

TALON RANCH USE AGREEMENT

This Agreement is made this 7TH day of OCTOBER, 2003, between Camron Cooper and the College of Agriculture, Montana State University-Bozeman, concerning the bequest and operation of the Talon Ranch.

Recitals:

Ms. Camron Cooper, owner of Talon Ranch, wishes to donate and distribute the remains of her Trust Estate to the College of Agriculture, MSU-Bozeman [hereafter College of Agriculture], upon her death, subject to certain conditions and restrictions;

The College of Agriculture agrees to accept the distribution subject to the following terms and conditions.

Therefore, the parties agree as follows:

1. **AGREEMENT TO RECEIVE AND OPERATE RANCH.** Montana State University-Bozeman will hold the title to Ms. Cooper's real property and improvements for the College of Agriculture, subject to the terms and conditions of this agreement. The College of Agriculture agrees to operate and maintain the property as a niche registered Angus working Montana cattle ranch in accordance with the philosophy and practices endorsed by Ms. Cooper prior to her death. The College of Agriculture agrees to operate the Ranch for not less than the Operational Period indicated by the amount of Liquid Assets that remain in the Trust Estate at the time of distribution, more particularly described as follows:
 - a. If the Liquid Assets exceed \$1,500,000, the Operational Period will be at least ten (10) years from the date of distribution.
 - b. If the Liquid Assets exceed \$1,000,000, the Operational Period will be at least seven (7) years from the date of distribution.
 - c. If the Liquid Assets exceed \$500,000, the Operational Period will be at least five (5) years from the date of distribution.
 - d. If the Liquid Assets are less than \$500,000, the Operational Period will be at least two years from the date of distribution.

For purposes of this agreement, "Liquid Assets" will mean the net cash proceeds from the sale of Ms. Cooper's share of partnership bulls, cows or calves; the net cash proceeds from the sale of the personal vehicle(s) owned at the time of distribution; the liquidated cash value of the shares of common stock (if any); sale of other personal effects that are not specifically

bequeathed to individuals; profits from the sale of the painting by Jill Davenport, and all other cash that remains in the trust estate at the time of distribution. The Trustee shall be responsible to sell and convert the "Liquid Assets" into cash prior to distribution to the College of Agriculture.

2. **TALON RANCH FUND.** The distribution of Liquid Assets will be placed into a fund segregated from other university funds and will be held, managed and invested in an account known as the "Talon Ranch Fund." The funds in the Talon Ranch Fund will be utilized solely for the costs of operation and/or maintenance of the Talon Ranch during the Operational and Holding Periods. Reasonable and necessary expenses incurred by the College of Agriculture in operating the Ranch or Ranch business or providing educational or research opportunities for MSU staff and students at the Ranch during the Operational and Holding Periods, including ordinary and necessary labor costs and staff time actually allocated and incurred in connection with Ranch operations, may be reimbursed or paid from the Talon Ranch Fund.

3. **NET INCOME.** During the Operational Period, any net income generated by the College of Agriculture, from the operation of the Talon Ranch and investment of the distribution shall be used solely and exclusively to operate and maintain the Talon Ranch and its business operations.

4. **LIQUIDATION OF PROPERTY.** It is the desire of Ms. Cooper that the real property and improvements, cattle herd and livestock, equipment, machinery and personal property distributed to the College of Agriculture shall remain intact during the operational period, subject to reasonable replacement as necessary for wear and tear, loss by theft or death, or other reason. No portion of the Ranch real property and improvements shall be liquidated during the Holding period, unless the Talon Ranch Advisory Committee determines that liquidation of some assets is necessary to maintain necessary funds in the Talon Ranch Fund to operate for the remainder of the Operational Period as outlined in paragraph 1.

5. **HOLDING PERIOD.** Upon the expiration of the Operational Period, representatives of the College of Agriculture shall meet with the Advisory Committee for the purpose of discussing whether the College of Agriculture can continue to operate and maintain the Talon Ranch as a operating niche registered Angus working Montana cattle ranch in accordance with the philosophy and practices endorsed by Ms. Cooper prior to her death. If the representatives of the College of Agriculture and the Advisory Committee unanimously conclude that the cattle ranch cannot be operated successfully, the College of Agriculture is authorized to terminate the Ranch operations and use the remaining Liquid Assets to maintain the Talon Ranch during the Holding Period. Upon termination of Ranch operations, the Advisory Committee will dissolve. For purposes of this agreement, the "Holding Period" will continue for three (3) years from the end of the Operational Period as determined under paragraph 1.

Upon expiration of the Holding Period, the College of Agriculture may in its discretion

sell some or all of the real property and its improvements, continue to hold the Ranch for any use that will benefit the College of Agriculture, or convey some or all of the real property and improvements to any charitable land organization financially qualified and capable of maintaining the integrity of the property with the exception of the Montana Land Reliance.

6. **TALON RANCH ADVISORY COMMITTEE.** There will be appointed a Talon Ranch Advisory Committee consisting of no fewer than four (4) individuals who shall meet periodically and as needed to discuss and determine the direction of the Ranch and Ranch business operations during the Operational Period.

The Advisory Committee shall have the authority to review the agricultural programs conducted on the Talon Ranch and may provide recommendations to the Dean of the College of Agriculture and the President as to any program that it determines to be inconsistent with the terms of this agreement or Trust documents. It is anticipated that the Advisory Committee will, among other things, (i) advise the College of Agriculture on how and where to sell cattle and (ii) advise the College of Agriculture on issues related to the educational programs conducted on the Ranch and overall operations of the Ranch property. The committee will select a chairperson from its members and will make its decisions by a vote of the majority.

The initial members of the Advisory Committee shall be Ron Frye of Edwards Angus Ranch, Steve Williams of Midland Bull Test Center, Jim Sitz of Sitz Angus Ranch, Robert Sitz of Sitz Angus Ranch and a representative of the College of Agriculture appointed by the Dean of the College of Agriculture. If any member of the Advisory Committee is unable or unwilling to serve, a replacement member shall be appointed by the majority vote of the remaining members. The Advisory Committee may also decide by majority vote to expand the membership of the Advisory Committee as it deems appropriate.

7. **STUDENT USE.** The College of Agriculture will allow students access to the Ranch for educational and research purposes to learn first-hand about registered Angus seed stock ranching operations and for improving and enhancing the agricultural research and educational programs of the College of Agriculture. Students shall be supervised by a representative of the College of Agriculture who shall coordinate the supervision with Mr. and Mrs. Sampson for as long as they are employed to oversee Ranch operations. Nothing herein will prohibit other university colleges, departments or programs from using the Ranch for university, educational and research purposes if such use does not interfere with the operation of the Ranch or the use by the College of Agriculture during the operational period. Any such use shall be coordinated with the College of Agriculture representative on the Talon Ranch Advisory Committee.

