

**AGENDA**  
**REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS**  
**Thursday, June 7, 2012, at 8:00 a.m.**  
**Fish, Wildlife and Parks Headquarters**  
**Helena, MT**

**ACTION ITEMS**

- 612-1      OIL AND GAS LEASE SALE (JUNE 5, 2012)**  
Benefits: Common Schools, MSU Morrill, MSU 2<sup>nd</sup>, Public Buildings, Montana Tech,  
State Normal School, School for the Deaf and Blind, State Industrial School,  
and Public Land Trust  
*Location: Blaine, Cascade, Daniels, Lewis and Clark, Liberty, Sheridan, Teton, and Valley  
Counties*  
**APPROVED 5-0**
- 612-2      FOURMILE TIMBER SALE**  
Benefits: Common Schools, State Normal School  
*Location: Mineral County*  
**APPROVED 5-0**
- 612-3      SET MINIMUM BID FOR LAND BANKING PARCELS**  
Benefits: Common Schools, Public Buildings  
*Location: Missoula County*  
**APPROVED 5-0**
- 612-4      FINAL APPROVAL FOR SALE OF LAND BANKING PARCEL**  
Benefits: Common Schools  
*Location: Hill County*  
**APPROVED 5-0**
- 612-5      ADMINISTRATIVE RULES PROPOSAL: NAVIGABLE RIVERS**  
Benefits: Public Land Trust  
*Location: State of Montana*  
**APPROVED 5-0**
- 612-6      EASEMENTS**  
Benefits: Common Schools  
*Location: Blaine, Phillips, Powder River, Treasure, and Wibaux Counties*  
**APPROVED 5-0**

**PUBLIC COMMENT**



**MINUTES**  
**REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS**  
**Monday, May 21, 2012, at 9:00 a.m.**  
**State Capitol**  
**Helena, MT**

**Please note:** *The Land Board has adopted the audio recording of its meetings as the official record, as allowed by [2-3-212, MCA](#). These minutes provide an abbreviated summary of the Land Board discussion, public testimony, action taken, and other activities. The time designations listed are approximate and may be used to locate the referenced discussion on the audio recording of this meeting. Access to an electronic copy of these minutes and the audio recording is provided from the Land Board webpage at <http://dnrc.mt.gov/LandBoard>. The written minutes summary, along with the audio recordings, are listed by meeting date on the Land Board Archive webpage.*

**Members Present**

Governor Brian Schweitzer  
Attorney General Steve Bullock  
Secretary of State Linda McCulloch  
Superintendent of Public Instruction Denise Juneau

**Members Absent**

Commissioner of Securities and Insurance Monica Lindeen

**Testifying Staff**

Mary Sexton, DNRC Director  
Lisa Axline, DNRC Real Estate Management Bureau  
Sonya Germann, DNRC Forest Management Bureau Chief  
John Grimm, DNRC Real Estate Management Bureau  
Tommy Butler, DNRC Attorney

**Attachments**

Related Materials, Attachment 1 – Sign-in Sheet  
Related Materials, Attachment 2 – Submission by Montana Environmental Impact Center (MEIC)  
Related Materials, Attachment 3 – Photographs of Missoula train yard from Blue Skies Campaign

**Call to Order**

00:00:03 Governor Brian Schweitzer called the meeting to order.  
00:00:09 Ms. McCulloch moved to approve the April 19, 2012, minutes. The motion was seconded by Mr. Bullock and carried unanimously.

**Business Considered**

**512-1 Corrective Deed – Non-Trust Land Transfer to the City of Poplar under 77-2-351, MCA**

00:00:19 Ms Sexton gave an overview of the item.

**Public Comment**

00:01:34 Gary MacDonald, Roosevelt County Commissioner

00:02:29 Ms. Juneau moved to approve the corrective deed. The motion was seconded by Ms. McCulloch and carried unanimously.

## 512-2 Signal Peak Coal Lease Application

00:02:41 Ms Sexton gave an overview of the item.

### Public Comment

00:05:52 Anne Hedges, MEIC (see Related Materials, Attachment 2)  
00:09:40 Clayton Elliot, Northern Plains Resource Council  
00:12:43 Lowell Chandler, Blue Skies Campaign  
00:16:03 Bryan Nickerson, Blue Skies Campaign  
00:17:30 Nick Engelfried, Blue Skies Campaign  
00:20:24 Robert Ochsner, Signal Peak Energy Chief Mining Engineer  
00:20:49 Mr. Bullock moved to initiate the coal lease bidding process. The motion was seconded by Ms. Juneau.

### Board Discussion/Questions

00:21:00 Mr. Bullock  
00:22:34 Governor Schweitzer  
00:25:48 Mr. Chandler  
00:27:43 Mr. Engelfried (see Related Materials, Attachment 3)

00:28:47 The motion to initiate the coal lease bidding process was carried unanimously.

## 512-3 Easements

### **A. Rights-of-Way**

00:28:55 Ms Sexton gave an overview of the item.  
00:29:27 Ms. McCulloch moved to approve the rights-of-way applications. The motion was seconded by Mr. Bullock.

### Board Discussion/Questions

00:20:35 Ms. Juneau  
00:30:10 Ms. Sexton  
00:30:28 Ms. Axline  
00:31:05 Ms. Juneau  
00:31:11 Ms. Axline

00:31:26 The motion to approve the rights-of-way applications was carried unanimously.

### ~~**B. ONEOK Pipeline Easement**~~

*The item was removed from the agenda prior to the meeting on May 17, 2012.*

### **C. Youngs Creek Mining Co. LLC Railroad Spur Easement**

00:31:33 Ms Sexton gave an overview of the item.  
00:34:09 Ms. McCulloch moved to the railroad spur easement. The motion was seconded by Mr. Bullock.

### Board Discussion/Questions

00:34:20 Ms. Juneau  
00:35:21 Mr. Bullock  
00:35:35 Ms. Sexton  
00:36:06 Governor Schweitzer

00:39:24 The motion to approve the railroad spur easement was carried 3-1, Ms. Juneau dissenting.

#### **512-4 Communitization Agreement – Whiting Oil and Gas Corporation**

00:39:31 Ms Sexton gave an overview of the item.

00:40:15 Ms. McCulloch moved to approve the communitization agreement. The motion was seconded by Mr. Bullock and carried unanimously.

#### **512-5 Timber Sales**

##### **A. Logan Creek**

##### **B. Mystery Fish**

##### **C. Reid Divide**

00:40:26 Ms. Sexton gave an overview of items 512-5A through 512-5C, which were taken as a block.

00:40:25 Mr. Bullock moved to approve items 512-5A through 512-5C. The motion was seconded by Ms. McCulloch.

#### Board Discussion/Questions

00:43:31 Mr. Bullock

00:43:50 Ms. Sexton

00:44:28 Ms. Germann

00:44:43 Mr. Bullock

00:44:52 Ms. Germann

00:45:00 Governor Schweitzer

#### **512-6 Preliminary Approval for Land Banking Parcel**

00:45:30 Ms Sexton gave an overview of the item.

00:46:22 Ms. Juneau moved to approve items 512-5A through 512-5C. The motion was seconded by Ms. McCulloch and carried unanimously.

#### **512-7 Final Approval for Sale of Land Banking Parcels**

00:46:34 Ms Sexton gave an overview of items 512-7A through 512-7C.

##### **A. Deer Lodge County**

00:49:00 Ms. McCulloch moved for final approval of the Deer Lodge County parcels. The motion was seconded by Ms. Juneau and carried unanimously.

##### **B. Gallatin County**

00:40:19 Mr. Bullock moved to final approval of the Gallatin County parcel. The motion was seconded by Ms. Juneau and carried unanimously.

#### Board Discussion/Questions

00:49:24 Governor Schweitzer

00:50:18 The motion to approve the Gallatin County parcel was carried unanimously.

##### **C. Hill County**

#### Public Comment

00:50:40 George Stahl, Gilford Colony

#### Board Discussion/Questions

00:52:52 Governor Schweitzer

00:53:06 Ms. Sexton

00:53:21 Mr. Grimm

00:53:51 Governor Schweitzer

00:54:05 Mr. Stahl

00:55:09 Ms. Juneau moved for final approval of the Hill County parcel. The motion was seconded by Ms. McCulloch.  
00:55:11 Governor Schweitzer  
00:56:00 Ms. Sexton  
00:56:36 Governor Schweitzer  
00:56:50 Mr. Grimm  
00:57:36 Governor Schweitzer  
00:57:42 Mr. Stahl  
00:57:54 Governor Schweitzer  
00:58:07 Mr. Stahl  
00:58:13 Governor Schweitzer  
00:59:46 Mr. Stahl  
01:00:06 Governor Schweitzer  
01:00:28 Mr. Bullock  
01:00:45 Mr. Butler  
01:01:41 Governor Schweitzer  
01:01:50 Ms. Juneau moved to modify her motion to postpone final approval for the Hill County parcel until the next month to further explore the Land Board's options. The motion was seconded by Ms. McCulloch.  
01:02:12 Governor Schweitzer  
  
01:02:20 The motion to postpone final approval for the Hill County parcel until next month was carried unanimously.  
01:02:24 Governor Schweitzer  
01:02:33 Mr. Stahl  
01:02:47 Governor Schweitzer  
01:03:06 Mr. Stahl  
01:03:08 Governor Schweitzer

#### **512-8 2012 Agriculture and Grazing Competitive Bid Hearings**

01:03:35 Ms. Sexton gave an overview of the competitive bid hearing process.

##### **A. Lease No. 9208 – Broken Circle Three Land & Cattle (Lessee)/Jason Kelly (Bidder)**

01:05:06 Ms. Sexton gave an overview of lease number 9208.

##### Public Comment

01:08:37 Dean Schillinger, Broken Circle Three Land & Cattle  
01:08:56 Ms. Sexton  
01:09:15 Mr. Schillinger  
01:12:13 Leslie Kelly, representing high bidder Jason Kelly  
01:13:26 Ms. McCulloch moved to award the lease to Broken Circle Three Land & Cattle as a cash lease for \$28 per acre. The motion was seconded by Ms. Juneau.  
01:13:40 Governor Schweitzer  
  
01:15:21 The motion to award the lease to Broken Circle Three Land & Cattle as a cash lease for \$28 per acre was carried unanimously.

##### **B. Lease No. 9992 – Broken Circle Three Land & Cattle (Lessee)/Marvin Strand (Bidder)**

01:15:28 Ms. Sexton gave an overview of lease number 9992.  
01:16:48 Mr. Bullock moved to award the lease to Broken Circle Three Land & Cattle at \$15 per AUM. The motion was seconded by Ms. Juneau.  
01:16:55 Governor Schweitzer

01:18:06 The motion to award the lease to Broken Circle Three Land & Cattle at \$15 per AUM was carried unanimously.

**C. Lease No. 1528 – J&J Livestock Inc. (Lessee)/Randy Smith (Bidder)**

01:18:13 Ms Sexton gave an overview of lease number 1528.

Public Comment

01:20:14 Norma Jardee, J&J Livestock

01:21:20 Ms. Juneau moved to award the lease to J&J Livestock at \$50 per AUM. The motion was seconded by Ms. McCulloch.

Board Discussion/Questions

01:21:29 Mr. Bullock

01:21:45 Ms. Sexton

01:22:40 Governor Schweitzer

01:22:55 Ms. Sexton

01:23:41 Ms. Jardee

01:23:53 Governor Schweitzer

01:23:57 Ms. Jardee

01:24:00 Governor Schweitzer

01:24:05 Ms. Jardee

01:24:08 Governor Schweitzer

01:24:31 Ms. Jardee

01:24:36 Governor Schweitzer

01:24:46 Ms. Jardee

01:24:54 Governor Schweitzer

01:25:05 Ms. Jardee

01:25:08 Governor Schweitzer

01:25:52 Ms. Jardee

01:26:05 Governor Schweitzer

01:26:10 Ms. Jardee

01:26:21 Governor Schweitzer

01:26:25 Ms. Jardee

01:26:26 Governor Schweitzer

01:26:28 Ms. Jardee

01:26:31 Governor Schweitzer

01:26:37 Ms. Jardee

01:26:42 Governor Schweitzer

01:26:52 Ms. Jardee

01:26:57 Governor Schweitzer

01:27:08 Ms. Jardee

01:27:11 Governor Schweitzer

01:27:19 Ms. Jardee

01:27:23 Governor Schweitzer

01:27:53 Ms. Jardee

01:27:55 Govenor Schweitzer

01:28:06 Ms. Jardee

01:28:09 Governor Schweitzer

01:28:16 Ms. Jardee

01:28:20 Governor Schweitzer

01:28:39 Ms. Jardee

01:28:46 Governor Schweitzer

01:29:01 Clayton Jardee

01:29:19 Governor Schweitzer

01:29:31 Ms. Juneau moved to modify her motion to award the lease to J&J Livestock at \$30 per AUM. Motion seconded by Ms. McCulloch.  
01:29:48 Governor Schweitzer

01:29:58 The motion to award the lease to J&J Livestock at \$30 per AUM was carried unanimously.

**D. Lease No. 2425 – Joseph & Charlotte Brummer and Conrad Inc. (Lessee)/Frederick & Sandra Miller (Bidder)**

01:30:06 Ms Sexton gave an overview of lease number 1528.

Public Comment

01:32:13 Tom Sheehy, attorney for Joseph and Conrad Brummer and Conrad Inc.

01:36:09 Fred Miller

01:37:40 Ms. Juneau moved to award the lease to Frederick and Sandra Miller at \$27.90 per AUM. Motion seconded by Ms. McCulloch.

Board Discussion/Questions

01:37:47 Governor Schweitzer

01:38:07 Ms. Sexton

01:39:08 Governor Schweitzer

01:39:24 Mr. Chappell

01:40:17 Governor Schweitzer

01:40:19 Mr. Chappell

01:40:21 Governor Schweitzer

01:40:51 Mr. Miller

01:40:58 Governor Schweitzer

01:41:00 Mr. Miller

01:41:01 Governor Schweitzer

01:43:53 Mr. Miller

01:43:54 Governor Schweitzer

01:44:02 Mr. Miller

01:44:07 Governor Schweitzer

01:44:34 Mr. Miller

01:44:54 Governor Schweitzer

01:45:02 Ms. Sexton

01:45:13 Governor Schweitzer

01:45:36 Mr. Miller

01:46:00 Governor Schweitzer

01:46:39 Mr. Sheehy

01:48:08 The motion to award the lease to Frederick and Sandra Miller at \$27.90 per AUM was carried unanimously

**General Public Comment**

None

**Adjournment**

01:48:30 Adjournment

PRESIDENT

ATTEST

/s/ Brian Schweitzer  
Brian Schweitzer, Governor

/s/ Mary Sexton  
Mary Sexton, DNRC Director

RELATED MATERIALS  
ATTACHMENT 1

LAND BOARD MEETING SIGN-IN SHEET  
May 21, 2012

| NAME                | AFFILIATION                 | E-MAIL                        | Check to be added to the interested parties list. |
|---------------------|-----------------------------|-------------------------------|---|
| Gary Macdonald      | Roosevelt Co.               | comm@rooseveltcounty.org      | 512-1   |
| Nick Engelfried     | Blue Skies                  | nicke.activism@gmail.com      | X   |
| Lowell Chandler     | Blue Skies                  |                               |   |
| Bryan Nickerson     | Blue Skies                  |                               |   |
| Leslie Kelly        |                             | leskelly@midrivers.com        | X 512-84  |
| Jason Kelly         |                             |                               | 512-84  |
| Clayton Elliott     | Northman Plains Res Cncl    | clayton@northplains.org       |   |
| Dean Schillinger    | Broken Circle Three LLC     |                               |   |
| Laraine Schillinger | "                           |                               |   |
| Kali Schillinger    | "                           |                               |   |
| Tom Sheehy          | Conrad, Inc.<br>Joe Brummer | tomatty@mtintouch.net         |   |
| CR20 St 9th         | Common Schools              | Bildford St                   |   |
| Anne Hedgoc         | MEIC                        | ahedgoc@meic.org              |   |
| Fred Miller         | Harlem, Mont                |                               |   |
| ROBERT DENNER       | SIGNAL PEAK                 | ROCKSNER@SIGNALPEAKENERGY.COM | (X)   |
| E.A. Viren          | Signal Peak                 | eviren@signalpeakenergy.com   | X   |
| Stephanie Krueger   | Caseement-Bowling           | krueglaw@3rivers.net          |   |
| Norma Jandee        | St. Justus                  | njandee@yahoo.com             |   |
| Graig Jandee        | "                           |                               |   |
|                     |                             |                               |   |
|                     |                             |                               |   |
|                     |                             |                               |   |

Contact Lucy Richards at [lrichards@mt.gov](mailto:lrichards@mt.gov) or indicate on this sign-in sheet if you would like to be placed on the monthly agenda distribution list.

