

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
May 18, 2015, at 9:00 a.m.
State Capitol, Room 303
Helena, MT

ACTION ITEMS

515-1 Timber Sales

A. Clear East

Benefits: MSU 2nd Grant, Pine Hills

Location: Missoula County

Approved 4-0

B. Good Time

Benefits: Common Schools, Public Building

Location: Missoula County

Approved 4-0

C. St. Mary's Lake

Benefits: Common Schools

Location: Lake County

Approved 4-0

515-2 Agriculture and Grazing Leases: Competitive Bid Hearings

A. Lease No. 8015 & 10717 – Robert, Linda and Casey Bailey (Lessee)/Ken Ritland (Bidder)

Benefits: Common Schools

Location: Chouteau County

The amended motion to approve item 515-2A passed 3-1 (Governor Bullock dissenting).

B. Lease No. 9475 – Tom Heintz (Lessee)/Tim Sheehy (Bidder)

Benefits: Common Schools

Location: Gallatin County

Approved 4-0

515-3 Land Banking Parcels: Final Approval for Sale

A. Carter County

Benefits: Common Schools

Location: Carter County

Approved 4-0

B. Garfield County

Benefits: Common Schools

Location: Garfield County

Approved 4-0

C. McCone County

Benefits: Common Schools

Location: McCone County

Approved 4-0

D. Powder River County

Benefits: Common Schools

Location: Powder County

Approved 4-0

515-4 Easements

Benefits: Common Schools, Public Land

Location: Custer, Fergus, Glacier, Madison, Richland Counties

Approved 4-0

515-5 Indemnity Selections: Valuation of Base Lands

Benefits: Common Schools

Location: Beaverhead, Carter, Flathead, Granite, Lake, Lincoln, Park, Ravalli, Rosebud, Sweet Grass Counties

Approved 4-0

PUBLIC COMMENT

515-1

TIMBER SALES

- A. Clear East
- B. Good Time
- C. St. Mary's Lake

**Land Board Agenda Item
May 18, 2015**

515-1A Timber Sale: Clear East

**Location: Missoula County
Sections 30 & 32, T16N R14W
Sections 24 & 26, T16N R15W**

Trust Benefits: MSU-2nd Grant (60 percent), Pine Hills (40 percent)

Trust Revenue: \$294,001 (estimated, minimum bid)

Item Summary

The Clear East timber sale is located approximately three air miles southeast of Seeley Lake, Montana. The sale includes eight harvest units totaling approximately 592 acres with an estimated volume of 16,903 tons (2,339 MBF) of sawlogs. The minimum bid value is \$18.27 per ton, which would generate approximately \$294,001 for the MSU-2nd Grant Trust and the Pine Hills School Trust, and \$50,850.72 in Forest Improvement Fees. The sale is within the Habitat Conservation Plan (HCP) project area and complies with the commitments outlined in the HCP.

This sale includes a combination of individual tree selection and shelterwood prescriptions that favor seral species. These treatments help reduce potential hazardous fuel loadings in the Seeley Lake, Salmon Lake, and Placid Lake areas and are done as part of the Seeley-Swan Primary Line of Defense. This was identified in the Missoula County Fire Plan. Approximately three acres of old growth are present in the project area and will be treated with a restoration type silvicultural prescription.

In conjunction with the sale, the Department of Natural Resources and Conservation (DNRC) will maintain and improve conditions on approximately 13 miles of existing permanent road. Approximately 1.2 miles of road would be abandoned and 2.96 miles of permanent new road would be constructed.

Existing access to the sale area is through private non-industrial and former industrial forest lands. DNRC has a permanent easement to use these roads.

Scoping letters were mailed to interested parties in August, 2010. Public notice was published in the *Missoulian* and *Seeley Swan Pathfinder*, notices were also posted at Stoney's Gas Station in Clearwater. Additionally, the Confederated Salish and Kootenai Tribe were contacted during the scoping process. One written comment was received from Montana Department of Fish, Wildlife and Parks (MT DFWP) regarding project recommendations for fisheries and riparian area, and wildlife. Recommendations about wildlife included roads, harvest patterns, wetlands, and large trees and snags. These comments were included in development of the Clearview Environmental Assessment (EA).

DNRC Recommendation

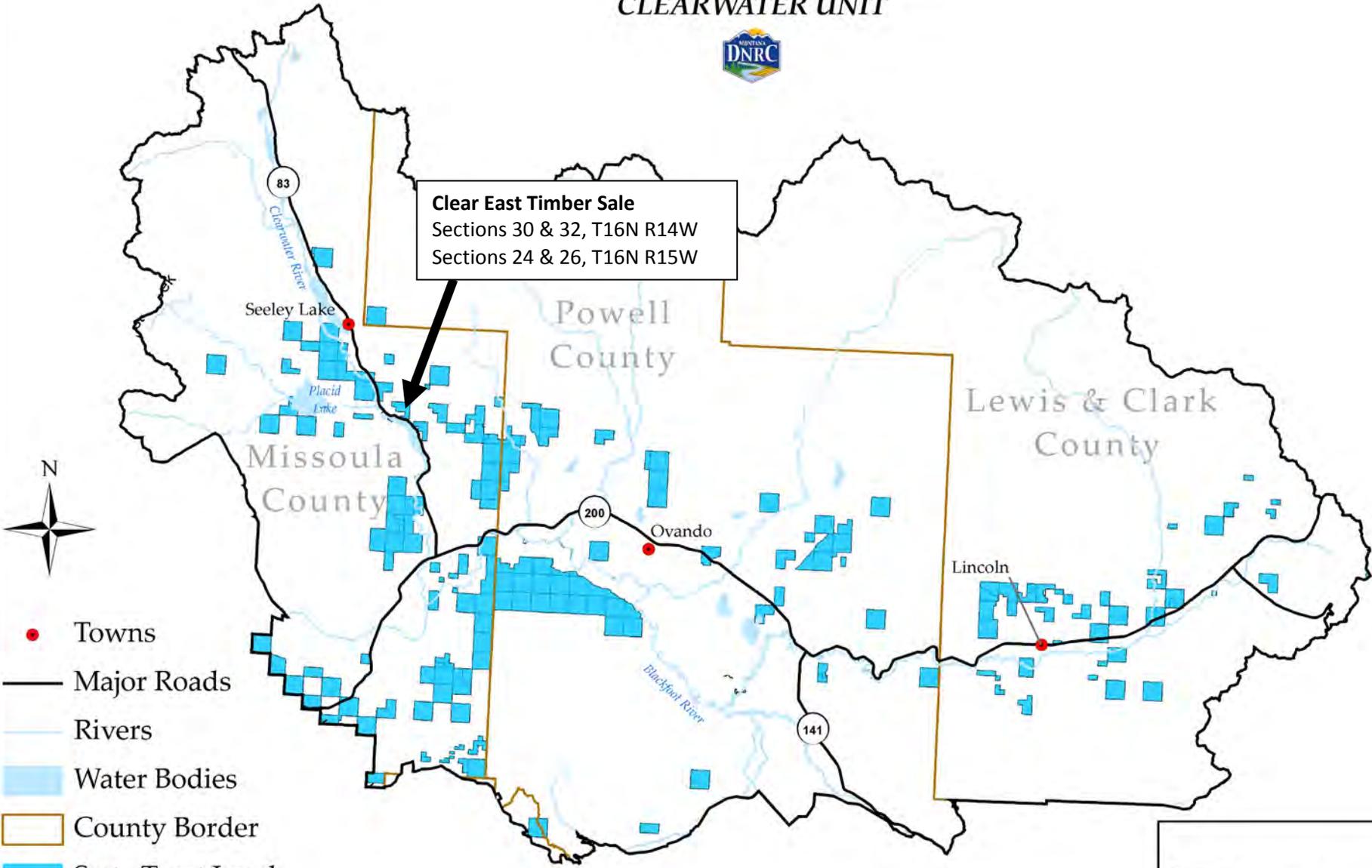
The director recommends the Land Board direct DNRC to sell the Clear East timber sale.

CLEAR EAST TIMBER SALE VICINITY MAP CLEARWATER UNIT

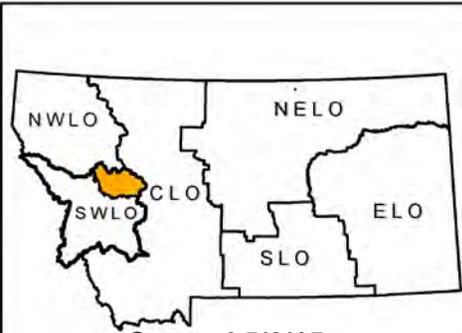
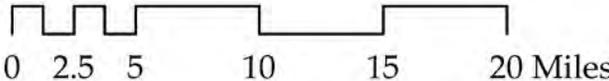
515-1A

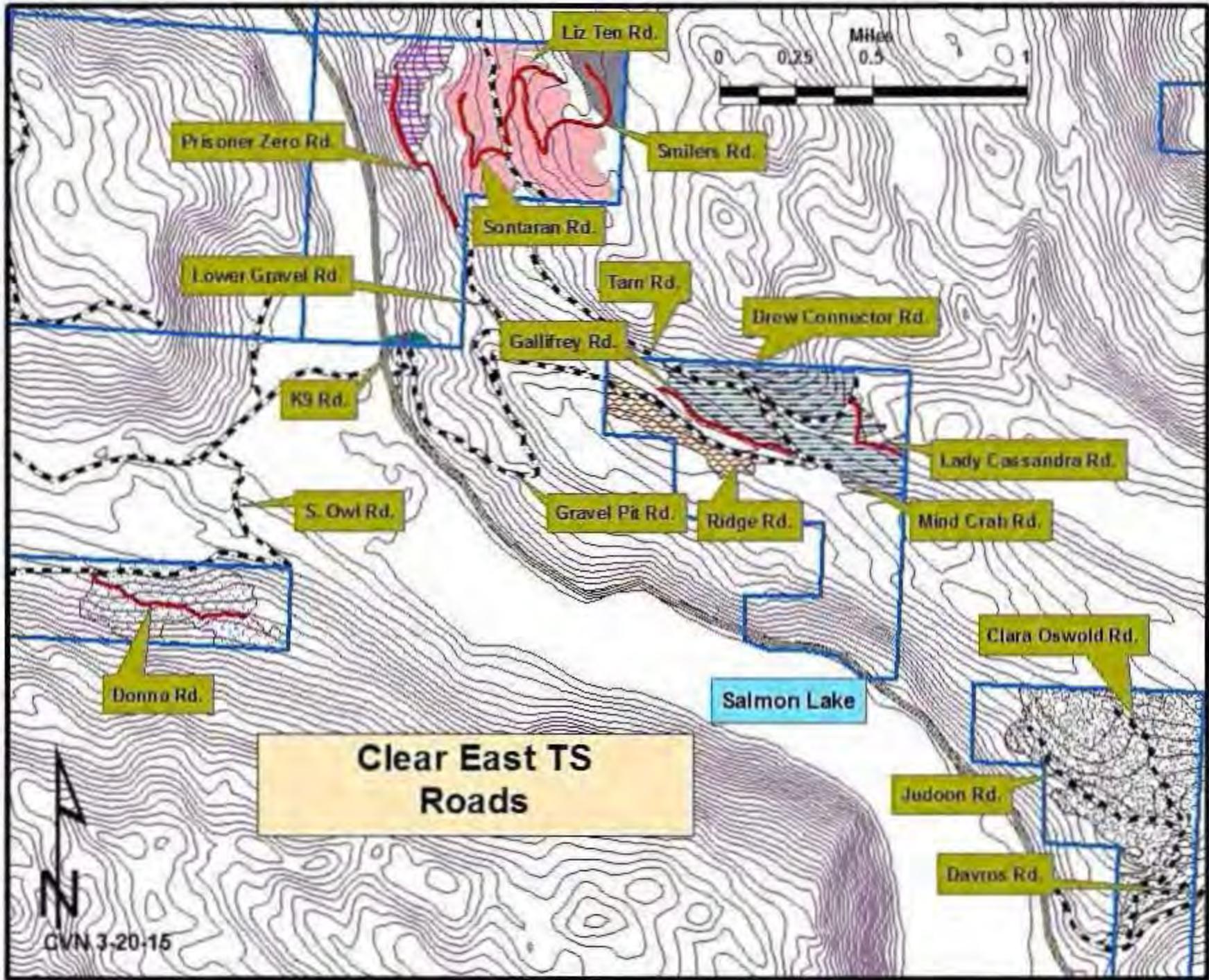


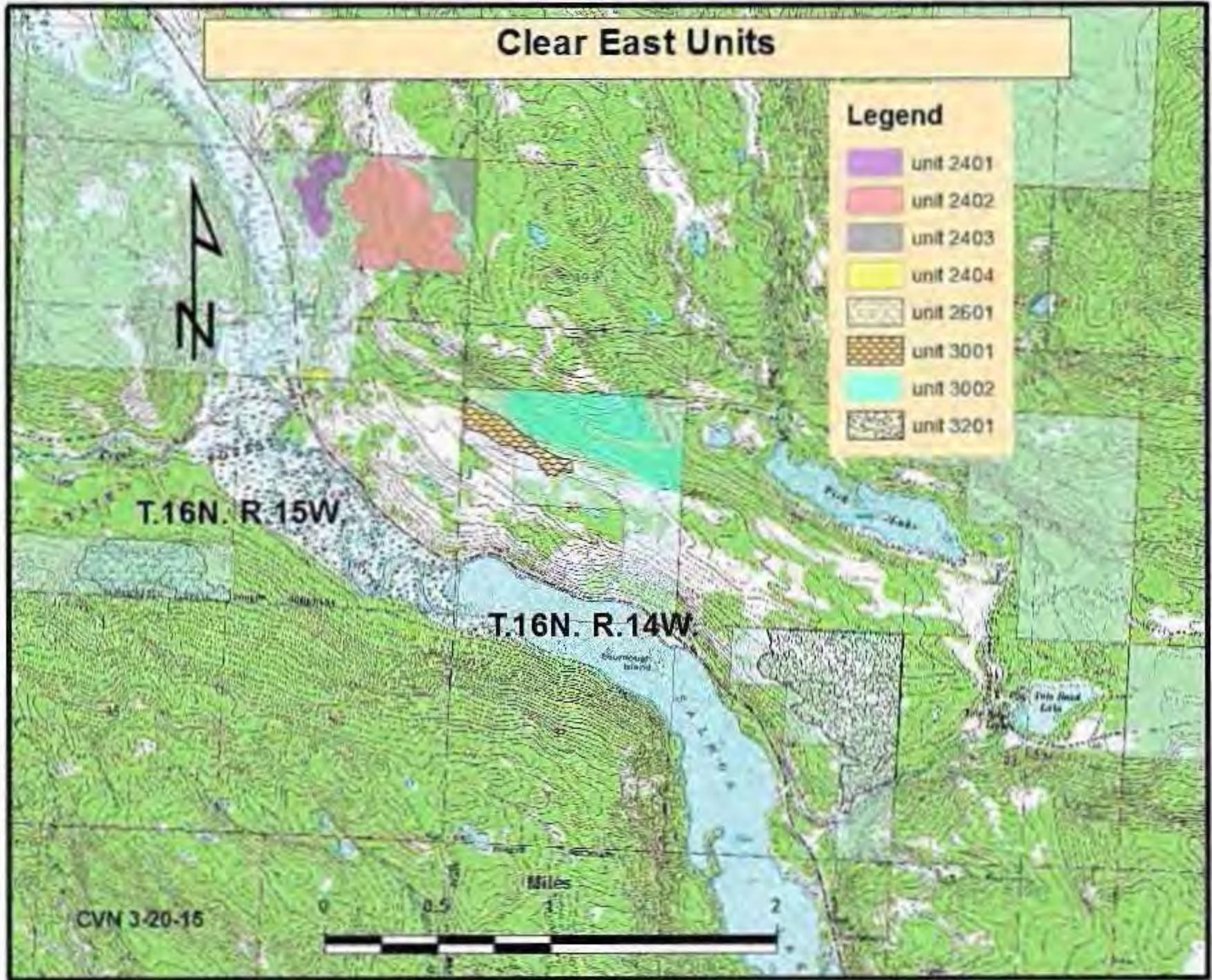
Clear East Timber Sale
Sections 30 & 32, T16N R14W
Sections 24 & 26, T16N R15W