8. **EMPLOYMENT OF RANCH MANAGER.** If Ms. Cooper's ranch manager, Ronald Sampson, and/or his wife, Nikki D. Sampson, are employed by Talon Ranch at the time of Ms. Cooper's death, the College of Agriculture agrees to offer employment to the previous employees of Talon Ranch to oversee and conduct, under the supervision of the College of Agriculture and subject to the state regulations governing Montana State University, the Ranch property and related business transactions. The offer of employment cannot exceed one year under the university regulations. The parties will be appointed as temporary university

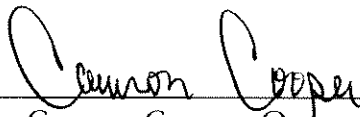
employees subject to university rules and regulations regarding all terms and conditions of their employment. Thereafter, if there is a continuing need for the positions, the university will conduct a public search for the positions and Mr. and Mrs. Sampson may apply.

9. **TRANSFER UPON DISSOLUTION.** In the event the College of Agriculture dissolves or otherwise ceases to exist during the Operational and Holding periods, the real property and improvements and any remaining funds in the Talon Ranch Fund shall be transferred (if necessary) or, if title is retained by Montana State University, shall benefit the College of Agriculture's successor in interest, subject to the terms and conditions of the Ranch Use Agreement.


10. **REGENTS' APPROVAL.** The parties hereto have executed this agreement with the understanding that acceptance of this gift of real property and this Agreement is specifically conditioned upon and subject to the approval of the Montana Board of Regents.



Dean of the College of Agriculture



Camron Cooper, Owner
Talon Ranch



President of Montana State University

11/14
KLV
KML

LOWER BIG HOLE RANCH

COPY

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made by the LOWER FAMILY LIMITED PARTNERSHIP, a Virginia limited partnership whose address is 8916 Brieryle Road, Richmond, VA 23229, by its general partners, RICHARD R. LOWER and ANNE R. LOWER, husband and wife, (hereinafter termed "Grantor"), in favor of THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation with its principal offices at 1815 North Lynn Street, Arlington, Virginia 22209 (hereinafter termed the "Conservancy").

RECITALS

Grantor is the owner of certain real property in Madison County, Montana, consisting of approximately 2,211 acres, more or less, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter termed the "Property").

The Property has significant ecological and open space values as defined in Section 76-6-104, Montana Code Annotated (MCA), and provides significant relatively natural habitat for native plants and wildlife.

Protection of the Property will contribute to the ecological integrity of the Big Hole River, a free-flowing river that supports high-quality biological resources, including a nationally renown trout fishery and a diverse biota of aquatic insects.

Protection of the Property will conserve an array of native wildlife and wildlife habitats, including two miles of Big Hole River frontage, cottonwood forest, riparian shrub communities, marshes and other wetlands, and rangeland.

Protection of large tracts of open space along the river is of critical importance to preserving the ecological integrity of the lower Big Hole River Valley, particularly in consideration of

the increasing development occurring in the region.

Conservation of the Property's natural values can be achieved in a manner consistent with its historic and current uses as managed ranch land that accommodates agricultural operations and related residential use; protection, management and restoration of wildlife habitat; use of the natural hot spring resource; and outdoor recreation.

The Property's natural elements and ecological values are of great importance to Grantor and to the people of the State of Montana, and are worthy of preservation.

Grantor, as owner of the Property, has the affirmative rights to identify, preserve, and protect in perpetuity the Property's open-space character and its natural features and values, and wishes through this Conservation Easement to provide for the exercise of these rights by the Conservancy.

The Conservancy is organized to preserve and protect natural areas and ecologically significant land for scientific, charitable, and educational purposes.

The State of Montana has recognized the importance of private efforts toward preservation of natural systems in the state by enactment of Section 76-6-201, et seq., MCA.

The Conservancy is a private organization qualified under the terms of Sections 76-6-104(5) and 76-6-204, MCA, and under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, to acquire and hold conservation easements and meets the requirements of the code as a 501(c)(3) exempt organization.

AGREEMENT

In consideration of the mutual covenants contained herein, and for good and valuable consideration, consisting of a gift, the receipt and sufficiency of which is hereby acknowledged, and further, pursuant to Section 76-6-201, et seq., MCA, Grantor hereby conveys to the Conservancy a perpetual Conservation Easement

(hereinafter termed the "Easement") consisting of the rights and restrictions hereinafter enumerated, over and across the Property.

I. PURPOSE

It is the purpose of the Easement to preserve and protect in perpetuity and to enhance and restore the open space and significant relatively natural features and values of the Property. Specific purposes of the Easement are to conserve a portion of the Big Hole River, its water quality and riparian habitats; to conserve the diverse vegetative communities on the Property and the wildlife inhabiting these communities; and to prevent uses of the Property that would significantly impair or substantially disrupt the conservation values of the Property. In achieving these purposes, it is the intent of the Easement to permit the continuation of such uses and management of the Property as may be conducted consistently with the conservation values protected herein, including specifically agricultural operations, residential use, wildlife habitat management, and recreational use. Pursuant to the terms of Section 76-6-107, MCA, the Property preserved hereby as natural land may not be converted or directed to any uses other than those provided herein.

II. PROPERTY CONDITION -- EASEMENT DOCUMENTATION REPORT

Competent naturalists familiar with the Property have prepared a collection of baseline data on the Property and its resources. The data and explanatory text are presented in the "Lower Big Hole Ranch Conservation Easement Documentation Report", prepared for The Nature Conservancy and dated June 1994. A copy of the report is on file with both Grantor and the Conservancy and by this reference made a part hereof.

The parties acknowledge that the report is intended to establish the condition of the Property subject to the Easement as of the date written above and that both Grantor and the Conservancy

have acknowledged in a signed statement (Exhibit B) that the report accurately represents the condition of the Property at the time of conveyance, in accordance with Treasury Regulation Section 1.170A-14(g)(5)(i). The Conservancy may record the report, or parts thereof, in Madison County.

The parties agree that, in the event a controversy arises with respect to the nature and extent of the biological or physical condition of the Property, the parties may use the report and any other relevant or material documents, surveys, reports, and information to assist in the resolution of the controversy.

III. RIGHTS OF THE CONSERVANCY

The rights conveyed to the Conservancy by the Easement are the following:

A. To identify, preserve, and protect in perpetuity the open space and significant relatively natural ecological features and values of the Property.