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**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

**RELATED MATERIALS**  
**ATTACHMENT 2**

EDWARD J. MARKEY, MA  
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TODD YOUNG  
CHIEF OF STAFF

April 24, 2012

Mr. Gene Dodaro  
Comptroller General  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C 20548

Dear Mr. Dodaro:

As Ranking Member of the House Natural Resources Committee, which has jurisdiction over coal leasing, exploration and production on federal lands, I write to request a Government Accountability Office (GAO) report examining federal coal leasing practices.

Coal exports are rising as U.S. electricity producers move away from coal in favor of natural gas and renewable energy. Last year, 107 million tons of coal was exported, the highest export total in two decades and equal to 10 percent of domestic coal production.<sup>1</sup> Peabody Energy told investors last week that the country's coal export capacity could more than double in five years to 250 million tons.<sup>2</sup> Cloud Peak Energy, which has tripled its coal exports over the last three years to 4.7 million tons, now considers its export business so important that the company has added both foreign electricity markets and clean air regulations to its required securities disclosure on business risks.<sup>3</sup> With such rapid market changes taking place, American taxpayers must be assured they are receiving the full value for energy resources held in the public trust, especially when mining companies are seeking to export hundreds of millions of tons of coal for premium prices.<sup>4</sup>

<sup>1</sup> Brown, Matthew; *Associated Press*; "Coal Exports Surge to their Highest Levels since 1991," April 10, 2012: (<http://www.google.com/hostednews/ap/article/ALeqM5gEPo52y3iAhPhyDL-ht5N3pz6OZA?docId=b1c41839ca5f47c5a39e44acc019c633>)

<sup>2</sup> Peabody Energy. "Peabody Energy Announces Results for the Quarter Ended March 31, 2012," April 19, 2012: (<http://phx.corporate-ir.net/phoenix.zhtml?c=129849&p=irol-newsArticle-Print&ID=1684914&highlight>)

<sup>3</sup> Cloud Peak Energy, Form 10-K; "Risks Related to our Business and Industry," Securities and Exchange Commission, February 17, 2012, p. 23: (<http://sec.gov/Archives/edgar/data/1411849/000104746912001130/a2207159x10-k.htm>)

<sup>4</sup> Gartrell, Peter T., Miller, John; "Peabody projections show lucrative Chinese market for PRB coal," *Platts Coal Trader*, December 6, 2010.

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GAO has not conducted a comprehensive review of the federal coal leasing program since 1994.<sup>5</sup> Since that time, the coal industry has continued moving away from depleted coal reserves in the east, and increased its production from federally leased coal tracts in the west. Coal produced from federal leases has grown from less than 70 million tons in 1980 to more than 450 million tons in 2011. Federally leased coal now accounts for some 40 percent of U.S. coal production. Nearly nine out of every 10 tons of federally leased coal is mined in the Powder River Basin of Wyoming and Montana.

Companies mining federal leases in Wyoming and Montana are increasing coal exports not only because of declining U.S. demand but also because they can sell coal for higher prices in foreign markets. Arch Coal told investors last year that Powder River Basin coal sold to international customers could fetch more than \$20 a ton.<sup>6</sup> By comparison, the company in 2012 contracted with mostly domestic buyers to sell coal from the basin for an average of \$14.40 per ton.<sup>7</sup> This price is already well above what Arch Coal and other companies pay in federal lease sales. The highest price ever received by the federal government for a lease sale in the Powder River Basin was \$1.10 per ton.<sup>8</sup>

Western coal producers in Wyoming, Montana, Colorado and Utah have signed agreements to export—or have already begun exporting—coal through existing terminals in Vancouver, British Columbia; Prince Rupert, British Columbia; Stockton, California; Richmond, California; Corpus Christi, Texas; New Orleans, Louisiana; and Superior, Wisconsin. U.S. producers increased shipments to Westshore Terminals, a Vancouver export coal facility, by more than 300 percent between 2009 and 2011. They have agreements to continue shipping coal to the facility through 2022.<sup>9</sup> In addition, multiple port projects are proposed along coasts and waterways in Oregon, Washington, Texas, Louisiana, Canada and Mexico—all potential outlets for coal produced from federal leases. Ambre Energy, an Australian firm that has bought coal mines in Montana and Wyoming, says it is “on track to becoming a major supplier of US thermal coal to international markets.”<sup>10</sup> The company has applied to build two export facilities in Washington. The proposed facilities are among six in Washington and Oregon, which combined, could handle 145 million tons of coal bound for Asian markets—more than 15 percent of current U.S. coal production.

The rush to export coal comes shortly after a 2008 U.S. Geological Survey (U.S.G.S.) report reduced estimates of coal available for future mining.<sup>11</sup> The report found that technically

<sup>5</sup> “Federal Coal-Leasing Program Needs Strengthening,” U.S. General Accounting Office: September, 1994: (<http://gao.gov/assets/160/154629.pdf>)

<sup>6</sup> Gartrell, Peter T., “Arch CEO sees \$20 range for PRB coal to Asia,” *Platts Coal Trader*, January, 31, 2011.

<sup>7</sup> Arch Coal, Form 10-K, February 29, 2012: (<http://sec.gov/Archives/edgar/data/1037676/000104746912001909/a2207536z10-k.htm>)

<sup>8</sup> Bureau of Land Management, West Caballo LBA:

([http://www.blm.gov/xy/st/en/programs/energy/Coal\\_Resources/PRB\\_Coal/lba\\_west\\_caballo.html](http://www.blm.gov/xy/st/en/programs/energy/Coal_Resources/PRB_Coal/lba_west_caballo.html))

<sup>9</sup> Westshore Terminals Investment Corporation, Annual Report 2011 (<http://www.westshore.com/pdf/finance/2011/ar.pdf>)

<sup>10</sup> Ambre Energy, “US thermal coal strategy,” accessed April 19, 2012: <http://ambreenergy.com/projects/us-thermal-coal-production>

<sup>11</sup> Luppens, J. A., Scott, D. C., Haacke, J. E., Osmonson, L. M., Rohrbacher, T. J., and Ellis, M. S., 2008. *Assessment of Coal Geology, Resources, and Reserves in the Gillette Coalfield, Powder River Basin, Wyoming: U.S. Geological Survey Open-File Report 2008-1202*, 127 p.: (<http://pubs.usgs.gov/of/2008/1202/pdf/of2008-1202.pdf>)

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recoverable reserves<sup>12</sup> make up 47 percent of the remaining coal in the Powder River Basin, while economically recoverable reserves<sup>13</sup> account for just 6 percent or 10.1 billion tons. That means there is less than 25 years of supply in the area based on current production and consumption levels. The study's results led Peabody Energy to review its economic assumptions about mining in the basin, while one of the study's authors said "we really can't say we're the Saudi Arabia of coal anymore."<sup>14</sup>

Such sweeping changes to the marketplace underscore the need for more information about the Bureau of Land Management's (BLM) leasing program. The BLM is responsible for coal leasing on approximately 570 million acres of land, as set out by the Federal Coal Leasing Amendments Act of 1976. A coal lease is awarded to the highest bidder provided that the applicant's offer meets or exceeds BLM's estimate of the "fair market value" for the tract being auctioned.<sup>15</sup> The agency's regulations allow two ways for selecting tracts of land to auction: (1) regional leasing in which BLM selects tracts within a region, and (2) leasing by application in which coal companies nominate tracts, subject to BLM approval. In 1990, the BLM disbanded the last of six federally designated "coal production regions" due to declining interest in coal leasing and poor coal market conditions.<sup>16</sup> Since that time, coal production from federal leases has increased 78 percent, peaking at over 511 million tons in 2004, according to BLM data. More than 8.4 billion tons of coal has been mined from federal coal tracts during the same period and the number of active coal leases managed by BLM has tripled to more than 300.

We lack information about how the rapid growth of coal mining on federal land combined with shrinking reserves and increasing exports produced from federal leases affect the value of U.S. coal. The House Natural Resources Committee has an interest in ensuring that BLM's leasing process promotes competition for coal tracts and that the "fair market value" established by BLM is accurate. I therefore ask GAO to examine the following:

1. National trends in coal production since the disbanding of the federal coal regions, including the number of "lease by application" requests, the number of bidders on each of those requests, and the amount of coal and royalties generated from those leases;
2. Processes followed by BLM to estimate and get the fair market value for leases of coal produced from federal lands, including what factors it considers in its calculation;
3. Whether BLM's fair-market-value estimates adequately accounts for revised reserve estimates and increased coal exports to foreign markets where prices are higher; and

<sup>12</sup> Technically recoverable reserves are energy resources that can be extracted using currently available technology with no regard to cost

<sup>13</sup> Economically recoverable reserves are energy resources that are technically feasible to extract at a reasonable rate of return

<sup>14</sup> Smith, Rebecca; "U.S. Foresees a Thinner Cushion of Coal," *Wall Street Journal*, June 8, 2009:

<http://online.wsj.com/article/SB124414770220386457.html>

<sup>15</sup> 43 CFR 3400.0-5(n) defines fair market value as the price "for which in all probability the coal deposit would be sold or leased by a knowledgeable owner willing but not obligated to sell or lease to a knowledgeable purchaser who desires but is not obligated to buy or lease."

<sup>16</sup> <http://blogs.wvgazette.com/coalatattoo/2011/02/11/powder-river-basin-not-a-coal-producing-region/>

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4. BLM's system for tracking and making publicly available information pertaining to sales, payments and other data related to coal production from federal leases.

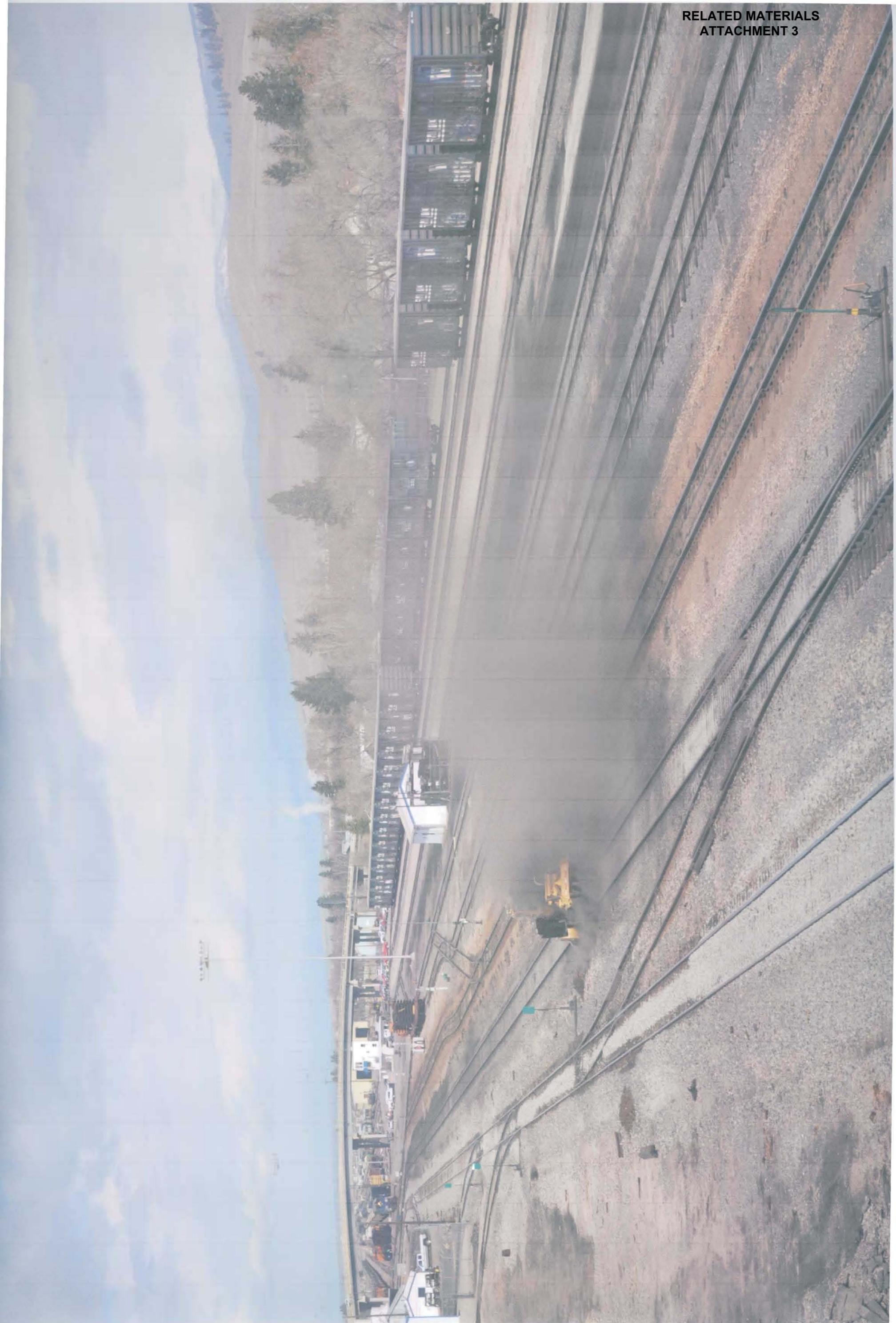
Please contact Morgan Gray ([morgan.gray@mail.house.gov](mailto:morgan.gray@mail.house.gov) or 202-225-6065) of the Committee on Natural Resources Democratic Staff to discuss in detail the specific scope of work and establish a timeline for completion. Thank you for your consideration and attention to this request.

Sincerely,



Edward J. Markey  
Ranking Member  
Committee on Natural Resources





# 612-1

OIL AND GAS LEASE SALE (JUNE 5, 2012)

**OIL AND GAS LEASE SALE (JUNE 5, 2012)  
JUNE 7, 2012  
Land Board**

The Department of Natural Resources and Conservation held an oil and gas lease sale on June 5, 2012, in the Auditorium at the Department of Transportation building. A total of 187 tracts were offered for lease. One hundred eighty-seven tracts were leased for a total of \$1,395,311.64. The 187 tracts that were sold covered a total of 73,185.18 acres. The average bid per acre was \$19.07.

The high competitive bid for the June 5th sale was \$700.00 per acre and the largest total bid was \$448,000.00 for Tract 138 in Sheridan County.

The Director requests Land Board approval to issue the leases from the June 5, 2012 sale.

**Grants:**

Common Schools  
MSU Morrill (ACI)  
MSU 2nd Grant (ACB)  
Public Buildings  
School of Mines  
State Normal School  
School for Deaf and Blind  
State Industrial School  
Public Land Trust – Navigable Rivers

**Counties:**

Blaine  
Cascade  
Daniels  
Lewis and Clark  
Liberty  
Sheridan  
Teton  
Valley

**State of Montana  
Oil & Gas Lease Sale - June 5, 2012  
Lease Sale Results**

The following described lands were offered for oil and gas leasing through oral competitive bidding in the Department of Transportation auditorium, 2701 Prospect Avenue, Helena, Montana, beginning at 9:00 am, June 5, 2012.

