

Floyd C. Bossard, Manager  
Richard C. Bossard, Manager  
Whiskey Flats Subdivision, Phase III  
222 Aspen Loop  
Butte, Montana 59701

**55598 Roll - 61 Page - 683**

Recorded 12/17/2007 At 3:10 PM

Blanche McLure, GRANITE Clerk and Recorder

Fee: \$ 223.00, By Blanche McLure

**DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS FOR WHISKEY FLATS  
SUBDIVISION – PHASE III  
GRANITE COUNTY, MONTANA  
AMENDED 8/19/07**

**WHEREAS**, the Declarant, Bossard LLC and Whiskey Flats LLC is the owner of certain property in Granite County, Montana to-wit. Subdivision, Plats # , recorded at Granite County, Montana as Documents # , and the Declarants are desirous of placing certain restrictions, limitations and regulations as to the use of said Whiskey Flats Major Subdivision—Phase III.

**NOW THEREFORE**, the Declarants do hereby establish, dedicate, declare, publish and impose upon premises the following protective covenants which shall run with the land and shall be binding upon and be for the benefit and value of Whiskey Flats subdivision – Phase III, and all persons claiming under it, its grantees, successors, and assigns and shall be for the purpose of maintaining a uniform and stable value, character, architectural design use and development of the premises. The conditions, covenants and restrictions shall apply to both Subdivision and to all improvements placed or erected thereon unless otherwise specifically accepted and shall be in existence and full force and effort until 12:01 a.m., July 1, 2036, unless otherwise terminated by law or amended as herein provided.

**USE**

**A. RESIDENTIAL LOTS**

a. No further splits of any lot within the Whiskey Flats Phase III subdivision may occur at this time. Should the Town of Phillipsburg extend their municipal water and municipal sewer system to the subdivision, further division of lots will be considered for lots meeting the following requirements.

- Only lots with a size of four (4) or more acres may be further divided; and
- Only lots which have connected to the municipal water and municipal sewer system may be further divided; and
- All newly created lots must connect to the municipal water and municipal sewer system; and
- All lots created must be a minimum of two (2) acres in size.

b. All tracts shall be used for single family residences and attached or detached garages. No single family dwelling may be used for condominium or time share purposes.

c. No building or improvement shall be placed, constructed, reconstructed, altered or remodeled on any single residential lot except to provide for a single family dwelling erected on said site. No building or structure previously constructed shall be moved or relocated to any residential tract within this subdivision.

d. No tents, campers or mobile units shall be used for habitation on any lot. The recreational use by children of tents is allowed so long as tents are not used for permanent or seasonal habitation by adults nor interfere with the peace and tranquility enjoyed by adjacent or nearby lot owners. During construction of a single family residence a camper or single wide mobile home may be placed on a lot for no longer than one year, but said unit must be self contained and cannot be used for seasonal habitation.

e. Each dwelling shall be constructed so as to include not less than 1200 square feet of living space, exclusive of open porches, patios, carports, garages, or basements. The garage shall not be used to store commercial or industrial equipment.

f. The placement of any structure shall be so as not to unreasonably interfere with the view, building sites, elevations and general aesthetics considerations of nearby or adjoining lots. Any disputes arising from the placement of a structure of any whatsoever nature shall be mediated and controlled by a majority vote of the Architectural Committee (Section G), prior to construction.

g. Bussing services, except for the services needed for special needs students, to properties within 3 miles of schools may not be available.

## **B. HEALTH AND SANITATION**

a. Sanitation – No on-site septic system shall be placed, constructed or altered in such a manner as to constitute a health hazard to adjoining lots, nor shall any septic system be placed, constructed or altered in a location save and except that location as approved by the Montana Department of Environmental Quality on the plat submitted to the sanitation official of Granite County.

b. All on-site septic systems shall be approved by the Sanitarian of Granite County, Montana, and shall be placed and constructed in accordance with the laws, rules and regulations of the Montana Department of Health and Environmental Quality and its successors. Locations of septic systems and wells must be approved in advance by the Granite County Sanitarian.

c. All on-site septic systems shall receive periodic maintenance so as not to become offensive to adjacent or adjoining lot owners. These covenants specifically prohibit the use or continued use of a septic system that proves a nuisance or a hazard to adjoining or adjacent lot owners. No toxic or hazardous wastes or chemicals can be disposed of in the septic system.

d. All domestic wells shall be placed at a location on each tract so as to be in full compliance with the sanitation requirements of Granite County, Montana as well as the Montana Department of Environmental Quality and its successors.

e. No homeowner shall have the right to oppose the creation of a Special Improvement District, which is being created or amended to expand the Town of Philipsburg's municipal water and/or sewer system.

f. Should a Special Improvement District for water and/or sewer be created, the individual lot owners must comply with the restrictions of this district, including but not limited to: disconnection and/or abandonment of any well and/or sewer system and connection to new municipal water and/or municipal sewer systems.

g. The owners of a tract shall be responsible for the orderly removal of junk, garbage, litter, and trash so as to not unduly impact the values of adjoining lots. They are encouraged to employ conservation techniques, including recycling, to limit refuse amounts.

h. No tract may be used for the storage of pickup camper units, camp trailers, motor homes, utility trailers, snowmobile trailers which are not fenced or screened from view of adjoining or adjacent lots. No inoperable vehicles of any nature may be stored on any tract.

i. No open fires of any nature are allowed on any tract except in a designated fire pit or barbecue unit.

j. Except in an emergency situation when necessary for the preservation of life or property, the discharge of firearms shall be prohibited. The hunting of game animals on the subdivision is prohibited.

k. No noxious chemicals or industrial solvents are allowed to be stored on or maintained on any tract.

1. The phosphorous content of household cleaning products used in any dwelling is limited to less than 0.5% (one-half of one percent or less) except that:

- a. Automatic dishwashing detergent may contain 8.7% phosphorous and;
- b. Chemical water conditioners may contain up to 20.0% phosphorous.

m. The purchaser of the tract is responsible for installing and maintaining culvert pipe in approach roads that cross ditches. Property owners are also responsible for keeping them unplugged.

**C. EASEMENTS, UTILITIES, CONSTRUCTION**

a. Easements for roads, drainage, settling ponds, electricity, telephone, cable television and all other utilities are hereby reserved on the Certificate of Survey plat. All new utilities shall be buried underground.

b. Easement areas may be landscaped by lot owners as to enhance their appearance so long as the landscaping does not interfere with the use of the property as an easement.

c. There shall be no fencing, structure or obstruction of any type installed within any of the Granite County or Town of Philipsburg Road right-of-ways. It is the property owners' responsibility to ensure all fencing is constructed out of the road right-of-ways. Previous fence lines are not always accurate and should not be used as a determination of the road right-of-way.

d. Landscaping within all easement of which the Town of Philipsburg has been granted an easement shall be limited to sod or native grasses. Planting of trees or shrubs and placement of fencing, or structures within all easements is strictly prohibited.

e. The area from the western edge of the NorthWestern gas line easement dividing Tracts 55, 68, 69, 70, 77, 78 and 81 to the eastern boundary of each of the before named tracts is an unbuildable/undevelopable area. Landscaping in this area is limited to sod, native grasses or existing planted trees.

f. Prior to construction of a basement on Tracts 77, 78 and 81, soils should be further tested to determine whether an engineered basement is needed due to poor soil suitability.

- g. Tracts 70, 71, 76 and 77 are to be accessed by driveways from Stevie Lane.
- h. Erosion control techniques must be practiced by property owners, including silt fencing, placement of spoil piles, etc., for development during and after construction of all structures and improvements.
- i. Revegetation and reseeding of disturbed areas is required.
- j. No homeowner shall have the right to protest the creation of a Special Improvement District, created or amended for the purposed of road maintenance.
- k. There will be no construction on Commercial Lots 87 and 88 until such time that the Developer, Philipsburg Town Council, and Granite County Commission agree and approve commercial covenants for Lots 87 and 88.
- l. No property owner shall plow, place or cause to be plowed or placed, any snow into any public right-of-way, street or road.

