

**AGREEMENT FOR TEMPORARY PRIVATE CROSSINGS, HAUL ROAD, TWO SPUR ROADS, AND
CROSSING APPROACHES**

THIS AGREEMENT ("Agreement"), made this 25th day of January, 2018, ("Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation (hereinafter called "BNSF") and the **STATE OF MONTANA ACTING BY AND THROUGH THE MONTANA DEPARTMENT OF JUSTICE NATURAL RESOURCE DAMAGE PROGRAM** (hereinafter called "State," and collectively with BNSF, the "Parties").

WHEREAS, in December 2012 the Butte Natural Resource Damage Restoration Council and the State of Montana Natural Resource Damage Program ("NRDP") issued the Final Butte Area One Restoration Plan ("BAO Plan"); and

WHEREAS, the BAO Plan calls for, in part, the removal of certain historic mine wastes, including Parrot Tailings ("Parrot Tailings" - as defined below); and

WHEREAS, the State has determined that the Parrot Tailings and its related overburden and slag would be Bevill exempt, and not hazardous waste, if managed or disposed as wastes; and

WHEREAS, in December 2016, the State entered into an access agreement that provided, "recognizing the community interest in the removal of the Parrot Tailings, MR [Montana Resources], in cooperation with Atlantic Richfield Company, is willing to construct the Stockpile Location on MR Property and take responsibility for removing the Parrot Tailings from the Stockpile Location to an active mining area of MR's mine property with MR's labor and equipment at no cost to the State, thereby resulting in a potential project cost-savings to the State;"

WHEREAS, the State has evaluated several locations for placement of the removed Parrot Tailings and determined that a location on certain property owned by MR is cost-effective and low risk; and

WHEREAS, the State has selected the means and methods for removing and transporting the Parrot Tailings, as outlined in the Parrot Amendment; and

WHEREAS, the State has determined that construction dewatering water generated during the State's work is not hazardous waste or would be Bevill exempt if managed or disposed as a waste

WHEREAS, a revised BAO Parrot Amendment for Parrot Tailings Waste Removal ("Parrot Amendment") was approved by the Governor on December 27, 2016; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree to the following:

GENERAL

1. BNSF hereby grants the State a non-exclusive license, subject to all rights, interests, estates of third parties, including, without limitation, any leases, licenses, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct, maintain, and use in strict accordance with this Agreement and consistent with Drawings 1-3, 1-6, 1-7, 1-9, 4-1, 4-2, 4-3, 4-5, 4-6, 4-7, 4-7a, 4-9, 9-1, 9-5, 9-6 and 9-7, reviewed and accepted by BNSF, but subject to modification based on mutual written agreement arising from field conditions, safety concerns, or subsequent changes in traffic patterns ("the Drawings and Specifications," attached as Exhibit A), a haul road, two spur roads, approaches to the temporary crossings, and two twenty-four (24') feet wide temporary at-grade crossings ("Crossings"), across the rail corridor of BNSF at or near BNSF's station of Butte, County of Silver Bow, State of Montana, Line Segment 0326, at approximately Mile Post 69.94 and 70.03, at the location and in the manner shown upon the Drawings and Specifications (collectively, the Crossings, the haul road, and two spur roads, all on BNSF property, will be "Premises"). BNSF's acceptance of the referenced drawings

does not relieve the State of obligations under this Agreement including, but not limited to, controlling access to the Property and managing stormwater associated with its project. On the State's behalf (and at the State's expense), BNSF shall construct and remove the Crossings. If BNSF, in consultation with the State, determines the Crossings need to be increased in length, the State will be responsible for the expense of the expansion of the Crossings. For convenience, said Crossings, including crossing surface and all appurtenances thereto between the ends of railroad ties, cattle guards, farm gates or barriers, drainage facilities, traffic signs or devices, identification signs approved by BNSF, whistling posts, or other appurtenances, if any, are hereinafter collectively referred to as the "Crossings." The State's contractor will construct and maintain the haul road, two spur roads, and approaches to the Crossings.

2. The State shall not disturb any improvements of BNSF or BNSF's existing lessees, licensees, easement beneficiaries, or lien holders, if any, or interfere with the use of such improvements. To the extent the State determines it needs to cut into BNSF's existing BRES caps to conform to State design documents, State shall produce written confirmation that EPA/DEQ and BSB do not object to the State's proposed excavation into the BRES caps, construction stormwater best management practices employed by the State during the State's work, and State plan to restore the BRES caps on termination of this Agreement or completion of the State's work, whichever comes first. Should any fencing or signage need to be temporarily removed or relocated to accommodate the roads and Crossing designs approved by BNSF, the State's contractor will coordinate with BNSF to minimize any impact on railroad operations. Unless the Parties otherwise agree, any fencing or signage that is removed or relocated must be returned to its original location after completion of the State's work on the Premises or the termination of this Agreement, whichever comes first, and must be rebuilt to as good or better quality than the fence or sign removed.
3. It is expressly stipulated that access to the Premises is to be strictly private, to be solely used for the purpose set forth in this Agreement and is not intended for and shall not be for public use. The State, without expense to BNSF, will take any and all necessary action to preserve the private character of the Premises and prevent its use as a public road. In the event BNSF reasonably determines that:
 - (a) the Premises is being used for a purpose or in a manner not set forth in this Agreement;
 - (b) the State and BNSF are unable to agree to reasonable field adjustments to Crossings/haul road designs to accommodate actual field conditions, changes in rail and/or haul traffic volume, after following the process in Paragraph 20;
 - (c) there is a significant change in the volume or nature of traffic at the Premises; or
 - (d) The State has in any way substantially breached the terms or conditions of this Agreement, BNSF shall have the right to terminate this Agreement in accordance with Paragraph 32. For purposes of this Agreement, the parties agree that any breach relating to a matter of railroad safety or relating to a failure of the consideration supporting this Agreement is a substantial breach or default.
4. In case of the eviction of the State by anyone owning or claiming title to or any interest in the Premises, BNSF shall not be liable to refund the State any compensation paid hereunder or for any damage the State sustains in connection therewith.
5. Any contractors or subcontractors performing work on the Premises on behalf of the State, or entering the Premises on behalf of the State, shall be deemed agents of the State for purposes of this Agreement and shall be subject to the terms and conditions contained herein and in Exhibit B.
6. Definitions:
 - a. For purposes of this Agreement, "Materials" means all soils and other materials of any kind the State will cause to be transported across the Premises in Butte, Montana pursuant to this Agreement, the Final Butte Area One Restoration Plan (BAO Plan), and/or the Parrot Amendment. Materials also include without limitation "Parrot Tailings," overburden, slag, and cover materials that are on, under or in the immediate vicinity (or otherwise derived from) historic

operations of or at the Parrot Smelter or otherwise within the area defined in Exhibit A (Drawing No. 1-3) as the Parrot Tailings Removal Project Site. "Parrot Tailings" are described by the State (through the Natural Resource Damage Program) in the BAO Plan and Parrot Amendment to include mining and smelter-related wastes in place.

- b. For purposes of this Agreement, "State's work" means the State's activities funded by the Natural Resource Damage Program and conducted by the State and/or its contractors and subcontractors pursuant to the Parrot Amendment including, but not limited to the excavation, removal and transfer of those Parrot wastes or Materials that the State contends will address a primary source of contamination to the alluvial aquifer, which the State contends is a source of contamination to Silver Bow Creek instream sediments and surface water. State's work includes the State's waste removal and any restoration activities in the Tailings Removal Area pursuant to the Parrot Amendment. The Materials transported by the State across the Premises will be delivered to property owned or controlled by MR for use and/or processing by MR in the Montana Resources Active Mine Area Operable Unit.
- c. "Drawings and Specifications," "Crossings," and "Premises" have the definitions provided in Paragraph 1.
- d. "State's construction work" means the installation, maintenance, or removal of haul roads, crossing approaches, stormwater improvements, and/or other improvements on the Premises that cause equipment or personnel to be within 25 feet of the centerline of the nearest track.

TERM

- 7. This Agreement shall commence on the Effective Date and shall continue until October 1, 2023 or the completion of the State's transportation of Materials across the Premises, whichever occurs first, subject to prior termination as hereinafter described.

COMPENSATION

- 8. The State agrees to pay to BNSF, for applicable labor and materials based on a then-current estimate, at the time it provides notice of the need for a Crossing:
 - (a) Estimated cost of construction and removal of the Crossings (associated signage and whistle posts) in the amount of Fifty-Nine Thousand Three Hundred Dollars (\$59,300). The estimate prepared by BNSF in June of 2017 is attached as Exhibit C. This estimate will remain active and in effect for 90 days. Additional labor and equipment charges will be incurred if the Crossings are temporarily removed and reinstalled during the term of this Agreement. Additional materials costs may be incurred if installed materials are damaged during the period of the State's use and require replacement. The State will pay this amount to BNSF before entering the Premises. If actual construction costs exceed this estimate by more than one hundred dollars (\$100.00), the excess costs (over \$100) shall be paid by the State within thirty (30) days of the date of receipt of a properly completed invoice. To the extent the State believes an invoice provided by BNSF is not properly completed, the State will notify BNSF of the specific claimed deficiencies in writing within 15 business days of State's receipt of the invoice. Although materials shall be ordered once State payment is received, the Crossings shall not be installed until shortly before State's communicated need for the Crossing. The State will provide BNSF ninety (90) days notice, in writing, of the need for one or both Crossings, and BNSF will ensure that the Crossing is installed by that date.
 - (b) At the request of the State and in consideration of the assurances provided herein and in the attached Exhibit B, BNSF is waiving the annual license fee that would typically apply to a license for a haul road like that sought, in part, here. The License fee for the access road being waived under this agreement is approximately \$2,400 per year. The License fee typically associated with a crossing would be approximately \$3,000 per temporary crossing per year of use. Licensing fees cover, in part, BNSF's administrative costs in processing and accommodating the proposed temporary uses on its property.

- (c) The State recognizes and acknowledges that the access being provided by BNSF under this Agreement benefits the State's project by reducing project costs, increasing efficiency and reducing adverse project impacts on the surrounding community. Public crossings are available to allow the work to proceed, but using publically available routes results in increased project costs and potential adverse impacts on the community.

All monetary payments under this Agreement from the State to BNSF shall be delivered solely to the following address:

BNSF Railway Company
Jones Lang LaSalle Representative for BNSF
P.O. Box 676160
Dallas, Texas 75267-6180

BNSF shall have the right to designate at any time and from time to time a different address for delivery of such payments. No payment sent to any other address shall be deemed received by BNSF unless and until BNSF has actually posted such payment as received on the account of the State, and the State shall be subject to all default provisions hereunder, late fees and other consequences as a result thereof in the same manner as if the State had failed or delayed in making any payment.

The State acknowledges that BNSF utilizes a fee collection system involving direct deposit of monies received through a financial institution selected by BNSF, which precludes BNSF's ability to exercise rejection of a payment before the State's check is cashed. The State agrees that as a condition of BNSF granting this Agreement, the State hereby waives any rights it may have under law to force continuation of this Agreement due to BNSF having accepted and cashed the State's fee remittance. BNSF shall have the option of rejecting the State's payment by refunding to the State the amount paid by the State, adjusted as set forth in this Agreement, and enforcing the termination provisions of this Agreement.

The State shall pay all amounts due as and when the same become due and payable, without demand, set-off, or deduction. The State's obligation to pay all amounts due under this Agreement is an independent covenant and no act or circumstance, regardless of whether such act or circumstance constitutes a breach under this Agreement by BNSF, shall release the State of its obligation to pay all amounts due as required by this Agreement.

9. The State agrees to pay to BNSF from time to time within thirty (30) days after properly completed bills are received therefor the entire cost of maintaining the Crossings, including, but not limited to the expense incurred by BNSF resulting from the necessity to remove and replace the Crossings in connection with resurfacing or maintaining BNSF's right of way and tracks including but not limited to the furnishing of BNSF's Flagman and any vehicle rental costs incurred. To the extent the State believes an invoice provided by BNSF is not properly completed, the State will notify BNSF of the specific claimed deficiencies in writing within 15 business days of State's receipt of the invoice. When track protection is needed and where it would not interfere with BNSF operations, in BNSF's reasonable opinion, BNSF will endeavor to provide track protection through locking out the tracks. BNSF operations, when used in this Agreement, includes employee availability and staffing concerns in addition to train operations and track maintenance. In the event that BNSF determines locking out the tracks will interfere with anticipated operations, another form of track protection acceptable to BNSF must be provided at the State's cost. If flagger services are provided, the cost of flagger services provided by BNSF, when deemed necessary by BNSF's representative, will be borne by the State. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); railway and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for BNSF labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.

10. With respect to the Premises subject to this Agreement, the State agrees to pay to BNSF the entire cost of constructing, installing, performing, maintaining, repairing, renewing, and replacing any cattle guards, farm gates or barriers, track drainage facilities, traffic signs or devices, whistle posts, stop signs or other appurtenances or any such appurtenances or warning signs and devices that may subsequently be required to be upgraded by BNSF, by law, by change of volume and nature of vehicular traffic, or by any public authority having jurisdiction. The State is also responsible for notifying BNSF in writing of any need for upgrading the vehicular traffic control devices or signs at or near the Crossing, since the State is most knowledgeable concerning the volume and nature of the vehicular traffic. In addition, State shall notify BNSF of any significant change in volume or nature of traffic at the Crossing. The State acknowledges and understands that BNSF has recommended the installation of active warning devices at each Crossing. In lieu of active warning devices, BNSF will permit the State to use a State contracted train spotter (as further described below) when the Crossings are in use. Entrances to each Crossing shall be protected by stop signs and cross bucks. Whistle posts shall also be established for the Crossings. State expressly acknowledges and understands that warning signs and devices required by BNSF may change with a change in the volume of train traffic on this line and/or a change in the volume of traffic on the Crossings, as defined in Paragraph 20.

COMPLIANCE WITH LAWS

- 11.
- (a) The State shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("Legal Requirements") relating to the construction, maintenance, and use of the Crossings and the use of the Premises.
 - (b) Prior to entering the Premises, the State shall and shall cause its contractor to comply with all BNSF's applicable safety rules and regulations. Prior to commencing any work on the Premises, the State shall complete and shall require its contractor to complete the safety training program at the BNSF's Internet Website "www.BNSFcontractor.com." This training must be completed no more than one year in advance of the State's entry on the Premises.

