

Notice of Institutional Controls

1. This Notice of Institutional Controls ("Institutional Controls") is made this 9th day of September, 2010, by Idaho Pole Company ("Owner"), pursuant to Section 75-10-727 Montana Code Annotated ("MCA") as amended with the approval of the United States Environmental Protection Agency ("EPA") and Montana Department of Environmental Quality ("DEQ"), third party beneficiaries of these Institutional Controls.

2. WHEREAS, Owner is the owner of real property located in the City of Bozeman, County of Gallatin, State of Montana that comprises approximately 65 acres hereinafter referred to as the "Property" (Attachment A) within which lies the Idaho Pole Superfund site ("Site") [EPA ID No MTD006232276] located near the northern limits of Bozeman, Montana, in the east half of Section 6 and the west half of Section 5, Township 2S, Range 6E of Gallatin County as further defined by Site Legal Description (Attachment B); and

3. WHEREAS, in the Record of Decision dated September 28, 1992 as amended (the "ROD"), the Acting Regional Administrator for EPA Region VIII selected a Remedial Action for the Site which allows for waste to be left on Site above levels that allow for unlimited use and unrestricted exposure providing these Institutional Controls are employed to minimize potential for human exposure, limit land/resource use, and/or protect the integrity of the remedy. "Remedial Action" shall mean the Remedial Action described in the Idaho Pole Superfund Site ROD, and amendments thereto; and

4. WHEREAS, EPA and DEQ have determined that, with implementation of this Notice of Institutional Controls (NOIC) on the "Property", all appropriate Remedial Actions under CERCLA, other than five-year reviews and operation and maintenance, have been completed for the surface and unsaturated subsurface soils on all the Property as described as shown on Attachment A, or more particularly described as real property located in the City of Bozeman, County of Gallatin, State of Montana that comprises approximately 65 acres.

5. WHEREAS, EPA and DEQ have determined that contaminated soil excavated from the Property has been successfully treated, and the treated soil has been placed as backfill in several areas consisting of 4.1 acres on the Property, as depicted on the attached Attachment D (the "Treated Soil Areas" or "TSAs"). Treated soil was placed above historic high ground water levels and was covered with a minimum of twelve inches of fill material to prevent direct contact risk. A Controlled Ground water Use Area was issued by the Montana Division of Natural Resources (Decision 41H-114172) in 2001 pursuant to Section 85-2-506 and 508, MCA as amended (Attachment E), that currently restricts use of ground water beneath the Property for any purpose, except as provided in the Remedial Action or as otherwise authorized by EPA and DEQ. No further or ongoing surface and unsaturated subsurface soil operation and maintenance activities are required other than those provided for in this NOIC and maintaining a protective cover over the TSAs.

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Page: 1 of 10
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Charlote Hills - Gallatin County, MT
Fee: \$90.00
MISC

6. WHEREAS, Owner, EPA and DEQ agree that it is necessary to restrict the use of the Property to mitigate the risk posed to the public health, safety, and welfare and the environment by imposing appropriate Institutional Controls on the Property, the purpose of which is to ensure the permanent preservation and maintenance of remedial structures, including the Treated Soil Areas cover, that are required to minimize potential for human exposure and/or protect the integrity of the remedy;

7. WHEREAS, these Institutional Controls shall restrict present and future use of the Property including the Treated Soil Areas and shall run with the land and be binding on all successors in interest to the Property, until the Institutional Controls are removed in whole or in part pursuant to Section 75-10-727 MCA as amended;

8. WHEREAS, Owner, EPA and DEQ agree that Owner shall file this Notice of Institutional Controls promptly in the real property records in the Clerk and Recorder's Office in and for Gallatin County, Montana;

