

EXHIBIT E

**October 31, 2006 Real Property Conveyance Agreement
By and Between Atlantic Richfield Company, Rarus Railway Company and
BGM Equipment Company and the Montana Department of Transportation**

REAL PROPERTY CONVEYANCE AGREEMENT

This Real Property Conveyance Agreement ("Agreement") is made and entered into this 31st day of October, 2006, by and between Atlantic Richfield Company, a Delaware corporation ("Atlantic Richfield"), RARUS Railway Company, a Montana corporation ("RARUS"), BGM Equipment Company, Inc., a Montana corporation ("BGM"), and State of Montana acting by and through its Montana Department of Transportation, ("MDOT" or "Grantee") Atlantic Richfield, RARUS and BGM may be referred to herein collectively as "Grantors" The Grantors and the Grantee may be referred to herein collectively as the "Parties".

ARTICLE I

DESCRIPTION OF THE PROPERTY AND INTERESTS TO BE CONVEYED

1.1 Conveyance of Property. Subject to the terms and conditions set forth in this Agreement, Grantors hereby agree to quitclaim and remise unto the Grantee and its successors and assigns forever all of their respective right, title, interest in and to the real property described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). The conveyance shall be made by quitclaim deed (the "Quitclaim Deed") in the form of the quitclaim deed attached hereto and incorporated herein by this reference as Exhibit B. The conveyance shall be made subject to existing easements, rights-of-way, restrictions or other matters of record at the time of conveyance

1.2 Grantor's Interests. Atlantic Richfield, RARUS and BGM each have varying interests in the Property. The Grantors' obligation to convey under this Agreement shall only be applicable to their respective interests in the Property, and nothing contained herein shall require any of the Grantors to convey any interests other than its own rights in the Property. Similarly, none of the Grantors shall have any liability for the obligations of the other Grantors under this Agreement or for such other Grantors' interest in the Property. Atlantic Richfield's, RARUS' and BGM's execution, delivery and performance of this Agreement as Grantors is merely to facilitate the transaction contemplated hereby.

1.3 Removal of Rails and Ties. The Parties hereby acknowledge and agree that RARUS and/or BGM may, at any time prior to the later of abandonment certification or start of construction under the Work Plan (defined below), enter upon the Property and remove any railroad rails, ties or other similar materials presently located on the Property. Once removed, such items shall be the sole property of RARUS and/or BGM and Grantee shall have no claim to such items. However, any items remaining on the Property after start of construction will be removed under the EPA approved Remedial Design Unit (RDU) 5 Anaconda Active Railroad Beds Remedial Action Work Plan/Final Design Report (RAWP/FDR) (the "Work Plan")

ARTICLE II
OTHER CONSIDERATION

2.1 Cash Consideration. The purchase price payable by the Grantee for the Property (the "Purchase Price") is \$180,802. The Purchase Price (subject to closing adjustments) shall be payable by government warrant or wire transfer at closing to Atlantic Richfield.

2.2 Abandonment Proceedings. From and after execution of this Agreement, RARUS and BGM shall, with the assistance of Atlantic Richfield, diligently pursue the railway abandonment proceedings for the Property until completed.

2.3 Remediation.

(a) Atlantic Richfield shall perform the remediation on the Property that is required under the Work Plan at the time and in the manner required by the Work Plan. The Parties acknowledge that, in general, the Work Plan only requires (i) the removal of the remaining rail ties and ballast and (ii) rough grading of the excavated footprint of the rail line. The Grantors shall not be required to perform any other work on the Property.

(b) Atlantic Richfield shall provide MDOT with advance notice of the final EPA inspection of the Property remediated in accordance with the Work Plan. MDOT shall have the right to have its personnel attend the final inspection. Atlantic Richfield shall correct any deficiencies noted in EPA's inspection, submit a construction completion report ("CCR") to EPA for the Property and provide a copy of the CCR to all Parties (which copy specifies the date of submission to the EPA).

2.4 Other Consideration from Grantee. Grantee has agreed to undertake the following.

(a) perform enhancement work to facilitate development of the current right-of-way as a transportation corridor.

(b) conduct operations and maintenance on the Property following completion of such enhancement work.

(c) work with and assist Anaconda-Deer Lodge County ("ADLC"), as requested, to develop a public trail on the Property (the "Trail").

Grantee and/or ADLC may use the funds expended by Atlantic Richfield for remediation of the Property as matching funds for purposes of applying for and obtaining any grants that may be available for construction of the Trail

ARTICLE III CLOSING

3.1 Date of Closing. Subject to the provisions of this Agreement, Grantors and Grantee shall consummate and close the transactions contemplated by this Agreement on a mutually agreed upon date within sixty (60) days of submission by Atlantic Richfield to EPA of a CCR for the work to be completed under the Work Plan pursuant to Section 2.3(b) above (the "Closing Date"). The closing shall be held at the offices of Atlantic Richfield in Butte, Montana at a mutually agreed upon time. If for any reason the Parties are unable to mutually agree upon a date and time for the closing, the closing shall occur on the last business day of the sixty (60) day period at 10 00 am.

3.2 Form of Transfer. At closing, Grantors shall convey to Grantee all their respective right, title, interest and obligations in the Property. The conveyance shall be made by Grantors' execution and delivery of the Quitclaim Deed.

3.3 Closing Documents

(a) **Grantors.** At closing, Grantors shall deliver to Grantee the Quitclaim Deed, appropriately completed and duly executed and acknowledged.

(b) **Grantee.** At closing, Grantee shall (i) deliver to Atlantic Richfield the Purchase Price (subject to closing adjustments, if any), and (ii) execute the Quitclaim Deed.

(c) **Other Closing Matters.** Each of the parties shall execute and deliver such other documents and instruments as may be reasonably necessary to effectuate the provisions of this Agreement including without limitation closing statements, tax, utility and other allocation agreements and other documents customarily executed in similar transactions.

3.4 Payment of Existing Encumbrances. Grantors shall pay preexisting monetary encumbrances affecting all or any portion of the Property on or before the Closing Date.

3.5 Closing Costs. Grantors and Grantee shall split evenly all customary closing costs which are charged to sellers and purchasers of real property in the State of Montana at the time of closing other than (a) the items described in Section 3.6 hereof, and (b) title insurance, which may be obtained at Grantee's option and at Grantee's expense. Grantors shall not be required to pay any legal, consulting and/or administrative fees incurred by Grantee in the negotiation of this Agreement or any other document executed in connection with the transactions contemplated herein.