**D. WILDLIFE AND ANIMALS**

- a. Homeowners must accept the responsibility of living with wildlife and be responsible for protecting their vegetation from damage by wildlife, by confining pets, and properly storing garbage and other potential attractants. Artificial feeding of and placing salt licks for big game is prohibited by Montana Law.
- b. Animals such as dogs, cats and birds are allowed in the subdivision as pets only and so long as they do not constitute a nuisance to others. The commercial breeding of such animals is forbidden. Animals must be under the control of the owner and any animal that constitutes a continuing nuisance shall be controlled by a leash or a kennel. Continual violation of this covenant will constitute grounds for the removal and prohibition of the animal from the subdivision.
- c. Horses and pack llamas are allowed on tracts larger than three acres in area, so long as they are contained within the fenced area. All animal residues must be collected and removed from the said lot in a timely manner. No feed-lot types or operations are allowed. Pigs and pig farms are specifically excluded from the tracts.

**E. MINING AND ENVIRONMENT**

a. No mining quarry, excavation, oil drilling, or development of any kind shall be allowed in or on the premises except for such excavation as may be necessary in connection with the construction or placing of improvements thereon in accordance with the terms and restrictions of these covenants.

b. Every attempt shall be made to preserve and protect the environment indigenous to the area. Disturbance, destruction, or damage to all plant life, all animal life, and their natural habitats, is strictly forbidden except where absolutely necessary for the placement or construction of improvements. All ground disturbances of any nature shall be returned as quickly as possible to their natural condition and replanted with native plants except where otherwise utilized for lawns, gardens, or exterior living areas.

c. The tract owner shall control all noxious weeds and plants and shall eradicate them in accord with the acceptable practices and rules as promulgated by the Weed Control Board of Granite County, Montana. Failure by a lot owner to control noxious weeds shall constitute a breach of these covenants and shall allow for chemical eradication by Granite County or the homeowners association with the cost being the responsibility of the lot owner.

**F. COMMERCIAL ACTIVITIES, SIGNS AND ADVERTISING**

a. No tract within the subdivision nor improvements constructed thereon shall be used for commercial activities or purposes of any nature save and except those professional practices that may be carried on within the confines of a single family dwelling.

b. A currently installed billboard on Tract 3 is approved indefinitely. All other signs, billboards, posters, and advertisements are prohibited unless they have received the approval of the Architectural Committee. The Declarants reserve the right to place appropriate signage during the marking of the tracts.

**G. ARCHITECTURAL COMMITTEE**

a. There is hereby created an Architectural Committee which is herein referred to as the "Committee" or the "Architectural Committee", which shall consist of three persons. One member of the committee shall be appointed by the lot owners and one by the developer. The members shall select the third member who must be a property owner. Each committee member shall have one vote and in the case of an impasse in voting, the committee shall submit an impasse to an impartial arbitrator whose decision shall be final.

b. No building, construction, reconstruction, alteration, remodeling, landscaping, parking fence, wall or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to or maintained on any site or tract until building drawings, plans and specifications and such other information as the Committee may reasonably require, is submitted to, and approved by, a majority of the Committee in writing. Nor may the same be commenced until the Committee shall have issued a permit allowing for such improvements. The Committee shall recognize and approve colors that blend and compliment the natural environment.

c. The Committee shall require that all construction complies with the provision of the following standard codes or their amendments:

Uniform Building Code  
International Conference of Building Officials  
National Plumbing Code  
National Electrical Code  
National Fire Protective Association  
Building Codes of Granite County, Montana, if any

d. The Committee shall have the authority to reject the materials, design, and colors submitted within plans or the plans themselves if they are not compatible, or are inappropriate, to the rest of the subdivision.

e. All improvements, construction, reconstruction, alterations, remodeling or any activity requiring the approval of the Committee must be completed in substantial compliance with the plans and specifications initially approved by the Committee and for which permits have been issued.

f. The Committee shall have the power, authority, standing, and right to enforce these covenants in any court of law or equity when it reasonably believes the same have been violated and as more specifically set forth in paragraph g (below), and shall have the authority to revoke or suspend building permits and/or order the suspension or cessation of any construction or work in violation of these covenants or of any permit issued by the Committee.

g. The Committee shall be governed by the following guidelines in its consideration of the plans and specifications submitted for its approval.

1. In considering any plans and specifications, the Committee shall examine the suitability of the same to the site, including materials of which it is to be constructed, as well as the relationship of the same to the adjacent properties.

2. No plans or specifications shall be approved which will be so similar or dissimilar to other improvements or structures that monetary or aesthetic values will be impaired.

3. All plans or specifications shall be in full compliance with all of the terms and provisions of these covenants, except for any variances, which may have been granted by the Committee for such plans and specifications.

h. All construction on or in the premises shall be diligently completed within 12 months or commencement unless specific written extension is granted by the Committee. No construction material shall at any time be placed or stored so as to impeded, obstruct, or interfere with pedestrian or vehicular traffic and no construction materials shall be placed or stored on residential tracts for a period not to exceed 60 days following substantial completion of construction as shall be determined by the Committee.

i. All lot owners must comply with the Laws and Regulations of the State of Montana and Granite County as to fire protection, building construction, sanitation, public health and safety. All structures are to be placed a minimum of five feet from all property lines to minimize the potential of flame spread from structure fires.

j. The lot owner shall obtain all required county and state permits prior to initiation of construction.

k. All property owners must obtain an encroachment permit from the Granite County Road Department and/or the Town of Philipsburg Public Works Department whichever has jurisdiction for all new driveway approaches onto Flint Creek Way (Sawmill Road) or Seventh Street prior to construction of driveways.

l. No driveway shall block or impede any ditches or drainages.

m. The Committee or individual members thereof may not be held liable to any person for any damages which may result from Committee action taken pursuant to these covenants, including but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance, suspension or enforcement of building permits or any delays associated with such action on the part of the Committee.

**H. HOMEOWNERS ASSOCIATION**

- a. The Articles of Incorporation of Whiskey Flats Subdivision Phase III have been filed in the Granite County Clerk and Recorder's office, ~~Book \_\_\_\_\_ and Page \_\_\_\_\_~~ F.C.B.  
ATTACHMENT A
- b. All Tract owners shall become a member of Whiskey Flats Subdivision Phase III Homeowners Association and abide by its laws.
- c. The public roads, settling ponds 3 and 4, and water cistern servicing Phase III will be deeded to the Homeowners Association, which is responsible for their repair and maintenance. It shall be the responsibility of the Homeowners Association to pay all taxes levied and to repair and maintain the public roadways within the subdivision until such time by petition said roadways are dedicated to Granite County, Montana by acceptance of the governing body of Granite County, Montana.
- d. The Whiskey Flats Phase III Homeowners Association will be responsible for maintenance and ensuring access for emergency vehicles remains open at all times of the year until such time a Special Improvement District may be formed to assume the maintenance of any roadways.
- e. Biannual dust abatement applications to dusty roads within Whiskey Flats Phase III will be the responsibility of the Homeowners Association.
- f. No annual assessment shall be made for more than two hundred and fifty dollars per tract without approval of a three-quarters majority of the tract owners.
- g. A two-thirds vote of the Homeowners Association is required to amend these covenants and restrictions.
- h. All proposed amendments of any covenant associated with this development must first seek the approval of the Granite County Commission and the Town Council of Philipsburg prior to being filed and recorded with the Granite County Clerk and Recorder.
- i. No homeowner shall have the right to protest the creation of a Special Improvement District, which is being created or amended for the purpose of road maintenance.

j. No homeowner shall have the right to protest the creation of a Special Improvement District, which is being created to expand the Town of Philipsburg's municipal water or municipal sewer systems.

**I. NUISANCE**

No noxious or offensive use or activity shall be carried on within the subdivision or anything done or permitted on or in the premises which shall constitute a public nuisance.

**J. PARKING**

a. All parking of vehicles shall be on the individual sites so as not to impede fire and public utility services.

b. There is to be a five-foot setback for all structures from the property lines to permit adequate access for fire fighting equipment.

**K. LIVING WITH WILDLIFE (MONTANA FISH, WILDLIFE & PARKS)**

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, bears, mountain lions, coyotes, skunks, etc. Please contact the Montana Fish, Wildlife & parks office in Missoula (3201 Spurgin Road, Missoula, Montana 59804) for brochures that can help homeowners "live with wildlife". Alternatively, see FWP's website at [www.fwp.mt.gov](http://www.fwp.mt.gov).

