

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
 January 19, 2016, at 9:00 a.m.
 State Capitol, Room 303
 Helena, MT

ACTION ITEMS

- 116-1 **FWP: Land Acquisition – North Shore Flathead Lake Wildlife Management Area Addition (Hoffmaster)**
Benefits: N/A (non-trust land)
Location: Flathead County
Approve 5-0
- 116-2 **FWP: Land Acquisition – Fish Creek Wildlife Management Area Addition (Rehbein)**
Benefits: N/A (non-trust land)
Location: Mineral County
Approve 5-0
- 116-3 **FWP: Land Acquisition – Nevada Lake Wildlife Management Area Clear Creek Addition**
Benefits: N/A (non-trust land)
Location: Powell County
Approve 5-0
- 116-4 **Timber Sales**
A. Cooper Creek 2
Benefits: Common Schools
Location: Powell County
B. Scout Lake OSR
Benefits: Common Schools
Location: Lake County
Approve 5-0
- 116-5 **Administrative Rule Proposal – DNRC Cabin Site Rules (MAR 36-22-184)**
Benefits: Common Schools, Eastern College – MSU/Western College – UM, Montana State University, Montana Tech, Pine Hills School, Public Buildings, University of Montana, School for the Deaf and Blind, Veterans Home
Location: Beaverhead, Big Horn, Blaine, Broadwater, Cascade, Choteau, Custer, Daniels, Dawson, Fallon, Fergus, Flathead, Gallatin, Golden Valley, Hill, Judith Basin, Lake, Lewis & Clark, Liberty, Lincoln, Madison, McCone, Meagher, Mineral, Missoula, Musselshell, Phillips, Pondera, Powder River, Powell, Prairie, Richland, Rosebud, Sanders, Sheridan, Stillwater, Sweet Grass, Toole, Valley, Wheatland, Wibaux, Yellowstone Counties
Approve 5-0
- 116-6 **Sale of Cabin and Home Sites: Preliminary Approval for Sale**
Benefits: Common Schools, Montana Tech, Montana State University
Location: Flathead, Missoula Counties
Approve 5-0
- 116-7 **Sale of Cabin and Home Sites: Set Minimum Bid for Sale – Sale 785**
Benefits: Montana Tech
Location: Flathead County
Approve 5-0
- 116-8 **Easements**
Benefits: Common Schools

Location: Blaine, Lewis & Clark, Madison, Phillips, Richland, Toole Counties

Approve 5-0

PUBLIC COMMENT

116-1

FWP: LAND ACQUISITION: NORTH SHORE
FLATHEAD LAKE WILDLIFE MANAGEMENT
AREA ADDITION

(Hoffmaster)

**Land Board Agenda Item
January 19, 2016**

116-1 FWP: Land Acquisition – North Shore Flathead Lake Wildlife Management Area Addition (Hoffmaster)

Location: Flathead County

Trust Benefits: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary

The Montana Department of Fish, Wildlife, and Parks (FWP) proposes to purchase approximately 76.7 acres of farmland and wetlands located on the North Shore of Flathead Lake approx. 4.5 miles east of the community of Somers (Project Location Map). The primary purpose of this acquisition is to restore or improve natural riparian/wetland habitat; continue annual crop production to benefit resident and migratory waterfowl, improve and maintain habitat for other wildlife; and provide opportunities for seasonal and compatible public recreation. Other benefits of this project include protecting ground water, surface water, and wetlands on or near Flathead Lake, which will help improve or maintain the high water quality of Flathead Lake.

The property is located on the eastern boundary of the existing 189-acre North Shore Wildlife Management Area FWP acquired in 2013, adjacent to the 160-acre North Shore State Park/Wildlife Management Area that FWP acquired in 2008 (Proposed Addition Map). The entire WMA is north of the U. S. Fish and Wildlife Service Flathead Lake Waterfowl Production Area. FWP proposes to incorporate this parcel into the FWP wildlife management program. It would become part of the existing North Shore Wildlife Management Area. The landowners have agreed to sell this property for \$489,000, which is 25% below the appraised value of \$652,000. The landowner is providing the entire matching funds required by the grant. Funding for the project would be provided by the Pittman-Robertson Wildlife Restoration Grant Program.

An environmental assessment (EA) was released for public comment November 6, 2015 and a public hearing was held in Somers on November 24, 2015. A legal notice was published in local newspapers and the EA was posted on the FWP webpage. FWP received 14 public comments: 12 in favor of the acquisition; one expressing a management request; and one expressing various concerns about the acquisition. All comments are addressed in the decision notice. The FWP Commission will be considering final approval of the project on January 14, 2016.

Rationale for Land Board Action

Purchase of the North Shore Wildlife Management Area Hoffmaster Addition would maintain and improve important wildlife habitat, as well as enhance public access along the North Shore of Flathead Lake.

DNRC Recommendation

FWP recommends approval by the Land Board to proceed with the purchase of the Hoffmaster Addition to the North Shore WMA.

FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET**Meeting Date:** January 14, 2016**Agenda Item:** Addition to the North Shore Wildlife Management Area**Division:** Wildlife**Action Needed:** Final**Time Needed on Agenda for this Presentation:** 5 minutes**Background**

FWP proposes to purchase 76.7 acres of farmland and wetlands located along the north shore of Flathead Lake about 4.5 miles east of Somers. The purpose of this acquisition is to restore or improve natural riparian/wetland habitat, to continue annual crop production to benefit resident and migratory waterfowl, to improve and maintain habitat for other wildlife, and to provide opportunities for seasonal public recreation. Other benefits include protecting ground water, surface water, and wetlands on or near Flathead Lake, which will help improve or maintain the high water quality of Flathead Lake for benefits of aquatic life and wildlife habitat.

The property sits on the eastern boundary of the 189-acre North Shore Wildlife Management Area that FWP acquired in 2013, which is adjacent to the 160-acre North Shore State Park/WMA that FWP acquired in 2008. The eastern border of the property is the access road to the U.S. Fish & Wildlife Service Flathead Lake Waterfowl Production Area. FWP proposes to incorporate this property as part of the existing North Shore WMA. The landowner has agreed to sell this property for \$489,000, which is 25 percent below the appraised value of \$652,000. Funding for the project would be provided by the federal Pittman-Robertson Wildlife Restoration Act. The commission first endorsed this project in May 2015.

Public Involvement Process & Results

An environmental assessment was released for public comment Nov. 6 – Dec.5 and included a public hearing in Somers on Nov. 24. A legal notice was published in four local newspapers and the EA was posted on the FWP webpage. FWP received 14 public comments with 12 in favor of the acquisition, one expressing a management request, and one expressing various concerns about the acquisition. All comments are addressed in the project decision document.

Alternatives and Analysis

Two alternatives were analyzed and considered in the EA: 1) Proposed Action: Acquisition of the North Shore WMA proposed addition and 2) No Action: Do not purchase the property. Under the Proposed Action, the property would be added to the North Shore WMA Area and managed to enhance waterfowl, upland game bird, and riparian habitats along with protecting groundwater.

Under No Action, the property would likely be sold and developed, with potential impacts to wildlife, public access, and the ground and surface water quality of Flathead Lake's north shore.

Agency Recommendation & Rationale

FWP recommends the commission approve the purchase of the North Shore WMA addition to maintain and improve wildlife habitats and public access along the north shore of Flathead Lake.

Proposed Motion

I move the commission approve the acquisition of the proposed addition to the North Shore WMA.



Montana Fish, Wildlife & Parks

Region 1

490 N. Meridian Road

Kalispell, MT 59901

DECISION NOTICE

and

Finding of No Significant Impact

for the

NORTH SHORE WILDLIFE MANAGEMENT AREA

PROPOSED ADDITION

December 9, 2015

Description of the Proposed Action

Montana Fish, Wildlife & Parks (FWP) proposes to purchase approximately 76.7 acres of farmland and wetlands located along the north shore of Flathead Lake about 4.5 miles east of the community of Somers. Funding for the project would be provided by Pittman-Robertson Wildlife Restoration Act funding.

The primary purpose of the proposed land acquisition is to protect and manage this land to restore or improve natural riparian/wetland habitat, to continue annual crop production to benefit resident and migratory waterfowl, to improve and maintain habitat for other wildlife, and to provide opportunities for seasonal and compatible public recreation. Other benefits of this project include protecting ground water, surface water, and wetlands on or near Flathead Lake. This will help improve or maintain the high water quality of Flathead Lake for the benefit of aquatic life, and fish and wildlife habitat.

FWP proposes to incorporate this parcel into FWP's wildlife management area program, and it would become part of the existing North Shore Wildlife Management Area (North Shore WMA). The proposed Management Plan was included as part of the draft environmental assessment (EA).

Montana Environmental Policy Act (MEPA) Process and Public Involvement

FWP released a draft EA and proposed Management Plan for public review on November 6, 2015, and asked for public comment through December 5, 2015. FWP held a public hearing in Somers on November 24, 2015, at 6:30 p.m. FWP ran legal ads describing the proposed project, the availability of the draft EA, and the public hearing information in four local newspapers. The draft EA and proposed Management Plan were posted on FWP's official website and were also available at the Region One headquarters in Kalispell and online for people with internet access or through internet service at public libraries.

The EA evaluated the potential impacts of the following alternatives:

Alternative A: Proposed Action - Acquisition of the Proposed North Shore WMA Property

FWP would purchase the property using Pittman-Robertson Wildlife Restoration Act funding and manage the property for the benefit of fish and wildlife values as a wildlife management area according to the draft Management Plan.

Alternative B: No Action

The No-Action Alternative for this project is described as FWP not purchasing the 76-acre parcel. The landowner would likely sell the property with existing covenants, which allow subdivision into 20-acre parcels.

Summary of Public Comment

FWP received a total of fourteen written comments during the 30-day public comment period. Twelve were in favor of the acquisition, one person had a management comment, and one expressed concerns about the acquisition. All comments were focused on the following issues:

1. One comment suggested that the current pheasant population is sparse on the north shore of Flathead Lake, and FWP should have a specific program to increase the number of birds, possibly by releasing pheasants to augment the existing population.

FWP Response: *FWP currently has a specific program to increase upland game birds on our WMAs. We accomplish this through habitat improvement – providing increased food and cover for birds and other wildlife species. The commenter suggested that there is already sufficient food and cover in this area, but FWP does not believe this is the case. This proposed acquisition is an open farm field that currently has almost no cover for pheasants or other wildlife species. We expect pheasant populations will naturally increase over time as we create a mosaic of habitat interspersed with a rotation farming plan to provide winter cover, nesting cover, and a more reliable food source. Releasing pen-raised birds would result in only a temporary increase in pheasant numbers as released birds experience up to 80% mortality within the first week; a long-term increase in the pheasant population will depend on improving habitat conditions.*

2. One comment asked that FWP should put more emphasis on Objective 2 in the draft Management Plan to maintain and increase habitat for upland game birds. The commenter also offered to help with implementing such projects.

FWP Response: *FWP intends to manage the north shore properties for all seven objectives outlined in the draft management plan. Objectives 1, 2, and 4 will all benefit upland game birds. In addition, other wildlife species are also a focus of this acquisition and would benefit from the proposed management actions, along with protection of groundwater resources. FWP believes that there will be an appropriate balance of habitat for upland game birds, waterfowl, and wetland-dependent species on the properties under our proposed management plan, and appreciated the offer to help with implementation.*

3. One comment indicated that the Pittman-Robertson Restoration Act funds must be used to benefit an identified species.

FWP Response: *The Pittman-Robertson Wildlife Restoration Act specifically states that activities eligible for funding include the ability to “acquire real property suitable or capable of being made suitable for: (i) wildlife habitat; or (ii) public access for hunting or other wildlife-oriented recreation” (§80.50). The Act does not specify that funding*

must be used to benefit a specific species. Acquisition of this 76.7-acre property will provide increased public hunting opportunity and also provide additional wildlife habitat through protection from development and increased habitat through future restoration activities and continued farming of portions of the property as outlined in the draft EA.

4. One comment expressed concern that crop production will only occur on the property for one additional year, and this will result in a reduction of food for wildlife and a negative impact on wildlife, which violates the intent of the Pittman-Robertson funding.

FWP Response: *The proposed management plan states under Objective 4 that FWP will use and manage the agricultural land in a manner that provides for a variety of wildlife habitats. Under the strategies to meet this objective, the management plan states that we will implement a farm plan to provide wildlife habitat such as winter and nesting cover and a relatively reliable food source. The current farm lease that is being accepted from the previous landowner will remain in place for the first year, but FWP intends to enter into a farm lease in the future to manage all three WMA properties in a manner that benefits wildlife while also protecting water quality and improving soil productivity, as we have for the previous three years. FWP will also restore native-like habitats (e.g., wetland, upland ponderosa pine forests) on the property as appropriate, which will benefit all wildlife along the north shore of Flathead Lake.*

5. One comment identified that this property cannot be managed unless funds are appropriated from the legislature.

FWP Response: *FWP receives license revenue through the Habitat Montana Program, as well as Pittman-Robertson funding that can be used to manage this property, but FWP acknowledges that these funds cannot be spent without legislative spending authority. Future management of the property will depend on continued support from hunters and from the legislature.*

6. One comment suggested that Flathead County would see increased tax revenue if this property were developed as residential property instead of conserved by FWP.

FWP Response: *Tax revenue would depend on the amount of development undertaken by any future landowner. Rural residential development or small subdivisions away from urban centers often cost more in county services (schools, law enforcement, etc.) than is realized through tax revenue. FWP cannot predict the extent of future development activities on this property and so possible costs and benefits to Flathead County are unknown.*

7. One comment expressed concern that FWP has closed fishing access sites (FAS) due to lack of funds and that many current sites are in need of maintenance, suggesting that FWP does not have the funds to manage existing properties, so should not consider acquiring new properties.

FWP Response: *FWP has not closed any FASs due to lack of funding. Some newly acquired FASs have experienced a lag time for improvement or maintenance due to FWP's funding cycles and needing to wait until the following fiscal year for legislative*

approval for improvement/maintenance projects. Some FASs have experienced flooding or other natural disasters that temporarily closed the areas and created a need for maintenance, but FWP has quickly repaired and reopened all of these sites. A very limited number of sites are occasionally closed during the winter months to save money at times of low use, but are reopened in the spring.

8. One comment suggested that current agricultural management of this property benefits wildlife, and unless FWP is going into the farming business, there is no benefit to the agency buying the property.

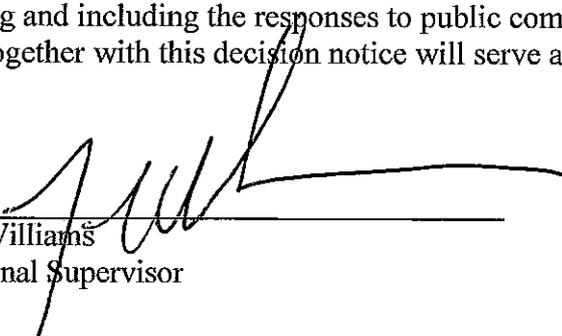
FWP Response: *Agriculture is the present land use for the property proposed for acquisition. The EA identified the importance of that resource to migratory waterfowl, and the management plan identifies a farm plan that provides wildlife benefits such as grain, winter cover, and nesting cover (page 34, Objective 4c). Based on historic development in Flathead County, there is a high likelihood that the land would be subdivided in the future, thereby eliminating or significantly reducing the amount of land being farmed for small grain production, and limiting the use of the land by wildlife. FWP intends to continue to lease portions of the property for farming activities to benefit wildlife and the local agricultural economy.*

FWP Recommended Alternative and Final Decision Recommendation

In reviewing all the public comment and other relevant information, and evaluating the environmental effects, I recommend that the Fish and Wildlife Commission approve the proposed purchase of the North Shore Wildlife Management Area addition.

Through the public review process described above, the public identified some important issues, but FWP found no significant impacts on the human or physical environments associated with this proposal; therefore, the EA is the appropriate level of analysis, and an environmental impact statement is not required.

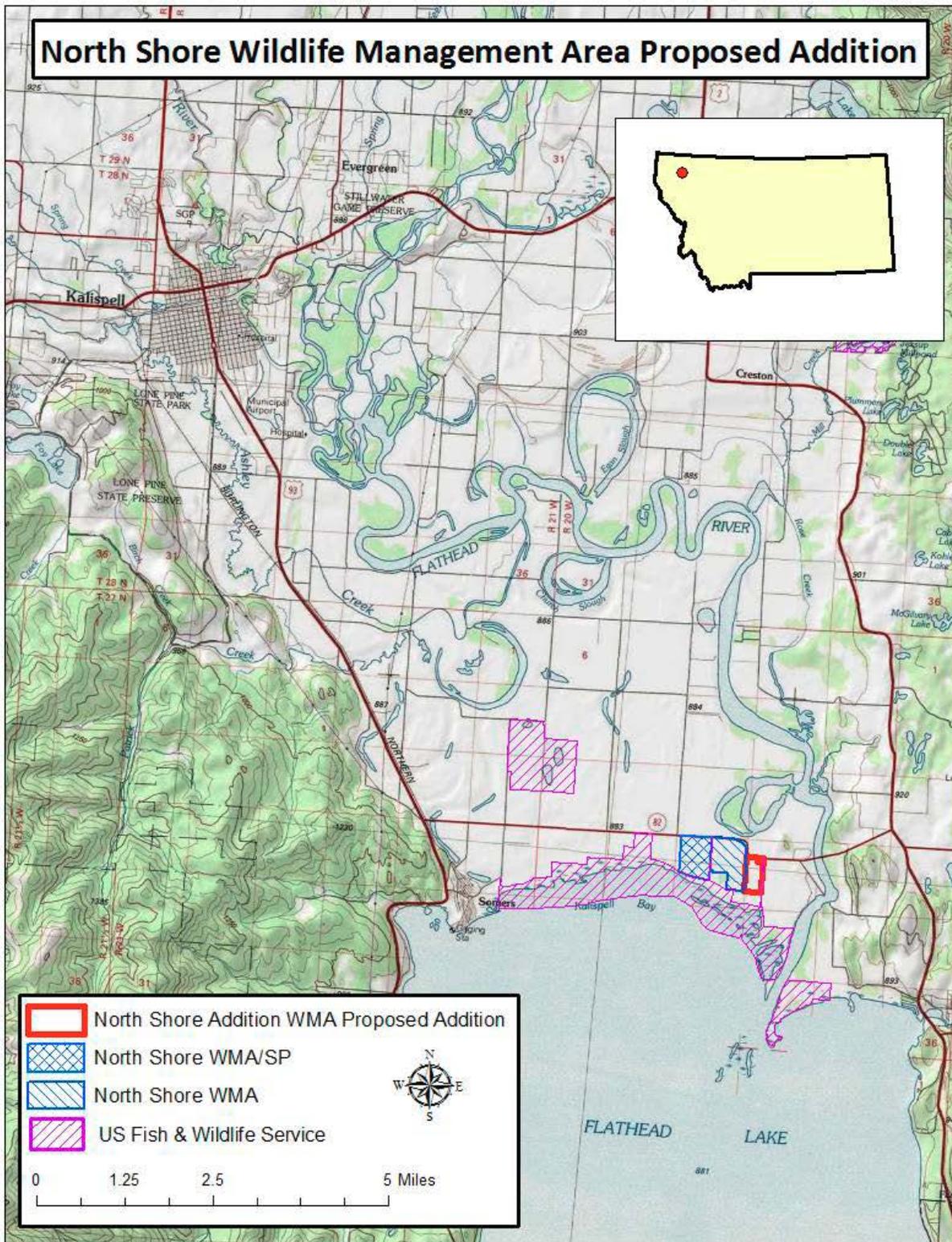
Noting and including the responses to public comments, the draft EA will become the Final EA and together with this decision notice will serve as the final documents for this proposal.