B. To enter upon the Property to enforce the rights herein granted, to study and make scientific observations of its ecosystems, and to determine that Grantor's activities are in compliance with the terms of the Easement, all upon prior notice to Grantor and in a manner that does not unreasonably disturb the use of the Property by Grantor consistent with the rights retained by Grantor in the Easement. The Conservancy shall also have the right of immediate entry to the Property if, in its sole judgment, such entry is necessary to prevent damage to or the destruction of the conservation values protected by the Easement.

C. To enjoin any activity on or any use of the Property that is inconsistent with the Easement and to enforce the restoration of such areas or features of the Property as may be damaged by such inconsistent activities.

IV. CONSISTENT USES OF THE PROPERTY

The following uses and practices by Grantor, though not an exhaustive recital of consistent uses and practices, are and shall be considered consistent with the Easement. Certain of these consistent uses and practices are identified below as being subject to specified conditions or to the requirement of and procedures for prior approval by the Conservancy as described in Section V; the remainder of these consistent uses shall not be precluded, prevented, or limited by the Easement or the Conservancy.

A. Residential use, as follows:

1. Each of the three houses existing at the time of the conveyance of this Easement (as identified in the Easement Documentation Report and in Exhibit C herein) may be used and maintained as a year-round, single-family residence. Each house may be replaced or reconstructed at its current location. Any replacement house or reconstructed house may not exceed 1,500 square feet of total floor area, including all levels, unless the replacement or reconstruction is conducted under the provisions of Section IV.A.2., which allows for one replacement house to be up to 4,000 square feet of total floor area.

2. Grantor may construct and maintain a new single-family house as a replacement for one of the existing houses, provided that:

a. The house may be constructed at a location different from the location of the house it is replacing if the new location is approved in advance by the Conservancy.

b. The total floor area, including all levels, may not exceed 4,000 square feet.

c. Grantor must remove one of the existing houses from the Property within one year of completion of the new residence. Grantor shall select the house to be removed.

3. Grantor may lease or rent each house to a third party for residential use.

B. Maintenance, repair, and replacement of existing agricultural buildings and structures and construction of new agricultural buildings and structures, all as necessary for the agricultural uses authorized by the Easement.

C. Construction and maintenance of utility systems to service the uses of the Property permitted herein.

D. Maintenance and improvement of existing roads as necessary for authorized uses of the Property. In the event that a new residence is constructed under the provisions of Section IV.A.2., Grantor may construct a new access road to this homesite.

E. The raising and husbandry of livestock, provided that:

1. Livestock grazing may not cause range condition, vegetative communities, soil structure and composition, or watershed characteristics to deteriorate significantly and measurably from the state documented in the Easement Documentation Report.

2. In the event that the Conservancy determines that livestock grazing has caused significant, measurable deterioration of the condition of riparian vegetation, streambanks, water quality, or fish and wildlife habitat relative to the conditions documented in the Easement Documentation Report or relative to the conditions documented in any approved update report (as provided for in Section IV.E.3.), Grantor shall develop for review and approval by the Conservancy a Riparian Recovery Plan, which prescribes a grazing management system to allow the riparian areas to recover to the state documented in the Easement Documentation Report or update report. Grantor shall implement the approved Riparian Recovery Plan.

3. In the event of significant improvement in range condition or other habitat conditions in the upland zone and/or riparian zone, Grantor may at Grantor's sole option request that the Conservancy prepare an update report to the Easement Documentation Report to document the improved conditions. Such

update report is subject to written approval by Grantor and, upon such approval, the conditions documented in the update report shall serve as the baseline for future monitoring of the effects of livestock grazing.

F. 1. The cultivation and harvesting of hay (including native grasses), grain or other crops on areas that are being farmed or otherwise used for hay or grain production at the time of the grant of the Easement. The map of vegetative cover types provided in the Easement Documentation Report and included herein as Exhibit D indicates the location of these lands.

2. Use of any other areas of the Property for hay or crop production requires prior approval by the Conservancy.

G. 1. Diversion, withdrawal and use of water, consistent with valid water rights, to irrigate hay and other agricultural crops, along with the use of ditches, pipes, sprinklers and other equipment and facilities necessary for irrigation.

2. Maintenance, repair, and reconstruction of existing water facilities and the development of new water resources and facilities for agricultural and residential uses; provided that any maintenance, repair, reconstruction, construction or development activities do not cause significant or long-term impairment of water quality, aquatic ecology or riparian values.

3. Development of noncommercial facilities associated with the natural hot springs located in Section 28. Such facilities may include, but are not limited to, recreational bathing pools and greenhouses.

4. Maintenance, repair and reconstruction of existing ponds. With prior approval by the Conservancy, Grantor may construct and develop new ponds and may improve or develop other aquatic fish and wildlife habitat, including stream habitat. Grantor may submit to the Conservancy for review a professionally developed master plan for the improvement and development of aquatic habitat on the Property. Upon Conservancy approval,

Grantor may implement the plan.

5. Construction of wastewater facilities as may be necessary for any new residential or recreational development. Such facilities must be engineered, constructed and maintained so that any discharge, drainage or seepage of nutrients or other pollutants into state waters is negligible.

H. Maintenance, repair, and reconstruction of existing fencing and construction of new fences. Boundary or pasture-division fences may not exclude or unduly restrict wildlife from the Property, but other fencing may exclude wildlife from residential yard areas, gardens, and haystacks.

I. Use of agricultural chemicals for the following purposes and under the following conditions:

1. For the control of state-designated noxious weeds and other invasive exotic plant species, provided that:

a. Chemical herbicides may be used only in those amounts and with a frequency of application that constitute the minimum necessary for control;

b. Rare or unique native plants are not exposed to herbicide; and

c. Prior approval by the Conservancy is required for any aerial spraying.

2. For the control of agricultural insects and other animal pests, provided that:

a. Chemical biocides may be used only when no other method of control is effective;

b. The biocide is used only in those amounts and with a frequency of application constituting the minimum necessary to accomplish reasonable grazing, agricultural, fish or wildlife habitat conservation, and residential purposes; and

c. Such use must be approved in advance by the Conservancy, which shall consider the potential effects of the proposed biocide application on nontarget species.

3. For fertilizing crops; provided that fertilizers are used in a manner that minimizes any adverse effect upon the aquatic or terrestrial ecosystems.

J. Introduction and propagation of biological weed control agents, subject to prior approval by the Conservancy.

K. In accordance with all applicable state or federal laws, the control of wild animals that have caused or threaten to cause damage to persons, livestock, or other property. Wherever possible, measures used for animal control shall be limited in the application to specific animals that have caused the damage. Trapping of beaver is expressly permitted under this section, provided that trapping of beaver may not be conducted in a manner so as to eradicate the beaver population and provided that appropriate precautions are taken to avoid trapping river otter or other nontarget species.

