

**BIG HORN COUNTY
BOARD OF COUNTY
COMMISSIONERS**

121 3rd St W
Room 301
Hardin, MT 59034



**BIG HORN COUNTY BOARD OF COUNTY
COMMISSIONERS MINUTES
October 4, 2022
9:00 AM**

Members

Sidney Fitzpatrick, Chairman
George Real Bird III, Member
Larry Vandersloot, Member

1. Employee Updates and Claim Approvals - 9:00am

AJ Espinoza, Road Director, gave his Road and Bridge/Fire update. (SEE ATTACHED)

2. Call to Order - 9:30am

Comissioner Fitzpatrick calls meeting to order.

3. Roll Call

4. Approve Minutes and Supporting Documents

Approved October 3, 2022.

5. Old Business

6. New Business

Tribal Road Dept.

(SIGN IN SHEET)

Chairman Fitzpatrick says he spoke with BIA Transportation Development Specialist, Lincoln Begay, and he clarified that River Road has always belonged to the county. Chairman Fitzpatrick would like the county to talk it over. AJ Espinoza, County Road Director, presents a Road Inventory Agreement from March 14th, 2006 where the county agrees to continue to provide maintenance.

(ROAD INVENTORY AGREEMENT)

Peri Schenderline, Admin. Assistant found some minutes from January 13, 2013 where they discussed why maintenance was discontinued.

Thomas Yellowtail brought up HWY 1 and had to sand it in the winter when the busses got stuck going up the hill. AJ Espinoza explained that it's a state highway that the county maintains. The State can't give a road to a tribe, so they decided to give it to the county who would then turn around and give it to the tribe. When they did the paperwork and it was signed, the State kept the ownership of the road so the county can't do anything except maintain it. Discussion of this and other roads ensued.

AJ states it will take most of the crew and five graders to work on River Road. The road repairs will also include the side roads. Commissioner Fitzpatrick would like AJ to start repairs immediately.

Lift Fire Restrictions

Commissioner Vandersloot entertained a motion to remove the Stage 1 fire restrictions. The motion was seconded by Commissioner Real Bird and passed unanimously.

Herbal Zoning

Commissioner Vandersloot entertained a motion to approve the Zoning Compliance for SK Cnstruction, Inc. at the Herbel site. The motion was seconded by Commissioner Real Bird and passed unanimously.

7. Public Comments

8. Discussion

9. Adjourn

There being no other business, the board adjourned.

Approved: _____


Sidney Fitzpatrick
Chairman

Attest: _____


Peri Schenderline
Deputy Clerk & Recorder

Road and Bridge/Fire Update 10-4-2022

*Roads Graded

- Kern Road
- Davis
- Colstad
- Vanzandt
- Peritsa
- Kyomas Pond Rd
- Youngs Creek
- Back Loop
- Decker wide road
- Did get a lot of moisture so we will be grading more

*Roads Hauled

- We didn't haul to any roads this week

*Culverts

- There wasn't any culvert work done this week

*Cattle Guards

- Cleaned a cattle guard on Warren Loop

*Guardrail

- There wasn't any guardrail work this week

*Mechanic Maintenance

- Work with new equipment
- Cop cars
- Semis
- Work pickups
- Finish semis

*Fires

- 1 Structure
- 1 Wildland
- 0 Vehicle

*Other Road and Fire Business

- Started sending Rocky to Decker
- 1. Concerns of the rental agreement #14
- Willards Garage
- 1. Updating you
- River Road Update
- 1. Needs work in some spots
- 2. Clean all ditches
- 3. Find all pipes
- 4. Will need a brush-hog if and when we take this road
- Pit up-dates in decker
- 1. We were supposed to work hand and hand with BLM when we were reclaiming the pits
- 2. We did not
- 3. Wrong seed mix so we have to re-seed the pits now
- 4. We will need a pull behind disk we do not have one now
- 5. If we don't comply this could affect future permits
- 6. They could possibly deny or there make where there would be a lot of strict stipulations
- Coming out of stage one
- Culvert on Colstad?
- 1. Pipe?
- Consignment for old equipment

Notes

MEETING: Commissioners board

DATE: Oct. 4, 2022

[illegible]

ROAD INVENTORY AGREEMENT

THIS ROAD INVENTORY AGREEMENT is made and entered this 14th, day of March, 2006, by and between the County of Big Horn (hereinafter County) State of Montana, the Bureau of Indian Affairs (hereinafter BIA) and the Crow Tribe/s, (hereinafter Tribe/s).