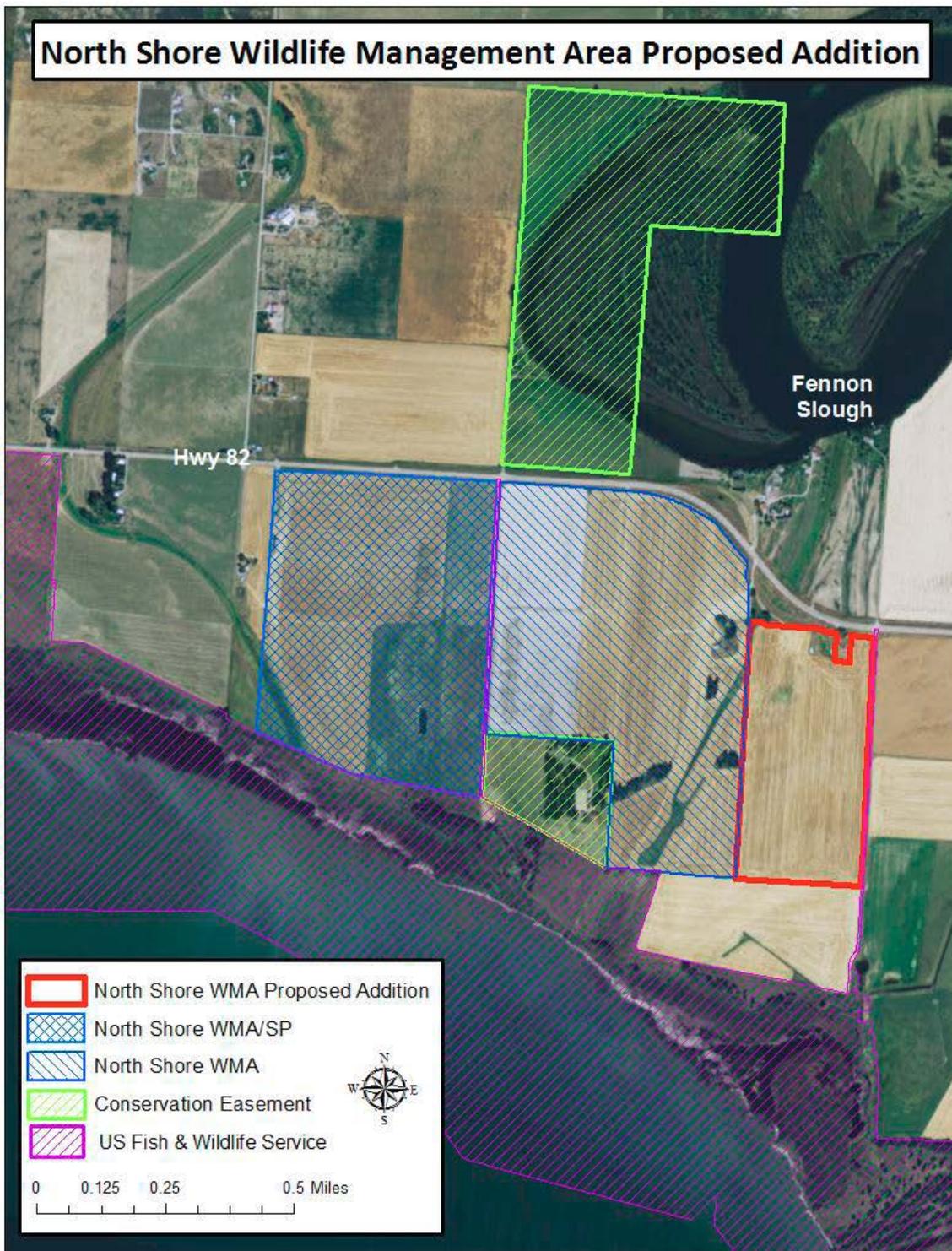
Jim Williams
Regional Supervisor

12/2/15
Date

Project Location Map, Hoffmaster Addition



Proposed Addition Map



116-2

FWP: LAND ACQUISITION - FISH CREEK
WILDLIFE MANAGEMENT AREA ADDITION
(REHBEIN)

**Land Board Agenda Item
January 19, 2016**

116-2 FWP: Land Acquisition – Fish Creek Wildlife Management Area Addition - (Rehbein)

Location: Mineral County

Trust Benefits: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary

Montana Department of Fish, Wildlife and Parks (FWP) propose to acquire a 320-acre addition to the Fish Creek Wildlife Management Area (FCWMA) from the Rehbein family. The property is a private inholding within the 34,573-acre FCWMA and is bordered by the Department of Natural Resources and Conservation (DNRC), U.S. Forest Service, and a small private parcel. FWP proposes to purchase this property for the appraised value of \$1.4 million using federal Pittman Robertson Act and Habitat Montana funds.

The property has unique ecological importance to the Fish Creek watershed as valuable habitat and as a corridor to wildlife movement and dispersal. The intact riparian habitat within the property is critical to protecting a wide variety of wildlife species along the stream corridor and allows bull trout to migrate to spawning habitat in the upper reaches of the drainage. In addition to the 1.3 miles of the West Fork of Fish Creek there are three tributaries that join the West Fork within the property (Bear Creek, Trail Creek, and Winkler Gulch) allowing important movement and dispersal of wildlife north and south.

Rationale for Land Board Action

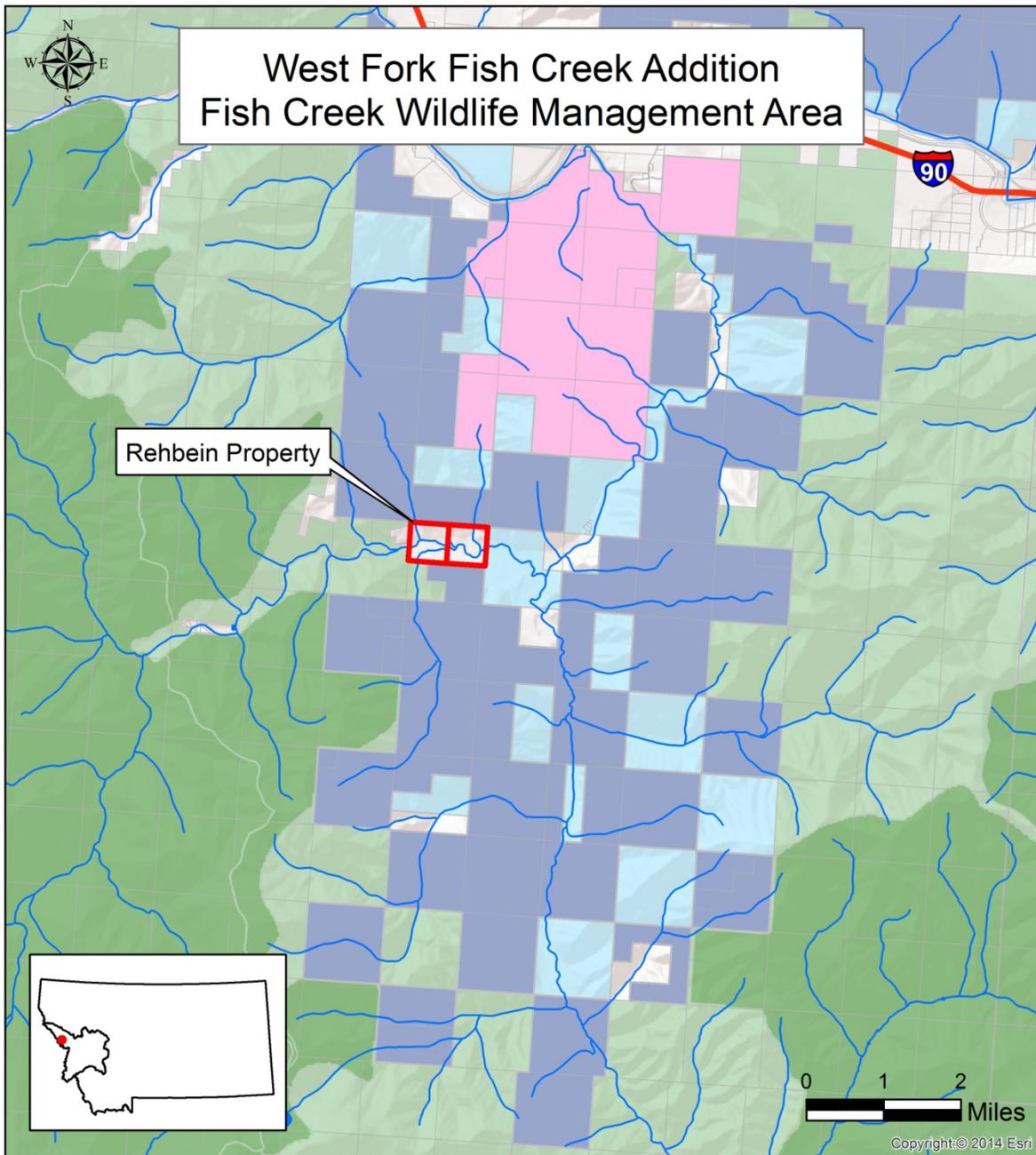
The primary benefits of acquiring the property include:

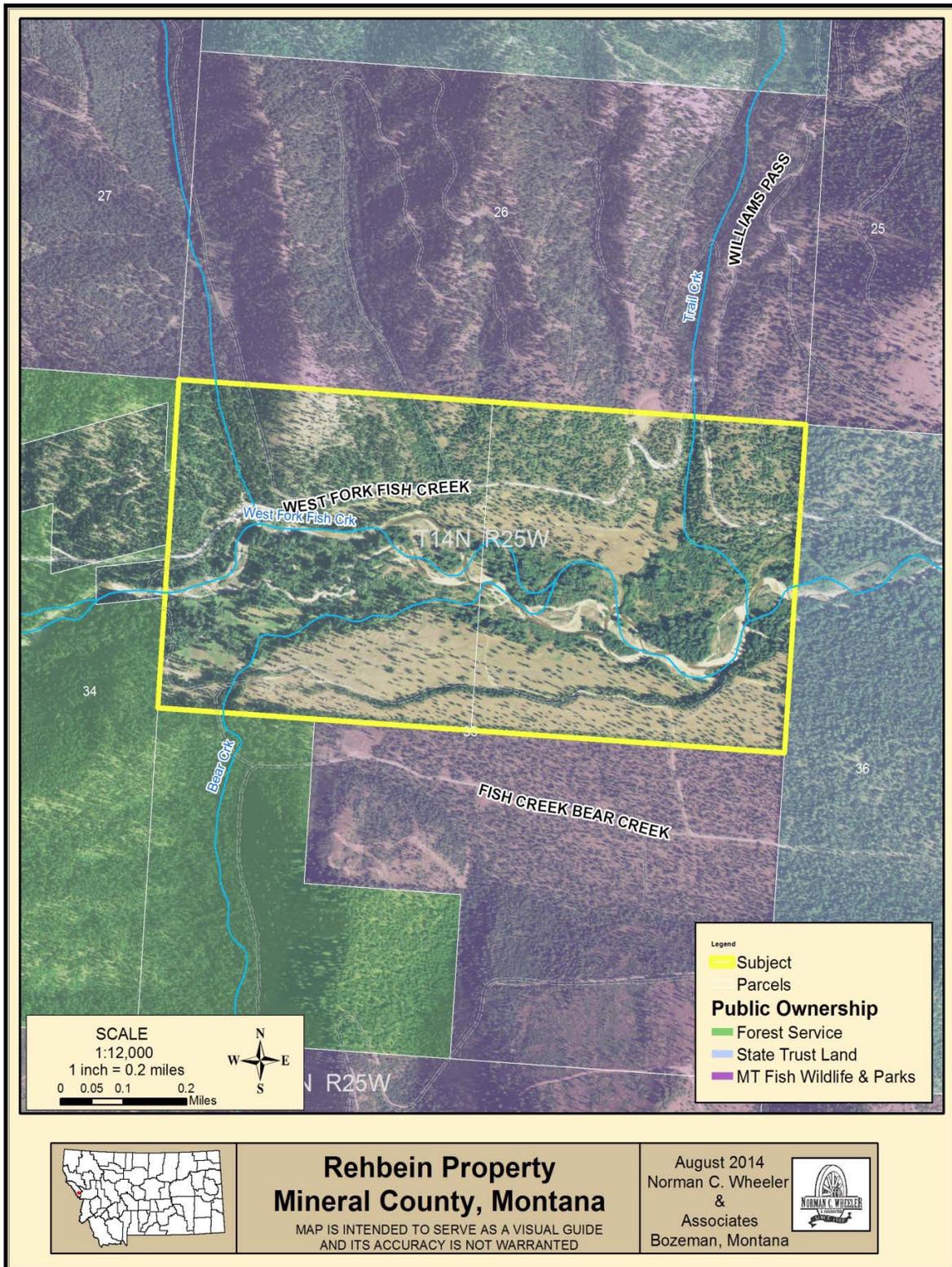
- protect an important forest and riparian corridor that provides vital habitat for wintering elk, mule deer, white-tailed deer, and moose;
- protect a high priority forest carnivore linkage zone;
- protect some of the last and best remaining habitat for bull trout and westslope cutthroat in the Middle Clark Fork region by securing 2.5 miles of riparian corridor along the West Fork of Fish Creek and its' tributaries; and
- benefitting the integrity of the WMA and other adjacent public lands while providing additional opportunity for public access.

FWP released a draft environmental assessment (EA) for public review of this proposal on October 8, 2015, and accepted public comment until November 6, 2015. A public hearing to explain the project, answer questions and take public comment was held in Alberton on October 20 (6:30 p.m.) at the Alberton Community Center. FWP received 32 comments, 28 in support and 3 opposed. The opposition commenters generally stated that: FWP owns enough land, and that the land would provide more tax revenue if subdivided. The FWP Commission will be considering final approval of the project on January 14, 2016.

FWP Recommendation

FWP recommends Land Board approval to proceed with the purchase of the 320-acre addition to the Fish Creek WMA.







FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET**Meeting Date:** January 14, 2015**Agenda Item:** Addition to the Fish Creek Wildlife Management Area**Division:** Wildlife**Action Needed:** Final**Time Needed on Agenda for this Presentation:** 10 min.**Background**

FWP proposes to purchase a 320-acre addition to the Fish Creek Wildlife Management Area from the Rehbein family. The property is a private inholding within the 34,573-acre Fish Creek WMA and is also bordered by the Montana Department of Natural Resources and Conservation, U.S. Forest Service, and a small private parcel. FWP proposes to purchase this property for the appraised value of \$1.4 million using federal Pittman Robertson Act and Habitat Montana funds. The Fish & Wildlife Commission first endorsed this project in 2014.

The property has unique ecological importance to the Fish Creek watershed as valuable habitat and as a corridor to wildlife movement and dispersal. The property includes approximately 1.3 miles of the West Fork of Fish Creek and its associated riparian corridor, as well as lower sections and confluence areas of Bear Creek (~0.6 miles), Trail Creek (~0.35 miles), and Winkler Gulch (~0.24 miles). In total, the property contains 72 acres of stream corridor, riparian areas, and associated wetlands. There are also 148 acres of adjacent upland habitat significant as winter range for elk and other wildlife species. The area is recognized as an important forest carnivore linkage zone, supports elk, mule deer, moose, and high densities of white-tailed deer, and represents some of the best remaining habitat for bull trout and westslope cutthroat trout in the Middle Clark Fork. Acquiring this inholding would benefit the integrity of the WMA and other adjacent public lands while providing additional opportunity for public access.

Public Involvement Process & Results

FWP released a draft environmental assessment for public review on Oct. 8 and accepted public comment through Nov. 6. A public hearing was held in Alberton on Oct. 20 at the Community Center. FWP received a total of 32 emailed, written, or oral comments, representing 25 people, six organizations and one agency. Commenters were from Missoula, Alberton, Superior, Trout Creek, Tarkio, Helena, Huson, Bozeman, Emigrant, Hamilton, Stevensville, and Dillon. Twenty-eight commenters supported the acquisition, three opposed it, and one did not indicate a preference. A summary of comments can be found in the project Decision Notice.

Alternatives and Analysis

The proposed alternative is to acquire the property. The only other viable alternative to this proposal would be to forego this acquisition. The parcel is developable and a nearby parcel was sold recently, has buildings on it, and is posted against public access.

Agency Recommendation & Rationale

FWP recommends that the commission approve the purchase of this addition to the Fish Creek WMA. The property has high fish/wildlife habitat and recreation values and is strategic to other lands where FWP retains interest.

Proposed Motion

I move the commission approve FWP's purchase of this addition to Fish Creek WMA.

116-3

FWP: LAND ACQUISITION - NEVADA LAKE
WILDLIFE MANAGEMENT AREA
CLEAR CREEK ADDITION

**Land Board Agenda Item
January 19, 2016**

116-3 FWP: Land Acquisition – Nevada Lake Wildlife Management Area Clear Creek Addition

Location: Powell County

Trust Benefits: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary

Montana Department of Fish, Wildlife and Parks (FWP) proposes to acquire a 760-acre addition to the 740-acre Nevada Lake Wildlife Management Area (NLWMA) located directly north of the Nevada Creek Reservoir on the north side of Montana highway 141 directly west and north of the existing NLWMA. The western portion of the Clear Creek addition properties is bisected by Chicken Creek with the main access road paralleling the creek. The addition of these parcels to the existing 760-acre WMA would protect deer and elk wintering habitat; contribute to large-scale wildlife connectivity between the Garnet Range and Helena National Forest; and establish a shared boundary with USFS lands, improving recreational access between public lands.

The appraised value of these parcels is \$750,000, of which FWP would pay 75 percent (\$562,500) using a grant from the U.S. Forest Service Forest Legacy Program and the remaining 25 percent would be donated by The Nature Conservancy (TNC) and current owners as a match for the grant.

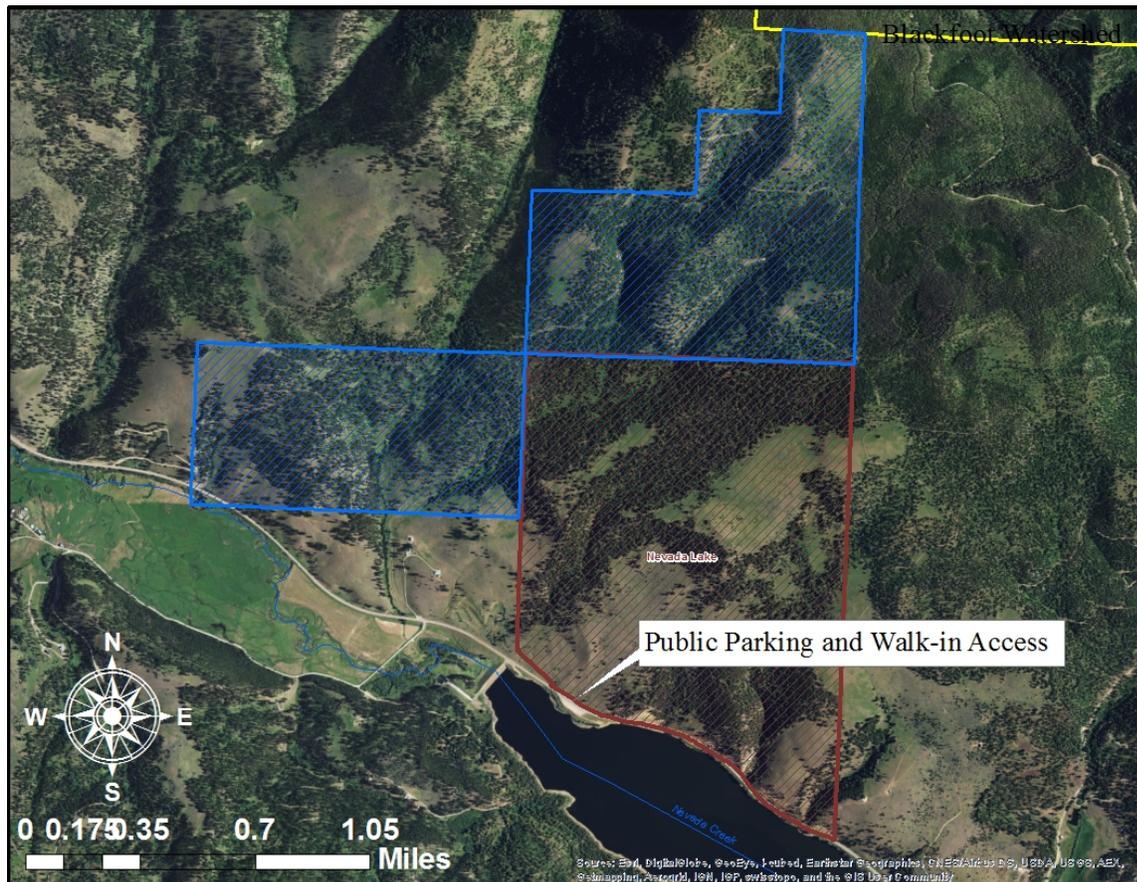
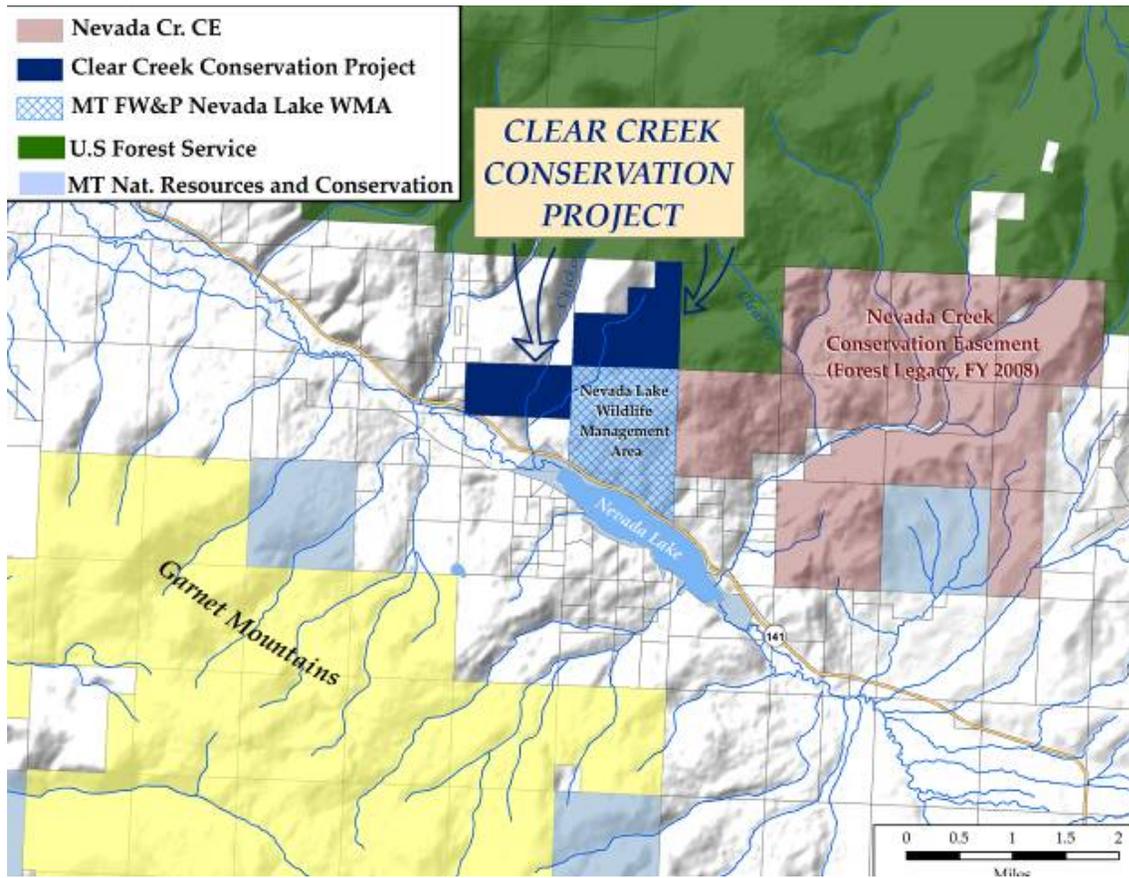
Rationale for Land Board Action