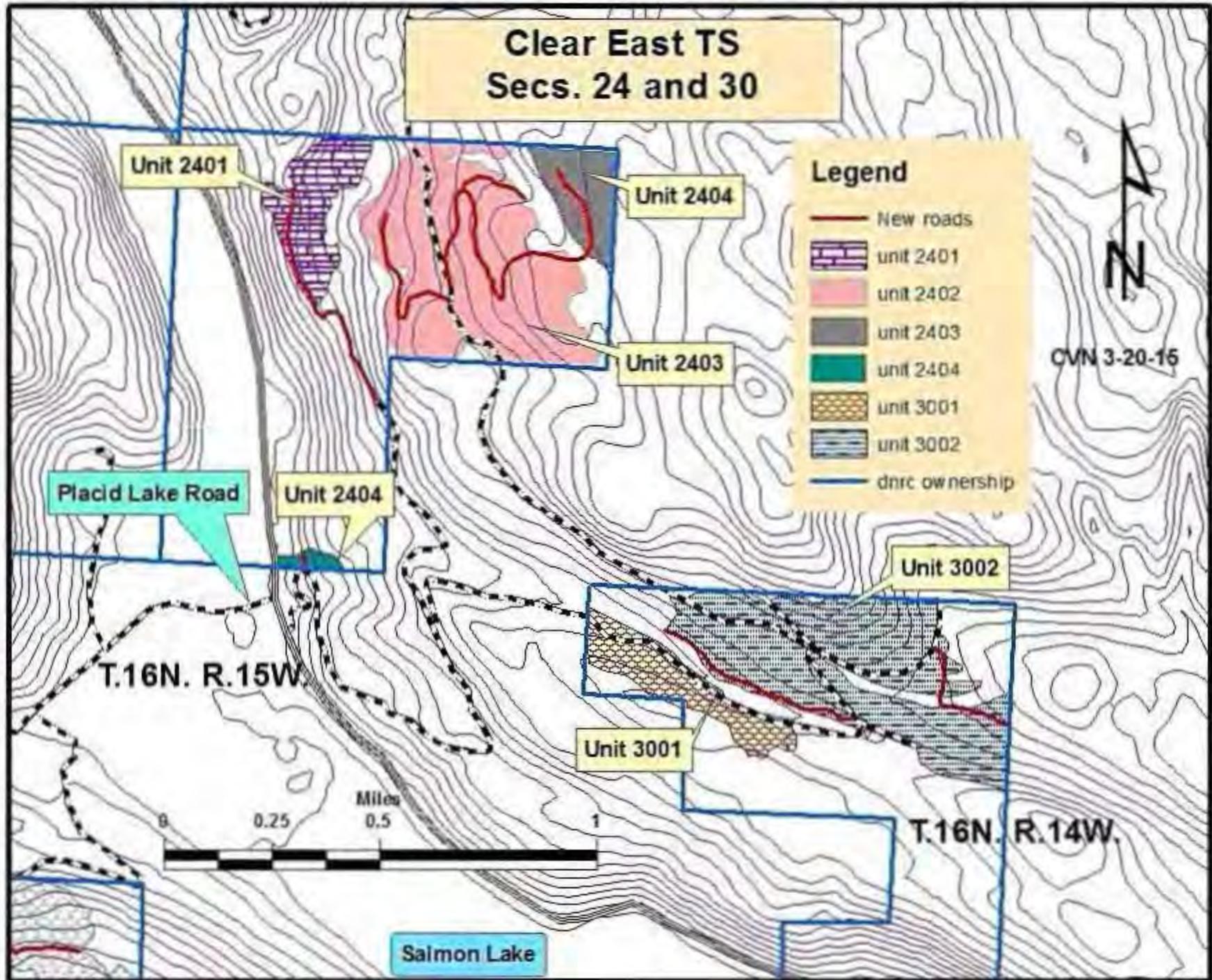


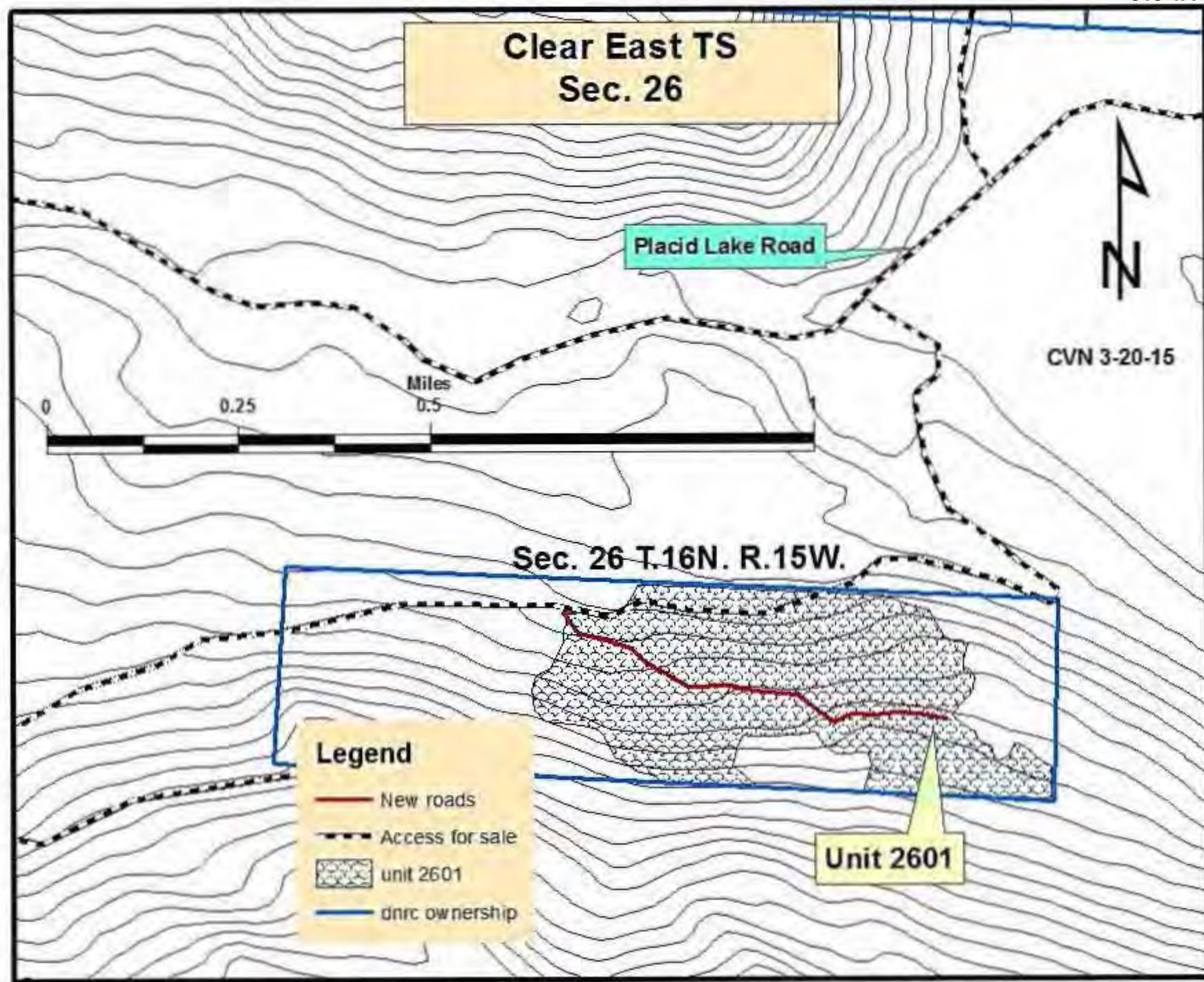
- Towns
- Major Roads
- Rivers
- Water Bodies
- County Border
- State Trust Land

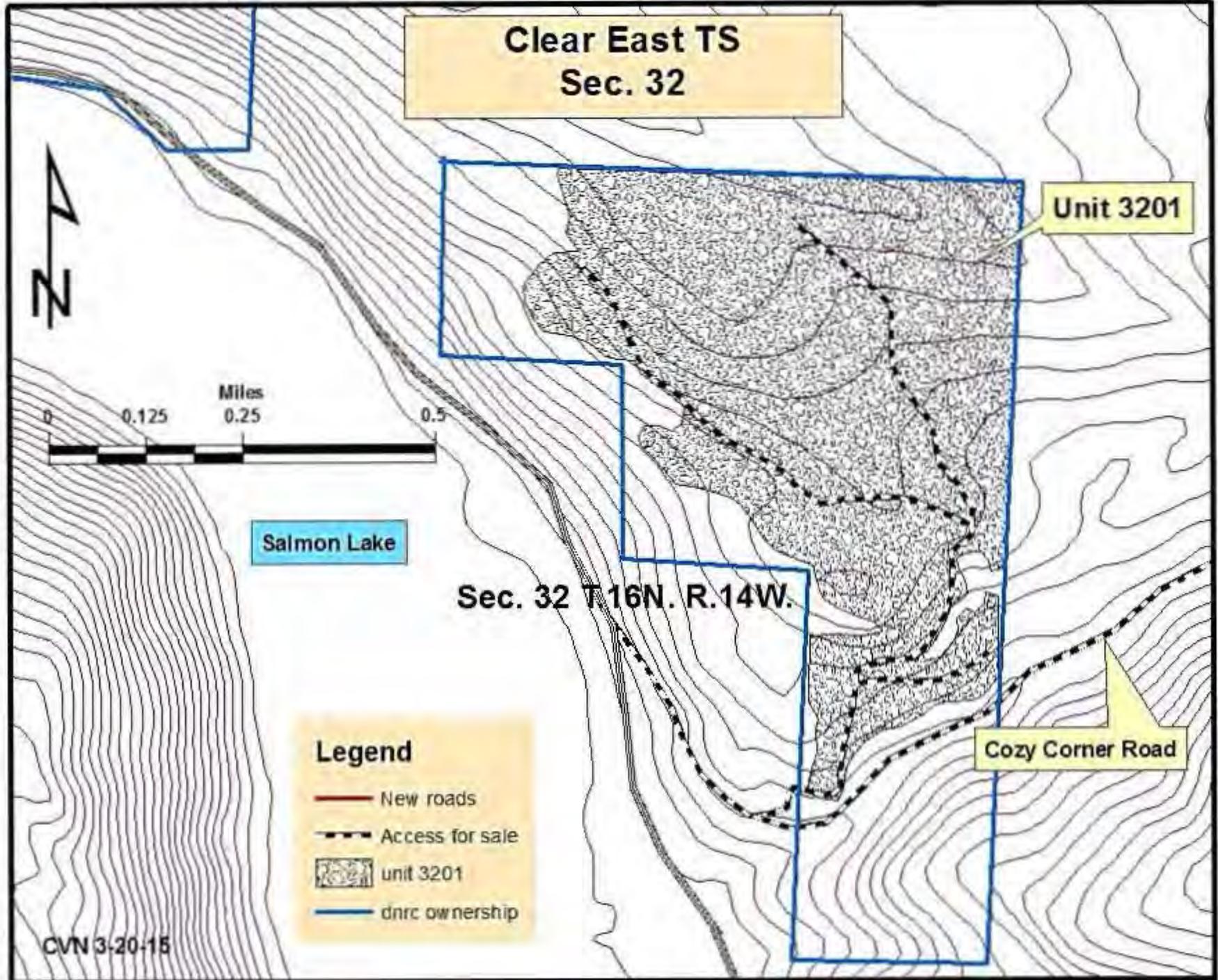












**Land Board Agenda Item
May 18, 2015**

515-1B Timber Sale: Good Time

**Location: Missoula County
Section 18, T15N R13W
Sections 13 & 14, T15N R14W**

Trust Benefits: Common Schools, Public Buildings

Trust Revenue: \$343,936 (estimated, minimum bid)

Item Summary

The Good Time timber sale is located approximately 10 air miles northwest of Ovando, MT on the Blackfoot Clearwater Game Range. The sale has two units totaling approximately 682 acres with an estimated volume of 21,023 tons (2,824 MBF) of sawlogs. The minimum bid value is \$16.36 per ton, which would generate approximately \$343,936 for the Common School Trust and Public Building Fund Permanent Trust, and \$64,120.15 in Forest Improvement Fees. The sale is within the Habitat Conservation Plan (HCP) project area and complies with the commitments outlined in the HCP.

This timber sale will utilize an individual tree selection harvest prescription to reduce stand density by removing shade tolerant species (primarily Douglas-fir). This treatment will promote the healthy species of western larch and ponderosa pine and will reduce the amount of insect infested or disease infected trees. There is no old growth in the project area.

Approximately 9.28 miles of existing permanent road would receive maintenance to meet Best Management Practices (BMPs) for this timber sale. 300 feet of new road will be constructed to replace a short section of road that is too steep and unusable. Some temporary roads may be opened but they would be obliterated once the sale is complete. An approximate 200 foot segment of Icky Creek road will be moved to facilitate better drainage. Some roads within this sale are open for public travel because the project area is on the Blackfoot Clearwater Game Range.

Legal access to this timber sale is from county road and State highway.

This timber sale was analyzed in the Good Shepherd Timber Sale Environmental Assessment. A Scoping Notice was sent to adjacent landowners and interested parties in November, 2010 and legal ads were placed in weekly editions of the *Missoulian* and *Silver State Post* newspapers. One comment was received, and it was in favor of the project. The Clearwater Unit has worked closely with Montana Department of Fish Wildlife and Parks (FWP) throughout the Montana Environmental Policy Act (MEPA) process and during project development.

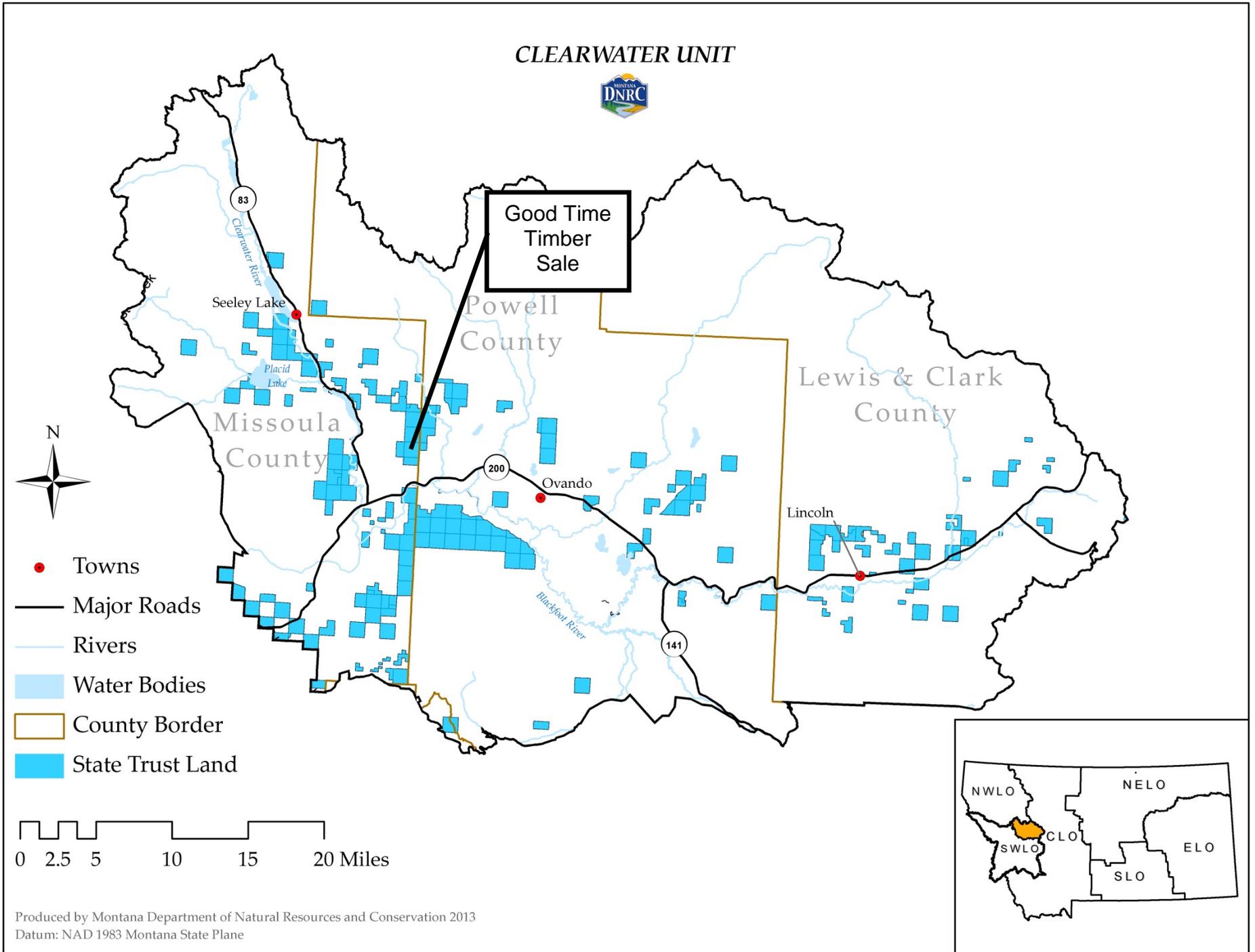
DNRC Recommendation

The director recommends the Land Board direct DNRC to sell the Good Time timber sale.

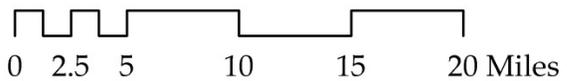
CLEARWATER UNIT



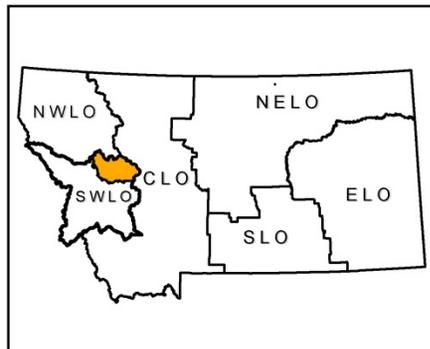
Good Time
Timber
Sale



- Towns
- Major Roads
- Rivers
- Water Bodies
- County Border
- State Trust Land

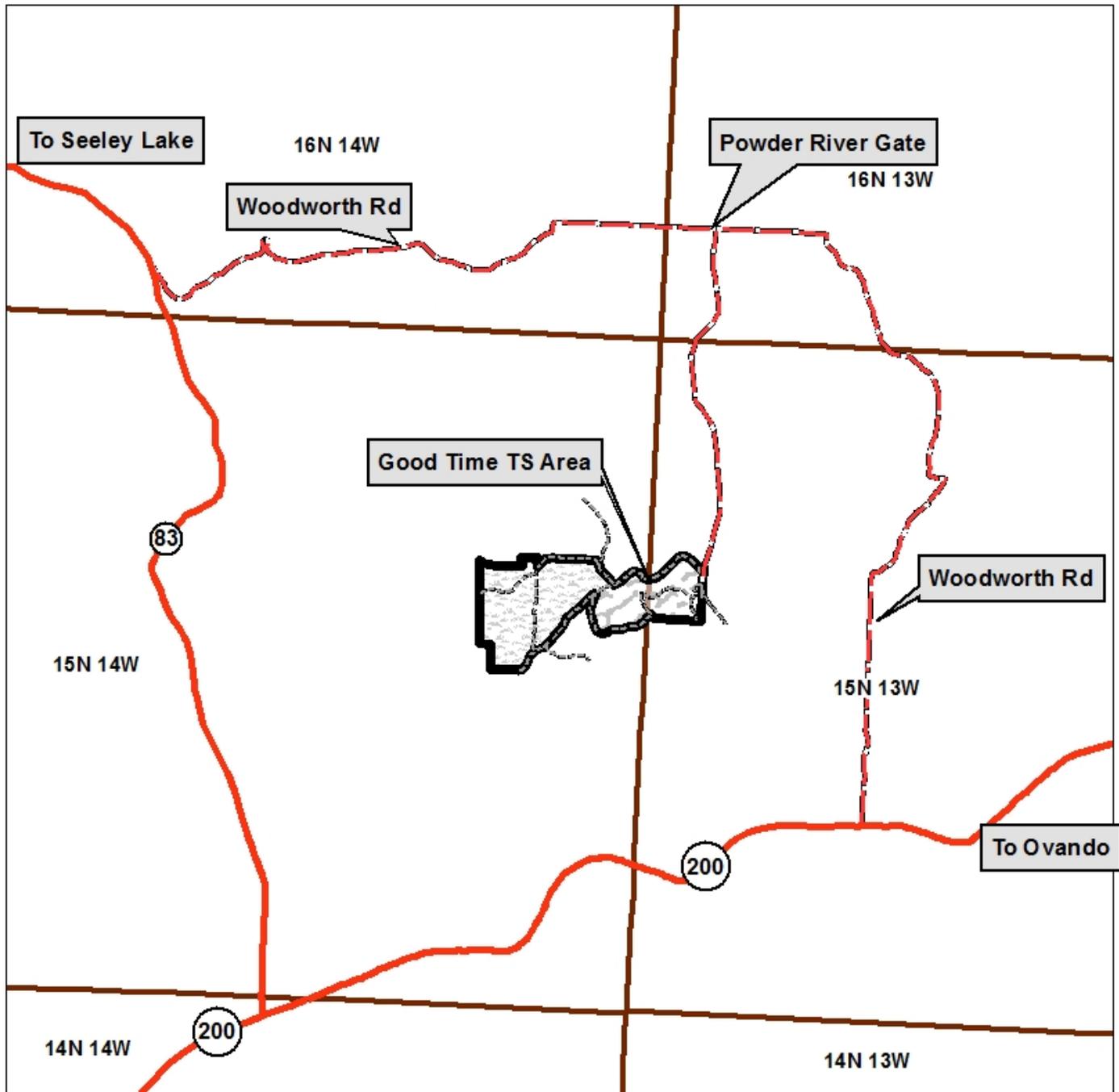


Produced by Montana Department of Natural Resources and Conservation 2013
Datum: NAD 1983 Montana State Plane