DEFINITION OF COST AND EXPENSE

- 12.
- (a) For the purpose of this Agreement, "cost" or "costs" "expense or expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
 - (b) All payments are due thirty (30) days after receipt of a properly completed invoice. In the event that the State shall fail to pay any monies due to BNSF within thirty (30) days after receipt of the invoice, then the State shall pay interest on such unpaid sum in accordance with Mont. Code Ann. § 17-8-242; except as provided in Mont. Code Ann. § 17-8-244, a state agency shall pay simple interest at the rate of 0.05% each day on amounts due for supplies and services received if the agency fails to make timely payment. To the extent the State believes an invoice provided by BNSF is not properly completed, the State will notify BNSF of the specific claimed deficiencies in writing within 15 business days of State's receipt of the invoice.

RIGHT OF BNSF TO USE

13. Subject to the requirement to notify the State during the State's scheduled use as provided in Paragraph 22, BNSF excepts and reserves the right to be exercised by BNSF and any other parties who may obtain written permission or authority from BNSF:

- (a) to maintain, renew, use, operate, change, modify, and relocate any existing pipe, power, communication lines, and appurtenances and other facilities or structures of like character upon, over, under, or across the Premises;
- (b) to construct, maintain, renew, use, operate, change, modify, and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or
- (c) to use the Premises in any manner as BNSF in its sole discretion deems appropriate, provided BNSF uses all commercially reasonable efforts to avoid material interference with the use of the Premises by the State pursuant to a schedule agreed upon by BNSF and the State.

STATE'S OPERATIONS

- 14. The State, at its own expense, shall keep the rail flange ways of said Crossings clear of all snow, dirt, or any other obstructions whatsoever, which may accumulate by virtue of vehicles, equipment, or from machinery crossing thereover or otherwise, and shall remove and keep removed any vegetation along the rail corridor on each side of the Crossings so that the motorists' line of sight to approaching trains is not impaired or obstructed by vegetation.
- 15. It is specifically understood that cables, pipelines, and other electric and/or fiber optic transmission lines may be on, about, along, or under the Premises and the State agrees that under no circumstances will the State dig in or disturb the surface of the Premises without the express written consent of BNSF, other than the accepted construction of the approaches, haul road, and two spur roads, as described in Exhibit A.
- 16. The State shall construct and maintain, at its own expense, a roadway (to end of railroad ties) and related roadway drainage in a manner acceptable to BNSF (as shown on Exhibit A), and safe for use by any vehicles or equipment. Prior to such construction or maintenance, ten (10) days advance written notice must be given to BNSF's Roadmaster, Daniel Mavrinac, at 700 1/2 Railroad Street, Butte, Montana 59701, telephone (406) 559-0544 (cell) or Daniel.Mavrinac@BNSF.com and Brant Pierson telephone (406) 256-4146 or Brant.Pierson@BNSF.com or other designee identified in writing by BNSF to the State. For haul roads constructed on the Premises, the State will install and maintain a barrier substantially as depicted in Exhibit A, Drawings attached (subject to mutual modification by BNSF and the State in writing based on site conditions and/or safety considerations), to physically separate any haul road parallel to the track from the track structure.
- 17. The State will appropriately manage gates or barriers to limit access unrelated to the State's work. The State will install and maintain lockable gates at entrances to the temporary private crossings. BNSF must have a key for any locked gate on or leading to railroad property, except for the gate leading to the Montana Resources property. The gates shall remain closed and locked when the crossing is not being used by the State.
- 18. While this Agreement is personal to the State, it is recognized that there is a possibility of the Crossings being used by unauthorized persons, and the State agrees that it will use its best efforts and require its contractor(s) and subcontractor(s) to use their best efforts to ensure that unauthorized persons will not use the Premises. If a Crossing or the Crossings are not being used by the State for a significant period of time (more than 15 months); if a Crossing or the Crossings are unused for any period of time exceeding 6 months and BNSF observes unauthorized access on the Crossings or receives notice of noise concerns related to the State's work (including, but not limited to, noise complaints relating to whistling at the project area) ; or as otherwise reasonably requested by BNSF or the State, the Crossing or Crossings may be removed at State's cost and materials temporarily staged at a location acceptable to State until the Crossing or Crossings are needed again by the State. Advance notice of at least one month before anticipated reuse to BNSF is needed to facilitate scheduling reinstallation and labor and equipment charges (estimated in Paragraph 8(a)) shall apply.

19. The State shall, at its sole cost and expense, perform all activities on and about the Crossings in such a manner as not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed, or property of BNSF, or the safe operation and activities of BNSF. If ordered to cease using the Crossings at any time by BNSF's personnel due to any hazardous condition, the State shall immediately do so. "Hazardous conditions" does not include the appropriate transportation of the Materials contemplated by this Agreement. If BNSF orders the State to cease using the Crossings, BNSF and the State shall confer as soon as possible to resolve the hazardous conditions, if practicable, so that the State can resume access. Notwithstanding the foregoing right of BNSF, the Parties agree that BNSF has no duty or obligation to monitor the State's use of the Crossings to determine the safe nature thereof, it being solely the State's responsibility to ensure that the State's use of the Premises is safe and complies with this Agreement. Neither the exercise nor the failure by BNSF to exercise any rights granted in this section will alter the liability allocation provided by this Agreement. Subject to the State's commitments under this Agreement, the State retains all of its respective authorities and rights, including access and enforcement authorities related thereto under any applicable federal or state statute or regulation.
20. If at any time during the term of this Agreement, BNSF shall desire the use of its rail corridor in such a manner as would, in BNSF's reasonable opinion, be interfered with by the State's use of the premises, the State shall, at its sole expense, within thirty (30) days after receiving written notice from BNSF to such effect, allow BNSF to make such changes in the Premises as are necessary to avoid interference with the proposed use of BNSF's rail corridor, including, without limitation, the relocation of the existing or the construction of new Crossings. If the State determines that the proposed relocated or new Crossings would not allow access for transportation of the Materials, BNSF shall not construct such relocated or new Crossings, this Agreement will terminate, and the State reserves all of its rights and authorities. The parties acknowledge and agree that during the contemplated term of this Agreement there may be substantial changes in rail traffic on this track. In the event that the volume of rail traffic significantly increases (anything more than an increase of three trains a week from the current maximum usage of four trains per week), the volume of the State's haul traffic significantly increases from the schedule State provides to BNSF and/or there is any change in the number of customers served, the parties agree to modify this agreement, as needed, to address potential safety concerns associated with increased rail traffic. If the parties cannot agree to appropriate written modifications to this Agreement within 90 days, the Agreement shall terminate, and the State reserves all of its rights and authorities.
21. Upon termination of this Agreement, BNSF may remove the Crossings and restore the Crossings to the condition as of the Effective Date of this Agreement at the State's sole cost and expense and without incurring any liability to the State. If BNSF does not remove the Crossings, all future State obligations with respect to maintaining and protecting the Crossings, revert to BNSF. BNSF shall submit its final invoice associated with the Crossings within 45 days of the removal of the Crossings or within 60 days of the termination of this Agreement, whichever occurs first. The State shall within thirty (30) days after bill is rendered therefor, reimburse BNSF for all costs and expenses, which BNSF may incur in connection therewith. Upon the State's determination of the completion of the State's work on the Premises but no later than October 30, 2023, the State shall remove the haul and spur roads and any related materials from the BNSF right-of-way at the State's sole cost, unless the Parties agree otherwise.
22. Coordination of Activities. Where it will not interfere with BNSF's operations, as reasonably determined by BNSF, and where track protection is required BNSF has agreed to lock out the railroad spur track during active implementation of the State's construction work on the Premises pursuant to a schedule agreed upon by BNSF and the State. When the tracks are locked out, BNSF will provide reasonable notice depending on the circumstances, to both of the State's contacts in Paragraph 36 (Notices) when BNSF needs to unlock the tracks to allow for the passage of trains. Absent extraordinary circumstances, a minimum of two hours' notice is reasonable. This notice will be provided via e-mail or phone. The State agrees to stop use of the Premises until BNSF notifies the State via e-mail or phone that BNSF has locked the railroad spur track again or until other track protection, approved by BNSF, is in place. When track protection is being provided via locked out tracks, BNSF will lock the tracks as soon as is practicable following the passage of each train(s) unless train frequency makes this impractical.

Track protection is required for the State's construction work to the extent that people or equipment are within 25 feet of the centerline of the nearest rail.

23. The State's designated railroad contact (as identified pursuant to Paragraph 36) shall work with BNSF on the anticipated train schedule, however, State acknowledges that the Premises includes an active rail line on which regularly scheduled and unscheduled trains operate. State will require its employees and contractors working on the Premises to recognize, in their performance of work on the Premises, the dangerous nature of the work performed near active rail lines. The Crossings will be marked with a stop sign and crossbucks. All vehicles are required to come to a complete stop and look both ways before proceeding across a Crossing regardless of whether track protection is being provided.
24. State's Use of a Train Spotter. When a Crossing is or the Crossings are being used by the State, State will provide for a train spotter or spotters (Spotter). The Spotter will be situated at a safe location as identified by the State providing a clean and unobstructed line of sight. The Spotter will have direct contact with all State and Contractor personnel located within the railroad right-of-way. The Spotter shall notify all personnel working on the State's work when an oncoming train is in sight. All equipment and personnel shall move a safe distance away from the tracks and cease all construction activity until the train has passed completely through the Premises. The Crossings will be inactive until the train departs the State's work area. Once the Spotter confirms that the train has left the site, the State's work can resume.

When a Crossing or the Crossings are in place, BNSF and the State designated railroad contact will coordinate schedules if track work will be conducted within the Premises. The State shall communicate this information to the train spotter(s) and other on-site personnel. When hi-rails, track equipment, etc. enter working limits, all activity on the Premises will cease. Depending on the activity, the State and BNSF track foreman can agree to resume certain activities while track work continues on the Premises, if the State and BNSF both agree that such can be conducted safely and without incident.

25. On a frequency agreed-upon by the Parties, the State will meet with the BNSF Roadmaster or designee (identified herein unless and until changed in writing) to coordinate regarding the Parties' schedules; to exchange information relevant to the State's work; and to discuss any track safety procedures adopted by BNSF, including but not limited to procedures for detecting and recognizing approaching trains, train approach warning signals, and, for any potential emergency situation, the rules and signals pertaining to giving proper stop signals to an approaching train and holding the train clear of the working limits until the way is clear to proceed. The State shall designate a contractor to contact BNSF on behalf of the State and for BNSF to contact directly by providing written notice to BNSF's contacts identified in Paragraph 16.
26. If needed, the State may use water suitable for domestic purposes as a dust control measure on the hauling roads. State is responsible for ensuring drainage is adequate.

RELEASE, COVENANT NOT TO SUE, AND WAIVER

27. (a) **TO THE FULLEST EXTENT PERMITTED BY LAW, THE STATE SHALL, AND SHALL CAUSE ITS CONTRACTOR(S) TO, RELEASE, WAIVE CLAIMS AGAINST, AND COVENANT NOT TO TAKE ADMINISTRATIVE ACTION OR SUE, BNSF AND BNSF'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "RELEASED PARTIES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, REMEDIAL OR ENFORCEMENT RIGHTS OR POWERS PURSUANT TO ANY STATE OR FEDERAL ENVIRONMENTAL LAWS, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS, AND/OR NATURAL RESOURCE RESTORATION OR REPARATION) ENVIRONMENTAL OR OTHERWISE OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (COLLECTIVELY "LIABILITIES"):**

1. THE STATE'S AND ITS CONTRACTOR(S) AND SUBCONTRACTOR(S)' OCCUPATION AND USE OF THE PREMISES (INCLUDING UNAUTHORIZED OCCUPATION AND USE) PURSUANT TO THIS AGREEMENT;
2. THE STATE'S ARRANGEMENT FOR EXCAVATION, REMOVAL, TRANSPORTATION, PLACEMENT, DISPOSAL, AND/OR STORAGE OF THE MATERIALS IN THE BUTTE MINE FLOODING OPERABLE UNIT, AND/OR THE ACTIVE MINE AREA OPERABLE UNIT, PURSUANT TO THIS AGREEMENT;
3. BNSF'S ALLOWANCE OF ACCESS AND/OR OBLIGATIONS UNDERTAKEN IN THIS AGREEMENT AS ARISING FROM, RESULTING IN OR BEING RELATED TO THE ARRANGEMENT FOR OR TRANSPORTATION OF THE MATERIALS WITH REGARD TO EXCAVATION, REMOVAL, TRANSPORTATION, PLACEMENT, DISPOSAL, AND/OR STORAGE OF THE MATERIALS IN THE BUTTE MINE FLOODING OPERABLE UNIT, AND/OR THE ACTIVE MINE AREA OPERABLE UNIT;
4. RESULTING FROM THE STATE'S WORK, OR ANY SUBSEQUENT RELEASE OR MIGRATION OF ANY OF THE MATERIALS FOLLOWING THE STATE'S EXCAVATION, REMOVAL, TRANSPORTATION, PLACEMENT, DISPOSAL, AND/OR STORAGE OF THE MATERIALS IN THE BUTTE MINE FLOODING OPERABLE UNIT, AND/OR THE ACTIVE MINE AREA OPERABLE UNIT PURSUANT TO THIS AGREEMENT;

THE STATE RESERVES ALL OF ITS RIGHTS AND AUTHORITIES FOR LIABILITIES EXISTING AS OF THE EFFECTIVE DATE OF THIS AGREEMENT WITH RESPECT TO CONTAMINANTS. FOR PURPOSES OF THIS AGREEMENT, THE PARTIES AGREE THAT "LIABILITIES EXISTING AS OF THE EFFECTIVE DATE OF THIS AGREEMENT" MEANS ANY LIABILITY BNSF MAY HAVE FOR THE MATERIALS, OTHER THAN THOSE MATERIALS BEING EXCAVATED, STAGED, TRANSPORTED, AND DISPOSED OF, OR AS OTHERWISE MANAGED UNDER, BY OR PURSUANT TO THE STATE'S WORK.

