

**SECOND VCP-EA ADDENDUM
CMC ASBESTOS BOZEMAN CECRA FACILITY
BOZEMAN, GALLATIN COUNTY, MONTANA**

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LIST OF ACRONYMS

BMP	Best Management Practices
CALA	Controlled Allocation of Liability Act
CCR	Construction Completion Report
CECRA	Comprehensive Environmental Cleanup and Responsibility Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	Comprehensive Environmental Response Compensation and Liability Information System
CMC	Chicago-Milwaukee Corp.
COC	Contaminant of concern
DEQ	Montana Department of Environmental Quality
DNRC	Department of Natural Resource Conservation
EA	Environmental Assessment
Empire	Empire Building Materials, Inc.
EPA	U.S. Environmental Protection Agency
EPH	extractable petroleum hydrocarbons
ERIS	Environmental Risk Information Services
ERNS	Emergency Response Notification System
ESA	Environmental Site Assessment
FINDS/FRS	Facility Registry Service/Facility Index
GWIC	Groundwater Information Center
IC	institutional control
INST	Response Action List
LUST	leaking underground storage tank
MBMG	Montana Bureau of Mines and Geology
MCA	Montana Code Annotated
MDHES	Montana Department of Health and Environmental Services
MDT	Montana Department of Transportation
NPL	National Priority List
NRCS	Natural Resource Conservation Service
PAH	polycyclic aromatic hydrocarbons
PCB	polychlorinated biphenyls
PLM	Polarized light microscopy
PLP	Potentially Liable Persons
RCRA	Resource Conservation and Recovery Act
ROW	right-of-way
RTI	Resource Technologies, Inc.

SHWS	State Hazardous Waste Site
SVOC	Semi-volatile organic compounds
USDA	United States Department of Agriculture
UST	underground storage tank
VCP	Voluntary Cleanup Plan
VCP-RP	Voluntary Cleanup Plan – Remediation Proposal
VCRA	Voluntary Cleanup and Redevelopment Act
VSQG	Very Small Quantity Generator
WESTON	Weston Solutions, Inc.
<	less than

1.0 INTRODUCTION

1.1 SCOPE OF WORK AND PURPOSE

This Second Voluntary Cleanup Plan (VCP)-Environmental Assessment (EA) Addendum was prepared in accordance with § 75-10-734, Montana Code Annotated (MCA) and Montana Department of Environmental Quality's (DEQ) *Voluntary Cleanup and Redevelopment Act Application Guide* (DEQ, 2020) to address asbestos-containing soils at the Chicago-Milwaukee Corp. (CMC) Asbestos Bozeman Comprehensive Environmental Cleanup and Responsibility Act (CECRA) Facility, located in Bozeman, Montana (**Figure 1**). This is the Second VCP-EA Addendum to the 2013 *Environmental Assessment Component of a Voluntary Cleanup Plan for the Harrington's and Empire Properties within the CMC East Main Depot CECRA Facility*, previously completed by Resource Technologies, Inc. (RTI) and the 2015 *Addendum to the 2013 Environmental Assessment Component of a Voluntary Cleanup Plan for the CMC East Main Depot CECRA Facility* previously completed by Tetra Tech. Where appropriate, the previous VCP-EA and its initial addendum are relied upon to satisfy requirements as identified in § 75-10-734(2) MCA.

Originally, the boundary of the CMC Asbestos Bozeman CECRA Facility consisted of the current Bozeman Public Library property. A remediation project was completed on the city-owned portion in 2003, during which time additional asbestos-containing soil was discovered to the east of the property, thus expanding the CMC Asbestos Bozeman CECRA Facility boundary (Tetra Tech, 2008). This included private property along South Wallace Avenue owned by Empire Building Materials, Inc. (Empire), Harrington's Inc., and Story Distributing Co., city right-of way (ROW) on South Wallace Avenue, the former Heeb's Grocery Store property (to include the present-day Tire-Rama business); and the alley to the south of the former Heeb's Grocery Store between South Wallace Avenue and Church Street. To date, several voluntary cleanup activities to remove asbestos impacted soils have been implemented and those cleanup activities resulted in several areas being removed from the CMC Asbestos Bozeman CECRA Facility boundary.

The current CMC Asbestos Bozeman CECRA Facility boundary, as shown in **Figure 2**, includes those properties where potential or observed asbestos remain. The purpose of this Second VCP EA Addendum is to provide information about the operational history and actions that demonstrate the areas where potential sources of contamination are known to have been placed, stored, dumped or previously existed and have been identified, and that the extent of contamination has been adequately defined prior to implementation of a VCP. For the purposes of this assessment, the remaining properties identified within the current boundary of the CMC Asbestos Bozeman CECRA Facility, that is the subject of this Second VCP-EA Addendum, will be herein referred to as "Facility." The Facility (Facility Code 31311) is on DEQ's Priority List, ranked as a medium

priority. The primary contaminant of concern (COC) that has been documented in shallow soils throughout the Facility is anthophyllite asbestos ore.

The Second VCP-EA Addendum covers the current Facility boundary, which includes private properties along South Wallace Avenue and East Main Street and the public ROW on South Wallace Avenue. East Main Street bounds the Facility on the north and the southern terminus is approximately fifty feet south of the intersection of Curtiss Street and South Wallace Avenue as shown in **Figure 2**. Private properties within the Facility include:

- The Empire property on the east side of South Wallace Avenue;
- The former Heeb's Grocery Store on the corner of East Main Street and South Wallace Avenue;
- The east portion of the Tire-Rama property adjacent to former Heeb's Grocery Store and south of East Main Street; and
- Portions of the privately-owned alleyway on the south side of the former Heeb's Grocery Store/Tire-Rama, and between the south side of Brence's Service and the north side of the 503 East Babcock Street parking lot.

Publicly owned properties include:

- The City of Bozeman ROW on South Wallace Avenue from East Main Street to 50 feet south of Curtiss Street; and
- A portion of the Montana Department of Transportation (MDT) ROW along East Main Street that extends from north of Empire to the eastern side of the Tire-Rama property.

Where appropriate, portions of the following documents are relied upon and referenced to satisfy requirements of this Second VCP-EA Addendum as identified in § 75-10-734(2) MCA:

- *Voluntary Cleanup Plan for the Former CMC East Main Depot Site, Bozeman, Montana, Revision 2.* (VCP-02), RTI, October 22, 2002.
- *Revision 1, Addendum to the Voluntary Cleanup Plan for the CMC East Main Depot Facility.* (VCP02A-03), RTI, September 23, 2003.
- *Voluntary Cleanup Plan for the Former CMC East Main Depot Facility Addendum.* (VCP02A-08), Tetra Tech, December 15, 2008.
- *Final East Main Depot Facility Construction Completion Report.* (CCR-10) Tetra Tech, February 8, 2010.

- *Final 2016 Voluntary Cleanup Plan Remediation Proposal CMC Bozeman Asbestos CECRA Facility Bozeman, Montana, Tetra Tech, November 3, 2016.*

A VCP-Remediation Proposal (RP) is being prepared for proposed voluntary cleanup activities that will address observed and potential inaccessible asbestos impacted soils on the Empire-owned private properties located at 606 and 608 East Main Street, and along the 100 and 200 blocks on the east side of South Wallace Avenue in Bozeman, Montana (**Figures 1 and 2**). There is potential for clean-up activities in a portion of the City of Bozeman ROW on South Wallace Avenue, between East Main Street and East Olive Street, depending on the extent of development and the City's requirements for replacement of city-owned infrastructure (i.e., utilities, sidewalks, street).

Under a Stipulated Agreement with DEQ signed in 2017, the City of Bozeman agreed to act as the lead potentially liable persons (PLP) to conduct remedial actions at the Facility. As the PLP, the VCP applicant is the City of Bozeman:

City of Bozeman
c/o Kellen Gamradt
P.O. Box 1230
Bozeman, MT 59771-1230

The property owner of record for the various properties located within the Facility:

Empire Property
Description: 606 and 608 East Main Street, Bozeman, MT 59715
Property Owner: Empire Building Materials, Inc.

South Wallace Avenue ROW
Description: Bound on the north by East Main Street and terminates fifty feet south of Curtis Street. Includes paved public roadway, curbs, and gutters.
Property Owner: City of Bozeman

East Main Street ROW
Description: A portion of the MDT ROW along Main Street from north of the northern-most Empire building and extending to the eastern portion of the Tire Rama property.
Property Owner: Montana Department of Transportation

Former Heeb's Grocery Store
Description: 544 East Main Street, Bozeman, MT 59715
Property Owner: WAM DEV Group LLC

Tire-Rama

Description: 512 East Main Street, Bozeman, MT 59715

Property Owner: Magnificent Seven LLC

Brence's Service (Alley only)

Description: 0.18-acre parcel on 502 East Main Street, Bozeman, MT 59715

Property Owner: Just Plain Local LLC

503 East Babcock Parking Lot (Alley only)

Description: 0.183-acre parcel on 503 East Babcock Street, Bozeman, MT 59715

Property Owner: Moose Point LP

This Facility is eligible to be addressed under the Voluntary Cleanup and Redevelopment Act (VCRA) as described in §75-10-732(1) MCA because there has been a release of a hazardous substance that may present imminent and substantial endangerment to public health, welfare, and safety, and to the environment. As required by 75-10-733(3) MCA, the City of Bozeman has agreed to reimburse DEQ for the State's remedial action costs incurred in the review and oversight of the VCP.

To satisfy the requirements specified in §75-10-734(1) MCA, Weston Solutions, Inc. (Weston) used qualified professional staff, trained in preparing environmental assessments. Andy Wanta prepared this Second VCP-EA Addendum, with technical review by Mindy McCarthy. The roles and qualifications of the project team are described in more detail as follows and resumes are provided in **Appendix A**:

- Project Manager – Jenny O'Mara, EIT, has a B.S. in Environmental Engineering and has nearly 30 years of environmental experience in applying Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), CECRA, and other federal and state regulations to cleanup actions and providing project and technical management for the investigation, evaluation, and remediation of hazardous waste sites in Montana.
- Senior Engineering Professional/Qualified Environmental Professional – Mindy McCarthy has a B.S. in Environmental Engineering with 25+ years of experience in the environmental field with experience in providing technical expertise for Phase I/II Environmental Site Assessments (ESAs), site investigations, assessments, and remediation.
- Project Geoscientist/Qualified Environmental Professional – Andy Wanta is a Professional Geologist licensed in the state of Wisconsin with a B.S. and M.S. in Geology and 7 years of experience in the field of environmental sciences and the geotechnical field, including the development and implementation of site investigation plans; collection and analysis of

soil, sediment, groundwater, and surface water data; and conducting Phase I/II ESA investigations.

2.0 LOCATION AND LEGAL DESCRIPTION

The areas of the Facility that are covered by this Second VCP-EA Addendum are described below and shown in **Figure 2**. A map of subsurface utilities adjacent to the Facility is included in **Figure 3**.

2.1 EMPIRE PROPERTY

The Empire property includes three parcels of land located at 606 and 608 East Main Street, within Bozeman, Gallatin County, Montana. Further, described as being located at latitude 45.67937 and longitude -111.02815 in the NW¼ NW¼ SE¼ of Section 7, Township 2 South, Range 6 East. The three parcels total approximately 1.5 acres and are bound by South Wallace Avenue to the west, East Main Street to the north, Rivers Edge Fly Shop and Bozeman Public Library to the east, and the Gallatin County Land Trust to the south. These parcels are located within Bozeman city limits and are zoned downtown district (B-3). There are currently five main structures located on the property consisting of four adjacent structures: the Main Office, Door Shop Addition, Wood Warehouse, North Warehouse, and one standalone structure, the South Warehouse.

The property addresses, geocodes, and legal descriptions from Montana Cadastral (accessed September 5, 2024) are:

- 606 E. Main Street, Bozeman, MT 59715; Geocode: 06-0799-07-1-03-25-0000; Legal Description: ROUSE 1ST ADD, S07, T02 S, R06 E, ACRES 0.53, AMND LOT 1A-1 PLAT C-5-B
- 608 E. Main Street, Bozeman, MT 59715; Geocode: 06-0799-07-1-03-35-0000; Legal Description: S07, T02 S, R06 E, ACRES 0.727, PT OF BLK C ROUSES 1ST BOZ & PT OF BLK B ROUSES 2ND BOZ PLUS POR VAC ALLEY & BABCOCK ST
- 608 E. Main Street, Bozeman, MT 59715; Geocode:06-0799-07-4-56-20-0000; Legal Description: ROUSE 2ND ADD, S07, T02 S, R06 E, BLOCK B, TR BEING COS 361 less

Property deeds for Empire property are in **Appendix B**.

2.2 SOUTH WALLACE AVENUE

South Wallace Avenue is part of the City of Bozeman ROW. The segment of the road that is the subject of this Second VCP-EA Addendum is bounded by East Main Street to the north and terminates approximately 50 feet south of Curtiss Street. This is a paved public roadway with curbs on both sides and sidewalk and boulevard along the western side.

2.3 EAST MAIN STREET

East Main Street is part of the MDT ROW. The segment of the road that is the subject of this Second VCP-EA Addendum is from north of the northernmost Empire building, extending to the eastern portion of the Tire-Rama property. This is a paved public roadway with sidewalk, curb and gutter.

2.4 FORMER HEEB'S GROCERY STORE

The former Heeb's East main Grocery property (Heeb's) at 544 East Main Street, consists of a parcel totaling 0.54 acres and is described as: Rouse 1st Addition, S07, T02 S, R06 E, Amended Lot 9A-14 BLK B PLAT C-5-D. The former grocery store is currently used as a commercial building occupied by The Sidecar and Next Frontier Capital. The entire property is within the Facility boundary, although portions of the alley have previously been remediated and the footprint of the building was inspected in 2009 by DEQ and found to be free of asbestos (Tetra Tech, 2015). According to the VCP-EA Addendum (Tetra Tech, 2015), formal removal of the footprint of the building from the Facility has not yet been made.

2.5 TIRE-RAMA

The Tire-Rama property consists of a parcel totaling 0.548 acres and is described as: Rouse 1ST Addition, S07, T02 S, R06 E, Amended Lot 3-8A BLK B PLAT C-5-D. The property is owned by Magnificent Seven LLC and is occupied by Tire-Rama, an active tire retail store and garage. Only the eastern half of the property is included in the Facility boundary.

2.6 BRENCE'S PROPERTY (ALLEY ONLY)

Brence's Service is located at 502 East Main Street, consists of a parcel totaling 0.18 acres and is described as: Rouse 1ST Addition, S07, T02 S, R06 R, Lot 1-02 BLK B. The property is owned by Just Plain Local LLC and is occupied by Brence's Service auto repair shop. Approximately a 10-foot-wide strip along the southern edge of this property (the portion in the alley) is included in the Facility.

2.7 503 EAST BABCOCK PARKING LOT (ALLEY ONLY)

The 503 East Babcock property consists of a parcel totaling 0.183 acres and is described as: Rouse 1ST Addition, S07, T02 S, R06 E, W 1 ½ Lot 26 All Lot 27 & 28 BLK B. The property is owned by Moose Point LP and is occupied by a parking lot. Only an approximately 10-foot-wide strip along the norther edge of this property (the portion in the alley) is included in the Facility.

2.8 WRITTEN CONSENT OF CURRENT OWNERS

Written consent was only obtained for the owner associated with the Empire property since the proposed VCP-RP is specific to that property. A copy of the access agreement from Empire is included in **Appendix C**.

Portions of South Wallace Avenue within the Facility are within the City of Bozeman's ROW, so written consent for the City-owned areas is not required since the proposed voluntary cleanup is being conducted on behalf of and in coordination with the City. However, the City of Bozeman requires a Public ROW Utility Occupancy Permit for all situations where a contractor will be performing public utility work in the ROW and also requires a street cut permit for cutting through existing street surfaces. If the cleanup actions under the VCP-RP require cutting into the City ROW, the permit will be obtained.

If any work is expected to occur in MDT's ROW on East Main Street, an encroachment permit application is required to be submitted to MDT for access to the MDT roadway. Access and construction may not occur until MDT has issued the encroachment permit.

