

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
May 22, 2017 at 9:00 am
Supreme Court Chambers, Joseph P. Mazurek Building
215 North Sanders, 4th floor
Helena, MT

ACTION ITEMS

- 0517-1 Agriculture & Grazing Leases: Competitive Bid Hearings**
A. Lease No. 533 – Stack Rock, Inc. (Lessee)/Reni Nixon (Bidder)
Benefits: Common Schools
Location: Carter County
B. Lease No. 1887 – Ashlee Ganoung & Amber Mason (Lessees)/Stiles Family Trust (Bidder)
Benefits: Common Schools
Location: Madison County
C. Lease No. 5415 – Sam Lindemulder (Lessee)/Austin Frank (Bidder)
Benefits: Common Schools
Location: Stillwater County
APPROVED 5-0
- 0517-2 Cabin and Home Sites: Preliminary Approval for Sale**
Benefits: MSU 2nd, Common Schools, Montana Tech, Pine Hills School, Public Buildings
Location: Choteau, Judith Basin, Lake, Lincoln, Missoula, Sanders, Stillwater, Yellowstone Counties
APPROVED 5-0
- 0517-3 Cabin and Home Sites: Final Approval for Sale – Sale 816**
Benefits: University of Montana
Location: Missoula County
APPROVED 5-0
- 0517-4 Land Banking Parcels: Final Approval for Sale – Yellowstone County**
Benefits: Common Schools
Location: Yellowstone County
APPROVED 5-0
- 0517-5 Land Banking Acquisition: Preliminary Approval for Purchase – Bullhead Creek**
Benefits: Common Schools
Location: Pondera County
APPROVED 5-0
- 0517-6 Land Banking Acquisition: Final Approval for Purchase – Lost Creek Farm**
Benefits: Common Schools
Location: Stillwater County
APPROVED 5-0
- 0517-7 Easements**
A. Regular Easements
Benefits: Common Schools, MSU 2nd, Public Buildings
Location: Beaverhead, Fallon, Fergus, Lewis & Clark, Missoula, Powder River, Roosevelt, Teton, Toole, Wheatland Counties
APPROVED 5-0
B. Stillwater-Lazy Swift Easement Exchange
Benefits: Common Schools, MSU 2nd, MSU Morrill, MSU-Eastern/UM-Western, Pine Hills School, Public Buildings, School for Deaf & Blind, Montana Tech
Location: Flathead County
APPROVED 5-0

PUBLIC COMMENT

0517-1

Agriculture & Grazing Leases: Competitive Bid Hearings

- A. Lease No. 533
- B. Lease No. 1887
- C. Lease No. 5415

**Land Board Agenda Item
May 22, 2017**

- 0517-1 Agriculture and Grazing Leases: Competitive Bid Hearings**
- A. Lease No. 533 – Stack Rock Inc. (Lessee)/Reni Nixon (Bidder)**
 Location: Carter County
 Trust Benefits: Common Schools
 Trust Revenue: \$3,899.32 annually
- B. Lease No. 1887 – Ashlee Ganoung & Amber Mason (Lessee)/
Stiles Family Trust (Bidder)**
 Location: Madison County
 Trust Benefits: Common Schools
 Trust Revenue: \$480.00 annually
- C. Lease No. 5415 – Sam Lindemulder (Lessee)/Austin Frank (Bidder)**
 Location: Stillwater County
 Trust Benefits: Common Schools
 Trust Revenue: \$3,048.96 annually

Item Summary

On April 24, 2017, the Department of Natural Resources and Conservation (DNRC) held Competitive Bid Hearings for State of Montana Agricultural and Grazing Leases Numbers 533, 1887, and 5415, which are being renewed. The new ten-year lease will expire on February 28, 2027. If the Lessee wishes to renew the lease for another term he/she must submit an application. If other persons inquire about the availability of a lease, their names and addresses are noted in the file and they are sent applications and bid forms at the time of lease renewal. If a bid is submitted for a lease and the Lessee exercises the preference right but believes that the bid amount is excessive, he or she may request a hearing before the Director of DNRC. The purpose of the hearing is twofold: 1) to determine the best-qualified Lessee for the upcoming lease term; and 2) to ascertain the appropriate rental rate for that term. Full details of the hearings are contained in the attached report.

DNRC Recommendation

Based on information and testimony at the hearings, the director recommends the following:

Lease #533 – The director recommends the lease be issued to the existing lessee at \$27.46/AUM.

Lease #1887 – The director recommends the lease be issued to the existing lessee at \$60.00/AUM.

Lease #5415 – The director recommends the lease be issued to the existing lessee at \$23.82/AUM.

2017 COMPETITIVE BID HEARINGS

**Findings and Recommended Rental Rates for
Agricultural and Grazing Leases Numbers 533, 1887, and 5415**

**A report to the State Board of Land Commissioners by
John E. Tubbs, Director
Montana Department of Natural Resources and Conservation
May 1, 2017**

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High Bidder: Stiles Family Trust8

C. Agriculture and Grazing Lease Number 5415,
Lessee: Sam Lindemulder
High Bidder: Austin Frank.....10

INTRODUCTION

On April 24, 2017 the Department of Natural Resource and Conservation (DNRC) held Competitive Bid Hearings for State of Montana Agricultural and Grazing Leases Numbers 553, 1887 and 5415, which are being renewed in 2017. These new ten-year leases will expire on February 28, 2027. If a Lessee wishes to renew the lease for another term he/she must submit an application. If other persons inquire about the availability of a lease, their names and addresses are noted in the file and they are sent applications and bid forms at the time of lease renewal.

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

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

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

Id.

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

No Applicant for a grazing lease can compel the State Board of Land Commissioners to grant it an interest in state trust lands, especially where the concept of sustained yield is ignored. See Skillman v. Department of State Lands, 188 Mont. 383, 613 P.2d 1389 (1980); Gibson v. Stewart, 50 Mont. 404, 147 P. 276 (1915)(Whether a tract of state land shall be leased is a

question addressed to the sole discretion of the Land Board.); §77-6-206, MCA ([T]he board may withdraw any agricultural or grazing land from further leasing for such period as the board determines to be in the best interest of the state".)

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

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

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

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

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

- recommendation to the board; and,
- 9) the incorporation of all or part of this information as terms and conditions in the new lease agreement.

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

This year the director granted requests for hearing on three leases. The hearings were conducted on April 24, 2017 at the offices of DNRC in Helena, Montana. All hearings were electronically recorded and all witnesses testified under oath. However, the hearings were conducted in an informal manner. Department personnel present at the hearings were: Director John E. Tubbs; Agriculture & Grazing Management Bureau Chief Kevin Chappell; DNRC Chief Legal Counsel Danna Jackson; and Conrad Unit Manager Erik Eneboe. Land Use Specialists Scott Aye and Aaron Kneeland were present for the hearing on Lease Number 533. Trust Lands Division Administrator Shawn Thomas attended the hearing for Lease Number 1887.

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

2017 COMPETITIVE BID HEARINGS

Hearing Time: Monday, April 24, 2017 at 8:30 am
Lease Number: 533
County: Carter
Lessee: Stack Rock, Inc. (Jake & Kay Brost)
Tracts: T9S R55E S16: All – 640 Ac. - Common School Grant
Grazing Acres: 640
AUM Rating: 142
Ag (Hay) Acres: 0
High Bidder: Reni Nixon
High Bid: \$55.00 per AUM
Other Bids: None
Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Carter County Bid Averages: \$27.46/AUM

MT Ag Statistics 2016 Statewide Private Grazing Rate: \$24.00/AUM

FINDINGS

Jake Brost appeared and testified on behalf of the lessee. The high bidder did not attend the hearing or submit any information about their bid.

This state lease is located approximately 28 miles west of Alzada, Montana. The lessee has access to the lease via the county road that runs along the southern boundary of the tract as well as from their private property which borders it on the east, south and a portion of the west boundaries. The lease contains two stockwater reservoirs, but water is not always reliable due to the sandy soils on the tract. There is also a stockwater tank in the southeast portion of the lease that is fed by a pipeline. The tract is fenced on all four sides as well as an east/west cross fence.

The lessee testified that he uses the lease as a holding pasture after calving in the spring for a couple of weeks and then as winter pasture. The tract does have some leafy spurge present that was brought in when a previous lessee planted oats on the tract many years ago. The lessee has an integrated weed management plan that includes both bio-control and herbicide applications. He is also considering other options for weed control.

The lessee did testify that they have brought in livestock to pasture a number of years ago. They charged the livestock owners \$17.00 to \$21.00 per animal unit month.

DNRC RECOMMENDATION

The director recommends that Stack Rock, Inc., be retained as Lessee of Lease Number 533. The evidence presented as well as the condition of the land demonstrates that the Brost family has substantial experience in grazing management and has managed the land so as to maintain its long term productivity.

The lessee and DNRC are unaware of any leases in Carter County at or near the competitive bid rate of \$55.00 per AUM, and the bidder provided no basis or justification that the rate represented community standards. The director recommends that the Land Board set the annual grazing rental for the lease at the Carter County State Land Competitive bid rate of \$27.46 per AUM.

2017 COMPETITIVE BID HEARINGS

Hearing Time: Monday, April 24, 2017 at 9:30 am

Lease Number: 1887

County: Madison

Lessee: Ashlee Ganoung & Amber Mason

Tracts: T6S R3W S16: NE¼SE¼ – 40 Ac. - Common School Grant

Grazing Acres: 40

AUM Rating: 8

Ag (Hay) Acres: 0

High Bidder: Stiles Family Trust - Bonnie Stiles, Trustee

High Bid: \$125.00 per AUM

Other Bids: None

Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Madison County Bid Averages: \$26.27/AUM

MT Ag Statistics 2016 Statewide Private Grazing Rate: \$24.00/AUM

FINDINGS

Ashlee Ganoung and Amber Mason appeared and testified as lessees. Bonnie Stiles appeared and testified on behalf of the bidder, Stiles Family Trust.

This lease is located immediately northwest of Nevada City, Montana. It is partially fenced and livestock water is from a stream that crosses the property.

The lessees access the lease from deeded land to the south that they hold jointly with the Stiles Family Trust. Ms. Ganoung testified that the lease had been in the family since the 1950's and that it had been a part of their lifestyle and traditions. Currently it is grazed with 5 horses in the spring as well as some limited use in the winter. The property does have spotted knapweed and houndstongue, and the lessees have been diligent about weed management. They provided copies of herbicide purchases from the Madison County Weed District that has been used on the lease. She also noted that they employ a caretaker who oversees the property and is responsible for spraying the weeds. The lessees inquired with the weed district and they had no record of the Stiles property being sprayed in the past. Ms. Mason testified that she was aware of lease rates for cattle at \$24.00 per AUM. She also testified that they are very conscientious about not overgrazing the property.

Bonnie Stiles discussed the history of the lease and that her husband Matt had grown up on the property. He is Ms. Ganoung and Ms. Mason's Uncle. They have access to the lease from property they own along the western border. If they were awarded the lease, they would graze 4 horses during the summer in conjunction with 80 acres they own immediately east of the state land. Ms. Stiles stated that they are currently in litigation with the lessees over access to that 80 acre property. She also noted that she had previously hired a weed spraying company to spray their property and would do the same if they acquire the lease. Ms. Stiles testified that she calculated the bid rate by taking \$1,000.00, which was the amount she was willing to pay in order to get access between their two deeded properties, and divided it by the carrying capacity of 8 AUMs.

For reference, ownerships are outlined on the map below.



1 – State Lease No. 1887 2 – Ashlee Ganoung and Amber Mason
 3 – Stiles Family Trust 4 – Ashlee Ganoung, Amber Mason and Stiles Family Trust

DNRC RECOMMENDATION

The director recommends that the lease be awarded to Ashlee Ganoung and Amber Mason. They have shown the ability to manage the property with an interest in maintaining its long term productivity by ensuring that weeds are controlled along with monitoring to prevent overgrazing.