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, and repellants) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

- b. Gardens and fresh fruit trees can attract wildlife. Keep the produce and fruit picked and off the ground, because rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. Do not feed wildlife or offer supplements (such as salt blocks) attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- d. Birdseed is an attractant to bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- e. Garbage should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, dogs, etc. If stored indoors, garbage cans may not be set out until the morning of garbage pickup, and must be brought indoors no later than that same evening.
- f. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. Pet food and livestock feed should be stored indoors, in closed sheds, or in animal-resistant containers in order to avoid attracting wildlife such as bears, skunks, raccoons, etc. When feeding pets or livestock do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.

- h. Barbecue grills should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc. can attract bears and other wildlife.
- i. Consider boundary fencing that is not higher than 3 ½ feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence.
- j. These “living with wildlife” covenants cannot be altered or eliminated without the consent of the governing body (Granite County Commissioners).

**I. ENFORCEMENT**

a. In the event of any violations or threatened violation of these covenants, any owner of real property in the premises, or the committee, may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a separate remedy, such owner or the Committee may enter upon the property in question and remove, remedy or abate the violation or threatened violation after first having given property notice and reasonable opportunity for the violator to take action himself to comply with these covenants as set forth below.

b. Notice as required in paragraph (L-a) above, shall be in writing and shall be served on the person or entity concerned and shall specify the violation or threatened violation, identify the property, demand compliance with the terms and conditions of these covenants and shall state in the action which will be taken under paragraph (L-a) above if the violation or threatened violation is not abated, remedied, or satisfied. If such notice cannot be personally served after a reasonable effort to locate the person or entity to be served, service may be had by posting a copy of such notice at a conspicuous place on the property which is the subject of such violation and mailing a copy of the notice by Certified Mail, return-receipt requested, to the last known address or address of record, of the violator. Such notice must further be provided for a period of fifteen (15) days from the date of personal service of such notice, or thirty (30) days from the date of posting and mailing of the same, with which compliances can be had with these covenants before any self help, abatement, entry or commencement of litigation as provided in paragraph (L-a) can be commenced.

c. No owner or member of the committee shall be liable to any person or entity for any entry, self help, or abatement of a violation or threatened violation of these covenants and all owners or

leases of real property shall be deemed to have waived any and all rights or claims to or for damages for any loss or injury resulting from action taken to abate, remedy, or satisfy any violation or threatened violation of these covenants. Exception to the above shall exist for loss, injury or damage for intentionally wrongful acts.

d. Actual costs, expenses, and reasonable attorneys' fees connected with correcting, remedying, abating, preventing or removing any violation or threatened violation of these covenants incurred either through litigation, entry, or self help shall constitute a claim by the owner or the Committee initiating such action against the owner of the property which is subject of such violation or threatened violation. Such claim shall not, however, exceed Five Thousand Dollars (\$5,000) for any one claim and shall be enforceable through appropriate court actions. The owner or the Committee making such claims may file a lien against the subject property in the amount of and for the collection of the claim by filing a verified statement of the lien with the office of the Clerk and Recorder, Granite County, Montana. Such lien statement must set forth the names of the claimant, the date of the claim, and a brief statement of the manner in which the costs and expenses of the claim were incurred. Once filed, the lien shall remain on record as a claim against the property until paid in full or foreclosed in the manner otherwise provided by law, subject to rights of redemption.

BOSSARD LLC, Owner  
Whiskey Flats LLC, Owner

Floyd C. Bossard  
Floyd C. Bossard, Manager

Richard C. Bossard  
Richard C. Bossard, Manager

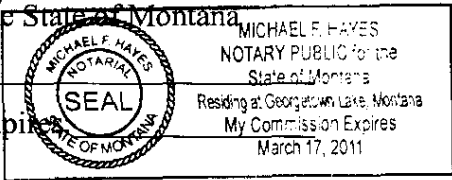
STATE OF MONTANA     )  
  : SS.  
County of Silver Bow     )

On this 24th day of October, 2007, before me, the undersigned Notary Public for the State of Montana, personally appeared FLOYD C. BOSSARD and RICHARD C. BOSSARD, to be personally known to be the persons described in and whose names are subscribed to the within instrument, and acknowledged to me that they have executed the same.

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

Michael F. Hayes

Notary Public for the State of Montana  
Residing at: \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



Floyd C. Bossard, Manager  
Richard C. Bossard, Manager  
Whiskey Flats Subdivision, Phase III  
222 Aspen Loop  
Butte, Montana 59701

ATTACHMENT A

**ARTICLES OF INCORPORATION  
OF  
WHISKEY FLATS SUBDIVISION – PHASE III  
HOMEOWNERS ASSOC., INC.**

I, Floyd C. Bossard, the undersigned natural person of the age of twenty-one (21) years or more, acting as incorporator of a mutual benefit corporation under the Montana Non-Profit Corporation Act, adopt the following Articles of Incorporation for such nonprofit, mutual benefit corporation:

**ARTICLE I**

Name: The Name of the corporation is:

WHISKEY FLATS SUBDIVISION – PHASE III HOMEOWNERS ASSOC., INC.

**ARTICLE II**

Purposes and Powers: The corporation does not contemplate pecuniary gain or profit, direct or indirect, to its members. The purposes for which it is formed are: to own and operate and maintain the private road easements of Whiskey Flats Subdivision – Phase III, according to the maps or plats there on file among the records of Granite County, Montana, hereinafter referred to as “the common properties and facilities”, to fix and levy assessments that are necessary for the operation, repair, maintenance or improvement of the drainage ditches, settling basins, and private roads.

**ARTICLE III**

Membership: Every person or entity who is a record owner of fee or undivided interest in any tract, which is subject by covenant of record to assessment by the corporation, shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

ARTICLE IV

Voting Rights: The Corporation shall have two classes of voting membership.

A. Class A: Class A Members shall be all those owners defined in Article III with the exception of the Developer. Class A Members shall be entitled to one (1) vote for each tract in which they hold the interest required for membership. When more than one person holds such interest or interests in any tract, all such persons shall be Members, and votes for such lot shall be exercised as they, among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such tract.

B. Class B: Class B Members shall be the Developer. A Class B Member shall be entitled to two (2) votes for each tract in which it holds the interest required for membership, provided that the Class B membership shall cease and become converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; at that time the Class B Members shall be deemed to be Class A Members entitled to one (1) vote for each tract in which it holds an interest required for membership.

ARTICLE V

Board of Directors, Selection, Terms of Office: The affairs of the corporation will be managed by a Board of three (3) Directors who need not be members of the corporation. The initial board shall consist of three (3) Directors who are to serve until their successors are elected and shall qualify and are:

Floyd C. Bossard  
FLOYD C. BOSSARD  
222 Aspen Loop  
Butte, MT 59701

Richard C. Bossard  
RICHARD C. BOSSARD  
222 Aspen Loop  
Butte, Montana 59701

Brian C. Bossard  
BRIAN BOSSARD  
222 Aspen Loop  
Butte, MT 59701

**ARTICLE VI**

**Duration:** The corporation shall exist perpetually.

**ARTICLE VII**

Registered Agent: The address of the corporation's initial registered office and its registered agent at such address is:

FLOYD C. BOSSARD      222 Aspen Loop  
Butte, MT 59701

**ARTICLE VIII**

Dissolution: The corporation may be dissolved by the written assent of two-thirds (2/3) of the members of each class of its membership. Written notice of a proposal to dissolve, setting forth the reasons therefore, shall be mailed to every member at least ninety (90) days in advance of any action taken.

Upon the dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE IX

Incorporator: The name and address of the incorporator is:

FLOYD C. BOSSARD                      222 Aspen Loop  
Butte, MT 59701

IN WITNESS WHEREOF, the incorporator has hereunto set his hand this 24<sup>th</sup> day of October, 2007.

Floyd C. Bossard  
FLOYD C. BOSSARD

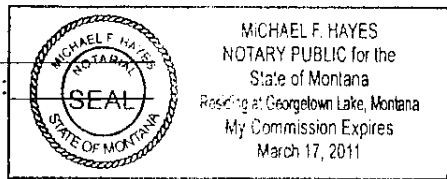
STATE OF MONTANA    )  
  : ss  
County of Silver Bow    )

On this 24<sup>th</sup> day of October, 2007, before me, the undersigned, a Notary Public for the State of Montana personally appeared FLOYD C. BOSSARD, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. .