WITNESSETH:

WHEREAS, County owns and controls certain roads situated within the exterior boundaries of the Crow (specify Tribe) Reservation that serve important transportation needs of both the Tribe and the County, and thus eligible for inclusion into the Indian Reservation Roads (IRR) Inventory and BIA funding formula for road construction funds, and,

WHEREAS, 25 C.F.R. Part 170.442 permits the BIA and Tribe/s to inventory the County's roads within the exterior boundaries of Crow Reservation enabling the Tribe/s to include those road miles within the BIA road inventory and obtain additional funding to support road improvements for the benefit of the citizens of the County and the Tribe/s to maximize road improvement dollars; and,

WHEREAS, the BIA has approached the County, and explained that under federal regulations, placement of County roads on the IRR inventory will enable the Tribe/s and BIA to obtain their fair share of construction funding otherwise not available for improvement of roads that provide essential transportation for both the Tribe/s and the County, and that therefore inclusion of certain County roads into the IRR inventory will provide a mechanism for Tribes to contribute road construction and repair services and funding to the county for public roads; and,

WHEREAS, the parties agree that placement of these roads on the IRR is the first step in obtaining the funds to perform additional services, and that such future construction or maintenance projects will take place under project specific agreements; and,

WHEREAS, the Tribe/s have identified the County roads to be placed into the IRR inventory as a priority for improvement as a Construction Need of the IRR system, said roads more particularly described on Exhibit "A", a copy of which is attached hereto and by this reference made a part hereof for all purposes; and,

WHEREAS, the County agrees with the Tribe/s assessment of the priority,

NOW THEREFORE, subject to the following terms and conditions and in accordance with all applicable law, in consideration for the Tribe/s promise to cooperate and coordinate to obtain additional funding for construction of the roads inventoried hereby, the County hereby agrees to permit the BIA and Tribe/s to place upon the Indian road inventory of the BIA and Tribe/s those certain roads more particularly described on Exhibit "A".

1. ROAD OWNERSHIP AND CONTROL NOT AFFECTED. This agreement does not impair or affect the County's ownership and control of rights of way for any roads, including but not limited to those described on Exhibit "A". The BIA and the Tribe/s represent that the IRR database will accurately reflect County ownership of the affected roads.

2. TERM. Time is of and shall remain of the essence for each provision of this agreement.

3. MAINTENANCE OF ROAD(S) UNTIL PROJECT BEGINS. Until a specific project has begun pursuant to separate agreement to be negotiated pursuant to Clause Three (3) of this agreement, County agrees to continue to provide maintenance to the roads listed upon Exhibit "A".

4. AGREEMENT TO NEGOTIATE. The parties to this agreement specifically understand that the County is only agreeing to permit the BIA and Tribe/s to identify the roads described on Exhibit "A" for their inventory. The roads that are the subject of this Agreement shall remain under the ownership and control of the County. This Agreement has no effect upon criminal, civil, and or regulatory jurisdiction involving the road. This Agreement does not address the technical requirements of construction of the roads in question nor does it address liability in the event of an accident or other civil suit.

In the event the BIA or Tribe/s plan to utilize funding obtained pursuant to this Agreement to Road Inventory for road construction or maintenance, the BIA and/or Tribe/s shall give the County prior written notice of said intent. The parties agree to negotiate in good faith for a contractual agreement to govern construction of the project and that will identify the party to have maintenance responsibility of the roadway on which IRR construction funds are used after the project is completed. The technical and professional standards and qualifications of the Tribal Roads Program must meet or exceed the standards and qualifications of the County requires of contractors that engage in public road construction and maintenance. The negotiations shall be conducted by both parties in good faith to accomplish an acceptable project specific agreement.

5. TERMINATION AS SOLE AND EXCLUSIVE REMEDY. The County, BIA, or the Tribe/s shall have the right to terminate this agreement with or without cause by providing the other parties thirty (30) days advance written notice of their intent to terminate. Upon receipt of such notice, the parties agree to attempt to resolve their differences without terminating the agreement, but unless the parties arrive at a subsequent agreement, this agreement shall terminate at the expiration of said thirty-day notice period. Upon termination, this agreement shall be deemed null and void and have no further force and effect. The BIA and the Tribe/s shall remove the affected roads from the IRR at the next annual report following termination.

In the event of a breach or dispute concerning the terms of this agreement, termination of this agreement as provided herein shall constitute the sole and exclusive remedy.