| Tract          | Stipulations                 | Twp  | Rng  | Sec | Description  | Acres    | Bid/Acre | Total Bid   | Lessee                      |
|----------------|------------------------------|------|------|-----|--|----------|----------|-------------|-----------------------------|
| <b>Blaine</b>  |                              |      |      |     |  |          |          |             |                             |
| 1              | 1, 2, 3, 4, 5, 6             | 34.N | 20.E | 16  | All  | 640.00   | \$56.00  | \$35,840.00 | COMET RIDGE MONTANA, LLC    |
| 2              | 1, 2, 3, 4, 5, 6             | 34.N | 20.E | 36  | All  | * 640.00 | \$12.00  | \$7,680.00  | COMET RIDGE MONTANA, LLC    |
| <b>Cascade</b> |                              |      |      |     |  |          |          |             |                             |
| 3              | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 3   | Lots 1, 2, 3, SE4NW4, S2NE4, SE4, E2SW4              | 481.26   | \$1.50   | \$721.89    | RAMPART ENERGY SERVICES LLC |
| 4              | 1, 2, 3, 4, 5, 6, 7          | 20.N | 1.E  | 4   | W2SW4, SE4SW4  | 120.00   | \$1.50   | \$180.00    | RAMPART ENERGY SERVICES LLC |
| 5              | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 10  | E2NW4, N2NE4, N2SE4, SW4                             | 400.00   | \$1.50   | \$600.00    | RAMPART ENERGY SERVICES LLC |
| 6              | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 11  | All  | 640.00   | \$10.00  | \$6,400.00  | H. KERMIT ANDERSEN          |
| 7              | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 15  | All  | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC |
| 8              | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 16  | All  | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC |
| 9              | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 17  | E2   | 320.00   | \$1.50   | \$480.00    | RAMPART ENERGY SERVICES LLC |
| 10             | 1, 2, 3, 4, 5, 6, 7          | 20.N | 1.E  | 22  | All  | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC |
| 11             | 2, 3, 4, 5, 6, 18            | 20.N | 1.E  | 24  | S2N2, part of SW4SW4 lying north of Luebbe Road      | 185.00   | \$1.50   | \$277.50    | RAMPART ENERGY SERVICES LLC |
| 12             | 2, 3, 4, 5, 6, 18            | 20.N | 1.E  | 25  | Part N2N2, SE4NE4, NE4SE4 lying north of Luebbe Road | 114.00   | \$1.50   | \$171.00    | RAMPART ENERGY SERVICES LLC |
| 13             | 1, 2, 3, 4, 5, 6, 7          | 20.N | 1.E  | 27  | E2NW4, S2S2  | 240.00   | \$1.50   | \$360.00    | RAMPART ENERGY SERVICES LLC |
| 14             | 1, 2, 3, 4, 5, 6, 7          | 20.N | 1.E  | 28  | NE4NW4, N2NE4  | * 120.00 | \$1.50   | \$180.00    | RAMPART ENERGY SERVICES LLC |
| 15             | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 31  | Lots 3, 4, E2, E2SW4                                 | * 470.49 | \$1.50   | \$705.74    | RAMPART ENERGY SERVICES LLC |
| 16             | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 32  | S2   | 320.00   | \$1.50   | \$480.00    | RAMPART ENERGY SERVICES LLC |
| 17             | 1, 2, 3, 4, 5, 6, 7          | 20.N | 1.E  | 33  | NE4, S2S2, NE4SW4                                    | * 360.00 | \$1.50   | \$540.00    | RAMPART ENERGY SERVICES LLC |
| 18             | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 34  | W2   | 320.00   | \$1.50   | \$480.00    | RAMPART ENERGY SERVICES LLC |
| 19             | 1, 2, 3, 4, 5, 6             | 20.N | 1.E  | 36  | All  | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC |
| 20             | 1, 2, 3, 4, 5, 6             | 20.N | 2.E  | 9   | SE4  | 160.00   | \$1.50   | \$240.00    | RAMPART ENERGY SERVICES LLC |
| 21             | 1, 2, 3, 4, 5, 6             | 20.N | 2.E  | 16  | All  | * 640.00 | \$3.00   | \$1,920.00  | TOMMY C. CRAIGHEAD          |
| 22             | 1, 2, 3, 4, 5, 6, 17         | 20.N | 2.E  | 17  | N2NW4, E2, E2SW4                                     | * 480.00 | \$2.75   | \$1,320.00  | TOMMY C. CRAIGHEAD          |
| 23             | 2, 3, 4, 5, 6, 18            | 20.N | 2.E  | 18  | E2NE4, E2W2NE4, N2NE4SE4, NE4NW4SE4                  | 150.00   | \$1.50   | \$225.00    | RAMPART ENERGY SERVICES LLC |
| 24             | 2, 3, 4, 5, 6, 17, 18        | 20.N | 2.E  | 20  | N2   | 320.00   | \$1.50   | \$480.00    | RAMPART ENERGY SERVICES LLC |
| 25             | 1, 2, 3, 4, 5, 6, 10         | 20.N | 2.E  | 36  | All  | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC |
| 26             | 1, 2, 3, 4, 5, 6             | 21.N | 1.E  | 2   | Lots 1, 2, S2NW4, NW4SW4                             | 202.36   | \$1.50   | \$303.54    | RAMPART ENERGY SERVICES LLC |
| 27             | 1, 2, 3, 4, 5, 6, 7          | 21.N | 1.E  | 8   | E2NE4, SE4   | 240.00   | \$1.50   | \$360.00    | RAMPART ENERGY SERVICES LLC |
| 28             | 1, 2, 3, 4, 5, 6, 7, 10      | 21.N | 1.E  | 9   | N2, SE4, N2SW4, SW4SW4                               | 600.00   | \$1.50   | \$900.00    | RAMPART ENERGY SERVICES LLC |
| 29             | 1, 2, 3, 4, 5, 6, 7          | 21.N | 1.E  | 15  | E2, N2SW4  | 400.00   | \$1.50   | \$600.00    | RAMPART ENERGY SERVICES LLC |
| 30             | 1, 2, 3, 4, 5, 6, 7          | 21.N | 1.E  | 16  | All  | 640.00   | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC |
| 31             | 1, 2, 3, 4, 5, 6, 10, 12, 14 | 21.N | 1.E  | 31  | NW4SE4, E2SW4, Sun Riverbed and related acreage      | 171.00   | \$1.50   | \$256.50    | RAMPART ENERGY SERVICES LLC |

| Tract                  | Stipulations                         | Twp  | Rng  | Sec | Description   | Acres    | Bid/Acre | Total Bid   | Lessee                              |
|------------------------|--------------------------------------|------|------|-----|---|----------|----------|-------------|-------------------------------------|
| <b>Cascade</b>         |                                      |      |      |     |   |          |          |             |                                     |
| 32                     | 1, 2, 3, 4, 5, 6, 10                 | 21.N | 1.E  | 36  | All   | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC         |
| 33                     | 1, 2, 3, 4, 5, 6, 8                  | 21.N | 2.E  | 16  | All   | 640.00   | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC         |
| 34                     | 1, 2, 3, 4, 5, 6, 10, 12, 15, 16     | 21.N | 2.E  | 36  | All, less patented RR R/W   | * 626.48 | \$1.50   | \$939.72    | RAMPART ENERGY SERVICES LLC         |
| 35                     | 1, 2, 3, 4, 5, 6                     | 22.N | 1.E  | 6   | Lots 3, 4, 5, 6, 7, SE4NW4, E2SW4   | * 308.48 | \$1.50   | \$462.72    | RAMPART ENERGY SERVICES LLC         |
| 36                     | 1, 2, 3, 4, 5, 6                     | 22.N | 1.E  | 16  | All   | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC         |
| 37                     | 1, 2, 3, 4, 5, 6, 7                  | 22.N | 1.E  | 36  | All   | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC         |
| 38                     | 1, 2, 3, 4, 5, 6, 11                 | 22.N | 2.E  | 10  | NW4NW4, SE4NW4, N2SE4, SW4SE4   | 200.00   | \$1.50   | \$300.00    | RAMPART ENERGY SERVICES LLC         |
| 39                     | 1, 2, 3, 4, 5, 6, 8                  | 22.N | 2.E  | 11  | SW4   | 160.00   | \$1.50   | \$240.00    | RAMPART ENERGY SERVICES LLC         |
| 40                     | 1, 2, 3, 4, 5, 6, 8                  | 22.N | 2.E  | 14  | NW4   | 160.00   | \$1.50   | \$240.00    | RAMPART ENERGY SERVICES LLC         |
| 41                     | 1, 2, 3, 4, 5, 6, 8                  | 22.N | 2.E  | 16  | All   | * 640.00 | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC         |
| 42                     | 1, 2, 3, 4, 5, 6                     | 22.N | 2.E  | 27  | N2  | * 320.00 | \$1.50   | \$480.00    | RAMPART ENERGY SERVICES LLC         |
| 43                     | 1, 2, 3, 4, 5, 6, 7                  | 22.N | 2.E  | 33  | N2, N2SE4   | * 400.00 | \$1.50   | \$600.00    | RAMPART ENERGY SERVICES LLC         |
| 44                     | 1, 2, 3, 4, 5, 6                     | 22.N | 2.E  | 36  | All   | 640.00   | \$1.50   | \$960.00    | RAMPART ENERGY SERVICES LLC         |
| 45                     | 1, 2, 3, 4, 5, 6, 12, 14             | 17.N | 1.W  | 10  | Missouri Riverbed and related acreage   | 120.00   | \$1.50   | \$180.00    | UNCONVENTIONAL ENERGY PARTNERS, LLC |
| 46                     | 1, 2, 3, 4, 5, 6, 12, 14             | 17.N | 1.W  | 11  | Missouri Riverbed and related acreage   | 77.00    | \$1.50   | \$115.50    | UNCONVENTIONAL ENERGY PARTNERS, LLC |
| 47                     | 1, 2, 3, 4, 5, 6, 10, 11, 12, 14, 16 | 17.N | 1.W  | 16  | Lots 1 thru 9, NW4NW4, E2NE4, SE4, S2SW4, Missouri Riverbed and related acreage | * 632.00 | \$12.00  | \$7,584.00  | LONEWOLF ENERGY, INC.               |
| 48                     | 1, 2, 3, 4, 5, 6, 7                  | 17.N | 1.W  | 36  | Lots 1, 2, 3, 4, N2, N2S2   | * 640.96 | \$11.00  | \$7,050.56  | LONEWOLF ENERGY, INC.               |
| 49                     | 1, 2, 3, 4, 5, 6, 7                  | 17.N | 2.W  | 16  | NW4, S2   | 480.00   | \$12.00  | \$5,760.00  | LONEWOLF ENERGY, INC.               |
| 50                     | 1, 2, 3, 4, 5, 6, 7, 10, 12, 14      | 17.N | 2.W  | 36  | Lots 7, 8, 12, 13, Missouri Riverbed and related acreage                        | 208.43   | \$12.00  | \$2,501.16  | LONEWOLF ENERGY, INC.               |
| 51                     | 1, 2, 3, 4, 5, 6, 7                  | 17.N | 3.W  | 16  | All   | 640.00   | \$17.00  | \$10,880.00 | LONEWOLF ENERGY, INC.               |
| 52                     | 1, 2, 3, 4, 5, 6, 7                  | 17.N | 3.W  | 36  | All   | 640.00   | \$13.00  | \$8,320.00  | LONEWOLF ENERGY, INC.               |
| <b>Daniels</b>         |                                      |      |      |     |   |          |          |             |                                     |
| 53                     | 1, 2, 3, 4, 5, 6                     | 34.N | 51.E | 16  | N2NW4   | * 80.00  | \$300.00 | \$24,000.00 | U.S. ENERCORP, LTD.                 |
| <b>Lewis and Clark</b> |                                      |      |      |     |   |          |          |             |                                     |
| 54                     | 1, 2, 3, 4, 5, 6, 7, 10, 12, 14      | 15.N | 3.W  | 2   | Lots 1, 2, S2NE4, SE4, Missouri Riverbed and related acreage                    | 395.26   | \$4.00   | \$1,581.04  | TOMMY C. CRAIGHEAD                  |
| 55                     | 1, 2, 3, 4, 5, 6                     | 15.N | 3.W  | 12  | S2  | * 320.00 | \$2.50   | \$800.00    | SUMMIT WEST OIL, LLC                |
| 56                     | 1, 2, 3, 4, 5, 6, 7, 10, 12, 14      | 15.N | 3.W  | 16  | Lots 1, 2, 3, N2, N2SW4, SW4SW4, Missouri Riverbed and related acreage          | * 611.61 | \$4.00   | \$2,446.44  | TOMMY C. CRAIGHEAD                  |
| 57                     | 1, 2, 3, 4, 5, 6, 7                  | 15.N | 3.W  | 18  | Lots 1, 2, 3, 4, E2W2, E2   | * 600.04 | \$4.50   | \$2,700.18  | SUMMIT WEST OIL, LLC                |
| 58                     | 1, 2, 3, 4, 5, 6                     | 15.N | 4.W  | 16  | All   | 640.00   | \$3.75   | \$2,400.00  | TOMMY C. CRAIGHEAD                  |
| 59                     | 1, 2, 3, 4, 5, 6, 7                  | 15.N | 4.W  | 32  | Lots 1 thru 8, E2   | 624.72   | \$3.75   | \$2,342.70  | SUMMIT WEST OIL, LLC                |
| 60                     | 1, 2, 3, 4, 5, 6, 7, 10, 16          | 15.N | 4.W  | 36  | All   | * 640.00 | \$3.50   | \$2,240.00  | SUMMIT WEST OIL, LLC                |
| 61                     | 1, 2, 3, 4, 5, 6, 7, 10, 12          | 16.N | 3.W  | 4   | Lots 1, 2, 3, 4, S2   | 445.24   | \$3.00   | \$1,335.72  | TOMMY C. CRAIGHEAD                  |
| 62                     | 1, 2, 3, 4, 5, 6, 7                  | 16.N | 3.W  | 16  | All   | * 640.00 | \$2.50   | \$1,600.00  | SUMMIT WEST OIL, LLC                |

| Tract                  | Stipulations                    | Twp  | Rng | Sec | Description   | Acres  | Bid/Acre | Total Bid  | Lessee                 |
|------------------------|---------------------------------|------|-----|-----|---|--------|----------|------------|------------------------|
| <b>Lewis and Clark</b> |                                 |      |     |     |   |        |          |            |                        |
| 63                     | 1, 2, 3, 4, 5, 6, 7, 10, 12, 14 | 16.N | 3.W | 24  | Lots 2, 5, S2NW4, W2NE4, NE4NE4, N2SW4, Missouri Riverbed and related acreage | 387.82 | \$2.75   | \$1,066.50 | SUMMIT WEST OIL, LLC   |
| 64                     | 1, 2, 3, 4, 5, 6, 7, 10, 11     | 16.N | 3.W | 36  | All   | 640.00 | \$2.50   | \$1,600.00 | SUMMIT WEST OIL, LLC   |
| 65                     | 1, 2, 3, 4, 5, 6, 10            | 16.N | 4.W | 4   | Lots 1, 2, 3, S2NE4, SE4  | 316.39 | \$2.75   | \$870.07   | SUMMIT WEST OIL, LLC   |
| 66                     | 1, 2, 3, 4, 5, 6, 7, 10         | 16.N | 4.W | 8   | NW4, W2SW4  | 240.00 | \$2.00   | \$480.00   | SUMMIT WEST OIL, LLC   |
| 67                     | 1, 2, 3, 4, 5, 6                | 16.N | 4.W | 10  | NW4   | 160.00 | \$1.50   | \$240.00   | SUMMIT WEST OIL, LLC   |
| 68                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 4.W | 16  | All   | 640.00 | \$3.25   | \$2,080.00 | SUMMIT WEST OIL, LLC   |
| 69                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 4.W | 28  | N2NW4, SE4NW4, S2SE4  | 200.00 | \$1.50   | \$300.00   | SUMMIT WEST OIL, LLC   |
| 70                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 4.W | 34  | NW4NW4, SE4NW4, NW4SE4, S2S2  | 280.00 | \$1.50   | \$420.00   | SUMMIT WEST OIL, LLC   |
| 71                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 4.W | 36  | N2, E2SE4, W2SW4  | 480.00 | \$1.50   | \$720.00   | SUMMIT WEST OIL, LLC   |
| 72                     | 1, 2, 3, 4, 5, 6, 7, 10         | 16.N | 5.W | 16  | NW4, SE4SE4, NW4SW4, S2SW4  | 320.00 | \$1.50   | \$480.00   | SUMMIT WEST OIL, LLC   |
| 73                     | 1, 2, 3, 4, 5, 6, 7, 10         | 16.N | 5.W | 30  | Lot 3, NE4, N2SE4   | 271.05 | \$1.50   | \$406.58   | SUMMIT WEST OIL, LLC   |
| 74                     | 1, 2, 3, 4, 5, 6, 7, 10         | 16.N | 5.W | 32  | N2SW4, SE4SW4   | 120.00 | \$1.50   | \$180.00   | SUMMIT WEST OIL, LLC   |
| 75                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 5.W | 34  | S2NE4, NE4SE4, S2S2   | 280.00 | \$1.50   | \$420.00   | SUMMIT WEST OIL, LLC   |
| 76                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 5.W | 36  | N2, N2SE4   | 400.00 | \$1.50   | \$600.00   | SUMMIT WEST OIL, LLC   |
| 77                     | 2, 3, 4, 5, 6, 19               | 16.N | 6.W | 16  | All   | 640.00 | \$1.50   | \$960.00   | SUMMIT WEST OIL, LLC   |
| 78                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 6.W | 26  | All   | 640.00 | \$1.50   | \$960.00   | SUMMIT WEST OIL, LLC   |
| 79                     | 2, 3, 4, 5, 6, 18               | 16.N | 6.W | 34  | SE4NE4, SE4   | 200.00 | \$1.50   | \$300.00   | SUMMIT WEST OIL, LLC   |
| 80                     | 2, 3, 4, 5, 6, 18               | 16.N | 6.W | 35  | All   | 640.00 | \$1.50   | \$960.00   | SUMMIT WEST OIL, LLC   |
| 81                     | 1, 2, 3, 4, 5, 6, 7             | 16.N | 6.W | 36  | All   | 640.00 | \$1.50   | \$960.00   | SUMMIT WEST OIL, LLC   |
| 82                     | 1, 2, 3, 4, 5, 6, 10            | 17.N | 4.W | 16  | All   | 640.00 | \$9.00   | \$5,760.00 | TOMMY C. CRAIGHEAD     |
| 83                     | 1, 2, 3, 4, 5, 6, 7, 10, 12     | 17.N | 4.W | 36  | Lots 1, 2, 3, 4, SE4NW4, NE4NE4, S2NE4, S2                                    | 637.50 | \$6.00   | \$3,825.00 | LONEWOLF ENERGY, INC.  |
| 84                     | 2, 3, 4, 5, 6, 10, 12, 19       | 17.N | 5.W | 6   | Lots 1 thru 7, SE4NW4, S2NE4, SE4, E2SW4                                      | 647.63 | \$8.00   | \$5,181.04 | SUMMIT WEST OIL, LLC   |
| 85                     | 2, 3, 4, 5, 6, 10, 12, 19       | 17.N | 5.W | 16  | All   | 640.00 | \$9.00   | \$5,760.00 | SUMMIT WEST OIL, LLC   |
| 86                     | 2, 3, 4, 5, 6, 19               | 17.N | 5.W | 18  | Lots 3, 4, SE4, E2SW4   | 319.45 | \$10.00  | \$3,194.50 | SUMMIT WEST OIL, LLC   |
| 87                     | 1, 2, 3, 4, 5, 6, 7, 10, 11     | 17.N | 5.W | 24  | W2SE4, S2SW4  | 160.00 | \$9.00   | \$1,440.00 | SUMMIT WEST OIL, LLC   |
| 88                     | 1, 2, 3, 4, 5, 6, 7             | 17.N | 5.W | 32  | NE4NW4, NE4   | 200.00 | \$10.00  | \$2,000.00 | SUMMIT WEST OIL, LLC   |
| 89                     | 1, 2, 3, 4, 5, 6, 7, 10         | 17.N | 5.W | 36  | All   | 640.00 | \$13.00  | \$8,320.00 | SUMMIT WEST OIL, LLC   |
| 90                     | 2, 3, 4, 5, 6, 10, 19           | 17.N | 6.W | 12  | E2  | 320.00 | \$1.50   | \$480.00   | SUMMIT WEST OIL, LLC   |
| 91                     | 2, 3, 4, 5, 6, 19               | 17.N | 6.W | 16  | Lots 1, 2, 3, 4, 5, 6, E2, E2SW4  | 628.75 | \$6.00   | \$3,772.50 | SKUNK CREEK RANCH, LLC |
| 92                     | 2, 3, 4, 5, 6, 19               | 17.N | 6.W | 28  | Lot 1, NE4NW4   | 78.23  | \$1.50   | \$117.34   | SUMMIT WEST OIL, LLC   |
| 93                     | 2, 3, 4, 5, 6, 10, 19           | 17.N | 6.W | 36  | All   | 640.00 | \$1.50   | \$960.00   | SUMMIT WEST OIL, LLC   |
| 94                     | 2, 3, 4, 5, 6, 19               | 18.N | 6.W | 16  | All   | 640.00 | \$1.50   | \$960.00   | SUMMIT WEST OIL, LLC   |
| 95                     | 2, 3, 4, 5, 6, 19               | 18.N | 6.W | 20  | SW4SW4  | 40.00  | \$2.50   | \$100.00   | SUMMIT WEST OIL, LLC   |
| 96                     | 2, 3, 4, 5, 6, 10, 19           | 18.N | 6.W | 26  | All   | 640.00 | \$4.25   | \$2,720.00 | SUMMIT WEST OIL, LLC   |
| 97                     | 2, 3, 4, 5, 6, 10, 12, 14, 19   | 18.N | 6.W | 28  | E2NE4, SE4, E2SW4, Dearborn Riverbed and related acreage                      | 329.00 | \$3.75   | \$1,233.75 | SUMMIT WEST OIL, LLC   |