The director also recommends that the rate be set at \$60.00/AUM. While the bid rate of \$125.00 per AUM is clearly above community standards, DNRC recognizes that horse pasture does typically demand a higher premium than normal cattle leases. Information from staff in DNRC's Dillon Unit field office indicates that horse pasture in that area can range from \$50.00 to \$80.00 per AUM.

2017 COMPETITIVE BID HEARINGS

Hearing Time: Monday, April 24, 2017 at 10:30 am

Lease Number: 5415

County: Stillwater

Lessee: Sam Lindemulder

Tracts: T1N R20E S16: All – 640 Ac. - Common School Grant

Grazing Acres: 640

AUM Rating: 128

Ag (Hay) Acres: 0

High Bidder: Austin Frank

High Bid: \$32.00 per AUM

Other Bids: None

Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Stillwater County Bid Averages: \$23.82/AUM

MT Ag Statistics 2016 Statewide Private Grazing Rate: \$24.00/AUM

FINDINGS

Sam Lindemulder appeared and testified as the lessee. The high bidder did not attend the hearing or submit any information about their bid.

This state lease is located approximately 14 miles north of Columbus, Montana. The lessee has access to the lease from his adjacent private property on the north and west boundaries of the tract. The lease is fenced on all four sides with water provided by springs in the northeast and southwest corners which have been fenced out and piped to tanks to prevent livestock damage.

The lessee testified that the lease has been in his family for over 70 years. Livestock use is typically in the fall, although the lessee did rest the lease all of 2016. There are a few patches of spotted knapweed on the lease which he sprays with herbicide.

Mr. Lindemulder testified that he believed the bid rate was a little high for property in this area. In discussions with neighbors, he was aware of private leases at \$23.00 and \$24.00 per AUM.

DNRC RECOMMENDATION

The director recommends that Sam Lindemulder be retained as Lessee of Lease Number 5415. The evidence presented as well as information from the inspection by field staff shows that Mr. Lindemulder has done an excellent job of managing the lease and is the best qualified lessee for the new term.

The director also recommends that the Land Board set the annual grazing rental for the lease at the Stillwater County State Land Competitive bid rate of \$23.82 per AUM.

0517-2

Cabin and Home Sites:
Preliminary Approval for Sale

**Land Board Agenda Item
May 22, 2017**

0517-2 Cabin and Home Sites: Preliminary Approval for Sale

Location: Broadwater, Chouteau, Lake, Lincoln, Missoula, Sanders, Stillwater, Yellowstone Counties

Trust Benefits: MSU 2nd, Common Schools, Montana Tech, Pine Hills School, Public Buildings

Trust Revenue: Appraisal to be completed after preliminary approval

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting preliminary approval of 20 cabin and home sites nominated for sale in Broadwater, Chouteau, Lake, Lincoln, Missoula, Sanders, Stillwater, and Yellowstone Counties. These sales were nominated by the lessees in conjunction with the Cabin and Home Site Sale Program.

Sale Number	# of Acres	Legal	Nominator	Trust
868	9.5	Lot in SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, T5N-R2E, Sec. 16, Broadwater County	Toston Land Group, LLC	Common Schools
871	0.909	Lot 11, E Shore Flathead Lake, T24N-R19W, Sec. 16 Lake County	Charles & Myrna Hall	Common Schools
872	1.182	Lot 10, E Shore Flathead Lake, T24N-R19W, Sec. 16 Lake County	Charles & Myrna Hall	Common Schools
873	1.54	Lot in SW $\frac{1}{4}$ SW $\frac{1}{4}$, T23N-26W, Sec. 6 Sanders County	Shannon Holmes	Common Schools
875	1.27	Lot in NW $\frac{1}{4}$ NW $\frac{1}{4}$ T23N-R27W, Sec.34 Sanders County	Donna Davis & Denise White	Public Buildings
876	0.99	Lot in SW $\frac{1}{4}$ SW $\frac{1}{4}$, T23N-R26W, Sec. 6 Sanders County	Darvin & Bonnie Struck	Common Schools
877	0.7	Lot in SW $\frac{1}{4}$ SW $\frac{1}{4}$, T24N-R27W, Sec. 36 Sanders County	Thomson River Club, LLC	Common Schools
878	1.09	Lot in SW $\frac{1}{4}$ SW $\frac{1}{4}$, T24N-R27W, Sec. 36 Sanders County	Jerry & Joye Pope	Common Schools

Sale Number	# of Acres	Legal	Nominator	Trust
879	8.00	Lot in W½NE¼NE¼, T34N-R25W, Sec 36 Lincoln County	Peter Dunning & Dianne Lovell	Common Schools
881	1.00	Lot 4, Elbow Lake, T15N-R14W, Sec. 20 Missoula County	Michael & Patrice Schwenk	Common Schools
882	1.5	Lot 29, Elbow Lake, T15N-R14W, Sec. 20 Missoula County	Patrick & Cathy Schwenk	Common Schools
883	1.03	Lot 18, Elbow Lake, T15N-R14W, Sec 20 Missoula County	Patrick Dougherty & Tom Ward	Common Schools
884	0.983	Lot 20, Morrell Flats, T16N-R15W, Sec. 14 Missoula County	Lou Ann Nelson & Michael Marosits	MSU 2 nd
885	1.443	Lot 15, Morrell Flats, T16N-R15W, Sec. 14 Missoula County	Mary Adams Riggs	MSU 2 nd
887	10.3	Lot in S½SW¼SW¼, T2N-R22E, Sec. 4 Stillwater County	Terry Pierce	Common Schools
888	2.16	Lot in NW¼NW¼SW¼, T2N-R27E, Sec. 16 Yellowstone County	Robert Schwab	Common Schools
889	1.41	Lot 8, Mudd Creek, T22N-R27W, Sec. 12 Sanders County	Lynn Hansen & Connie Weber	Public Buildings
891	4.68	Lot in E½ of Gov't Lot 9, Sec. 33 & Lot in W½ of Gov't Lot 5, Sec. 34, T24N-R8E, Chouteau County	Larry Cook	Pine Hills School
896	0.856	Lot 8, Placid Lake T16N-15W, Sec. 30 Missoula County	Alan Davis & Karen Cooper	MSU 2 nd
918	2.89	Lot 2, Morrell Flats, T16N-R15W, Sec. 14 Missoula County	DNRC	MSU 2 nd

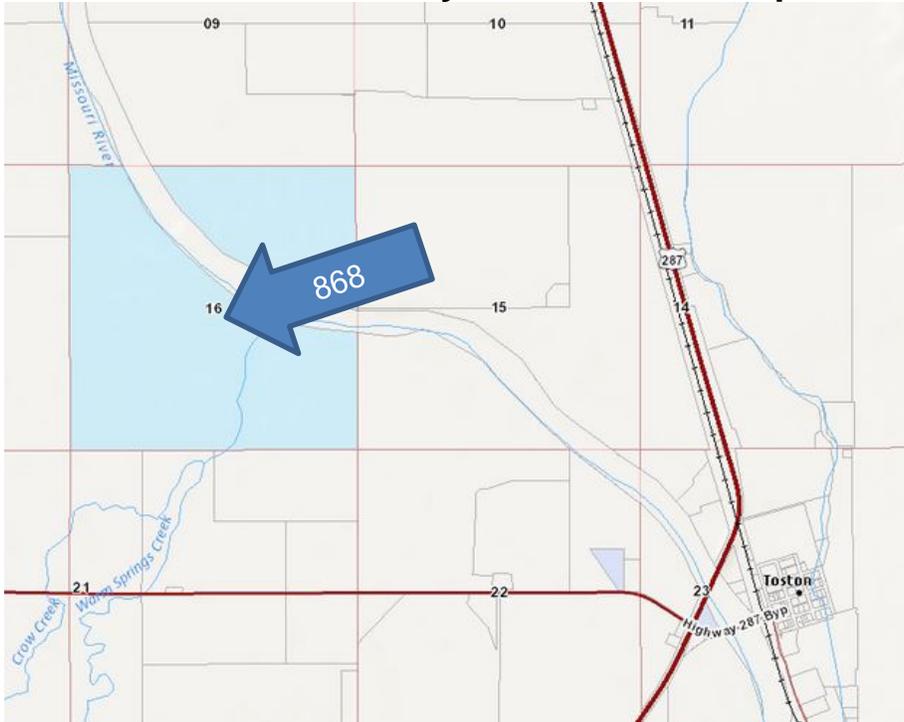
These sale parcels are currently leased as cabin or home sites and produce an average income for residential leases statewide.

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

DNRC Recommendation

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

Broadwater County Sale Location Map



Sale Number 868

Unsurveyed Lot in the SE¼SE¼NW¼, T5N-R2E Sec. 16



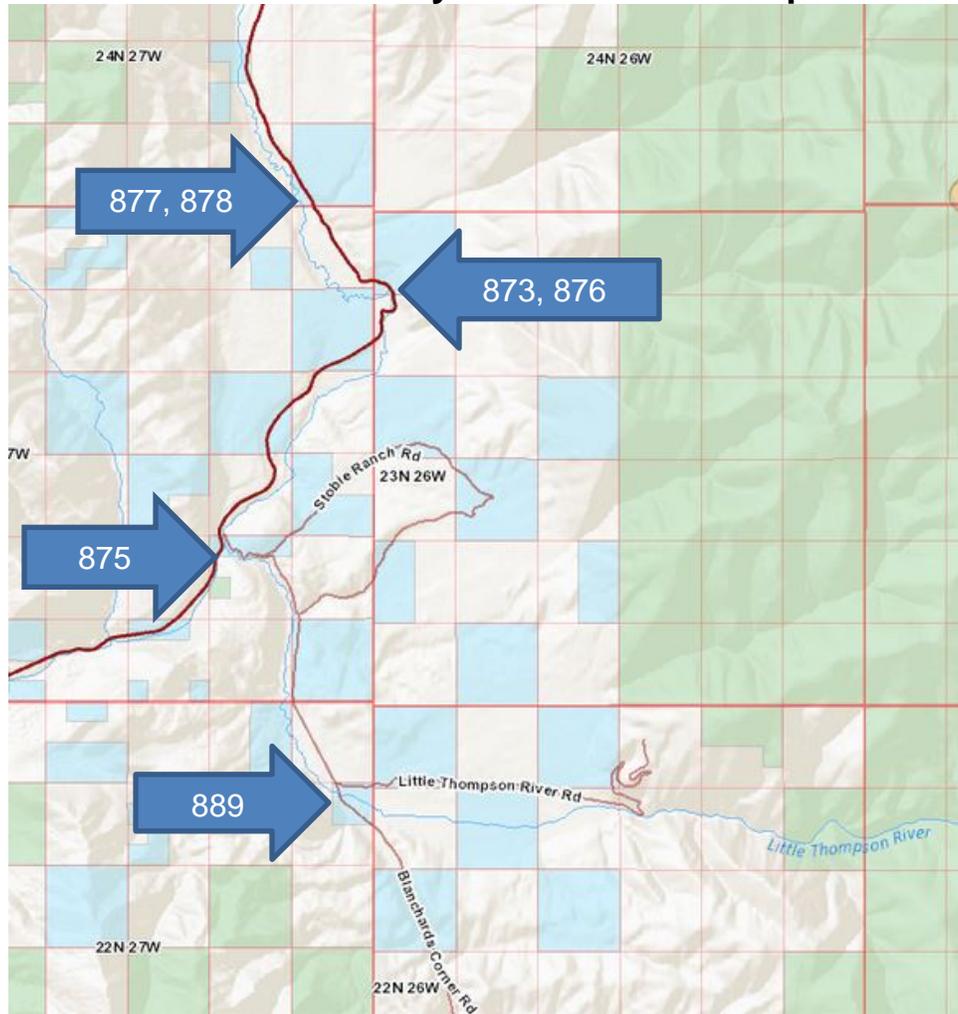
Lake County Sale Location Map



East Shore Flathead Lake Sales



Sanders County Sales Location Map



Sale Numbers 873, 876

Unsurveyed Lots in SW $\frac{1}{4}$ SW $\frac{1}{4}$ T23N-R26W Sec. 6



Sale Number 875

Unsurveyed Lot in NW $\frac{1}{4}$ NW $\frac{1}{4}$ T23N-R27W Sec. 34



Sale Numbers 877, 878
Unsurveyed Lots in SW $\frac{1}{4}$ SW $\frac{1}{4}$ T24N-R27W Sec. 36