- (b) THE STATE FURTHER AGREES THAT THE STATE'S OR ITS CONTRACTOR(S) OR SUBCONTRACTOR(S)' USE OF THE PREMISES AS CONTEMPLATED BY THIS AGREEMENT SHALL NOT IN ANY WAY SUBJECT BNSF TO CLAIMS THAT BNSF IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS.
- (c) NOTHING IN THIS AGREEMENT MEANS OR SHALL BE INTERPRETED OR CONSTRUED TO SUGGEST THAT BNSF IS SOMEHOW AN ARRANGER OR TRANSPORTER OF, OR HAS ANY RESPONSIBILITY FOR THE STATE'S IMPLEMENTATION OF THE STATE'S WORK INCLUDING, BUT NOT LIMITED TO, THE MATERIALS BEING EXCAVATED, STORED, TRANSPORTED, PLACED AND/OR DISPOSED OF BY THE STATE.
- (d) THE STATE SHALL CAUSE ITS CONTRACTOR TO BE FAMILIAR WITH AND ADHERE TO THE CONTRACTOR REQUIREMENTS IN THIS AGREEMENT AND ITS EXHIBIT B.
- (e) THIS RELEASE AND COVENANT NOT TO SUE IS NOT PART OF AN ADMINISTRATIVE SETTLEMENT THAT PROVIDES CONTRIBUTION RIGHTS TO BNSF OR ANY OTHER ENTITY. NOTHING HEREIN WAIVES, RELEASES OR LIMITS ANY OTHER CLAIMS THAT THE STATE MAY HAVE, INCLUDING ANY CLAIMS TO ENFORCE THIS AGREEMENT. THIS RELEASE AND COVENANT NOT TO SUE SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE RELEASED PARTIES' GROSS NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT OCCURING OR ARISING AFTER THE EFFECTIVE DATE OF THIS AGREEMENT.

PERSONAL PROPERTY WAIVER

28. **ALL STATE PERSONAL PROPERTY, INCLUDING BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF STATE ONLY, AND NO RELEASED PARTY WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY RELEASED PARTY.**

INSURANCE

29. The State shall, at no cost to BNSF, require its Contractor(s) to procure and maintain during the life of this Agreement the insurance described in the attached Exhibit B. For purposes of this section, BNSF shall mean "Burlington Northern Santa Fe Corporation," "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.
30. The State has represented that State employees will not be performing construction on the Premises pursuant to this Agreement, but will be inspecting the State's Work or otherwise providing oversight of its Contractors. During the Term of this Agreement, the State shall maintain and provide BNSF with proof of insurance meeting the following requirements for any State employees entering the Premises under this Agreement:
- a. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:
 - Statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

ENVIRONMENTAL

31. (a) The State has determined that the State's activity regarding select Parrot Tailings wastes will address a primary source of contamination to the alluvial aquifer, which the State contends is a source of contamination to Silver Bow Creek instream sediments and surface water. BNSF has not been involved in and has no responsibility for the State's evaluation, decision-making or the extent, means and methods of removal. In requesting this Access Agreement, the State took the position that it had the option of issuing an order under the Comprehensive Environmental Cleanup and Responsibility Act (CECRA) requiring the requested access unless the State reached an agreement with BNSF.
- (b) The State shall strictly comply with all federal, state, and local environmental laws and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA (collectively referred to as the "Environmental Laws"). The State shall not maintain a treatment, storage, transfer, or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. The State shall not release, and will require its Contractor(s) not to release, oil or hazardous substances, as defined by Environmental Laws on or about the Premises.
- (c) The State shall give BNSF immediate notice to BNSF's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from or that may impact the Premises, violation of Environmental Laws on the Premises, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to the State's use of the Premises. The State shall use the best efforts to promptly respond to any release on or from the Premises arising from the State's use of the Premises or its work on nearby properties. The State also shall give BNSF immediate notice of all measures undertaken on behalf of the State to investigate, remediate, respond to, or otherwise cure such release or violation.

- (d) In the event that BNSF has notice from the State or otherwise of a release or violation of Environmental Laws arising from the State's use of the Premises that occurred or may occur during the term of this Agreement, BNSF may require the State, at the State's sole risk and expense, to take timely measures to investigate, remediate, respond to, or otherwise cure such release or violation affecting the Premises or BNSF's right-of-way.
- (e) The State shall promptly report to BNSF in writing any conditions or activities upon the Premises arising from the State's use of the Premises known to the State that create a risk of harm to persons, property, or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities related to the State's or use of the Premises; provided, however, that the State's reporting to BNSF shall not relieve the State of any obligation whatsoever imposed on it by this Agreement. The State shall promptly respond to BNSF's request for information regarding said conditions or activities.
- (f) The State agrees to ensure that none of the Materials will remain on BNSF's property at the completion of the State's use of the Premises. It is further represented, understood, and agreed that the State has responsibility for, and BNSF has no responsibility for and has had no participation in, the State's selection of the disposal and/or placement area for the Materials and any arrangements for transport, disposal, and/or management of the Materials, and BNSF is undertaking no responsibilities whatsoever with regard to removal, transport, or disposal of the Materials other than BNSF's cooperation in providing the Premises pursuant to this Agreement.

DEFAULT

32. If substantial default, as that term is defined in Paragraph 3(d), shall be made in any of the covenants or agreements of the State contained in this document, or in case of any assignment or transfer of this Agreement by operation of law, BNSF may, at its option, terminate this Agreement by serving ten (10) days' notice in writing upon the State. The State, on receipt of notice of termination, may elect to meet with BNSF to determine whether the default may be reasonably cured. Any waiver by BNSF of any default or defaults shall not constitute a waiver of the right to terminate this Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect BNSF's ability to enforce any section of this Agreement. The remedy set forth in this section shall be in addition to, and not in limitation of, any other remedies that BNSF may have at law or in equity. If BNSF terminates this Agreement, the State retains all of its respective authorities and rights, including access and enforcement authorities related thereto under any applicable federal or state statute or regulation.

TERMINATION

33. This Agreement shall terminate when the State notifies BNSF that its use of the Premises is complete, upon the mutual agreement of the Parties, in the event of the State's substantial default, or by its terms on October 1, 2023, whichever event occurs first.
34. If the State fails to surrender to BNSF the Premises, upon any termination of this Agreement, all liabilities and obligations of the State hereunder shall continue in effect until the Premises are surrendered. Termination shall not release the State from any liability or obligation resulting from any events happening prior to the date of termination.

ASSIGNMENT

35. Neither the State, nor the legal representatives, successors, or assigns of the State, nor any subsequent assignee, shall assign or transfer this Agreement or any interest herein, without the prior written consent and approval of BNSF, which may be withheld in BNSF's sole discretion.

NOTICES

36. Except as otherwise provided in this Agreement, any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to BNSF: Jones Lang LaSalle Brokerage, Inc.,
4200 Buckingham Road, Suite 110
Fort Worth, TX 76155
Attn: Licenses/Permits

with a copy to: BNSF Railway Company
2301 Lou Menk Dr. – GOB-3W
Fort Worth, TX 76131
Attn: Senior Manager Real Estate

If to State: Jim Ford
MT DOJ Natural Resource Damage Program
1720 9th Ave
P. O. Box 201425
Helena, MT 59620-1425
Attn: Parrot Tailings Removal
(406) 444-4034
jford@mt.gov

Alternate State contact: Doug Martin
(Same address as above)
(406) 444-0234
dougmartin@mt.gov

The State will identify the “designated railroad contact” in writing to BNSF by email to Daniel.Mavrinac@BNSF.com, Brant.Pierson@BNSF.com, and Brooke.Kuhl@bnsf.com. The designated railroad contact will coordinate scheduling with the railroad and may only be changed by written notice as provided above or to railroad’s changed designee, if changed in writing by BNSF from the above.

SURVIVAL

37. Neither termination nor expiration will release either party from any liability or obligation under this Agreement resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Premises are restored to its condition as of the Effective Date.

RECORDATION

38. It is understood and agreed that this Agreement shall not be placed on public record.

APPLICABLE LAW

39. All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the substantive laws of the State of Montana without regard to conflicts of law provisions.

SEVERABILITY

40. To the maximum extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Agreement.

INTEGRATION

41. Other than the coordination described in Paragraphs 22 and 23, this Agreement (including its Exhibits) is the full and complete agreement between the State and BNSF with respect to all matters relating to the State's construction, maintenance, and use of the Premises, and supersedes any and all other agreements between the Parties hereto relating to the State's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of the State or the State's obligation to release and hold BNSF harmless in any prior written agreement between the Parties.

MISCELLANEOUS

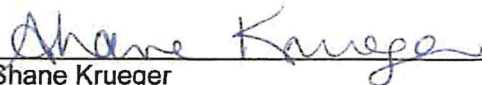
42. The waiver by either party of the breach of any provision herein shall in no way impair the right of the other party to enforce that provision for any subsequent breach thereof.
43. Effect of Agreement. This Agreement and the statements, provisions, terms, and recitals contained herein are binding upon and inure to the benefit of BNSF and the State and their respective successors.
44. Authority of Signatories. Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company. Both Parties represent and warrant that the persons executing this Agreement have the authority to do so on behalf of the State and BNSF, and have the full power to bind the State and BNSF hereunder.
45. Negation of Agency Relationship. This Agreement shall not be construed to create, either expressly or by implication, the relationship of agency or partnership between BNSF and the State. Neither party (including such party's agents, employees, or contractors) is authorized to act on behalf of any other party in any manner relating to the subject matter of this Agreement.
46. No Precedent. This Agreement pertains only to the unique and specific circumstances pertaining to the excavation and transport of the Parrot Tailings across the Premises. The parties do not intend for this Access Agreement to be used as precedent or as an admission against interest in any circumstance other than implementation and enforcement of this Access Agreement.
47. Modification. This Agreement may not be amended or modified except by the written mutual agreement of the Parties.
48. Effective Date. This Agreement shall become effective upon its execution by both Parties. The effective date shall be the latest of the dates of signatures written below.

Jones Lang LaSalle Global Services – RR, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Agreement has been duly executed, in duplicate, by the Parties hereto as of the day and year first above written.


BNSF RAILWAY COMPANY

Jones Lang LaSalle Brokerage, Inc.,
its Attorney in Fact
4200 Buckingham Road, Suite 110
Fort Worth, TX 76155

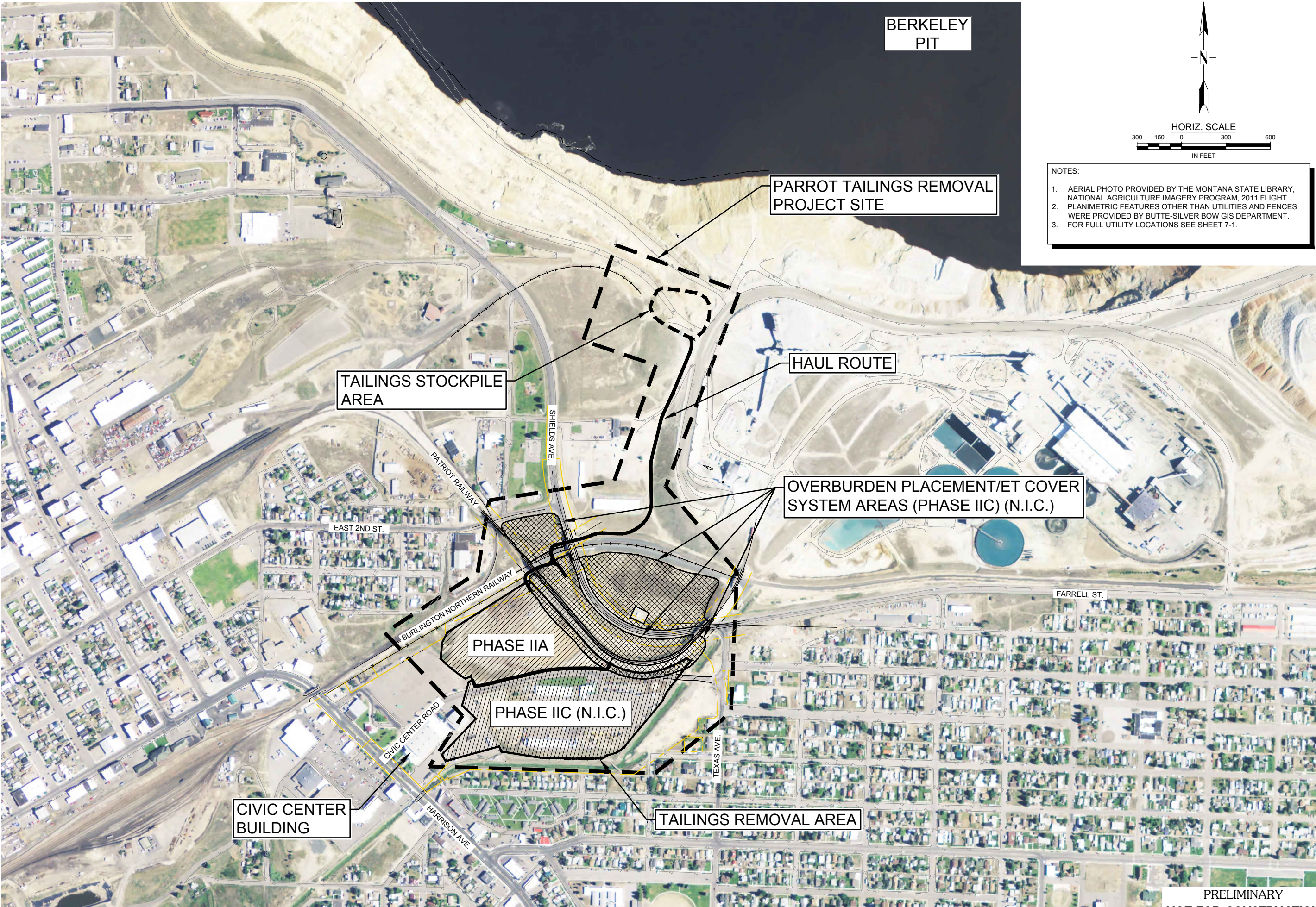
By: 
Shane Krueger
Title: Vice President – Permits & Special Projects

**STATE OF MONTANA BY AND THROUGH THE MONTANA
DEPARTMENT OF JUSTICE NATURAL RESOURCE
DAMAGE PROGRAM**

1720 9th Ave
P. O. Box 201425
Helena, MT 59620-1425

By:  1/25/2017
Title: Hollen Harris, Program Manager

M:\NRDPM02\CADD\CIVIL\SC-T101-NRDPM02.dwg PLOT DATE 2017-10-6 20:50 USER: dstratton



BERKELEY
PIT

PARROT TAILINGS REMOVAL
PROJECT SITE

TAILINGS STOCKPILE
AREA

HAUL ROUTE

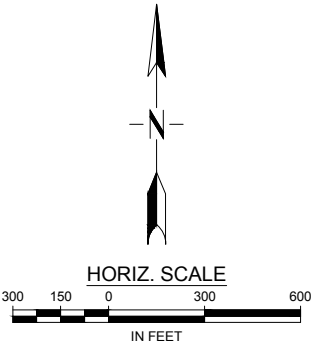
OVERBURDEN PLACEMENT/ET COVER
SYSTEM AREAS (PHASE IIC) (N.I.C.)

