

Environmental Assessment Checklist

Project Name: Herman Gulch Reciprocal Access Agreement (RAA)
Proposed Implementation Date: May 2015
Proponent: City and County of Butte-Silver Bow & Montana Department of Natural Resources and Conservation
County: Silver Bow

Type and Purpose of Action

Description of Proposed Action:

The granting and acquiring of permanent road access rights (easements) on an existing closed (gated) road crossing lands owned by both the City and County of Butte Silver Bow (BSB) and the State of Montana Department of Natural Resources and Conservation (DNRC). The grant to BSB would be for the purposes of management of their facilities associated with the Basin Creek Municipal Water Treatment Plant. The grant to DNRC would be for all lawful purposes (map exhibit 1-A, sheet 1 of 2).

BSB will also grant permanent non- motorized access rights in favor of the public on that portion of the (un-gated) Herman Gulch Road crossing BSB property to access DNRC lands in the NW1/4NE1/4 of Section 36, T2N-R8W (map exhibit 1-A, sheet 2 of 2)

The Herman Gulch RAA project is located in portions of the NE1/4NW1/4 and NW1/4NE1/4 of Sec. 36, T2N R8W. (vicinity map)

Beneficiary	Legal Description	Total Acres	Treated Acres
Common Schools- K-12 Education	NW1/4NE1/4 Sec. 36 T2N R8W	40	1.21 ac.

Objectives of the project include:

- To provide permanent access to both BSB and to DNRC for the management of their respective properties on a road closed to public motorized use.

Proposed activities include:

- BSB municipal government is proposing to grant DNRC a 60' wide, all lawful purpose, permanent access easement on an existing closed road across approximately .16 miles of property owned by BSB. This easement would provide DNRC with legal access to 40 acres of common school trust land in the NW1/4NE1/4 Sec. 36 T2N-R8W.

In addition BSB is proposing to grant non-motorized access rights in favor of the public across their property on the (un-gated) Herman Gulch Road from the Basin Creek County Road to State land in the NW1/4NE1/4 of section 36 T2N-R8W.

- DNRC is proposing to grant BSB a 40' wide permanent access easement on an existing (closed) road across approximately .25 miles of property owned by DNRC. This road would access the eastern most portions of BSB's easement for their Basin Creek water treatment plant and would be for management of the municipal water treatment plant facilities. The new plant is part of a major upgrade for that portion of the municipal water system provided by the Basin Creek Reservoir. The water treatment facility easement on State trust lands is primarily for pressurizing infrastructure. This road easement would access the pressurizing infrastructure.

The lands involved in this proposed project are held in trust by the State of Montana. (Enabling Act of February 22, 1889; 1972 Montana Constitution, Article X, Section 11). The Board of Land Commissioners and the DNRC are required by law to administer these trust lands to produce the largest measure of reasonable and legitimate return over the long run for the beneficiary institutions (Section 77-1-202, MCA).

The DNRC would manage lands involved in this project in accordance with:

- Administrative Rules for Forest Management (ARM 36.11.401 through 471), and all other applicable state and federal laws.

Project Development

SCOPING:

- DATE: The original DNRC easement grant to BSB for the construction of the Basin Creek water treatment facility was scoped from 1-31-14 to 2-21-14.
 - This reciprocal easement proposal involves an additional road easement grant to BSB to correct an omission in the original easement grant that will afford BSB motorized access to the upper end of their current pressurizing infrastructure easement. This grant is on an existing road.
 - Because of the corrective nature of the DNRC easement grant and it's relatively small scale, it was not felt that additional public notice was warranted
- PUBLIC SCOPED:
 - The original scoping notice was posted on the DNRC Website: <http://dnrc.mt.gov/PublicInterest/Notices/Default.asp>
 - Sent to 34 adjacent landowners, DNRC's statewide scoping list and other interested parties.
- AGENCIES SCOPED during the January/February public involvement:
 - FWP
 - Montana Attorney General's Office
 - Office of Securities & Insurance
 - Office of the State Superintendent of Public Instruction