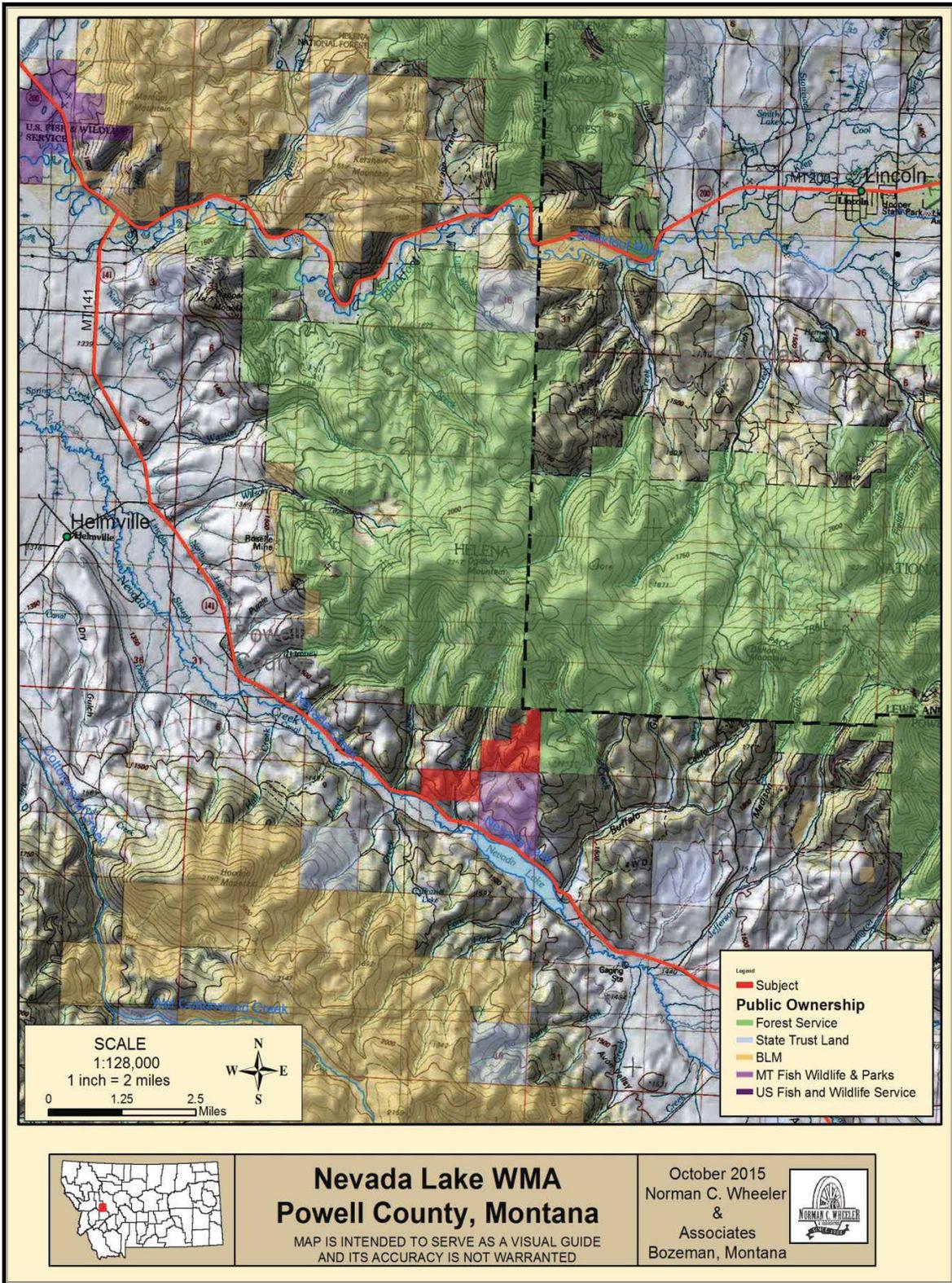
Wildlife habitat and fisheries values are abundant on the properties and the area experiences high use from hunters during the general deer and elk season. The Clear Creek addition would conserve and expand critical winter range for deer and elk adjacent to the Nevada Lake WMA. Grizzly bears frequent the area and Chicken Creek has been identified as an important tributary for native westslope cutthroat trout.

FWP released a draft environmental assessment for public review on Nov. 12, 2015 and accepted public comment through Dec. 11, 2015. A public meeting was held November 19 in Helmville. FWP received 21 comments involving 18 individuals and 3 hunter/angler groups. Nineteen comments were in support of the acquisition and one was in support contingent on changes to elk hunting season regulations. One individual was opposed to the purchase and recommended keeping the land in private ownership. The decision notice includes a summary of comments. The FWP Commission will be considering final approval of the project on January 14, 2016.

FWP Recommendation

FWP recommends approval by the Land Board to proceed with the purchase of the 760-acre addition to the NVWMA.







116-4

TIMBER SALES:

- A. Cooper Creek 2
- B. Scout Lake OSR

Land Board Agenda Item
January 19, 2016

116-4A Timber Sale: Cooper Creek 2

Location: Powell County

Trust Benefits: Common Schools

Trust Revenue: \$28,182 (estimated minimum bid)

Item Summary

The Cooper Creek 2 Timber Sale is located approximately seven miles southeast of Helmville, MT. The sale includes eight harvest units: four units (165 acres) of tractor logging; and four units (65 acres) of cable logging for a total of 230 acres. The estimated harvest volume is 5,200 tons (815 MBF) of sawlogs. The minimum bid is \$5.42 per ton, which would generate approximately \$28,182 for the Common School Trust and \$18,511 in Forest Improvement fees. The project is within the Habitat Conservation Plan (HCP) and complies with the commitments outlined in the HCP.

The sale includes primarily a salvage of lodgepole pine killed by mountain beetle and Douglas-fir heavily impacted by western spruce budworm. Shelterwood treatments are prescribed where sufficient trees are present, and some clear-cut and seed-tree treatments are prescribed in other areas. The combinations of these treatments are designed to: salvage lodgepole pine and Douglas-fir; promote long-term revenue generating capability through biodiversity and regeneration of forested stands; reduce current stocking levels to improve growth; and maintain forest productivity. Old growth is not present in any of the stands to be harvested.

The Department of Natural Resources and Conservation (DNRC) is proposing 1.83 miles of new permanent road and 1.07 miles of new temporary road construction. DNRC is also proposing three miles of road improvement. All roads will be closed to unauthorized vehicles during and after operations.

Access has been obtained to this timber sale via county road and a temporary road use permit from the BLM.

Scoping letters were mailed to adjacent landowners and interested parties in May 2015. The notice was also posted on the DNRC website and placed in the *Missoulian*. No external comments were received. Internal issues and concerns were incorporated into project planning and design and will be implemented in associated contracts.

DNRC Recommendation

The director recommends the Land Board direct DNRC to sell the Cooper Creek 2 Timber Sale.

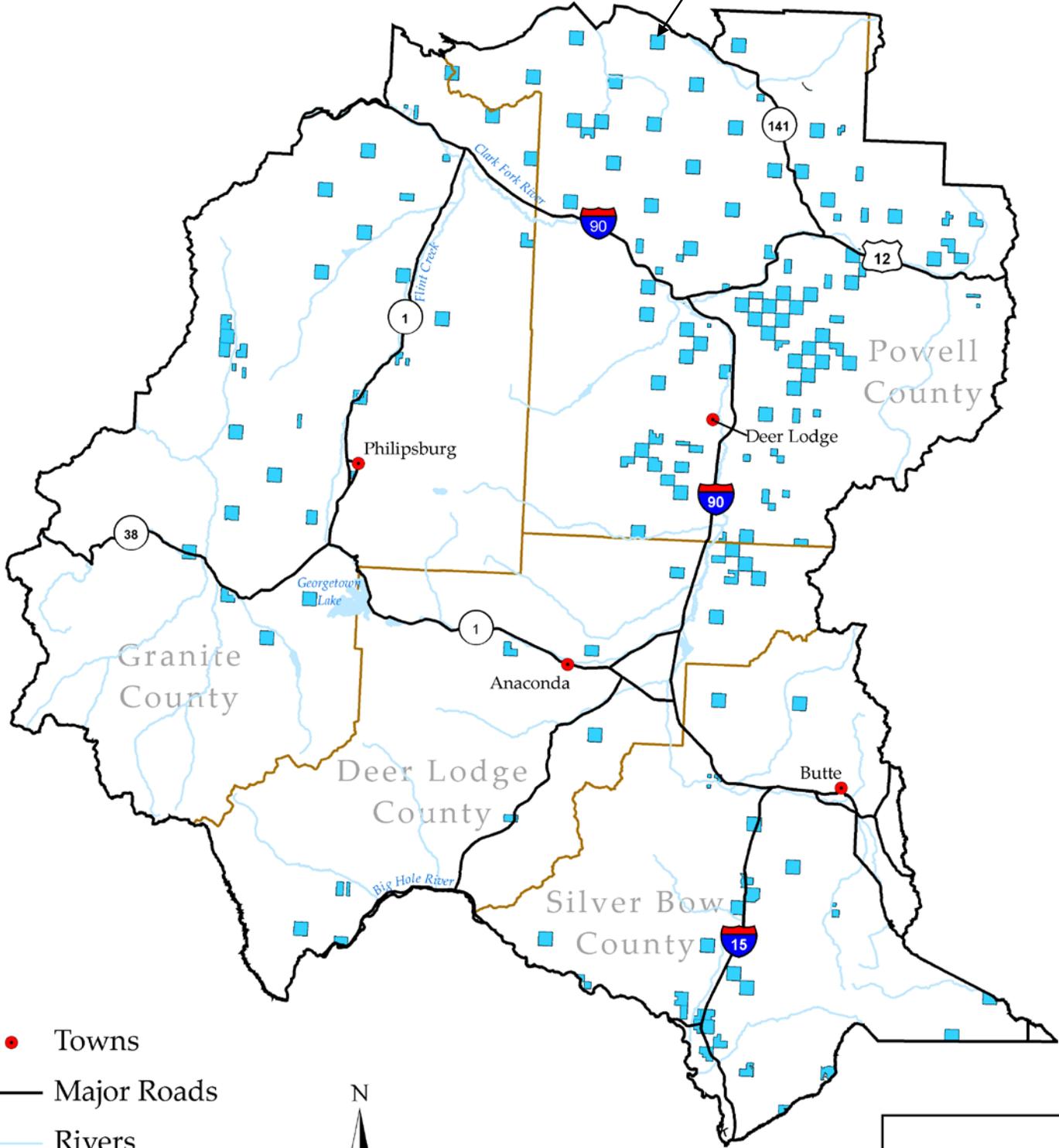
COOPER CREEK 2 VICINITY MAP

ANACONDA UNIT

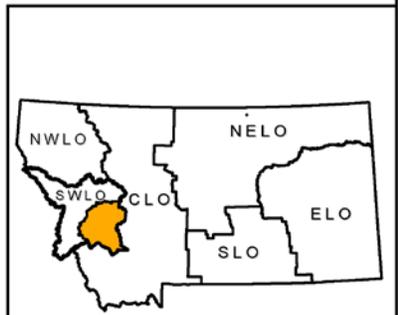
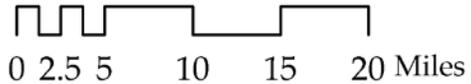
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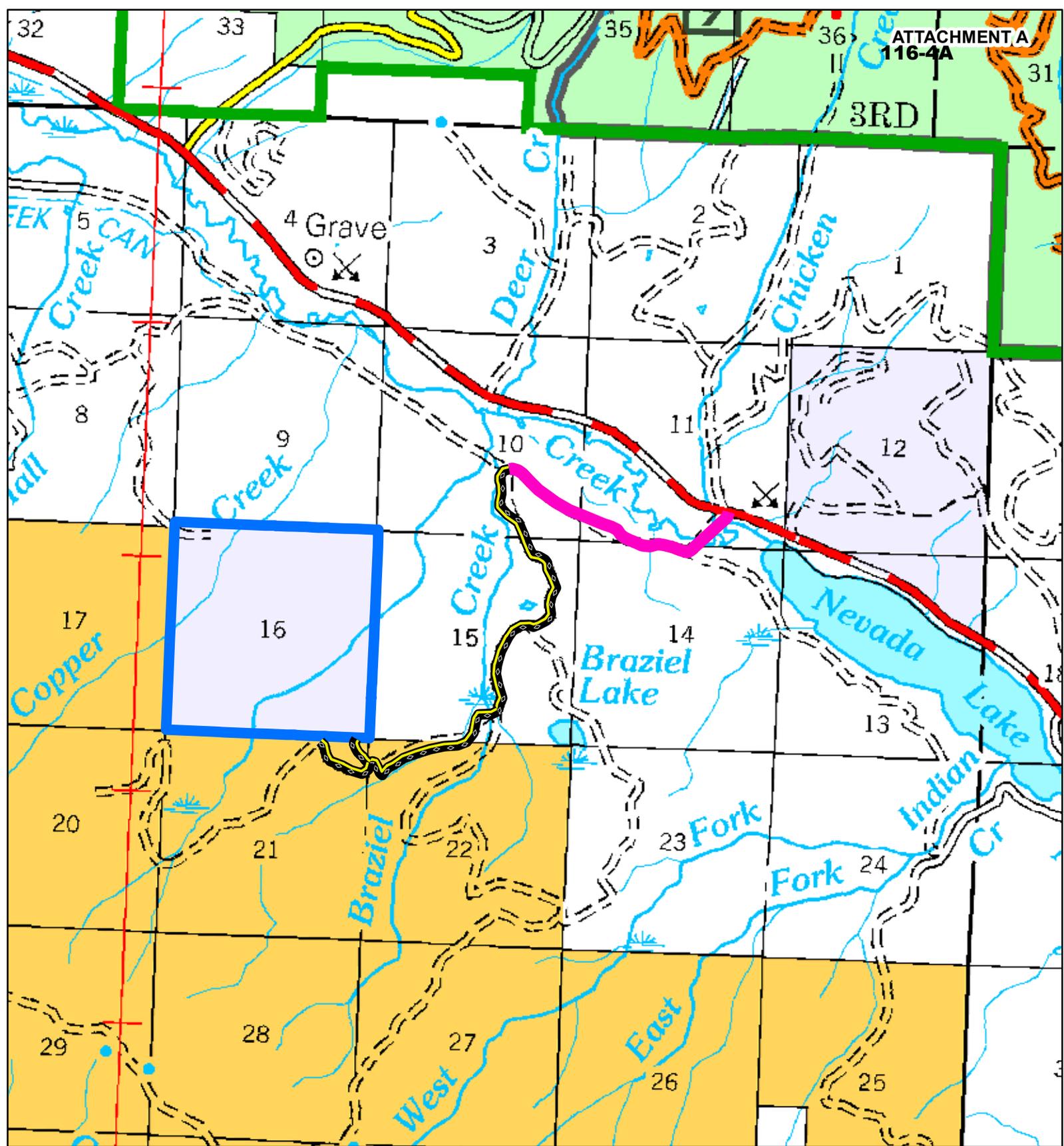


PROJECT AREA



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



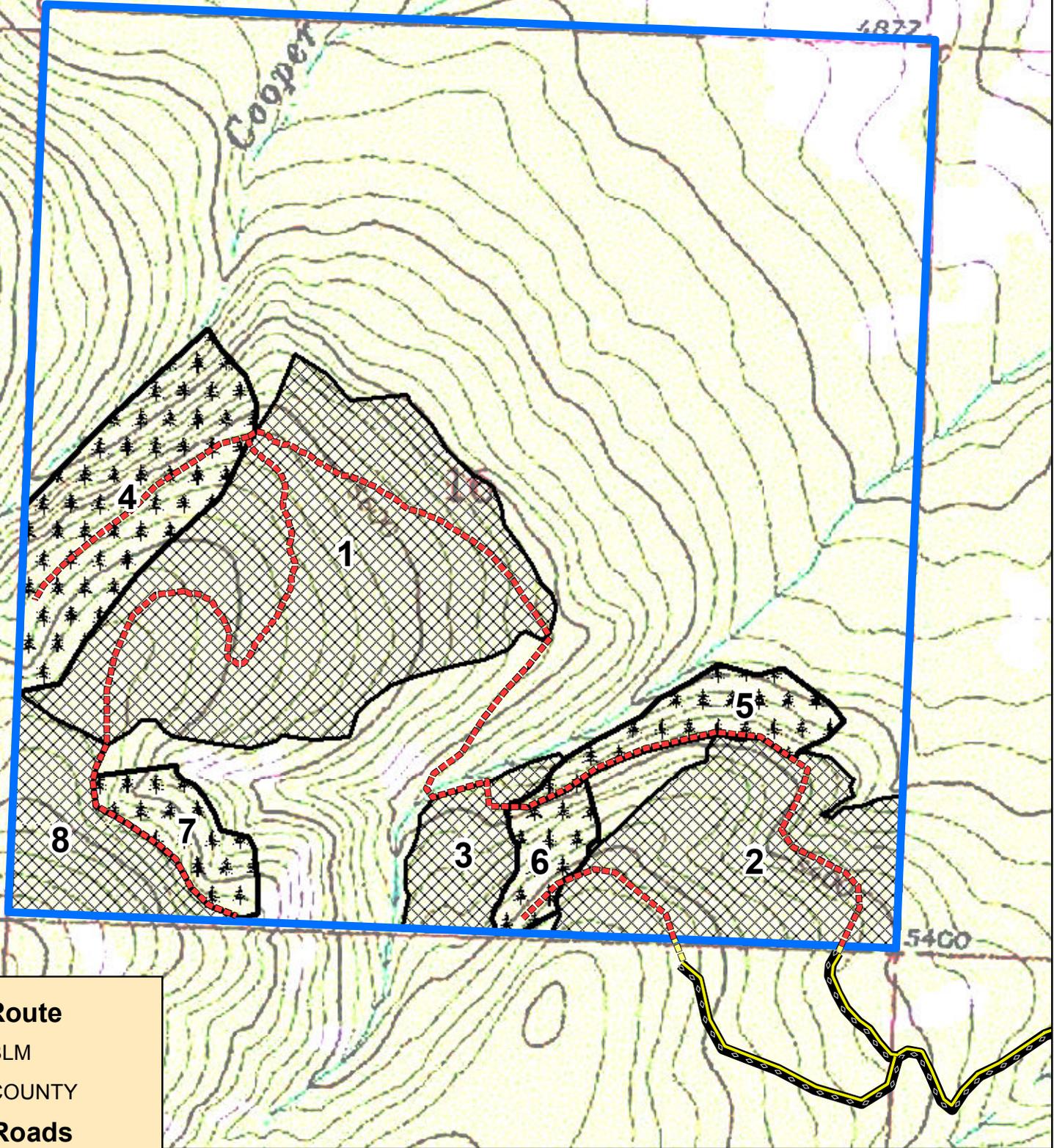


**COOPER CREEK 2 TIMBER SALE
HAUL ROUTE MAP
T12N, R10W, S16**

Haul Route

- BLM
- COUNTY
- State Land





Haul Route

- BLM
- COUNTY

New_Roads

- BLM
- State

State Land

- State Land

Harvest Proposal

- Tractor
- Cable

COOPER CREEK 2 TIMBER SALE SALE AREA MAP T12N, R10W, S16



Land Board Agenda Item
January 19, 2016

116-4B Timber Sale: Scout Lake OSR

Location: Lake County

Trust Benefits: Common Schools

Trust Revenue: \$ 14,008 (estimated, minimum bid)

Item Summary

The Scout Lake Overstory Removal (OSR) Timber Sale is located approximately 12 miles southeast of Swan Lake, MT. This sale includes two harvest units (109 acres) of tractor yarding overstory removal. The estimated harvest volume is 1,324 tons (250 MBF) of sawlogs. The minimum bid is \$10.58 per ton, which would generate approximately \$14,008 for the Common School Trust and \$6,315 in Forest Improvement fees. The project is within the Habitat Conservation Plan (HCP) and complies with the commitments outlined in the HCP.

This sale has a prescription of species specific overstory removal. This treatment is meant to: remove the Douglas-fir remaining in the stand to reduce the spread of *Armillaria* root disease; reduce the number of remaining western larch and ponderosa pine seed trees; prepare the sites for natural regeneration; and expose mineral soil for seed germination. Old growth is not present in any of the stands to be harvested.

The Department of Natural Resources and Conservation (DNRC) is proposing 2.5 miles of road maintenance. All roads will be closed to unauthorized vehicles during and after operations.

Scoping letters were mailed to adjacent landowners and interested parties in May 2015. The notice was also posted on the DNRC website. Two comments were received, one from the Northern Cheyenne Tribe and one from the Chippewa Cree Tribe. The Northern Cheyenne Tribal Historic Preservation Officer requested more information on the cultural resource review of the site. The forest supervisor responded by describing our review process which involves information derived from the scoping process and checking our database for previously identified cultural resources. The Chippewa Cree Tribe asked to take a site tour to do a visual survey. The forest supervisor welcomed their visit but received no reply after the initial request.