PHASE IIA

PHASE IIC (N.I.C.)

TAILINGS REMOVAL AREA

CIVIC CENTER
BUILDING



NOTES:

1. AERIAL PHOTO PROVIDED BY THE MONTANA STATE LIBRARY, NATIONAL AGRICULTURE IMAGERY PROGRAM, 2011 FLIGHT.
2. PLANIMETRIC FEATURES OTHER THAN UTILITIES AND FENCES WERE PROVIDED BY BUTTE-SILVER BOW GIS DEPARTMENT.
3. FOR FULL UTILITY LOCATIONS SEE SHEET 7-1.

No.	Description	Date	Drawn By

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Maierle**
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1 Engineering Place, Helena, MT 59602
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400 E. Park Street
Butte, MT 59601
(406) 782-3220
WATERVENTECH.COM

MONTANA
JOSHUA T. VINCENT
No. 12994 PE
LICENSED
PROFESSIONAL ENGINEER

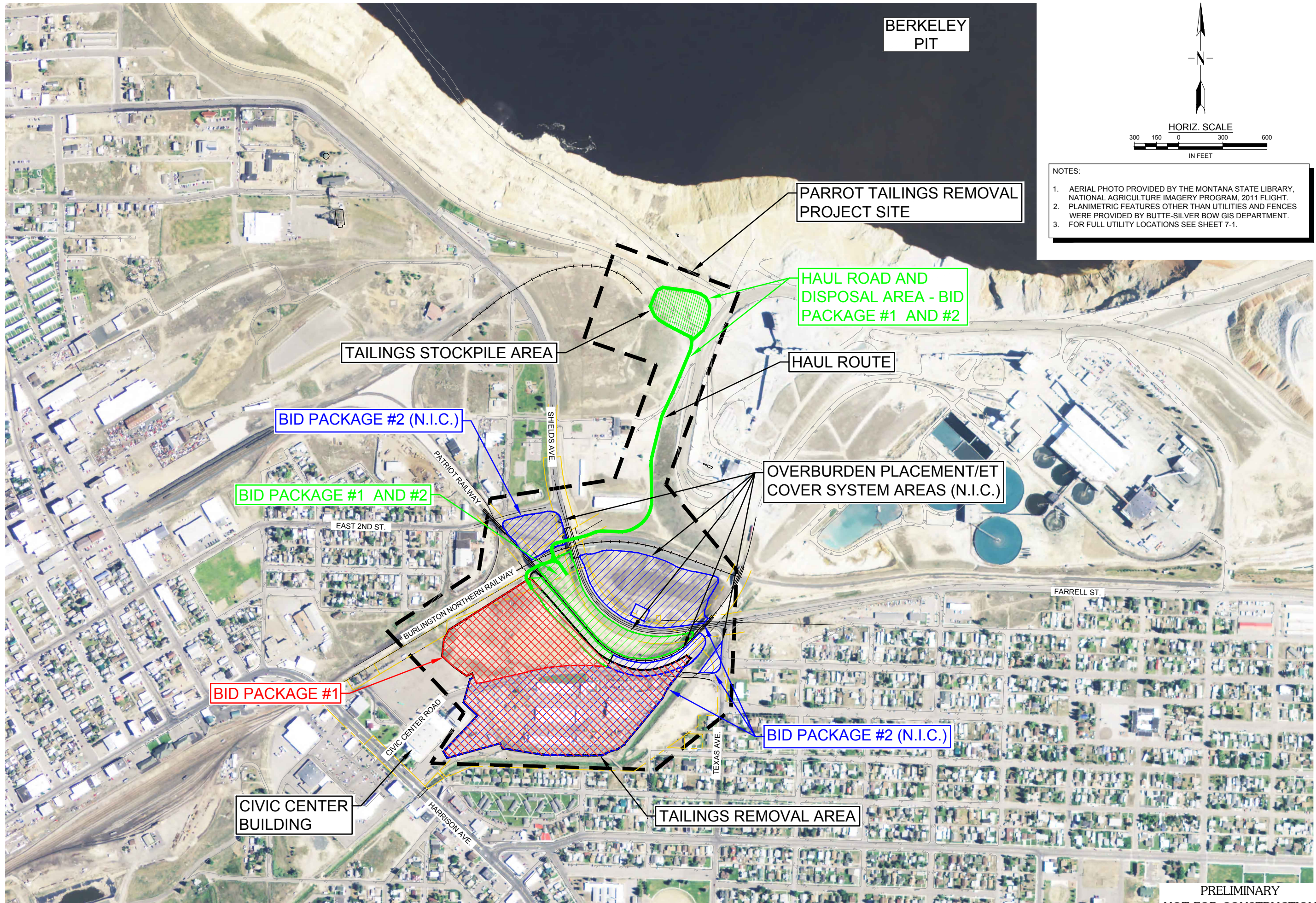
PARROT TAILINGS
REMOVAL PROJECT
SITE MAP

PROJECT NAME: BAO PARROT TAILINGS REMOVAL
LOCATION: BUTTE, MONTANA
FILE NO.: SC-T101-NRDPM02.dwg

JOB NO.: NRDPM02
DATE: 10/6/17
DRAFTER: DAS
CHECKED BY: JT/JV/AL

PRELIMINARY
NOT FOR CONSTRUCTION

M:\NRDPM02\CADD\CIVIL\SC-T101-NRDPM02.dwg PLOT DATE 2017-10-6 20:56 USER: dstratton



BERKELEY
PIT

PARROT TAILINGS REMOVAL
PROJECT SITE

HAUL ROAD AND
DISPOSAL AREA - BID
PACKAGE #1 AND #2

HAUL ROUTE

OVERBURDEN PLACEMENT/ET
COVER SYSTEM AREAS (N.I.C.)

TAILINGS STOCKPILE AREA

BID PACKAGE #2 (N.I.C.)

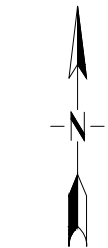
BID PACKAGE #1 AND #2

BID PACKAGE #1

BID PACKAGE #2 (N.I.C.)

CIVIC CENTER
BUILDING

TAILINGS REMOVAL AREA



HORIZ. SCALE
300 150 0 300 600
IN FEET

NOTES:

1. AERIAL PHOTO PROVIDED BY THE MONTANA STATE LIBRARY, NATIONAL AGRICULTURE IMAGERY PROGRAM, 2011 FLIGHT.
2. PLANIMETRIC FEATURES OTHER THAN UTILITIES AND FENCES WERE PROVIDED BY BUTTE-SILVER BOW GIS DEPARTMENT.
3. FOR FULL UTILITY LOCATIONS SEE SHEET 7-1.

No.	Description	Date	Drawn By

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Maierle**
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1 Engineering Place, Helena, MT 59602
(406) 442-3050 • m-m.net
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(406) 782-3220
WATERENTECH.COM

MONTANA
JOSHUA T. VINCENT
No. 12994 PE
LICENSED
PROFESSIONAL ENGINEER

PARROT TAILINGS
REMOVAL BID PLAN
PROJECT NAME: BAO PARROT TAILINGS REMOVAL
LOCATION: BUTTE, MONTANA
FILE NO. SC-T101-NRDPM02.dwg

JOB NO. NRDPM02
DATE: 10/6/17
DRAFTER: DAS
CHECKED BY: JT/JV/AL

DRAWING NO.
1-6

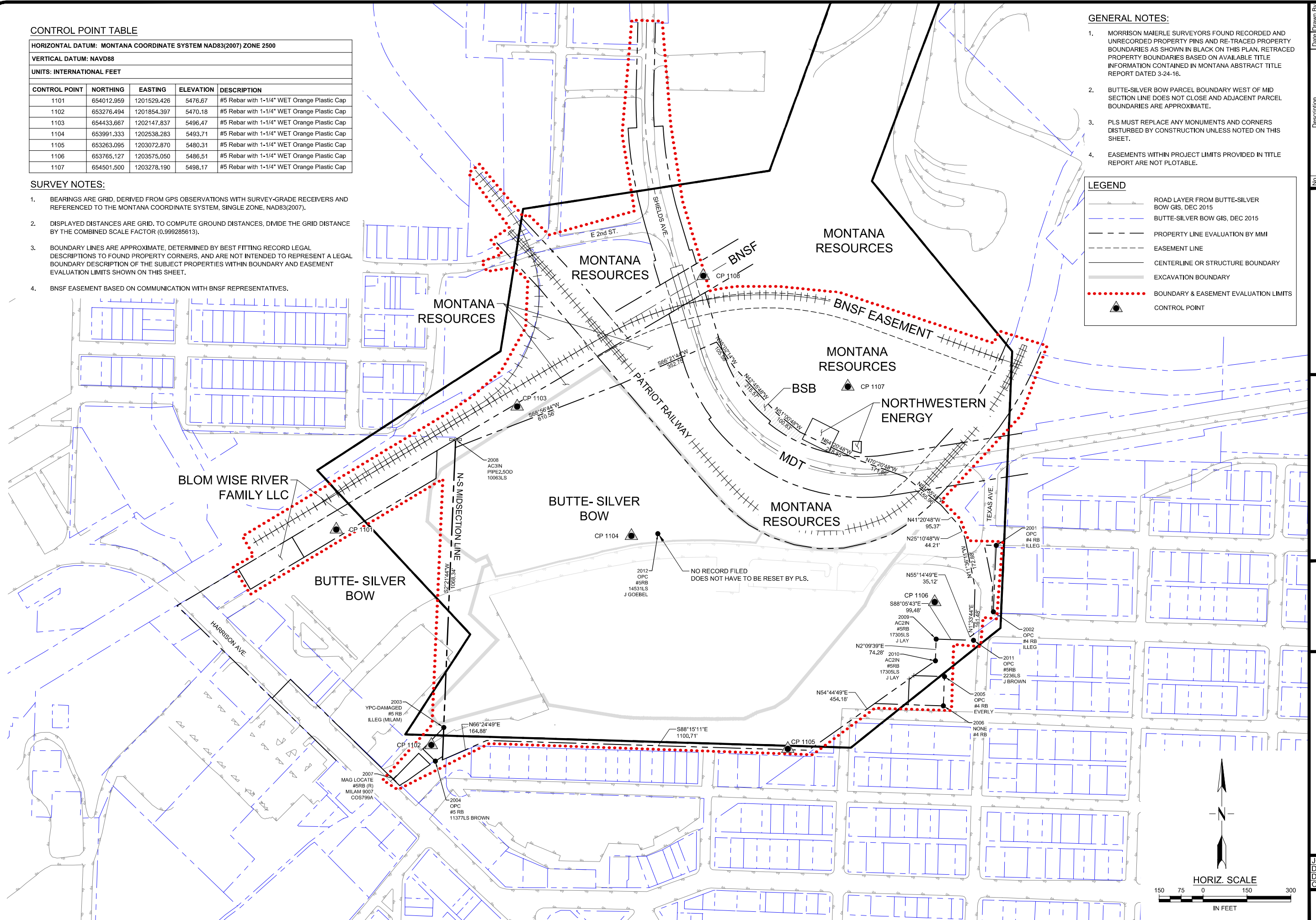
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NOT FOR CONSTRUCTION

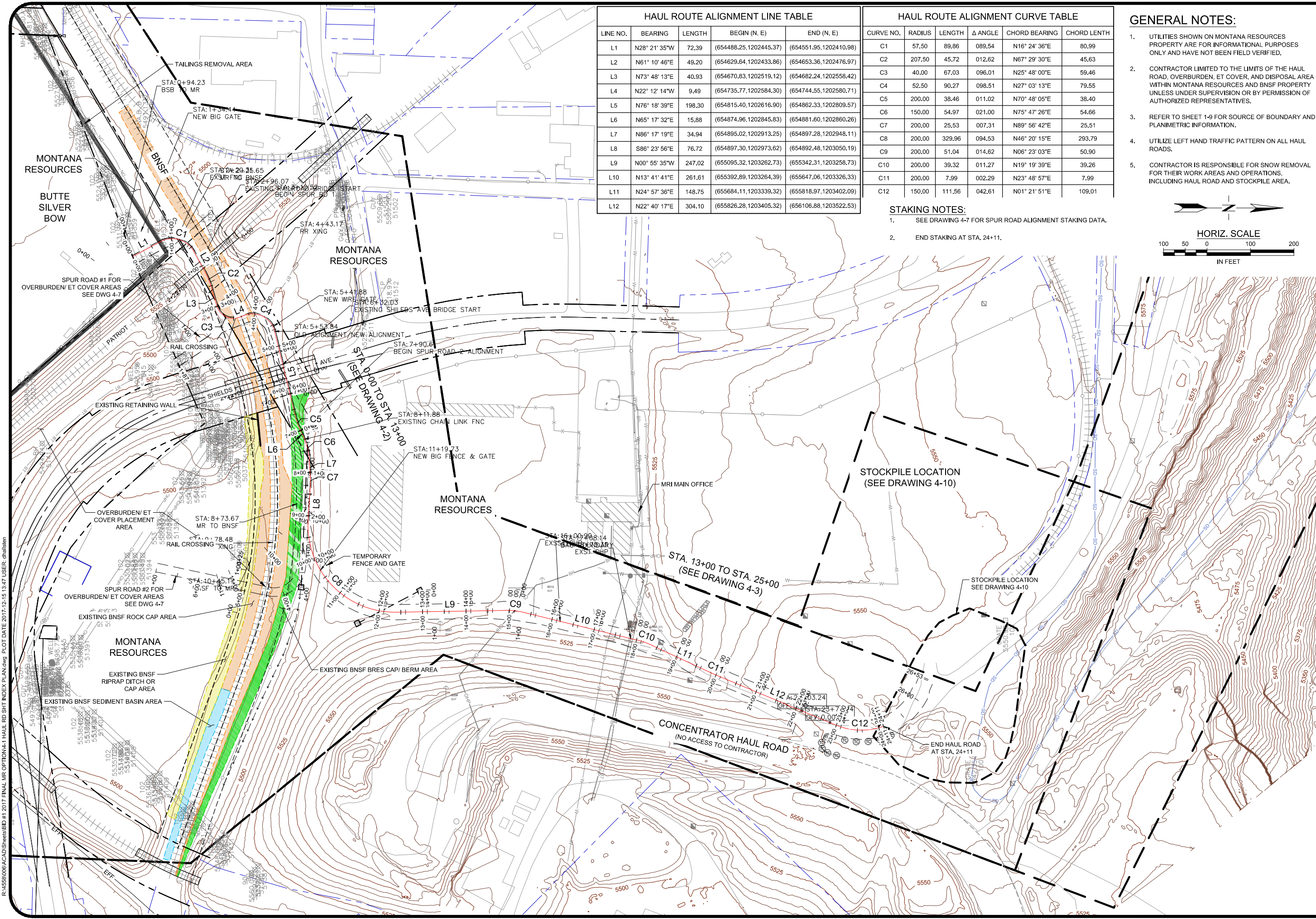
HORIZONTAL DATUM: MONTANA COORDINATE SYSTEM NAD83(2007) ZONE 2500				
VERTICAL DATUM: NAVD88				
UNITS: INTERNATIONAL FEET				
CONTROL POINT	NORTHING	EASTING	ELEVATION	DESCRIPTION
1101	654012.959	1201529.426	5476.67	#5 Rebar with 1-1/4" WET Orange Plastic Cap
1102	653276.494	1201854.397	5470.18	#5 Rebar with 1-1/4" WET Orange Plastic Cap
1103	654433.667	1202147.837	5496.47	#5 Rebar with 1-1/4" WET Orange Plastic Cap
1104	653991.333	1202538.283	5493.71	#5 Rebar with 1-1/4" WET Orange Plastic Cap
1105	653263.095	1203072.870	5480.31	#5 Rebar with 1-1/4" WET Orange Plastic Cap
1106	653765.127	1203575.050	5486.51	#5 Rebar with 1-1/4" WET Orange Plastic Cap
1107	654501.500	1203278.190	5498.17	#5 Rebar with 1-1/4" WET Orange Plastic Cap

