AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, August 15, 2016, at 9:00 a.m.
State Capitol, Room 303
Helena, MT

ACTION ITEMS

816-1 **Acquisition: A Street Warehouse Property - Land Exchange**
Benefits: N/A (non-trust land)
Location: Lewis and Clark County
Approve 5-0

816-2 **Timber Sales**
A. Clearview
Benefits: Common Schools
Location: Missoula County
B. Good Martin Skyline
Benefits: Eastern College - MSU/Western Montana - UM and MSU 2nd Grant
Location: Flathead County
Approve 5-0

816-3 **Sale of Cabin and Home Site: Final Approval for Sale - Sale 783**
Benefits: MSU 2nd Grant
Location: Missoula County
Approve 5-0

816-4 **Commercial Lease: Proposed Solar Development**
Benefits: Common Schools
Location: Yellowstone County
Approve 5-0

816-5 **Easements**
Benefits: Common Schools, MSU-2nd Grant, Pine Hills School, Public Land Trust – Navigable Rivers
Location: Blaine, Chouteau, Custer, Jefferson, Lincoln, Mineral, Richland, Rosebud, Sanders Counties
Approve 5-0

PUBLIC COMMENT

816-1

ACQUISITION:

A Street Warehouse Property – Land Exchange

Land Board Agenda Item
August 15, 2016

816-1 State Acquisition of the A Street Warehouse as part of a Three-Property Land/Building Exchange

Proposed Date: **August 2016**
Proponent: **Department of Administration, General Services Division**
County: **Lewis & Clark**
Trust Benefits: **N/A**
Trust Revenue: **N/A**

Item Summary

The State of Montana (state) through the Department of Administration (DOA), General Services Division (GSD) proposes to acquire the land and existing building at **1698 A Street (known as the A Street Warehouse)** as part of a proposed three parcel (land/building) exchange between GSD and D&M Development (D&M) **(Attachment A)**. The property, including a remodeled-to-suit 25,000 square foot A-Street Warehouse, would be acquired in fee-title by GSD from D&M to house GSD's Print and Mail Services. In return, the State of Montana, through GSD, would exchange fee title for two State-owned properties in their current conditions: **(1) the Old Liquor Warehouse (920 Front Street),** which has housed GSD Print and Mail Services since 1972, and **(2) the former Helena Armory (1100 N. Last Chance Gulch),** which has stood vacant since October 2013 pending completion of lead abatement and renovation work, which work was ultimately not funded by the Legislature. **(Attachments B and C)**.

The acquisition of the A Street Warehouse would provide a net benefit to the state by removing two obsolete and costly properties from the state's portfolio, and replacing them with one updated building which has been renovated-to-suit per GSD's Print and Mail Service requirements. This will create a positive effect on employee safety, state revenue, workflow efficiency, and document/mail security.

Property to be acquired

Property Description: A Street Warehouse – 1698 A. Street
Legal: Helena Industrial Sites SUBD, S28, T10 N, R03 W, Block 3, Lot 1A
Location: Lewis Clark County
Beneficiary: Non-Trust Land

Property to be exchanged

Property Description (2): Armory-1100 N. Last Chance Gulch
Legal: Central ADDN N0 3, S30, T10 N, R03 W, BLOCK 55, Lot 7, LTS 7-17 and TR W of LTS 7-17
Location: Lewis Clark County
Beneficiary: Non-Trust Land

Property Description (1): Old Liquor Warehouse - 920 Front Street
Legal: Chessman and Davis Central ADD, 530, T10 N, R03 W, PM 4S
Location: Lewis Clark County
Beneficiary: Non-Trust Land

Background

The Former Armory

The area was historically utilized as a landfill that was closed in the 1930's-1940. The Former Armory was built in 1942 and included an indoor shooting range. In October of 2013 the Armory was evacuated due to the presence of lead-contamination. The building has stood empty since that time due to lack of funding to complete lead abatement and renovation work. It will take approximately $3.2 million dollars to remediate the lead issues and renovate the building. "As Is", the building appraised for $1.75 million. No state funding is currently available, or has been identified, to fund the remediation and renovations required to reoccupy the building. To replace the former Armory building with similar leasable office space would total approximately $8.3 million.

GSD is required to expend approximately $7,000 per month to maintain the building. GSD has expended over $291,000 to date on indoor air quality investigations and employee health-related testing costs.

Old Liquor Warehouse

The Old Liquor Warehouse was built in 1936 and has housed GSD's Print & Mail Services (on all 3 floors of the building) since 1972. No remodeling has occurred on-site since that time. Physical limitations associated with the property are attributable to the building layout as well as the 40 plus years since the last remodel. All buildings in the area that were constructed contemporaneously with the Old Liquor Warehouse have been demolished. This building is not ADA compliant. The building's electrical supply cannot support newer or larger equipment that is needed. There are limitations for the HVAC system in place. The building lacks proper security. The layout of the building is ineffective due to parts of the Print & Mail Services being located on three different floors. The current loading dock is non-standard; creating logistical issues for receiving and distributing mail and products. Finally, the roof is in need of repair/replacement.

GSD has not developed an estimate for renovation costs given the physical limitations in the area. The estimated cost to replace the building, with a design suitable for Print & Mail Services' current needs, would total approximately $6.2 million. The appraised value of the property is estimated at $622,000. No state funding source has been identified (or is currently available) to construct a new building for Print & Mail Services' use. The building is in poor condition and does not presently accommodate the needs of its current tenant (Print & Mail Services).

A Street Warehouse

The property would be a fully remodeled-to-suit building which would house all of GSD's Print and Mail Services. This would allow for a safer environment for the employees, a more secure site, and greater flexibility as all employees and machinery would be located on a single level. It would be ADA complaint.

Property Specifics

Property to be acquired

A Street Warehouse

Site Location: 1.42 acre tract
Building Space: 23,036 square feet
Appraised Value: $2,400,000 (Attach. D)

Property to be exchanged

Former Armory **(Attach. E)**	Old Liquor Warehouse **(Attach. F)**
Site Location: 10.16 acre tract	Site Location: 1.78 acre tract
Building Space: 57,842 square feet	Building Space: 62,370 square feet
Appraised Value: $1,750,000	Appraised Value: $622,000

Total

Site Location: 11.94 acre tract
Building Space: 120,212 square feet
Appraised Value: $2,372,000

The former Armory remains empty due to lack of funding for lead abatement and renovation work. GSD will continue to lose approximately $7,000 a month in maintenance costs while the building remains unoccupied. Furthermore, significant environmental concerns exist concerning this property. It is unlikely that GSD will obtain the necessary funds to renovate the building. For the foreseeable future, the building will remain empty.

The Old Liquor Warehouse is obsolete due to lack of renovation. Furthermore, the building is poorly laid out for a Print and Mail Service as employees and mail have to travel between three (3) different levels of the building. The building in not up to code which poses significant health concerns for the employees. It is unlikely that GSD will obtain the necessary funds apportioned from the Legislature to renovate the Old Liquor Warehouse.

GSD manages 1.3 million square feet of office and warehouse space within a ten-mile radius of Helena, and an additional 4.3 million square feet of grounds, parking areas, sidewalks, and outdoor space. GSD leases 600,000 square feet of office space in this same geographic area. This building exchange will result in a 7% reduction in GSD's State-owned property footprint in the Helena area. Of the 68,308 square feet of space in the Former Armory and Old Liquor Warehouse, GSD is collecting rent on approximately 25,000 square feet (36%), while incurring maintenance expense on the entire amount of space. There is no pathway to remedy this situation without a substantial infrastructure investment (approximately $3 million) from the State.

It is in the state's best financial interest to complete the exchange. The state will exchange properties that are liabilities due to their obsolescence; based on age, design limitations, code violations, and inability to be occupied due to environmental concerns. In return the State will obtain a single remodeled-to-suit warehouse specifically designed for the intended use.

Due Diligence

The following is a summary of GSD's due diligence and actions to date. **(Attach. G)**

Appraisals

- The Old Liquor Warehouse was apprised by J. Michael Joki, MAI, SRA, on January 21, 2016.
- The Former Armory was apprised by Steven A. Hall, MAI, CCIM on November 24, 2015.
- The "A" Street Warehouse, including as build specifications, was apprised by Gregory A. Thornquist for the future value as of January 1, 2017.

Analysis Performed

- A Phase I Environmental Site Assessment was completed on the "A" Street Warehouse in April 2016. No areas of significant concerns were identified.
- An Environmental Assessment was completed on the "A" Street Warehouse in May 2016. No areas of significant concern were identified.
- The Area does not border any navigable waterways.
- "A" Street Warehouse is connected to the City of Helena's water supply. No wells or water rights exist on the property.
- "A" Street Warehouse is within the City of Helena's boundaries and as such mineral rights are not of concern. BLM was contacted in reviewing mineral rights.
- GSD will comply with all requirements of the Montana Environmental Policy Act (MEPA) by the August Land Board Meeting.
    - A public hearing has been noticed and scheduled for Tuesday, July 19, 2016 at 9:30 a.m., with public comment being accepted through Friday, July 22, 2016.
- GSD has/will complied with all requirements and restrictions found in Mont. Code Ann. §77-2-201 *et seq.*
- A title commitment was obtained on the "A" Street Warehouse as prepared by Helena Abstract & Title Company on February 3, 2016. This shall be dated down to the date of the exchange.
- A Cultural Resource Review for the Former Armory and Old Liquor Warehouse has been requested from the State Historic Preservation Office (SHOP). It is anticipated that this will be obtained prior to the August Land Board Meeting.

Agency Recommendation

The DOA/GSD recommends the Land Board approve the exchange in August of 2016.

DOA PROPOSED LAND EXCHANGE RESPONSES TO PUBLIC COMMENTS

Summary of Comments:

Four individuals testified at the public hearing held on July 19, 2016. Three individuals supported the proposed transfer and one individual raised several questions about the transfer. Seven individuals and organizations submitted written comments. Four commenters supported the proposed exchange. Two asked several questions that are addressed below. One explained the appraisal process for the D&M property and why that process was appropriate for the proposed exchange. Three commenters opposed the exchange, and the issues these individuals raised are addressed below.

Overall, 64% of comments received during the public comment process were in favor of the exchange; 36% were against, or questioned, the exchange.

Issue 1: Question on Ownership of Old Liquor Warehouse (OLW) and the Armory after Exchange and Status of the City Park.

DOA Response: *D & M Development, LLC (D&M)—which was registered with the Secretary of State on August 27, 2014- intends to transfer the Armory and related property to the Montana Business Assistance Connection (MBAC), who then intends to transfer the property to Carroll College. D&M is not interested in owning the Armory long term; however, Carroll College is interested but is not prepared to assume immediate ownership.*

Generally, MBAC has access to and utilizes programs that make projects happen that would not have occurred without its added effort. The remediation and eventual sale of the Caird Engineering Works in Helena is an example. Traditional commercial investors could not connect the dots to make this highly visible property make financial sense due to risk associated with lead contamination. Once that contamination was identified and removed, the property had a viable purchaser make an offer within weeks.

For this proposed exchange involving State properties, it has been explained to DOA that to make this proposed land transfer work, MBAC believes it is more efficient to utilize a single entity to purchase/trade the property (D&M), but with a secondary land owner in "tow" (Carroll College). The Armory with the lead contamination is the property that requires a blended finance package to effect the exchange.. This takes significant time and is hampered by the State ownership because the State does not have the funds necessary to remediate and renovate the Armory. Once the property is in private hands (D&M in this case), the blended finance tools to remediate and renovate the Armory become more manageable. Since D&M does not want to own the Armory, once the remediation and renovation work are done, MBAC would thereafter own the property awaiting Carroll's readiness to assume ownership.

Carroll College would use the building for education purposes as Dr. Irvine and Mr. McCarvel explained in their public hearing testimony. Mr. McCarvel also explained Carroll's intent at the July 18, 2016 Land Board public meeting. Mr. McCarvel stated at the public hearing and the Land Board meeting that the city park would remain a park for the public's benefit. Since the parkland will remain, that property cannot be valued as commercial property. DOA understands that D&M and MBAC are working on an agreement between themselves for the purchase/transfer of the Armory to MBAC.

D&M plans to remodel the OLW for office space consistent with the City of Helena's downtown master planning. D&M intends that the exterior design would be in keeping with the historic look of the building and area.

Issue 2: Value of the State Properties is Inaccurate.

DOA Response: *Montana law requires that the property the State will receive in an exchange be of equal or greater value than the State land. In this case, appraisals were done of all three properties by independent certified real estate appraisers unaffiliated with DOA or the landowner. Hall-Widdoss & Company, Missoula, appraised the Armory property; J. Michael Joki, Helena, appraised the OLW; and Elkhorn Appraisal Services, Helena, appraised the A Street property. The appraisals were based on Market Value, which is a type of value stated as*

an opinion that presumes the transfer of a property as of a certain date and under specific conditions set forth in the appraisal.

Issue 3: Condition of State Properties

DOA Response: *The Armory has been vacant since 2013. A request was made to the 2015 Legislature to fund the restoration of the Armory. The Legislature denied the request. DOA therefore has no money to remediate and renovate the Armory to increase its market value above the "as-is" professional appraisal of $1,750,000. DOA spends approximately $7,000 a month to maintain the Armory building in its current state.*

The OLW is not currently functional. It has extensive maintenance issues that must be addressed. DOA has not been funded to address these issues.
Estimated cost of issues:

- *Elevator 60% deficient: $181,123*
- *Roof 90% deficient: $378,898*
- *HVAC 80% deficient: $152,307*
- *Building electrical service cannot support replacement equipment*
- *The entire building is non-ADA compliant*

In summary, since DOA does not have the money to renovate either the Armory or the OLW, the appraisals were done on an "as-is" basis. Since DOA will receive the A Street property remodeled to DOA's specifications, A Street was appraised on an "after-remodel" basis. As noted below, this A Street appraisal will be updated after the renovation work is completed.

Issue 4: Value of A Street Warehouse After Remodel and Performance Bond Requirement

DOA Response: *D&M is required in the agreement with DOA to provide an updated appraisal after construction to ensure (i) the State of Montana is getting the agreed upon value and (ii) the building meets the State's specifications. The State is not required to ask for a performance bond from D&M, and given D&M's outstanding reputation and that DOA must approve the work before assuming ownership, the bond requirement was rendered an unnecessary expense. DOA real estate personnel and the management from GSD's Capitol Facilities Management and State Print and Mail will review the remodeled property throughout the renovation process to ensure specifications are met. The A Street property will be worth at least $2,372,000, because by statute the State must receive property of an equal or greater value when exchanging property.*

Issue 5: Put the State Properties on the Market for Competitive Bid or Public Auction

DOA Response: *If these properties were sold via bid or auction, the proceeds would likely be paid to the general fund. DOA would therefore have no money to relocate its Print and Mail facility, which is critical for government operations. In addition, no other party has come forward with a proposal to purchase either the Armory or the OLW.*

Since 2013, DOA staff has been vetting ideas to address the issues with the Armory and OLW buildings. A history and background leading up to this proposed exchange:

- *On October 28, 2013, Department of Environmental Quality vacates the Armory due to lead contamination. DOA's General Services Division maintains the building in its current state while seeking guidance on its disposition.*

- *Early 2014, City of Helena expressed interest in purchasing the Armory and shared the cost of an appraisal with DOA.*

- *After the appraisal, the City stated it could not afford to purchase the Armory.*

- *Lewis and Clark County briefly entertained the concept of purchasing the Armory, but was also unable to fund the purchase.*

- *Two prospective buyers referred from MBAC looked into buying and developing the Armory. Neither proceeded with a proposal.*

- *DOA staff discussed selling the Armory with a Helena broker. He stated that the buyer for this type of property could take years, and that the State needed to completely clean the interior of the building to increase its curb appeal. (Cleaning estimated at $5,000-$10,000)*

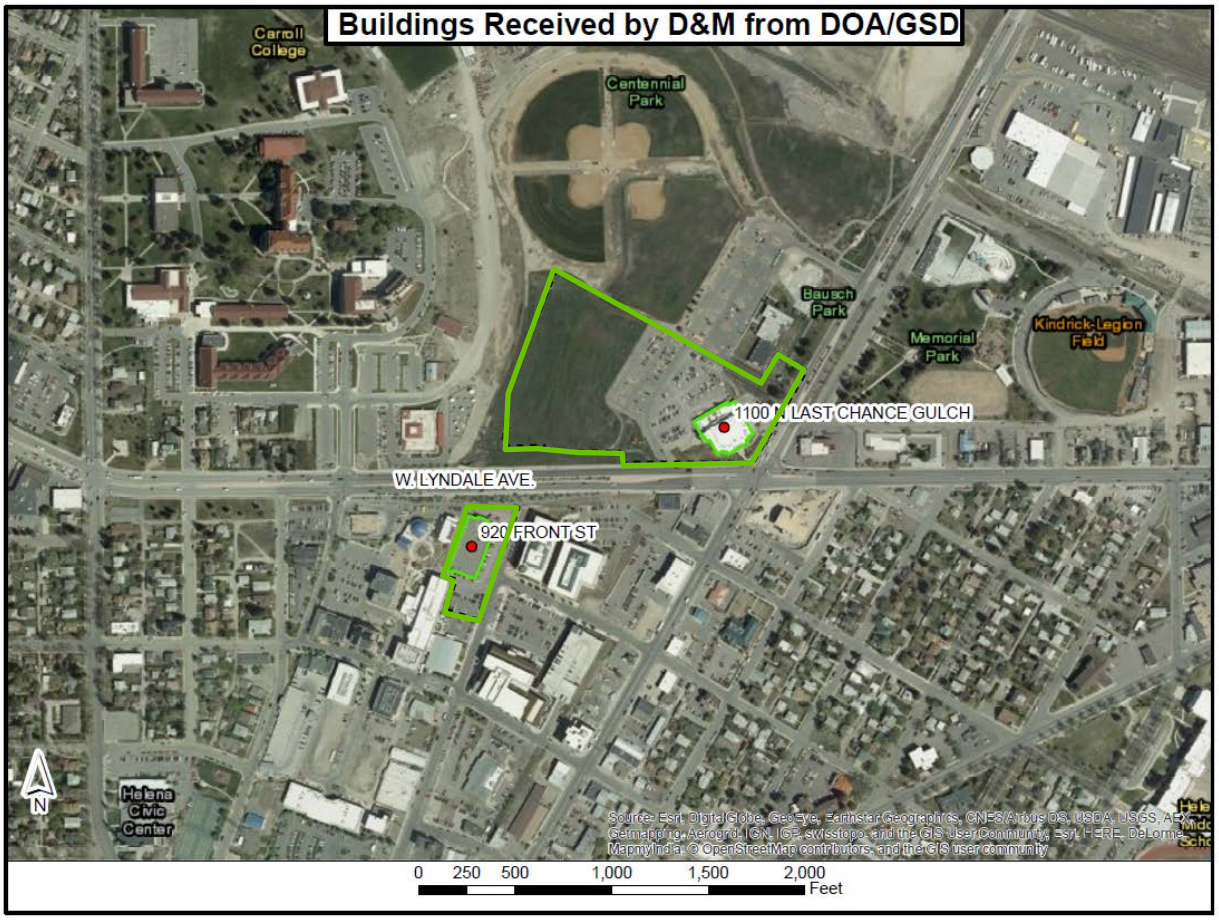
- *In mid-2014 D&M approached the State about purchasing the OLW, which appraised at that time for $596,000. State Print and Mail would be displaced and a suitable facility would need to be provided. (The OLW was re-appraised in January of 2016 resulting in the current appraised value of $622,000.)*

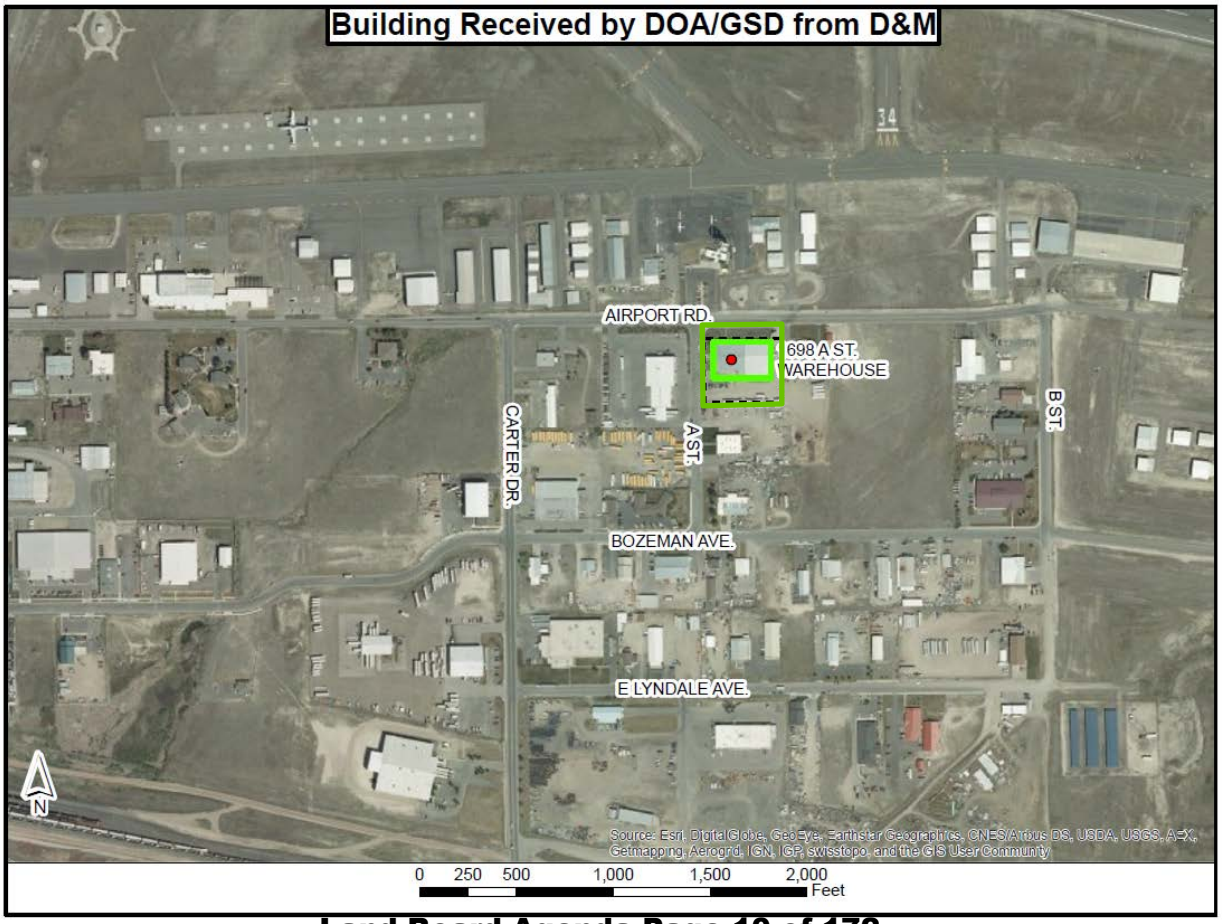
DOA's position is that both the Armory and OLW are historic buildings that are in key locations being developed within the City of Helena. As such, they are economically, socially, and intrinsically significant properties. DOA's responsibility as stewards of State property extends to the disposal of buildings to ensure that those properties are developed to their highest and best use. There are ancillary effects arising from the Armory transfer, including the current and long term use of the Centennial Park and the status of the public safety tower cooperatively managed by the Montana Department of Justice (MDOJ), Lewis and Clark County and the City of Helena. DOA's goal was to mitigate the loss of the Armory by ensuring that its end- user continues to work in partnership with the City, County, and MDOJ. Conducting a public auction would remove any level of control from the State and could potentially result in a loss of the historic buildings and a disruption to the agreements mentioned above.

Issue 6: Historic aspects and future use

DOA Response: *Ms. Pamela J. Attardo, Heritage Preservation officer, Lewis and Clark County Heritage Tourism Council, stated in her public comment: "The Armory is currently individually listed on the National Register of Historic Places, and is therefore protected under the Helena Demolition Ordinance, which prevents demolition of buildings listed on the Register without prior public hearing before both the HTC and the Helena City Commission, the latter which makes a decision to approve or deny demolition The OLW is eligible for listing on the Register, but is currently not listed, and therefore does not enjoy the protection of the Ordinance."*

Exchange Location Map





DOA Attachments; State Acquisition of the A Street Warehouse as part of a Three-Property Land/Building Exchange

D & M Development

3424 Highway 12 East, Helena, MT 59601 Phone (406) 443-3225 Fax (406) 443-1537

January 26, 2016

Sheila Hogan
State of Montana Department of Administration
125 N. Roberts St.
Helena, MT 59620-0101

Dear Sheila:

Our company D&M Development, LLC, is presenting the State of Montana with a proposal to swap like kind properties. In the following paragraphs the proposed terms of the swap will be addressed. The preliminary terms proposed are based on information I was able to obtain. However, I would like to discuss the terms and adjust them to the best scenario that would work for the State of Montana and D&M Development, LLC.

The properties involved in the swap are; 1100 N Last Chance Gulch hereafter referred to as "Armory", 920 Front Street hereafter referred to as "OLW", and 1698 A Street hereafter referred to as "A Street".

The basis for the property swap is that the State of Montana has two nonfunctional buildings. Those buildings are the Armory and OLW. The Armory is currently vacant and the State is looking to dispose of that property. The OLW is currently used for the print and mail services for the State of Montana. From discussions with general services the OLW is not a practical use for that space and the critical role print and mail plays in the State Government. D&M Development, LLC has a use for both of those buildings. Our converted uses would further the development of the Great Northern Town Center and Centennial Park area creating the opportunity for more property tax revenues, construction, and consumer spending in those areas.

D&M Development, LLC is proposing to swap the State of Montana for the Armory and OLW in return for a turnkey building for the print and mail operations, located in the A street property. We are proposing a like value swap based on the appraised values of the Armory and OLW in exchange for D&M Development, LLC to remodel the A Street property for the print and mail operation.

Recent appraisals were completed for both of the State of Montana owned properties. A 2.24.15 appraisal for the Armory indicates a value of $1,750,000. A 6.22.16 appraisal for the OLW indicates a value of $622,000. The combined values of the two buildings are estimated at $2,372,000. In return for the two buildings valued at $2,372,000, D&M Development would deliver the A street property with costs/value of $2,372,000. We would design and construct the building to the specifications of the State and the value would be determined as the purchase price (contingent on appraised value in the same amount) and costs of the transaction, design, and construction.

We look forward to discussing our proposal with you and answering any questions that might come up. Please feel free to contact me at 406.459.3176.

Sincerely

Mark Esponda
Member, D&M Development

1) MONTANA DEPARTMENT OF ADMINISTRATION AGREEMENT FOR A LAND EXCHANGE

THIS AGREEMENT FOR A LAND EXCHANGE (the "Agreement") is made this _____day of August 2016, between the **STATE OF MONTANA**, acting by and through the Department of Administration (DOA), and **D&M DEVELOPMENT, LLC (**D&M).

The following materials are attached hereto and incorporated into this Agreement by this reference:

Exhibit A – Description of D&M's Land
Exhibit B – Map of D&M's Land
Exhibit C – Reservations and Exceptions to Which D&M's Land Will Be Conveyed
Exhibit D – Description of DOA's Land
Exhibit E – Map of DOA's Land
Exhibit F – Reservations and Exceptions to Which DOA's Land Will Be Conveyed
Exhibit G – Land Exchange Schedule

RECITALS

WHEREAS, DOA and D&M desire, subject to the satisfaction of conditions precedent described in this Agreement, to accomplish a voluntary exchange of certain land and/or interests in land and to establish certain terms and conditions for the exchange;

WHEREAS, the acquisition of the land proposed for exchange would benefit the public and the State of Montana; and

WHEREAS, decision making rests with the Board of Land Commissioners (" the Board"), and D&M recognizes that the completion of this land exchange is conditioned on the Board's preliminary and final approvals.

NOW, THEREFORE, in consideration of the mutual agreements and promises contained herein, D&M and DOA agree as follows:

1. DESCRIPTION OF LAND OR INTEREST IN LAND BEING CONSIDERED FOR EXCHANGE/POTENTIAL ENCROACHMENTS

1.01 The land and all interests therein offered by D&M for the exchange are described in Exhibit A and are shown in Exhibit B, including but not limited to all of D&M's right, title and interest in and to the surface estate, mineral estate, water rights and all other real property interests, if any, and subject to those reservations and exceptions listed in Exhibit C. This land is hereinafter referred to as D&M's Land.

1.02 The land and all interests therein offered by DOA for the exchange are described in Exhibit D and are shown in Exhibit E, including but not limited to all of the State of Montana's right, title and interest in the real property, if any, exclusive of the mineral interest, and subject to those reservations and exceptions listed on Exhibit F. This land is hereinafter referred to as DOA's Land. D&M has had a full opportunity to inspect DOA's Land and relies on its inspection in entering into this Agreement and not any DOA statements.

1.03 D&M acknowledges that the appraisal report for DOA's Land states that “there may be encroachment issues on the northeast corner in front of YMCA and by horseshoe pits." D&M accepts DOA's Land subject to these potential encroachments and releases and holds harmless DOA from any claims, causes of action, damages or liability arising from these potential encroachments. This release and hold harmless promise survives this Agreement.

2. EXCHANGE PROCESSING STEPS

2.01 DOA shall select and administer all contractors, if any, for the land exchange.

2.02 DOA shall determine the scope of work for all documents produced for the land exchange, including but not limited to: appraisals; resource inventories, if any are required, for cultural resources, timber, and fish and wildlife; and hazardous materials surveys, which may be completed in support of MEPA requirements in accordance with the schedule indicated in Exhibit G. DOA, with assistance from Department of Natural Resources and Conservation (DNRC) staff, shall review all documents to ensure they are adequate to meet MEPA standards.

2.03 DOA and D&M will receive from the contractor(s), if any, an estimate of costs based on the scope of work determined by DOA.

2.04 D&M shall pay for mutually agreed upon costs associated with the land exchange as outlined in Exhibit G.

2.05 DOA shall review and determine the adequacy of all documents used in the land exchange.

2.06 All documents produced for the land exchange by the contractor and appraiser(s) are DOA's property.

2.07 The DNRC is the decision making authority for MEPA implementation and retains all authority and responsibility to manage the land exchange process and provide recommendations to the Board.

2.08 D&M shall provide DOA with existing surveys, plats, maps and other appropriate information to aid in completing the land exchange.

2.09 The valuation of D&M’s Land and the DOA's Land will be determined before conveyance by a qualified appraiser(s) selected and contracted by DOA using the principles contained in the current edition of the Uniform Standards of Professional Appraisal Practice.

2.10 Both parties agree not to take any action that would diminish, encumber or negate either the market value or resource values to the land and/or interests in land and the intrinsic values found on, under or over the land and/or interests in land, except as agreed to by both parties 60 days before any such action being taken.

2.11 **A)** D&M shall provide a Title Insurance Commitment for D&M's Land to DOA. DOA reserves the right to review and determine whether marketable or acceptable title exists for D&M's offered land, pursuant to a preliminary opinion of title for the land from a title company approved by DOA in accordance with current procedures. D&M shall provide, at its expense, a final Title Policy for D&M's Land upon closing of the exchange. DOA will not provide a Title Insurance Commitment or Policy for the DOA's Land. D&M has the right to approve the status of title to the DOA's Land, pursuant to a preliminary opinion of title furnished at D&M's expense.

B) If either party determines that marketable or acceptable title does not exist for the land it will receive under this Agreement, that party may in writing request the other party to correct defects. If the other party does not correct the defects within 30 days of having received the written notice, then the party may without liability terminate this Agreement. Upon termination, each party shall pay the costs assigned to it and incurred under this Agreement. This is the sole remedy for failure to provide marketable or acceptable title.

2.12 DOA shall send notification of disposal of State land to any lessees/licensees in accordance with ARM 36.25.128. The State land will be conveyed subject to existing State leases/licenses/permits, unless waived by the lessee/licensee/permittee or unless otherwise provided by the lease/license/permit. Such permitted activities will be valid for a period of the remainder of the lease term.

2.13 D&M shall send notification of disposal of land to any lessees/licensees. The D&M land will be conveyed subject to existing leases/licenses/permits, unless waived by the lessee/licensee/permittee. Such permitted activities will be valid for a period of the remainder of the lease term or unless otherwise provided by the lease/license/permit. D&M will not renew or extend any leases on the D&M land involved in the exchange that expire before the closing or this land exchange.

2.14 DOA shall prepare a public notice of the land exchange and publish the notice in the Helena Independent Record.

2.15 DOA shall conduct a public hearing consistent with Montana Code Annotated 77-2-204.

2.16 A preliminary feasibility analysis for this exchange has been completed, and the Board has been apprised of the pending exchange.

2.17 If, as a result of the resource studies and MEPA analysis, it is determined that the exchange is (i) compatible with applicable policies and programs; (ii) in compliance with all regulations; and (iii) found to be in the public interest, the parties anticipate that a recommendation will issue to the Board that the land exchange proceed consistent with the schedule indicated on Exhibit G.

2.18 DOA shall present the land exchange proposal to the Board for the final decision.

2.19 If the Board gives final approval for the land exchange, DOA and D&M shall proceed to closing as outlined in Section 6.

3. RESP0NSIBILITIES AND COSTS ASSOCIATED WITH PROCESSING THE EXCHANGE

3.01 D&M and DOA agree that the responsibility for performing the services required to process the exchange, including the costs for accomplishing such services, will be assigned in accordance with Exhibit G. DOA and D&M agree that no adjustment of relative land values for compensation of costs will be allowed in this exchange. The primary point of contact for DOA is Steve Baiamonte. The primary point of contact for D&M is Mark Esponda: telephone number 406-459-3176.

3.02 Once D&M has completed the remodeling of D&M's Land, D&M shall at its expense have an updated "as-built" appraisal done to ensure that DOA receives a building appraised at equal to or greater than $2,372,000 and that the building otherwise meets DOA's specifications as reflected in the building plans.

3.03 The parties expect that the "as-built" appraisal will reflect a value for D&M's Land of equal to or greater than $2,372,000. If, however, the "as- built" appraisal is less than $2,372,000, D&M shall add improvements as requested and approved by DOA to ensure the value is equal to or greater than $2,372,000. D&M shall at its expense have another appraisal done to ensure the value is equal to or greater than $2,372,000.

3.04 If the second "as- built" appraisal does not reflect a value for D&M's Land of equal to or greater than $2,372,000, then DOA may terminate this land exchange without incurring liability to D&M. If such termination occurs, D&M shall execute and deliver an appropriate deed(s) to DOA reconveying to DOA any DOA Land that was previously conveyed to D&M.

4. PHYSICAL ACCESS, RIGHT TO ENTER

4.01 D&M and DOA hereby grant permission to the other party to enter and physically examine the land offered by the other party. Such examination will not disturb the surface of the property before the close of this exchange.

5. RELEASES/DEFENSE AND INDEMNITY

5.01 D&M acknowledges that a portion of DOA's Land (1100 North Last Chance Gulch) currently leased to the City of Helena was once used as a garbage disposal site. D&M releases and holds harmless the State of Montana and DOA and their employees, elected officers, officials, and agents from any costs, liabilities damages, fines, or penalties arising from this former use of DOA's Land or from the City's or other third party use of DOA's Land. This release and hold harmless promise survives this Agreement.

5.02 D&M acknowledges that the building located on DOA's Land at 1100 North Last Chance Gulch was once used as an armory and a portion of the building as a shooting range. D&M acknowledges that it has had an opportunity to review all documents regarding the lead issues at the building and to inspect the building. D&M releases and holds harmless the State of Montana and DOA and their employees, elected officers, officials, and agents from any study, remediation, rehabilitation or construction expenses; liabilities; damages; fines; or penalties arising from this former use of DOA's Land. This release and hold harmless promise survives this Agreement.

5.03 D&M shall defend and indemnify the State of Montana and DOA and their employees, officials, and agents from and against all notices, claims (whether direct or third party), causes of action; damages; liabilities; fines; penalties; or judgments (including the cost of defense and reasonable attorney fees incurred enforcing these defense and indemnity obligations or defending a third party claim or action) arising from a violation(s) or alleged violation(s) by D&M of applicable federal, state and local environmental and health laws and regulations or other applicable laws while owning DOA's Land (1100 North Last Chance Gulch and 920 Front Street) or any building or structure on DOA's Land. Such laws include, but are not limited to, asbestos and lead laws and regulations, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Resource Conservation and Recovery Act, and the Federal Comprehensive Environmental Response, Compensation and Liability Act, and the state of Montana equivalent laws and regulations. These D&M defense and indemnity obligations survive this Agreement.

5.04 D&M's defense and indemnity obligations do not apply to causes of action; damages; liabilities; fines; penalties; or judgments (including the cost of defense and reasonable attorney fees incurred enforcing these defense and indemnity obligations or defending a third party claim or action) arising from a violation(s) or alleged violation(s) by DOA of applicable federal, state and local environmental and health laws and regulations or other applicable laws while owning DOA's Land (1100 North Last Chance Gulch and 920 Front Street) or any building or structure on DOA's Land. Such laws include, but are not limited to, asbestos and lead laws and regulations, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Resource Conservation and Recovery Act, and the Federal Comprehensive Environmental Response, Compensation and Liability Act, and the state of Montana equivalent laws and regulations.

