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*MONTANA LAND RELIANCE
P.O. BOX 355
HELENA, MT 59624*

314140 CONSERVATION EASEMENT

STATE OF MONTANA SANDERS COUNTY

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Pages: 11

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Return To: MONTANA LAND RELIANCE

**GRANT DEED OF CONSERVATION EASEMENT
ON ADDITIONAL LANDS
and
RATIFICATION OF
DEED OF CONSERVATION EASEMENT**

THIS GRANT DEED OF CONSERVATION EASEMENT ON ADDITIONAL LANDS and RATIFICATION OF DEED OF CONSERVATION EASEMENT ("Grant and Ratification") is made this 10th day of September, 2019, by JUDITH HUTCHINS, of P.O. Box 104, Heron, Montana 59844 (hereinafter together with her heirs, personal representatives, successors, and assigns collectively referred to as "Grantor") and THE MONTANA LAND RELIANCE, a non-profit Montana corporation with a principal office at 324 Fuller Avenue, Helena, Montana 59601 (hereinafter referred to as "Grantee");

RECITALS:

1. Grantor owns certain real property in Sanders County, Montana, more particularly described in **Exhibit A** and in **Exhibit A-1** attached hereto and incorporated herein by this reference, which together consists of approximately 115 acres (hereinafter the "Property"); and,
2. The Property consists of significant open-space land, as defined in the Open Space Land and Voluntary Conservation Easement Act, Montana Code Annotated (MCA) Section 76-6-101, *et seq.*; and,
3. Grantee and Grantor executed and recorded a Deed of Conservation Easement in 2015 on and over that certain real property owned by Grantor which is described in **Exhibit A** attached hereto (the "2015 Easement Lands"), which Deed of Conservation Easement is dated December 9, 2015, and was recorded on December 10, 2015, as Document No. 301635, Book 1 Recordings, Page 84121, records of Sanders County, Montana; as amended by that certain Ratification and Amendment of Deed of Conservation Easement, dated December 22, 2016, and recorded on December 27, 2016, as Document No. 305031, Book 1 Recordings, Page 86932, records of Sanders County, Montana (hereinafter collectively referred to as the "2015 Conservation Easement"); and,
4. The 2015 Conservation Easement protects and preserves in perpetuity the following significant resources, and thereby provides significant public benefits to the people of the State of Montana, Sanders County, and the United States in compliance with Section 170(h)(4)(A) of the Internal Revenue Code and Sections 76-6-101, *et seq.*, MCA:

a. Open-space lands which maintain the rural, agricultural, and natural scenic qualities of the area and provide opportunities to continue traditional farming and ranching practices in perpetuity, as encouraged and supported by the federal tax policies, the private land protection policies of the State of Montana, and clearly delineated local land conservation policies adopted in Sanders County, Montana, as set forth in more detail below; and,

b. Scenic views of historic Montana landscapes that are enjoyed by members of the general public traveling on Winchester Road, a public roadway that runs near the Property, and by members of the general public recreating on nearby Kootenai National Forest lands, and on Elk Creek, an important tributary of the Lower Clark Fork River; and,

c. Retention of significant open space for a variety of other uses, including relatively natural wildlife habitat and ecosystems for fish, wildlife, and plants, including, but not limited to deer, elk, moose, black and grizzly bear, and numerous birds, including the bald eagle, all of which use the Property;

(hereinafter collectively referred to as the "Conservation Values"); and,

5. The 2015 Easement Lands are directly adjacent to additional property (approximately 24 acres) owned by Grantor, more particularly described in **Exhibit A-1** and hereinafter referred to as the "Additional Lands"; and,

6. Grantor and Grantee agree that the Additional Lands contain significant resources that are similar to, and complementary of, the Conservation Values on the 2015 Easement Lands, which are identified and protected in perpetuity by the 2015 Conservation Easement; and,

7. Grantor and Grantee mutually agree that incorporating and integrating the Additional Lands into the terms and conditions of the 2015 Conservation Easement will enhance the public benefits of the 2015 Conservation Easement; and,

8. In executing this Grant and Ratification, therefore, Grantor and Grantee now intend to and do include the Additional Lands as a part of the Property to enhance and promote the permanent protection of the Conservation Values of the Property described as a whole in both **Exhibit A** and in **Exhibit A-1**, thereby integrating the Additional Lands into the conservation restrictions associated with the 2015 Easement Lands; and,