3.6 Prorations. General *ad valorem* real property taxes and all other real property taxes for the year of closing based on the tax rate for the preceding year, utilities and any other matters customarily prorated for similar transactions in the State of Montana shall be apportioned between Grantors and Grantee and shall be prorated to the Closing Date. In any event, Grantors shall pay for all real property taxes through the Closing Date. Any sales, use and transfer tax which may accrue because of this transaction shall be paid by Grantee.

3.7 Possession. Possession of the Property shall be delivered to Grantee on the Closing Date, subject to all matters of record and those covenants and agreements set forth in this Agreement and the Quitclaim Deed.

3.8 Conditions Precedent to Closing.

(a) **Grantors' Conditions Precedent.** Completion or satisfaction of each of the following matters shall be a condition precedent to Grantors' obligation to close the transactions contemplated by this Agreement:

(i) All representations and warranties of Grantee set forth in this Agreement shall be true and correct as of the Closing Date, and

(ii) The closing documents shall be satisfactory to Grantors in form and content.

(b) **Grantee's Conditions Precedent.** Completion or satisfaction of each of the following matters shall be a condition precedent to Grantee's obligation to close the transactions contemplated by this Agreement.

(i) All representations and warranties of Grantors set forth in this Agreement shall be true and correct as of the Closing Date; and

(ii) The closing documents shall be satisfactory to Grantee in form and content

Any or all of the foregoing conditions precedent may be waived, in whole or in part, by the party benefitted by the condition precedent.

ARTICLE IV
CONDITION OF PROPERTY

4.1 "As-Is" Nature of Sale of the Property Grantee acknowledges and agrees that GRANTORS HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY NEGATE AND DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER WHICH ARE NOT SPECIFICALLY AND AFFIRMATIVELY SET FORTH IN THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, INCLUDING WITHOUT LIMITATION WITH RESPECT TO THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, OR THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. SPECIFICALLY, WITHOUT LIMITING OR ABROGATING IN ANY WAY ANY OF THE FOREGOING, GRANTORS HAVE NOT MADE, DO NOT MAKE, AND SPECIFICALLY DISCLAIM ANY REPRESENTATIONS

WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE FOLLOWING MATTERS

(a) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY;

(b) THE INCOME, IF ANY, TO BE DERIVED FROM THE PROPERTY;

(c) THE TRUTH, ACCURACY, COMPLETENESS OR REPRESENTATIVE NATURE OF ANY INFORMATION PROVIDED TO GRANTEE BY GRANTORS CONCERNING THE PROPERTY,

(d) COMPLIANCE OF ANY PAST OR PRESENT OPERATIONS OR CONDITIONS WITH ANY APPLICABLE LAWS, PERMITS, REGULATIONS, ORDINANCES, COURT ORDERS, OR CONTRACT PROVISIONS, INCLUDING WITHOUT LIMITATION ENVIRONMENTAL LAWS AND THOSE PERTAINING TO PROTECTION OF CULTURAL OR HISTORIC RESOURCES OR SITES, LAND USE OR THE PUBLIC HEALTH, SAFETY AND WELFARE,

(e) THE DISPOSAL OR PRESENCE OF ANY HAZARDOUS MATERIALS OR MINING WASTES ON, AT, UNDER OR ASSOCIATED WITH THE PROPERTY, OR THE OCCURRENCE OR EXISTENCE OF ANY PAST OR PRESENT RELEASE OF ANY HAZARDOUS MATERIAL OR MINING WASTES AT, TO, OR FROM THE PROPERTY INTO THE ENVIRONMENT, AND

(f) THE ABILITY TO OBTAIN ANY PERMITS (IF REQUIRED) OR ANY REGULATORY APPROVALS WITH RESPECT TO ANY OF THE PARTIES' ACTIVITIES OR OBLIGATIONS UNDER THIS AGREEMENT.

GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE HAS BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY IN ENTERING INTO THIS AGREEMENT, GRANTEE ASSUMES THE RESPONSIBILITY FOR, AND HAS RELIED AND WILL RELY UPON, GRANTEE'S OWN REVIEW, ANALYSIS, AND OPINIONS, INCLUDING WITHOUT LIMITATION ITS OWN REVIEW, ANALYSIS, AND OPINIONS OF THE FOLLOWING

(i) THE DISCLOSURES MADE IN ARTICLE VI OF THIS AGREEMENT;

(ii) GRANTEE'S OWN INSPECTION OF THE PROPERTY AND THE ENVIRONMENTAL CONDITIONS ON THE PROPERTY,

(iii) DOCUMENTS CONCERNING THE ANACONDA SMELTER NPL SITE AND THE ANACONDA REGIONAL WASTE, WATER AND SOILS OPERABLE

UNIT CONTAINED IN THE ADMINISTRATIVE RECORD OR OTHERWISE PUBLICLY AVAILABLE; AND

(iv) GRANTEE'S OWN APPRAISALS AND ESTIMATES AS TO THE VALUE AND FINANCIAL VIABILITY AND PROPOSED USE OR DEVELOPMENT OF THE PROPERTY.

Grantors are not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any representative, real estate broker, agent, employee, servant or other person GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE CONVEYANCE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" BASIS AND "WITH ALL FAULTS."

ARTICLE V TITLE/TITLE INSURANCE

5.1 Acceptance of Title. Grantee has inspected the public records and any and all other title or survey documents or other instruments concerning title to the Property which Grantee believes are necessary or appropriate. Grantee hereby accepts the condition of title to the Property as satisfactory.

5.2 Title Insurance Grantors shall not provide title insurance to Grantee for the Property. Grantee may obtain title insurance at its own expense.

ARTICLE VI GRANTORS' DISCLOSURES CONCERNING THE ENVIRONMENTAL CONDITION OF THE PROPERTY

6.1 Grantors' Disclosures. Grantors hereby make the following disclosures to Grantee concerning the environmental condition of the Property. The disclosures are merely to assure that the Grantee is aware of certain important matters affecting the Property. The disclosures are not intended to be exhaustive and do not address all matters relating to the environmental condition of the Property. Grantors specifically disclaim any obligation to make any other disclosures to the Grantee. Grantee hereby acknowledges the following disclosures and agrees that it shall be responsible for evaluating the environmental condition of the Property.

(a) **Listing.** The United States Environmental Protection Agency ("EPA") has listed the Anaconda Smelter Site on the National Priorities List under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA") Some or all of the Property is located in or adjacent to the Anaconda Smelter NPL Site in or adjacent to an area known as the Anaconda Regional Waste, Water and Soils Operable Unit ("ARWW&S OU").

(b) **Hazardous Materials.** The EPA has identified the presence of hazardous materials in the ARWW&S OU. The EPA and MDLQ have authorized and required the implementation of certain response actions to address the presence of hazardous materials in the ARWW&S OU including with respect to properties in the vicinity of the Property and may authorize or require additional response actions pursuant to applicable environmental laws, rules and regulations. Such response actions may include actions with respect to the Property.

