

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Tuesday, January 21, 2014, at 9:00 a.m.
State Capitol, Room 303
Helena, MT

ACTION ITEM

- 114-1 **Easements**
Benefits: Common Schools, Public Buildings, Public Land Trust
Location: Beaverhead, Gallatin, Glacier, Pondera, Powell, Silver Bow, Teton, and Toole Counties

INFORMATION ITEM

- 114-2 **DNRC Report: Montana DNRC and Tribal Governments: Understanding Tribal Cultural Resources**
Benefits: N/A
Location: State of Montana, including Blackfeet, Crow, Flathead, Fort Belknap, Fort Peck, Northern Cheyenne, and Rocky Boys Reservations

PUBLIC COMMENT

114-1

EASEMENTS

**Land Board Agenda Item
January 21, 2014**

114-1 Easements

Location: Beaverhead, Gallatin, Glacier, Pondera, Powell, Silver Bow, Teton, Toole Counties

Trust Benefits: Common Schools, Public Buildings, Public Land Trust

**Trust Revenue: Common Schools = \$5,999
Public Buildings = \$11,189
Public Land Trust = \$2,205**

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Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Department of Transportation PO Box 201001 Helena MT 59620-1001
Application No.:	16447
R/W Purpose:	a river bridge and public utilities
Lessee Agreement:	ok
Acreage:	0.49
Compensation:	\$2205.00
Legal Description:	All that part on, over and above the Big Hole River bed, from the westerly low water line to the easterly low water line lying between U.S. Government Lots 8 and 3, Sec. 11, Twp. 1S, Rge. 10W, Beaverhead and Silverbow County
Trust Beneficiary:	Public Land Trust

Item Summary

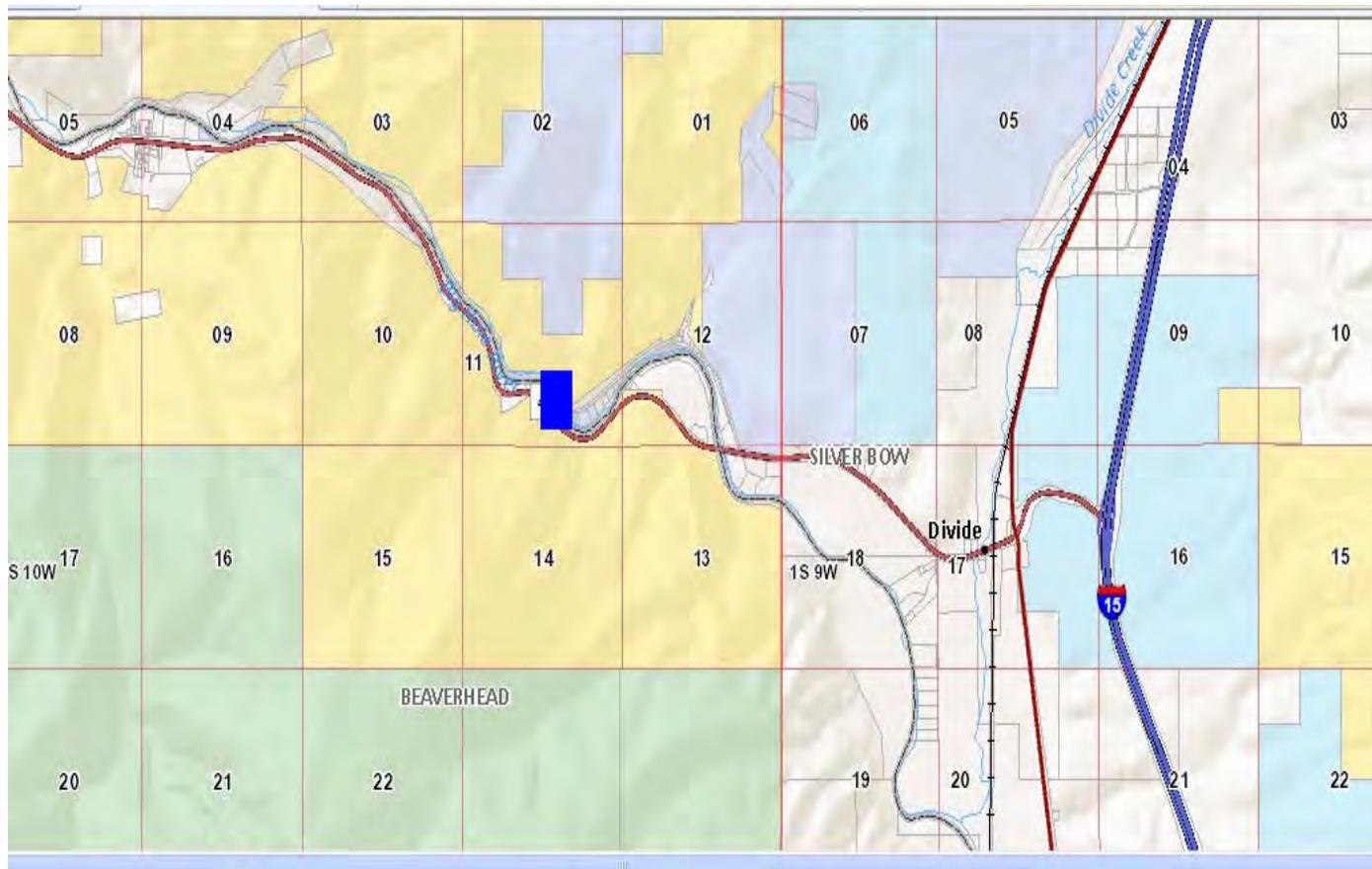
Montana Department of Transportation has made application for the rehabilitation of a functionally obsolete bridge crossing the Big Hole River on Pumphouse Road, approximately 3 miles west of Divide. The fundamental purpose of the project is to improve safety and drivability for the traveling public.

DNRC Recommendation

The director recommends approval of this navigable river application.