6. JURISDICTION. Nothing in this agreement or in any conduct undertaken pursuant thereto shall be deemed as enlarging or diminishing the jurisdictional authority of any party.

7. PRIOR AGREEMENT. This agreement supersedes all prior agreements and understandings between the parties hereto relating to the subject hereof, and there are no agreements or representations between the parties relating to the subject matter hereof other than those expressly contained herein. This agreement may not be modified orally and no modification or amendment shall be binding unless it is in writing and signed by the parties hereto.

8. MANNER OF GIVING NOTICE & COMPUTATION OF TIME. All notices given by any party to this contract shall be given to County at P.O. Box 908, Hardin, MT 59034 and to BIA at 316 N. 26th Street, Billings, MT, 59101 and the Tribe/s at P.O. Box 159, Crow Agency, MT 59022. Such notice shall be by certified mail, postage prepaid and the time of giving such notices shall be the time that such notice is mailed as evidenced by the post office cancellation thereof.

9. FURTHER REPRESENTATIONS. The parties further represent and warrant to each other that:

- a) each has the right to enter into and fully perform all of the terms and conditions of this Agreement in accordance with all applicable tribal, state and federal law;
- b) the individuals entering into this Agreement are duly authorized to do so on behalf of the parties;
- c) upon execution and satisfaction of conditions precedent set forth herein, this Agreement is a valid and binding obligation upon that party, enforceable in accordance with its terms;

EXHIBIT "A"

BIG HORN COUNTY OWNED ROUTES
IDENTIFIED FOR INCLUSION ONTO CROW NATION'S IRR SYSTEM

BUREAU OF INDIAN AFFAIRS
DIVISION OF TRANSPORTATION
ROCKY MOUNTAIN REGION
C 52 202
CROW NATION
CROW RESERVATION, MONTANA

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
0052	10	10.9		
	20	4.9		
	30	2.6		
	40		A050	
	50	0.1		
Total Route Length		18.5		
83A	010	1.4		
Total Route Length		1.4		
83B	010	4.4		
Total Route Length		4.4		
116	010	6.1		
	020	14.1		
Total Route Length		20.2		
313	010	4.7		
	020	3.6		
	030		H001	
	040	2.3		
	050		H002	
	060	3.7		
	070	5.2		
	080		H003	
	090	15.4		
	100		H004	
	110	0.2		
	120		H005	
	130	0.1		
	140		H006	
	150	1.1		
Total Route Length		36.3		

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
336	010	6.2		
Total Route Length		6.2		
384	810	0.4		
	820	-	A025	
	830	10.9		
Total Route Length		11.3		
418	810	4.0		
	820		A014	
	830	1.5		
	840	0.7		
	850		A015	
	860	9.1		
	870		A016	
	880	0.5		
Total Route Length		15.8		
463	810	2.3		
	820		A013	
	830	15.9		
	840		C203	
	850	0.2		
Total Route Length		18.4		
3002	010	4.9		
Total Route Length		4.9		
3005	010	4.7		
Total Route Length		4.7		
3008	010	5.5		
Total Route Length		5.5		
3011	010	5.2		
Total Route Length		5.2		
3013	010	3.4		
Total Route Length		3.4		
3101	010	4.6		
Total Route Length		4.6		
3102	010	4.3		
Total Route Length		4.3		
3103	020	7.8		
Total Route Length		7.8		
3104	010	18.7		
	020		C905	
	030	0.3		
Total Route Length		19.0		

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
3105	010	2.7		
	020	6.8		
	030	1.4		
	040		C904	
	050	1.7		
Total Route Length		12.6		
3106	020	19.1		
Total Route Length		19.1		
3107	010	0.9		
	020	3.8		
	030	1.5		
Total Route Length		6.2		
3108	010	4.4		
Total Route Length		4.4		
3109	010	1.1		
	020	6.8		
Total Route Length		7.9		
3110	010	5.7		
Total Route Length		5.7		
3111	010	10.9		
Total Route Length		10.9		
3112	010	1.1		
Total Route Length		1.1		
3113	010	7.1		
Total Route Length		7.1		
3114	010	6.0		
Total Route Length		6.0		
3115	010	1.9		
Total Route Length		1.9		
3116	010	15.9		
Total Route Length		15.9		
3117	010	1.4		
Total Route Length		1.4		
3118	010	4.9		
Total Route Length		4.9		
3119	010	3.2		
Total Route Length		3.2		
7001	010	0.4		
	020	6.4		
	030	0.2		
Total Route Length		7.0		