5.05 DOA shall promptly notify D&M upon receiving a claim. D&M shall control the defense of the claim subject to the right of the Montana Attorney General to participate in the defense as the Attorney General believes is appropriate.

6. CLOSING

6.01 This land exchange will be closed upon the completion of all necessary components of the exchange process, including but not limited to resource management documents and inventories, the MEPA documentation, appraisal reports, public participation and notification activities, and preparation of conveyance documents. The closing of this exchange will be completed as follows:

A) Title to D&M's land and DOA's land and/or interests in land will be transferred simultaneously at a time and place agreed upon by the parties. However, DOA may request at its option that the parties close the transaction for the 1100 North Last Chance Gulch property before closing the transaction for the remaining DOA Land and D&M's Land. If DOA makes the request, the parties shall select the time and place for this particular closing. In exchange for appropriate documents of conveyance to D&M for the 1100 North Last Chance Gulch property, D&M shall place into an escrow or similar account the warranty deed for D&M's Land, and DOA shall place into escrow or similar account appropriate documents of conveyance for the remainder of DOA's Land (920 Front Street). Each party shall deliver their respective deeds for these remaining properties to the other party at a time and place agreed upon by the parties.

B) At the time of closing, D&M shall deliver a warranty deed to the State of Montana, and its assigns, conveying D&M's Land and/or interests in land, subject to those reservations and exceptions listed on Exhibit C of this agreement.

C) After closing, DOA shall instruct the Title Company to provide DOA with a Policy of Title Insurance (ALTA U.S. Policy or ALTA extended policy, at the DOA's discretion) in an amount of the appraised value of D&M's Land, showing title vested in the State of Montana, free from all encumbrances except those listed in Exhibit C. D&M shall pay all title insurance premiums.

D) Before or at closing, D&M shall pay all the real property taxes on D&M's land for that portion of the tax year in which closing is to occur that D&M owns the land.

E) At the time of closing, DOA shall deliver to D&M appropriate documents of conveyance to D&M, conveying the DOA's Land and/or interests in land, subject to those reservations and exceptions shown on Exhibit F of this Agreement.

F) D&M shall pay all closing costs, if any, associated with the land exchange between D&M and DOA.

7. AMENDMENT

7.01 This Agreement may be amended only if done in writing signed by both parties.

8. AGREEMENT CONDITIONS

8.01 Both parties understand and agree that the proposed exchange is contingent upon the Board's preliminary and final approvals and satisfaction of the other condition precedents stated above. If the Board issues its approval and all other conditions precedent have been met, then the parties are obligated to complete the exchange as described herein. If the Board does not issue its approvals, or issues its approval subject to conditions unsatisfactory to either party, or other conditions precedent have not been met, then this Agreement terminates and each party shall pay the costs assigned to it and incurred to the date of termination.

9. NON-DISCRIMINATION

9.01 Consistent with 49-3-207, MCA, and Executive Order No. 04-2016, D&M agrees that (i) any hiring of persons to perform this Agreement will be made on the basis of merit and qualifications and (ii) there will be no discrimination based upon race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status, or physical or mental disability by the persons performing this Agreement.

10. ASSIGNMENT

10.01 Neither party may assign its rights under this Agreement or delegate its duties without first obtaining the written consent of the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date shown below.

a) D&M DEVELOPMENT, LLC

BY: _____

TITLE: _____

DATE: _____

MONTANA DEPARTMENT OF ADMINISTRATION

BY: _____

TITLE: _____

DATE: _____

EXHIBIT A

DESCRIPTION OF D&M's LAND
1698 "A" Street
Helena, Montana

"Lot 1A in Block 3 of the Amended Plat of Block 3, Helena Industrial Site Subdivision to the City of Helena, Lewis and Clark County, Montana, as shown on plat filed under Doc. No. 274490."

EXHIBIT B

MAP OF D&M's LAND

2) EXHIBIT C

RESERVATIONS AND EXCEPTIONS TO WHICH D&M's LAND WILL BE CONVEYED
(Encumbrances will be obtained from the Commitment for Title Insurance)

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company :

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

2. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies
taxes or assessments on real property by the Public Records. Proceedings by a public agency, which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by Public Record. No liability is assumed for errors, omissions or changes of assessed valuations or amount of taxes assessed by any state, county, city or federal taxing or assessing authority.

3. Any facts, rights, interest or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of person in possession thereof.

4. Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.

5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof;
(c) water rights, claims or title to water, ditch rights; (d) any right, title or interest in any sand and gravel and/or minerals including access to an from to extract minerals, mineral rights, or related matters, including, but not limited to oil, gas, coal and other hydrocarbons; whether or not the matters excepted under (a), (b), (c), or (d) are shown by the Public Records.

7. Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

8. Any service, installation or connection charge for any and all utilities, including, but not limited to sewer, gas, water or electricity.

9. County road rights-of-way, not recorded and indexed as conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21, M.C.A., including, but not limited to any right of the Public and the County of Lewis and Clark, Montana, to use and occupy those certain roads and trails.

10. General county taxes for the year 2016 a lien, not yet due and or payable.

11. ***RIGHT OF WAY EASEMENT to The Montana Power Company, recorded Sept. 26, 1941 in Book 125 Deeds, page 392.***

12. RIGHT OF WAY EASEMENT to The Montana Power Company, recorded Aug. 16, 1950 in Book 159

Deeds, page 392.

13. ***RIGHT OF WAY EASEMENT to The Montana Power Company, recorded Jan. 19, 1951 in Book 162 Deeds, page 188.***

14. ***RJGHT OF WAY EASEMENT to Yellowstone Pipe Line Company, recorded in Book 176 Deeds, page 235.***

15. Agreement for a temporary haul road to cross Sections 22 and 28, T. IO N., R. 3 W, recorded in Book 74 Misc., page 53.

16. Subject to all items as shown on the plats filed under Doc. Nos. 254281 and 274490, including but not limited to all terms, provisions, conditions, and restrictions of the Dept. of Environmental Quality, as set forth on the attachments, if any, to said plats.

17. ***Covenants, conditions and restrictions recorded in Book 96 Misc., page 923, in Book 112 Misc., page776, in M Book 3 of Records, page 3171, and in M Book 3 of Records, page 3259, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditionsor restrictions violate 42 USC 3604(c).***

18. Deeds of Easement to the City of Helena, Montana, recorded in Book 200 Deeds, page 397, and in Book 200 Deeds, page 399.

NOTE TO APPLICANT: If you require copies of any documents identified in this commitment for title insurance, the Company will furnish the same specific request, either free of charge or for the actual cost of duplication for those copies requiring payment by the Company to obtain.

NOTE: All notes are for information only and will be removed from the final title policy.

END OF SCHEDULE B II

EXHIBIT D

DESCRIPTION OF DOA'S LAND

1100 North Last Chance Gulch
Helena, Montana

"Central Addition No3, S30, T10 N, R 03 W, Block 55, Lot 7, LTS 7-17 and TR W of LTS 7-17"

&

920 Front Street
Helena, Montana

"Chessman and Davis Central Addition to the City of Helena in Section 30, Township 10 North, Range 3 West, PM4S, Lewis and Clark County, Montana."

EXHIBIT E

MAP OF DOA'S LAND

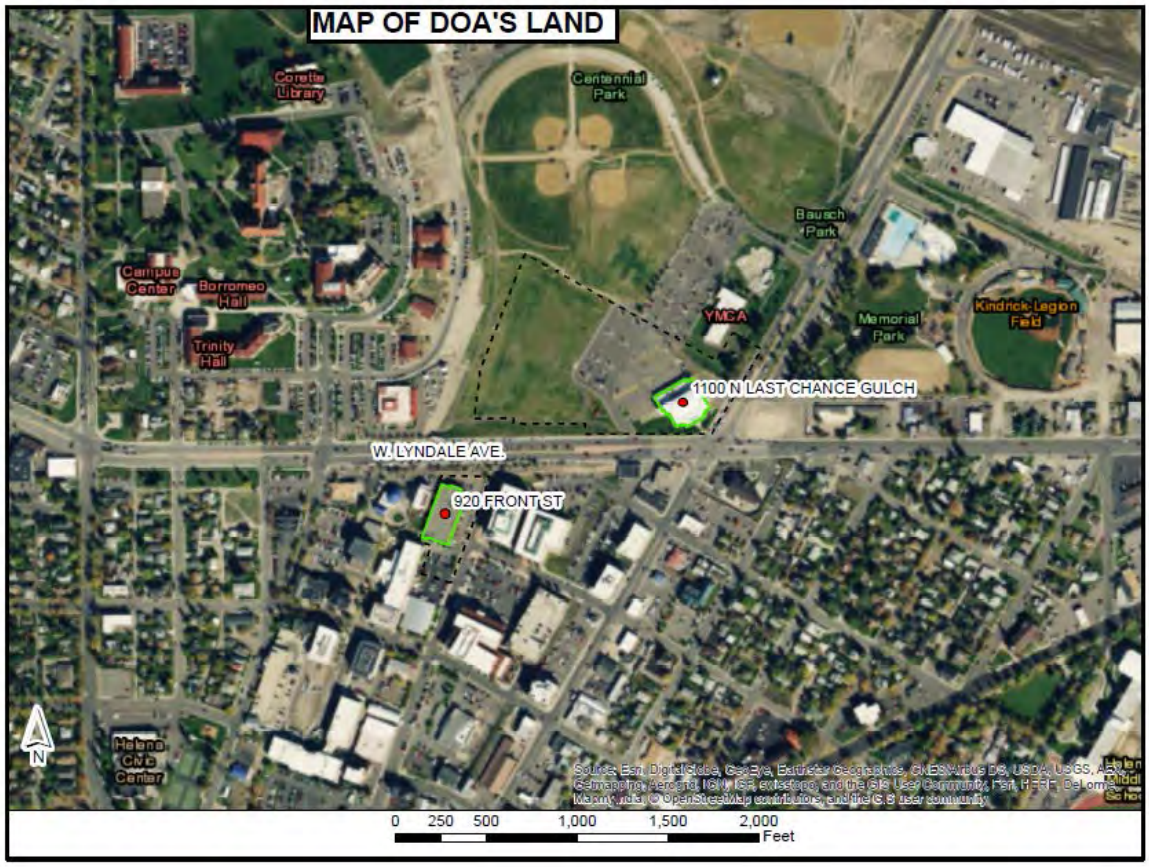


EXHIBIT F

RESERVATIONS AND EXCEPTIONS TO WHICH DOA'S LAND WILL BE CONVEYED

A. Encumbrances will be disclosed in the Commitment(s) for Title Insurance that D&M will obtain.

B. Warranty Deed(s) will contain a reservation of all minerals.

Reservation of minerals and the right to explore for, drill for, mine, develop, extract, remove, and produce all minerals owned by, acquired by, or otherwise to vest in the State of Montana, including without limitation, necessary rights of ingress and egress, the right to build and maintain necessary improvements thereupon for the full enjoyment thereof, and to occupy so much of the surface as is reasonable necessary to economically produce the State's minerals.

EXHIBIT G

EXCHANGE PROCESSING RESPONSIBILITIES

TASK/STEP	LAND INVOLVED	RESPONSIBLE PARTY	FINANCIALLY RESPONSIBLE PARTY	DATE OF COMPLETION (P) Proposed or (C) Completed
1. Initial Criteria Review (7 criteria)		**DOA**	**DOA**	**C**
2. Preliminary Investigations Area office field investigations Land and Resources Minerals Report Cultural Report Water Rights Report Land Value Assessment		**DOA**	**DOA**	**C**
3. Findings to Director		**DOA**	**DOA**	**C**
4. Prepare Land Board Agenda		**DOA**	**DOA**	**C**
5. Preliminary Land Board Decision		**BOARD**	**N/A**	
6. MEPA Analysis		**DOA**	**D&M**	**C**
a. Cultural Resources		**DOA**	**D&M**	**C**
Inventory, Evaluation of sites, SHPO consultation		**DOA**	**D&M**	**C**
b. Hazardous Substances Survey		**DOA**	**D&M**	**C**
		DOA		
7. Appraisals		**DOA**	**D&M**	**C**
8. Public Involvement a. Publish Notice of Exchange b. Formal Public Hearing		**DOA**	**DOA**	**C**
9. Final Environmental Assessment		**DOA**	**D&M**	**C**
10. Title review of land—1698 A Street as shown on Exhibit F. D&M will obtain commitments for DOA Land if exchange is approved			**D&M**	**C**
11. Final Land Board Approval		**DOA**	**N/A**	
12. Closing Deed preparation Exchange of deeds Payment of closing fees		**EACH WILL PREPARE THEIR OWN**	**DOA/D&M WILL PAY APPLICBLE CLOSING (if any) AND RECORDING FEES.**	

QUESTIONS REGARDING THIS COMMITMENT FOR TITLE INSURANCE? CALL 442-5080
TO SCHEDULE OR CONFIRM AN APPOINTMENT FOR CLOSING. CALL 442-4445

THANK YOU FOR USING HELENA ABSTRACT AND TITLE COMPANY

COMMITMENT FOR TITLE INSURANCE

PREPARED FOR

HA&T Co.

ESCROW / CLOSING DEPT.

DIRECT LINE 406 / 442-4445 • DIRECT FAX 406 / 442-8488

HA&T Co.
HELENA ABSTRACT & TITLE COMPANY
SERVING LEWIS & CLARK COUNTY SINCE 1935

"We Do Good Deeds"

OUR ORDER NO.....:	1674659
YOUR REF. NO.....:	
BUYER/BORROWER.....:	D&M DEVELOPMENT, LLC
SELLER.....:	LEHRKIND'S INCORPORATED
DIRECT INQUIRIES TO.....:	Jim Neary
COPIES OF COMMITMENT SENT TO...:	G&G-Randall Green / Travis Brazill D&M-Mark Esponda

POST OFFICE BOX 853 • MONTANA CLUB BUILDING • 6TH & FULLER • HELENA, MONTANA 59624 - 0853
(406) 442-5080 • FAX (406) 442-6179

Helena Abstract and Title Company

Stewart Title Guaranty Company
First American Title Insurance Company
Old Republic National Title Insurance Company
Privacy Policy Notice

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of **Helena Abstract and Title Company, Stewart Title Guaranty Company, First American Title Insurance Company, Old Republic National Title Insurance Company.**

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms.
- Information about your transactions we secure from our files, or from our affiliates or others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to nonaffiliated companies that perform services on our behalf.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Commitment for Title Insurance

Issued By Old Republic National Title Insurance Company

Old Republic National Title Insurance Company, a Florida corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.
This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six (6) months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

IN WITNESS WHEREOF, Old Republic National Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

Continued on back page

Issued through the Office of
Helena Abstract and Title Company
PO Box 853
Montana Club Bldg, 6th & Fuller Ave
Helena, MT 59624
(406) 442-5080

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

By _____ President

Attest _____ Secretary

CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.

2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.

3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.

4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at: http://www.alta.org/.

COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

File No. 1674659

Direct Inquiries to: Jim Neary

1. **Effective Date:** February 03, 2016 at 5:00 P.M.
2. **Policy or Policies To Be Issued:**

			Amount of Insurance
(a) A.L.T.A. Owner's	2006 (Standard)	**Amount**	$800,000.00
		Premium	$1,996.00

Endorsements:

Proposed Insured:
D&M DEVELOPMENT, LLC

(b) A.L.T.A. Loan

Endorsements:

Proposed Insured:

3. **The estate or interest in the land described or referred to in this Commitment and covered herein is:**
   Fee Simple
4. **Title to the said estate or interest in said land is at the effective date hereof vested in:**
   LEHRKIND'S INCORPORATED, who took title as LEHRKINDS INCORPORATED
5. **The land referred to in this Commitment is described as follows:**
   Lot 1A in Block 3 of the Amended Plat of Block 3, Helena Industrial Site Subdivision to the City of Helena, Lewis and Clark County, Montana, as shown on plat filed under Doc. No. 274490.

Old Republic National Title Insurance Company

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COMMITMENT FOR TITLE INSURANCE
SCHEDULE B
PART I

File No. 1674659

The following are the requirements to be complied with:

1. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
2. Pay us the premiums, fees and charges for the policy.
3. Documents satisfactory to us creating the interest in the land and/or mortgage to be insured must be signed, delivered and recorded.
4. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
5. You must give us the following information:
   a. Any off record leases, surveys, easements, rights of way, etc.
   b. Statement(s) of identity, all parties, if asked for.
6. Seller and Buyer must fully comply with the provisions of the Realty Transfer Certificate Act (M.C.A. 15-7-304, 305, 310), which includes the requirement that Seller and Buyer fully complete a Realty Transfer Certificate which will be presented at closing. If either party fails to fully comply with the Realty Transfer Certificate Act, Company will add the following exception in the final title policy:

   Any state or county taxing, assessing, or recording authority's failure to acknowledge the transfer to the Insured of the land described in Schedule A, pursuant to the Realty Transfer Act, as set forth in M.C.A. 15-7-301 et al.
7. General county taxes for the year 2015 appear to be assessed under GEO CODE 1888-28-1-07-01-0000/Property Tax ID 10569 in the total amount of $17,299.33.

   First installment is PAID in the amount of $8,671.39.

   Last installment will become delinquent after May 31.
8. Deed from Lehrkind's Incorporated, who took title as Lehrkinds Incorporated, to D&M Development, LLC, conveying subject property.
9. Executed copy of the Corporate Resolution of Lehrkind's Incorporated, authorizing the sale of subject property.
10. A copy of the Operating Agreement for D&M Development, LLC must be furnished this office.
11. **If any document in the completion of this transaction is to be executed by an attorney-in-fact, the Power of Attorney form must be submitted for review prior to closing.**
12. IF THIS TRANSACTION IS TO BE INVOLVED IN A 1031 OR SIMILAR EXCHANGE, THE CLOSING OFFICER MUST BE NOTIFIED WELL IN ADVANCE OF THE CLOSING DATE.

Old Republic National Title Insurance Company

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COMMITMENT FOR TITLE INSURANCE
SCHEDULE B
PART II

File No. 1674659

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

2. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property by the Public Records. Proceedings by a public agency, which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by Public Record. No liability is assumed for errors, omissions or changes of assessed valuations or amount of taxes assessed by any state, county, city or federal taxing or assessing authority.

3. Any facts, rights, interest or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of person in possession thereof.

4. Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.

5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

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7. Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

8. Any service, installation or connection charge for any and all utilities, including, but not limited to sewer, gas, water or electricity.

9. County road rights-of-way, not recorded and indexed as conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21, M.C.A., including, but not limited to any right of the Public and the County of Lewis and Clark, Montana, to use and occupy those certain roads and trails.

10. General county taxes for the year 2016 a lien, not yet due and or payable.

11. RIGHT OF WAY EASEMENT to The Montana Power Company, recorded Sept. 26, 1941 in Book 125 Deeds, page 392.

12. RIGHT OF WAY EASEMENT to The Montana Power Company, recorded Aug. 16, 1950 in Book 159 Deeds, page 392.

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COMMITMENT FOR TITLE INSURANCE
SCHEDULE B
PART II

File No. 1674659

14. RIGHT OF WAY EASEMENT to Yellowstone Pipe Line Company, recorded in Book 176 Deeds, page 235.

15. Agreement for a temporary haul road to cross Sections 22 and 28, T. 10 N., R. 3 W, recorded in Book 74 Misc., page 53.

16. Subject to all items as shown on the plats filed under Doc. Nos. 254281 and 274490, including but not limited to all terms, provisions, conditions, and restrictions of the Dept. of Environmental Quality, as set forth on the attachments, if any, to said plats.

17. Covenants, conditions and restrictions recorded in Book 96 Misc., page 923, in Book 112 Misc., page 776, in M Book 3 of Records, page 3171, and in M Book 3 of Records, page 3259, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

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NOTE: All notes are for information only and will be removed from the final title policy.

END OF SCHEDULE B II

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GREGORY A. THORNQUIST
ELKHORN APPRAISAL SERVICES
P.O. BOX 448
HELENA, MONTANA 59624
PHONE (406) 449-7646
FAX (406) 449-7887

May 2, 2016

D & M Development
3424 Highway 12 East
Helena, Montana 59601

RE: The prospective market value appraisal of the real property located at 1698 A Street, Helena, Lewis and Clark County, Montana. A complete legal description is included on the deed in the addenda.

In accordance with the letter of engagement, Elkhorn Appraisal Services has made the necessary site visit and analysis to appraise the above referenced property. The attached report provides the essential data and detailed reasoning employed in determining the market value estimate. The value presented is the "prospective at completion". The property has been appraised as a whole and in fee simple ownership. No responsibility for matters that are legal in nature have been assumed, nor has any opinion as to title been provided.

The "prospective at completion" is the existing warehouse being extensively renovated on a 61,986 SF parcel. In the body of the report is a detailed description of the property.

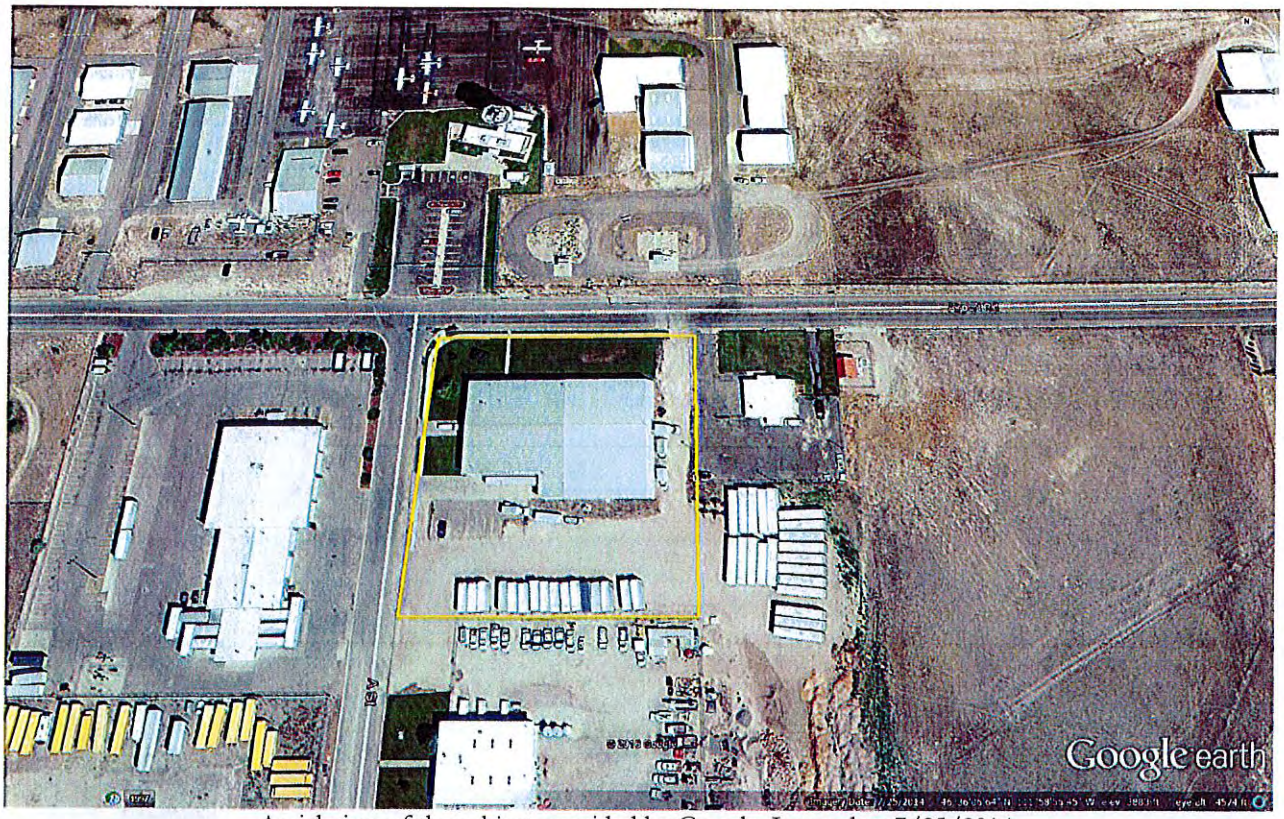
The value reported is qualified by certain definitions, assumptions and limiting conditions, extraordinary assumptions, and certification that are set forth within the attached report. This appraisal report conforms to the reporting requirements of the Uniform Standards of Professional Appraisal Practice.

Based upon the following analysis, the prospective market value of the subject property, as set forth, documented and qualified in the attached report under conditions prevailing on January 1, 2017 will be:

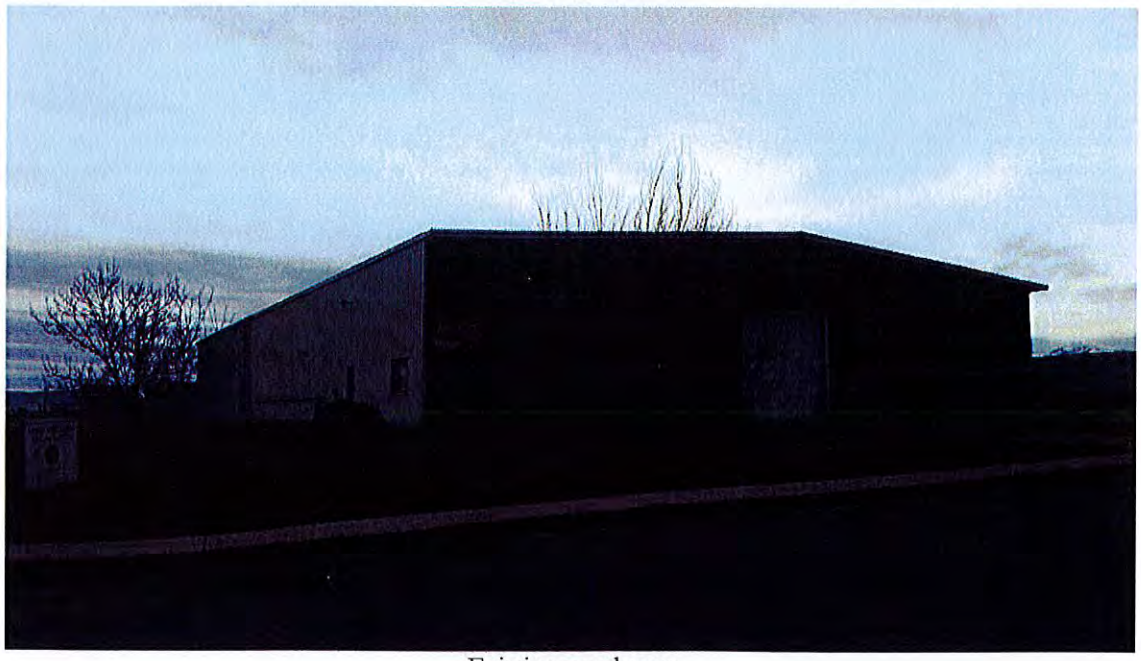
Two Million Four Hundred Thousand Dollars*
$2,400,000*

*Subject to the extraordinary assumptions on page 8.

SUBJECT PROPERTY PHOTOGRAPHS

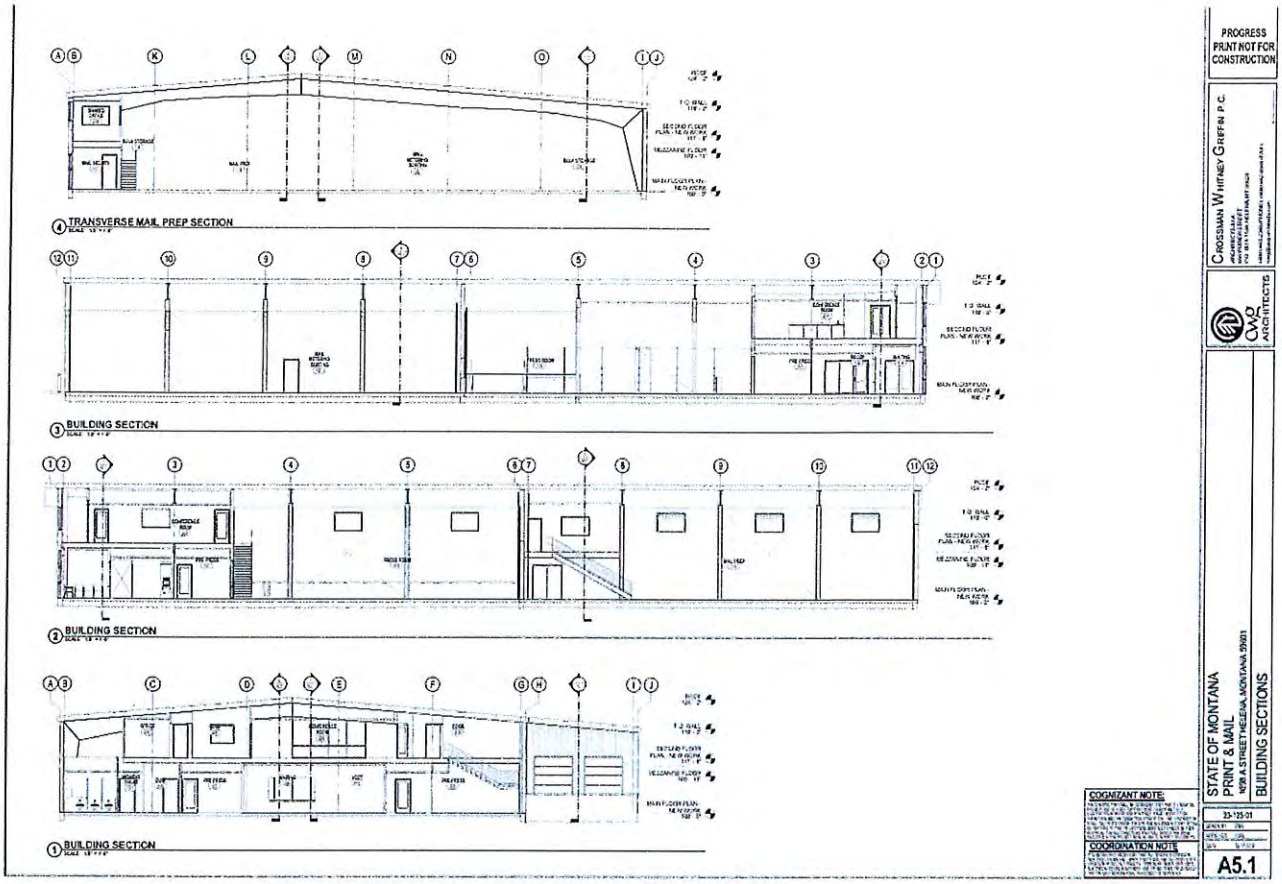


Aerial view of the subject provided by Google. Image date 7/25/2014.



Existing warehouse

SUBJECT PROPERTY PHOTOGRAPHS



Architect Rendition

Hall-Widdoss & Company, PC.
Real Estate Appraisers & Consultants
1001 SW Higgins Avenue, Suite 201
Missoula, MT 59803
Telephone (406) 721-3822; Telefax (406) 721-7848
steve.hall@hall-widdoss.com
nickhogan@gmail.com
matthall7667@hotmail.com

Steven A. Hall, MAI, CCIM
MT, ID, & WY General Certified

Nicholas J. Hogan, MAI
MT & WY General Certified

Matt S. Hall
MT General Certified

John Widdoss, MAI, ARA
Spearfish, SD (605) 642-8844

December 1, 2015

Mr. Stephen Baiamonte
State of Montana Department of Administration, General Services Division, Facilities Management Bureau
PO Box 200110
Helena, MT 59635

Re: Real Estate Appraisal of Starc Armory, located at 1100 N Last Chance Gulch, Helena, Lewis & Clark County, Montana, 59620. Appraisal reflects an "As is" value and an "As Complete" value reflecting remediation and restoration of building due to contamination from historical use.

Dear Mr. Baiamonte:

In response to the engagement of this firm for a defined appraisal assignment, the following appraisal assignment/appraisal report, defined by the Scope of Work presented within the body of this report, is hereby presented containing **82** pages plus addenda. Under general requirements, the appraisal has been prepared in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated by the Appraisal Standards Board of the Appraisal Foundation. In addition, the appraisal presented is intended to be in full compliance with all applicable laws & regulations affecting this service & report in which jurisdiction the subject property is located. The Scope of Work is key to understanding this appraisal service and the report option requested. Please read that section carefully as it most clearly defines the service rendered.

Specific reference to the issue of competency is assumed by virtue of USPAP requirements imposed on the appraiser. This refers to both technical as well as geographic competence. It is the mutual agreement of the client and the appraiser that the appraiser is competent to perform this appraisal (appraiser is acting competently to provide this appraisal service). Additionally, the appraisers have performed prior services on the subject property within three years.

At your request, we have prepared an appraisal for the above referenced property, which may be briefly described as follows:

Your attention is directed to the Limiting Conditions and Assumptions section of this report. Acceptance of this report constitutes an agreement with these conditions and assumptions. In particular, we note the following:

Hypothetical Conditions:

- There is a hypothetical condition for the 'As Complete' valuation that assumes all clean-up, remediation and restoration has been completed. Remediation includes clean-up and removal of drop ceilings (tiles, framework, hangers, etc.), but recognizing that the existing light fixtures can/will be cleaned and re-used; clean-up/removal of flooring, unexcavated area clean-up and barrier install and some asbestos abatement related to mastic material. The restoration includes a new HVAC system replacement, new drop ceilings, and new flooring. The client stated that some wall re-configuration (non-load bearing walls) would be possible within the existing budget to refinish/restore the space.

Extraordinary Assumptions:

- The property is in similar interior condition as during previous inspection earlier this year.

This assignment is not a typical valuation of a typical improvement. The historical use/design of the property, the contamination, and site concerns are all challenges to the appraisal. Specifically we wanted the reader to be aware of these primary concerns.

Site:

- The subject site is 10.16 acres in an urban central portion of the City of Helena. Average lot sizes are typically below 1-2 acres.

- Zoning is PLI, public lands and institutions. There have been no sales uncovered that were zoned similar to PLI, which still allows for a wide variety of governmental functions (storage, office, shop, etc.).

- The site was historically utilized for a landfill. The landfill was closed and "capped" in the 1930's to 1940's with the subject improvements being constructed in 1942. There have been no reported issues from this historical use. DEQ currently monitors several wells on the property. The lease to the City for park included stipulations that any clean-up from previous dump use that is disturbed during construction is a tenant/lessee obligation.

- There may be encroachment issues on the northeast corner in front of YMCA and by horseshoe pits.

- Approximately 6.5 acres of the 10.16 acre site are encumbered by a lease to the City for park and parking space. Only 5.85 acres is specifically identified as lease area, but includes additional parking areas to be joint-use as well as an easement for joint access across the northern property.

Improvements:

- Contamination. There has been somewhat confusing information provided regarding the habitable status in the "As is" value. Initially there was lead remediation on the firing range completed in 1994 with the state purchasing the building shortly afterwards. It has subsequently been utilized for office and storage space. Testing revealed that all but 2 of the 20 wipe samples (plenums) tested above SAP screening levels and the building was evacuated in October of 2013. 25 out of 28 surface wipes tested above thresholds. Air testing revealed that all air samples were below EPA guidelines. The conclusions of the report stated that all the plenums of all levels of the building contain elevated lead dust and will be abated/cleaned. This includes furnishings and carpeting/flooring, which will need to be tested prior to disposal (hazardous waste or not).

  We specifically asked whether it was possible to utilize/occupy the space without remediation and were not provided a "firm" yes or no. It is our conclusion that the market would not occupy the space "As is". There were reports of similar lead based contamination in the CR Anderson Middle School that was not remediated and has been delayed and that the building has since been occupied. The subject space has been vacant for over 1 year and if it were possible to occupy the space "As is" it would have been filled to some level of occupancy. Even with no immediate health hazard, there are ongoing perception issues that the air handling equipment is contaminated and that any ceiling tile disturbing could create additional clean-up/contamination. To replace any ceiling tiles would require draping and still presents possible contamination.

- Design/Functional Utility. The property was originally built for an armory in the 1940's. The lowest level was a garage/shop space that has since been converted into office use. The upper basement (level 2) included cafeteria space, a shooting range, and larger than typical bathrooms (for office use). The upper two floors contain a large gymnasium (only floor area to main floor/level 3 and is open ceilings to top of building. The gymnasium has much more limited applications "As is" and has had little to no history of occupancy. The space has use challenges, but could be filled with non-office users (i.e. church/worship). At the least the room could be utilized for material storage. As will be discussed in the report, we looked at costs for installing a drop ceiling and running basic heat/power in the gymnasium to convert to a more typical office use.

- Design/Functional Utility (Continued) the lowest two levels are primarily basement office/storage space with no windows. The building was never designed for multiple tenancies with a central heating/cooling and wiring/plumbing. Originally the lowest basement level was designed for the armory garage, but has since been finished as additional office, conference and laboratory space.

