

RAICH MONTANA
PROPERTIES LLC

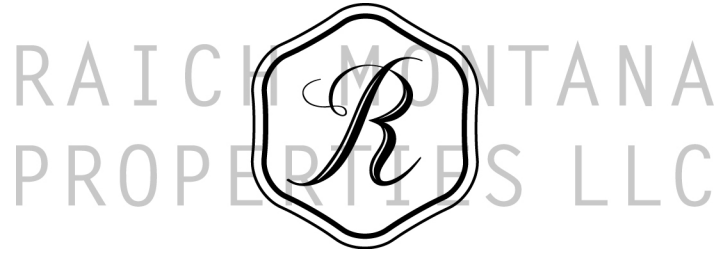


245 Fleshman Creek Road
Livingston MT 59047

TRACY RAICH, Broker | Owner 406.223.8418
1808 East River Road, Livingston MT 59047
tracyraich@wispwest.net
www.tracyraich.com

Copyright © 2010 Raich Montana Properties LLC All Rights Reserved.

NOTICE: The real estate offerings contained herein are subject to errors, omissions, prior sale, change or withdrawal without notice, and approval of purchase by owner. Information regarding land classifications, acreages, carrying capacities, potential profits, etc., are intended only as general guidelines and have been provided by sources deemed reliable, but whose accuracy we cannot guarantee. Prospective buyers should verify all information to their satisfaction.

**Property Summary:**

This beautiful 14.5 acre rural property is situated minutes from the storied and cultured town of Livingston, Montana. Well-suited for horse lovers, outdoor enthusiasts, builders, architects, or investors, this special property provides beautiful mountain views, wildlife, fishing, and incredible sunsets.

The parcel has an excellent build site and closeby is 600 +/- acres of Montana State Land offering unlimited access to open land for hiking and horseback riding, with unobstructed views of the Absaroka mountain Range. Accessed via a gravel county road with the closest commercial airport (Gallatin Field) less than an hour away, and a private airstrip (Mission Field) less than 15 minutes away, this beautiful property is well suited for year-round living, or as a recreational retreat.

Legal Description: Tract I of Creekside Meadows Minor Subdivision Plat No. 517 in Park County Montana

Protective Covenants: The Creekside Meadows Protective Covenants were adopted and recorded in 2009 for the purposes of keeping the rural residential development of the highest possible quality, value, desirability, and attractiveness so the unspoiled state of the property will be preserved and the owners may reside in a pleasant and natural environment.

Each Tract may have one single family dwelling and one guest house. Residences shall be constructed to have a minimum of 2,000 square feet of heated living space, and the guest house a minimum of 600 square feet of heated living space. Structures shall not exceed 30 feet in height. Each tract may also have one detached garage and barn, and a livestock shelter.

Irrigation Water: Landowners in Creekside Meadows own water rights for irrigating their land. The water rights are shared by each of the 4 parcels on a pro-rata basis.

Offered for \$289,000.00

Please Contact Tracy Raich 406-223-8418 or Marcie Hertz 406-223-4466 to schedule a private showing.

Tracy Raich Broker/Owner ▪ 1808 East River Road ▪ Livingston ▪ MT ▪ 59047 ▪ 406.223.8418

NOTICE: The real estate offerings contained herein are subject to errors, omissions, prior sale, change or withdrawal without notice, and approval of purchase by owner. Information regarding land classifications, acreages, carrying capacities, potential profits, etc., are intended only as general guidelines and have been provided by sources deemed reliable, but whose accuracy we cannot guarantee. Prospective buyers should verify all information to their satisfaction.

EXHIBIT


FOUR TRACTS OF LAND, BEING A RETIREMENT SHELTER AND SUBDIVISION OF TRACT 1000, SHOWN ON CERTIFICATE OF SURVEY NO. 978, LOCATED IN PORTIONS OF THE SE 1/4 AND SW 1/4 OF SECTION 8, TOWNSHIP 2 SOUTH, RANGE 9 EAST, T14N, R9E, COUNTY, MONTANA.

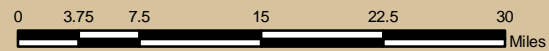
-

The map shows four tracts of land, each with a building footprint and a setback line. Tract 1 is the largest, at 14,432 acres, and has a setback line 50.00 feet from the flood plain. Tract 2 is 10,659 acres, Tract 3 is 10,001 acres, and Tract 4 is 10,000 acres. A small area of 1.165 acres is also shown within Tract 4. A red arrow points to Tract 1, labeled 'Subject'. Another red arrow points to Tract 4, labeled 'Tract 4 is also available for purchase'.





Legend
 Subject



Map produced by Rahn Land, Inc.
This map is for visual reference purposes only,
and its accuracy is not guaranteed.



STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 43B 193277 00 STATEMENT OF CLAIM

Version: -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

IRENE R BANTER
265 FLESHMAN CREEK RD
LIVINGSTON, MT 59047

MICHAEL T WOLLAEGER
4149 KRAFT AVE
STUDIO CITY, CA 91604

L & R PROPERTIES
77 KELLY DR
CARLISLE, PA 17015 9001

CONSTANCE L TRIPLETT
1807 WILLOW DR
GRAND FORKS, ND 58201

GERALD H GROENEWOLD
1807 WILLOW DR
GRAND FORKS, ND 58201

CLYDE E BANTER
265 FLESHMAN CREEK RD
LIVINGSTON, MT 59047

MARGO TJ LEA
4149 KRAFT AVE
STUDIO CITY, CA 91604

TRANSFER PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT WILL BE SPLIT
INTO SEPARATE OWNERSHIPS AFTER FINAL DECREE.

Priority Date: July 1, 1883

Enforceable Priority Date: July 1, 1883

Type of Historical Right: DECREE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Maximum Flow Rate: 2.5 CFS

Maximum Volume: 629.80 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 67.00

Source Name: FLESHMAN CREEK

Source Type: SURFACE WATER

Points of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENESE	8	2S	9E	PARK
Period of Diversion: APRIL 1 to OCTOBER 4						
Diversion Means: HEADGATE						
Ditch Name: CLARK DITCH						

Period of Use: APRIL 1 TO OCTOBER 4

Purpose (use): IRRIGATION

Place of Use: (3 total records)

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	29.00		SW	9	2S	9E	PARK
2	29.00		S2SE	9	2S	9E	PARK
3	9.00		N2NE	16	2S	9E	PARK
Total:	67.00						

Geocodes/Valid: 49080209330010000 - Y 49080209335010000 - Y 49080209340010000 - Y
49080209345010000 - Y

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

193276-00 193277-00

THIS WATER RIGHT AND LATE CLAIM NO. W215518-00 WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. AN OVERLAPPING OWNERSHIP REMARK NEEDS TO BE ADDED TO THIS RIGHT. NUMBERS TO BE INCLUDED IN THE REMARK ARE: W193277-00, W215518-00.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 05/28/91.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 05/12/89.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 25149 RECEIVED October 3, 2005

OWNERSHIP UPDATE TYPE DOR # 85328 RECEIVED April 20, 2009

OWNERSHIP UPDATE TYPE 608 # 40778 RECEIVED August 17, 2006

OWNERSHIP UPDATE TYPE 608 # 47463 RECEIVED July 9, 2007

OWNERSHIP UPDATE TYPE 608 # 49009 RECEIVED September 7, 2007

A LATE OBJECTION HAS BEEN FILED TO THE MAXIMUM ACRES, PLACE OF USE, AND VOLUME OF THIS WATER RIGHT CLAIM. THEY WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

MONTANA WELL LOG REPORT

Other Options

This well log reports the activities of a licensed Montana well driller, serves as the official record of work done within the borehole and casing, and describes the amount of water encountered. This report is compiled electronically from the contents of the Ground Water Information Center (GWIC) database for this site. Acquiring water rights is the well owner's responsibility and is NOT accomplished by the filing of this report.

[Plot this site on a topographic map](#)
[View scanned well log \(5/15/2006 10:46:49 AM\)](#)

Site Name: CHASE-SKOGEN PROPERTIES, LLC
GWIC Id: 223847
DNRC Water Right: C30029631

Section 7: Well Test Data

Total Depth: 163
 Static Water Level: 64
 Water Temperature:

Section 1: Well Owner**Owner Name**

CHASE-SKOGEN PROPERTIES, LLC

Mailing Address

4433 ALEXANDER ST

City	State	Zip Code
BOZEMAN	MT	59718

Air Test *

80 gpm with drill stem set at 145 feet for 1 hours.
 Time of recovery 0.5 hours.
 Recovery water level 64 feet.
 Pumping water level feet.