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

Michael F. Hayes  
Notary Public for the State of Montana

Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**Montana Department of  
ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • [www.deq.mt.gov](http://www.deq.mt.gov)  
November 20, 2007

Patty Hamblock, EI  
Water & Environmental Technologies, LLC  
1485 Continental Drive  
Butte, MT 59701

RE: Whiskey Flats, Phase III Subdivision  
Granite County  
E.Q. #07-2333

Dear Patty:

The plans and supplemental information relating to the water supply, sewage, solid waste disposal, and storm drainage (if any) for the above referenced division of land have been reviewed as required by ARM Title 17 Chapter 36(101-805) and have been found to be in compliance with those rules.

Two copies of the Certificate of Subdivision Plat Approval are enclosed. The original is to be filed at the office of the county clerk and recorder. The duplicate is for your personal records.

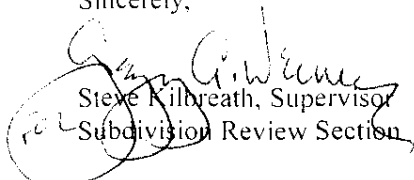
Development of the approved subdivision may require coverage under the Department's General Permit for Storm Water Discharges Associated with Construction Activity, if your development has construction-related disturbance of one or more acre. If so, please contact the Storm Water Program at (406) 444-3080 for more information or visit the Department's storm water construction website at <http://www.deq.state.mt.us/wqinfo/MPDES/StormwaterConstruction.asp>. Failure to obtain this permit (if required) prior to development can result in significant penalties.

Your copy is to inform you of the conditions of the approval. Please note that you have specific responsibilities according to the plat approval statement primarily with regard to informing any new owner as to any conditions that have been imposed.

If you wish to challenge the conditions of this Certificate of Subdivision Plat Approval, you may request a hearing before the Board of Environmental Review or the Department, pursuant to Section 76-4-126, MCA and the Montana Administrative Procedures Act.

If you have any questions, please contact this office.

Sincerely,

  
Steve Kilbreath, Supervisor  
Subdivision Review Section

SK/gw

cc: County Sanitarian  
County Planning Board

STATE OF MONTANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
CERTIFICATE OF SUBDIVISION APPROVAL  
(Section 76-4-101 et seq., MCA)

TO: County Clerk and Recorder  
Granite County  
Philipsburg, Montana

E.Q. #07-2333  
GRA08-03

THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as **WHISKEY FLATS, PHASE III**

A Tract of land located in the West ½ of Section 24, and the E ½ of Section 23 and the NE ½ of Section 26 all in Township 7 North, Range 14 West, Principal Meridian Montana in Granite County, Montana

**Consisting of 67 Tracts, of which Tracts 37, 85, 86, 87, 88, A (Settling Pond 3) and B (Settling Pond 4) are exempt per AMR 17.36.605(2)(a), and the remaining 60 tracts have been reviewed by personnel of the Permitting & Compliance Division, and,**

THAT the documents and data required by ARM Chapter 17 Section 36 have been submitted and found to be in compliance therewith, and,

THAT the approval of the Plat is made with the understanding that the following conditions shall be met:

THAT the lot size as indicated on the Plat to be filed with the county clerk and recorder will not be further altered without approval, and,

**THAT each lot shall be used for one single family dwelling, and,**

THAT each individual water system will consist of a well drilled to a minimum depth of 25 feet constructed in accordance with the criteria established in Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM and the most current standards of the Department of Environmental Quality, and,

THAT data provided indicates acceptable water source at a depth of approximately 116 - 400 feet, and,

**THAT the existing test well, located on Tract 87, shall be capped and shall not be used as a potable water supply and that no facilities for water supply, wastewater treatment, solid waste or stormwater drainage, or structures requiring such facilities, may be constructed on this tract without prior approval from the department, and,**

THAT the individual sewage treatment systems will consist of a septic tank with effluent filter and subsurface drainfield of such size and description as will comply with Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM, and,

**THAT the subsurface drainfields for Tracts 26, 27 and 69 shall have an absorption area of sufficient size to provide an application rate of 0.3 gallons per day per square foot, and,**

**THAT the subsurface drainfields for Tracts 31 and 81 shall have an absorption area of sufficient size to provide an application rate of 0.4 gallons per day per square foot, and,**

**THAT the subsurface drainfields for Tracts 24, 25, 28 – 30, 32 – 36, 38 – 68, 70 – 80, 83 and 84 shall have an absorption area of sufficient size to provide an application rate of 0.5 gallons per day per square foot, and,**

**THAT the subsurface drainfield for Tracts 82 shall have an absorption area of sufficient size to provide an application rate of 0.6 gallons per day per square foot, and,**

THAT the bottom of the drainfield shall be at least four feet above the water table, and,

THAT water supply systems, sewage treatment systems and storm drainage systems will be located as shown on the approved plans, and,

**THAT stormwater controls will consist of the following existing culverts located in Phase III; eleven 12" culverts and two 18" culverts, plus the following proposed culverts; three 12" diameter culverts, three 15" diameter culverts, one 18" diameter culvert, one 30" culvert, one 36" CMP outlet culvert connecting Pond #3 to Pond #4, two existing settling ponds (Ponds #3 and #4) with the associated control structures, road side ditches 16 feet wide by 2.6 feet deep with 3:1 side slopes and detention swales with an average depth of 1-foot located downgradient of the houses ranging in size from 100 – 150 cubic feet, all as shown on the lot layout, and,**

THAT all sanitary facilities must be located as shown on the attached lot layout, and,

THAT the developer and/or owner of record shall provide each purchaser of property with a copy of the Plat, approved location of water supply and sewage treatment system as shown on the attached lot layout and a copy of this document, and,

THAT instruments of transfer for this property shall contain reference to these conditions, and,

THAT plans and specifications for any proposed sewage treatment systems will be reviewed and approved by the county health department and will comply with local regulations and ARM, Title 17, Chapter 36, Subchapters 3 and 9, before construction is started.

THAT departure from any criteria set forth in the approved plans and specifications and Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM when erecting a structure and appurtenant facilities in said subdivision without Department approval, is grounds for injunction by the Department of Environmental Quality.

Pursuant to Section 76-4-122 (2)(a), MCA, a person must obtain the approval of both the State under Title 76, Chapter 4, MCA, and local board of health under section 50-2-116(1)(i), before filing a subdivision plat with the county clerk and recorder.

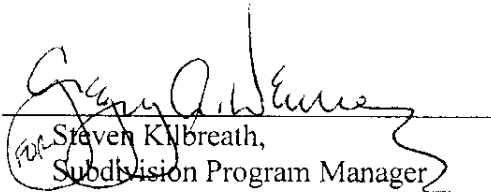
Page 3 of 3  
Granite County  
Whiskey Flats, Phase III  
E.Q. #07-2333

YOU ARE REQUESTED to record this certificate by attaching it to the Plat filed in your office as required by law.

DATED this 20th of November, 2007.

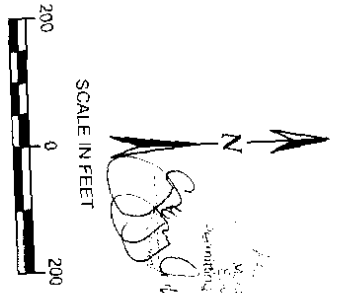
RICHARD OPPER  
DIRECTOR

By:



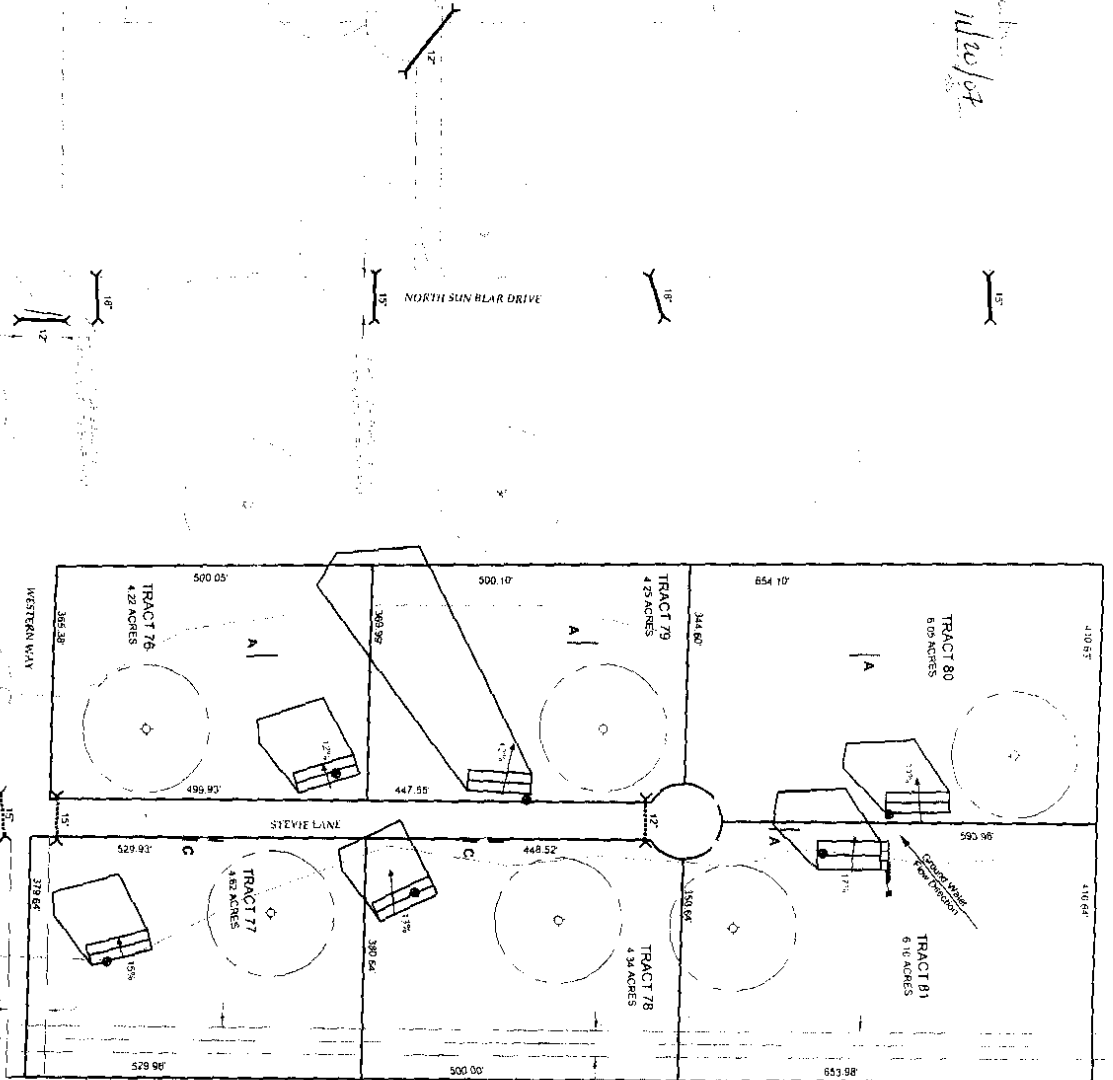
Steven Kilbreath,  
Subdivision Program Manager  
Public Water and Subdivision Bureau  
Permitting and Compliance Division  
Department of Environmental Quality

Owner's Name: Richard C. Bossard



*Steve W. Moody*  
 11/20/97

Reference: Tom Moody, P.L.S., Moody Southwest Technical Surveying provided the survey information (reticement and major subdivisions)



- ◉ = Existing Well
- ◉ = Proposed Well  
(Water from an existing well are not guaranteed at permitted locations)
- ◉ = Permitted Well
- ◉ = Wall Protection Zone
- ◉ = Easements
- ◉ = Test Pit
- ◉ = Primary & Replacement Drainfield
- ◉ = Nitrate Mixing Zone
- ◉ = Septic Tank
- ◉ = D-box
- = Sewer Line
- = Existing Culvert
- = Proposed Culvert
- = Slope Across Driveway
- = Proposed Driveway
- = Detention Swale
- A. L = 50.0  
W = 4.8  
Average Depth = 1.1 ft  
Volume = 100 ft<sup>3</sup>
- B. L = 150.0  
W = 2.0  
Average Depth = 1.1 ft  
Volume = 150 ft<sup>3</sup>
- C. L = 2 @ 75.0  
W = 4.8  
Average Depth = 1.1 ft  
Volume = 100 ft<sup>3</sup>

1 ft, 2 ft, and 5 ft contours as shown

**RECEIVED**

NOV 15 2007

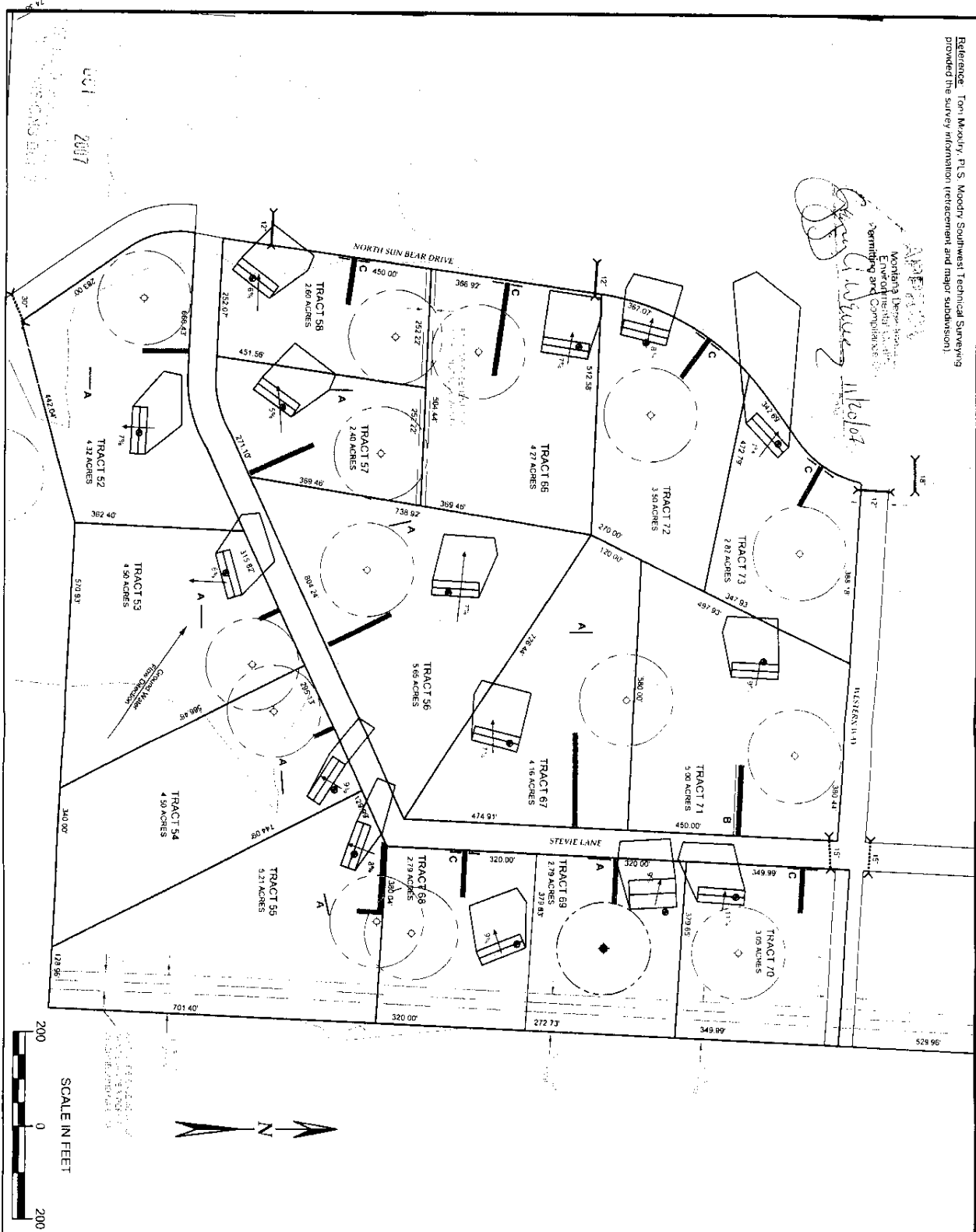
**MT DEQ. POWER CENTER**  
 WASTEWATER DIVISIONS SUPERVISOR  
 as shown & must be located as shown. Nonpermitted are not permitted. Locations are suggested.