- Historic Significance. The subject improvements are listed in the National Register of Historic Places as the Montana State Arsenal Armory and Drill Hall. This makes any redevelopment/exterior renovations extremely unlikely.

Current "As Is" Market Value:
Based upon our investigations, studies and analyses, in full consideration of the Scope of Work presented & discussed herein, it is our ***opinion*** the Fee Simple ***market value*** of the subject property in its' "AS IS" condition, as of the effective date of November 24, 2015, is:

One Million Seven Hundred Fifty Thousand Dollars

$1,750,000

Current "As Complete" Market Value:
Based upon our investigations, studies and analyses, in full consideration of the Scope of Work presented & discussed herein, it is our ***opinion*** the Fee Simple ***market value*** of the subject property in its' "AS COMPLETE" condition (reflecting remediation and renovation), as of the effective date of November 24, 2015, is:

Four Million Three Hundred Thousand Dollars

$4,300,000

Please refer to the appropriate section for a brief discussion of marketing time. Pursuant to USPAP, it is necessary for this appraisal to consider & analyze exposure time when developing an opinion of market value. The market exposure time preceding the effective date of value (November 24, 2015), would have been 6-12 months and the estimated marketing period as of November 24, 2015 is 6-12 months.

Your attention is invited to the data found within the body of this report which, in part, is the foundation of this conclusion. We wish to thank you for this opportunity; should you find need of this firm's services again, please do not hesitate to contact us.

Respectfully submitted,
Hall - Widdoss & Company, P.C.

Matt S Hall
Matt S Hall 2015.12.01 11:22:21 -07'00'

Matt S. Hall
MT-REA-RAG-LIC-786
Expires 3/31/2016

Steven A. Hall, MAI, CCIM
2015.12.01 11:23:57 -07'00'

Steven A. Hall, MAI, CCIM
Montana-REA-RAG-LIC-17
Expires 3/31/2016

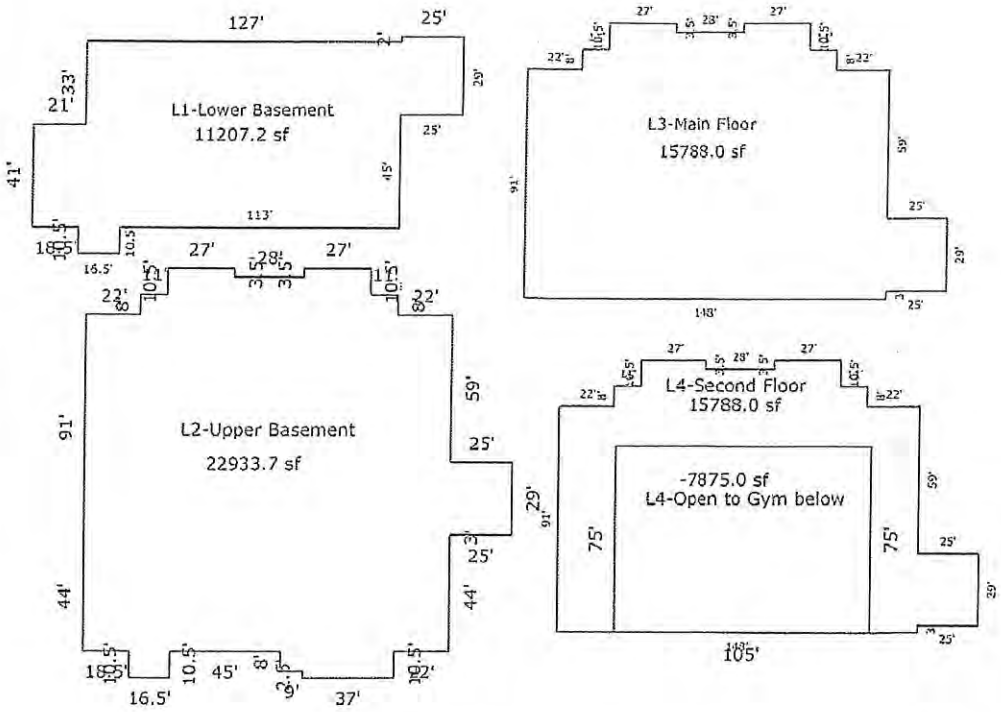
BUILDING SKETCH

SKETCH/AREA TABLE ADDENDUM

SUBJECT

Property Address	1100 North Last Chance Gulch
City	State Zip
Borrower	
Lender/Client	
Appraiser Name	

IMPROVEMENTS SKETCH



Scale: 1" = 10'

AREA CALCULATIONS

AREA CALCULATIONS SUMMARY

Code	Description	Net Size	Net Totals
GBA1	L4-Second Floor	15788.00	
	L3-Main Floor	15788.00	
	L2-Upper Basement	22933.75	
	L1-Lower Basement	11207.25	
	L4-Open to Gym below	-7875.00	57842.00
Net BUILDING Area	(rounded)		57842

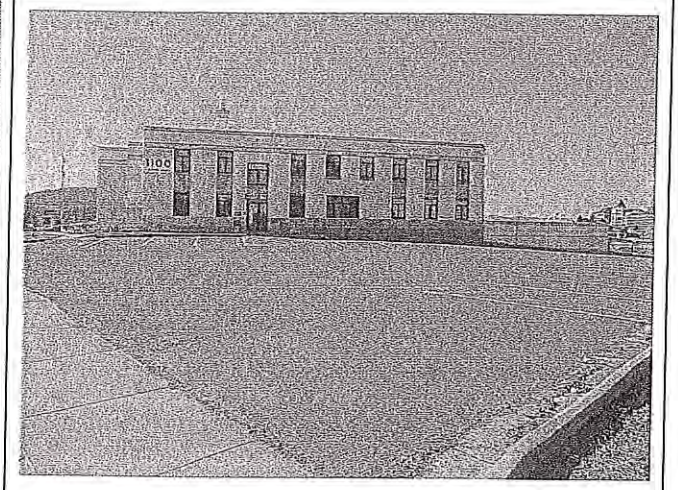
BUILDING AREA BREAKDOWN

Breakdown			Subtotals
L4-Second Floor			
148.0	x	59.0	8732.00
8.0	x	104.0	832.00
173.0	x	29.0	5017.00
7.0	x	82.0	574.00
3.0	x	148.0	444.00
3.5	x	27.0	94.50
3.5	x	27.0	94.50
L3-Main Floor			
148.0	x	59.0	8732.00
8.0	x	104.0	832.00
173.0	x	29.0	5017.00
7.0	x	82.0	574.00
3.0	x	148.0	444.00
3.5	x	27.0	94.50
3.5	x	27.0	94.50
L2-Upper Basement			
148.0	x	59.0	8732.00
8.0	x	104.0	832.00
173.0	x	29.0	5017.00
7.0	x	82.0	574.00
			11111.00
30 Items		(rounded)	57842

Hall Widdoss & Company, P.C. APEX SOFTWARE 800-838-9959 Apex100-W Apex V5

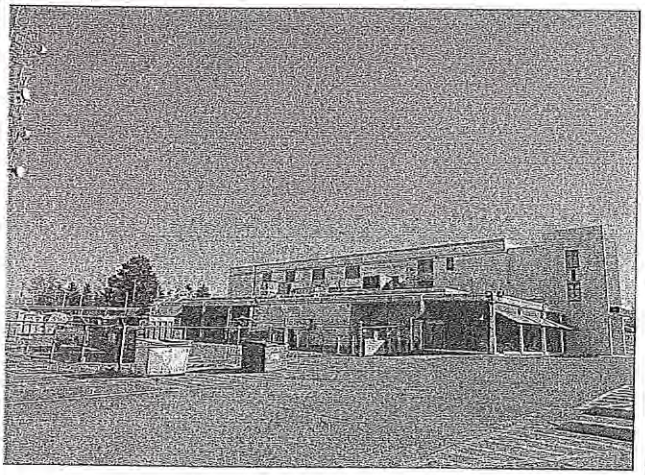
SUBJECT PHOTOGRAPHS

ABOVE: Front view of subject property from across the southeast corner looking northwest from most recent inspection 123710

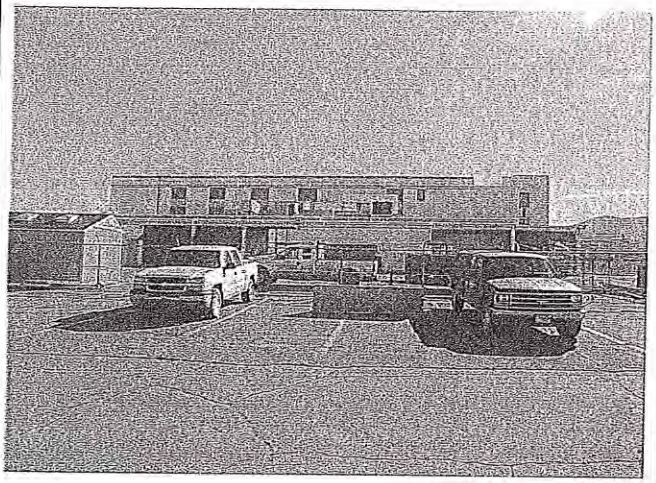


ABOVE: Front/side view of improvements from access on N. Last Chance Gulch. P1110145

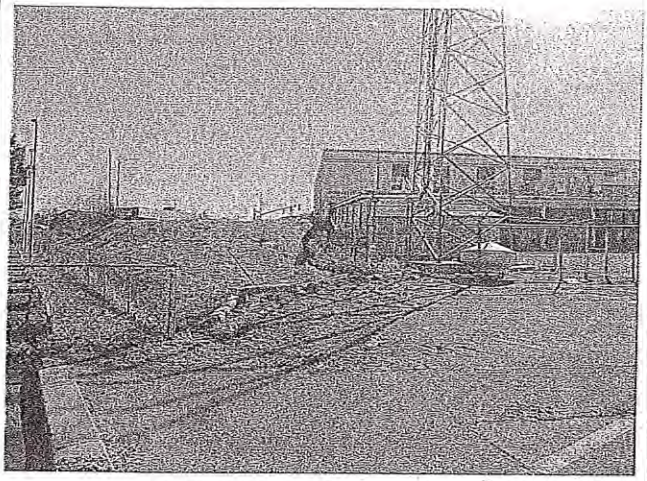
BELOW: Side/rear view looking southeast at improvements. 123913



BELOW: Side view of improvements from parking area looking southeast. 1110136



ABOVE: Rear/Side view looking southeast from central parking area. P1110137



ABOVE: Rear/side view from north/eastern boundary of site looking south. P1110138

BELOW: View of western portion of site leased to city for park looking west. P1110162

BELOW: View of western portion of site leased to city for park looking north/west. P1110161

J. MICHAEL JOKI, MAI, SRA
P.O. BOX 281
HELENA, MONTANA 59624
Phone (406) 442-2159
FAX (406) 442-6196

January 22, 2016

Garett M. Bacon, Leasing Officer
State of Montana Department of Administration
General Services Division, Facilities Management Bureau
P.O. Box 200110
Helena, MT 59620-0110

RE: An appraisal of the multi-story warehouse building located at 920 Front Street in Helena, MT.

Dear Garett:

In accordance with your contract dated October 26, 2015 I have made the necessary inspection and analysis to appraise the above referenced property. The attached report provides the essential data and detailed reasoning employed in estimating my final value estimate. The report contains 61 pages.

I have appraised the property as a whole and owned in fee simple. I assume no responsibility for matters that are legal in nature nor do I render any opinion as to title.

The property being appraised is a two story warehouse building with a full basement that has a total square footage of 62,370 SF in the three levels. A portion of the first and second levels has finished office space. The site is 77,537 SF however this building functions on a 70,577SF site because 6,960 SF is leased to the adjoining property owner to the south. The land lease is considered in this appraisal report.

The value reported is qualified by certain definitions, assumptions and limiting conditions, and certification which is set forth within the attached report. The analysis contained herein is considered to be a summary appraisal report. This appraisal report is intended to conform with the Uniform Standards of Professional Appraisal Practice.

Based on my analysis, the market value of the subject property, as set forth, documented and qualified in the attached report under conditions prevailing on January 21, 2016 was:

SIX HUNDRED TWENTY TWO THOUSAND DOLLARS
$622,000*

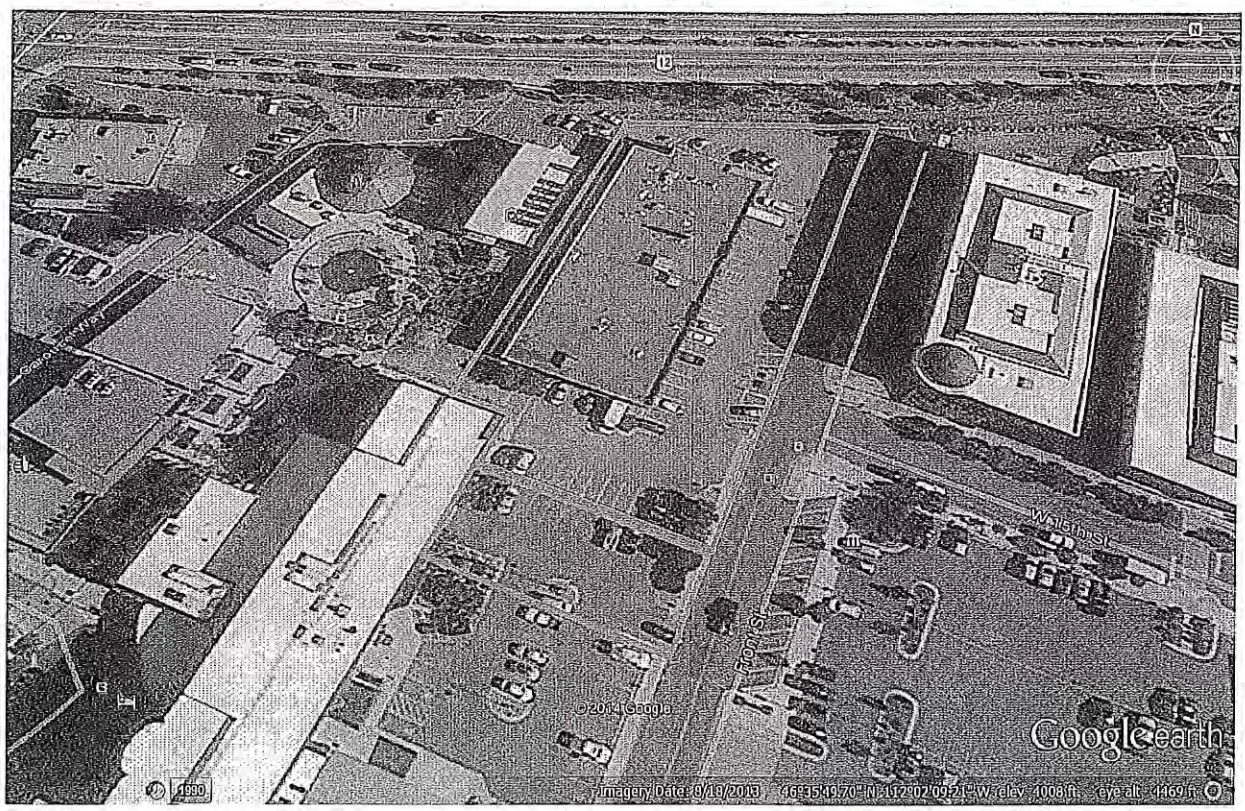
* Subject to the Extraordinary Assumption and Limiting Condition on page 8.

I direct your attention to the data, discussions and conclusions which follow.

Respectfully submitted,

J. Michael Joki, MAI, SRA
Montana State Certified
General Real Estate Appraiser #152

SUBJECT PROPERTY PHOTOGRAPH



The portion of the subject site that supports the warehouse building is outlined in green, and the leased portion of the subject site is outlined in blue. These boundaries are approximate.

General Process for a Land Exchange Involving Non-Trust Lands

1. The Agency conducting the exchange develops a proposal that describes the property to be exchanged, including the legal description(s) of the property.
2. The Agency may, at its election, notify the Governor's Office of the anticipated land exchange.
3. The Agency will comply will all requirements of the Montana Environmental Policy Act (MEPA) found at M.C.A. §75-1-101, *et seq.*
4. The Agency will comply with all requirements and restrictions found in the Montana Code Annotated, including but not limited to, M.C.A. §77-2-201, *et seq.*
5. The Agency will conduct an in-depth due diligence review of the properties to be exchanged. For example, this review could include a market value appraisal performed by a Montana General Certified Appraiser, a land title report, a Phase I Environmental Assessment, a water rights investigation, a mineral resource assessment, and a cultural/paleontological inventory.
6. The Agency will bring the item to the Land Board for final approval. For details on getting on the Land Board agenda, internal deadline calendars, meeting schedules, creating agenda items, etc., the Agency should contact the Land Board secretary at landboard@mt.gov or 406-444-6699.
7. Land Board will approve or disapprove the land exchange proposal and the closing of the transaction. If final approval is granted, the Agency will prepare closing documents and close the land exchange transaction.
8. The Agency will return the original Deed(s) to DNRC's Real Estate Management Bureau for inclusion in the records repository.

NOTE: Additional action is necessary when executing a land exchange concerning timbered, cut-over, or burned-over Lands pursuant to M.C.A. §77-2-211 *et seq.*

816-2

TIMBER SALES:

A. Clearview

B. Good Martin Skyline

Land Board Agenda Item
August 15, 2016

816-2A Timber Sale: Clearview

Location: Missoula County
Sections 9, 15, 16, 23 T16N R15W

Trust Benefits: Common Schools

Trust Revenue: $333,487 (estimated, minimum bid)

Item Summary
The Clearview Timber Sale is located approximately two miles south of Seeley Lake, MT. The sale includes 11 harvest units (*707 acres*) of tractor logging. The estimated harvest volume is 26,013 tons (*3,507 MBF*) of sawlogs. The minimum bid is $12.82 per ton, which would generate approximately $333,487 for the Common School Trust and $88,184 in Forest Improvement fees. This sale area is within the Habitat Conservation Plan (HCP) project area and complies with the commitments outlined in the HCP.

This sale has a harvest prescription of shelterwood and individual tree selection. Current species mix over the 11 harvest units includes Douglas-fir, western larch, ponderosa pine, and lodgepole pine. These treatments will favor healthy western larch, ponderosa pine, and Douglas-fir. Tree spacing is random and based on tree quality to develop an irregular pattern. Two or three selected, desirable trees may be retained standing in close proximity to one another. Removal of interlocking tree crowns and ladder fuels is desirable. All harvest treatments are meant to promote appropriate species composition and desired future conditions, improve stand growth and vigor, and manage the parcels for healthy and biologically diverse forests to provide long-term income for the trusts. The treatments also reduce stand densities and fuel loading conditions to help comply with Seeley Lake Primary Line of Defense from the 2013 Seeley-Swan Fire Plan of Missoula County. There are 107 acres of old growth in the project area. Old growth will be treated with restoration or maintenance treatments and will keep old growth status post-harvest.

Department of Natural Resources and Conservation (DNRC) is proposing five miles of road construction, nine miles of road maintenance, and 1.3 miles of road abandonment. There is no public motorized use allowed currently and there will be no change to restrictions post-harvest.

Access is obtained via an easement from Weyerhaeuser Company and a Temporary Road Use Permit from Clearwater-Blackfoot LLC.

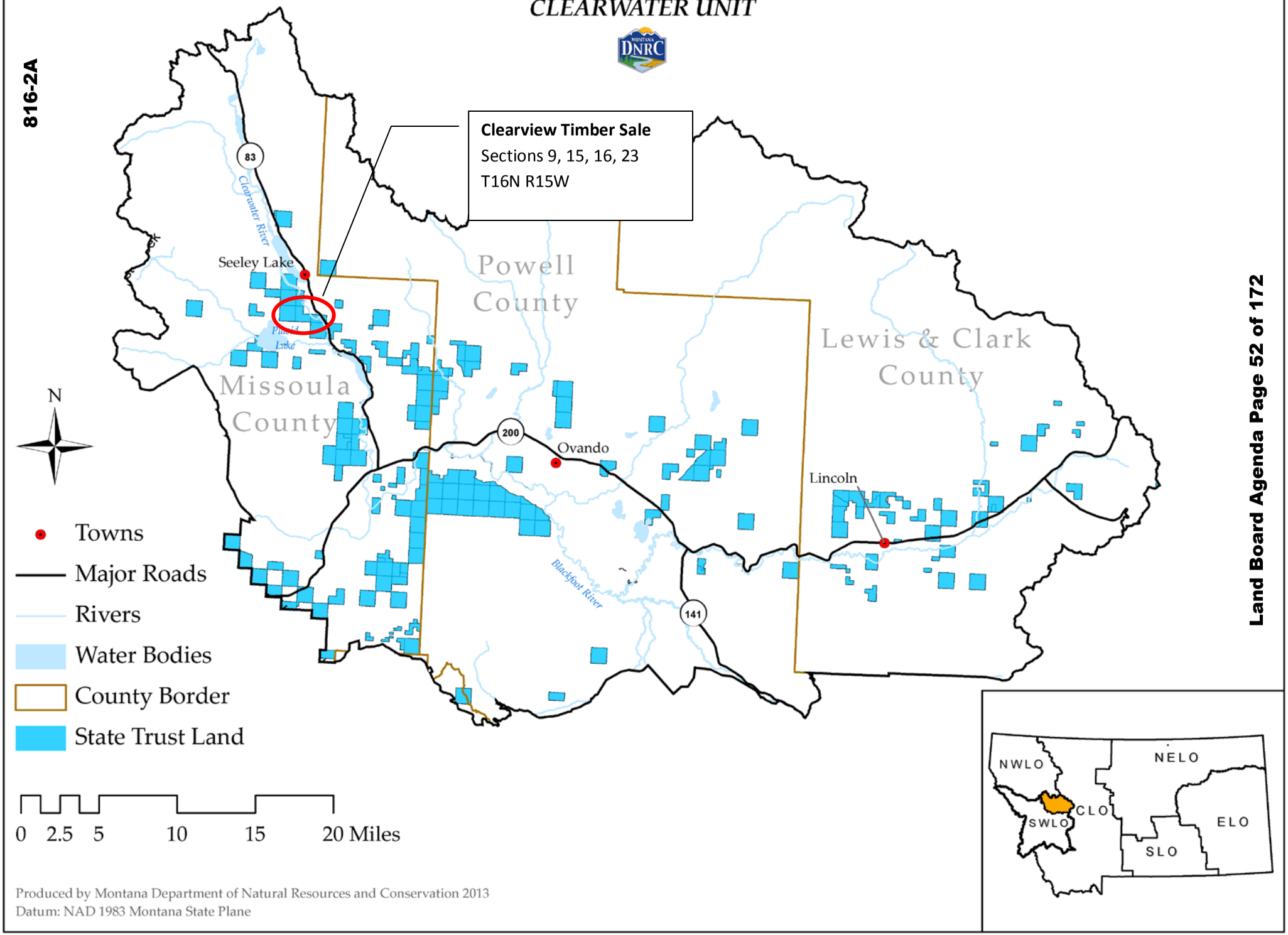
Scoping letters were mailed to interested parties in August 2010. The scoping notice was also posted on the DNRC website and placed in the *Missoulian* and the *Seeley-Swan Pathfinder*. Notices were posted at the Clearwater Unit office and Stoney's Gas Station at Clearwater Junction. Two comments were received. One comment was from Montana Department of Fish, Wildlife, and Parks regarding project recommendations for fisheries, riparian areas, and wildlife. Recommendations about wildlife included roads, harvest patterns, wetlands, large trees, and snags. These concerns were mitigated in project design. The Confederated Salish and Kootenai Tribes were concerned about the possibility of an Indian trail route and lithic scatter traces being located in the project area. These concerns were alleviated when it was found that the proposed management areas are not located within the areas of the cultural concerns.

DNRC Recommendation
The director recommends the Land Board direct DNRC to sell the Clearview Timber Sale.

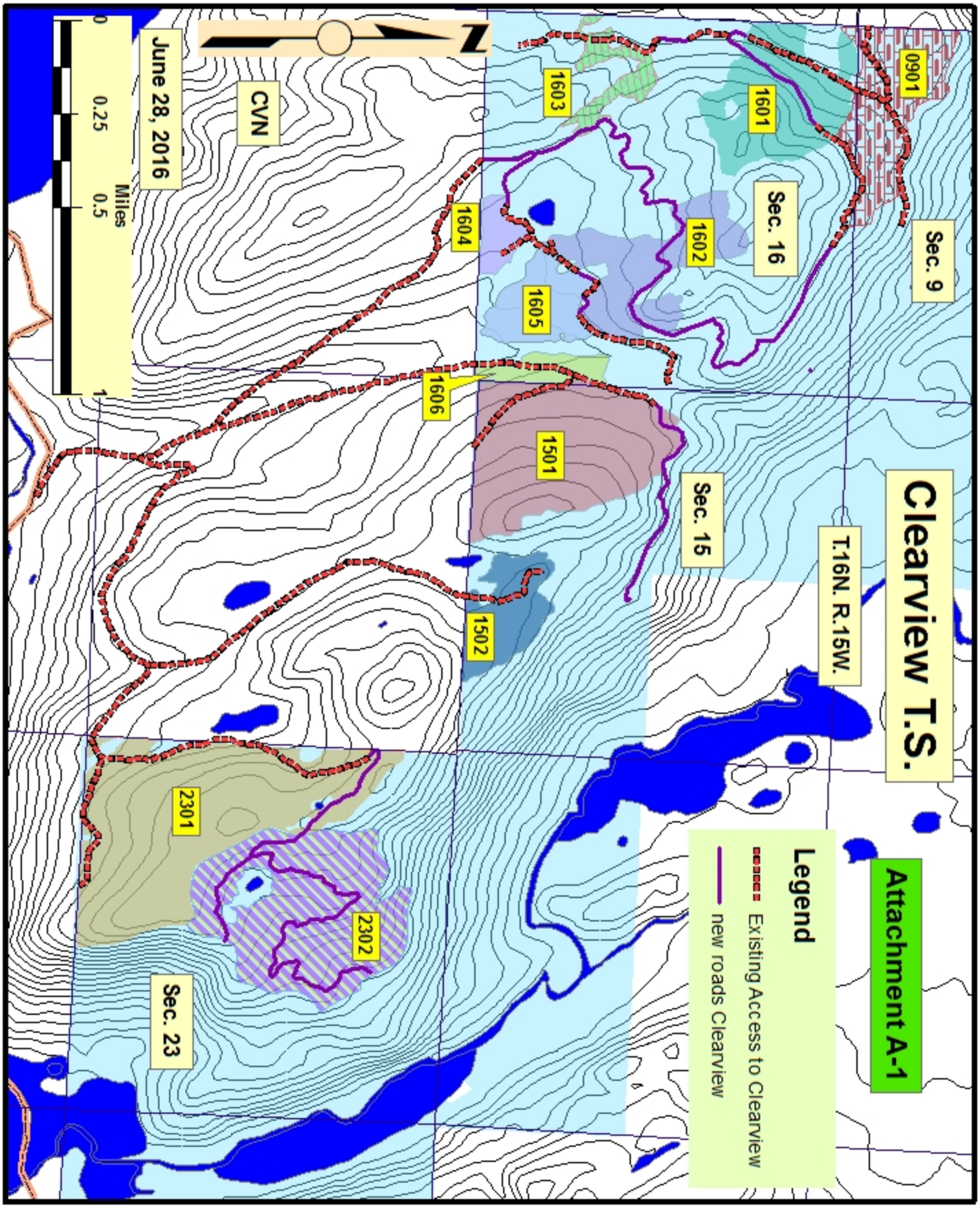
CLEARVIEW TIMBER SALE VICINITY

CLEARWATER UNIT

816-2A



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


Clearview T.S.
Attachment A-1
T.16N. R.15W.
Legend
Existing Access to Clearview
new roads Clearview
Sec. 9
Sec. 16
Sec. 15
Sec. 23
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1602
1603
1604
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June 28, 2016
Miles
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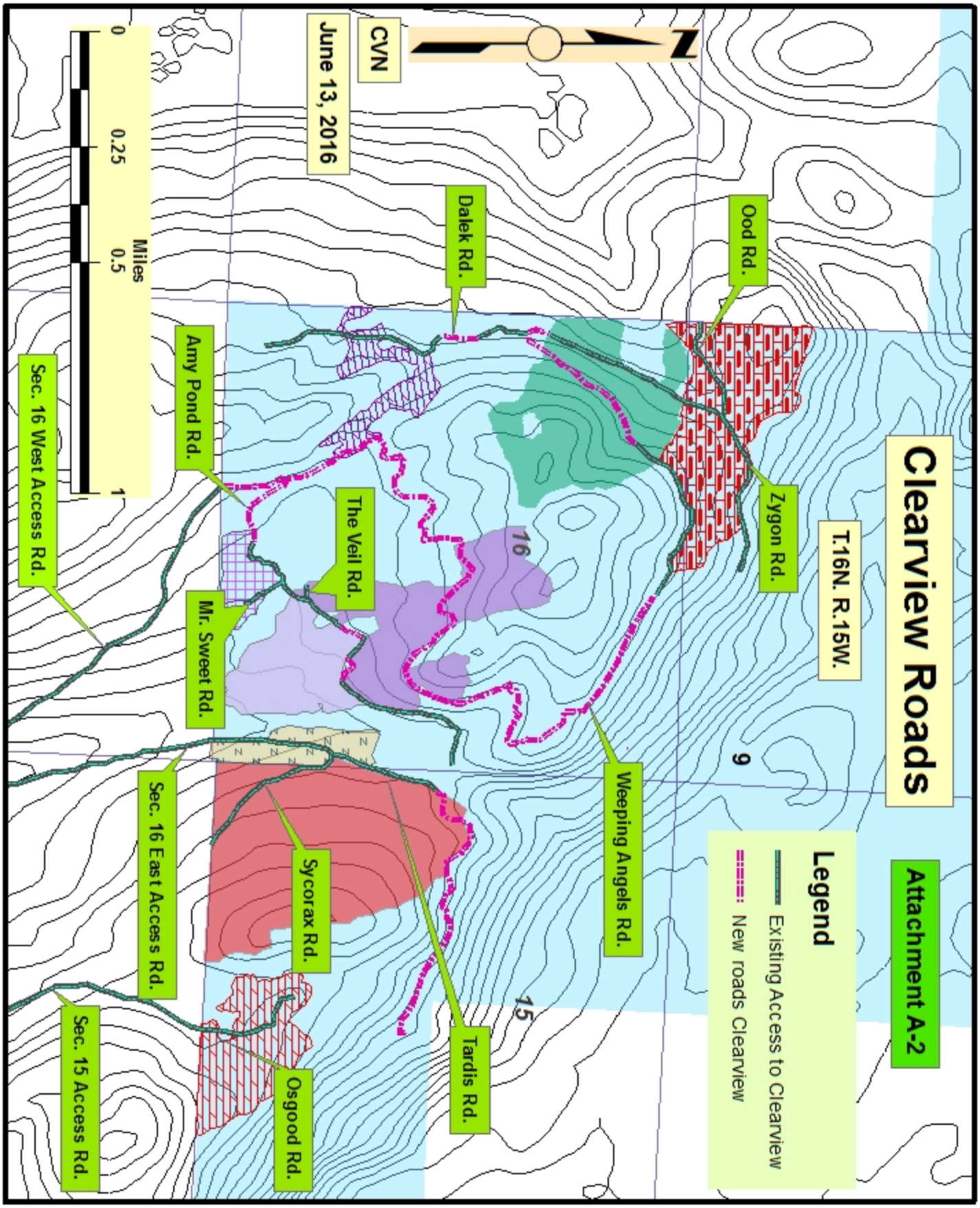
Clearview Roads
Attachment A-2
T.16N. R.15W.
Legend
Existing Access to Clearview
New roads Clearview
Ood Rd.
Zygon Rd.
Dalek Rd.
Weeping Angels Rd.
Amy Pond Rd.
The Veil Rd.
Mr. Sweet Rd.
Sec. 16 West Access Rd.
Sycorax Rd.
Sec. 16 East Access Rd.
Tardis Rd.
Osgood Rd.
Sec. 15 Access Rd.
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June 13, 2016
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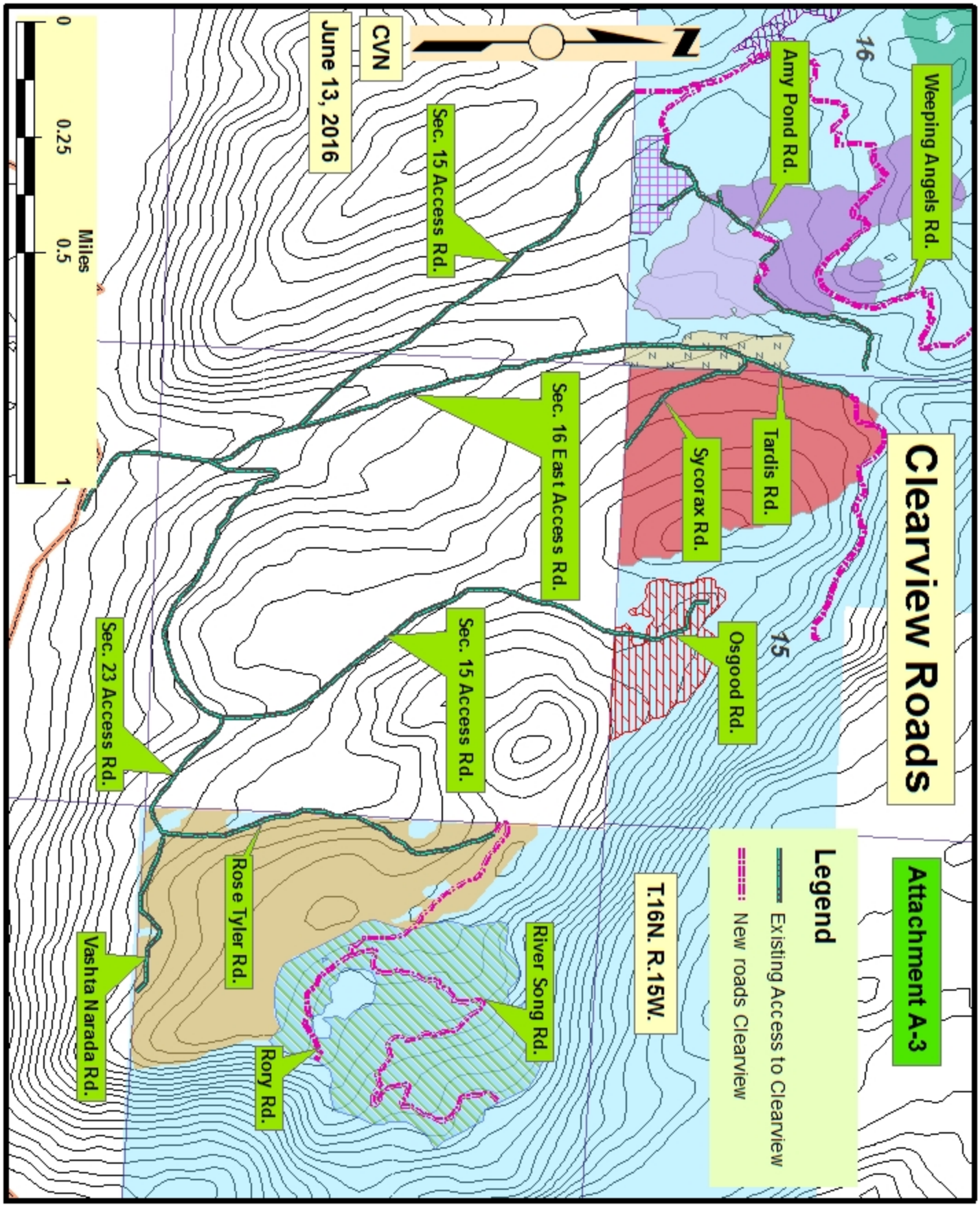
Attachment A-3
Clearview Roads
Legend
Existing Access to Clearview
New roads Clearview
T.16N. R.15W.
Weeping Angels Rd.
Amy Pond Rd.
Tardis Rd.
Sycorax Rd.
Osgood Rd.
Sec. 15 Access Rd.
Sec. 16 East Access Rd.
Sec. 15 Access Rd.
Sec. 23 Access Rd.
River Song Rd.
Rose Tyler Rd.
Rory Rd.
Vashta Narada Rd.
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June 13, 2016
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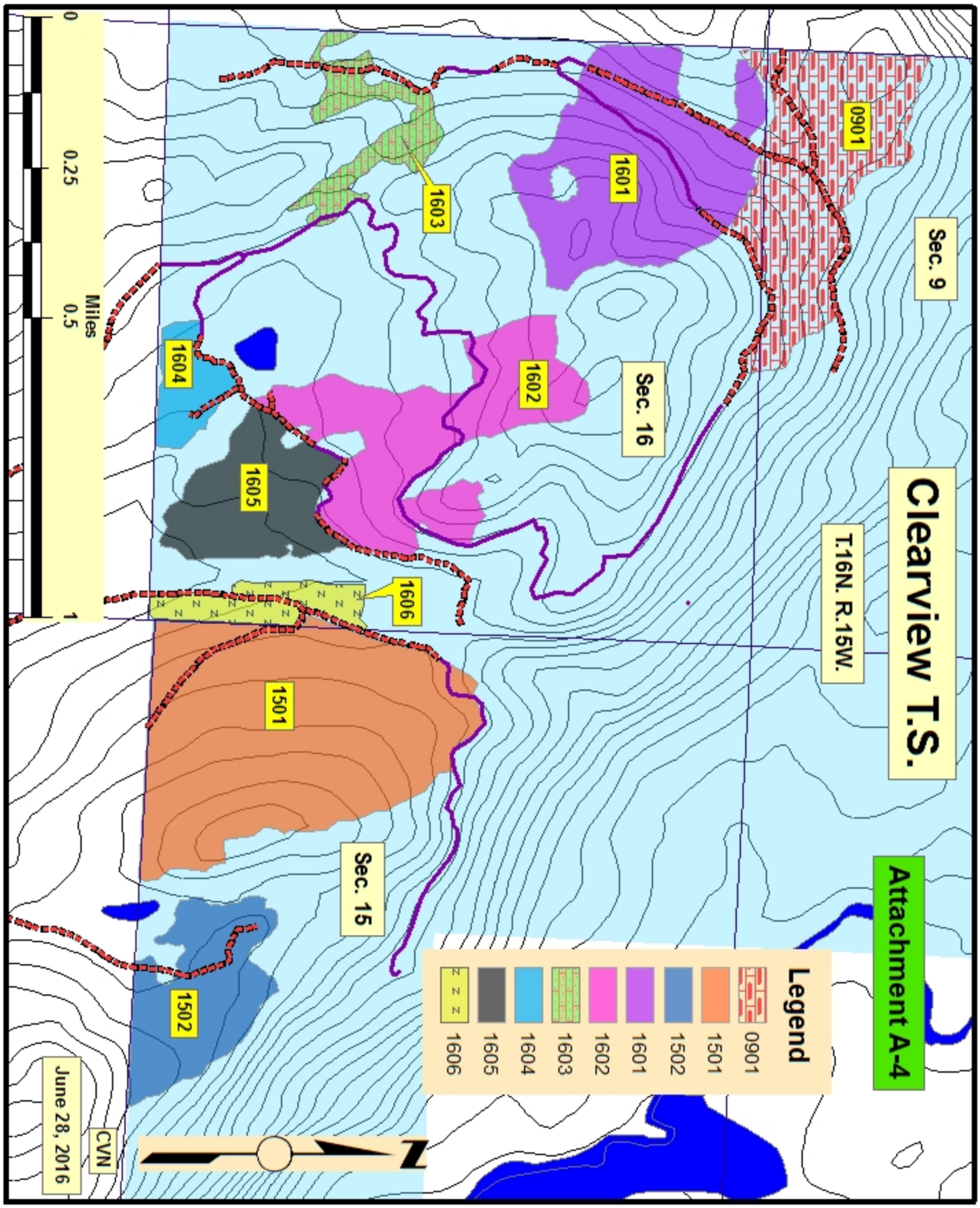
Clearview T.S.
Attachment A-4
T.16N. R.15W.
Sec. 9
Sec. 16
Sec. 15
0901
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1603
1604
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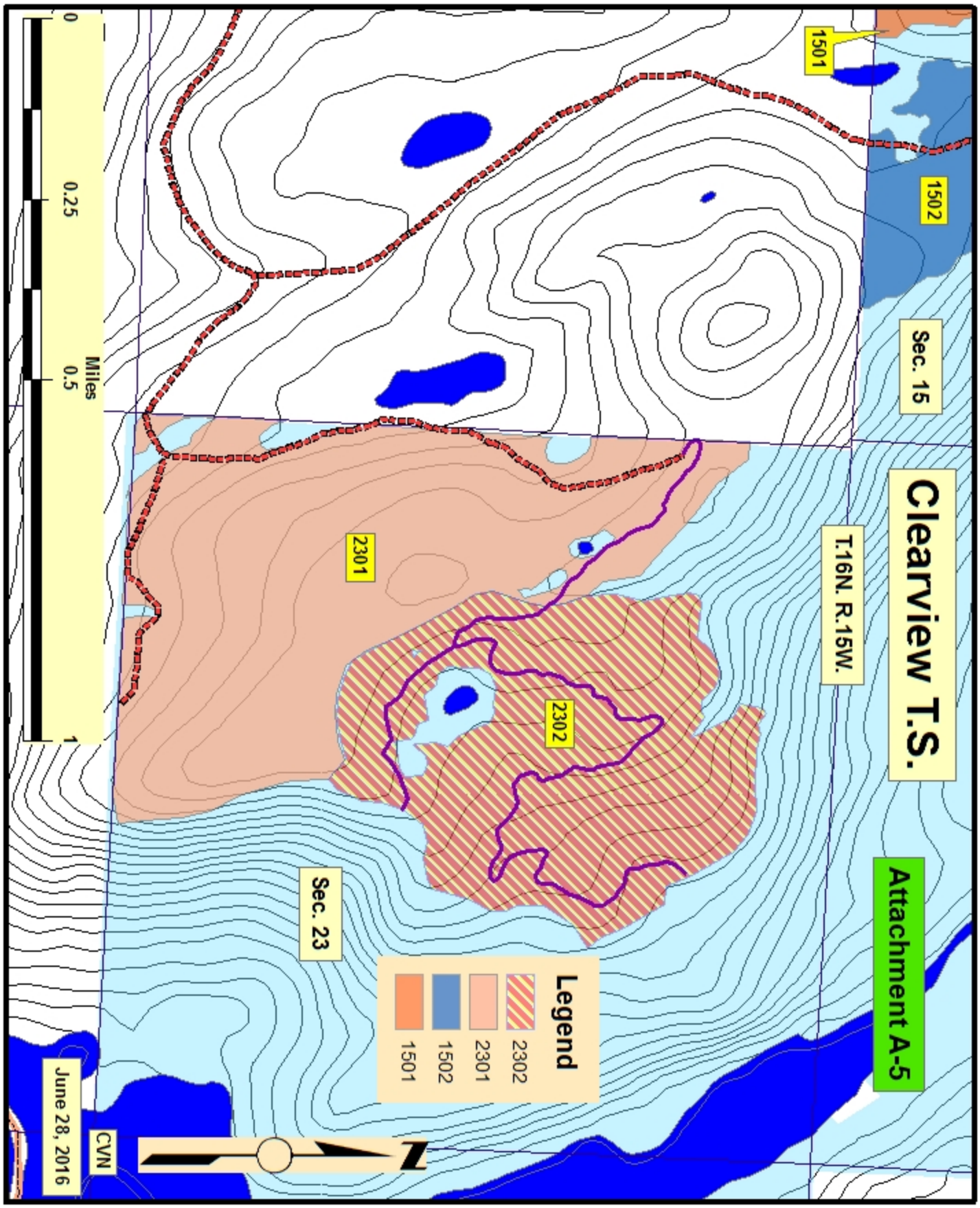
CVN
June 28, 2016