Rights of Way Applications

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Rights of Way Applications

January 21, 2014

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	3 Rivers Communications PO Box 429 Fairfield MT 59436
Application No.:	16448
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	needed
Acreage:	0.61
Compensation:	\$610.00
Legal Description:	20-foot strip through SW4SW4, Sec. 26, Twp. 25N, Rge. 7W, Teton County
Trust Beneficiary:	Public Buildings

Item Summary

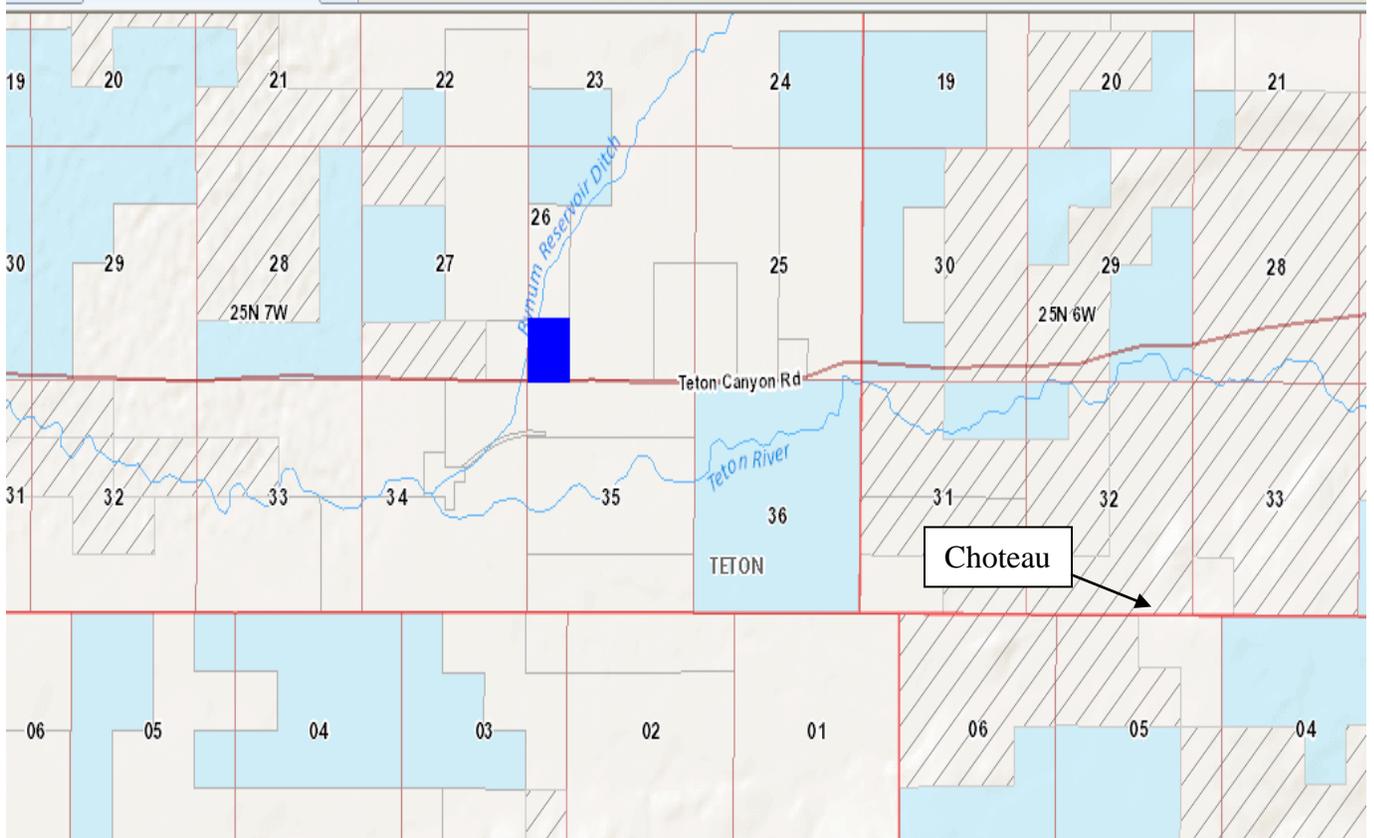
3 Rivers Communications has made application for the purpose of providing a fiber optic cable connection to an existing piece of equipment (Teton Canyon DLC) along Teton Canyon Road. This will provide site fiber connectivity along with future Fiber To The Home connections. The cable will be placed on the North side of Teton Canyon Road using the vibratory cable plow method at a depth of 42" minimum. The project will also improve the telephone facilities to the 3 Rivers customers along the entire cable route.

DNRC Recommendation

The director recommends approval of this telecommunications request.

Rights of Way Applications

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Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: 3 Rivers Telephone Cooperative Inc.
PO Box 429
Fairfield MT 59436

Application No.: 16449
R/W Purpose: a buried telecommunications cable
Lessee Agreement: ok
Acreage: 0.86
Compensation: \$860.00
Legal Description: 20-foot strip through Lot 3, Sec. 18, Twp. 26N, Rge. 7W,
Teton County
Trust Beneficiary: Public Buildings

Item Summary

3 Rivers Telephone Coop. Inc. is proposing to install a new underground telecommunications cable to provide service to all their subscribers in the Pendroy Exchange. The route chosen is the most direct route.

DNRC Recommendation

The director recommends approval of this telecommunications request.

Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: 3 Rivers Telephone Cooperative Inc.
PO Box 429
Fairfield MT 59436

Application No.: 16450
R/W Purpose: a buried telecommunications cable
Lessee Agreement: ok
Acreage: 0.63
Compensation: \$630.00
Legal Description: 20-foot strip through SE4NW4, Sec. 13, Twp. 26N, Rge. 8W,
Teton County
Trust Beneficiary: Public Buildings

Item Summary

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DNRC Recommendation

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: 3 Rivers Telephone Cooperative Inc.
PO Box 429
Fairfield MT 59436

Application No.: 16451
R/W Purpose: a buried telecommunications cable
Lessee Agreement: needed
Acreage: 0.62
Compensation: \$620.00
Legal Description: 20-foot strip through SE4NE4,
Sec. 22, Twp. 26N, Rge. 7W,
Teton County