Section 2: Location

Township	Range	Section	Quarter Sections
02S	09E	9	SE¼ SE¼ NE¼ SW¼
County		Geocode	
PARK			
Latitude	Longitude	Geomethod	Datum
45.6741	110.6624	NAV-GPS	NAD27
Altitude	Method	Datum	Date
Addition	Block	Lot	

* During the well test the discharge rate shall be as uniform as possible. This rate may or may not be the sustainable yield of the well. Sustainable yield does not include the reservoir of the well casing.

Section 8: Remarks**Section 9: Well Log****Geologic Source**

Unassigned

From	To	Description
0	8	TOP SOILS & CLAY, SOME ROCK
8	30	CLAYBOUND GRAVELS & COBBLES
30	34	REDDISH BROWN SOFT LOOMY CLAY
34	38	BROKEN SANDSTONE & CLAY
38	73	BROWN STICKY CLAY- SOME ROCK
73	85	WEATHERED SANDSTONES
85	100	GRAY SHALE & CLAY
100	105	GRAY SHALE - HARDER
105	115	GRAY & BROWN SANDSTONES
115	145	GRAY SANDSTONE - HARD
145	149	BROWN SANDSTONE - SOME WATER
149	150	GRAY SANDSTONE (15-20GPM)
150	152	GRAY SHALE
152	153	BROWN SHALE & CLAY
153	163	BROWN & GRAY SANDSTONE (WATER) TOTAL 80 GPM

Section 3: Proposed Use of Water

DOMESTIC (1)

Section 4: Type of Work

Drilling Method: ROTARY

Section 5: Well Completion Date

Date well completed: Thursday, December 29, 2005

Section 6: Well Construction Details**Borehole dimensions**

From	To	Diameter
0	163	6

Casing

From	To	Diameter	Wall Thickness	Pressure Rating	Joint	Type
-2	76	6	0.250		WELDED	STEEL
43	163	4.5				PVC

Completion (Perf/Screen)

From	To	Diameter	# of Openings	Size of Openings	Description
143	163	4.5		.025	FACTORY SLOTTED

Annular Space (Seal/Grout/Packer)

From	To	Description	Cont. Fed?
0	30	BENTONITE	

Driller Certification

All work performed and reported in this well log is in compliance with the Montana well construction standards. This report is true to the best of my knowledge.

Name:**Company:** HAYES DRILLING**License No:** WWC-361**Date Completed:** 12/29/2005

After recording, return to:
Stephen E. Woodruff, Esq.
P.O. Box 523
Livingston, MT 59047
KTE 49-9981

354760 Fee: \$153.00 Roll: R 284 Page(s): 19
Park County Recorded 4/16/2009 At 2:52 PM
Denise Nelson, Ck & Rcdr By *RN, ME* Return To:
STEPHEN E. WOODRUFF PO BOX 523
LIVINGSTON, MT 59047

**RESTATED PROTECTIVE COVENANTS
FOR CREEKSIDE MEADOWS SUBSEQUENT MINOR SUBDIVISION**

THIS DECLARATION made this 6 day of April, 2009, by the following Declarants, as owners of all tracts of land located within the **CREEKSIDE MEADOWS SUBSEQUENT MINOR SUBDIVISION**, Subdivision Plat No. 517, in Park County, Montana, as follows:

CREEKSIDE MEADOWS, LLC, of 4122 Graf, Bozeman, MT 59715;
Tract 1 of Creek Side Meadows Minor Subdivision Plat No. 517

GERALD H. GROENEWOLD and CONSTANCE L. TRIPLETT, of
1807 Willow Drive, Grand Forks, ND 58201;
Tracts 2 and 3 of Creek Side Meadows Minor Subdivision Plat No. 517

MICHAEL THOMAS WOLLAEGER and MARGO TYRA JANE LEA, of
4149 Kraft Avenue, Studio City, CA 91604;
Tract 4 of Creek Side Meadows Minor Subdivision Plat No. 517

The foregoing owners shall be referred to collectively herein as "Declarants," and the properties owned by the Declarants shall sometimes be referred to collectively as the "property."

WHEREAS, the property has heretofore been subjected to a Declaration of Covenants, Conditions and Restrictions, recorded in Roll 244, under Document #337352; Amendment thereto, recorded in Roll 250, under Document #341089; Second Amendment thereto, recorded in Roll 256, under Document #343713; and Third Amendment thereto, recorded in Roll 259, under Document #344853, records of Park County, Montana, all of which shall be collectively referred to herein as the "previous Covenants;" and

WHEREAS, there is a homeowners association that was established for the purpose of enforcing the covenants, conditions and restrictions; and for addressing matters of common interest among the lot owners, which homeowners association was incorporated on February 22, 2007, under the name of **CREEKSIDE MEADOWS ASSOCIATION, INC.**, Montana Secretary of

State Filing No. D-166177-750480 (herein, the "Association"); and

WHEREAS, Bylaws of the Association were adopted on the 23rd day of February, 2007, and were filed for record on February 26, 2007, in Roll 250, under Document #341088, records of Park County, Montana (herein, the "Bylaws"); and

WHEREAS, the Declarants wish to terminate the previous Covenants and the Bylaws and to adopt Restated Covenants for the property, and to govern the activities of the Association;

NOW, THEREFORE, the Declarants above-named hereby agree that the Bylaws shall be terminated; the previous Covenants are hereby superseded by these Restated Covenants; and the property described above is held and shall be conveyed subject to the following restrictions, conditions and covenants:

I. TERMINATION OF BYLAWS.

1.1 Bylaws. The Bylaws of Creekside Meadows Association, Inc., recorded at Roll 250, under Document No. 341088, are hereby terminated and shall be of no further force and effect.

II. PURPOSES OF PROTECTIVE COVENANTS:

2.1 General Purposes. Declarants desire to develop the above-described real property as a rural residential development of the highest possible quality, value, desirability and attractiveness where the natural beauty and view and the natural and unspoiled state of the property will be preserved as nearly as possible so the owners may reside and find seclusion and a pleasant environment. All of said residential areas will be developed with objectives designed to enhance the value of and to benefit all property within this area.

III. PROPERTY SUBJECT TO PROTECTIVE COVENANTS:

3.1 Covered Property. The following described property is subject to all the provisions, covenants, conditions and restrictions contained in this declaration:

Tracts 1, 2, 3, and 4 of Creek Side Meadows Minor Subdivision Plat No. 517, on file and of record in the office of the Clerk and Recorder of Park County, Montana.

IV. PRESERVATION OF RURAL RESIDENTIAL LAND USE:

4.1 Division of Tracts. The tracts may not be further subdivided.

4.2 Residential Purposes. Each tract will be used solely for private, single-family residential use.

No commercial uses shall be allowed on the property with the exception of home businesses

as defined by the Park County Zoning Plan.

Nothing in these Covenants shall be construed to prohibit the homeowner's ability to lease the dwelling for residential uses, to lease the premises for grazing, to employ a caretaker, or to sell agricultural products permitted to be grown or raised on the property.

4.3 Agricultural purposes. The premises may be used for the growing of hay and other agricultural crops, and the raising of cattle, horses, llamas, goats or sheep. There shall be no commercial swine, poultry, or fowl operations on the premises. Livestock may not be kept on the premises in excess of the number recommended by the Park County Natural Resources and Conservation Service or allowed to overgraze the tracts. Livestock must at all times be restrained on the tracts. Nothing in this paragraph shall prohibit homeowners and their families from engaging in 4-H or FFA projects on their premises.

4.4 Mining and drilling. No commercial prospecting, mining, quarrying, tunneling, excavating, or the drilling for any substance on or within the earth, including oil, gas, hydrocarbons, minerals, gravel, sand, rock or earth, shall be undertaken upon the property.

V. PRESERVATION OF WILDLIFE HABITAT:

5.1 General. It is recognized that wildlife species live on or migrate through the property during various times of the year, and it is desirable to preserve these species. The tract owners agree to protect, preserve, and maintain the existing wildlife habitat on the property, and to minimize the adverse effects of development on the wildlife habitat.

5.2 Hunting. Hunting is not permitted on the property; however, hunting activities may occur on adjoining state lands in compliance with state and local regulations. Hunting is a preexisting activity and will continue to occur on such state lands.

VI. PRESERVATION OF WATER RESOURCES AND FISHERIES:

6.1 General. It is recognized that the property contains valuable water resources and fisheries, and it is desirable to preserve these resources. Tract owners will at all times regulate their activities in a manner that will preserve the integrity of the springs, ponds, streams and creeks upon the premises. The degradation of water quality or the pollution of streams will not be permitted. All applicable State and local guidelines and standards must be followed for installation of wells and septic systems.

