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Missoula County Vickie M Zeiser E

**DEED OF CONSERVATION EASEMENT**

THIS GRANT DEED OF CONSERVATION EASEMENT ("Easement") is made this 23rd day of December, 2004, by Still River, LLC, a Montana Limited Liability Company, with a mailing address of 8755 Given Road, Cincinnati, Ohio 45253, (hereinafter together with its successors and assigns collectively referred to as "Grantor") and THE MONTANA LAND RELIANCE, a nonprofit Montana corporation with a principal office at 324 Fuller Avenue, Helena, Montana 59601 (hereinafter referred to as "Grantee");

**R E C I T A L S:**

WHEREAS, Grantor is the owner of certain real property in Missoula County, Montana, more particularly described in Exhibit A attached hereto and incorporated by this reference (hereinafter the "Property"); and,

WHEREAS, the Property has significant scenic and open space values as recognized in the Montana Open Space Land and Voluntary Conservation Easement Act, Montana Code Annotated (MCA) Section 76-6-101, et seq.; and,

WHEREAS, the Property constitutes a valuable element of the Swan Valley and its scenic and open space lands and natural habitat (hereinafter the "Conservation Values") which are of great importance to Grantor and to the people of the State of Montana, and are worthy of preservation; and,

WHEREAS, it is the intent of this Easement to maintain the rural, agricultural and natural scenic qualities of the area by the retention of significant open space for a variety of uses including wildlife habitat, recreation and agricultural purposes; and,

WHEREAS, the Missoula County, Montana, Commissioners have expressly recognized in the Missoula County Comprehensive Plan, adopted in 1975, the importance of preserving open space and agricultural lands in Missoula County, Montana, as a result of rapid urban and suburban development of formerly rural lands; and,

WHEREAS, the Missoula County Comprehensive Plan specifically encourages use of conservation easements to preserve open space and agricultural lands in the area; and,

WHEREAS, Grantor and Grantee intend to preserve the Conservation Values of the Property in their largely undeveloped condition to protect and preserve the natural scenery enjoyed by the general public traveling Highway 83; and,

WHEREAS, the Property is in the general vicinity of a number of conservation easement properties; and,

WHEREAS, Grantor desires and intends that the Conservation Values of the Property be preserved and maintained by a continuation of land uses that will not substantially impair those Values; and,

**AFTER RECORDING RETURN THIS ORIGINAL DOCUMENT TO: LOIS DELGER-DEMARS, MT LAND RELIANCE, PO BOX 355, HELENA MT 59624**



WHEREAS, the State of Montana has recognized the importance of private efforts toward voluntary conservation of private lands in the state by the enactment of MCA Sections 76-6-101, et seq., and 76-6-201, et seq.; and,

WHEREAS, Grantee is a qualified organization under MCA Sections 76-6-104(5) and 76-6-204, organized to conserve land for scenic and open space purposes, and is an organization described in Section 170(h)(3) of the Internal Revenue Code of 1986 (hereinafter the "Code") qualified to receive and hold conservation easements;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and further, pursuant to MCA Section 76-6-201, et seq., Grantor does hereby convey to Grantee this Easement in perpetuity, consisting of the rights hereinafter enumerated on, over and across the Property.

### **SECTION I** **Purpose and General Effect of Easement**

A. Purpose. It is the purpose of this Easement to assure that the Conservation Values will be maintained forever and to prevent any use of, or activity on, the Property that will significantly impair those Values. Grantor intends that this Easement will limit the use of the Property to such activities as are consistent with that purpose (including limited livestock, grazing and agricultural uses; hunting, fishing and other recreational uses; selective timber harvesting; and operation of bed and breakfast businesses consistent with the terms hereof). Grantor and Grantee recognize that changes in economic conditions, in technologies, in accepted farm, ranch and forest management practices, and in the situation of Grantor may result in an evolution of land uses and practices related to the Property provided that such uses and practices are consistent with the purpose of this Easement.

B. Perpetual restrictions. This Easement shall run with and burden title to the Property in perpetuity and shall bind Grantor and all future owners and tenants.

C. Dedication. The Property is hereby declared to be open space and may not, except as specifically provided herein, be converted from open space.

### **SECTION II** **Rights Conveyed**

The rights conveyed by this Easement are the following:

A. Identification and protection. To identify, preserve and protect in perpetuity the Conservation Values, subject, however, to Grantor's reserved rights as herein provided and further subject to all third party rights of record in the Property existing at the time of conveyance of this Easement and not subordinated to this Easement.