Sale Number 889
Unsurveyed Lot 8, Mudd Creek, T22N-R27W, Sec. 12

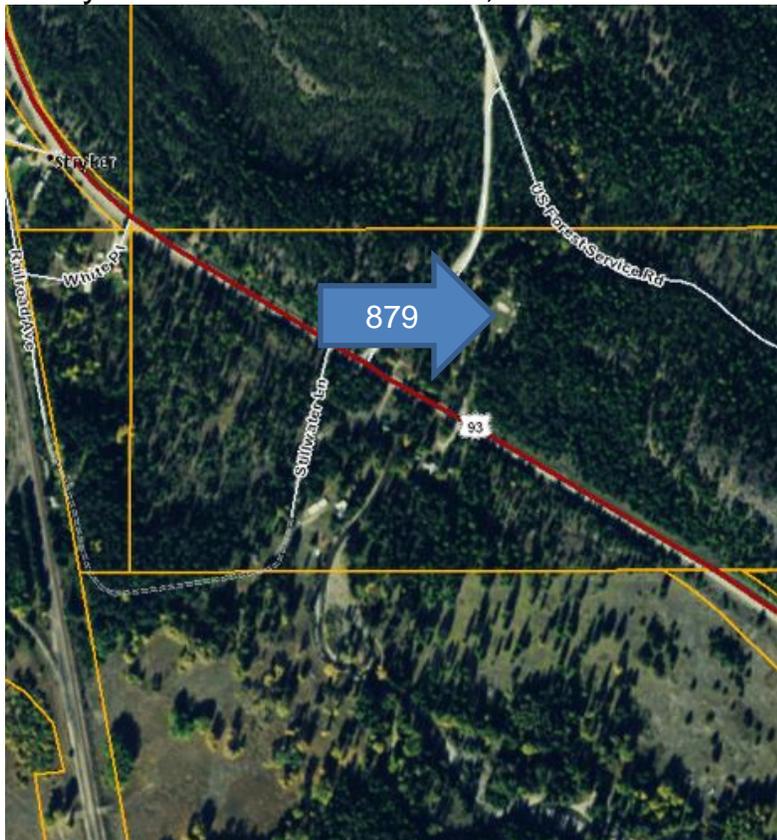


Lincoln County Sale Location Map

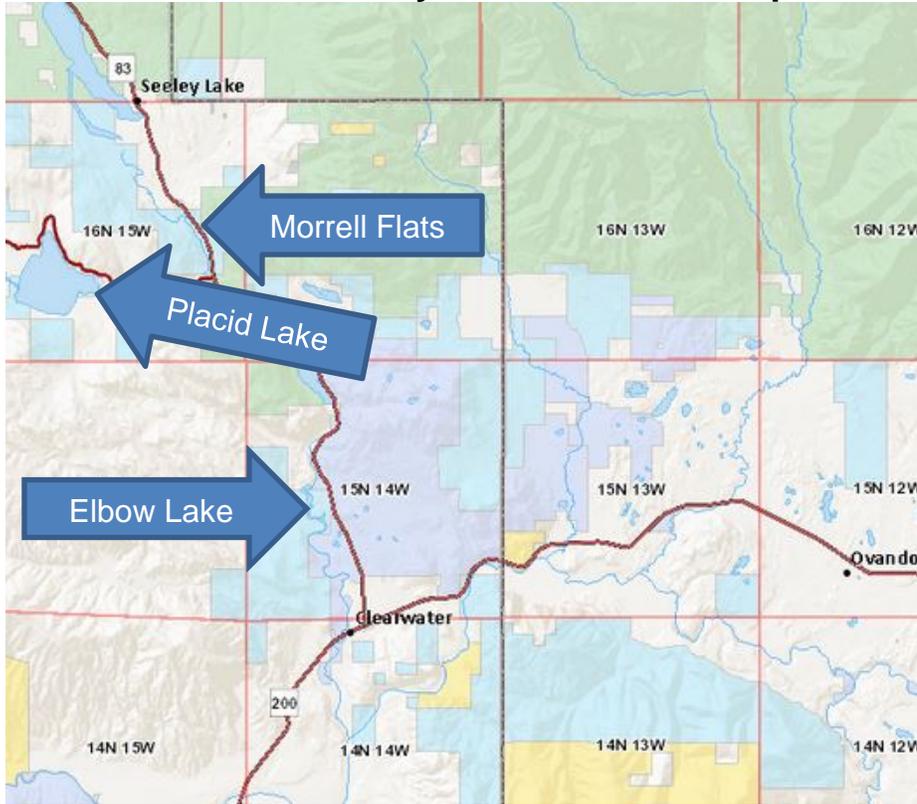


Sale Number 879

Unsurveyed Lot in W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, T34N-R25W Sec. 36