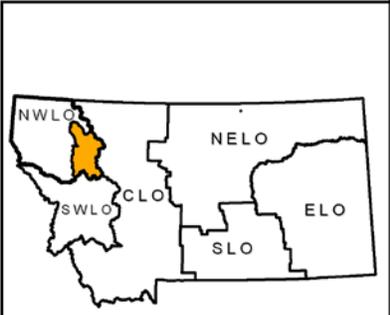
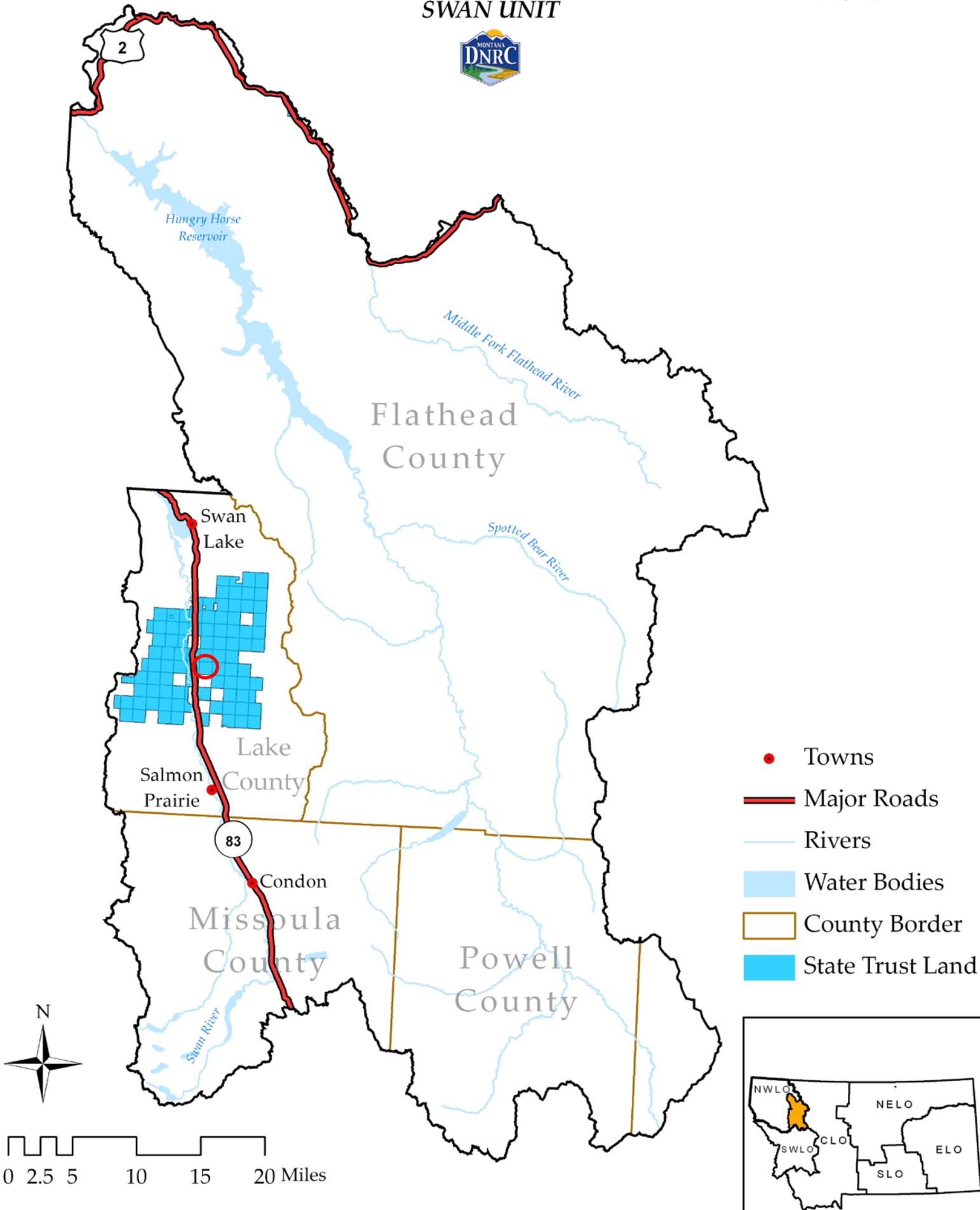
DNRC Recommendation

The director recommends the Land Board direct DNRC to sell the Scout Lake OSR Timber Sale.

SCOUT LAKE OSR VICINITY MAP

116-4B

SWAN UNIT





Scout Lake Overstory Removal Timber Sale

Attachment A2 -
Project Area Map

Legend

Prescrip

 overstory removal

Roads

 OPEN

 PRIVATE

 RESTRICTED

 SEASONAL

Ownership

 FOREST SERVICE

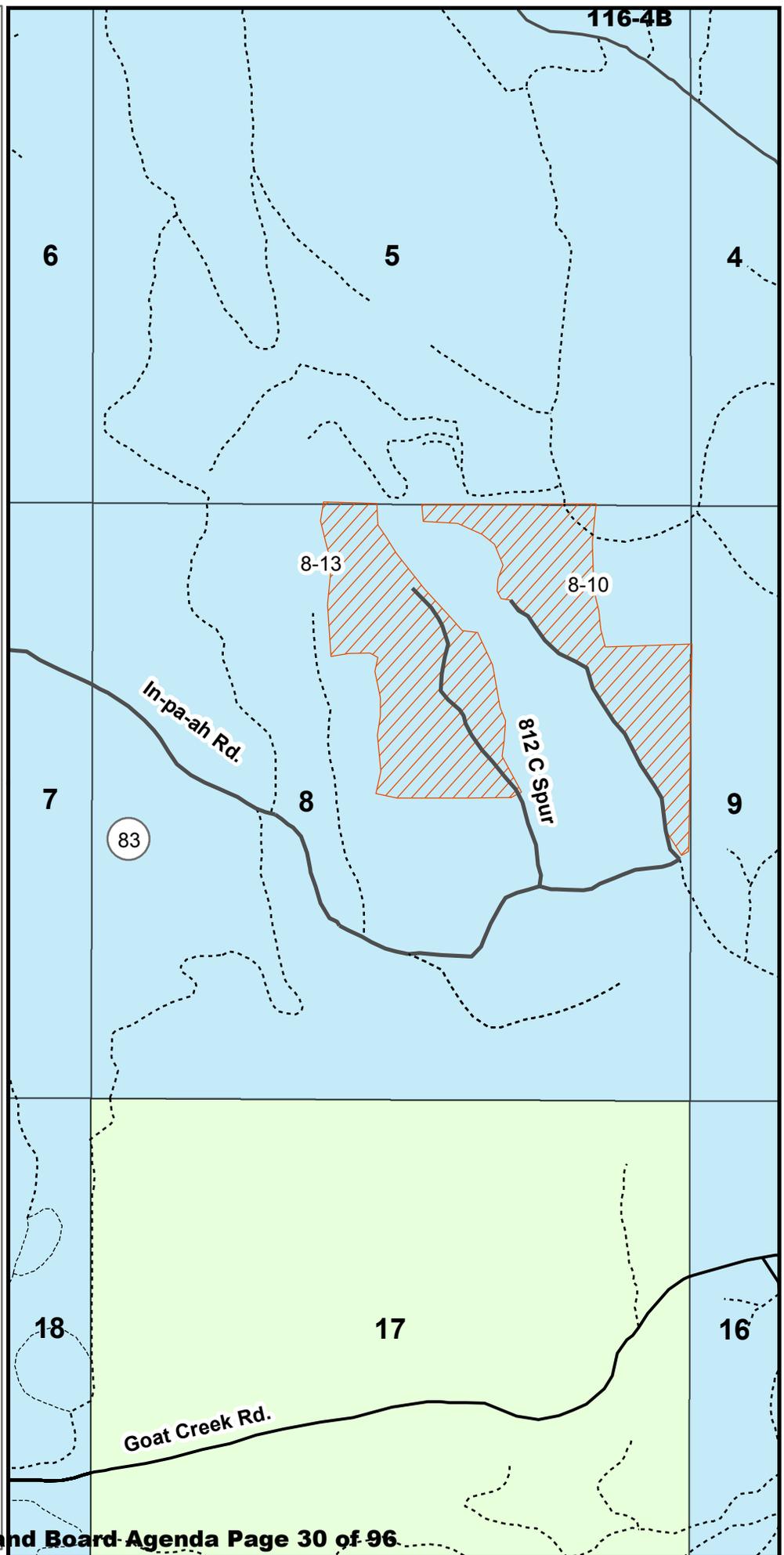
 MDFWP

 STATE OF MONTANA

 TRIBAL



0 0.1 0.2 0.4 Miles





Scout Lake Overstory Removal Timber Sale

Attachment A3 -
Haul Route Map

Legend

Prescrip

 overstory removal

Roads

 OPEN

 PRIVATE

 RESTRICTED

 SEASONAL

Ownership

 FOREST SERVICE

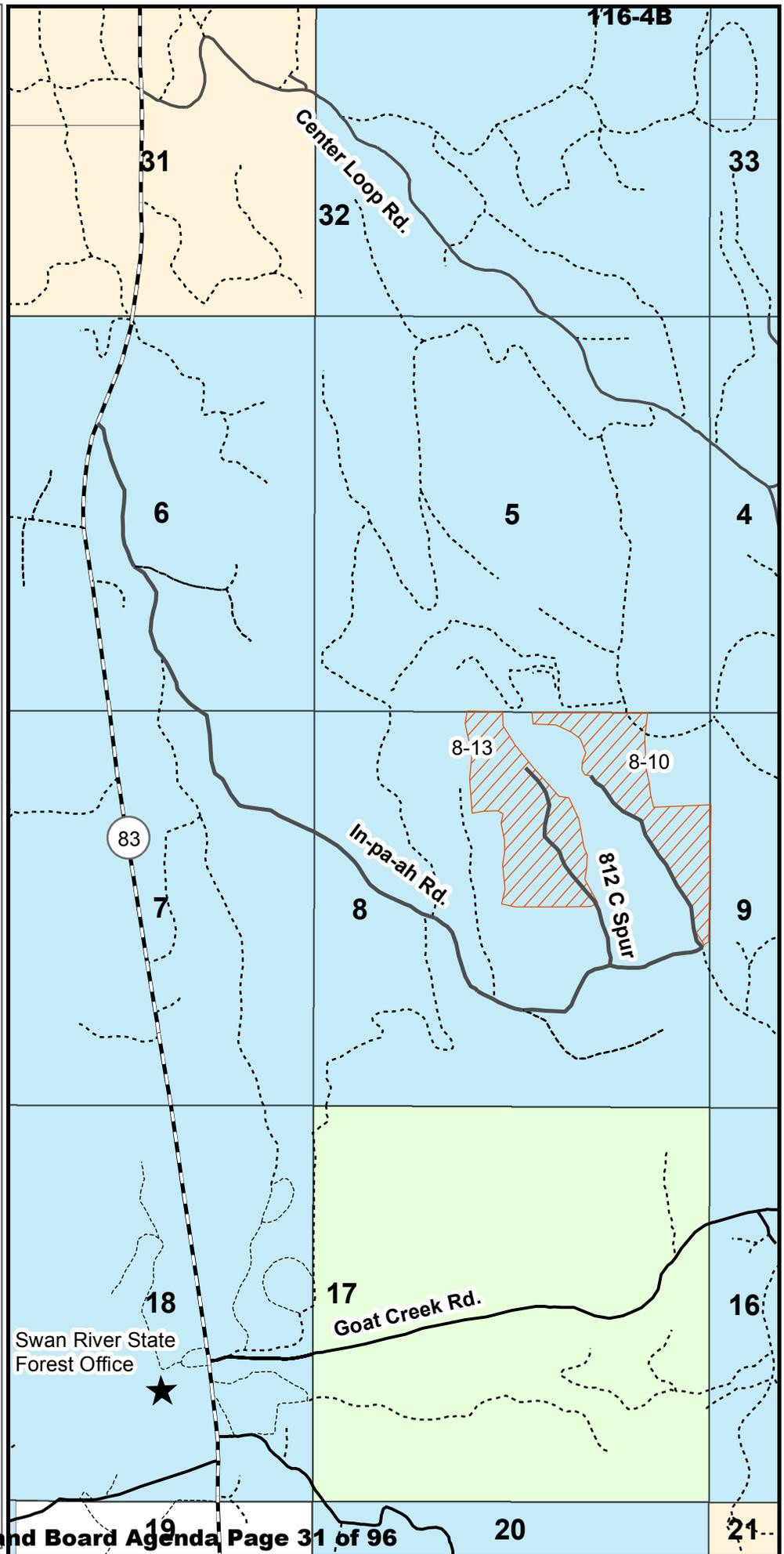
 MDFWP

 STATE OF MONTANA

 TRIBAL



0 0.15 0.3 0.6 Miles



116-5

ADMINISTRATIVE RULE PROPOSAL:

DNRC Cabin Site Rules

(MAR 36-22-184)

**Land Board Agenda Item
January 19, 2016**

116-5 Administrative Rule Proposal – DNRC Cabin Site Rules (MAR 36-22-184)

Location: Beaverhead, Big Horn, Blaine, Broadwater, Cascade, Choteau, Custer, Daniels, Dawson, Fallon, Fergus, Flathead, Gallatin, Golden Valley, Hill, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, Madison, McCone, Meagher, Mineral, Missoula, Musselshell, Phillips, Pondera, Powder River, Powell, Prairie, Richland, Rosebud, Sanders, Sheridan, Stillwater, Sweet Grass, Toole, Valley, Wheatland, Wibaux, Yellowstone Counties

Trust Benefits: Common Schools, Eastern College – MSU/Western College – UM, Montana State University, Montana Tech, Pine Hills School, Public Buildings, School for the Deaf and Blind, University of Montana, Veterans Home

Trust Revenue: N/A

Item Summary

A lawsuit commonly referred to as Montrust III was initiated by Montrust (Montanan's for the Responsible Use of the School Trust) in 2012 against the state of Montana, the Montana Board of Land Commissioners (Land Board), and the Department of Natural Resources and Conservation (DNRC) under Cause No. BDV-2012-39, in the First Judicial District, Lewis and Clark County, Montana. Montrust was joined by the Board of Regents. These two groups alleged the administrative rules regarding lease fee calculation methods for cabin and home site leases on state trust land violated the fiduciary, trust, and constitutional duties of the state of Montana, Land Board, and DNRC, and failed to secure for the trust a full market value rate of return. Specifically, Montrust III addressed the terms of SB 409 (2011) and the subsequent administrative rules, as well as the administrative rules that existed regarding Alternative 3B.

Montrust III alleged that the rules related to both SB 409 (2011) and "Alternative 3B" included fee calculation methods that created lease fees below full market value.

A settlement agreement to resolve Montrust III was approved by the Land Board at their October 19, 2015, meeting, and was subsequently approved by the district court on November 10, 2015.

The settlement agreement provided for specific changes in the lease fee structure that will apply to any new lease issued after the date the settlement was approved by the district court. This means that the terms of the settlement agreement will apply to any renewed lease, or any lease issued through a competitive bid after November 10, 2015.

The proposed amendments to ARM 36.25.1001, 36.25.1002, 36.25.1004 through 36.25.1006, the adoption of New Rules I and II, and the repeal of ARM 36.11.101, 36.25.1003, 36.25.1007, 36.25.1012, and 36.25.1016 through 36.25.1021 regarding cabin site leasing are reasonably necessary as a requirement of the settlement agreement and as ordered by the district court in Cause No. BDV-2012-39, in the First Judicial District, Lewis and Clark County, Montana.

Included in the terms of the settlement agreement and court order were the requirements that DNRC complete rulemaking in compliance with the terms of the settlement agreement.

The proposal notice will be filed with the Montana Secretary of State on January 25, 2016, and published in the Montana Administrative Register (MAR) on February 5, 2016. The comment period will run through March 4, 2016. Two public hearings will be held during the comment period.

DNRC Recommendation

The director recommends approval of the draft proposal notice so DNRC may proceed with rulemaking.

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

In the matter of the amendment of)
ARM 36.25.1001, 36.25.1002,)
36.25.1004 through 36.25.1006, the)
adoption of New Rules I and II, and)
the repeal of ARM 36.11.101,)
36.25.1003, 36.25.1007, 36.25.1012,)
and 36.25.1016 through 36.25.1021)
regarding cabin site leasing.)
)
)

To: All Concerned Persons

1. The Department of Natural Resources and Conservation will hold two public hearings at the following dates and times to consider the proposed amendment, adoption, and repeal of the above-stated rules:

10:00 a.m. on February 29, 2016, Bannack Conference Room, 1625 Eleventh Avenue, Helena, Montana 59601; and

1:00 p.m. on March 1, 2016, Hampton Inn, 1140 U.S. Highway 2 West, Kalispell, Montana 59901.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the agency no later than 5:00 p.m. on February 15, 2016, to advise the department of the nature of the accommodation that you need. Please contact Amy Randall, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-3844-, fax (406) 444-2684, email arandall@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

36.25.1001 CABINSITE-DEFINITIONS

(1) remains the same.

~~(2) "Adjusted 2009 appraised value" means an amount equal to the 2003 Montana Department of Revenue (DOR) appraised value for a state parcel increased at a rate of 6.53 percent compounded annually to 2009.~~

~~(3) "Annual lease rental period" means March 1 to February 28, annually.~~

(4) "Assignment" means the transfer of rights, obligations, and ownership of a current lease agreement to another person or other legal entity qualified to hold a lease. Assignments must be executed on a form prescribed by the department, and are subject to department approval.

~~(5) "Base rent" means the lower of five percent of the adjusted 2009 appraised value of the state trust land under lease or an amount equal to five percent of the actual 2009 reappraisal of market value by the DOR.~~

~~(63) "Board", also referred to as "Land Board", means the Board of Land Commissioners.~~

~~(74) "Cabin sSite", also referred to as "homesite home site" and "residential lease", means land leased or to be leased occupied or to be occupied for single-family residential use that is noncommercial in nature. a noncommercial use as a temporary or principal place of residence for a single family or equivalent of the same, and the supporting buildings, within the lease area.~~

~~(8) remains the same but is renumbered (5).~~

~~(9) "Consumer Price Index" (CPI) is a measure of the annual change in the price of a basket of consumer goods over time. For these rules, the department will use the CPI-U, West Urban Index published by the U.S. Bureau of Labor Statistics (<http://www.bls.gov/>) or, should the CPI-U, West Urban Index be discontinued, a similar index published by the U.S. Bureau of Labor Statistics chosen by the department. The CPI shall be established by reviewing the annual change in the CPI on October 1 of each year.~~

~~(10) remains the same but is renumbered (6).~~

~~(7) "Improvement" means structures including, but not limited to:~~

~~(a) a home or residence;~~

~~(b) outbuildings;~~

~~(c) sleeping cabins;~~

~~(d) utilities;~~

~~(e) water systems;~~

~~(f) septic systems;~~

~~(g) docks;~~

~~(h) landscaping;~~

~~(i) any other structure necessary for the conservation or utilization of state trust land; and/or~~

~~(j) any other structure determined by the department to meet this definition.~~

~~(11) "Director" means the director of Natural Resources and Conservation, chief administrative officer of the Department of Natural Resources and Conservation, or the director's designee.~~

~~(428) "Lease" means a contract by which the board conveys state trust land for:~~

~~(a) a specific term of years;~~

~~(b) for a specified rental lease fee; and~~

~~(c) for use for which the land is as classified under (77-1-401, MCA).~~

~~(9) "Leased land" means the land leased for a cabin site, and does not include any improvements thereon.~~

~~(10) "Neighborhood" means a cabin site management region as determined by the department.~~

~~(13) "Lease fee adjustment" means the department application of the rental rate contracted in the lease to the most recent appraised market value to determine if it is necessary to alter the annual rental payment. The adjustment will occur at the review period defined in the lease.~~

~~(14) "Lease fee adjustment process" means the annual process by which the department applies the Lease Fee Indicator to the adjusted 2009 appraised value of~~
MAR No. 36-22-184

the leased premises, or by which the department applies the rental rate contracted in the lease to the actual 2009 reappraisal of market value by the DOR, and subsequent reappraisals, to determine if it is necessary to alter the annual rental payment. Future lease fee adjustments will occur at the review period defined in the lease, or at any time that it is considered necessary to protect the interests of the trusts, as determined at the sole discretion of the director of the department.

(15) "Lease Fee Indicator" (LFI) means the increase that is applied annually to the previous year's lease fee. The LFI, which is recalculated annually, is the average of the CPI and the Real Estate Index; however, the LFI shall be limited in that it may never be less than 3.25 percent and may never be more than 6.5 percent. The LFI is named for the year the CPI data was primarily collected, but applied to the billing for the following year. For example, an LFI determined from CPI data from calendar year 2014 would be called the 2014 LFI and would be applied to the 2015 cabinsite lease fee adjustment process.

(16) "Real Estate Index" (REI) means a moving 25-year average of the annual appreciation of all cabinsite parcel values. This number will be adjusted after every new reappraisal cycle by the DOR. The REI is currently 8.75 percent and will remain so until the next DOR appraisal, which is currently scheduled for 2014.

(11) "Rental rate" means a percentage of the Department of Revenue (DOR) valuation of the leased land to derive a lease fee. The rental rate for renewing leases is five percent or \$800, whichever is higher, unless otherwise determined by the board. The minimum rate for new leases issued through a competitive bid is 6.5 percent unless reduced in accordance with these rules, or as otherwise determined by the board.

(12) "Security bond" means an amount submitted by the lessee and held by the department throughout the term of the lease to secure costs incurred by the department as a result of activity or improvements upon the lease site.

(13) "Security interest" means an interest that a third party retains in any portion of the lease improvements located on that lease in order to secure the payment by the lessee to that third party.

(14) "State trust land" means lands or property interests held in trust by the state as defined by 77-1-101, MCA.

(18) "Semiannual lease rental period" means ~~March 1 to August 31 or September 1 to February 28.~~

(19) remains the same but is renumbered (15).

AUTH: 77-1-202, 77-1-204, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1002 CABINSITE LEASES AUTHORITIES, LIMITATIONS AND

RESTRICTIONS (1) A cabin site lease generally may only include a maximum of five acres; ~~unless however,~~ special circumstances may exist for which the department may grant more than five acres.

(2) through (b) remain the same.