NOW, THEREFORE,

9. Grant: Owner, on behalf of itself, its successors and assigns, in consideration of the terms of agreement among Owner, EPA and DEQ, regarding the Idaho Pole Superfund Site does hereby through this Notice of Institutional Controls declare that the use of the Property shall hereinafter be subject to the following restrictions that shall run with the land and be binding upon all successors-in-interest to the Property until these restrictions are removed in whole or in part pursuant to the terms of this Notice of Institutional Control; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Comprehensive Environmental Cleanup and Responsibility Act, as amended, Title 75, Chapter 10, Part 7 MCA ("CECRA"), including Section 75-10-727 MCA, and Title 85, Chapter 2, Part 5 MCA, including Sections 85-2-506 and 508, MCA (pertaining to Controlled Ground Water Areas):

10. Restrictions on Use: The following covenants, conditions and restrictions apply to the use of the Property, run with the land and are binding on the Owner, its successors and assigns:

- a) Restriction on New Construction. No new Construction, other than surface paving, landscaping curbs, light standards, traffic signs and greenways, shall take place on the Treated Soil Areas, except as provided in the Remedial Action or as otherwise authorized by EPA and DEQ.
- b) Restriction on Excavation within the TSAs. No excavation deeper than 12 inches shall take place on the TSAs, except as provided in the Remedial Action and described in the December 23, 2002 "*Remedial Action Completion Report Idaho Pole Company Superfund Site Soil Remediation Phase*" or as otherwise authorized by EPA and DEQ. Owner, its successors and assigns, shall maintain a protective cover of at least 12 inches of clean soil over the TSAs. A 12 inch gravel layer, gravel and

asphalt overlay, or other cover that prevents erosion and which maintains the integrity of the remedy can be substituted for clean soil. In the event that soils within the TSA must be disturbed at or below 12 inches and approval has been granted by EPA and DEQ, Owner must comply with a soils and groundwater management plan that is in EPA's administrative record for the Idaho Pole Superfund Site, or such other soils and groundwater management plan that may be approved by EPA and DEQ. Soils and groundwater management plans should provide guidance on health and safety precautions required to protect human health and the environment.

- c) Restriction on Excavation within Controlled Ground Water Area. In addition to the Restriction on Excavation within the TSAs, above, no excavation shall be allowed on the Property within Controlled Ground Water Area (Decision 41H-114172) where that excavation reaches saturated soil or groundwater, except where the Owner meets the requirements of CERCLA, as amended, 42 U.S.C. § 9601, *et seq.*; CECRA, as amended, Title 75, Chapter 10, Part 7 MCA, including Section 75-10-727 MCA, and Title 85, Chapter 2, Part 5 MCA, including Sections 85-2-506 and 508, MCA (pertaining to Controlled Ground Water Areas) and the Occupational Safety and Health Administration, including 29 C.F.R. 1910.120 *et seq.*; and where the excavation is accomplished in compliance with the Site soils and groundwater management plan or except as otherwise authorized by EPA and DEQ.
- d) Restriction on Use of Ground Water. Ground water within the boundaries described by the Controlled Ground Water Area shall not be used or developed for any purpose, except as provided in the Remedial Action or as otherwise authorized by EPA and DEQ.
- e) Protection of the Integrity of Remedial Action. Use of the Property shall not in any way materially interfere with the operation and/or maintenance of the Remedial Action, including, but not limited to, access to and the operation and maintenance of ground water monitoring wells, injection and extraction wells, any equipment or infrastructure constructed or used for the Remedial Action, or any cap or other covering to prevent contact with residual contamination, except as otherwise authorized by EPA and DEQ.
- f) Access, Cooperation and Information. EPA and DEQ and their authorized representatives shall have access at all reasonable times with prior notice to use the Property for purposes consistent with these Institutional Controls and EPA's ROD as amended. Owner, its successors and assigns shall comply with 42 U.S.C. § 9601(35), which defines the status and responsibilities of a purchaser who takes an interest in the Property by

contract. Nothing herein shall impair any other authority EPA and DEQ may otherwise have to enter and inspect the Property, and to obtain information about the property concerning response actions under CERCLA or CECRA.