Clearview T.S.
Attachment A-5
T.16N. R.15W.
Sec. 15
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Miles
CVN
June 28, 2016

Land Board Agenda Item
August 15, 2016

816-2B Timber Sale: Good Martin Skyline

Location: Flathead County
Section 28 & 33 T32N R23W

Trust Benefits: Eastern College - MSU/Western Montana - UM and MSU 2nd Grant

Trust Revenue: $86,152 (estimated, minimum bid)

Item Summary

The Good Martin Skyline Timber Sale is located approximately 11 miles northwest of Whitefish, Montana. The sale includes two harvest units (*65 acres*) of skyline logging. The estimated harvest volume is 4,585 tons (*851 MBF*) of sawlogs. The minimum bid is $18.79 per ton, which would generate approximately $86,152 for the Eastern College - MSU/Western Montana - UM and MSU 2nd Grant (ACB) Trust and $24,804 in Forest Improvement fees. The sale area is within the Habitat Conservation Plan (HCP) project area and complies with the commitments outline in the HCP.

This sale has a harvest prescription of seed tree treatment with reserves. The current species mix over the two harvest units includes Engelmann spruce, western larch, Douglas-fir, lodgepole pine, and subalpine fir. Harvest treatments have been developed to promote timber production and conversion to the desired species mix within stands. Post-harvest, all but nine acres will be planted with western larch, Engelmann spruce, and Douglas-fir. The nine acres not being planted are too wet, or have pockets of advanced regeneration that Department of Natural Resources and Conservation (DNRC) is retaining and would not need additional trees. The project will treat 36 acres of old growth stands. The 36 acres are expected to remain old growth following treatment. The seed tree harvest within the old growth stand is 4.8 acres in size.

Access is obtained via one county road and state forest roads.

DNRC is proposing 1.1 miles of temporary road construction that would be reclaimed post-harvest. DNRC is also proposing 1.9 miles of road maintenance on state forest road. The only current restriction on motorized use is on the existing two-track road into Unit two. People have breached the three earthen barricades on the road before, and post-harvest DNRC will close the road with more barricades, logs, and slash to make the closure more effective.

Scoping letters were mailed to adjacent landowners and interested parties in July 2015. The notice was also posted on the DNRC website and placed in the *Whitefish Pilot* and Kalispell *Daily Inter Lake*. It was also posted at the Olney Post Office. DNRC received two phone calls, one letter, and five emails. A phone call and email were in general support of the project. A caller expressed concern about the increase in fire danger next to private property due to fuel loading. To address this concern, harvest units adjacent to private property would meet the high standard for reduction of logging slash. The remaining comments were all from a group of residents in the neighborhood located south of the sale area. All were concerned with log truck traffic safety, wear and tear of the road surface from trucks, and noise and dust resulting from truck traffic. These issues were addressed with the previous timber sale and were not an issue with this sale. Project design also mitigated issues with nest sites by implementing timing constraints. The project was designed to protect goshawk, red-tailed hawk and bald eagle nest sites and habitat. This was done primarily with timing constraints on harvesting and hauling during nesting periods, as well as retaining additional mature timber surrounding the nests. Dust

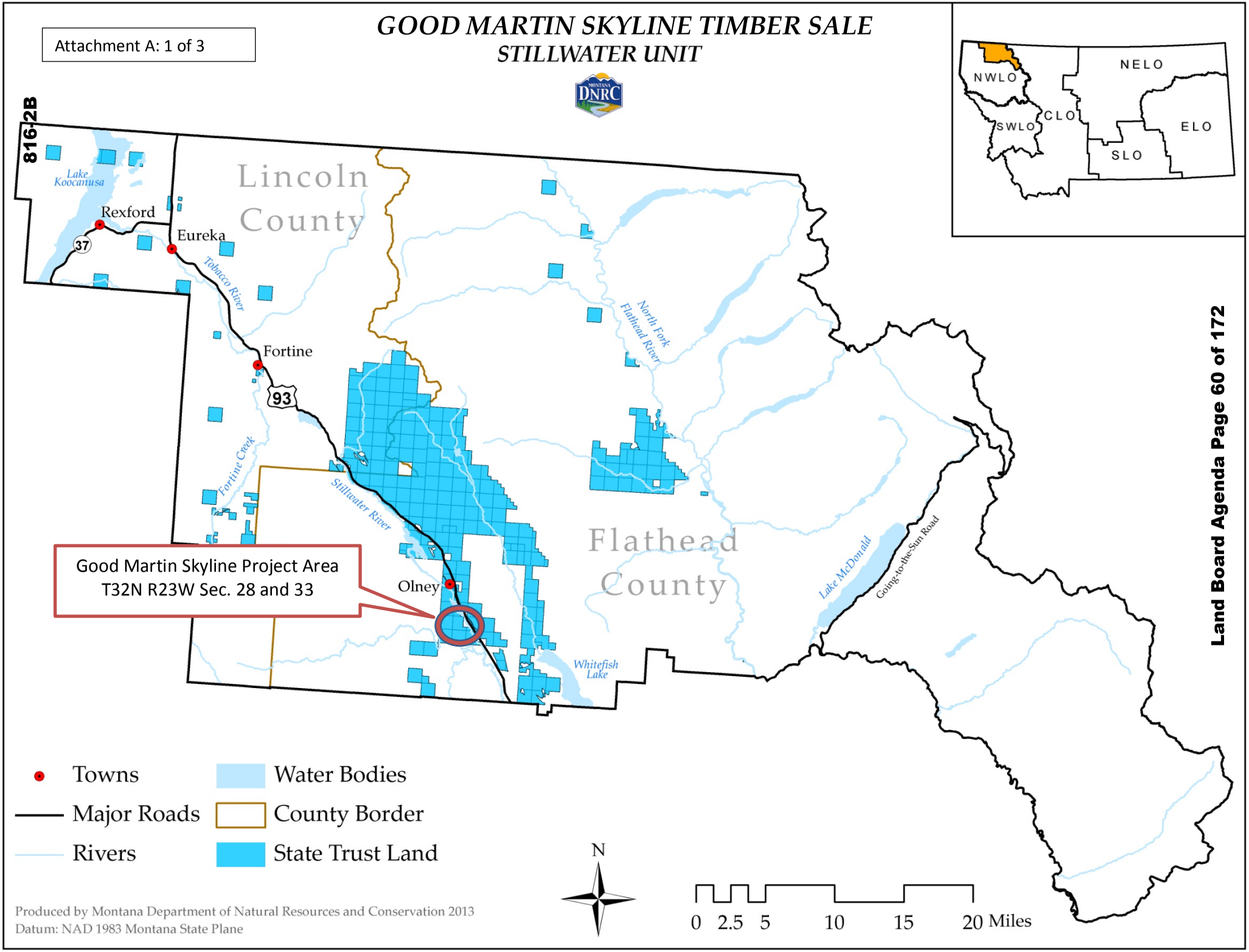
abatement on the gravel Martin Camp County Road would be applied if conditions warrant, which reduces effects of log hauling near residences.

DNRC Recommendation

The director recommends the Land Board direct DNRC to sell the Good Martin Skyline Timber Sale.

Attachment A: 1 of 3

GOOD MARTIN SKYLINE TIMBER SALE
STILLWATER UNIT



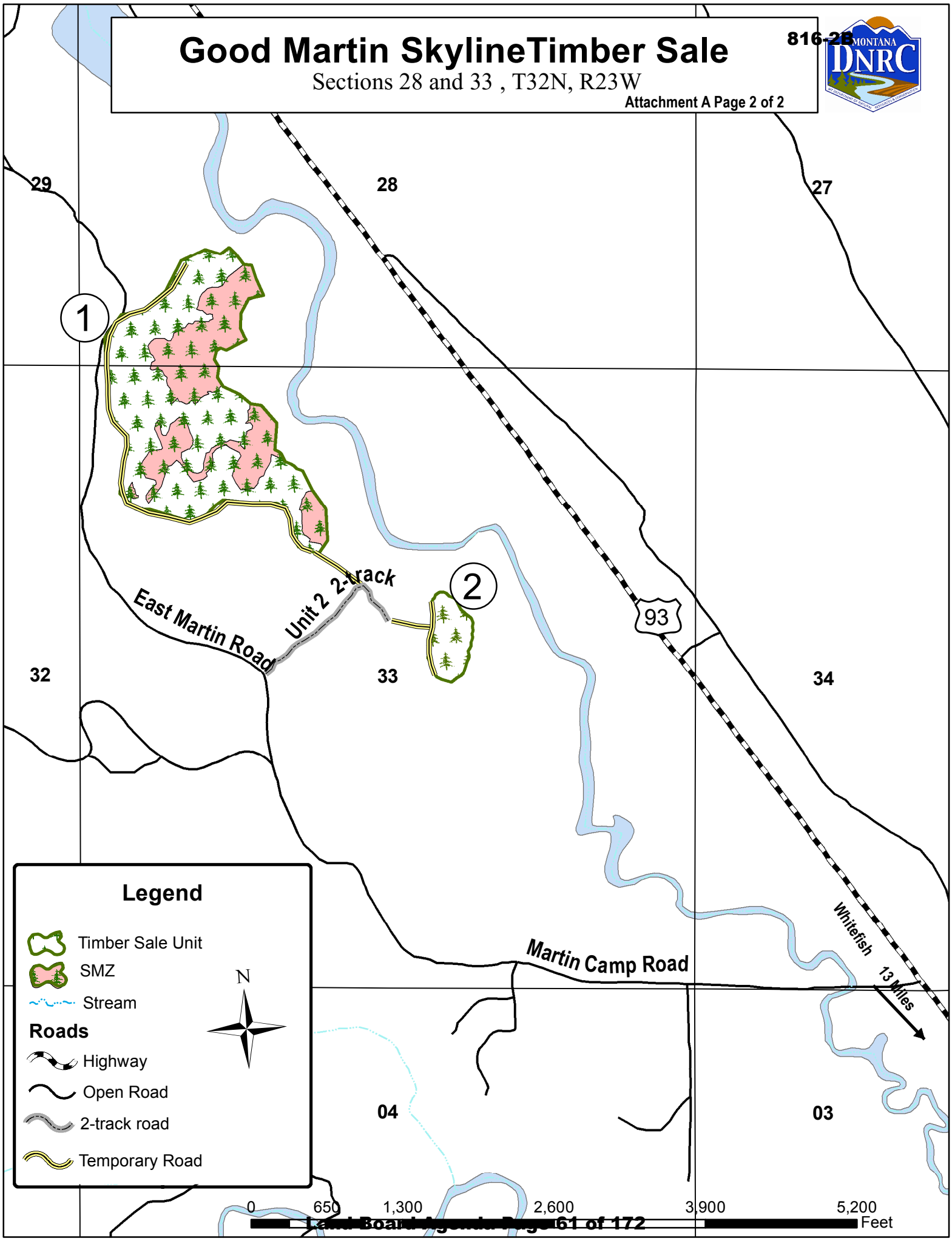
Produced by Montana Department of Natural Resources and Conservation 2013
Datum: NAD 1983 Montana State Plane

Good Martin SkylineTimber Sale

Sections 28 and 33 , T32N, R23W

816-28

Attachment A Page 2 of 2

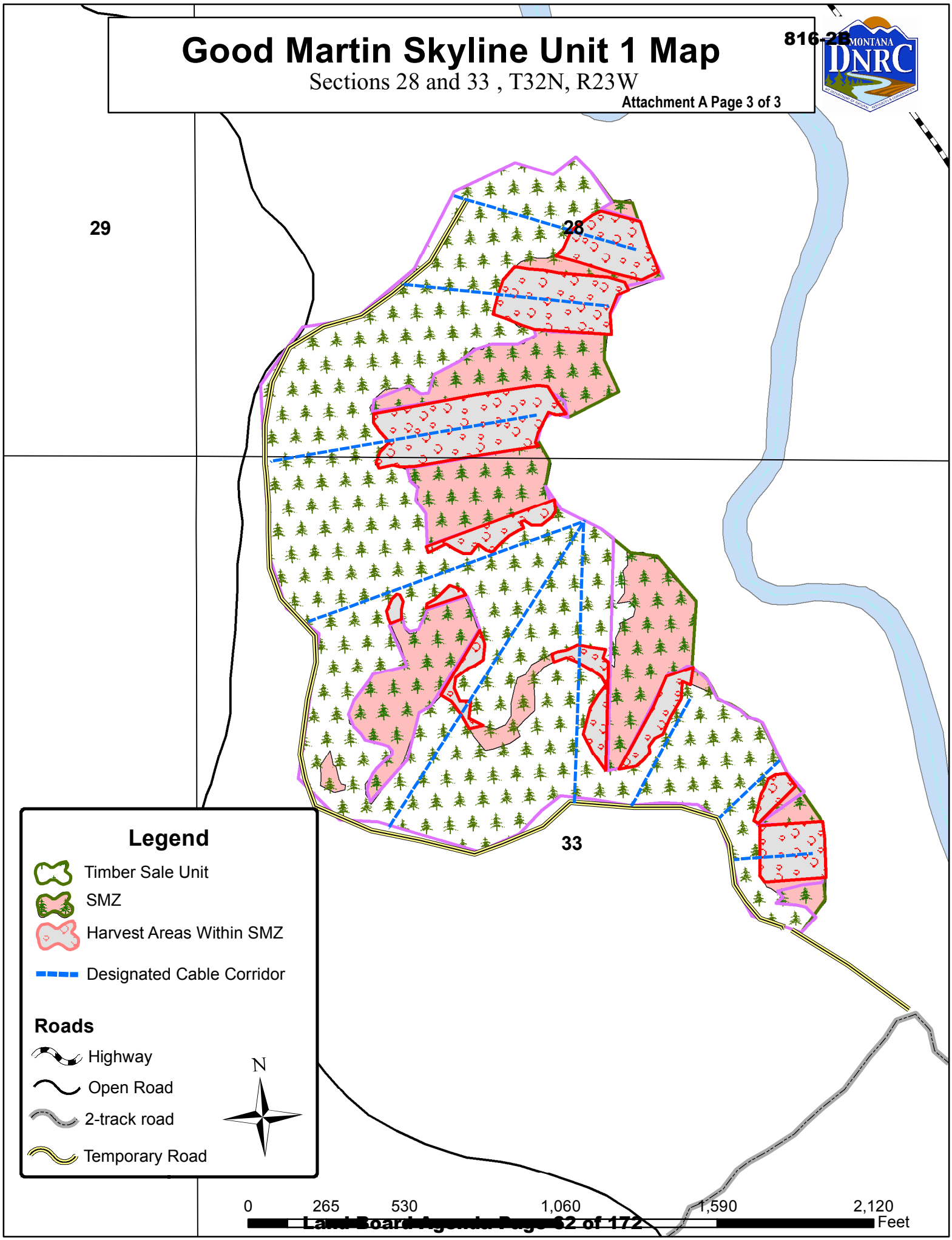


Good Martin Skyline Unit 1 Map

Sections 28 and 33 , T32N, R23W

816-28

Attachment A Page 3 of 3



816-3

SALE OF CABIN AND HOME SITE:

Final Approval for Sale – Sale 783

Land Board Agenda Item
August 15, 2016

816-3 Sale of Cabin and Home Sites: Final Approval for Sale – Sale 783

Location: Missoula County

Trust Benefits: MSU 2nd Grant

Trust Revenue: $71,500

Item Summary
The Department of Natural Resources and Conservation (DNRC) is requesting final approval on one cabin site nominated for sale in Missoula County. The sale was nominated by the lessee in conjunction with the Cabin and Home Site Sale Program.

Sale #	# of Acres	Legal	Nominator	Trust
783	1.31	Parcel A – COS 6101, Six Mile T15N-R22W, Sec. 12	Robynn McKinley-Marsh	MSU 2nd

Sale parcel 783 is currently leased as a cabin 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 the sale parcel 783 is 5.47%. This parcel would continue to receive this return if it remains in state ownership.

Long term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through DNRC'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 2.64% 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 sale. Home sites typically contain numerous structures and the ground surfaces within most home sites have been disturbed over the course of many years of occupation and development. This sale of will have no effect to state owned heritage properties.

Background:
In July 2015, the board granted preliminary approval for this parcel to continue through the cabin site sale evaluation process. In May 2016, the board set the minimum bid for the land and the maximum value of compensation for the improvements at the values below:

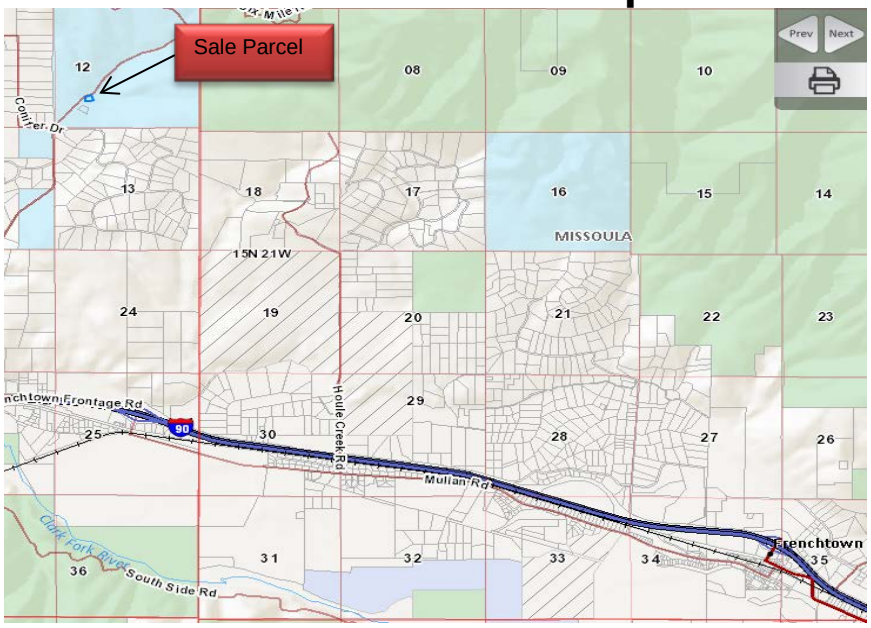
Sale #	Minimum Bid of Land	Value of Improvements
783	$71,500	$125,000

At the request of the lessee and in accordance with 77-2-317(1)(c), an informal administrative hearing was held on March 25, 2016 to contest the valuations of both the land and improvements under consideration for sale. The Hearing Examiner issued a *Recommendation Of Minimum Bid For The Sale Of Lot A, Sixmile Cabin Site Sale No. 783*, recommending that the Land Board set the minimum bid for sale of the land at $71,500 and the maximum value of compensation for the improvements at $125,000, based upon consideration of two competing appraisals submitted by DNRC and Robin McKinley-Marsh. The Hearing Examiner determined that both appraisals were prepared by licensed real estate appraisers, complied with the Uniform Standards of Professional Appraisal Practice, and provided reasonable estimates of the current fair market value of the subject property and its improvements. The Department finds that, in this instance, it was reasonable to average the competing appraisals to arrive at the market value of the land and improvements.

Sale Price:
The cabin site lot was sold at a public auction on July 19, 2016. The parcel had only one bidder, who was the lessee and owner of the improvements; the parcel was sold for the minimum bid amount listed above.

<u>DNRC Recommendation</u>
The director recommends final approval for the cabin site lot at the value shown above. The sale will be closed within 30 days of final approval by the board.

Sale Location Map



816-4

COMMERCIAL LEASE:

Proposed Solar Development

816-4 Commercial Lease: Proposed Solar Development

Location: Yellowstone County

Trust Benefits: Common Schools

Trust Revenue: $67,500 annually

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting approval to issue a long term lease for development of approximately 450 acres within part of Section 8 and Section 10, of Township 1N, Range 25E, in Yellowstone County.

A request for proposal was issued for a commercial lease and development of the land, and one proposal was received. MTSun, LLC whose address is P.O. Box 900083, Sandy, UT 84093, proposed to lease the land for development of a 70MW solar farm.

The proposal includes an Option to Lease for up to two years, followed by an initial lease term of 30 years. The Option to Lease, including the Lease, is included in this item.

Total Lease Area:

450 acres.

Revenue:

In 2016, grazing revenue from both tracts totaled $4,000.

	Under Option to Lease	**Commercial Lease** Annual Rent Due is the Higher of these Factors		
Land Value	**Annual Option Fee at 1.5% of Land Value**	**Annual Base Rent at 5% of Land Value** (minimum rent)	**3% of Gross Revenues**	**$3,000 per MW Installed Capacity**
$1,350,000	$20,250	$67,500	TBD Each Year	+/- $200,000

Other Information:

1. Existing Grazing Lease – The grazing Lessee of both sections is aware of potential development and subsequent impacts to the grazing lease area. The Option to Lease is contingent upon settlement for improvements by the incoming commercial lessee.
2. Sage Grouse – The Lease area is located within General Habitat for sage grouse. The Montana Sage Grouse Habitat Conservation Program completed a review of the proposed development and concluded that the activities are consistent with the Montana Sage Grouse Conservation Strategy, and that the proposed development is not within two miles of an active sage grouse lek. The Program also provided recommendations for weed management and reclamation of disturbed areas.
3. MEPA – MEPA will be completed during the Option to Lease period, and the terms of the Option to Lease are contingent upon the final MEPA decision.

DNRC Recommendation

The director recommends the Land Board approve the issuance of a commercial lease agreement to MTSun, LLC.

MONTANA DEPARTMENT OF NATURAL
RESOURCES & CONSERVATION

OPTION TO LEASE AGREEMENT

This Option to Lease Agreement, is entered into this 1st Day of September, 2016, by and between the Montana Department of Natural Resources and Conservation, whose address is P.O. Box 201601, Helena, MT 59620 (hereinafter referred to as the "Department") and MTSun, LLC, whose address is P.O. Box 900083, Sandy, UT 84093 (hereinafter referred to as the "Optionee").

GRANT OF OPTION: In consideration of Twenty Thousand Two Hundred and Fifty and no/100 Dollars ($20,250.00) payment and receipt of which is hereby acknowledged, the Department grants to the Optionee a non-assignable option to lease premises described in Exhibit "A", attached hereto upon those terms and conditions as in the form, terms, and conditions of that lease agreement attached hereto as Exhibit "B", and incorporated herein as if fully set forth.

This Option to Lease shall remain in effect from the date of this Option to Lease Agreement until 12 noon Mountain Time on the 31st Day of August, 2018, at which time it will expire and terminate automatically.

MANNER OF EXERCISE OF OPTION: The Optionee may exercise the option granted in the preceding paragraph at any time before the expiration of the option period by giving written notice of exercise of the option to the Department, at the address of the Department set out above (the "Option Exercise Notice"). The Option Exercise Notice must specify the date upon which the lease is to commence, which date may not be less than thirty (30) or more than sixty (60) days from the date of the Option Exercise Notice, and which date is not required to be within the term of the option as long as the Option Exercise Notice is given prior to the expiration of the term of the option. If no date is specified, the lease term will begin immediately, as of the date of the Option Exercise Notice. The Option Exercise Notice must be accompanied by a check for the full amount of one year's rent plus the amount of any security deposit specified in the lease agreement attached hereto as Exhibit "B".

EXECUTION OF LEASE AGREEMENT: Upon receipt of the Option Exercise Notice, the Department must prepare or cause to be prepared duplicate originals of the lease agreement which is attached as Exhibit "B". The Department will deliver these duplicate originals for execution to the Optionee within thirty (30) days after receipt of the Optionee's notice of exercise of the option. The Optionee must deliver the fully executed duplicate lease agreements to the Department within fourteen (14) days after receipt by the Optionee.

RESEARCH AND DUE DILIGENCE AUTHORIZED: Through the term of this Option to Lease, Optionee is permitted to access the option to lease premises for the limited purpose of conducting due diligence, data collection, and environmental research, in accordance with the following activities.

PERMITTED ACTIVITIES:

1) Meteorological data gathering which includes placement of anemometer towers or

other wind or solar energy measurement devices, with prior written approval, not to be unreasonably withheld, by Department.

2) Conduct environmental monitoring and studies, including, but not limited to such activities as: wildlife observational work, placement of wildlife data gathering instruments (e.g. bat echolocation), cultural resource surveys, soil and vegetation data collection and geotechnical drilling. The Optionee shall obtain prior written approval, not to be unreasonably withheld, from Department for the locations of all geotechnical borings in order to minimize interference with the Surface Lessee and potential cultural resource locations. The boring sites shall be reclaimed pursuant to the Reclamation section listed below.
3) Other activities necessary for the Optionee in their due diligence for the proposed lease activity and to obtain environmental information for use in the MEPA analysis.

At all times the Optionee will maintain the area within the Option to Lease Premises in a neat and orderly manner and will allow no waste or debris to accumulate thereon.

ACCESS TIMING RESTRICTIONS: Optionee must contact Department for approval prior to accessing the option to lease premises during the option period. Department reserves the right to restrict or preclude any activity to the extent necessary for environmental concerns, safety, or other land management reasons, provided that Department shall make a good faith effort to ensure that Optionee's due diligence activities are reasonably accommodated during the Option term.

Potential restrictions include but are not limited to:

- motorized use during the Montana Fish Wildlife & Parks approved archery and general hunting seasons for antelope and deer.
- motorized use to minimize disruptions during breeding or nesting seasons for threatened or endangered species.

MOTORIZED TRAVEL: Unless Department's prior written approval is first obtained, motorized travel is permitted on established roads only. Off-road travel may be permitted, but prior written approval (which shall not be unreasonably withheld) from Department must be obtained. Department reserves the right to review and approve all motorized access routes on the state land and to restrict motorized travel to dry or frozen conditions unless prior approval is obtained from Department. Optionee shall provide Department with a map or site plan showing the proposed roads or routes to be utilized. Department reserves the right to restrict access. No new road constructed is permitted without prior written approval from the Department.

WEEDS: Optionee shall be responsible for controlling all noxious weeds on the Premises that were introduced by Optionee's activities thereon.

RECLAMATION: Optionee shall take all reasonable precautions to prevent or minimize damage to natural (i.e., vegetation, soil, water, wildlife), and cultural resources within the areas of the Option to Lease. Optionee shall reclaim any disturbed areas in the option to lease premises to the specifications of Department. Such reclamation shall include, but not be limited to the elimination of all trace of disturbances, compaction, and movement of construction equipment. Optionee shall be required to reseed all disturbed areas with native species of

grasses, unless other arrangements are agreed upon between Department and Optionee in writing. The seed mix used in the reclamation shall be approved in advance by the Southern Land Office and shall also be consistent with requirements of the Montana Sage Grouse Habitat Conservation Program consultation letter. When any action requires disturbance, all soil materials shall be salvaged, safeguarded from loss due to wind or water erosion or machinery activity, and shall be replaced on all disturbed areas.

LIABILITIES: Optionee hereby assumes all responsibility for all claims, damages, and lawsuits that may result from any and all damages, injury or death to persons and/or property that occur upon or about said land caused by or arising out of Optionee's use of the subject area hereunder. The Optionee further agrees that they will be responsible for any damage caused when entering, crossing or leaving state-owned subject land.

STATE AG & GRAZING LESSEE CONTACT: Licensee must coordinate their activities on the Trust land with the State grazing lessee. A copy of the state grazing lease for the optioned premises is attached hereto as Exhibit “C” and incorporated herein by this reference. Department shall provide the state lessee’s contact information.

COMPENSATION TO FORMER LESSEE: The Premises includes a portion of the area described in the State of Montana Agricultural and Grazing Leases attached as Exhibit C. The Optionee shall compensate the Former Lessee of the State Agricultural and Grazing Lease, attached as Exhibit C, for any improvements affected by the withdrawal of the Lease Premises from that Agricultural and Grazing Lease. Improvements may include such items as the cost of fencing and stockwater tanks and/or pipelines.

CONTINGENCY: All terms of this Option to Lease are contingent upon an environmental review conducted in compliance with the Montana Environmental Policy Act (MEPA), and associated decision document signed by Department. Department will have the sole right to determine whether MEPA compliance shall consist of the completion of an Environmental Assessment (EA) or Environmental Impact Statement (EIS). The Department shall ultimately be responsible for signing a Record of Decision (ROD) or other appropriate decision document. Optionee and Department agree that the final decision for MEPA may require modifications to the attached lease document to ensure compliance with the MEPA decision.