6.2 Protection of stream banks. No alteration may be made to any stream bank, except stream enhancement measures approved or recommended by the Montana Department of Fish, Wildlife and Parks. These covenants shall not be deemed to prevent an owner from building a bridge across a stream, provided all necessary government permits are first obtained.

6.3 Creeks and Drainages. The following covenants are adopted in compliance with the requirements of the Park County Commission:

6.3.1 A minimum setback of 100 feet is required for all construction adjacent to Fleshman Creek, as designated on the final plat of the subdivision.

6.3.2 Riparian vegetation shall be left intact.

6.3.3 There shall be no construction within 55 feet of the floodplain as designated on the final plat of the subdivision.

6.3.4 Removal of beavers requires a permit from the Montana Department of Fish, Wildlife and Parks.

6.3.5 Stream or bank alterations of any kind, including the removal of beaver dams, require a 310 Permit from the Park Conservation District.

VII. RIGHTS OF ADJOINING RANCHES:

7.1 General. Tract owners acknowledge the property is located in a ranching area with agricultural operations being conducted on adjacent land. It is desirable to preserve that heritage. Tract owners shall have no common law right to object to normal and necessary agricultural activities legally conducted on adjacent land which may conflict with the use of the property for residential purposes. The Tract owners recognize the rights of existing commercial and agricultural uses to exist.

7.2 Noxious Weeds. Tract owners shall control all noxious weeds, as defined by Montana State Law or the Park County Weed Control Board, and shall take all reasonable steps to eradicate said noxious weeds and prevent them from spreading on the property or to adjacent property. Tracts owners agree to follow all recommendations of the Park County Weed Control Board. Weed control shall be governed by the following requirements of the Park County Commission:

7.2.1 Each Tract owner shall be responsible for weed control on his/her property.

7.2.2 Both unimproved and improved tracts shall be kept free of weeds.

7.2.3 All weed spraying within the floodplain of Fleshman Creek shall be accomplished only with the use of a weed killer approved by the State and Federal environmental protection agencies. Currently, the recommended product for floodplain use is Aquatic Label 2,4,D Amine.

7.3 Fences: Tract owners' rights and responsibilities with respect to the construction and maintenance of boundary fences shall be governed by the Montana Codes Annotated, as amended from time to time. Tract owners are responsible to keep any livestock restrained on their own property. All interior fences constructed within the subdivision shall be wildlife friendly.

7.4 Ditches and Water Rights. The tracts are subject to easements for existing

irrigation ditches. Tract owners must not damage or destroy the ditches or impede the flow of water. Tract owners are responsible for cleaning and maintaining the ditches upon their property. Tract owners shall be aware that other owners having water rights in the ditches may have the right to enter the property for the purpose of maintaining or cleaning the ditches. A tract owner may not divert water from any stream or ditch without an appropriate water right from the Montana Department of Natural Resources and Conservation.

VIII. PREVENTION OF NUISANCES:

8.1 General. No noxious, offensive, or hazardous activities shall be permitted upon any portion of the property nor shall anything be done or placed upon any portion of the property which is or may become a nuisance to others.

8.2 Domestic pets. Not more than two dogs over the age of six months are permitted. Dogs shall at all times be restrained or leashed. Pets shall be controlled by their owners and shall not be allowed to roam.

8.3 Restrictions on Signs: No signs shall be placed on any tract except in connection with the sale of the property or the identity of the property, which signs shall be in keeping with the scenic nature of the area.

8.4 Exterior Lighting. Exterior lighting shall be subdued, understated and indirect. Lighting, including yard lighting, shall be cast downward and shall not radiate out from the property. In all cases, excessive glare to neighboring properties or circulation shall be avoided. No 24-hour yard lights shall be allowed.

8.5 No Unsightliness. No unsightliness shall be permitted on any tract. Without limiting the generality of the foregoing:

- (a) No junk or unlicensed vehicles or inoperable machinery or equipment shall be kept on the premises except in an enclosed building;
- (b) Boats, trailers, campers, snowmobiles, motorcycles, and other recreational vehicles and equipment must not be stored in the open on any tract, driveway or road; and must be kept either in an enclosed building, or reasonably screened from view from neighboring tracts and roads;
- (c) Trash and refuse shall not be allowed to accumulate upon the premises.

8.6 Maintenance. Owners shall maintain their tracts and improvements in good repair and appearance at all times. All landscaping, improvements, and property shall be kept and maintained in attractive condition and good repair at all times.

IX. PERMITTED STRUCTURES:

9.1 Approvals Required for Construction. Zoning compliance permits must be approved by Park County for any building or structure that is erected, constructed, moved, or altered. If human skeletal remains are found during construction, the County Coroner or the State Burial Board of the State Historic Preservation Office shall be notified.

9.2 Number of Permitted Structures. Each tract (including each permitted subsequently created tract) shall be allowed only one (1) single-family dwelling unit and one (1) guest house to be constructed on the tract. All residences constructed on the premises must have a minimum of 2,000 square feet of heated living space, and all guest houses must have a minimum of 600 square feet of heated living space. No residence or other structure on the premises shall exceed thirty feet (30') in height. Height of structures that are built on slopes that lend to daylight basements and walk-outs shall be calculated from the uppermost grade of the foundation. This height is derived from the undisturbed or natural grade.

9.2a Each lot owner may construct one detached garage and one detached barn. A garage apartment or a barn apartment may be included within said structure, provided the apartment meets the guest home specifications set forth in the foregoing subsection. Each lot owner may also construct one livestock shelter, not to exceed 200 square feet, with pole style construction allowed, at ground level, and not exceeding 14 feet in height.

9.3 Building Sites. Building sites shall be responsive to existing features of terrain, drainage patterns, rock outcroppings, vegetation, views and sun exposure. Any structures constructed on Tracts 2, 3, or 4 must be located within the building envelopes depicted on attached Exhibit "A", subject to the following special provisions with regard to Tracts 2 and 3 to accommodate re-stacking of the "1876 Homesteaders' Cabin" upon Tract 3 and the "Greek Revival Barn" upon Tract 2 by the Tract owners, Gerald H. Groenewold and Constance L. Triplett (herein called Groenewold/Triplett):

- (a) **1876 Homesteaders' Cabin.** Declarants hereby agree to permit placement of Groenewold/Triplett's 1876 Homesteaders' Cabin in a location outside the existing building envelope for Tract 3. Specifically, Groenewold/Triplett are authorized to place the cabin in the southwest corner of Tract 3 (i.e. on the southwestern side of Fleshman Creek), subject to final site approval by the architectural committee. In the event the State of Montana (including, without limitation, the Department of Environmental Quality) and/or Park County has adopted regulations which might otherwise preclude development in this area of the Tract, Groenewold/Triplett shall be responsible for obtaining any necessary consents for the purpose of construction within such zones. Declarants hereby furthermore agree to permit placement of the 1876 Homesteader's Cabin on the premises as a guest house/studio, even if the cabin is less than 600 square feet in area. The cabin shall be considered a guest house or studio, as Groenewold/Triplett prefer, and shall constitute the only secondary guest house/studio which shall be permitted on Tract 3.
- (b) **Greek Revival Barn.** Declarants hereby agree to permit the restacking of the Greek Revival Barn upon the premises, including amendment of height restrictions

within the Covenants with respect to said barn. (The height restriction provided in the Covenants is thirty feet; the barn has an estimated height of thirty-two feet.) In addition, Declarants agree to permit Groenewold/Triplett to move the building envelope on Tract 2 for the purpose of avoiding the natural drainage so that the Greek Revival Barn can be installed in a location which they and Declarants deem suitable.

The foregoing provisions are specific to the re-stacking of Groenewold/Triplett's cabin and barn identified above, and shall not constitute an overall amendment to the existing building envelopes, guest house/studio/outbuilding square footage guidelines, or height restrictions except with respect to these certain structures.

9.4 No Mobile Homes, Modular Homes, or Manufactured Homes. Mobile homes, modular homes, and manufactured homes shall not be permitted on the tracts. All residences and other structures shall be "stick built."

9.5 Exterior Materials. Materials used in the construction of exterior walls should be in harmony with the surrounding structures and natural land features and shall be finished in muted natural earth tone colors. Metal roofs may be installed, provided they are in muted color tones and are not highly reflective.