3.0 PHYSICAL CHARACTERISTICS

3.1 CLIMATE

Updated climatic data from 2000 through 2024 indicate that the annual average max temperature is 99.28 °F with an annual average lowest temperature of -28.04°F and a yearly average temperature of 43.29 °F. The average precipitation is 12.88 inches in the Bozeman area (National Weather Service, 2024).

3.2 TOPOGRAPHY

Surface topography of the area is considered relatively flat and generally slopes to the NNW. The Facility is located in the Gallatin Valley area and is bound by the Bridger Mountains to the north and east and the Gallatin Valley to the south. No significant changes to topography at the Facility have occurred since the 2015 VCP- EA Addendum.

3.3 SURFACE WATER

No surface water features are present at the Facility. The nearest surface water bodies are the Story Ditch that flows along the eastern boundary of the Bozeman Library and Bozeman Creek that flows south to north approximately 600 feet to the west of the Facility.

3.4 GEOLOGY

As described in the 2000 *Environmental Remediation and Redevelopment Feasibility Study* (Harvey, Gallagher, 2000), the Facility is located in the southeast portion of the Gallatin Valley, which is part of the Three Forks structural basin, one of intermontane basin surficial geology is valley fill alluvium consisting of silt, sand, and gravel. Some glacial drift deposits are also present. No significant changes to topography at the Facility have occurred since the 2015 VCP- EA Addendum.

3.5 SOILS

According to the United States Department of Agriculture's (USDA) Natural Resources Conservation Service's (NRCS) web soil survey map, the Facility is urban land, and no detailed soil information was available. However, soils east of the Facility consists of the soil unit Blackmore silt loam from 4-15 percent slopes. This soil is well drained and classified as hydrologic group C (Weston, 2023).

3.6 HYDROGEOLOGY

The principal aquifer in the Gallatin Valley is alluvium beneath the valley floor. Recharge is through infiltration of precipitation and irrigation water, with lesser amounts from influent seepage from streams (Harvey, Gallagher, 2000).

Shallow groundwater across the Gallatin Valley floor flows north northwestward and groundwater occurs at shallow depths under unconfined and semi-confined conditions within the alluvial fan deposits in the Facility vicinity. Flow is predominantly through thin sand and gravel in discontinuous lateral and vertical seams that are interbedded with the clayey portions of the alluvial fan. Static water levels collected at wells in the immediate vicinity of the Facility range from 7-20 feet below ground level (Harvey, Gallagher, 2000).

No significant changes to topography at the Facility have occurred since the 2015 VCP- EA Addendum.

3.7 GROUNDWATER WELLS

Information regarding area water wells, including water supply wells, groundwater monitoring wells, and oil and natural gas wells, was provided in the geological findings of the ERIS Physical Setting Report (ERIS, 2023b). There are no water supply wells listed within the Facility according to the Montana Bureau of Mines and Geology (MBMG) Groundwater Information Center (GWIC) well records (GWIC, 2024) and Department of Natural Resources and Conservation (DNRC)

Water Rights Query System (DNRC, 2024). **Section 4** of this report provides additional discussion of area wells located near the Facility.

3.8 GROUND COVER

The Facility ground cover includes commercial buildings, gravel or paved parking lots, paved streets, and a gravel alleyway. South Wallace Avenue and East Main Street are paved city streets with concrete curbs and gutters. The Empire property includes commercial and storage buildings with paved and gravel parking areas. The former Heeb's Grocery and Tire-Rama properties consist of commercial buildings surrounding by paved parking lots. The Moose Point property includes just a paved parking lot. The alley is a combination of paved and gravel surfaces.

Adjacent to the Facility, ground cover west of South Wallace Avenue consists of residential buildings with grass and other landscaping. The commercial property west of South Wallace Avenue consists of commercial buildings with a paved parking lot. The Bozeman Library, located to the east of the Facility, consists of buildings, a paved parking lot, vegetation, and landscaping. South of the Facility, Harrington's property, is a commercial building that has a paved parking lot and a lawn area.

3.9 BUILDINGS AND OTHER FEATURES

3.9.1 Empire Property

Structures at the Empire Property include the Main Office, Door Shop Addition, Wood Warehouse, North Warehouse, South Warehouse and gravel parking lots.

3.9.2 Former Heeb's Grocery, Tire-Rama and Brence's (alley only)

This portion of the Facility includes two structures at the former Heeb's and Tire-Rama, paved parking lots and an alley.

3.9.3 South Wallace Avenue

The South Wallace Avenue portion of the Facility does not have any structures on it and consists of a paved ROW surrounded by residential and commercial properties.

3.10 WASTE STORAGE AND DISPOSAL AREA

The Facility is not currently used for waste storage and/or disposal areas. However, historically asbestos ore was trucked to the Harrington's property, located south of the Facility, from Interstate Products mines where it was processed in the north Harrington's building as described in the 2015 VCP-EA. Unprocessed ore or ore tailings were stored in piles north, south, and east of Harrington's property (Tetra Tech, 2015). According to interviews with a former mill worker, ore was stored in a shed on the south side of the north Harrington building. The northern pile was located in what is

now the South Warehouse on the Empire property (DEQ, 2008). As previously stated in the 2015 VCP-EA, it is reported that the ore and tailing piles were spread across the Facility and covered with a thin layer of gravel after Interstate Products and Interstate Manufacturing stopped operations and ore from stockpiles was also apparently used as fill material on various properties at the Facility.

3.11 IMPACTED FACILITIES WITHIN ¼ MILE

Readily available environmental records and databases concerning facilities and potentially impacted facilities within ¼ to ½ mile of the Facility were reviewed by RTI (RTI, 2013) and by Weston during the Phase I ESA (Weston, 2023). The objective of the review was to identify, and update recorded enforcement actions and/or environmental investigations, which may have been performed on or near the Facility since preparation of the VCP-02 (RTI, 2002).

U.S. Environmental Protection Agency (EPA) NPL Sites

The CMC-EMD Bozeman Asbestos Site is the only NPL site listed (Weston, 2023).

U.S. EPA CERCLIS Database

No CERCLIS sites were located within ¼ mile radius of the Facility; however, the Mercer Post Plant was listed as being 0.40 miles from the Facility.

U.S. EPA ERNS Database

No spills were identified within the area screened according to the U.S. EPA Emergency Response Notification System (ERNS).

Montana CECRA Priority List

Montana DEQ administers the CECRA Priority List. No new sites have been added to the list within the search area since preparation of the VCP-02.

RCRA Facilities

In review of the Phase I ESA (Weston, 2023) there are several RCRA facilities within ½ mile of the Facility as described below:

- **Simkins-Hallin Property:** The RCRA Very Small Quantity Generator (VSQG) finding is a record of a facility classified as a hazardous waste generator; however, it is additionally classified as a very small quantity generator and does not generate more than 100 kilograms

of hazardous waste a month. The waste stream for this facility is listed as ignitable waste. This property has a violation for Generators - General.

- **Auto Body Center Inc:** The RCRA VSQG finding is a record of a facility classified as a hazardous waste generator; however, it is additionally classified as a very small quantity generator and does not generate more than 100 kilograms of hazardous waste a month. This property has no known violations.
- **Eagle Tire:** The RCRA VSQG finding notes there are violations or undetermined details or records associated with this site in Compliance monitoring and Enforcement table dated July 2023.

Registered Halogenated Solvent Users

No sites are located within the search radius.

Underground Storage Tanks

Several registered underground storage tanks (USTs) are registered with DEQ; however, there is also a possibility that unregistered storage tanks exist. The sites with active or previously non-active USTs within an approximate ¼ mile radius of the Facility are listed in **Table 3-1** below.

Table 3-1 USTs within ¼ mile of Facility

Facility Name	Address	Number of Active Tanks	Number of Non-Active Tanks
BFH Joint Ventures	316 E. Babcock	0	1
Brence's Services, Inc	502 E. Main	0	4
Four Wheel Drive Products, Inc.	915 E. Main	0	6
Gallery Signs Building	451 E. Main	0	3
General Services Admin (Federal Bldg)	10 E. Babcock	0	1
Hilltop Chevron	1007 E. Main	0	5
H. and C. Reid	310 Ice Pond	0	2
Kenyon Noble Lumber	25 E. Mendenhall	0	1
Klahs Conoco (Superlube)	402 E. Main	0	5
Litles, Inc. (Now Gallatin Valley)	215 S. Wallace	0	1
Manseau Auto Clinic	715 E. Mendenhall	0	1
Pacific Hide & Fur Depot	626 E. Main	0	1
Service Center	200 S. Wallace	0	1
Stetson Automotive	450 E. Main	0	4
Story Distributing Found Tank	220 S. Wallace	0	1
Sunset Hills Cemetery	N/A	0	1

The Paint Pot	549 E. Main	0	3
Bozeman Town Pump #1	803 E. Main	5	4
Vacant Lot (Delaney & Co.)	Corner Broadway & Main	0	1

Several of the above listed tank sites have had documented releases. In addition, two petroleum release sites with no registered tanks (Former Badgely Distributing and Midtown Auto Repair) appear in the Leaking Underground Storage Tank (LUST) listing from the Phase I ESA (Weston, 2023). Information on sites within a ¼ mile radius of the Facility that have reported petroleum releases are discussed below.

Leaking Underground Storage Tanks

The Montana DEQ Interactive Web Map and the Phase I ESA (Weston, 2023) files were reviewed to identify known LUST sites within ¼ mile radius of the Facility and are summarized in **Table 3-2** below.

Table 3-2 LUST Sites within ¼ mile of the Facility

Facility	Address	Regulatory Status
Casey's Corners #2	1211 E Main St	Resolved
General Services Admin (Federal Bldg)	10 E. Babcock	Closed
Former Badgely Distributing	716 E. Main St	Closed
Four Wheel Drive Products	915 E. Main	Active
Hilltop Chevron	1007 E. Main	Closed
Manseau Auto Clinic	715 E. Mendenhall (2 entries)	Closed
Midtown Auto Repair	109 N. Rouse	Closed
Service Center	200 S. Wallace	Closed
The Paint Pot	549 E. Main	Closed
Bozeman Town Pump #1	803 E. Main (2 entries)	Resolved
Vacant Lot (Delaney & Co.)	Corner of Broadway & Main	Closed

3.12 NOT APPLICABLE PHYSICAL CHARACTERISTICS

A description of physical characteristics intended to meet MCA Section 75-10-734(2)(b) are further described in DEQ's VCRA Guide. Due to the nature of the COC, contaminated media and potential routes of and exposure, as well as the Facility location, it was determined that not all physical characteristics were applicable to the Facility. Those physical characteristics include: stratigraphy, structural geology, regional groundwater flow patterns, groundwater aquifers, surface and storm water run-off detention ponds and discharge points, hydraulic conductivity, surface water intakes, facility process units, surface impoundments, wastewater discharges and treatment units, waste storage and disposal, chemical and/or product storage areas, septic leach fields,

irrigation ditches/systems, fuel transfer and petroleum storage tanks, spill collection features, and water cooling systems. The 2013 VCP-EA and the subsequent VCP-EA Addendum also did not include a ‘Not Applicable Physical Characteristics’ section. And as such, there have been no major changes to the physical characteristics listed above since the previous documents were approved.

4.0 AREA WELLS

There are 17 well records identified within 1/8-mile of the Facility (GWIC, 2024). **Table 4-1** summarizes the findings below and a full list of all wells within ½ mile radius can be found in **Appendix E**.

Table 4-1 GWIC Wells within 1/8-mile of the Facility

GWIC Well #	Site Name	Latitude	Longitude	Well Type	Total Depth (ft)	Static Water Level (ft)
326835	S2K Miller Holding, LLC	45.67847	-111.03167	Monitoring Well	25	17
326832	S2K Miller Holding, LLC	45.67878	-111.03100	Monitoring Well	25	16
330409	S2K Miller Babcock, LLC	45.67875	-111.02958	Monitoring Well	30	21
166364	Montana Flour Mill Co	45.67825	-111.03068	Commercial Well	119.5	-
251213	Olive Street LLC	45.67732	-111.02939	Irrigation Well	-	-
239607	Milwaukee Road Rail Trail	45.67730	-111.02640	Irrigation Well	135	10.5
124902	CMC Hartland Partners	45.67732	-111.02682	Irrigation Well	125	44
125747	Bozeman City of – Lindley Park	45.67768	-111.02638	Irrigation Well	222	6
241505	Badgley Glenn E.	45.67893	-111.02588	Monitoring Well	25	12.5
241504	Badgley Glenn E.	45.67912	-111.02578	Monitoring Well	25	13
285788	Town Pump	45.67924	-111.02568	Monitoring Well	25	14.5
241502	Badgley Glenn E.	45.67923	-111.02563	Monitoring Well	25	14
241503	Badgley Glenn E.	45.67923	-111.02602	Monitoring Well	25	14
285789	Town Pump	45.67955	-111.02558	Monitoring Well	25	14.5
285787	Town Pump	45.67977	-111.02563	Monitoring Well	25	14.5
285786	Town Pump	45.67982	-111.02545	Monitoring Well	25	14
296620	Bozeman Public Schools	45.68011	-111.02811	Irrigation Well	40	8

More detailed well research was not completed since the current COC is asbestos ore and it is not a groundwater contamination site. The distribution of the ore is well defined and generally limited to soils at depths less than four feet, and by nature of the COC, is not a migration risk.

5.0 SURFACE AND GROUNDWATER USE

No significant changes have occurred since VCP-02 (RTI, 2002). The commercial and residential properties contained within the Facility utilize city services (Bozeman, 2024) and there are no groundwater wells located within the Facility boundary. No surface water features are present at the Facility, but Bozeman Creek is located along the east side of 626 East Main Street, about 500 feet east of the Facility (Weston, 2023). Future surface water and groundwater changes are not anticipated.

6.0 OPERATIONAL HISTORY

The original property defined by the CMC Asbestos Bozeman CECRA Facility consisted of approximately five acres adjacent to the east side of the Facility and is currently the Bozeman Library property. This was originally purchased in 1910 by the Chicago Milwaukee St. Paul & Pacific Railway, what is now known as CMC was used for passenger and freight services. Beginning in 1922, the property was leased to various commercial businesses including an asbestos ore processor, Interstate Manufacturing Asbestos Products. Interstate Manufacturing Asbestos Products leased property along the south side of the Facility starting in 1950 until 1972 and was used for asbestos milling and storage. This operation led to contamination of the shallow surface soils with asbestos, lead, and petroleum compounds.

In September 1990, the former Montana Department of Health and Environmental Services (MDHES) program sampled various locations and revealed that asbestos was present in the onsite soils and exceeded the regulatory limit of less than ($<$) 1% asbestos, resulting in the designation as a CECRA site. In October 1990, MDHES notified the responsible party at the time and required interim actions to reduce the public's exposure to site contaminants. Numerous investigations and voluntary cleanup actions have occurred at the Facility and surrounding areas since that time.

6.1 EMPIRE PROPERTY

The Empire property and adjacent properties were purchased in the early 1900s by the Chicago, Milwaukee, St. Paul & Pacific Railway, later known as CMC (Weston, 2023). At that time, a freight office/warehouse, a freight platform, and railroad spurs were constructed by CMC. Starting in 1955, Empire leased several different parcels over various timeframes from CMC, including portions of the freight office for the storage of building materials and offices (ERM, 1992). Interstate Manufacturing Asbestos Products leased a portion of the Empire property along the

south and east sides for asbestos storage and milling. Stockpiles of asbestos ore are reported to have been stored where the South Warehouse is currently located.

Empire purchased the current properties with the addresses 606 East Main Street and 608 East Main Street from CMC as referenced in quitclaim deeds from 1971 and 1977 (ERIS, 2023). Empire has since utilized the properties for its building material distribution where various construction products such as cement siding, lumber, caulks, and adhesives are delivered to the site and repackaged and redistributed to clients. The freight office/warehouse is still present on the property and is utilized as an office and document storage area.

There are currently five main structures located on the property consisting of four adjacent structures: the Main Office, Warehouse 1 (part of the Main Office building), Warehouse 2 (Door Shop Addition), Warehouse 3 (Wood Warehouse), Warehouse 4 (North Warehouse), and one standalone structure, Warehouse 5 (South Warehouse).

The Empire properties were identified as containing asbestos ore contamination in the shallow surface soils through sampling conducted in 2002 and 2003; however, the accessible asbestos ore identified was removed in 2009 (Tetra Tech, 2016).