B. Access. Upon prior notice to Grantor, to enter upon the Property to inspect the same and to monitor Grantor's compliance with the terms of this Easement in a manner that will not unreasonably interfere with the use of the Property by Grantor. Aside from the rights of access granted in the preceding sentence of this paragraph B, this Easement does not grant to Grantee, nor to the public, any rights to enter upon the Property.

C. Injunction and restoration. To enjoin any activity on, or use of, the Property which is inconsistent with the purpose of this Easement and to enforce the reasonable restoration of such areas or features of the Property as may be damaged by such activity or use.

### **SECTION III** **Reserved Rights and Prohibited Uses**

A. Reserved rights. Grantor reserves to itself and to its successors and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the terms of this Easement. Without limiting the generality of the foregoing sentence, those uses and practices described in Exhibit B, attached hereto and incorporated by this reference, are expressly permitted.

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

### **SECTION IV** **Prior Notice by Grantor and Approval of Grantee**

Any enterprise, use or activity proposed to be done or undertaken by Grantor which requires the prior approval of Grantee pursuant to an express provision of this Easement (including any provision of Exhibit B or Exhibit C expressly requiring the prior approval of Grantee) shall be commenced only after satisfaction of the notice and approval conditions of this Section IV.

A. Grantor's written notice. Prior to the commencement of any enterprise, use or activity requiring Grantee's approval, Grantor shall send Grantee written notice of the intention to commence or undertake such enterprise, use or activity. Said notice shall inform Grantee of all aspects of such proposed enterprise, use or activity, including, but not limited to, the nature, siting, size, capacity, and number of structures, improvements, facilities, or uses.

B. Grantee's address. Said notice shall be sent by registered or certified mail, return receipt requested, or by a private delivery service and shall be addressed to Grantee at P.O. Box 355, Helena, MT 59624, or to such other address as Grantor from time to time may be informed of in writing by Grantee.

C. Grantee's response. Grantee shall have thirty (30) days from Grantee's receipt of such notice, as indicated by the registered or certified return receipt, or by the receipt records of a private delivery service, to review the proposed enterprise, use or activity and to notify Grantor of any objection thereto. Such objection, if any, shall be based upon Grantee's opinion that the proposed enterprise, use or activity is inconsistent with the purpose of this Easement. If, in Grantee's judgment, conformity with the purpose of this Easement is possible, said notice shall inform Grantor of the manner in which the proposed enterprise, use or activity can be modified to be consistent with this Easement. Except as provided in paragraph E of this Section IV, only upon Grantee's express written approval may the proposed enterprise, use or activity be commenced and/or conducted, and only in the manner explicitly represented by Grantor and approved by Grantee.



D. Grantor's address. Grantee's response to Grantor's notice shall be sent by registered or certified mail, return receipt requested, or by a private delivery service and shall be addressed to Grantor at 8755 Given Rd., Cincinnati, OH 45243, or to such other address as Grantee from time to time may be informed of in writing by Grantor.

E. Grantee's failure to respond. Should Grantee fail to post its response to Grantor's notice within thirty (30) days of the receipt of said notice, the proposed enterprise, use or activity shall automatically be deemed consistent with the purpose of this Easement, Grantee having no further right to object to the enterprise, use or activity identified by such notice.

F. Acts beyond Grantor's control. Grantor shall be under no liability or obligation for any failure in the giving of notice with regard to any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property or to any person resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any other cause beyond the control of Grantor similar to those occurrences specified.

**SECTION V**  
**Breach and Restoration**

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

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

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

(iii) fails to continue diligently to cure such violation until finally cured,

Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by a temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, and to require the restoration of the Property to the condition that existed prior to any such injury. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, Grantee may pursue its remedies under this paragraph without waiting for the period provided for a cure to expire, and, in the case of a threatened violation, without waiting for actual injury or damage to occur to the Conservation Values which are protected by this Easement.

Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in



addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

B. Costs of enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including reasonable costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's reasonable costs of suit, including reasonable attorneys' fees, shall be borne by Grantee.

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

D. Acts beyond Grantor's control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

**SECTION VI**  
**Costs and Taxes**

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

**SECTION VII**  
**Indemnities**

A. Control of risks associated with Property ownership. Grantor and Grantee acknowledge and agree that Grantor retains primary ownership of the Property and therefore Grantor controls day-to-day activities on, and access to, the Property, except for Grantee's limited rights to monitor the condition of the Conservation Values and to enforce the terms of this Easement. Except as specifically provided in paragraph C of this Section VII, Grantor therefore agrees that general liability for risks, damages, injuries, claims, or costs arising by virtue of Grantor's continued ownership, use and control of the Property shall remain with Grantor as a normal and customary incident of the right of Property ownership.