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
7002	010	1.1		
	020	0.8		
Total Route Length		1.9		
7003	010	2.8		
Total Route Length		2.8		
7004	010	1.2		
	020		A008	
	030	6.7		
	040		A009	
	050	0.1		
Total Route Length		8.0		
7005	010	4.3		
Total Route Length		4.3		
7006	010	9.9		
	020		A012	
	030	0.4		
	040	0.8		
Total Route Length		11.1		
7007	010	6.6		
	020		A010	
	030	9.3		
	040		A011	
	050	1.9		
Total Route Length		17.8		
7008	010	7.2		
	020	12.2		
Total Route Length		19.4		
7009	010	10.2		
Total Route Length		10.2		
7500	010	0.5		
Total Route Length		0.5		
7501	010	0.5		
Total Route Length		0.5		
7502	010	1.3		
Total Route Length		1.3		
7503	010	0.4		
Total Route Length		0.4		
7504	010	1.1		
Total Route Length		1.1		
7505	010	0.8		
Total Route Length		0.8		

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
7507	010	1.1		
Total Route Length		1.1		
7508	010	11.9		
	020	0.9		
Total Route Length		12.8		
7509	010	2.9		
Total Route Length		2.9		
7510	010	1.1		
Total Route Length		1.1		
7511	010	7.5		
Total Route Length		7.5		
7512	010	8.4		
Total Route Length		8.4		
7513	010	0.7		
Total Route Length		0.7		
7514	010	1.0		
Total Route Length		1.0		
7515	010	7.9		
Total Route Length		7.9		
7516	010	3.9		
Total Route Length		3.9		
7517	010	1.6		
Total Route Length		1.6		
7518	010	3.0		
Total Route Length		3.0		
7519	010	2.3		
Total Route Length		2.3		
7520	010	1.4		
Total Route Length		1.4		
7521	010	3.7		
Total Route Length		3.7		
7522	010	0.6		
Total Route Length		0.6		
7523	010	3.5		
Total Route Length		3.5		
7524	010	0.4		
Total Route Length		0.4		
7525	010	1.4		
Total Route Length		1.4		
7526	010	0.8		
Total Route Length		0.8		

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
7527	010	3.7		
Total Route Length		3.7		
7528	010	0.7		
Total Route Length		0.7		
7529	010	5.4		
Total Route Length		5.4		
7530	010	3.7		
Total Route Length		3.7		
7531	010	3.0		
Total Route Length		3.0		
7532	010	0.8		
Total Route Length		0.8		
7533	010	1.1		
Total Route Length		1.1		
7534	010	2.5		
Total Route Length		2.5		
7535	010	1.2		
Total Route Length		1.2		
7536	010	1.1		
Total Route Length		1.1		
7537	010	0.3		
Total Route Length		0.3		
7538	010	8.8		
Total Route Length		8.8		
7539	010	1.9		
Total Route Length		1.9		
7540	010	3.3		
Total Route Length		3.3		
7541	010	2.8		
Total Route Length		2.8		
7542	010	0.6		
Total Route Length		0.6		
7543	010	0.3		
Total Route Length		0.3		
7544	010	1.0		
	020	0.8		
Total Route Length		1.8		
7545	010	0.6		
Total Route Length		0.6		
7546	010	0.2		
	020		C200	

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
	030	3.3		
Total Route Length		3.5		
7547	010	3.2		
Total Route Length		3.2		
7548	010	0.9		
Total Route Length		0.9		
7549	010	9.1		
Total Route Length		9.1		
7550	010	3.0		
Total Route Length		3.0		
7551	010	1.8		
Total Route Length		1.8		
7552	010	3.2		
Total Route Length		3.2		
7553	010	3.2		
Total Route Length		3.2		
7554	010	1.6		
Total Route Length		1.6		
7555	010	0.4		
Total Route Length		0.4		
7556	010	0.6		
Total Route Length		0.6		
7557	010	0.6		
Total Route Length		0.6		
7558	010	4.8		
Total Route Length		4.8		
7559	010	1.4		
Total Route Length		1.4		
8001	010	8.2		
Total Route Length		8.2		
8002	010	4.8		
Total Route Length		4.8		
8003	010	6.9		
	020	2.3		
	030	0.8		
Total Route Length		10.0		
9000	010	0.2		
	020		A004	
	030	4.0		
Total Route Length		4.2		