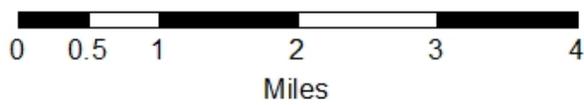


Good Time Timber Sale Haul Route



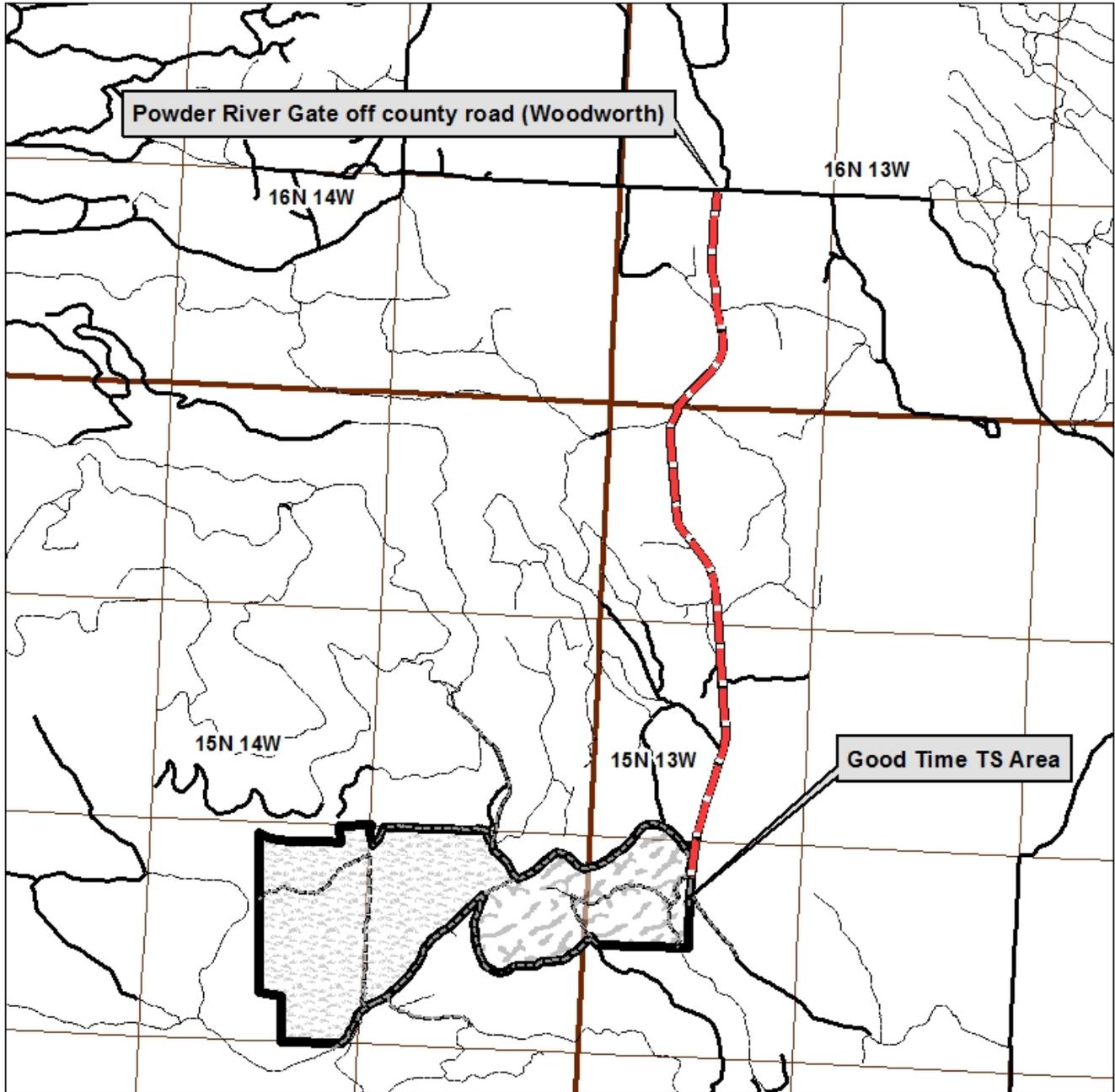
Legend

- Highway
- Haul Route
- Good_Time_SaleRoads
- Good_Time_Boundary
- Unit_1
- Unit_2



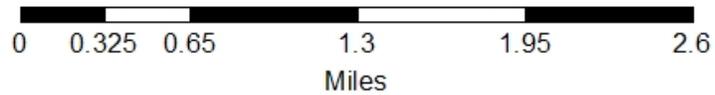


Good Time Timber Sale Haul Route



Legend

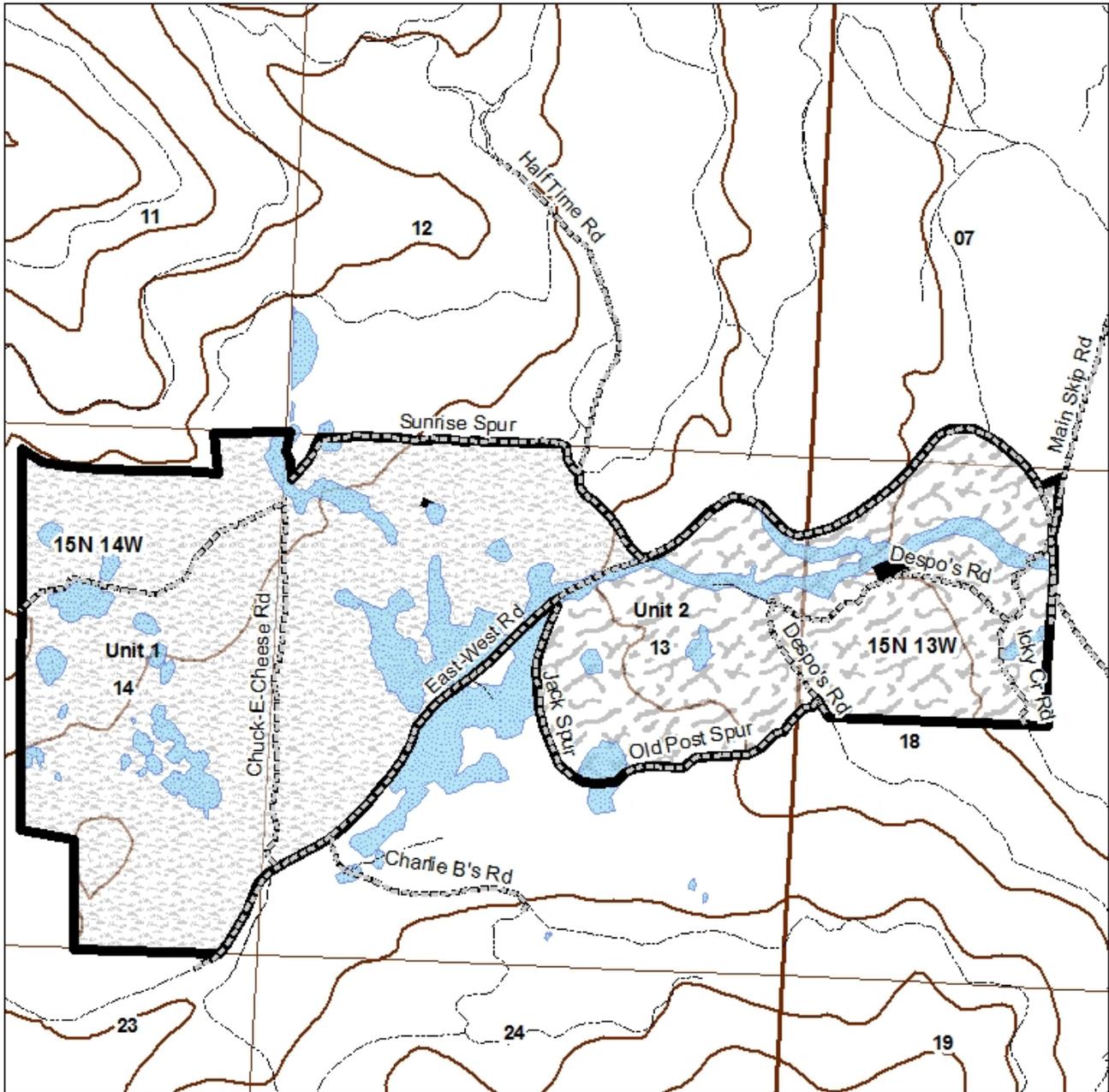
- Haul Route
- Good_Time_SaleRoads
- Good_Time_Boundary
- Unit_1
- Unit_2



Created by:
C. Super
Date: 2/26/2015

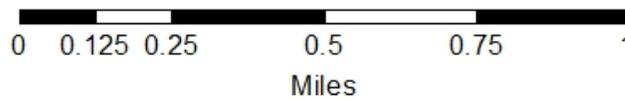


Good Time Timber Sale



Legend

- Good_Time_SaleRoads
- CLW_Roads
- Good_Time_Boundary
- ERZs
- SMZ
- Unit_1
- Unit_2



Created by:
C. Super
Date: 2/26/2015

**Land Board Agenda Item
May 18, 2015**

515-1C Timber Sale: St. Mary's Lake

Location: Lake County

Trust Benefits: Common Schools

Trust Revenue: \$265,528 (estimated, minimum bid)

Item Summary

The St. Mary's Lake timber sale is located approximately six air miles southeast of St. Ignatius, Montana. The project area shares property boundaries with Confederated Salish and Kootenai Tribes (CSKT). The sale includes 12 harvest units totaling 465 acres with an estimated volume of 26,447 tons (4,336 MBF) of sawlogs. The minimum bid value is \$10.04 per ton, which would generate approximately \$265,528 for the Common Schools Trust and \$108,961.64 in Forest Improvement Fees. The sale is within the Habitat Conservation Plan (HCP) project area and complies with the commitments outlined in the HCP.

This sale would implement seed tree and shelterwood treatments, allowing healthy regeneration to occur and removing trees affected by root rot, dwarf mistletoe, and bark beetles. These harvest types would result in the maintenance of a two-storied stand. The post-harvest forest would be more open, allowing for the regeneration of seral, disease-resistant stands and a species composition closer to historical conditions. There is no old growth present in this sale.

This timber sale would include 3.4 miles of new road construction and .6 miles of road reconstruction. All roads will be closed after timber harvest activities are completed.

This state trust section has legal public road access from Montana Highway 83.

The initial scoping notice for the St. Mary's Lake timber sale was mailed on December 30, 2014. The scoping notice was sent to the individuals and groups listed on the statewide scoping list, and to adjacent landowners and agencies. The scoping notice was also posted to the Department of Natural Resources and Conservation (DNRC) website. One comment was received from the CSKT hydrologist regarding Streamside Management Zone (SMZ) guidelines. After communication with the DNRC hydrologist regarding the SMZ plans for this timber sale, the CSKT approved the DNRC plan. Three comments were received from adjacent landowners. These comments contained concerns regarding aesthetics, wildfire risk, road dust created from logging traffic, and harvest clean-up. Mitigations to address these concerns are as follows:

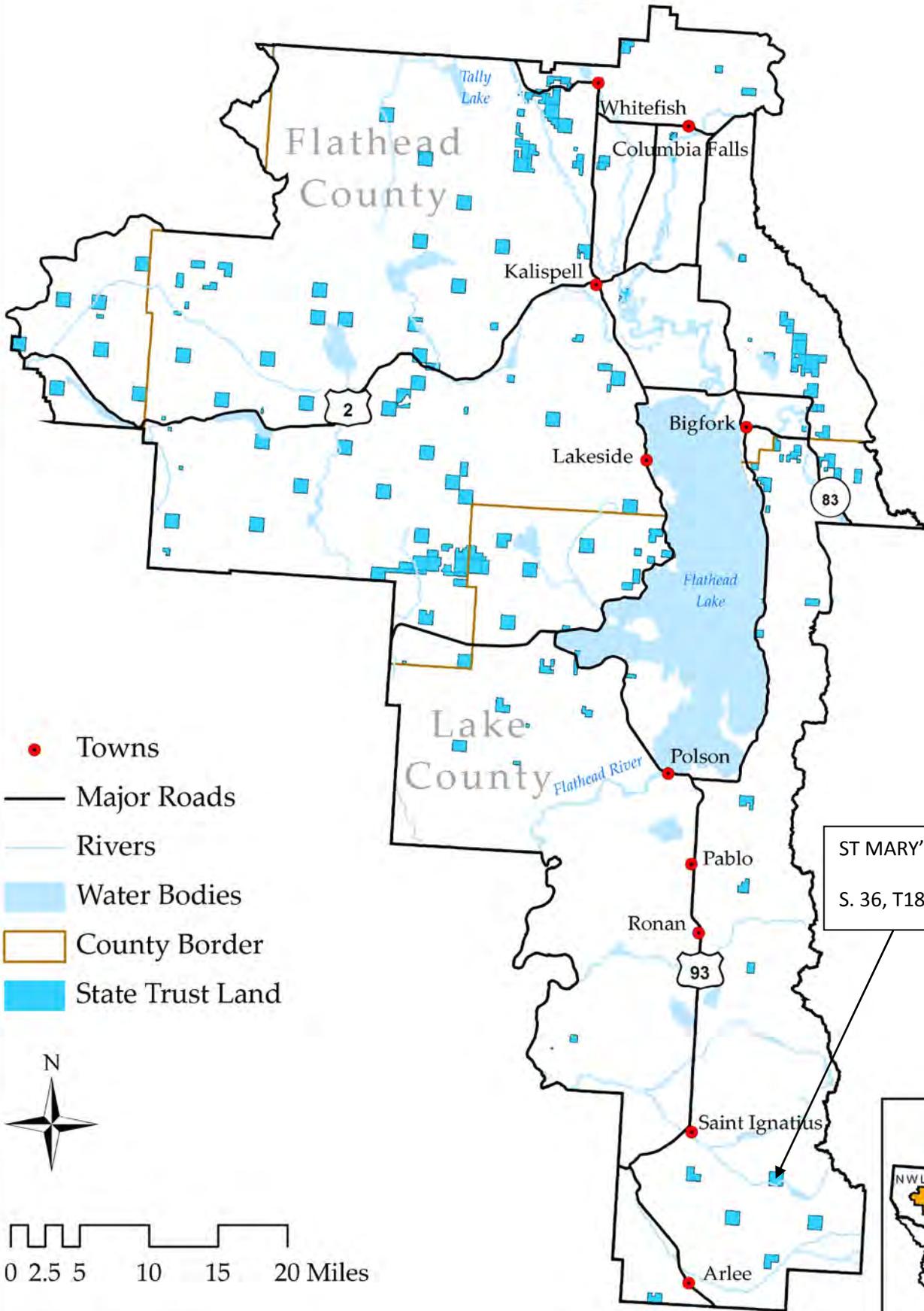
- Aesthetics: A minimum 100 foot no-cut buffer will be left along the St. Mary's Lake road. This parcel is not visible from Highway 83 or any residential area.
- Fire Danger: Widening the spacing of the leave trees, removing the dead and dying timber, proposed prescribed burning, and treatment of logging slash will reduce the fire danger in the area.
- Logging Traffic and Clean-Up:
 - Log hauling will typically take place during the general "work week".
 - Signs will be posted making the public aware of log hauling traffic in the area.
 - If necessary, a slower speed limit may be imposed in the timber harvest contract.
 - Harvesting operations would be short in duration. Dust may be created from log hauling on portions of roads during summer and fall months.
 - Contract clauses would provide for the use of dust abatement or require trucks to reduce speed if necessary to reduce dust near any affected residences.
 - All slash piles will be burned.
 - All logging debris will be cleaned up to the extent practical.

DNRC Recommendation

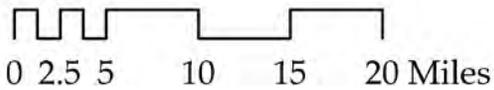
The director recommends the Land Board direct the department to sell the St. Mary's Lake timber sale.