9. Preservation of the Property by this Grant and Ratification furthers, supports, and is pursuant to the following clearly delineated public land conservation policies:

a. The U.S. Department of Agriculture, Forest Service, in the Forest Service Open Space Conservation Strategy: Cooperating Across Boundaries to Sustain Working and Natural Landscapes (November, 2007) recognizes that an interconnected network of open space across the landscape supports healthy ecosystems and a high quality of life for Americans, and this Easement is consistent with and advances the Forest Service's public policies; and,

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

c. The Lower Clark Fork River is identified as an aquatic focus area in the Montana Fish, Wildlife and Parks 2005 Conservation Strategy, and the Property contains montane forest and is adjacent to Elk Creek, an important tributary of the Lower Clark Fork River; and,

10. Preservation of the Property by this Easement will yield significant public benefit, as described below and as contemplated in Treasury Regulation §1.170A-14(d)(4)(iv)(A):

a. The Property is within one mile of other private lands on which Grantee holds other perpetual conservation easements, and therefore, the proposed open-space use is consistent with existing private conservation programs in the area and will provide significant public benefits consistent with Treasury Regulation §1.170A-14(d)(4)(iv)(A)(4); and,

b. The Property is located within one quarter-mile of public land under the administration of the Kootenai National Forest, federal lands managed for protection and conservation purposes pursuant to applicable forest and land management plans, and therefore, the proposed open-space use is consistent with public programs for conservation in the region and will provide significant public benefits consistent with Treasury Regulation §1.170A-14(d)(4)(iv)(A)(3).

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

12. By ratifying the 2015 Conservation Easement and conveying a Deed of Conservation Easement and its associated rights to the Additional Lands to Grantee, freely, voluntarily, and irrevocably, Grantor intends to preserve and protect in perpetuity the Conservation Values of the Property.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Grant and Ratification, and as an absolute, unconditional, unrestricted, and voluntary gift, Grantor hereby gives, grants, and conveys to Grantee, and the successors and assigns of Grantee, with warranties of title, a perpetual Deed of Conservation Easement on, over, and across the Additional Lands as described in **Exhibit A-1** hereof, which shall be integrated into and become a part of the Property subject to the 2015 Conservation Easement, all in accordance with the terms and conditions set forth below.

1. Grant of Conservation Easement on Additional Lands. Grantor hereby grants and conveys to Grantee a Conservation Easement in perpetuity, with warranties of title, on and over the Additional Lands described in **Exhibit A-1** of this Grant and Ratification, consisting of all of the rights, remedies, duties, and obligations on, over, and across the Additional Lands, as such rights and obligations are enumerated and described in the 2015 Conservation Easement, except as the 2015 Conservation Easement is specifically modified in paragraph 3 below. Grantee acknowledges that no goods or services were received in consideration of the grant of this Easement on and over that portion of the Property described in **Exhibit A-1** of this Grant and Ratification, which Grantee received as of the date noted on page 1 of this Grant and Ratification.

2. Purposes and Integration of Documents. The express purposes for which Grantor and Grantee execute this Grant and Ratification are: (i) to assure that the Conservation Values described in Recital 4 above will be protected and preserved in perpetuity on Grantor's Property, as

such Property is described both in **Exhibit A** and **Exhibit A-1**; (ii) to add to the lands subject to the 2015 Conservation Easement the Additional Lands, totaling approximately 24 acres, described in **Exhibit A-1** hereof; (iii) to prevent any use of or activity on the Property that will significantly impair the Conservation Values on the Property; and (iv) to ratify and reaffirm the terms and conditions of the 2015 Conservation Easement, as amended herein.

Grantor and Grantee mutually intend and agree that this Grant and Ratification and the 2015 Conservation Easement will be fully integrated and shall be interpreted, construed, and enforced as one document only, and that these instruments, taken together, shall limit and restrict the use of the Property to such activities as are consistent with the purposes stated herein and in the 2015 Conservation Easement.