BIA Rte. No.	Section No.	Section Length (mi)	Bridge No.	Remarks
9004	010	0.3		
	020		A006	
	030	3.2		
Total Route Length		3.5		
<i>Total Big Horn Co. owned IRR miles</i>		<i>564.9</i>		

2022 - 24

RESOLUTION

REVOCATION OF FIRE RESTRICTIONS

WHEREAS, the danger from forest and range fires on state and private lands within Big Horn County have lessened since the implementation of Stage I Fire Restrictions dated August 2, 2022, and made effective on August 3, 2022; and

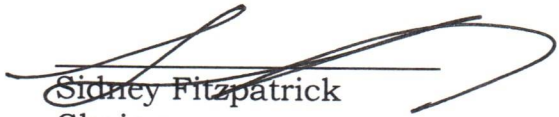
WHEREAS, the members of the Board of County Commissioners have unanimously recognized the necessity for fire control measures in Big Horn County is not as great as it was on August 3, 2022; and

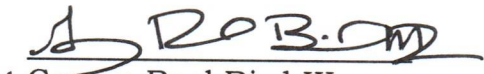
WHEREAS, the County Fire Marshall has advised that the County should rescind the fire restrictions; and

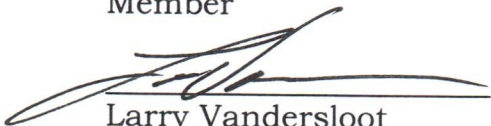
THEREFORE, BE IT RESOLVED, that the restrictions set forth in the resolutions dated August 2, 2022, and made effective August 3, 2022, are hereby revoked, effective 12:01 a.m. local time, October 5, 2025.

DATED THIS 4th day of day of October, 2022, in Hardin, Montana.

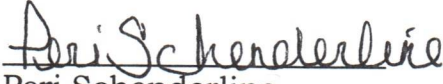
BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA


Sidney Fitzpatrick
Chairman


George Real Bird III
Member


Larry Vandersloot
Member

ATTEST:


Peri Schenderline
Deputy Clerk and Recorder

Rescission of Fire Restrictions
October 4, 2022
Page 1 of 1

ZONING COMPLIANCE

In accordance with Opencut Mining Act sections 82-4-431(2)(a)(iv)(D); 82-4-432(2)(b)(ii) & 82-4-432(14)(a)(v), sand and gravel operations must meet applicable local zoning regulations. As a result, this form is required unless the Operator is proposing to mine **bentonite, clay, scoria, peat, or soil**.

In accordance with section 17.24.223 of the rules implementing the Act, this form is required for a sand or gravel operation to apply for a **permit or an amendment adding acreage, changing the postmining land use or adding an asphalt or concrete plant**.

OPERATOR SECTION: All fields must be completed.

Operator Name: SK Construction, Inc.

Site Name: Herbel

County: Big Horn

LOCAL GOVERNING BODY SECTION: Complete all applicable below items.

In accordance with MCA 82-4-432(2)(b) of the Opencut Mining Act and ARM 17.24.223 of the rules implementing the Act, **the local governing body having jurisdiction over the area to be mined must certify that the proposed mine site and Plan of Operation comply with applicable local zoning regulations** adopted under MCA Title 76, Chapter 2. The certification must be submitted on this DEQ form.

1. The Operator has provided the local governing body with a Site Map and Location Map for a Standard Permit Application and a Location Map for a Rural Permit Application for the proposed sand and gravel operation identified above:

☒ **Yes** or ☐ **No** If **No**, this form is not acceptable.

2. Check **one** box:

- a. ☒ Site is **not** zoned.
- b. ☐ Site is **zoned** and **does not comply** with local zoning regulations.; therefore, **no Opencut operations can occur**. Site is zoned as: _____
- c. ☐ Site is **zoned** and local zoning regulations **do not require** a local license or permit for the proposed Opencut operations. Site is zoned as: _____
- d. ☐ Site is **zoned** and local zoning regulations **require** a local license or permit for the proposed Opencut operations. Site is zoned as: _____

Local zoning regulations require the following license or permit: _____

The application for a Standard Permit cannot be deemed complete until a copy of the local license or permit for the proposed operation is submitted to the Department.