ST MARY'S LAKE VICINITY MAP KALISPELL UNIT

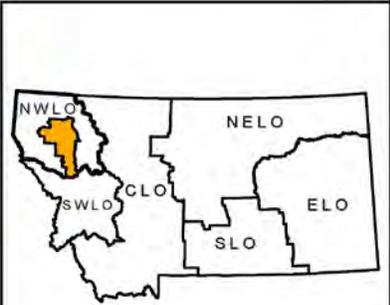
515-1C

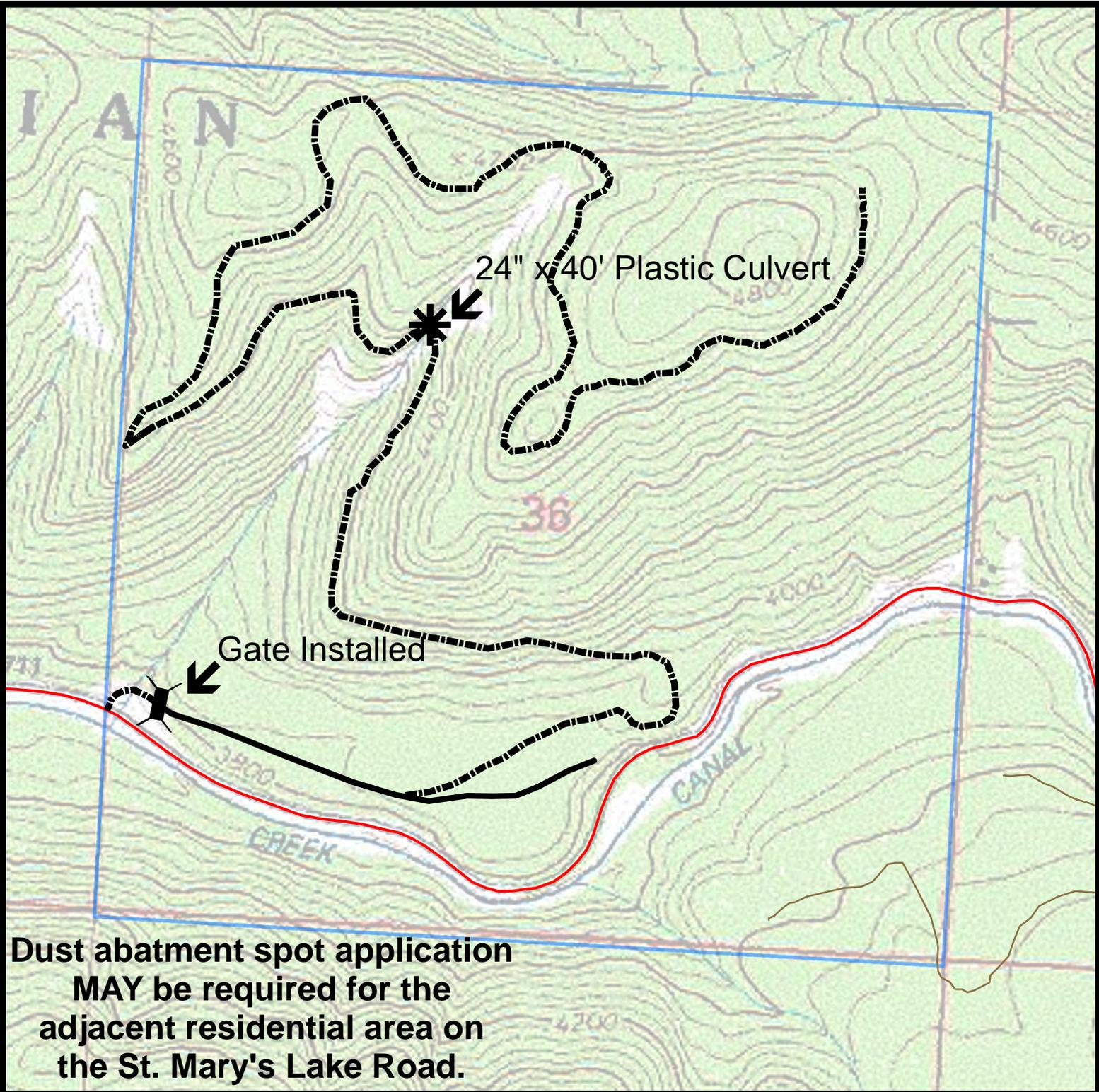


- Towns
- Major Roads
- Rivers
- Water Bodies
- County Border
- State Trust Land



ST MARY'S LAKE PROJECT AREA
S. 36, T18n, R19W





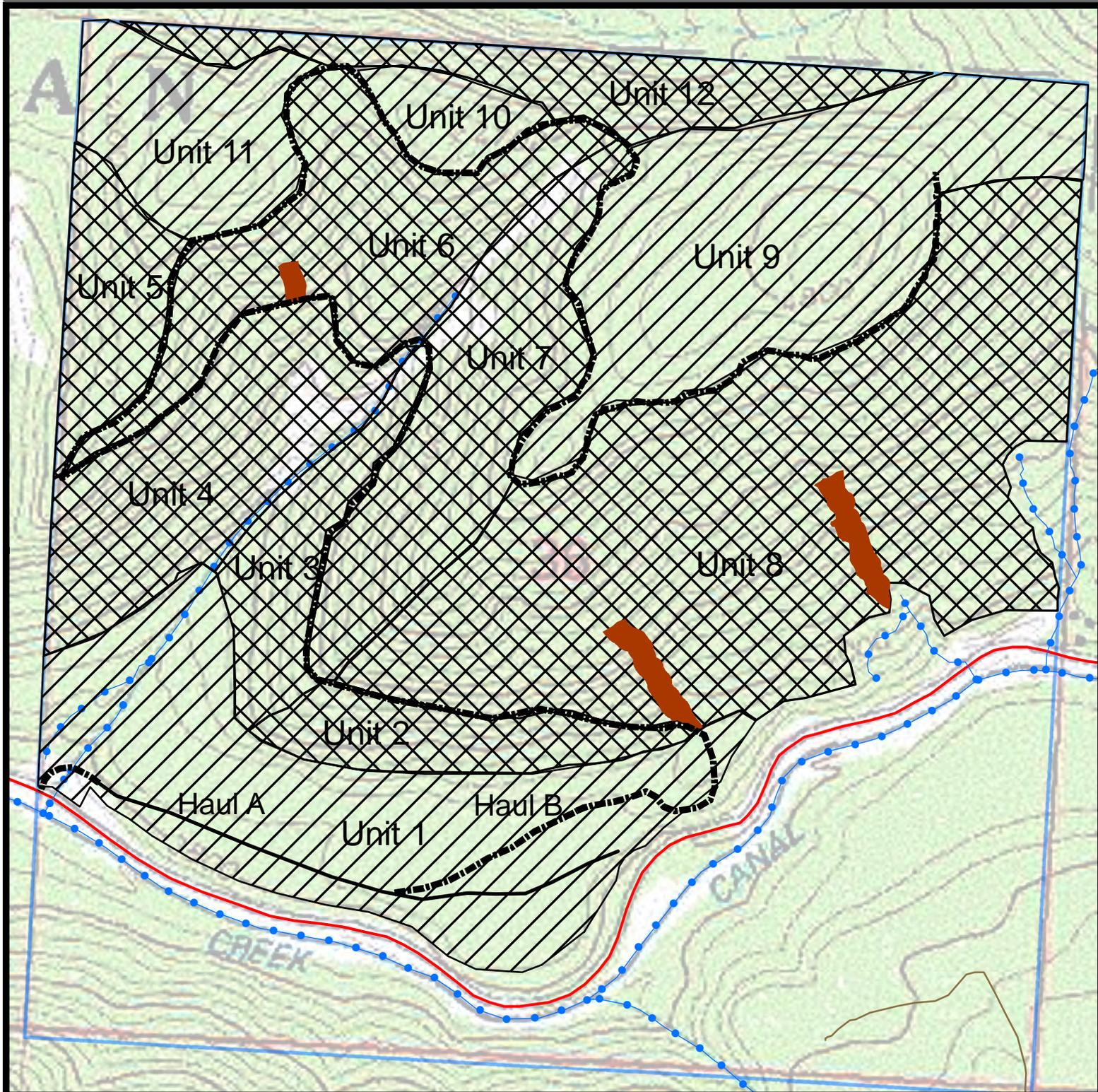
**Dust abatement spot application
MAY be required for the
adjacent residential area on
the St. Mary's Lake Road.**

Legend

= New Road = Existing Road

Montana DNRC
Northwestern Land Office
Timber





Legend

- = New Road
- = Existing Road
- = Wildlife Hiding Cover

- = SMZ's
- = Line Units

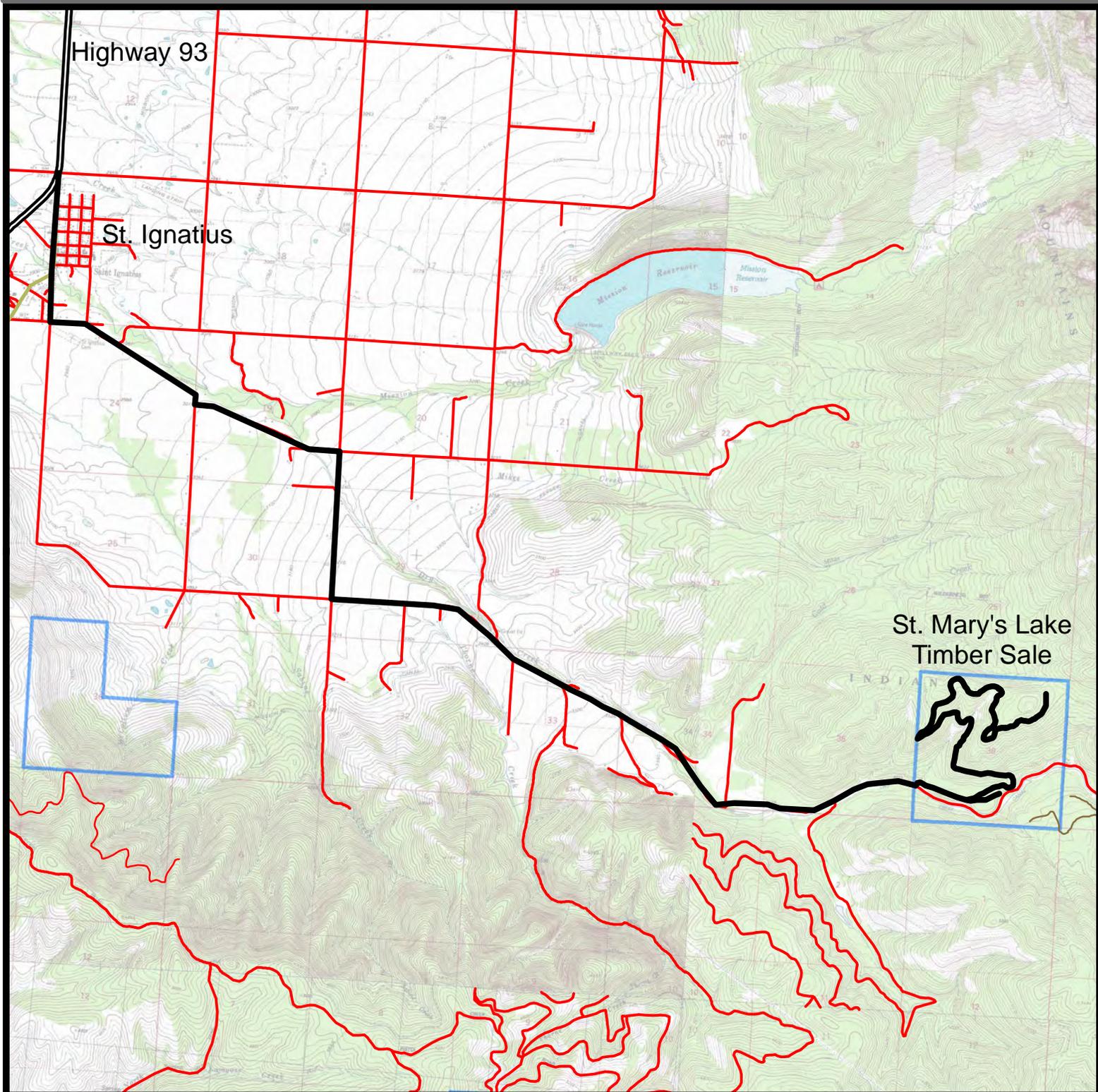
Montana DNRC
Northwestern Land Office
Timber



St Mary's Haul Route

Attachment A

515-1C



Legend

 = Haul Route

Montana DNRC
Northwestern Land Office
Timber



515-2

AGRICULTURE AND GRAZING LEASES: COMPETITIVE BID HEARINGS

- A. Lease No. 8015 and 10717 – Robert, Linda, and Casey Bailey (Lessee)/Ken Ritland (Bidder)
- B. Lease No. 9475 – Tom Heintz (Lessee)/Tim Sheehy (Bidder)

TABLE OF CONTENTS

Introduction3

1. Agricultural and Grazing Leases Nos. 8015 and 10717,
Lessee: Robert, Linda & Casey Bailey
High Bidder: Ken Ritland.....6

2. Agricultural and Grazing Leases No. 9475,
Lessee: Thomas Heintz
High Bidder: Tim Sheehy.....11

INTRODUCTION

On April 24, 2015 the Department of Natural Resources and Conservation (DNRC) held a Competitive Bid Hearing for State of Montana agricultural and grazing leases No's 8015, 10717, which are being renewed in 2015. These new ten-year leases will expire on February 28, 2025. If a lessee wishes to renew the lease for another term he must submit an application. If other persons inquire about the availability of a lease, their names and addresses are noted in the file and they are sent applications and bid forms at the time of lease renewal.

The statutory absolute preference right within Section 77-6-205(2), MCA, to renew a state agricultural and grazing lease was declared unconstitutional by Judge Jeffrey Sherlock in Broadbent v. State of Montana, et al., First Mont. Judicial District Court, Cause No. BDV-2003-361, because it impermissibly interfered with the constitutional power of the Land Board, under Art. X, Section 4 of the Montana Constitution, to choose its lessees. The Land Board, in response to Judge Sherlock's ruling, amended ARM 36.25.117 to exercise its constitutional prerogative to grant a qualified preference right to incumbent lessees in good standing. Through this rule, the Land Board has expressed its qualified preference to issue renewals of agricultural and grazing leases to the incumbent lessee provided that they have not committed illegal subleasing and do not have a history of lease violations. However, in all instances, the Board has reserved the right to choose the best-qualified lessee.

As part of its constitutional power, the Land Board may also determine the rate at which such leases will be issued. The Land Board has recognized that full market value encompasses the concept of sustained yield. Section 77-6-101 MCA. In Jerke v. State Dept. of Lands, 182 Mont. 294, at 296-297, 597 P.2d 49 at 50-51 (1979), the Montana Supreme Court held that a Grazing District which was not a lessee of a state grazing lease could not exercise a preference right. The Court described the rationale of the preference right to meet a high bid as follows:

Sustained yield is the policy which favors the long term productivity of the land over the short term return of income. State ex rel. Thompson v. Babcock, supra. The preference right seeks to further this policy by inducing the State's lessees to follow good agricultural practices and make improvements on the land. This is accomplished by guaranteeing that the lessees will not lose the benefits of their endeavors by being outbid when their leases terminate. They are preferred and may renew their leases by meeting the highest bid submitted.

Id.

Exercised in such a manner, such a preference is in the best financial interests of the school trust beneficiaries. All other things being equal, the Land Board has recognized that stability of land tenure encourages existing lessees to make greater improvements in the land, knowing that they will likely be able to utilize these improvements in the future, and that some stability of tenure allows lessees to operate more efficiently. The duty to prudently maximize revenue return to the trust estate from the trust properties is always subject to the duty to preserve the financial productivity of the trust lands. Oklahoma Education Association v. Nigh, 642 P.2d 230 at 238 (1982)

No applicant for a grazing lease can compel the State Board of Land Commissioners to grant it an interest in state trust lands, especially where the concept of sustained yield is ignored. See, Skillman v. Department of State Lands, 188 Mont. 383, 613 P.2d 1389 (1980); Gibson v. Stewart, 50 Mont. 404, 147 P. 276 (1915) (Whether a tract of state land shall be leased is a question addressed to the sole discretion of the Land Board.); §77-6-206, MCA ([T]he board may withdraw any agricultural or grazing land from further leasing for such period as the board determines to be in the best interest of the state".)

Under ARM 36.25.117, if a lessee exercises the qualified preference right but believes that the bid amount is excessive, he or she may request a hearing. The purpose of the hearing is twofold: 1) to determine the best-qualified lessee for the upcoming lease term; and 2) to ascertain the appropriate rental rate for that term. Specifically, the director inquires whether the high bid amount represents the fair market value of the lease and whether the rental rate is truly in the best interests of the trust. In determining whether the "high bid" rental rate is in the best interests of the beneficiaries of the trust, the Land Board must utilize the criteria set out in §77-6-205(2), MCA, and in Thompson v. Babcock, 147 Mont. 46, 409 P.2d 808 (1966). Under these criteria, the Montana Supreme Court has held that the "high bid" may be rejected where it is either "...above community standards for a lease of such land, would cause damage to the tract, or impair its long-term productivity".

The Montana Supreme Court has recognized that an excessive rental rate, at some point, economically compels a lessee to graze all the available forage on a grazing lease or reduce costly fertilizer, herbicide, and summer fallow treatments on agricultural leases. When state lands are over-grazed or farmed with minimal input costs, they produce more noxious weeds, less forage or crops, and less future income for the beneficiaries of the various trust lands. In extreme cases, the productivity of the land may be permanently damaged. Thus, it is in the best interests of the state to set a rental rate which balances the competing factors. In this "balancing act", the Land Board is attempting to maximize long-term income by allowing the lessee a sufficient monetary incentive to exercise wise range management and agricultural practices. If the rate is too low, the state will not receive full market value for its lands. If the rate is too high, the lessee may be induced to over-graze the tract, or reduce inputs such as herbicides, and long-term trust income to the trust beneficiary will inevitably suffer.

In the competitive bid hearing process, the director is recommending the rental rate for the next term of the grazing or agricultural lease. The economic viability of these leases fluctuates according to prevailing weather conditions and commodity prices; both of which can vary wildly. Despite these fluctuations, the grazing rental charged by the Board must be paid by the lessee whether or not any forage upon the lease is utilized. By contrast, private lessors generally do not collect rentals when they no longer have forage available for lease. Consequently, setting an appropriate rental rate, so as to sustain the long-term viability of school trust leases and maximize long-term income, is simply not as easy as accepting the highest bid. If it were, there would be no need for a hearing on the subject.

The best lessee is chosen according to nine criteria set out within ARM 36.25.117:

- 1) an intended grazing or cropland management plan for the new term of the lease;
- 2) experience associated with the classified use of the land;
- 3) other non-state lands that are fenced and managed in common with the state land;
- 4) intended grazing or cropland improvements that will benefit the health and productivity of the state lands;
- 5) a weed management plan;
- 6) management goals and objectives and monitoring procedures to determine if they are being met;
- 7) the method or route used to access the state land;
- 8) any other information the director deems necessary in order to provide a recommendation to the board; and,
- 9) The incorporation of all or part of this information as terms and conditions in the new lease agreement.

The current policy of the board authorizes the director of the department to hold the competitive bid hearings; hear the evidence; and make recommendations to the board. Since the rental rates are based upon the evidence presented at the hearing, the board members must avoid consideration of information outside the hearing record.

This year the director granted requests for hearing on two leases. The hearings were conducted on April 24th, 2014 at the offices of the Department in Helena, Montana. All hearings were electronically recorded and all witnesses testified under oath. However, the hearings were conducted in an informal manner. Department personnel present at the hearings were: Director John E. Tubbs; Trust Lands Management Division Administrator Shawn Thomas; Agriculture and Grazing Management Bureau Chief Kevin Chappell; Trust Lands Attorney Tommy Butler, Land Use Specialist Barney Smith, Bozeman Unit Manager, Craig Campbell, Executive Assistant Julie Hendrickson, and Land Board Staffers Brett O'Neil with the State Auditor's office and Blair Fjeseth with the Secretary of State's office.

In preparation for this hearing, both the lessee and the high bidder were notified of the time and place of the hearing and given copies of ARM 36.25.117. The testimony and evidence considered during the hearing; a summary of the hearing; and the findings and conclusions recommended are set out as follows:

**Land Board Agenda Item
May 18, 2015**

515-2A Agriculture and Grazing Leases: Competitive Bid Hearings – Lease No. 8015, 10717

Location: Chouteau County

Trust Benefits: Common Schools

Trust Revenue: estimated \$14,105.50 during 10-year lease term

Item Summary

On April 24, 2015 the Department of Natural Resources and Conservation (DNRC) held a Competitive Bid Hearing for State of Montana agricultural and grazing leases No's 8015 and 10717, which are being renewed in 2015. These new ten-year leases will expire on February 28, 2025. If a lessee wishes to renew the lease for another term he must submit an application. If other persons inquire about the availability of a lease, their names and addresses are noted in the file and they are sent applications and bid forms at the time of lease renewal.

DNRC Recommendation

Given the evidence presented at the hearing, the director recommends that Robert, Linda, and Casey Bailey be retained as the lessees of lease Nos. 8015 and 10717. The evidence presented, as well as the condition of the land, demonstrates that Robert, Linda, and Casey Bailey have successfully operated this tract, and that they possess substantial experience in grazing and crop land management. They have demonstrated an access route to the state trust lands and described their desire to improve the quality of the grazing forage. Based upon previous results of Baileys' stewardship evident from the most recent Field Evaluation Forms, this continued management should benefit the health and productivity of this land. Should the Baileys' develop a management plan under the NRCS Environmental Quality Incentives Program (EQIP), I would recommend that the state lease stipulations require that the Baileys seek approval by the Department of Natural Resources and Conservation (DNRC) Agricultural and Grazing Management Bureau prior to adoption and implementation of that management plan.