- Office of Secretary of State for Montana
- Beaverhead Deer Lodge National Forest
- COMMENTS RECEIVED:
 - How many: Three
 - Original Concerns:
 - Concern was expressed about blockage of the Herman Gulch Road preventing access to homes and egress for work and emergencies. *Note: There are no authorizations issued by the State for use of the Herman Gulch Road across School Trust Lands.*
 - Implementation of the action alternative may impair the movement of elk through their historic migration corridor.
 - The proposed action could negatively impact critical winter forage for the local elk population
 - Ground disturbance on the Trust Land could impact cultural resources which might be present
 - Ground disturbance, especially on steeper slopes can lead to soil erosion causing negative impacts to this resource.
 - The proposed action may introduce new state listed noxious weeds to the site or spread existing populations
- Results (how were concerns addressed):
 - Access to the power plant is from the Basin Creek Road. Road access from Herman Gulch has not been proposed. Access for the NW1/4NE1/4 Section 36, T2N-R8W is to be provided by the reciprocal access agreement with BSB. This agreement will also provide a grant of non-motorized access rights in favor of the public across BSB property on the Herman Gulch Road from the Basin Creek County Road to State land in the NW1/4NE1/4 of section 36 T2N-R8W.
 - Elk movement corridors and winter forage
Proximity of the project area to 2 open roads likely disturbs big game and limits the usefulness of the project area for big game. Additionally, the project area is included in an active grazing lease, likely limiting the availability of forage for elk and deer. Recent research has indicated that elk can acclimate to more suburban environments and the proposed modifications on DNRC-managed lands would likely not displace elk in the long term.
 - Cultural Resources
A class III level intensity cultural resource inventory was conducted by DNRC's staff archeologist. No cultural or paleontological resources were identified.
 - Ground Disturbance and soil erosion
The proposed easement grants are all on existing roads and do not require additional ground disturbance. Provisions for road maintenance (to address erosion concerns) are included within the easement documents. Rock armored drain dips have been installed every 200 ft along the road.
 - Noxious weed introduction and spread
Noxious weed control responsibilities are included within easement documents.

Internal and external issues and concerns were considered during project planning and design. DNRC specialists were consulted, including; Archeologist, Wildlife Biologist, and Soil Scientist/Hydrologist.

OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED: (Conservation Easements, Army Corps of Engineers, road use permits, etc.)

None

ALTERNATIVES CONSIDERED:

No-Action:

Under this alternative DNRC would not grant or receive access from BSB.

Action Alternative (Provide a brief description of all proposed activities):

Under this alternative BSB and DNRC would reciprocate in granting permanent motorized access rights on an existing (closed) road for management of each party's respective facilities/property. In addition BSB would grant non-motorized access rights in favor of the public across BSB property on the Herman Gulch Road from the Basin Creek County Road to State land in the NW1/4NE1/4 of section 36 T2N-R8W.

Impacts on the Physical Environment

Evaluation of the impacts on the proposed action including **primary, secondary and cumulative** impacts on the Physical Environment.

Vegetation	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Noxious Weeds			X		Yes	Provision for noxious weed control incorporated into easements.
Rare Plants	X					Natural Heritage Program lists none
Vegetative community			X		Yes	Existing roads. Provision for maintenance to control erosion is in easements
Old Growth	X					

Geology & Soil Quality and Moisture	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Nutrient Cycling	X					
Soil Productivity	X					
Slope Stability		X			Yes	Existing roads. Provision for maintenance to control erosion is in easements
Erosion			X		Yes	Existing roads. Provision for maintenance to control erosion is in easements
Compaction	X					

Water Quality, Quantity and Distribution	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Sediment Delivery	X					
Water Yield	X					

Comments: No water on that portion of the tract involved with this project.

Water Quality, Quantity and Distribution Mitigations: None

Fisheries	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Sediment	X					
Flow Regimes	X					
Woody Debris	X					
Stream Shading	X					
Stream Temperature	X					
Connectivity	X					
Populations	X					

Comments: No waterways involved with this project

Fisheries Mitigations: No fisheries present

Wildlife	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Threatened and Endangered Species						
Grizzly bear (<i>Ursus arctos</i>) Habitat: Recovery areas, security from human activity	X					