(c) **Investigations/Evaluations.** Atlantic Richfield and others have performed investigations or evaluations concerning the environmental condition of various properties in the ARWW&S OU, which include without limitation the investigations or evaluations in the Administrative Record for the ARWW&S OU. Grantors hereby disclose the existence of the materials in the Administrative Record and direct Grantee to review the documents and materials therein.

(d) **Other Matters.** The Parties acknowledge that other matters and documents may exist with respect to the Property that are not identified above. Grantee assumes the responsibility to identify, review, analyze, and form its own opinions with respect to such other matters and records.

ARTICLE VII REMEDIES

7.1 Default. Time is of the essence hereof. If any payment or any other condition hereof is not made, tendered or performed as herein provided, the party who has failed to make or tender payment or performance as required under the Agreement shall be deemed to have defaulted, and the remedies set forth in this Article VII shall apply.

7.2 Remedies for Pre-Closing and Closing Default.

(a) **Grantee Default.** In the event Grantee breaches any agreement or warranty, or fails to perform any material obligation, requirement or covenant of this Agreement prior to or at closing, Grantee shall be deemed in default under this Agreement. Unless such default is cured (as provided in Section 7.3 below) by the end of the applicable cure period, if any, any of the Grantors may elect to terminate this Agreement by written notice to Grantee. After delivery of notice of termination, this Agreement shall be null and void and of no effect, and all parties shall be released from all further obligations hereunder. If none of the Grantors elect to terminate this Agreement because of the default, then the default shall be deemed waived by the Grantors.

(b) **Grantors' Default.** In the event that any of the Grantors breaches any agreement or warranty, or fails to perform any material obligation, requirement or covenant of this Agreement prior to or at closing, such Grantor shall be deemed in default under this Agreement. Unless such default is cured (as provided in Section 7.3 below) by the end of the applicable cure period, if any, Grantee may elect to terminate this Agreement by written notice to Grantors. After delivery of notice of termination, this Agreement shall be null and void and of no effect, both parties hereto shall be released from all obligations hereunder. If the Grantee

does not elect to terminate this Agreement because of the default, then the default shall be deemed waived by the Grantee

(c) **Exclusive Remedies.** The foregoing remedies are exclusive. In no event shall Grantors or Grantee be entitled to any other remedies or damages including without limitation actual, consequential or punitive damages. Further, neither Grantors nor Grantee shall have any right to specific performance or other equitable relief

7.3 Cure of Pre-Closing or Closing Default. Upon the occurrence of a default, the non-defaulting party may deliver to the defaulting party a written notice of default (the "Default Notice"). The Default Notice shall set forth a description of the alleged default. Except as provided in the immediately following sentence, the defaulting party shall have ten (10) days from delivery of the Default Notice in which to cure the default (the "Cure Period"). If the default occurs within ten (10) days of the scheduled Closing Date or at closing, then no notice shall be required and the defaulting party shall have no right to cure the default. If the defaulting party fails to cure the default within the Cure Period, if any, the non-defaulting party may elect to terminate this Agreement in accordance with the provisions of Section 7.2 above.

7.4 Remedies for Post-Closing Breach. After closing, all parties shall be entitled to such remedies as may be available to them at law or in equity (including without limitation, damages, specific performance or both) for any breach or default by the other party of its representations, warranties or covenants under this Agreement.

ARTICLE VIII OTHER DEED PROVISIONS

8.1 O&M Obligations. Grantee acknowledges that the Quitclaim Deed contains provisions requiring Grantee to be responsible for any and all operation and maintenance obligations required or advisable for the use, operation, development or disposition of the Property following completion of Atlantic Richfield's remediation of the Property in accordance with the Work Plan. Grantee agrees to accept conveyance of the Property subject to such provisions and to be bound by such provisions.

8.2 Release/Covenant Not to Sue. Grantee acknowledges that the Quitclaim Deed contains provisions requiring Grantee to release and covenant not to sue Grantors and certain other persons designated therein from claims arising from the ownership, use, development, operation and environmental condition of the Property and related matters (collectively, the "Release and Covenant Not to Sue Provisions") other than obligations under the Work Plan. Grantee agrees to accept conveyance of the Property subject to the Release and Covenant Not to Sue Provisions and to be bound by such provisions.

ARTICLE IX
POST-CLOSING MATTERS

9.1 Continuing Access. From and after the closing, Grantec shall provide Grantors and their respective affiliates, employees, agents, contractors, subcontractors, representatives, agents, successor, assigns and designees access to enter upon, use and conduct remediation activities upon any or all of the Property for purposes of ensuring compliance with, implementing or causing to be implemented: (i) any response, remediation or other action required under this Agreement (including the Work Plan) or applicable laws; and (ii) any other actions Grantors may deem necessary or advisable to address environmental conditions on, at, near or associated with the Property. Nothing in this Article IX shall be deemed to relieve Grantee of any of its obligations with respect to the use, operation, development or other disposition of the Property under this Agreement or the Quitclaim Deed.

9.2 Completion of Abandonment Proceedings. RARUS and BGM, with the assistance of Atlantic Richfield, shall diligently pursue the abandonment proceedings for the railway presently located on the Property until completed

9.3 Cooperation of Grantee. Grantee shall fully cooperate with RARUS and BGM in completing the abandonment proceedings.

ARTICLE X
REPRESENTATIONS AND WARRANTIES

10.1 Grantee's Representations and Warranties. Grantee represents and warrants as follows.

(a) **Authority** Grantee represents and warrants that: (i) it has the full right, capacity, power and authority to enter into this Agreement and to consummate the transactions contemplated herein; and (ii) this Agreement constitutes a valid and legally binding obligation of Grantee enforceable in accordance with its terms.

(b) **No Litigation.** There are no material legal or administrative proceedings pending or, to the best of Grantee's knowledge, threatened against or affecting Grantee which would prevent or impede Grantee in the performance of its obligations pursuant to this Agreement.

(c) **Other Acts.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by Grantee, Grantee shall perform, execute and deliver or cause to be performed, executed and delivered at such time and from time to time as Grantors may reasonably request, any and all further acts, deeds and assurances as Grantors may reasonably require to consummate the transactions contemplated herein, and otherwise effect the terms and provisions hereof.

10.2 Atlantic Richfield's Representations and Warranties. Atlantic Richfield represents and warrants as follows:

(a) **Authority.** Atlantic Richfield and each of the persons executing this Agreement on behalf of Atlantic Richfield represent and warrant that (i) they have the full right, capacity, power and authority to enter into this Agreement and to consummate the transactions contemplated herein; (ii) each of the persons executing this Agreement on behalf of Atlantic Richfield is authorized to do so, and (iii) this Agreement constitutes a valid and legally binding obligation of such Atlantic Richfield, enforceable in accordance with its terms.