MCA 82-4-432(2)(b)(ii) states *proposed sand and gravel opencut operation complies with applicable local zoning regulations adopted under Title 76, chapter 2, and in effect prior to the filing of a permit application or at the time a written request is received for a preapplication meeting pursuant to this section.*

CERTIFICATION BY LOCAL GOVERNING BODY:

Name of Local Governing Body: Big Horn County

Official's Name (print legibly): Sidney Fitzpatrick

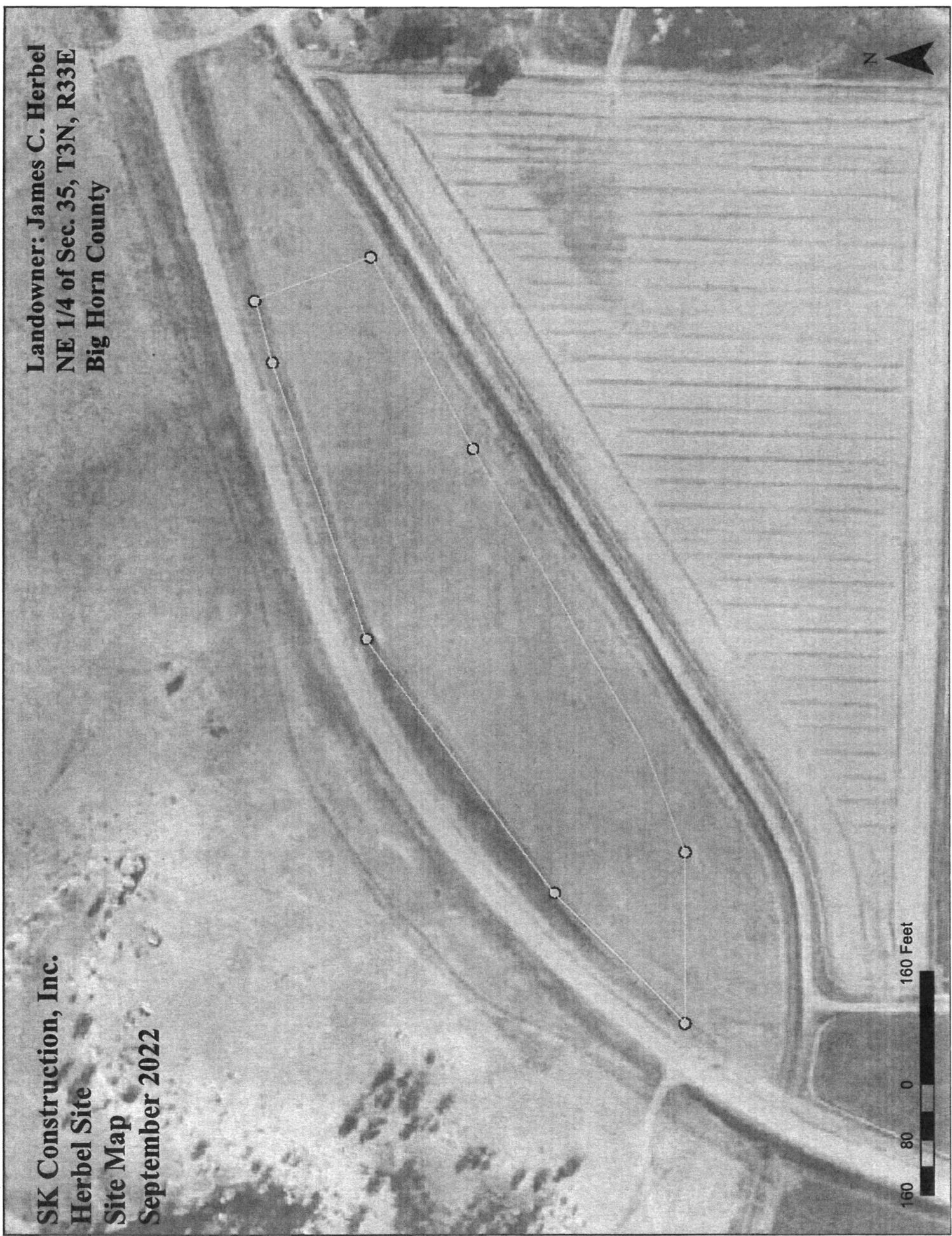
Title: Chairman

Signature: _____

Date: 10/4/22

SK Construction, Inc.
Herbel Site
Site Map
September 2022

Landowner: James C. Herbel
NE 1/4 of Sec. 35, T3N, R33E
Big Horn County



160 80 0 160 Feet

SK Construction, Inc.
Herbel Site
Location Map
September 2022

Landowner: James C. Herbel
NE 1/4 of Sec. 35, T3N, R33E
Big Horn County

Site Location

Town of Hardin

4,600 2,300 0 4,600 Feet