B. Grantor's obligation to indemnify. Grantor agrees to hold harmless and indemnify Grantee from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, Grantee's reasonable attorneys' fees and costs of defense, arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, except as set forth in paragraph C below; (ii) the obligations specified in Section VI; and (iii) the obligations arising from past, present or future presence of any hazardous substance on the Property, and any obligation associated with the generation, discharge, transport, containment, or cleanup of any such hazardous substance.

C. Grantee's obligation to indemnify. Grantee shall hold harmless and indemnify Grantor from and against all liabilities, claims, penalties, costs, demands, or judgments, including reasonable attorneys' fees and costs of defense, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, while Grantee is on the Property in the course of carrying out the duties and obligations of Grantee under the terms of this Easement.

D. Definitions. For the purposes of this Section VII, Grantor's and Grantee's agreement to hold harmless and indemnify will extend to their respective directors, officers, employees, and agents and their heirs, personal representatives, successors, and assigns. The term "hazardous substance" shall mean any chemical, compound, material, mixture, or substance that is now or hereafter defined or classified as hazardous or toxic by federal, state or local law, regulation or ordinance.

## **SECTION VIII** **Assignment of Easement**

The benefits of this Easement shall be assignable, but Grantee may not transfer or assign its interest in the Property created by this Easement except to a "qualified organization," within the meaning of Section 170(h)(3) of the Code. In the event assignment of this Easement becomes necessary, Grantee shall seek an assignee which is mutually acceptable to Grantee and Grantor. Any such qualified organization shall agree to enforce in perpetuity the conservation purpose of this Easement. Grantee agrees that it will make a reasonable effort in the event of any assignment to suggest an assignee which is a qualified organization other than a governmental unit referred to in Section 170(c)(1) of the Code, which has conservation of scenic open space as a substantial organizational purpose, and Grantee further represents to Grantor that its present intention is to assign its interest in this Easement only in connection with a dissolution of Grantee.

## **SECTION IX** **Documentation**

Grantor has made available to Grantee, prior to the execution of this Easement, information sufficient to document the condition of the Conservation Values of the Property. The parties acknowledge that this information shall be compiled and developed into a final resource documentation report as soon as is practically feasible after the grant of this Easement. The parties have signed a written acknowledgment, attached hereto as Exhibit D and incorporated by this reference, that the information compiled prior to the time of the grant of this Easement, which shall be incorporated into the final resource documentation report, accurately



represents the condition of the Conservation Values of the Property as of the date of the grant of this Easement in accordance with Treasury Regulation §1.170A-14(g)(5)(i). The parties intend that the documentation shall be used by Grantee to monitor Grantor's compliance with the terms and conditions of this Easement. The documentation shall be on file with Grantee.

**SECTION X**

**Extinguishment: Grantee's Entitlement to Proceeds**

A. Extinguishment. If circumstances arise in the future which render the purpose of this Easement impossible to accomplish, this Easement may only be terminated or extinguished (as provided for in Treasury Regulations Section 1.170A-14(g)(6)(i)), whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which Grantee shall be entitled from any sale, exchange or involuntary conversion of all or any portion of the Property, subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Montana law at the time, in accordance with paragraph B of this Section X. Grantee shall use any such proceeds in a manner consistent with the purpose of this Easement.

B. Compensation. This Easement constitutes a real property interest immediately vested in Grantee, which, for purposes of paragraph A of this Section X, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values referred to in the preceding sentence shall be those values established by Grantor's qualified appraisal (pursuant to Treasury Regulation §1.170A-13) for federal income, gift or estate tax purposes. For the purpose of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement, as established at the time of this grant, shall remain constant. Within one (1) year of completion of the qualified appraisal, Grantor, Grantee and Grantor's appraiser shall sign a written acknowledgment of the values thus established on a form similar to the sample attached hereto as Exhibit E. The original of said acknowledgment shall be held on file with Grantee at Grantee's normal place of business.

C. Eminent domain. If all or a portion of the Property is taken in exercise of eminent domain so as to abrogate the restrictions imposed by this Easement, Grantor and Grantee may join in appropriate actions to recover the full value of the Property (or portion thereof) taken and all incidental or direct damages resulting from such taking. Any expense incurred by Grantor or Grantee in any such action shall be first reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between Grantor and Grantee in proportion to their interest in the Property, or portion thereof, as established by paragraph B of this Section X.