LESSEE, MTSUN, LLC:

By: _____
Authorized Signatory

_____
Name and Title

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____ as authorized signatory of MTSUN, LLC.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

LESSOR, STATE OF MONTANA, DNRC:

By: _____
Michael Atwood, Bureau Chief
Real Estate Management Bureau

STATE OF MONTANA)
) ss:
COUNTY OF _____)

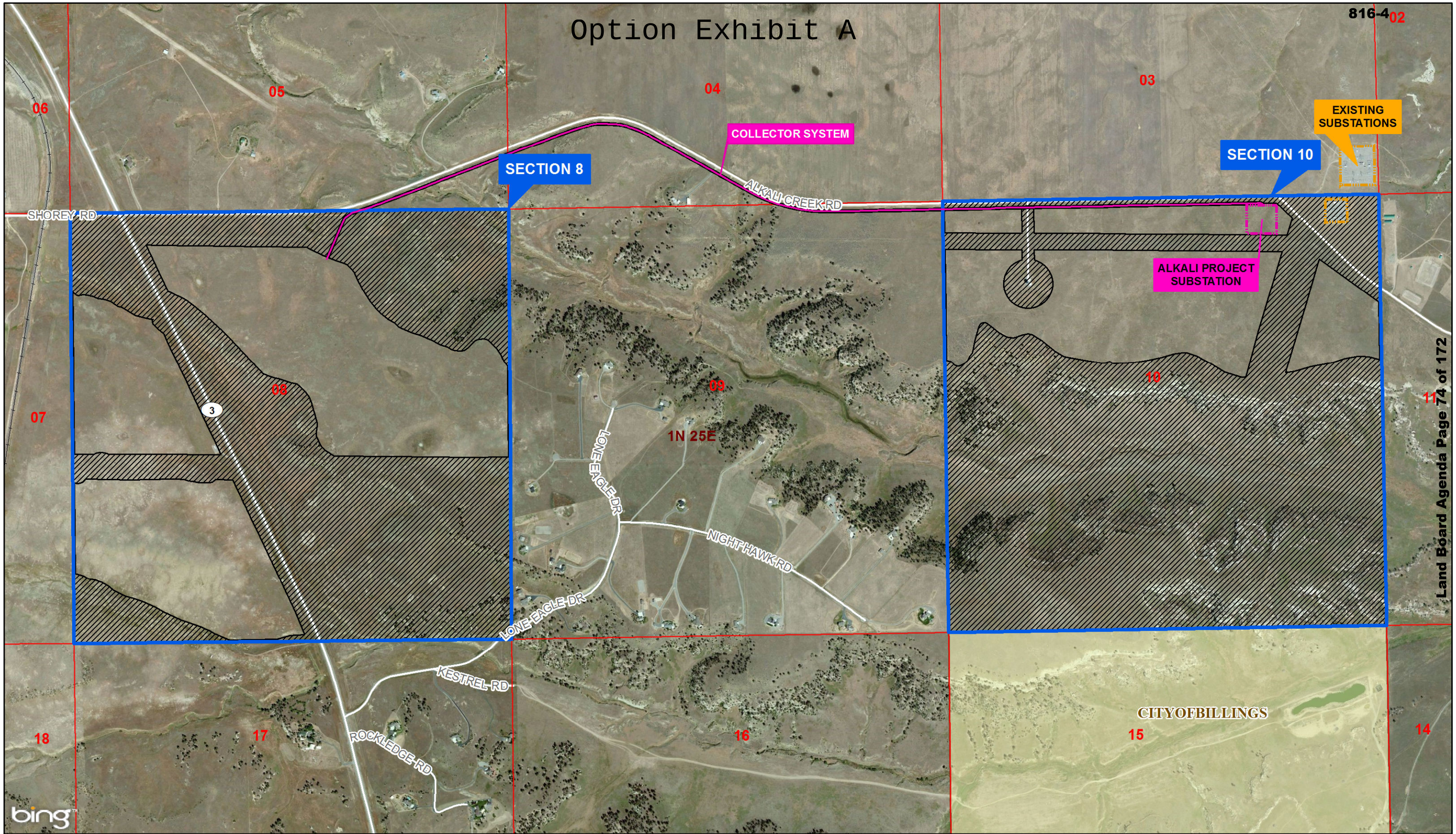
The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by Michael Atwood, Bureau Chief, Real Estate Management Bureau, State of Montana, DNRC.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

Option Exhibit A



LEGEND

Project Boundary
Development Area
Area not developed
Existing Substation
Collector System

0 1,000 2,000 Feet

	Development Area	Area Not Developed
Section 8	289.9	355.7
Section 10	160.8	483.0
Collector ROW	8.4	0.0
Total	459.1	838.7

ENERGY OF UTAH
POWER FOR PEOPLE

YELLOWSTONE COUNTY, MONTANA
ALKALI CREEK PV PROJECT

OVERVIEW MAP

OPTION TO LEASE
EXHIBIT B

MTSUN LLC
ALKALI CREEK COMMERCIAL LEASE
YELLOWSTONE COUNTY, MONTANA

LEASE NO. 3090006

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COMMERCIAL LEASE

THIS COMMERCIAL LEASE (this "Lease") is entered into as of the _____ day of ____ _____, (the "Commencement Date"), by and between the **Montana State Board of Land Commissioners**, whose address is P.O. BOX 201601 Helena, MT 59620-1601 (hereinafter referred to as "Lessor"), and **MTSUN, LLC**, a Montana company whose address is P.O. Box 900083, Sandy, UT 84093 (hereinafter referred to as the "Lessee").

1. LEASE TERMS AND PROPERTY DESCRIPTION.

Lease Number	Commencement Date	Term of Lease	Expiration Date
3090006		**30 Years**	

Land Located in Yellowstone County.

Description	Sec.	Twp.	Rge.	Acres
Portion of the N2	10	1N	25E	161
Portion of E2, N2	8	1N	25E	290

2. RENT SCHEDULE.

The rental fee for any given year shall be the **greater** of either:

(1) The Base Rent; OR
(2) 3% Gross Annual Revenues; OR
(3) $3,000 per megawatt ("MW") per year of installed capacity, as increased by 2% at five year increments.

After year 30, the land value will be reviewed, and an appraisal may be secured to reevaluate the Base Rent. See Section 7 below.

Table is based on a start date of September 1, 2018, after 2 years under an Option.

Lease Year	Description	Due Date	Adjustment Period Escalator	Base Rent (Minimum Rent)	3% of Gross Annual Revenue	Fee/MW Installed Capacity
1	First Lease Year Paid in Advance	9/1/18	0	**$67,500**	**NA**	**NA**
Installation Fee	Installation Fee due after First Lease Year **$72,000**	9/1/19	0	**NA**	**NA**	**NA**
2	Paid in Arrears	9/1/20	2%	**$67,500**	**NA**	**NA**
3	Paid in Arrears	9/1/21	2%	**$68,850**	**NA**	**$108,000**
4	Paid in Arrears	9/1/22	2%	**$70,227**	**TBD**	**$216,000**

5	Paid in Arrears	9/1/23	*2%*	**$71,632**	TBD	**$216,000**
6	Paid in Arrears	9/1/24	*2%*	**$73,064**	TBD	**$216,000**
7	Paid in Arrears	9/1/25	*2%*	**$74,525**	TBD	**$238,481**
8	Paid in Arrears	9/1/26	*2%*	**$76,016**	TBD	**$238,481**
9	Paid in Arrears	9/1/27	*2%*	**$77,536**	TBD	**$238,481**
10	Paid in Arrears	9/1/28	*2%*	**$79,087**	TBD	**$238,481**
11	Paid in Arrears	9/1/29	*2%*	**$80,669**	TBD	**$238,481**
12	Paid in Arrears	9/1/30	*2%*	**$82,282**	TBD	**$263,303**
13	Paid in Arrears	9/1/31	*2%*	**$83,928**	TBD	**$263,303**
14	Paid in Arrears	9/1/32	*2%*	**$85,606**	TBD	**$263,303**
15	Paid in Arrears	9/1/33	*100%*	**$ 178,129.63**	TBD	**$263,303**
16	Paid in Arrears	9/1/34	*2%*	**$ 181,692.23**	TBD	**$263,303**
17	Paid in Arrears	9/1/35	*2%*	**$ 185,326.07**	TBD	**$268,569**
18	Paid in Arrears	9/1/36	*2%*	**$ 189,032.59**	TBD	**$268,569**
19	Paid in Arrears	9/1/37	*2%*	**$ 192,813.24**	TBD	**$268,569**
20	Paid in Arrears	9/1/38	*2%*	**$ 196,669.51**	TBD	**$268,569**
21	Paid in Arrears	9/1/39	*2%*	**$ 200,602.90**	TBD	**$268,569**
22	Paid in Arrears	9/1/40	*2%*	**$ 204,614.96**	TBD	**$273,940**
23	Paid in Arrears	9/1/41	*2%*	**$ 208,707.26**	TBD	**$273,940**
24	Paid in Arrears	9/1/42	*2%*	**$ 212,881.40**	TBD	**$273,940**
25	Paid in Arrears	9/1/43	*2%*	**$ 217,139.03**	TBD	**$273,940**
26	Paid in Arrears	9/1/44	*2%*	**$ 221,481.81**	TBD	**$273,940**
27	Paid in Arrears	9/1/45	*2%*	**$ 225,911.45**	TBD	**$279,419**
28	Paid in Arrears	9/1/46	*2%*	**$ 230,429.67**	TBD	**$279,419**

29	Paid in Arrears	9/1/47	*2%*	**$ 235,038.27**	TBD	**$279,419**
30	Paid in Arrears	9/1/48	*2%*	**$ 239,739.03**	TBD	**$279,419**
31	Paid in Arrears	9/1/48		**Market Adjustment**	TBD	**$279,419**

3. PURPOSE.
The purpose of this Lease is for the use of State trust land described in Section 1 for: Development, construction, and operation of a solar power energy generating facility and related facilities, including, without limitation, generation-tie lines, substations, operations and maintenance buildings and facilities, and utilities and infrastructure improvements.

4. DEFINITIONS.
In this Lease, the following defined terms have the meanings set forth for them below:

"Adjustment Period" is a multi-year Lease period, as specified in the Base Rent Schedule in Section 2 of this Lease, during which an Adjustment Period Escalator is applied annually to the prior year's Base Rent. At year fifteen (15), and every thirty (30) years thereafter, a hundred percent (100%) increase in the prior year's Base Rent will be applied to approximate the appreciation in land value. (i.e. Year 15, 45 … etc…).

"Adjustment Period Escalator" is 2% compounded annually and applied to the prior year's Base Rent as demonstrated in the Base Rent Schedule. The Adjustment Period Escalator will not be applied to Base Rent for the First Lease Year and the first year that any Market Adjustment is applied (i.e. Year 31, 61…etc…).

"Affiliate" means: (i) any assignee which controls or is controlled by or under common control with Lessee, any partnership in which Lessee is a general partner, any limited liability company which is controlled by Lessee, or any member in Lessee which holds not less than a fifty percent (50%) interest in the profits or capital of Lessee; (ii) any entity acquiring all or substantially all of the assets or ownership interests of Lessee; or (iii) any entity into or with which Lessee is merged.

"Base Rent" means the amount obtained by multiplying the Land Value by the Lease Rate Percentage and as periodically adjusted by the Adjustment Period Escalator. The Base Rent is the minimum rental due annually.

"Building" means any enclosed building constructed or installed upon the Land.

"Commencement Date" means the date this Lease goes into effect, legally binding the Lessor and Lessee to the terms of the Lease.

"Commercial Purpose" per MCA 77-1-902(3)(a) means an industrial enterprise, retail sales outlet, business and professional office building, warehouse, motel, hotel, hospitality enterprise, commercial or concentrated recreational use, multifamily residential development, and other similar business.

"Default Rate" shall mean 1% compounded monthly.

"Department" means the Montana Department of Natural Resources and Conservation.

"Environmental Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, investigations or proceedings relating in any way to any Environmental Law (hereafter, "Claims") or any permit issued under any such Environmental Law, including, without limitation (a) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Substances or arising from alleged injury or threat of injury to health, safety or the environment.

"Environmental Laws" means any existing and future Laws relating to, or imposing liability or standards of conduct concerning the protection of human health, the environment or natural resources, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling, Releases or threatened Releases of Hazardous Substances, including, without limitation, The Comprehensive Environmental Cleanup and Responsibility Act, 75-10-701, et seq., MCA; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; and the Safe Drinking Water Act, 42 U.S.C. § 300(f), et seq.

"First Lease Year" means the first twelve month period starting on the Commencement Date.

"Foreclosure Transferee" means any foreclosure purchaser or other transferee of Lessee's interest under this Lease who acquires such interest at the sale conducted by virtue of, or otherwise in connection with, a foreclosure of any Leasehold Mortgage or any conveyance in lieu of such foreclosure.

"Gross Annual Revenues" means the gross revenue earned from the entire project as measured in MW hours from the revenue meter at the interconnection to the high voltage transmission system as the interconnect to a utility transmission system, times the current Power Purchase Agreement sales price or energy sales price at the interconnect revenue meter without deduction or offset of any kind or prior notice or demand. It shall also include payments received by the Lessor for attributes such as green tags and carbon credits.

"Hazardous Substances" means any and all substances, materials or wastes that are declared to be, or defined or regulated as, hazardous or toxic in CECRA, Section 75-10-701, et seq., MCA, or under any Environmental Law.

"Improvements" mean any Buildings, structures, pavement, landscaping, lighting fixtures or other improvements now or later installed or constructed upon the Land.

"Installed Capacity" means the installed nameplate capacity of the energy generating equipment as determined by the manufacturer.

"Land" or "Premises" means the real property described in paragraph 1.

"Land Value" means $3,000 per acre. The Lease Rate Percentage is applied to the Land Value to determine the initial Base Rent for the First Lease Year and the first year after a Market Adjustment. The Land Value may be modified at any scheduled Market Adjustment.

"Laws" means any and all present or future federal, state or local laws (including common law), statutes, ordinances, rules, regulations, orders, decrees or requirements of any and all governmental or quasi-governmental authorities having jurisdiction over the Land described in this Lease.

"Lease Rate Percentage" means 4%. The Lease Rate Percentage is applied to the Land Value to determine the initial Base Rent for the First Lease Year and for the first year after a Market Adjustment. The percentage may be modified at any scheduled Market Adjustment, and is not to be below that rate established per 77-1-905, MCA

"Lease Year" means, after the First Lease Year, each successive Lease Year is the one-year period during the Term from March 1 to the last day of February.

"Leasehold Mortgage" means any mortgage, deed of trust, assignment of rents, assignment of leases, security agreement or other hypothecating instrument encumbering Lessee's interest under this Lease or the leasehold estate in the Premises hereby created, Lessee's rents and other sums due from any Sublessees, Lessee's rights under Subleases and any other agreements executed in connection with Lessee's use or operation of the Premises, or Lessee's interest in any fixtures, machinery, equipment, Land, Buildings, Improvements or other property constituting a part of the Premises.

"Leasehold Mortgagee" means the holder(s) of any promissory note or the obligee(s) of any other obligation secured by a Leasehold Mortgage.

"Lessee's Address" means:

MTSUN, LLC
PO Box 900083
Sandy, UT 84093

"Lessor's Address" means:

Montana Department of Natural
Resources and Conservation
Attn: Real Estate Management Bureau Property Mgmt Section
PO BOX 201601
Helena, MT 59620-1601

With copies to:

Montana Department of Natural
Resources and Conservation
Southern Land Office
1371 Rimtop Drive
Billings, MT 59105

"Market Adjustment" means a review of current Base Rent which will be used to determine the Base Rent Schedule for the next period. It includes consideration of the minimum Lease Rate Percentage at the time, as well as an appraisal process to update the lease area land value. The Market Adjustment Schedule and Provisions are found in **Exhibit B**.

"Operations Date" means the date Lessee begins delivering power to a bona fide third-party power purchaser.

"Premises" means the Land and all Improvements.

"Qualified Mortgagee" means any Leasehold Mortgagee who notifies Lessor in writing of its name, its address for notices and the fact that it is a Leasehold Mortgagee and includes with such notice a copy of any Leasehold Mortgage by virtue of which it became a Leasehold Mortgagee.

"Release" means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing or the like, into or upon any land, surface water, groundwater or air, or otherwise entering into the environment.

"Rent" means Base Rent and all other amounts required to be paid by Lessee under this Lease.

"Revenue Meter" means an instrument that determines the amount of electrical energy and capacity paid for by third parties. An energy project may be connected to different revenue meters. The Revenue Meter for the energy generating equipment located on the Land shall be located in Yellowstone County, Montana.

"Security Deposit" means a dollar amount equal to **$10,000**.

"Sublease" means a sublease, license, concession or other agreement (whether written or oral) according to which Lessee grants any party the right to use or possess all or any portion of the Premises.

"Sublessee" means any party to whom Lessee grants the right to possess all or any portion of the Premises according to a Sublease.

"Substantial Damage" means harm to Improvements that renders the Premises inoperable for its intended use for more than 180 days.

"Substantial Taking" means a Taking of a portion of the Land or Improvements which, in Lessee's reasonable judgment, will materially and adversely interfere with any development or use of the Premises that Lessee is then conducting.

"Taking" means the taking of all or any portion of the Premises as a result of the exercise of the power of eminent domain or condemnation for public or quasi-public use or the sale or conveyance of all or part of the Premises under the threat of condemnation.

"Taking Date" means, with respect to any Taking, the date on which physical possession of the portion of the Premises that is the subject of such Taking is transferred to the condemning authority.

"Term" means the duration of this Lease as set forth in paragraph 1.

5. EXHIBITS.

The Exhibits listed below are attached to and incorporated into this Lease. In the event of any inconsistency between such Exhibits and the terms and provisions of this Lease, the terms and provisions of the Lease will control. The Exhibits to this Lease are:

Exhibit A - Map
Exhibit B – Market Adjustment Schedule and Provisions
Exhibit C – Reclamation Plan
Exhibit D – Post-Construction Environmental Monitoring

Exhibit C and Exhibit D are dependent on the Lease Proposal and subsequent Environmental Analysis.

6. LEASE TERM.

6.1 Lease.

Subject to the terms, covenants, conditions and provisions of this Lease, Lessor leases to Lessee and Lessee leases from Lessor the Land for the Term of 30 years starting on the Commencement Date.

6.2 Renewal Option.

If all Rent due under this Lease has been paid when due and the terms of this Lease have not been violated, Lessee may renew the Lease for an additional 5 year Term and subsequently additional 5 year Terms, not to exceed a total of 99 years. The Base Rent will be adjusted at renewal according to the process outlined in **Exhibit B**. Should the Director of the Department in his/her discretion decide that it is in the best interest of Lessor not to renew this Lease, and notify the Lessee of such decision at least six (6) months prior to the expiration of the Term, Lessee shall have no renewal rights.

6.3 Lessor and Lessee Covenants.

Lessor covenants that Lessee will have quiet and peaceful possession of the Premises subject only to the terms and conditions of this Lease, and to observe and perform all of the terms, covenants and conditions applicable to Lessor in this Lease. Lessee covenants to pay the Rent when due, and to observe and perform all of the terms, covenants and conditions applicable to Lessee in this Lease.

6.4 Condition of Premises.

Except as expressly set forth in this Lease, Lessee accepts possession of the Premises on the Commencement Date in their then-current condition on an "AS IS, WHERE IS AND WITH ALL FAULTS" basis.

7. RENTAL PAYMENT.

7.1 Rental Amount.

All Rent due to Lessor will be paid in lawful money of the United States of America, at Lessor's Address, post-marked on or before the due date, without notice or demand and without right of deduction, abatement or setoff.

The First Lease Year shall be paid in advance. For all other years, the lease fee shall be paid in arrears.

The rental fee for any given year shall be the **greater** of either: (1) The Base Rent; OR (2) 3% of the Gross Annual Revenues; OR (3) $3,000 per MW per year of installed capacity, as increased by 2% at five year increments. Lessee is responsible for providing a report of Gross Annual Revenues and Installed Capacity at the end of each year.

7.1.1 Base Rent.

Is the amount obtained by multiplying the Land Value by the Lease Rate Percentage and as periodically adjusted by the Adjustment Period Escalator. The Base Rent is the minimum rental due. At year fifteen (15), and every thirty (30) years thereafter, a hundred percent (100%) increase in the prior year's Base Rent, will be applied to approximate the appreciation in land value. (i.e. Year 15, 45 … etc…).. In no case shall the rental amount due to lessor be less than the Base Rent set forth herein. After year 30, and every thirty (30) years thereafter, the land value will be reviewed, and an appraisal may be secured to reevaluate the Base Rent pursuant to Exhibit B (i.e. Year 31, 61…etc…).

7.1.2 Gross Annual Revenues.
Gross Annual Revenues is defined as three percent (3%) of the gross annual revenues as defined below. Each year the Lessee shall deliver a report including a calculation of the Gross Annual Revenues for the previous year from the Lessee's use of the Land.

Gross annual revenues shall mean the gross revenue earned from the entire project as measured in MW hours from the revenue meter at the interconnection to the high voltage transmission system as the interconnect to a utility transmission system, times the current Power Purchase Agreement sales price or energy sales price at the interconnect revenue meter without deduction or offset of any kind or prior notice or demand. Gross annual revenues will also include payments received by Lessor for attributes such as green tags and carbon credits. It is the intent of the Lessor and the Lessee that Gross Revenues should be determined with reference to auditable sales contracts and meters; and that incidental payments from the energy generating equipment vendor or insurance proceeds are excluded from the definition of gross revenue. All transfers or sales shall be written sale contracts. Similarly, payments to the Lessee from the sale of personal property shall not be considered to fall within the definition of "gross revenues."

7.1.3 Fee per Megawatts Installed
Is a dollar amount paid each year for each MW of Installed Capacity of the energy generating equipment installed on the Land, starting at $3000/MW and increasing by 2% at five year increments. Each year the Lessee shall deliver a report including the total amount of Installed Capacity on the land and a calculation of the Fee per Megawatts Installed for the previous year. Installed Capacity is the nameplate capacity of the energy generating equipment as determined by the manufacturer.

7.2 Installation Fee.
The Lessee shall pay to the Lessor a one-time installation fee equal to $1,000 per MW of installed capacity on the Land, payable on or before the first anniversary of the Commencement Date, immediately following the First Lease Year. Should the project not be fully installed by this date, payment must be made for the remaining installed capacity, within 60 days of operation.

7.3 Terms of Payment.
Per MCA 77-1-905(1), the First Lease Year is the twelve month period beginning on the Commencement Date. The First Lease Year Rent must be paid by cashier's check, drawn upon a Montana bank, and payment is due upon execution of the lease. Failure to pay the First Lease Year's Rent at the time of lease execution will result in the cancellation of the lease and forfeiture of all money paid.

7.4 Late Charge.
Lessee hereby acknowledges that late payment by Lessee to Lessor of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain Accordingly, if Lessor does not receive the full amount of any Rent postmarked on or before the due date, Lessee shall pay a late charge to Lessor. The late charge will be an amount equal to 10% of any overdue Rent for Lessor's cost of collecting and handling such late payment due as additional Rent. If payment of the Rent and late charge are not made in full within 30 days of the due date, the outstanding balance of the unpaid Rent and the late fee shall accrue interest at the Default Rate. Interest on all delinquent amounts shall be calculated from the original due date to the date of payment. Lessor retains sole discretion to apply payments received to past due Rent, including any late charge(s) and interest, before applying a payment to current Rent. The parties hereby agree that such late charge represents a fair and reasonable estimate of the cost that Lessor will incur by reason of the late payment by Lessee.

7.5 Lien for Unpaid Rent.
Lessor shall have a lien upon all Lessee Improvements for payment of all Rent specified herein.

7.6 Additional Rent.
This Lease is what is commonly called a "triple-net" Lease. It is the intent of the parties that the Base Rent provided in this Lease will be a net payment to Lessor and that Lessor will not be required to pay any costs or expenses or provide any services in connection with the Premises. Accordingly, Lessee covenants and agrees to separately pay, in addition to the Base Rent, all utilities and services, taxes and special assessments, and for all maintenance and repairs of the Premises.

7.7 Lessor Audit Rights.
Lessor shall have the right to observe and review a copy of the Lessee's power purchase agreement ("PPA") at a convenient place somewhere within the state of Montana, though the Lessor shall not be a party to the Lessee's negotiation for a power purchase agreement. The Lessee shall maintain reasonable records for a retention period of eight years, of its performance under this Lease. The Lessee agrees that the Lessor, Legislative Auditors, or the Legislative Fiscal Analyst may audit all such records, reports, and other documents that the Lessee maintains under or in the course of this Lease to ensure compliance with this Lease. Documents include information relating to the production of energy generated under this Lease, the price thereof, or agreements thereto, as well as any other pertinent information reasonably necessary for any audit of operations to review the Lessee's performance of its obligations under this Lease. Such records, reports, and other documents may be audited at any reasonable time at a convenient place somewhere within the State of Montana. The Lessee may request a protective order from a Court of competent jurisdiction to restrict the Lessor's right to release any of the audited Documents under Mont. Const. art. II. §9, and all other applicable laws and regulations. Lessor will not object to Lessee's reasonable request for a protective order.

If the audit shows that rental due has been underpaid by greater than two percent (2%) , then Lessee shall pay Lessor the amount of the deficiency. Lessee shall pay Lessor any deficiency within thirty (30) days of final determination of the amount of the deficiency. If the audit shows that rental due has been overpaid by greater than two percent (2%), then the overpayment shall be credited against Lessee's next payment(s) due, or, if this Lease has expired, the overpayment shall be refunded to Lessee in accordance with Lessor's refund policy and procedures in place at the time the refund is requested.

8. IMPROVEMENTS AND ALTERATIONS.

8.1 Site Plan.
Within ten (10) days after the appropriate governmental agency has approved plans for any construction or grading activities upon the Land, the Lessee shall provide the Lessor with a copy of the approved Site Plan. The Site Plan shall include a legal description and survey of the pertinent portion of the Premises locating the energy generating equipment, utilities and grading, and a drawing of the elevation of the energy generating equipment and transmission facilities.

8.2 Improvements and Alterations.
Lessee shall not construct, install, alter, or demolish and remove, any Improvements without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. All expenses of constructing, installing, altering, or demolishing any Improvements shall be the sole responsibility of Lessee. Lessee shall at all times comply with all Laws, including any applicable city and state building codes and fire codes. Lessor will have the right to post notices of non-responsibility or similar notices on the Premises in order to protect the Land against any liens resulting from such work.

Upon completion of the initial Improvements for the Premises, Lessee shall deliver to Lessor an engineer's certificate for the Premises and, if available, an electronic "as-built" survey of the Premises in both AutoCAD and .pdf format. The Lessee shall thereafter furnish the Lessor with copies of any updated plans showing all changes and modifications thereto. The Lessee shall also furnish to the Lessor

copies of certificates of occupancy or other similar documents issued to certify completion of construction in compliance with applicable requirements.

8.3 Title to Improvements.
During the Term, Lessee shall own and hold title to all Improvements subject only to the Lessor's reversionary interest in the Improvements constituting fixtures of the land upon the expiration or termination of the Lease. Lessee, with the consent of Lessor which shall not be unreasonably withheld, shall have the right to grant liens, leasehold mortgages, or other security interests in the Improvements. Upon the expiration or earlier termination of the Lease, title to all Improvements then held by Lessee, except personal property not constituting fixtures, will automatically vest in Lessor without representation or warranty per MCA §77-1-906(2).

9. USE AND ENVIRONMENTAL COMPLIANCE.

9.1 Use and Compliance.
Lessee shall use the Premises consistent with the purposes described in Section 3 of this Lease. Lessee agrees to comply with all applicable laws, rules, and regulations in effect upon the Commencement Date of this Lease and those laws, rules, and regulations which may be enacted or adopted thereafter from time to time and which do not impair or impede the obligations of this Lease and which do not deprive the Lessee of an existing property right recognized by law. Lessee shall keep the Premises in good repair, including necessary repairs to the interior, exterior and structure of any Buildings, mowing of grass and general landscaping, and contract for the same in Lessee's own name and pay all costs and expenses in connection therewith. Lessee shall not commit waste or permit impairment or deterioration of the Premises, ordinary wear and tear and damage by casualty and condemnation excepted.

9.2 Compliance with Title 77 MCA
Lessor and Lessee specifically acknowledge that the Land is State school trust land managed by the Montana Board of Land Commissioners and agree that this Lease is subject to the provisions of Title 77 of the Montana Code Annotated and all associated Administrative Rules of Montana.

9.3 Post-Construction Environmental Monitoring.
The Lessee understands that there may be additional environmental monitoring required from the Lessee based on the project specifications and the environmental analysis conducted prior to lease execution. Any additional monitoring requirements will be made part of this Lease and attached hereto as Exhibit D prior to lease execution.

9.4 Environmental Matters.
Lessor has made no representations to Lessee concerning the presence of Toxic or Hazardous Substances within the definition of the Montana Comprehensive Environmental Cleanup and Responsibility Act (CECRA) on the Land. Lessee agrees as follows: Lessee will (a) comply with all Environmental Laws applicable to the operation or use of the Premises by Lessee or the construction, installation, alteration or demolition of any Improvements by Lessee; (b) use reasonable efforts to cause all Sublessees and other persons occupying the Premises to comply with all Environmental Laws; (c) immediately pay or cause to be paid all costs and expenses incurred by Lessee in such compliance; and (d) keep or cause the Premises to be kept free and clear of any liens arising from Lessee's use and occupancy of the Premises imposed thereon pursuant to any Environmental Laws.

Lessee will not generate, use, treat, store, release or dispose of, or permit the generation, use, treatment, storage, Release or disposal of, any Hazardous Substances on the Premises, or transport or permit the transportation of any Hazardous Substances to or from the Premises, in each case in any quantity or manner which violates any Environmental Law.

If Lessor has knowledge of any pending or threatened Environmental Claim against Lessee or the Premises or has good reason to believe that Lessee or the Premises are in violation of any Environmental Law, at Lessor's written request (such request shall describe the basis for such request in reasonable detail), at any time and from time to time, Lessee will provide to Lessor an environmental site assessment report concerning the Premises, prepared by an environmental consulting firm reasonably approved by Lessor, indicating the presence or absence of Hazardous Substances and the potential cost of any removal or remedial action in connection with any Hazardous Substances on the Premises. Any such environmental site assessment report will be conducted at Lessee's sole cost and expense. If Lessee fails to deliver to Lessor any such environmental site assessment report within 90 days after being requested to do so by Lessor pursuant to this Section, Lessor may obtain the same, and the cost of such assessment (together with interest thereon at the Default Rate) will be payable by Lessee on demand.

Lessor may, at its option, at any time and from time to time, obtain at its sole cost and expense an environmental site assessment report for the Premises.

At its sole expense, Lessee will conduct any investigation, study, sampling or testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Substances from the Premises, which are on the Premises as a result of Lessee's activities under the Lease, which must be so removed or cleaned up in accordance with the requirements of any applicable Environmental Laws, to the reasonable satisfaction of a professional environmental consultant selected by Lessor, and in accordance with all such requirements and with orders and directives of all governmental authorities.

9.5 Lessee Indemnity for Environmental Compliance.
Lessee agrees to defend (with attorneys reasonably satisfactory to Lessor), protect, indemnify and hold harmless Lessor from and against any and all liabilities, obligations (including removal and remedial actions), losses, damages penalties, actions, judgments, suits, claims, costs, expenses and disbursements (including reasonable attorneys' and consultants' fees and disbursements) of any kind or nature whatsoever that may at any time be incurred by, imposed on or asserted against Lessor directly or indirectly based on, or arising or resulting, in whole or in part, from: (i) the actual or alleged presence of Hazardous Substances on the Premises Released by Lessee or anyone acting by, through or under Lessee in any quantity or manner which violates Environmental Law, or the removal, handling, transportation, disposal or storage of such Hazardous Substances by Lessee or anyone acting by, through or under Lessee; or (ii) any Environmental Claim with respect to Lessee or the Premises resulting from a Release by Lessee or anyone acting by, through or under Lessee regardless of when such indemnified matters arise.

9.6 Survival of Indemnification.
The remedial indemnification and reimbursement obligations under this Section 9 will survive the expiration or earlier termination of this Lease.

10. <u>UTILITIES AND REPAIRS</u>.

10.1 Installation and Repairs.
Lessee will install any water, sewer, storm water, electric, communication lines, natural gas lines, roads, sidewalks, and/or any other infrastructure as required for the development of the leased land Lessee will maintain, repair, replace and keep the Premises in reasonably good condition and repair.

10.2 Utilities.
Lessee will pay before delinquent all water, sewer, natural gas, electricity, telephone and any other utility charges related to the Premises including, without limitation, those which, if not paid, may be asserted as a lien or charge against the Premises.

10.3 Water Rights.
Any water right appropriated or secured on the Premises by any individual or party for use on or off such Premises shall be appropriated or secured in the name of the Lessor unless prior written permission to do otherwise is granted by the Lessor. Lessor shall be notified prior to such development or appropriation of water right. Lessee has the right to drill for water on the Premises, subject to obtaining any necessary approval by any local, state, or other governmental agency.

11. TAXES.

11.1 Payment of Taxes.
Lessee will pay before delinquent, directly to the taxing authority, all Taxes that accrue during or are attributable to any part of the Term, including privilege taxes, also known as beneficial use taxes, per MCA 15-24-1203.

11.2 Special Assessments.
Lessee will pay all special assessments (i.e. SIDs, RIDs, etc.) and other like impositions levied, assessed, or attributable to the Land during the Term.

12. INSURANCE.

12.1 Acquisition of Insurance Policies.
Lessee shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained during the entire Term, the insurance described in this Section 12 issued by an insurance company(ies) licensed to do business in the State of Montana that are reasonably satisfactory to Lessor.

12.2 Types of Required Insurance.
Lessee shall procure and maintain, or cause one or more of its Sublessees to provide and keep in force and name Lessor as an additional insured, the following during the Term:

a) Liability Insurance. Comprehensive or commercial general liability insurance covering claims arising out of the ownership, operation, maintenance, condition or use of the Premises, for personal and bodily injury and death, and damage to others' property, with limits of not less than $5,000,000.00 for any one accident or occurrence. Lessee may obtain some portion of this required coverage in the form of an excess liability policy. Lessor will be named as an additional insured in the policy(ies) providing such liability insurance, which will include cross liability and severability of interests clauses.

b) Property Insurance. All-risk fire and extended coverage insurance (including standard extended endorsement perils, leakage from fire protective devices and other water damage) covering loss or damage to the Improvements on a full replacement cost basis, excluding existing architectural and engineering fees, undamaged excavation, footings and foundations.

c) Workers' Compensation Insurance. Workers' compensation and employer's liability insurance covering Lessee's employees, officers, agents and representatives employed at the Premises.

12.3 Terms of Insurance.
The policies required above, shall name Lessor as an additional insured and Lessee shall provide promptly to Lessor certificates of insurance evidencing the policies obtained by Lessee hereunder as hereinafter described. Proof of insurance ("Proof") shall consist of either (a) an insurance binder or premium payment receipt, (b) a copy of the policy, or (c) an "ACORD 27 Evidence of Property Insurance" or "ACORD 25 Certificate of Liability Insurance," whichever is appropriate (or such other similar certificates), issued by Lessee's insurer with respect to each required policy. Lessee shall deliver Proof before the Lease is executed. Thereafter, during the Term, within 30 days after the renewal date of each policy, the issuance of a new policy or on such other date as Lessor reasonably requires, Lessee will deliver a copy of the latest Proof to Lessor. Each policy of insurance will require the issuer of the insurance policy to give Lessor 30 days' advance written notice of the termination or modification of the policy. Further, all policies of insurance described above, shall:

a) be written as primary policies not contributing with and not in excess of coverage that Lessor may carry;

b) contain an endorsement providing that such insurance may not be materially changed, amended or canceled except after 30 days' prior written notice from insurance company to Lessor;

c) expressly provide that Lessor shall not be required to give notice of accidents or claims and that Lessor shall have no liability for premiums; and

d) not have a deductible in excess of $20,000.00.

13. DAMAGE OR DESTRUCTION.
In the event of any Substantial Damage to the Premises from any causes whatsoever, Lessee shall promptly give written notice thereof to Lessor. Lessee shall promptly repair or restore the Premises as nearly as possible to its condition immediately prior to such damage or destruction unless Lessee and Lessor determine that such repair and restoration is not commercially feasible, in which event this Lease shall thereupon terminate upon Lessee completion of a remediation plan developed by the Department. Lessee's duty to repair any damage or destruction of the Premises shall not be conditioned upon the availability of insurance proceeds from which the cost of repairs may be paid. Unless this Lease is so terminated, Rent shall not be abated during such period of repair and restoration. If a default by Lessee shall have occurred and be continuing at the time such damage or destruction occurs, Lessor may elect to terminate this Lease by providing written notice of such election to Lessee and Lessee shall forfeit the Security Deposit.

14. CONDEMNATION.

14.1 Notice.
If either Lessor or Lessee learns that all or any portion of the Premises has been or is proposed to be subjected to a Taking, such party will immediately notify the other of such Taking.

14.2 Termination Option on Substantial Taking.
If a Substantial Taking occurs during the Term, Lessee may, at its option, terminate this Lease by giving notice to Lessor. In such event this Lease will terminate upon the earlier of the Taking Date or 30 days after the date of Lessee's notice of termination and all Base Rent and other Rent will be apportioned to the date Lessee surrenders possession.

14.3 Continuation of Lease.
If a Taking occurs during the Term that is not a Substantial Taking, then this Lease will remain in full force and effect according to its terms, except that effective as of the Taking Date this Lease will terminate automatically as to the portion of the Premises that is the subject of such Taking and Base Rent will be adjusted to reflect the reduced Land remaining after the Taking. If a Substantial Taking occurs but Lessee does not exercise its termination option this Lease will remain in full force and effect according to its terms, except that effective as of the Taking Date this Lease will terminate automatically as to the portion of the Premises that is the subject of such Taking and Base Rent after the Taking Date will be adjusted to reflect the reduced Land remaining after the Taking.

14.4 Awards for Permanent Taking.
If there is compensation paid as a result of any permanent Taking of the Premises, the award will be allocated as follows: Lessee will be entitled to receive an amount equal to (i) the then current appraised fair market value of the Improvements placed by the Lessee upon the Premises and (ii) Lessee's lost profits under a PPA or similar power sales agreement; and Lessor will be entitled to the balance of the award.