Trust Beneficiary: Capitol buildings

Item Summary

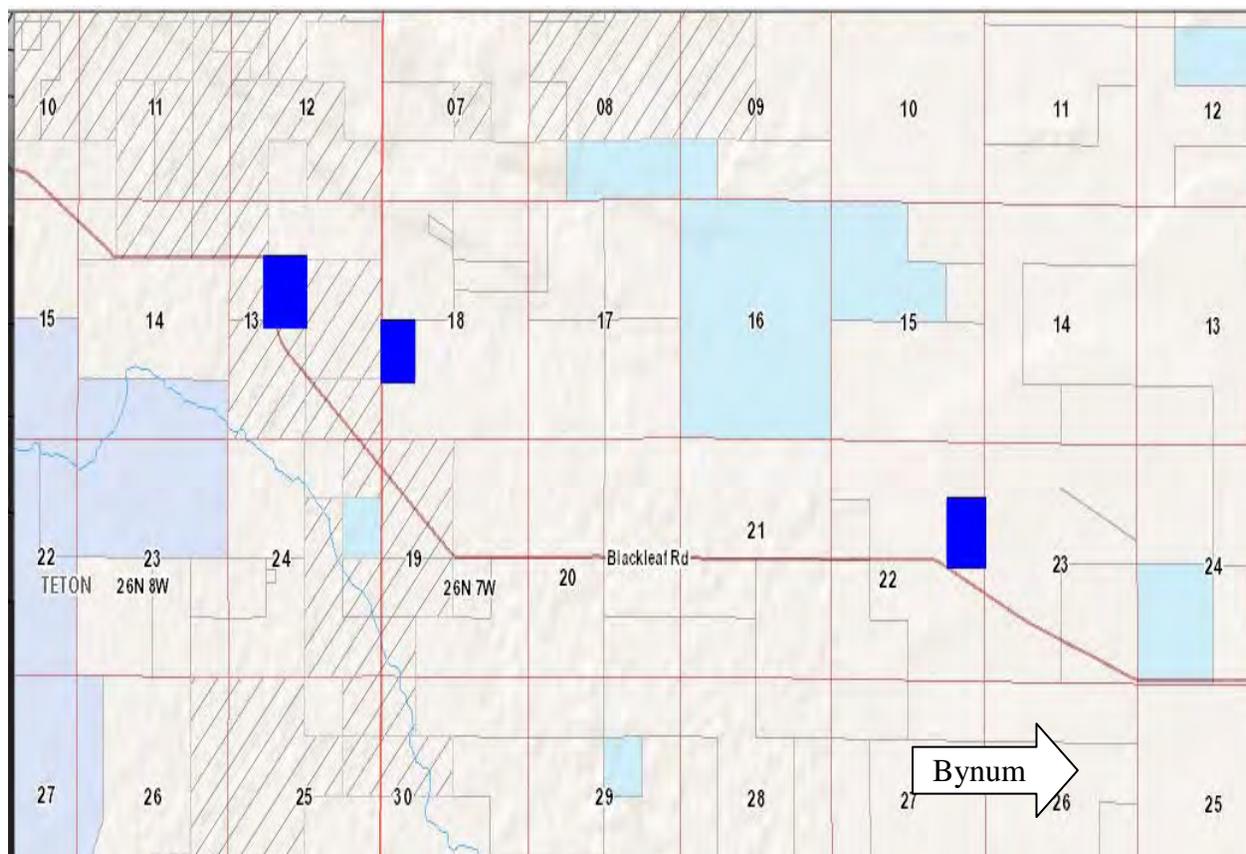
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DNRC Recommendation

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Rights of Way Applications

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Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: 3 Rivers Cooperative Inc.
PO Box 429
Fairfield MT 59436

Application No.: 16452
R/W Purpose: a buried telecommunications cable
Lessee Agreement: ok
Acreage: 0.60
Compensation: \$600.00
Legal Description: 20-foot strip through SW4SW4,
Sec. 26, Twp. 27N, Rge. 7W,
Teton County

Trust Beneficiary: Common Schools

Item Summary

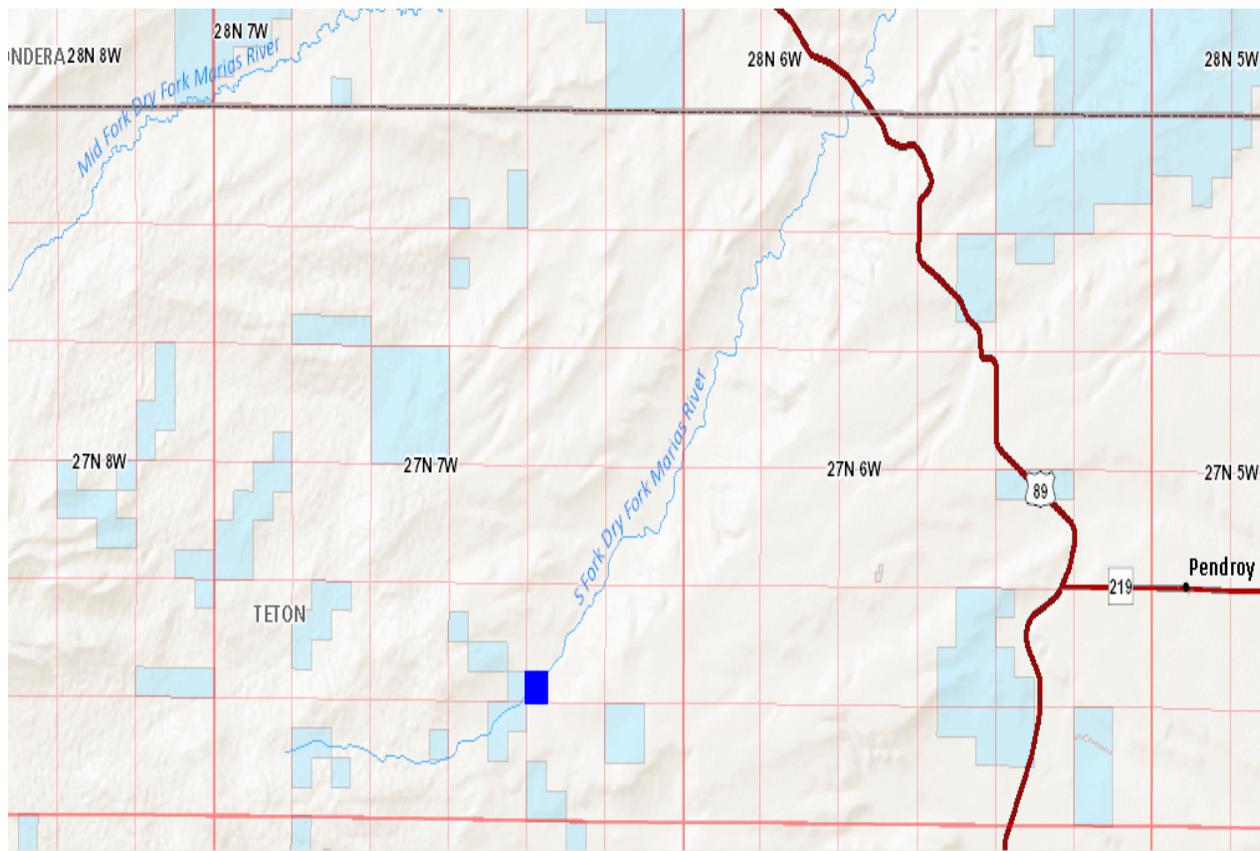
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DNRC Recommendation