L. The noncommercial removal of dead trees for use on the Property, including firewood and ranch uses; Grantor shall avoid removing dead trees (snags) with evident wildlife nesting or denning sites. Live trees may be harvested in limited numbers in specific areas if such harvest is necessary to control forest disease to protect persons or property from hazards, to improve viewshed or yard conditions around the immediate vicinity of a residence, to provide for the siting of an agricultural building, or to achieve approved aquatic or terrestrial habitat objectives. Prior approval by the Conservancy is required for any proposed harvest exceeding 10 live trees in a calendar year.

M. Removal of gravel or rock in limited quantities from gravel excavations or the rock quarry existing at the time of the conveyance and as documented in the Easement Documentation Report, for use solely in ranch operation and on roads and driveways on the Property, consistent with historical practices. Under no circumstances is any commercial use of gravel or rock located on the Property permitted by this Easement, nor may gravel or rock be

mined for any purpose, either commercial or non-commercial. All gravel or rock extractions permitted hereunder shall have only limited, localized impacts, and shall be suspended if, in the opinion of the Conservancy, such extraction impairs any of the conservation values protected by this Easement.

N. 1. Development of terrestrial wildlife habitat through planting and management of native vegetation.

2. Subject to prior approval by the Conservancy, Grantor may develop wildlife habitat through planting and management of nonnative vegetation or through controlled burning of rangeland or other native vegetation. (Conservancy approval is not required for controlled burning of agricultural fields, ditches or other areas of nonnative vegetation.) Grantor may submit to the Conservancy for review a professionally developed master plan for the improvement and development of terrestrial wildlife habitat on the Property. Upon Conservancy approval, Grantor may implement the plan.

O. Recreational use of the property, including but not limited to fishing, hunting, hiking, horse riding, and camping.

P. Use of snowmobiles, all-terrain vehicles, or other motorized vehicles on or off of established roads for property management purposes by Grantor or persons authorized by Grantor; provided that such use does not materially harm soil, water, vegetation, or wildlife resources protected by the Easement.

Q. Subject to prior approval by the Conservancy, the augmentation of existing fish or wildlife populations or the introduction or reintroduction of native fish or wildlife species. Conservancy approval of such augmentation, introduction or reintroduction may take the form of Conservancy approval of a professionally developed master plan for the improvement and development of aquatic or terrestrial fish and wildlife habitat on the Property, as provided for in Sections IV.G.4. and IV.N.

V. PRIOR NOTICE AND APPROVAL

Grantor shall not undertake or permit any activity requiring prior approval of the Conservancy without first having notified and received approval from the Conservancy as provided herein.

Prior to the commencement of any such activity, Grantor shall send the Conservancy written notice of Grantor's intention to undertake or permit such activity. The notice shall inform the Conservancy of all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and any other relevant information, and shall be sent by registered or certified mail, return receipt requested, to The Nature Conservancy of Montana, 32 South Ewing, Helena, Montana 59601, with a copy to the Western Regional Attorney, The Nature Conservancy, 2060 Broadway, Boulder, CO 80302 or such other addresses as Grantor may be from time to time informed of in writing by the Conservancy.

The Conservancy shall have thirty (30) days from receipt of the notice, as indicated by the date of the return receipt, to review the proposed activity and to notify Grantor of any objections thereto; provided that the 30-day period shall not begin until such time as the Conservancy has received adequate information from Grantor to evaluate the proposed activity. In the event that the Conservancy requires additional information to evaluate the proposed activity, the Conservancy shall request the information from Grantor as soon as practicable and in any case not later than 30 days after the receipt of the notice of the proposed activity.

The Conservancy's decision to approve or disapprove the activity proposed by Grantor shall be sent by registered or certified mail, return receipt requested, to Grantor at the address first stated above, or to such other address as the Conservancy may from time to time be informed of in writing by Grantor.

Unless otherwise specified herein, a decision by the

Conservancy to disapprove a proposed activity must be based upon the Conservancy's determination that the proposed activity is inconsistent with the conservation purposes of the Easement and the Conservancy shall provide Grantor with a written explanation of any disapproval of any proposed activity. If in the Conservancy's judgment it is possible that the proposed activity can be modified to be consistent with the easement, the Conservancy's decision notice shall inform Grantor of such modification. Once modification is made to the satisfaction of the Conservancy or the Conservancy otherwise concurs with the matters set forth in Grantor's notice, the proposed activity may thereafter be conducted in a manner that is acceptable to the Conservancy.

Should the Conservancy fail to post its response to Grantor's notice within thirty (30) days of its receipt of notice or within thirty (30) days of the time that the Conservancy has received adequate information to evaluate the proposed activity, whichever is later, Grantor may proceed with the proposed activity.

VI. INCONSISTENT USES OF THE PROPERTY

The following uses and practices on the Property, though not an exhaustive recital of inconsistent uses and practices, are inconsistent with the Easement and shall be prohibited:

A. The destruction of or the significant or long-term impairment of any of the following conservation interests on the Property: water quality, cottonwood forest and other riparian habitat, and the ability of the Property to support a diverse array of native wildlife species.

B. The division, subdivision, or de facto subdivision of the Property. Sale of any of the houses separately from the sale of the entire Property shall be considered a subdivision of the Property and is thus inconsistent with the Easement.

C. The construction or placement of residences, mobile homes or other buildings, except as specifically provided for in

Section IV.

D. The construction of roads or vehicle trails, except as specifically provided for in Section IV.

E. The changing of the topography of the Property by placement of soil, land fill, or other material or by excavation, except when conducted as an integral part of the uses and activities specifically provided for in Section IV.

F. The exploration for or extraction of minerals, hydrocarbons, soils, sand, gravel, rock, or other materials on or below the surface of the Property, except for the limited activity specifically provided for in Section IV.M.

G. The establishment or maintenance of a commercial feed lot. For purposes of this Easement, "commercial feed lot" is defined as a permanently constructed confined area or facility within which the property is not grazed or cropped annually, and which is used and maintained for purposes of engaging in the business of the reception and feeding of livestock for hire. Nothing in this section shall prevent Grantor from seasonally confining Grantor's livestock into an area for feeding and nothing in this section shall prevent Grantor from leasing pasture for the grazing of livestock owned by others.

H. The dumping or other disposal of any noncompostable refuse or any hazardous or toxic material, except that:

1. Any inert refuse existing on the Property as of the date of the Easement grant may be buried or burned in a manner consistent with applicable governmental regulations.