2015 COMPETITIVE BID HEARINGS

Hearing Time: Friday, April 24, 2015 @ 2:00 p.m.

Lease No.: 8015 & 10717

County: Chouteau

Lessee: Robert, Linda & Casey Bailey

LEASE # 8015			
T25N R10E S 26	SE¼	160 Acres	Common Schools
T25N R10E S 27	SW¼	160 Acres	Common Schools
T25N R10E S 33	N½	320 Acres	Common Schools
T25N R10E S 34	N½	320 Acres	Common Schools
T25N R10E S 36	All	640 Acres	Common Schools
T25N R11E S 30	Lots 3,4, E½SW¼	158.48 Acres	Common Schools
Total Acres – 1,758.48 • Grazing Acres – 1,663.48 • Unsuitable Ac. 95 • 336 AUMs			
LEASE # 10717			
T25N R10E S35	NW¼	160 Acres	Common Schools
Total Acres – 160 • Grazing Acres – 46.3 • Ag Acres – 109.7 • Unsuitable Acres – 4 • 18 AUMs			

High Bidder: Ken Ritland

High Bid: L#8015 - \$39.00/AUM
L# 10717 - \$29.00/AUM and the greatest of 50% crop share or \$40.00/Ac.

Other Bids: None

Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Chouteau County Bid Averages: \$17.07/AUM

29.6% Crop Share with \$30.25/Ac Guarantee

MT Ag Statistics 2014 Statewide Private Grazing Rate: \$23.00/AUM

Findings:

Robert, Linda, Casey, and Kristin Bailey appeared and testified on behalf of the lessee. Kenneth and Jennifer “Jenny” Ritland appeared and testified on behalf of the high bidder. Gary Deschenes appeared as counsel for the high bidder.

These two state agricultural and grazing leases are located approximately 11 miles east-northeast of Fort Benton, Montana in a topographic area of benches and coulees. The Baileys have demonstrated access to all the state lease lands as they own private lands adjacent to and largely surrounding each tract. Lease 10717 contains a 4.0-acre stock-water reservoir, which provides water for Lease No. 8015. The Field Evaluation Report for Lease 10717 shows exemplary agricultural stewardship, with the agricultural acres being productive and free of noxious weeds. This stewardship of the lease is corroborated by a review of the crop production reports for Lease No. 10717 the previous ten years. The Baileys have farmed and managed local and adjacent agricultural lands for approximately 25 years and have great familiarity with the soil types and climatic conditions of these two leases. The Baileys’ farming skill and diligence are confirmed by testimonial letters to the file authored by Richard Morris and Rob Hazelwood.

A Prairie Dog town in excess of 30 acres exists within the confines of Lease No. 8015, which requires diligent control measures, as well as careful stewardship to prevent over-grazing by

livestock and resulting wind-blown erosion of soil. There is intermittent water present in Rowe Coulee on the Bailey private lands. Nonetheless, the grazing lands are trending toward improved condition under the Bailey's management. Casey Bailey believed that the western portion of 8015 required additional time in which to rest in order to promote its productivity.

Robert Bailey testified that the Bailey's private lands were fenced and managed in common with State Leases No. 8015 and 10717, and that Bailey's private lands largely surrounded the state trust lands. The high bidder, Mr. Ritland, testified that he intended to access the SE $\frac{1}{4}$ of Section 26, in Township 25 North, Range 10 East, MPM via the Twin Lakes road at the Southeastern corner of this quarter-section. However, Mr. Ritland provided no evidence to show that he possessed a right of access over the Baileys' private lands which wholly surround the state trust lands in the Southwest of Section 30 in Township 25 North, Range 11 East, MPM, and a good portion of the state trust lands in the Southwest quarter of Section 27, the north half of Section 33, the north half of Section 34, and the Northwest quarter of Section 35 in Township 25 North, Range 10 East, MPM.

Robert Bailey testified that the high bid of \$39.00/AUM was not an economically viable bid, and stated that the current minimum rental rate of approximately \$14.00/AUM allowed the lessee to fully carry out its stewardship functions.

Casey Bailey testified that the lessee intended to manage the agricultural and grazing lands in order to achieve an organic certification, and was currently working with the local Natural Resources and Conservation Service to develop an management plan under the Environmental Quality Incentives Program (EQIP), which provides financial and technical assistance to agricultural producers in order to address natural resource concerns. The Bailey's EQIP plan intends to develop water sources and cross-fencing sufficient to implement a rest-rotation grazing program. EQIP plans are generally intended to provide recovery and functioning of riparian habitats, increase the quality and quantity of forage, and improve wildlife habitat. Casey Bailey explained that the organic methods he utilized placed great emphasis upon the use of rotational crops, hand-pulling of knapweed, and use of alfalfa crops to crowd out weeds.

The high bidder has prior experience with the grazing acres of these state leases, since it operated upon them in cooperation with McDonald Farms, Inc. as a co-lessee. However, the department has received correspondence from adjacent Rob Hazelwood and Richard Morris asserting that they knew of instances where Mr. Ritland over-grazed his private lands, and was not diligent about fencing his livestock in – leaving them to consume forage on other's lands. Regardless, Jennifer Ritland testified that the high bidder intended to fence the exterior boundaries of these leases between the state lands and Bailey's private lands and impose a rest-rotation grazing plan for the existing pastures. The high bidder does not own, lease, or operate upon any lands adjacent to these state leases.

Ken Ritland testified that he knew of \$30.00/AUM grazing leases on nearby private lands where the lessor provided fencing, and also asserted that the high bid for the agricultural acres was economic, although he did not provide any example of any local agricultural operation which was sustainable at a 50% crop share rental. Mr. Ritland would contract for weed spraying when needed.

The hearing conducted by the Department concerned itself with a determination of the best lessee under the criteria of ARM 36.25.117, and recommended rental rates at the prevailing community standard. Kenneth Ritland, through his legal counsel Mr. Deschenes, further asserted that Mr. Ritland had a legal right to these leases as a lessee. In support of this argument Mr. Ritland presented a document appearing to be expired lease between himself and McDonald Farms.

However, a review of chronological ownership in the lease files conclusively shows that Kenneth Ritland currently possesses no interest in either State of Montana Agricultural and Grazing Leases 8015 or 10717. Any interest Mr. Ritland possessed in these leases has been assigned to McDonald Farms, Inc., who in-turn, assigned all its interest in these leases to Robert, Linda, and Casey Bailey.

Lease No. 8015 was originally held McDonald Farms, Inc., and Kenneth Ritland as co-lessees. However, Kenneth Ritland on March 23, 1992, executed an assignment of his interest in Lease No. 8015 (which at that time also included any interest in the NW¼ of Section 35, Twp. 25 N., Rge. 10 E.) and delivered this assignment back to McDonald Farms, Inc. This reversionary assignment was held by McDonald Farms, Inc. as a security interest and was not filed with the department until June 26, 2014.

In July, 2005, the described premises of Lease No. 8015 were later modified when McDonald Farms and Kenneth Ritland assigned the Northwest quarter of Section 35, in Township 25 North, Range 10 East, MPM, to: McDonald Farms, Inc.; Kenneth Ritland; and Robert & Linda Bailey, as co-lessees. For administrative purposes only, a separate lease file was then created as Lease No. 10717, listing McDonald Farms, Robert & Linda Bailey, and Kenneth Ritland as co-lessees. The department approved this assignment on July 25, 2005

Mr. Ritland subsequently encountered financial difficulties and on March 28, 2011 filed a Chapter 12 bankruptcy action (Case No. 11-60526-12, U.S. Bankruptcy Court for the District of Montana). 11 USC Section 362(3) imposes an automatic stay or injunction over “. . . any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate”. Ritland’s Bankruptcy discharge was issued on June 10, 2014, and any automatic stay of bankruptcy was lifted.

During the Ritland bankruptcy proceeding, on February 23, 2012, Ardice (a/k/a “Dusty”) Kuehner, President of McDonald Farms, Inc. confirmed that McDonald Farms, Inc. intended to sell its private lands to Baileys, and would assign these adjacent state agricultural and grazing leases to Baileys. On January 18, 2013 McDonald Farms, Inc. assigned all its interest in lease No. 8015 and 10717 to Robert, Linda, and Casey Bailey.

After the Ritland Chapter 12 Bankruptcy action was concluded on July 7, 2014, the Department approved the March 23, 1992 assignment of these state leased lands from McDonald Farms Inc. and Kenneth Ritland to McDonald Farms, Inc. On July 7, 2014, the Department approved the January 18, 2013 assignment of these leases from McDonald Farms, Inc. to Robert, Linda, and Casey Bailey. Consequently, a clear chain-of-title exists by which the Department has concluded that Robert, Linda, and Casey Bailey are the existing lessees of record for State of Montana agricultural and grazing lease Nos. 8015 and 10717.

Recommendation:

The director recommends that Robert, Linda, and Casey Bailey be retained as the lessees of lease Nos. 8015 and 10717. The evidence presented as well as the condition of the land, demonstrates that Robert, Linda, and Casey Bailey have successfully operated this tract, and that they possess substantial experience in grazing and crop land management. They have demonstrated an access route to the state trust lands and described their desire to improve the quality of the grazing forage. Based upon previous results of Baileys’ stewardship evident from the most recent Field Evaluation Forms, this continued management should benefit the health and productivity of this land. Should the Baileys’ develop a management plan under the NRCS Environmental Quality Incentives Program (EQIP), I would recommend that the state lease stipulations require that the Baileys seek approval by the Department of Natural Resources and Conservation

(DNRC) Agricultural and Grazing Management Bureau prior to adoption and implementation of that management plan.

Cattle market prices have increased grazing rental rates in the local community. Given the evidence presented at the hearing, the director recommends that the annual grazing rental rate for the grazing portions of lease Nos. 8015 and 10717 be set at the high bid of \$29.00/AUM. This rental rate is consistent with community standards for grazing lands of this type, and instituting such a rental rate would not impair the long-term productivity of this tract given the current level of cattle prices.

The high bid of 50% crop share for the agricultural acres on lease 8015 is not sustainable. However, given the evidence presented at the hearing, the director recommends that the annual rental rate for the agricultural portions of lease No. 8015 be set at a cash rental rate of \$35.00/acre, which is the prevailing agricultural rental rate seen in this community.

Land Board Agenda Item
May 18, 2015

515-2B Agriculture and Grazing Leases: Competitive Bid Hearings – Lease No. 9475

Location: Gallatin County

Trust Benefits: Common School Grant

Trust Revenue: estimated \$684.00 during ten-year lease term

Item Summary

On April 24, 2015 the Department of Natural Resources and Conservation (DNRC) held a competitive bid hearing for State of Montana agricultural and grazing lease No. 9475, which is being renewed in 2015. This new ten-year lease will expire on February 28, 2025. If a lessee wishes to renew the lease for another term he must submit an application. If other persons inquire about the availability of a lease, their names and addresses are noted in the file and they are sent applications and bid forms at the time of lease renewal.

DNRC Recommendation

Given the evidence presented at the hearing, the director recommends that the Board issue the next ten-year term of Lease No. 9475 to Tom Heintz, and that the Board set the annual grazing rental for this lease at the rate of \$36.00/AUM. Mr. Heintz is the best-qualified lessee as evidenced by his exemplary past management of this tract, despite the profound challenges posed by heavy public use of these lands. The rate of \$36.00/AUM is the prevailing community standard and provides full market value for the grazing forage present on this tract.

2015 COMPETITIVE BID HEARINGS

Hearing Time: Friday, April 24, 2014 @ 3:00 p.m.

Lease No.: 9475

County: Gallatin

Lessee: Thomas Heintz

Tracts:

T1S R4E S16: W½NE¼, SE¼NE¼ – 120 Ac. - Common School Grant

Grazing Acres: 82

AUM Rating: 19

Ag (Hay) Acres: 0

High Bidder: Tim Sheehy

High Bid: \$263.16 per AUM

Other Bids: None

Previous Rental: \$30.00 per AUM

Prevalent Community Rental Information:

State Land Gallatin County Bid Averages: \$18.12/AUM

MT Ag Statistics 2014 Statewide Private Grazing Rate: \$23.00/AUM

Findings:

This tract of state grazing land is located on the west bank of the Gallatin River approximately 2.5 miles southwest of Belgrade, Montana. The tract is located upon the west fork of the Gallatin River. Mr. Heintz owns adjacent private land on the northern boundary of this state land has thus possesses direct legal access to it. The majority of this tract is covered with underbrush and Cottonwood trees and is rated at approximately four acres per animal unit month. The remaining grazing pasture is sub-irrigated and enjoys substantial water for livestock flowing through the pastures. The tract has been cross-fenced by the lessee. Although there is no established public access road to this tract, it receives significant public use by anglers on the Gallatin River and by residents of adjoining subdivisions. Because of its proximity to a large population center, the tract is subject to adverse public-use impacts. For example, the lessee has experienced cut fences, dumping of debris and litter, and the spread of noxious weeds. A broad-head arrow left on the property by bow hunters had injured one of the lessee's mules. Another horse was shot on this tract. Despite these burdens, the lessee has exercised exceptional stewardship and intensive management of this tract. He has spent considerable time and effort to constantly clean up garbage, maintain fences, and spray weeds. On an adjacent levee, he has spread composted manure to build up a soil base so that grass species could be established to combat the spotted knapweed infestation. He has personally hauled a dozen old car bodies from the bank of the river. The lessee submitted copies of correspondence documenting his impressive efforts to control weeds. The lessee has followed an annual program of weed spraying with Tordon. The lessee's management efforts have preserved the productivity of this tract and, additionally, provided habitat for a host of wildlife

species. Mr. Heintz possesses substantial skill and experience in managing livestock and grazing pastures.

Mr. Heintz asserted that the high bid of \$263.16/AUM was not an economically-viable rate, and presented no evidence of anyone in the community who was paying such a rental rate.

Mr. Sheehy, the high bidder, owns a 20-acre parcel of adjacent land on the western boundary of the state land, and thus has direct legal access to it. Mr. Sheehy has three head of horses that he cannot place on his private land due to covenants against livestock use. Thus, he placed a bid on this state grazing lease as it would be convenient to have his horses closer to his residence. His high bid was simply based upon what he was willing to pay, not whether it represented a rate recognized by a prevailing community standard. He currently experiences incursions of Hound's Tongue weeds on his private land and has dealt with this by hand-pulling them. He envisioned suppressing weeds on the state tract by backpack spraying of herbicide.

Recommendation:

The director recommends that the Board issue the next ten-year term of lease No. 9475 to Tom Heintz, and that the Board set the annual grazing rental for this lease at the rate of \$36.00/AUM. Mr. Heintz is the best-qualified lessee as evidenced by his exemplary past management of this tract, despite the profound challenges posed by the heavy public use of these lands. The rate of \$36.00/AUM is the prevailing community standard and provides full market value for the grazing forage present on this tract.

515-3

LAND BANKING PARCELS: FINAL APPROVAL FOR SALE

- A. Carter County
- B. Garfield County
- C. McCone County
- D. Powder River County

**Land Board Agenda Item
May 18, 2015**

515-3A Land Banking Parcel: Final Approval for Sale

Location: Carter County

Trust Benefits: Common Schools

Trust Revenue: \$204,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval on one parcel totaling 640 acres which was nominated for sale in Carter County. The sale was nominated by the lessee and is located approximately 10 miles north of the Wyoming-Montana Border.

Sale #	# of Acres	Legal	Nominator	Trust
61	640±	ALL, Section 16, T8S-R56E	Century Ranch LLC	Common Schools

Sale parcel 61 is used primarily for livestock grazing purposes. The parcel has average productivity for grazing lands statewide.

The parcel is not legally accessible by the public.

No potentially negative issues were identified through the Montana Environmental Policy Act (MEPA) process regarding the sale of this parcel.

Economic Analysis:

Short-term – The rate of return on the sale parcel is 0.62 percent. The parcel would continue to receive this return if it remains in state ownership.

Long-term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through the department’s Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.35 percent on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources:

The state parcels proposed for sale were inventoried to Class III standards for cultural and paleontological resources. No *Antiquities*, as defined under the Montana State Historic Preservation Act, were identified. A formal report of findings has been prepared and filed with the Montana State Historic Preservation Office per the requirements of the Montana State Antiquities Act.

Background:

In October 2014, the Board granted preliminary approval for this parcel to continue through the Land Banking sale evaluation process. In February 2015, the Board set the minimum bid at the appraised value with access as follows:

Sale #	Minimum Bid
61	\$204,000

Sale Price

The parcel was sold at a public auction on April 9, 2015. The parcel had only one bidder and was sold for the minimum bid amount listed above.

DNRC Recommendation

The director recommends final approval of Land Banking Sale 61. The sale will be closed within 30 days of final approval by the board.

Carter County Sale Location Map



Sale #61

ALL, Section 16, T8S-R56E
Century Ranch, LLC



**Land Board Agenda Item
May 18, 2015**

515-3B Land Banking Parcel: Final Approval for Sale

Location: Garfield County

Trust Benefits: Common Schools

Trust Revenue: \$107,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval on one parcel totaling 320 acres which was nominated for sale in Garfield County. The sale was nominated by the lessee and is located approximately 35 miles southeast of Jordan.

Sale #	# of Acres	Legal	Nominator	Trust
719	320±	W ¹ / ₂ , Section 14, T15N-R41E	Burl & Shemene Peckman	Common Schools

Sale parcel 719 is used primarily for livestock grazing purposes. The parcel has average productivity for grazing lands statewide.

The parcel is not legally accessible by the public.

No potentially negative issues were identified through the Montana Environmental Policy Act (MEPA) process regarding the sale of this parcel.

Economic Analysis:

Short-term – The rate of return on the sale parcel is 0.65 percent. The parcel would continue to receive this return if it remains in state ownership.

Long-term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through the department's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.35 percent on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources:

The state parcels proposed for sale were inventoried to Class III standards for cultural and paleontological resources. No *Antiquities*, as defined under the Montana State Historic Preservation Act, were identified. A formal report of findings has been prepared and filed with the Montana State Historic Preservation Office per the requirements of the Montana State Antiquities Act.

Background:

In October 2014, the Land Board granted preliminary approval for this parcel to continue through the Land Banking sale evaluation process. In February 2015, the Land Board set the minimum bid at the appraised value with access as follows:

Sale #	Minimum Bid
719	\$107,000

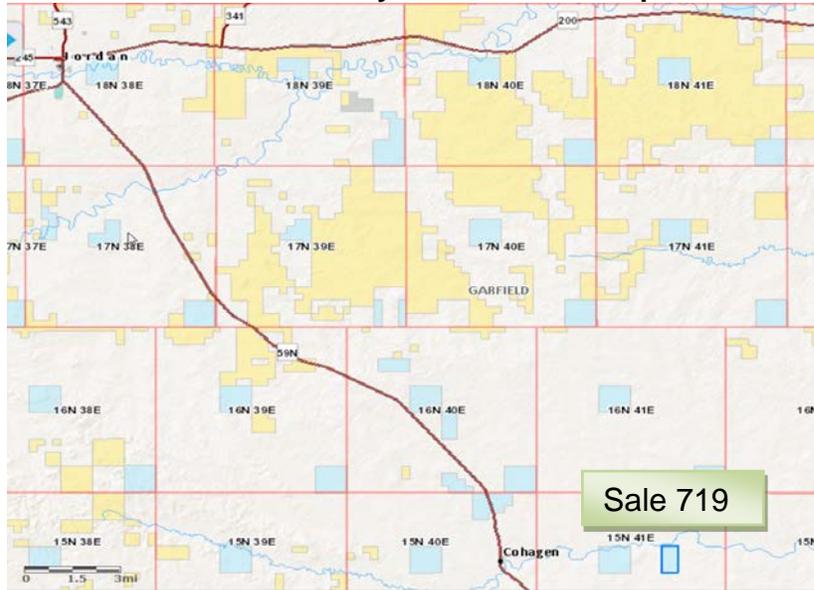
Sale Price

The parcel was sold at a public auction on April 10, 2015. The parcel had only one bidder and was sold for the minimum bid amount listed above.