**SECTION XI**

**Miscellaneous Provisions**

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

B. "Grantor" and "Grantee". The terms "Grantor" and "Grantee," as used herein, and any pronouns used in place thereof, shall mean and include the above-named Grantor and its



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successors in interest and assigns, and The Montana Land Reliance and its successors and assigns, respectively.

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

D. Subsequent transfers. Grantor agrees that reference to this Easement and reference to its dates and places of recording in the Public Records of Missoula County will be made in any subsequent deed or other legal instrument by which they convey any interest in the Property, including any leasehold interest. Grantor agrees to incorporate the terms and conditions of this Easement by express recording reference to the Easement in any deed by which Grantor conveys title to the Property.

E. Governing law. In the event any dispute arises over the interpretation or enforcement of the terms and conditions of this Easement, the laws of the State of Montana shall govern resolution of such dispute.

F. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, within Grantee's operational policies and procedures, Grantor and Grantee may jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualifications of this Easement under any applicable laws, including MCA Section 76-6-101, et seq., and the Code. Any amendment must be consistent with the conservation purpose of this Easement, must 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 more than incidental private inurement or private benefit to any party as herein above mentioned. Any Easement amendment must be in writing, signed by both parties, and recorded in the Public Records of Missoula County.

G. Conservation intent. Any ambiguities in this Easement shall be construed in a manner which best effectuates its Conservation Values.

IN WITNESS WHEREOF, Grantor and Grantee have hereunto set their hands.

GRANTOR:

STILL RIVER, LLC,  
a Montana Limited Liability Company

By: Jonathan R. Lippincott, Solo Member  
Jonathan R. Lippincott, Sole Member

GRANTEE:

THE MONTANA LAND RELIANCE,  
a corporation

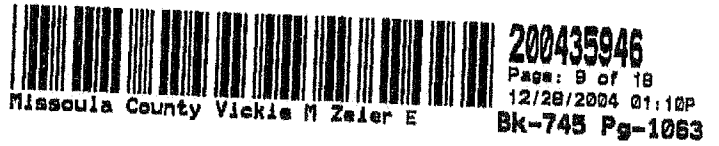
By: George O. Sec-Treas  
[Name and title]

**EXHIBIT A  
LEGAL DESCRIPTION**

Tract 1 of Certificate of Survey No. 5390, a tract of land located in the SW¼ of Section 5,  
Township 19 North, Range 16 West, Principal Meridian, Montana, Missoula County, Montana.

Tract 2 of Certificate of Survey No. 5390, a tract of land located in the S½ of Section 5,  
Township 19 North, Range 16 West, Principal Meridian, Montana, Missoula County, Montana.

SUBJECT TO covenants, conditions, restrictions, provisions, easements, and encumbrances  
apparent or of record.





## EXHIBIT B PERMITTED USES AND PRACTICES

The following uses and practices, though not an exhaustive recital of consistent uses and practices, are hereby deemed to be consistent with the purpose of this Easement and are expressly permitted:

1. Livestock, grazing and agricultural activities. Grantor retains the right to raise livestock on the Property so long as any such livestock are confined within the area lying outside of the "No Build Areas" delineated in Exhibit F, attached hereto and incorporated by reference. However, Grantor retains the right to use livestock for recreational purposes within the No Build Areas. Further, open grazing of livestock within the No Build Areas is permitted only for emergency purposes of noxious weed control and fire abatement purposes which shall be limited to infested areas during appropriate seasons and duration of use. If livestock are permitted on the Property for such purposes, Grantor retains the right to place temporary stock water facilities within the No Build Areas. Grantor shall obtain prior approval from Grantee for any such planned grazing as provided in Section IV hereof.

Grantor retains the right, outside of the No Build Areas delineated in Exhibit F, to conduct farming activities, including planting, raising and harvesting agricultural crops.

2. Hunting and fishing. To use the Property for hunting of game animals and fishing.

3. Water resources. To maintain, enhance and develop water resources on the Property for permitted agricultural uses, fish and wildlife uses, domestic needs, and private recreation. Permitted uses include, but are not limited to, the following: the right to restore, enhance and develop water resources, including ponds; to locate, construct, repair, and maintain irrigation systems; and to develop stock watering facilities which shall be located outside of the No Build Areas delineated in Exhibit F, except as provided in this Exhibit B, paragraph 1.

4. Maintenance and structures. To maintain, repair, remodel, and make limited additions to any existing or subsequently constructed structures and improvements expressly permitted by this Easement. In the event of removal or destruction of any or all of said structures and improvements, to replace them with structures and improvements of a similar function and use, in the same general locations. To place upon the Property additional non-residential structures and other improvements as may be necessary for livestock and agricultural purposes, pursuant to the terms hereof. Any structures constructed on the Property shall be located within the two (2) building envelopes provided for in this Exhibit B, paragraph 5.