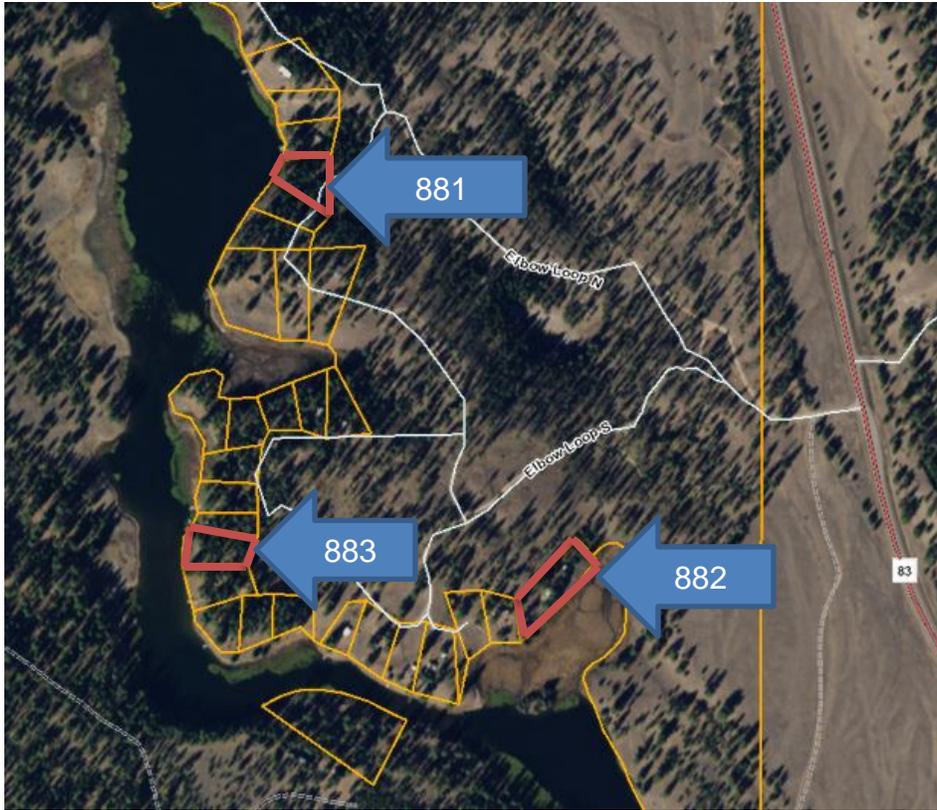
Missoula County Sales Location Map



Morrell Flats Sales



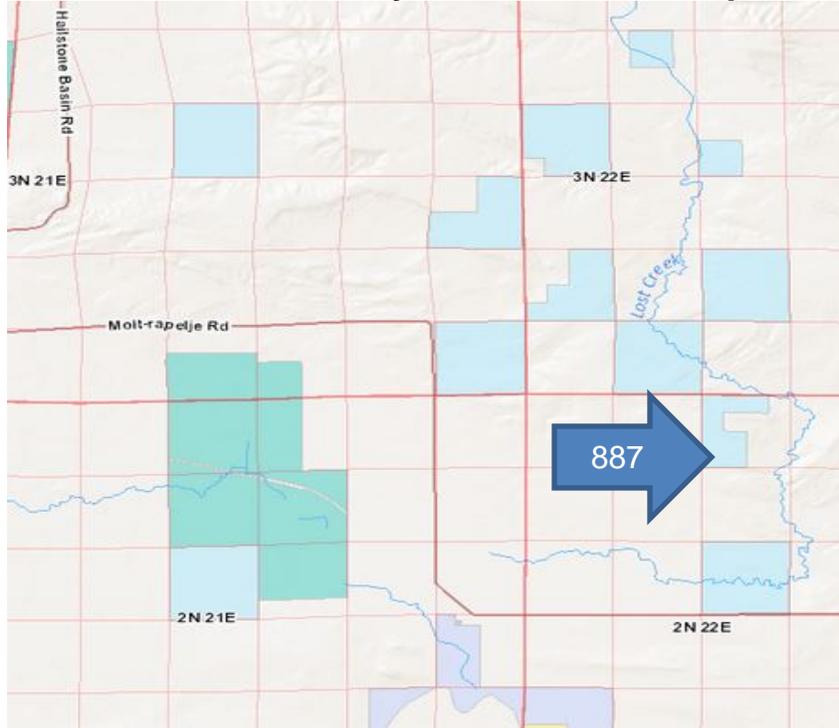
Elbow Lake Sales



Placid Lake Sale

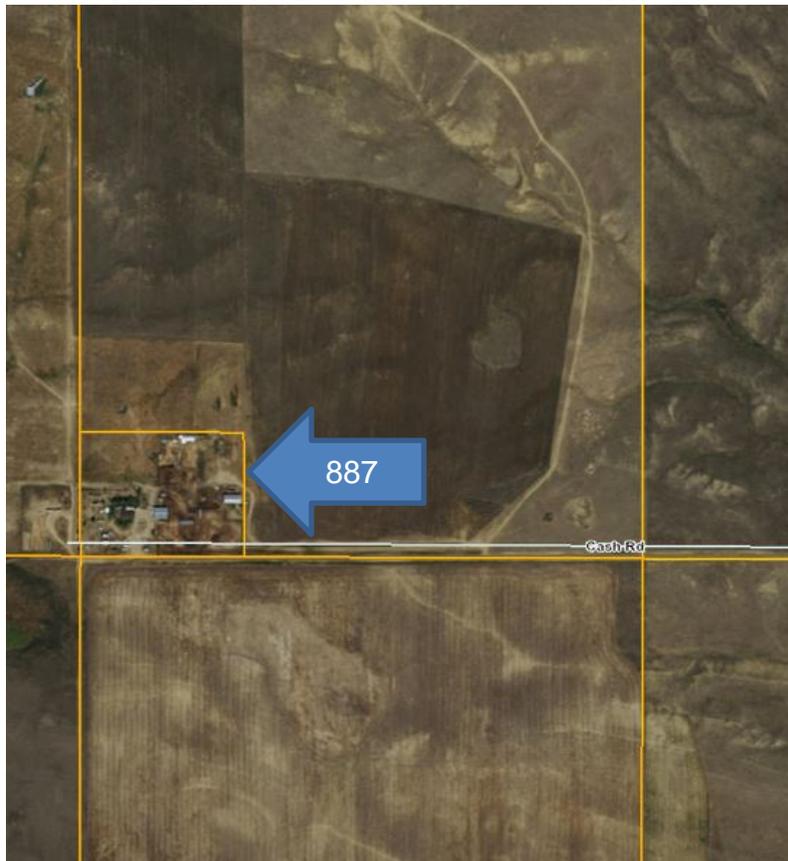


Stillwater County Sale Location Map

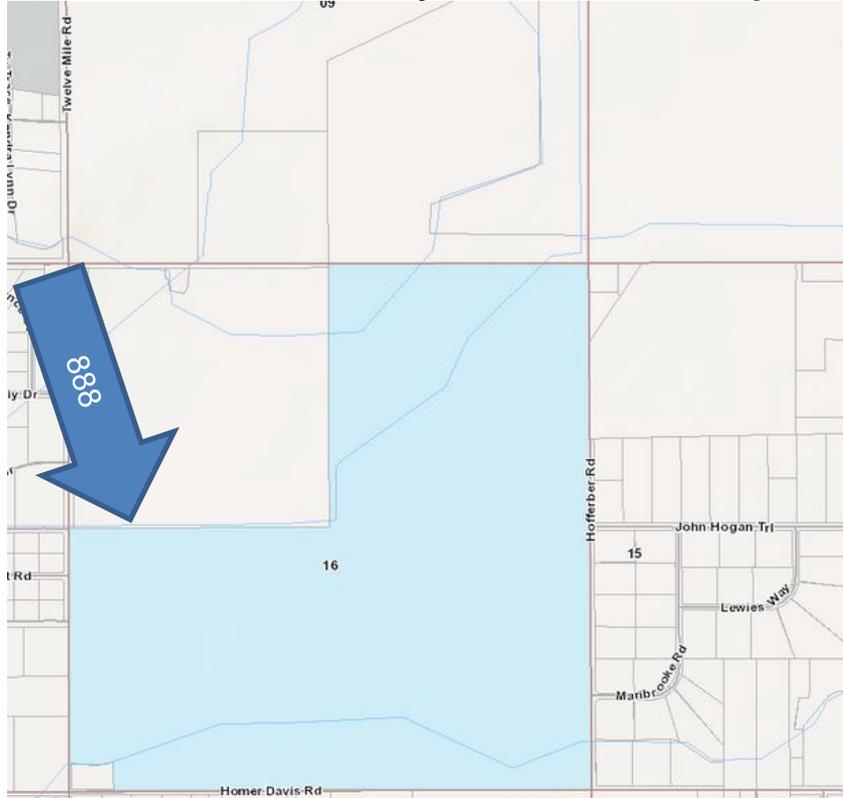


Sale Number 887

S ½ SW ¼ SW ¼ T2N-R22W Sec. 4

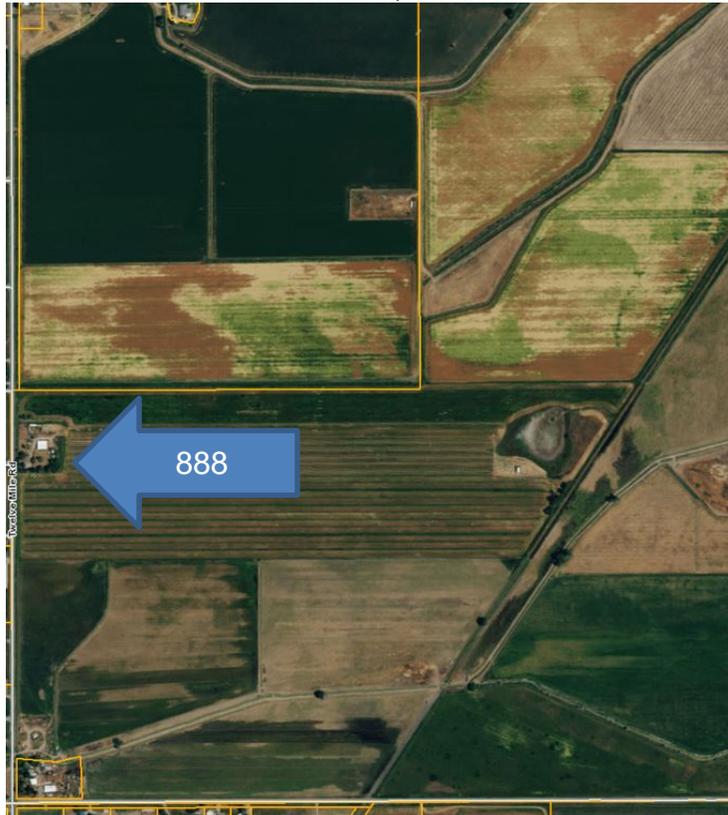


Yellowstone County Sale Location Map

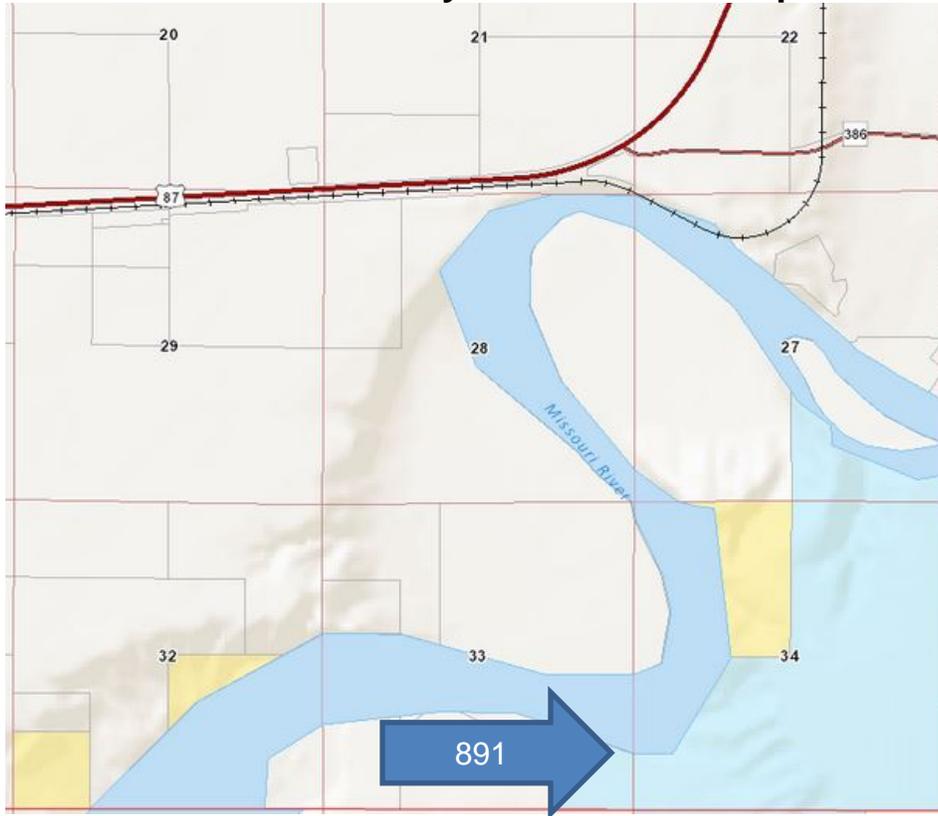


Sale Number 888

Lot in NW¹/₄NW¹/₄SW¹/₄, T2N-R27E Sec. 16

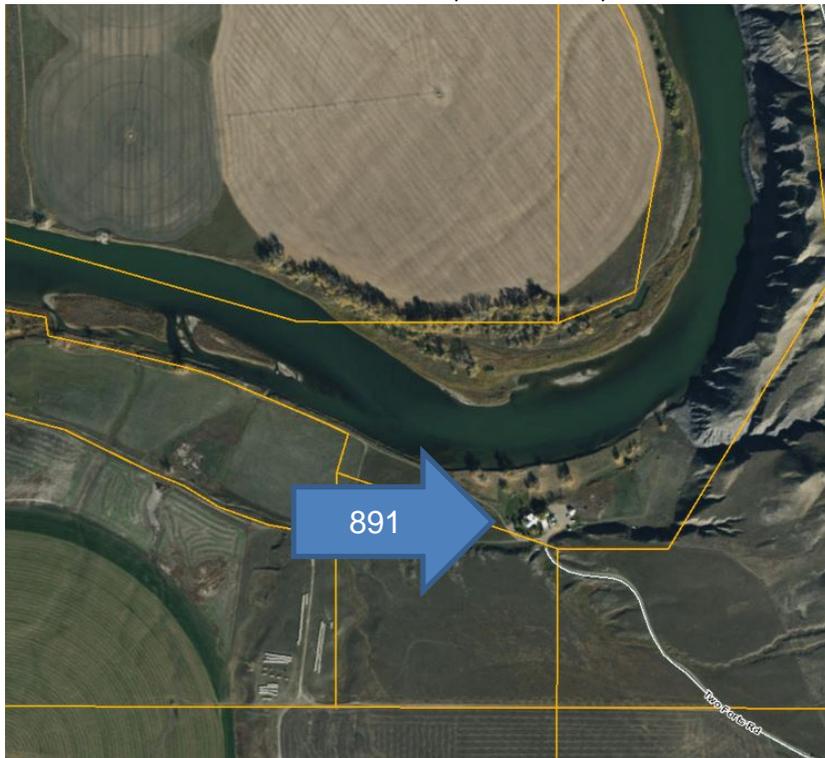


Chouteau County Sale Location Map



Sale Number 891

Lot in E ½ of Gov't Lot 9, Sec. 33 &
Lot in W ½ of Gov't Lot 5, Sec. 34, T24N-R8E



0517-3

Cabin and Home Sites:
Final Approval for Sale – Sale 816

**Land Board Agenda Item
May 22, 2017**

0517-3 Sale of Cabin and Home Sites: Final Approval for Sale – Sale 816

Location: Missoula County

Trust Benefits: MSU 2nd

Trust Revenue: \$160,000

Item Summary

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

Sale #	# of Acres	Legal	Nominator	Trust
816	1.001	Lot 1, Seeley Lake Outlet West, T16N-R15W, Sec. 4	Corey & Kristi Markovich	MSU 2 nd

The parcel 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 sale parcel 816 is 3.12%. The parcel will 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 2.72% 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. Cabin and home sites typically contain numerous structures, and the ground surfaces within most cabin and home sites have been variously disturbed over the course of many years of occupation and development. This sale will have no effect to state owned heritage properties.

Background

In January 2016, the Land Board granted preliminary approval for this parcel to continue through the cabin and home site sale evaluation process. In February 2017, the Land Board set the minimum bid for the land and the maximum value of compensation for the improvements at the appraised values below:

Appraised Values of Land and Improvements

Sale Number	Appraised Value of Land	Appraised Value of Improvements
816	\$160,000	\$180,000

At the request of the lessees and in accordance with 77-2-317(1)(c), informal administrative hearings were held in August 2016 to contest the valuations of the land and/or improvements under consideration for sale. The Hearing Examiner concluded that the appraisal valuations for the land were reasonable and unbiased estimates of current fair market value. The Hearing Examiner recommended that the Land Board set the minimum bid for the land and the maximum amount to be compensated for the improvements set at the values stated above.