(c) all other local, state, and federal statutes and regulations. ~~The department's approval to place or modify any improvement on the lease lot does not necessarily constitute approval from any other regulatory entity such as a county, other state administrative agencies, or federal agencies.~~

~~(3) The successful bidder for a cabinsite lease may be required to pay for the cost of any surveys, fulfillment of zoning and subdivision requirements, and other assessments, or costs related to compliance with any other local, state, and federal statutes and regulations.~~

~~(4) Cabinsite leases shall be classified as per ARM 36.25.108, or if necessary, reclassified as per ARM 36.25.109.~~

~~(5) A cabin site lease authorizes the lessee grants the lessee the right of access to the leased land and, with prior approval from the department, and the right to place allows for placement of necessary utility facilities within the cabin site lease premises and across specified adjacent state trust lands from the main utility to the cabin site lease premises during the term of the lease, with the prior written approval of the department. For any such rights authority outside of state trust land, the lessee will be responsible for obtaining any necessary easements from the appropriate landowner(s).~~

~~(6) At the lessee's expense, cabin site lessees are solely responsible for road maintenance of all roads upon state trust land that are used to access the cabin site lease.~~

~~(a) The department reserves the right to require the formation of road users associations (RUA), at lessee's expense, to address the potential of multiple use on access roads to the lease land.~~

~~(b) Should the department require the formation of a RUA, the cabin site lessees shall become members of that RUA and comply with all requirements of the RUA bylaws as approved by the department.~~

~~(7) At the lessee's expense, the lessee must keep the leased land free of fire hazards by:~~

~~(a) fireproofing incinerators, fireplaces, stoves or any other type of burner by use of spark proof screens;~~

~~(b) removing any forest litter such as needles, twigs, or duff in a ten-foot perimeter around all buildings and roof tops;~~

~~(c) removing all tree limbs encroaching the roof or chimney(s); and~~

~~(d) abiding by all restrictions on fires which may be in effect at any time and take all reasonable precautions to prevent and suppress fires, including extinguishing all fires prior to leaving the lease area.~~

~~(8) The use of firearms or fireworks is not permitted.~~

~~(9) Any falling of live or green trees is prohibited unless otherwise permitted by the department.~~

~~(9) At the lessee's expense, the leased land must be kept free of weeds, debris, garbage, and any open pits or ditches.~~

AUTH: 77-1-202, 77-1-204, 77-1-209, MCA

IMP: 77-1-208, MCA

~~36.25.1004 CABINSITE LEASE FEE PAYMENT DUE DATE (1) All cabin sites are assessed an annual lease fee. Payment is due in one annual installment unless the lessee elects to pay the annual fee on a semi-annual schedule in two equal installments.~~

~~(a) Annual lease fees are due on March 1 of each year.~~

~~(b) Semi-annual lease fees are due on March 1 and on September 1 of each year.~~

MAR No. 36-22-184

(2) Lease fee payment must be postmarked by the due date. Lease fee payment that is not postmarked by the due date will be considered late and a \$25 late fee will be assessed.

(a) Late payment of annual lease fees will be accepted if postmarked on or before April 1.

(b) Lease cancellation for leases on an annual fee schedule occurs if payment is not received, or is received postmarked after April 1.

(c) Late payment of the first installment of semi-annual lease fees postmarked on or before April 1 will be accepted; late payment of the second installment postmarked on or before October 1 will be accepted.

(d) Lease cancellation for leases on a semi-annual fee schedule occurs if payment is not received, or is received postmarked after either date in (c).

(3) The department will send written notice of payments due to the address of record for lessees in accordance with the following schedule:

(a) invoice in January for all annual lease fees;

(b) invoice in January and July for all semi-annual lease fees;

(c) late notice in March for any unpaid annual lease fees;

(d) late notice in March and September for any unpaid semi-annual lease fees;

(e) cancellation notice in April for any unpaid annual lease fees; and

(f) cancellation notice in April and October for any unpaid semi-annual lease fees.

(4) Late notices and cancellation notices will be mailed to the address of record by certified mail; and, will be copied to any known security interest holder for improvements upon the leased land. The department shall bill for cabinsite leases using the schedule outlined in (1)(a) through (c).

~~(a) Written notice of the amount of rental due for 2010 will be sent to each cabinsite lessee's address of record following adoption of these rules on May 28, 2010. In this instance, the specific dates for payment notification, when payments are due, and when late charges and lease cancellation may occur will be approved by the Land Board.~~

~~(b) Beginning in January 2011 and each January thereafter, the department will send written notice of the amount of rental due to each cabinsite lessee's address of record.~~

~~(i) The notice shall state that the payment is due by March 1, and if payment is not received or postmarked by April 1, that the lease is cancelled.~~

~~(A) In mid-March, prior to April 1, the department shall send a reminder letter by certified mail to each lessee who has not made payment, notifying the lessee that the lease is cancelled if payment is not received or postmarked on or before April 1. If payment is not received or postmarked by April 1, the entire lease is cancelled.~~

~~(B) An additional \$25 late fee will be charged for payments made after March 1, but before April 1. If payment is not received or postmarked by April 1, the entire lease is cancelled.~~

~~(c) If the lessee elects to make semiannual payments, the department will send written notices in January and July of each year, except as described in (1) to the address of record, per ARM 36.25.104(3), stating the amount of semiannual rental due.~~

~~(i) The notice shall state that the first-half payment is due by March 1, and if not paid by April 1, the lease is cancelled. The notice shall also state that the~~

second-half payment is due by September 1, and if not paid by October 1, the lease is cancelled.

(A) In mid-March, prior to April 1; and mid-September, prior to October 1, the department shall send a reminder letter by certified mail to each lessee who has not made payment a letter notifying the lessee that the lease is cancelled if payment is not received or postmarked on or before April 1 or October 1. If payment is not received and postmarked by April 1 or October 1, the entire lease is cancelled.

(B) An additional \$25 late fee will be charged for payments made after March 1 but before April 1; and payments made after September 1 but before October 1.

(da) As determined by the department or at the direction of the board, the department may send notices regarding of payments due to lessees at times other than those described in this rule.(1)(a) and (b). The specific dates for payment notification, when payments are due, and when late charges and lease cancellation may occur will be approved by the Land Board.

(25) A cancelled lease may be reinstated at the discretion of the department. for an additional The minimum fee for reinstatement fee, which will be a minimum of is \$500, or as much as three times the annual rental amount lease fee of the lease. The decision whether or not to offer a lessee the ability to reinstate the lease by paying a reinstatement fee, as well as the reinstatement fee amount to charge for the reinstatement fee, are both at the discretion of the department.

(3) The rental price for the first year of a new lease shall be prorated by dividing the full amount of the rental for the first year by 365 then multiplying the result by the number of days between the lease start date and the last day of the upcoming February.

AUTH: 77-1-202, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1005 CABINSITE IMPROVEMENTS (1) A cabin site lessee may apply to the department to request authorization to place improvements on, or to install utilities to, the leased land. Approval is at the discretion of the department. state trust land which are necessary for the conservation or utilization of that state trust land and associated structures such as outbuildings, utilities, and sleeping cabins, with the approval of the department; however,

(a) The lessee must apply for permission prior to placing any improvements or utilities on state trust land using a form provided by the department. Failure of the lessee to obtain prior written permission from the department, may result in:

(i) limited or no compensation paid to the lessee for the improvements upon termination of the lease; or

(ii) the department may require the lessee to remove any improvements placed on the leased land, at the lessee's expense.

(b) Only one single-family residence will be permitted on each cabin site lease, and

(c) The lessee is responsible to ensure all such installations and improvements meet all applicable rules, codes, and regulations. The department's approval to place or modify any improvement on the lease lot does not necessarily constitute approval from any other regulatory entity such as a county, other state administrative agencies, or federal agencies.

(d) The lessee is solely responsible for the installation, maintenance, and expense of any improvements or utilities to the leased land.

(e) The lessee is responsible for all initial or recurring utility company charges or taxes resulting from the installation.

(f) Applications for improvement within 100 feet of a water body may be denied or limited.

(g) The department may require a security bond, the terms of which will be defined within the lease.

(2) A lessee may apply to the department to request to sublet the improvements.

(a) The lessee must apply for permission prior to subletting.

(b) The application must be on a form prescribed by the department.

(c) Subletting of improvements is permissible for long-term (monthly or longer) single-family residential use. Any subletting for short-term and/or recreational activity for total rentals that exceed the annual lease fee in a given year is prohibited.

(d) Approval of any sublease is at the discretion of the department

~~(2) The lessee shall apply for permission prior to placing any improvements on state trust land and shall use the form prescribed by the department.~~

~~(3) A lessee will not be entitled to compensation by a subsequent lessee for improvements placed on the land after May 10, 1979, unless those improvements were previously approved by the department in writing prior to their placement upon the land. Proof of the date of placement of improvements may be required by the department. Any improvements or fixtures paid for by state or federal monies shall not be compensable to the former lessee.~~

~~(4) The lessee shall be responsible for notifying the department of the value of the improvements. The asking price of the improvements shall be the higher of either the most recent DOR assessment of the improvements, or of an appraisal of the improvements, though the lessee retains the right to lower the asking price of the improvements. Settlement for the improvements shall be determined pursuant to 77-1-208(3), MCA, and the procedures set out in ARM 36.25.125. All settlement for improvements must occur within 120 days of the issuance of the lease.~~

~~(a) If an appraisal is needed, the appraisal shall be contracted by the department and paid for by the lessee.~~

~~(b) Determination of compensation for improvements shall utilize standard appraisal procedures, giving full consideration to the improvement's condition, its contribution to the value of the property for residential purposes, and remaining economic life. Compensation shall be the estimated cost to construct, at current prices, a building with equivalent utility as of the date of the lease or license's expiration.~~

~~(5) At the time of assignment or other transfer of interest in the leasehold, the department must be notified of the sale price of the improvements and be provided copies of any agreements reflecting the transfer of both the lease and improvements, such as, but not limited to a realty transfer certificate.~~

~~(6) The department may require a written notice from the former lessee stating that the former lessee has received full compensation for the improvements or has removed the improvements and fixtures when a new lease is issued.~~

AUTH: 77-1-202, 77-1-204, 77-1-209, MCA

MAR No. 36-22-184

IMP: 77-1-208, MCA

36.25.1006 REMOVAL OF CABINSITE IMPROVEMENTS UPON CANCELLATION OR ABANDONMENT AND COMPENSATION (1) ~~At cancellation, termination, or abandonment of the cabinsite lease, the~~ The former lessee will be notified of their has a limited right to remove the improvements or be compensated for the improvements by a new lessee, or their right to remove those improvements. Improvements that are not removed or sold in accordance with this section will result in trust assumption and ownership of all improvements.

(2) The ability to remove or seek compensation for improvements is only available if the former lessee has continued to pay all taxes and any other applicable assessments; and, is limited to a time period of up to three years after the date of cancellation or abandonment.

(a) If, after three years there is no new lessee and the improvements have not been removed, the department will provide written notice to the former lessee granting 60 days for removal of remaining improvements. After that time, the improvements will become the property of the trust.

(b) This condition and limitation applies to all improvements on the leased land, including movable and nonmovable improvements, as well as personal property.

(c) The beginning of the three-year time period shall be either:

(i) the effective date of an abandonment form executed by the lessee and accepted by the department;

(ii) the date rent is due, if the rent is not paid, as per ARM 36.25.1004; or

(iii) the effective date of cancellation provided in the cancellation notice from the department to the lessee, if the lease is cancelled for any reason other than failure to pay rent.

~~(23) If the~~ A former lessee intending to inform the department that they wish to remove the their improvements, the former lessee must ~~(a) obtain a land use license from the department to remove the improvements. The license fee must be paid in advance.~~

(a) The department reserves the right to withhold authorization to remove the improvements during any time a lease is being actively offered for bid by the department.

(b) The land use license may be for a term of up to 60 days.

(c) The term may be extended by the department for good cause; and

(b) pay the license fee in advance.

(d) The license fee will be calculated as the most recent year's lease fee, divided by 365, and multiplied by the number of days in the license.

(e) The minimum fee for a removal land use license is \$50.

~~(34) If the~~ A former lessee intending to inform the department that they wish to be compensated for their improvements by a new lessee, must the former lessee will have a maximum of three years from the time of cancellation, termination, or abandonment of the cabinsite lease to be compensated for their improvements by a new lessee. The former lessee shall have:

(a) submitted in writing to the department a statement that the former lessee is seeking third-party compensation for the improvements;

(b) paid all property taxes and any applicable special assessments; and

(c) obtain a land use license from the department to access the cabin site for the limited purpose of maintaining and marketing the improvements for a potential buyer and new lessee. The former lessee may not utilize the cabin site for recreational or residential purposes.

(a) The maximum asking price of the improvements shall be the most recent DOR assessment of the improvements; or, if requested by the improvements owner, an appraisal of the improvements conducted pursuant to Uniform Standards of Professional Appraisal Practice (USPAP) standards. In case of a conflict, a USPAP appraisal will control.

(i) Improvements placed on the land after May 10, 1979, which were not previously approved by the department in writing prior to their placement, are not eligible for compensation under this rule.

(ii) Proof of the date of placement of improvements may be required by the department.

(iii) Any improvements or fixtures paid for by state or federal monies will not be compensable to the former lessee.

(b) If an appraisal is requested by the former lessee, the appraisal must:

(i) be contracted by the department and paid for by the lessee; and

(ii) utilize standard appraisal procedures, giving full consideration to the improvement's condition, its contribution to the value of the property for residential purposes, and remaining economic life. Compensation shall be the estimated cost to construct, at current prices, a building with equivalent utility as of the date of the lease or license's expiration.

(c) The lessee or improvement owner will be afforded notice and opportunity for an informal administrative hearing before the department to contest the appraisal valuation, as follows:

(i) the lessee or improvements owner must file a request for a hearing with the department within ten days of the department's notification to the lessee or improvements owner of the appraised value of the improvements. The department shall notify the lessee or improvements owner of the time and place of the hearing before the department director, or the director's designee. The hearing will be informal, without adherence to strict rules of evidence as provided in 2-4-604, MCA. A hearing examiner may be appointed to conduct the hearing. The lessee or owner of improvements may present any evidence and/or arguments for the department to consider;

(ii) upon determination of the improvement value, the lessee or improvement owner is obligated to transfer its interest in the improvements according to the department's final determination of the value;

(d) The proposed buyer of a former lessee's improvements must still participate in, and be the successful bidder of, the cabin site lease, per ARM 36.25.1009.

(e) In no case will the department pay any realtor fees, commissions, or otherwise, for the marketing of improvements when such marketing services are contracted by the lessee or former lessee, provided the department with qualifying value information for the improvements. At any time during the three-year period and at the approval of the department, the former lessee may request a license to remove the improvements, at a fee and duration consistent with this rule.

(4) The beginning of the three-year time period shall be either:

~~(a) the effective date of an abandonment form executed by the lessee and accepted by the department; or~~

~~(b) the date rent is due, if the rent is not paid as per ARM 36.25.1004 or no abandonment form is submitted.~~

~~(5) If the lessee abandons the improvements When a former lessee intends to unconditionally abandon the lease and improvements, the abandonment shall be recorded on a form as prescribed by the department, and the following will apply:~~

~~(a) the department or other party is under no obligation by the department or other party to compensate the former lessee for any for compensation for all improvements on the leased land property, including movable and nonmovable improvements, as well as personal property;~~

~~(b) the improvements may be sold to a new lessee at a price determined by the department. Any revenue generated from the sale of improvements that have been unconditionally abandoned shall be distributed by the department in the same manner as rentals for the applicable leased land; and~~

~~(c) the department reserves the right to refuse an unconditional abandonment.~~

~~(6) The department reserves the right to withhold authorization to remove the improvements during any time that a lease is being actively bid by the department.~~

~~(7) If three years after the cancellation, termination, or abandonment of the cabinsite lease no new lessee has been found, the department shall provide written notice to the former lessee that unless the improvements are removed within 60 days, the improvements will become the property of the trust. This condition and limitation applies to all improvements on the property, including movable and nonmovable improvements, as well as personal property.~~

~~(8) If the department receives no written request from the former lessee seeking to receive compensation for improvements from a new lessee or to remove the improvements, the department shall seek a new lessee for the cabinsite lease.~~

~~(9) Final determination of settlement for improvements will be conducted in accordance with statutes and rules pertaining to arbitration.~~

AUTH: 77-1-202, 77-1-208, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1008 CANCELLATION AND ABANDONMENT OF CABINSITE LEASES AND SECURITY INTERESTS (1) Either the department or the lessee may cancel the lease.

~~(a) The department may cancel a lease for nonpayment of rentals or any other breach of the lease contract.~~

~~(2b) A lessee may cancel per the terms of the lease, or unconditionally abandon a lease in accordance with ARM 36.25.1006. request to abandon the lessee's right, title, and interest in the improvements on a cabinsite lease and the cabinsite lease itself to the department.~~

~~(a) The department reserves the discretion whether to accept the abandonment of the improvements and lease.~~

~~b) All such abandonments shall utilize a form as prescribed by the department.~~

~~(32) Before any cancellation or abandonment of a cabin site lease, the department shall notify any known holder of a security interest for improvements~~

~~located upon the cabin site form issued by the department of the impending cancellation or request by the lessee for abandonment.~~

~~(4) through (6) remain the same but are renumbered (3) through (5)~~

~~(7) The former lessee may or may not choose to market the improvements for sale. In no case will the department pay any realtor fees or commissions for the marketing of former lessee improvements when such marketing services are contracted by the lessee.~~

~~(8) The proposed buyer of a former lessee's improvements must still participate in, and be the successful bidder of the cabin site lease, per ARM 36.25.1009.~~

~~(9) If the lease improvements have been abandoned, the improvements may be sold to a new lessee at a price determined by the department.~~

~~(406) The former lessee shall will not be entitled to any refunds of any lease payments after related to cancellation or abandonment.~~

AUTH: 77-1-202, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1009 ISSUANCE OF CABIN SITE LEASE ON UNLEASED AND RECLASSIFIED LAND ~~(1) A person who desires to lease unleased state trust land for a cabin site must apply on the standard application form prescribed by the department. The application form must be returned to the department and must be accompanied by a nonrefundable application fee. Such application shall be deemed an offer to lease land for a cabin site as specified by the application, at a rental rate which reflects fair market value.~~

~~(2) When the department receives one or more applications to lease a cabin site on an unleased tract of land, or on a tract which has been reclassified, it may advertise for bids on the tract and shall use the procedures set forth in this rule. The department has the discretion to put cabin site leases up for bid even without first receiving any applications or offers for those cabin site leases.~~

(1) Unleased cabin sites are available to lease through a competitive bidding process.

(a) The minimum bid amount will be the first year's annual lease fee, determined by applying a rental rate to the land value. In no case will a bid be considered if it is less than the minimum lease fee specified in the bid solicitation.

(i) Rental rates for new bidding shall start at 6.5 percent for all neighborhoods, or as otherwise determined by the board (in accordance with [New Rule I]).

(ii) The department may reduce the rental rate to five percent after 60 days if no bids are received.

(iii) In neighborhoods with vacancy rates over 30 percent, the department may incrementally reduce the rental rate after 60 additional days until the vacancy rate is no longer over 30 percent. The rental rate shall not be less than 3.5 percent or \$800, whichever is higher.

(3b) The department will advertise unleased cabin sites for bid on the department website, and may advertise through other marketing avenues in one or more of the following ways:

~~(a) at least once in a newspaper of general circulation, which services the area where the cabin site is located;~~

MAR No. 36-22-184

(b) ~~at least once in any newspaper, magazine, trade journal, flier, or other print medium that potential cabinsite bidders may view;~~

(c) A response to a bid solicitation must be received prior to the bid closing date and time, at the location specified in the bid solicitation. The response must include the following:

(i) the bid form or application as provided by the department;

(ii) a bid deposit equal to ten percent of the bid amount; and

(iii) the application fee as provided on the bid form. ~~sending letters to interested parties;~~

~~(d) sending e-mails to interested parties; and/or~~

~~(e) placing information on the internet.~~

~~(4) Nothing in this rule shall preclude the department from generally making it known that a cabinsite is currently unleased and that the department is accepting applications to lease state trust land for a cabinsite.~~

~~(5) All bids shall be submitted at a specific place and time as specified by the department. Bids may be sealed bids, oral auction, or submitted electronically, whichever is indicated by the department at the time it advertises for bids.~~

~~(6) All competitive bids for cabinsites shall be submitted in the form of dollars per year. In no case may a bid be considered qualified if it is less than the minimum rental specified in the bid solicitation.~~

~~(a) For a bid to be considered, the bid must:~~

~~(i) include the bid application and application fee;~~

~~(ii) include a bid deposit that is ten percent of the amount the bidder bids; and~~

~~(iii) meet any other requirements as specified in the bid solicitation.~~

~~(6)(b) remains the same but is renumbered (1)(d).~~

~~(7) The cabin site will be leased to the highest qualified bidder unless, with the following qualifications:~~

~~(a) if the department, at its discretion, board may determines that the bid is not in the best interests of the trust and reject the high bid is rejected, The board department will issue its reason for the rejection in writing. The lease and may accept the next highest qualified bid; then be issued, at a rental rate determined by the board, to the first bidder who is willing to pay the board-determined rental, whose name is selected through a random selection process from all bidders for the cabinsite lease; or~~

~~(b) if no bidder is selected, or if the highest qualified bidder declines the bid, the department may determine if and when to reopen a lease for bid, or accept the next highest qualified bid. offer the cabinsite lease to the next highest qualified bidder at that next bidder's bid amount.~~

~~(8) The successful bidder shall sign and return the lease to the department within 30 days of receipt of the lease. If the lease is not signed and returned to the department within 30 days, the bidder forfeits the bid deposit, and the department may:~~

~~(a) readvertise the lease for bid;~~

~~(b) offer the lease to the next highest bidder acceptable to the department accept the next highest qualified bid; or~~

~~(c) remains the same.~~

~~(9) The rental price lease fee for the first year of a new lease is the bid amount divided prorated by dividing the full amount of the rental for the first year by~~

365, and then multiplied ~~multiplying the result~~ by the number of days between the lease start date and the last day of the upcoming February.