<p>Canada lynx (<i>Felix lynx</i>) Habitat: Subalpine fir habitat types, dense sapling, old forest, deep snow zone</p>	X					
<p>Bull Trout (<i>Salvelinus confluentus</i>) Habitat: clean cold water, streams, rivers, lakes</p>	X					
Sensitive Species						
<p>Bald eagle (<i>Haliaeetus leucocephalus</i>) Habitat: Late-successional forest more than 1 mile from open water</p>	X					Closest Bald eagle nest 20 miles.
<p>Black-backed woodpecker (<i>Picoides arcticus</i>) Habitat: Mature to old burned or beetle-infested forest</p>	X					
<p>Black-tailed prairie dog (<i>Cynomys ludovicianus</i>) Habitat: grasslands, short-grass prairie, sagebrush semi-desert</p>	X					
<p>Coeur d'Alene salamander (<i>Plethodon idahoensis</i>) Habitat: Waterfall spray zones, talus near cascading streams</p>	X					
<p>Columbian sharp-tailed grouse (<i>Tympanuchus Phasianellus columbianus</i>) Habitat: Grassland, shrubland, riparian, agriculture</p>	X					
<p>Common loon (<i>Gavia immer</i>) Habitat: Cold mountain lakes, nest in emergent</p>	X					

vegetation						
Fisher <i>(Martes pennanti)</i> Habitat: Dense mature to old forest less than 6,000 feet in elevation and riparian	X					
Flammulated owl <i>(Otus flammeolus)</i> Habitat: Late-successional ponderosa pine and Douglas-fir forest	X					
Gray Wolf <i>(Canis lupus)</i> Habitat: Ample big game populations, security from human activities	X					
Harlequin duck <i>(Histrionicus histrionicus)</i> Habitat: White-water streams, boulder and cobble substrates	X					
Northern bog lemming <i>(Synaptomys borealis)</i> Habitat: Sphagnum meadows, bogs, fens with thick moss mats	X					
Mountain plover <i>(Charadrius montanus)</i> Habitat: short-grass prairie, alkaline flats, prairie dog towns	X					
Peregrine falcon <i>(Falco peregrinus)</i> Habitat: Cliff features near open foraging areas and/or wetlands	X					
Pileated woodpecker <i>(Dryocopus pileatus)</i> Habitat: Late-successional ponderosa pine and larch-fir forest	X					
Greater Sage grouse <i>(Centrocercus)</i>	X					

<i>urophasianus</i> Habitat: sagebrush semi-desert						
Townsend's big-eared bat (<i>Plecotus townsendii</i>) Habitat: Caves, caverns, old mines	X					
Montana Arctic Grayling (<i>Thymallus arctucus montanus</i>) Habitat: clean cold water, streams, rivers, lakes	X					
Westslope Cutthroat Trout (<i>Oncorhynchus clarki lewisi</i>) Habitat: clean cold water, streams, rivers, lakes	X					
Columbia Redband Trout (<i>Oncorhynchus mykiss gairdneri</i>) Habitat: clean cold water, streams, rivers	X					
Wolverine (<i>Gulo gulo</i>) Habitat: Alpine tundra and high-elevation boreal and coniferous forests that maintain deep persistent snow into late spring	X					
Spotted Bat (<i>Euderma maculatum</i>) Habitat: rock outcrops, cliffs, caves, old mines	X					
Yellowstone Cutthroat Trout (<i>Oncorhynchus clarkii bouvieri</i>) Habitat: white-water streams, boulder and cobble substrates	X					
Big Game Species						
Elk		X				Two existing open roads limit the usefulness of the project area for big game. Increased legal non-motorized access would not
Whitetail		X				

Mule Deer		X				contribute to increases in big game disturbance and displacement since no physical restriction exists on the road where access would be granted. No appreciable changes to existing forage or other habitat attributes would be anticipated.
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Air Quality	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Smoke	X					
Dust	X					

Will the proposed action result in potential impacts to:	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Historical or Archaeological sites	X					
Aesthetics	X					
Demands on Environmental Resources of Land, Water or Energy	X					

OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA: *List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.*

- Butte Silver Bow master plan

Impacts on the Human Population

Evaluation of the impacts on the proposed action including **primary, secondary and cumulative** impacts on the Human Population.