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Rights of Way Applications

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Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 40 East Broadway Butte MT 59701
Application No.:	16454
R/W Purpose:	an overhead electric distribution line
Lessee Agreement:	ok
Acreage:	0.42
Compensation:	\$756.00
Legal Description:	30-foot strip through SESW, SWSE, NESW, Sec. 24, Twp. 9N, Rge. 9W, Powell County
Trust Beneficiary:	Common Schools

Item Summary

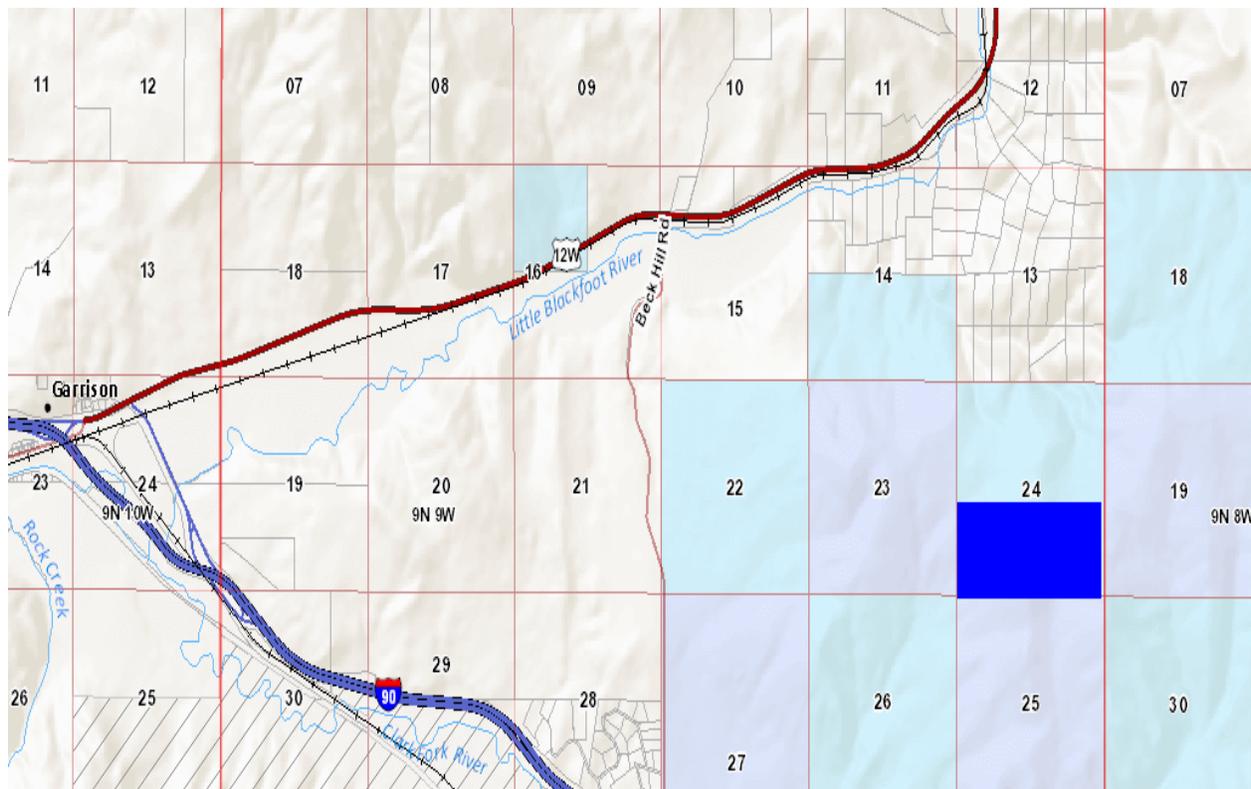
Northwestern Energy is proposing to reroute an overhead electric distribution power line at Rocky Ridge communication site. Due to the terrain one (1) existing power pole needs to be moved to the north from its current position out of the centerline by 60'. There will be a new power pole and guys set at this point and all other structures will remain at the existing centerline.

DNRC Recommendation

The director recommends approval of this overhead electric distribution line.

Rights of Way Applications

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Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Gallatin County 25 N Wilson Ave, Ste E Bozeman MT 59715
Application No.:	16455
R/W Purpose:	a non-motorized, natural surface, public trail
Lessee Agreement:	ok
Acreage:	2.71
Compensation:	\$8469.00
Legal Description:	12-foot strip through NWSW, SWSW, Sec. 4, Twp. 3S, Rge. 6E, Gallatin County
Trust Beneficiary:	Public Buildings