3. Integration of Deeds. Grantor and Grantee expressly intend and agree that all of the terms, covenants, conditions, restrictions, easements, servitudes, rights, obligations, and remedies that are set forth in the 2015 Conservation Easement shall apply to the Additional Lands, described in **Exhibit A-1** of this Grant and Ratification, as if the Additional Lands had always been included in the 2015 Conservation Easement, except as specifically modified below:

- i. Amendment of Legal Description. Exhibit A of the 2015 Conservation Easement is hereby amended by this Grant and Ratification to include the Additional Lands, described in **Exhibit A-1** hereof.
- ii. Supplementation of Exhibits. This Grant and Ratification includes a new **Exhibit F-1** which depicts the Property, as described in **Exhibit A** and **Exhibit A-1** attached hereto, including the Additional Lands added to the Property by this Grant and Ratification.
- iii. Correction of numbering in Exhibit B, paragraph 4, "Structures and Building Envelopes." Due to a scrivener's error, the 2015 Conservation Easement contains two paragraphs numbered as Exhibit B, paragraph 4(c). To correct this error, the subparagraph entitled "Building Envelopes" will remain numbered as Exhibit B, paragraph 4(c), the subparagraph "Art studio" is hereby renumbered as Exhibit B, paragraph 4(d), and the subparagraph entitled "Primitive cabin" is hereby renumbered as Exhibit B, paragraph 4(e).

4. Documentation. At the time of the conveyance of the 2015 Conservation Easement, Grantee prepared and has on file a Resource Documentation Report. Grantor has also monitored the condition of the Property annually since obtaining the 2015 Conservation Easement and has compiled information about the uses, features, and resources on the Property as a result of these monitoring activities (hereafter collectively referred to as "Baseline Information"). Furthermore, Grantor has made available to Grantee, prior to the execution of this Grant and Ratification, information sufficient to document the condition of the Additional Lands at the time of the grant of this Grant and Ratification. This information is based in part upon a site visit to the Property by Grantee on June 10, 2019, and consists of maps of physical features and resources, aerial photographs, historical, archival, and government documents, and photographs of structures, developments, and improvements. Grantee, as soon as practically feasible after the execution of this Grant and Ratification, and in any case no later than October 1, 2019, will prepare an Addendum to the Resource Documentation Report pertaining to the Additional Lands based on and including the information described above. The parties shall sign a written acknowledgment, in the form attached to this Grant and Ratification as **Exhibit C-1**, that the documentation collected and integrated into the Addendum to the Resource Documentation Report accurately represents the condition of the Additional Lands as of the date of the grant of this Grant and Ratification. The Addendum to the Resource Documentation Report shall be maintained on file with Grantee.

The parties intend that the Baseline Information and the Addendum to the Resource Documentation Report shall be used by Grantee to monitor Grantor's future uses of the Property and practices thereon. The parties agree that, in the event a controversy arises with respect to the condition of the Conservation Values, the parties shall not be foreclosed from utilizing any other relevant document, survey, or report to assist in the resolution of the controversy. The parties further agree that if the Baseline Information or Addendum to the Resource Documentation Report contains any summaries of, or representations about, the terms or conditions of this Grant and Ratification, any conflict or inconsistency between the terms and conditions of this Grant and Ratification and the Baseline Information or Addendum to the Resource Documentation Report shall be governed by the express terms and conditions herein and not in the Baseline Information or Addendum to the Resource Documentation Report.

5. **Extinguishment: Grantee's Entitlement to Proceeds.** The following terms and conditions pertain to the possibility that the Deed of Conservation Easement granted by Grantor to Grantee on and over the Additional Lands may be terminated or extinguished and shall be incorporated by this reference into Section X of the 2015 Conservation Easement:

A. **Extinguishment.** If circumstances arise in the future which render the purposes of this Easement on the Additional Lands impossible or impractical to accomplish, this Easement on the Additional Lands may be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which Grantee shall be entitled from any sale, exchange, or involuntary conversion of all or any portion of the Additional Lands, subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Montana law at the time, in accordance with paragraph B of this Section X. In accordance with Section 76-6-107(2), M.C.A., Grantee shall use any such proceeds received from easement termination in a manner consistent with the conservation purposes of this Grant and Ratification.