11. Filing Notice of Institutional Controls. Owner shall file this Notice of Institutional Controls in the land records of the Clerk and Recorder's Office, Gallatin County, Montana, within thirty (30) days of the date it is executed by the Owner. Owner must provide EPA and DEQ with a certified true copy of said instrument and its recording reference.
12. Reserved Rights of Owner. Owner hereby reserves unto itself, its successors and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions and rights granted herein.
13. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under CERCLA, the National Contingency Plan, or other federal law. Nothing in this document shall limit or otherwise affect DEQ's rights of entry and access or DEQ's authority to take remedial actions under CECRA or the State's authority under other applicable state laws.
14. Notice Requirement. Owner on its behalf, and on behalf of its successors and assigns, agrees to include in any instrument conveying any portion of the Property, including, but not limited to, deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A NOTICE OF INSTITUTIONAL CONTROLS, DATED 9-9, 20 10, RECORDED IN THE PUBLIC LAND RECORDS ON 9-13, 20 10, IN BOOK _____, PAGE _____, IN GALLATIN COUNTY. DOCUMENT 2369872

Within sixty (60) days of the date any such instrument or conveyance is executed, Owner must provide EPA and DEQ with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

15. Enforcement of Institutional Controls. Owner, EPA and/or DEQ shall be entitled to enforce the terms of this instrument by resort to specific performance or other legal process as third party beneficiaries including but not limited to the authority provided by CECRA as amended Section 75-10-701 *et seq.*, MCA and CERCLA as amended 42 U.S.C. § 9601, *et seq.* All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA and CECRA. Any

forbearance, delay or omission to exercise rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver of such term or of any subsequent breach of the same or any other term, or of any of the rights under this instrument.

16. Notices. Any notice, demand, request, consent, approval or communication that any party desires or is required to give to the others shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

Owner: Idaho Pole Company, c/o
Director, Technical and Environmental Affairs
P.O. Box 1496
Tacoma, WA 98401-1496

or

1640 E. Marc Avenue
Tacoma, WA 98421-2939

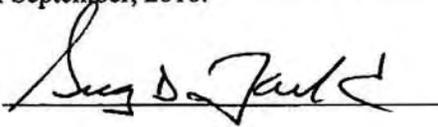
EPA: Director, Montana Operations Office
U.S. Environmental Protection Agency
Baucus Federal Building
10 West 15th Street
Helena, MT 59626

DEQ: Federal Superfund Section Manager, Remediation Division
Montana Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620

17. Controlling Law. The interpretation and performance of this instrument shall be governed by the laws of the United States and the laws of the State of Montana.

These Institutional Controls shall run with the land and be binding on all successors in interest to the Property until the Institutional Controls are removed in accordance with CERCLA; CECRA (including Section 75-10-727 MCA); and Sections 85-2-506 and 508, MCA (pertaining to Controlled Ground Water Areas).

IN WITNESS WHEREOF, Idaho Pole-Company, a Washington corporation, has caused this instrument to be executed this 9th day of September, 2010.

By: 

Greg D. McFarland, solely in his capacity as
Vice President of Idaho Pole Company, and
not his individual capacity

STATE OF Washington)
) ss:
COUNTY OF Pierce)

The foregoing instrument was acknowledged before me this 9th day of
September 2010, by Greg D. McFarland on behalf Idaho Pole Company, a
Washington Corporation, and not in his individual capacity, and acknowledged the said
instrument to be the free and voluntary act and deed of said corporation, for the uses and
purposes therein mentioned, and on oath stated that they are authorized to execute said
instrument.