9.6 Utilities: All new utilities shall be installed underground.

9.7 Construction. During construction, the tract owner shall keep the construction site reasonably free of trash and debris and shall take reasonable efforts to prevent construction materials from being blown onto neighboring properties. Nothing in these Protective Covenants shall be deemed to prohibit the use of a recreational vehicle as a temporary residential unit pending the construction of a tract owner's permanent dwelling unit. All exterior construction of buildings must be completed within one (1) year from the date construction is commenced, and interior construction shall be completed within two (2) years from the date construction is commenced.

9.8 Sprinkler Systems. All residences shall have inside sprinkler systems that meet the requirements of NFPA 13d. A letter of certification shall be submitted to the Fire District upon completion of the dwellings.

X. RESTATED PURPOSE, CREEKSIDE MEADOWS ASSOCIATION, INC.:

From and after the date on which these Restated Covenants are adopted by the Declarants, Creekside Meadows Association, Inc., shall function solely for the purposes of (i) acting as the Architectural Control Committee to insure that proposed construction complies with these Covenants; and (ii) acting as the Water Users Association to administer the irrigation rights appurtenant to Tracts 1 through 4 of Minor Subdivision Plat No. 517. The Association shall operate as follows:

10.1 Membership. Each owner of Tracts 1-4 of Minor Subdivision Plat No. 517 shall automatically be members of the Association, and membership shall be appurtenant to each tract,

in perpetuity. In the event of ownership of a tract by more than one person or entity, the owners shall designate one person responsible for receiving notices and voting. The tract owners shall be responsible for notifying the Association, in writing, of their current address and the person designated to vote. The Association shall be deemed to have complied with any notice requirement by mailing notice to the address of the designated tract owner which is on file with the Association.

10.2 Governance. At the discretion of the members, the Association is authorized to adopt Bylaws and Resolutions as deemed appropriate, which will be binding upon the tract owners. If no Bylaws are adopted by the Association, the Association will be operated in accordance with the default provisions contained in the Montana Nonprofit Corporation Act, MCA §35-2-114, *et seq.* The owners of each tract shall be entitled to appoint one Director (which Director may be the Tract owner), such that there will be four Directors. The Directors shall act on all matters and shall have such powers as shall be necessary to carry out the purposes of the Association. Except as otherwise expressly provided herein, the Directors shall act by the affirmative vote of three-quarters (3/4) of the Directors.

The Board of Directors shall elect a President annually to represent and act on behalf of the Association. The purpose of this election is to provide one designated contact point or public representative for the Association.

10.3 Architectural Control Committee. The Directors shall act as the Architectural Control Committee. Before any structures may be placed on any tract, the construction plans (to be drawn to scale and to include elevations) must be presented to the designated Architectural Control Committee for review, to insure compliance with these covenants. Construction plans approved by three or more members of the Architectural Control Committee shall be deemed approved. Construction plans approved by one or fewer members of the Architectural Control Committee shall be deemed denied. Construction plans approved by two members of the Architectural Control Committee, and disapproved by two members of the Architectural Control Committee, shall be referred to a licensed architect located in Park or Gallatin Counties, Montana, who shall be selected by the affirmative vote of three-quarters (3/4) of the Directors. The architect will cast a fifth vote which will serve to approve or disapprove the construction plans.

10.4 Ownership and Allocation of Water Rights. The Tract owners jointly own or have an ownership interest in Water Rights Nos. 43B-193276-00 and 43B-193277-00. Copies of the current Abstracts for said water rights are attached hereto as Exhibit "B". The Association will allocate the use of the water rights to Tracts 1 through 4 in accordance with the historic use of irrigation water on said Tracts.

10.5 Duties and Powers of Association. The Association shall maintain the headgates and ditches which transport the irrigation water to the property, and shall insure the ditches on individual tracts are maintained by the tract owners. The Association shall have access across Tracts 1 through 4 for this purpose. The Association shall ensure that the water rights are allocated among the tracts in accordance with historic use, and shall be empowered to appoint a "ditch rider," who shall have the power to adjust the flow of irrigation among the tracts to ensure

division of the water in accordance with historic use. The ditch rider shall have the power to enter upon any of the tracts for this purpose. The ditch rider or commissioner may be the same person as the President. The Association is responsible to protect the water rights against misappropriation by third parties, and shall represent the Tract Owners in all matters pertaining to the water rights.

10.6 Responsibilities of Tract Owners for Ditches. The owners of each tract are individually responsible to maintain and improve the ditches located on their respective tracts. If any tract owner fails to maintain the ditches on his/her tract, the Association is authorized to maintain or improve the ditch and assess the owner for the cost thereof.

10.7 Assessments. The Board of Directors of the Association is authorized to make annual assessments to cover the cost of its activities, notice of which will be sent to each tract owner, who shall be responsible to pay the assessment. The assessments will be set by a vote of three-quarters (3/4) of the Directors. Any assessment not paid within thirty (30) days after its due date shall bear interest from the past due date at the rate of ten percent (10%) per annum. Any past due assessment on any tract may be filed as a lien at the office of the Clerk and Recorder of Park County, Montana, and will constitute a lien against the tract from the date of filing. The Association may bring an action at law against the owners personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the water or abandonment of the tract.

10.8 No Guarantee of Water. The Association does not represent or guarantee any amount of water to be available at any time for any of the tracts. Many factors, including the limited flow of irrigation water to these tracts, priority date of the water right, and a tract owner's effective use of water will affect the amount of water available at any given time for any given tract.

10.9 Change in Allocation. Change in the allocation of the water among the individual tracts may only be made with the consent of the owners of all of the tracts belonging to the Association, and in accordance with the Rules and Regulations of the Montana Department of Natural Resources.

10.10 Non-Liability of Association. Neither the Association, the Declarants, nor the individual members thereof, may be held liable to any person for any damages, for any action or inaction taken pursuant this Article X.

10.11 Assignment of Membership. Any member may transfer and assign his or her membership only as part of a sale or transfer of his tract. In other words, ownership of the water use right shall run with the land and be appurtenant to Tracts 1 through 4 of Minor Subdivision Plat No. 517.

XI. DURATION AND ENFORCEMENT:

11.1 Duration and Terms: The Covenants shall continue in effect and shall run with the

land as a legal and equitable servitude in perpetuity, unless amended, terminated, or supplemented as hereinafter set forth

11.2 Severability: Invalidation of any of the restrictions, limitations, or covenants herein set forth by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

11.3 No Waiver: Failure to enforce any provisions, restrictions, covenants, or conditions in this Declaration or in any Supplemental Declaration shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provision, restriction, covenant or condition.

11.4 Enforcement: The owner or owners of any of the described real property, including the developer, may enforce the restrictions and limitations herein set forth by proceedings at law or in equity against any person or persons violating or attempting to violate any of the said restrictions and limitations, either to recover damage for such violation or to restrain such violation or attempted violation. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover their costs and expenses in connection therewith, including reasonable attorney's fees.

11.5 Modification/Supplementation: These Covenants, or any portion thereof, may be amended, terminated, or supplemented at any time by the execution of a written document containing the terms of the amendment, supplement, or termination of any of the Covenants, duly acknowledged by a Notary Public, and recorded in the office of the Park County Clerk and Recorder, signed by the owners of three quarters (3/4) of the total number of tracts existing in the development at the time the document amending, terminating, or supplementing the covenants is recorded.

11.6 Successors and Assigns of Declarants: This Declaration and all the rights, powers and duties thereunder shall be binding upon and inure to the benefit of the successors and assigns of the Declarants, whether voluntary or involuntary, by operation of law or otherwise. The successors and assigns of the Declarants shall be bound by this declaration.

//////////////////// (Signatures to follow) //////////////////////

IN WITNESS WHEREOF, the Declarants have set their hands on the date first set forth above.

CREEKSIDE MEADOWS, LLC

By:

Dan Gerharter
DAN GERHARTER, Its Manager

GERALD H. GROENEWOLD

CONSTANCE L. TRIPLETT

MICHAEL THOMAS WOLLAEGER

MARGO TYRA JANE LEA
MARGO TYRA JANE LEA

DECLARANTS

STATE OF MONTANA)
) : ss.
County of Park)

THIS INSTRUMENT was acknowledged before me, on this 15 day of April, 2009, by Dan Gerharter, on behalf of Creekside Meadows, LLC, Declarant above-named.

[Signature]
[Printed Name] Joseph T. Scindler
NOTARY PUBLIC for the State of MT
Residing at Livingston
My Commission expires: 9-19-2012

STATE OF _____)
) : ss.
County of _____)

IN WITNESS WHEREOF, the Declarants have set their hands on the date first set forth above.