Item Summary

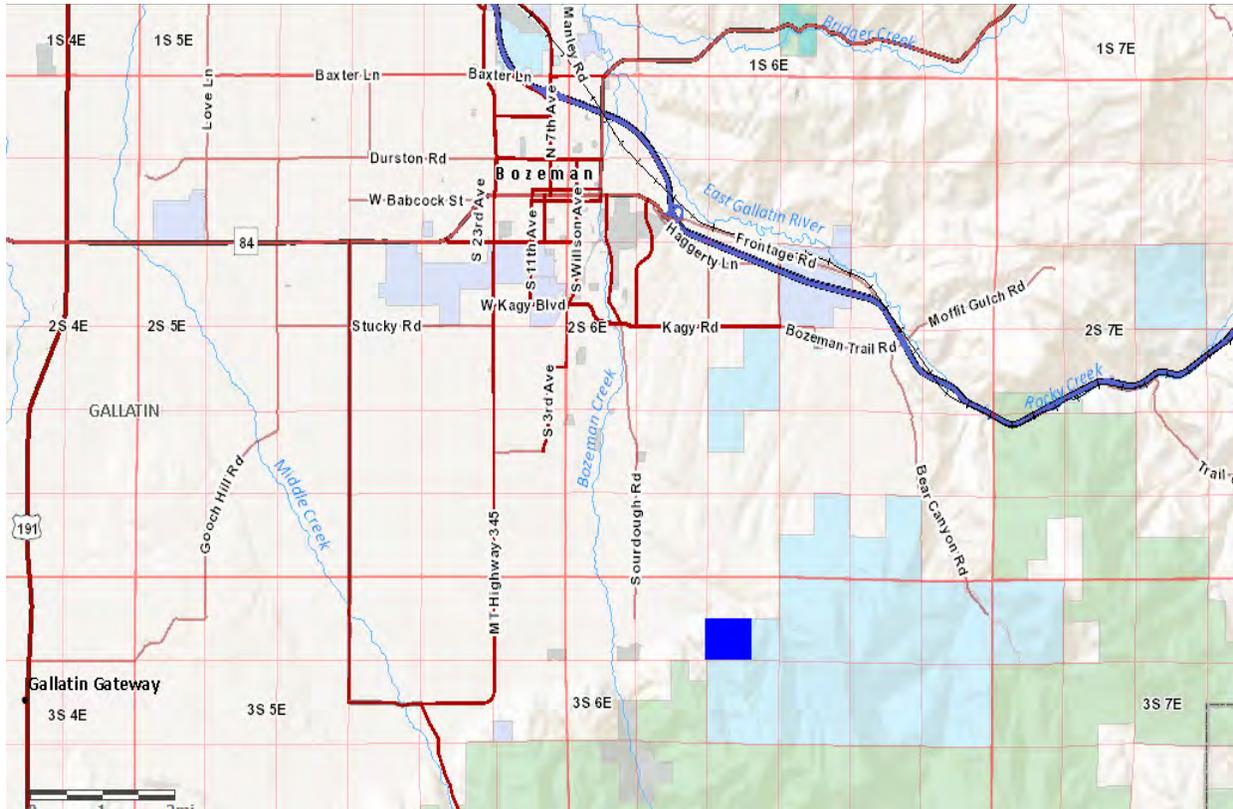
Gallatin County, in conjunction with Gallatin Valley Land Trust, has made application for a public recreation trail known as the "Triple Tree Trail". This was an existing trail that had not been secured under previous authorization by the Department and receives year round use by the public. It is adjacent to the Triple Tree Ranch Subdivision and trails within the subdivision link to this trail on State land. Over the past year efforts were made to relocate portions of the trail in a different alignment so as to deter erosion and other potential problems. Work was done under a Land Use License so that an as-built survey could be completed once the trail work was finished. Gallatin County will hold the easement for the rights of the public while trail maintenance will be the responsibility of the Gallatin Valley Land Trust.

DNRC Recommendation

The director recommends approval of this public trail easement.

Rights of Way Applications

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Rights of Way Applications

January 21, 2014

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Ronald B. Munson Farms, Inc. 955 Sunrise Terrace Shelby MT 59474
Application No.:	16456
R/W Purpose:	a private access road for the purpose of conducting normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	2.42
Compensation:	\$968.00
Legal Description:	20-foot strip through S2S2, Sec. 16, Twp. 33N, Rge. 1E, Toole County
Trust Beneficiary:	Common Schools

Item Summary

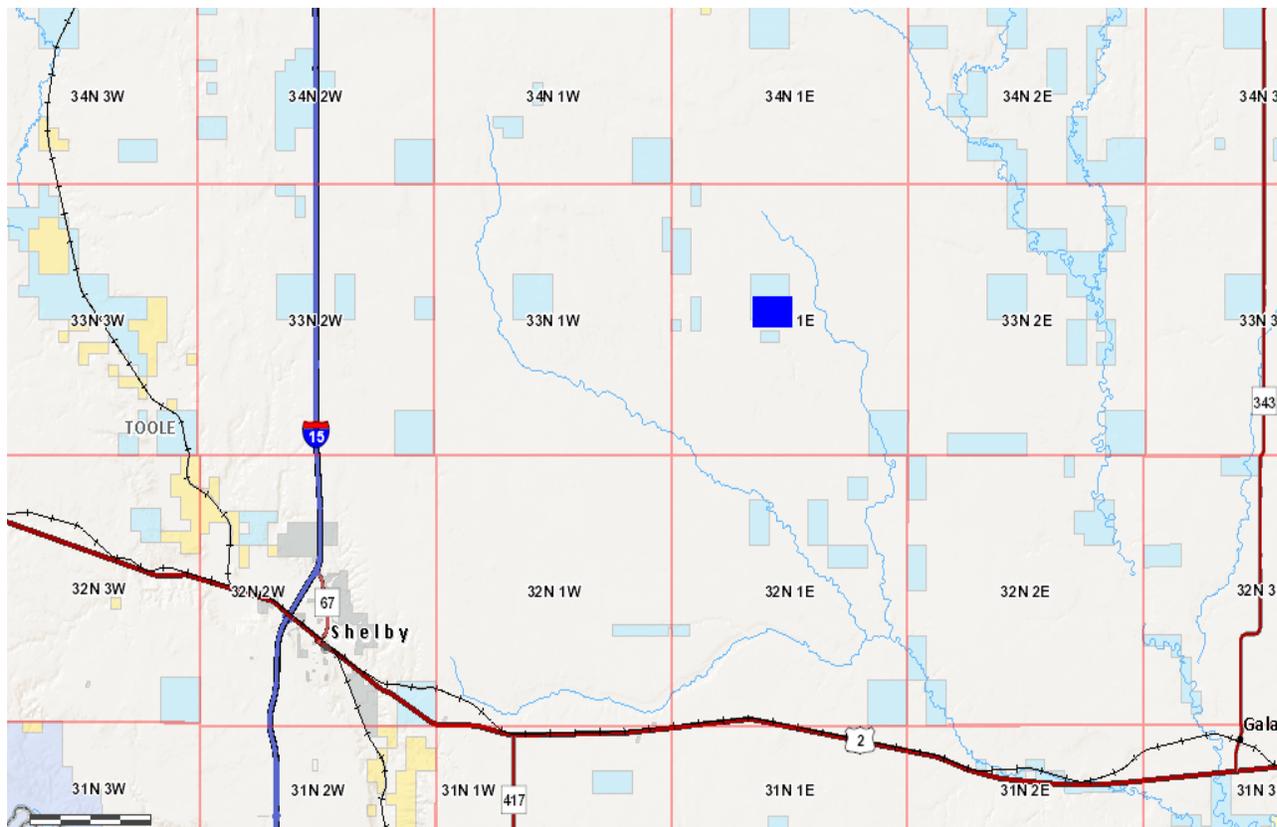
Applicant is requesting approval for the use of an existing road to access their private lands for farming and ranching purposes. The road has been in place for years and authorization for continued use is being requested pursuant to §77-1-130, MCA, which allows for recognition of such historic access.