2. Wood waste resulting from the removal or destruction of buildings or fences on the Property may be burned.

I. The off-road use of snowmobiles, motorcycles, all-terrain vehicles or other vehicles in a manner that damages soil, water or vegetative resources or that disturbs wildlife so as to significantly interfere with normal patterns of habitat use.

J. The cutting, removal, or destruction of native vegetation

or the conversion of native vegetation to exotic cover species; except in a manner consistent with the provisions and uses provided for in Section IV.

K. The application or release of agricultural chemicals or other chemicals to the land, vegetation or air, except as specifically provided for in Section IV.I.

L. Drainage or significant alteration of natural wetlands or water courses, without Conservancy approval; and any use or activity that would pollute or degrade or threaten to pollute or degrade the surface or sub-surface waters on or underlying the Property. Temporary sediment production caused by livestock grazing and associated livestock watering shall not be considered pollution under this section.

M. The establishment or maintenance of any commercial or industrial activity, except for authorized agricultural uses and except for commercial activity conducted from existing or authorized structures in a manner that is otherwise consistent with the conservation purposes of the Easement. Commercial development of the hot springs is prohibited.

N. 1. The release or introduction of native or nonnative fish and wildlife species, except as provided for in Section IV.Q.

2. The use of any portion of the Property as a fish hatchery, as a game farm (as defined by Section 87-4-406, MCA), or for the rearing, keeping, confinement, or husbandry of any wild animal species, whether or not such species is native to the Property. Grantor may, however, raise bison which, for the purposes of the Easement, shall be considered domestic livestock.

O. The management of the Property and its resources in a manner that adversely impacts any occurrence of threatened, endangered, or rare native species and their habitats.

VII. REMEDIES, BREACH AND RESTORATION

In the event a violation of any restriction contained in the

Easement, whether by Grantor or a third party, comes to the attention of the Conservancy, the Conservancy shall notify Grantor in writing of the violation. Grantor shall have thirty (30) days after the receipt of such notice to undertake actions, including restoration of the Property, that are reasonably calculated swiftly to correct the conditions caused by such violation. If Grantor fails to take such corrective action, the Conservancy may at its discretion undertake such actions, including appropriate legal proceedings, as are reasonably necessary to effect such corrections, and the cost of such corrections, including the Conservancy's expenses, court costs, and legal fees, shall be paid by Grantor, provided either Grantor, Grantor's family, any partners or shareholders in the Property, agents, guests, employees or other persons in the control of Grantor are determined to be responsible for the violation.

In the event that Grantor undertakes any activity requiring approval of the Conservancy without or in advance of securing such approval, or undertakes any activity in violation of the terms of the Easement, the Conservancy shall have the right to force the restoration of that portion of the Property affected by the activity to the condition that existed prior to the undertaking of the unauthorized activity. In such case, the costs of restoration and the Conservancy's costs of suit or of obtaining redress, including reasonable attorneys' fees, shall be borne by Grantor and others who are determined to be responsible for the unauthorized activity.

Enforcement of the terms and provisions of the Easement shall be at the discretion of the Conservancy and any forbearance on behalf of the Conservancy to exercise its rights hereunder in the event of any breach hereof by Grantor, Grantor's successors or assigns, shall not be deemed or construed to be a waiver of the Conservancy's rights hereunder in the event of any subsequent breach.

VIII. TAXES

Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Property and to bear all costs of operation, upkeep, and maintenance of the Property, and does hereby indemnify the Conservancy therefor.

IX. ACCESS

Nothing herein contained shall be construed as affording the public access to any portion of the Property.

X. ASSIGNMENT

The Conservancy may assign the Easement without Grantor's consent, provided that:

A. The Conservancy requires, as a condition of such transfer, that the conservation purposes of the Easement continue to be carried out; and

B. Any assignment may be made only to an organization qualified at the time of transfer as an eligible donee under Internal Revenue Code Section 170(h)(3) or its successor, or any regulations issued thereunder.

XI. CONSERVANCY PROPERTY RIGHT -- PROCEEDS FROM CONDEMNATION OR OTHER INVOLUNTARY CONVERSION

Grantor and the Conservancy agree that this Easement grant gives rise to a property right, immediately vested in the Conservancy. The fair market value of this property right shall be determined by multiplying the current fair market value of the Property unencumbered by the Easement (minus any increase in value attributable to improvements made after the date of this grant, based upon Grantor's corroborated cost of those 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 at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Internal Revenue Code Section 170(h), if such values were determined. For the purposes of this section, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

The Conservancy may be compensated for value of this property right only in the event of a condemnation or other change in conditions resulting in the extinguishment of the Easement (as provided in Treas. Reg. Section 1.170A-14(g)(6)(i)). In such event, the Conservancy shall, on the subsequent sale or exchange, of the Property, shall be entitled to a portion of the proceeds equal to the fair market value of its Easement property right, determined as set forth above. The Conservancy shall apply its share of the proceeds in a manner consistent with the conservation purposes of the Easement or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in Internal Revenue Code Section 170(h)(4)(a)(ii), as amended, and in regulations promulgated thereunder.

The understanding and agreement of the Grantor and Conservancy regarding their respective rights and obligations under the foregoing circumstances has been reduced to writing, and a copy of such agreement may be obtained, for any legitimate purpose, upon written request directed to the Conservancy at its Montana Field Office, 32 S. Ewing, Helena, MT 59601. In the event of any sale, exchange, devise or gift of any property subject to this conservation easement, Grantor agrees to furnish a copy of such agreement to the party who acquires the property.

Additionally, whenever all or part of the Property is taken in exercise of eminent domain by public, corporate or other authority so as to abrogate the restrictions imposed by the

Easement, Grantor and the Conservancy shall join in appropriate actions to recover the full value of the property taken and all incidental or direct damages resulting from such taking. All expenses incurred by Grantor or the Conservancy in any such action shall be first reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between Grantor and the Conservancy in proportion to their interests in the Property, determined as set forth above.

The fact that any use of the Property that is expressly prohibited by the Easement, or any other use inconsistent with the purpose of the Easement, may become greatly more economically valuable than permitted uses, or that neighboring properties may in the future be put entirely to uses that are not permitted hereunder, has been considered by the Grantor in granting the Easement. It is Grantor's belief that any such changes will increase the benefit to the public of the continuation of the Easement, and it is the intent of both Grantor and the Conservancy that any changes should not be assumed to be circumstances justifying the extinguishment of the Easement. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of the Easement or be considered grounds for its extinguishment.