Will the proposed action result in potential impacts to:	IMPACT				Can Impact be mitigated?	Comment Index
	N/A	Negligible	Minor	High		
Health and Human Safety				X		A positive impact would be produced by improved access to municipal water treatment facilities
Industrial, Commercial and Agricultural Activities and Production	X					
Quantity and Distribution of Employment	X					
Local Tax Base and Tax Revenues	X					
Demand for Government Services	X					Access provided by this road for maintenance would facilitate operation of the new plant allowing Butte Silver Bow to provide better services for water user in the city and part of the county
Access To and Quality of Recreational and Wilderness Activities			X			BSB would grant non-motorized access rights in favor of the public across BSB property on the Herman Gulch Road.
Density and Distribution of population and housing	X					
Social Structures and Mores	X					
Cultural Uniqueness and Diversity	X					

Comments:

BSB would grant non-motorized access rights in favor of the public across BSB property on the Herman Gulch Road from the Basin Creek County Road to State land in the NW1/4NE1/4 of section 36 T2N-R8W.

Locally Adopted Environmental Plans and Goals: *List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.*

- Butte Silver Bow operates under a county wide master plan

Other Appropriate Social and Economic Circumstances:

Costs, revenues and estimates of return are estimates intended for relative comparison of alternatives. They are not intended to be used as absolute estimates of return. The estimated stumpage is based on comparable sales analysis. This method compares recent sales to find a market value for stumpage. These sales have similar species, quality, average diameter, product mix, terrain, date of sale, distance from mills, road building and logging systems, terms of sale, or anything that could affect a buyer's willingness to pay for.

No Action: The "no action" alternative would not provide a permanent solution to local access needed by BSB and DNRC.

Action: The "action" alternative would permanently address (solve) some local access needs by BSB and DNRC. BSB has agreed that the net amount the State owes BSB is considered to be a donation by BSB. This donation equals \$8,350.

Does the proposed action involve potential risks or adverse effects that are uncertain but extremely harmful if they were to occur?

No

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant?

No

Environmental Assessment Checklist Prepared By:

Name: Robert H Storer
Title: SWLO Trust Lands Program Manager
Date: 3-6-15

Finding

Alternative Selected

Action Alternative – This alternative best meets the objectives of both BSB and DNRC, to secure legal permanent access. Conversely, the No Action alternative does nothing to improve the current (undesirable) access situation.

Significance of Potential Impacts

No significant impacts are anticipated with the implementation of the Action Alternative. In addition this mitigation measures as identified in this document.

Need for Further Environmental Analysis

EIS

More Detailed EA

No Further Analysis

Environmental Assessment Checklist Approved By:

Name: Dana Boruch

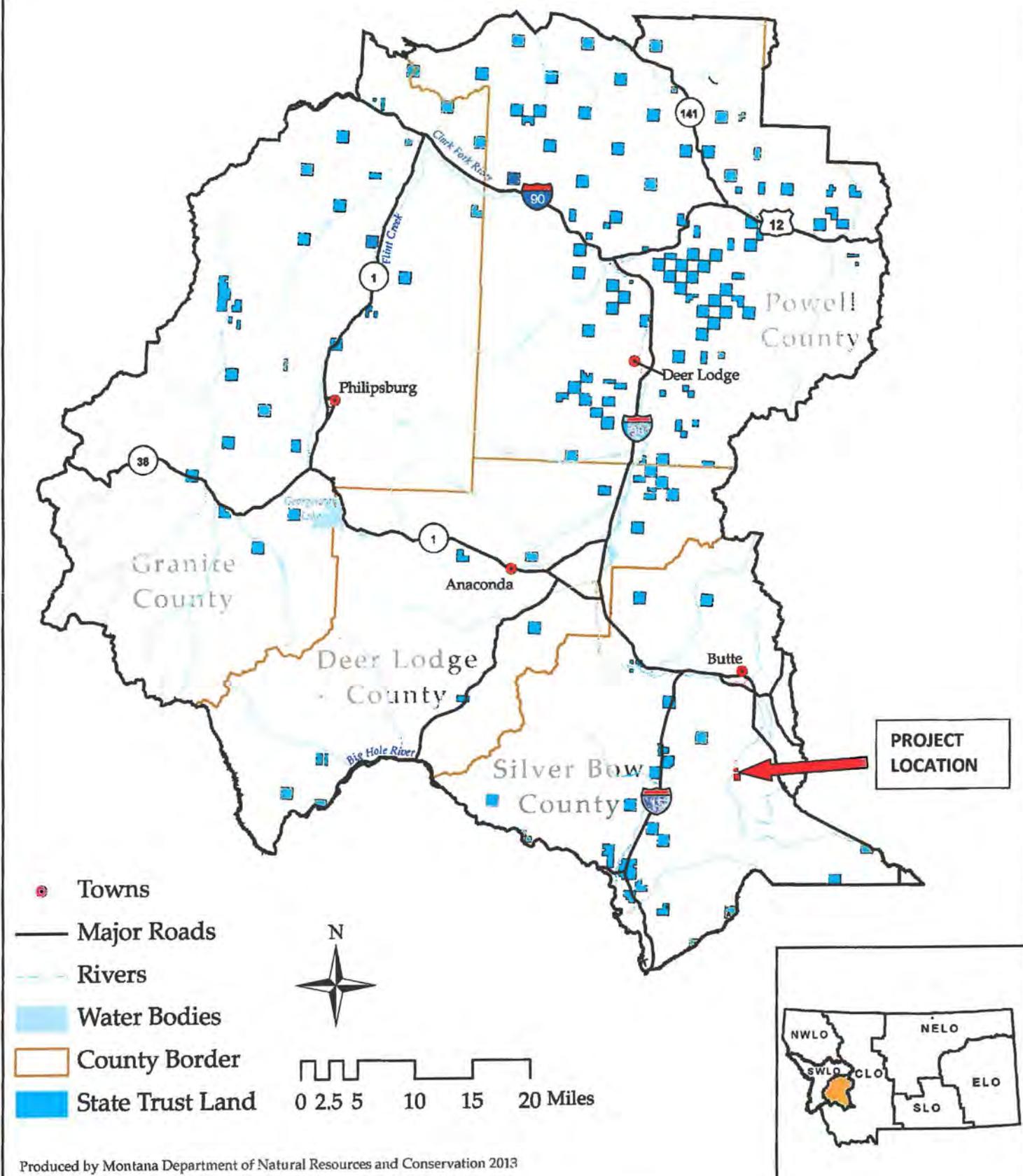
Title: Right of Way Specialist Southwest Land Office

Date: 3-6-15

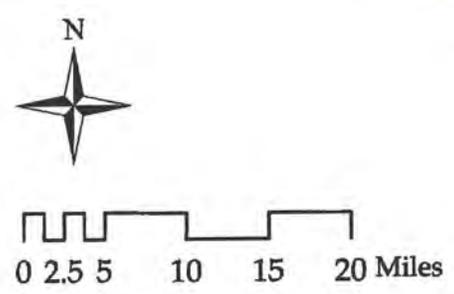
Signature: /s/ *Dana M. M.*

HERMAN GULCH VICINITY MAP

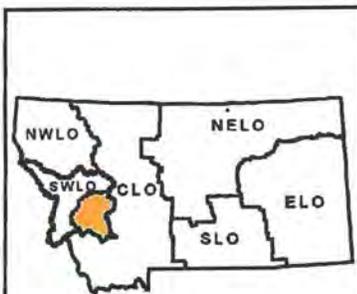
ANACONDA UNIT



- Towns
- Major Roads
- Rivers
- Water Bodies
- County Border
- State Trust Land



Produced by Montana Department of Natural Resources and Conservation 2013
Datum: NAD 1983 Montana State Plane



HERMAN GULCH

Reciprocal Access Agreement

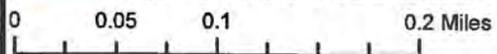
MONTANA DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION
and
BUTTE-SILVER BOW CITY-COUNTY

Section 36, T.2N., R.8W.