DNRC Recommendation

The director recommends approval of this historic right of way request.

Rights of Way Applications

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Rights of Way Applications

January 21, 2014

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Pondera County Canal & Reservoir Company PO Box 245 Valier MT 59486
Application No.:	16457
R/W Purpose:	an irrigation ditch
Lessee Agreement:	N/A (Historic)
Acreage:	3.72
Compensation:	\$1860.00
Legal Description:	60-foot strip through S2SE4, Sec. 27, Twp. 29N, Rge. 7W, Pondera County
Trust Beneficiary:	Common Schools

Item Summary

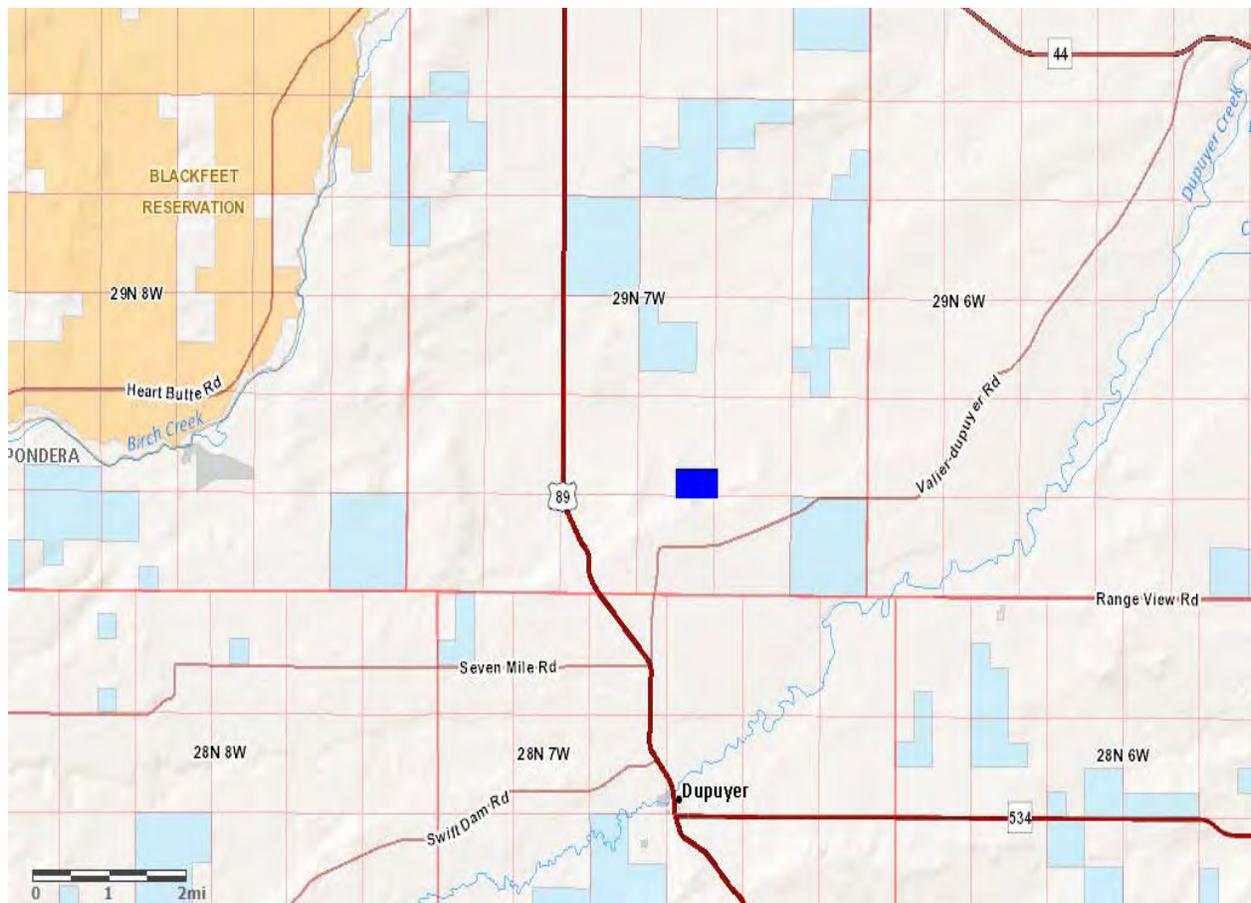
Pondera County Canal & Reservoir Company has made application for a historic irrigation canal in Pondera County. The canal is known as B-canal.

DNRC Recommendation

The director recommends approval of this historic right of way application.

Rights of Way Applications

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Rights of Way Applications

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APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Valerie Wadman PO Box 1379 Cut Bank MT 59427
Application No.:	16459
R/W Purpose:	a private access road to a single family residence and associated outbuildings and to conduct normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	2.42
Compensation:	\$1815.00
Legal Description:	20-foot strip through W2NW4, W2SW4, Sec. 36, Twp. 34N, Rge. 6W, Glacier County
Trust Beneficiary:	Common Schools