CREEKSIDE MEADOWS, LLC

By: DAN GERHARTER, Its


GERALD H. GROENEWOLD


CONSTANCE L. TRIPLETT

MICHAEL THOMAS WOLLAEGER

MARGO TYRA JANE LEA

DECLARANTS

STATE OF MONTANA)
 : ss.
County of Park)

THIS INSTRUMENT was acknowledged before me, on this _____ day of _____, 2009, by Dan Gerharter, on behalf of Creekside Meadows, LLC, Declarant above-named.

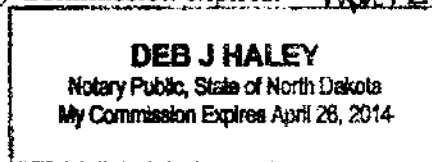
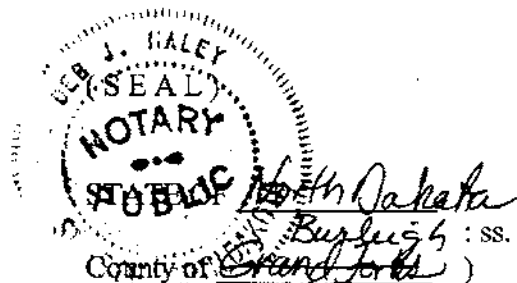
(SEAL)

[Printed Name]
NOTARY PUBLIC for the State of MT
Residing at _____
My Commission expires: _____

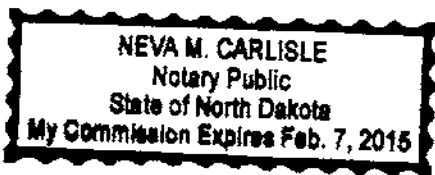
STATE OF North Dakota
County of Grand Forks : SS.

THIS INSTRUMENT was acknowledged before me, on this 9th day of April, 2009, by Gerald H. Groenewold, Declarant above-named.

[Printed Name] Deb J Haley
NOTARY PUBLIC for the State of ND
Residing at Grand Forks, ND
My Commission expires: April 26, 2014



THIS INSTRUMENT was acknowledged before me, on this 10th day of April, 2009, by Constance L. Triplett, Declarant above-named.



(SEAL)

[Printed Name] Neva M Carlisle
NOTARY PUBLIC for the State of _____
Residing at _____
My Commission expires: _____

STATE OF NORTH DAKOTA
County of Burleigh : SS.

THIS INSTRUMENT was acknowledged before me, on this _____ day of _____, 2009, by Michael Thomas Wallaeger and Margo Tyra Lea, Declarants above-named.

[Printed Name] _____
NOTARY PUBLIC for the State of _____
Residing at _____
My Commission expires: _____

(SEAL)

THIS INSTRUMENT was acknowledged before me, on this _____ day of _____, 2009, by Gerald H. Groenewold, Declarant above-named.

(SEAL)

[Printed Name]
NOTARY PUBLIC for the State of _____
Residing at _____
My Commission expires: _____

STATE OF _____)
: SS.
County of _____)

THIS INSTRUMENT was acknowledged before me, on this _____ day of _____, 2009, by Constance L. Triplett, Declarant above-named.

(SEAL)

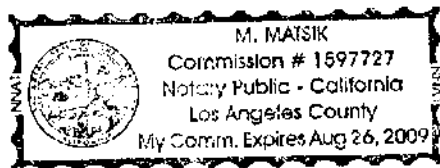
[Printed Name]
NOTARY PUBLIC for the State of _____
Residing at _____
My Commission expires: _____

STATE OF CALIFORNIA)
: SS.
County of Los Angeles)

THIS INSTRUMENT was acknowledged before me, on this 06 day of April, 2009, by Michael Thomas Wallaeger and Margo Tyra Lea, Declarants above-named.

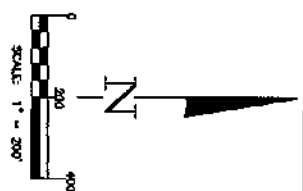
(SEAL)

M. Matsik
[Printed Name] M. MATSIK
NOTARY PUBLIC for the State of CALIF.
Residing at ENCINO
My Commission expires: 08/26/2009