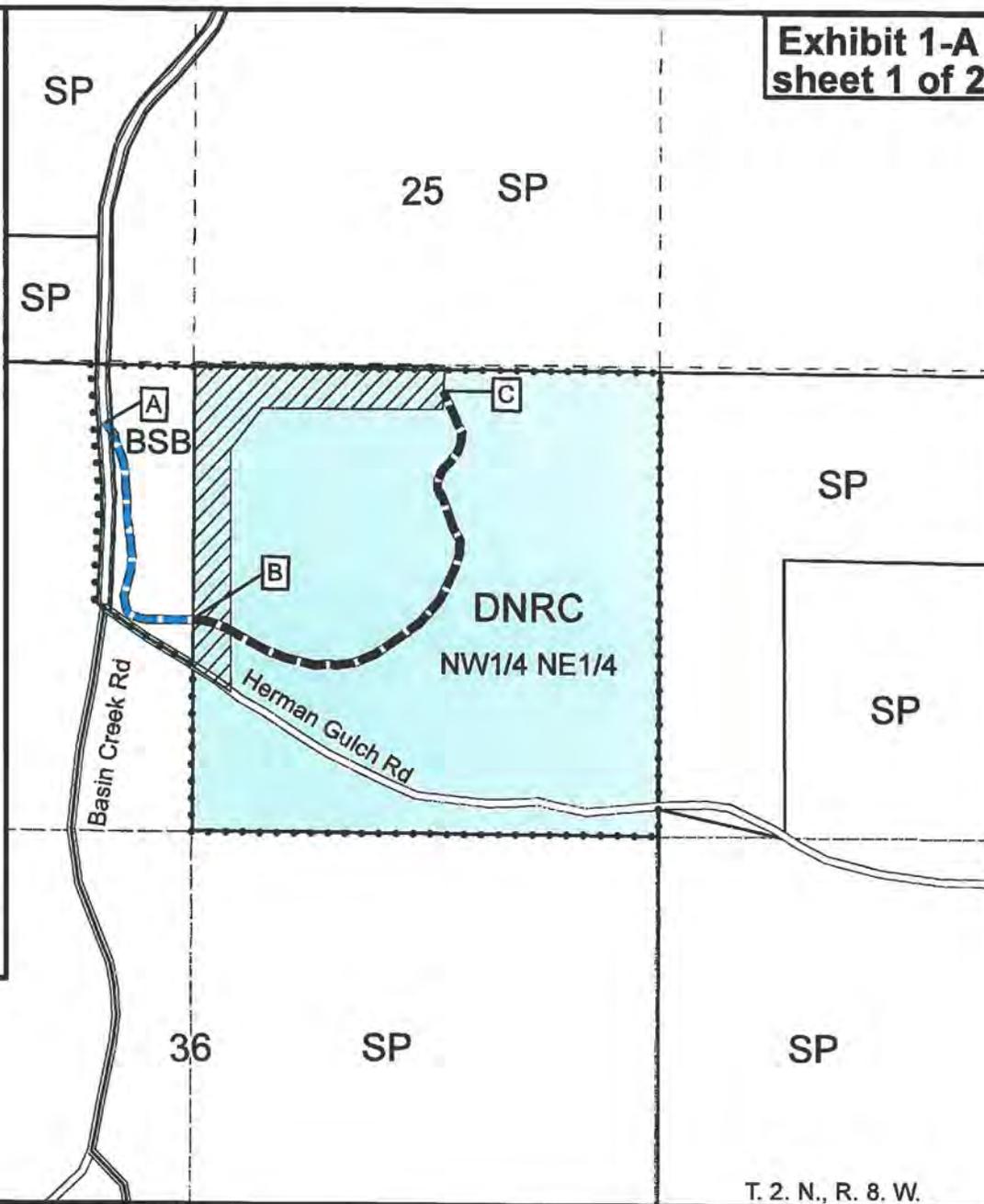
Silver Bow County, Principal Meridian, Montana

LEGEND

- Tributary Area
- [A] Road Segment Terminus
- - - Section Subdivision
- [Hatched Box] Water Treatment Facility Easement
- DNRC Department of Natural Resources and Conservation
- BSB City and County of Butte-Silver Bow
- SP Small Private
- [Dashed Line] Easement from DNRC to BSB
- [Blue Dashed Line] Easement from BSB to DNRC



GeoControl LLC 1-30-2015



T. 2. N., R. 8. W.

HERMAN GULCH

Reciprocal Access Agreement

MONTANA DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION
and
CITY AND COUNTY OF BUTTE-SILVER BOW
Section 36, T.2N., R.8W.
Silver Bow County, Principal Meridian, Montana

LEGEND



Non-Motorized Access in Favor
of the Public

DNRC Department of Natural Resources and
Conservation

BSB City and County of Butte-Silver Bow

SP Small Private



NORTH

0 45 90 180 Feet

GeoControl LLC 1-30-2015

Exhibit 1-A
sheet 2 of 2