**WATER & ENVIRONMENTAL TECHNOLOGIES, PC**

WHISKEY FLATS SUBDIVISION PHASE III  
 GRANITE COUNTY  
 T7N, R14W, SECTION 23, 24, 28  
 DESIGN BY: P. HAMBROCK, E.I.  
 PROPOSED LOT LAYOUT MAP  
 TRACTS 76, 77, 78, 79, 80, 81  
 Bossard-WHF Tract 81  
 DATE: 9/12/07  
**Revised**  
**FIGURE 8a**

Reference: Tom Moxley, PLS, Moody Southwest Technical Surveying provided the survey information (retirement and major subdivision)

*APPROVED*  
 Montana Department of Environmental Quality  
 Permitting and Compliance  
 055  
 11/20/17



**LEGEND**

- ◆ Existing Well
  - ◇ Proposed Well
  - Water Mainbody & Meter (see note) (quantity of permitted & permits)
  - Well Protection Zone
  - Easement
  - Test Pit
  - ▭ Primary & Replacement Drianfield
  - ▭ Nitrate Mixing Zone
  - ▭ Existing Culvert
  - ▭ Proposed Culvert
  - ▭ Slope Across Drianfield
  - ▭ Proposed Driveway
  - ▭ Detention Swale
  - A. L = 90ft  
W = 4ft  
Average Depth = 1ft  
Volume = 108ft<sup>3</sup>
  - B. W = 6ft  
Average Depth = 1ft  
Volume = 126ft<sup>3</sup>
  - C. L = 2 @ 25ft  
W = 6ft  
Average Depth = 1ft  
Volume = 108ft<sup>3</sup>
- 1 ft, 2 ft, and 5 ft contours as shown
- Individual lot well and drianfield locations are permitted not permitted. Locations are suggested.

**WATER & ENVIRONMENTAL TECHNOLOGIES, P.C.**

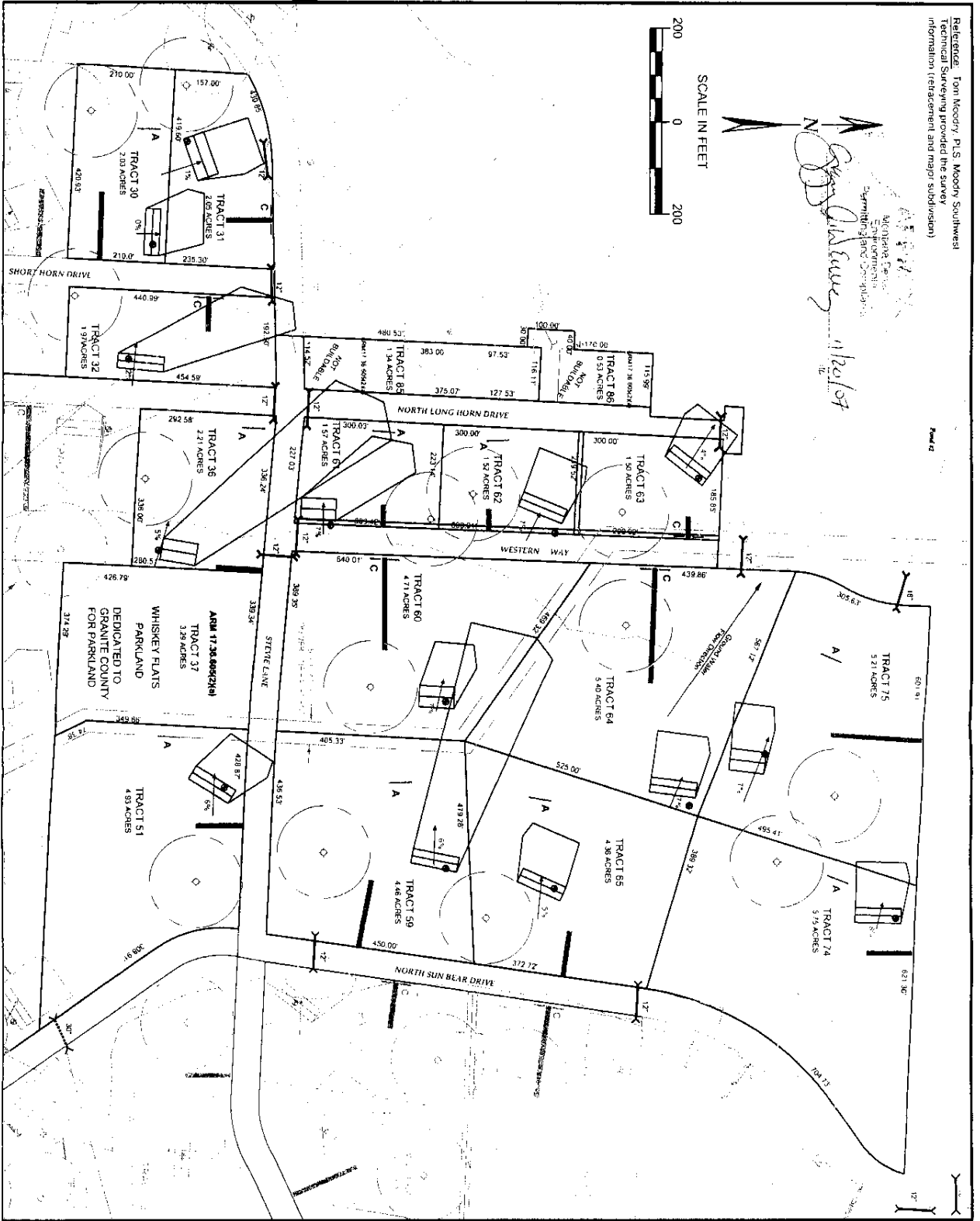
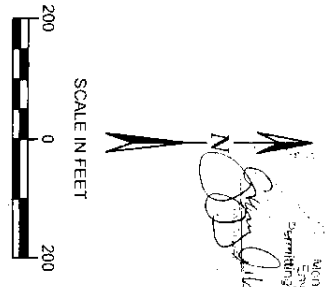
WHISKEY FLATS SUBDIVISION PHASE III  
 GRANITE COUNTY  
 T1N, R14W, SECTION 23, 24, 26  
 DESIGN BY: P. HAMBLOCK, E.I.

PROPOSED LOT LAYOUT MAP  
 TRACTS 52, 53, 54, 55, 56, 57, 58, 66  
 67, 68, 69, 70, 71, 72, 73

Revised  
 Bossard/WFE/Trashed  
 DATE: 9/12/17  
**FIGURE 8b**

Reference: Tom Moody, P.L.S. Moody Southwest  
 Technical Surveying provided the survey  
 information (reference and major subdivision)

*Handwritten signature and notes:*  
 1/26/07



**LEGEND**

- = Existing Well
- ◊ = Proposed Well
- ◊ (with note) = Proposed Well (not generated at permitted location)
- = Permitted Well
- (with note) = Well Protection Zone
- = Easements
- = Test Pit
- = Primary & Replacement Drainfield
- = Nitrate Mixing Zone
- = Existing Culvert
- = Proposed Culvert
- = Slope Across Drainfield
- = Proposed Driveway
- = Proposed Swale
- = Direction Swale
- = Average Depth = 1 ft
- = W = 4 ft
- = V = 1:150 ft
- = B = 2 ft
- = Average Depth = 1 ft
- = V = 1:200 ft
- = C = 2 ft @ 20 ft
- = Average Depth = 1 ft
- = V = 100 ft

1 ft, 2 ft, and 5 ft contours as shown  
**RECEIVED**  
 MAY 15 2007

**MT DEQ PUBLIC WATER  
 SUBDIVISIONS BUREAU**

1) The receiving authority is the State of Montana.  
 2) The receiving authority is the State of Montana.  
 3) The receiving authority is the State of Montana.  
 4) The receiving authority is the State of Montana.  
 5) The receiving authority is the State of Montana.  
 6) The receiving authority is the State of Montana.  
 7) The receiving authority is the State of Montana.  
 8) The receiving authority is the State of Montana.  
 9) The receiving authority is the State of Montana.  
 10) The receiving authority is the State of Montana.

Individual lot well and drainfield locations are permitted as shown & must be located as shown. Homestead site not permitted; locations are suggested.