As described in **Section 9.1.4**, test pit sampling of the Empire property conducted by RTI in 2002-2003 documented asbestos contamination. Although all accessible asbestos ore was removed from the Empire properties in 2009 (Tetra Tech, 2010), inaccessible asbestos ore remains beneath the South Warehouse and around its perimeter, and beneath the North Warehouse (**Figure 2**). As a part of the remediation in 2009, a shotcrete cap was placed over asbestos contaminated soils around the perimeter of the South Warehouse as excavation and removal of these soils would have compromised the structure's foundation.

Currently, asbestos impacted soils remaining are limited to areas under existing buildings, areas immediately adjacent to the foundations of existing buildings, and where asbestos impacted soils were left in-place and capped with concrete. As a result, recorded land use restrictions called institutional controls (ICs) were placed on these two Empire properties containing the warehouses mentioned above.

6.2 SOUTH WALLACE AVENUE

South Wallace Avenue appears to have been first developed in the 1890s and was probably paved sometime between 1908 and 1940; however, since that time pavement has been periodically removed and replaced as the result of utility projects. During the implementation of the VCP-02 (RTI, 2002), visible asbestos ore was identified on the east side of South Wallace Avenue.

In 2003, asbestos contaminated soils were excavated on the eastern side of the of South Wallace Avenue ROW adjacent to the Warehouse 4 (Empire property) as well as an unpaved section immediately south of the Harrington property (RTI, 2004). In 2009, Tetra Tech implemented the VCP02A-08 (Tetra Tech, 2008) and removed the asbestos-containing soils in the accessible portions of the ROW on the east side of South Wallace Avenue along Warehouses 4 and 5 as shown in design drawings in Tetra Tech's 2010 *East Main Depot Facility Final Construction Completion Report* (2010 Final CCR). The areas of the cumulative soil removals along the east side of South Wallace Avenue are shown in **Figure 2**

In 2014, the City of Bozeman replaced a section of sidewalk along the west side of South Wallace Avenue between East Main Street and the alley between East Babcock Street and East Main Street. Per DEQ correspondence, this work was performed using the 2013 VCP procedures but was not covered by the 2013 VCP. As a result, this work was included into the 2016 VCP, along with the other areas of the Facility not previously remediated using the 2013 VCP. During this sidewalk project, approximately 105 cubic yards of contaminated soils were removed. Additional asbestos or potential asbestos was left in place within the South Wallace Ave ROW (Tetra Tech, 2017). This removal is not reflected in City of Bozeman's GIS map created on September 20, 2022 (Bozeman, 2022). Additionally, a sewer line was replaced along South Wallace Avenue under the 2016 VCP and was documented in the 2021 *Construction Completion Report for the South Wallace Avenue Sewer Replacement within the CMC Bozeman Asbestos CECRA Facility* prepared by RTI.

6.3 FORMER HEEB'S GROCERY AND TIRE-RAMA PROPERTY

The former Heeb's property was listed in the Polk Directories as first being developed in 1927 when structures nearest the 544 East Main Street address consisted of Harrison Keyset Auto Repair (540 E. Main) and the Barer Jacob Fur Company (552 E. Main). Beginning in 1950, Bob's War Surplus store occupied 548 East Main Street. Despite several name changes, the fur company continued to operate through 1958. Review of aerial photographs indicate that from at least 1937 through 1954 there were six or more buildings of various sizes at the former Heeb's grocery established in 1963.

The 2016 VCP RP indicates the parking lot of Tire-Rama and the former Heeb's Grocery as having potential asbestos. The soils beneath the building occupied by the former Heeb's Grocery were sampled and no asbestos was observed.

6.4 BRENCE'S SERVICE PROPERTY (ALLEY ONLY)

As stated in the 2015 VCP-EA Addendum, aerial photographs indicate that the alley appears to be present since 1937 and is like today's conditions.

Asbestos ore was encountered in shallow soils during utility work in the unpaved alley behind former Heeb's Grocery Store in October 2007 (Tetra Tech, 2009). A supplemental investigation of the attic soils directly south of the former Heeb's Grocery Store in December 2007 by Tetra Tech identified visible asbestos ore. It is assumed that based on this investigation and subsequent remedial actions in the portions of the alley south of the Heeb's Grocery Store, that the alley south of the Brence's Service has potential asbestos-containing soils, although no investigation has been completed.

6.5 AERIAL PHOTOGRAPH REVIEW

Historical aerial photographs were reviewed to provide supporting information for the operational history of the Facility (RTI, 2013). The photographs were of less-than optimal quality for historic research; however, photographs from 1937, 1954, 1979, and 1990 were reviewed from the 2013 VCP-EA (RTI, 2013) and additional aerial photographs from 1995, 2005, 2006, 2009, 2011, 2013, 2015, 2017, 2019, 2020, and 2021 were reviewed and are described in more detail below (Weston, 2023).

6.5.1 Empire Building Property

In 1947, two main structures are present at the Empire portion of the Facility that coincide with the Main Office and Wood Warehouse. Several residences are present to the west of the Empire property and the rail depot is to the east. Aerial imagery from 1965 shows that the rail line adjacent to the Empire property to the east has been reclaimed and several warehouse structures and material staging areas can be identified in the former rail line. By 1981, the structures present at the at the Empire property resemble what is presently there today. In 1995, all but one of the structures and some of the materials have been removed from the rail property areas to the east of the Empire property. In 2005, construction of the Bozeman Library begins on the old rail property that was completed in 2009. In 2011, it appears skylights were installed on the South Warehouse. In 2015, two structures (the former Harrington Building) located on the south side of the Empire property have been reconstructed and a parking lot was built to the south of those structures (Weston, 2023).

6.5.2 Former Heeb's Grocery, Tire-Rama, Brence's (alley) and South Wallace Avenue

In the 1937 and 1954 photos of South Wallace Avenue, the alley behind Brence's properties appear like today's conditions. During this timeframe, there were multiple buildings on the former Heeb's grocery and Tire-Rama properties, none of which appear to exist today. In the 1979 photo, properties appear similar to today, the former Heeb's Grocery building is present, as is the Tire-Rama store. The 1990 photo reflects conditions similar to the 1979 photo and also reflects the conditions noted in the 2013 VCP-EA (RTI, 2013).

7.0 ENVIRONMENTAL, REGULATORY, AND COMPLIANCE HISTORY

There are no known local, state, or environmental permits obtained for this Facility; therefore, there are no associated compliance issues or permit violations. The City of Bozeman requires a street cut permit for cutting through existing street surfaces. If the cleanup actions under the VCP require cutting into the City ROW, the permit will be obtained.

There have been no known spills/releases at the Facility aside from those related to the CECRA Facility (Weston, 2023). A review of database listings conducted by Environmental Risk Information Services (ERIS) in 2023, identified that the CMC Asbestos Bozeman CECRA Facilities listed in the Facility Registry Service/Facility Index (FINDS/FRS) database (registry ID 110040649082), as well as the State Hazardous Waste Site (SHWS), VCP and the Response Action List (INST) databases. The listing in SHWS database indicates CMC Asbestos Bozeman CECRA Facility as being on Montana's CECRA Priority List. The INST finding is a record of hazardous waste facilities where cleanup activities have taken place or are in progress and have ICs in place, including a Restrictive Covenant, Local Permit, and Ordinance ICs. The VCP database finding is a record of facilities going through the Voluntary Cleanup and Redevelopment Act voluntary cleanup process. Cleanup actions completed at the Facility in 2009 are described in Section 9.3. Additional cleanup activities were completed following the 2013 VCP and the 2016 VCP-RP which are described in greater detail in Sections 1.2, 6.1, and 6.2.

The IC for the Facility includes a restrictive covenant for portions of the Empire property, which is included in **Appendix D**. The City has established ICs for the Facility under Resolution No. 4180, which specifies the actions and devices the City will employ for the purpose of informing persons performing excavation work on the streets where observed and potential observed asbestos exist. The City also passed ordinances relating to a new procedure for obtaining street cut permits, implemented an O&M plan that is intended to ensure that the required ICs remain effective in protection of human health and the environment, and annual reporting requirements to the DEQ Asbestos Control Program (Tetra Tech, 2016).

In 2003, the City of Bozeman submitted a petition initiating a voluntary allocation of liability under the Controlled Allocation of Liability Act (CALA). DEQ conducted a good faith investigation and issued CALA notice letters requiring the appointment of a lead PLP and cleanup of the remaining contamination at the Facility. The City of Bozeman agreed in 2006 to act as the lead PLP to conduct remedial actions, and a Stipulated Agreement was signed in August 2007.

There are no known private or agency litigations associated with the Facility.

8.0 CURRENT AND FUTURE LAND USE

8.1 CURRENT USE

8.1.1 Empire Property

This consists of five main structures located on the property: the main office, door shop addition, north warehouse (two structures) and one standalone warehouse (south warehouse) which are being used by the Empire Building Materials company. The offices are occupied by the Empire Building Materials staff and the warehouses are used to store building materials and equipment.

8.1.2 South Wallace Avenue

South Wallace Avenue is a public ROW with associated curbs, gutters and sidewalks owned by the City of Bozeman.

8.1.3 Former Heeb's Grocery

The former Heeb's Grocery property consists of a commercial building with a paved parking lot. The building is currently a commercial building and is occupied by The Sidecar and Next Frontier Capital.

8.1.4 Tire-Rama Property

Tire-Rama property consists of a commercial building owned by Magnificent Seven LLC. The property is an active tire retail store and garage with a paved parking lot.

8.1.5 Brence's Property

Brence's Service property is owned by Just Plain Local LLC and is occupied by a structure that houses Brence's Service auto repair shop. However, only the alley behind this property is part of the Facility.

8.1.6 Adjacent Properties

The majority of land to the east is occupied by the Bozeman Public Library and the City of Bozeman parks and trails lands. Properties to the north across East Main Street are commercial properties and include a restaurant/bar, retail stores and offices. Land to the south is mainly residential areas and the City of Bozeman's Lindley Park and the Bozeman Sculpture Park. Land use to the west is mixed residential and commercial. Commercial properties in this area include an office space at the southwest corner of South Wallace Avenue and Olive Street. In addition, a property immediately south of the former Heeb's Grocery store is currently being used as a brewpub. The former South Harrington's building referenced in earlier VCP documents was removed as part of the 2014 remediation project (RTI, 2014). During the 2014 remediation, the South Harrington warehouse building, loading dock, and freight elevator were demolished. The building is currently used as a commercial property with businesses including the Gallatin Valley Land Trust, Oboz Footwear, and the Cottonwood Club.

8.2 ANTICIPATED FUTURE USE

8.2.1 Empire Property

Empire will continue to be used as an office and storage building until the current occupants move out, tentatively scheduled for the spring of 2025. After the current occupants move out, the buildings will undergo asbestos abatement prior to being demolished. A long-term goal for the property is demo the current buildings and future construction of a hotel.

8.2.2 South Wallace Avenue

No changes to the current use of South Wallace Avenue are proposed. It will continue to be used as a public ROW with associated curbs, gutters and sidewalks owned by the City of Bozeman. In the foreseeable future, street maintenance or upgrading would occur to preserve and improve the condition and longevity of this ROW.

8.2.3 Former Heeb's Grocery

No changes to the current use of the former Heeb's property are proposed. It will continue to be used as a commercial building occupied by The Sidecar and Next Frontier Capital.

8.2.4 Tire-Rama Property

No changes to the current use of the Tire-Rama property are proposed. It will continue to be used as a commercial building and tire retail store.

8.2.5 Brence's Services Property (alley only)

No changes to the current use of Brence's Service property are proposed. It will continue to be used as Brence's Service auto repair shop.

8.2.6 Adjacent Properties

No changes in use of the Bozeman Public Library property or park to the east and south of the Facility is expected. There is no undeveloped land bordering the Facility to the north and west, and any future redevelopment in this area would conform to zoning restrictions. The Harrington's property to the south was recently redeveloped (after completion of a VCP project).

9.0 FACILITY CHARACTERIZATION

9.1 PREVIOUS INVESTIGATIONS

Numerous investigations pertaining to the nature, extent, and magnitude of contaminants at the Facility and surrounding areas have been conducted. Investigations have been completed from 1993 through 2003. Additional investigations at adjacent properties are summarized in the 2015 VCP-EA Addendum (Tetra Tech, 2015) and brief summaries are provided below.

9.1.1 1993 Asbestos Identification in Soil and Gravel

The soil and gravel in the materials stockyard located immediately east of the Main Office building on the Empire property was sampled by Schafer and Associates to investigate the possibility of asbestos contamination in the soil. Samples were analyzed by Polarized Light Microscopy (PLM). Asbestos fibers were not detected in any of the samples (Shafer, 1993).

9.1.2 1998 Soil Sampling for Identification of Asbestos

Additional composite soil samples located immediately east of the Main Office building on the Empire property were sampled by Schafer and Associates to confirm the presence of asbestos. Initial sample results for bulk asbestos indicated the presence of anthophyllite asbestos fibers in all three composite samples (Schafer, 1998). Further quantification of asbestos content by the point count method were conducted with results of <1% reported for the three composites. DEQ indicated that these results were below the State-recommended action level and did not require remediation.

9.1.3 2001 Due Diligence Site Investigation

Prior to purchasing the Bozeman Public Library property, located east of the Facility, a due diligence site investigation was completed to investigate potential soil contaminants including asbestos, lead, arsenic, polycyclic aromatic hydrocarbons (PAHs), semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), and dioxins/dibenzofurans. The goal of the investigation was to further define the extent of soil contamination so that groundwater wells could be placed within and downgradient of areas of soil contamination.

Per the report, asbestos ore identified as 80-90% anthophyllite (an amphibole form of asbestos) with concentrations exceeding 1% or visible ore was found in site soils. In addition, lead contaminated soils and localized areas of soils contaminated by organic compounds were identified during the site investigation.

9.1.4 2003 Asbestos Ore Investigation – Harrington’s and Empire Properties

In October 2002, RTI investigated the Harrington’s and Empire properties to determine if asbestos ore was present in shallow soils. Visible asbestos ore was identified in several test pits on the southern portion of the Empire property. RTI conducted an additional investigation in April 2003 to better define the extent of asbestos ore in soils on the Empire property, and results were reported in the 2003 *Asbestos Ore Investigation, 603 East Main Street and 212 South Wallace Avenue* (RTI, 2003a).

9.1.5 2003 Addendum to VCP (Revision 1)

Test pit excavations conducted by RTI occurred in 2002 to determine the presence of asbestos ore in shallow soils at the Empire property as well as the South Wallace Avenue ROW. Shallow

surface soils with asbestos ore contamination were encountered in the southwest portion of the Empire property as well as within the ROW.

During implementation of the 2002 VCP (RTI, 2002) on the Bozeman Library portion of the Site in 2003, visible asbestos ore was observed along the east sidewall of the northern Wallace Avenue excavation (along the Empire property). According to the 2015 VCP-EA Addendum (Tetra Tech, 2015), removal of asbestos along the east wall was not pursued, as it was not on property owned by the City of Bozeman. Excavation activities and confirmation sampling results were documented in the 2004 Voluntary Cleanup Completion Report (RTI, 2004).

9.1.6 2007 Supplemental Asbestos Investigation

In August 2007, MDT encountered asbestos ore in shallow soils in the MDT ROW along the southwest corner of East Main Street and South Wallace Avenue during a project to replace sidewalks, curbs and gutters. Asbestos impacted-soils extended beneath the former Heeb's Grocery store parking lot to the southwest, under the south sidewalk west of the East Main-South Wallace intersection, and beneath the newly paved southwest corner of South Wallace Avenue (Tetra Tech, 2009).

In October 2007, asbestos ore was also encountered in shallow soils during utility work in the unpaved alley behind the former Heeb's Grocery (Tetra Tech, 2009).

In December 2007, Tetra Tech completed a supplemental investigation that included an assessment of accessible soils on the Harrington's and Story properties and the alley immediately south of Heeb's Grocery. Visible asbestos ore was identified in soils on the north side of the Story property, adjacent to the Harrington's property buildings, and in the alley south of the former Heeb's (Tetra Tech, 2015).