14.5 Award for Temporary Taking.
If all or any portion of the Premises shall be taken for temporary use or occupancy, the foregoing provisions of Section 14 shall not apply and the Lessee shall continue to pay the full amount of Rent and the Lessee shall perform and observe all of the other terms, covenants, conditions and obligations of this Lease as though the temporary Taking had not occurred, subject to any order of the condemning authority. In the event of a temporary Taking, Lessee shall be entitled to receive the entire amount of the compensation award for such taking, unless the period of temporary use or occupancy shall extend beyond the Expiration Date in which case the compensation shall be apportioned between the Lessor and the Lessee as of the Expiration Date.

15. ASSIGNMENT, SUBLETTING AND FINANCING.

15.1 Assignment.
Except as otherwise provided in this Section 15, Lessee shall not assign its interest under this Lease, in whole or in part, without Lessor's prior written consent, which consent shall be determined in Lessor's sole and absolute discretion. Notwithstanding the prior sentence, Lessor's consent is not required for: (i) any transfer of Lessee's interest under this Lease to a Foreclosure Transferee, or (ii) any transfer of Lessee's interest in this Lease to an Affiliate. Lessor will recognize any Foreclosure Transferee or Affiliate as a substitute Lessee under this Lease and will honor all rights and interest of such substitute Lessee as if the substitute Lessee was the initial Lessee under this Lease and such Foreclosure Transferee or Affiliate shall be bound by the terms and conditions of this Lease. Additionally, if the Foreclosure Transferee is a Qualified Mortgagee, such Qualified Mortgagee shall have the right to assign its interest under this Lease without the consent of Lessor and, upon such assignment, Lessor shall recognize the assignee as a substitute Lessee under this Lease and the Qualified Mortgagee shall be released of any further liability under the Lease. If Lessee assigns its rights in this Lease, as permitted pursuant to this Section, and the assignee assumes, in writing, Lessee's obligations hereunder which arise on or after the date of such assignment, then Lessee shall be relieved of all liabilities hereunder accruing from and after the date of such assignment, but this Lease shall otherwise remain in full force and effect.

15.2 Subletting.
Lessee shall not sublet all, or portions of, the Premises, without Lessor's prior written consent. Such consent shall be given or withheld in Lessor's sole and absolute discretion. Lessee shall own all Improvements on the Premises subject to the sublease. No sublease shall be effective until a copy thereof has been filed with the Lessor and approved by the Director of the Department. All subleases shall

include an attornment provision whereby upon the early termination of this Lease or repossession of the Premises by Lessor, the Sublessee shall attorn to the Lessor as its landlord under all of the terms, covenants and conditions of this Lease (prorated for the actual amount of Land used by sublessee) for the balance of the remaining Term, with the same force and effect as if Sublessee were the Lessee under this Lease. Such attornment shall be effective and self-operative immediately upon Lessee's termination. Sublessee shall agree to execute, acknowledge and deliver to Lessor any document that Lessor reasonably requests to confirm such attornment.

15.3 Financing.

a) Lessee's Right to Encumber. Throughout the Term, Lessee may from time to time and without Lessor's consent execute and deliver one or more Leasehold Mortgages securing any indebtedness or other obligation of Lessee. Without limiting the generality of the foregoing, Lessee may execute and deliver Leasehold Mortgages to secure promissory notes evidencing construction, interim or permanent financing for the Premises or to secure Lessee's obligations under development, reimbursement or other agreements with governmental or quasi-governmental entities, utility companies or other third parties concerning matters such as sales or property tax abatement or rebate programs, public improvements or utilities.

b) Qualified Mortgagees' Cure Rights. Prior to terminating this Lease or exercising any other right or remedy hereunder for a Default by Lessee, Lessor will give each Qualified Mortgagee notice of such Default by Lessee and afford it a period of 60 days after such notice is given in which to cure such Default by Lessee; provided, however, that (i) if such Default by Lessee is not a failure to pay Rent and is susceptible of cure by a Qualified Mortgagee but cannot reasonably be cured within such 60-day period, then so long as any Qualified Mortgagee commences a cure within such 60-day period (and notifies Lessor that it has done so), its cure period will be extended for as long as reasonably necessary for it to diligently pursue the cure to completion; and (ii) if such Default by Lessee is not a failure to pay Rent and is susceptible of cure by a Qualified Mortgagee but cannot reasonably be cured until the Qualified Mortgagee obtains possession of the Premises, then so long as any Qualified Mortgagee commences to obtain possession of the Premises within such 60-day period (and notifies Lessor that it has done so), its cure period will be extended for as long as reasonably necessary for it to obtain possession of the Premises and then promptly commence and thereafter diligently pursue the cure to completion.

c) Prohibition Against Rescission, Termination, or Material Amendment. No termination, cancellation, rescission or modification of a material provision of this Lease by Lessor and Lessee will be effective unless and until the same is approved in writing by each Qualified Mortgagee. All rights and remedies of the Qualified Mortgagee hereunder will be cumulative with, in addition to and non-exclusive of one another.

d) Prepaid Rent. If any Leasehold Mortgagee or other purchaser has acquired the leasehold estate of Lessee pursuant to foreclosure, conveyance in lieu of foreclosure or other proceedings, or has entered into a new lease with Lessor, such Leasehold Mortgagee or other purchaser shall succeed to the rights of Lessee, if any, in and to any prepaid rent paid by Lessee pursuant to this Lease. In such event, Lessee shall no longer have any rights to such prepaid rent, and Lessor shall hold such prepaid rent for and on behalf of such Leasehold Mortgagee, its designee or other purchaser.

15.4 Assignment by Lessor.

If Lessor sells or otherwise transfers the Land such purchaser, transferee or assignee thereof shall be deemed to have assumed Lessor's obligations hereunder which arise on or after the date of sale or transfer, and Lessor shall thereupon be relieved of all liabilities hereunder accruing from and after the date of such transfer or assignment, but this Lease shall otherwise remain in full force and effect. Any

purchaser of the Land shall be required to enter into a written ratification of this Lease with Lessee as a condition precedent to closing on the acquisition of the Land.

16. DISPUTE RESOLUTION.

16.1 Issues Subject to Administrative Hearing.

Any controversy which may arise between Lessor and Lessee regarding the provisions hereof shall be resolved by an administrative contested case hearing before the Department under the Montana Administrative Procedures Act.

16.2 Administrative Hearing Procedure.

All administrative hearings hereunder shall be conducted in the offices of the Department in Helena, Montana. The findings of fact, conclusions of law, and proposed decision of the hearing examiner shall be rendered within sixty (60) days of the completion of the hearing and submission of any briefs. Either party may file exceptions to the hearing examiner's findings, conclusions, and proposed decision with the Department's Director. The Lessee may, as permitted by the Department's administrative rules, petition for judicial review of the final administrative decision of the Department. Fees of the respective counsel engaged by the parties, and fees of expert witnesses or other witnesses called for the parties shall be paid by the respective party engaging such counsel or calling or engaging such witness.

17. LEASE EXPIRATION.

17.1 Condition at End of Lease.

Upon vacating the Premises on the Expiration Date, Lessee shall leave the Premises in good condition and shall peaceably surrender the same to Lessor. Lessee shall remove all of its personal property on or before the Expiration Date and shall reclaim the Land according to the Reclamation Plan attached to this Lease as Exhibit C. All personal property remaining on the Premises on the day after the Expiration Date shall be conclusively deemed abandoned by the Lessee and shall become property of Lessor without further notice to Lessee.

17.2 Holding Over.

If the Premises are not surrendered on the Expiration Date, Lessee shall immediately indemnify Lessor against loss or liability resulting from the delay by Lessee in so surrendering the Premises, including, without limitation, any claims made by any succeeding Lessee founded on such delay. Should the Lessee remain in possession of the Premises after the Expiration Date or termination without a written agreement providing for the same, Lessee will, at Lessor's option be deemed to be a Lessee from month to month, at a monthly Base Rent, payable in advance, equal to 150% of monthly Base Rent or Operating Fees that were payable during the last full "Lease Year" prior to the Expiration Date or termination of this Lease, and Lessee will be bound by all of the other terms, covenants and agreements of this Lease as the same may apply to a month-to-month tenancy.

18. LIENS AND ESTOPPEL CERTIFICATES.

18.1 Liens.

Lessee will not allow any liens to be recorded, filed, claimed or asserted against the Premises. Subject to Section 18.2, below, in the event a lien is recorded, filed, claimed or asserted, the Lessee will cause the same to be released, discharged, or bonded-over within 30 days thereafter. If the Lessee defaults under the foregoing covenant, then the Lessor may, upon written notice to Lessee, cause any such claimed lien to be released of record by bonding or payment or any other means available. All sums paid and costs and expenses incurred by the Lessor in connection therewith, together with interest on all such sums at the

Default Rate from the date incurred until paid, will be due and owing from the Lessee to the Lessor upon demand therefore.

18.2 Lien Contests.
If Lessee has a good faith dispute as to any lien for which Lessee is responsible, Lessee may contest the same by appropriate proceedings so long as Lessee bonds over the lien or deposits with Lessor security in an amount acceptable to Lessor (but in no event more than the amount required by applicable Laws) which may be used by Lessor to release such lien and pay interest and costs if Lessee's contest is abandoned or is unsuccessful. Upon final determination of any permitted contest, Lessee will promptly pay any judgment rendered and cause the lien to be released.

18.3 Estoppel Certificates.
Lessor and Lessee agree that at any time and from time to time (but on not less than 10 days' prior request by the other party), each party will execute, acknowledge and deliver to the other a certificate indicating any or all of the following: (a) the date on which the Term commenced and the date on which it is then scheduled to expire; (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification); (c) the date, if any, through which Rent had been paid; (d) that no Default by Lessor or Default by Lessee exists which has not been cured, except as to defaults stated in such certificate; (e) that the responding party has no existing defenses or set-offs to enforcement of this Lease, except as specifically stated in such certificate; (f) that a Leasehold Mortgagee (if applicable), or a transferee from a Leasehold Mortgagee, shall be entitled to exercise all rights of Lessee under this Lease as a Foreclosure Transferee; (g) that a Leasehold Mortgagee (if applicable) shall have the right to exercise all rights granted to Leasehold Mortgagees under this Lease; and (h) such other matters as may be reasonably requested by the requesting party. Any such certificate may be relied upon by the requesting party.

19. <u>DEFAULTS BY LESSEE AND LESSOR'S REMEDIES</u>.

19.1 Defaults by Lessee.
Each of the following events, which continue beyond any applicable notice and cure period, will constitute a "Default by Lessee" under this Lease:

a) Failure to Pay Rent. Lessee fails to pay any Rent, including late charges and interest accruing thereon, payable by Lessee under the terms of this Lease when due, and such failure continues for 60 days after written notice from Lessor to Lessee of such failure.

b) Failure to Perform Other Obligations. Lessee breaches or fails to comply with any provision of this Lease applicable to Lessee other than a covenant to pay Rent, and such breach or noncompliance continues for a period of 30 days after written notice thereof from Lessor to Lessee; or, if such breach or noncompliance cannot be reasonably cured within such 30-day period, Lessee does not commence to cure such breach or noncompliance within such 30-day period and thereafter pursue such cure in good faith to completion.

c) Execution and Attachment Against Lessee. Lessee's interest under this Lease or in the Premises is taken upon execution or by other process of law directed against Lessee, or is subject to any attachment by any creditor or claimant against Lessee and such attachment is not discharged or disposed of within 60 days after levy; provided, however, that this provision shall not apply in the event of a foreclosure or transfer in lieu of foreclosure under a Leasehold Mortgage by a Qualified Mortgagee or to a transfer of Lessee's interest in this Lease and the Premises to a Foreclosure Transferee; and further provided, however, that this provision shall not apply in the event of an attachment that does not result in a loss of Lessee's right to use and possess of the Premises.

d) Fraud or Misrepresentation. Lessee's fraud or material misrepresentation, or concealment of material facts relating to its issue, which if known would have prevented its issue in the form or to the party issued.

e) Unauthorized Use of Premises. Lessee's use, or knowledge or permission of someone else's use, of the Premises for any unlawful or unpermitted purpose, and such unlawful use continues for 30 days after written notice from Lessor to Lessee to cease such use.

19.2 Lessor's Remedies.
Time is of the essence. If any Default by Lessee occurs, Lessor will have the right, at Lessor's election, then or at any later time, to exercise any one or more of the remedies described below. Exercise of any of such remedies will not prevent the concurrent or subsequent exercise of any other remedy provided for in this Lease or otherwise available to Lessor at law or in equity.

19.3 Remedies.

a) Cure by Lessor. In the event of a Default by Lessee, Lessor may, at Lessor's option but without obligation to do so, and without releasing Lessee from any obligations under this Lease, make any payment or take any action as Lessor deems necessary or desirable to cure any Default by Lessee in such manner and to such extent as Lessor in good faith deems necessary or desirable, provided that, prior to making any such payment or taking any such action, Lessor notifies Lessee in writing of Lessor's intention to do so and affords Lessee at least 10 days in which to make such payment or take such action. Lessee will pay Lessor, upon written demand, all advances, costs and expenses of Lessor in connection with making any such payment or taking any such action, together with interest at the Default Rate, from the date of payment of any such advances, costs and expenses by Lessor.

b) Termination of Lease. In the event of a Default by Lessee, Lessor may (subject to the cure rights provided to Leasehold Mortgagees under this Lease) terminate this Lease, effective at such time as may be specified by written notice to Lessee, and demand (and, if such demand is refused, recover) possession of the Premises from Lessee. In such event, Lessor will be entitled to recover from Lessee such damages as are allowable by applicable Laws.

c) Receiver. To properly effectuate the recovery of damages and other sums owing from Lessee to Lessor hereunder following a Default by Lessee, Lessor, in conjunction with any dispossession proceeding commenced pursuant to this Lease may seek an appointment of a receiver by a court of competent jurisdiction to the extent provided for in and compliance with the requirements of Title 25, Chapter 14, Part 2 of the Montana Code Annotated and Rule 66 of the Montana Rules of Civil Procedure, as they may be amended. In no event will Lessor be obligated to post a bond in connection with the appointment of a receiver.

d) Bankruptcy Relief. Nothing contained in this Lease will limit or prejudice Lessor's right to obtain adequate assurances of the Lessee's future performance under 11 USC Section 365 or other applicable laws, or any other legal rights, in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding.

c) Repossession and Reletting. In the event of a Default by Lessee, Lessor may reenter and take possession of all or any part of the Premises, without additional demand or notice, and repossess the same and expel Lessee and any party claiming by, through or under Lessee, and remove the effects of both, without being liable for prosecution for such action or being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or right to bring any proceeding for breach of

covenants or conditions. No such reentry or taking possession of the Premises by Lessor will be construed as an election by Lessor to terminate this Lease unless a notice of termination is given to Lessee. No notice from Lessor or notice given under a forcible entry and detainer statute or similar Laws will constitute an election by Lessor to terminate this Lease unless such notice specifically so states. Lessor reserves the right, following any reentry or reletting, to exercise its right to terminate this Lease by giving Lessee such notice, in which event the Lease will terminate as specified in such notice. After recovering possession of the Premises, Lessor will use reasonable efforts to relet the Premises on commercially reasonable terms and conditions. Lessor may make such repairs, alterations or improvements as Lessor considers appropriate to accomplish such reletting, and Lessee will reimburse Lessor upon demand for all reasonable costs and expenses, which Lessor may incur in connection with such reletting. Lessor may collect and receive the rents for such reletting but Lessor will in no way be responsible or liable for any inability to relet the Premises or to collect any rent due upon such reletting. Regardless of Lessor's recovery of possession of the Premises, so long as this Lease is not terminated Lessee will continue to pay on the dates specified in this Lease, the Base Rent and other Rent which would be payable if such repossession had not occurred, less a credit for any payments actually received by Lessor through any reletting of the Premises.

20. DEFAULTS BY LESSOR AND LESSEE'S REMEDIES.

20.1 Defaults by Lessor.

The following event, which continues beyond the applicable notice and cure period, will constitute a "Default by Lessor" under this Lease: Lessor breaches or fails to comply with any provision of this Lease applicable to Lessor, and such breach or noncompliance continues for a period of 30 days after notice thereof from Lessee to Lessor; or, if such breach or noncompliance cannot be reasonably cured within such 30-day period and Lessor does not commence to cure such breach or noncompliance within such 30-day period and does not thereafter pursue such cure in good faith to completion; provided, however, that if Lessor's breach of this Lease materially impairs Lessee's ability to generate energy or deliver energy to a power purchaser under the terms of a PPA or similar power sales agreement, that Lessee shall be entitled to terminate this Lease immediately upon the conclusion of a 90-day period unless Lessor has actually cured such breach prior to the conclusion of such 90-day period.

20.2 Lessee's Remedies.

If any Default by Lessor occurs, Lessee will have the right, at Lessee's election, then or at any later time, to exercise the remedy described below. Exercise of such remedy will not prevent the concurrent or subsequent exercise of any other remedy otherwise available to Lessee at law or in equity. Lessee may, at Lessee's option but without obligation to do so, and without releasing Lessor from any obligations under this Lease, make any payment or take any action as Lessee deems necessary or desirable to cure any Default by Lessor in such manner and to such extent as Lessee in good faith deems necessary or desirable, provided that, prior to making any such payment or taking any such action, Lessee notifies Lessor of Lessee's intention to do so and affords Lessor at least 10 days in which to make such payment or take such action. Lessor will pay Lessee, upon demand, all advances, costs and expenses of Lessee in connection with making any such payment or taking any such action, together with interest at the Default Rate, from the date of payment of any such advances, costs and expenses by Lessee, and, in the event that Lessor fails to pay such costs and expenses, Lessee shall have the right to offset such costs and expenses against future payments of Rent under this Lease if the amount is agree to in writing by the Lessor.

21. SECURITY DEPOSIT.

To secure compliance with the terms of this Lease, on or before the Commencement Date, the Lessee shall deposit with Lessor a $10,000 Security Deposit upon lease execution, to be held by Lessor without interest. Lessor shall not be required to segregate the Deposit from other funds of Lessor. In the event

Lessor assigns or transfers Lessor's interest in this Lease, Lessor shall transfer the Security Deposit to Lessor's successor-in-interest, whereupon Lessor shall be automatically deemed released from all liability in connection with the Security Deposit.

21.1 Security Deposit upon the Expiration Date.
Upon the Expiration Date of this Lease, Lessor may deduct the amount necessary from the Security Deposit to compensate Lessor for all tangible loss, injury or deterioration of the Premises caused by Lessee, or Lessee's guests, plus all unpaid Rent. Within sixty (60) days following Lessee's departure, Lessor will deliver to Lessee a written list of all deductions from the Security Deposit and pay the remaining balance (if any) to Lessee. Said list and payment will be mailed to Lessee's Address unless Lessee provides Lessor a new address in writing. If the Security Deposit is insufficient to satisfy the damages, and unpaid Rent, Lessor may collect the deficiency from Lessee.

21.2 Security Deposit Upon Early Termination by Lessee.
Upon early termination of this Lease by Lessee for any reason other than Force Majeure, the parties acknowledge and agree that the Lessor will suffer damages the exact amount of which will be extremely difficult to ascertain. Accordingly, Lessee shall forfeit the entire amount of the Security Deposit and the parties hereby agree that such forfeiture represents a fair and reasonable estimate of the costs that Lessor will incur by reason of Lessee's early termination. If the Security Deposit is insufficient to satisfy the damages, and unpaid Rent, Lessor may collect the deficiency from Lessee. For the purpose of this subsection, Force Majeure shall mean an act of God, civil unrest, or intentional sabotage, to such an extent that it materially impacts Lessee's ability to exercise its rights, or satisfy its obligations, under this Lease.

21.3 Security Deposit Upon Default of Lessee.
Upon a Default by Lessee, Lessor may, but without obligation to do so or prejudice to or waiver of any other remedy available to Lessor, use or apply the Security Deposit in the manner and to the extent deemed appropriate or necessary by Lessor, in its sole discretion (an "Application") to remedy, cure, or otherwise address the Default by Lessee, which Application shall not cure or waive such Event of Default and shall be restored to its original amount upon request by Lessor.

22. RECLAMATION BOND.
Prior to any construction on the Land, the Lessee shall furnish the Lessor a good and sufficient corporate surety bond, letter of credit or other security satisfactory to the Lessor in the amount specified in the Reclamation Plan attached to this Lease as Exhibit C. The bond shall secure the full performance by the Lessee of its decommissioning of the project and reclamation of the Land. The Bond shall be in form and issued by a surety company acceptable to the Lessor. The Bond shall be reviewed every five years and may be adjusted by the Lessor to assure that reclamation will occur in accordance to the Reclamation Plan. A new or modified Bond shall be delivered to the Lessor not less than thirty (30) days following the Lessor's request for an additional bond. Upon any default by the Lessee of its obligations hereunder, the Bond may be revoked by the Lessor, but such Bond and the Lessor's revocation of the bond shall not limit the liability or obligations of the Lessee or the rights or remedies of the Lessor. The Lessee's failure to have a bond in force at all times during the term of this Lease in the full amount required by the Lessor shall constitute a material breach of this Lease unless otherwise agreed to by the Lessor.

23. REPRESENTATIONS, WARRANTIES, AND COVENANTS.
Lessor represents, warrants and covenants to Lessee as follows:

23.1 Title.
Lessor does not warrant title to the Premises.

23.2 Condemnation.
To the knowledge of the Director, there are no pending or threatened condemnation proceedings or actions affecting the Land.

23.3 Legal Proceedings.
To the knowledge of the Director, there are no pending or threatened actions or legal proceedings which substantially adversely affects the Premises or Lessor's rights under this Lease. The Director has not received notice and has no knowledge of any violation of any law, regulation, ordinance, order or other requirement of any governmental authority having jurisdiction over or affecting any part of the Premises which substantially adversely affects the Premises.

23.4 Binding Obligation.
That this Lease has been duly authorized, executed, and delivered by or on behalf of Lessor and is, upon execution and delivery, the legal, valid, and binding obligation of Lessor, enforceable against Lessor in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general equitable principles. The execution and delivery of this Lease and the consummation of the transactions contemplated hereby do not conflict with or constitute a default or an event which with notice or passage of time or both will constitute default under any contract to which Lessor is a party or by which Lessor is bound.

23.5 No Unreasonable Interference.
Lessor shall not cause or permit any unreasonable interference with the Premises, or otherwise with Lessee's permitted use or take any voluntary action designed to frustrate Lessee's permitted use.

23.6 Environmental Matters.
To the knowledge of the Director, there are no incidents of any noncompliance or violation of any local, state or federal environmental laws related to the Premises. To the knowledge of the Director, there are no Hazardous Substances in amounts or concentrations that could trigger a reporting obligation or result in remediation or other requirements on the part of any applicable governmental authority under any Environmental Laws, or underground storage tanks on the Premises. To the knowledge of the Director, the Department is in material compliance with all state, federal, and local environmental laws as the same are applicable to the Land, and is not subject to any environmental proceedings with respect to the Land. To the knowledge of the Director, the Department has not received any written notice of any violation, and no other person has received any written notice of any violation, that, as of the date hereof, remains uncured, and no writs, injunctions, decrees, orders or judgments are outstanding, no suits, claims, actions, proceedings or investigations have been instituted or filed, and none are pending or threatened, under any environmental laws with respect to the ownership, use or occupation of the Land. Lessor affirms and covenants that, as of the Effective Date, to the knowledge of the Director: (i) no Hazardous Substances have ever been produced on the Land or disposed of thereon or therein, (ii) no release has occurred on the Land, and (iii) no Hazardous Substances have migrated to or from the Land.

24. <u>MISCELLANEOUS</u>.

24.1 Notices.
All notices required under this Lease must be in writing and will be deemed properly given and received (a) when actually given and received, if delivered in person to a party who acknowledges receipt in writing; or (b) one business day after deposit with a private courier or overnight delivery service with a written acknowledgment of receipt; or (c) 5 business days after the date postmarked on the cover of any correspondence or notice when deposited in the United States mail, certified – return receipt requested, with postage prepaid. All such notices shall be sent to the noticee's address shown in this Lease unless

the party giving notice has been notified, in writing, of a more recent address for the noticee. In the case of notices to a Qualified Mortgagee, to the address set forth in its most recent notice to Lessor.

24.2 Binding Effect.
Each of the provisions of this Lease will extend to bind or inure to the benefit of, as the case may be, Lessor and Lessee, and their respective heirs, successors and assigns.

24.3 Modifications.
This instrument contains the entire agreement between the parties, and no statement, promises or inducements made by either party, or agents of either party, which are not contained in this Lease shall be valid or binding. All modifications to this Lease must be in writing and signed by the Lessor and the Lessee. If executed properly under this section, modifications of this Lease do not need independent consideration to be legally enforceable.

24.4 Enforcement Expenses.
Regardless of any statutory rights, each party agrees to bear their own costs, charges and expenses, including the fees and out-of-pocket expenses of attorneys, agents and others retained, incurred in successfully enforcing the other party's obligations under this Lease.

24.5 No Waiver.
No waiver of any provision of this Lease will be implied by any failure of either party to enforce any remedy upon the violation of such provision, even if such violation is continued or repeated subsequently. No express waiver will affect any provision other than the one specified in such waiver, and that only for the time and in the manner specifically stated.

24.6 Captions.
The captions of sections are for convenience of reference only and will not be deemed to limit, construe, affect or alter the meaning of such sections.

24.7 Severability.
If any provision of this Lease is declared void or unenforceable by a final judicial or administrative order, this Lease will continue in full force and effect, except that the void or unenforceable provision will be deemed deleted and replaced with a provision as similar in terms to such void or unenforceable provision as may be possible and be valid and enforceable.

24.8 Waiver of Jury Trial.
Lessor and Lessee waive trial by jury in any action, proceeding or counterclaim brought by Lessor or Lessee against the other with respect to any matter arising out of or in connection with this Lease, Lessee's use and occupancy of the Premises, or the relationship of Lessor and Lessee.

24.9 Authority to Bind.
The individuals signing this Lease on behalf of Lessor and Lessee represent and warrant that they are empowered and duly authorized to bind Lessor or Lessee, as the case may be, to this Lease according to its terms.

24.10 Only Lessor/Lessee Relationship.
Lessor and Lessee agree that neither any provision of this Lease nor any act of the parties will be deemed to create any relationship between Lessor and Lessee other than the relationship of Lessor and Lessee.

24.11 Reservation of Oil, Gas, and Minerals.
Lessor expressly excepts and reserves from this Lease all rights to all oil, gas and other minerals in, on or under the Land and that might be produced or mined from the Land; provided, however, that no drilling, mining or other surface disturbance will be undertaken on the surface of this Lease, nor shall the Lessor interfere with the Lessee's right to subjacent support, during the Term of this Lease. If requested by a title company in connection with a mineral or subsurface rights endorsement, Lessor shall execute an recordable instrument evidencing these restrictions on the use of the subsurface estate of the Land.

24.12 Right of Inspection
Lessor, or its authorized representatives, may, at any reasonable hour, enter upon and inspect the Premises to ascertain compliance with this Lease. Any inspection or examination of the Buildings and Improvements shall not interfere with Lessee's use of the Premises or the business conducted therein. Due to potential safety hazards present, the Lessor may give the Lessee reasonable notice of an inspection. If reasonable notice is given, the Lessee will provide a qualified individual to accompany Lessor around the site. Reasonable notice is 48 hour notice.

24.13 Reasonableness.
At any time during this Lease, if either party is to use reasonable judgment, it shall be deemed to mean ordinary business judgment.

24.14 Governing Law; **Venue and Jurisdiction.**
This Lease will be governed by and construed according to the laws of the State of Montana. Venue and jurisdiction for any dispute arising under this Lease shall be before the Lessor as a contested case proceeding under the Montana Administrative Procedures Act before the Department.

24.15 Time of Essence.
Time is expressly declared to be of the essence of this Lease.

24.16 No Brokers.
Lessor and Lessee each represent and warrant to the other that no broker or agent negotiated, or was instrumental in negotiating or consummating this Lease on behalf of such party. Lessor and Lessee will indemnify and hold the other party harmless from all damages paid or incurred by such party, respectively, from any claims asserted against such party by brokers or agents claiming through the other party.

24.17 Construction Time Periods.
All construction activities will occur during dry (non-saturated) or frozen soil conditions to minimize rutting and soil compaction after consultation with Department.

24.18 Memorandum of Lease.
Lessor and Lessee agree to execute and cause to be recorded in the official records of Yellowstone County, Montana a memorandum of this Lease in form and substance mutually agreeable to each Lessor and Lessee, but which form shall include, at a minimum, a description of the Premises, a statement regarding Lessee's exclusive right to use and occupy the Premises, and a statement of the Term of the Lease.

24.19 Reservation of Rights-Of-Way
Lessor expressly excepts and reserves from this Lease and retains the right to grant rights-of-way on the Land for other purposes to third-parties, that will not unduly interfere with the rights of the Lessee granted hereunder

Having read and intending to be bound by the terms and provisions of this Lease, Lessor and Lessee have signed it as of the date first stated above.

LESSEE, MTSUN, LLC:

By: _____
Authorized Signatory

_____
Name and Title

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____ as authorized signatory of MTSUN, LLC.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

LESSOR, STATE OF MONTANA, DNRC:

By: _____
Michael Atwood, Bureau Chief
Real Estate Management Bureau

STATE OF MONTANA)
) ss:
COUNTY OF _____)

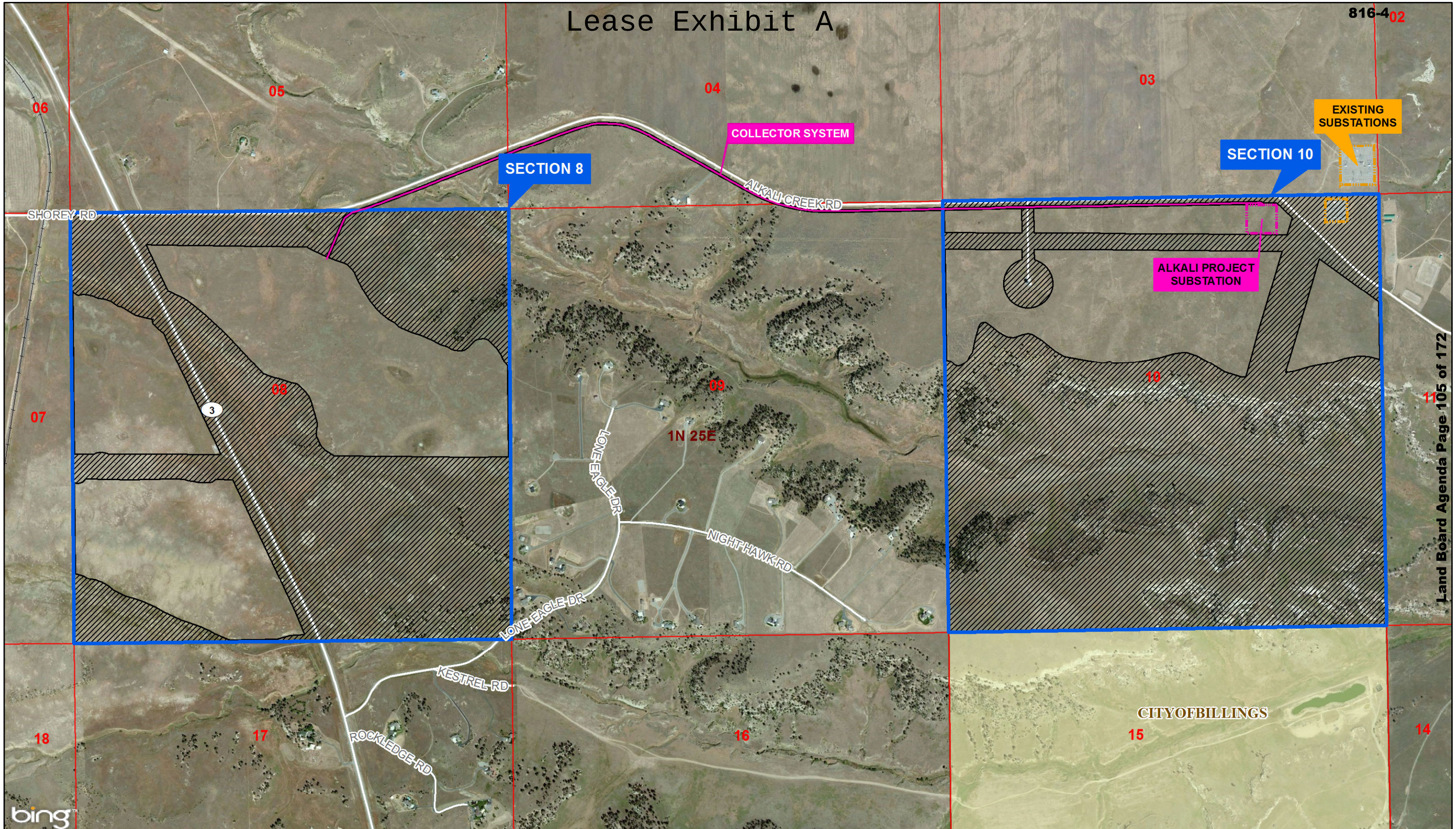
The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by Michael Atwood, Bureau Chief, Real Estate Management Bureau, State of Montana, DNRC.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

Lease Exhibit A



LEGEND

Project Boundary
Development Area
Existing Substation
Area not developed
Collector System

0 1,000 2,000 Feet

	Development Area	Area Not Developed
Section 8	289.9	355.7
Section 10	160.8	483.0
Collector ROW	8.4	0.0
Total	459.1	838.7

ENERGY OF UTAH
POWER FOR PEOPLE

YELLOWSTONE COUNTY, MONTANA
ALKALI CREEK PV PROJECT

OVERVIEW MAP

LEASE
EXHIBIT B
MARKET ADJUSTMENT
SCHEDULE AND PROVISIONS

MARKET ADJUSTMENT PROVISIONS

Base Rent for the Land shall be subject to Market Adjustments determined in accordance with these provisions. The Market Adjustments will apply upon lease expiration, prior to any renewal. The process for the Market Adjustment will commence during the year prior to expiration (the "Market Date").

The Market Adjustment will be determined by appraisal in accordance with the following provisions:

SELECTION OF APPRAISERS
Lessor and Lessee shall each hire an appraiser meeting the qualifications set forth in these provisions and shall instruct such appraiser to prepare an appraisal of the market value of the Land based upon the assumptions and meeting the requirements set forth these provisions. The appraiser so retained by Lessor is herein referred to as "Lessor's Appraiser," and the appraisal prepared by Lessor's Appraiser is herein referred to as "Lessor's Appraisal." The appraiser so retained by Lessee is herein referred to as "Lessee's Appraiser," and the appraisal prepared by Lessee's Appraiser is herein referred to as "Lessee's Appraisal." Each appraiser shall be subject to the approval of the other party, which approval will not be unreasonably withheld. Lessor's Appraiser and Lessee's Appraiser shall each be instructed to complete their respective appraisals and deliver their results to both Lessor and Lessee.

DETERMINATION OF BASE RENT
If the difference between the dollar amount of Lessor's Appraisal and the dollar amount of Lessee's Appraisal is equal to or less than 10%, then the Land Value shall be deemed to be the mathematical average of the two appraisals. See the following example of a scheduled Market Adjustment for a 50,000 square foot lease, at a 6% lease rate with two different appraisal values:

Lessor Appraisal = $6.50 per square foot
Lessee Appraisal = $6.10 per square foot
Land Value= $6.30 per square foot

New Annual Base Rent = $6.30 x 50,000 (or applicable square footage) x 6% (or applicable Lease Rate) = $18,900.

If the difference between the dollar amount of Lessor's Appraisal and the dollar amount of Lessee's Appraisal is greater than 10%, then:

a) Lessor and Lessee shall have 30 days from the Appraisal Report Date within which to agree upon the Land Value between the two appraisals; OR
b) If Lessor and Lessee are unable to agree on the Land Value within such 30 day period, then Lessor and Lessee shall jointly select a third appraiser to prepare an appraisal of the market value of the Land utilizing the same scope of work from the Lessor's Appraisal and the Lessee's Appraisal. The third appraiser shall be provided copies of both appraisals. The third appraisal shall be prepared and delivered to both Lessor and Lessee. The Land Value shall be the mathematical average of the two appraisals that are closest in dollar amount.

The Land Value determined in accordance with the foregoing provisions shall be binding and conclusive on the parties. Base Rent for the land, as adjusted by the Market Adjustment, shall be amount obtained

by multiplying the Land Value by a percentage determined in accordance with 77-1-905, MCA, or the rate bid in the lease proposal, whichever is higher.

QUALIFICATIONS OF APPRAISERS; REPLACEMENT
Each of Lessor's Appraiser, Lessee's Appraiser and any third appraiser must (a) have an MAI designation by the Appraisal Institute (or similar designation available on the Market Date); (b) be a Certified General Appraiser licensed in the State of Montana; and (c) have appraised similar types of uses in the three years prior to such Market Date. If any appraiser designated to serve in accordance with these provisions shall fail, refuse, or otherwise become unable to act, a new appraiser shall be appointed by the contracting party.