B. **Compensation.** The Easement on the Additional Lands created by this Grant and Ratification constitutes a real property interest vested in Grantee as of the date of this Grant and Ratification. For purposes of subparagraph A or C of this Paragraph 5, therefore, Grantor agrees that Grantee shall be compensated for the fair market value of its property right in the event of involuntary termination or condemnation of the Easement created by this Grant and Ratification. In such event, Grantee, on the subsequent sale, exchange, or condemnation of all or a portion of the Additional Lands after termination or extinguishment of all or part of the Easement, shall be entitled to a portion of the proceeds equal to the fair market value of the Easement created by this Grant and Ratification, or any part thereof which is terminated, extinguished, or condemned, as of the date of the subsequent sale, exchange, or condemnation of the Additional Lands. Grantor and Grantee agree that they shall endeavor in good faith to reach mutual agreement on the proceeds to which Grantee shall be entitled. If mutual agreement cannot be reached by the parties, an appraisal of the value of the Easement created by this Grant and Ratification that has been terminated or extinguished shall be conducted by a licensed, certified real-estate appraiser acceptable to both parties. The appraiser shall apply all applicable appraisal standards for conservation easements which are contained in the Internal Revenue Code and Treasury Regulations promulgated thereunder, at the time of the termination, extinguishment, or condemnation of the Easement created by this Grant and Ratification, or by any other method agreed upon by Grantor and Grantee. Grantor and Grantee shall share equally the cost of any appraisal pursuant to this paragraph.

C. **Eminent domain.** If all or a portion of the Additional Lands is taken for a public purpose in the exercise of eminent domain so as to abrogate the restrictions imposed by the Easement created by this Grant and Ratification, Grantor and Grantee may join in appropriate actions to recover the value of each party's interest in the Additional Lands (or portion thereof)

taken, as established in subparagraph B of this Paragraph 5 including the value of Grantee's interest in the Easement created by this Grant and Ratification as it pertains to the condemned property at the time of the taking or condemnation. Grantor and Grantee shall be entitled to any incidental or direct damages resulting from such taking or condemnation, in proportion to their interest in the rights which are taken or condemned and for which such damages are awarded. Any proceeds shall be divided between Grantor and Grantee in proportion to their interest in the Additional Lands, or portion thereof, as established by subparagraph B of this Paragraph 5.

6. Ratification. All of the terms and conditions and all of Grantor's and Grantee's rights, remedies, and obligations stated in the 2015 Conservation Easement, are hereby restated, reaffirmed, and ratified by the parties to this Grant and Ratification, except as expressly amended in paragraphs 1-5 above. Nothing in this Grant and Ratification shall be interpreted to extinguish, modify, or amend the terms and conditions of the 2015 Conservation Easement as that instrument applies to, and encumbers title to, that part of the Property described in Exhibit A, except that the Property as a whole, described in Exhibit A and Exhibit A-1 hereof, must be transferred and conveyed in unified title and as one (1) parcel only. Furthermore, nothing herein shall change the rights, claims, interests, or priorities of any third parties, including creditors or potential creditors, if any, in or to that portion of the Property described in Exhibit A of the 2015 Conservation Easement.

7. Miscellaneous terms.

a. With respect to the Additional Lands, Grantor hereby makes the same warranties and representations to Grantee as are included in Section XI of the 2015 Conservation Easement.

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

c. The terms "Grantor" and "Grantee," as used herein, and any pronouns used in place thereof, shall mean and include the above-named Grantor and her heirs, personal representatives, successors, and assigns, and The Montana Land Reliance and its successors and assigns, respectively.

d. In the event any dispute arises over the interpretation or enforcement of the terms and conditions of this Grant and Ratification, the laws of the State of Montana shall govern resolution of such dispute.

e. This Grant and Ratification, including all Exhibits attached hereto, embodies and constitutes the entire understanding between the parties hereto with respect to Grantor's grant of this Easement on and over the Property described in Exhibit A-1, and all prior or contemporaneous negotiations, communications, conversations, understandings, and agreements had between the parties, hereto, oral or written, are merged in this Grant and Ratification.

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

GRANTOR:

J Hutch
JUDITH HUTCHINS

STATE OF MONTANA)
 County of SANDERS) : ss.

This instrument was signed or acknowledged before me on Sept. 5, 2019,
 by Judith Hutchins.

[Signature]
 (Notary's Signature)



GERI LEE
 NOTARY PUBLIC for the
 State of Montana
 Residing at Heron, Montana
 My Commission Expires
 March 22, 2022

Affix seal/stamp as close to signature as possible.

GRANTEE:

THE MONTANA LAND RELIANCE,
a corporation

By: George S. Olsen President
[Name and title]

STATE OF Montana)
 County of Jurist Clark) : ss.