XII. AMENDMENT

If circumstances arise under which an amendment to or modification of the Easement would be appropriate, Grantor and the Conservancy may jointly amend the Easement; provided that no amendment shall be allowed that affects the qualification of the Easement or the status of grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Section 76-6-201, et seq., MCA. Any such amendment shall be consistent with the purposes of the Easement, shall not affect its perpetual duration, shall in the judgment of the

Conservancy result in a substantial net benefit to the conservation values protected by the Easement, and shall not impair any of the significant ecological features of the Property. Any such amendment shall be recorded in the official records of Madison County, Montana.

XIII. INTERPRETATION

No remedy or election given by any provision in the Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party and its counsel have reviewed and revised the Easement and that no rule of construction that ambiguities are to be resolved against drafting party shall be employed in the interpretation of the Easement. In the event of any conflict between the provisions of the Easement and the provisions of any use and zoning restrictions of the State of Montana, Madison County, or any other governmental entity with jurisdiction, the more restrictive provisions shall apply. The Easement shall be interpreted in accordance with the laws of the State of Montana.

XIV. MISCELLANEOUS

A. The term "Grantor" as used herein shall be deemed to include the Grantor, all successors and assigns of the partnership (including individuals who later obtain ownership of the Property), and their heirs, personal representatives and assigns. The term "Conservancy" as used herein shall be deemed to include the Conservancy, its successors and assigns.

B. Grantor intends that the Easement shall run with and burden title to the Property in perpetuity, and shall bind Grantor, all successors and assigns, and their heirs, personal representatives, and assigns.

C. Grantor agrees to incorporate by reference to the

recording references which appear on this original document the terms of this Easement in any deed or other legal instrument by which Grantor divests of any interest in the Property, including a leasehold interest. Grantor further agrees to give written notice to the Conservancy of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this section shall not impair the validity of this Easement or limit its enforceability in any way.

D. The Easement is conveyed by Grantor to the Conservancy subject to all outstanding easements, rights of way and reservations of record on the Property.

E. 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 hereof and the application of such provision to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

--- END ---

Filed for record on the 1st day of JULY, A.D. 1994
11:30 o'clock A. M. and recorded in Book 381 RECORDS
page 325 - 350 Records of Madison County, Montana.
By PEGGY KAATZ *J. Jean Hank*
PEGGY KAATZ, County Recorder Deputy
Fee \$ 156.00 Return to MADISON COUNTY
TITLE CO., CITY

Lower Big Hole Ranch
Conservation Easement
July 1, 1994

IN WITNESS WHEREOF, Grantors have hereunto set their hand this 1st day of JULY, 1994.

THE LOWER FAMILY LIMITED PARTNERSHIP

Richard R. Lower
RICHARD R. LOWER, General Partner

Anne R. Lower
ANNE R. LOWER, General Partner

STATE OF MONTANA)
County of Madison) ss.

On this 1st day of July, 1994,
before me, the undersigned, a Notary Public in and for said State,
personally appeared Richard R. Lower and Anne R. Lower,
known to me to be the persons whose name are subscribed to the
within instrument, and acknowledged to me that they executed the
same, as General Partners of The Lower Family Limited Partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal the day and year first above written.

Lucian L. Londoner
Notary Public, Residing at Ennis, Montana.

My commission expires: 9-14-95

Lower Big Hole Ranch
Conservation Easement
July 1, 1994

BOUNDARY DESCRIPTION

A tract of land situated within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 21, the W $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, the W $\frac{1}{2}$ of Section 27, the NW $\frac{1}{4}$ of Section 28 lying South and East of the Bighole River, also the E $\frac{1}{2}$ and SW $\frac{1}{4}$ of Section 28, all of that part of the SE $\frac{1}{4}$ of Section 29 lying Southeast of the Bighole River, N $\frac{1}{2}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying Southeast of the Bighole River and East of the Lower remainder and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 32, and all of Section 33, T4S, R7W, P.M.M. and is more particularly described as follows: Beginning at the section corner common to Sections 33 and 34, T4S, R7W and Sections 3 and 4, T5S, T7W, P.M.M.; thence along the section line common to said Sections 33 and 4, S89°50'54"W. a distance of 2686.69 feet to the $\frac{1}{4}$ section corner common to said sections; thence continuing along said section line, N89°55'59"W. a distance of 2707.04 feet to the section corner common to Section 32 and 33, T4S, R7W and Sections 4 and 5, T5S, R7W, P.M.M.; thence along the section line common to said Sections 32 and 5, N89°37'02"W. a distance of 2632.11 feet to the $\frac{1}{4}$ section corner common to said sections; thence continuing along said section line, S89°40'56"W. a distance of 1304.47 feet to the West 1/16 section corner common to said sections; thence N00°22'45"E. a distance of 1313.57 feet to the Southwest 1/16 section corner of said Section 32; thence N89°50'07"E. a distance of 173.03 feet to a corner; thence N00°22'45"E. a distance of 1308.42 feet to a point on the average centerline of the main channel of the Bighole River as it existed in April of 1994; thence along the average centerline of the main channel of said Bighole river, downstream, the following courses, N56°33'14"E. a distance of 8.51 feet, N56°33'14"E. a distance of 45.18 feet, N30°09'15"E. a distance of 585.55 feet, N36°37'37"E. a distance of 405.28 feet, N60°09'26"E. a distance of 645.00 feet, N60°09'26"E. a distance of 206.36 feet, N60°47'16"E. a distance of 451.11 feet, N18°03'42"E. a distance of 297.84 feet, N02°39'56"W. a distance of 415.56 feet, N20°50'33"E. a distance of 428.53 feet, N34°14'37"E. a distance of 76.53 feet, N34°14'37"E. a distance of 352.00 feet, N59°20'43"E. a distance of 466.19 feet, N62°03'47"E. a distance of 745.48 feet, N22°30'41"E. a distance of 250.26 feet, N16°14'58"E. a distance of 442.93 feet, N23°23'06"E. a distance of 497.56 feet, N38°04'23"E. a distance of 158.38 feet to the intersection of said average centerline of the main channel of said Bighole River with the section line common to Sections 28 and 29, T4S, R7W; thence along said section line, N00°24'45"E. a distance of 592.33 feet to the position for the $\frac{1}{4}$ section corner common to said sections; thence S89°59'34"E. a distance of 1306.80 feet along the East-West mid-section line of said Section 28 to a point on the average centerline of the main channel of said Bighole River; thence along the average centerline of the main channel of said Bighole River, downstream, the following courses, N08°55'50"E. a distance of 88.45 feet, N28°17'11"E. a distance of 374.45 feet, N23°02'32"E. a distance of 629.73 feet, N02°00'41"E. a distance of 244.33 feet, N13°06'29"W. a distance of 643.45 feet, N13°45'51"E. a distance of 55.62 feet, N26°43'29"E. a distance of 77.01 feet, N11°45'24"E. a distance of 153.67 feet, N18°42'28"E. a distance of 144.32 feet, N34°00'00"E. a distance of 63.54 feet, N50°27'43"E. a