SCOPE OF WORK
The Lessor shall draw up the scope of work that meets the statutory requirements at the time, and supply the scope of work to all appraisers. All appraisals conducted during a Market Adjustment shall be subject to the same scope of work.

BRIEFING SESSION
Lessor's Appraiser and Lessee's Appraiser, should either so elect, shall be entitled to require a briefing session, to be held at Lessor's offices on a day and at a time mutually acceptable to Lessor, Lessee, Lessor's Appraiser and Lessee's Appraiser but in all events not earlier than 10 nor later than 15 days following the Market Date. At such session, both such appraisers shall be present and each shall be entitled to ask such questions of Lessor and Lessee.

PAYMENT
Lessor shall pay all costs, fees and expenses of Lessor's Appraiser, and Lessee shall pay all costs, fees and expenses of Lessee's Appraiser. If a third appraiser is required, Lessor and Lessee shall share equally all costs, fees and expenses of such third appraiser.

Lease

EXHIBIT C

Reclamation Plan

This exhibit is dependent on the lease proposal and subsequent Environmental Analysis.
The placeholder will be replaced with the actual exhibit prior to lease signature.

Lease

EXHIBIT D

Post-Construction Environmental Monitoring

This exhibit is dependent on the lease proposal and subsequent Environmental Analysis.
The placeholder will be replaced with the actual exhibit prior to lease signature.

AGREEMENT (LEASE) NO. 5270 816-4 DS-434 (Rev. 2/12)

AGRICULTURAL & GRAZING LEASE OF STATE LANDS

This lease is entered into by the State of Montana, Board of Land Commissioners and Department of Natural Resources & Conservation (Department) as lessor, and the person herein named, as the lessee.

Date this lease takes effect: March 01, 2015 Customer #: **140219**

Name of Lessee: CELLMER, STEVE

Address or Box No.: 7887 SHOREY RD

City/State/Zip: BILLINGS MT 59106

Land Located in Yellowstone County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres
ALL, SUBJ TO HWY R/W	8	1N	25E	640.00

Total number of leased acres, 640 more or less belonging to Common Schools Grant.

Grazing Acres: 623 Agricultural Acres: 0 Unsuitable Acres: 17

Other Acres 0 Hayland Acres 0 CRP Acres 0

Terms of Grazing Use and Rental Rate: Minimum

Terms of Agricultural Use and Rental Rate: Minimum

Purpose for which the land is leased: GRAZING

Term of lease: 10 years Date of expiration: February 28, 2025

THIS LEASE HAS A CARRYING CAPACITY OF 78 ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

The State of Montana, in consideration of the payment of rentals as specified in this lease and the mutual agreements contained in this lease hereby leases the above-described lands to the lessee(s) named above.

The lessee(s) in consideration of the lease of the above-described lands and the mutual agreements contained in this lease hereby agrees to pay the rentals as specified in the lease and to perform all the conditions as specified in this lease, the applicable rules and the applicable statutes.

The parties to this lease mutually agree to the following terms and conditions:

1. ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.

2. ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.

3. CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.

4. SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.
(a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.
(b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)

5. REPORTS--Lessee is required to submit reports as requested by the Director, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.

6. CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the department of such grazing may be cause for cancellation of the lease.

7. FEDERAL FARM PROGRAM COMPLIANCE--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.

8. IMPROVEMENTS--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitableness for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.

9. LIENS ON BUILDINGS AND CROPS--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.

10. COMPENSATION FOR IMPROVEMENTS--(a)If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents ($2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
(b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
(c) Summer fallowing (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.

11. ASSIGNMENT OF LEASE--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.

12. RENEWAL LEASE--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.

13. CANCELLATION OF LEASE BY THE STATE--The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.

14. LANDS MAY BE SOLD--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.

15. RESERVATION--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
(a) MINERAL AND TIMBER RESERVATION--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
(b) ADDITIONAL RESERVATIONS--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.

16. NOXIOUS WEEDS AND PESTS--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114, MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user. except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.

18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States. such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.

19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.

20. INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.

21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties. fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.

22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.

23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use," as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.

24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.

25. SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the said Board of Land Commissioners this _____ day of APR 2 2015, 20_____.

Steven L Cellner
LESSEE SIGNATURE

7887 Lhorey Rd
ADDRESS OR BOX NO.

Billings Mt 59106
CITY STATE ZIP CODE

406-245-5451
PHONE NUMBER

JOHN E. TUBBS
DIRECTOR, DEPT OF NATURAL RESOURCES & CONSERVATION

by: Amanda Taylor

BOARD OF LAND COMMISSIONERS STATE OF MONTANA

816-4 DS-434 (Rev. 2/12)

AGREEMENT (LEASE) NO. 10519

AGRICULTURAL & GRAZING LEASE OF STATE LANDS

This lease is entered into by the State of Montana, Board of Land Commissioners and Department of Natural Resources & Conservation (Department) as lessor, and the person herein named, as the lessee.

Date this lease takes effect: March 01, 2013

Name of Lessee: CELLMER, STEVE

Address or Box No.: 7887 SHOREY RD

City/State/Zip: BILLINGS MT 59106

Land Located in Yellowstone County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres
ALL	10	1N	25E	640.00

Total number of leased acres, 640 more or less belonging to Common Schools Grant.

Grazing Acres: 621 Agricultural Acres: 0 Unsuitable Acres: 19
Other Acres 0 Hayland Acres 0 CRP Acres 0

Terms of Grazing Use and Rental Rate: Minimum

Terms of Agricultural Use and Rental Rate: Minimum

Purpose for which the land is leased: GRAZING

Term of lease: 10 years Date of expiration: February 28, 2023

THIS LEASE HAS A CARRYING CAPACITY OF 124 ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

The State of Montana, in consideration of the payment of rentals as specified in this lease and the mutual agreements contained in this lease hereby leases the above-described lands to the lessee(s) named above.

The lessee(s) in consideration of the lease of the above-described lands and the mutual agreements contained in this lease hereby agrees to pay the rentals as specified in the lease and to perform all the conditions as specified in this lease, the applicable rules and the applicable statutes.

The parties to this lease mutually agree to the following terms and conditions:

1. ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.

2. ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.

3. CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.

4. SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.
(a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.
(b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)

5. REPORTS--Lessee is required to submit reports as requested by the Director, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.

6. CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the department of such grazing may be cause for cancellation of the lease.

7. FEDERAL FARM PROGRAM COMPLIANCE--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.

8. IMPROVEMENTS--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitableness for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.

9. LIENS ON BUILDINGS AND CROPS--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.

10. COMPENSATION FOR IMPROVEMENTS--(a)If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents ($2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
(b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
(c) Summer fallowing (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.

11. ASSIGNMENT OF LEASE--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.

12. RENEWAL LEASE--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.

13. CANCELLATION OF LEASE BY THE STATE--The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.

14. LANDS MAY BE SOLD--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.

15. RESERVATION--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
(a) MINERAL AND TIMBER RESERVATION--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
(b) ADDITIONAL RESERVATIONS--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.

16. NOXIOUS WEEDS AND PESTS--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114, MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user. except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.

18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States. such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.

19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.

20. INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.

21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties. fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.

22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.

23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use," as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.

24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.

25. SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the said Board of Land Commissioners this _____ day of MAR 2 6 2013, 20_____.

Steven L Cellmer
LESSEE SIGNATURE

7887 Shoreline Rd
ADDRESS OR BOX NO.

Billings Mt 59106
CITY STATE ZIP CODE

406-245-5451
PHONE NUMBER

JOHN E. TUBBS
DIRECTOR, DEPT OF NATURAL RESOURCES & CONSERVATION

by: Stephanie Kellogg

BOARD OF LAND COMMISSIONERS STATE OF MONTANA ORO Y PLATA

816-5

EASEMENTS:

Land Board Agenda Item
August 15, 2016

816-5 Easements

Location: Blaine, Chouteau, Custer, Jefferson, Lincoln, Mineral, Richland, Rosebud, Sanders Counties

Trust Benefits: Common Schools, MSU-2nd Grant (ACB), Pine Hills School, Public Lands

Trust Revenue: Common Schools = $117,163
MSU 2nd Grant =$730
Pine Hills School =$12,700
Public Land Trust – Navigable Rivers =$5189

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Hiland Partners Holdings, LLC 1001 Louisiana Street Houston TX 77002
Application No.:	17275
R/W Purpose:	an 8” buried natural gas pipeline
Lessee Agreement:	Needed
Acreage:	0.01
Compensation:	$100.00
Legal Description:	30-foot strip through NE4NE4, Sec. 19, Twp. 24N, Rge. 53E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

Hiland Partners Holdings, LLC has made application for an 8” natural gas pipeline. The pipeline was previously authorized and installed under a Land Use License issued in 2006. This application is to convert the License to a 30-year term easement. Hiland Partners Holdings, LLC has agreed to compensation in the amount of $80/rod which is consistent with other installations in the area.

DNRC Recommendation

The director recommends approval of this 30-year term easement for this natural gas pipeline.

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Hiland Crude LLC 1001 Louisiana Street Houston TX 77002
Application No.:	17278
R/W Purpose:	a 4” & 8” buried crude oil pipeline
Lessee Agreement:	Needed
Acreage:	4.03
Compensation:	$28,397.00
Legal Description:	30-foot strip through S2S2, Sec. 36, Twp. 25N, Rge. 53E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

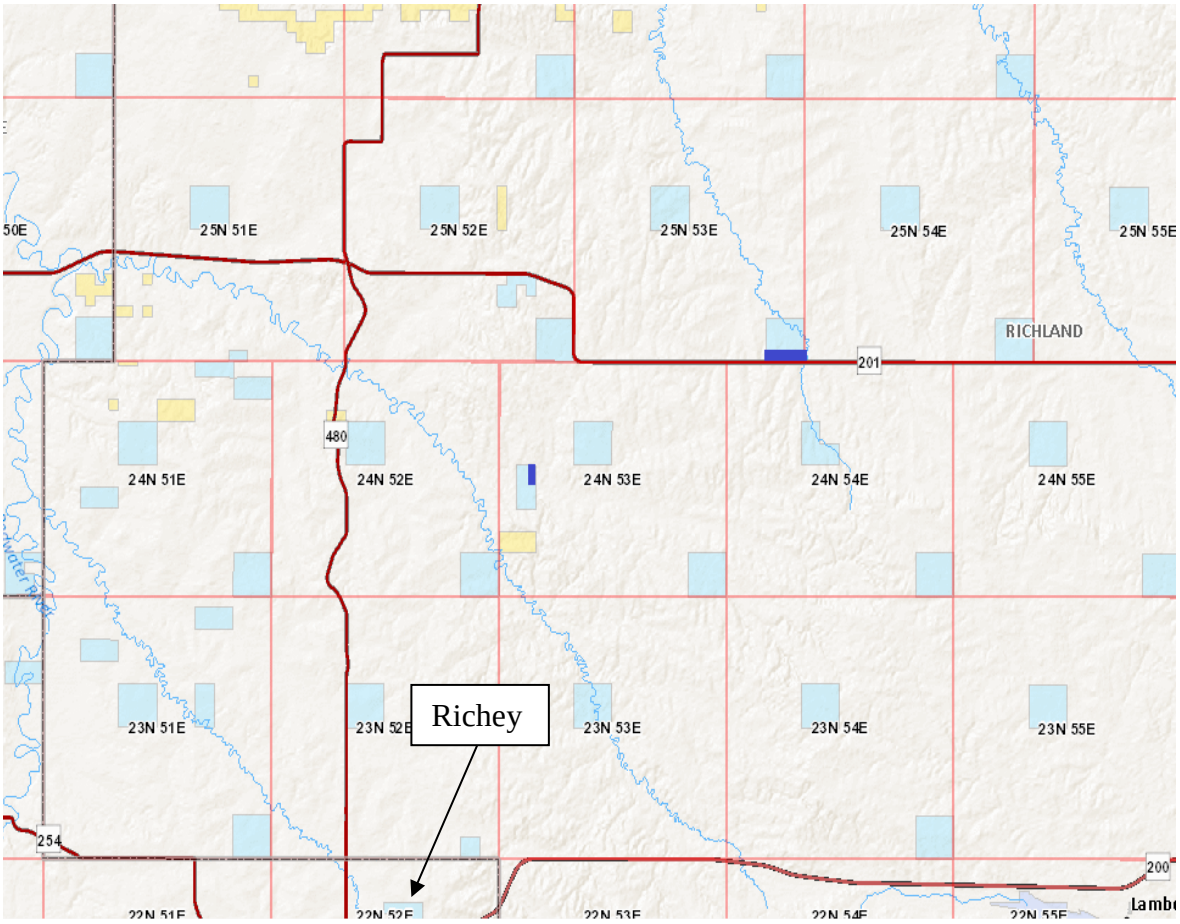
Hiland Crude, LLC has made application for a 4” & 8” crude oil pipeline. The pipeline was previously authorized and installed under a Land Use License issued in 2006. This application is to convert the License to a 30-year term easement. Hiland Crude, LLC has agreed to compensation in the amount of $80/rod which is consistent with other installations in the area.

DNRC Recommendation

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

Rights of Way Applications

August 15, 2016



Application #'s 17275 & 17278 - Hiland

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17292
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.22
Compensation:	$275.00
Legal Description:	10-foot strip through SE4NE4, NE4SE4, Sec. 7, Twp. 21N, Rge. 29W, Sanders County
Trust Beneficiary:	Public Lands

Item Summary

Northwestern Energy has made application for multiple overhead electric distribution and transmission lines that were constructed on state lands many years ago without proper authorization from the Land Board. Pursuant to §77-1-130, MCA Northwestern Energy is requesting recognition of these overhead electric distribution and transmission lines as historic rights of ways.

DNRC Recommendation

The director recommends approval of this historic right of way for Northwestern Energy.

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17293
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.05
Compensation:	$100.00
Legal Description:	10-foot strip through SW4NW4, Sec. 8, Twp. 21N, Rge. 29W, Sanders County
Trust Beneficiary:	Public Lands

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DNRC Recommendation
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17294
R/W Purpose:	a 115kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.5
Compensation:	$625.00
Legal Description:	30-foot strip through SW4NE4, NW4SE4, Sec. 7, Twp. 21N, Rge. 29W, Sanders County
Trust Beneficiary:	Public Lands

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DNRC Recommendation
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17295
R/W Purpose:	a 115kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.53
Compensation:	$663.00
Legal Description:	30-foot strip through SW4NE4, NW4SE4, Sec. 7, Twp. 21N, Rge. 29W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17297
R/W Purpose:	a 115kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.17
Compensation:	$213.00
Legal Description:	30-foot strip through SE4NW4, Sec. 7, Twp. 20N, Rge. 26W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17298
R/W Purpose:	a 115kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.44
Compensation:	$132.00
Legal Description:	30-foot strip through SE4NE4, Sec. 17, Twp. 21N, Rge. 28W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17299
R/W Purpose:	a 115kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.05
Compensation:	$100.00
Legal Description:	30-foot strip through S2NE4, Sec. 7, Twp. 21N, Rge. 29W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17300
R/W Purpose:	a 115kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.05
Compensation:	$100.00
Legal Description:	30-foot strip through SE4NE4, Sec. 7, Twp. 21N, Rge. 29W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

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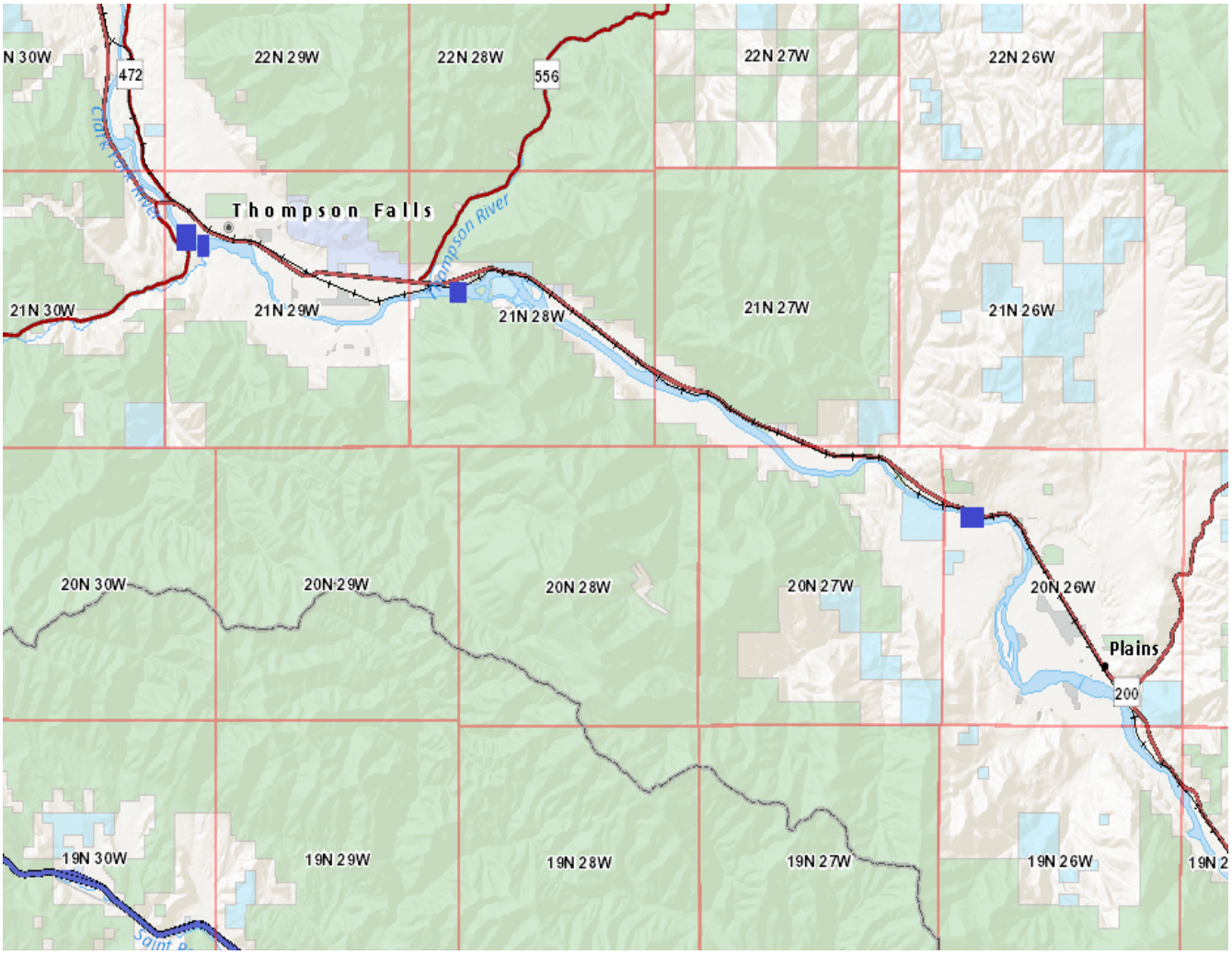

Application #'s 17292-17295, 17297-17300 – Northwestern Energy

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Hiland Crude, LLC 1001 Louisiana Street Houston TX 77002
Application No.:	17302
R/W Purpose:	an 8” buried crude oil pipeline
Lessee Agreement:	Needed
Acreage:	3.76
Compensation:	$26,472.00
Legal Description:	30-foot strip through S2S2, Sec. 16, Twp. 24N, Rge. 54E, Richland County
Trust Beneficiary:	Common Schools

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Rights of Way Applications

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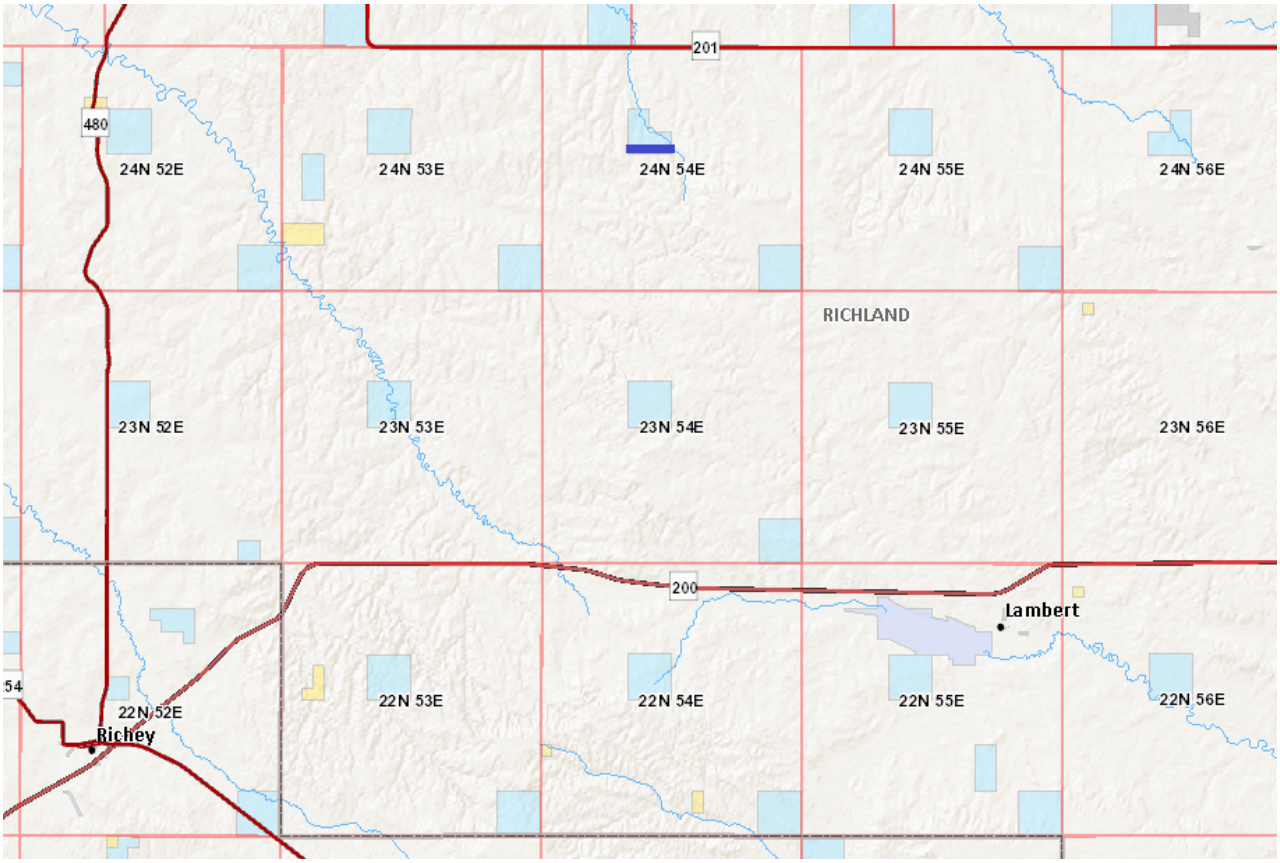

Application # 17302 - Hiland

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17317
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.15
Compensation:	$113.00
Legal Description:	10-foot strip through N2SE4, SE4SE4, Sec. 3, Twp. 16N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17318
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.13
Compensation:	$200.00
Legal Description:	10-foot strip through SE4SE4, Sec. 4 & NE4NE4, Sec. 9, Twp. 18N, Rge. 25W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17320
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.12
Compensation:	$100.00
Legal Description:	10-foot strip through NW4SE4, Sec. 9, Twp. 18N, Rge. 25W, Sanders County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17322
R/W Purpose:	a 7.2kV overhead electric distribution line
Lessee Agreement:	N/A (Historic)
Acreage:	0.05
Compensation:	$100.00
Legal Description:	30-foot strip through SE4SW4, Sec. 18, Twp. 18N, Rge. 27W, Mineral County
Trust Beneficiary:	MSU_2nd

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17323
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.11
Compensation:	$165.00
Legal Description:	10-foot strip through SW4NE4, Sec. 19, Twp. 18N, Rge. 27W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17324
R/W Purpose:	a 4.16kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.09
Compensation:	$200.00
Legal Description:	10-foot strip through SW4SE4, Sec. 27 & NW4NE4, Sec. 34, Twp. 17N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17326
R/W Purpose:	a 4.16kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.09
Compensation:	$100.00
Legal Description:	10-foot strip through SW4NW4, Sec. 35, Twp. 17N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17327
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.08
Compensation:	$120.00
Legal Description:	10-foot strip through SW4SW4, Sec. 18, Twp. 17N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17328
R/W Purpose:	a 4.16kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.1
Compensation:	$200.00
Legal Description:	10-foot strip through SW4SE4, Sec. 27 & NE4NW4, Sec. 34, Twp. 17N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17329
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.07
Compensation:	$200.00
Legal Description:	10-foot strip through SE4SE4, Sec. 28 & NE4NE4, Sec. 33, Twp. 17N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17332
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.09
Compensation:	$135.00
Legal Description:	10-foot strip through S2SE4, Sec. 5, Twp. 17N, Rge. 27W, Mineral County
Trust Beneficiary:	Public Lands

Item Summary
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17333
R/W Purpose:	a 7.2kV overhead electric distribution line
Lessee Agreement:	N/A (Historic)
Acreage:	0.1
Compensation:	$300.00
Legal Description:	30-foot strip through SW4SW4, Sec. 9, Twp. 17N, Rge. 27W, Mineral County
Trust Beneficiary:	Common Schools

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DNRC Recommendation
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17334
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.09
Compensation:	$135.00
Legal Description:	10-foot strip through SW4NW4, Sec. 14, Twp. 17N, Rge. 27W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17335
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.07
Compensation:	$105.00
Legal Description:	10-foot strip through NE4SW4, Sec. 15, Twp. 17N, Rge. 27W, Mineral County
Trust Beneficiary:	Public Lands

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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17336
R/W Purpose:	a 100kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.13
Compensation:	$100.00
Legal Description:	30-foot strip through N2NE4, Sec. 32, Twp. 15N, Rge. 24W, Mineral County
Trust Beneficiary:	Public Lands

Item Summary
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17337
R/W Purpose:	a 100kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.23
Compensation:	$403.00
Legal Description:	30-foot strip through SE4NW4, Sec. 13, Twp. 16N, Rge. 26W, Mineral County
Trust Beneficiary:	Public Lands

Item Summary
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DNRC Recommendation
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17338
R/W Purpose:	a 100kV overhead electric transmission line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.27
Compensation:	$405.00
Legal Description:	30-foot strip through SW4NW4, NW4SW4, Sec. 30, Twp. 18N, Rge. 27W, Mineral County
Trust Beneficiary:	Public Lands

Item Summary
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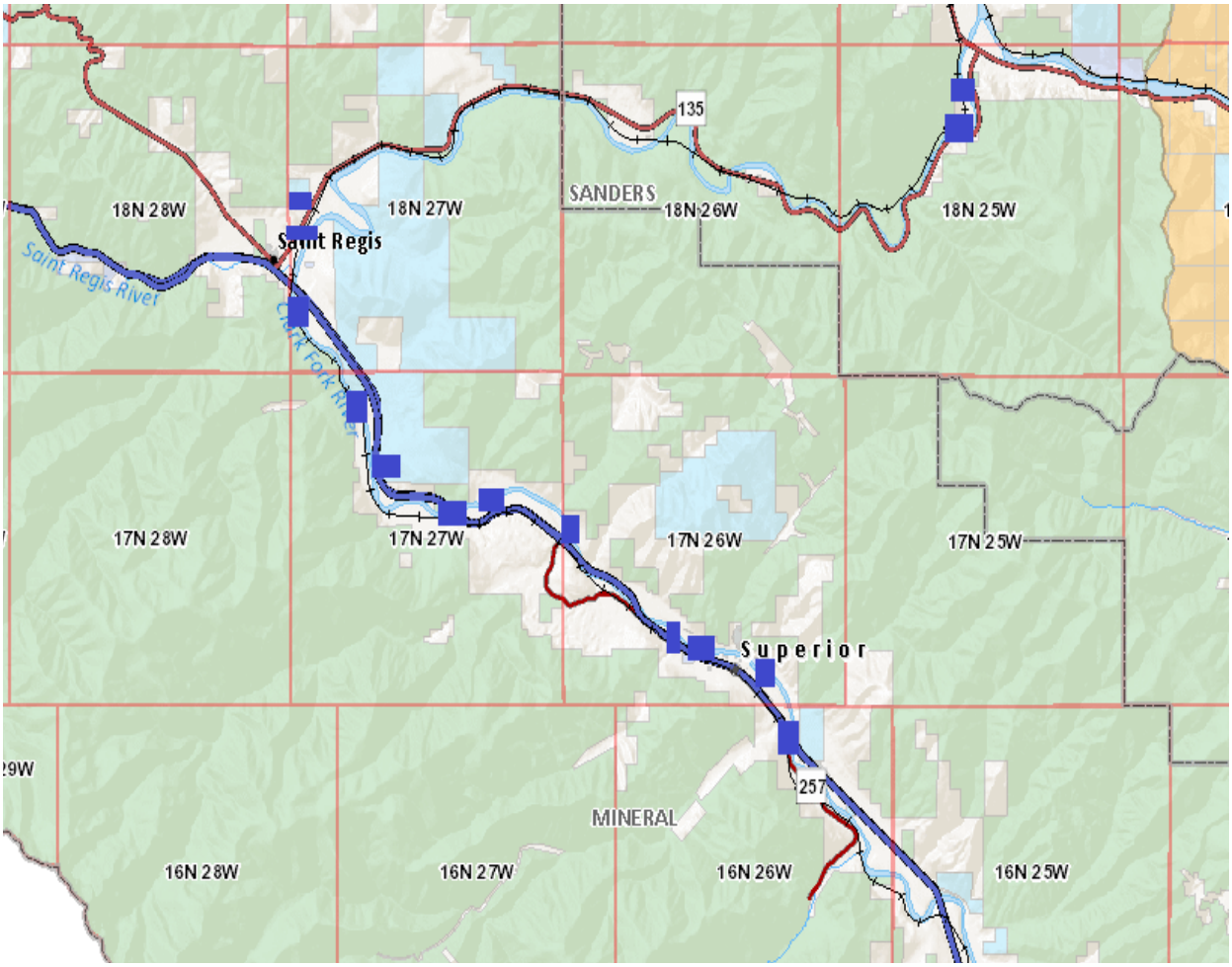
Rights of Way Applications

August 15, 2016



Application #'s 17317-17318, 17320, 17322-17324, 17326-17329, 17332-17335, 17338 – Northwestern Energy

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Rosebud County PO Box 1123 Forsyth MT 59327
Application No.:	17339
R/W Purpose:	a public county road known as Ryan's Fork Road
Lessee Agreement:	N/A (Historic)
Acreage:	18.25
Compensation:	$5475.00
Legal Description:	60-foot strip through SE4SE4, Sec. 36, Twp. 11N, Rge. 40E; E2NW4, NW4SW4, NW4NE4, Sec. 16, Twp. 11N, Rge. 41E; W2NE4, NW4SE4, S2SE4, Sec. 36, Twp. 12N, Rge. 41E, Rosebud County
Trust Beneficiary:	Common Schools

Item Summary

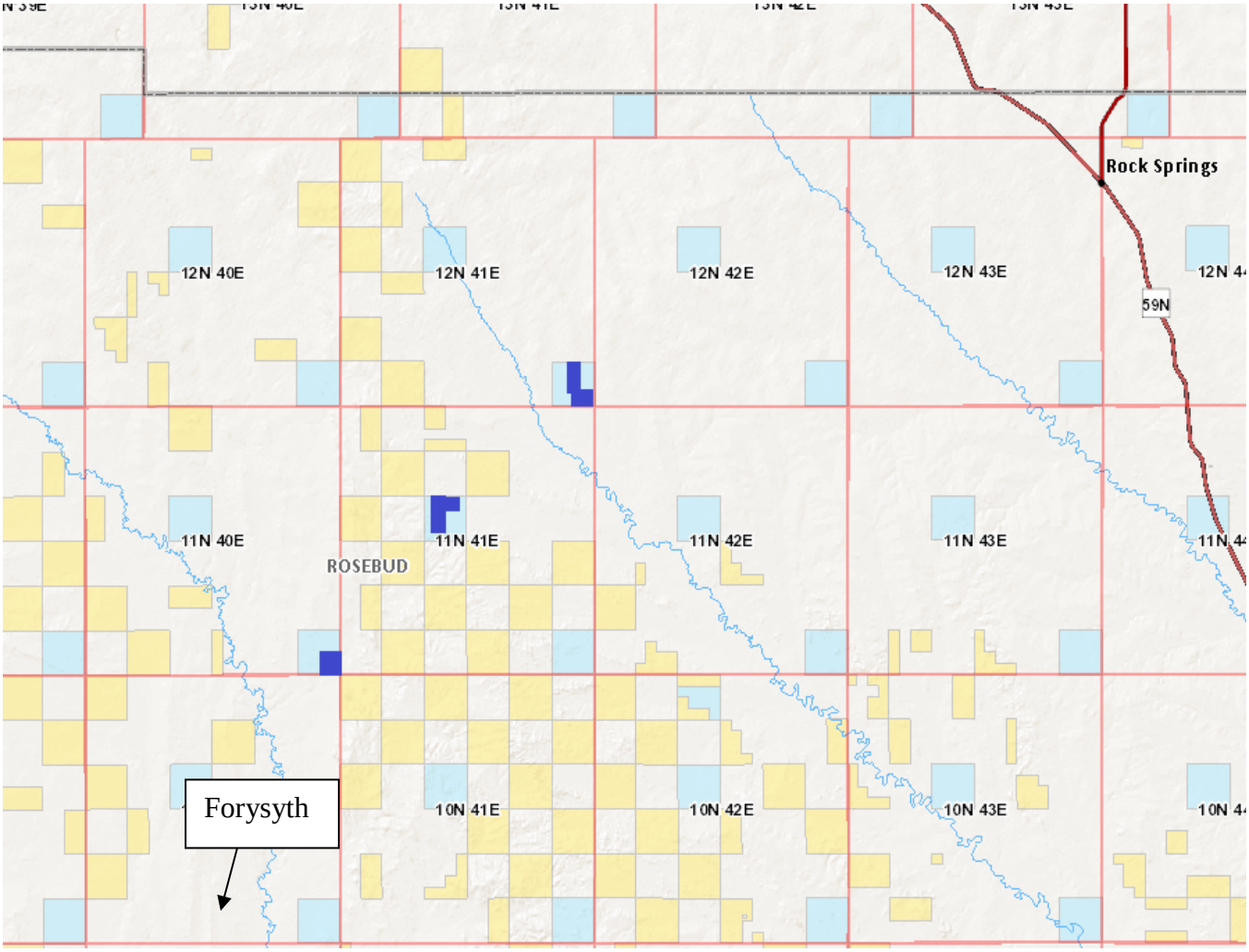
Rosebud County has made application for this county road that was constructed on state lands many years ago without proper authorization from the Land Board. Pursuant to §77-1-130, MCA, the county is requesting recognition of this road as a historic right of way.