DNRC Recommendation

The director recommends final approval of Land Banking Sale 719. The sale will be closed within 30 days of final approval by the board.

Garfield County Sale Location Map



Sale #719

W½, Section 14, T15N-R41E
Burl & Shemene Peckman



**Land Board Agenda Item
May 18, 2015**

515-3C Land Banking Parcel: Final Approval for Sale

Location: McCone County

Trust Benefits: Common Schools

Trust Revenue: \$10,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval on one parcel totaling 40 acres which was nominated for sale in McCone County. The sale was nominated by the lessee and is located approximately 30 miles southeast of the Wolf Point.

Sale #	# of Acres	Legal	Nominator	Trust
717	40±	NW¼NW¼, Section 16, T26N-R48E	Larry Heser	Common Schools

Sale parcel 717 is used primarily for livestock grazing purposes. The parcel has below average productivity for agricultural and grazing lands statewide.

The parcel is not legally accessible by the public.

No potentially negative issues were identified through the Montana Environmental Policy Act (MEPA) process regarding the sale of this parcel.

Economic Analysis:

Short-term – The rate of return on the sale parcel is 0.46 percent. The parcel would continue to receive this return if it remains in state ownership.

Long-term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through the department's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.35 percent on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources:

The state parcels proposed for sale were inventoried to Class III standards for cultural and paleontological resources. No *Antiquities*, as defined under the Montana State Historic Preservation Act, were identified. A formal report of findings has been prepared and filed with the Montana State Historic Preservation Office per the requirements of the Montana State Antiquities Act.

Background:

In October 2014, the Board granted preliminary approval for this parcel to continue through the Land Banking sale evaluation process. In February 2015, the Board set the minimum bid at the appraised value with access as follows:

Sale #	Minimum Bid
717	\$10,000

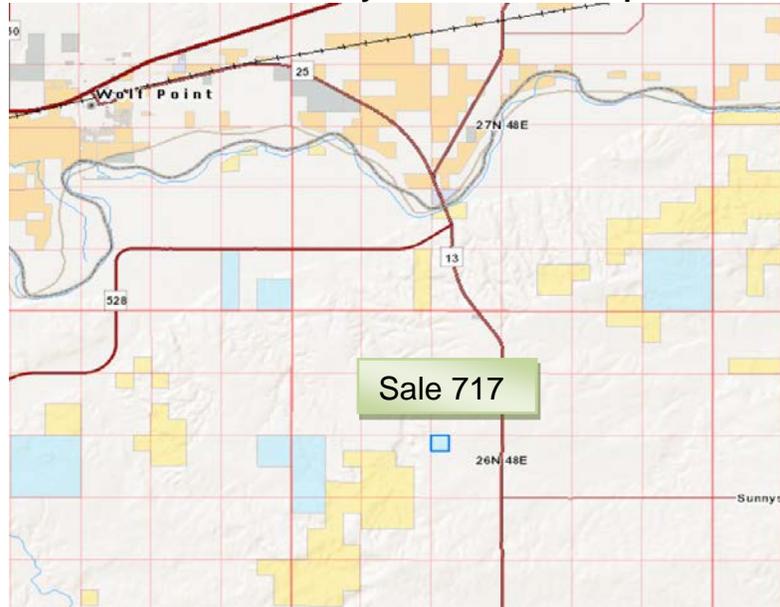
Sale Price

The parcel was sold at a public auction on April 10, 2015. The parcel had only one bidder and was sold for the minimum bid amount listed above.

DNRC Recommendation

The director recommends final approval of Land Banking Sale 717. The sale will be closed within 30 days of final approval by the board.

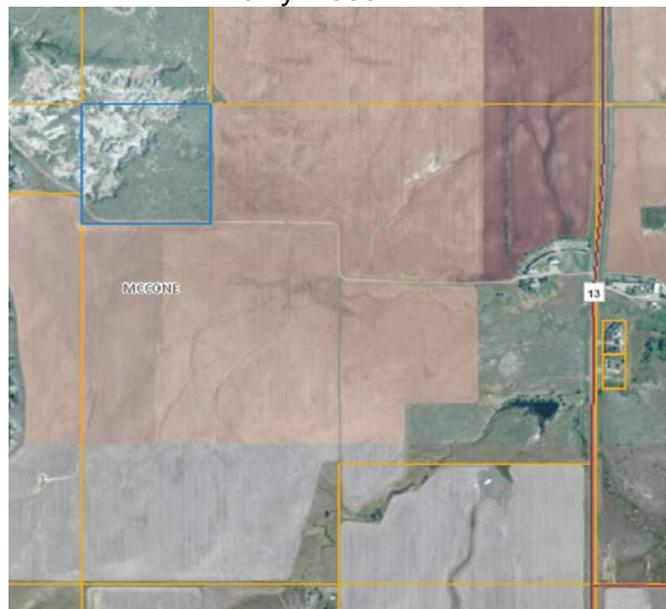
McCone County Sale Location Map



Sale #717

NW¼NW¼, Section 16, T26N-R48E

Larry Heser



**Land Board Agenda Item
May 18, 2015**

515-3D Land Banking Parcel: Final Approval for Sale

Location: Powder River County

Trust Benefits: Common Schools

Trust Revenue: \$26,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval on two noncontiguous parcels totaling 80 acres which was nominated for sale in Powder River County. The sale was nominated by the lessee and is located approximately 45 miles northwest of Broadus.

Sale #	# of Acres	Legal	Nominator	Trust
718	80±	SW¼NW¼, SW¼SE¼, Section 16, T4S-R50E	Smith Ranch, Inc.	Common Schools

Sale parcels 718 are used primarily for livestock grazing purposes, with approximately 10 acres of hay field. The parcels have average productivity for grazing and hay lands statewide.

The parcels are not legally accessible by the public.

No potentially negative issues were identified through the Montana Environmental Policy Act (MEPA) process regarding the sale of these parcels.

Economic Analysis:

Short-term – The rate of return on the sale parcels is 1.00 percent. The parcels would continue to receive this return if it remains in state ownership.

Long-term – The funds from the sale of these parcels would be combined with other sale funds to purchase replacement lands through the department's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.35 percent on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources:

The state parcels proposed for sale were inventoried to Class III standards for cultural and paleontological resources. No *Antiquities*, as defined under the Montana State Historic Preservation Act, were identified. A formal report of findings has been prepared and filed with the Montana State Historic Preservation Office per the requirements of the Montana State Antiquities Act.

Background:

In October 2014, the Board granted preliminary approval for these parcels to continue through the Land Banking sale evaluation process. In February 2015, the Board set the minimum bid at the appraised value with access as follows:

Sale #	Minimum Bid
718	\$26,000

Sale Price

The parcels were sold at a public auction on April 9, 2015. The parcels had only one bidder and were sold for the minimum bid amount listed above.

DNRC Recommendation

The director recommends final approval of Land Banking Sale 718. The sale will be closed within 30 days of final approval by the board.

Powder River County Sale Location Map



Sale #718

SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, T4S-R50E
Smith Ranch, Inc.



515-4

EASEMENTS

A. Easements

**Land Board Agenda Item
May 18, 2015**

515-4 Easements

Location: Custer, Fergus, Glacier, Madison, Richland

Trust Benefits: Common Schools, Public Land

**Trust Revenue: Common Schools = \$192,582.00
Public Land = \$2,656.00**

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Plains Pipeline	Existing Crude Oil Utility	30-Year	1-12
3 Rivers Telephone Cooperative, Inc.	New Utility	Permanent	13-14; 17-18
North Central Montana Regional Water Authority	New Water Line	Permanent	15-16
Robb, Robert & Donna	Historic Private Access Road	Permanent	19-21
Cenex Pipeline, LLC	New Petroleum Products Pipeline	30-Year	22-27

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16877
R/W Purpose:	a buried 4" crude oil pipeline
Lessee Agreement:	ok
Acreage:	2.18
Compensation:	\$13,422.00
Legal Description:	30-foot strip through SE4, SE4SW4, Sec. 36, Twp. 23N, Rge. 57E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

Plains Pipeline LP has made application for a 4" crude oil pipeline. The pipeline was previously authorized to be installed through a Land Use License in 2005 and this application is to convert the License to a 30-year term easement. Plains Pipeline LP has offered compensation in the amount of \$70/rod which is consistent with other installations in the area.

Department Recommendation

The director recommends approval of a 30-year term easement for this crude oil pipeline.

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16880
R/W Purpose:	a buried 4" crude oil pipeline
Lessee Agreement:	ok
Acreage:	6.67
Compensation:	\$41,064.00
Legal Description:	30-foot strip through W2SW4, W2NW4, NE4SW4, SE4NW4, S2NE4, NE4NE4, Sec. 16, Twp. 25N, Rge. 54E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16881
R/W Purpose:	a buried 4" and 6" crude oil pipeline
Lessee Agreement:	ok
Acreage:	5.57
Compensation:	\$34,316.00
Legal Description:	30-foot strip through NE4NE4, E2SE4, SW4SE4, S2SW4, Sec. 16, Twp. 22N, Rge. 58E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16882
R/W Purpose:	a buried 4" crude oil pipeline
Lessee Agreement:	ok
Acreage:	0.64
Compensation:	\$3,966.00
Legal Description:	30-foot strip through N2NW4, Sec. 36, Twp. 23N, Rge. 57E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Plains Pipeline LP
PO Box 4648
Houston TX 77210-4648

Application No.: 16883
R/W Purpose: a buried 4" crude oil pipeline
Lessee Agreement: ok
Acreage: 2.45
Compensation: \$15,087.00
Legal Description: 30-foot strip through NW4SW4, W2NW4,
Sec. 16, Twp. 23N, Rge. 58E,
Richland County

Trust Beneficiary: Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Plains Pipeline LP
PO Box 4648
Houston TX 77210-4648

Application No.: 16684
R/W Purpose: a buried 4" and 6" crude oil pipeline
Lessee Agreement: ok
Acreage: 3.9
Compensation: \$23,956.00
Legal Description: 30-foot strip through E2SE4, SW4SE4, SE4SW4,
Sec. 16, Twp. 24N, Rge. 54E,
Richland County

Trust Beneficiary: Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16885
R/W Purpose:	a buried 6" crude oil pipeline
Lessee Agreement:	ok
Acreage:	0.43
Compensation:	\$2,627.00
Legal Description:	30-foot strip through SW4SE4, Sec. 16, Twp. 25N, Rge. 53E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16886
R/W Purpose:	a buried 4" crude oil pipeline
Lessee Agreement:	ok
Acreage:	3.68
Compensation:	\$22,649.00
Legal Description:	30-foot strip through SE4SW4, W2SE4, NE4SE4, E2NE4, Sec. 36, Twp. 25N, Rge. 55E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16887
R/W Purpose:	a buried 6" crude oil pipeline
Lessee Agreement:	ok
Acreage:	3.67
Compensation:	\$22,655.00
Legal Description:	30-foot strip through E2SE4, E2NE4, Sec. 36, Twp. 26N, Rge. 52E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

Department Recommendation

See page 1

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Plains Pipeline LP PO Box 4648 Houston TX 77210-4648
Application No.:	16888
R/W Purpose:	a buried 4" crude oil pipeline
Lessee Agreement:	ok
Acreage:	0.11
Compensation:	\$668.00
Legal Description:	30-foot strip through SE4SE4, Sec. 36, Twp. 26N, Rge. 53E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

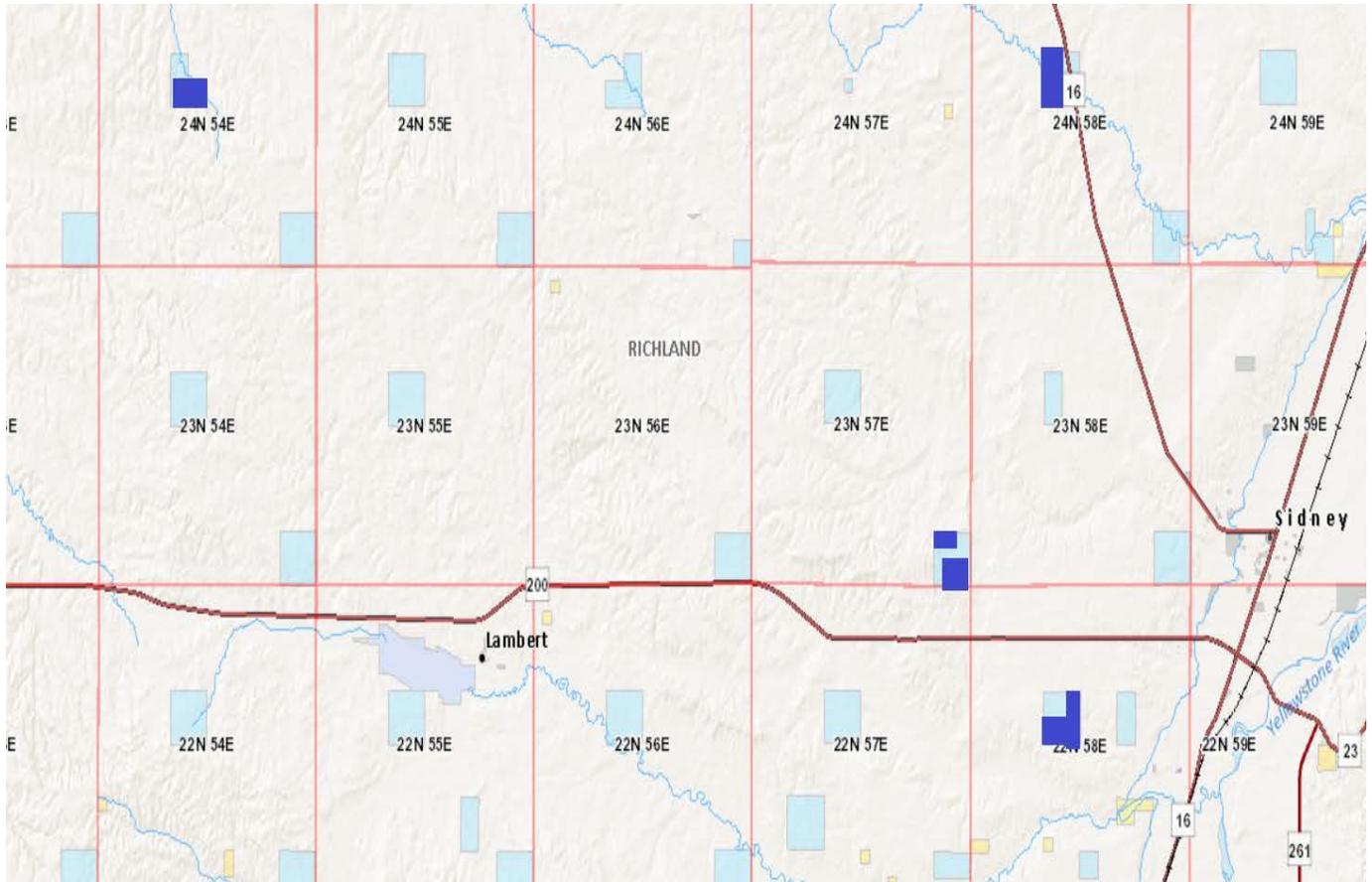
See page 1

Department Recommendation

See page 1

Rights of Way Applications

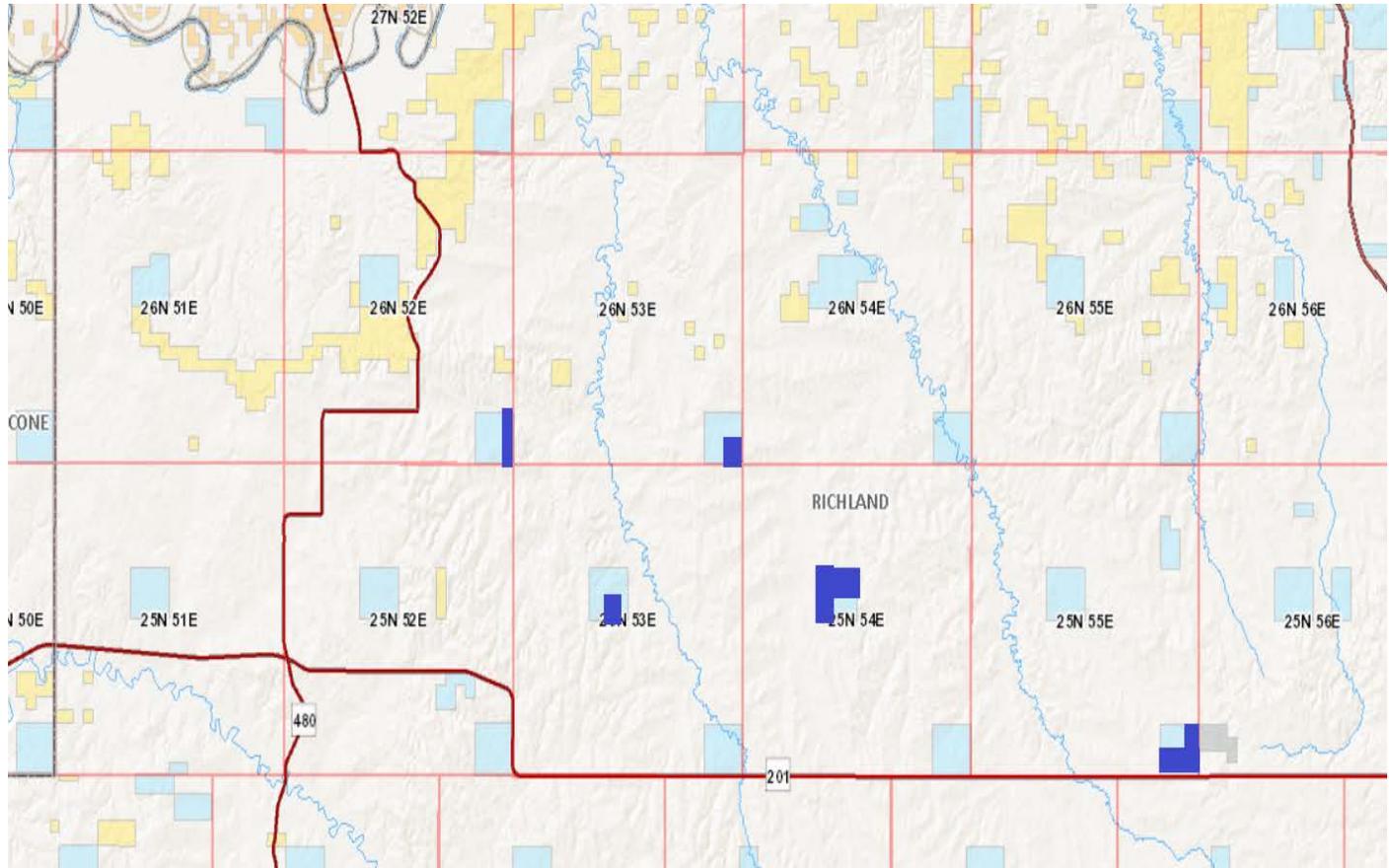
May 18, 2015



Application #'s 16877, 16881, 16882, 16883, 16884

Rights of Way Applications

May 18, 2015



Application #'s 16880, 16885, 16886, 16887, 16888

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	3 Rivers Telephone Cooperative, Inc. PO Box 429 Fairfield MT 59436
Application No.:	16986
R/W Purpose:	a buried fiber optic cable under the Madison River
Lessee Agreement:	N/A (Navigable River Crossing)
Acreage:	0.28
Compensation:	\$168.00
Legal Description:	20-foot strip through SW4NW4, Sec. 2, Twp. 3S, Rge. 1E, Madison County
Trust Beneficiary:	Public Land Trust