5. New residences. To construct, maintain and repair three (3) single family residences (including prefabricated homes placed on permanent foundations, but not including mobile homes or trailers). Further, Grantor retains the right to construct, maintain and repair non-residential, non-commercial outbuildings in association with the residences, including, but not limited to, garages, workshops, sheds, and recreational facilities. The residences and all associated outbuildings shall be located within two (2), three (3) acre building envelopes located outside of the No Build Areas delineated in Exhibit F. One of the building envelopes may include two residences, one of which is intended as a guest house. Whether used as a guest house or full time residence is at Grantor's discretion.

To ensure that the building envelopes are the appropriate size and located outside of the No Build Areas delineated in Exhibit F, the specific boundaries of each building envelope shall



be delineated by Grantor with consultation of Grantee, as provided in Section IV, prior to beginning construction of any new structures.

In the event of removal or destruction of any residence or structure described in this paragraph 5, Grantor may replace the same with a similar structure in the same general location.

6. Transfer of land. To grant, sell, exchange, devise, gift, or otherwise convey or dispose of all or any portion of Grantor's right, title, estate, and interest in the Property as no more than two (2) parcels.

In the event of sale, exchange, devise, or gift of one or more of the parcels described above, Grantor shall expressly designate in the conveyance document(s) if the right to construct any of the additional residences permitted in this Exhibit B, paragraph 5, is transferred with said parcel(s). If no designation is made, none of the additional residences will be permitted on the transferred parcel(s).

Whether conveyed as a single tract or whether conveyed as separate parcels created pursuant to this paragraph 6, the Property shall be conveyed expressly subject to all terms, conditions, rights, restrictions, and obligations contained in this Easement. Furthermore, if Grantor elects to divide the Property as herein provided, Grantor must comply with all federal, state and local laws, ordinances and regulations concerning subdivision, as applicable, including the surveying of the parcel to be sold and the submission of the proposed creation of a separate tract to state and local review.

Grantor shall furnish Grantee with a copy of any document or conveyance utilized to effect the transfer of the Property within thirty (30) days of the execution of said document or conveyance.

7. Timber removal.

a. Commercial timber harvest with prior approval. Upon obtaining the prior approval of Grantee as provided in Section IV hereof, Grantor may selectively harvest timber for commercial purposes in accordance with those forestry practices which are consistent with the general and specific intentions of Grantor and Grantee, as those intentions are specifically expressed in this Exhibit B, paragraph 7, and those intentions are more generally expressed in this Easement taken as a whole. For the purposes of this Easement, the term "commercial timber harvest or thinning" is defined as any timber harvest in which the product of such harvest is sold, traded, exchanged, or used off the Property.

Any timber harvest permitted hereunder must protect and minimize adverse impacts to the Conservation Values of the Property. Furthermore, any commercial timber harvest or thinning, including those for the abatement of disease or insect infestation, shall require preparation, at Grantor's expense, of a timber harvest plan by qualified natural resource personnel. Grantor shall contact Grantee prior to the preparation of a timber harvest plan to obtain the required information to be included in any such plan.

Such timber harvest plan shall be furnished to Grantee in connection with Grantor's request for approval of any proposed commercial timber harvest, and any commercial timber harvest, if approved by Grantee as provided in Section IV hereof, shall be conducted in accordance with said plan. Grantor and Grantee will mutually determine the completeness of the

timber harvest plan and its adherence to the general and specific intentions of this Easement prior to the approval of such plan and prior to the initiation of any commercial timber harvest.

b. Non-commercial timber removal. Notwithstanding any provision in this Easement to the contrary, Grantor specifically reserves the right, without seeking Grantee's prior approval, to remove select trees that present a hazard to persons or property, or the cutting of firewood, posts and poles for non-commercial use. All timber removed by Grantor pursuant to this subparagraph b, must be used or disposed of on the Property. All non-commercial timber management activities must protect and minimize impacts to the Conservation Values. In connection with the upkeep, maintenance and repair of structures and residences, Grantor specifically reserves the right to clear brush, and prune, trim and remove trees; or to plant trees, shrubs, flowers, and other native or non-native species for landscaping or gardening purposes without obtaining any approval from Grantee.

8. Bed and breakfast businesses and/or residence-based businesses. To use the permitted residences on the Property for the operation of bed and breakfast businesses.