~~(10) When a lease is cancelled, abandoned, or otherwise terminated, the department shall attempt to lease the land in accordance with this rule.~~

~~(145) Any former lessee who has had a cabin site lease cancelled and not reinstated by the board or department for nonpayment of rentals lease fees may bid upon that cancelled lease, or any other cabin site lease provided that before the bid:~~

~~(a) the former lessee pays the unpaid rentals lease fee billed for that cancelled lease; and~~

~~(b) if the former lessee pays any unpaid taxes or similar assessments on the improvements, if is bidding on that cancelled lease, ~~the former lessee must pay any unpaid taxes or similar assessments on the improvements;~~ and~~

~~(c) the bid is in compliance with this rule.~~

~~(126) Any lessee who has had a cabin site lease cancelled and not reinstated by the board or department for any reason other than nonpayment of rentals lease fees may be allowed to bid; however, the board or the department may reject any or all bids for a cabin site from a lessee who has had a cabin site lease cancelled in the past.~~

~~(7) The successful bidder for a cabin site lease may be required to pay for the cost of any surveys, fulfillment of zoning and subdivision requirements, and other assessments or costs related to compliance with any other local, state, and federal statutes and regulations.~~

AUTH: 77-1-202, 77-1-208, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1010 TERM OF CABINSITE LEASE DURATION AND TRANSFER

~~(1) A cabin site lease will be issued for a period not to exceed 15 years unless the cabin site lessee demonstrates a need for a longer period for loan security purposes, in which case the new lease may be issued in the discretion of the department for a period up to five years longer than the term of the loan up to a maximum lease period of 35 years. If a lease is issued for term longer than 15 years as provided in this section, the following will apply:~~

~~(a) a demonstration of need shall must be supplied to the department in the form of a request from the lender asking for the extended lease term;~~

~~(b) A a cabin site lease shall will expire on February 28, ~~thirty-five~~ 35 years or less from the beginning date of the lease;~~

~~(c) Lease terms longer than 15 years are intended for loan security of dwelling improvements, not ancillary improvements such as septic tanks, wells, garages, and outbuildings; and~~

~~(d) the lender may submit a form provided by the department to document its security interest in the improvements on the lease land; and, to secure in advance a transfer of the lease to the lender in the event of lessee default. ~~The loan amount shall be a minimum of 15 percent of the value of the dwelling improvements.~~~~

~~(e) The lender shall provide proof of the loan and the loan terms to the department.~~

~~(2) If all rental payments due have been paid and the terms of the lease have not been violated, the lease may be assigned on forms provided by the department. Any assignment is subject to the following:~~

MAR No. 36-22-184

(a) no assignment shall be effective until it is approved by the department, and the assignment fee has been paid;

(b) the department reserves the right to withhold approval of an assignment pending compliance with lease terms and conditions; and

(c) at the time of assignment or other transfer of interest in the leasehold, the department must be notified in writing of the sale price of the improvements and be provided copies of any agreements reflecting the transfer of both the lease and improvements, such as, but not limited to a realty transfer certificate.

(3) If the lessee, through enforcement of contract, foreclosure, tax sale, or other legal proceeding ceases to be the owner of the physical improvements, the department may—at its discretion—assign the lease to whom title has been transferred.

AUTH: 77-1-202, 77-1-206, 77-1-209, MCA

IMP: 77-1-208, MCA

36.25.1011 RENEWAL OF CABINSITE LEASE AND PREFERENCE RIGHT

(1) A current cabin site is not subject to competitive bidding upon expiration if:

(a) the current lease is in good standing; and

(b) the new lease will continue to meet the terms and conditions described in this subchapter.

(2) The current lessee may apply to the department, shall be sent an application to request to renew the cabin site lease if all rentals lease fees due have been are paid and there are no outstanding lease violations. The application shall be accepted under the same conditions as specified in ARM 36.25.115; however, a An application for renewal must be on a form prescribed by the department.

(3) Applications for renewal will only be accepted after December 1 of the year preceding the expiration of the lease and must be postmarked on or before January 28 of the year of expiration of the lease. Failure to submit a renewal application postmarked on or before January 28 will result in an unleased tract, and the tract will be subject to the requirements for leasing an unleased tract under ARM 36.25.11536.25.1009.

(24) Any renewal will be offered on the lease contract adopted by the board at the time of renewal. A current cabinsite lessee that seeks to renew a lease using the competitive bid process shall follow the dates and processes described in ARM 36.25.1016 and 36.25.1018.

(35) Any renewal will:

(a) be issued at the rental rate of 5 percent of the land value or \$800, whichever is greater, unless otherwise determined by the board (in accordance with [New Rule I]); and

(b) will be subject to other lease fee terms in ARM 36.25.1003. A cabinsite lease that is not subject to competitive bidding is not subject to bids upon renewal if the current lease is in good standing, and the new lease will continue to meet the terms and conditions described in ARM 36.25.1001 through 36.25.1013, including the rental provided in 36.25.1003.

AUTH: 77-1-202, 77-1-204, 77-1-208, 77-1-209, 77-1-236, MCA

IMP: 77-1-208, 77-1-235, MCA

MAR No. 36-22-184

36.25.1013 ADMINISTRATIVE HEARINGS RELATED TO CABIN SITE LEASE DISPUTES (1) Any cabin site lessee may request a hearing before the department to resolve any dispute which arises from the interpretation, ~~of, the~~ administration ~~of, or the~~ cancellation of, or the ~~rental lease fees due upon;~~ a cabin site lease. However, the department ~~shall~~ will not provide for any hearing upon the assessed valuations determined by ~~the~~ DOR for any cabin site under 15-7-111, MCA.

AUTH: 77-1-202, 77-1-208, 77-1-209, MCA

IMP: 77-1-208, MCA

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

NEW RULE I LEASE FEE (1) The annual lease fee for the first lease year of an individual cabin site lease will be the greater of:

- (a) the amount bid by the lessee to secure the lease;
- (b) the rental rate; or
- (c) \$800.

(2) Throughout the term of the lease, the annual lease fee for an individual cabin site lease, after the first lease year, shall be the previous year's rent plus an annually compounded escalator of two percent.

(a) The annual lease fee for the duration of the lease shall be compounded and provided within the terms of the lease.

(b) If the lease fee is \$800 as provided in 1(c), the lease fee will not include an annual escalator.

(3) Any lease renewal will begin a new lease, and a new first lease year.

(a) The department will provide lessee notice of any lease fee adjustment by November 1 of the year prior to the renewal lease year.

(b) The lessee is solely responsible for contacting DOR if he/she wants to contest the valuation of the leased land. Any adjustment in valuation made by DOR shall be incorporated into the lease fee calculation effective the year following department receipt of a DOR adjustment.

(4) The lease fee for the first year of a new lease shall be prorated by dividing the full annual lease fee for the first year by 365, then multiplying the result by the number of days between the lease start date and the last day of February.

(5) Every two years, beginning in 2017, the board will:

- (a) review the data from all new competitive bids and lease renewals;
- (b) complete a formal review by a qualified professional economist; and
- (c) consider whether to revise procedures and/or rental rates.

NEW RULE II APPLICABILITY OF CABIN SITE RULES

(1) ARM 36.25.1001 through 36.25.1015 shall apply to all cabin site leases issued after the [effective date of these rules].

5. The department proposes to repeal the following rules:

36.11.101 CABIN SITE MAINTENANCE AND RESTRICTIONS

AUTH: 77-6-104, MCA
IMP: 77-6-104, MCA

36.25.1003 CABINSITE MINIMUM RENTAL

AUTH: 77-1-202, 77-1-209, MCA
IMP: 77-1-208, MCA

36.25.1007 ACCESS TO CABINSITE IMPROVEMENTS ON AN INACTIVE LEASE

AUTH: 77-1-202, 77-1-209, MCA
IMP: 77-1-208, MCA

36.25.1012 CABINSITE HARDSHIP RENTAL DEFERMENT

AUTH: 77-1-202, 77-1-209, MCA
IMP: 77-1-208, MCA

36.25.1016 COMPETITIVE BIDDING

AUTH: 77-1-204, 77-1-208, 77-1-209, 77-1-235, 77-1-236, MCA
IMP: 77-1-235, 77-1-235, MCA

36.25.1017 ROLLING GEOGRAPHIC LOCATION AVERAGE LEASE RATE

AUTH: 77-1-204, 77-1-208, 77-1-209, 77-1-235, 77-1-236, MCA
IMP: 77-1-235, 77-1-236, MCA

36.25.1018 LEASE FEE FOR BID CABINSITE LEASES UNDER ARM
36.25.1016

AUTH: 77-1-204, 77-1-208, 77-1-209, 77-1-235, 77-1-236, MCA
IMP: 77-1-235, 77-1-236, MCA

36.25.1019 SUBLEASING AND ABANDONMENT OF IMPROVEMENTS

AUTH: 77-1-204, 77-1-208, 77-1-209, 77-1-235, 77-1-236, MCA
IMP: 77-1-235, 77-1-236, MCA

36.25.1020 SALE OF CABINSITE LANDS

AUTH: 77-1-204, 77-1-208, 77-1-209, 77-1-235, 77-1-236, MCA
IMP: 77-1-235, 77-1-236, MCA

36.25.1021 APPLICABILITY OF CABINSITE RULES

AUTH: 77-1-204, 77-1-208, 77-1-209, 77-1-235, 77-1-236, MCA
IMP: 77-1-235, 77-1-236, MCA

5. REASONABLE NECESSITY: The amendment, repeal, and adoption of these rules are reasonably necessary to clarify the cabin site leasing program under the terms of the agreement referenced below. The amendments to ARM 36.25.1001, 36.25.1002, 36.25.1004 through 36.25.1006; the repeal of ARM 36.25.1003, 36.25.1007, 36.25.1012, and 36.25.1016 through 36.25.1021; and the adoption of New Rules I and II are all necessary to comply with the terms of a settlement agreement between all parties in Cause No. BDV-2012-39, in the First Judicial District, Lewis and Clark County, Montana. The agreement was approved by the Land Board on October 19, 2015, and signed by Judge Jeffrey Sherlock First Judicial District on [Date]. The repeal of 36.11.101 is necessary as the forest management bureau no longer manages the cabin site leasing program.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Amy Randall, P.O. Box 201601, Helena, MT, 59620-1601; telephone (406) 444-3844; fax (406) 444-2684; or e-mailed to arandall@mt.gov, and must be received no later than 5:00 p.m. on March 4, 2016.

7. Amy Randall, Department of Natural Resources and Conservation has been designated to preside over and conduct the public hearing.

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

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Lucy Richards, PO Box 201601, 1625 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail lrichards@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The bill sponsor was contacted by e-mail on December 11, 2015.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above referenced rules will not significantly impact small businesses.

/s/

MAR No. 36-22-184

/s/

JOHN E. TUBBS
Director
Natural Resources and Conservation

Dennison Butler
Rule Reviewer

Certified to the Secretary of State on [DATE].

DRAFT

116-6

SALE OF CABIN AND HOME SITES:

Preliminary Approval for Sale

**Land Board Agenda Item
January 19, 2016**

116-6 Sale of Cabin and Home Sites: Preliminary Approval for Sale

Location: Flathead, Missoula Counties

Trust Benefits: Common Schools, Montana Tech, MSU 2nd Grant

Trust Revenue: Appraisal to be completed after preliminary approval

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting preliminary approval of 22 cabin and home sites nominated for sale in Flathead and Missoula counties. These sales were nominated by the lessees and DNRC in conjunction with the Cabin and Home Site Sale Program.

Sale #	# of Acres	Legal	Nominator	Trust
806	1.37	Lot 15, McGregor Lake, T26N-R25W Sec. 16	Williams Living Trust	Common Schools
807	1.38	Lot 14, McGregor Lake, T26N-R25W Sec. 16	Rodd & Karen May	Common Schools
808	1.48	Lot 1, McGregor Lake, T26N-R25W Sec. 16	Joseph & Renee Russell	Common Schools
809	1.27	Lot 19, McGregor Lake, T26N-R25W Sec. 16	J. Peter & Colette Gross	Common Schools
810	1.18	Lot 26, McGregor Lake, T26N-R25W Sec. 16	Howard & Tabatha Mann	Common Schools
811	1.551	Lot 1, Beaver Lake, T31N-R22W Sec. 20	Rod & Sonya Herrick	Montana Tech
812	0.827	Lot 14, Placid Lake West, T16N-R15W Sec. 30	Susan Robinson	MSU 2 nd Grant
813	1.803	Lot 23, Seeley Lake Outlet W, T16N-R15W Sec. 4	Michael Evans	MSU 2 nd Grant
814	0.808	Lot 2, Seeley Lake Outlet W, T16N-R15W Sec. 4	George & Gail Kerscher	MSU 2 nd Grant
815	0.861	Lot 9, Seeley Lake Outlet W, T16N-R15W Sec. 4	Beesnest Properties LLC	MSU 2 nd Grant
816	1.001	Lot 1, Seeley Lake Outlet W, T16N-R15W Sec. 4	Corey & Kristi Markovich	MSU 2 nd Grant
817	1.465	Lot 11, Seeley Lake Outlet W, T16N-R15W Sec. 4	Lori Posey, et al.	MSU 2 nd Grant
818	1.133	Lot 4, Seeley Lake Outlet W, T16N-R15W Sec. 4	Joseph & Gina Bollinger	MSU 2 nd Grant
819	1.311	Lot 21, Seeley Lake Outlet W, T16N-R15W Sec. 4	James & Kathleen Workman	MSU 2 nd Grant
820	1.237	Lot 3, Seeley Lake Outlet W, T16N-R15W Sec. 4	David & Julie Lapham	MSU 2 nd Grant
821	1.325	Lot 6, Seeley Lake Outlet W, T16N-R15W Sec. 4	Bertoglio Family LLC	MSU 2 nd Grant
822	1.669	Lot 10, Seeley Lake Outlet W, T16N-R15W Sec. 4	Byron & Lysie Denzer	MSU 2 nd Grant

823	1.305	Lot 5, Grant Creek, T14N-R19W Sec. 16	Vincent & Relinda Lindgren	Common Schools
824	1.052	Lot 3, Grant Creek, T14N-R19W Sec. 16	A. James & Loretta Diede	Common Schools
825	2.401	Lot 2, Grant Creek, T14N-R19W Sec. 16	Richard Bridges	Common Schools
826	1.284	Lot 4, Grant Creek, T14N-R19W Sec. 16	Gary & Michelle Watson	Common Schools
827	1.534	Lot 1A, Grant Creek, T14N-R19W Sec. 16	MMP Investors, et al.	Common Schools

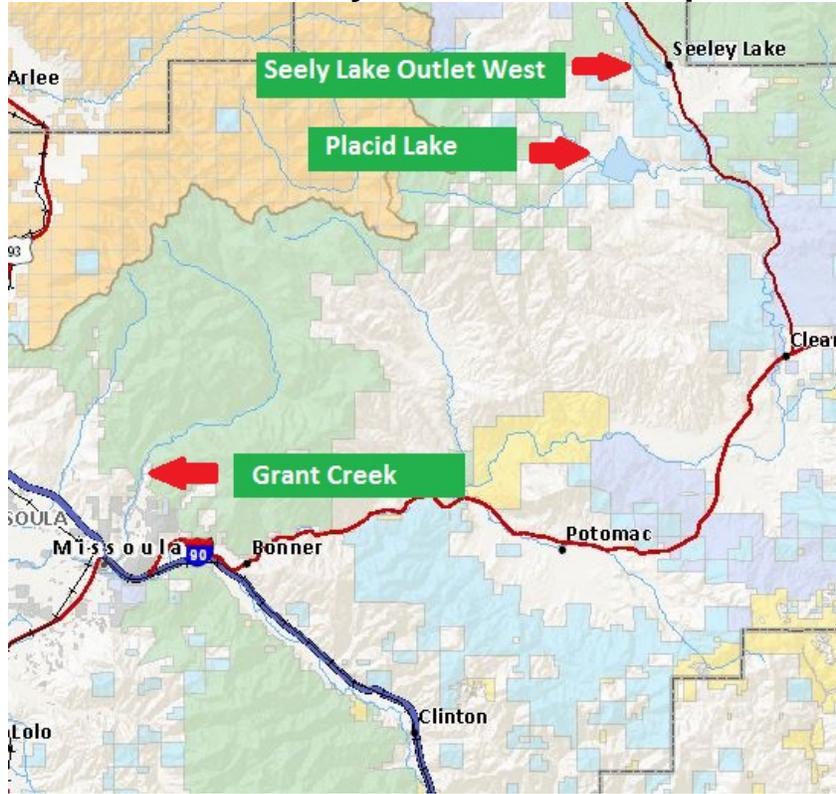
Sale parcels 806-827 are currently leased as cabin or home sites and produce an average income for residential leases statewide.

Each parcel will be sold with the access that is currently provided to the current lessee under their lease agreement.

DNRC Recommendation

The director recommends the Land Board give preliminary approval to sell these cabin and home sites.

Missoula County Sale Location Map



Placid Lake



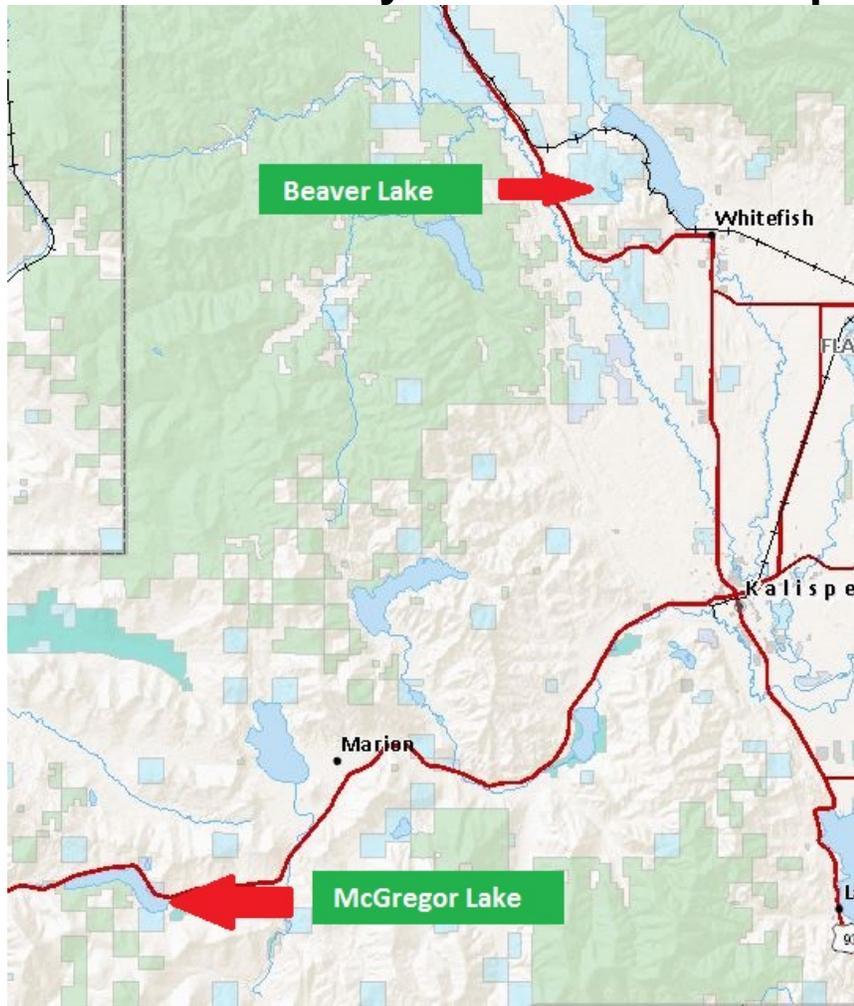
Seeley Lake Outlet West



Grant Creek



Flathead County Sale Location Map



Beaver Lake



McGregor Lake



116-7

SALE OF CABIN AND HOME SITES:

Set Minimum Bid for Sale – Sale 785

116-7 Cabin and Home Sites: Set Minimum Bid for Sale – Sale 785

Location: Flathead County

Trust Benefits: Montana Tech

Trust Revenue: \$240,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting to set the minimum bid on one cabin site nominated for sale in Flathead County. Sale 785 was nominated by the lessee in conjunction with the 2015 Cabin and Home Site Sale Program. Beaver Lake is located 4.5 miles northwest of Whitefish, Montana.

Sale #	# of Acres	Legal	Nominator	Trust
785	1.457±	Lot 16, Beaver Lake, Section 20, T31N-R22W	Phillip Hambley	Montana Tech

Lot 16 is currently leased as a cabin and home site and produces an average income for residential leases statewide.

The parcel will be sold with the access that is currently provided under the lease agreement and can be conveyed by DNRC.

Economic Analysis:

Short-term – The average rate of return on sale parcel 785 is 2.72%. The sale parcel would continue to receive this return if it remained 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% on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources:

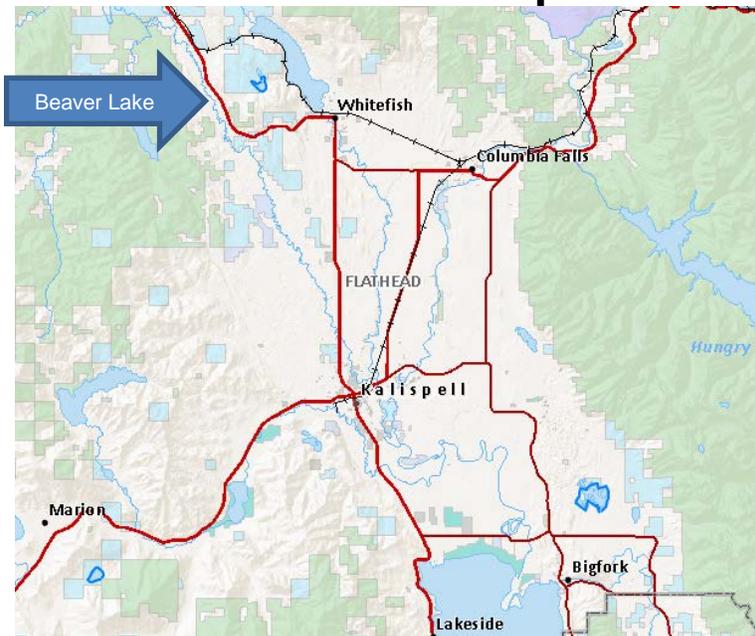
A Class I level of cultural resource inventory was conducted for the proposed sales. Home sites typically contain numerous structures and the ground surfaces within most home sites have been variously disturbed over the course of many years of occupation and development. This sale will have no effect to state-owned heritage properties.

Sale #	Appraised Value of Land	Appraised Value of Improvements
785	\$240,000	\$89,000

DNRC Recommendation

The director recommends the Land Board set the minimum bid for the cabin site lot at the appraised value and the maximum value of compensation for the improvements shown above.