Item Summary

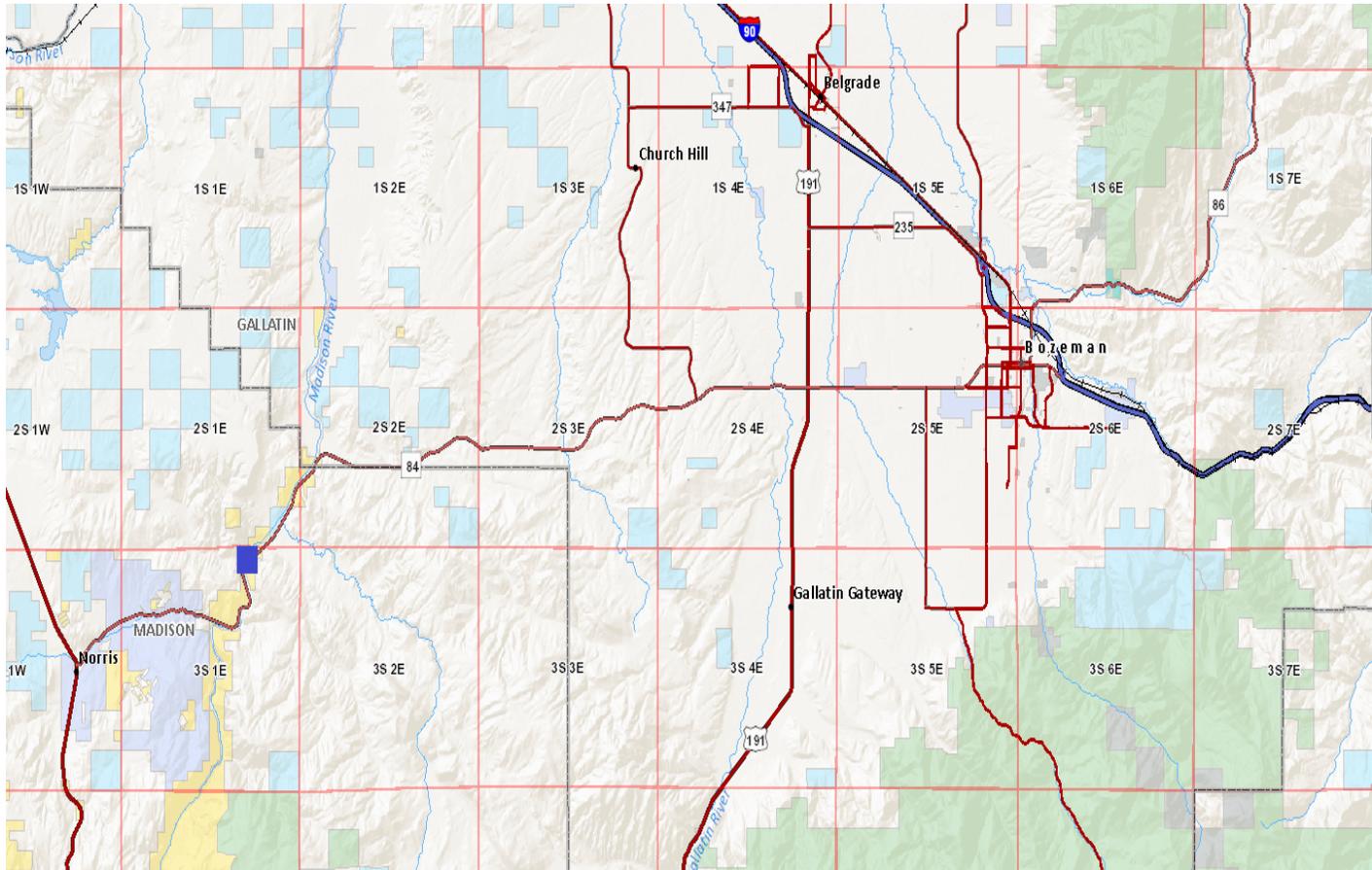
3 Rivers Telephone Cooperative, Inc. has made application for a buried fiber optic cable that will be bored under the Madison River. This cable will allow 3 Rivers Communications to provide services to their customers in the Harrison Exchange and surrounding areas. The proposed route is the most direct route between terminus locations. This application goes along with the surface applications for the Harrison Exchange project which was approved at the April 21, 2015, Land Board Meeting.

Department Recommendation

The director recommends approval of this underground fiber optic cable under the Madison River.

Rights of Way Applications

May 18, 2015



Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	North Central Montana Regional Water Authority PO Box 2456 Havre, MT 59501
Application No.:	16987
R/W Purpose:	a buried 18" drinking water pipeline
Lessee Agreement:	ok
Acreage:	7.55
Compensation:	\$7,550.00
Legal Description:	50-foot strip through W2NW4, SE4NW4, NE4SW4, N2SE4, Sec. 36, Twp. 33N, Rge. 5W, Glacier County
Trust Beneficiary:	Common Schools

Item Summary

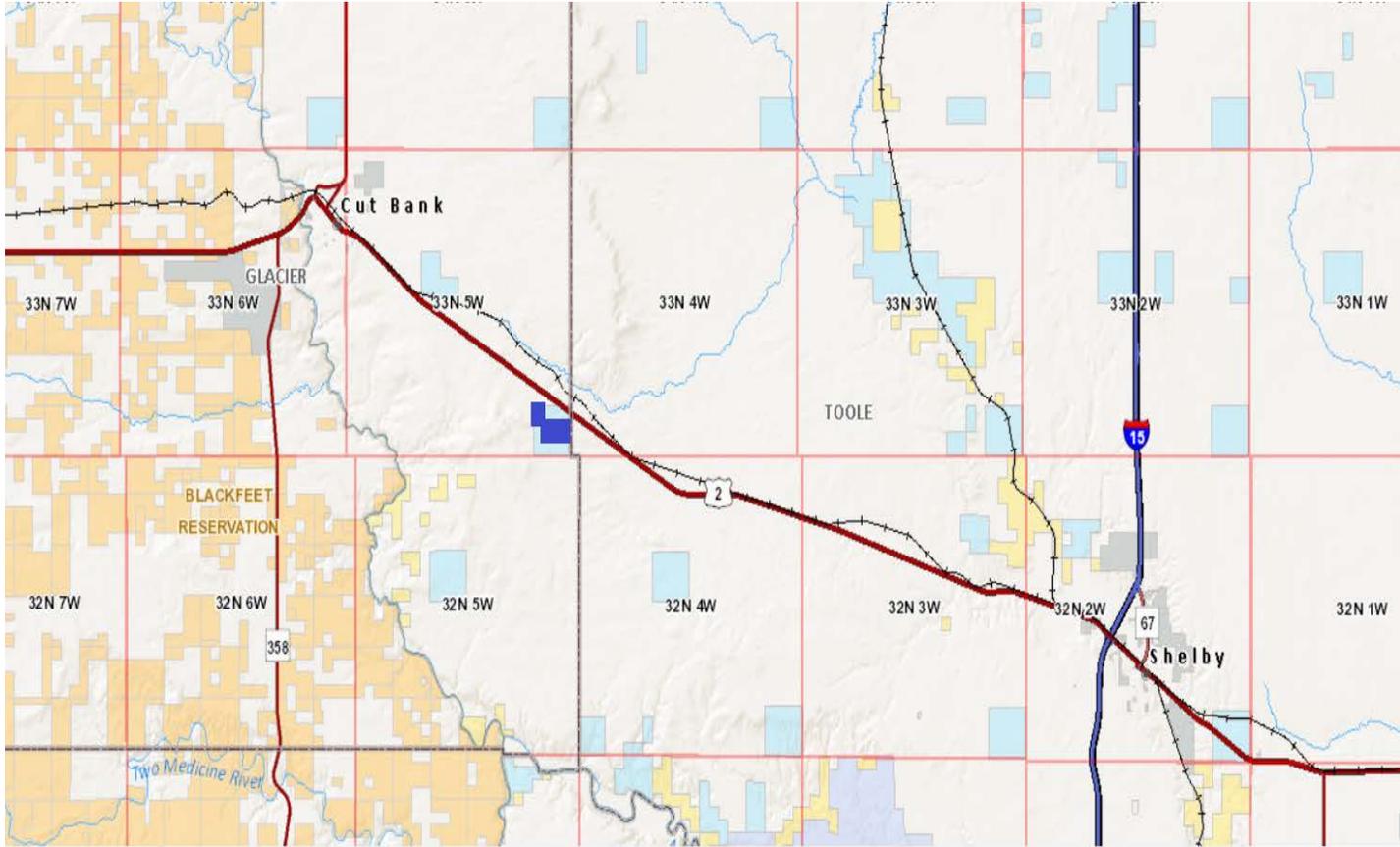
North Central Montana Regional Water Authority has made application for a buried 18" drinking water pipeline. The new pipeline is part of the Shelby to Cut Bank portion of the Rocky Boy's/NCMRWA project. The pipeline will provide a municipal water supply to the city of Cut Bank. The proposed route, which is along the south side of the old Highway 2 corridor, was chosen to follow existing road corridors where it is economically feasible to provide better access for both construction as well as future maintenance. By avoiding the terrain on the north side of the highway, which includes large drainages, the route allows the water system to maintain a more consistent pressure and eliminates the need for an air release valve.

Department Recommendation

The director recommends approval of this drinking water pipeline.

Rights of Way Applications

May 18, 2015



Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	3 Rivers Telephone Cooperative, Inc. PO Box 429 Fairfield MT 59436
Application No.:	16988
R/W Purpose:	a buried fiber optic cable under the Madison River
Lessee Agreement:	N/A (Navigable River Crossing)
Acreage:	0.09
Compensation:	\$100.00
Legal Description:	20-foot strip through SW4SE4, Sec. 33, Twp. 11S, Rge. 2E, Madison County
Trust Beneficiary:	Public Land Trust

Item Summary

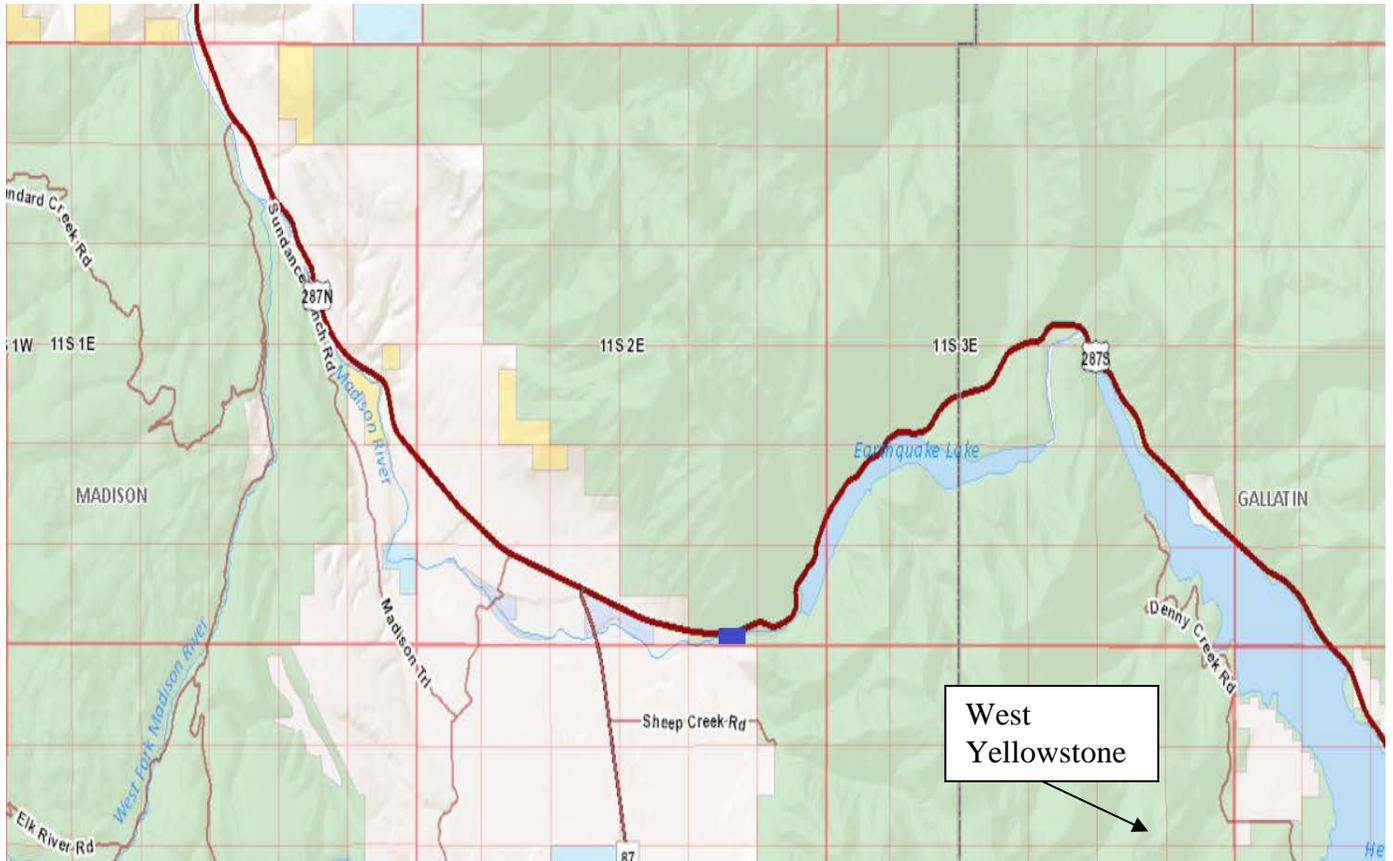
3 Rivers Telephone Cooperative, Inc. has made application for a buried fiber optic cable that will be bored under the Madison River. The cable will be placed in PVC conduit under the riverbed. This cable will allow 3 Rivers Communications to upgrade outdated facilities to provide better and more reliable services to their customers served out of their Madison Meadows DLC.

Department Recommendation

The director recommends approval of this underground fiber optic cable under the Madison River.

Rights of Way Applications

May 18, 2015



Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Robert & Donna Robb 906 East Flat Rock Ridge Flagstaff AZ 86001
Application No.:	16733A
R/W Purpose:	a private access road for the purpose of conducting normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	1.34
Compensation:	\$245.00
Legal Description:	20-foot strip through SW4SW4, Sec. 21; NW4NW4, SW4SW4, Sec. 28; SW4NE4, Sec. 33, Twp. 22N, Rge. 19E, Fergus County
Trust Beneficiary:	Common Schools

Item Summary

Applicant is requesting amendment of their existing historic access easement that was previously approved by the Land Board in December, 2014. Two small segments of road crossing additional state lands were inadvertently missed within the original application. The purpose of conducting normal farming and ranching operations associated with the original grant remains the same. The private property to be accessed is described as being the S2SE4 of Section 20, SW4NW4, NW4SW4 of Section 28 and N2NE4, SE4NE4, NE4SE4 of Section 29, Township 22N, Range 19E.