Persons living on the Property may also conduct businesses within their residence (home office) so long as any such businesses, other than the bed and breakfast businesses permitted above, is not a sales or service businesses involving dealing with the general public on the Property on a regular basis.

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



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### EXHIBIT C PROHIBITED USES AND PRACTICES

The following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are hereby deemed to be inconsistent with the purpose of this Easement and are expressly prohibited:

1. Subdivision. The division, subdivision or de facto subdivision of the Property, except as provided in Exhibit B, paragraph 6.

2. Mineral exploitation. There shall be no exploration for, extraction or removal of any minerals (including oil, gas, hydrocarbons, gravel, and hard-rock minerals) by any surface or subsurface mining method, except as set out below. Seismic exploration for subsurface oil and gas deposits is permitted on the Property. Also permitted is subsurface extraction techniques, of oil and gas, which are initiated from the surface of adjoining properties or other subsurface extraction techniques approved by Grantee as compatible to minimize adverse impacts to the Conservation Values.

3. Commercial facilities. The establishment of any commercial or industrial facilities (other than those necessary in the operation or uses of the Property expressly permitted by this Easement) including, but not limited to, guest ranching, outfitting, commercial feed lot, any retail sales or service business, except as provided in Exhibit B, paragraph 8, restaurant, night club, campground, trailer park, motel, hotel, commercial recreation facility, gas station, retail outlet, or facility for the manufacture or distribution of any product (other than products to be grown or produced on the Property in connection with purposes expressly permitted in Exhibit B hereto).

4. Dumping. The dumping or other disposal of non-compostable refuse on the Property, except nonhazardous wastes generated by normal livestock and forestry operations may be dumped outside of the No Build Areas delineated in Exhibit F.

5. Construction. The construction of any structures except as provided in Exhibit B.

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

7. Roads. The construction of roads except in connection with access to the residences permitted in Exhibit B, including through the No Build Areas delineated in Exhibit F if necessary. Any road constructed shall be sited and maintained so as to minimize adverse impact to the Conservation Values.

Aside from right-of-way easements Grantor may elect to grant to the appropriate governmental authority in relation to the improvement and/or expansion of Highway 83, or the granting of road right-of-way easements to access parcels transferred under Exhibit B, paragraph 6, the granting of road right-of-way easements upon or across the Property, except over permitted roads, is prohibited. However, right-of-way easements may be granted by mutual agreement of Grantor and Grantee in cases where eminent domain statutes apply and clear public necessity has been demonstrated to Grantor and Grantee.

8. Utilities. The granting of major utility corridor right-of-way easements. However, such right-of-way easements may be granted by mutual agreement of Grantor and Grantee in cases where eminent domain statutes apply and clear public necessity has been demonstrated to Grantor and Grantee. Nothing in this paragraph is intended to preclude Grantor from installing utility structures, lines, conduits, cables, wires, or pipelines upon, over, under, within, or beneath the Property to existing and subsequently constructed structures and improvements expressly permitted by this Easement, or from granting right-of-way easements to neighboring properties, so long as any such utility installations through the No Build Areas delineated in Exhibit F are buried along or adjacent to existing or permitted roads as provided in this Exhibit C, paragraph 7.

9. Mobile homes, etc. Except as provided in Exhibit B, paragraph 5, the placing, use or maintenance of any trailer, mobile home or other moveable living unit (including any such unit placed on a permanent foundation); provided, however, that Grantor or Grantor's guests may park or use a recreational vehicle on the Property on a temporary basis. However, Grantor retains the right to utilize a mobile home and/or trailer on the Property during the construction of any of the permitted residences. Within two months of habitation of any constructed residence, the mobile home and/or trailer shall be removed from the Property and the area reclaimed.

10. Game, fur or fish farms. The raising or confinement for commercial purposes of (i) "alternative livestock" and "game animals" as defined in MCA Section 87-4-406 or its successor statute, (ii) native or exotic fish, except that "private fish ponds," as defined by MCA Section 87-4-603, or its successor statute, may be maintained for recreational use, (iii) game birds, (iv) furbearers, including mink and fox, or (v) other "wild animals" as defined in MCA Section 87-4-801, or its successor statute, and "non-game wildlife" as defined in MCA Section 87-5-102(6), or its successor statute.