This instrument was signed or acknowledged before me on
Sept 10, 2019, by George S. Olsen acting in the capacity of
President on behalf of The Montana Land Reliance.

[Signature]
 (Notary's Signature)



KRISTINA L. WING
 NOTARY PUBLIC for the
 State of Montana
 Residing at Helena, Montana
 My Commission Expires
 June 25, 2023

Affix seal/stamp as close to signature as possible.

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

“2015 Easement Lands.”

The following tracts of land located in Sanders County were encumbered by the 2015 Conservation Easement, which Deed of Conservation Easement is dated December 9, 2015, and was recorded on December 10, 2015, as Document No. 301635, Book 1 Recordings, Page 84121, records of Sanders County, Montana, as amended by that certain Ratification and Amendment of Deed of Conservation Easement, dated December 22, 2016, and recorded on December 27, 2016, as Document No. 305031, Book 1 Recordings, Page 86932, records of Sanders County, Montana, and the following tracts are fully integrated into this Grant and Ratification.

Township 26 North, Range 34 West, P.M.M., Sanders County, Montana

Section 10: SW $\frac{1}{4}$ SE $\frac{1}{4}$

Township 26 North, Range 34 West, P.M.M., Sanders County, Montana

Section 10: The North 24 Rods of the SE $\frac{1}{4}$ of said Section 10, according to Certificate of Survey No. 3287

AND

A tract of land located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 10, further described as Tract 1 on Certificate of Survey No. 2227, on file in the office of the Clerk and Recorder of Sanders County, Montana.

ALL OF THE FOREGOING DESCRIBED PROPERTY IS CONVEYED SUBJECT TO all third party rights of record in the Property existing at the time of conveyance of this Easement and not subordinated to this Easement.

**EXHIBIT A-1
LEGAL DESCRIPTION OF PROPERTY**

“Additional Lands.”

The following real property located in Sanders County, Montana, is hereby incorporated and integrated into the conservation restrictions associated with the 2015 Easement Lands, as set forth in the 2015 Conservation Easement and in this Grant and Ratification. The legal description included in this Exhibit A-1 is and shall be fully integrated into and combined with the description of the property that is included in Exhibit A attached hereto.

A parcel of land located in a portion of the Northeast Quarter (NE¼) of Section 10, Township 26 North, Range 34 West, P.M.M, Sanders County, Montana, and further identified as “Area 1” on Certificate of Survey No. 3539RB, Sanders County records.

**EXHIBIT C-1
ACKNOWLEDGMENT OF DOCUMENTATION SITE VISIT**

KNOW ALL MEN BY THESE PRESENTS, that **JUDITH HUTCHINS**, of Heron, Montana, as owner of the Additional Lands described herein, as of the date to the **GRANT DEED OF CONSERVATION EASEMENT ON ADDITIONAL LANDS** and **RATIFICATION OF DEED OF CONSERVATION EASEMENT** (hereinafter together with her heirs, personal representatives, successors, and assigns collectively referred to as "Grantor"), and **THE MONTANA LAND RELIANCE** of Helena, Montana, as Grantee of said Easement, hereby mutually acknowledge, declare, and agree as follows:

1. Grantor has made available to a representative of Grantee prior to the grant of this Easement, information sufficient to document the condition of the Additional Lands which shall be subject to this Easement.

2. A representative of Grantee has collected and compiled documentation sufficient to establish the condition of the Additional Lands as of the date of the grant of this Easement and has shared this documentation with Grantor.

3. The documentation was compiled by a representative of Grantee on a site visit to the Additional Lands on June 10, 2019, and consists of mapping of physical features and resources, photographs of structures, developments and improvements, and gathering of other appropriate information to document the Conservation Values of the Additional Lands.

4. Grantor and Grantee mutually acknowledge and agree that this information constitutes an accurate representation of the condition of the Additional Lands to be subject to this Easement at the time of its grant.

5. Additional information and documentation will be gathered as historical, government, and archival documents and aerial photographs are made available to Grantor and Grantee.

6. Grantor and Grantee further agree that a final Addendum to the Resource Documentation Report pertaining to the Additional Lands shall be completed from the above mentioned information as soon as practicable after the grant of this Easement to Grantee. Upon its completion, the final Addendum to the Resource Documentation Report shall be reviewed and approved in final form by both Grantor and Grantee, and shall be on file with Grantee in Grantee's normal place of business.