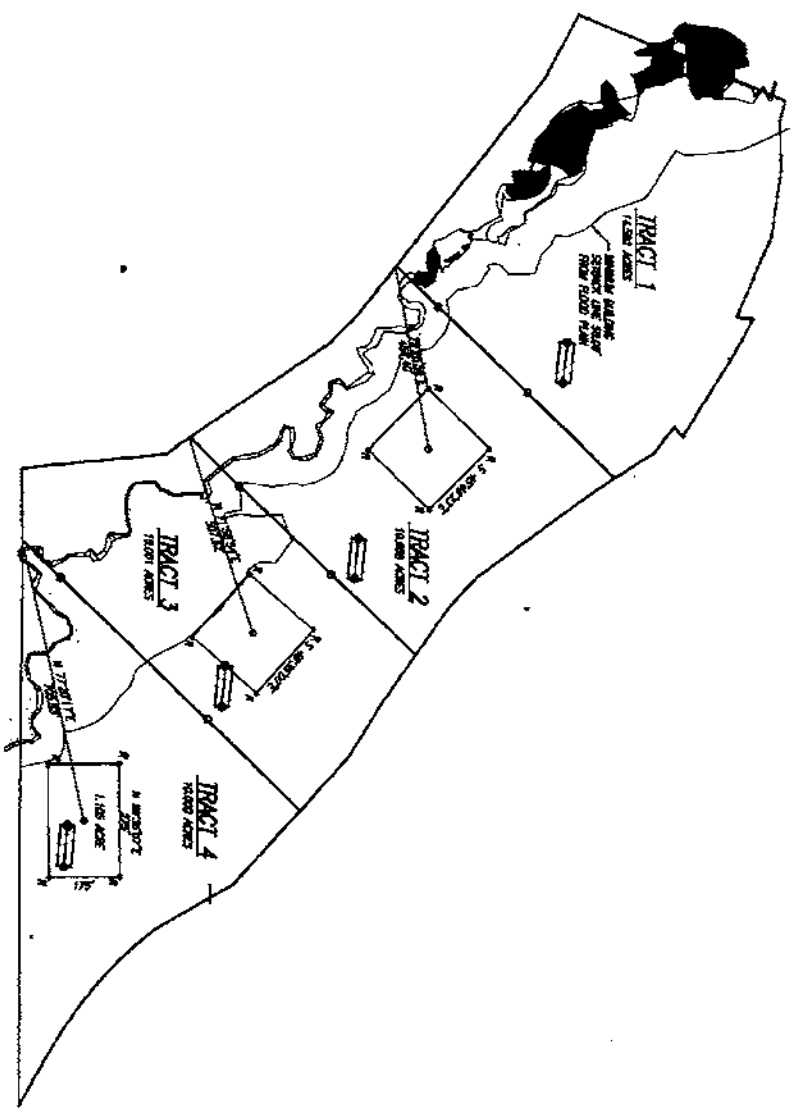


LEGEND

- 1. 1/4 SECTION 36, T4N, R10E, S10W
- 2. 1/4 SECTION 37, T4N, R10E, S10W
- 3. 1/4 SECTION 38, T4N, R10E, S10W
- 4. 1/4 SECTION 39, T4N, R10E, S10W
- 5. 1/4 SECTION 40, T4N, R10E, S10W
- 6. 1/4 SECTION 41, T4N, R10E, S10W
- 7. 1/4 SECTION 42, T4N, R10E, S10W
- 8. 1/4 SECTION 43, T4N, R10E, S10W
- 9. 1/4 SECTION 44, T4N, R10E, S10W
- 10. 1/4 SECTION 45, T4N, R10E, S10W
- 11. 1/4 SECTION 46, T4N, R10E, S10W
- 12. 1/4 SECTION 47, T4N, R10E, S10W
- 13. 1/4 SECTION 48, T4N, R10E, S10W
- 14. 1/4 SECTION 49, T4N, R10E, S10W
- 15. 1/4 SECTION 50, T4N, R10E, S10W
- 16. 1/4 SECTION 51, T4N, R10E, S10W
- 17. 1/4 SECTION 52, T4N, R10E, S10W
- 18. 1/4 SECTION 53, T4N, R10E, S10W
- 19. 1/4 SECTION 54, T4N, R10E, S10W
- 20. 1/4 SECTION 55, T4N, R10E, S10W
- 21. 1/4 SECTION 56, T4N, R10E, S10W
- 22. 1/4 SECTION 57, T4N, R10E, S10W
- 23. 1/4 SECTION 58, T4N, R10E, S10W
- 24. 1/4 SECTION 59, T4N, R10E, S10W
- 25. 1/4 SECTION 60, T4N, R10E, S10W
- 26. 1/4 SECTION 61, T4N, R10E, S10W
- 27. 1/4 SECTION 62, T4N, R10E, S10W
- 28. 1/4 SECTION 63, T4N, R10E, S10W
- 29. 1/4 SECTION 64, T4N, R10E, S10W
- 30. 1/4 SECTION 65, T4N, R10E, S10W
- 31. 1/4 SECTION 66, T4N, R10E, S10W
- 32. 1/4 SECTION 67, T4N, R10E, S10W
- 33. 1/4 SECTION 68, T4N, R10E, S10W
- 34. 1/4 SECTION 69, T4N, R10E, S10W
- 35. 1/4 SECTION 70, T4N, R10E, S10W
- 36. 1/4 SECTION 71, T4N, R10E, S10W
- 37. 1/4 SECTION 72, T4N, R10E, S10W
- 38. 1/4 SECTION 73, T4N, R10E, S10W
- 39. 1/4 SECTION 74, T4N, R10E, S10W
- 40. 1/4 SECTION 75, T4N, R10E, S10W
- 41. 1/4 SECTION 76, T4N, R10E, S10W
- 42. 1/4 SECTION 77, T4N, R10E, S10W
- 43. 1/4 SECTION 78, T4N, R10E, S10W
- 44. 1/4 SECTION 79, T4N, R10E, S10W
- 45. 1/4 SECTION 80, T4N, R10E, S10W
- 46. 1/4 SECTION 81, T4N, R10E, S10W
- 47. 1/4 SECTION 82, T4N, R10E, S10W
- 48. 1/4 SECTION 83, T4N, R10E, S10W
- 49. 1/4 SECTION 84, T4N, R10E, S10W
- 50. 1/4 SECTION 85, T4N, R10E, S10W
- 51. 1/4 SECTION 86, T4N, R10E, S10W
- 52. 1/4 SECTION 87, T4N, R10E, S10W
- 53. 1/4 SECTION 88, T4N, R10E, S10W
- 54. 1/4 SECTION 89, T4N, R10E, S10W
- 55. 1/4 SECTION 90, T4N, R10E, S10W
- 56. 1/4 SECTION 91, T4N, R10E, S10W
- 57. 1/4 SECTION 92, T4N, R10E, S10W
- 58. 1/4 SECTION 93, T4N, R10E, S10W
- 59. 1/4 SECTION 94, T4N, R10E, S10W
- 60. 1/4 SECTION 95, T4N, R10E, S10W
- 61. 1/4 SECTION 96, T4N, R10E, S10W
- 62. 1/4 SECTION 97, T4N, R10E, S10W
- 63. 1/4 SECTION 98, T4N, R10E, S10W
- 64. 1/4 SECTION 99, T4N, R10E, S10W
- 65. 1/4 SECTION 100, T4N, R10E, S10W



CREEK SIDE MEADOWS MINOR SUBDIVISION



EXHIBIT

THIS EXHIBIT OF LAND, BEING A REMOVED QUARTY AND LOTS, IS LOCATED IN THE SOUTHWEST CORNER OF SECTION 36, T4N, R10E, S10W, AND IS BEING OFFERED FOR SALE BY THE LANDLORD, J. L. BROWN, JR., OF SECTION 36, T4N, R10E, S10W, AND IS BEING OFFERED FOR SALE BY THE LANDLORD, J. L. BROWN, JR., OF SECTION 36, T4N, R10E, S10W.

EXHIBIT

"A"

SECTION	EXHIBIT
36	1 of 1

RIGHT-OF-WAY EASEMENT

43 416

Location Number _____

KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____

Wayne Peterson and Rosalene O. Peterson, Husband and Wife

for a good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant unto Park Electric Cooperative, Inc., a corporation, whose post office address is Livingston, Montana, and to its successors or assigns, the right to enter upon the lands of the undersigned, situated in the County of _____

Park _____, State of Montana, and more particularly described as follows:

A corridor through the SW¹/₄, Section 9, T.2 S., R.9 E., N.P.M. The corridor

is South of G.O.S. #685, as recorded in the office of Clerk and Recorder,

Park County, Montana. The corridor into G.O.S. #685 will be underground

construction.

and to place, construct, operate, repair, maintain, relocate and replace thereon and in or upon all streets, roads or highways butting said lands an electric transmission or distribution line or system, and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or system and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wires in falling.

In granting this easement it is understood that at pole location, only a single pole and appurtenances will be used, and that the location of the poles will be such as to form the least possible interference to farm operations, so long as it does not materially increase the cost of construction.

The undersigned agree that all poles, wires and other facilities, including any main service entrance equipment, installed on the above-described lands at the Cooperative's expense shall remain the property of the Cooperative, removable at the option of the Cooperative upon termination of service to or on said lands.

The undersigned covenants that he is the owner of the above described lands and that the said lands are free and clear of encumbrances and liens of whatsoever character except those held by the following persons:

It is further understood that, whenever necessary, words used in this instrument in the singular shall be construed to read in the plural and that words used in the masculine gender shall be construed to read in the feminine.

IN WITNESS WHEREOF, the undersigned has set his hand and seal this 18 day of May

1983

Signed, sealed and delivered in the presence of:

Wayne Peterson (L.S.)
Rosalene O. Peterson (L.S.)

STATE OF MONTANA
COUNTY OF PARK

On this 18 day of May, 1983, before me, a Notary Public in and for the State of Montana personally appeared _____
Wayne and Rosalene O. Peterson

known to me (or proved to me on oath of _____)

to be the person whose name _____ are subscribed to the within instrument, and acknowledged to me that he executed the same.

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

Douglas R. Hardy
Notary Public for the State of Montana
Residing at Livingston, Montana
My commission expires 6/16/86

State of Mont.
County of Park

Filed for record this 27 day of May

at 11 o'clock A.M. Recorded in Roll 43

August 20, 1983
County Clerk & Recorder

Recording Fee \$2.00 Document No. 175269

C18685

A.D. 1983, at 3:52

pages 416

By John J. Jennings
Deputy

Return to: Park Electric Co-Op
Livingston, Mont

Park County Recorded 5/15/2007 At 3:43 PM

Denise Nelson, Clk & Rcdr By Denise Nelson Return To:
HUPPERT, SWINDLEHURST, & WOODRUFF PC P.O. BOX 523
LIVINGSTON, MT 59047

AGREEMENT FOR DITCH/HEADGATE EASEMENTS

* * * * *

THIS AGREEMENT is entered into as of the 10 day of May, 2007, between
CHARLES T. BLAIR and KATHY BLAIR, of 303 Fleshman Creek Road, Livingston, MT
59047, hereinafter referred to as "Blairs;"

CLYDE E. BANTER and IRENE R. BANTER, of 265 Fleshman Creek Road,
Livingston, MT 59047, hereinafter referred to as "Banters;" and

CREEKSIDE MEADOWS, LLC, a Montana limited liability company, of 4122 Graf,
Bozeman, MT 59715, hereinafter referred to as "Creekside Meadows;"

RECITALS:

1. Blairs own, without limitation, the following described real property located in
Park County, Montana, to wit:

A tract of land located in the E½E½ of Section 8, Township 2 South, Range 9
East, P.M.M., in the County of Park, State of Montana, described as follows:

Beginning at the E¼ Corner of Section 8, Township 2 South, Range 9 East,
P.M.M., said Corner being a 2-inch iron pipe with a brass cap; thence South
0°29'48" East, along the East line of said Section, 342.40 feet to a 1-inch iron
pipe; thence North 88°50'49" West, 554.40 feet to a 1-inch iron pipe; thence
North 7°24'51" West, 687.83 feet to a 1-inch iron pipe; thence North 83°44'08"
East, 222.63 feet to a 1-inch iron pipe, said point being the centerline of the
County Road; thence South 38°32'47" East, along the centerline of said County
Road 149.66 feet; thence South 63°20'39" East, along the centerline of said
County Road 363.31 feet to the East Boundary of said Section 8, marked by a 1-
inch iron pipe; thence South 0°29'48" East, along the East boundary of said
Section 8, 95.11 feet to the point of beginning.
(Deed Reference: Roll 95, page 1189)

2. Bainters own, without limitation, the following described real property located in Park County, Montana, to wit:

A tract of land located in the SW¼ of Section 9, Township 2 South, Range 9 East, P.M.M, according to Certificate of Survey No. 1170, on file in the office of the Clerk and Recorder of Park County, Montana. (Deed Reference: Roll 89, page 1388); and

A tract of land located in the W½ of Section 9, Township 2 South, Range 9 East, P.M.M, according to Certificate of Survey No. 982, on file in the office of the Clerk and Recorder of Park County, Montana. (Deed Reference: Roll 203, page 1158)

3. Creekside Meadows owns, without limitation, the following described real property located in Park County, Montana, to wit:

That part of the S½ of Section 9, Township 2 South, Range 9 East, of the Principal Montana Meridian, in Park County, Montana, described as Tracts 1, 2, 3 and 4 of Creekside Meadows Minor Subdivision, Minor Subdivision Plat No. 517, on file in the office of the Clerk and Recorder of said County, under Document No. 337350.