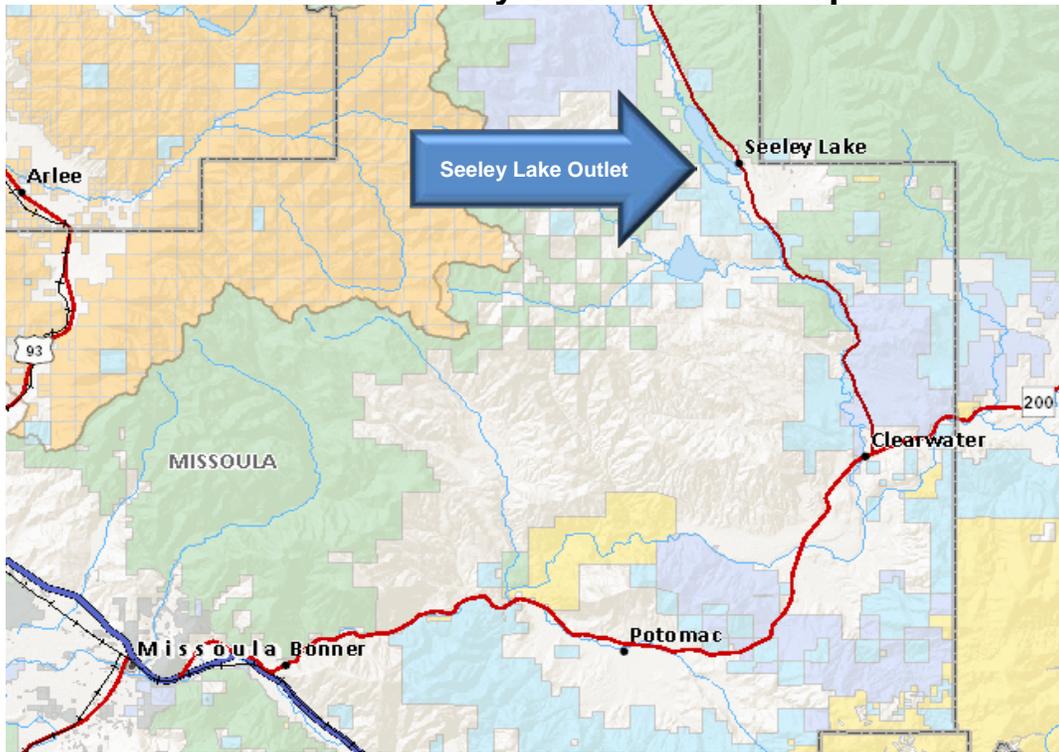
Sale Price

The cabin site was sold at a public auction on April 19, 2017. There was one bidder, who was the lessee. The parcel sold for the minimum bid amount listed above.

DNRC Recommendation

The director recommends the Land Board grant final approval for the cabin site parcel at the value shown above. The sale will be closed within 30 days of final approval by the Land Board.

Missoula County Sale Location Map



Sale Number 816

Lot 1, Seeley Lake Outlet West, Section 4, T16N-R15W



0517-4

Land Banking Parcels:
Final Approval for Sale – Yellowstone County

**Land Board Agenda Item
May 22, 2017**

0517-4 Land Banking Parcel: Final Approval for Sale – Yellowstone County

Location: Yellowstone County

Trust Benefits: Common Schools

Trust Revenue: \$290,000

Item Summary

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

Sale Number	# of Acres	Legal	Nominator	Trust
705	640	ALL, Section 16, T1N-R28E	Patterson Report Services, Inc.	Common Schools

Sale Parcel 705 has been primarily managed as grazing land and has below average productivity.

The parcel is not legally accessible by the public and is surrounded by private land.

No potentially negative issues were identified through the MEPA process regarding the sale of this parcel.

Economic Analysis

Short-term The rate of return on the sale parcel is 0.58%. The parcel would continue to receive this return if it remains in state ownership.

Long-term The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through 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 2.72% on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources

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

Background

In May 2016, the parcel was appraised by an independent appraiser contracted by DNRC concluding a market value of \$300,000. The lessee chose to exercise their right to commission an alternative appraisal at the lessee's expense. The alternative appraisal's conclusion of market value is \$280,000. Both appraisals were prepared by Certified General Appraisers, complied with the Uniform Standards of Professional Appraisal Practice, and provided reasonable estimates of the current fair market value of the subject property. In December 2016, the Land Board set the minimum bid at the appraised value with access as follows:

Sale Number	Minimum Bid
705	\$290,000

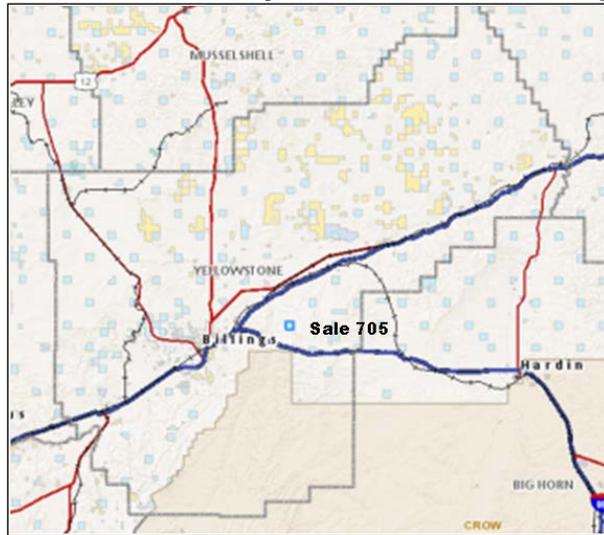
Sale Price

The parcel was sold at a public auction on April 5, 2017. The parcel had only one bidder, who was the lessee, and sold for the minimum bid amount listed above.

DNRC Recommendation

The director recommends the Land Board grant final approval of Land Banking Sale 705. The sale will be closed within 30 days of final approval by the Land Board.

Yellowstone County Sale Location Map



Sale Number 705 ALL, Section 16, T1N-R28E



0517-5

Land Banking Acquisition:
Preliminary Approval for Purchase –
Bullhead Creek

**Land Board Agenda Item
May 22, 2017**

0517-5 Land Banking Acquisition: Preliminary Approval for Purchase – Bullhead Creek

Location: Pondera County

Trust Benefits: Common Schools

Trust Revenue: N/A

Item Summary

The Department of Natural Resources and Conservation (DNRC) has identified a potential land acquisition of 280 acres known as the “Bullhead Creek” parcel available for sale in Pondera County.

Proposed Acquisition

This property is located directly adjacent to the Bullhead Ranch Land Banking Acquisition acquired in August 2015. These acres include approximately 92 acres of dryland agricultural land and 188 acres of dryland grazing. The property is for sale for \$320,000.

Selection Considerations

DNRC has conducted a review of this tract nominated for acquisition per Administrative Rule 36.25.813 (3).

Access The parcel is accessible from Trunk Road, a county road located on the west side.

Revenue The estimated gross annual income from the parcel is \$7,872.00 per year. Income estimates were based on average rate for competitively bid state land leases in Pondera County. The predicted annual rate of return over a 20 year period is estimated at 2.46%. The dryland agricultural land is typically planted with small grain and pulse crops, with a crop/summer fallow rotation. Grazing land has above-average stocking rates. Revenues may be increase by the development of 40 acres of irrigated land.

Multiple Uses The parcel has a variety of natural resource uses including creek / riparian areas, dry land crop and grazing. The property also offers wildlife habitat, hunting (big game and upland game birds) and other recreational opportunities. The proposed acquisition adjoins an existing 2,677 acres of trust land and the purchase of this property would increase public access to that trust land.

Location The property is located approximately 15 miles northwest of Conrad, Montana in Pondera County.

Cooperation DNRC will contact FWP Region 4 staff and the Pondera County Board of County Commissioners to discuss the proposed acquisition prior to the Land Board meeting.

Steps in this process include securing a purchase agreement contingent upon findings of the due diligence as per Land Banking rule Administrative Rules 36.25.813 through 815. Due diligence includes a detailed inventory report of the property, appraisal, Phase 1 hazardous materials study, an in-depth financial analysis, and a survey, if needed, followed by final Land Board approval.

DNRC Recommendation

The director recommends the Land Board grant preliminary approval of the Bullhead Creek for further consideration for acquisition.

Bullhead Creek

Pondera County, Estimated Price \$320,000

Location 15 miles northwest of Conrad, Montana, Pondera County

Acreage 280 deeded acres
*92 acres dry cropland
*188 native/tame grazing land

Carrying Capacity 188 ± acres of grazing lands are estimated to have an initial carrying capacity of 120 AUMs. An additional 10 AUMs would be available on cropland stubble after harvest.

Crop Land Estimated Yields

- *Dry – SF 50-65 bu/ac barley
- *Dry – SF 44-55 bu/ac wheat
- *Dry – SF 30-35 bu/ac pulse crop

Stockwater Bullhead Creek, a perennial flowing creek, runs through the entire tract. Good year-round livestock water is available. Water Right 41P-187122-00.

Irrigation Potential Irrigation Water Right 41P-187124-00 for 40.15 acres at the rate of 900 GPM is available for use on the parcel. At this time, the irrigation infrastructure has not yet been developed. The irrigation water would be available by pumping water directly out of Bullhead Creek.

Timber None

Fencing Fences are in good condition and have been rebuilt within the past 10 years. The entire perimeter of the parcel is fenced with 3 and 4 strand barbed wire fence and wood braces and wood driver posts. In addition, the cropland fields are fenced from the grazing land to allow for grazing when dryland fields are seeded.

Improvements 3 to 4 miles of border and cross fencing, one small working corral in the northwest corner of the tract

County/Taxes approximately \$900 annually

Precipitation 10 to 14 inch precipitation zone



Bullhead Creek

Comments

The 280 acre Bullhead Creek parcel is an opportunity to purchase productive agricultural lands with a desirable combination of crop and grazing lands. The proposed purchase adjoins state-owned Bullhead Ranch which was purchased with Land Banking monies in 2015. This property is accessible through the Trunk Butte County Road. Wildlife on this parcel includes Mule Deer, Whitetail Deer, Pronghorn Antelope, Hungarian Partridge, Sharp Tail Grouse, Pheasants, and various other non-game mammals and birds. This property is located four miles south of the Montana Fish, Wildlife and Parks (FWP) Marias River Wildlife Management Area. This area offers good big game hunting and excellent upland bird hunting opportunities. Other recreational opportunities such as hiking and bird watching may also exist.

Projected revenue to trust beneficiaries for grazing and agriculture lands is estimated at \$7,872 annually. This return is based on average rates of competitively bid state land leases in Pondera County. The grazing portion of the tract is expected to be used in the summer and early fall months. Crop land rotations would likely include wheat, barley and pulse crops. The property includes a stockwater right and an irrigation water right for direct pumping out of Bullhead Creek to develop 40 acres of irrigated land. Rates of return are estimated at 2.46%.



Bullhead Creek

Property Legal Descriptions

<u>TWN</u>	<u>RNG</u>	<u>SEC</u>	<u>Description</u>	<u>Acres</u>
30N	3W	8	S $\frac{1}{2}$ S $\frac{1}{2}$	160
30N	3W	17	NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$	120
			Total Acres	280



0517-6

Land Banking Acquisition:
Final Approval for Purchase – Lost Creek Farm

**Land Board Agenda Item
May 22, 2017**

0517-6 Land Banking Acquisition: Final Approval for Purchase – Lost Creek Farm

Location: Stillwater County

Trust Benefits: Common Schools

Trust Revenue: N/A

Item Summary

Seller LR Jordan, LLC

Prospective Buyer State of Montana, Department of Natural Resources and Conservation (DNRC)

Location The property is located approximately five miles northwest of Molt, Montana in Stillwater County.

Property Characteristics This property totals 2,015.8 acres. It is a mixture of dryland agricultural land (1,945.5 acres) and dryland grazing (70.3 acres).

DNRC projects the property will generate an estimated annual net revenue of \$48,267 generated from agricultural and grazing leases. This is an increase over the net revenue of \$35,231 generated from lands sold that will be used to purchase this property.

Multiple Use Opportunities The parcel has a variety of natural resource uses including dryland agricultural and grazing land. The property also offers wildlife habitat, hunting (big game and upland game birds), and other recreational opportunities. Purchase of these parcels would create a larger block of state land

Access The property is accessible from Molt-Rapelje, Cash, and Dannenberg Roads, all county roads. Purchase of this property would also secure perpetual administrative and public access to two existing sections of trust land.

Appraised Value \$1,445,500

Purchase Price \$1,333,000

Proposed Closing Date June 30, 2017

Background The Lost Creek Farm received preliminary approval from the Land Board on November 21, 2016. Since then, DNRC has engaged in evaluation of the property as per Land Banking Administrative Rule 36.25.815.