Witness my hand and official seal hereto affixed the day and year written above



Cynthia A. Harris
Notary Public

4806 60th St CE E, Tacoma, WA 98443
Address
My commission expires: 8-17-2013



LEGEND	
● 11	MONITORING WELL
○ GM-5	MONITORING WELL
★ RES-8	RESIDENTIAL WELL
—	IPC PROPERTY BOUNDARY

IDAHO POLE COMPANY
BOZEMAN, MONTANA
5029-200

IDAHO POLE PROPERTY BOUNDARY

FIGURE
1

Attachment B

Site Legal Description

The Idaho Pole site is located near the northern limits of Bozeman, Montana and occupies approximately 65 acres in the east half of Section 6 and the west half of Section 5, Township 25, Range 6E of Gallatin County.

Individual legal lot descriptions are:

Northern Pacific ADD, SO5, TO2 S, RO6 E, All BLK 70PT of Blocks 73 & 83, Plus VAC St & Alleys.

NP-BOZ PT BLK 87 S of Highway SEC 6 25, 6E, COS 21

Northern Pacific ADD, SO6, TO2 S, RO6 E, Lots 1-9 BLK 86 APP 142' x 225'

SO6, TO2 S, RO6 E, PT Tract A SE4 & SW4, 22.1 AC COS 1876

Northern Pacific addition, SO, T02 S, RO6 E, PT BLK 88 all BLKS 89-90

SO5, TO2 S – RO6 E, Tract J in SW 4NW4 SEC 525 6E 6.5A TR in SE COR SE 4NE4 SECT 6 25 6E

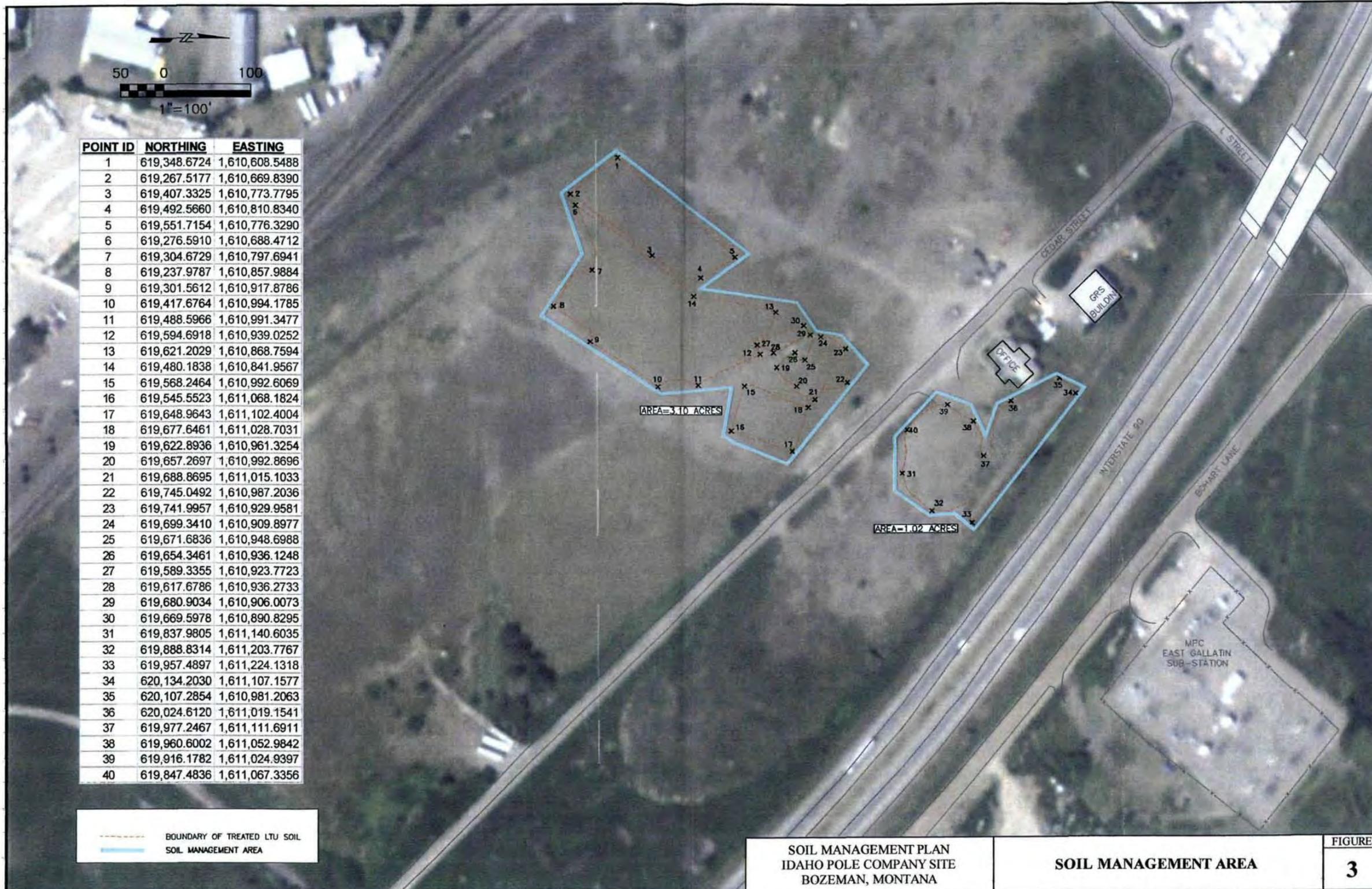
SO5, TO2 S, RO6 E, SW 4NW4 W of Rd & E of River See 5 25 6E 9AC