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



Missoula County Vickie M Zeier E

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**EXHIBIT D**  
**ACKNOWLEDGMENT OF DOCUMENTATION SITE VISIT**

KNOW ALL MEN BY THESE PRESENTS, that Still River, LLC, a Montana Limited Liability Company, with a mailing address of 8755 Given Road, Cincinnati, Ohio 45253, as Grantor of the Easement to which this Exhibit D is attached and into which it is incorporated by reference, and THE MONTANA LAND RELIANCE of Helena, Montana, as Grantee of said Easement, hereby mutually acknowledge, declare and agree as follows:

1. Grantor has made available to a representative of Grantee prior to the grant of this Easement, information sufficient to document the condition of the Conservation Values associated with the Property which shall be subject to this Easement.
2. A representative of Grantee has collected and compiled documentation sufficient to establish the condition of the Conservation Values of the Property as of the date of the grant of this Easement and has shared this documentation with Grantor.
3. The documentation was compiled by a representative of Grantee on a site visit to the Property on October 2, 2004, and consists of mapping of physical features and resources, photographs of structures, developments and improvements, and gathering of other appropriate information to document the Conservation Values of the Property.
4. Grantor and Grantee mutually acknowledge and agree that this information constitutes an accurate representation of the Conservation Values of the Property to be subject to this Easement at the time of its grant.
5. Additional information and documentation will be gathered as historical, government and archival documents and aerial photographs are made available to Grantor and Grantee.
6. Grantor and Grantee further agree that a final resource documentation report shall be completed from the above mentioned information as soon as practicable after the grant of this Easement to Grantee. Upon its completion, the final resource documentation report shall be reviewed and approved in final form by both Grantor and Grantee, and shall be on file with Grantee in Grantee's normal place of business.

DATED this 23<sup>rd</sup> day of December, 2004.

GRANTOR: STILL RIVER, LLC,  
a Montana Limited Liability Company

By: Jonathan R. Lippincott Sole Member  
Jonathan R. Lippincott, Sole Member

GRANTEE: THE MONTANA LAND RELIANCE,  
a corporation

By: George [Signature] Sec-Treas  
[Name and title]

**EXHIBIT E**  
**SAMPLE OF FORM TO BE USED FOR**  
**ACKNOWLEDGMENT OF VALUE OF THE LIPPINCOTT PROPERTY**  
**CONSERVATION EASEMENT**

Still River, LLC, a Montana Limited Liability Company, with a mailing address of 8755 Given Road, Cincinnati, Ohio 45253, Grantor of a Deed of Conservation Easement dated \_\_\_\_\_, 20\_\_\_\_, and recorded on \_\_\_\_\_, 20\_\_\_\_, at Book \_\_\_\_\_, Page \_\_\_\_\_, Records of \_\_\_\_\_ County, Montana; THE MONTANA LAND RELIANCE, of Helena, Montana, Grantee of said Conservation Easement; and, \_\_\_\_\_, appraiser of the property subject to the Conservation Easement, (hereinafter the "Property"), hereby acknowledge, declare and agree as follows:

1. That the value of the Property immediately prior to encumbrance by the grant of the Conservation Easement was \_\_\_\_\_, and the value of the Property immediately after the conveyance of the Conservation Easement to the Montana Land Reliance was \_\_\_\_\_.

2. Thus, the parties hereto agree that the grant of the Conservation Easement reduced the value of Grantor's interest in the Property by \_\_\_\_\_ percent (\_\_\_\_\_%).