1. BEARINGS ARE GRID, DERIVED FROM GPS OBSERVATIONS WITH SURVEY-GRADE RECEIVERS AND REFERENCED TO THE MONTANA COORDINATE SYSTEM, SINGLE ZONE, NAD83(2007).
2. DISPLAYED DISTANCES ARE GRID. TO COMPUTE GROUND DISTANCES, DIVIDE THE GRID DISTANCE BY THE COMBINED SCALE FACTOR (0.999285613).
3. BOUNDARY LINES ARE APPROXIMATE, DETERMINED BY BEST FITTING RECORD LEGAL DESCRIPTIONS TO FOUND PROPERTY CORNERS, AND ARE NOT INTENDED TO REPRESENT A LEGAL BOUNDARY DESCRIPTION OF THE SUBJECT PROPERTIES WITHIN BOUNDARY AND EASEMENT EVALUATION LIMITS SHOWN ON THIS SHEET.
4. BNSF EASEMENT BASED ON COMMUNICATION WITH BNSF REPRESENTATIVES.

1. MORRISON MAIERLE SURVEYORS FOUND RECORDED AND UNRECORDED PROPERTY PINS AND RE-TRACED PROPERTY BOUNDARIES AS SHOWN IN BLACK ON THIS PLAN. RETRACED PROPERTY BOUNDARIES BASED ON AVAILABLE TITLE INFORMATION CONTAINED IN MONTANA ABSTRACT TITLE REPORT DATED 3-24-16.
2. BUTTE-SILVER BOW PARCEL BOUNDARY WEST OF MID SECTION LINE DOES NOT CLOSE AND ADJACENT PARCEL BOUNDARIES ARE APPROXIMATE.
3. PLS MUST REPLACE ANY MONUMENTS AND CORNERS DISTURBED BY CONSTRUCTION UNLESS NOTED ON THIS SHEET.
4. EASEMENTS WITHIN PROJECT LIMITS PROVIDED IN TITLE REPORT ARE NOT PLOTABLE.

	ROAD LAYER FROM BUTTE-SILVER BOW GIS, DEC 2015
	BUTTE-SILVER BOW GIS, DEC 2015
	PROPERTY LINE EVALUATION BY MMI
	EASEMENT LINE
	CENTERLINE OR STRUCTURE BOUNDARY
	EXCAVATION BOUNDARY
	BOUNDARY & EASEMENT EVALUATION LIMITS
	CONTROL POINT





HAUL ROUTE ALIGNMENT LINE TABLE				
LINE NO.	BEARING	LENGTH	BEGIN (N, E)	END (N, E)
L1	N28° 21' 35"W	72.39	(654488.25,1202445.37)	(654551.95,1202410.98)
L2	N61° 10' 46"E	49.20	(654629.64,1202433.86)	(654653.36,1202476.97)
L3	N73° 48' 13"E	40.93	(654670.83,1202519.12)	(654682.24,1202558.42)
L4	N22° 12' 14"W	9.49	(654735.77,1202584.30)	(654744.55,1202580.71)
L5	N76° 18' 39"E	198.30	(654815.40,1202616.90)	(654862.33,1202809.57)
L6	N65° 17' 32"E	15.88	(654874.96,1202845.83)	(654881.60,1202860.26)
L7	N86° 17' 19"E	34.94	(654895.02,1202913.25)	(654897.28,1202948.11)
L8	S86° 23' 56"E	76.72	(654897.30,1202973.62)	(654892.48,1203050.19)
L9	N00° 55' 35"W	247.02	(655095.32,1203262.73)	(655342.31,1203258.73)
L10	N13° 41' 41"E	261.61	(655392.89,1203264.39)	(655647.06,1203326.33)
L11	N24° 57' 36"E	148.75	(655684.11,1203339.32)	(655818.97,1203402.09)
L12	N22° 40' 17"E	304.10	(655826.28,1203405.32)	(656106.88,1203522.53)

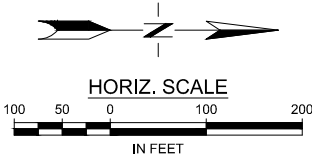
HAUL ROUTE ALIGNMENT CURVE TABLE					
CURVE NO.	RADIUS	LENGTH	Δ ANGLE	CHORD BEARING	CHORD LENTH
C1	57.50	89.86	089.54	N16° 24' 36"E	80.99
C2	207.50	45.72	012.62	N67° 29' 30"E	45.63
C3	40.00	67.03	096.01	N25° 48' 00"E	59.46
C4	52.50	90.27	098.51	N27° 03' 13"E	79.55
C5	200.00	38.46	011.02	N70° 48' 05"E	38.40
C6	150.00	54.97	021.00	N75° 47' 26"E	54.66
C7	200.00	25.53	007.31	N89° 56' 42"E	25.51
C8	200.00	329.96	094.53	N46° 20' 15"E	293.79
C9	200.00	51.04	014.62	N06° 23' 03"E	50.90
C10	200.00	39.32	011.27	N19° 19' 39"E	39.26
C11	200.00	7.99	002.29	N23° 48' 57"E	7.99
C12	150.00	111.56	042.61	N01° 21' 51"E	109.01

STAKING NOTES:

- SEE DRAWING 4-7 FOR SPUR ROAD ALIGNMENT STAKING DATA.
- END STAKING AT STA. 24+11.

GENERAL NOTES:

- UTILITIES SHOWN ON MONTANA RESOURCES PROPERTY ARE FOR INFORMATIONAL PURPOSES ONLY AND HAVE NOT BEEN FIELD VERIFIED.
- CONTRACTOR LIMITED TO THE LIMITS OF THE HAUL ROAD, OVERBURDEN, ET COVER, AND DISPOSAL AREA WITHIN MONTANA RESOURCES AND BNSF PROPERTY UNLESS UNDER SUPERVISION OR BY PERMISSION OF AUTHORIZED REPRESENTATIVES.
- REFER TO SHEET 1-4 FOR SOURCE OF BOUNDARY AND PLANIMETRIC INFORMATION.
- UTILIZE LEFT HAND TRAFFIC PATTERN ON ALL HAUL ROADS.
- CONTRACTOR IS RESPONSIBLE FOR SNOW REMOVAL FOR THEIR WORK AREAS AND OPERATIONS, INCLUDING HAUL ROAD AND STOCKPILE AREA.



R:\4558\006\ACAD\Sheets\BD #1 2017 FINAL MR OPTION 4-1 HAUL RD SHT INDEX PLAN.dwg PLOT DATE 2017-12-15 13:47 USER: dthallen