<b>WATER &amp; ENVIRONMENTAL TECHNOLOGIES, PC</b>	
WHISKEY FLATS SUBDIVISION PHASE III	
GRANITE COUNTY	
T7N, R14W, SECTION 23, 24, 26	
DESIGN BY: P. HAMBROCK, E.I.	
PROPOSED LOT LAYOUT MAP	
TRACTS 30, 31, 32, 36, 37, 51, 59, 60, 61, 62, 63, 64, 65, 74, 75	
Bossard-WF, Terecsek	<b>Revised</b>
DATE: 11/9/07	<b>FIGURE 8c</b>

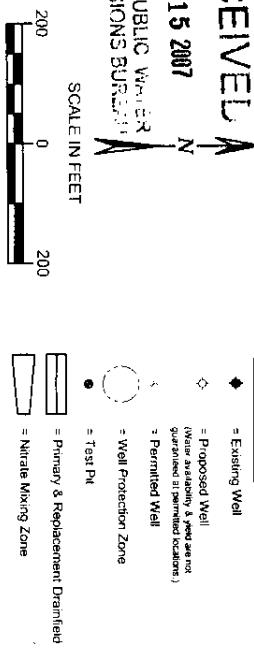
RECEIVED

NOV 15 2007

MT DEQ PUBLIC WATER SUBDIVISIONS BUREAU

Reference: Tom Moody, P.L.S., Moody Southwest Technical Surveying provided the survey information (re-entrant and major subdivision)

LEGEND



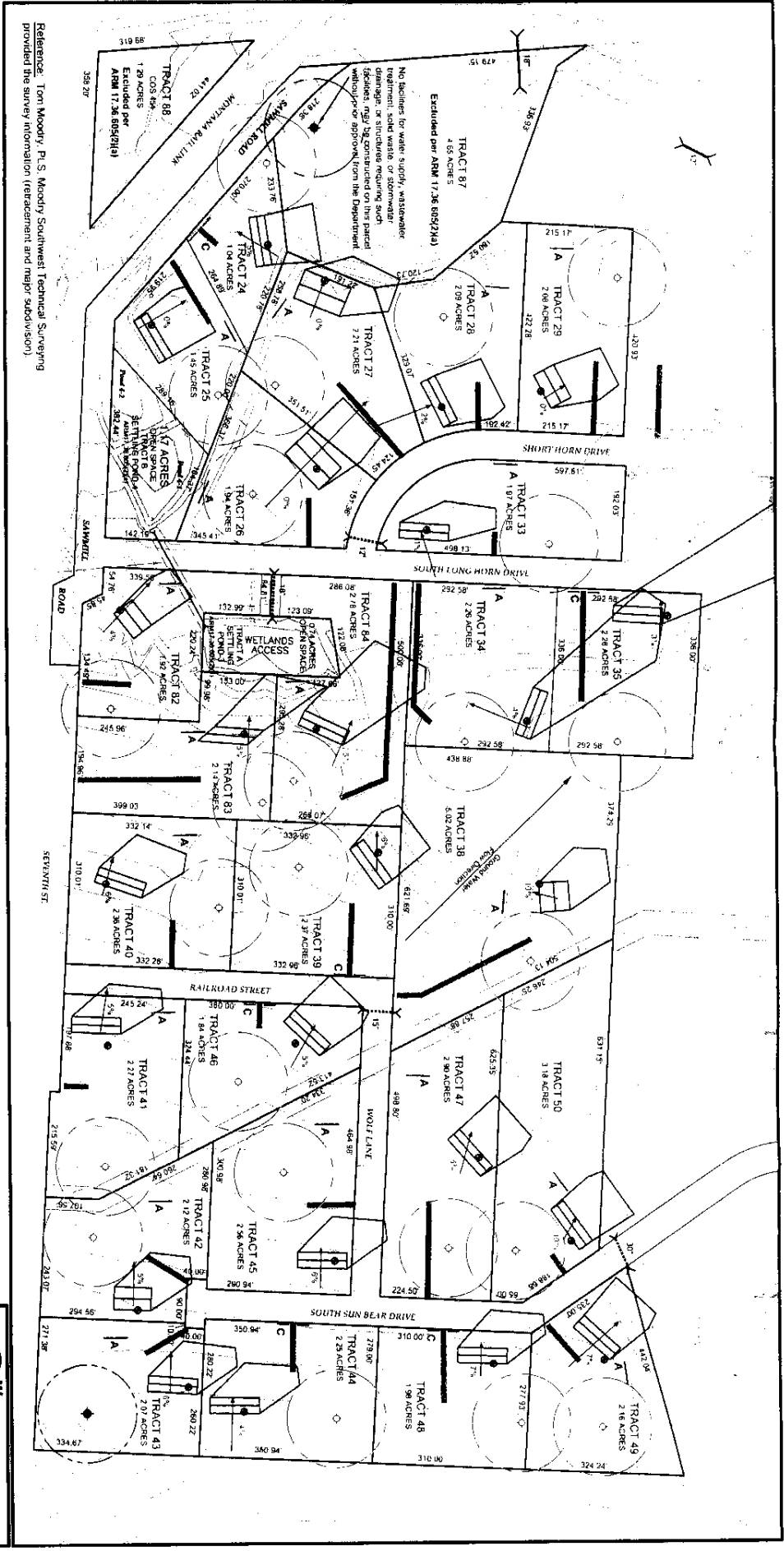
- ◆ = Existing Well
- ◇ = Proposed Well (Water availability & yield are not guaranteed at permitted locations)
- = Permitted Well
- = Well Protection Zone
- = Test Pit
- = Primary & Replacement Drained
- = Nitrate Mixing Zone

- = Existing Swale
- = Proposed Culvert
- = Slope Across Drainfield
- = Proposed Driveway
- = Ponds

- = Detention Swale
- A L = 90 ft
- W = 4 ft
- Average Depth = 1 ft
- B L = 150 ft
- W = 2 ft
- Average Depth = 1 ft
- C L = 2 @ 25 ft
- Average Depth = 1 ft
- Volume = 100 ft<sup>3</sup>
- 1 ft, 2 ft, and 5 ft contours as shown

ARMY 28 8002(K) (27) The reviewing authority may exclude the following parcels from the subdivision: (a) parcels that are not shown on the subdivision map; (b) parcels that are not shown on the subdivision map; (c) parcels that are not shown on the subdivision map.

*Tom Moody*  
 Surveying and Mapping  
 11/20/07



**WATER & ENVIRONMENTAL TECHNOLOGIES, PC**  
 WHISKEY FLATS SUBDIVISION PHASE III  
 GRANITE COUNTY  
 TTN: R14W SECTION 23, 24, 25  
 DESIGN BY: P. HAMBLOCK, E.I.  
 PROPOSED LOT LAYOUT MAP  
 TRACTS 24, 25, 26, 27, 28, 29, 33, 34, 35  
 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48  
 49, 50, 82, 83, 84, 87, 88  
 Revised  
 DATE: 11/9/07  
 FIGURE 8d