distance of 112.00 feet, and N51°52'09"E. a distance off 449.48 feet to the intersection of said average centerline of the main channel of said Bighole River with the section line common to Sections 21 and 28, T4S, R7W; thence leaving said average centerline of the main channel of said Bighole River and along said section line, S89°46'39"E. a distance of 495.60 feet to the position for the $\frac{1}{4}$ section corner common to said Sections 21 and 28 (not set); thence continuing along said section line, S89°46'39"E. a distance of 1342.15 feet to the East 1/16 section corner common to said Sections 21 and 28; thence leaving said section line, N00°01'37"W. a distance of 2655.58 feet to the Center-East 1/16 section corner of said Section 21; thence N00°00'07"E. a distance of 1335.50 feet to the Northeast 1/16 section corner of said Section 21; thence S89°43'18"E. a distance of 1337.97 feet to the North 1/16 section corner common to Sections 21 and 22, T4S, R7W, P.M.M.; thence S00°02'20"E. a distance of 1333.96 feet along the section line common to said Sections 21 and 22 to the $\frac{1}{4}$ section corner common to said sections; thence S89°25'31"E. a distance of 1327.03 feet along the East-West mid-section line of Section 22 to the Center-West 1/16 section corner of said section; thence S00°04'08"E. a distance of 1324.00 feet to the Southwest 1/16 section corner of said section; thence S89°35'39"E. a distance of 1326.35 feet to the Center-South 1/16 section corner of said section; thence S00°02'27"E. a distance of 1320.09 feet along the North-South mid-section line of said Section 22 to the $\frac{1}{4}$ section corner common to Sections 22 and 27, T4S, R7W; thence S00°04'44"W. a distance of 5348.79 feet along the North-South mid-section line of Section 27 to the $\frac{1}{4}$ section corner common to Sections 27 and 34, T4S, R7W; thence N89°20'03"W. a distance of 2643.53 feet along the section line common to said Sections 27 and 34 to the section corner common to Sections 27, 28, 33, and 34, T4S, R7W; thence S00°07'13"W. a distance of 2679.19 feet along the section line common to Section 33 and 34 to the $\frac{1}{4}$ section corner common to said sections; thence continuing along said section line, S00°01'51"W. a distance of 2662.07 feet to the section corner common to Sections 33 and 34, T4S, R7W and Sections 3 and 4, T5S, R7W, P.M.M. and the Point of Beginning. This tract contains 2211.459 acres, more or less, all as shown and described on Certificate of Survey No. 1111 - Boundary Retracement Lower Ranch - Sec.s 21, 22, 27, 28, 29, 32, & 33, T4S, R7W, P.M.M. of Madison County, Montana.

Exhibit B

ACKNOWLEDGEMENT OF PROPERTY CONDITION

This is to certify that Richard R. Lower and Anne R. Lower, representing the Lower Family Limited Partnership as Grantor, and Hugh S. Zackheim, representing The Nature Conservancy as Grantee, do accept and acknowledge to the best of their knowledge that the report, titled "Lower Big Hole Ranch Conservation Easement Documentation Report" and dated June 1994, is an accurate description of the current land uses and improvements, biological conditions and physical features on the Property as of July 1, 1994.

