

## GRANT OF EASEMENT and FENCE AGREEMENT

This Agreement is made, effective as of the 29 <sup>December</sup> ~~October~~ 2022, by and between Krista Kroll Revocable Trust, PO Box 438, Emigrant, MT 59027, hereafter referred to as "Kroll", and Alvin and Shawna Pierce, of 192 Conlin Road, Pray, MT 59065, hereafter referred to as "Pierce."

### RECITALS

The parties recite and declare:

1. Kroll owns Lots D-1-A and D-2-A of the Buckeye Placer Minor Subdivision, Amended Plat #555 located in the SW ¼ of Section 11 of Township 6 South, Range 8 East, Park County, Montana.
2. Pierce owns the S½SW¼ and S½SE¼ of Section 10, and the N½NW¼ of Section 15, Township 6 South, Range 8 East, Park County, Montana. Pierce owns other property in Park County; however, this easement applies only to the property referenced herein.
3. A private road diverts from Chico Cemetery Road along the northern edge of the Kroll Lots and runs west to access the Pierce property in Section 10 referenced above. This private road is also a driveway for the lots. See Exhibit A.
4. Kroll agrees to grant an easement for the limited uses of agriculture and commercial gravel operations along the private road described herein and depicted on the attached map. Access across Kroll is specifically limited as set forth in this document.
5. Pierce installed a drift fence on what is now the Kroll property that is not on the boundary. The parties will move the fence to the boundary between Kroll and Pierce and the parties agree herein as to the responsibility for removing and replacing such fence.

NOW, THEREFORE the parties agree as follows:

### EASEMENT AGREEMENT

In consideration of the mutual covenants and promises expressed herein, receipt of which is hereby acknowledged, the parties hereby agree:

1. Kroll grants to Pierce a non-exclusive easement limited to the current width of the road (approximately 20'), which use is limited to the following historic purposes:
  - A. agricultural use which includes access for care of livestock and fencing on the Pierce property and removal of gravel for personal agricultural use.

B. commercial use for gravel operations subject to the limitations set forth below:

- i. gravel operator will carry liability insurance indemnifying and defending Kroll from any injury or accident arising from the gravel operation's use of the road;
- ii. a speed limit of 10 mph through the Kroll property;
- iii. operating hours of Monday through Friday from 8 a.m. to 5 p.m.;
- iv. gravel operator will grade the access road twice a year; and
- v. all contractors and subs will abide by these terms.

C. If Pierce wishes to continue to allow Bryan Wells to do land application of septage waste on the Pierce property, Bryan Wells may use the easement herein for access to the Pierce property; provided however, that such disposal must comply with all DEQ regulations and this use is personal and terminates at Bryan Wells' death.

2. The above-described private easement along the northern edge of the Kroll property is a private, non-exclusive easement for the purposes set forth herein. This easement specifically does not allow for any residential use, public recreational use, commercial activity other than gravel operations as set forth herein, or further development.

3. Pierce may not assign, transfer, sell, trade, lease, convey or give any rights, whether temporary or permanent, in this private easement to any other individual, entity or agency, whether public or private.

4. Any improvements, repairs or maintenance of this private easement may be done by either party, but Pierce will not widen or pave the private easement. Kroll retains all other rights in and use of the private road described herein.

5. Neither party shall obstruct the easement or prevent the lawful use by the other party. Except as otherwise set forth herein, each party shall hold the other harmless from and against any claims, damages or injuries which may arise from their own use of the easement, or use by that party's agents, guests or invitees.

6. Nothing in this Agreement is intended to suggest or grant any right in the public, any governmental agency, or any third party to the use of the easement, unless specifically set forth herein. This grant of access creates no rights in the public, any governmental agency or third parties.

7. Nothing in this Agreement is intended to diminish or otherwise encumber any existing legal rights of Kroll for use of her road and property.

### **FENCE AGREEMENT:**

8. The parties have agreed to move the fence off the Kroll property to the Pierce/Kroll boundary in Section 11, as shown with survey stakes. The parties have deviated from state law for boundary fencing by agreeing that when the parties each face the fence from their respective properties, they shall each fence to the left.

9. Kroll may move the existing fence and construct her portion of the new boundary fence at any time but is obligated only to construct the left half of the fence when facing the Pierce property.

10. Pierce will move and construct their one-half of the boundary fence along the property boundary line within 6 months of Kroll's completion of her one-half of the fence. Pierce will fence to the left when facing the Kroll property.

11. As construction of this boundary fence at different times will leave a gap between new and old fence portions, a temporary fence or electrical wire will be placed between the new and old fence portions to prevent livestock from traveling through the gap.

12. Thereafter, the parties agree that they shall be bound by Montana law with regard to boundary fence requirements.

13. The following provisions are applicable to both Easement and Fence agreements:

A. It is agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Montana.

B. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

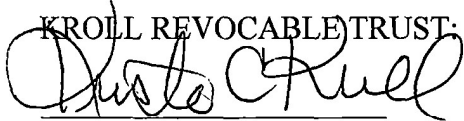
C. Any modification of this Agreement or additional obligation assumed by any of the parties in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

D. In the event it becomes necessary for either party to retain counsel to enforce any right or privilege under this Agreement, then the successful party shall be entitled to attorney's fees and costs, including any fees or costs associated with any appeal.

E. This agreement is binding on the parties, their heirs, successors and assigns and shall run with the land.

IN WITNESS WHEREOF, each party to this Agreement has executed it on the date indicated next to each of their signatures.