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

\_\_\_\_\_  
DATE

\_\_\_\_\_  
STILL RIVER, LLC

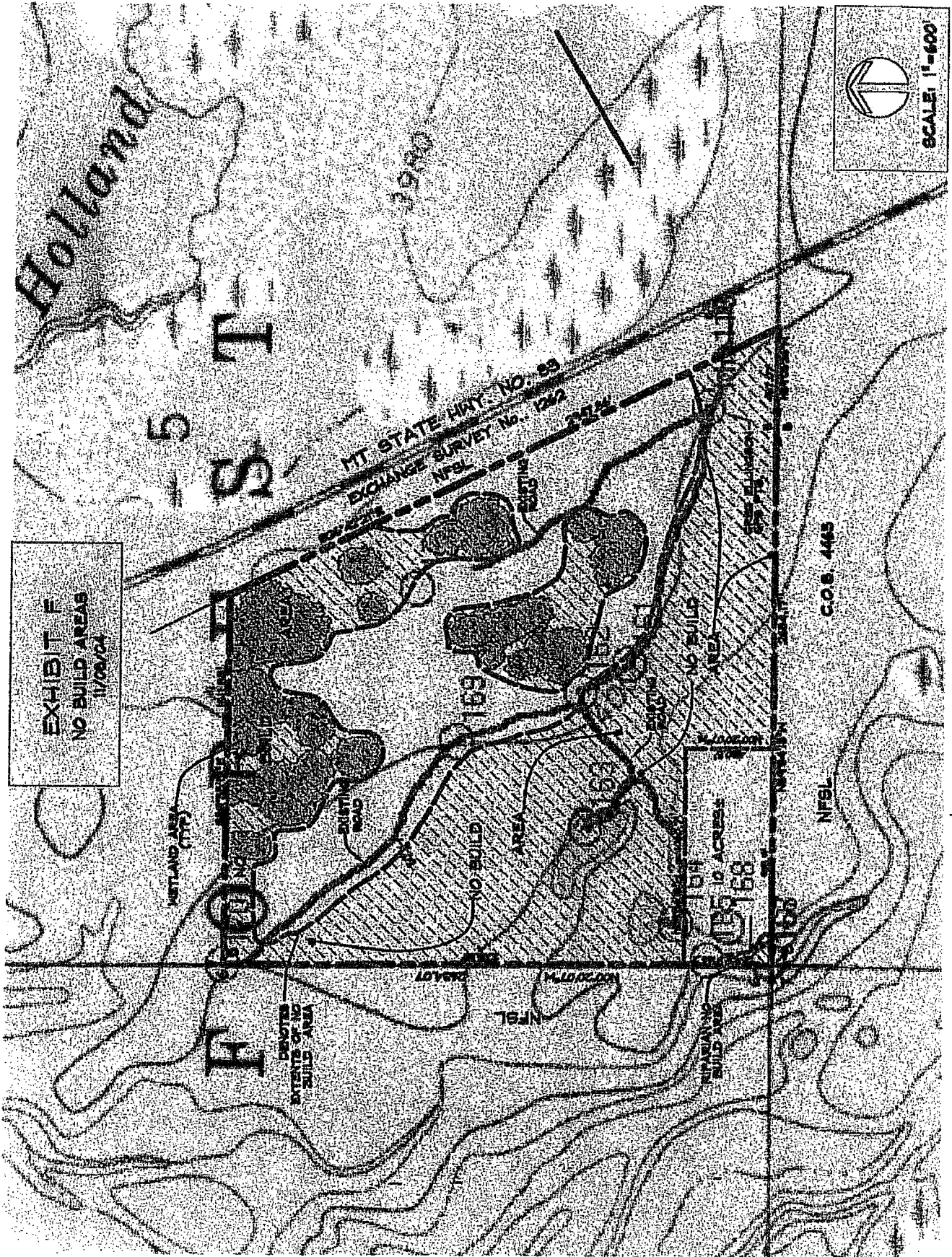
\_\_\_\_\_  
DATE

\_\_\_\_\_  
THE MONTANA LAND RELIANCE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
APPRAISER





**EXHIBIT F**  
**NO BUILD AREAS**  
 11/06/04

  
 SCALE: 1"=600'

STATE OF Ohio )  
: ss.  
County of Clermont )

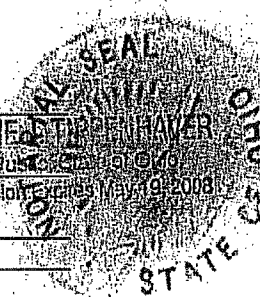
This instrument was acknowledged before me on this 20<sup>th</sup> day of December, 2004, by Jonathan R. Lippincott, as Sole Member of Still River, LLC, a Montana Limited Liability Company.

Stephanie J. Lipp  
(Notary's Signature)

STEPHANIE J. LIPP  
Notary Public for the State of Ohio  
My Commission Expires May 19, 2008

(Notary's Name, please print/type)  
Notary Public for the State of Ohio  
Residing at Clermont County  
My commission expires    /   /20   

(SEAL)



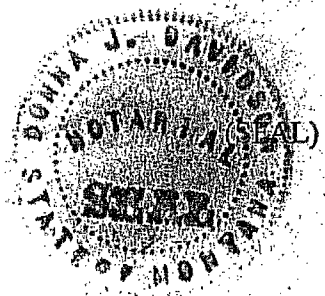
STATE OF MONTANA )  
: ss.  
County of Lewis and Clark )

This instrument was acknowledged before me on this 23<sup>rd</sup> day of December, 2004, by George S. Olson, as Sec-Quad of The Montana Land Reliance.

Donna J. Davidson  
(Notary's Signature)

(Notary's Name, please print/type)  
Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My commission expires    /   /20   

DONNA J. DAVIDSON  
NOTARY PUBLIC for the State of Montana  
Residing at Helena, Montana  
My Commission Expires January 10, 2008



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