(b) **No Litigation.** There are no material legal or administrative proceedings pending or, to the best of Atlantic Richfield's knowledge, threatened against or affecting Atlantic Richfield which would prevent or impede Atlantic Richfield in the performance of its obligations pursuant to this Agreement.

(c) **Other Acts.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by Atlantic Richfield, Atlantic Richfield shall perform, execute and deliver or cause to be performed, executed and delivered at such time and from time to time as Grantee may reasonably request, any and all further acts, deeds and assurances as Grantee may reasonably require to consummate the transactions contemplated herein, and otherwise effect the terms and provisions hereof.

10.3 RARUS Representations and Warranties. RARUS represents and warrants as follows.

(a) **Authority** RARUS and each of the persons executing this Agreement on behalf of RARUS represent and warrant that (i) they have the full right, capacity, power and authority to enter into this Agreement and to consummate the transactions contemplated herein; (ii) each of the persons executing this Agreement on behalf of RARUS is authorized to do so; and (iii) this Agreement constitutes a valid and legally binding obligation of such RARUS, enforceable in accordance with its terms.

(b) **No Litigation.** There are no material legal or administrative proceedings pending or, to the best of RARUS' knowledge, threatened against or affecting RARUS which would prevent or impede RARUS in the performance of its obligations pursuant to this Agreement.

(c) **Other Acts.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by RARUS, RARUS shall perform, execute and deliver or cause to be performed, executed and delivered at such time and from time to time as Grantee may reasonably request, any and all further acts, deeds and assurances as Grantee may reasonably require to consummate the transactions contemplated herein, and otherwise effect the terms and provisions hereof.

10.4 BGM's Representations and Warranties BGM represents and warrants as follows:

(a) **Authority** BGM and each of the persons executing this Agreement on behalf of BGM represent and warrant that (i) they have the full right, capacity, power and

authority to enter into this Agreement and to consummate the transactions contemplated herein; (ii) each of the persons executing this Agreement on behalf of BGM is authorized to do so; and (iii) this Agreement constitutes a valid and legally binding obligation of such BGM, enforceable in accordance with its terms.

(b) **No Litigation.** There are no material legal or administrative proceedings pending or, to the best of BGM's knowledge, threatened against or affecting BGM which would prevent or impede BGM in the performance of its obligations pursuant to this Agreement.

(c) **Other Acts** In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by BGM, BGM shall perform, execute and deliver or cause to be performed, executed and delivered at such time and from time to time as Grantee may reasonably request, any and all further acts, deeds and assurances as Grantee may reasonably require to consummate the transactions contemplated herein, and otherwise effect the terms and provisions hereof.

ARTICLE XI MISCELLANEOUS

11.1 **Counterparts.** This Agreement may be executed by each party, separately, and when each party has executed a copy hereof, such copies taken together shall be deemed to be a full and complete Agreement between the parties.

11.2 **No Merger/Survival.** The covenants, representations, warranties and other provisions set forth in this Agreement shall not merge with, but shall survive the closing of, the transaction contemplated hereby or the earlier termination hereof.

11.3 **Severability.** If all or any portion of any of the provisions of this Agreement shall be declared invalid, illegal or unenforceable by laws applicable thereto, then the performance of said offending provision or provisions shall be excused by the parties hereto and such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

11.4 **Captions.** The titles or captions of the provisions of this Agreement are merely for convenience or reference and are not representations of matters included or excluded from such provisions

11.5 **Time; Entire Agreement.** Time is of the essence of this Agreement. The parties hereto expressly acknowledge and agree that, with regard to the subject matter of this agreement and the transactions contemplated herein, (a) there are no oral agreements between the parties hereto, and (b) this agreement, including the defined terms and all exhibits and addendums attached hereto, (i) embodies the final and complete agreement between the parties, (ii) supersedes all prior and contemporaneous negotiations, offers, proposals, agreements, commitments, promises, acts, conduct, course of dealing, representations, statements, assurances and understandings, whether oral or written, and (iii) may not be varied or contradicted by

evidence of any such prior or contemporaneous matter or by evidence of any subsequent oral agreement of the parties hereto

11.6 No Modifications Except in Writing No modification hereof shall be binding unless set forth in writing and signed by the party or parties to be bound by the modification

11.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

11.8 Interpretation. This Agreement is an agreement between financially sophisticated and knowledgeable parties and is entered into by the parties in reliance upon the economic and legal bargains contained herein and shall be interpreted and construed in a fair and impartial manner.

11.9 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by Grantors or Grantee, Grantors and Grantee shall perform, execute and/or deliver or cause to be performed, executed and/or delivered at the closing, or if necessary, after the closing, any and all further acts, deeds and assurances as may, from time to time, be reasonably required to consummate the transactions contemplated in this Agreement

11.10 Not Assignable by Grantee. This Agreement shall not be assignable by Grantee without Grantor's prior written consent, which consent Grantors may withhold in their sole and absolute discretion. Except as so restricted, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties. Grantors shall have the right to assign any rights or delegate any duties required of Grantors under the terms and conditions of this Agreement.

11.11 Notices. Unless otherwise provided for herein, all notices and other communications required or permitted hereunder shall be in writing (including a writing delivered by facsimile transmission) and shall be deemed to have been duly given and delivered (a) when received, if sent by registered or certified mail return receipt requested, (b) when delivered, if delivered personally or by telecopy (with confirmation of receipt), or (c) when received but no later than the second following business day, if sent by overnight mail or overnight courier, in each case to the parties at the following addresses (or at such other addresses as shall be specified by like notice).