Public Involvement The Lost Creek Farm was nominated for state acquisition by DNRC. A general scoping of this purchase was recently completed by DNRC. This scoping process included a direct mailing to adjacent land owners. In addition, DNRC's Southern Land Office directly contacted the Stillwater County Commissioners and Region 5 of Montana FWP.

Selection Considerations and Process

DNRC secured a purchase agreement for \$1,333,000 or the appraised value of the land, whichever was less.

DNRC Recommendation

The director recommends the Land Board grant final approval for the acquisition of Lost Creek Farm.

Due Diligence Property Evaluation Summary

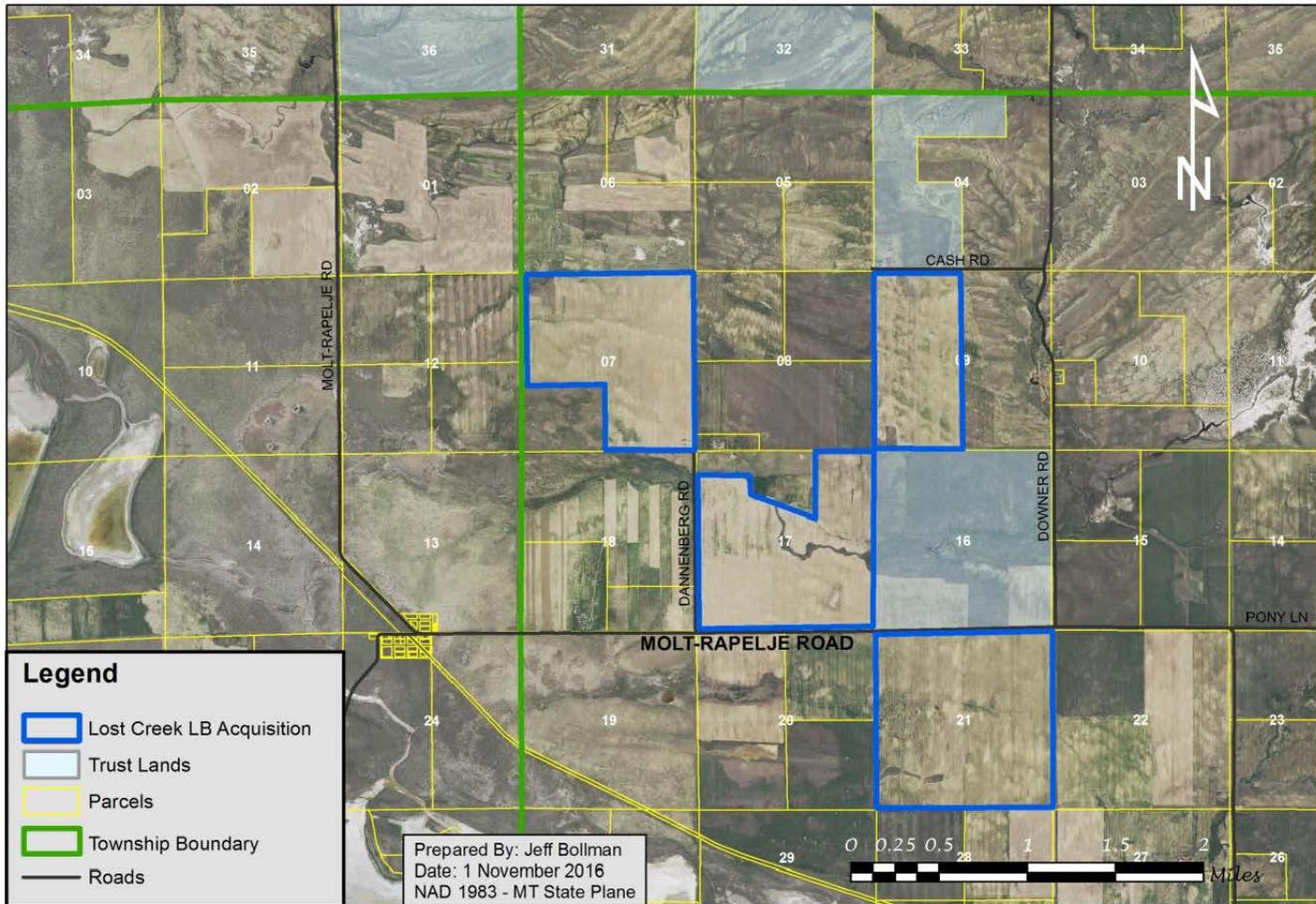
ACQUISITION REPORT	EXPLANATION						
Seller's Disclosure	No known material defects or environmental concerns reported on the property.						
Acquisition Annual Rate of Return Over 20 years	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><u>Trust</u></td> <td style="text-align: center;"><u>NPV</u></td> <td style="text-align: center;"><u>RoR</u></td> </tr> <tr> <td style="text-align: center;">Common Schools</td> <td style="text-align: center;">\$48,267</td> <td style="text-align: center;">3.34%</td> </tr> </table>	<u>Trust</u>	<u>NPV</u>	<u>RoR</u>	Common Schools	\$48,267	3.34%
<u>Trust</u>	<u>NPV</u>	<u>RoR</u>					
Common Schools	\$48,267	3.34%					
Average Annual Rate of Return of Property Sold	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><u>Trust</u></td> <td style="text-align: center;"><u>NPV</u></td> <td style="text-align: center;"><u>RoR</u></td> </tr> <tr> <td style="text-align: center;">Common Schools</td> <td style="text-align: center;">\$35,231</td> <td style="text-align: center;">2.64%</td> </tr> </table>	<u>Trust</u>	<u>NPV</u>	<u>RoR</u>	Common Schools	\$35,231	2.64%
<u>Trust</u>	<u>NPV</u>	<u>RoR</u>					
Common Schools	\$35,231	2.64%					
Annual Income	<p><u>Dryland Crop: 1,945.5 acres</u> Wheat, alfalfa and safflower</p> <p><u>Grazing: 70.3 acres</u> 33 AUMs</p> <p><u>Projected Total Annual Net Revenue</u> Common Schools \$48,267</p>						
Classification of Property	Agricultural & Grazing Land						
Soils/Range	The soil textures on this tract vary from clay loams to silty loams. The dryland crop soils are fairly productive and stable. The USDA-NRCS soil survey indicated Land Capability Classification of the dryland crop acres as a mixture of Class III and IV soils. The current operator has reported dryland winter wheat on summer fallow average yields of 30-32 bu/acre.						

<p>Vegetation</p>	<p>The small amount of rangeland on this property is typical of the western sedimentary plains. Range sites are in good to excellent condition and dominated by clay loams to silty loams. Species composition is dominated by introduced and native grasses which include crested wheatgrass, intermediate wheatgrass, western wheatgrass, and sub-dominant species including various forbs. The native rangeland on this property produces average grass production and is expected to have a carrying capacity of approximately 0.25 AUMS/Acre.</p> <p>The cropland on this tract has historically been in a winter wheat/summer fallow rotation. This rotation has shown yields between 30-32 bu/acre. Section 9 is the only tract that is fully fenced and available for aftermath grazing. The expected AUM carrying capacity of the dryland crop acres is approximately 0.1 AUMs/acre.</p> <p>The hayland acres in this acquisition are comprised of straight alfalfa fields that produced over 1 ton of hay per acre in 2016.</p>
<p>Range Condition</p>	<p>The property is located in the northern mixed grass prairie, Western Sedimentary Plains, 10-14 inch precipitation zone. Range condition is good to excellent. The carrying capacity of the property is typical of southcentral Montana and estimated at:</p> <p>Useable Dryland Grazing: 7.4 acres x .25 AUMs/acre = 2 AUMs</p> <p>Aftermath grazing on the property was set at a rate of 0.1 AUMs/acre. The total aftermath grazing AUMs is approximately 31 AUMs.</p> <p><u>The total AUMs available on the property is approximately 33 AUMs.</u></p>
<p>Weeds</p>	<p>Various common weeds and agricultural nuisance weed are present on the property. No out-of-control or large patches of noxious weeds were noted on the property. The sellers have an active weed management program across the entire property that includes chemical control and this is expected to occur in future years with a new lessee.</p>
<p>Sacrifice Area</p>	<p>None</p>
<p>Timber Cruises</p>	<p>N/A</p>

Water	There is no live water source found on this tract. No wells have been established and no water pipelines have been installed. The future lessee will be responsible for providing water for livestock during grazing.
Water Rights	None
Wildlife (Threatened & Endangered)	No threatened or endangered species are known to be present on the property. The parcels are located within Greater Sage-Grouse General Habitat. However, the closest active lek is ± 7.5 miles to the east. Other wildlife on the property includes antelope, deer, upland game birds and various other non-game mammals and birds.
Fisheries	N/A
Wetlands/Flood Plain	No wetlands are present on this property.
Riparian Characteristics	Lost Creek runs through a portion of Section 17 and an unnamed creek in the far NW corner of Section 7. Both of these drainages are fed by runoff from snowmelt or rain. Lost Creek has well-vegetated and stable banks.
Cultural Values	It is presently unknown if cultural resources are present. Applicable cultural resource laws will be followed if the subject property is transferred to state ownership.
Mineral Characteristics	The seller is retaining their interest, if any, in oil and gas and coal. The state will acquire the rights for sand and gravel. There is no active oil and gas development in the immediate area and it is not within a known field.
Aesthetic Values	The property is entirely agricultural and grazing and does not have any unique features. The property does have views of the Beartooth and Crazy mountain ranges.
Recreational Use	The property would provide big game hunting opportunities. Wildlife in this area includes deer, antelope, upland game birds, and various other non-game mammals and birds. In addition, the acquisition would create a large block of public land due to two of the parcels that adjoin an existing Section 16. All of the acquired parcels have legal public access. There is a shortage of trust land within the scope of DNRC's Southern Land Office with public access, and this acquisition would provide additional recreational opportunities for the public.
Zoning	None
Planning	None

Surrounding Land Use	Adjacent lands are dryland agricultural and grazing lands, along with a few scattered residences.		
Potential for Multiple Use	The primary use of the property would be dryland agriculture with the potential for some livestock grazing. The property is likely to get moderate recreational use during hunting season.		
Access to Parcel	The parcels have access from Molt-Rapelje, Cash, and Dannenberg Roads, all of which are county roads.		
Infrastructure	The property contains approximately +/-9 miles of border fencing, as well as a grain bin.		
Adjacent Public Lands	The property borders state trust land (2N-22E-16 and 2N-22E-4) which does have access and will create a larger block of public land.		
Adjacent Conservation Easements	None		
Appraised Value	\$1,445,500		
Purchase Price	<u>Trust</u> Common Schools	<u>Funds</u> \$1,333,000	<u>Acres</u> 2,015.8±
Summary of Title Report	The state has reviewed a preliminary title commitment. The seller warrants the title shall be good, marketable, and insurable, subject to the exceptions approved by the state.		
Summary Phase 1 Site Analysis	A Phase I Environmental Site Assessment was performed by Pioneer Technical Services of Billings, Montana. Their review and report found no recognized environmental concerns associated with the property beyond the typical agricultural use of the property.		
Notification to Commissioners and Adjacent Land Owners	The Stillwater County Commissioners have been notified of this proposed acquisition. No opposition has been received.		
Comments Received During Public Involvement Process	The DNRC Southern Land Office has not received any public comments on the proposed acquisition. The Southern Land Office expects to have interest from several area farmers about leasing this property from the state following acquisition because all of the parcels have legal public access.		