| Tract                  | Stipulations          | Twp  | Rng | Sec | Description                                    | Acres    | Bid/Acre | Total Bid  | Lessee   |
|------------------------|-----------------------|------|-----|-----|--|----------|----------|------------|--|
| <b>Lewis and Clark</b> |                       |      |     |     |  |          |          |            |  |
| 98                     | 2, 3, 4, 5, 6, 10, 19 | 18.N | 6.W | 36  | All  | 640.00   | \$3.75   | \$2,400.00 | SUMMIT WEST OIL, LLC                                     |
| 99                     | 2, 3, 4, 5, 6, 19     | 19.N | 6.W | 30  | Lots 1, 2, 3, 4, NE4NW4, SE4NE4, E2SE4, SE4SW4 | * 341.56 | \$4.00   | \$1,366.24 | WILLIS OIL & GAS, INC.                                   |
| 100                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 2   | Lot 4, SW4NW4, N2SW4                           | 161.41   | \$1.50   | \$242.12   | SUMMIT WEST OIL, LLC                                     |
| 101                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 3   | Lots 1, 2, 3, 4, S2N2, S2                      | 645.72   | \$4.00   | \$2,582.88 | SUMMIT WEST OIL, LLC                                     |
| 102                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 4   | Lots 1, 2, 3, 4, S2N2, S2                      | 646.01   | \$4.00   | \$2,584.04 | TOMMY C. CRAIGHEAD                                       |
| 103                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 5   | Lots 3, 4, S2NW4, S2                           | 483.63   | \$1.50   | \$725.44   | SUMMIT WEST OIL, LLC                                     |
| 104                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 8   | N2N2, NE4SW4                                   | 200.00   | \$1.50   | \$300.00   | SUMMIT WEST OIL, LLC                                     |
| 105                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 9   | N2, SE4, N2SW4                                 | 560.00   | \$3.50   | \$1,960.00 | TOMMY C. CRAIGHEAD                                       |
| 106                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 10  | N2NW4  | * 80.00  | \$1.50   | \$120.00   | SUMMIT WEST OIL, LLC                                     |
| 107                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 14  | SW4SW4   | * 40.00  | \$2.50   | \$100.00   | SUMMIT WEST OIL, LLC                                     |
| 108                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 15  | NW4NW4, S2SE4, SE4SW4                          | * 160.00 | \$1.50   | \$240.00   | SUMMIT WEST OIL, LLC                                     |
| 109                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 16  | All  | 640.00   | \$4.25   | \$2,720.00 | TOMMY C. CRAIGHEAD                                       |
| 110                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 17  | NW4, NE4NE4, S2NE4, S2                         | 600.00   | \$3.50   | \$2,100.00 | SUMMIT WEST OIL, LLC                                     |
| 111                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 20  | NE4NW4, NW4NE4, S2NE4, N2SE4, NE4SW4           | 280.00   | \$1.50   | \$420.00   | SUMMIT WEST OIL, LLC                                     |
| 112                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 21  | S2SW4  | 80.00    | \$1.50   | \$120.00   | SUMMIT WEST OIL, LLC                                     |
| 113                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 22  | NE4NW4, NW4NE4, E2E2, SW4SE4, SE4SW4           | * 320.00 | \$1.50   | \$480.00   | SUMMIT WEST OIL, LLC                                     |
| 114                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 23  | W2W2   | * 160.00 | \$1.50   | \$240.00   | SUMMIT WEST OIL, LLC                                     |
| 115                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 28  | NW4NW4, S2NW4                                  | 120.00   | \$1.50   | \$180.00   | SUMMIT WEST OIL, LLC                                     |
| 116                    | 2, 3, 4, 5, 6, 10, 19 | 19.N | 7.W | 32  | NE4NW4, N2NE4, SE4NE4                          | 160.00   | \$1.50   | \$240.00   | SUMMIT WEST OIL, LLC                                     |
| 117                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 34  | N2N2, SE4, NE4SW4                              | 360.00   | \$1.50   | \$540.00   | SUMMIT WEST OIL, LLC                                     |
| 118                    | 2, 3, 4, 5, 6, 19     | 19.N | 7.W | 36  | All  | * 640.00 | \$4.25   | \$2,720.00 | TOMMY C. CRAIGHEAD                                       |
| 119                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 12  | S2NE4, SE4                                     | 240.00   | \$1.50   | \$360.00   | SUMMIT WEST OIL, LLC                                     |
| 120                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 13  | N2NE4, SW4NE4                                  | 120.00   | \$1.50   | \$180.00   | SUMMIT WEST OIL, LLC                                     |
| 121                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 19  | E2NW4, NW4NE4, S2NE4, SE4, NE4SW4              | * 400.00 | \$1.50   | \$600.00   | SUMMIT WEST OIL, LLC                                     |
| 122                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 26  | N2NW4, SE4NW4, W2NE4, S2SW4                    | 280.00   | \$1.50   | \$420.00   | SUMMIT WEST OIL, LLC                                     |
| 123                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 27  | N2N2, S2S2                                     | 320.00   | \$1.50   | \$480.00   | SUMMIT WEST OIL, LLC                                     |
| 124                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 28  | NE4, SE4SE4                                    | 200.00   | \$4.25   | \$850.00   | WILLIS OIL & GAS, INC.                                   |
| 125                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 30  | SE4  | 160.00   | \$1.50   | \$240.00   | RANDALL L WEEKS,<br>TRUSTEE OF THE<br>RANDALL L WEEKS TR |
| 126                    | 2, 3, 4, 5, 6, 10, 19 | 20.N | 7.W | 31  | NE4, NE4SE4                                    | 200.00   | \$1.50   | \$300.00   | SUMMIT WEST OIL, LLC                                     |
| 127                    | 2, 3, 4, 5, 6, 10, 19 | 20.N | 7.W | 32  | NW4, N2SW4                                     | 240.00   | \$1.50   | \$360.00   | SUMMIT WEST OIL, LLC                                     |
| 128                    | 2, 3, 4, 5, 6, 10, 19 | 20.N | 7.W | 33  | NE4NE4, S2S2                                   | 200.00   | \$1.50   | \$300.00   | SUMMIT WEST OIL, LLC                                     |
| 129                    | 2, 3, 4, 5, 6, 19     | 20.N | 7.W | 34  | N2N2   | 160.00   | \$1.50   | \$240.00   | SUMMIT WEST OIL, LLC                                     |
| 130                    | 2, 3, 4, 5, 6, 10, 19 | 20.N | 7.W | 36  | NW4, S2  | 480.00   | \$4.25   | \$2,040.00 | SUMMIT WEST OIL, LLC                                     |
| 131                    | 2, 3, 4, 5, 6, 20     | 20.N | 8.W | 2   | SW4SE4, S2SW4                                  | 120.00   | \$1.75   | \$210.00   | SUMMIT WEST OIL, LLC                                     |
| 132                    | 2, 3, 4, 5, 6, 20     | 20.N | 8.W | 11  | W2, W2NE4, N2SE4                               | 480.00   | \$1.75   | \$840.00   | SUMMIT WEST OIL, LLC                                     |
| 133                    | 2, 3, 4, 5, 6, 10, 20 | 20.N | 8.W | 14  | N2NW4, SW4NW4, SW4SW4                          | 160.00   | \$1.75   | \$280.00   | SUMMIT WEST OIL, LLC                                     |

| Tract                  | Stipulations              | Twp  | Rng  | Sec | Description   | Acres    | Bid/Acre | Total Bid    | Lessee                        |
|------------------------|---------------------------|------|------|-----|---|----------|----------|--------------|-------------------------------|
| <b>Lewis and Clark</b> |                           |      |      |     |   |          |          |              |                               |
| 134                    | 2, 3, 4, 5, 6, 10, 20     | 20.N | 8.W  | 34  | SE4SE4  | * 40.00  | \$2.75   | \$110.00     | SUMMIT WEST OIL, LLC          |
| 135                    | 2, 3, 4, 5, 6, 10, 20     | 20.N | 8.W  | 36  | NW4, S2   | * 480.00 | \$1.75   | \$840.00     | SUMMIT WEST OIL, LLC          |
| <b>Liberty</b>         |                           |      |      |     |   |          |          |              |                               |
| 136                    | 1, 2, 3, 4, 5, 6          | 35.N | 4.E  | 12  | W2  | 320.00   | \$10.00  | \$3,200.00   | A. B. ENERGY LLC              |
| <b>Sheridan</b>        |                           |      |      |     |   |          |          |              |                               |
| 137                    | 1, 2, 3, 4, 5, 6, 8       | 31.N | 58.E | 16  | W2  | 320.00   | \$230.00 | \$73,600.00  | YATES PETROLEUM CORPORATION   |
| 138                    | 1, 2, 3, 4, 5, 6, 11      | 35.N | 58.E | 16  | All, below the base of the Mission Canyon formation             | * 640.00 | \$700.00 | \$448,000.00 | LONEWOLF ENERGY, INC.         |
| 139                    | 1, 2, 3, 4, 5, 6, 11      | 37.N | 58.E | 4   | Lots 5, 6, 11, 12, SW4, below the base of the Charles formation | 320.00   | \$290.00 | \$92,800.00  | LONEWOLF ENERGY, INC.         |
| <b>Teton</b>           |                           |      |      |     |   |          |          |              |                               |
| 140                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 2   | S2SW4   | * 80.00  | \$1.50   | \$120.00     | PRIMARY PETROLEUM COMPANY LLC |
| 141                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 3   | E2SE4, SW4SW4   | 120.00   | \$1.50   | \$180.00     | PRIMARY PETROLEUM COMPANY LLC |
| 142                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 4   | SE4NE4, E2SE4   | * 120.00 | \$1.50   | \$180.00     | PRIMARY PETROLEUM COMPANY LLC |
| 143                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 21  | E2NE4   | * 80.00  | \$1.50   | \$120.00     | PRIMARY PETROLEUM COMPANY LLC |
| 144                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 22  | E2NW4, W2NE4, SE4SE4  | * 200.00 | \$1.50   | \$300.00     | PRIMARY PETROLEUM COMPANY LLC |
| 145                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 23  | NW4   | * 160.00 | \$1.50   | \$240.00     | PRIMARY PETROLEUM COMPANY LLC |
| 146                    | 2, 3, 4, 5, 6, 19         | 27.N | 7.W  | 27  | NE4NW4, SW4NW4, NW4NE4, NW4SE4, SE4SE4, NE4SW4                  | * 240.00 | \$1.50   | \$360.00     | PRIMARY PETROLEUM COMPANY LLC |
| <b>Valley</b>          |                           |      |      |     |   |          |          |              |                               |
| 147                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 4   | All   | 640.00   | \$1.50   | \$960.00     | HARVEY MINERAL PARTNERS, LP   |
| 148                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 10  | All   | 640.00   | \$1.50   | \$960.00     | HARVEY MINERAL PARTNERS, LP   |
| 149                    | 2, 3, 4, 5, 6, 13, 14, 18 | 33.N | 39.E | 13  | Lots 5, 6, 7, 8 (subject to 70-16-201, MCA)                     | 103.00   | \$1.50   | \$154.50     | HARVEY MINERAL PARTNERS, LP   |
| 150                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 15  | NW4, SE4, N2SW4   | 400.00   | \$1.50   | \$600.00     | HARVEY MINERAL PARTNERS, LP   |
| 151                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 17  | SE4   | 160.00   | \$1.50   | \$240.00     | HARVEY MINERAL PARTNERS, LP   |
| 152                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 20  | All   | 640.00   | \$1.50   | \$960.00     | HARVEY MINERAL PARTNERS, LP   |
| 153                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 21  | W2NW4, S2SE4, SW4   | 320.00   | \$1.50   | \$480.00     | HARVEY MINERAL PARTNERS, LP   |
| 154                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 22  | SE4NW4, E2, NE4SW4, S2SW4                                       | 480.00   | \$1.50   | \$720.00     | HARVEY MINERAL PARTNERS, LP   |
| 155                    | 2, 3, 4, 5, 6, 13, 14, 18 | 33.N | 39.E | 25  | Lots 6, 7, 8, 9, W2 (subject to 70-16-201, MCA)                 | 414.60   | \$1.50   | \$621.90     | HARVEY MINERAL PARTNERS, LP   |
| 156                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 26  | All   | 640.00   | \$1.50   | \$960.00     | HARVEY MINERAL PARTNERS, LP   |
| 157                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 29  | All   | 640.00   | \$13.00  | \$8,320.00   | HARVEY MINERAL PARTNERS, LP   |
| 158                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 32  | Lot 4, N2   | 346.40   | \$13.00  | \$4,503.20   | WILLIS OIL & GAS, INC.        |
| 159                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 33  | N2  | 320.00   | \$1.50   | \$480.00     | HARVEY MINERAL PARTNERS, LP   |
| 160                    | 1, 2, 3, 4, 5, 6          | 33.N | 39.E | 35  | N2  | 320.00   | \$1.50   | \$480.00     | HARVEY MINERAL PARTNERS, LP   |
| 161                    | 1, 2, 3, 4, 5, 6          | 33.N | 40.E | 2   | Lots 1, 2, S2N2, S2   | 559.06   | \$1.50   | \$838.59     | HARVEY MINERAL PARTNERS, LP   |
| 162                    | 1, 2, 3, 4, 5, 6          | 33.N | 40.E | 4   | Lots 1, 2, 3, 4, S2N2, S2                                       | * 639.44 | \$1.50   | \$959.16     | HARVEY MINERAL PARTNERS, LP   |
| 163                    | 1, 2, 3, 4, 5, 6          | 33.N | 40.E | 6   | Lots 1 thru 11, SE4NW4, S2NE4, SE4, E2SW4                       | 649.32   | \$1.50   | \$973.98     | HARVEY MINERAL PARTNERS, LP   |
| 164                    | 1, 2, 3, 4, 5, 6          | 34.N | 40.E | 19  | S2NE4, SE4  | 240.00   | \$1.50   | \$360.00     | HARVEY MINERAL PARTNERS, LP   |
| 165                    | 1, 2, 3, 4, 5, 6          | 34.N | 43.E | 16  | All   | * 640.00 | \$74.00  | \$47,360.00  | HARVEY MINERAL PARTNERS, LP   |
| 166                    | 1, 2, 3, 4, 5, 6          | 34.N | 43.E | 21  | N2  | 320.00   | \$71.00  | \$22,720.00  | YATES PETROLEUM CORPORATION   |