If to Grantee	Montana Department of Transportation P.O. Box 3068 Helena, Montana 59620 Attention: District Administrator Fax: 406-494-4396
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With a copy to	Edward G. Beaudette, Esq. Legal Services Montana Department of Transportation P.O. Box 201001
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Helena, MT 59620-1001
Fax. 406-444-7206

If to Atlantic Richfield: Atlantic Richfield Company
317 Anaconda Road
Butte, Montana 59701
Attention: Gavin Scally
Fax. (406) 782-9980

With a copy to: Atlantic Richfield Company
317 Anaconda Road
Butte, Montana 59701
Attention: Steve Ferry
Fax: (406) 782-9980

If to RARUS. RARUS Railway Company
300 W. Commercial Avenue
Anaconda, MT
Attention: William T. McCarthy
Fax: (406) 563-7121

With a copy to: _____

Attention: _____
Fax: _____

If to BGM. BGM Equipment, Inc.
300 W. Commercial Avenue
Anaconda, MT
Attention: William T McCarthy
Fax: _____

With a copy to: _____

Attention: _____
Fax: _____

11.12 Third-Party Beneficiaries. Except for the rights granted for the benefit of persons or entities specified in this Agreement (such as the Release and Covenant Not to Sue Provisions), each of the provisions of this Agreement is for the sole and exclusive benefit of the parties hereto, and none of the provisions of this Agreement shall be deemed to be for the benefit of any other person or entity. With respect to the rights granted to specified persons or entities, they shall be entitled to enforce such rights as a third-party beneficiary of this Agreement

11.13 Business Days. If any date upon which or by which action is required under this Agreement is a Saturday, Sunday or federal holiday, then the date for such action shall be extended to the first day thereafter that is not a Saturday, Sunday or federal holiday

11.14 Negation of Agency Relationship. This Agreement shall not be construed to create, either expressly or by implication, the relationship of agency or partnership between or among the parties. No party (including such party's agents, employees or contractors) is authorized to act on behalf of any other party in any manner relating to the subject matter of this Agreement. No party shall be liable for the acts, errors or omissions of the officers, agents, employees or contractors of any other party entered into, committed or performed with respect to or in the performance of this Agreement.

11.15 No Admission of Liability. Neither this Agreement nor any of the terms, recitals, provisions or statements contained herein shall be construed as an admission of liability by either party in any proceeding, action or dispute under CERCLA, CECRA or any other environmental law, state or local law or regulation or under any common law theory.

11.16 Conflicts with Exhibit Documents. If the description set forth in the body of this Agreement of the terms and conditions of any document conflicts with the provisions of the actual document attached as an exhibit, the provisions of the exhibit shall control.

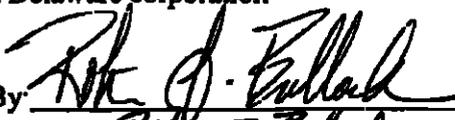
11.17 Perpetuities. Notwithstanding any provision of this Agreement to the contrary, any right to acquire any interest in real property or personal property under this Agreement must be exercised, if at all, so as to vest such interest in the acquire within the time period allowed under applicable law.

11.18 Review by Counsel. The parties represent and warrant to each other that they have read and understand this Agreement, and that each of the parties has consulted with and been represented by legal counsel in connection with negotiation and execution of this Agreement.

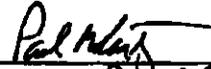
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

GRANTORS.

ATLANTIC RICHFIELD COMPANY,
a Delaware corporation

By: 
Name: Robert J. Fullack
Title: Deputy Regional Manager

RARUS Railway Company, a Montana corporation

By: 
Name: Paul A. McCarthy
Title: President

BGM EQUIPMENT COMPANY, INC , a Montana corporation

By: 
Name: William T. McCarthy
Title: President

GRANTEE.

MONTANA DEPARTMENT OF
TRANSPORTATION, an agency of the State of
Montana

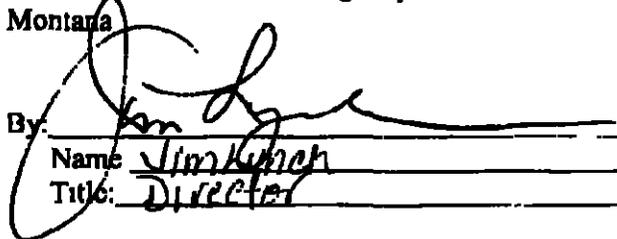
By: 
Name: Jim Kunch
Title: Director

EXHIBIT A

(to Real Property Conveyance Agreement)

Legal Description of the Property

1. All of Grantors' respective interests in the former Butte Anaconda & Pacific Railway Company ("B.A.&P") railroad corridor of varying widths lying and located across the following sections in Deer Lodge County, Montana:

Section 33, Township 5 North, Range 11 West
Section 32, Township 5 North, Range 11 West
Section 31, Township 5 North, Range 11 West
Section 30, Township 5 North, Range 11 West
Section 25, Township 5 North, Range 12 West
Section 26, Township 5 North, Range 12 West

As described in the following instruments.

2. Agreement dated July 1, 1922 and recorded on February 13, 1923 in Deed Bk 54 at p 375 (Anaconda Copper Mining Company to B.A.&P.).
3. Indenture dated March 25, 1895 and recorded on April 6, 1983 in Deed Bk 28 at p. 257 (Levengood to B.A.&P.).
4. Indenture dated March 2, 1895 and recorded on May 31, 1895 in Deed Bk 28 at p. 347 (Stuckey to B A &P)
5. Indenture dated March 9, 1895 and recorded on May 31, 1895 in Deed Bk. 28 at p. 342 (Vincent to B A.&P.).
6. Tract 9-A of Certificate of Survey No 366-B, dated March 9, 2005 and recorded March 9, 2005 in Microfilm Deed Bk. 175 at p.945 (Laurie to Atlantic Richfield Company).
7. Deed dated November 12, 2004 and recorded April 12, 2006 in Deed Bk. 185 at p 502 (Radonich to MDOT).

The location of the railroad corridor is generally depicted on Exhibit B to the Quit Claim Deed (Exhibit B to Real Property Conveyance Agreement). The map is for informational purposes only. To the extent that the depiction on the map conflicts with the legal description above, the legal description shall control.

EXHIBIT B

(to Real Property Conveyance Agreement]

Form of Quitclaim Deed

Montana Department of Transportation
P.O. Box 3068
Helena, Montana 59620

-

QUITCLAIM DEED

(West Valley Railway)

THIS DEED is made effective this ___ day of _____, 2006, by and between Atlantic Richfield Company, a Delaware corporation ("Atlantic Richfield"), RARUS Railway Company, a Montana corporation ("RARUS") and BGM Equipment Company, Inc., a Montana corporation ("BGM") (collectively, the "Grantors"), and the State of Montana acting by and through its Montana Department of Transportation, ("MDOT" or "Grantee").