Lost Creek Land Banking Acquisition



0517-7

Easements

- A. Regular Easements
- B. Stillwater-Lazy Swift Easement Exchange

**Land Board Agenda Item
May 22, 2017**

0517-7A Easements: Regular Easements

Location: Beaverhead, Fallon, Fergus, Lewis & Clark, Missoula, Powder River, Roosevelt, Teton, Toole, Wheatland Counties

Trust Benefits: Common Schools, MSU 2nd, Public Buildings

Trust Revenue:

Common Schools	\$11,850.60
MSU 2 nd	\$6,076
Public Buildings	\$11,996

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
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Southern Montana Telephone Company	New Telecommunications Utility	Permanent	3-4
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Gary Passmore	1 New & 3 Historic Private Access Roads	Permanent	10-14
Missoula County Commissioners	Historic County Road	Permanent	15-18
Northern Telephone Cooperative, Inc.	New Telecommunications Utility	Permanent	19-20
ONEOK Rockies Midstream, LLC	New Natural Gas Pipeline	30-Year	21-22
Range Telephone Cooperative, Inc.	New Telecommunications Utility	Permanent	23-24
William K., Teresa D., & Janelle Smith	Amendment of Historic Private Access Road	Permanent	25-26

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Montana Dakota Utilities Company 1133 West Broadway Dickinson, ND 58601
Application No.:	17865
R/W Purpose:	a buried 7.2kV electric distribution line
Lessee Agreement:	ok
Acreage:	1.73
Compensation:	\$865.00
Legal Description:	25-foot strip through E2NW4, N2NE4, Sec. 16, Twp. 8N, Rge. 57E, Fallon County
Trust Beneficiary:	Common Schools

Item Summary

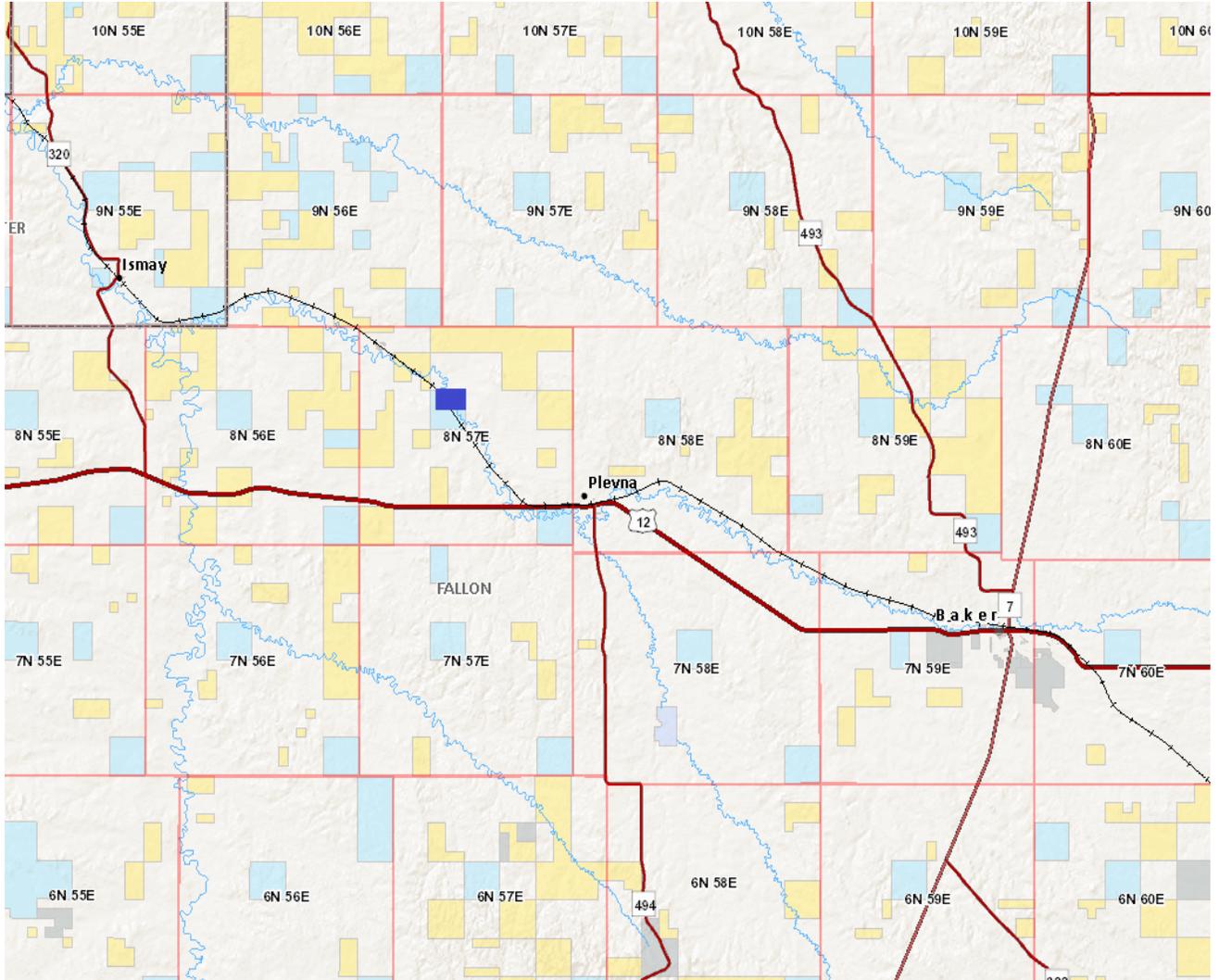
Montana Dakota Utilities Company has made an application to install a 7.2kV buried electric distribution service line to BNSF signal house at MP#1033.50. This route was chosen based on the location of MDU's facilities and the accessibility to the BNSF signal house. The single phase line will be buried by trenching with little impact to the state parcel. The proposed route is within sage grouse general habitat. Pursuant to *Sage Grouse Executive Order No. 12-2015*, special stipulations will be placed in the easement documents to address mitigation measures, such as restrictions related to construction time periods. This project, identified as Project No.1465921824650, has been approved by the Montana Sage Grouse Habitat Conservation Program.

DNRC Recommendation

The director recommends the Land Board grant approval of this electric distribution line.

Rights of Way Applications

May 22, 2017



Application # 17865 – Montana Dakota Utilities Company

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Southern Montana Telephone Company PO Box 205 Wisdom, MT 59761
Application No.:	17866
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	0.65
Compensation:	\$520.00
Legal Description:	20-foot strip through NE4NW4, Sec. 16, Twp. 1S, Rge. 16W, Beaverhead County
Trust Beneficiary:	Common Schools

Item Summary

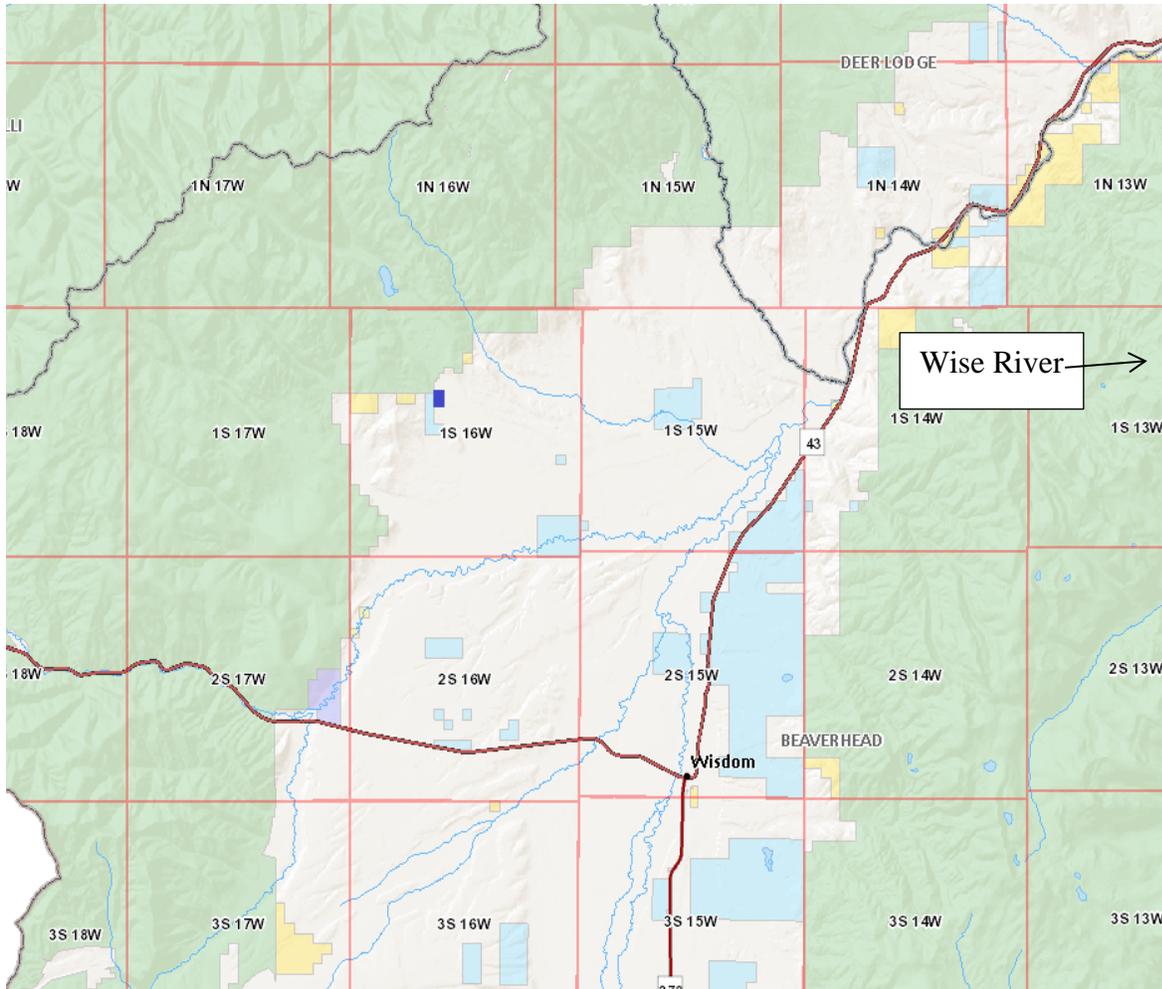
Southern Montana Telephone Company has made application for a buried telecommunications cable. They are proposing to install this new cable to upgrade their current facilities and to the Wisdom Exchange serving area in and around Wisdom, Montana. These improvements will offer state-of-the-art telecommunications toll and distribution facilities, as well as future growth capabilities. The route chosen will provide accessibility for construction and maintenance since it is located primarily along existing roadways. The proposed route is within sage grouse general habitat. Pursuant to *Sage Grouse Executive Order No. 12-2015* special stipulations will be placed in the easement documents to address mitigation measures, such as restrictions related to construction time periods. This project, identified as Project No.1467065233767, has been approved by the Montana Sage Grouse Habitat Conservation Program.

DNRC Recommendation

The director recommends the Land Board grant approval of this buried telecommunications cable.

Rights of Way Applications

May 22, 2017



Application # 17866 – Southern Montana Telephone Company

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	17867
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	2.43
Compensation:	\$1458.00
Legal Description:	20-foot strip through N2S2, Sec. 36, Twp. 11N, Rge. 15E, Wheatland County
Trust Beneficiary:	Common Schools

Item Summary

Triangle Telephone Cooperative Association, Inc., has made application for a buried telecommunications cable to upgrade their current facilities and services to the Judith Gap Exchange serving area in and around Judith Gap. These improvements will offer state-of-the-art telecommunications toll and distribution facilities, as well as future growth capabilities. The proposed route is the most direct route between terminus locations. This route will provide accessibility for construction and maintenance since it is located primarily along existing roadways.

DNRC Recommendation

The director recommends the Land Board grant approval of this buried telecommunications cable.