DATED this 10th day of September, 2019.

GRANTOR:

JUDITH HUTCHINS

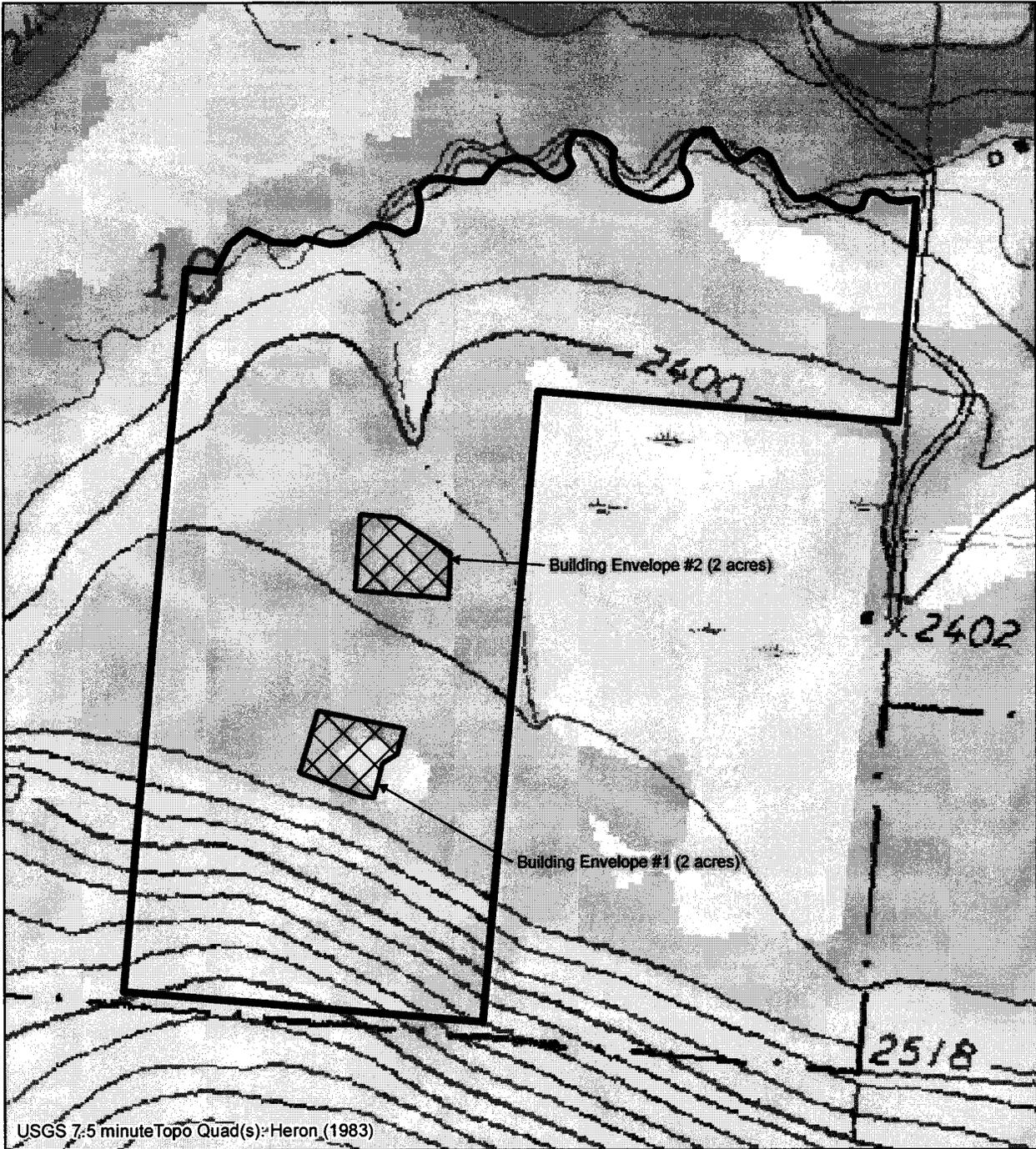
J Hutchins

GRANTEE:

THE MONTANA LAND RELIANCE,
a corporation

By: George S. Olsen
George S. Olsen, President

EXHIBIT F-1



-  Easement Boundary
-  Building Envelope

Date: June 18, 2019
Hutchins VI Property



Location: T26N, R34W, Sec.10