Item Summary

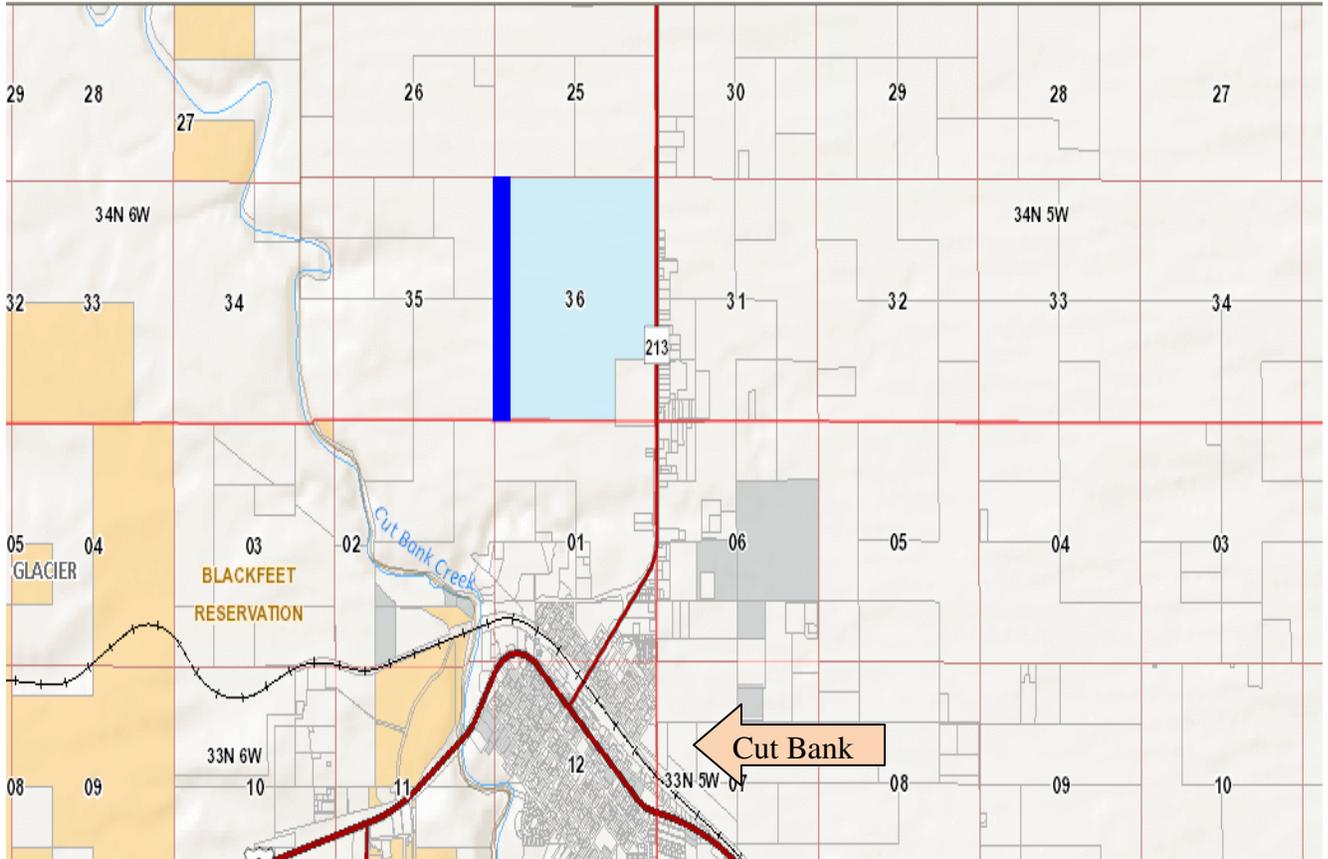
Applicant is requesting approval for the use of an existing road to access their private lands for their residence and associated outbuildings and for farming and ranching purposes. The road has been in place for years and authorization for continued use is being requested pursuant to §77-1-130, MCA, which allows for recognition of such historic access.

DNRC Recommendation

The director recommends approval of this historic right of way application.

Rights of Way Applications

January 21, 2014



114-2

DNRC REPORT

MONTANA DNRC AND TRIBAL
GOVERNMENTS: UNDERSTANDING TRIBAL
CULTURAL RESOURCES

**Land Board Agenda Item
January 21, 2014**

114-2 DNRC Report: *Montana DNRC and Tribal Governments: Understanding Tribal Cultural Resources*

Location: State of Montana, including Blackfeet, Crow, Flathead, Fort Belknap, Fort Peck, Northern Cheyenne, and Rocky Boys Reservations

Trust Benefits: N/A

Trust Revenue: N/A

Item Summary

On May 20th, 2013, the Montana Board of Land Commissioners (Land Board) requested the Montana Department of Natural Resources and Conservation (DNRC) director and the Trust Land Management Division (TLMD or division) to plan a meeting whereby the division would invite representatives from Montana's tribal nations to discuss cultural resources as they relate to the management of state trust lands.

On October 30th, 2013, DNRC TLMD hosted an event entitled *Montana DNRC and Tribal Governments: Understanding Tribal Cultural Resources* in Helena, MT. In attendance were 63 people including representatives from six Montana tribal governments, Land Board members and staff, and several DNRC staff and managers.

Much of the day was dedicated to exploring topics related to tribal cultural resources, tribal processes for interacting with the TLMD in regards to cultural resources, related challenges and successes, and ideas to improve upon those processes.

A brief report has been developed to outline the lessons learned from that day as well as DNRC TLMD actions moving forward.

Some lessons learned include:

- the importance of developing a better understanding of Montana's tribal nations;
- a reminder that tribal ancestral territory occurs outside of reservation boundaries;
- the importance of engaging in quality government-to-government consultation with Montana's tribal nations; and
- looking at more opportunities to conduct land exchanges in order to remove state trust land ownership within the reservation boundaries.

In order to begin to act on some of the above lessons learned, DNRC will implement the following within the TLMD:

- comprehensive cultural awareness training;
- cultural resources identification training in partnership with Montana's tribal nations;
- regular visits to the tribal nations; and
- provide project scoping information to interested tribal governments.



Montana Department of Natural Resources & Conservation
Trust Land Management Division

To: Montana Board of Land Commissioners

From: John Tubbs, DNRC Director

Re: Report – *Montana DNRC and Tribal Governments: Understanding Tribal Cultural Resources*

Date: January 14, 2014

Prepared by: Montana DNRC, Trust Land Management Division

Introduction.

On May 20th, 2013, the Montana Board of Land Commissioners (“Land Board”) requested the Montana Department of Natural Resources and Conservation (“DNRC”) Director and the Trust Land Management Division (“TLMD” or “Division”) to plan a meeting whereby the Division would invite representatives from Montana’s tribal nations to discuss cultural resources as they relate to the management of state trust lands. The objectives of the meeting were:

- For the tribes to share their perspectives on cultural resources in general – what cultural resources are and why they are culturally significant.
- For the tribes to share their experiences in and processes for interacting with the TLMD in regards to cultural resources.
- For DNRC to share the TLMD’s capacity and processes for managing cultural resources on state trust lands.
- For DNRC to share the Division’s plans for projects on state trust lands.
- For the tribes to provide feedback to the Division on how to improve current processes.