9.1.7 2008 VCP Addendum Implementation

Tetra Tech implemented the VCP02A-08 (Tetra Tech, 2008) in 2009 to delineate and remove asbestos-containing soils in accessible areas on private property along the east side of Wallace Avenue, Wallace Avenue from Main Street to Curtiss Street, the former Heeb's property, and the privately owned alley to the south of the former Heeb's Grocery between Wallace and Church Avenue. Under the VCP02A-08, test pits were proposed for potential asbestos ore areas in South Wallace Avenue from the west right-of-way to the east curbline. Investigation results provided by Tetra Tech in 2010 indicated no asbestos was detected in the six test pit samples that were collected, although two of those samples contained visible asbestos at a two-foot depth (Tetra Tech, 2010).

9.1.8 2013 VCP Implementation

Remediation of the remainder of the Harrington's and Story properties was conducted by RTI in 2013 and 2014 as documented in Draft Construction Completion Report for the Harrington's and Story properties (RTI 2014). All areas on the Harrington and Story properties of confirmed or potential asbestos were excavated and are free of asbestos. Following this remediation, the Harrington and Story properties, these properties were removed from the CECRA boundary and are no longer considered part of the Facility.

9.1.9 2014 Heeb's East Sidewalk VCP Implementation

The City of Bozeman conducted repairs to a portion of sidewalk on the east end of the former Heeb's building along the west side of the South Wallace Avenue, between the alley and East Main Street in accordance with the 2013 VCP. Portions of the former Heeb's east sidewalk encountered conditions that hindered the removal of all asbestos. Due to limitations of available equipment and proximity of nearby utilities and buildings, the excavation was terminated prior to removal of all asbestos in the project area.

9.2 INVESTIGATION RESULTS SUMMARY

As described above, the soils investigation completed by RTI in 2002 and 2003 confirmed the presence of asbestos on the Empire property under Warehouse 5 (the South Warehouse) and South Wallace Avenue. Warehouse 4 (the North Warehouse) is considered an area of potential asbestos since observed asbestos in soils extended to the southwest corner of that building (RTI, 2003b). As identified by RTI, aerial photos indicate that this warehouse was not constructed until sometime after 1954, while asbestos storage and milling activities started in 1950. The current distribution of known or potential asbestos ore in shallow soils within the properties outlined in this Second VCP-EA Addendum are shown in **Figure 2**.

South Wallace Avenue, the former Heeb's Grocery Store parking lot, and Tire-Rama are considered areas containing potential asbestos since asbestos soils were observed in these areas and the areas were not completely remediated. Portions of the sidewalk east of Heeb's Grocery and the alley south of Brence's is considered an area of observed asbestos based on previous confirmed asbestos found in portions of the alley south of the former Heeb's Grocery Store.

9.3 PREVIOUS REMEDIATION

Implementation of the 2008 VCP02A-08 Addendum (Tetra Tech, 2008) in 2009 refined delineation of the extent of asbestos impacted soils and resulted in removal of asbestos impacted soils from accessible areas in the South Wallace Avenue ROW and Empire properties. Per the 2010 Final CCR (Tetra Tech, 2010), a small portion of property along the South Warehouse that was accessible has been previously remediated under the 2002 VCP in addition to portions of

Empire property on the northeast corner of the South Warehouse and west of the South and North Warehouses as shown in **Figure 2** (Tetra Tech, 2010). Asbestos-impacted soils were left in place beneath the South Warehouse and around the foundation of the structure so as not to destabilize the building foundation (Tetra Tech, 2010).

In 2014, the City of Bozeman conducted repairs to a section of sidewalk along the west side of South Wallace Avenue on the east end of the former Heeb's Grocery building, specifically a portion of the sidewalk between the alley and Main Street. The City of Bozeman contracted with Tetra Tech to implement the removal of the existing sidewalk and soil cleanup in accordance with the 2013 VCP. Portions of the Heeb's east sidewalk area encountered conditions that hindered the removal of all asbestos. Due to these limitations, the excavations were terminated prior to removal of all asbestos in the project area.

Although the 2013 VCP-EA was prepared to facilitate cleanup activities on Empire and Harrington properties, a VCP-Remediation Proposal (VCP-RP) was not completed, and no cleanup occurred. Empire opted to not be included for proposed voluntary cleanup under the 2016 VCP, for which the 2015 VCP-EA Addendum was developed. No remedial work occurred under that VCP and DEQ issued a letter to the City of Bozeman in November 2021 indicating that the 2016 VCP would expire in December 2021 and any continued remedial work under the VCRA would require submittal of a new VCP for review and approval by DEQ.

10.0 HUMAN AND ENVIRONMENTAL EXPOSURE ASSESSMENT

As described in the 2015 VCP-EA Addendum, historic COCs at the CMC Asbestos Bozeman CECRA Facility consisted of asbestos, lead, and organic compounds including PAHs, SVOCs, PCBs, and dioxins and furans in shallow soils. Groundwater monitoring in the area indicates that COCs have not impacted groundwater (RTI, 2002). Except for asbestos, the limits of areas impacted with other COCs were defined to be within the boundaries of the Bozeman Library portion of the CMC Asbestos Bozeman CECRA Facility. As such, lead and organic compounds are not considered to be COCs on the properties outlined in this Second VCP-EA Addendum since there have been no historic activities documented at the Facility that would have resulted in impacts from lead or organic compounds (RTI, 2015). Contaminants at the Facility are generally concentrated in shallow subsurface soils to depths of 4 feet (Tetra Tech, 2009).

A site conceptual exposure model was developed for asbestos by RTI as part of the 2013 VCP-EA, which considered the current site status, potential future site uses, and the contaminant distribution of the asbestos (RTI, 2013). No changes have occurred that would result in a change to the conceptual site model.

10.1 ASBESTOS EXPOSURE

Per the 2013 VCP-EA, the main exposure routes for asbestos would be by ingestion or inhalation of soil containing asbestos fibers. Dermal contact is not an exposure pathway. The risk of exposure from contact with or ingestion of surface or groundwater is not a concern, because there is no asbestos present in surface water or groundwater.

At the Facility, all known asbestos-containing areas at the properties are inaccessible because they are either under buildings or capped with concrete (**Figure 2**). Concrete or pavement can degrade over time, but all pavement/concrete covering areas of observed or potential asbestos are inspected at least annually by the city to meet its operation and maintenance requirements from the VCP02A-08. Since the known areas of asbestos and potential areas of asbestos are adequately capped, there is no soil to groundwater pathway and risks for exposure as a result of disturbance of the soils from removal of the caps and/or exposure during remedial activities by construction personnel. The disturbances could result in airborne dust containing asbestos fibers, but proper construction best management practices (BMPs), waste handling procedures, air monitoring and application of ICs are intended to minimize or prevent exposure risk.

As identified in the 2013 VCP-EA, ecological receptors are limited to animals that may be exposed by burrowing in impacted soils (RTI, 2013). There is no surface water on or directly adjacent to the Facility, so aquatic life would not be an ecological receptor. Asbestos should have no detrimental effect on plant life and there is no plant life existing at the Facility, so there is no exposure by consumption of plants.

10.2 EXPOSURE RISK SUMMARY

The greatest risk of exposure to asbestos at the Facility is through inhalation of airborne dust generated by construction workers during the disturbance of soils by construction/renovation activities or utility work in areas impacted with asbestos. In addition, there is potential exposure risk to people that use the vicinity surrounding the Facility during construction activities. Exposure via indoor dust is a possibility in numerous settings if impacted soil is carried indoors as airborne dust.

11.0 ENVIRONMENTAL CONDITIONS SUMMARY

There are no active industrial processes that include chemicals, petroleum, sumps or drainage collection areas for waste, underground or above ground storage tanks, hazardous waste generation, etc. that would result in other environmental conditions at the Facility (Weston, 2023 and Tetra Tech, 2015). The only known COC is anthophyllite asbestos in shallow soils and the extent of potential and confirmed asbestos impacted soil at the Facility is shown in **Figure 2**.

12.0 REFERENCES

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FIGURES



Legend

■ Subject Parcels

0 4,000 8,000
Feet

World Street Map: Bozeman GIS, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

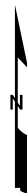
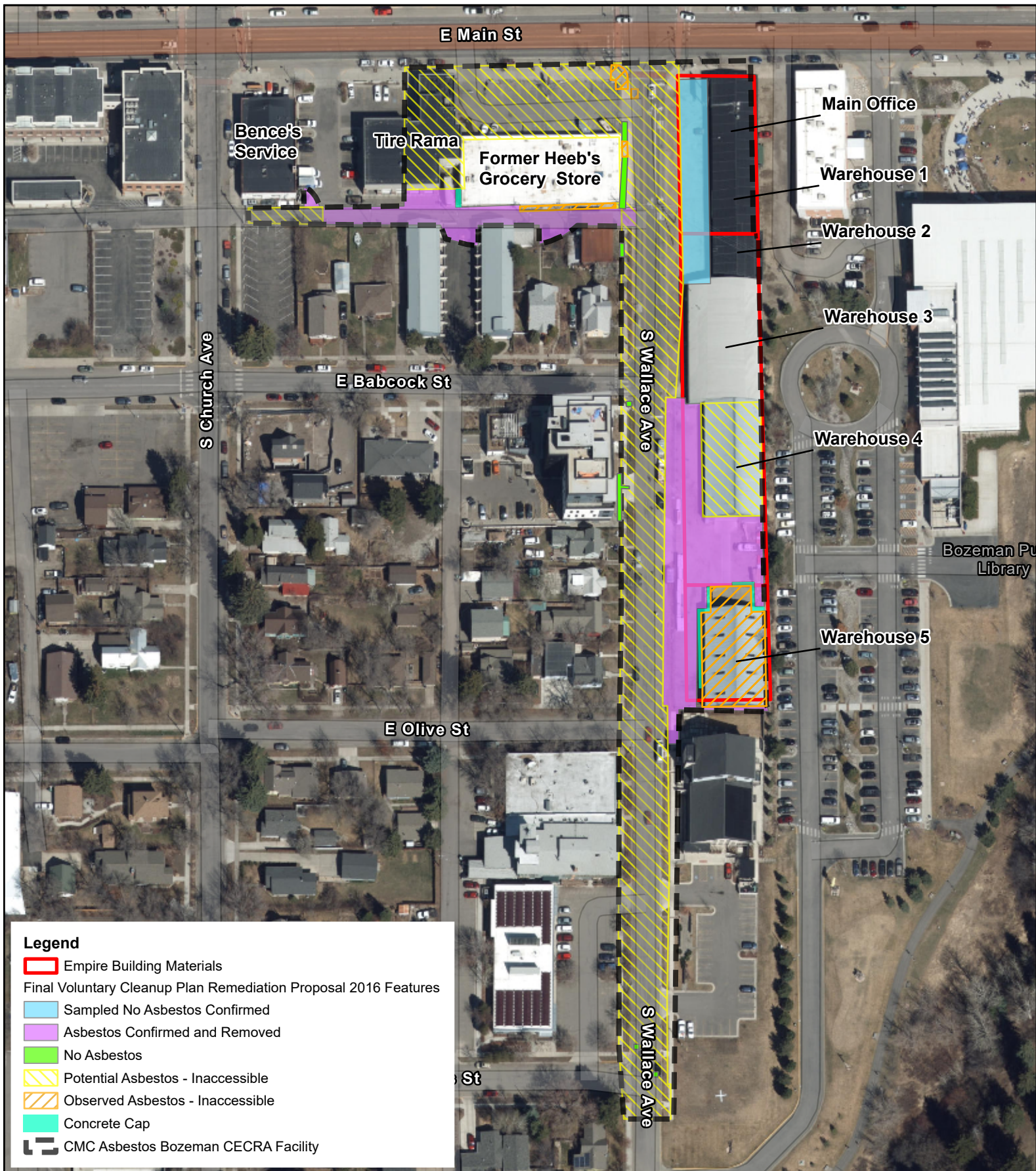


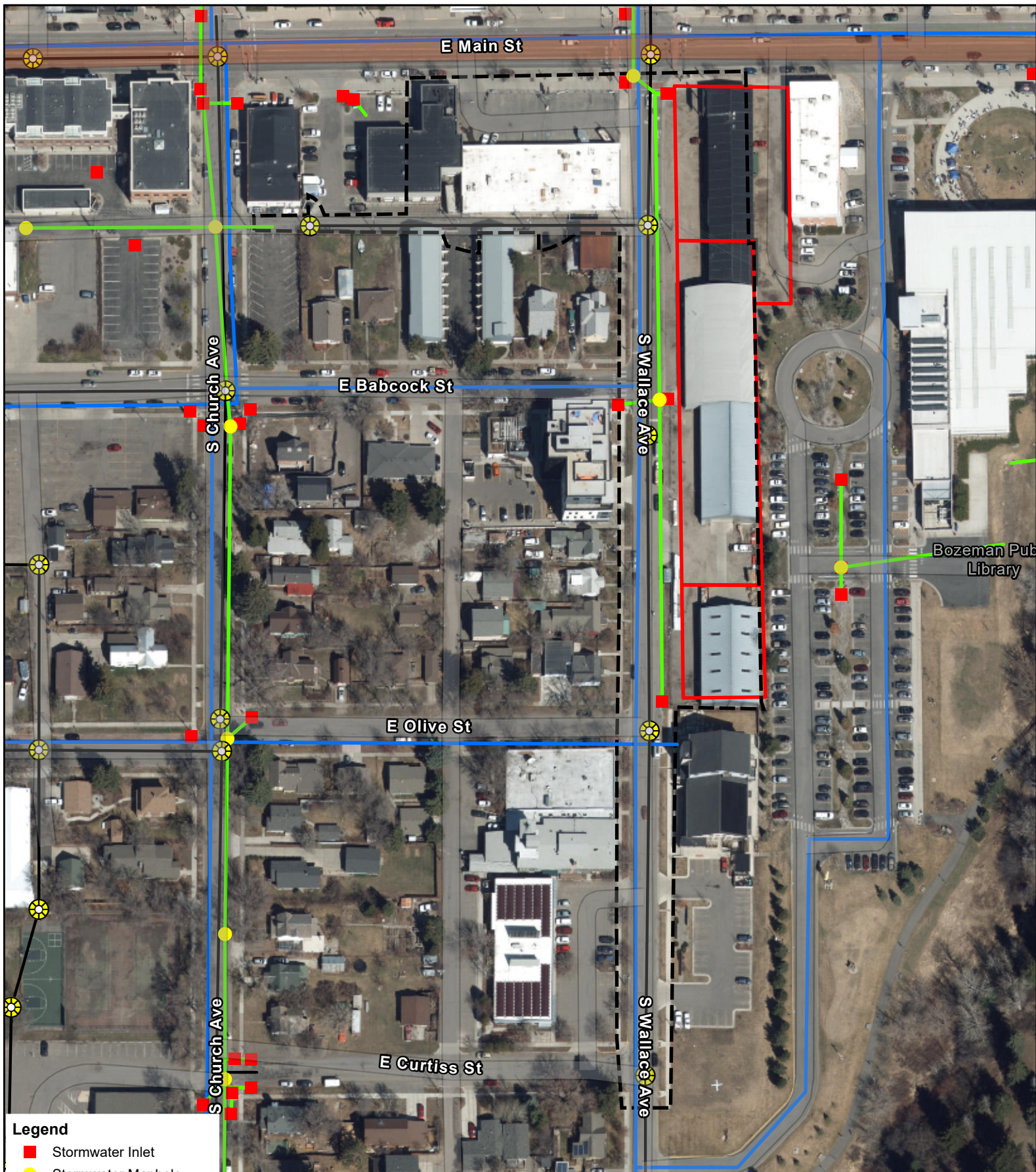
Figure 1
Site Location
CMC Asbestos Bozeman CECRA Facility
Bozeman, Gallatin County, Montana





0 100 200
 Feet

Hybrid Reference Layer: Esri Community Maps Contributors,
 Bozeman GIS, Montana State Library, © OpenStreetMap,
 Microsoft, Esri, TomTom, Garmin, SafeGraph,
 GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land
 Management, EPA, NPS, US Census Bureau, USDA, USFWS
 World Imagery: City of Bozeman, Montana, Maxar, Microsoft



Legend

- Stormwater Inlet
- Stormwater Manhole
- Wastewater Manhole
- Water Main
- Wastewater Gravity Main
- Stormwater Gravity Main
- Empire Building Materials
- Facility Boundary

0 100 200

Feet

Hybrid Reference Layer: Esri Community Maps Contributors,
Bozeman GIS, Montana State Library, © OpenStreetMap,
Microsoft, Esri, TomTom, Garmin, SafeGraph,
GeoTechnologies, Inc, MET/NASA, USGS, Bureau of Land
Management, EPA, NPS, US Census Bureau, USDA, USFWS
World Imagery: City of Bozeman, Montana, Maxar, Microsoft



Figure 3
Local Utilities

CMC Asbestos Bozeman CECRA Facility
Bozeman, Gallatin County, Montana



APPENDIX A
QUALIFIED ENVIRONMENTAL PROFESSIONAL RESUMES

JENNY O'MARA, E.I.T., HELENA, MT

PROJECT MANAGER

Education: BS, Environmental Engineering – Montana Tech of the University of Montana

Credentials/Certifications: E.I.T., MT, No. PEL-EI-LIC-30458; 40-hour Occupational Safety and Health Act Hazardous Waste and Emergency Response (HAZWOPER) Training (Current Annual Recertification)

Key Qualifications: Jenny O'Mara has more than 25 years of professional experience of project/program management and experience managing and conducting US Environmental Protection Agency (EPA) Targeted Brownfields Assessments (Phase I and IIs) at sites throughout Montana. Provides oversight and technical review of project work including compliance with local, state, and federal requirements; site characterization; and technical reporting. Experience providing project and technical management for the investigation, evaluation, and remediation of hazardous waste sites in Montana under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Coordinates with other consultants and stakeholders to assist in development of preliminary remedial action objectives, process options, points of compliance, alternative development, and screening criteria. Evaluates cleanup alternatives relative to applicable and relevant environmental cleanup laws, provide technical review of legal agreements such as administrative orders and position papers, and conduct engineering cost estimates. Has extensive permitting and compliance experience with water, wastewater, and air.