I. QUITCLAIM

1.1 **Quitclaim.** For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid by Grantee to Grantors, the receipt and sufficiency of which are hereby acknowledged, Grantors sell, convey and quitclaim unto the Grantee and its successors and assigns forever, all of Grantors' respective right, title and interest in and to the parcels of real property described in Exhibit A attached hereto (the "Land") and depicted on the map in Exhibit B attached hereto together with any and all right, title and interest of Grantors in and to the following: (i) the minerals and mineral rights (including without limitation, oil and gas rights and sand and gravel rights) for the Land; (ii) the improvements, buildings, appurtenances, structures and fixtures, presently located on the Land; (iii) the easements, rights-of-way and rights of ingress and egress, if any, benefiting and/or burdening the Land; and (iv) the rights, liabilities, obligations and appurtenances pertaining to the foregoing, including any right, title and interest of Grantors in and to streets, gores, alleys or rights-of-way lying adjacent to the

Land The Land plus all of the other interests described in this Article I are referred to in this Deed collectively as the "Property "

1.2 Grantors' Interests. Atlantic Richfield, RARUS and BGM each have varying interests in the Property. The Grantors' obligation to convey under this Deed shall only be applicable to their respective interests in the Property, and nothing contained herein shall require any of the Grantors to convey any interests other than its own rights in the Property. Similarly, none of the Grantors shall have any liability for the obligations of the other Grantors under this Deed or for such other Grantors' interest in the Property. Atlantic Richfield's, RARUS' and BGM's execution, delivery and performance of this Deed as Grantors is merely to facilitate the transaction contemplated hereby

II. O&M OBLIGATIONS

Grantee hereby agrees to perform all operations and maintenance obligations required or advisable for the ownership, use, operation, development or disposition of the Property (collectively, the "O&M Obligations"). The term O&M Obligations shall include without limitation all activities of any kind or nature which are required under applicable law to. (i) monitor environmental conditions on the Property, and/or (ii) maintain, repair and/or replace any component of any remedial action previously or hereinafter taken on the Property. The term shall also include without limitation (a) any and all related sampling, inspection any reporting requirements of any kind or nature whatsoever, (b) all actions necessary to maintain an effective cover (gravel, vegetation or other), (c) all activities necessary to control noxious weeds, erosion and unauthorized entries, and (d) removal of garbage or other debris. The O&M Obligations accepted and assumed by Grantee under this Article V are intended to run with the land and be binding on the successors, assigns and transferees of Grantee.

III. DISCLAIMER OF WARRANTIES

3.1 No Warranties by Grantors. GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTORS HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY NEGATE AND DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER WHICH ARE NOT SPECIFICALLY AND AFFIRMATIVELY SET FORTH IN THIS DEED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, INCLUDING WITHOUT LIMITATION WITH RESPECT TO THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, OR THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. SPECIFICALLY, WITHOUT LIMITING OR ABROGATING IN ANY WAY ANY OF THE FOREGOING, GRANTORS HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY DISCLAIM ANY REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE FOLLOWING MATTERS:

A THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITIONS ON AT, UNDER, NEAR OR ASSOCIATED WITH THE PROPERTY;

B. THE INCOME, IF ANY, TO BE DERIVED FROM THE PROPERTY;

C. THE TRUTH, ACCURACY, COMPLETENESS OR REPRESENTATIVE NATURE OF THE INFORMATION PROVIDED OR DISCLOSED TO GRANTEE BY ANY OF THE GRANTORS RELATING TO THE PROPERTY;

D COMPLIANCE OF ANY PAST OR PRESENT OPERATIONS OR CONDITIONS WITH ANY APPLICABLE LAWS, PERMITS, REGULATIONS, ORDINANCES, COURT ORDERS, OR CONTRACT PROVISIONS, INCLUDING WITHOUT LIMITATION ENVIRONMENTAL LAWS AND THOSE PERTAINING TO PROTECTION OF CULTURAL OR HISTORIC RESOURCES OR SITES, LAND USE OR THE PUBLIC HEALTH, SAFETY AND WELFARE;

E THE DISPOSAL OR PRESENCE OF ANY HAZARDOUS MATERIALS OR MINING WASTES ON, AT, UNDER OR ASSOCIATED WITH THE PROPERTY, OR THE OCCURRENCE OR EXISTENCE OF ANY PAST OR PRESENT RELEASE OF ANY HAZARDOUS MATERIAL OR MINING WASTE AT, TO OR FROM THE PROPERTY INTO THE ENVIRONMENT,

F THE ABILITY TO OBTAIN ANY PERMITS (IF REQUIRED) OR ANY REGULATORY APPROVALS WITH RESPECT TO ANY OF GRANTEE'S ACTIVITIES OR OBLIGATIONS UNDER THIS DEED.

GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE HAS BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY. IN ENTERING INTO THIS AGREEMENT, GRANTEE ASSUMES THE RESPONSIBILITY FOR, AND HAS RELIED AND WILL RELY UPON, GRANTEE'S OWN REVIEW, ANALYSIS, AND OPINIONS.

3.2 No Other Representations. GRANTORS ARE NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REPRESENTATIVE, REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON.

3.3 "As Is" Nature of Transfer of the Property. GRANTEE ACKNOWLEDGES AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TRANSFER OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS "WITH ALL FAULTS."

IV. RELEASE AND COVENANT NOT TO SUE

Grantee, for itself and its successors, assigns and transferees, hereby fully and irrevocably releases and covenants not to sue Grantors and their respective predecessors and successors (whether by merger, consolidation or otherwise) and all parents, affiliates, divisions, subsidiaries and all shareholders, directors, officers, employers, attorneys, contractors, agents, transfers, successors and assigns of each, for any private cost recovery suit, contribution action, or any other actions, claims or liabilities that Grantee may now have or hereafter acquire for any costs, loss, liability, damage, expense, demand, action or cause of action arising under, or out of or related to: (i) any of the environmental conditions on, at, under, near or associated with the Property, (ii) the use, operation, development or disposition of the Property, (iii) any errors or misstatements in any information provided or disclosed to Grantee by Grantors relating to the Property, or (iv) Grantee's performance of, or failure to perform, the O&M Obligations.

V. CONVEYANCE/SUBSEQUENT OWNERS

5.1 **General.** The O&M Obligations referenced in this deed and the release and covenant not to sue set forth in this Deed are intended to be covenants which run with the land and shall be binding upon all subsequent owners of all or any part of the Property as covenants or agreements made for the benefit of Grantors.

5.2 **Provisions of Subsequent Conveyance Instruments.** Grantee hereby agrees that in any subsequent conveyance of all or any part of the Property, or any interest in the Property (including without limitation any grant of an easement burdening the Property or any grant of a lease of all or any part of the Property), the Grantee shall include the following provisions in the deed or other conveyance instrument (completed appropriately to refer to this Deed and modified only so as to fit appropriately in the context of the conveyance instrument):

Grantee hereby agrees to: (i) accept the Property subject to the O&M Obligations set forth in that certain Quitclaim Deed dated _____, 2006, and recorded on _____, 2006, at Book ___, Page ___ in the real property records of the City and County of Anaconda-DeerLodge, (the "Obligation Deed"), (ii) assume, undertake and perform the O&M Obligations as the owner of the Property in accordance with the terms and conditions of the Obligation Deed, and (iii) be bound by the release and covenant not to sue provisions set forth in the Obligation Deed.