DNRC Recommendation

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

Rights of Way Applications

August 15, 2016



Application # 17339 – Rosebud County

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Assn., Inc. PO Box 1220 Havre MT 59501
Application No.:	17409
R/W Purpose:	2 buried telecommunication cables
Lessee Agreement:	ok
Acreage:	1.68
Compensation:	$420.00
Legal Description:	20-foot strip through W2SW4, SW4NW4, Sec. 36, Twp. 26N, Rge. 23E, Blaine County
Trust Beneficiary:	Common Schools

Item Summary

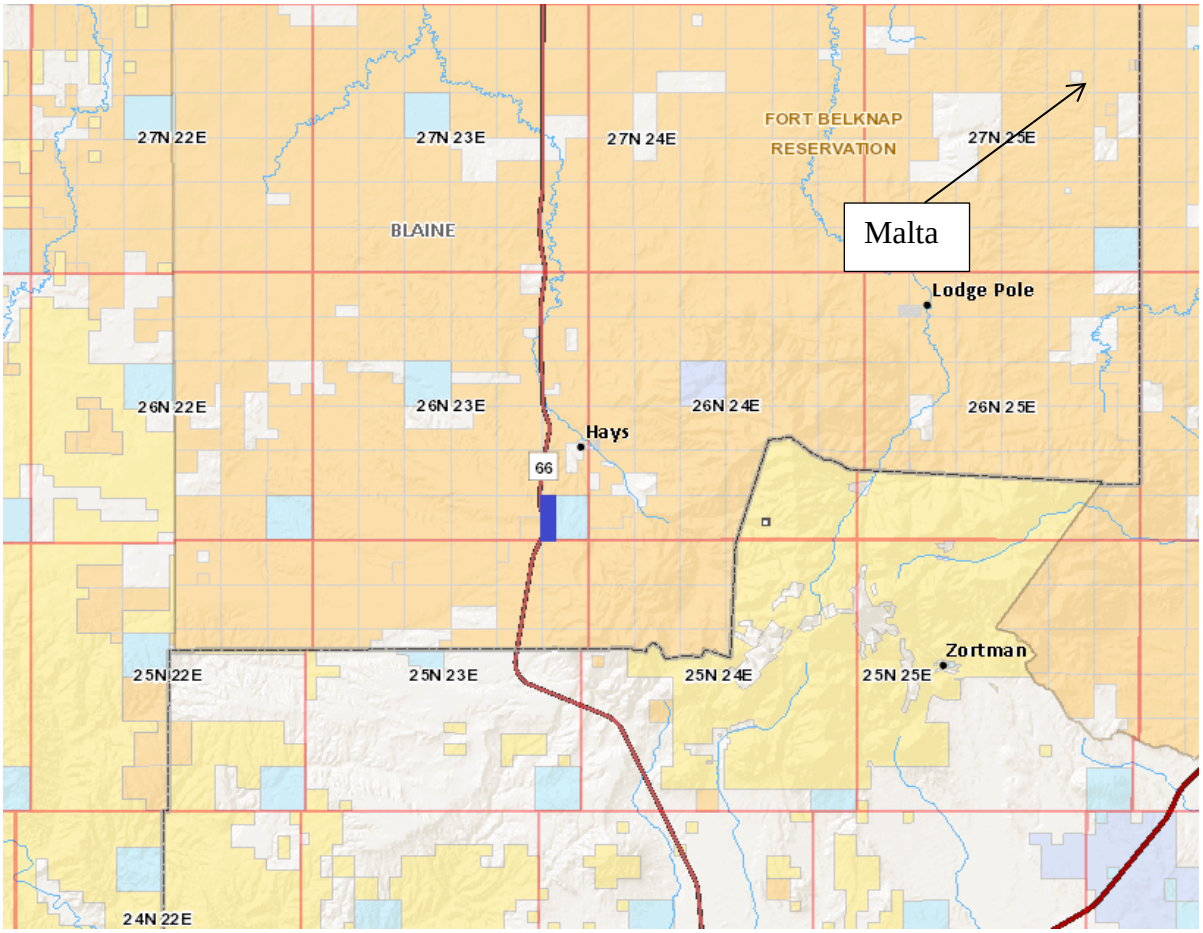
Triangle Telephone Cooperative Assn., Inc. has made application for two buried telecommunications cables for the purpose of upgrading their facilities and services to the Hays Exchange serving area in and around Hays, Montana. Both cables will lie within the same trench. These improvements will offer state of the art telecommunications toll and distribution facilities, as well as future growth capabilities. The proposed route was determined as the most direct route between terminus locations while also providing access to existing and future network considerations.

DNRC Recommendation

The director recommends approval of these buried telecommunications cables.

Rights of Way Applications

August 15, 2016



Application # 17409 – Triangle Telephone

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	ONEOK Rockies Midstream, LLC 2700 Lincoln Ave SE Sidney MT 59270
Application No.:	17417
R/W Purpose:	an 8” buried natural gas pipeline
Lessee Agreement:	ok
Acreage:	1.9
Compensation:	$11,718.00
Legal Description:	30-foot strip through N2NW4, Sec. 14, Twp. 22N, Rge. 58E, Richland County
Trust Beneficiary:	Common Schools

Item Summary

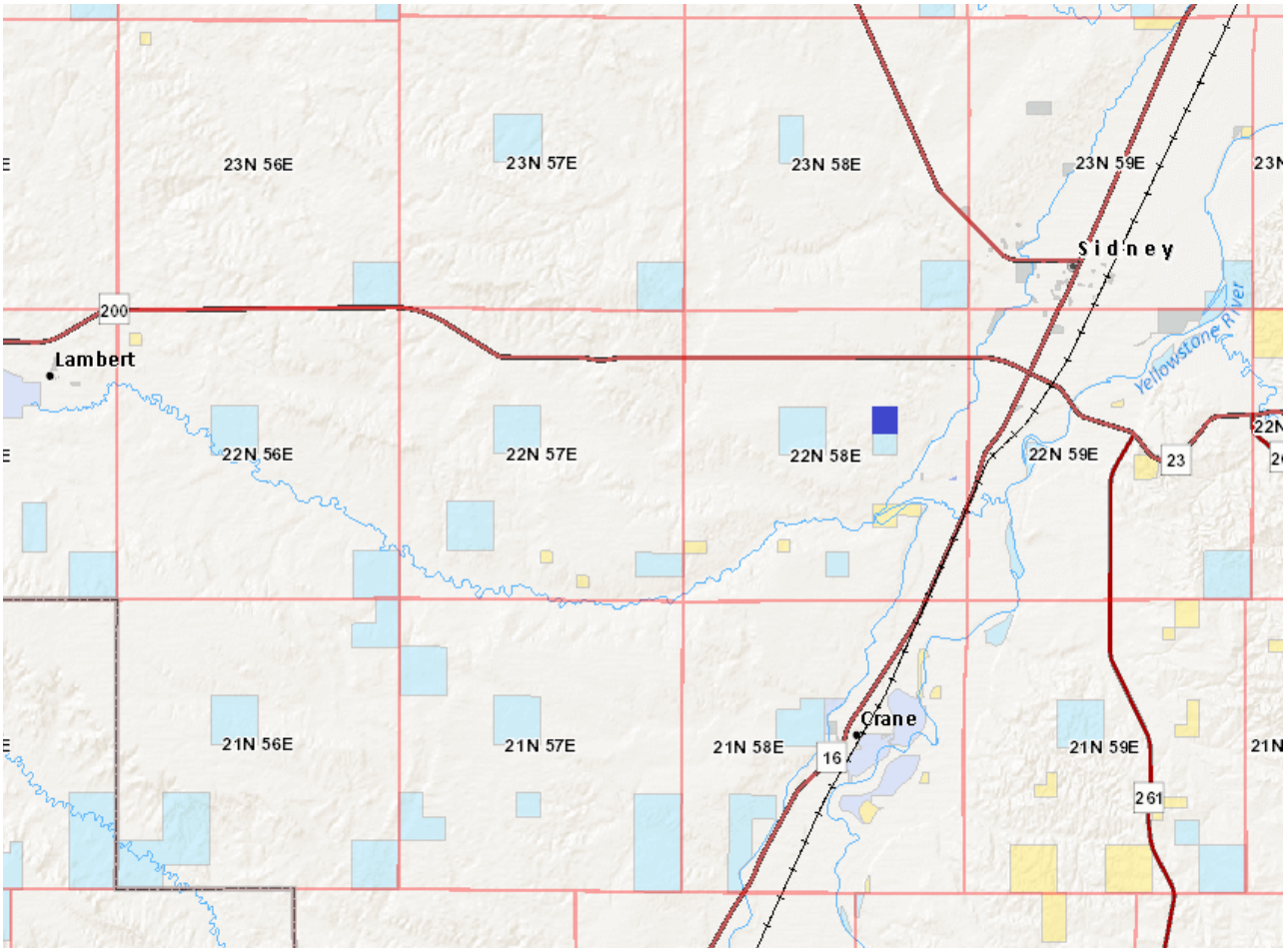
ONEOK Rockies Midstream, LLC has made application for multiple 4”, 6” & 8” natural gas pipelines. The pipelines were previously authorized and installed under a Land Use License issued in 2006. These applications are to convert the License to 30-year term easements. ONEOK Rockies Midstream, LLC has agreed to compensation in the amount of $70/rod which is consistent with other installations in the area.

DNRC Recommendation

The director recommends approval of these 30-year term easements for these natural gas pipelines.

Rights of Way Applications

August 15, 2016



Application # 17417 - ONEOK

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	ONEOK Rockies Midstream, LLC 2700 Lincoln Ave SE Sidney MT 59270
Application No.:	17418
R/W Purpose:	a 4” buried natural gas pipeline
Lessee Agreement:	ok
Acreage:	2.66
Compensation:	$24,591.00
Legal Description:	20-foot strip through E2NE4, SW4NE4, SE4NW4, N2SW4, Sec. 16, Twp. 25N, Rge. 54E, Richland County
Trust Beneficiary:	Common Schools

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DNRC Recommendation
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	ONEOK Rockies Midstream, LLC 2700 Lincoln Ave SE Sidney MT 59270
Application No.:	17419
R/W Purpose:	a 4” buried natural gas pipeline
Lessee Agreement:	ok
Acreage:	0.18
Compensation:	$1,666.00
Legal Description:	20-foot strip through NW4NW4, Sec. 36, Twp. 24N, Rge. 53E, Richland County
Trust Beneficiary:	Common Schools

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DNRC Recommendation
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Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	ONEOK Rockies Midstream, LLC 2700 Lincoln Ave SE Sidney MT 59270
Application No.:	17420
R/W Purpose:	a 6” buried natural gas pipeline
Lessee Agreement:	ok
Acreage:	1.01
Compensation:	$9338.00
Legal Description:	20-foot strip through N2NE4, Sec. 8, Twp. 26N, Rge. 54E, Richland County
Trust Beneficiary:	Common Schools

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Rights of Way Applications

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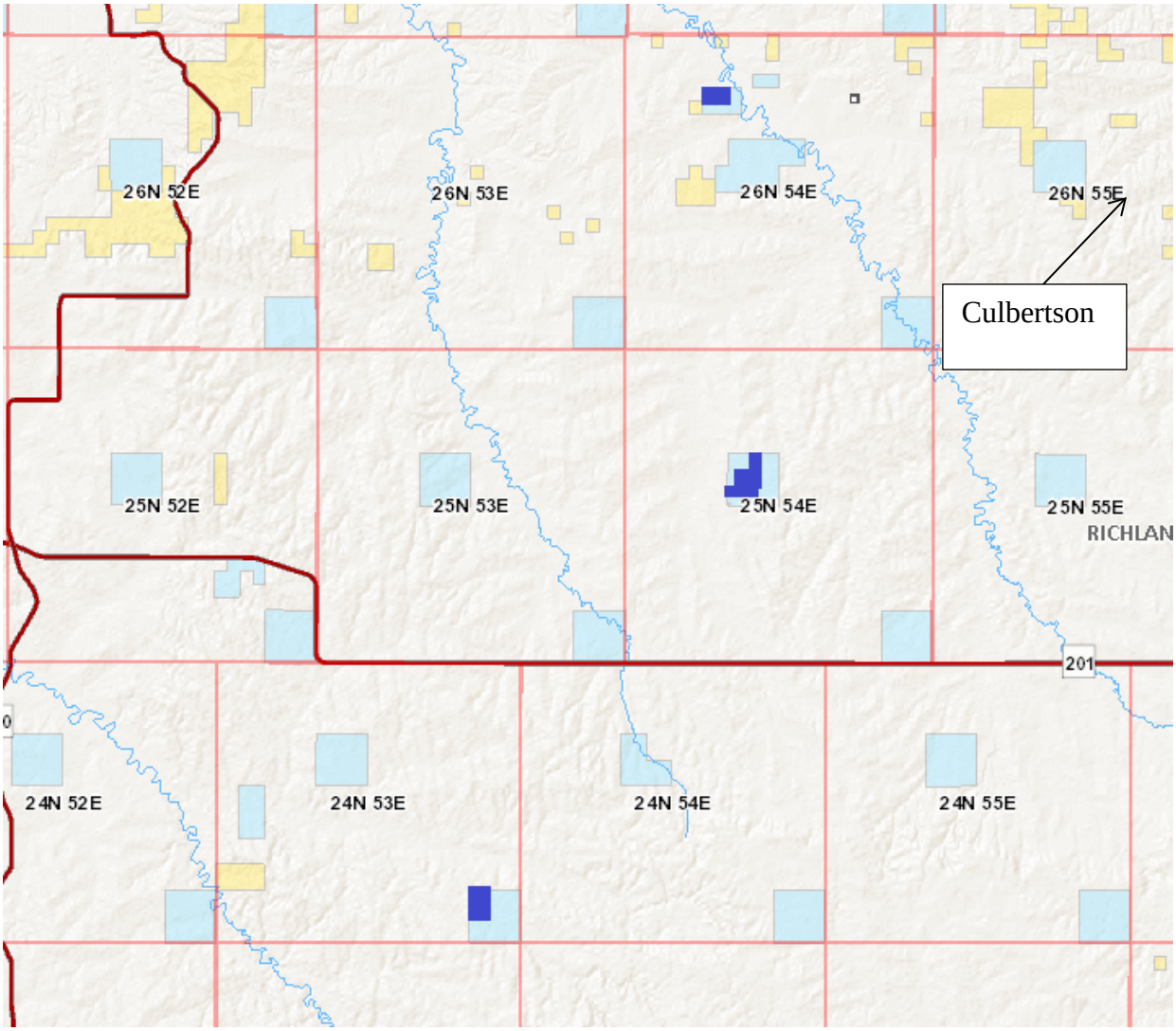

Application #'s 17418-17420 - ONEOK

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Department of Transportation PO Box 201001 Helena MT 59620
Application No.:	17421
R/W Purpose:	highway construction and maintenance including occupancy by public utilities
Lessee Agreement:	ok
Acreage:	0.63
Compensation:	$630.00
Legal Description:	tract of land in the SE4NE4, Sec. 24, Twp. 1N, Rge. 5W, Jefferson County
Trust Beneficiary:	MSU – 2nd

Item Summary

The Department of Transportation has made application for a highway reconstruction project known as Whitehall South. The scope of the project is to add additional road width and improve sight distance between RP 7.0 to RP 12.1 on Highway 55. The project will also include minor horizontal and vertical alignments, and reduce conflicts with utility and irrigation facilities.

DNRC Recommendation

The director recommends approval of this reconstruction project.

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Department of Transportation PO Box 201001 Helena MT 59620
Application No.:	17422
R/W Purpose:	highway construction and maintenance including occupancy by public utilities
Lessee Agreement:	N/A (Historic)
Acreage:	12.7
Compensation:	$12,700.00
Legal Description:	tract of land in US Government Lot 4, E2SW4, Sec. 14, Twp. 1N, Rge. 4W, Jefferson County
Trust Beneficiary:	Pine Hills

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DNRC Recommendation
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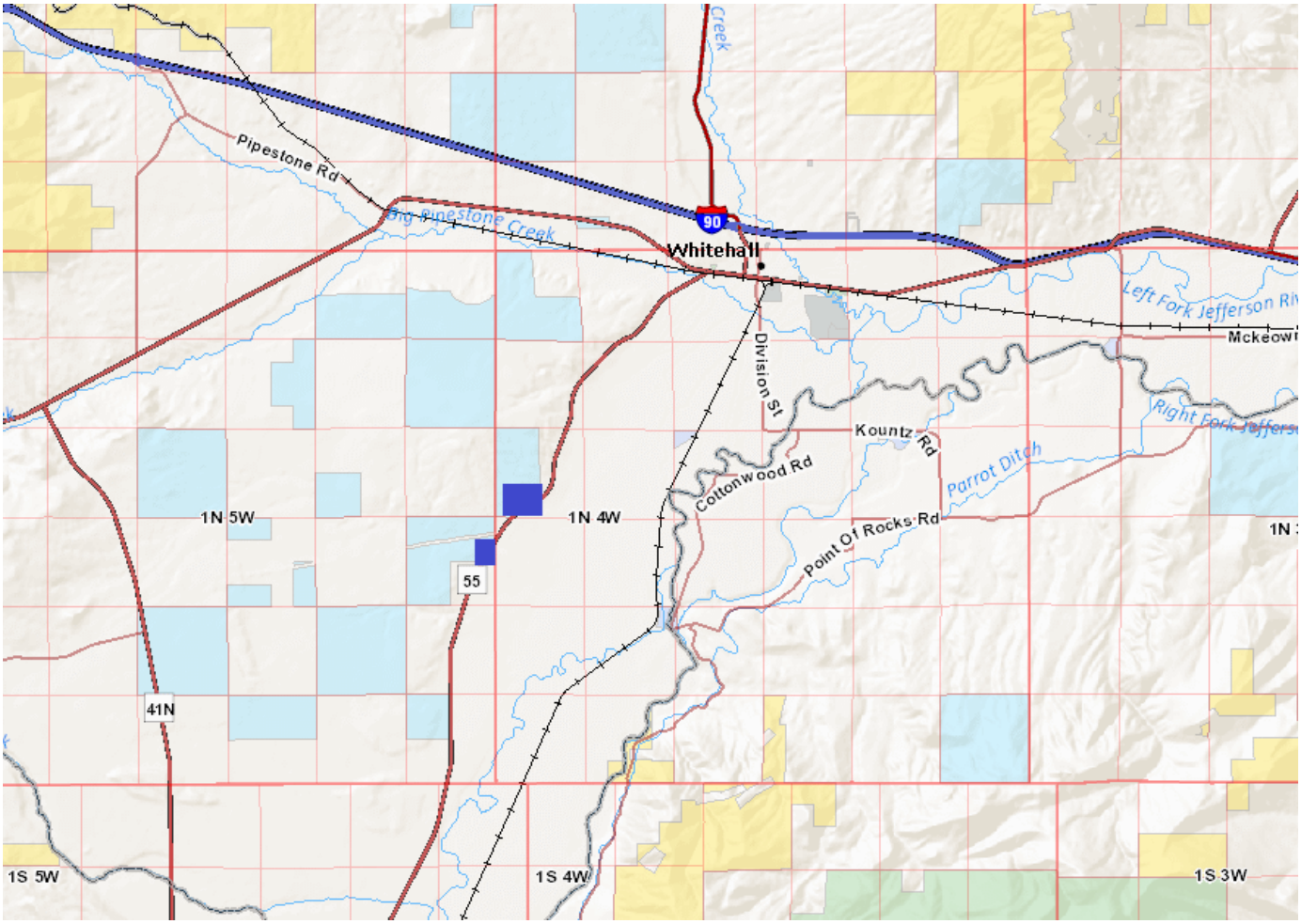
Rights of Way Applications

August 15, 2016



Application #'s 17421 & 17422 - DOT

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Assn., Inc. PO Box 1220 Havre MT 59501
Application No.:	17423
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	0.03
Compensation:	$100.00
Legal Description:	20-foot strip through NE4NE4, Sec. 20, Twp. 24N, Rge. 12E, Chouteau County
Trust Beneficiary:	Common Schools

Item Summary

Triangle Telephone Cooperative Assn., Inc. has made application for a buried telecommunications cable for the purpose of upgrading their facilities and services to the Loma Exchange serving area in and around Loma, Montana. These improvements will offer state of the art telecommunications toll and distribution facilities, as well as future growth capabilities. The proposed route was determined as the most direct route between terminus locations while also providing access to existing and future network considerations.

DNRC Recommendation

The director recommends approval of this buried telecommunications cable.

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Assn., Inc. PO Box 1220 Havre MT 59501
Application No.:	17424
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	2.42
Compensation:	$726.00
Legal Description:	20-foot strip through E2E2, Sec. 17, Twp. 24N, Rge. 12E, Chouteau County
Trust Beneficiary:	Common Schools

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DNRC Recommendation
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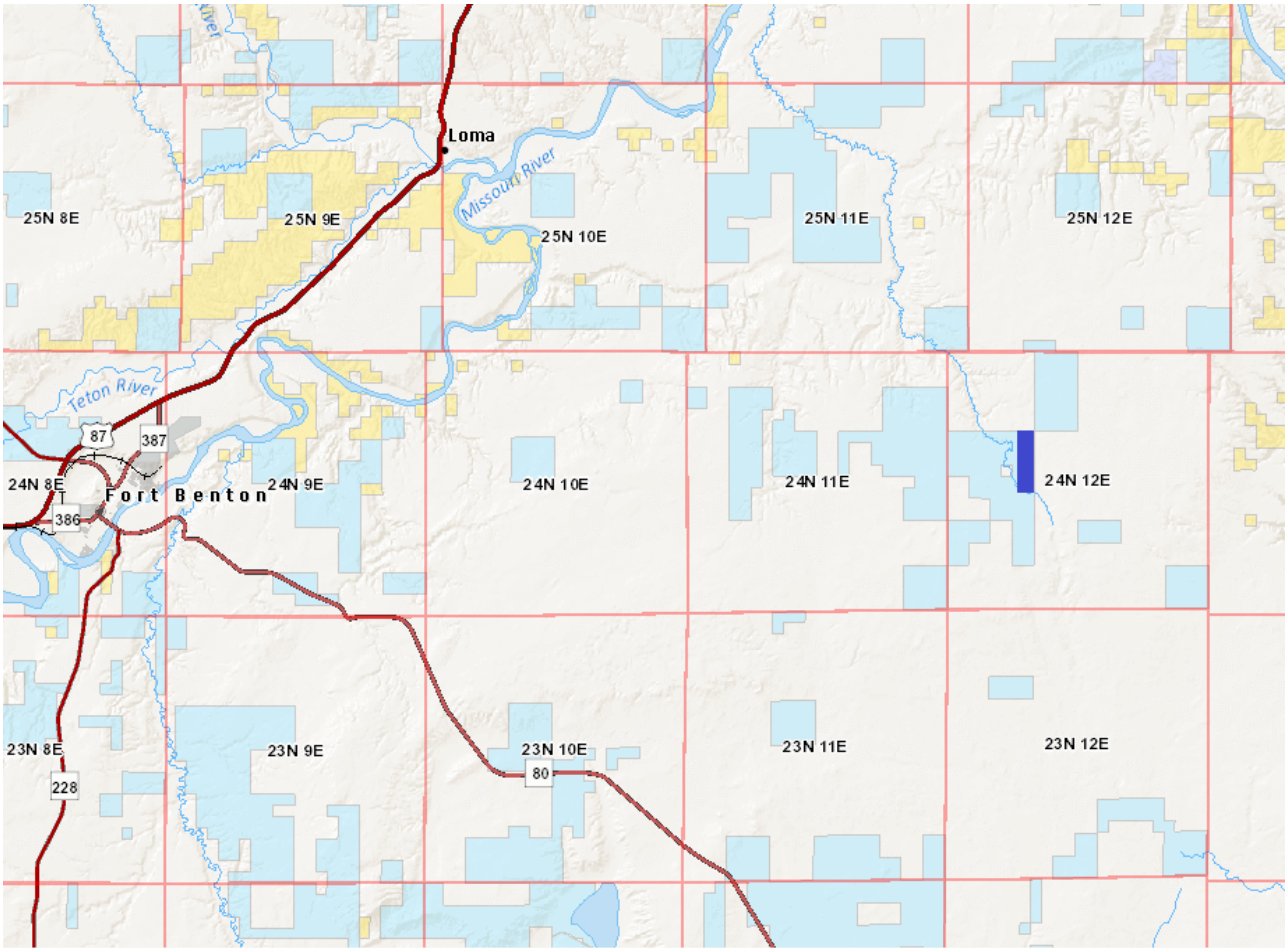
Rights of Way Applications

August 15, 2016



Application #'s 17423 & 17424 – Triangle Telephone

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Butte MT 59701
Application No.:	17425
R/W Purpose:	a 7.2kV overhead electric distribution line across the Clark Fork River
Lessee Agreement:	N/A (Historic)
Acreage:	0.19
Compensation:	$100.00
Legal Description:	10-foot strip through NE4NE4, Sec. 29, Twp. 19N, Rge. 25W, Sanders County
Trust Beneficiary:	Public Lands

Item Summary
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DNRC Recommendation
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Rights of Way Applications

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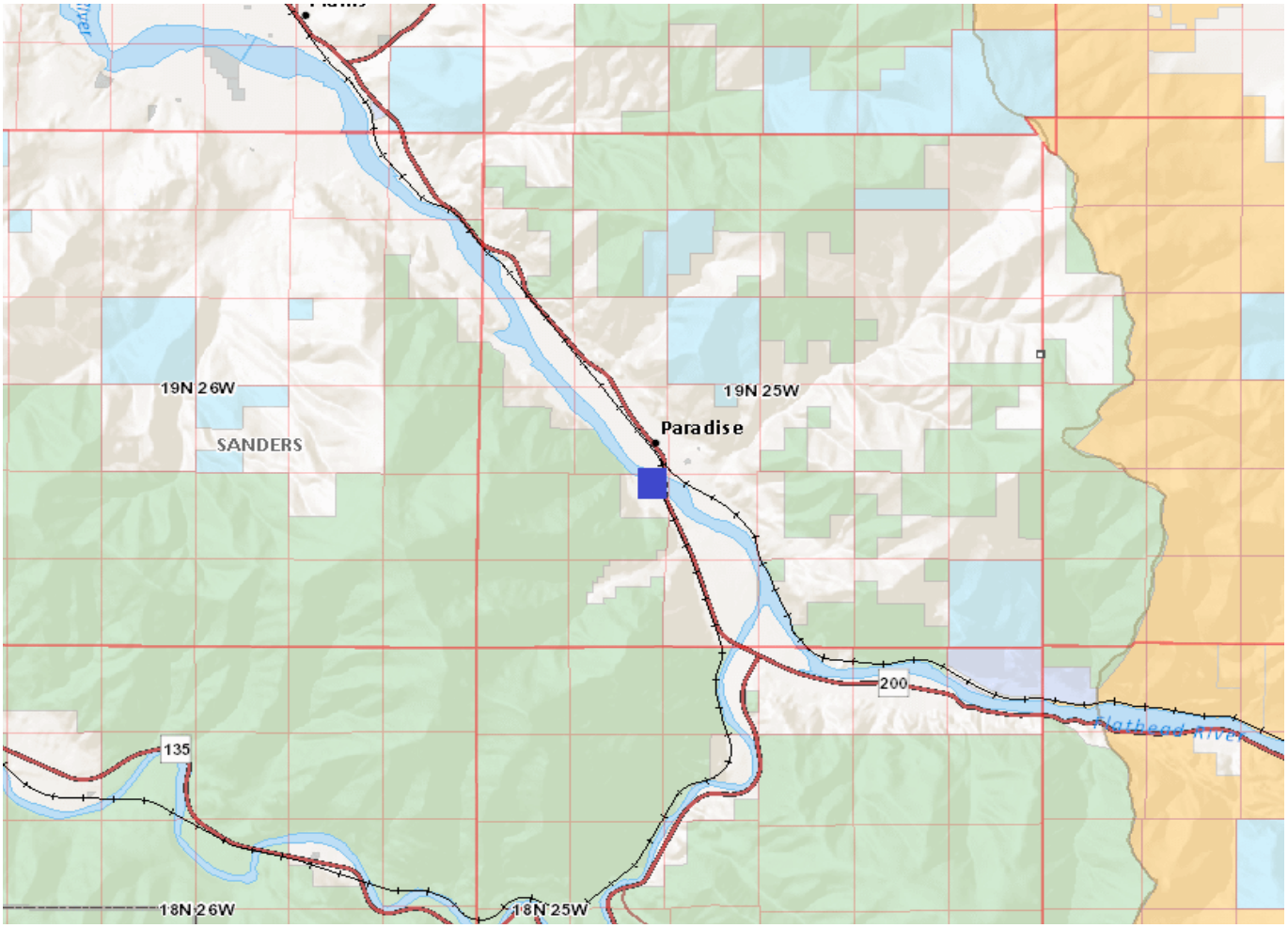


Application # 17425 – Northwestern Energy

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Lincoln County 512 California Ave Libby MT 59923
Application No.:	17428
R/W Purpose:	a public county road known as Autumn Road
Lessee Agreement:	N/A (Historic)
Acreage:	0.83
Compensation:	$2490.00
Legal Description:	60-foot strip through NW4SW4, Sec. 36, Twp. 30N, Rge. 31W, Lincoln County
Trust Beneficiary:	Common Schools

Item Summary

Lincoln County has made application for this county road that was 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 a historic right of way.

DNRC Recommendation

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

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Lincoln County 512 California Ave Libby MT 59923
Application No.:	17429
R/W Purpose:	a public county road known as Mountain Meadow Road
Lessee Agreement:	ok
Acreage:	1.79
Compensation:	$5370.00
Legal Description:	40-foot strip through NW4SW4, Sec. 36, Twp. 30N, Rge. 31W, Lincoln County
Trust Beneficiary:	Common Schools

Item Summary

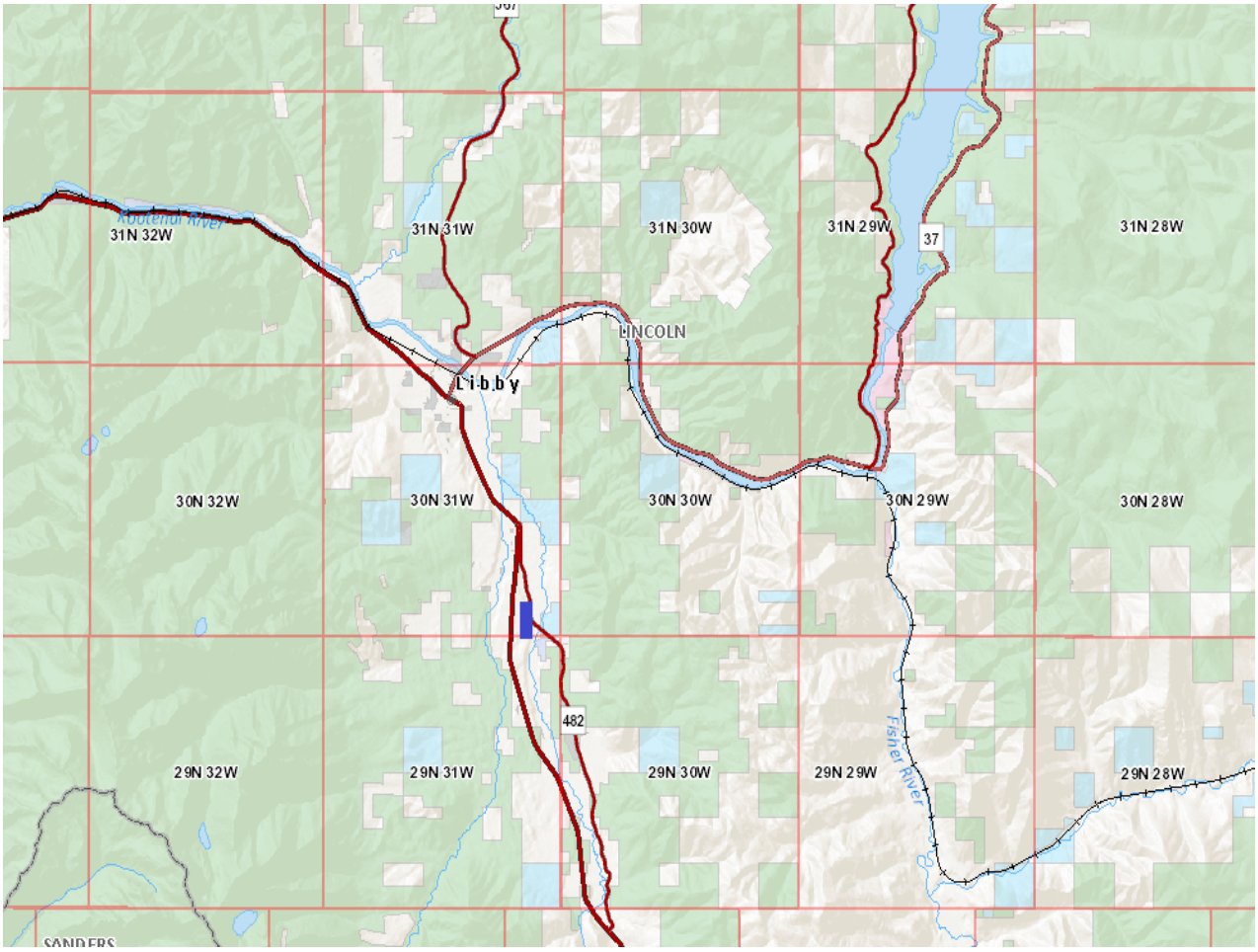
Lincoln County has made application to construct an extension of an existing county road through state land. The proposed extension will provide a significant reduction in response time for emergency services vehicles coming from the Lincoln Rural Fire Station. The current access situation results in travel of 6 miles to reach several hundred residences, while with the proposed roadway extension travel will be reduced to between 0.5 and 3 miles. There are no other alternate routes to obtain connectivity between U.S. Highway 2 and Farm to Market Road to achieve faster response times by responders.

DNRC Recommendation

The director recommends approval of this extension of Mountain Meadow Road.

Rights of Way Applications

August 15, 2016



Application #'s 17428 & 17429 – Lincoln County

Rights of Way Applications

August 15, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	City of Miles City PO Box 910 Miles City 59301
Application No.:	17430
R/W Purpose:	a 20" water main pipeline under the Tongue River
Lessee Agreement:	N/A (Navigable River)
Acreage:	0.06
Compensation:	$200.00
Legal Description:	20-foot strip through SW4NW4, Sec. 33, Twp. 8N, Rge. 47E, Custer County
Trust Beneficiary:	Public Lands

Item Summary

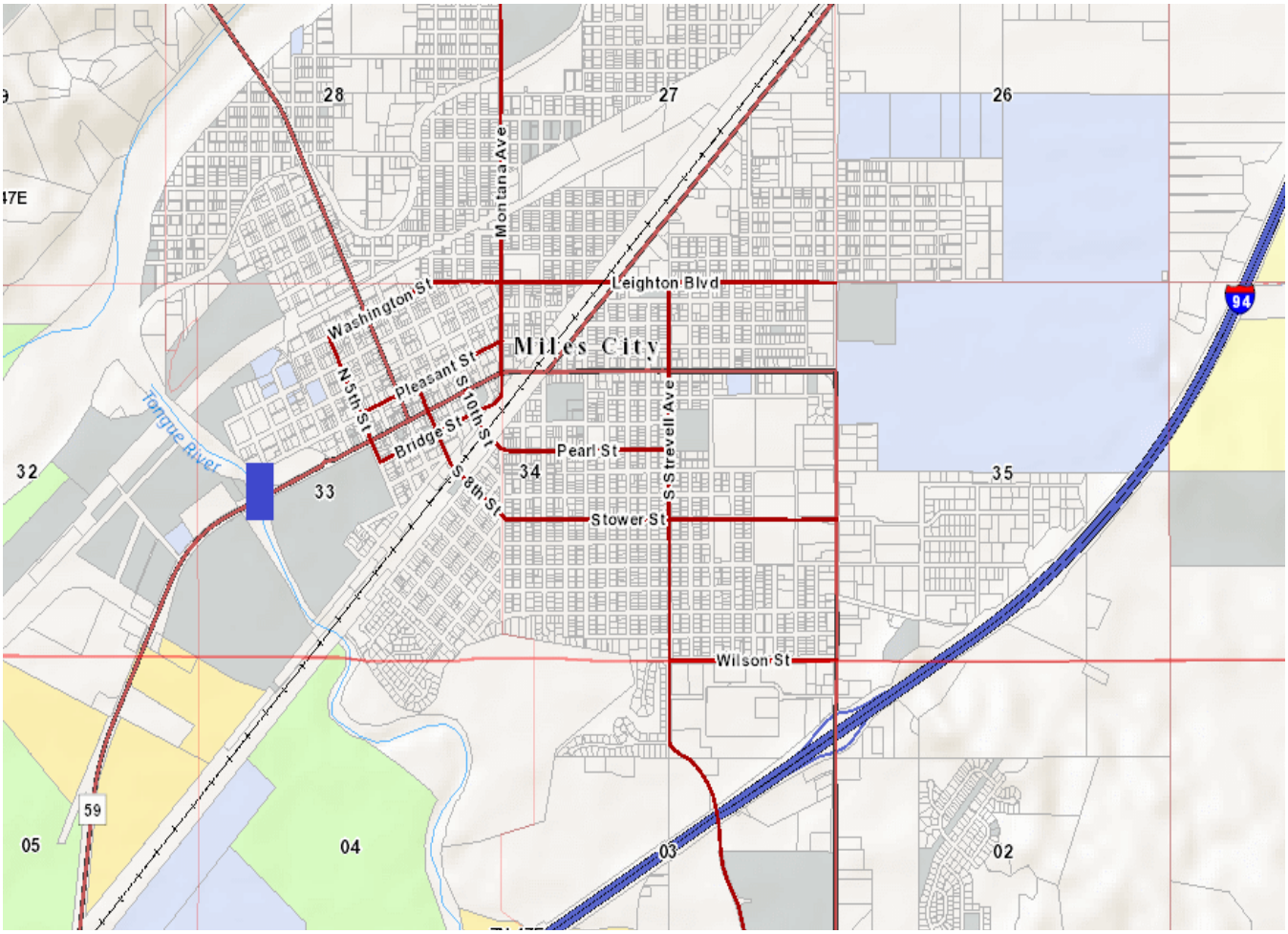
The City of Miles City plans to replace an existing 14" water pipeline with a proposed 20" water pipeline. The existing pipeline has become exposed after many years of high runoff resulting in a concern that debris, such as large trees, could cause significant damage to the line during high water runoff. The existing treatment plant is on one side of the river and the majority of the City is on the other side, so a crossing is necessary. The 20" capacity of the proposed main is intended to account for growth of the City in the future. The route chosen is the most practical for the city due to the existing treatment plant being on one side of the river and the majority of city residents on the other. The implementation of horizontal directional drilling on the project will ensure that the pipeline is at a minimum depth of 20 feet below the riverbed, which is below the anticipated maximum scour depth of the river.

DNRC Recommendation

The director recommends approval of this water main pipeline.

Rights of Way Applications

August 15, 2016



Application # 17430 – Miles City