Phase I and Phase II Environmental Site Assessments (ESAs), Multiple Montana Locations, Headwaters, Project Manager. Managed a team of staff scientists and engineers to conduct Phase I and Phase II ESAs and provided oversight on sampling investigation activities under project-specific Sampling and Analysis Plans (SAPs). Provided final quality assurance review on final reports and final conclusions in the Phase I and II reports.

Libby Asbestos Superfund Site (Operable Unit 3), Libby, MT, Montana Department of Environmental Quality (DEQ), Project Manager. Manages a team of engineers who provide technical expertise and support services to DEQ to aid in reviewing all documents related to CERCLA actions at the site. Assists DEQ by providing technical support for review and of the OU3 Remedial Investigation (RI)/Feasibility Study (FS), including human health risk assessment, ecological risk assessment, risk management strategy, geotechnical evaluation, monitoring reports, treatability studies, etc. Coordinates with other consultants and stakeholders to assist in development of preliminary remedial action objectives, process options, points of compliance, alternative development, and screening criteria. Evaluates cleanup alternatives relative to applicable and relevant environmental cleanup laws, provide technical review of legal agreements such as administrative orders and position papers, and conduct engineering cost estimates.

Libby Asbestos Superfund Site (Sitewide), Libby and Troy, MT, DEQ, Project Manager. Manages a team of scientists and engineers to support DEQ for development and administration of the Sitewide Operation and Maintenance (O&M) program. Performed technical review of Remedial Action Completion Report, O&M Plan, Best Management Practices Manual, Institutional Control Implementation and Assurance Plan (ICIAP). Prepared sitewide O&M cost estimate and participated in joint site inspection at the end of remedial activities. Assisted in development of reimbursement program for post-remediation abatement projects within Superfund boundary, including creation of flow-charts to determine funding eligibility. Participated in workgroups with representatives from U.S. Environmental Protection Agency, DEQ, and Lincoln County. Drafted sections of O&M Manual for use by State and County personnel post-remediation. Performed quality control review of the state's O&M Sampling Guidance. Specific challenges included the development of O&M programs and institutional controls to ensure continued protection of the remedy and acceptance by the impacted community.

Phase I and Phase II ESAs, Multiple Montana Locations, EPA START Program, Senior Project Leader. Provide initial project management and team strategy. Research and review all historical documents and conduct investigations at various locations throughout Montana. Developed final report, findings and conclusions, prepared SAPs, HASPs and Phase II ESA.

West Bank Project, Great Falls, MT, Great Falls Development Authority (GDFA), Project Manager. Managed a team of staff scientists and engineers to conduct a due diligence investigation and to review 30 years of historical data collected for the site. The scope of work focused on groundwater and soil contamination across this CECRA-listed site. The site contained commingled plumes in both groundwater and soils; Contaminants of concern were petroleum fuel products, arsenic, dioxin/furans, RCRA metals, and pentachlorophenol (PCP). The project team developed an SAP and completed a Phase II ESA with cleanup recommendations. Provide technical expertise to all stakeholders, including private parties, nongovernmental organizations, and state, local and federal agencies.

MINDY MCCARTHY, HELENA, MT SENIOR ENGINEERING PROFESSIONAL/QUALIFIED ENVIRONMENTAL PROFESSIONAL

Education: BS, Environmental Engineering – Montana Tech of the University of Montana

Credentials: 40-hour HAZWOPER Training (Current Annual Recertification)

Key Qualifications: Mindy McCarthy has over 25 years of project/program management experience, involving wastewater and environmental compliance, various environmental projects, and environmental laboratory analysis. Extensive experience in Phase I and II Environmental Site Assessments in accordance with ASTM requirements. Performed site investigations to identify sources and delineate the nature and magnitude of contamination by collecting environmental samples of various media. Extensive experience in preparation and analysis of project and program quality planning documents, including Quality Management Plans (QMPs), QAPPs, SAPs, Work Plans, and other technical documents and performing data analysis and data validations.

Idaho Pole Superfund Site, Bozeman, MT, Scout-DAC, LLC, Senior Environmental Professional. Completed Phase I ESA for the potential redevelopment of the Idaho Pole Superfund Site. Developed SAP/QAPP for soil characterization at the Idaho Pole Superfund Site that was approved by the EPA and DEQ. The sampling effort is to further characterize post-remediation contamination levels of PCP, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (dioxins and furans) at the Site in order to support the proposed redevelopment use and evaluate potential human health exposure risks to ensure protection of human health and the environment. Collected composite surface soil samples in accordance with sampling requirements for screening in development of the data quality objectives and sampling design. Performed verification and validation on all laboratory analytical data per EPA requirements, EPA QA/G-8 (EPA, 2002) and EPA's National Functional Guidelines for Organic Superfund Methods Data Review (EPA, 2020).

Phase I and II ESAs, various locations, Headwaters Resource Conservation and Development Inc., Qualified Environmental Professional. Project manager and field team lead for various Phase I and II ESAs in southwest Montana responsible for developing site-specific SAPs and performing sampling investigations to include building materials and surface and subsurface soils. Evaluated data and provided summary of results and recommendations.

Non-Level A Response, Jefferson County, MT, Elkhorn Mining District, EPA, Senior Engineering Professional. Field team lead conducting sampling specific to the Site Inspection at selected abandoned mines in the Elkhorn Mining District. Collected in-situ XRF screening readings, in-situ surface water quality field parameters, surface water/sediment samples, and surface soil samples.

Libby Asbestos Superfund Site, Libby, MT, DEQ, Technical Support. Provided technical review of various reports related to the Libby Superfund Site, including the draft final Remediation Action Completion Report, BMP Manual, etc. Developed reimbursement program and prepared Operation and Maintenance (O&M) Manual. and sitewide O&M cost estimate. Reviewed technical documents related to Operable Unit 3 Feasibility Study, including SAP/QAPPs, water quality, soil, and sediment monitoring data, treatability studies, etc. Conducts the annual Sitewide O&M Inspection at the Libby Asbestos Superfund Site for DEQ to confirm that institutional controls remain in place and provide protection as intended and provide a report of the findings. The annual inspection consists of record reviews and non-intrusive visual site inspections.

Bozeman Trax Partners, LLC, North Park/North Loop Development, Bozeman, MT, Senior Engineering Professional. Completed a Phase I ESA for a 173-acre fee-owned and state-leased property for future industrial and commercial development. Completed a waterbody and wetland assessment and delineation to evaluate baseline conditions and the potential effects on aquatic resources. Further, for planned work activities in wetland and stream crossing areas, prepared a Clean Water Act 404 permit application for the US Army Corps of Engineering, and a 310 stream permit application for the Gallatin County Conservation District for work in Mandeville Creek.

Rails to Trails Conservancy, Yellowstone Heritage Trail along Historic Elk River, Park County, MT, Senior Engineering Professional. Completed an Environmental Scan for a Feasibility Study for a 49-mile trail corridor located in the Paradise Valley. The document identified the resources present, potential impacts, and proposed avoidance or mitigation measures. This scan included physical, biological, social, and cultural resource elements, as well as a summary of permits and clearances that may be required.

ANDY WANTA, HELENA, MT PROJECT GEOSCIENTIST/QUALIFIED ENVIRONMENTAL PROFESSIONAL

Education: BS, Geology – University of Wisconsin Oshkosh; MS, Geology – University of Wisconsin Milwaukee

Credentials: 40-hour Occupational Safety, First Aid, CPR, AED certified

Key Qualifications: Andy Wanta has over 7 years of experience involving environmental sampling, contaminate delineation, and subsurface exploration. Project experience includes Phase I and Phase II Environmental Site Assessments in accordance with ASTM requirements. Performed site investigations to identify sources and delineate the nature and magnitude of contamination by collecting environmental samples of various media. Extensive experience in implementing project and program quality planning documents, including QAPPs, SAPs, Work Plans, and other technical documents.

MT Great Outdoors Conservation Easement, Lincoln and Sanders County, MT, Montana Fish, Wildlife & Parks, Project Geologist. Prepared a Phase I ESA for MFWP of an approximately 113,000-acre area comprised of numerous forested parcels located in the vicinity of US Highway 2, east and southeast of Libby, Montana. MFWP proposed to acquire a conservation easement for the property and met the requirements, and the Phase I satisfied the requirements to obtain federal funding from the U.S. Forest Service under the Forestry Legacy Program. Evaluated existing and historic uses and reviewed mining documents (e.g., openpit mining, hard rock mining) to determine whether environmental conditions were present that may result in environmental conditions associated with the subject property.

Idaho Pole Superfund Site, Bozeman, MT, Scout-DAC, LLC, Project Geologist. Conducted soil sampling and implemented SAP/QAPP for soil characterization at the Idaho Pole Superfund Site. The sampling effort is to further characterize post-remediation contamination levels of PCP, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (dioxins and furans) at the Site to support the proposed redevelopment use and evaluate potential human health exposure risks to ensure protection of human health and the environment. Collected composite surface soil samples in accordance with sampling requirements for screening in development of data quality objectives and sampling design.

Phase II Environmental Site Assessment (ESA), Johnson Property, Dillon, MT, Headwaters Resource Conservation and Development Inc., Qualified Environmental Professional. Field team lead for various Phase II ESA at a property in Dillon, Montana to evaluate suspected contaminants that may be present in the soils at the site including, polychlorinated biphenyls (PCB) and metals, PAHs, and petroleum contaminants. Responsible for developing site-specific SAPs and performing sampling of surface and subsurface soils. Evaluated data and provided summary of results and recommendations.

Orphan Well Program, Sterling CO, Colorado Oil and Gas Conservation Commission, Field Team Lead. Conducted soil sampling and inventoried site conditions at former oil and gas infrastructure locations. Soil sampling was conducted to determine if contaminants were present at these sites and, if they were, to characterize and delineate the contamination. Developed and implemented site-specific SAP/QAPP for soil sampling. Coordinated with local landowners to gain access to sites that were on private property. Performed data analysis, reported on site-specific conditions, and provided recommendations for future remediation and clean up activities.

Drift River Site Assessment, Cook Inlet, AK, Alaska Department of Environmental Quality (ADEQ), Project Geologist. Conducted soil and water sampling at a recently closed oil and gas facility to delineate petroleum related contaminants. The site was at a remote facility off the road system so significant logistical challenges were encountered and overcome. Sampling was targeted at delineating contamination at documented historic spill locations. Responsible for implementing site-specific SAPs and adhering to site-specific health and safety plan (HASP). Evaluated data and wrote a report providing a summary of results and recommendations.

Rails to Trails Conservancy, Yellowstone Heritage Trail along Historic Elk River, Park County, MT, Project Scientist. Performed information requests and evaluations to support a feasibility study for a trail corridor in Paradise Valley, MT for the Rails-to-Trails Conservancy in Partnership with Park County. Conducted an environmental scan, biological resource scan, and physical environment scan.

West Railroad Street-Laurel, Laurel, MT, Sanderson Stewart, Project Scientist. Performed site assessment and wetland delineation, and report writing for a transportation project. Field work consisted of wetland delineation, biological resource assessment, water resource survey in the project area and capturing GPS coordinates.

APPENDIX B
PROPERTY DEEDS

WARRANTY Deed. 5897.

THIS INDENTURE, Made the 23rd day of May in the year of our Lord one thousand nine hundred and ten, between Rose Pritchard, a single woman, and Gallatin Valley Electric Railway, a corporation organized under the laws of the State of Montana, the party of the second part, WITNESSETH, that the said party of the first part, for and in consideration of the sum of One Dollar, lawful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell, convey and confirm unto the said party of the second part, and to its agents, successors and assigns, forever, all the real property situated in Gallatin County, State of Montana, described as follows;

The West half of Lot Nineteen (19) all of Lots Twenty (20) and Twenty one (21) and the East half of Lot Twenty two (22) in Block "C" of Rouse's Addition to Bozeman.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title and interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and to its agents, successors and assigns forever. And the said party of the first part, and for her heirs, does hereby covenant, that she will forever warrant and defend her right, title and interest in and to the said premises, and the quiet and peaceful possession thereof, unto the said party of the second part, its agent, successors and assigns, against the acts and deeds of the said party of the first part, and all and every person and persons whomsoever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of) Rose Pritchard. (SEAL)
George Cox.

State of Montana,)
) ss.
County of Gallatin.)

On this 23rd day of May in the year one thousand nine hundred and ten, before me, J.H.Baker, a Notary Public in and for the County and State aforesaid, personally appeared Rose Pritchard, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.
(SEAL) J.H.Baker, Notary Public for the State of Montana. Residing at Bozeman. My commission expires March 23rd, 1912.

Filed for record May 26th A.D. 1910, at 2.50 o'clock P.M.
By E.H.Schumacher. W.E.Brandenburg.
Deputy. Recorder.

This Indenture, Made the 20th day of May in the year of our Lord one thousand nine hundred and ten between Henry Heeb and Margaret Heeb, his wife, to Gallatin Valley Electric Railway, a corporation organized under the laws of the State of Montana the party of the second part, WITNESSETH, that the said parties of the first part, for and in consideration of the sum of One Dollar, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell, convey and confirm unto the said party of the second part, and to its agents, successors and assigns forever, all the real property situated in Gallatin County, State of Montana, described as follows;

The East half of Lots Ten (10) and Nineteen (19) and all of Lots Eleven (11), Twelve (12) Thirteen (13) Fourteen (14) Fifteen (15) Sixteen (16), Seventeen (17) and Eighteen (18) in Block "C" of Rouse's First Addition to Bozeman, Montana. Also the following described piece of land to-wit; Commencing at a point sixteen (16) feet east of the Southeast corner of Lot Fifteen (15) of Block "C" of Rouse's First Addition to Bozeman, thence running East one hundred and fifty (150) feet, thence North one hundred and forty (140) feet; thence West one hundred and fifty (150) feet, thence South one hundred and forty (140) feet to the place of beginning.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title and interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances unto the said party of the second part, and to its agents, successors and assigns forever. And the said parties of the first part, and for their heirs, do hereby covenant, that they will forever warrant and defend their right, title and interest in and to the said premises, and the quiet and peaceful possession thereof unto the said party of the second part, its agents, successors and assigns, against the acts and deeds of the said parties of the first part, and all and every person and persons whomsoever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of) Henry Heeb. (SEAL)
) Margaret Heeb. (SEAL)

State of Montana,)
) ss.
County of Gallatin.)

On this Twentieth day of May in the year one thousand nine hundred and ten before me, John W. Yergey, a Notary Public in and for the State aforesaid, personally appeared Henry Heeb and Margaret Heeb, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.
(SEAL) John W. Yergey, Notary Public for the State of Montana, residing at Bozeman, Montana. My commission expires March 22, 1912.