During the summer of 2013, DNRC staff worked with Superintendent of Public Instruction Denise Juneau and staff, the Director of the Office of Indian Affairs Jason Smith, DNRC Director John Tubbs, DNRC Deputy Director Joe Lamson, TLMD Administrator Shawn Thomas, and Salena Hill and Heidi Wallace with the Missoula Chapter of the National Coalition Building Institute to design an event focused on accomplishing the above-listed objectives. In early September, formal invitations were sent to tribal chairs and presidents from each of Montana’s tribal governments. Specifically invited to attend were the following: chairs and presidents, natural resource directors, culture committee members, and Tribal Historic Preservation Officers. Follow-up calls were placed to answer any questions tribal representatives had as well as to extend personal invitations to those who had interest in attending the event.

On October 30th, 2013, the Montana DNRC, TLMD hosted the event entitled *Montana DNRC and Tribal Governments: Understanding Tribal Cultural Resources*. In attendance were 63 people: representatives from the Crow Nation, Chippewa Cree Tribe of the Rocky Boy Reservation, Northern Cheyenne Tribe, Assiniboine and Gros Ventre Tribes of the Fort Belknap Reservation, Assiniboine and Sioux Tribes of the Fort Peck Reservation, and the Confederated Salish and Kootenai Tribes; Land Board members and staff; Director of Indian Affairs; DNRC Director; DNRC Deputy Director; TLMD Administrator; DNRC Archaeologist; DNRC Area Managers, TLMD Bureau Chiefs, and staff; the State Historic Preservation Office; Department of Fish, Wildlife, and Parks Field Services Division Administrator; Missoula Chapter of the National Coalition Building Institute; and interested members of the public.

Most of the day was dedicated to exploring the following questions with the tribal representatives from the attending tribal nations:

- From your tribe's perspective, what are cultural resources and why are they culturally significant?
- What is your tribal process for interacting with the TLMD in regards to cultural resources?
- What are some of the challenges or barriers your tribe faces in this process?
- What are some of the successes your tribe has experienced in this process?
- What are ways to improve upon these processes?

Lessons Learned.

Each tribal nation's responses to the above-listed questions were recorded. The key points are summarized below.

Develop a better understanding of Montana's tribes. Each tribe in the State of Montana is unique. State trust land officials are encouraged to educate themselves on the history of the tribes of Montana and to understand those unique characteristics associated with each respective tribe and tribal government. State trust land staff members are invited to visit the tribes to meet leaders and to develop a better understanding of tribal culture and policy.

Each tribe has a unique process for how they handle culture resources and it's important for trust land staff to learn those processes. A number of things tribal nations consider cultural properties or cultural resources might not fit into established definitions. Government agencies want Indian people to go with their interpretation of cultural resources. Each tribe is different and will have their own idea of what cultural properties are. State agencies are also encouraged to develop an understanding as to how all of the Tribal Historic Preservation Officers work together.

We all collectively need to understand one another's responsibilities, positions, and need to work together. DNRC TLMD needs to better understand the tribes' respective ways of life. Archaeologists are often times seen as the authority on cultural resources, but it's important to remember that Indian people are the best resources for cultural properties.

Ancestral territory outside of the reservation boundaries. Montana tribes view many lands outside of reservation boundaries as ancestral lands and therefore have an interest in projects on those lands including state trust lands. There are important resources that Montana tribes care about on these lands.

Government-to-government consultation. The State of Montana needs to take seriously its responsibility to consult with the tribal governments and to come up with better processes by which that consultation occurs. Ideas include: having regular meetings between the Montana tribal nations and state agencies (not just DNRC TLMD); hiring a native staff member in the State Historic Preservation Office; creating tribal liaison positions for each state agency; and creating a statewide cultural resource management group comprised of tribal and state representatives.

It's important for state agencies to have follow-through on their communications with and commitments to tribal nations. Don't avoid consulting with the tribes because you think they have too much to do. It's very important to provide the tribal nations an opportunity to engage on projects and to understand the best way to communicate with each respective tribe. Placing follow-up phone calls and doing face-to-face visits is important in addition to sending letters.

Legislative changes. There was expressed interest in introducing legislation to revise the Montana State Antiquities Act to provide more assurances for tribal nation involvement in the identification, protection, and listing of cultural resources on state-owned lands.

Land exchanges. It's important for DNRC TLMD and the affected tribal nations to continue to look at land exchanges in order to remove state trust land ownership within the reservation boundaries.

DNRC Actions Moving Forward.

In order to begin to act on some of the above lessons learned, DNRC will implement the following within the TLMD:

- *Cultural awareness training for DNRC TLMD staff.* Staff members will be encouraged to attend the annual Office of Indian Affairs Tribal Relations Training. Additionally, DNRC will provide regular trainings beyond this to develop the agency's overall understanding of the unique cultural heritage and history of each tribe in Montana and to develop skills in our practitioners to best support them in building positive and respectful relationships with tribal representatives.

- *Cultural resources identification training for DNRC TLMD staff.* DNRC will develop and provide regular training for staff members on ways to identify cultural resources within their project areas. DNRC would like to invite Tribal Historic Preservation Officers to be a part of this training.
- *Visits to the tribal nations.* DNRC TLMD managers and staff will commit to visit neighboring tribal nations within the next year to discuss management plans on state trust lands as well as to develop a better understanding as to the makeup of each tribal government, the processes for those governments, and to discuss any further concerns those governments may have in regard to projects on state trust lands.
- *Providing project scoping information.* DNRC TLMD will continue to send scoping information to those tribal governments who would like to receive information about projects on state trust lands.

Thank You.

DNRC Director John Tubbs, Deputy Director Joe Lamson and Division Administrator Shawn Thomas would like to thank the representatives from the tribal governments for presenting on behalf of their nations, the Land Board members and staffers, DNRC managers and staff, and members of the public and other state agencies who participated in the day. Additionally, we would like to thank Salena Hill and Heidi Wallace with the National Coalition Building Institute for providing training for DNRC staff and facilitation for the event.