| Tract         | Stipulations           | Twp  | Rng  | Sec | Description                         | Acres    | Bid/Acre | Total Bid   | Lessee                      |
|---------------|------------------------|------|------|-----|-------------------------------------|----------|----------|-------------|-----------------------------|
| <b>Valley</b> |                        |      |      |     |                                     |          |          |             |                             |
| 167           | 1, 2, 3, 4, 5, 6       | 34.N | 43.E | 23  | S2                                  | 320.00   | \$71.00  | \$22,720.00 | YATES PETROLEUM CORPORATION |
| 168           | 1, 2, 3, 4, 5, 6       | 34.N | 43.E | 24  | All                                 | * 640.00 | \$82.00  | \$52,480.00 | HARVEY MINERAL PARTNERS, LP |
| 169           | 1, 2, 3, 4, 5, 6       | 34.N | 43.E | 27  | S2                                  | 320.00   | \$66.00  | \$21,120.00 | HARVEY MINERAL PARTNERS, LP |
| 170           | 1, 2, 3, 4, 5, 6, 8    | 35.N | 42.E | 29  | S2NW4, SW4NE4, SE4, E2SW4           | 360.00   | \$24.00  | \$8,640.00  | HARVEY MINERAL PARTNERS, LP |
| 171           | 1, 2, 3, 4, 5, 6, 8    | 35.N | 43.E | 5   | SW4                                 | 160.00   | \$50.00  | \$8,000.00  | TOMMY C. CRAIGHEAD          |
| 172           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 6   | Lots 4, 5, 6, 7                     | 134.20   | \$50.00  | \$6,710.00  | TOMMY C. CRAIGHEAD          |
| 173           | 1, 2, 3, 4, 5, 6, 8    | 35.N | 43.E | 8   | W2                                  | 320.00   | \$56.00  | \$17,920.00 | HARVEY MINERAL PARTNERS, LP |
| 174           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 9   | E2NW4, SE4                          | 240.00   | \$61.00  | \$14,640.00 | YATES PETROLEUM CORPORATION |
| 175           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 17  | E2, E2SW4                           | 400.00   | \$65.00  | \$26,000.00 | YATES PETROLEUM CORPORATION |
| 176           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 19  | E2                                  | 320.00   | \$76.00  | \$24,320.00 | HARVEY MINERAL PARTNERS, LP |
| 177           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 20  | N2N2, SE4NE4                        | 200.00   | \$75.00  | \$15,000.00 | YATES PETROLEUM CORPORATION |
| 178           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 28  | SE4SW4                              | * 40.00  | \$75.00  | \$3,000.00  | YATES PETROLEUM CORPORATION |
| 179           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 29  | W2, NW4NE4                          | 360.00   | \$80.00  | \$28,800.00 | HARVEY MINERAL PARTNERS, LP |
| 180           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 31  | Lots 1, 2, 3, 4, E2W2, E2           | * 620.68 | \$105.00 | \$65,171.40 | HARVEY MINERAL PARTNERS, LP |
| 181           | 1, 2, 3, 4, 5, 6       | 35.N | 43.E | 35  | N2, SW4                             | 480.00   | \$105.00 | \$50,400.00 | HARVEY MINERAL PARTNERS, LP |
| 182           | 1, 2, 3, 4, 5, 6, 7, 9 | 36.N | 38.E | 16  | All                                 | 640.00   | \$20.00  | \$12,800.00 | TOMMY C. CRAIGHEAD          |
| 183           | 1, 2, 3, 4, 5, 6       | 36.N | 40.E | 16  | N2N2, SW4NW4, SE4NE4, NW4SW4, S2SW4 | * 360.00 | \$1.50   | \$540.00    | HARVEY MINERAL PARTNERS, LP |
| 184           | 1, 2, 3, 4, 5, 6       | 36.N | 42.E | 36  | All                                 | 640.00   | \$53.00  | \$33,920.00 | HARVEY MINERAL PARTNERS, LP |
| 185           | 1, 2, 3, 4, 5, 6, 7    | 37.N | 39.E | 16  | All                                 | 640.00   | \$10.00  | \$6,400.00  | HARVEY MINERAL PARTNERS, LP |
| 186           | 1, 2, 3, 4, 5, 6       | 37.N | 40.E | 16  | All                                 | 640.00   | \$10.00  | \$6,400.00  | HARVEY MINERAL PARTNERS, LP |
| 187           | 1, 2, 3, 4, 5, 6, 7    | 37.N | 42.E | 16  | W2NW4, S2SE4, SW4                   | 320.00   | \$20.00  | \$6,400.00  | HARVEY MINERAL PARTNERS, LP |

\* Part or all of tract is not state-owned surface

## Summary by Lessor

|   | Total Acres | Total Tracts |
|---|-------------|--------------|
| Dept. of Natural Resources and Conservation | 73,185.18   | 187          |

## Oil and Gas Lease Sale Summary

|                      |                |
|----------------------|----------------|
| Total Tracts         | 187            |
| Total Acres          | 73,185.18      |
| Total Bid Revenue    | \$1,395,311.64 |
| Average Bid Per Acre | \$19.07        |

**State of Montana**  
**Oil & Gas Lease Sale - June 5, 2012**  
**Stipulations**

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- 1 Lessee shall notify and obtain approval from the Department's Trust Land Management Division (TLMD) prior to constructing well pads, roads, power lines, and related facilities that may require surface disturbance on the tract. Lessee shall comply with any mitigation measures stipulated in TLMD's approval.
- 2 Prior to the drilling of any well, lessee shall send one copy of the well prognosis, including Form 22 "Application for Permit" to the Department's Trust Land Management Division (TLMD). After a well is drilled and completed, lessee shall send one copy of all logs run, Form 4A "Completion Report", and geologic report to TLMD. A copy of Form 2 "Sundry Notice and Report of Wells" or other appropriate Board of Oil and Gas Conservation form shall be sent to TLMD whenever any subsequent change in well status or operator is intended or has occurred. Lessee shall also notify and obtain approval from the TLMD prior to plugging a well on the lease premises.  
  
Issuance of this lease in no way commits the Land Board to approval of coal bed methane production on this lease. Any coal bed methane extraction wells would require subsequent review and approval by the board.
- 3 The TLMD will complete an initial review for cultural resources and, where applicable, paleontological resources of the area intended for disturbance and may require a resources inventory. Based on the results of the inventory, the TLMD may restrict surface activity for the purpose of protecting significant resources located on the lease premises.
- 4 The lessee shall be responsible for controlling any noxious weeds introduced by lessee's activity on State-owned land and shall prevent or eradicate the spread of those noxious weeds onto land adjoining the lease premises.
- 5 The definitions of "oil" and "gas" provided in 82-1-111, MCA, do not apply to this lease for royalty calculation purposes.
- 6 If the State does not own the surface, the lessee must contact the owner of the surface in writing at least 30 days prior to any surface activity. A copy of the correspondence shall be sent to TLMD.
- 7 Due to unstable soil conditions on this tract and/or topography that is rough and/or steep, surface use may be restricted or denied. Seismic activity may be restricted to poltershots.
- 8 The lessee is responsible to pay for all damages, including penalties and charges assessed by the USDA-CFSA on CRP lands, as a result of drilling and production on the tract.
- 9 Active sage grouse lek(s) have been identified on or adjacent to this tract. No activities shall occur on the tract until the proposed action has been approved in writing by the Director of the Department. If surface activity is proposed on the tract, the department will consult with the Director of the Department of Fish, Wildlife and Parks for his or her comments, concerns and recommendations. Additional mitigation measures may be required, including no-surface-occupancy buffers and/or timing restrictions, which may encompass part or all of the tract.
- 10 Unless otherwise approved by the Department in writing, wells and related surface infrastructure, including new road construction, are prohibited within 1/2 mile of the centerline of a navigable river, lake or reservoir, and within 1/4 mile of direct tributary streams of navigable waterways, on or adjacent to the tract. No surface occupancy is allowed within the bed of a river, stream, lake or reservoir, islands and accretions or abandoned channels.
- 11 Due to the floodplain/wetlands area(s), surface use may be restricted or denied.
- 12 This tract contains navigable riverbeds. No surface occupancy is allowed within the bed of the navigable river, abandoned channels, or on islands and accretions. In addition, upon completion of a successful well, where river title is disputed, the lessee will file an interpleader action under Rule 22, M.R.Civ.P. in the Montana District Court, or other court having jurisdiction, in which the leased lands are located for all acreage within the lease in which the title is disputed. The lessee shall name all potential royalty claimants as defendants.

- 13 The State, as a riparian owner, may have an ownership claim to adjacent river/stream/lake/reservoir bed(s) and related acreage in this section. Upon completion of a successful well, where river, stream, lake, or reservoir title or adjoining land title is disputed, the lessee will file an interpleader action under Rule 22, M.R.Civ.P. in the Montana District Court, or other court having jurisdiction, in which the leased lands are located for all acreage within the lease in which the title is disputed. The lessee shall name all potential royalty claimants as defendants.
- 14 If the lessee completes a successful oil and/or gas well, and if land title is disputed, the lessee shall fund professional land surveys as needed to determine the location and acreage encompassed by the spacing and/or pooling unit and the state lease acreage within that unit. Surveys shall be conducted by a licensed land surveyor acceptable to the Department, and shall be prepared pursuant to survey requirements provided by the Department.
- 15 Residential and/or commercial development exists on this tract. Surface utilization may be restricted.
- 16 Due to existing surface uses (such as center pivots, wheel lines, etc.) development on this tract may be restricted.
- 17 A portion of this tract is subject to an oil and gas subordination agreement between the U.S. and the State.
- 18 This lease includes areas that may be environmentally sensitive. Therefore, if the lessee intends to conduct any activities on the lease premises, the lessee shall submit to TLMD one copy of an Operating Plan or Amendment to an existing Operating Plan, describing in detail the proposed activities. No activities shall occur on the tract until the Operating Plan or Amendments have been approved in writing by the Director of the Department. TLMD shall review the Operating Plan or Amendment and notify the lessee if the Plan or Amendment is approved or disapproved.

After an opportunity for an informal hearing with the lessee, surface activity may be denied or restricted on all or portions of any tract if the Director determines in writing that the proposed surface activity will be detrimental to trust resources and therefore not in the best interests of the trust.

- 19 This lease is located near the Rocky Mountain Front and includes areas that are environmentally sensitive. Therefore, except as otherwise provided below, the lessee shall not conduct any surface operations on the lease premises. If the lessee determines that surface operation on the lease premises may be required, the lessee shall submit a proposed Operating Plan or Amendment to an existing Operating Plan to the State Board of Land Commissioners describing in detail the proposed operations. No surface activities shall occur on the lease premises unless and until the Operating Plan or Amendment is approved by the Board. In determining whether to approve the proposed Operating Plan or Amendment, the following provisions shall apply:
  - 1) If the lessee proposes an activity that does not entail any significant surface disturbance, the Board may approve the same after completion of the appropriate environmental review in accordance with the Montana Environmental Policy Act (MEPA) and an opportunity for public comment on the proposed activity has been provided.
  - 2) Before the Board approves any proposed activity on the lease premises that entails a significant surface disturbance, an environmental impact statement (EIS) shall be completed in accordance with MEPA. The EIS shall analyze the potential impacts of alternative and future potential levels of oil and gas development and extraction on an ecosystem scale as the ecosystem is defined by the "Limits of Acceptable Change - Bob Marshall Wilderness Complex" adopted by the Montana Department of Fish, Wildlife and Parks in December 1991. The analysis shall consider all relevant information, which may include, but is not limited to, existing environmental reviews and management plans. Public involvement in the environmental review process shall be actively solicited by the preparer of the environmental review document and shall include, at minimum, adequately noticed public meetings in at least three communities including Great Falls and Helena.
  - 3) The proposed surface activity shall adhere to the "Interagency Rocky Mountain Front, Wildlife Monitoring/Evaluation Program, Management Guidelines for Selected Species" adopted by the Montana Department of Fish, Wildlife and Parks in September 1987, or any successor guidelines thereto.
  - 4) The Board may refuse to approve any proposed surface operations if it determines that they do not constitute the best use of trust resources or are not in the best interest of the State of Montana.

20 This lease is located within the Rocky Mountain Front area established under federal legislation removing mineral leasing and development on federal fee title lands, and federal minerals and has been identified as environmentally sensitive. The Rocky Mountain Front area is a crucial fish or wildlife area or corridor; has FWP owned surface rights; has an existing or is in the process of having conservation easements established and has important recreational value to the citizens of Montana. Therefore, except as otherwise provided below, the lessee shall not conduct any surface operations on the lease premises. If the lessee determines that surface operation on the lease premises may be required, the lessee shall submit a proposed Operating Plan or Amendment to an existing Operating Plan to the State Board of Land Commissioners and notify the Director of Fish, Wildlife and Parks describing in detail the proposed operations. No surface activities shall occur on the lease premises unless and until the Operating Plan or Amendment is approved by the Board. In determining whether to approve the proposed Operating Plan or Amendment, the following provisions shall apply:

1) If the lessee proposes an activity that does not entail any significant surface disturbance (not in excess of 1 well pad/640 acres), the Board may approve the same after completion of the appropriate environmental review in accordance with the Montana Environmental Policy Act (MEPA). As part of the MEPA process, DNRC will provide for an on-the-ground consultation with FWP, and an opportunity for public comment on the proposed activity. Public involvement in the environmental review process shall be actively solicited by the preparer of the environmental review document and shall include, at minimum, adequately noticed public meetings in three major daily publications including Missoula, Great Falls and Helena; legal notices to those non-daily papers in the affected counties, and detailed notification of landowners who own the surface rights, or directly adjacent rights, who would be impacted by development.

2) Before the Board approves any proposed activity on the lease premises that entails a significant surface disturbance (in excess of 1 well pad/640 acres), an environmental impact statement (EIS) shall be completed in accordance with MEPA. The EIS shall analyze the potential impacts of alternative and future potential levels of oil and gas development and extraction on an ecosystem scale as the ecosystem is defined by the "Limits of Acceptable Change - Bob Marshall Wilderness Complex" adopted by the Montana Department of Fish, Wildlife and Parks in December 1991, and any successor thereto. The analysis shall consider all relevant information, which may include, but is not limited to, existing environmental reviews and management plans, and new data concerning climate change, private lands conservation efforts, and fish and wildlife distribution and migration patterns. Public involvement in the environmental review process shall be actively solicited by the preparer of the environmental review document and shall include, at minimum, adequately noticed public meetings in at least three communities including Great Falls and Helena.

3) The proposed surface activity shall adhere to the "Interagency Rocky Mountain Front, Wildlife Monitoring/Evaluation Program, Management Guidelines for Selected Species" adopted by the Montana Department of Fish, Wildlife and Parks in September 1987, or any successor guidelines thereto.

4) The Board may refuse to approve any proposed surface operations if it determines that they do not constitute the best use of trust resources or are not in the best interest of the State of Montana.

# 612-2

FOURMILE TIMBER SALE

# FOURMILE TIMBER SALE

June 7, 2012  
Land Board

## Location of Sale:

- Missoula Unit (SWLO) – Located approximately 3.5 air miles southeast of St. Regis, Montana
- Mineral County – Sections 4,9 and 10, T17N-R27W
- 59% SNS, 41% CS
- This sale is within the Habitat Conservation Plan (HCP) project area and complies with HCP.

## Sale Volume & Estimated Value:

- The estimated volume is 28,832 tons (4,552 MBF) of sawlogs with a conversion factor of 6.33 tons/MBF.

| Minimum Bid Rate (per ton) | Forest Improvement Fee (per ton) | Total Minimum Value (per ton) | Estimated Volume (tons) | Total Minimum Sale Value |
|----------------------------|----------------------------------|-------------------------------|-------------------------|--------------------------|
| \$13.72                    | \$3.59                           | \$17.31                       | 28,832                  | \$499,081.92             |

## Sale & Harvest Treatments:

- The sale would consist of 6 harvest units totaling 585 acres.
- This sale would harvest lodgepole pine that is dead, dying or at risk from mountain pine beetle. Douglas-fir, ponderosa pine and western larch would also be harvested to reduce competition and promote regeneration of seral species.
- No old growth harvest would occur.