Filed for record May 26th A.D. 1910, at 2.52 o'clock P.M.
By E.H. Schumacher. W.E. Brandenburg.
Deputy. Recorder.

WARRANTY DEED. 5000.

THIS INDENTURE, Made the 24th day of May in the year of our Lord one thousand nine hundred and ten, between John F. Donohoe and Cedora Donohoe, his wife, parties of the first part and Gallatin Valley Electric Railway, a corporation organized under the laws of the State of Montana, the party of the second part, WITNESSETH, that the said parties of the first part, for and in consideration of the sum of One Dollar, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell, convey and confirm unto the said party of the second part, and to its agents, successors and assigns, forever, all the real property situated in Gallatin County, State of Montana, described as follows;

The East half of Lot Seven (7), all of lots Eight (8) and nine (9) and the West half of Lot Ten (10) all in Block "C" of Rouse's Addition to Bozeman.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title and interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and to its agents, successors and assigns forever. And the said parties of the first part, and for their heirs, do hereby covenant, that they will forever warrant and defend their right, title and interest in and to the said premises, and the quiet and peaceful possession thereof unto the said party of the second part, its agents, successors and assigns, against the acts and deeds of the said parties of the first part, and all and every person and persons whomsoever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, The said parties of the first part has hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of) John F. Donohoe. (SEAL)
) Cedora Donohoe. (SEAL)

State of Montana,)
) ss.
 County of Gallatin.)

On this 24th day of May in the year one thousand nine hundred and ten before me, C.H. Morse, a Notary Public in and for the County and State aforesaid, personally appeared John F. Donohoe and Cedora Donohoe, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.
 C.H. Morse, Notary Public for the State of Montana. Residing at Bozeman, Montana. My commission expires July 31, 1911.

(SEAL)

Filed for record May 26th A.D. 1910, at 2.57 o'clock P.M.
 By E.H. Schumacher. Deputy. W.E. Brandenburg. Recorder.

SITE/O.U. CMC Asbestos Removal
DEQ File# 49-03-01-01
Admin. Record: Yes _____ No _____
Administrative Record # _____
Confidential: Yes _____ No _____
Key Words/Comments _____

GALLATIN VALLEY RAILWAY COMPANY.

to

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY.

THIS INDENTURE, dated December 31, 1918, by and between the GALLATIN VALLEY RAILWAY COMPANY, a corporation of the State of Montana, party of the first part, and the CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY, a corporation of the State of Wisconsin, party of the second part, WITNESSETH:

WHEREAS, the party of the first part owns and operates a main line of railway extending from a connection with the line of railway of the party of the second part at Three Forks in the County of Gallatin, State of Montana, and extending southeasterly to Bozeman, in the County of Gallatin, State of Montana, and also branches of railway and terminals.

AND WHEREAS, the party of the second part owns and operates a system of railways, both main line and branches, one of which main lines extends from Chicago, in the State of Illinois, northerly and westerly to the cities of Seattle and Tacoma in the State of Washington, which said main line of the party of the second part is connected at Three Forks, Montana, with the main line of the party of the first part, and the lines of said party of the first part and the party of the second part so connected are operated together as one continuous main line;

AND WHEREAS, the railways of the parties of the first and second part can in the interest of all concerned be operated more economically, efficiently and advantageously as one system, under a single organization, than under separate organizations;

AND WHEREAS, the consideration, terms and conditions of the sale of the whole of the railway and branches, together with all property, rights, privileges and franchises appertaining thereto, to the party of the second part, have been agreed upon by the Directors of the respective parties and approved and ratified by the owners and holders of more than a majority in amount of the capital stock of each of the parties hereto, all as by statute in such case made and provided;

NOW THEREFORE, the party of the first part, for and in consideration of the premises and the covenants and agreements herein contained, and the sum of One dollar and other good and valuable considerations in hand paid by the party of the second part prior to the execution of this Indenture, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and does hereby grant, bargain, sell and convey unto the party of the second part, its successors and assigns the following:

The main line of railway extending from a connection with the line of railway of the party of the second part at Three Forks in the County of Gallatin, State of Montana, southeasterly to Bozeman in said County and State, together with all branch lines of railway and all other lines of railway now owned by the party of the first part, and all lands, roadbeds, superstructures, rails, tracks, side, spur, and industry tracks, switches, turntables, bridges, viaducts, embankments, all terminal, depot and yard tracks, property and facilities, all stations, depots, warehouses, offices, engine houses, car houses, machine and other shops, elevators, coal bunkers, coal houses, wood houses, water stations, water tanks, water towers, fences, telegraph and telephone lines, locomotives, cars and other rolling stock and equipment, machinery, apparatus, appliances, instruments, tools, materials, furniture and other property of the party of the first part, however held or wherever situated, constituting, or to constitute, any part of or pertaining to, or required or held for use or enjoyment in connection with its lines of railway, branches and terminals, or any part thereof.

Also all leases, leasehold rights, trackage rights, trackage agreements relating to the ownership, use or operation of any of the aforesaid lines of railway, branches, terminals stations or any part thereof, or to any other railway tracks, or property; also all easements, hereditaments, powers, privileges, orders, ordinances, licenses or franchises passed or granted by the United States or by the State of Montana, or by any county, town or other municipality, that the party of the first part now has or owns, or is entitled to, or that it shall hereafter acquire or become entitled to, pertaining to, or necessary or appropriate for the ownership, use and operation of said lines of railway, branches, terminals and other property, or any part thereof.

TO HAVE AND TO HOLD unto the party of the second part, its successors and assigns forever.

The party of the second part hereby releases the party of the first part from the payment of One Million, eight hundred Ninety five thousand, Nine hundred seventy-three and 96/100 dollars, (\$1,895,973.96) being the amount which the party of the first part is indebted to it for moneys heretofore advanced in the construction and equipment of the railroad of the party of the first part, and assumes and hereby agrees to assume and pay when and as the same become due and payable, all other existing valid claims and demands against the party of the first part, by whomsoever held.

The party of the second part hereby assumes any and all obligations imposed upon the party of the first part by virtue of any existing lease, agreement, ordinance, license or franchise relating to the ownership, use, enjoyment, occupation, or operation of its lines of railway, branches, terminal and other property or any part thereof and to adopt, carry out and perform all operating, traffic, trackage or other existing agreements, leases or ordinances of the party of the first part according to the true intent and meaning thereof.

The party of the first part hereby covenants and agrees to make, execute and deliver such further deeds, conveyances and assurances for the better conveying and assuring unto the party of the second part its successors, grantees or assigns, of the lines of railway and property hereby conveyed or agreed or intended to be conveyed to the party of the second part, as the party of the second part or its successors, grantees or assigns shall deem necessary or desirable.

IN WITNESS WHEREOF, the parties have caused this Indenture to be executed by their respective proper officers, thereunto duly authorized and the corporate seals of the respective parties to be hereunto affixed, the day and year first above written.

GALLATIN VALLEY RAILWAY COMPANY.

By E.D.Sewall, President.

(CORPORATE SEAL)

Countersigned:

G.W.Myers,
Asst. Secretary.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY.

In presence of:

Burton Hansen

Carrie G Ranz

By L.M.Calkins, President.

Countersigned:

E.W.Adams, Secretary.

(CORPORATE SEAL)

STATE OF ILLINOIS ()
; ss.
County of Cook ()

On this 14th day of April in the year 1919 before me, Carrie G. Ranz a notary public in and for said county and State personally appeared E.D.Sewall to me known to be the President, and G.W. Myers, to me known to be the Asst. Secretary of the Gallatin Valley Railway Company, the corporation that is described in and that executed the within and foregoing instrument, and acknowledged to me the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and that said corporation executed the same; and on oath each stated that he is authorized to execute said instrument for and on behalf of said corporation, and that the seal affixed to said instrument is the corporate seal of said corporation.

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

Carrie G. Ranz
Notary Public in and for Cook County, State
of Illinois, residing at the City of Chicago.
My commission expires May 8, 1922.

(SEAL)

(\$1,896.00 revenue stamps attached and duly cancelled.)

Filed for record July 26th A.D. 1919 at 9: 25 o'clock A.M.

A.M.Brandenburg, Deputy,

D.S.McLeod, Recorder.

SITE/O.D. CMC Asbestos Bozeman
DEQ File# 49-03-01-01
Admin. Record: Yes No
Administrative Record #
Confidential: Yes No
Key Words/Comments

9/24/71

Cont. 10,287

12 PAGE 1132

QUITCLAIM DEED

THIS INDENTURE, made this 3rd day of December, 1971, between the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation, Grantor, and EMPIRE BUILDING MATERIALS, INC., a Montana corporation, Grantee,

W I T N E S S E T H :

That the said Grantor, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration to it in hand paid by the said Grantee, receipt whereof is hereby acknowledged, does by these presents convey, remise, release and forever quitclaim unto the said Grantee, its successors and assigns, all of the right, title and interest of the Grantor in and to the following described real property situated in the County of Gallatin, State of Montana, to-wit:

That portion of vacated East Babcock Street situated between Block C of Rouse's First Addition to the City of Bozeman, Gallatin County, Montana, and Block B of Rouse's Second Addition to said City, and that portion of the vacated alley in said Block B, each portion lying within the property described as follows:

Beginning at the northwest corner of said Block B; thence North eighteen minutes, thirty-five seconds (0°18'35") East a distance of sixty (60.00) feet to the southwest corner of said Block C; thence North twenty-five minutes, thirty-eight seconds (0°25'38") West along the west line of said Block C a distance of one hundred sixteen and sixty-eight hundredths (116.68) feet; thence North eighty-nine degrees, eight minutes, forty-two seconds (89°08'42") East a distance of eighty-two and forty-three hundredths (82.43) feet, a portion of this course being along the south wall of an existing concrete warehouse; thence South forty minutes, twelve seconds (0°40'12") East a distance of three hundred seventy-three (373.00) feet to a point marked with

SITE/O.U. CMC Asbestos Bozeman
 DEQ File# 49-03-01-01
 Admin. Record: Yes No
 Administrative Record #
 Confidential: Yes No
 Key Words/Comments

a concrete monument; thence South eighty-nine degrees, twenty-one minutes, fifty-five seconds (89°21'55") West a distance of eighty-seven and thirty-hundredths (87.30) feet to a concrete monument on the west line of said Block B; thence North eighteen minutes, thirty-five seconds (0°18'35") East along the west line of said Block B a distance of one hundred ninety-six and four-hundredths (196.02) feet to the point of beginning.

*** See below

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the rents, issues and profits thereof.

This conveyance is subject to all existing rights of way and easements, whether or not of record, and to all encumbrances, exceptions and reservations of record, and the Grantor reserves to itself, its successors and assigns, all minerals of any nature whatsoever including, but not exclusively, coal, iron, natural gas and oil, which may be in or upon said described lands, together with the sole, exclusive and perpetual right to explore for and dispose of said minerals by any means or methods suitable to the Grantor, its successors and assigns, but without entering upon or using the surface of said lands and in such manner as not to damage the surface of said lands or to interfere with the use thereof by the Grantee, its successors or assigns.

This deed is given in partial fulfillment of that certain real estate contract between the parties hereto dated December 7, 1970.

ALSO, that portion of vacated East Babcock Street situated between said Block C and Block B, and that portion of the vacated alley in said Block B, lying within the property described above.

IN WITNESS WHEREOF, the Grantor has caused this

instrument to be executed by its duly authorized officers the day and year first above written.

CHICAGO, MILWAUKEE, ST. PAUL
AND PACIFIC RAILROAD COMPANY

Attest:

By C. E. Crippen
C. E. Crippen, President

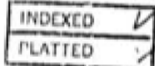
J. T. Taussig
J. T. Taussig, Secretary

STATE OF ILLINOIS)
) ss.
County of Cook)

On this 3rd day of December, in the year 1971,
before me, Raymond H. Keeagan, Jr., a Notary Public, personally
appeared C. E. Crippen and J. T. Taussig,
known to me to be the President and Secretary,
respectively, of Chicago, Milwaukee, St. Paul and Pacific Railroad
Company, the corporation that executed the within instrument, and
acknowledged to me that such corporation executed the same.

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

197163



State of Montana } ss.
County of Gallatin }
Filed December 28, 1971
at 4:15 P. M., and
Recorded in book 12 of
DEEDS Page 1132

CARL L. STUCKY

County Clerk & Recorder

By Carl L. Stucky
Deputy

Fee \$ 6.00

Rt: American Land Title

Raymond H. Keeagan, Jr.
Notary Public in and for said State,
residing at Chicago therein. My
commission expires Nov. 30 1975

RAYMOND H. KEEGAN, Jr.
Notary Public, Cook County, Ill.
My Commission Expires Nov. 30 1975

WARRANTY DEED

THIS INDENTURE, made this 3rd day of December, 1971, between the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation, Grantor, and EMPIRE BUILDING MATERIALS, INC., a Montana corporation, Grantee,

W I T N E S S E T H :

That the said Grantor, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration to it in hand paid by the said Grantee, receipt whereof is hereby acknowledged, Does by these presents grant, bargain, sell, convey, warrant and confirm unto the said Grantee, its successors and assigns, FOREVER, all the following described real property situated in the County of Gallatin, State of Montana, to-wit:

That portion of Block C of Rouse's First Addition to the City of Bozeman, Gallatin County, Montana, and that portion of Block B of Rouse's Second Addition to said City described as follows:

Beginning at the northwest corner of said Block B; thence North eighteen minute thirty-five seconds (0°18'35") East a distance of sixty (60.00) feet to the southwest corner of said Block C; thence North twenty-five minutes, thirty-eight seconds (0°25'38") West along the west line of said Block C a distance of one hundred sixteen and sixty-eight hundredths (116.69) feet; thence North eighty-nine degrees, eight minutes, forty-two seconds (89°08'42") East a distance of eighty-two and forty-three hundredths (82.43) feet, a portion of this course being along the south wall of an existing concrete warehouse; thence South forty minutes, twelve seconds (0°40'12") East a distance of three hundred seventy-three (373.00) feet to a point marked with a concrete monument; thence South eighty-nine degrees, twenty-one minutes, fifty-five seconds (89°21'55") West a distance of eighty-seven and thirty-hundredths (87.30) feet to a concrete monument on the west line of said Block B; thence North eighteen minutes, thirty-five seconds (0°18'35") East along the west line of said Block B a distance of one hundred ninety-six and four-hundredths (196.04) feet to the point of beginning.

SITE/O.U. CMC Asbestos Bozeman
 DEQ File# 49-03-01-01
 Admin. Record: Yes ☐ No ☐
 Administrative Record #
 Confidential: Yes ☐ No ☐
 Key Words/Comments

ALSO, that portion of vacated East Babcock Street situated between said Block C and Block B, and that portion of the vacated alley in said Block B, lying within the property described above.

This conveyance is subject to all existing rights of way and easements, whether or not of record, and to all encumbrances, exceptions and reservations of record, and the Grantor reserves to itself, its successors and assigns, all minerals of any nature whatsoever including, but not exclusively, coal, iron, natural gas and oil, which may be in or upon said described lands, together with the sole, exclusive and perpetual right to explore for and dispose of said minerals by any means or methods suitable to the Grantor, its successors and assigns, but without entering upon or using the surface of said lands and in such manner as not to damage the surface of said lands or to interfere with the use thereof by the Grantee, its successors or assigns.

This deed is given in fulfillment of that certain real estate contract between the parties hereto dated December 7, 1970 and conditioned for the conveyance of the above-described property, and the covenants of warranty herein contained shall not apply to any title, interest or encumbrance arising by, through or under the purchaser in said contract, and shall not apply to any taxes, assessments or other charges levied, assessed or becoming due subsequent to the date of said contract.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed by its duly authorized officers the day and year first above written.

CHICAGO, MILWAUKEE, ST. PAUL
AND PACIFIC RAILROAD COMPANY

By C. E. Crippen
C. E. Crippen President

Attest:

J. T. Taussig
J. T. Taussig, Secretary

STATE OF ILLINOIS)
) ss.
County of Cook)

On this 3rd day of December, in the year 1971,
before me, Raymond H. Keegan, Jr., a Notary Public, personally
appeared C. E. Crippen and J. T. Taussig,
known to me to be the President and Secretary,
respectively, of Chicago, Milwaukee, St. Paul and Pacific Railroad
Company, the corporation that executed the within instrument, and
acknowledged to me that such corporation executed the same.