4. There is an irrigation ditch traversing the above-described premises used by Bainters and Creekside Meadows for irrigation purposes, the approximate location of which is marked on attached Exhibit "A" and labeled "DITCH" (the "Ditch"). A headgate located on Blairs' property diverts water from Fleshman Creek into the Ditch at the point marked "HEADGATE" on Exhibit "A" (the "Headgate"). The Ditch then continues across Blairs' property, passes through Bainters' property, and terminates upon Creekside Meadows' property.

5. Although the Headgate and a portion of the Ditch are located on Blairs' property, water rights owned by Blairs are not taken out of the Ditch. Bainters and Creekside Meadows, whose water rights are taken out of the Ditch, therefore require access to the Headgate and the Ditch for maintenance and inspection purposes.

6. Fleshman Creek Road is a County Road which parallels Fleshman Creek and provides access to all of the properties described above.

7. The parties hereto desire to enter this Ditch/Headgate Easement Agreement for the following purposes:

(a) To memorialize, in writing, easements from Blairs in favor of Bainters and Creekside Meadows, for access to, from, and along the Headgate and the Ditch for the purposes described herein;

(b) To memorialize, in writing, an easement from Bainters in favor of Creekside Meadows, for access along the Ditch; and

(c) To define the rights and obligations of the parties regarding the easements granted herein.

NOW, THEREFORE, IT IS AGREED as follows:

8. **Incorporation of Recitals.** The parties agree that the foregoing Recitals are true and correct, and by this reference shall become a part of the parties' warranties, representations, covenants, and conditions of this Agreement.

9. **Ditch/Headgate Easement, Blairs to Bainters/Creekside Meadows.** Blairs hereby grant to Bainters and Creekside Meadows, and their heirs, successors, and assigns, a perpetual non-exclusive access easement along that portion of the Ditch that is situated on Blairs' property for the purpose of use, inspection, repair, and maintenance of the Ditch and Headgate, by foot, equipment, or all-terrain vehicle. The easement shall be twenty (20) feet in width, lying ten

(10) feet on each side of the center line of said ditch. The Ditch/Headgate easement shall begin at the location where the ditch channel departs Fleshman Creek, shall continue to and through the Headgate, and shall continue along the Ditch until the point where the Ditch passes into Bainters' property, described above, as depicted on Exhibit "A" attached hereto.

10. **Ditch Easement, Bainters to Creekside Meadows.** Bainters hereby grant to Creekside Meadows, and its successors, and assigns, a perpetual non-exclusive access easement along that portion of the Ditch that traverses Bainters' property for the purpose of use, inspection, repair, and maintenance of the Ditch, by foot, equipment, or all-terrain vehicle. The easement shall be twenty (20) feet in width, lying ten (10) feet on each side of the center line of said ditch. This Ditch easement shall begin at the location where the Ditch departs Blairs' property, and shall continue along the Ditch until the point where the ditch passes into Creekside Meadows' property, described above, as depicted on Exhibit "A" attached hereto.

11. **Pedestrian Easement, Blairs to Bainters and Creekside Meadows.** Blairs hereby grant to Bainters and Creekside Meadows, and their successors and assigns, a non-exclusive pedestrian access easement for access to the Headgate located upon Blairs' property, for purposes of inspection, repair and maintenance of the Headgate, opening and closing the Headgate, and to access the Ditch Easement. The pedestrian easement shall be ten (10) feet in width. The Easement shall begin at the gap in the fence along Fleshman Creek Road located approximately 150 feet east of the Blairs' driveway, and shall proceed in a southeasterly direction upon the most direct feasible route across Blairs' property from the fence gap to the Headgate. This easement shall remain in effect for a period of ten (10) years after the date of this Agreement and shall automatically renew

for successive ten (10) year terms thereafter, unless terminated in accordance with the provisions of paragraph 15 hereof.

12. **Driveway/Gate Easement for heavy equipment access.** Blairs hereby grant to Bainters and Creekside Meadows an access easement to enter the Blairs' existing driveway and to pass through the farm gate to access the Headgate with heavy equipment, for the sole purpose of conducting major repairs and/or replacement of the Headgate, diversion dam, and/or measuring devices; provided, however, that if the use of said Driveway/Gate Easement is necessary for major repair/replacement of the Headgate and related improvements, Bainters and/or Creekside shall give Blairs at least Twenty (20) days advance notice as to such use, and shall, in addition, obtain the written consent of Blairs as to the time of day and year such use is permitted, all to the end that the use of heavy equipment on the driveway/gate easement to the Headgate does not interfere with Blairs' personal activities or the agricultural use of their property. This easement shall only provide access to the area of land in and around the Headgate on the north side of Fleshman Creek; any access to the south side of Fleshman Creek would require permission from Blairs. This easement shall remain in effect for a period of ten (10) years after the date of this Agreement and shall automatically renew for successive ten (10) year terms thereafter, unless terminated in accordance with the provisions of paragraph 15 hereof.

The parties hereby agree that Bainters and Creekside Meadows shall replace the existing headgate and diversion dam; complete any needed repairs on related improvements; and clean up the Headgate area, on or before April 15, 2007. Blairs hereby give their advance consent to Bainters/Creekside Meadows' use of the Driveway/Ditch easement in connection with this job. The parties agree that the goal of such repair/replacement/cleanup shall be to improve the safety and the

aesthetic qualities of the Headgate and surrounding area, while causing minimal disturbance to the Blair property.

13. Maintenance obligations.

(a) Unless otherwise agreed, Blairs shall have no obligation to repair or maintain either the Ditch or the Headgate. In the course of using, maintaining, and/or repairing the Ditch, the Headgate, and/or the related Easements, Bainters and Creekside Meadows shall not cause any damage to Blairs' property; and if any damage is caused by Bainters/Creekside Meadows, they shall restore the property subject to these easements to the condition that existed at the time prior to the damage being done. Blairs shall cooperate with Bainters and Creekside Meadows in obtaining any permits or other authorizations as they may be required to obtain for the maintenance and use of the Ditch and Headgate.

(b) Likewise, with respect to the Ditch and related Easement described in paragraph 10 above, in the course of using, maintaining, and/or repairing the Ditch across Bainters' property, Creekside Meadows shall cause no damage to said property; and if any damage is caused by Creekside Meadows, it shall restore the property subject to said Easement to the condition that existed at the time prior to the damage being done.

14. Easement appurtenant. Easements granted herein shall be appurtenant to the properties benefited thereby, as described above.

15. Termination of Pedestrian Easement or Driveway/Gate Easement.

(a) With respect to the Pedestrian Easement and the Driveway/Gate Easement granted by Blairs to Bainters and Creekside Meadows pursuant to paragraphs 11 and 12 hereof, if Bainters or Creekside Meadows use either of said easements for purposes outside the scope granted herein,

Blairs may, at their option, terminate said easements, or either of them, with respect to the party making impermissible use thereof, by giving Bainters or Creekside Meadows written notice of termination at least sixty (60) days prior to the conclusion of the 10-year term provided herein; provided, however, that said easements shall not immediately terminate if, within thirty (30) days after receiving such notice of termination, Bainters or Creekside Meadows commence arbitration proceedings in accordance with paragraph 15(b), contesting Blairs' right to so terminate the easement(s). In such an event, such easement(s) shall terminate only if there is a final decision in the arbitration proceeding that Bainters or Creekside Meadows used the easement(s) for purposes outside the scope of this Agreement.

(b) Any disputes arising with respect to the Pedestrian Easement and the Driveway/Gate Easement granted by Blairs to Bainters and Creekside Meadows pursuant to paragraphs 11 and 12 hereof, shall be determined by binding arbitration in Livingston, Montana, pursuant to the rules of the Uniform Arbitration Act as codified at MCA §§27-5-101 through 27-5-324. All parties shall share equally the expenses or fees of the arbitration, but shall be responsible for their own attorney's fees. The decision reached by the arbitrator or arbitrators shall be binding upon all parties and enforceable in the courts of the State of Montana.