GRANTOR: THE LOWER FAMILY LIMITED PARTNERSHIP

BY: Richard R. Lower
Richard R. Lower
General Partner

DATE: 7-1-94

BY: Anne R. Lower
Anne R. Lower
General Partner

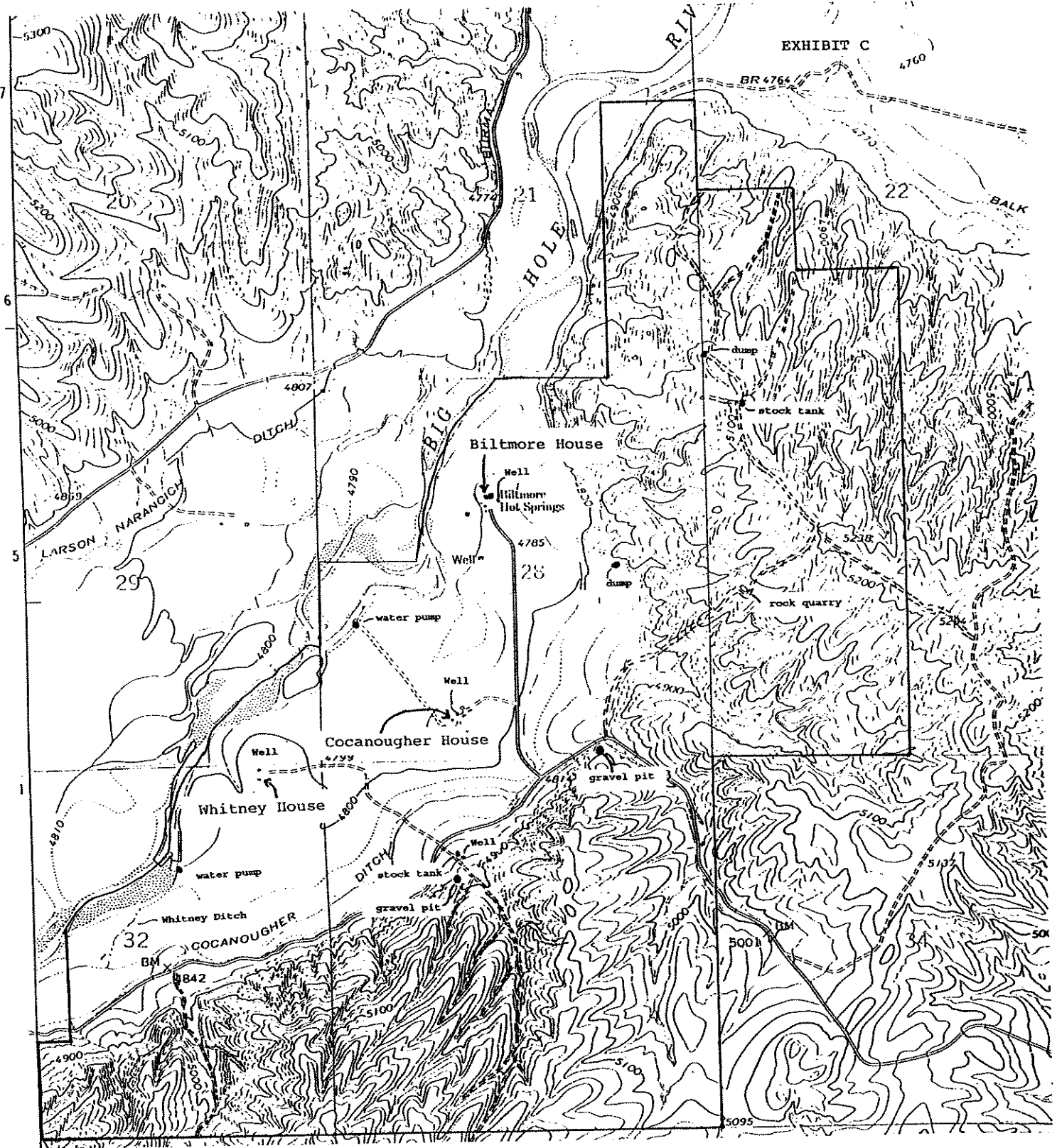
DATE: 7/1/94

GRANTEE: THE NATURE CONSERVANCY

BY: Hugh S. Zackheim
Hugh S. Zackheim
Field Representative
Montana Field Office

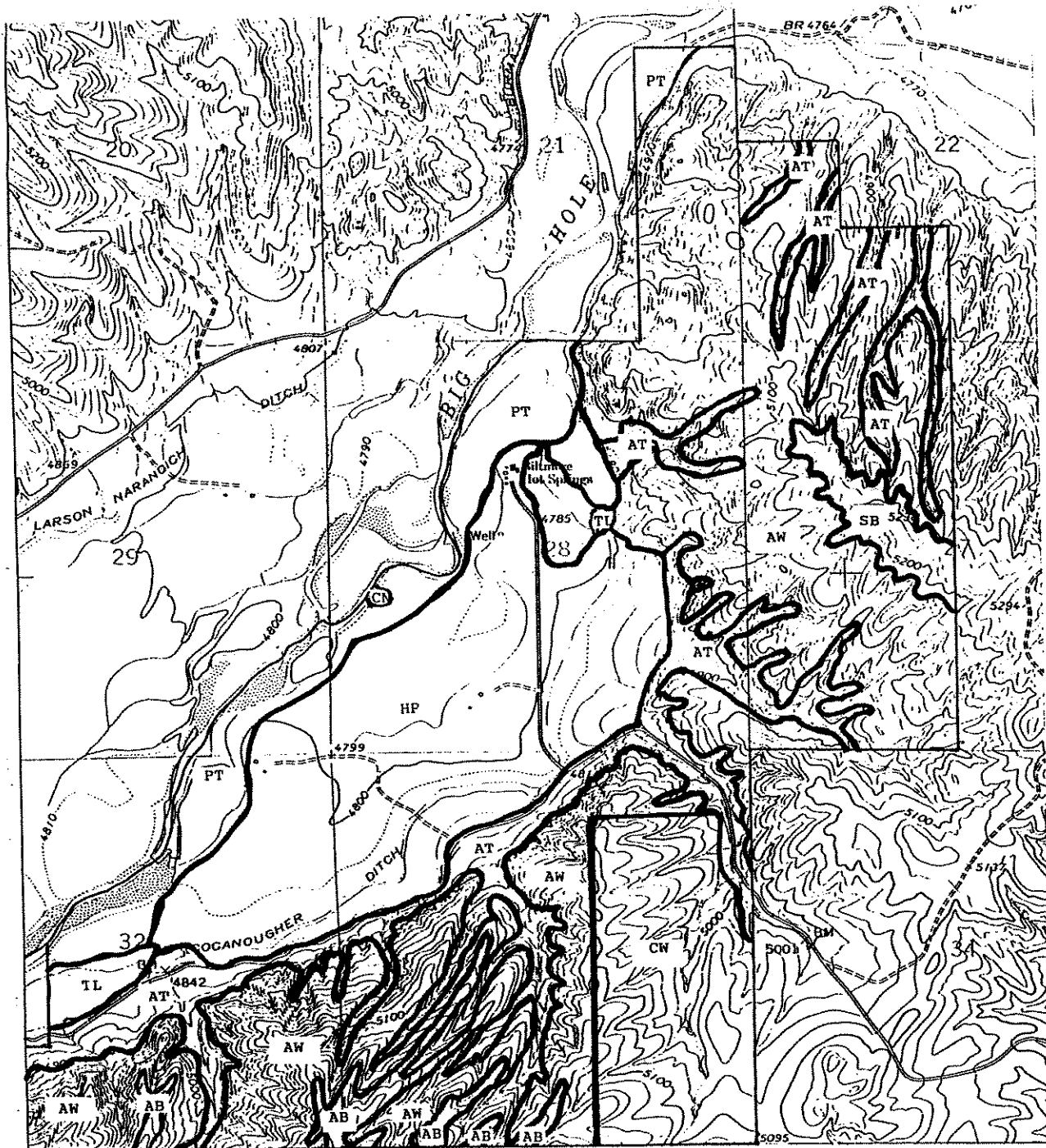
DATE: 6-29-94

Lower Big Hole Ranch
Conservation Easement
July 1, 1994



PROPERTY IMPROVEMENTS
OF THE LOWER BIG HOLE RANCH

Lower Big Hole Ranch
Conservation Easement
July 1, 1994



KEY
VEGETATION TYPES ON THE
BIG HOLE RANCH

Complete descriptions for each type can be found within the text.

-- Upland Types

- AT - *Artemisia tridentata* var. *tridentata*/*Agropyron spicatum* (big sagebrush/bluebunch wheatgrass) h.t.
- AW - *Artemisia tridentata* var. *wyomensis*/*Agropyron spicatum* (Wyoming sagebrush/bluebunch wheatgrass) h.t.
- SB - *Stipa comata*/*Bouteloua gracilis* (needle-and-thread grass/blue grama) h.t.
- AB - *Agropyron spicatum*/*Bouteloua gracilis* (bluebunch wheatgrass/blue grama) h.t.

-- Riparian Types

- PT - *Populus trichocarpa* (black cottonwood) d.t.
- CN - *Carex nebraskensis* (Nebraska sedge) d.t.
- SP - *Scirpus pungens* (three-square bulrush) d.t.
- TL - *Typha latifolia* (common cattail) d.t.

-- Other

- HP - Irrigated or sub-irrigated hay meadow or pasture.
- CW - Planted *Agropyron cristatum* (crested wheat).