HAUL ROAD SHEET
INDEX PLAN

PROJECT NAME: BAO PARROT TAILINGS REMOVAL
LOCATION: BUTTE, MONTANA
FILE NO. 4-1 HAUL RD SHT INDEX PLAN.dwg

JOB NO.: NRDP02
DATE: 12/15/17
DRAFTER: DAH
CHECKED BY: MB

DRAWING NO.
4-1

Water & Environmental
TECHNOLOGIES

KENNET
BERTELSEN
18492 PE
REGISTERED
PROFESSIONAL
ENGINEER

Morrison
Maierle

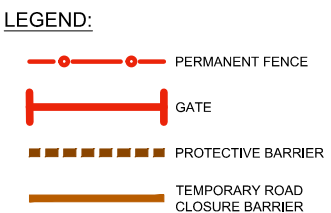
engineers • surveyors • planners • scientists
1 Engineering Place, Helena, MT 59602
(406) 442-3050 • m-m.net
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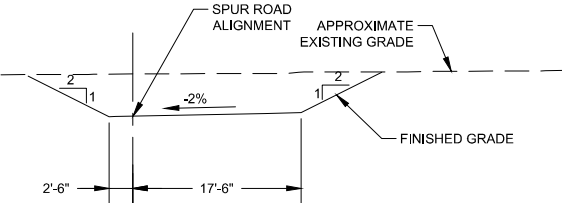
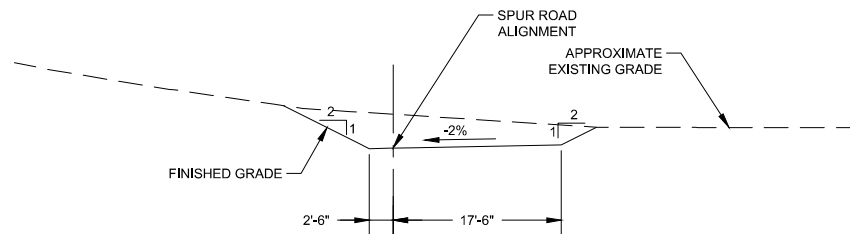
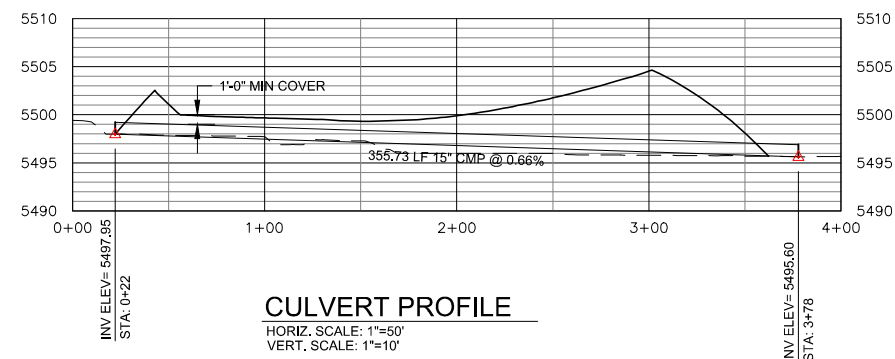
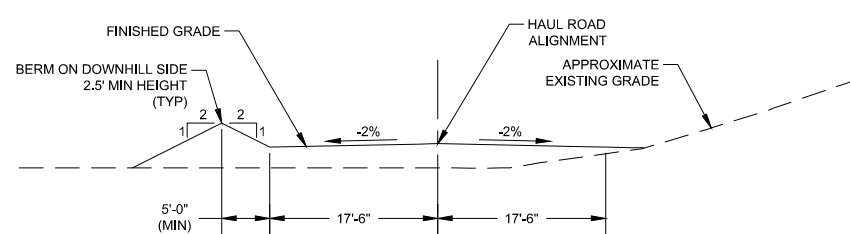
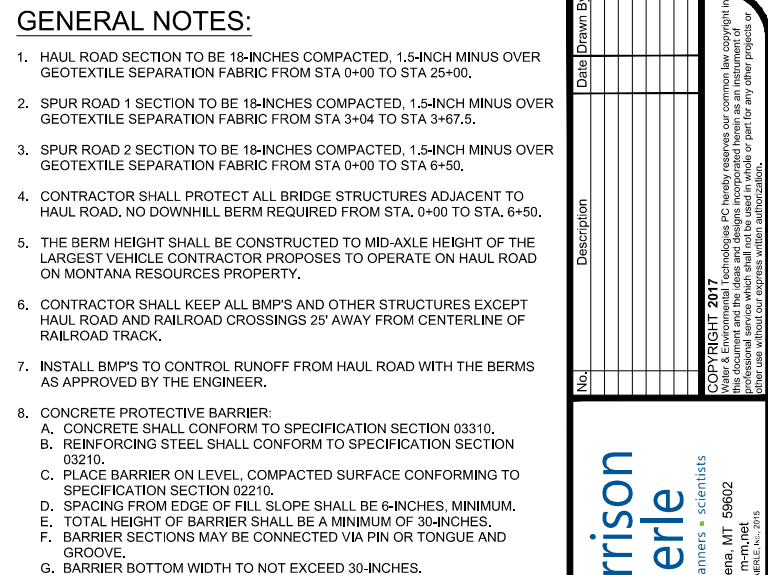
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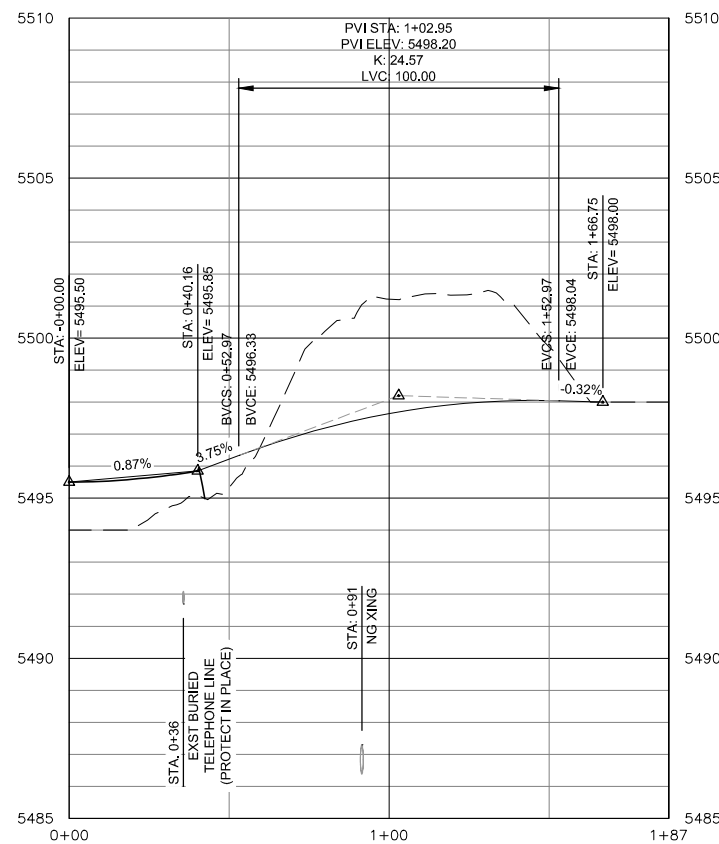
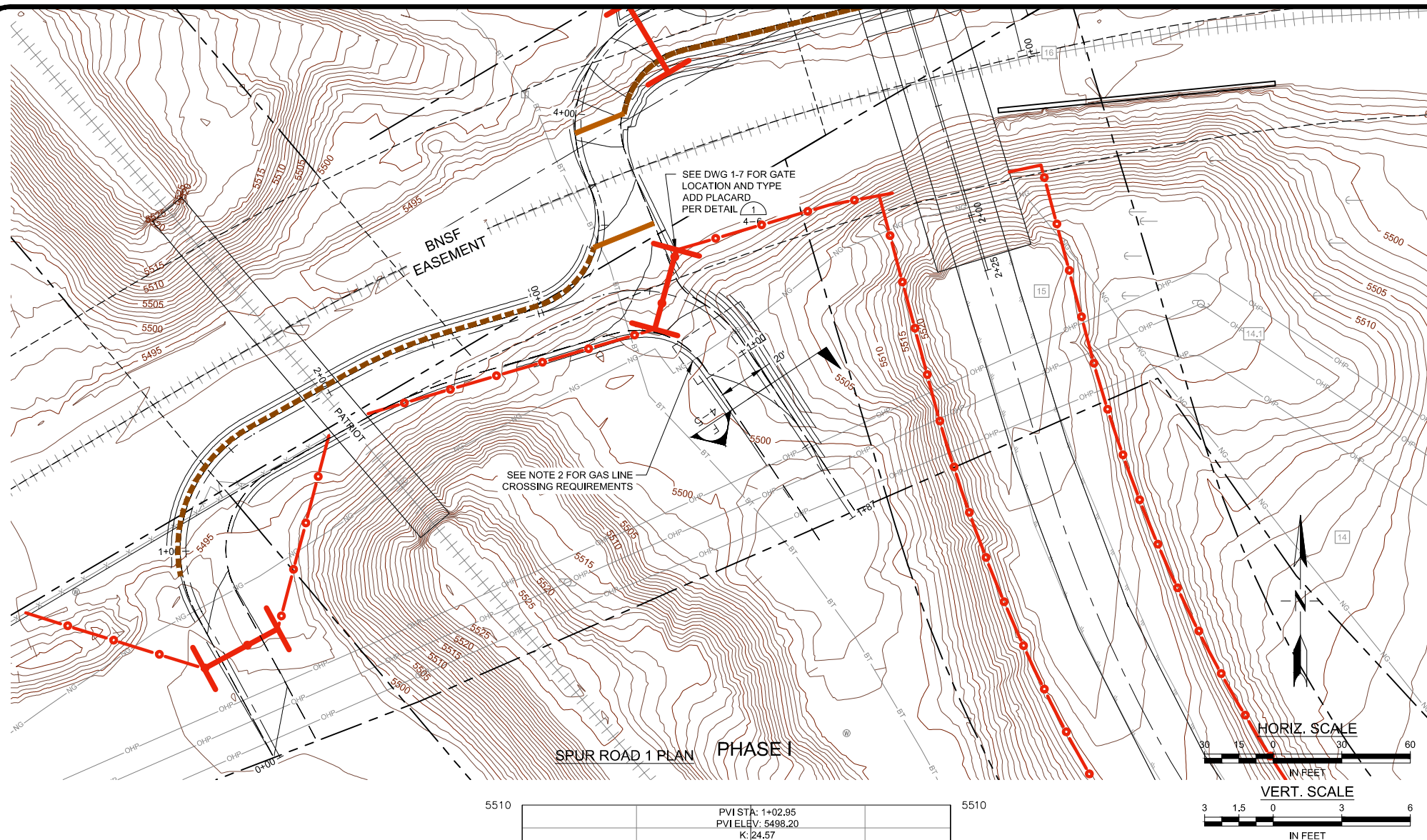
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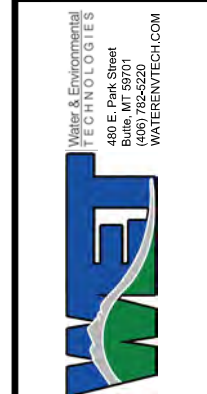


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- GENERAL NOTES:

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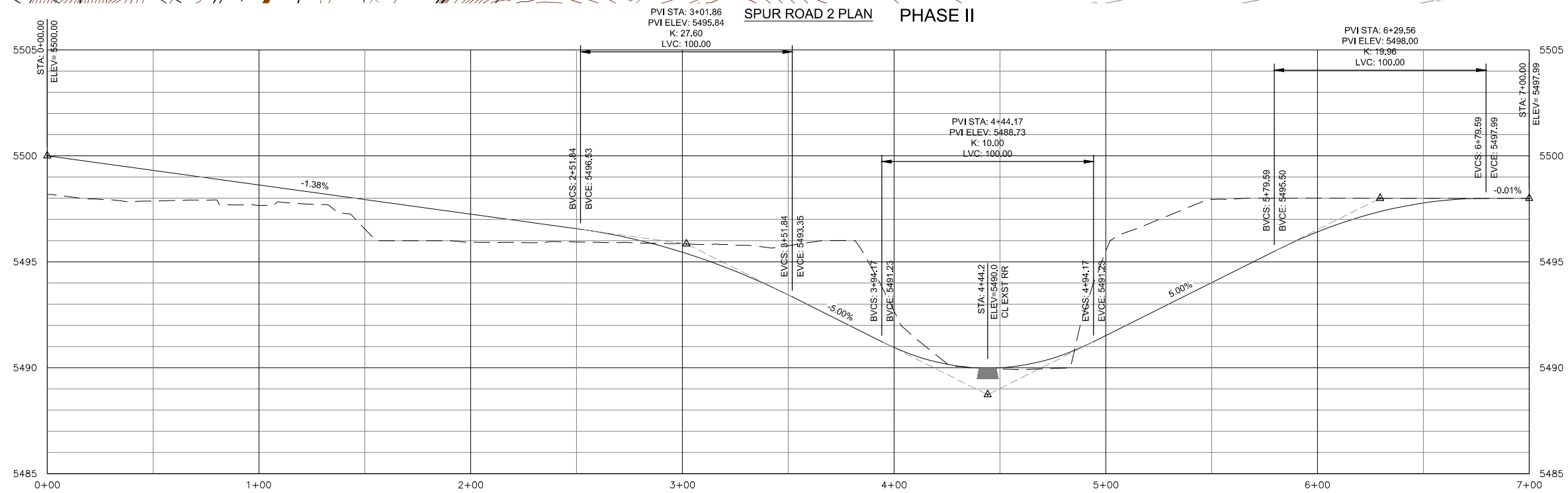
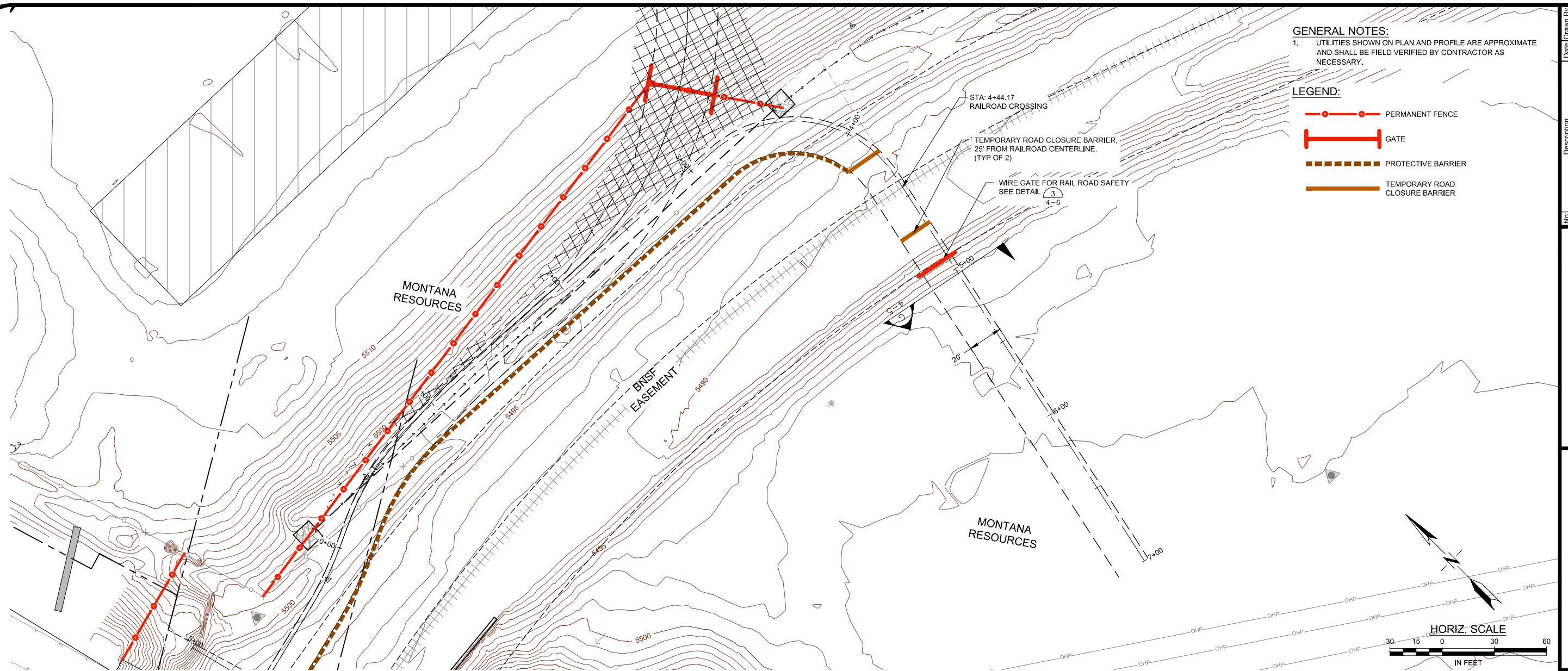
[illegible]HAUL ROAD SPUR
PLAN AND PROFILE

PROJECT NAME: BAO PARROT TAILINGS REMOVAL
LOCATION: BUTTE, MONTANA
FILE NO. 4-7 SPUR P&P.dwg

JOB NO:	NRDPM02
DATE:	10/11/17
DRAFTER:	DAH
CHECKED BY:	MB

DRAWING NO.

4-7



GENERAL NOTES:

1. UTILITIES SHOWN ON PLAN AND PROFILE ARE APPROXIMATE AND SHALL BE FIELD VERIFIED BY CONTRACTOR AS NECESSARY.

LEGEND:

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HAUL ROAD SPUR 2
PLAN AND PROFILE

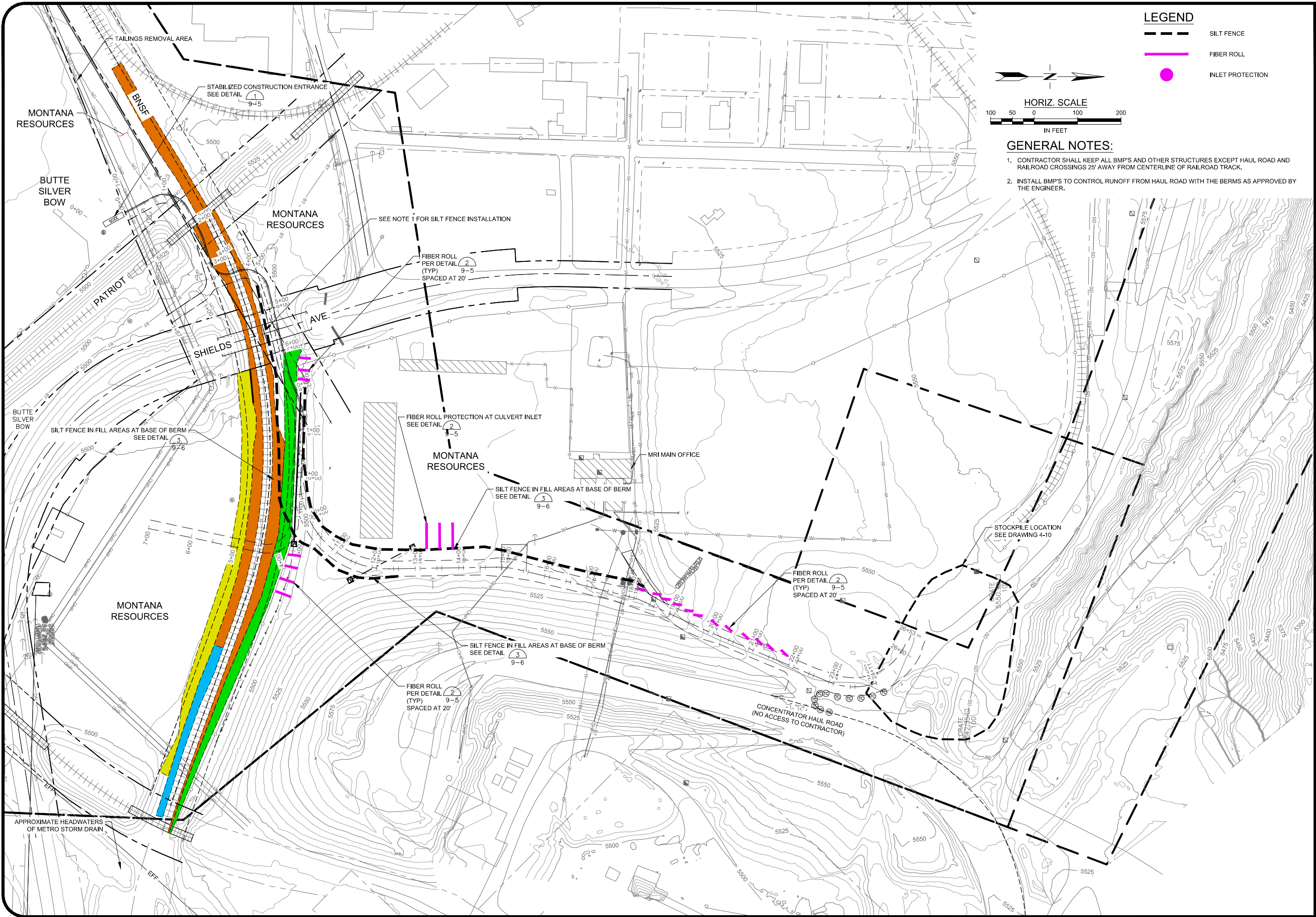
LOCATION: BUTTE, MONTANA
FILE NO. SPUR P&P.dwg