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

Raymond H. Keegan, Jr.
Notary Public in and for said State,
residing at Chicago therein. My
commission expires _____

RAYMOND H. KEEGAN, Jr.,
Notary Public, Cook County, Ill.
My Commission Expires Nov. 30, 1975

93467

INDEXED
PLATTED

State of Montana } ss.
County of Gallatin }
Filed December 28, 1971
at 4:10 P. M., and
Recorded in book 12 of
DEEDS Page 1129
CARL L. STUCKY
County Clerk & Recorder
By Paul A. Bridges
Deputy
Fee \$ 6.00
Rt: American Land Title



#607-677 (A/C)

APPENDIX C
WRITTEN CONSENT FOR VOLUNTARY PROPERTY ACCESS



**WRITTEN CONSENT OF PROPERTY OWNERS FOR VOLUNTARY CLEANUP
IMPLEMENTATION AND PROPERTY ACCESS**
CMC East Main Depot Facility located in Bozeman, Montana

Applicant:

City of Bozeman

Property Owner:

Empire Building Materials, Inc.
PO Box 220
Bozeman, MT 59771-0220

Property Addresses:

606 and 608 E. Main Street
Bozeman, MT 59715

Property Geocodes/Legal Descriptions:

06-0799-07-1-03-25-0000

ROUSE 1ST ADD, S07, T02 S, R06 E, ACRES 0.53, AMND LOT 1A-1 PLAT C-5-B

06-0799-07-1-03-35-0000

S07, T02 S, R06 E, ACRES 0.727, PT OF BLK C ROUSES 1ST BOZ & PT OF BLK B
ROUSES 2ND BOZ PLUS POR VAC ALLEY & BABCOCK ST

06-0799-07-4-56-20-0000

ROUSE 2ND ADD, S07, T02 S, R06 E, BLOCK B, TR BEING COS 361

A Voluntary Cleanup Plan (VCP) is being prepared by City of Bozeman for the Empire-owned portion of the CMC East Main Depot Facility located in Bozeman, Montana, for submittal to the Montana Department of Environmental Quality (DEQ) in accordance with the Voluntary Cleanup and Redevelopment Act. Section 75-10-733(2)(c) of the Montana Code Annotated (MCA) requires that the VCP must include "the written consent of current owners of the facility or property to allow: (i) access to the facility by the applicant and its agents and the department; and (ii) implementation of the voluntary cleanup plan when a remediation proposal includes the information required in 75-10-734 MCA and meets the requirements of 75-10-721 MCA." The following agreement has been developed to satisfy the statutory requirement for owner consent to both the implementation of the voluntary cleanup plan and access to the facility by the applicant and its agents and the department.

Empire Building Materials, Inc. is the owner of 606 and 608 E. Main Street properties as described above, which are located within the City of Bozeman's CMC East Main Depot Facility. Empire Building Materials, Inc. provides consent for the implementation of the *Voluntary Cleanup Plan Remediation Proposal for Empire Building Materials, Inc. Property At The CMC-East Main Depot CECRA Facility* (VCP-RP) proposed for the facility as approved by DEQ. Empire Building Materials, Inc. further grants the City of Bozeman, DEQ, Weston Solutions, Bozeman Hotel MM, LLC, and their agents and authorized representatives access to the facility



during voluntary cleanup activities under the DEQ-approved VCP-RP. If other properties not owned by Empire Building Materials, Inc. are identified during the course of the environmental assessment of the facility, owner consents will be provided in accordance with 75-10-733(2)(c) MCA.

A handwritten signature in blue ink, appearing to read "Anthony T. Tangaro", written over a horizontal line.

Signature(s)

The name "Anthony Tangaro" written in blue ink, appearing to be printed or written in a clear, legible font, over a horizontal line.

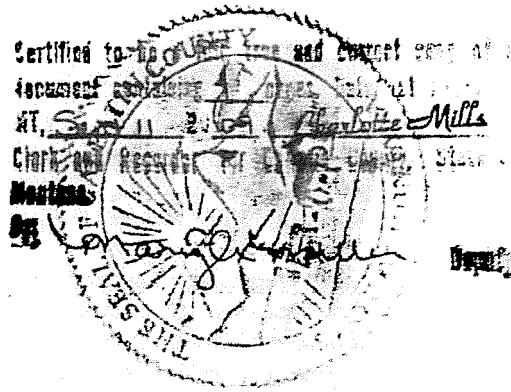
Name/Title (please print)

The date "11/1/24" written in blue ink over a horizontal line.

Date

APPENDIX D
RESTRICTIVE COVENANT

Upon Recording Please Return to
Anthony Tangaro
Empire Building Materials, Inc.
608 East Main
P.O. Box 220
Bozeman, MT 59771-0220



**DECLARATION OF RESTRICTIVE COVENANTS ON REAL ESTATE
PURSUANT TO § 75-10-727, MONTANA CODE ANNOTATED**

THIS DECLARATION OF RESTRICTIVE COVENANTS ON REAL ESTATE
PURSUANT TO § 75-10-727, MCA (Declaration) is made by Empire Building
Materials, Inc. as of August __, 2009.

RECITALS

WHEREAS Empire is the owner of certain interests in real property in Gallatin County,
Montana upon which asbestos ore has come to be located or potentially located
(Property); and

WHEREAS on December 20, 2002, the Montana Department of Environmental Quality
(DEQ) approved a Voluntary Cleanup Plan (VCP) submitted by the City of Bozeman
(City), to investigate and remediate certain asbestos ore contamination present at the
CMC Asbestos Bozeman Comprehensive Environmental Cleanup and Responsibility Act
(CECRA), §§ 75-10-701 through 752, MCA, Facility (Facility); and

WHEREAS the City, as designated lead potentially liable person (PLP) for the Facility
under § 75-10-746, MCA, has performed certain voluntary remedial actions at the
Facility to investigate and remediate contamination at the Facility; and

WHEREAS the City has identified certain, currently inaccessible areas on the Property
that are suspected to contain asbestos ore, including underneath any Portland cement
concrete and buildings and/or structures present on the Property; and

WHEREAS Empire has agreed to record institutional controls on the Property to mitigate
the risk posed to the public health, safety, and welfare and the environment by imposing
certain restrictions on the Property.

NOW THEREFORE, pursuant to § 75-10-727, MCA, Empire hereby agrees and declares
that the restrictions outlined in below shall be placed on the following Property:

2342044
Page 1 of 2
09/11/2009 11:19:23 AM
Charlotte Mills - Gallatin County, MT
Fee \$28.00
NTSC

1. North Warehouse: That portion of Lots one (1), two (2) and three (3) of Block "B" of Rouse's Second Addition to the City of Bozeman, (COS No. 361) located in the Section 7, Township 2S Range 6E, Gallatin County Montana, "commonly known as" the "North Warehouse," depicted shaded in gray with cross-hatching ("Potential Asbestos (Inaccessible))" on the figure dated July, 2009, attached hereto as Exhibit A.

South Warehouse: That portion of Lots twenty-four (24), twenty-five (25) and twenty-six (26) of Block "B" of Rouse's Second Addition to the City of Bozeman (COS No. 361), and that portion of Olive Street vacated by the City of Bozeman, by Ordinance 402 & 930 (and recorded in Film 20, page 396) located in the Section 7, Township 2S, Range 6E, Gallatin County Montana, "commonly known as" the "South Warehouse," depicted shaded in gray cross-hatching ("Observed Asbestos (Inaccessible) and Concrete Cap Over Observed Asbestos") on the figure dated July, 2009, attached hereto as Exhibit A.

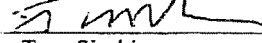
2. Prior to removing, disturbing or demolishing any asphalt pavement, concrete or encapsulated asbestos present on the Property, including the concrete slab, foundation, footings, and other concrete portions of the structures installed on the Property prior to July 1, 2009, the current owner of the Property shall ensure that a Montana-accredited Contractor/Supervisor is present to inspect, and if necessary sample, the Property for the presence of asbestos. If the inspection and sampling reveals the presence of asbestos on any portion of the Property, prior to disturbing any additional pavement or concrete, the current owner of the Property shall have a Montana-accredited Contractor/Supervisor remove, transport and dispose of the asbestos in compliance with all applicable state and federal environmental requirements, criteria, and limitations. In compliance with current US Environmental Protection Agency guidance, confirmation samples must be collected to demonstrate that the asbestos contamination has been completely removed from the Property.
3. The deed-restricted Property is depicted shaded in gray on the figure dated July, 2009, attached hereto as Exhibit A.
4. Empire agrees to provide DEQ and its representatives and contractors and all representatives and contractors of any person conducting remedial actions approved by DEQ on the Property access at all reasonable times to the Property in accordance with MCA Section 75-10-707 (2007).
5. DEQ shall be entitled to enforce these covenants as an intended beneficiary thereof. Empire specifically agrees that the remedy of "specific performance" shall be available to DEQ in such proceedings.
6. The provisions of this Declaration governing the use restrictions of the Property shall run with the land and bind all holders, owners, lessees,

occupiers, and purchasers of the Property. Unless removed pursuant to Montana law, these restrictive covenants apply in perpetuity and every subsequent instrument conveying an interest in all or any portion of the Property shall include these Restrictive Covenants. A property owner may request DEQ approval to remove all or a portion of the institutional controls from the real property in accordance with § 75-10-727, MCA, and the institutional control or portion thereof must be removed if there is not an unacceptable risk posed to public health, safety, and welfare and the environment.

7. Empire shall cause the requirements of these Restrictive Covenants to be placed in all instruments that convey an interest in the Subject Property and shall file this document with the county clerk and recorder in Gallatin County, Montana.
8. The rights provided to DEQ in this declaration include any successor agencies of DEQ.

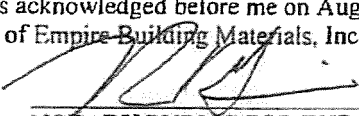
IN WITNESS WHEREOF, EMPIRE BUILDING MATERIALS, INC., has executed this DECLARATION OF RESTRICTIVE COVENANTS ON REAL ESTATE PURSUANT TO § 75-10-727, MONTANA CODE ANNOTATED as of August 25, 2009.

EMPIRE BUILDING MATERIALS, INC.

By: 
Tom Simkins
Vice President

State of Montana)
 : ss.
County of Gallatin)

This instrument was acknowledged before me on August 25, 2009, by Tom Simkins, as Vice President of Empire Building Materials, Inc.



NOTARY PUBLIC FOR THE STATE OF MONTANA

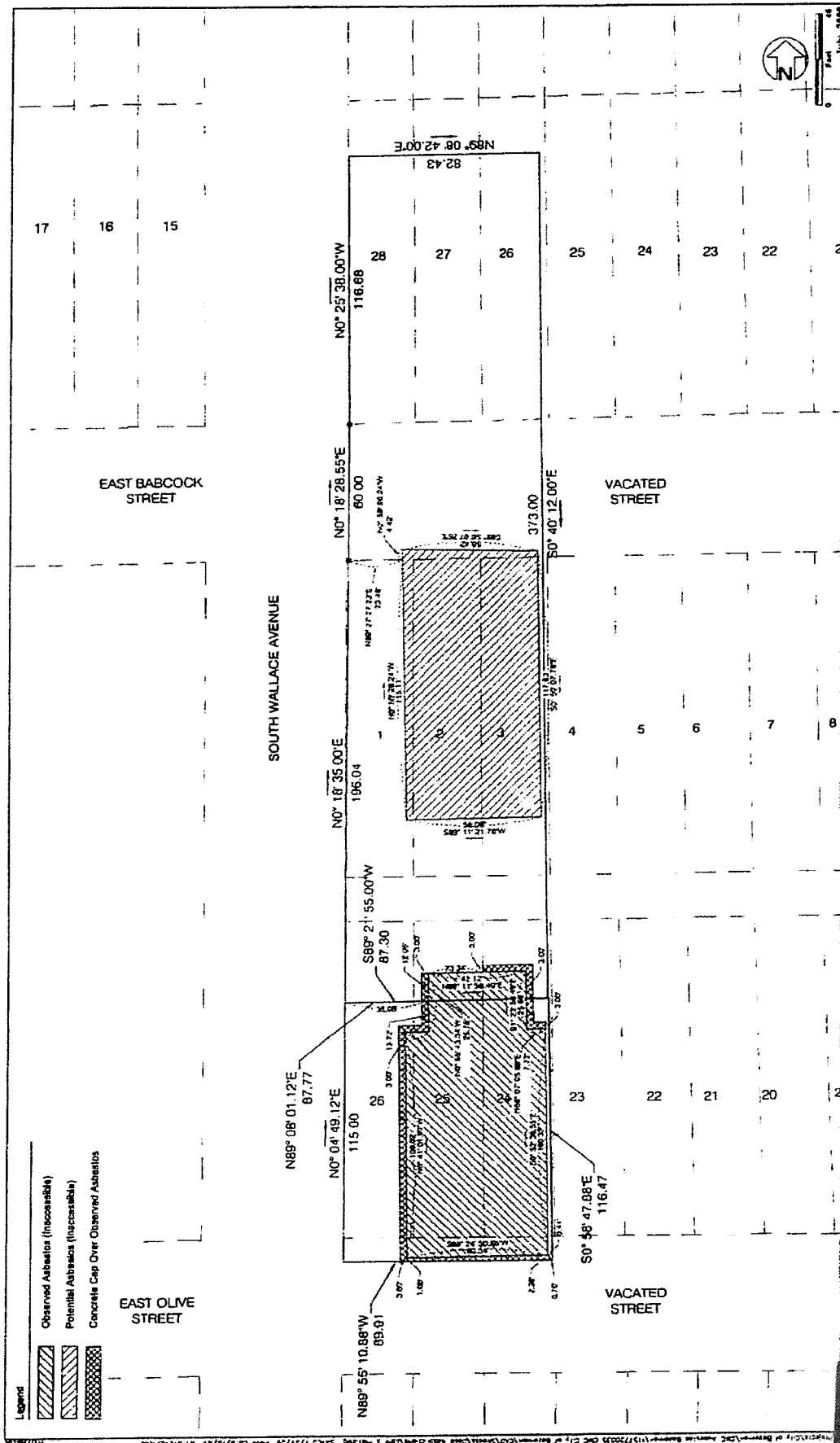
Printed name: Brian C. Gallik

Residing at Bozeman MT 59715

My Commission Expires: 10/19/2010

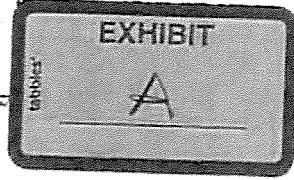
(4 digits)





Dead Restrictions on
 Certificate of Survey No. 361 of a Portion of Block C, Rouse Addition
 to Bozeman and a Portion of Block B, Rouse's 2nd Addition to Bozeman
 (Empire Building Materials) **FIGURE 1**

TETRA TECH
 www.tetrattech.com
 303 Jones Street
 Helena, MT 59601
 PHONE: 406.441.2110
 FAX: 406.441.2115



City of Bozeman
City Attorney's Office
P.O. Box 1230
Bozeman, MT 59771
attention: Tim Cooper

Certified to be a full, true and correct copy of a
document containing 4 pages. Dated at Bozeman
MT, September 20, 2009. Charlotte Mills
Clerk and Recorder for Gallatin County, State of
Montana
By: [Signature]

Deputy

**DECLARATION OF RESTRICTIVE COVENANTS ON REAL ESTATE PURSUANT TO
§ 75-10-727, MONTANA CODE ANNOTATED**

THIS DECLARATION OF RESTRICTIVE COVENANTS ON REAL ESTATE PURSUANT TO
§ 75-10-727, MCA (Declaration) is made by Harrington's Inc. ("Harrington's") as of September
18th, 2009.