Grantee hereby also agrees that in any subsequent deed or other conveyance instrument, it shall require the grantee in such deed or conveyance instrument to either (a) execute a deed or conveyance instrument which contains the agreements set forth in the immediately preceding paragraph, or (b) execute a separate acknowledgment attached to the deed or conveyance instrument

which contains the agreements set forth in the immediately preceding paragraph.

5.3 Binding Effect. Notwithstanding the foregoing, any person or entity who acquires any right, title or interest in all or any part of the Property shall be conclusively deemed to have consented and agreed to the provisions of Section 5.2, whether or not any reference to this Deed or these provisions is contained in the deed or other conveyance instruments by which such person or entity acquires an interest in the Property.

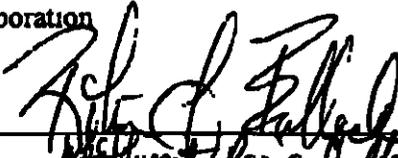
VI. MISCELLANEOUS

Neither this Deed nor any of the terms, recitals, provisions or statements contained herein shall be construed as an admission of liability by either party in any proceeding, action or dispute under any applicable laws.

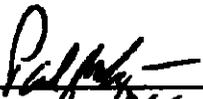
The Grantors and Grantee have executed this Deed effective as of the date first written above

GRANTORS:

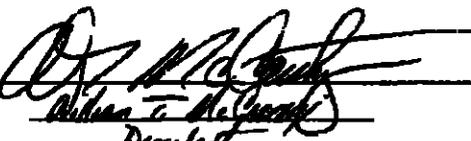
ATLANTIC RICHFIELD COMPANY, a Delaware corporation

By: 
Robin J. Bullcock
Assistant General Manager

RARUS RAILWAY COMPANY, a Montana corporation

By: 
Paul M. Carthy
President

BGM EQUIPMENT COMPANY, INC., a Montana corporation

By: 
William C. McJannet
President

STATE OF MONTANA)
) ss.
COUNTY OF Deer Lodge)

On this 25th day of Oct, 2006, before me, a Notary Public for the State of Montana, personally appeared Paul McCarthy, known to me to be the President of RARUS Railway Company and acknowledged to me that he/she executed the foregoing instrument on behalf of RARUS Railway Company.

Witness my hand and official seal.

(SEAL)

Kathy M. Conlon
Notary Public for the State of Montana Kathy M. Conlon
Residing at: Anaconda
My commission expires: 11-14-2006

STATE OF MONTANA)
) ss.
COUNTY OF Deer Lodge)

On this 25th day of Oct., 2006, before me, a Notary Public for the State of Montana, personally appeared W.T. McCarthy, known to me to be the President of BGM Equipment Company, Inc. and acknowledged to me that he/she executed the foregoing instrument on behalf of BGM Equipment Company, Inc.

Witness my hand and official seal

(SEAL)

Kathy M. Conlon
Notary Public for the State of Montana Kathy M. Conlon
Residing at: Anaconda
My commission expires: 11-14-06

STATE OF MONTANA)

COUNTY OF Lewis & Clark ss.

On this 29 day of SEPTEMBER 2006, before me, a Notary Public for the State of Montana, personally appeared Jim Lynch, and _____, known to me to be the Director and _____, respectively of the Montana Department of Transportation, an agency of the State of Montana, and acknowledged to me that they executed the foregoing instrument on behalf of the Montana Department of Transportation as an agency of the State of Montana.

Witness my hand and official seal.

(SEAL)

Maurly Pennington
Notary Public for the State of Montana
Residing at: Helena
My commission expires: 3/10/07

EXHIBIT A

Legal Description of Railroad Corridor

1. All of Grantors' respective interests in the former Butte Anaconda & Pacific Railway Company ("B.A. &P") railroad corridor of varying widths lying and located across the following sections in Deer Lodge County, Montana

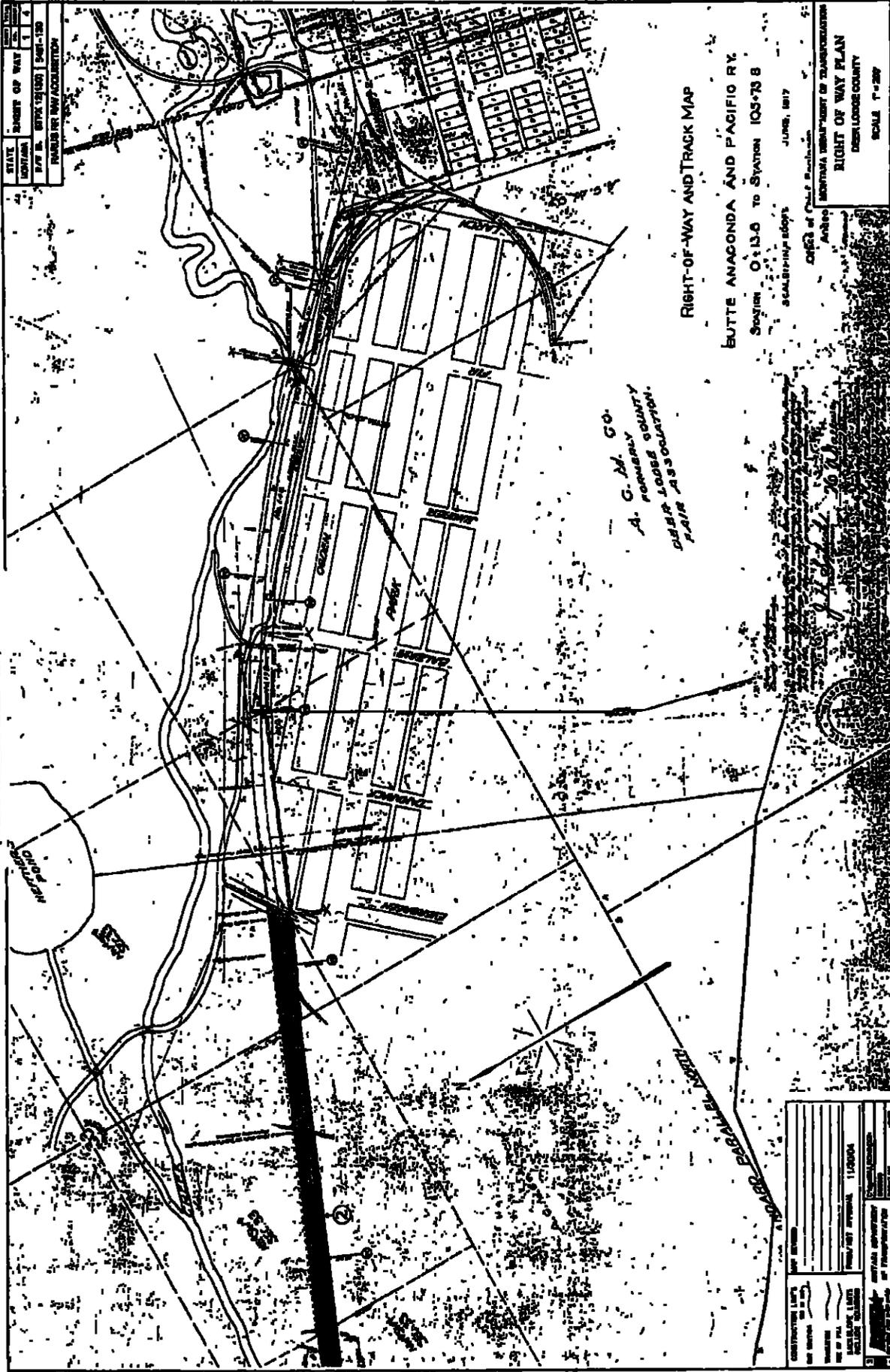
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The location of the railroad corridor is generally depicted on Exhibit B. The map is for informational purposes only. To the extent that the depiction on the map conflicts with the legal description above, the legal description shall control.