**SUBDIVISION SIGNIFICANCE DETERMINATION CHECKLIST  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ)**

Subdivision Name Whiskey Flats Phase III

EQ Number 06-2333

Date Reviewed July 17, 2007

Reviewer Sheryl D. Consort

2nd Reviewer \_\_\_\_\_

Determination: Significant XX Non-Significant Incomplete

rev. 01/2000

Part I: Applicability & Exclusions	YES/NO	Notes & Basis for decision
<p><i>ARM 17.30.701(1) &amp; 75-5-103(9), MCA</i> 1. Are any high quality waters affected? (include downstream and downgradient) If NO, the nondegradation requirements are not applicable.</p>	YES	
<p><i>ARM 17.30.702(16) &amp; 17.30.705(1)</i> 2. New or increased source of pollutants? If NO, the nondegradation requirements are not applicable.</p>	YES	
<p>3. Activity categorically excluded under ARM 17.30.716 or 75-5-317, MCA? If YES, the Activity is Non-Significant.</p>	NO	
<p>4. Non-Significant under ARM 17.30.715(3)? (Public Notice Required) If YES, the Activity is Non-Significant.</p>	NO	
<p><i>ARM 17.30 sub-chapter 5</i> 5. Is this determination contingent upon granting a mixing zone? If YES, determine if a mixing zone can be granted before going on to Part II. If NO, continue on to Part II.</p>	YES	100-foot source-specific mixing zone for all lots except: 150 feet for Lot 83, 200 feet for Lots 61 & 84, 300 feet for Lots 32, 34, & 73, 400 feet for Lot 79, 450 feet for Lot 35; 100-foot standard mixing zone for Lots 24 – 26, 32, 33, 46, 48, and 61 – 63
Part II: Significance Determination	YES/NO	Notes & Basis for decision
<p><i>ARM 17.30.715(1)(a)</i> 6. Change in mean monthly flow of the surface water &gt; 15%, or change in 7Q10 flow &gt; 10%.</p>	NO	
<p><i>ARM 17.30.715(1)(b)</i> 7. Concentration of carcinogen or parameter with BCF &gt; 300 in discharge greater than receiving water.</p>	NO	
<p><i>ARM 17.30.715(1)(c)</i> 8. Increase in toxics or nutrients &gt; trigger value and concentration after mixing &gt; 15% of lowest applicable standard. For nutrients, if the answer is YES, the criteria in question #10 must also be exceeded for the activity to be significant.</p>	NO	Site about a half mile from Flint Creek, but using gradient direction, effluent from most drainfields will travel more than three quarters of a mile to reach the creek. Irrigation ditches and sewage treatment ponds are sources of dilution between the subdivision and the creek. Drainfield effluent unlikely to affect the creek.
<p><i>ARM 17.30.715(1)(f)</i> 9. Increase of a harmful parameter &gt; 10% of applicable standard and existing water quality &gt; 40% of applicable standard.</p>	NO	
<p><i>ARM 17.30.715(1)(g)</i> 10. Measurable effect on a beneficial use or measurable changes in aquatic life or ecological integrity from a narrative parameter.</p>	NO	
<p>11. Increase in nitrate-nitrogen in groundwater at a mixing zone boundary exceeds that allowed in ARM 17.30.715(1)(d).</p>	NO	Nitrate concentration is below 5.0 mg/L at the end of the mixing zone using K = 20.7 ft/d (south & west) and 3 ft/d (central east side); gradient = 0.03 ft/ft (NW and W) measured on site; and background nitrate = average 0.637 mg/L north of Stevie Lane, 4.23 mg/L for southwestern corner (west of Longhorn Drive), and 3.285 for south-central and east.
<p><i>ARM 17.30.715(1)(e)</i> 12. Increases in phosphorus in groundwater where adsorptive capacity of soils will be exceeded within 50 years and will reach surface water, or the activity does not employ department approved water quality protection practices.</p>	NO	Nearest downgradient state water is Flint Creek. Breakthrough for all drainfields are not significant.
<p>13. Significant under ARM 17.30.715(2)?</p>	NO	

If any answer to Questions #6 through #13 is YES, the Activity is Significant (except for question #8 as applied to nutrients).

**GROUND WATER MIXING ZONE DETERMINATION CHECKLIST<sup>1</sup>**  
**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

Subdivision Name Whiskey Flats Phase III Date Reviewed July 17, 2007  
 EQ Number 06-2333 Outfalls \_\_\_\_\_  
 Reviewer Sheryl D. Consort 2<sup>nd</sup> Reviewer \_\_\_\_\_

Determination (ARM 17.30.515)

Modified Mixing Zone approved  Source Specific Mixing Zone approved  
 Mixing Zone denied  Standard Mixing Zone approved

rev. 01/2000

**GENERAL CONSIDERATIONS<sup>2</sup>**

ITEMS	YES/NO <sup>3</sup>	NOTES & DEPARTMENT FINDINGS
1. ARM 17.30.515(2) Has applicant requested a mixing zone?. If no, a mixing zone cannot be granted.	YES	100-foot standard and source-specific mixing zones; 150-foot, 200-foot, 300-foot, 400-foot, and 450-foot source-specific mixing zones
2. ARM 17.30.505(1)(a) Is a single mixing zone sufficient for all parameters? If no, explain.	YES	
3. ARM 17.30.505(1)(b) For a new or increased source, are changes at the mixing zone boundary significant degradation pursuant to ARM 17.30 sub-chapter 7?  If yes, did the Department issue an authorization to degrade state waters pursuant to 75-5-303, MCA?	NO	
4. ARM 17.30.505(1)(c) Was the discharge under a permit issued prior to April 29, 1993, with an allowed mixing zone?  If yes, is there evidence that the previously allowed mixing zone will impair existing or anticipated uses?	NO	
5. ARM 17.30.505(1)(d) Have the minimum treatment requirements been met, and have all reasonable land, soil and water conservation practices been applied? If yes, treatment to purer than natural condition is not required.	YES	
6. ARM 17.30.505(1)(e) Due to the potential for harm to the impacted water and its beneficial uses, is monitoring in the mixing zone required?	NO	
7. ARM 17.30.505(1)(f) Are additional conditions required to comply with ARM 17.30 sub-chapter 5? If yes, what are the conditions?	NO	
8. ARM 17.30.505(1), 516 & 517 Describe applicability, size, configuration and location of all mixing zones.	NA	100-foot source-specific mixing zone for all lots except the following: 150 feet for Lot 83, 200 feet for Lots 61 & 84, 300 feet for Lots 32, 34, & 73, 400 feet for Lot 79, 450 feet for Lot 35 for lots greater than 2 acres in a subdivision exceeding 10 acres and 100-foot standard mixing zone for Lots 24 - 26, 32, 33, 46, 48, and 61 - 63 which are less than 2 acres as shown on lot layout submitted July 5, 2007.

**WATER QUALITY ASSESSMENT**

(If answer to any of the following questions (# 9 - 15) is yes, a mixing zone may not be applicable and additional explanation in the NOTES section is necessary. See rules for applicability and specific requirements.)

9. ARM 17.30.506(1) Will mixing zone threaten or impair existing beneficial uses?	NO	
10. ARM 17.30.506(1) Does the applicant need to provide additional information to determine if mixing zone is allowable?	NO	

**GROUND WATER MIXING ZONE DETERMINATION CHECKLIST<sup>1</sup>**  
**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

11a. ARM 17.30.506(2)(b) Is the mixing zone within the zone of influence of any existing drinking water well, recreational well, or drinking water intake?	NO	
11b. ARM 17.30.506(2)(b) Is the mixing zone within or immediately adjacent to a recreational area?	NO	
12. ARM 17.30.506(2)(d) Are there persistence and toxicity concerns for the parameters discharged?	NO	
13. ARM 17.30.506(2)(f) Are there cumulative effects of multiple or overlapping mixing zones?	NO	
14. ARM 17.30.506(2)(g) Are there unpredictable or unusual conditions in the subsurface (fractures, for example) which may result in adverse effects from pollutants in the ground water mixing zone?	NO	
15. ARM 17.30.506(2)(h) & 17.30.507(3) Does the ground water discharge enter surface water within a reasonably short distance or time? If yes, a surface water mixing zone may also be applicable pursuant to ARM 17.30.507(3).	NO	Flint Creek is over three quarters of a mile down-gradient of subdivision.

**GROUND WATER MIXING ZONE RESTRICTIONS**

(If answer to any of the following questions (# 16 - 17) is yes, a mixing zone may not be applicable and additional explanation in the NOTES section is necessary. See rules for applicability and specific requirements.)

16. ARM 17.30.508(1)(a) Are human health based standards exceeded beyond the ground water mixing zone boundary?	NO	
17. ARM 17.30.508(2) Does the mixing zone intercept the zone of influence of an existing drinking water supply well?	NO	

**STANDARD GROUND WATER MIXING ZONE<sup>2</sup>**

18. ARM 17.30.517(1)(a)(b)(c)&(d) Is a standard ground water mixing zone appropriate? If no, skip to question #20.	YES	
19. ARM 17.30.517(1)(d)(ix) Is there a site-specific, impact-related reason to require monitoring at the downgradient mixing zone boundary?	NO	

**SOURCE SPECIFIC GROUND WATER MIXING ZONE<sup>2</sup>**

20. ARM 17.30.518(1) Has the applicant requested a source specific ground water mixing zone? If no, questions 21 and 22 are not applicable.	YES	
21. ARM 17.30.518(2) Does the requested source specific ground water mixing zone comply with requirements of ARM 17.30.506, 17.30.507 and 75-5-303, MCA?	YES	
22. ARM 17.30.518(5) For source specific ground water mixing zones, are the requirements of 75-5-301(4), MCA satisfied? Have the applicable items in ARM 17.30.518(5)(a through l) been addressed adequately?	YES	

G:\WPB\WONDEG\FORMS\DRF\TMXZONE.GW.DOC

**Footnotes:**

1. This checklist is a quick reference guide that summarizes rule language. Please see the applicable rule for the complete rule language.
2. For questions #1-8 and #18-22, either response (YES or NO) may require that additional explanation be included in the NOTES section.
3. If a question is not applicable, place "NA" in the YES/NO column.