Sale Location Map



Beaver Lake



116-8

EASEMENTS

Land Board Agenda Item
January 19, 2016

116-8 Easements

Location: Blaine, Lewis and Clark, Madison, Phillips, Richland, Toole

Trust Benefits: Common Schools

Trust Revenue: \$66,176

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Big Flat Electric Cooperative, Inc.	New Power Distribution Line	Permanent	1-4
Blaine County	Historic County Road	Permanent	5-16
Northwestern Corporation d/b/a NWE	New Power Distribution Line	Permanent	17-18
Northern Telephone Cooperative, Inc.	Historic Buried Telecommunications Cable	Permanent	19-20
Northwestern Corporation d/b/a NWE	New Power Distribution Line	Permanent	21-22
Cenex Pipeline LLC	New Buried Liquid Petroleum Pipeline	30-Year	23-29

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Big Flat Electric Cooperative, Inc. 333 South 7th Street East Malta MT 59538
Application No.:	17082
R/W Purpose:	a buried 14.4kV distribution line
Lessee Agreement:	ok
Acreage:	0.92
Compensation:	\$230.00
Legal Description:	20-foot strip through Government Lot 1, NE4NW4, Sec. 19, Twp. 33N, Rge. 31E Phillips County
Trust Beneficiary:	Common Schools

Item Summary

Big Flat Electric Cooperative, Inc. has made application for a buried 14.4kV distribution line which ties into an already existing line. The existing line is being converted from a Land Use License to a permanent easement. The existing land use license was renewed in 2014 as a portion of an access road to Decker Operating Company's license. The new installation is to provide power to a new cellular site owned by Triangle Communications. This cell tower is on privately owned land. The proposed route is within sage grouse general habitat. Pursuant to [Sage Grouse Executive Order No. 12-2015](#), special stipulations will be placed in the easement document to address mitigation measures, such as restrictions related to construction time periods.

DNRC Recommendation

The director recommends approval of this buried distribution line.

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Big Flat Electric Cooperative, Inc. 333 South 7th Street East Malta MT 59538
Application No.:	17139
R/W Purpose:	a buried 14.4kV distribution line
Lessee Agreement:	needed
Acreage:	3.04
Compensation:	\$760.00
Legal Description:	20-foot strip through SW4NW4, W2SW4, SE4SW4, Sec. 16, Twp. 33N, Rge. 31E Phillips County
Trust Beneficiary:	Common Schools

Item Summary

See page 1

DNRC Recommendation

See page 1

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Big Flat Electric Cooperative, Inc. 333 South 7th Street East Malta MT 59538
Application No.:	17140
R/W Purpose:	a buried 14.4kV distribution line
Lessee Agreement:	needed
Acreage:	0.82
Compensation:	\$205.00
Legal Description:	20-foot strip through SW4NE4, Sec. 17, Twp. 33N, Rge. 31E Phillips County
Trust Beneficiary:	Common Schools

Item Summary

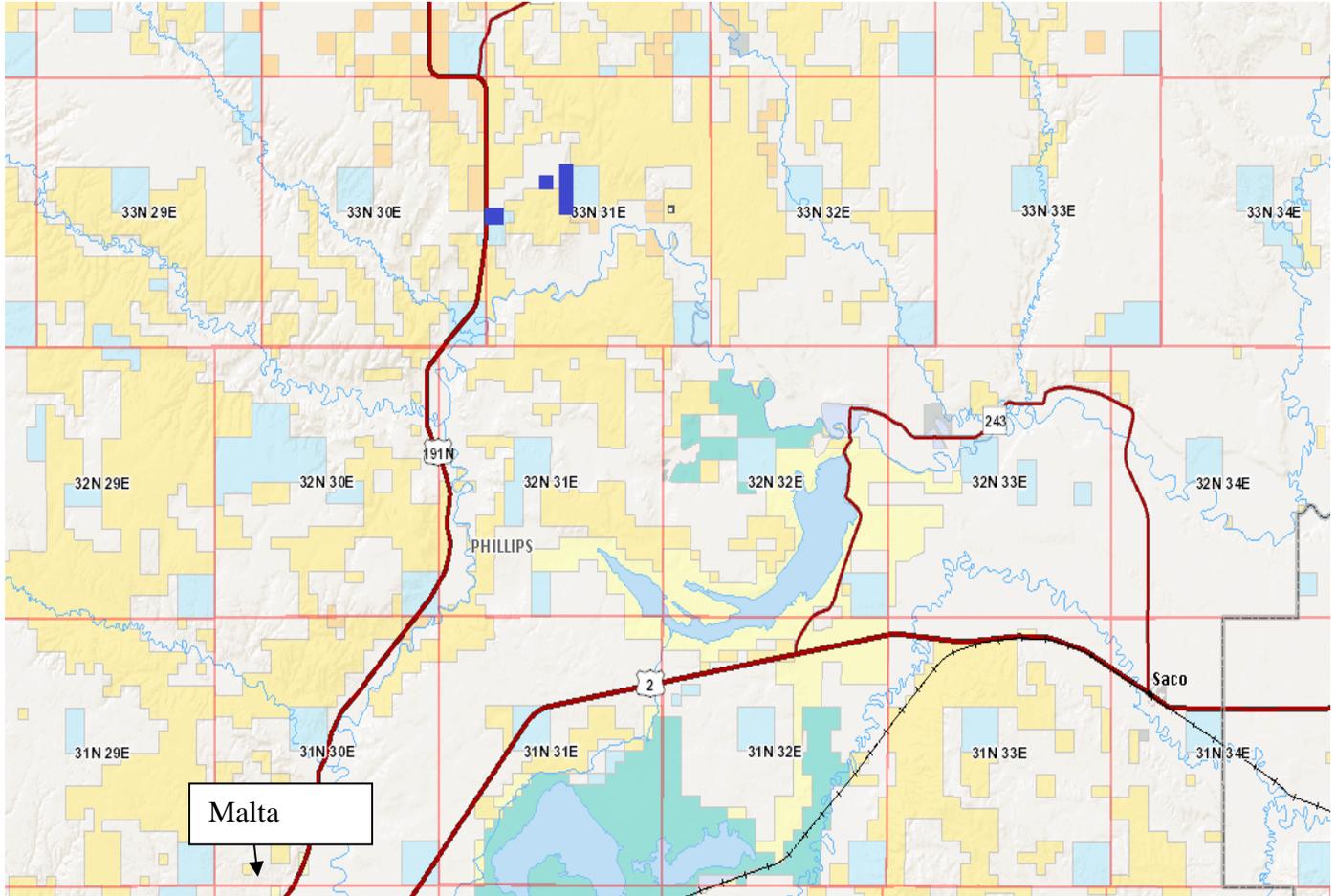
See page 1

DNRC Recommendation

See page 1

Rights of Way Applications

January 19, 2016



Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blaine County PO Box 278 Chinook MT 59523
Application No.:	17141
R/W Purpose:	a public county road known as Bison Road
Lessee Agreement:	N/A (Historic)
Acreage:	3.64
Compensation:	\$2366.00
Legal Description:	30-foot strip through S2S2, Sec. 16, Twp. 35N, Rge. 24E Blaine County
Trust Beneficiary:	Common Schools

Item Summary

Blaine County has made application for this county road constructed on state lands many years ago without proper authorization from the Land Board. Pursuant to 77-1-130, MCA, the county is requesting recognition of this road as an historic right of way.

DNRC Recommendation

The director recommends approval of this historic right of way for Blaine County.

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Blaine County
PO Box 278
Chinook MT 59523

Application No.: 17142
R/W Purpose: a public county road known as Black Coulee Road
Lessee Agreement: N/A (Historic)
Acreage: 3.66
Compensation: \$916.00
Legal Description: 30-foot strip through E2SE4, Sec. 34; W2SW4, Sec. 35, Twp. 35N, Rge. 25E
Blaine County

Trust Beneficiary: Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Blaine County
PO Box 278
Chinook MT 59523

Application No.: 17143
R/W Purpose: a public county road known as Fairbank Road
Lessee Agreement: N/A (Historic)
Acreage: 2.85
Compensation: \$713.00
Legal Description: 30-foot strip through E2E2, Sec. 31, Twp. 35N, Rge. 25E
Blaine County
Trust Beneficiary: Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Blaine County
PO Box 278
Chinook MT 59523

Application No.: 17144
R/W Purpose: a public county road known as Bevolden Road
Lessee Agreement: N/A (Historic)
Acreage: 3.64
Compensation: \$2366.00
Legal Description: 30-foot strip through W2W2, Sec. 16, Twp. 35N, Rge. 24E
Blaine County
Trust Beneficiary: Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blaine County PO Box 278 Chinook MT 59523
Application No.:	17145
R/W Purpose:	a public county road known as Highland Road
Lessee Agreement:	N/A (Historic)
Acreage:	3.64
Compensation:	\$910.00
Legal Description:	30-foot strip through E2E2, Sec. 36, Twp. 35N, Rge. 17E Blaine County
Trust Beneficiary:	Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blaine County PO Box 278 Chinook MT 59523
Application No.:	17146
R/W Purpose:	a public county road known as Murray Coulee Road
Lessee Agreement:	N/A (Historic)
Acreage:	7.28
Compensation:	\$3276.00
Legal Description:	30-foot strip through E2E2, Sec. 36, Twp. 35N, Rge. 23E & E2E2 Sec. 36, Twp. 36N, Rge. 23E, Blaine County
Trust Beneficiary:	Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blaine County PO Box 278 Chinook MT 59523
Application No.:	17147
R/W Purpose:	a public county road known as Norwegian Road
Lessee Agreement:	N/A (Historic)
Acreage:	7.28
Compensation:	\$1820.00
Legal Description:	30-foot strip through W2W2, Sec. 16; N2N2, Sec. 36, Twp. 35N, Rge. 18E Blaine County
Trust Beneficiary:	Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blaine County PO Box 278 Chinook MT 59523
Application No.:	17148
R/W Purpose:	a public county road known as Bagan Road
Lessee Agreement:	N/A (Historic)
Acreage:	16.92
Compensation:	\$4230.00
Legal Description:	30-foot strip through W2W2, Sec. 16, Twp. 36N, Rge. 20E; N2N2, Sec. 16, E2E2 & 60-foot strip through SE4SE4, Sec. 18, E2NE4, Sec. 19, Twp. 37N, Rge. 20E; N2N2, Sec. 16, Twp. 37N, Rge. 21E
Trust Beneficiary:	Blaine County Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blaine County PO Box 278 Chinook MT 59523
Application No.:	17149
R/W Purpose:	a public county road known as Cornell Road
Lessee Agreement:	N/A (Historic)
Acreage:	3.11
Compensation:	\$2022.00
Legal Description:	30-foot strip through E2E2, Sec. 36, Twp. 36N, Rge. 26E Blaine County
Trust Beneficiary:	Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Blaine County
PO Box 278
Chinook MT 59523

Application No.: 17150
R/W Purpose: a public county road known as Klindworth Road
Lessee Agreement: N/A (Historic)
Acreage: 3.64
Compensation: \$2366.00
Legal Description: 30-foot strip through W2W2, Sec. 16, Twp. 36N, Rge. 23E
Blaine County
Trust Beneficiary: Common Schools

Item Summary

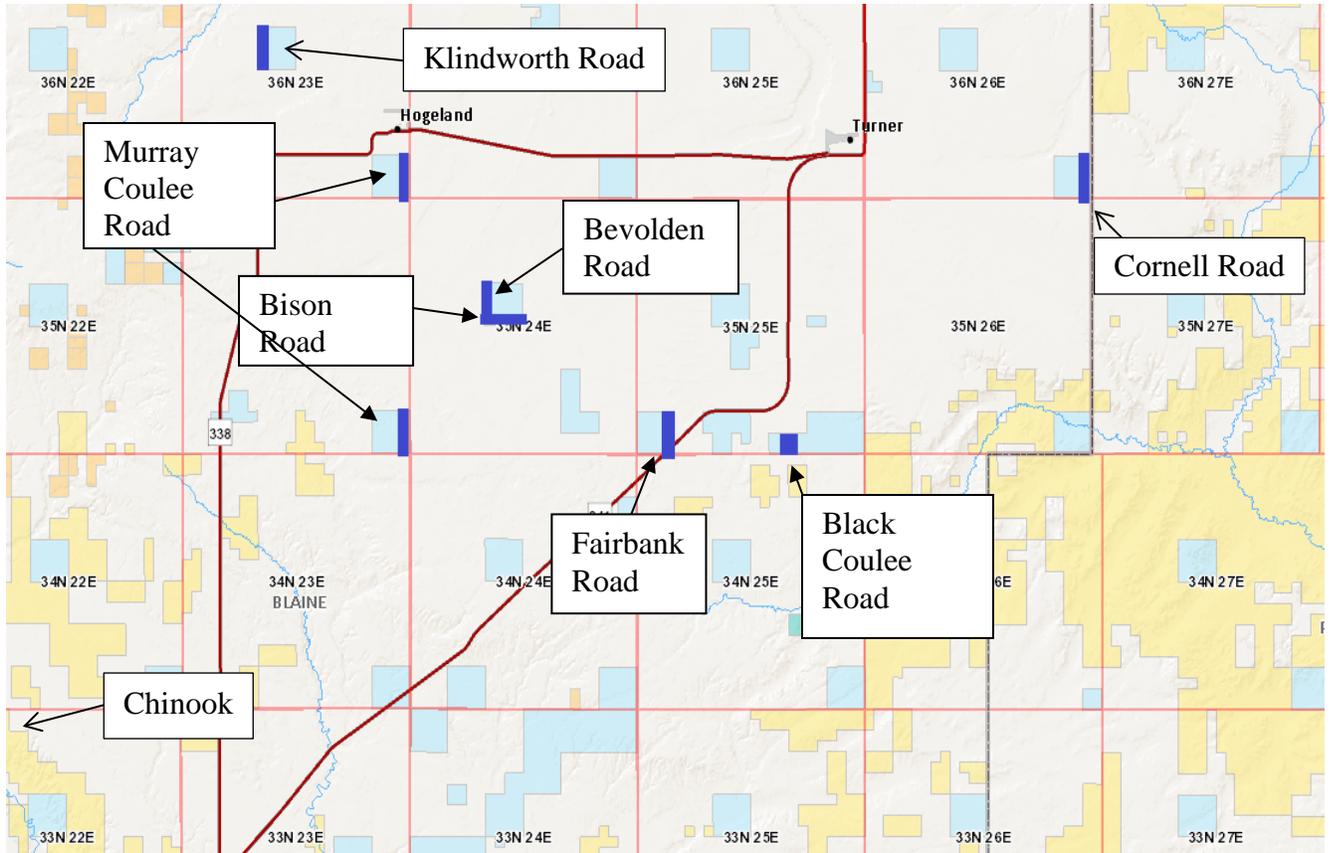
See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

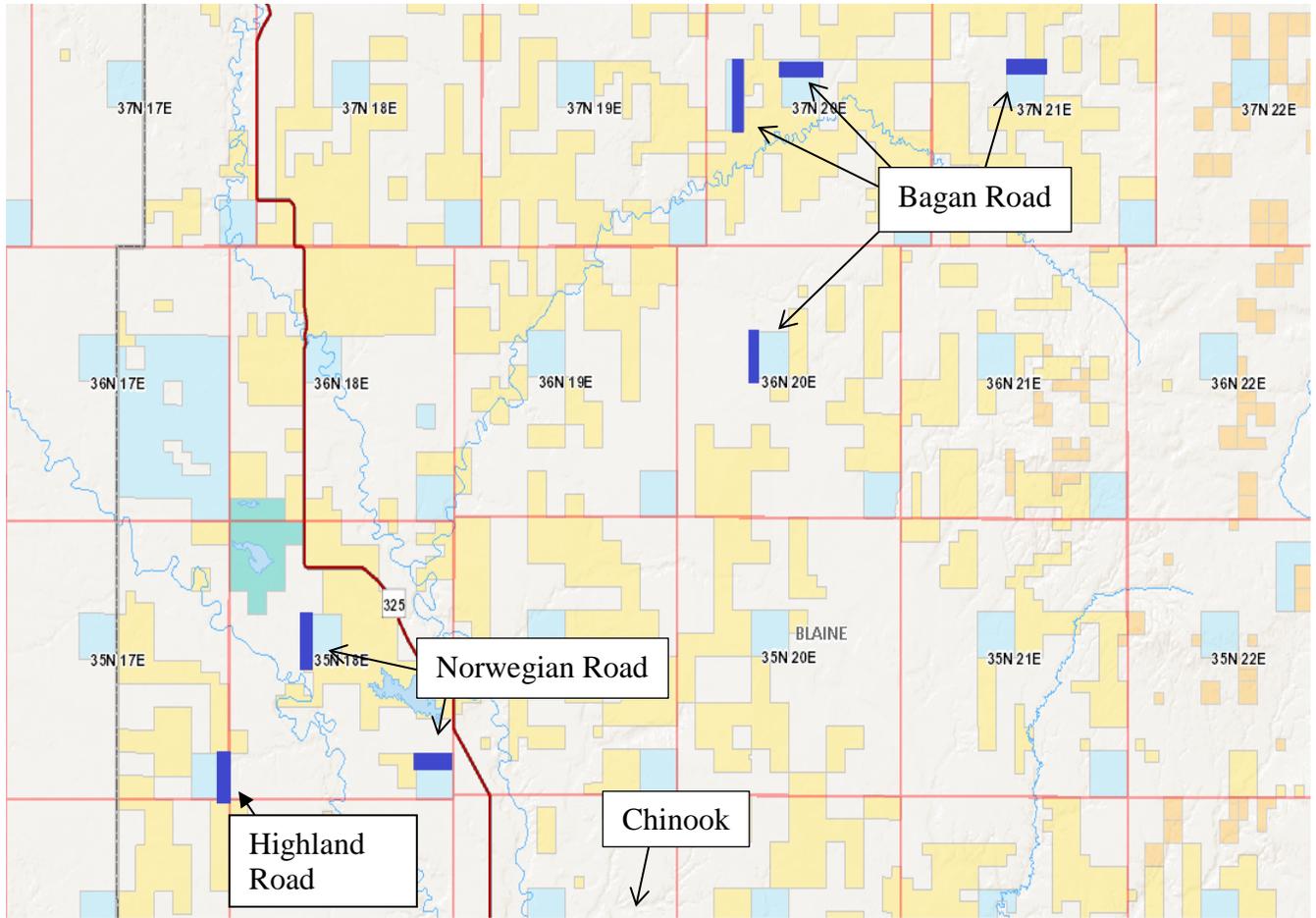
January 19, 2016



Blaine County Application #s 17141, 17142, 17143, 17144, 17146, 17149, 17150

Rights of Way Applications

January 19, 2016



Blaine County Application #s 17145, 17147, 17148

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Corporation d/b/a NWE 40 E Broadway Street Butte MT 59701
Application No.:	17151
R/W Purpose:	a buried 7.2kV distribution line
Lessee Agreement:	ok
Acreage:	2.34
Compensation:	\$1872.00
Legal Description:	30-foot strip through N2NW4, SW4NW4, Sec. 36, Twp. 13, Rge. 5W Lewis & Clark County
Trust Beneficiary:	Common Schools

Item Summary

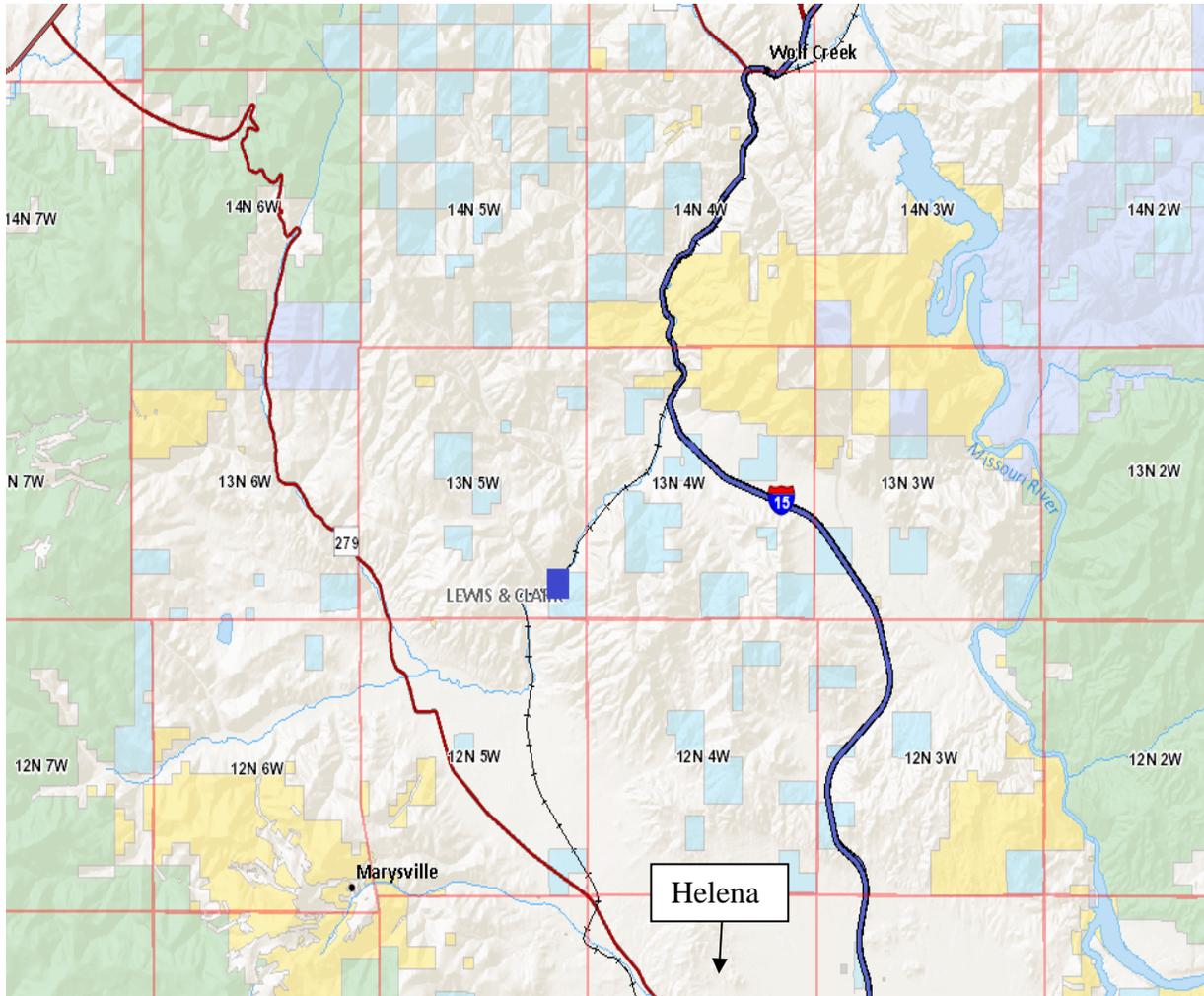
Northwestern Corporation has made application for a buried 7.2kV distribution line. The company is replacing an existing overhead line installed in the 1950s. The poles are at the end of their useful life. Due to new regulations, the current overhead line has several code violations. Rocky terrain prevents the new underground line from being in the existing corridor. Northwestern Corporation has begun construction of this line under a land use license due to the urgency of the project. There was concern of fire danger and potential for prolonged power outages during the winter months for their customers.

