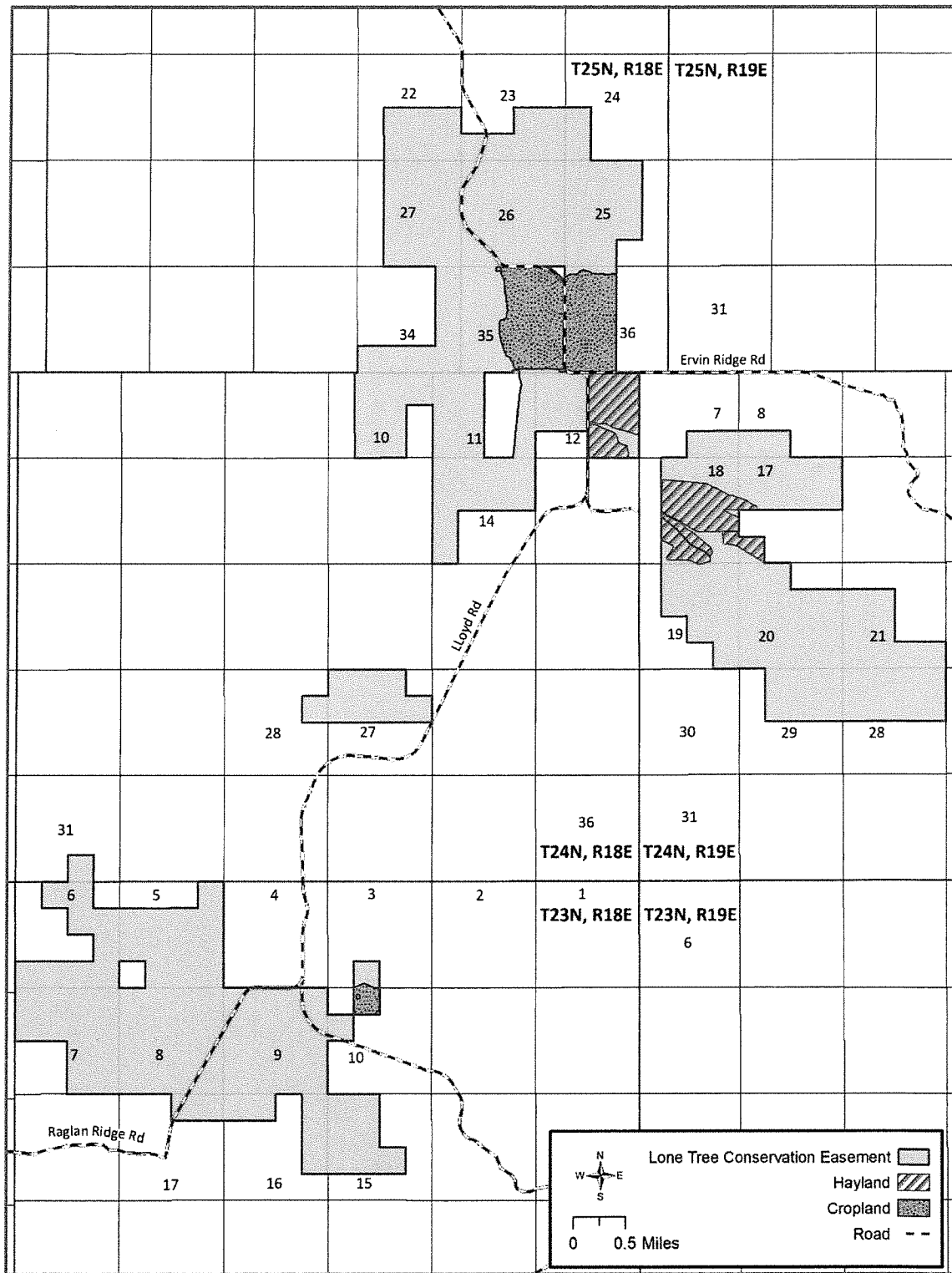
### LAND TO BE CONVERTED TO NATIVE RANGE, NON-NATIVE RANGE, OR HAYLAND



END OF EXHIBIT E

## EXHIBIT F

### LAND DESIGNATED FOR CULTIVATION OR HAYING.



END OF EXHIBIT F

*Lone Tree Conservation Easement  
Gasvoda to FWP  
September 2020*

## EXHIBIT G

### WATER RIGHTS EXISTING AT THE TIME OF EXECUTION OF THIS EASEMENT

41T 38676 00	41T 156477 00
41T 38677 00	41T 156478 00
41T 38678 00	41T 156479 00
41T 38679 00	41T 156480 00
41T 38680 00	41T 156481 00
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41T 14446 00	41T 156490 00
41T 14447 00	41T 156491 00
41T 14448 00	41T 156492 00
41T 14449 00	41T 157482 00
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41T 156475 00	
41T 156476 00	

END OF EXHIBIT G