## Harvest Systems:

- 100% tractor

## Roads:

- Approximately 0.4 miles of new road would be constructed.
- Approximately 11.1 miles of existing haul road would be bladed or maintained.

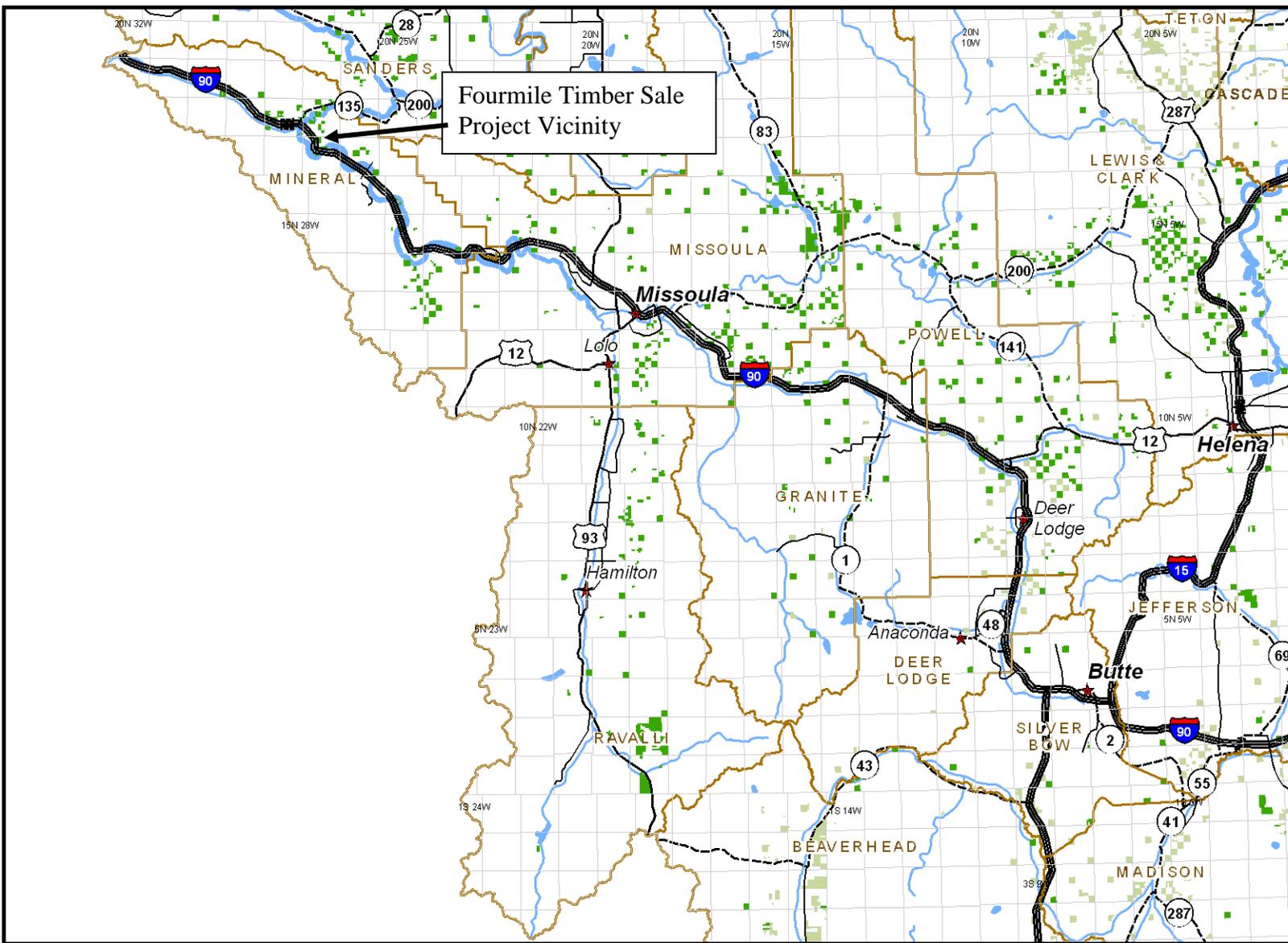
## Public Involvement:

- In February 2011, public notices were mailed to adjacent landowners and interested parties. A public notice was posted in the *Mineral Independent*.

## Issues and Mitigations:

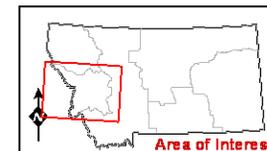
- **Dust and Truck Traffic:** Dust abatement would be required on roads adjacent to residential areas when dry and dusty conditions occur. Motorized recreation would be restricted during periods of active logging and hauling.
- **Wildlife:** Movement corridors would be deferred from harvest to facilitate connectivity of wildlife habitat.
- **Noxious Weeds:** Integrated weed management would be implemented including prevention, revegetation of disturbed soils, herbicide application and monitoring for new infestations. Weed control efforts would be coordinated with the grazing lessee.

The Director recommends the Land Board direct the Department to sell the Fourmile Timber Sale.

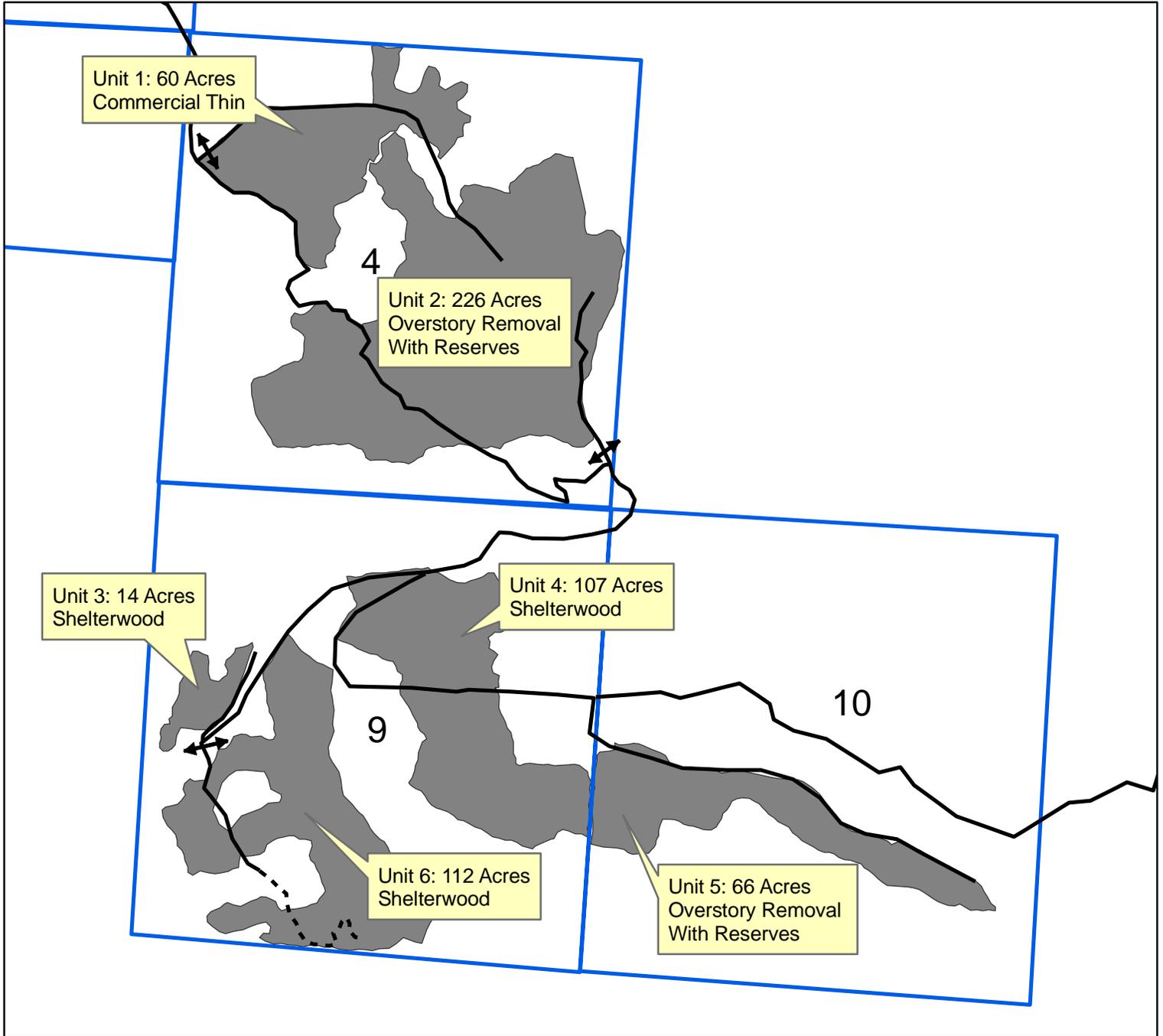


|  |                    |  |                |  |                         |
|--|--------------------|--|----------------|--|-------------------------|
|  | Interstate Highway |  | Rivers         |  | Lakes                   |
|  | U.S. Route         |  | City           |  | DNRC managed for timber |
|  | State Highway      |  | County         |  | DNRC other              |
|  | Secondary Roads    |  | Township/Range |  |                         |

21 February 2007  
 Montana DNRC  
 Technical Services Section/dr



# Fourmile Timber Sale Sections 4, 9 and 10 T17N R27W

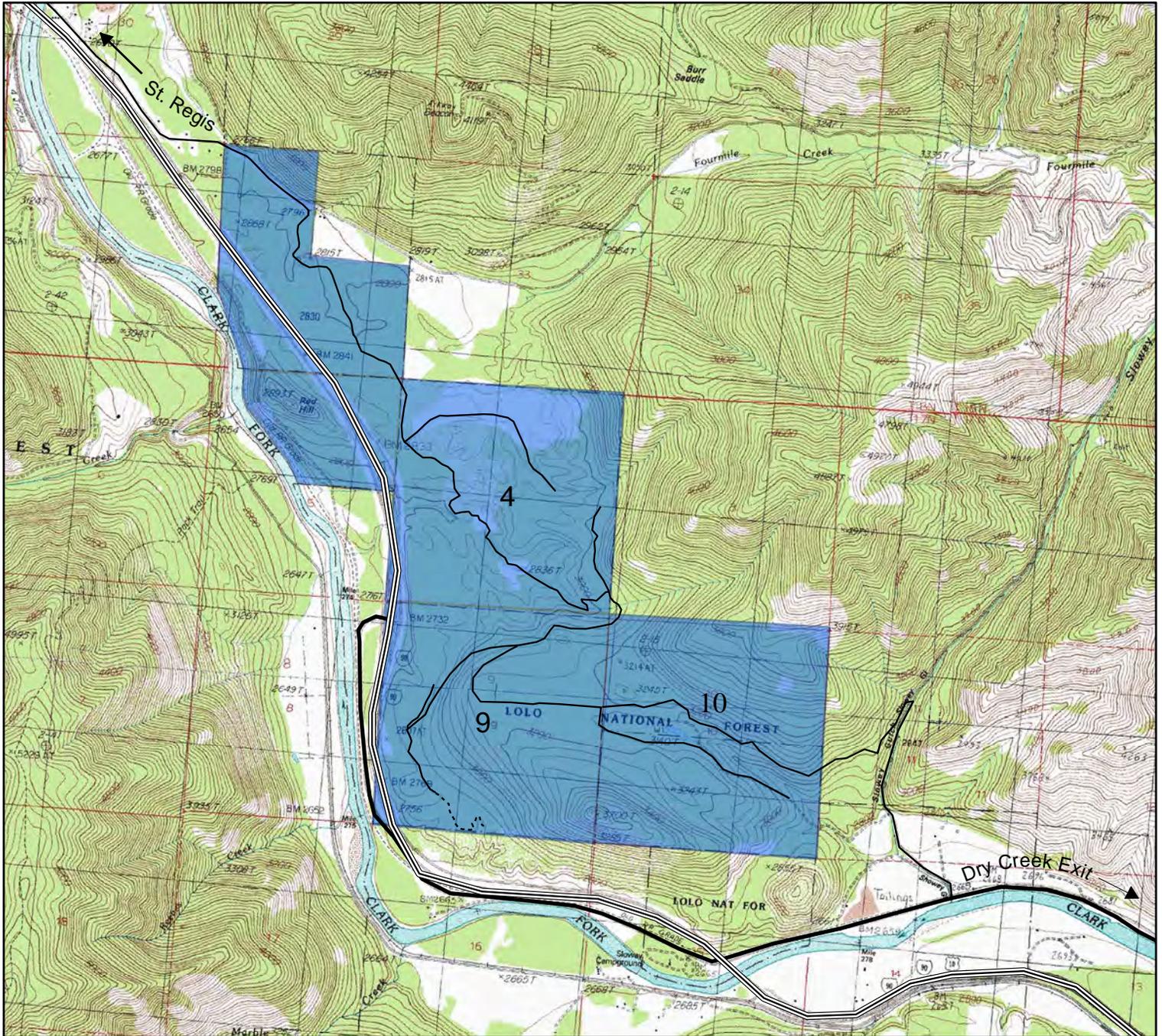


**Legend**

- Fourmile Project Area School Trust Lands
- Harvest Unit
- Haul Route
- New Road Construction
- Barricade Location



# Fourmile Timber Sale Haul Route Sections 4, 9 and 10 T17N R27W



**Legend**

- I-90
- Haul Route
- Sloway Frontage Rd
- Fourmile Project Area School Trust Lands



# 612-3

SET MINIMUM BID FOR LAND BANKING  
PARCELS

**LAND BOARD AGENDA ITEM**

June 7, 2012

**SET MINIMUM BID FOR LAND BANKING  
PARCELS # 679 & 680  
MISSOULA COUNTY**

- Seller:** State of Montana, Department of Natural Resources and Conservation
- Nominators:** Parcels 679 & 680 –DNRC, Southwest Land Office
- Location:** Parcels 679 & 680 – are located approximately 5 miles southeast of Lolo.
- Property Characteristics:**
- Parcel 679 – This parcel is primarily forested with ponderosa pine and Douglas-fir and historically been used for forest grazing purposes. The parcel has a low to moderate productivity potential for growing trees (30-50 cubic feet/acre/year). Overall the parcel is slightly below average in forest productivity and below average in revenue return. This parcel is almost entirely hillsides that exceed 25% slope.
- Parcel 680 – This parcel is a mixture of grassland and forest lands and historically been used for forest grazing purposes. The parcel has a low to moderate productivity potential for growing trees (30-50 cubic feet/acre/year). Overall the parcel is slightly below average in forest productivity and below average in revenue return. This parcel is almost entirely hillsides that exceed 25% slope.
- Access:** Parcels 679 & 680 - There is no legal public access to these parcels as they are surrounded by private lands. They provide little in the way of recreational opportunities for the public and do not provide access to any other lands open to recreation.
- Economic Analysis:**
- Short term – The rate of return on the sale parcels is 0.50% for Public Buildings, and 0.36% for Common Schools Grant. They would continue to receive this return if the parcel is not sold.
- Long term – The sale of these parcels would result in acquisition of lands that generate a higher rate of return. To date the average annual rate of return on acquisitions has been 1.91%, on acquisitions with income generated from annual lease payments.

**Cultural/Paleontological Resources:**

The state parcels proposed for sale (Land Banking Sales #679 & 680: T11N R19W Section 16 and the E1/2NW1/4, NESW1/4 Section 22) were inventoried to Class III standards for cultural and paleontologic resources in April of 2012. No cultural or paleontologic resources were identified. Further, neither Judith River nor Hell Creek geological formations occur on or beneath the ground surface of the subject state tract. The underlying geology of the project area is described as quartzites, argillites, and siltites of the Missoula and Piegan Groups.

A cultural and paleontologic resources inventory report has been prepared and is on file with the DNRC, (Helena) and the Montana State Historic Preservation Office (Helena).