IDAHO POLE COMPANY
BOZEMAN, MONTANA
5029-200

CURRENTLY MODELED AREA FOR CGA

FIGURE
2



POINT ID	NORTHING	EASTING
1	619,348.6724	1,610,608.5488
2	619,267.5177	1,610,669.8390
3	619,407.3325	1,610,773.7795
4	619,492.5660	1,610,810.8340
5	619,551.7154	1,610,776.3290
6	619,276.5910	1,610,688.4712
7	619,304.6729	1,610,797.6941
8	619,237.9787	1,610,857.9884
9	619,301.5612	1,610,917.8786
10	619,417.6764	1,610,994.1785
11	619,488.5966	1,610,991.3477
12	619,594.6918	1,610,939.0252
13	619,621.2029	1,610,868.7594
14	619,480.1838	1,610,841.9567
15	619,568.2464	1,610,992.6069
16	619,545.5523	1,611,068.1824
17	619,648.9643	1,611,102.4004
18	619,677.6461	1,611,028.7031
19	619,622.8936	1,610,961.3254
20	619,657.2697	1,610,992.8696
21	619,688.8695	1,611,015.1033
22	619,745.0492	1,610,987.2036
23	619,741.9957	1,610,929.9581
24	619,699.3410	1,610,909.8977
25	619,671.6836	1,610,948.6988
26	619,654.3461	1,610,936.1248
27	619,589.3355	1,610,923.7723
28	619,617.6786	1,610,936.2733
29	619,680.9034	1,610,906.0073
30	619,669.5978	1,610,890.8295
31	619,837.9805	1,611,140.6035
32	619,888.8314	1,611,203.7767
33	619,957.4897	1,611,224.1318
34	620,134.2030	1,611,107.1577
35	620,107.2854	1,610,981.2063
36	620,024.6120	1,611,019.1541
37	619,977.2467	1,611,111.6911
38	619,960.6002	1,611,052.9842
39	619,916.1782	1,611,024.9397
40	619,847.4836	1,611,067.3356

--- BOUNDARY OF TREATED LTU SOIL
--- SOIL MANAGEMENT AREA

SOIL MANAGEMENT PLAN
 IDAHO POLE COMPANY SITE
 BOZEMAN, MONTANA

SOIL MANAGEMENT AREA

FIGURE
3