KROLL REVOCABLE TRUST:

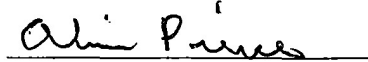


By: Krista C. Kroll

Its: Trustee

Date: 12-1-22

PIERCE:



Alvin Pierce

Date: 12-29-22



Shawna Pierce

Date: 12-29-22

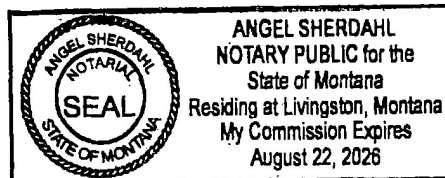
STATE OF MONTANA

)

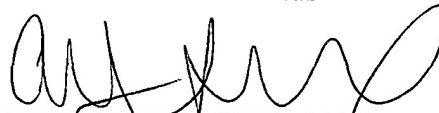
: ss.

County of PARK

)

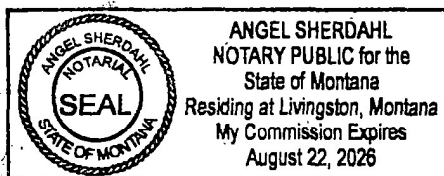


This instrument was signed and acknowledged before me on this 1 day of December 2022 by Krista C. Kroll as Trustee of the Kroll Revocable Trust.



Notary Public for the State of Montana

(SEAL)



STATE OF MONTANA

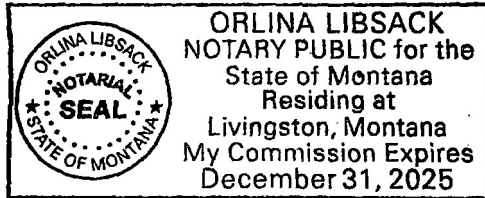
)

: ss.

County of PARK

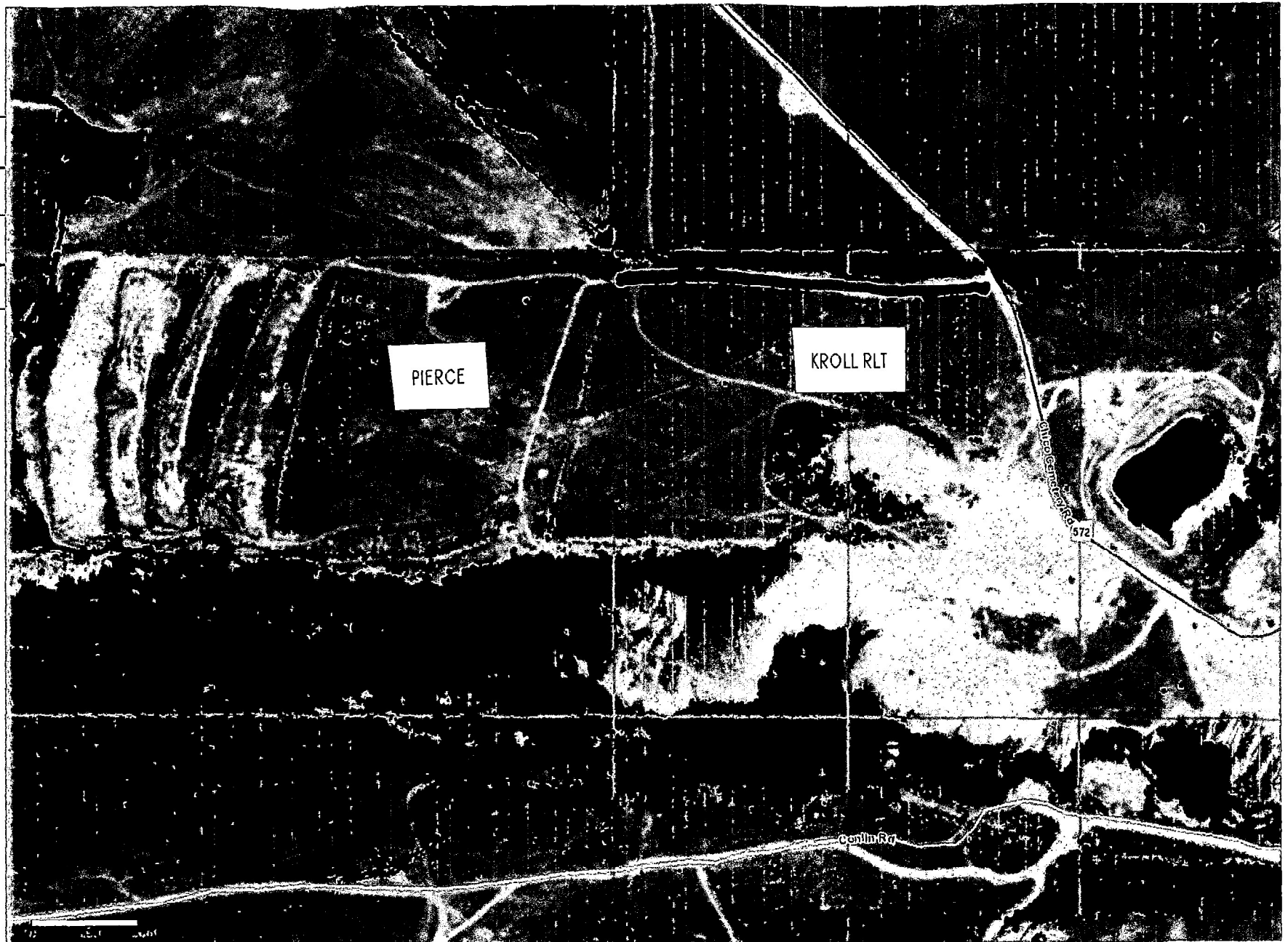
)

This instrument was signed and acknowledged before me on this 29 day of ~~October~~ <sup>December</sup> 2022 by Alvin Pierce and Shawna Pierce.



Orlina Libsack  
Notary Public for the State of Montana.

Try Cadastral Beta  
Print Button  
workarounds



EASEMENT EXHIBIT A