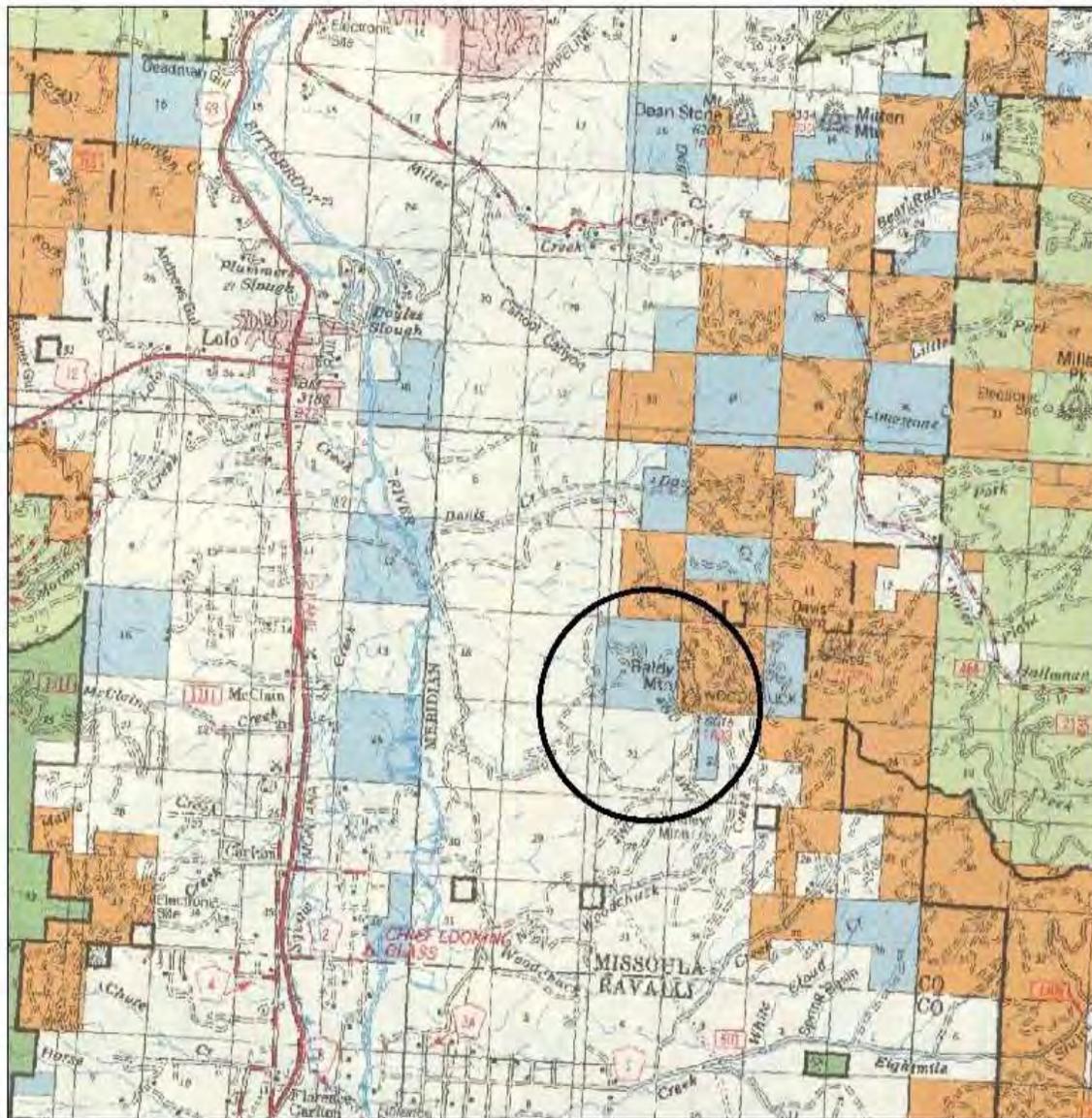
**Agency Recommendation:**

Based on appraised value, the Director recommends the minimum bid amount as follows:

| <b>Sale #</b> | <b># of Acres</b> | <b>Appraised Value Without Access</b> | <b>Appraised Value With Access</b> | <b>Appraised Value per Acre With Access</b> | <b>Recommended Minimum Bid</b> | <b>Trust</b>     |
|---------------|-------------------|---------------------------------------|------------------------------------|---|--------------------------------|------------------|
| 679           | 120               | \$93,600                              | \$156,000                          | \$1,300                                     | \$156,000                      | Public Buildings |
| 680           | 640               | \$384,000                             | \$768,000                          | \$1,200                                     | \$768,000                      | Common Schools   |
| <b>Total</b>  |                   |                                       |                                    |   | <b>\$ 924,000</b>              |                  |

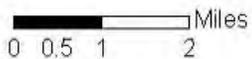
# BALDY MOUNTAIN PROJECT AREA LAND BANKING NOMINATION VICINITY MAP

ATTACHMENT A  
1 OF 2



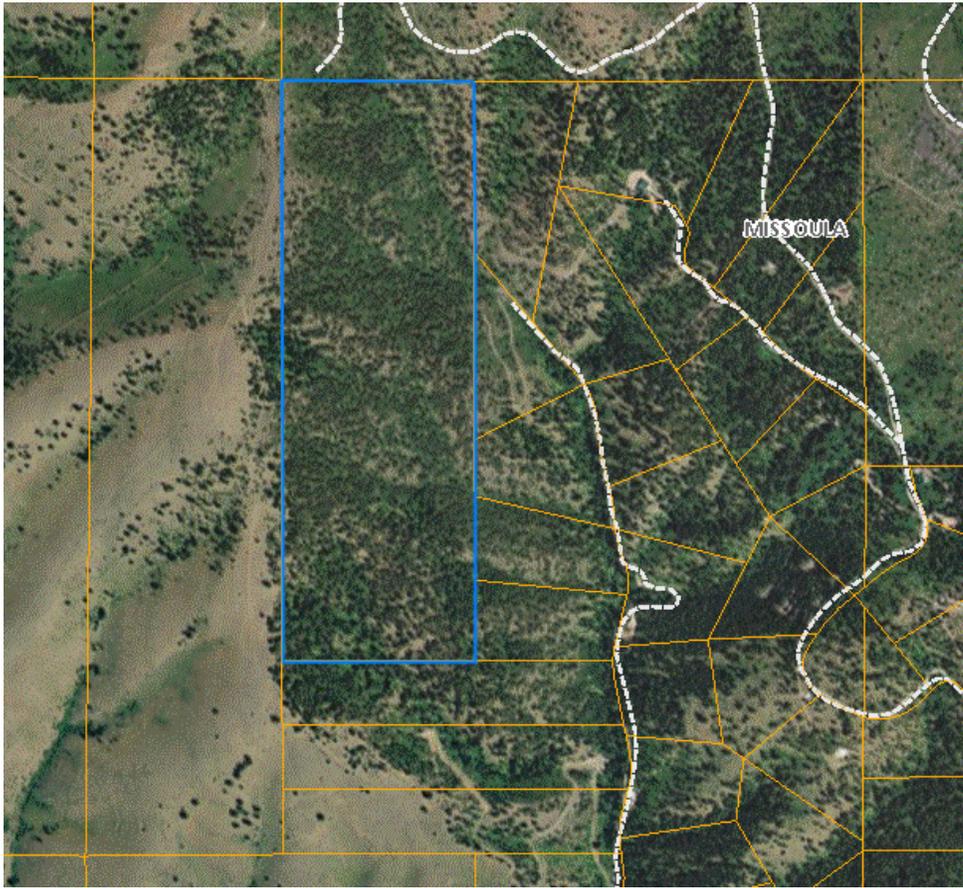
## Legend

Project Area 



**Sale #679**

**612-3**



**Sale #680**



# 612-4

FINAL APPROVAL FOR SALE OF LAND  
BANKING PARCEL

**LAND BOARD AGENDA ITEM**  
**June 7, 2012**

**FINAL APPROVAL FOR SALE OF LAND BANKING**  
**PARCEL # 632**  
**HILL COUNTY**

- Seller:** State of Montana, Department of Natural Resources and Conservation
- Nominator:** Parcel 632 – Lessee, Gilford Hutterian Brethren Inc.
- Location:** Parcel 632 – is located 32 miles northwest of Havre.
- Property Characteristics:** Parcel 632 – This parcel is flat to gently rolling and used primarily for livestock feeding and grazing. There is a seasonal reservoir that backs up onto this parcel from a dam located downstream on private land.
- Access:** Parcel 632 – Is legally accessible by the public, access is via a county road. The parcel has minimal recreational value due to its limited size and being bordered by a farm/ranch operation.
- Economic Analysis:** Short term – The rate of return on the sale parcel based on the minimum bid value is 1.8%. Based on the actual high bid amount the rate of return is 0.77%. Common Schools would continue to receive this return if the parcels were not sold.
- Long term – The sale of these parcels would result in acquisition of lands that generate a higher rate of return. To date the average annual rate of return on acquisitions has been 1.91%, on acquisitions with income generated from annual lease payments.

**Cultural/Paleontological Resources:**

This parcel was inventoried to Class III standards for cultural and paleontologic resources in January of 2012. No cultural or paleontologic resources were identified. Further, neither Judith River nor Hell Creek geological formations occur on or beneath the ground surface of the subject state tract. The geology of the project area is described as moderately hard sandstones with soft gray and black shales. Soils at and near the ground surface of the state tract are previously and actively cultivated glacial till.

A cultural and paleontologic resources inventory report has been prepared and is on file with the DNRC, and the Montana State Historic Preservation Office.

**Background:**

In October 2011, the Board approved this parcel to continue through the Land Banking sale evaluation process. Prior to nomination of this parcel the Gilford Colony had agreed to a minimum bid of at least \$450 per acre. In March 2012 the Board set the minimum bid at the previously agreed upon value of \$450 per acre:

| Sale #                  | # of Acres | Legal  | Minimum Bid | High Bid         | Trust          |
|-------------------------|------------|--|-------------|------------------|----------------|
| 632                     | 200        | NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ ,<br>Section 15, T35N-R11E | \$90,000    | \$210,000        | Common Schools |
| <b>Total Sale Price</b> |            |  |             | <b>\$210,000</b> |                |

**Sale Price:**

This parcel was sold at public auction on May 4, 2012. The parcel had two bidders (Gilford Colony and Todd Hansen of Hansen Grain Company), and was sold for the high bid amount listed above. The total for the above sale is \$ 210,000.

**Recommendation:**

The Director recommends final approval of Land Banking Sale #632 for the purchase price listed above. The sale will be closed within 30 days of approval.

**Hill County Sale Location Map**



# 612-5

## ADMINISTRATIVE RULES PROPOSAL: NAVIGABLE RIVERS

**LAND BOARD AGENDA ITEM**  
June 7, 2012  
**REQUEST FOR APPROVAL TO**  
**Initiate Rulemaking**

**REQUEST:** The attached draft rules have been developed to implement Senate Bill 35. The department is requesting approval to proceed with rulemaking and to publish a proposal notice in the Montana Administrative Register (MAR).

**LOCATION:** Statewide

**BENEFICIARY:** Public Land Trust

**BACKGROUND:** Senate Bill 35 was sponsored by Sen. Brad Hamlett and passed in the 2011 regular legislative session. Senate Bill 35 is similar to legislation and law that allows historic users of roads and utility corridors to perfect their historic use of state trust lands by purchasing an easement. The historic easement program has been very successful for both the users and trust lands. This legislation allows users of navigable rivers the ability to perfect their historic and new use of navigable rivers under a lease, license, or an easement.

The key components of SB35 contained in the attached draft rules are:

**77-1-1117. Board to adopt rules.** To fulfill the requirement of this part, the board shall adopt rules to:

- (1) determine the full market value for the use of the bed of a navigable river and establish a minimum payment for leases and easements;
- (2) allow an applicant to choose to apply for a lease, license, or easement depending on the type of proposed use and the duration of the use; and
- (3) allow the holder of a lease, license, or easement to relocate or increase the size of a footprint based on natural relocation of a navigable river or other factors.

**NEXT STEPS:**

The department will file the proposal notice on June 11, 2012, for publication in the MAR on June 21, 2012. The public comment period will begin June 21, 2012, and end July 19, 2012. The department will hold one public hearing in Helena on July 11, 2012.

**AGENCY RECOMMENDATION:** The Director recommends approval of the draft rules to proceed with rulemaking.

BEFORE THE BOARD OF LAND COMMISSIONERS AND  
THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the adoption of New )  
Rules I through VIII pertaining to state- )  
owned navigable waterways )  
NOTICE OF PUBLIC HEARING  
ON PROPOSED ADOPTION

To: All Concerned Persons

1. On July 11, 2012, at 1:00 p.m., the Department of Natural Resources and Conservation will hold a public hearing in the Director's Conference Room at the Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, Montana to consider the proposed adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 2, 2012, to advise us the nature of the accommodation that you need. Please contact Jessica Jenewein, Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, MT; telephone (406) 444-3544; fax (406) 444-2684; e-mail [jjenewein@mt.gov](mailto:jjenewein@mt.gov).

3. The rules as proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS When used in this subchapter, unless a different meaning clearly appears from the context:

- (1) "Bed" means an area on or above state-owned land between the low-water marks of a navigable river channel, excepting any portion of the land 50 feet below the thalweg of the channel and excepting any minerals therein.
- (2) "Board" means the state Board of Land Commissioners.
- (3) "Calculated market value" means the market value of a footprint derived by multiplying the current per acre value of the land above the low-water mark on the adjacent larger parcel nearest the footprint by the footprint area, then discounting the result by fifty percent.
- (4) "Commercial use" means an activity conducted on, within, or over a navigable river for profit, excluding any extraction of minerals, but including, but not limited to:
  - (a) marinas;
  - (b) restaurants; or
  - (c) retail service outlets at that location.
- (5) "Department" means the Department of Natural Resources and Conservation.
- (6) "Easement" means a non-possessory right of use issued either permanently or for a term of years for a particular purpose in a defined area of servient real property appurtenant to, and for the benefit of a dominant tenement

property, which is binding upon subsequent lessees, users, and owners of the real property.

(7) "Footprint" means:

(a) an area which may be occupied by a structure;

(b) an area which may be occupied for the construction or maintenance of a structure; or

(c) an area of the bed of a navigable river below the low-water mark as provided in 70-16-201, MCA, which may be modified for a private use.

(8) "Land classification" means a categorization of land according to its principal value, as defined in 77-1-401, MCA.

(9) "Land use license" means a contract issued by the department for land use, not to exceed a ten-year term, for any use of state land other than its primary classification which is compatible with the department's multiple use objectives and the primary classification of the land.

(10) "Lease" means a contractual authorization issued by the department to another party or entity for use of a footprint not to exceed 99 years.

(11) "Low-water mark" means the location of the water line of a navigable river at the lowest tenth percentile of historic annual flow as measured by the nearest upstream hydrograph station.

(12) "Marina" means a small harbor, boat basin, or moorage facility operated by a private club, enterprise or municipality that provides boat berthing, docking and mooring, and incidental services such as mooring buoys, boat hoists/lifts, boat launch ramp, fishing, or retail services.

(13) "Navigable river" means a river adjudicated as navigable for title purposes by a court of competent jurisdiction.

(14) "Public use" means activities on navigable waters that are guaranteed by law to the general public to use navigable waters to fish, hunt, trap, navigate, camp, install docks and wharves, and recreate; provided that no physical occupation by a boat positioned, moored, or anchored in a specific location is made for any longer than fourteen days in any thirty-day period. After the fourteenth day a fee shall be assessed for term use for the entire duration of the stay.

(15) "Specific location" means within a radius of 500 feet of any location where a structure or vessel was previously positioned, moored, or anchored upon the bed of a navigable river

(16) "Thalweg" means the deepest portion of the active channel of a stream or river.

AUTH: 77-1-204, 77-1-1117, MCA

IMP: 77-1-1110, 77-1-1117, MCA

NEW RULE II PURPOSE AND APPLICABILITY (1) Pursuant to Article X, Section 11(1) of the 1972 Montana Constitution and 70-1-202(1) and 77-1-102(2), MCA, the title to all navigable rivers is held by the board in trust for the benefit of the public.

(2) The board, through the department as the board's administrative arm, shall manage and administer the navigable rivers of the state of Montana to:

- (a) ensure the public’s right to fully use and enjoy this resource for commerce, navigation, fishing, hunting, recreation and other public trust values; and
- (b) generate income from navigable rivers for the public trust in a manner consistent with these rules and other laws.

(3) The department may, upon request by an applicant, issue an easement, lease, or license for the board’s approval of the use of a river bed which is not yet adjudicated as navigable.

(a) Any such easement, lease, or license, which is voluntarily sought by an applicant, shall only convey a contingent right to use the riverbed based upon the validity and extent of the board’s title to the river bed.

(b) The department may issue such contingent-right easements, leases, and licenses only where the department has historical documentation that the river was susceptible of use in commerce at statehood.

(c) Private use may be made of the bed of an un-adjudicated river without prior department authorization, unless and until five years has passed since the department:

- (i) has published public notice twice in a newspaper of general circulation in the area of the river that the river has been adjudicated as navigable; and
- (ii) has given notice to adjacent landowners that the river has been adjudicated as navigable.

(4) Navigable rivers are classified as class 4 lands under 77-1-401, MCA.

AUTH: 77-1-1109, 77-1-1117, MCA

IMP: 77-1-1109, MCA

NEW RULE III SEVERABILITY (1) If any part of [New Rule I] through [New Rule VIII] is found to be invalid, all valid parts that are severable from the invalid part remain in effect in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

AUTH: 77-1-1117, MCA

IMP: 77-1-1117, MCA

NEW RULE IV AUTHORIZATION FOR USE OF NAVIGABLE WATERWAYS

(1) Except as otherwise provided in this rule below, fixed structures placed within the bed of a navigable river or suspended above the bed of a navigable river shall require prior written authorization from the department.

(2) The following uses require no prior written department authorization:

- (a) public uses as defined in [New Rule I]; and
- (b) uses and structures described in 85-16-101, MCA.