OB NO:	NRDPM02
DATE:	10/18/17
DRAFTER:	DAH
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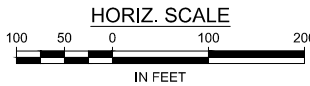
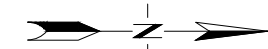
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LEGEND

- SILT FENCE
- FIBER ROLL
- INLET PROTECTION



GENERAL NOTES:

- CONTRACTOR SHALL KEEP ALL BMP'S AND OTHER STRUCTURES EXCEPT HAUL ROAD AND RAILROAD CROSSINGS 25' AWAY FROM CENTERLINE OF RAILROAD TRACK.
- INSTALL BMP'S TO CONTROL RUNOFF FROM HAUL ROAD WITH THE BERMS AS APPROVED BY THE ENGINEER.

PHASE I STORMWATER
BMP PLAN - HAUL ROAD

JOB NO. NRDPM02
DATE: 12/15/17
DRAFTER: DAH
CHECKED BY: MB

DRAWING NO.
9-1

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PROFESSIONAL
ENGINEER

PROJECT NO. 9-T PH1 STRMTR BMP - HAUL ROAD

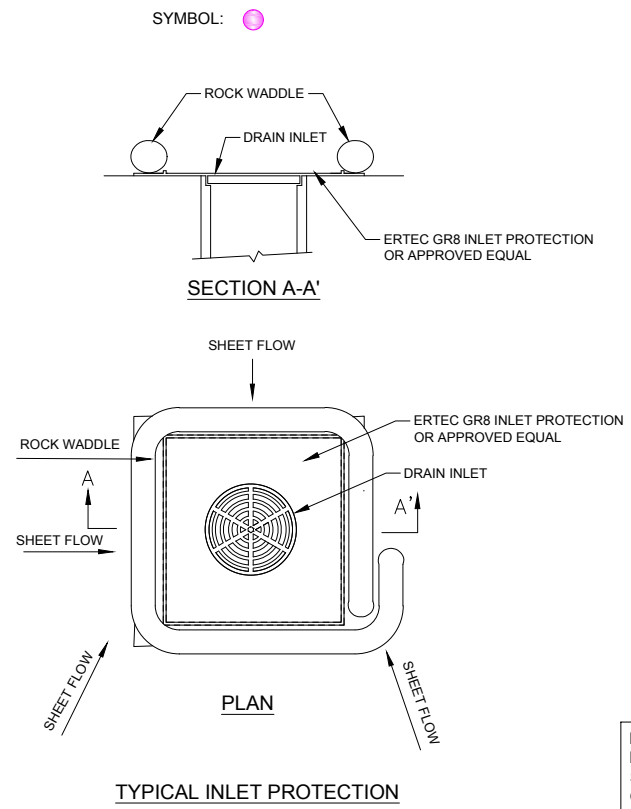
Morrison
Maierle
engineers • surveyors • planners • scientists
1 Engineering Place, Helena, MT 59602
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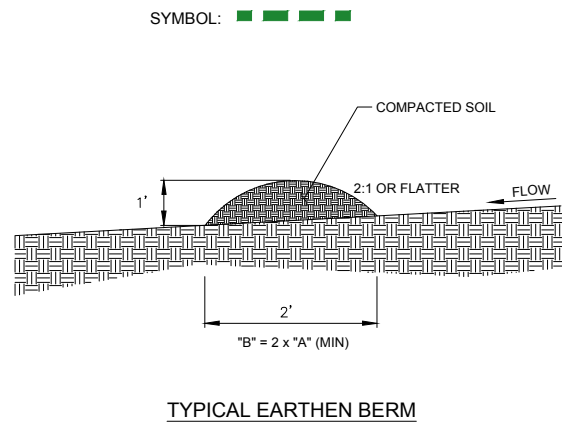
Date Drawn By

Description

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1 INLET PROTECTION DETAIL



2 EARTHEN BERM DETAIL

NOTE:
ROCK WADDLE AND EARTHEN BERM CONSTRUCTION PER MDEQ
STORM WATER MANAGEMENT DURING CONSTRUCTION FIELD
GUIDE FOR BEST MANAGEMENT PRACTICES.

EXHIBIT B

CONTRACTOR REQUIREMENTS

1.01 General

The State will require the following of its contractor(s) and subcontractor(s):

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as **BNSF** or "**Railway**" where work is over or under on or adjacent to Railway property and/or right-of-way, which includes the "Premises," as defined in the Agreement, during the construction of a haul road, two spur roads, approaches to the temporary crossings, and two twenty-four (24') feet wide temporary at-grade crossings ("Crossing"), across the rail corridor of Railway at or near BNSF's station of Butte, County of Silver Bow, State of Montana, Line Segment 0326, at Mile Post 69.94 and 70.03. The work will occur in the location and in the manner shown upon the Drawings 1-3, 1-6, 1-7, 1-9, 4-1, 4-2, 4-3, 4-5, 4-6, 4-7, 4-9, 9-1, 9-5, 9-6 and 9-7, previously reviewed and accepted by Railway, but subject to mutual modification ("the Drawings and Specifications," attached as Exhibit A). The State will be hauling Materials (as defined below) on the Premises, as identified in the attached Drawings pursuant to a schedule to be agreed on with Railway. BNSF will construct the Crossing and Contractor will construct the haul road, two spur roads, and the approaches.

For purposes of this Agreement, "Materials" means all soils and other materials of any kind the State will cause to be transported across the Premises in Butte, Montana pursuant to this Agreement, the Final Butte Area One Restoration Plan (BAO Plan), and/or the Parrot Amendment (collectively "Restoration Plan"). Materials also include without limitation "Parrot Tailings," overburden, slag, and cover materials that are on, under or in the immediate vicinity (or otherwise derived from) historic operations of the Parrott Smelter or otherwise within the area defined in Exhibit A (Drawing 1-3) as the Parrot Tailings Removal Project Site. "Parrot Tailings" are presently described by the State in its project plan as mining and smelter-related wastes.

- **1.01.02** Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.
- **1.01.03** The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Premises.
- **1.01.04** The Contractor's right to enter Railway's Premises is subject to the absolute right of Railway to cause the Contractor's work on Railway's Premises to cease if, in the reasonable opinion of Railway, Contractor's activities create a hazard to Railway's Premises, employees, and/or operations. Railway will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the Drawings and Specifications accepted by Railway, attached as Exhibit A; (ii) Contractor (or any of its subcontractors), in Railway's reasonable opinion, prosecutes the Project work in a manner which is hazardous to the Premises, facilities or the safe and expeditious movement of railroad traffic; or (iii) the insurance described in this Agreement is canceled during the course of the Project. "Hazardous" or "hazard" does not include transportation of the Materials across the Premises. In the case of such work stoppage, BNSF and the State will confer to resolve the situation as soon as possible so that the State can resume access, if warranted. The work stoppage will continue until all necessary actions are taken by the State or its Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer in his or her reasonable opinion or until additional insurance that meets the requirements of this Agreement has been delivered to Railway. In the event of a substantial breach of this Agreement, Railway may terminate this Agreement on written notice to the State, as outlined in

Paragraph 20 of the Agreement. Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop construction work on the Project, Railway agrees to immediately notify the State contacts listed in Paragraph 36 of the Agreement via e-mail and phone call. Subject to the State's commitments under this Agreement, the State retains all of its respective authorities and rights, including access and enforcement authorities related thereto under any applicable federal or state statute or regulation.

- **1.01.05** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. To the fullest extent permitted by law, the Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under this Agreement.
- **1.01.06** The Contractor must notify the State at the contact information listed in Paragraph 36 of the Agreement and Railway's Roadmaster, telephone number (406) 559-0544 (daniel.mavrinac@BNSF.com) and BNSF's Manager of Environmental Remediation at (406) 202-5018 (yueh.chuang@bnsf.com) by phone and email at least thirty (30) calendar days before commencing any work on the Premises. Contractor's notification to Railway must refer to Railway's file #16-54773.
- **1.01.07** Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event its work is delayed by the Railway.

1.02 Contractor Safety Orientation

- **1.02.01** No employee of the Contractor, its subcontractors, agents or invitees may enter Premises without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site www.bnsfcontractor.com. The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety Orientation through internet sessions before any work is performed on the Premises. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering the Premises. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative. This training must be completed no more than one year in advance of the Contractor's entry on the Premises.

1.03 Railway Requirements

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from its operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the State or its Contractor.

- **1.03.02** The Contractor must abide by the following temporary clearances during construction:
 - 15'-0" Horizontally from centerline of nearest track
 - 21'-6" Vertically above top of rail
- **1.03.03** Upon completion of construction, the following clearances shall be maintained:
 - 25' Horizontally from centerline of nearest track
 - 23'-6" Vertically above top of rail
- **1.03.04** Any infringement within State statutory clearances in ARM 38.4.401-417 due to the Contractor's operations must be submitted to the Railway and to the State and must not be undertaken until approved in writing by the Railway, and until the State has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.
- **1.03.05** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for protection of Railway operations. The cost of tell-tales or protective devices will be borne by the State or its Contractor.
- **1.03.06** The details of construction affecting the Railway's Premises not included in the Drawings and Specifications must be submitted to the Railway by the State for approval before work is undertaken and this work must not be undertaken until approved by the Railway.
- **1.03.07** At other than public road crossings or the private Crossings granted to the State pursuant to Railroad Agreement tracking #16-54773, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway.
- **1.03.08** Discharge, release or spill on the Premises of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the **Railway's Resource Operations Center at 1(800) 832-5452**, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow the Premises to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.
- **1.03.09** The Contractor upon the State's determination of completion of the work covered by this Agreement, but no later than October 30, 2023, must promptly remove from the Railway's Premises all of Contractor's tools, equipment, implements and other materials, whether brought upon Premises by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Premises to be left in the same condition it was in prior to Contractor's work on the Premises or a condition acceptable to the Railway's representative.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan

- **1.04.01** Each Contractor that will perform work within 25 feet of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site www.bnsfcontractor.com, which will

be made available to Railway prior to commencement of any work on the Premises. During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.

- **1.04.02** Contractor shall have a background investigation performed on all of its employees, subcontractors and agents who will be performing any services **a)** on the Premises, or **b)** that require access to Railroad's employees.

The required background screening shall at a minimum meet the rail industry background screening criteria defined by the e-RAILSAFE Program as outlined at www.everifile.com, in addition to any other applicable regulatory requirements.

Contractor shall obtain written consent from all its employees, subcontractors or agents screened in compliance with the e-RAILSAFE Program to participate in the Program on their behalf and to release completed background information to Railroad's designee referenced in Section 1.01.06. State shall require its Contractor to be subject to periodic audit to ensure compliance.

Contractor shall not permit any of its employees, subcontractors or agents to perform services on the Premises who are not first approved under e-RAILSAFE Program standards. Railroad shall have the right to deny entry onto its Premises to any of Contractor's employees, subcontractors or agents who do not display the authorized identification badge issued by a background screening service meeting the standards set forth in the e-RAILSAFE Program, or who in Railroad's opinion, which may not be unreasonable, may pose a threat to the safety or security of Railroad's operations, assets or personnel.

Contractors shall be responsible for ensuring that its employees, subcontractors and agents are United States citizens or legally working in the United States under a lawful and appropriate work VISA or other work authorization.

1.05 Track Protection and Railway Flagger Services

- **1.05.01** As provided in Paragraph 9 of the Agreement, when track protection is required, BNSF will endeavor to provide track protection through locking out the tracks. In the event that BNSF determines locking out the tracks will interfere with anticipated operations, another form of track protection acceptable to BNSF must be provided at the State's cost.
- **1.05.02** When track protection is required and other track protection acceptable to BNSF is not being provided, Railway flagger will be required and furnished when Contractor's work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25-feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:
 - **1.05.02a** When, upon inspection by Railway's Representative, other conditions warrant.
 - **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.
 - **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.

- **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
- **1.05.02e** Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.
- **1.05.03** Flagging services will be performed by qualified Railway flaggers.
 - **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Premises and operations, if deemed necessary by the Railways Representative.
 - **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.
 - **1.05.03c** The cost of flagger services provided by the Railway will be borne by the State. The estimated cost for one (1) flagger is approximately between \$800.00-\$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**
 - **1.05.03d** Currently, the average train traffic on this route varies from four freight trains per week to two freight trains per month at a timetable speed of 10 MPH and with zero passenger trains.