DNRC Recommendation

The director recommends approval of this buried distribution line.

Rights of Way Applications

January 19, 2016



Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northern Telephone Cooperative Inc. PO Box 190 Sunburst MT 59482
Application No.:	17152
R/W Purpose:	a buried telecommunications distribution cable
Lessee Agreement:	N/A (Historic)
Acreage:	2.42
Compensation:	\$484.00
Legal Description:	20-foot strip through E2E2, Sec. 36, Twp. 35N, Rge. 2E Toole County
Trust Beneficiary:	Common Schools

Item Summary

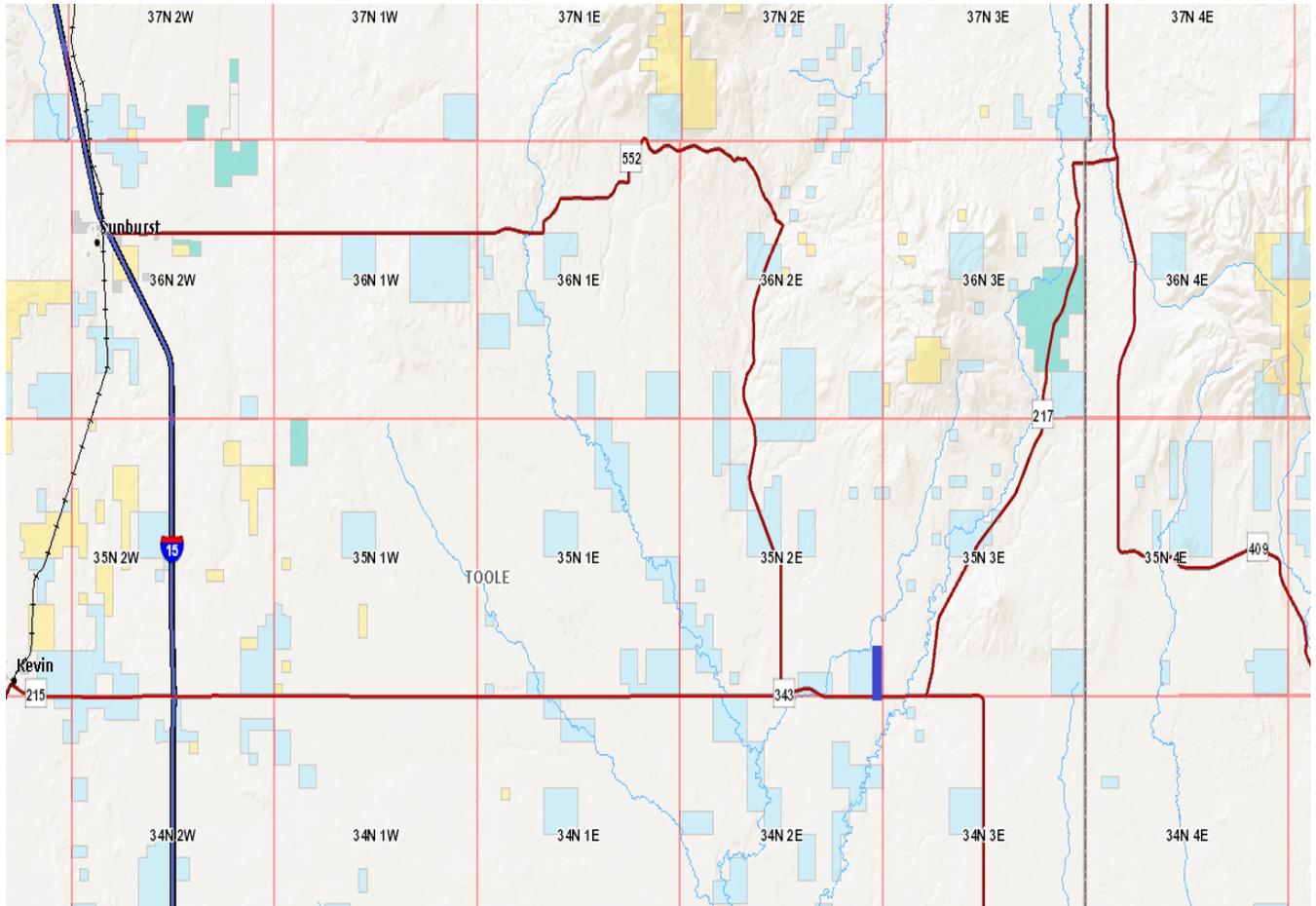
Northern Telephone Cooperative Inc. has made application for this buried telecommunications cable that was constructed on state lands many years ago without proper authorization from the Land Board. Pursuant to 77-1-130, MCA, Northern Telephone Cooperative Inc. is requesting recognition of this buried telecommunications cable as an historic right of way.

DNRC Recommendation

The director recommends approval of this historic right of way for Northern Telephone Cooperative Inc.

Rights of Way Applications

January 19, 2016



Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Corporation d/b/a NWE 40 E Broadway Street Butte MT 59701
Application No.:	17153
R/W Purpose:	a buried 7.2kV distribution line
Lessee Agreement:	ok
Acreage:	3.41
Compensation:	\$2728.00
Legal Description:	30-foot strip through NW4, NW4NE4, Sec. 36, Twp. 5S, Rge. 3W Madison County
Trust Beneficiary:	Common Schools

Item Summary

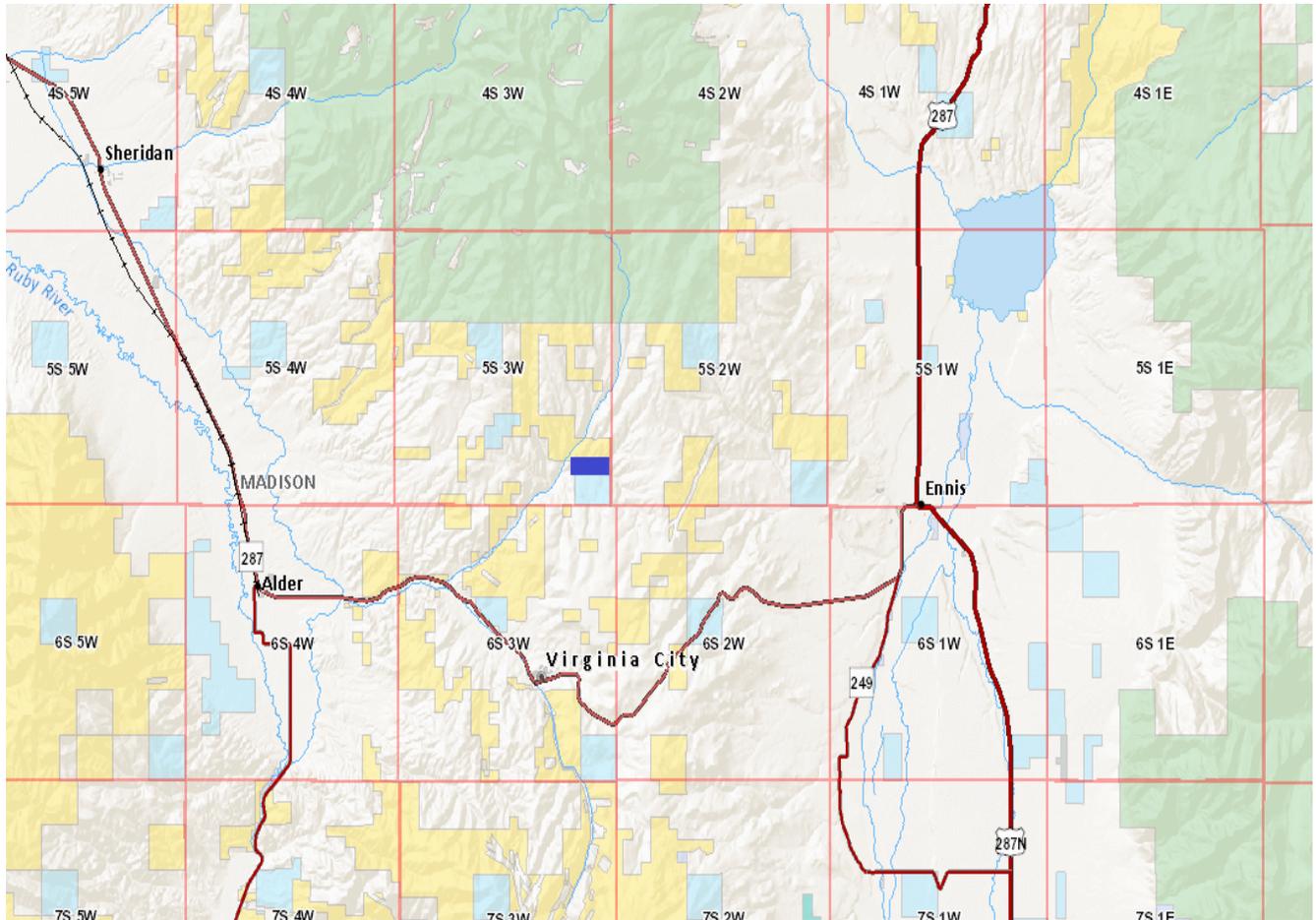
Northwestern Corporation has made application for a buried 7.2kV distribution line. This is part of a project named Granite Creek Powerline Reroute. The company will be replacing an existing overhead powerline built in 1910. These powerlines are at the end of their useful life and need to be replaced to maintain safe and reliable power to the area. To rebuild the powerline in the existing corridor would have environmental impacts to the existing terrain. To reduce impacts and costs, NWE is proposing to rebuild this line along the shoulder of Granite Creek Road. The proposed route is within sage grouse general habitat. Pursuant to [Sage Grouse Executive Order No. 12-2015](#), special stipulations will be placed in the easement document to address mitigation measures, such as restrictions related to construction time periods.

DNRC Recommendation

The director recommends approval of this buried distribution line.

Rights of Way Applications

January 19, 2016



Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Cenex Pipeline LLC PO Box 909 Laurel MT 59044
Application No.:	17154
R/W Purpose:	a buried 10" liquid petroleum pipeline
Lessee Agreement:	ok
Acreage:	3.17
Compensation:	\$8368.00
Legal Description:	50-foot strip through W2NW4, Sec. 29, Twp. 21N, Rge. 58E Richland County
Trust Beneficiary:	Common Schools

Item Summary

Cenex Pipeline LLC has made application for a buried 10" liquid petroleum pipeline. The purpose of this project is to replace an approximately 48-mile segment of existing pipeline. The new pipe will be placed parallel to and approximately 15 feet east of the existing 8" line. The 8" line was installed over 60 years ago. The old pipe will be purged and capped, remaining in the ground. Replacement of the line will reduce operational risk by eliminating areas of corrosion and improving the ability to maintain the pipeline in the future. The replacement of the 8" pipe with a 10" pipe will ensure that Cenex is able to meet the owners' and customers' growing demand for refined fuels. Cenex pipeline is a common carrier pipeline which is needed by the public to supply fuels that are consumed in the region of the pipeline and beyond. The pipeline transports up to 30,000 barrels per day of fuel in the vicinity of the project. Cenex Pipeline LLC has agreed to compensation in the amount of \$50/rod which is consistent with other installations in the area.

DNRC Recommendation

The director recommends approval of this 30-year term easement for this liquid petroleum pipeline.

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Cenex Pipeline LLC
PO Box 909
Laurel MT 59044

Application No.: 17155
R/W Purpose: a buried 10" liquid petroleum pipeline
Lessee Agreement: ok
Acreage: 6.82
Compensation: \$18,010.00
Legal Description: 50-foot strip through W2SW4, NE4SW4, E2NW4, NW4NE4, Sec. 36, Twp. 20N, Rge. 57E, Richland County

Trust Beneficiary: Common Schools

Item Summary

See page 23

DNRC Recommendation

See page 23

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Cenex Pipeline LLC
PO Box 909
Laurel MT 59044

Application No.: 17156
R/W Purpose: a buried 10" liquid petroleum pipeline
Lessee Agreement: ok
Acreage: 1.36
Compensation: \$3598.00
Legal Description: 50-foot strip through NW4NW4, Sec. 22, Twp. 19N, Rge. 57E,
Richland County
Trust Beneficiary: Common Schools

Item Summary

See page 23

DNRC Recommendation

See page 23

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Cenex Pipeline LLC
PO Box 909
Laurel MT 59044

Application No.: 17157
R/W Purpose: a buried 10" liquid petroleum pipeline
Lessee Agreement: ok
Acreage: 2.4
Compensation: \$6340.00
Legal Description: 50-foot strip through E2NW4, Sec. 34, Twp. 22N, Rge. 58E
Richland County
Trust Beneficiary: Common Schools

Item Summary

See page 23

DNRC Recommendation

See page 23

Rights of Way Applications

January 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Cenex Pipeline LLC PO Box 909 Laurel MT 59044
Application No.:	17158
R/W Purpose:	a buried 10" liquid petroleum pipeline
Lessee Agreement:	ok
Acreage:	0.98
Compensation:	\$2596.00
Legal Description:	50-foot strip through SE4NE4, Sec. 11, Twp. 18N, Rge. 56E Richland County
Trust Beneficiary:	Common Schools

Item Summary

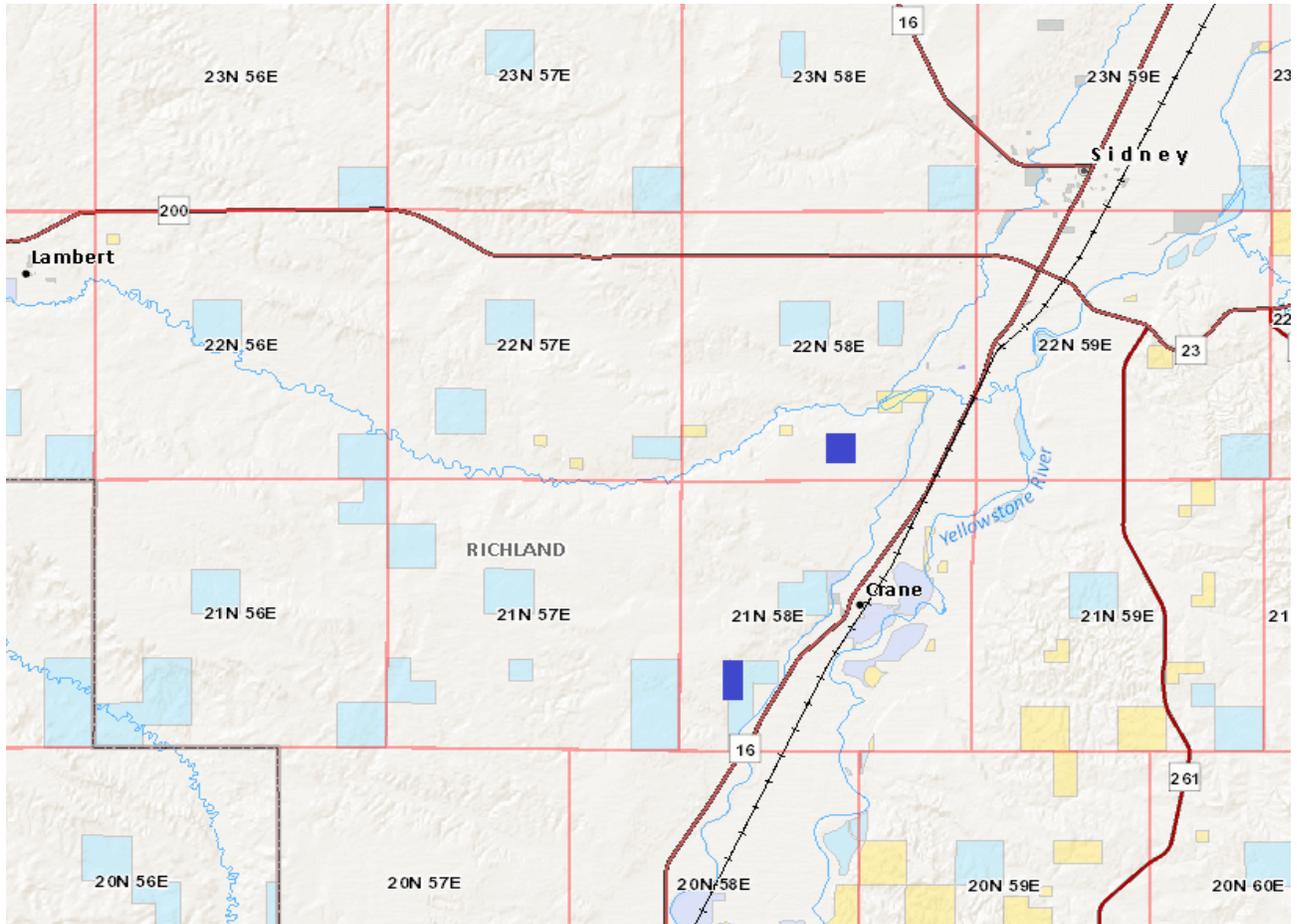
See page 23

DNRC Recommendation

See page 23

Rights of Way Applications

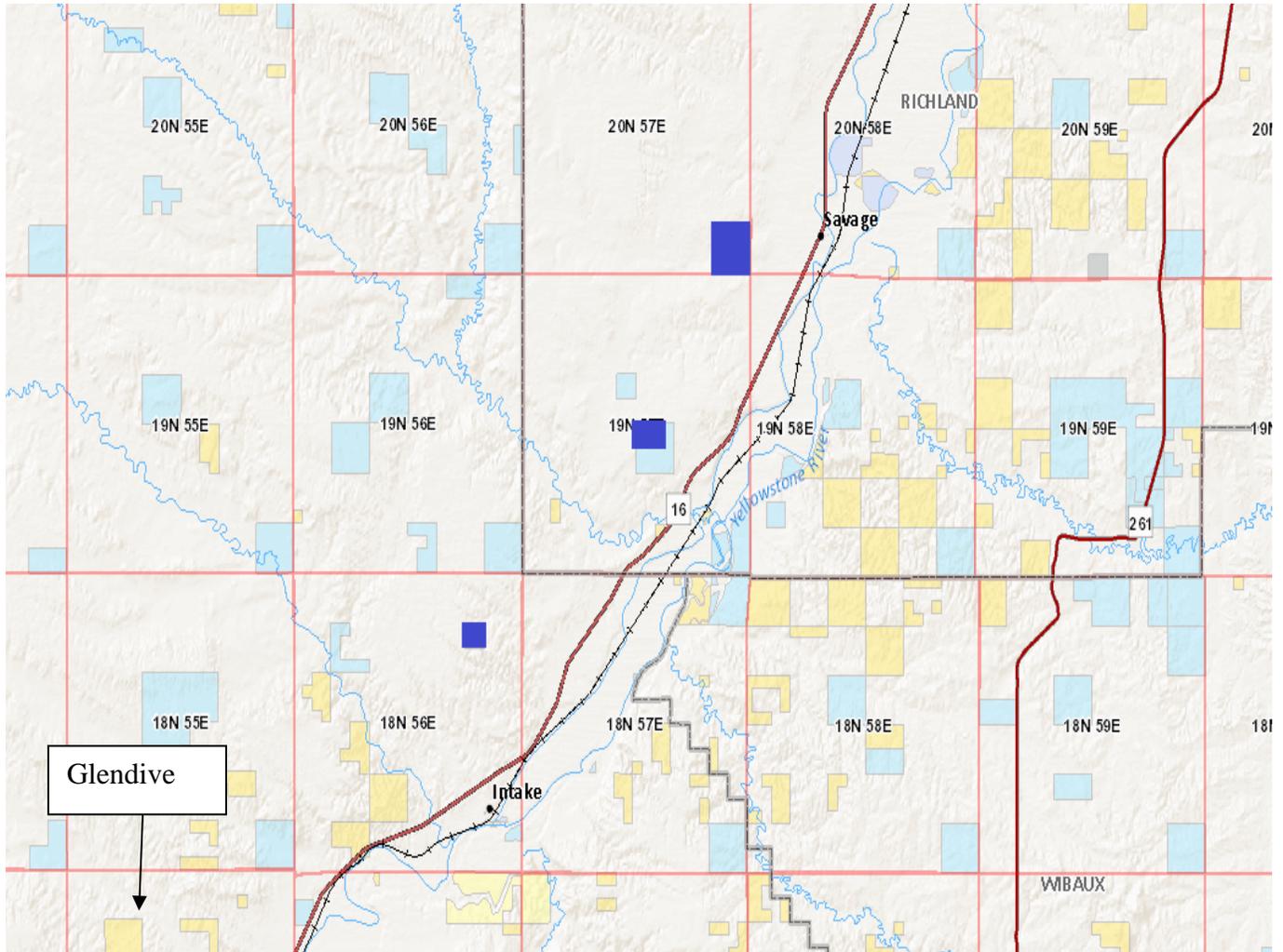
January 19, 2016



Cenex Application #s 17154, 17157

Rights of Way Applications

January 19, 2016



Cenex Application #s 17155, 17156, 17158