In agreeing to the method of dispute resolution method to the extent set forth in this arbitration clause, the parties specifically acknowledge that each prefers to resolve disputes by arbitration rather than through the formal court process. Further, each party understands that by agreeing to arbitration, such party is waiving the right to resolve disputes arising hereunder in Court by a judge or jury, the right to a jury trial, the right to discovery available under the Montana Rules of Civil Procedure, the right to findings of fact based on the evidence, and the

right to enforce the law applicable to any case arising hereunder by way of appeal, except as allowed under the Uniform Arbitration Act as codified in Montana. Each party also acknowledges that each has had an opportunity to consider and study this arbitration provision, to consult with counsel, to suggest modification or changes, and has received a copy of the Uniform Arbitration Act as codified in Montana and has reviewed the same.

(c) Except as expressly provided in this paragraph 15, the terms, conditions, and enforcement of this Agreement shall not be subject to arbitration, but rather shall be subject to adjudication in a Court of competent jurisdiction, subject to the laws of the state of Montana.

16. **Mutual Release of Liability/Indemnification.** The parties hereto assume all liabilities which may arise in connection with their own use of the Easements, and each party agrees to release, indemnify, and hold the other parties harmless from and against any and all claims, demands, liabilities, damages, expenses, and costs (including reasonable attorney's fees), arising from such party's use of the Easements described herein (including use by such party's employees, agents, invitees, licensees, or guests).

17. **Additional Easements/Exhibit.** The map attached as Exhibit "A" is an approximate sketch included for reference purposes. The exact location of the Ditch has not been surveyed. In the event it is determined that easements from additional property owners for the Ditch are required, the party(s) requiring such additional easement(s) may seek the granting of any supplemental easement(s) which may be required. The parties hereto recognize that the easements granted hereunder are valid and binding, irrespective of the potential need for obtaining supplemental easements.

18. **Agreement Binding.** The parties agree that this Agreement shall be binding upon and shall inure to the benefit of the parties and their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands hereto, as of the day and year first above written.




CHARLES T. BLAIR



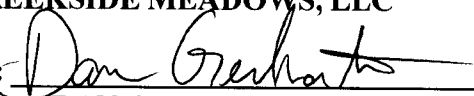
KATHY BLAIR
"BLAIRS"



CLYDE E. BANTER



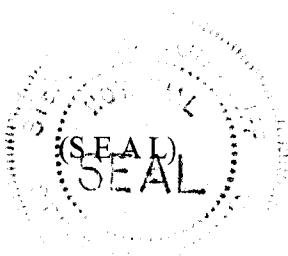
IRENE R. BANTER
"BAINTERS"

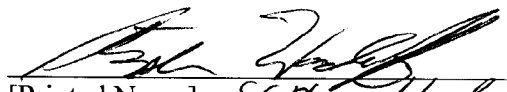
CREEKSIDE MEADOWS, LLC
By: 

DAN GERHARTER, Its Manager
"CREEKSIDE MEADOWS"

STATE OF MONTANA)
 : ss.
County of Park)

THIS INSTRUMENT was acknowledged before me, on this 12 day of October, 2006, by Charles T. Blair, one of the parties hereto.






[Printed Name] Stephen Wadsworth
NOTARY PUBLIC for the State of Montana
Residing at Livingston, MT
My Commission expires: 10/18/2007

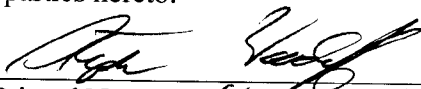
STATE OF MONTANA)
 : SS.
County of Park)

THIS INSTRUMENT was acknowledged before me, on this 12 day of October, 2006, by Kathy Blair, one of the parties hereto.


[Printed Name] Stephen Woodruff
NOTARY PUBLIC for the State of Montana
Residing at Livingston, MT
My Commission expires: 10/18/2007

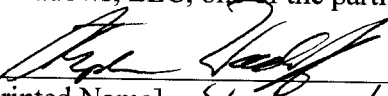
STATE OF MONTANA)
 : SS.
County of Park)

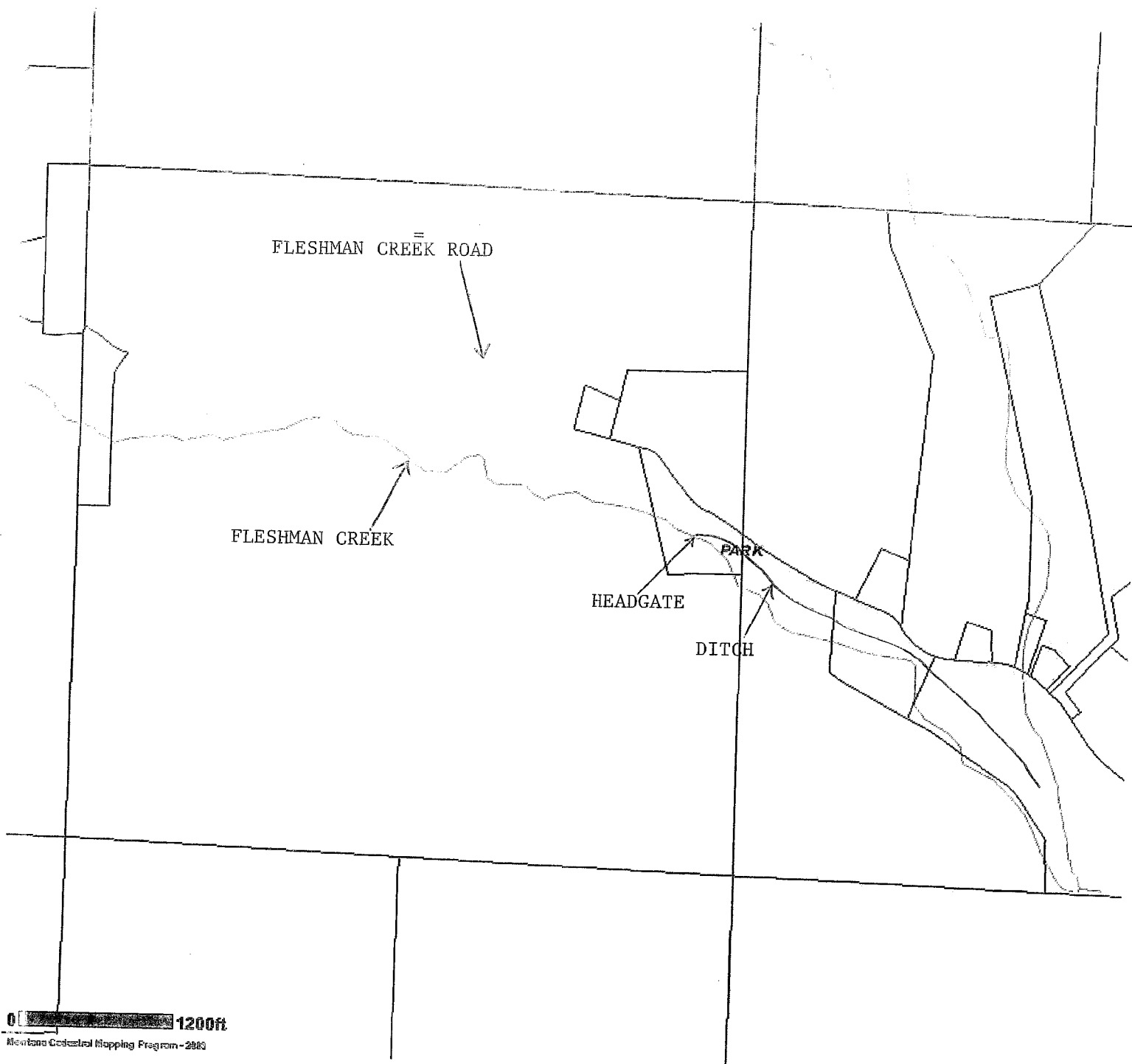
THIS INSTRUMENT was acknowledged before me, on this 10 day of May, 2006, by Clyde E. Bainter and Irene R. Bainter, parties hereto.


[Printed Name] Stephen Woodruff
NOTARY PUBLIC for the State of Montana
Residing at Livingston, MT
My Commission expires: 10/18/2007

STATE OF MONTANA)
 : SS.
County of Park)

THIS INSTRUMENT was acknowledged before me, on this 10 day of May, 2006, by Dan Gerharter, Manager of Creekside Meadows, LLC, one of the parties hereto.


[Printed Name] Stephen Woodruff
NOTARY PUBLIC for the State of Montana
Residing at Livingston, MT
My Commission expires: 10/18/2007



CS 1170, CB982
Q S/D 517