RECITALS

WHEREAS Harrington's is the owner of certain interests in real property in Gallatin County,
Montana upon which asbestos ore has come to be located or potentially located (Property); and

WHEREAS on December 20, 2002, the Montana Department of Environmental Quality (DEQ)
approved a Voluntary Cleanup Plan (VCP) submitted by the City of Bozeman (City), to investigate
and remediate certain asbestos ore contamination present at the CMC Asbestos Bozeman
Comprehensive Environmental Cleanup and Responsibility Act (CECRA), §§ 75-10-701 through
752, MCA, Facility (Facility); and

WHEREAS the City, as designated lead potentially liable person (PLP) for the Facility under § 75-
10-746, MCA, has performed certain voluntary remedial actions at the Facility to investigate and
remediate contamination at the Facility; and

WHEREAS the City has identified certain, currently inaccessible areas on the Property that are
suspected to contain asbestos ore, including underneath any Portland cement concrete and buildings
and/or structures present on the Property; and

WHEREAS Harrington's has agreed to record institutional controls on the Property to mitigate the
risk posed to the public health, safety, and welfare and the environment by imposing certain
restrictions on the Property.

2342908

Fee \$28.00
MISC

Pass: 1 of 4

09/24/2009 09:27:00 AM

MT

Gallatin County

Charlotte Mills

Clerk and Recorder

for Gallatin County

State of Montana

September 20, 2009

4:00 PM

2342908

2342908

2342908

NOW THEREFORE, pursuant to § 75-10-727, MCA, Harrington's hereby agrees and declares that the restrictions set forth herein shall hereinafter govern the use of the Property described herein.:

1. **Description of Property.** That portion of Block C in Rouse's Second Addition to the city of Bozeman, Gallatin County, Montana, described as follows:
Commencing at the northwest corner of Block B of Rouse's Second Addition; thence, South eighteen minutes, thirty-five seconds (0°18'35") West, three hundred eleven and four-hundredths (311.04) feet along the east line of Wallace Avenue to the True Point of Beginning; thence South eighty nine degrees, forty-one minutes, twenty-five seconds (89°41'25") East, eighty six and fifty-five-hundredths (86.55) feet; thence South eighteen minutes, thirty-five seconds (0°18'35") West, one hundred forty-five (145) feet, thence North eighty nine degrees, forty-one minutes, twenty-five seconds (89°41'25") West, eighty six and fifty-five-hundredths (86.55) feet to a point on the westerly line of said Block C; thence North eighteen minutes, thirty-five seconds (0°18'35") East one hundred forty-five (145) feet along said westerly line to the True Point of Beginning, **but only to the extent that any such property is depicted as shaded in gray with cross-hatching on Exhibit A hereto.** All such property interests shall hereinafter be referred to as the "Property."
2. **Covenants.** Prior to removing, disturbing or demolishing any structure, pavement, building or encapsulated asbestos present on the Property, the current owner of the Property shall ensure that a Montana-accredited Contractor/Supervisor is present to inspect, and if necessary sample, the Property for the presence of asbestos. If the inspection and sampling reveals the presence of asbestos on any portion of the Property, prior to disturbing any additional pavement or concrete, the current owner of the Property shall have a Montana-accredited Contractor/Supervisor remove, transport and dispose of the asbestos in compliance with all applicable state and federal environmental requirements, criteria, and limitations. In compliance with current US Environmental Protection Agency guidance, confirmation samples must be collected to demonstrate that the asbestos contamination has been completely removed from the Property.
3. **Access.** Harrington's agrees to provide DEQ and its representatives and contractors and all representatives and contractors of any person conducting remedial actions approved by DEQ on the Property access at all reasonable times to the Property in accordance with MCA Section 75-10-707 (2007).
4. **DEQ as Intended Beneficiary of Covenants.** DEQ shall be entitled to enforce these covenants as an intended beneficiary thereof, together with any successor agencies of the DEQ. Harrington's specifically agrees that the remedy of "specific performance" shall be available to DEQ in such proceedings.
5. **Covenants Binding on Successors-in-Interest.** The provisions of this Declaration restricting the use of the Property shall run with the land and bind all holders, owners, lessees, occupiers, and purchasers of the Property. Unless removed pursuant to Montana law, these restrictive covenants apply in perpetuity and every subsequent instrument conveying an interest in all or any portion of the Property shall include these Restrictive Covenants. A property owner may request DEQ approval to remove all or a portion of the

institutional controls from the real property in accordance with § 75-10-727, MCA, and the institutional control or portion thereof must be removed if there is not an unacceptable risk posed to public health, safety, and welfare and the environment.

IN WITNESS WHEREOF, HARRINGTON'S, INC., has executed this DECLARATION OF RESTRICTIVE COVENANTS ON REAL ESTATE PURSUANT TO § 75-10-727, MONTANA CODE ANNOTATED as of September __, 2009.

HARRINGTON'S INC

By

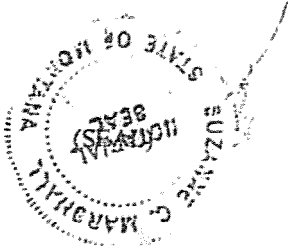

Jeff Harrington, It's President


State of Montana)

ss.

County of Gallatin)

This instrument was acknowledged before me on ^{September} ~~August 12~~, 2009, by Jeff Harrington, as President of Harrington's, Inc.




NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed name: Suzanne C. Marshall
Residing at Butte
My Commission Expires: 5/20/2011

APPENDIX E
GWIC WELLS WITHIN ½ MILE OF FACILITY

Table 1
Wells Within 1/2 Mile of the Facility listed on MBMG-GWIC

GWIC ID	Site Name	Latitude	Longitude	Township	Range	Section	County	Site Type	Total Depth	Static Water Level
188900	LOCKIE DAVE	45.6759	-111.0327	02S	06E	7	GALLATIN	WELL	36	23
239607	MILWAUKEE ROAD RAIL TRAIL	45.6773	-111.0264	02S	06E	7	GALLATIN	WELL	135	10.5
239608	MILWAUKEE ROAD RAIL TRAIL	45.6746	-111.0286	02S	06E	7	GALLATIN	WELL	134	19.6
242474	THE VILLAGE INVESTMENT GROUP	45.67824	-111.02103	02S	06E	7	GALLATIN	WELL	109	35
96263	VANHOORN ROSE M	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	56	13
96264	WESTERBERG DICK	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	56	35
96265	WALTE REALTY CO	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	25	6
96266	NELSON HOWARD I	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	28	Not Listed
96267	BOZEMAN CITY OF	45.68011	-111.0281	02S	06E	7	GALLATIN	WELL	304	13
96268	MEDICAL ARTS BUILDING * ROESSNER BUILDRS	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	97	14
96269	WAITE REALTY CO	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	30	20
96270	GARCIA JACK	45.68476	-111.02939	02S	06E	7	GALLATIN	WELL	63	14
96271	FINCH WALTER	45.6829	-111.02939	02S	06E	7	GALLATIN	WELL	26	12
96272	WHITE, LUELLA	45.6829	-111.02682	02S	06E	7	GALLATIN	WELL	47.5	14
96274	GOHDE JOSEPHINE	45.68476	-111.03197	02S	06E	7	GALLATIN	WELL	69	12
96276	SPIETH KEN	45.68104	-111.03197	02S	06E	7	GALLATIN	WELL	55	15
96277	BOZEMAN CITY OF - BOGERT PARK	45.67495	-111.03198	02S	06E	7	GALLATIN	WELL	150	13
96279	STUCKY GEORGE L	45.67267	-111.0281	02S	06E	7	GALLATIN	WELL	22	Not Listed
96287	GILSKEY FRANCIS R	45.68197	-111.02553	02S	06E	7	GALLATIN	WELL	136	45
120154	ROESENER BUILDERS	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	72.5	33
123996	SIPES TOM	45.68197	-111.02553	02S	06E	7	GALLATIN	WELL	52	11
124900	EDGMOND CHUCK	45.68197	-111.02553	02S	06E	7	GALLATIN	WELL	56	11.5
124902	C M C HARTLAND PARTNERS	45.67732	-111.02682	02S	06E	7	GALLATIN	WELL	125	44
125747	BOZEMAN CITY OF - LINDLEY PARK	45.67768	-111.02638	02S	06E	7	GALLATIN	WELL	220	6
129384	RUSHING CLYDE	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	65.5	18
129457	TOWN PUMP * T-1	45.68104	-111.02424	02S	06E	7	GALLATIN	WELL	20	14.92
129459	TOWN PUMP * T-2	45.68104	-111.02424	02S	06E	7	GALLATIN	WELL	21.8	18.76
129461	TOWN PUMP * T-3	45.68104	-111.02424	02S	06E	7	GALLATIN	WELL	20	15.23
134415	THE STORE	45.67919	-111.01931	02S	06E	8	GALLATIN	WELL	142	50
138799	THOMPSON DALLAS & NORMA	45.68383	-111.0281	02S	06E	7	GALLATIN	WELL	54	18
149435	FOUR WHEEL DRIVE PRODUCTS * MW-2	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	38	23.48
149436	FOUR WHEEL DRIVE PRODUCTS * MW-3	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	54.5	30.07
149527	SCOTT HECK	45.6736	-111.03197	02S	06E	7	GALLATIN	WELL	25	1
152004	OCONNEL TERRY	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	81	20
157888	FOUR WHEEL DRIVE PRODUCTS * MW-7	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	60	Not Listed
157889	FOUR WHEEL DRIVE PRODUCTS * MW-8	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	46	Not Listed
160104	BOZEMAN CITY OF	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	42	Not Listed
160829	HANSON DAVE	45.67547	-111.01931	02S	06E	8	GALLATIN	WELL	115	40
163747	FOURWHEEL DRIVE PRODUCTS * VP-1	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	27.5	Not Listed

Table 1
Wells Within 1/2 Mile of the Facility listed on MBMG-GWIC

GWIC ID	Site Name	Latitude	Longitude	Township	Range	Section	County	Site Type	Total Depth	Static Water Level
163751	FOURWHEEL DRIVE PRODUCTS * VP-2	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	28	Not Listed
163754	FOURWHEEL DRIVE PRODUCTS * VP-3	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	28	Not Listed
163757	FOURWHEEL DRIVE PRODUCTS * VP-4	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	31	Not Listed
163767	FOURWHEEL DRIVE PRODUCTS * VP5	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	37.5	Not Listed
163801	FOURWHEEL DRIVE PRODUCTS * VP-6	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	41	Not Listed
166364	MONTANA FLOUR MILL CO	45.67825	-111.03068	02S	06E	7	GALLATIN	WELL	119.5	Not Listed
167563	CITY OF BOZEMAN	45.67267	-111.0281	02S	06E	7	GALLATIN	WELL	235	8
167618	FOUR WHEEL DRIVE PRODUCTS	45.67965	-111.02231	02S	06E	7	GALLATIN	WELL	39.5	Not Listed
176972	NIELSON ART	45.68383	-111.02295	02S	06E	7	GALLATIN	WELL	56	16
196481	HOUSE PAUL	45.68523	-111.02875	02S	06E	7	GALLATIN	WELL	66	21
210380	TRIPP, ELISHA & KARA	45.68383	-111.0281	02S	06E	7	GALLATIN	WELL	90	50
211220	THE VILLAGE INVESTMENT GROUP, .	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	60	25
211223	THE VILLAGE INVESTMENT GROUP, .	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	60	27
216926	THE VILLAGE INVESTMENT GROUP, .	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	140	33
218687	HILLTOP CHEVRON	45.67965	-111.02231	02S	06E	7	GALLATIN	WELL	41	33
218690	HILLTOP CHEVRON	45.67965	-111.02231	02S	06E	7	GALLATIN	WELL	41	32
218695	HILLTOP CHEVRON	45.67965	-111.02231	02S	06E	7	GALLATIN	WELL	41	32
220361	TRIPP, ELISHA & KARA	45.68383	-111.0281	02S	06E	7	GALLATIN	WELL	132	33
227323	THE VILLAGE INVESTMENT GROUP, .	45.68011	-111.02295	02S	06E	7	GALLATIN	WELL	129	38
244496	GALLIK BRIAN	45.67639	-111.03325	02S	06E	7	GALLATIN	WELL	110	10
251213	OLIVE STREET LLC	45.67732	-111.02939	02S	06E	7	GALLATIN	WELL	54	12
256672	CITY OF BOZEMAN	45.6816	-111.03214	02S	06E	7	GALLATIN	WELL	38	7.5
256832	RUGGIERO, JORY	45.68476	-111.02424	02S	06E	7	GALLATIN	WELL	126	7
281727	SMITH, VERNON AND LAURA	45.6829	-111.02682	02S	06E	7	GALLATIN	WELL	220	10
281728	SMITH, VERNON AND LAURA	45.6829	-111.02682	02S	06E	7	GALLATIN	WELL	35	12
296620	BOZEMAN PUBLIC SCHOOLS	45.68011	-111.02811	02S	06E	7	GALLATIN	WELL	40	8
241502	BADGLEY GLENN E.	45.67923	-111.02563	02S	06E	7	GALLATIN	WELL	25	14
241503	BADGLEY GLENN E.	45.67923	-111.02602	02S	06E	7	GALLATIN	WELL	25	14
241504	BADGLEY GLENN E.	45.67912	-111.02578	02S	06E	7	GALLATIN	WELL	25	13
241505	BADGLEY GLENN E.	45.67893	-111.02588	02S	06E	7	GALLATIN	WELL	25	12.5
274208	BELSCHWENDER, PETER	45.68253	-111.0355	02S	06E	7	GALLATIN	WELL	132	16
274209	BELSCHWENDER, PETER	45.6826	-111.0354	02S	06E	7	GALLATIN	WELL	96	16
274783	SECOR, SCOTT AND LESLIE	45.67232	-111.03332	02S	06E	7	GALLATIN	WELL	60	7
277761	GSA REGION 8 MOUNTAIN PLAINS	45.678	-111.03565	02S	06E	7	GALLATIN	WELL	57	20
285786	TOWN PUMP	45.67982	-111.02545	02S	06E	7	GALLATIN	WELL	25	14
285787	TOWN PUMP	45.67977	-111.02563	02S	06E	7	GALLATIN	WELL	25	14.5
285788	TOWN PUMP	45.67923	-111.02568	02S	06E	7	GALLATIN	WELL	25	14.5
285789	TOWN PUMP	45.67954	-111.02558	02S	06E	7	GALLATIN	WELL	25	14.5
297728	DRYSDALE, MARTHA	45.68336	-111.03244	02S	06E	7	GALLATIN	WELL	125	12

Table 1
Wells Within 1/2 Mile of the Facility listed on MBMG-GWIC

GWIC ID	Site Name	Latitude	Longitude	Township	Range	Section	County	Site Type	Total Depth	Static Water Level
297757	BOZEMAN COMMONS	45.68063	-111.02147	02S	06E	8	GALLATIN	WELL	82	33
310588	CHS, INC.	45.67856	-111.01942	02S	06E	8	GALLATIN	WELL	48	22.51
310589	CHS, INC.	45.67844	-111.01981	02S	06E	8	GALLATIN	WELL	49	20.88
310590	CHS, INC.	45.67864	-111.01964	02S	06E	8	GALLATIN	WELL	30	22.27
310591	CHS, INC.	45.67853	-111.01975	02S	06E	8	GALLATIN	WELL	43	22.63
310593	CHS, INC.	45.67853	-111.01975	02S	06E	8	GALLATIN	WELL	47	Not Listed
325648	CITY OF BOZEMAN FIRE HOUSE	45.68002	-111.0318	02S	06E	7	GALLATIN	WELL	303	7.6
326832	S2K MILLER HOLDING, LLC	45.67878	-111.031	02S	06E	7	GALLATIN	WELL	25	16
326835	S2K MILLER HOLDING, LLC	45.67847	-111.03167	02S	06E	7	GALLATIN	WELL	25	17
328056	MENDELAREL LLC	45.6801	-111.02135	02S	06E	8	GALLATIN	WELL	35	10
328057	MENDELAREL LLC	45.6801	-111.02135	02S	06E	8	GALLATIN	WELL	35	10
330273	ST. JAMES PARISH	45.677	-111.0374	02S	06E	7	GALLATIN	WELL	55	19
330409	S2K MILLER BABCOCK, LLC	45.67875	-111.02958	02S	06E	7	GALLATIN	WELL	30	21
330869	THE PAINE GROUP	45.68026	-111.03286	02S	06E	7	GALLATIN	WELL	25	7.8
330870	THE PAINE GROUP	45.68044	-111.03307	02S	06E	7	GALLATIN	WELL	25	8