(3) Individuals seeking department authorization for the use of the bed of a navigable river must complete and submit an application form as prescribed by the department.

(4) Department authorization shall be in the form of a lease, license, or easement.

(5) All leases, licenses, or easements shall include a provision reserving all rights and interests other than those specifically granted by the lease, license, or easement. These reservations include, but are not limited to mineral reservations.

(a) No lease, license, or easement issued under this rule shall allow that lessee, licensee, or easement holder to mine upon the premises described therein any:

(i) coal, oil, gas and other minerals; and

(ii) deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes.

(6) All necessary federal, state, and local permits shall be acquired by those requesting authorization to use a navigable river or other river as specified in [New Rule II(3)].

(a) Copies of permits must be furnished to the department prior to the department authorizing the use of the bed of a navigable river.

(b) However, the department may choose to issue a lease, license, or easement prior to receipt of permit copies where the lease, license, or easement is conditioned upon the applicant's receipt of a permit and the filing of a copy of the permit with the department.

(7) As provided in 77-1-121, MCA, the department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, MCA, when issuing a lease, license, or easement for the use of the bed of a navigable river that expressly states that the lease, license, or easement is subject to further permitting under any of the provisions of Title 75 or 82, MCA.

(a) An environmental analysis may be conducted to assess the impact a permanent easement may have on the navigability of the river.

(8) The department may require agreement holders to remove hazards from the river, including structures that are no longer in use.

(9) Leases and easements for the use of the beds of navigable rivers are assignable. Easements for the use of beds of navigable rivers shall be appurtenant to dominant tenement real property.

AUTH: 77-1-1111, 77-1-1115, 77-1-1117, MCA

IMP: 77-1-1115, 77-2-102, MCA

NEW RULE V FEES FOR USES IN NAVIGABLE WATERWAYS

(1) The lease, license, or easement area shall consist of the footprint only.

(2) The application fee for a land use license, lease, or easement for a use of the bed of a navigable waterway is \$50.

(3) The annual fee for a land use license for the use of the bed of a navigable waterway is \$150. The license fee for the first year shall be \$150 without regard to the date when the license term begins.

(4) The fee for a lease for the use of the bed of a navigable waterway shall be the greater of the product of the lease rate multiplied by the calculated market value of the footprint or a minimum fee of \$150. The process for calculating the market value lease rate will be as described in 77-1-905, MCA, and ARM 36.25.915. The department reserves the right to impose higher market value lease rates where the proposed use of the bed subjects the state, the department, or the trust beneficiaries

to greater risk of damage to trust lands. However, generally, the market value lease rates will be guided by consideration of various market and risk factors, including, but not limited to:

- (a) the potential for waste, and the costs of demolition, reclamation, and liability;
- (b) market evidence; and
- (c) the current fee schedule developed by the department;
- (5) Any lease for a use of the bed of a navigable waterway beginning after March 1 of a lease year will have a prorated bill for the first year. The prorated bill will include the effective lease date through February 28 of the following year.
- (6) The fee for an easement shall be the greater of:
  - (a) fees established per ARM 36.2.1005;
  - (b) the calculated market value of the footprint;
  - (c) market evidence; or
  - (d) current fee schedule developed by the department.
- (7) Application fees for historic land use licenses, leases, and easements will be deposited into the state special revenue fund.
  - (a) The revenue from the application fees may be used for processing historic easement applications.
- (8) Lease and license revenues will be deposited into the public land trust fund, according to Article X, Section 5(1) of the Constitution.
- (9) Easement revenues will be deposited into the permanent public land trust fund according to Article X, Section 5(2) of the Constitution.

AUTH: 77-1-209, 77-1-1117, MCA  
IMP: 77-1-1117, MCA

NEW RULE VI SELECTION OF LEASE, LICENSE, OR EASEMENT

- (1) An applicant may apply for a land use license for a non-commercial or non-residential use of the bed of a navigable river requiring a term of ten years or less.
- (2) An applicant may apply for a lease for commercial or residential use of the bed of a navigable river requiring a term of 99 years or less.
  - (a) A lease will be issued by the department through a competitive bid process per 77-1-904, MCA.
- (3) An applicant may apply for an easement for those uses described in 70-30-102 and 77-2-101, MCA, which serve public purposes and which require a permanent easement.

AUTH: 77-1-1115, 77-1-1117, MCA  
IMP: 77-1-1115, MCA

NEW RULE VII RELOCATION AND EXPANSION OF FOOTPRINT; CHANGE OF USE

- (1) The holder of a lease, license, or easement within a navigable river may increase the size of the footprint or relocate the footprint and associated improvements, or both. The department will determine whether to:
  - (a) amend the existing lease, license, or easement; or

(b) issue a new lease, license, or easement.

(2) The holder of a lease, license, or easement for a water diversion shall submit an application as prescribed by the department when a footprint or associated facilities are proposed to be relocated or expanded. Initiation of any work within the low-water marks of the navigable river shall begin only after the application has been submitted to the department and the department has authorized the work.

(3) The expansion or relocation of a lease, license, or easement footprint and associated improvements may be authorized when:

(a) all necessary federal, state, and local permits have been issued;

(b) all payments due to the state for the use of the existing footprint have been paid in full; and

(c) the expanded and/or relocated footprint provides for the same beneficial use.

(i) A footprint for a water irrigation or diversion structure or use proposed for expansion and/or relocation shall be considered to have the same beneficial use when the water right and the property benefitted by the use remain the same as before the expansion and/or relocation.

(4) The department may require the holder of an existing lease, license, or easement to complete an application for a new authorization if the holder proposes to change the beneficial use of the footprint.

(5) Subject to the other provisions of this rule, if the area of the new lease footprint is larger or smaller than the originally approved footprint, the department will adjust the lease fee through a lease amendment to reflect the calculated value of the new footprint.

(6) If the new easement footprint is larger than the originally approved footprint, the department will value the additional easement area according to [New Rule V]. The department will not refund the easement holder if the easement area of the new footprint is smaller than the originally approved footprint.

(7) Full market value of the new footprint will be established through an appraisal conducted in compliance with ARM 36.25.917.

(8) Relocation and expansion of a footprint under a lease, license, or easement which represents a historic use under [Rule VIII] is exempt from the Montana Environmental Protection Act (MEPA), 77-1-201, et seq., MCA, and the Antiquities Act, 22-3-401, et seq, MCA.

AUTH: 77-1-1116, 77-1-1117, MCA

IMP: 77-1-134, 77-1-1116, MCA

NEW RULE VIII HISTORICAL USES IN NAVIGABLE WATERWAYS

(1) Persons using the bed of a navigable river adjudicated before [the effective date of these rules], without written authorization from the department prior to [the effective date of these rules], that wish to continue the use must complete an application prescribed by the department and provide the application to the department by July 15, 2017.

(2) Persons using the bed of a river adjudicated as navigable after [the effective date of adoption of these rules], without prior written authorization from the

department, that wish to continue their use must complete an application prescribed by the department and submit the application to the department within five years of the date that the department issues a public notice that the river has been adjudicated as navigable. The requirements of this rule do not apply to:

- (a) footprints related to hunting, fishing, or trapping;
- (b) footprints that existed prior to November 8, 1889;
- (c) footprints for which the applicant can show an easement obtained from a state agency prior to [the effective date of these rules], or the date of adjudication, whichever is later; or

- (d) footprints associated with a power site regulated pursuant to Title 77, chapter 4, part 2, MCA.

(3) The authorization shall only include the footprint of the historical use of the navigable river by the applicant or the applicant's predecessor in interest.

(4) The department shall determine if authorization of the use and footprint for which application is made will be a lease, license, or easement according to the criteria in [New Rule VI].

(5) The department shall issue authorization for a lease, license, or easement for an historic use if the applicant provides the following:

- (a) an application fee of \$50;
- (b) a notarized affidavit on a form prescribed by the department demonstrating:
  - (i) the applicant or the applicant's predecessor in interest used the bed of a river that has been determined navigable in compliance with [New Rule I(13)], and that the use continues;
  - (ii) the historic use of the acreage covered by the footprint occurred prior to [the effective date of these rules], or the date of the date the river was adjudicated as navigable, whichever is later; and
  - (iii) the use for which authorization is sought is documented by a statement of identical historic use in a notarized affidavit;
- (c) evidence demonstrating the use for which authorization is sought and describing the footprint of the historic use. Such evidence may include any combination of:
  - (i) aerial photographs;
  - (ii) a 310 permit issued prior to construction of the historic use;
  - (iii) construction or engineering documents;
  - (iv) a GPS survey;
  - (v) a professional survey by a registered land surveyor; or
  - (vi) a water right pertinent to the structure to be permitted;
- (d) annual payment of the lease or license fee or payment for the full market value of the easement footprint; and
- (e) the authorization is approved by the board for easements. Leases and licenses may be approved by the department.

(6) The department, at its discretion, may make a site inspection of the use for which authorization is sought.

(7) The department shall waive the survey requirements of 77-2-102, MCA, if the department determines that there is sufficient information available to define the

boundaries of the proposed use for the purposes of recording the easement or issuing a license or lease.

(8) The applicant for authorization of an historic use may request to relocate the use within the navigable river, subject to the requirements of [New Rule VII].

(9) The department is exempt from the requirements of Title 22, chapter 3, part 4, and Title 75, chapter 1, parts 1 and 2, MCA, for issuance of an authorization for historic uses.

AUTH: 77-1-1112, 77-1-1117, 77-2-102, MCA

IMP: 77-1-1112, 77-2-102, MCA

REASONABLE NECESSITY: Chapter 359 of the 2011 Montana Session Laws established procedures for the issuance of leases, licenses, and easements upon the beds of state-owned navigable waterway. This Act was codified as 77-1-121, 77-1-134, 77-1-1109 through 77-1-1117 and 77-2-102, MCA. New Rules I through VIII are reasonably necessary to describe and define the application and leasing processes for leases, licenses, and easements upon the beds of state-owned navigable waterways. The rules address: historical use; use after the effective date of these rules; and the resulting compensation received by the state.

The assumption is that DNRC would process an average of 200 easement applications per year, which would include a \$50 application fee for each application. The application fees would be deposited into the historic riverbed use account to fund the processing of the applications. The proposed fees are expected to apply to approximately 200 easements at \$500 per easement, and would generate approximately \$100,000 for the public land trust fund each year.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jessica Jenewein, Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, MT; telephone (406) 444-3544; fax (406) 444-2684; e-mail [jjenewein@mt.gov](mailto:jjenewein@mt.gov), and must be received no later than 5:00 p.m. on July 19, 2012.

5. Jeanne Holmgren, Department of Natural Resources Real Estate Management Bureau, has been designated to preside over and conduct the public hearing.

6. An electronic copy of this Notice of Public Hearing on Proposed Adoption is available through the department's web site at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of this Notice of Public Hearing on Proposed Adoption conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Lucy Richards, 1625 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail lrichards@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The bill sponsor was contacted by e-mail on May 31, 2012.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/  
MARY SEXTON  
Director  
Natural Resources and Conservation

/s/  
TOMMY BUTLER  
Rule Reviewer

Certified to the Secretary of State on June 11, 2012.

# 612-6

EASEMENTS

**SUMMARY SHEET – RIGHTS OF WAY APPLICATIONS**

**NEW TELECOMM. UTILITY** – *Range Telephone Coop.* (Page 1)  
- *Reservation Telephone Coop.* (Page 2)  
- *Central Montana Communications* (Pages 4-6)

**NEW ELECTRIC UTILITY** – *Tongue River Electric Coop.* (Page 3)

**AFFECTED GRANTS AND PROPOSED INCOME:**

Common Schools                      \$ 12,060

**AFFECTED COUNTIES:**    Blaine, Phillips, Powder River, Treasure, Wibaux

# Rights of Way Applications

## May 21, 2012

### APPLICANTS AND RIGHTS OF WAY INFORMATION

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|                    |   |
|--------------------|---|
| Applicant:         | Range Telephone Cooperative, Inc.<br>2325 E. Front Street<br>Forsyth, MT 59327      |
| Application No.:   | 10576 (Amended)   |
| R/W Purpose:       | a buried telecommunications cable and a fiber optic cable                           |
| Lessee Agreement:  | ok  |
| Acreage:           | 1.144   |
| Compensation:      | \$342.00  |
| Legal Description: | 20-foot strip through N2NW4, SW4NW4,<br>Sec. 36, Twp. 6N, Rge. 35E, Treasure County |
| Trust Beneficiary: | Common Schools  |
| Classification:    | III   |



Applicant is installing new facilities and adding a fiber optic cable to their existing easement corridor. This fiber cable will provide upgraded service to several rural exchanges in their area of operation in Treasure County. Minimal impact will occur as the corridor is under existing easement. The Department recommends approval.

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# Rights of Way Applications

## May 21, 2012

### APPLICANTS AND RIGHTS OF WAY INFORMATION

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|                    |  |
|--------------------|--|
| Applicant:         | Reservation Telephone Cooperative<br>24 Main Street North, P.O. Box 68<br>Parshall, ND 58770 |
| Application No.:   | 16034  |
| R/W Purpose:       | a buried fiber optic cable   |
| Lessee Agreement:  | ok   |
| Acreage:           | 8.393  |
| Compensation:      | \$1,468.00   |
| Legal Description: | 33-foot strip through S2,<br>Sec. 18, Twp. 18N, Rge. 59E, Wibaux County                      |
| Trust Beneficiary: | Common Schools   |
| Classification:    | III  |



Applicant provides service to an area in Wibaux County adjoining the North Dakota border. This project is to replace old communication cables that do not provide reliable phone and data services due to deterioration from age. The route chosen follows existing road and/or other utility corridors. Minimal impacts are expected. The Department recommends approval.

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# Rights of Way Applications

## May 21, 2012

### APPLICANTS AND RIGHTS OF WAY INFORMATION

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|                    |   |
|--------------------|---|
| Applicant:         | Tongue River Electric Coop., Inc.<br>P.O. Box 138<br>Ashland, MT 59003          |
| Application No.:   | 16035   |
| R/W Purpose:       | overhead electric distribution line   |
| Lessee Agreement:  | ok  |
| Acreage:           | 0.60  |
| Compensation:      | \$105.00  |
| Legal Description: | 20-foot strip through NE4SE4,<br>Sec. 4, Twp. 4S, Rge. 51E, Powder River County |
| Trust Beneficiary: | Common Schools  |
| Classification:    | III   |



Applicant has been requested to provide service to a stock water development on state land for the state lease. The route chosen is the most direct and will be of minimal impact to the land. The Department recommends approval.

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# Rights of Way Applications

## May 21, 2012

### APPLICANTS AND RIGHTS OF WAY INFORMATION

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|                    |  |
|--------------------|--|
| Applicant:         | Central Montana communications, Inc.<br>P.O. Box 751<br>Havre, MT 59501                          |
| Application No.:   | 16036  |
| R/W Purpose:       | buried fiber optic cable   |
| Lessee Agreement:  | ok   |
| Acreage:           | 3.393  |
| Compensation:      | \$2,375.00   |
| Legal Description: | 20-foot strip through N2NW4, W2NE4, SE4NE4, E2SE4,<br>Sec. 16, Twp. 31N, Rge. 23E, Blaine County |
| Trust Beneficiary: | Common Schools   |
| Classification:    | III  |



Applicant is proposing to install new facilities to upgrade service in the Harlem exchange area. The route chose is the most direct and provide accessibility for construction and maintenance as it is located primarily along existing roadways. The Department recommends approval.

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# Rights of Way Applications

## May 21, 2012

### APPLICANTS AND RIGHTS OF WAY INFORMATION

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|                    |  |
|--------------------|--|
| Applicant:         | Central Montana communications, Inc.<br>P.O. Box 751<br>Havre, MT 59501              |
| Application No.:   | 16037  |
| R/W Purpose:       | buried fiber optic cable   |
| Lessee Agreement:  | ok   |
| Acreage:           | 2.581  |
| Compensation:      | \$2,581.00   |
| Legal Description: | 20-foot strip through Lots 1-3, S2SE4,<br>Sec. 16, Twp. 31N, Rge. 26E, Blaine County |
| Trust Beneficiary: | Common Schools   |
| Classification:    | III  |



See explanation on page 4.

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# Rights of Way Applications

## May 21, 2012

### APPLICANTS AND RIGHTS OF WAY INFORMATION

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|                    |  |
|--------------------|--|
| Applicant:         | Central Montana communications, Inc.<br>P.O. Box 751<br>Havre, MT 59501                        |
| Application No.:   | 16038  |
| R/W Purpose:       | buried fiber optic cable   |
| Lessee Agreement:  | ok   |
| Acreage:           | 3.459  |
| Compensation:      | \$5,189.00   |
| Legal Description: | 20-foot strip through N2NE4, Lots 1-3, SE4NE4,<br>Sec. 36, Twp. 31N, Rge. 26E, Phillips County |
| Trust Beneficiary: | Common Schools   |
| Classification:    | III  |



See explanation on page 4.

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