**EXHIBIT B TO QUITCLAIM DEED
(WEST VALLEY RAILWAY)**



A. C. M. CO.
 FORMERLY
 FORMERLY
 FORMERLY
 FORMERLY

RIGHT-OF-WAY AND TRACK MAP

BUTTE ANACONDA AND PACIFIC RY.

SECTION 013.0 TO STATION 103+75.8

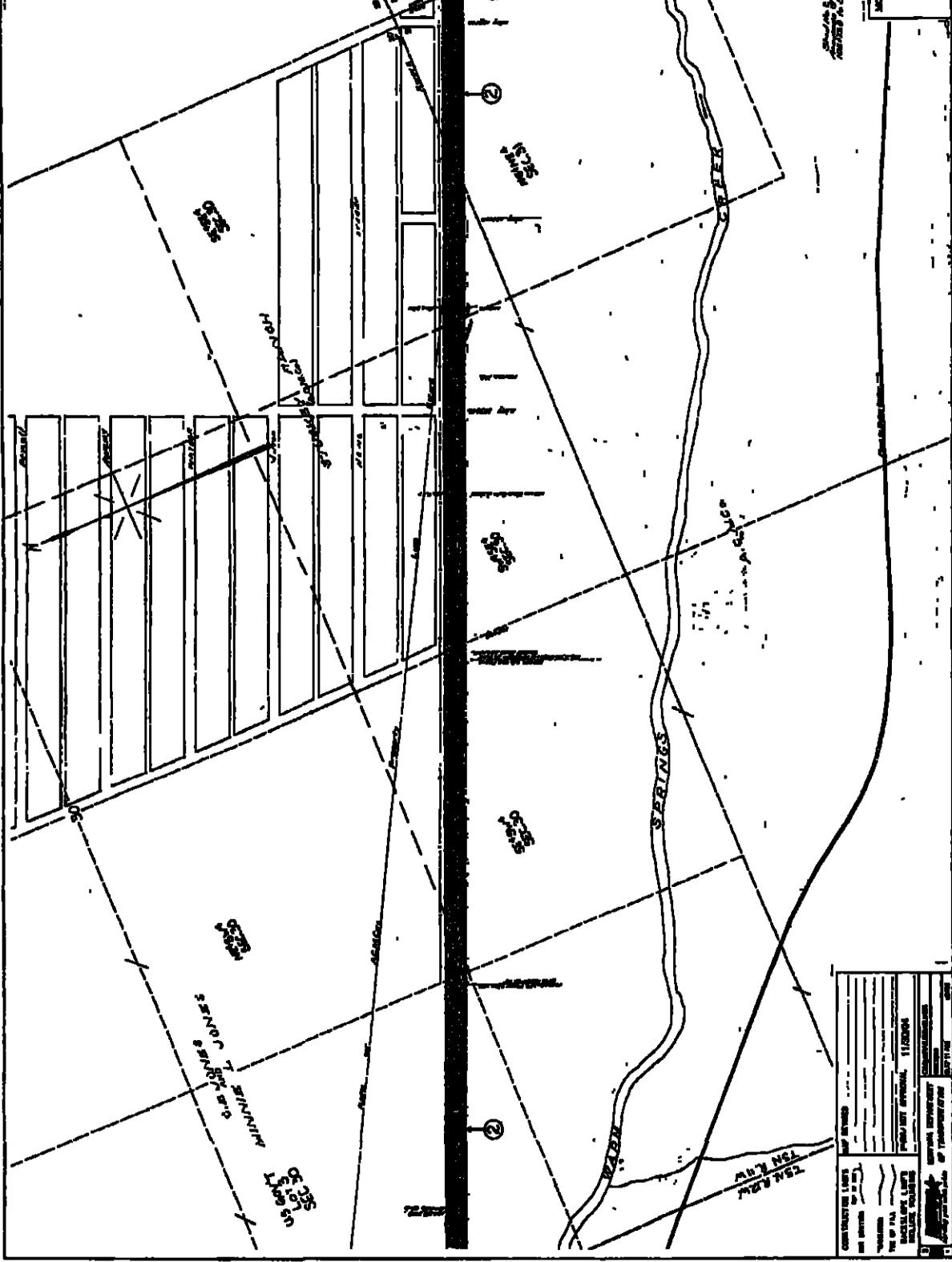
SCALE: AS SHOWN

JUNE, 1917

STATE OF MONTANA
 DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY PLAN
 DEER LODGE COUNTY
 SCALE 1"=200'

CONTRACT NO.	110000A
DATE OF PLAN	JUNE, 1917
DATE OF APPROVAL	JUNE, 1917
APPROVED BY	[Signature]
DESIGNED BY	[Signature]
CHECKED BY	[Signature]
DATE OF CHECK	[Signature]

STATE	RIGHT OF WAY	SECTION
MISSISSIPPI	SECTION 16	36
SPT. N. 517X 11/15/50 5481-150		
PARCEL FOR R/W ACQUISITION		



MISSISSIPPI DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY PLAN
 DEERLOOSE COUNTY
 SCALE 1" = 200'

CONTRACTING FIRM	DATE
NO. OF SHEETS	1 OF 1
PROJECT NO.	5481-150
PROJECT NAME	SECTION 16, 36
SCALE	1" = 200'
DATE	11/15/50
BY	[Signature]
CHECKED BY	[Signature]
APPROVED BY	[Signature]