Department Recommendation

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

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Robert & Donna Robb 906 East Flat Rock Ridge Flagstaff AZ 86001
Application No.:	16734A
R/W Purpose:	a private access road to a single family residence and associated outbuildings and for conducting normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	0.7
Compensation:	\$100.00
Legal Description:	20-foot strip through SW4SW4, Sec. 28; SW4NE4, Sec. 33, Twp. 22N, Rge. 29E, Fergus County
Trust Beneficiary:	Common Schools

Item Summary

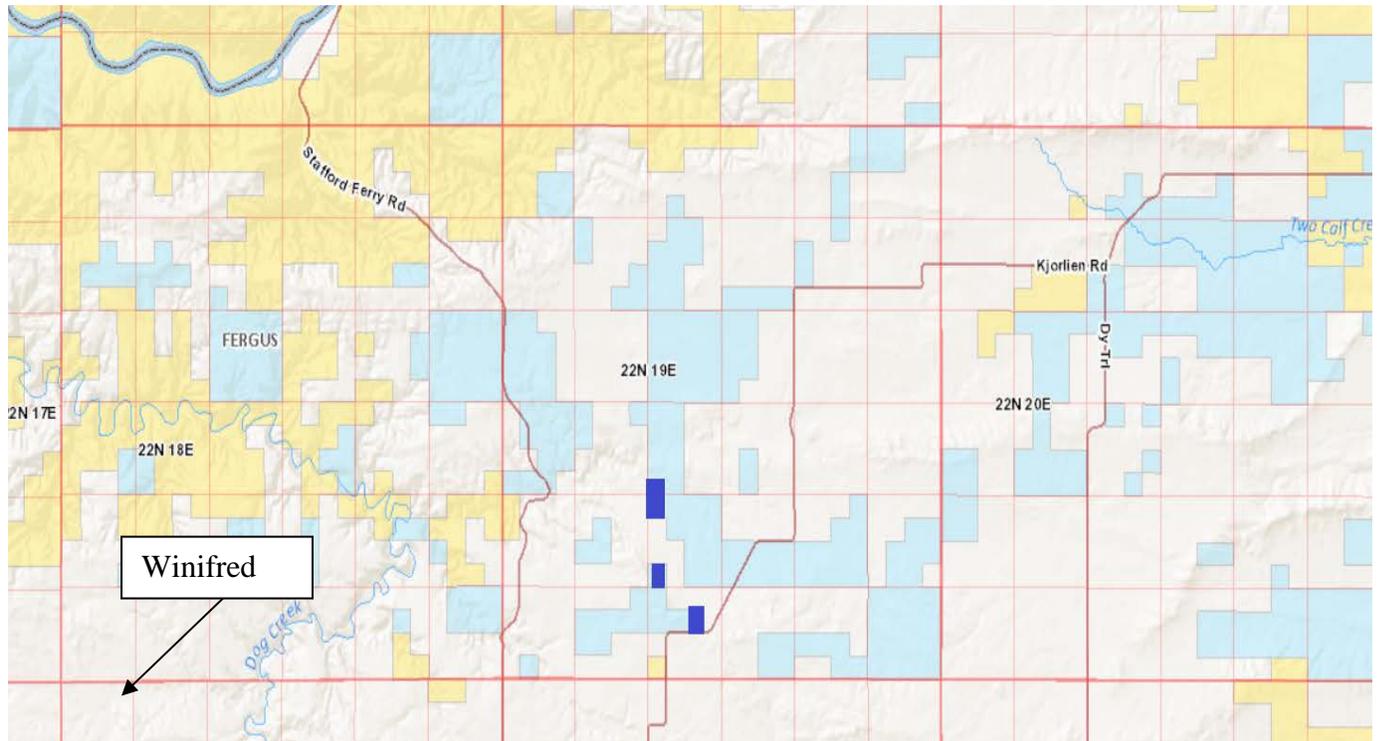
See page 19

Department Recommendation

See page 19

Rights of Way Applications

May 18, 2015



Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Cenex Pipeline, LLC PO Box 909 Laurel MT 59044-0909
Application No.:	16991
R/W Purpose:	buried 8" inert pipeline and 10" active refined petroleum products pipeline under the Tongue River
Lessee Agreement:	N/A (Navigable River Crossing)
Acreage:	0.13
Compensation:	\$992.00
Legal Description:	50-foot strip through Government Lot 25, Sec. 4, Twp. 7N, Rge. 47E, Custer County
Trust Beneficiary:	Public Land Trust

Item Summary

Cenex Pipeline, LLC is requesting an easement to place a new 10" refined petroleum products pipeline under the Tongue River near Miles City and abandon an existing 8" pipeline that was constructed in 1954. The Tongue riverbed was relocated from its original channel in the 1960's which caused the 1954 8" pipeline to become buried below the new river channel, thus it does not have an existing easement from the State. This pipeline system carries products from the refinery at Laurel to distribution points between Laurel and Fargo, North Dakota and this project is part of a 25 mile replacement of existing pipeline that has experienced some external corrosion and slope stability issues on surface lands. The new 10" pipeline will be located approximately 20 feet north of the existing pipeline as it crosses the river. A scour analysis determined that the maximum scour level in a 100-year flood event is approximately 10 feet, thus the new pipeline is proposed to be horizontally directional drilled to a depth of 25 feet below the bed of the river. Cenex has received the necessary permits associated with this project and is awaiting an occupancy permit from Montana Department of Transportation (MDT) as the line will be within the right of way of I-90 and an easement from US Department of Agriculture (USDA) for the line as it crosses Fort Keough.

Currently, the existing pipeline is situated between 4.5 and 10 feet below the bed of the river. Cenex is requesting approval to purge, swab and cap the existing pipeline, abandon it in place, and monitor it on a regular cycle of 3-5 years to determine if portions of the line become susceptible to being exposed. Should any portion of pipe show less than a 2-foot depth of cover, Cenex will remove that portion of pipeline and continue the monitoring cycle for the remainder of the pipeline. Stipulations to this effect would be placed in the easement document. Compensation will be made in the amount of \$150/rod which is consistent with other recent navigable river installations.

Department Recommendation

The director recommends approval of this 30-year term easement request and monitoring plan for the existing pipeline.

Rights of Way Applications

May 18, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Cenex Pipeline, LLC PO Box 909 Laurel MT 59044-0909
Application No.:	4351A
R/W Purpose:	buried 8" inert pipeline and 10" active refined petroleum products pipeline under the Tongue River
Lessee Agreement:	N/A (Navigable River Crossing)
Acreage:	0.18
Compensation:	\$1396.00
Legal Description:	50-foot strip through Government Lot 6 and Tract U, Sec. 3, Twp. 7N, Rge. 47E, Custer County
Trust Beneficiary:	Public Land Trust

Item Summary

Cenex Pipeline, LLC is requesting an easement to place a new 10" refined petroleum products pipeline under the oxbow of the original Tongue River bed near Miles City and abandon the existing 8" pipeline that was installed in 1954. Cenex's predecessor in interest received an easement from the Land Board in 1954 for installation of the pipeline under the bed of the river. However, the Tongue riverbed was relocated from its original banks in the 1960's, which left an "oxbow" of the original bed that is still filled with water. The State claims both the beds of the oxbow and the new river channel. Cenex is requesting amendment of the existing 1954 easement to allow placement of the new 10" pipeline within the existing easement corridor. Both pipelines will be approximately 20 feet apart. As noted in the previous Cenex application, the new 10" pipeline will be horizontally directional drilled to a depth of 25 feet and permits have been either issued or are pending from Montana Department of Transportation (MDT) and the US Department of Agriculture (USDA).

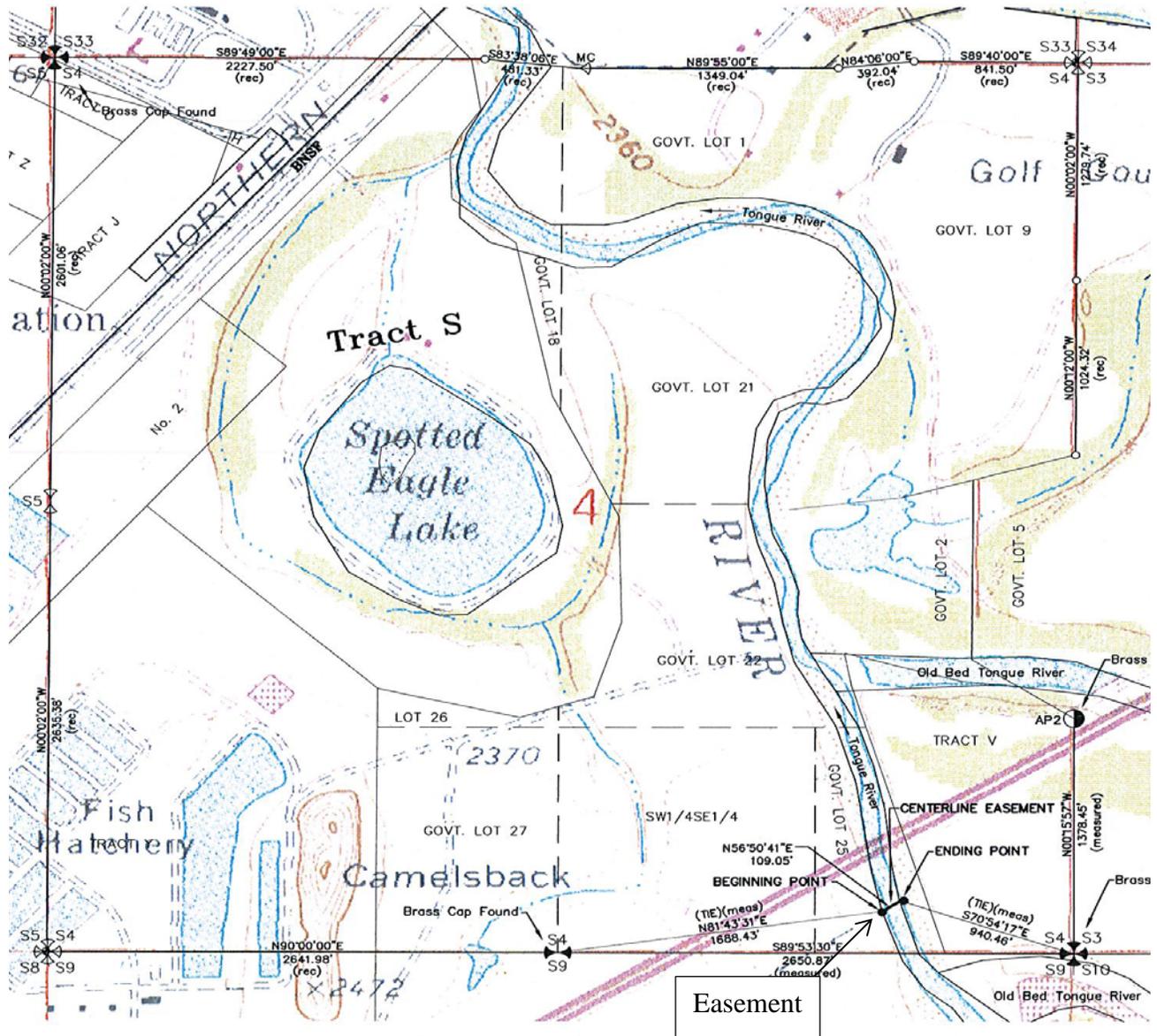
Cenex is requesting approval to purge, swab and cap the existing pipeline, abandon it in place and monitor it on a regular cycle of 3-5 years to determine if portions of the line become susceptible to being exposed. Should any portion of pipe show less than a 2-foot depth of cover, Cenex will remove that portion of pipeline and continue the monitoring cycle for the remainder of the pipeline. Stipulations to this effect would be placed in the easement document. Compensation will be made in the amount of \$150/rod, which is consistent with other recent navigable river pipeline installations.

Department Recommendation

The director recommends approval of this 30-year term easement request and monitoring plan for the existing pipeline.

Rights of Way Applications

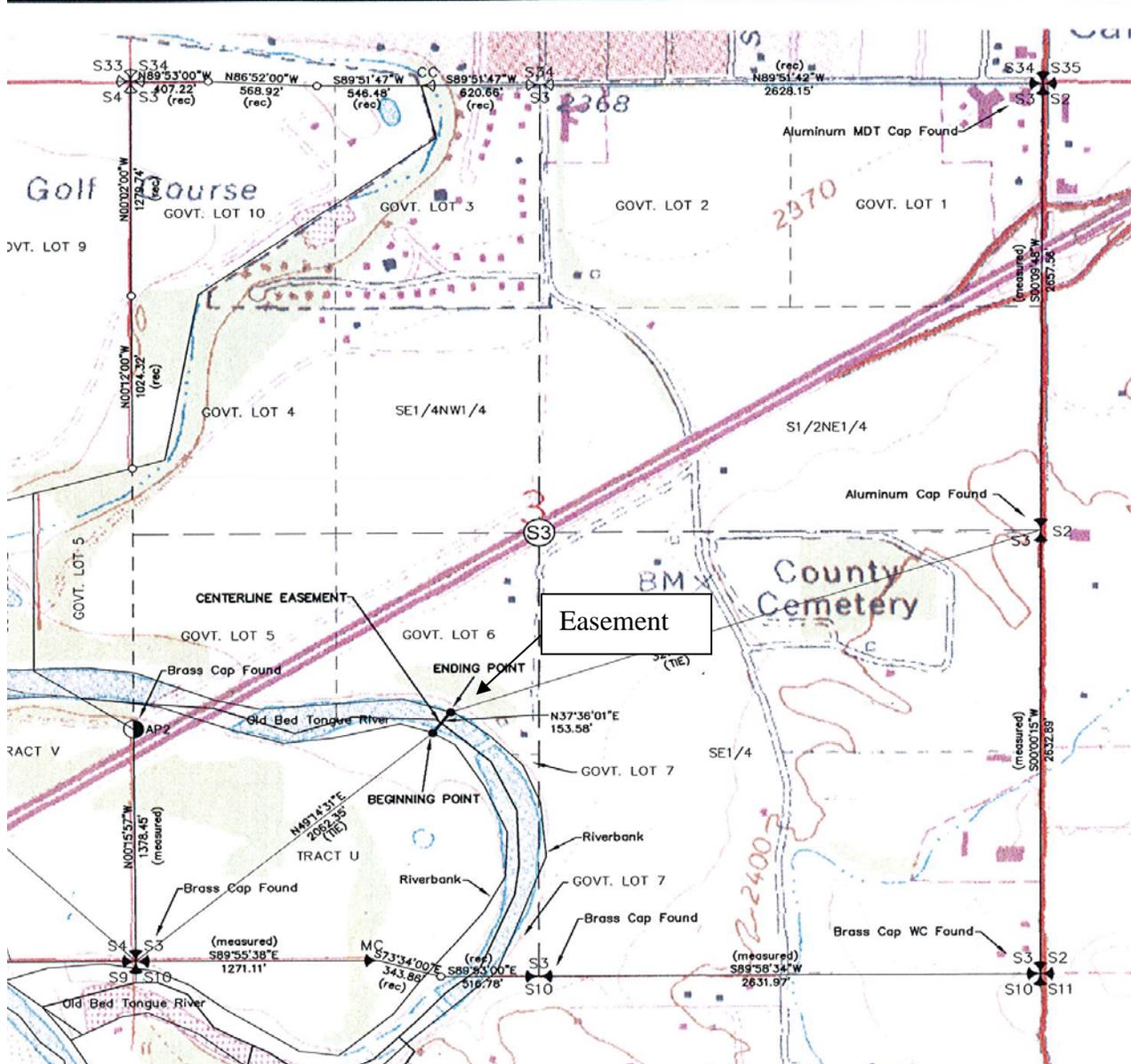
May 18, 2015



Application # 16991

Rights of Way Applications

May 18, 2015



Application # 4351A

515-5

INDEMNITY SELECTIONS:

Valuation of Base Lands

**Land Board Agenda Item
May 18, 2015**

515-5 Indemnity Selections: Valuation of Base Lands

Location: Flathead, Lake, Lincoln, Park, Sweet Grass, Beaverhead, Granite, Ravalli, Rosebud, and Carter Counties

Trust Benefits: Common Schools

Trust Revenue: \$4,104,727.00 (Land Value)

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting approval on the estimated total market value of remaining base lands due the state, under the Enabling Act of 1889.

History: In November 2011, DNRC and Bureau of Land Management (BLM) staff met to discuss the status of the state's selection of lands under the Omnibus Enabling Act of 1889, and to prioritize the work of completing the state's in-lieu selections. The most recent selection of in-lieu lands was completed in 1990. After the November 2011 meeting an extensive review of the BLM State Indemnity Selection case files was made to determine what lands were not received by the state.

In June 2013 BLM notified the director that the state was still owed 1184.16 acres, consisting mostly of nine parcels of land scattered throughout the state. The director notified BLM in September 2013 that DNRC would choose to balance the selection of in-lieu lands by the value of the base lands that had not been received, and not by acreage.

DNRC and BLM staffs have complied with the BLM Manual, Section 2621 – Indemnity Selections in determining that the current market value of the 1184.16 acres of base land not received by the state to be \$4,104,727.00.

The BLM is requesting that the director indicate his concurrence with the market values determined and the methodology used, and to move forward with completing the state's indemnity selections.

DNRC Recommendation:

The director recommends final approval of the agreed to market value of base lands, and that the DNRC move forward with making application for in-lieu lands to replace the base lands not received by the state.



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Montana State Office

5001 Southgate Drive

Billings, Montana 59101-4669

www.blm.gov/mt

In Reply Refer To:

2621 (MT924)

RECEIVED

MAY -4 2015

D.N.R.C

April 30, 2015

Mr. John Tubbs, Director
Department of Natural Resources and Conservation
P.O. Box 201601
Helena, Montana 59620-1601

Dear Mr. Tubbs:

Over the past several months, our respective staffs have continued to work together to bring to a conclusion the selection of lands under the Enabling Act of 1889. The most recent work has focused on finalizing a remaining balance for the base land parcels for which an obligation is owed the State of Montana.

In prior discussions, we have agreed to balance the selection of lands by value, and that valuation of the base lands would be determined by the use of comparable sales, in the neighborhood, that have a similar highest and best use determination.

Thanks to the efforts of DNRC staff, comparable sales data was identified for each individual base land parcel. Field review of the base land parcels and the comparable sales by BLM staff resulted in an agreed amount of the total value of the obligation owed to the state of \$4,104,727. Of the total value, \$3,065,630 is from base parcels that are mineral-in-character and \$1,039,097 is from base parcels that are not mineral-in-character. See enclosed Table 1 for a parcel-by-parcel breakdown.

The second phase of this project is your selection of BLM lands to be transferred to the State of Montana to fulfill our obligation. I propose that we agree to apply the same methodology used for the base land valuation to the selection phase, and that we also agree that both the base land valuation, as iterated above, and the selection land valuation be effectively dated May 2015 to serve as the valuation date through the completion of the indemnity selection process. This will eliminate the need to revise the base land valuation into the future.

If you are in agreement with these numbers and methodology for the selection process, please indicate as such with your signature of concurrence below and this will form the basis for which we will proceed to complete the obligation to the State of Montana under the Enabling Act of 1889. We look forward to a continued collaboration as we work through this process with DNRC.

Sincerely,



Jamie E. Connell
State Director

1 Enclosure
1-Table 1

Concur:

John Tubbs, Director

TABLE 1 - BASE LAND PARCEL VALUES

In-Place Base Lands							
Location	Parcel	Twp/Rng/Sec	Acres	County	Value/Ac	Value	Mineral-in-Character
1	72	T. 32 N., R. 19 W. sec. 36, lots 1, 3, 5, 7	59.11	Flathead	\$15,000	\$886,650	Yes
2	66	T. 24 N., R. 17 W. sec. 16, SWNW, W2SW	52.87	Lake	\$6,000	\$317,220	No
3	133	T. 32 N., R. 34 W., sec. 36 NENE, N2NW, SENW, W2SW	266.70	Lincoln	\$3,100	\$826,770	Yes
4	158	T. 23 N., R. 18 W. sec. 16, portion of NW	13.00	Lake	\$1,100	\$14,300	No
5	165	T. 24 N., R. 19 W. PB 44 (sec. 36)	640.00	Lake	\$1,100	\$704,000	No
6	147	T. 9 S., R. 8 E. sec. 16, lot 1	17.83	Park	\$45,000	\$802,350	Yes
7	149	T. 1 S., R. 14 E. sec. 16, lot 2	7.95	Sweet Grass	\$28,000	\$222,600	Yes
8	135	T. 14 S., R. 2 W. sec. 36, S2SE	80.00	Beaverhead	\$3,000	\$240,000	Yes
9	97	T. 37 N., R. 26 W. sec. 16, portion of	43.63	Lincoln	\$2,000	\$87,260	Yes
Subtotal			1181.09			\$4,101,150	
Deficiency Base Lands							
Location	Parcel	Twp/Rng/Sec	Acres	County	Value/Ac	Value	Mineral-in-Character
-	-	T. 6 N., R. 16 W. sec. 36, portion of	1.22	Granite	\$1,500	\$1,830	No
-	-	T. 6 N., R. 20 W. sec. 36, portion of	1.19	Ravalli	\$1,200	\$1,428	No
-	-	T. 25 N., R. 25 W. sec. 36, portion of	0.32	Flathead	\$650	\$208	No
-	-	T. 5 S., R. 41. E. sec. 16, portion of	0.33	Rosebud	\$325	\$107	No
-	-	T. 7 S., R. 60. E. sec. 36, portion of	0.01	Carter	\$325	\$3	No
Subtotal			3.07			\$3,577	
Grand Total			1,184.16			\$4,104,727	

Date: April 22, 2015

Enclosure 1