1.06 Contractor General Safety Requirements

- **1.06.01** Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations included in 40 C.F.R. Part 214.
- **1.06.02** Before beginning any task on the Premises, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).
- **1.06.03** Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority to operate within a specific track section is provided, every contractor employee must know: (1) If the tracks are locked out, and, if not; (2) who the Railway flagger is, and how to contact the flagger, (3) limits of the authority, (4) the method of communication to stop and resume work, and (5) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, if applicable, and be given a job briefing when working within 25 feet of the center line of track.

- **1.06.04** When Contractor employees are required to work on the Premises after normal working hours or on weekends, the Railway's representative in charge of the project must be notified. A minimum of two employees must be present at all times.
- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Premises and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Premises by that employee will be denied.
- **1.06.06** Any damage to the Premises, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the **Railway's Resource Operations Center at 1(800) 832-5452**. Contractors do not have an obligation to inspect passing trains or Railway vehicles or machines for damage or hazards unless the damage, hazard, vehicles, or machines are related to Contractor's work on the Premises. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job site.
- **1.06.07** For safety reasons, all persons are prohibited from having large knives, firearms or other deadly weapons in their possession while working on Railway's Premises.
- **1.06.08** All personnel protective equipment (PPE) used on Premises must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, www.bnsfcontractor.com, however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats; c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railway's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**
- **1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS, MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S REPRESENTATIVE.**
- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Premises must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications, at www.bnsfcontractor.com)
- **1.06.11** Other than required stormwater management as accepted by BNSF, workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.

- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000 KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.
- **1.06.13** Any temporary fill used or placed on the Premises must meet the minimum standards identified in the Butte Hill Revegetation Specifications.

1.07 Hazardous Waste, Substances and Material Reporting

- **1.07.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway's Premises, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor must immediately: (a) notify the **Railway's Resource Operations Center at 1(800) 832-5452**, of such discovery; (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties; and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release. Railway recognizes that Contractor will be transporting the Materials across the Premises. Except to the extent the same are released on or in such proximity as to create a threat of release to the Premises, this requirement does not apply to the transport of the Materials contemplated by the Agreement.

1.08 Personal Injury Reporting

- **1.08.01** The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway's Premises must be reported immediately (by phone or e-mail if unable to contact in person) to **Jennifer Willingham, General Attorney, BNSF Railway Company (phone: 817-352-1738/ email: jennifer.willingham@bnsf.com)**. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1(817) 352-7595 and to the Railway's Project Representative no later than the close of shift on the date of the injury.



NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

(If injuries are in connection with rail equipment accident/incident, highway rail grade crossing accident or automobile accident, ensure that appropriate information is obtained, forms completed and that data entry personnel are aware that injuries relate to that specific event.)

Injured Person Type:

☐ Passenger on train (C)

☐ Non-employee (N)

(i.e., emp of another railroad, or, non-BNSF emp involved in vehicle accident, including company vehicles)

☐ Contractor/safety sensitive (F)

☐ Contractor/non-safety sensitive (G)

☐ Volunteer/safety sensitive (H)

☐ Volunteer/other non-safety sensitive (I)

☐ Non-trespasser (D) - to include highway users involved in highway rail grade crossing accidents who did not go around or through gates

☐ Trespasser (E) - to include highway users involved in highway rail grade crossing accidents who went around or through gates

☐ Non-trespasser (J) - Off railroad property

If train involved, Train ID:

Transmit attached information to Accident/Incident Reporting Center by:

Fax 1-817-352-7595

or by Phone 1-800-697-6736

or email to: Accident-Reporting.Center@BNSF.com

Officer Providing Information:

(Name)

(Employee No.)

(Phone #)

**REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS AND PROTECTED FROM
DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490**



NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IT IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

I. Accident City/St:	_____	2. Date:	_____	Time:	_____
County:	_____	3. Temperature:	_____	4. Weather:	_____
(if non BNSF location)					
Mile Post / Line Segment: _____					
5. Driver's License No (and state) or other ID:			SSN (required):		

6. Name (last, first, mi): _____					
7. Address:		City:	St:	Zip:	
_____		_____	_____	_____	
8. Date of Birth:		and/or Age:		Gender:	
_____		_____		_____	
		(if available)			
Phone Number:		Employer:			
_____		_____			
9. Injury:		10. Body Part:			
_____		_____			
		(i.e., Laceration, etc.)		(i.e., Hand, etc.)	
II. Description of Accident (To include location, action, result, etc.):					

12. Treatment:					
<input type="checkbox"/> First Aid Only					
<input type="checkbox"/> Required Medical Treatment					
<input type="checkbox"/> Other Medical Treatment					

13. Dr. Name:			Date:		
_____			_____		
14. Dr. Address:					
Street:		City:	St:	Zip:	
_____		_____	_____	_____	
15. Hospital Name:					

16. Hospital Address:					
Street:		City:	St:	Zip:	
_____		_____	_____	_____	
17. Diagnosis:					

**REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS
AND PROTECTED FROM DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490**

1.09 RELEASE OF LIABILITY AND INDEMNITY

- **1.09.01** Paragraph 27 of the Access Agreement between State and BNSF is incorporated herein.

To the fullest extent permitted by law, Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts, omissions, or work on or about Railway's property or right-of-way, arising out of, relating to, or regarding this Agreement and/or the State's implementation of the BAO Plan as it pertains to the Materials, and/or the Parrot Amendment.

THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR UNDER THIS SECTION INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED, IF ARISING IN ANY MANNER FROM CONTRACTOR'S OR ANY OF CONTRACTOR'S SUBCONTRACTOR'S ACTS, OMISSIONS, OR WORK ON OR ABOUT RAILWAY'S PROPERTY OR RIGHT-OF-WAY, ARISING OUT OF, RELATING TO, OR REGARDING THIS AGREEMENT, AND/OR THE STATE'S IMPLEMENTATION OF THE BAO PLAN AS IT PERTAINS TO THE MATERIALS, AND/OR THE PARROT AMENDMENT.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all claims made against Railway that are covered by this release of liability and indemnification, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims, if covered by this section, and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from claims or suits that are covered by this release of liability and indemnification or incident to any such claims or suits.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railway to the fullest extent permitted by applicable law.

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

2.01 Insurance

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement insurance coverage at least equivalent to the following:

- **2.01.01** Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$2,000,000 each occurrence and an aggregate limit of at least \$4,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limit to the following:
 - Bodily Injury and Property Damage
 - Personal Injury and Advertising Injury
 - Fire legal liability
 - Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Waiver of subrogation in favor of Railway.
- Additional insured endorsement in favor of and acceptable to Railway, in BNSF's reasonable opinion.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to Railway employees.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy with regard to the work being performed under this Agreement.

- **2.02.02** Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
 - Bodily injury and property damage
 - Any and all vehicles owned, used or hired

The policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of Railway.
- Additional insured endorsement in favor of Railway.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

- **2.02.03** Workers Compensation and Employers Liability insurance including coverage for, but not limited to:
 - Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of Railway.

2.02.04 Contractor's Pollution Legal Liability (CPL) insurance in an amount of at least Five MILLION DOLLARS (\$5,000,000) per claim including but not limited to coverage for the following:

- bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death (with no requirement that the mental anguish be as a result of physical injury);
- property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- loss, costs or expense arising out of any (a) request, demand, order or statutory or regulatory requirement to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants; or (b) claim or suit for damage because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, pollutants;
- defense costs including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in bodily injury and property damage.
- if coverage is purchased on a "claims made" basis, Contractor agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Contractor agrees to provide evidence to BNSF annually or in the event of a material change of coverage, that it has the required coverage in place.
- amend the Contractual Liability exclusions and Employers' liability exclusion to provide coverage for liability assumed under this Agreement.
- amend the definition of Property Damage to provide coverage for natural resource damage.

2.02.05 Railroad Protective Liability insurance naming only the **Railway** as the Insured with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The policy Must be issued on a standard ISO form CG 00 35 12 04 and include the following:

- Endorsed to include the Pollution Exclusion Amendment.
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to the **Railway** prior to performing any work or services under this Agreement
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.



In lieu of providing a Railroad Protective Liability Policy, for a period of one (1) year from the Effective Date, the State or its Contractor may participate in BNSF's Blanket Railroad Protective Liability Insurance Policy available to the State or its contractor. The limits of coverage are the same as above. The cost is \$2,188.00 per year of participation. The policy is to be renewed annually as long as the project is in force.

- ☐ I **elect** to participate in BNSF's Blanket Policy;
- ☐ I **elect not** to participate in BNSF's Blanket Policy.

2.02.06 Other Requirements

- Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.

To the fullest extent permitted by law, Contractor agrees to waive its right of recovery against **Railway** for all claims and suits against **Railway** arising out of, relating to, or regarding this Agreement. Contractor's insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against **Railway** for all claims and suits. To the fullest extent permitted by law, Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against **Railway** for loss of its owned or leased property or property under Contractor's care, custody or control arising out of, relating to, or regarding this Agreement.

Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Contractor is not allowed to self-insure without the prior written consent of **Railway**. If granted by **Railway**, any self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all **Railway** liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing services, Contractor shall furnish to **Railway** certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments, consistent with this section. The certificate should be directed to the following address:

BNSF Railway Company
c/o CertFocus
P.O. Box 140528
Kansas City, MO 64114
Toll Free: 877-576-2378
Fax number: 817-840-7487
Email: BNSF@certfocus.com
www.certfocus.com

Contractor shall notify **Railway** in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration.

Any insurance policy shall be written by a reputable insurance company with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Contractor hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this Agreement. Annually Contractor agrees to provide evidence of such coverage as required hereunder.

Not more frequently than once every five years, **Railway** may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain insurance coverage(s) as set forth herein, naming **Railway** as an additional insured, and shall require that the subcontractor shall release, defend and indemnify **Railway** to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify **Railway** herein.

Failure to provide evidence as required by this section shall entitle, but not require, **Railway** to terminate this Agreement immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

To the fullest extent permitted by law, the fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by **Railway** shall not be limited by the amount of the required insurance coverage.

In the event of a claim or lawsuit involving **Railway** arising out of this Agreement, Contractor will make available any required policy covering such claim or lawsuit.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Contractor. Therefore, these provisions shall be enforceable and Contractor shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

For purposes of this section, **Railway** shall mean "Burlington Northern Santa Fe LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

2.03 Contractor Requirements

- **2.03.01** All Contractor(s) and subcontractor(s) must observe and comply with all provisions, obligations, requirements and limitations contained in the Agreement, and the Contractor Requirements set forth in this Exhibit B attached to the Agreement, including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site. The terms provided herein shall be incorporated into and become a material part of the Agreement between Contractor and the State.

3.01 Train Delay

- **3.01.01** The Parties anticipate that the work under this Agreement will not result in train delays, however, to the extent delays are caused by Contractor's work, Contractor is responsible for these delays. To the fullest extent permitted by law, Contractor hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.



For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. The rate then in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of train delay pursuant to this Agreement.

Contractor and its subcontractors must give Railway's representative, **(Dan Mavrinac) (406) 559-0544 (daniel.mavrinac@bnsf.com)** and **Brant Pierson (406) 256-4146 (brant.pierson@BNSF.com)**, (30) days advance written notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. With adequate advance notice as provided in Paragraph 22 of the Agreement to the State's contacts in Paragraph 36 of the Agreement, Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor's expenses for the project.

Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.

EXHIBIT "C"

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
MT NRD

LOCATION BUTTE	DETAILS OF ESTIMATE	PLAN ITEM : 330951000	VERSION : 1
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PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP MTW DIV LOGAN - BUTTE SUB LS 326 MP 69 TO 70 - 100% BILLABLE TO MT NRD

MONTANA NRD PARROT TAILING HAUL PROJECT - INSTALL (2) 24' CONCRETE CROSSINGS WITH 1 SET OF WHISTLE POSTS AND STOP SIGN/XBUCK FOR EACH CROSSING.

REQUESTOR: TAYLOR SMITH 6/16/17

** BUY AMERICA(N) APPLIES **

DESCRIPTION	QUANTITY U/M	COST	TOTAL \$

LABOR			

PLACE FIELD WELDS - CAP	56.0 MH	1,684	
PLACE SIGNS	54.0 MH	1,729	
REMOVE PUBLIC CROSSING	82.42 MH	2,336	
REPLACE PUBLIC CROSSING - TOTAL REHAB	48.0 MH	1,361	
SURFACE TRACK - REPLACEMENT - CAP	24.0 MH	702	
UNLOAD BALLAST - REPLACEMENT - CAP	1.0 MH	29	
UNLOAD CROSSING MATERIAL - PUBLIC - CAP	24.0 MH	681	
PAYROLL ASSOCIATED COSTS		4,981	
DA OVERHEADS		7,955	
EQUIPMENT EXPENSES		4,046	
INSURANCE EXPENSES		1,427	
TOTAL LABOR COST		26,931	26,931

MATERIAL			

BALLAST, FOR GENERIC USE ONLY	10.0 NT **	93	
TRACK PANEL, 115 STANDARD RAIL, 40 FT -10 FT TIES-	2.0 EA **	10,990	
POST, SIGN, 6X6X16 FT WOOD POST	2.0 EA **	290	
SIGN, NO. 63, "EMERGENCY" WITH ALL HARDWARE	2.0 EA **	17	
SIGN, RAILROAD CROSSING, CROSSBUCK	2.0 ST **	149	
SPIKE, TBR SCREW 3/4"X13", F/ROAD XING	108.0 EA **	238	
3X 24 INCH RETRO REFLECTIVE SHEETING AND HDWR 8	2.0 EA **	160	
WELDKIT, GENERIC FOR ALL RAIL WEIGHTS	7.0 KT **	475	
CONC STEEL CLAD FOR CURVES PANELS ON 10' WOOD	24.0 FT **	3,996	
CONC STEEL CLAD FOR CURVES PANELS ON 10' WOOD	24.0 FT **	3,996	
CONCRETE XING RAMP AND PANEL RESTRAINT,	2.0 ST **	620	
MATERIAL HANDLING		1,045	
ONLINE TRANSPORTATION		155	
OFFLINE TRANSPORTATION		258	
TOTAL MATERIAL COST		22,482	22,482

OTHER			

EQUIPMENT RENTAL	3.2 DAY	4,800	
TOTAL OTHER ITEMS COST		4,800	4,800
PROJECT SUBTOTAL			54,213
CONTINGENCIES			4,499
BILL PREPARATION FEE			588
GROSS PROJECT COST			59,300
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			59,300