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Triangle Telephone Cooperative Association, Inc.
PO Box 1220
Havre, MT 59501

Application No.: 17868
R/W Purpose: a buried telecommunications cable
Lessee Agreement: ok
Acreage: 1.01
Compensation: \$707.00
Legal Description: 20-foot strip through W2SW4, Sec. 20, Twp. 11N, Rge. 16E,
Fergus County
Trust Beneficiary: Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Triangle Telephone Cooperative Association, Inc.
PO Box 1220
Havre, MT 59501

Application No.: 17869
R/W Purpose: a buried telecommunications cable
Lessee Agreement: ok
Acreage: 3.01
Compensation: \$2491.00
Legal Description: 20-foot strip through W2NW4, E2NW4, NE4SW4, W2SW4,
Sec. 36, Twp. 11N, Rge. 17E,
Wheatland County

Trust Beneficiary: Common Schools

Item Summary

See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Triangle Telephone Cooperative Association, Inc.
PO Box 1220
Havre, MT 59501

Application No.: 17870
R/W Purpose: a buried telecommunications cable
Lessee Agreement: ok
Acreage: 0.83
Compensation: \$581.00
Legal Description: 20-foot strip through E2SW4, Sec. 16, Twp. 11N, Rge. 17E,
Fergus County
Trust Beneficiary: Common Schools

Item Summary

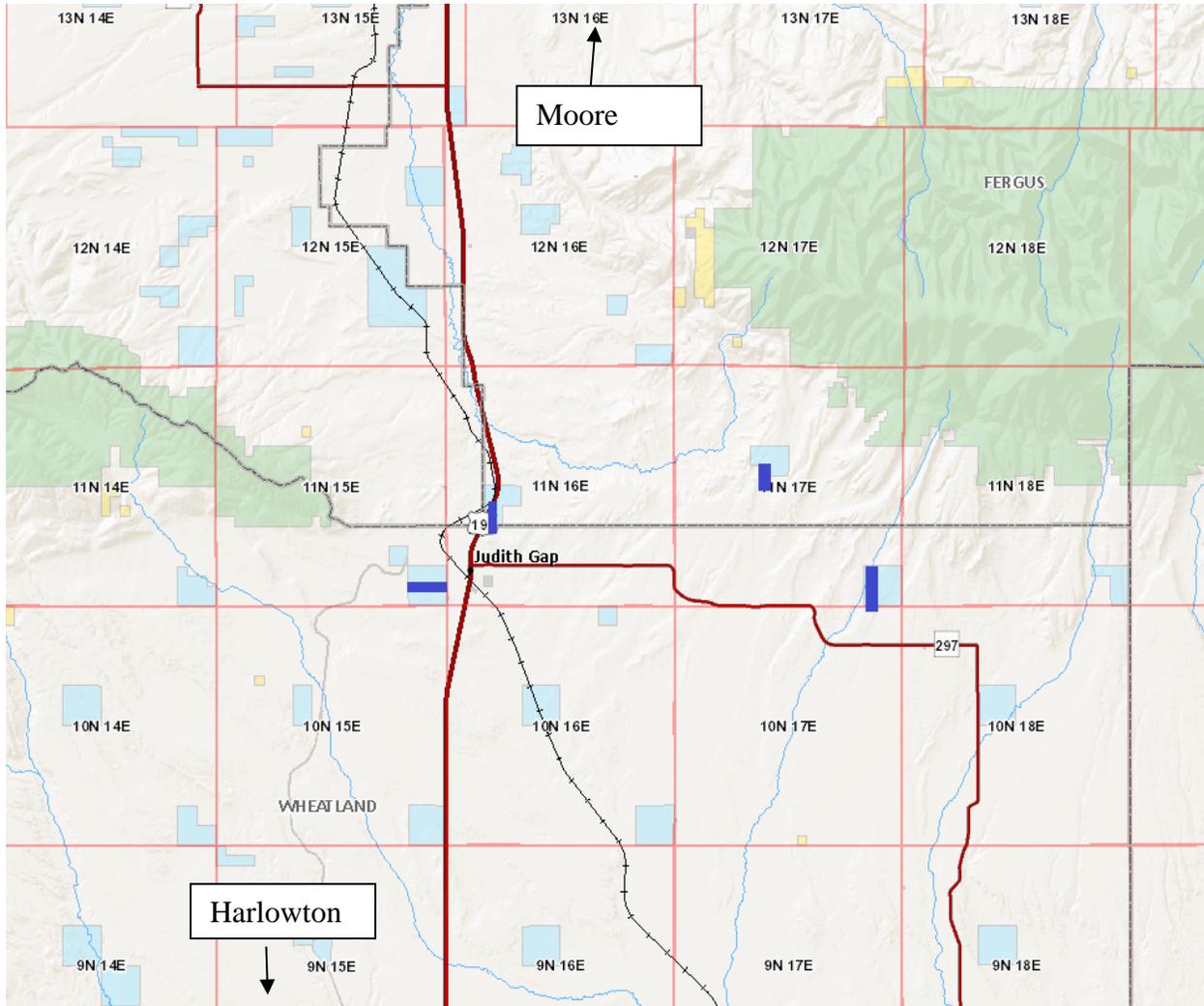
See page 5

DNRC Recommendation

See page 5

Rights of Way Applications

May 22, 2017



Application #'s 17867-17870 – Triangle Telephone Cooperative Association, Inc.

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Gary Passmore
809 1st Street NE
Choteau, MT 59422

Application No.: 17872
R/W Purpose: a private access road to one single family residence and associated outbuildings and for conducting normal farming and ranching operations

Lessee Agreement: ok
Acreage: 0.98
Compensation: \$1862.00
Legal Description: 16-foot strip through W2SW4, Sec. 10, Twp. 23N, Rge. 8W, Teton County
Trust Beneficiary: Public Buildings

Item Summary

Gary Passmore has made application for access across four sections of state land. Three of the sections qualify as historic access under §77-1-130, MCA; however the road located on the first state section to be crossed overlays the relocated and constructed access road established under a Consent Decree that was approved by the State Board of Land Commissioners on July 20, 2015 (Salmond Ranch Company, Inc. v. All Known Persons, et al., Cause No. DV-12-45, Montana Ninth Judicial District Court, Teton County, Montana). Mr. Passmore's historic access begins from the public parking area located in Section 15, Township 23N, Range 8W, and continues to his private property and cabin. Public scoping was completed, and generally comments were in support of the easement grants. Because the recreating public only has walk-in access from the parking area and concerns were raised about Passmore's being able to drive where others must walk, stipulations will be placed in the easements that the easement does not provide for motorized recreational use on state land. Passmore's private property to be accessed is described as:

- Sec. 17, Twp. 23N, Rge. 8W – Part SW4NE4

DNRC Recommendation

The director recommends the Land Board grant approval of these four private access roads.

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Gary Passmore 809 1st Street NE Choteau, MT 59422
Application No.:	17873
R/W Purpose:	a private access road for the purpose of access to one single family residence and associated outbuildings and for conducting normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	0.345
Compensation:	\$655.00
Legal Description:	16-foot strip through NW4NW4, Sec. 15, Twp. 23N, Rge. 8W, Teton County
Trust Beneficiary:	Public Buildings

Item Summary

See page 10

DNRC Recommendation

See page 10

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Gary Passmore
809 1st Street NE
Choteau, MT 59422

Application No.: 17874
R/W Purpose: a private access road for the purpose of access to one single family residence and associated outbuildings and for conducting normal farming and ranching operations

Lessee Agreement: N/A (Historic)
Acreage: 2.174
Compensation: \$4130.60
Legal Description: 16-foot strip through N2N2, S2N2, Sec. 16, Twp. 23N, Rge. 8W, Teton County
Trust Beneficiary: Common Schools

Item Summary

See page 10

DNRC Recommendation

See page 10

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Gary Passmore 809 1st Street NE Choteau, MT 59422
Application No.:	17875
R/W Purpose:	a private access road for the purpose of access to one single family residence and associated outbuildings and for conducting normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	0.525
Compensation:	\$998.00
Legal Description:	16-foot strip through SE4NE4, Sec. 17, Twp. 23N, Rge. 8W, Teton County
Trust Beneficiary:	Common Schools

Item Summary

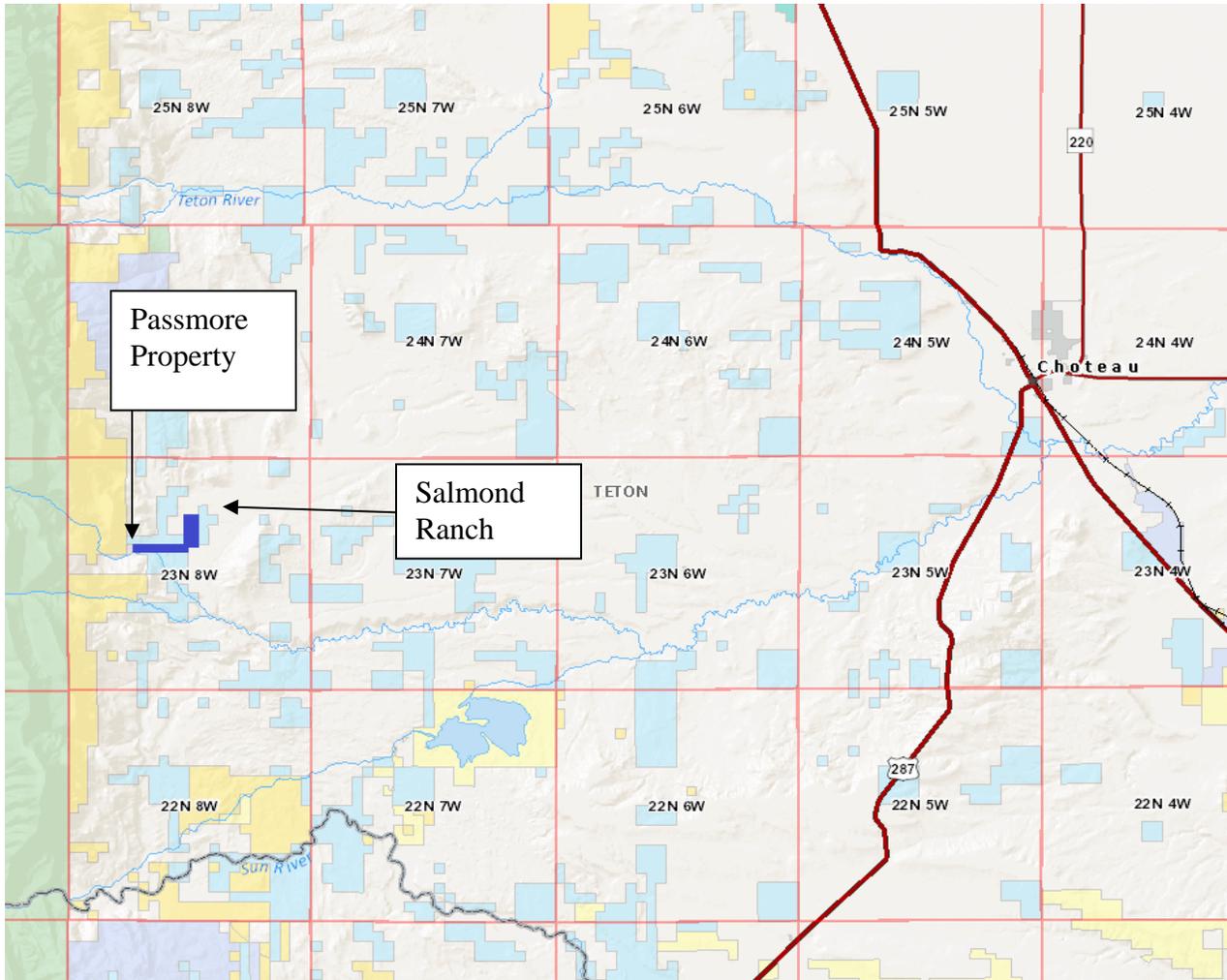
See page 10

DNRC Recommendation

See page 10

Rights of Way Applications

May 22, 2017



Application #'s 17872 – 17875 – Gary Passmore

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Missoula County Commissioners 200 West Broadway Missoula, MT 59802
Application No.:	17876
R/W Purpose:	a public county road known as South Placid Lake Road
Lessee Agreement:	N/A (Historic)
Acreage:	0.07
Compensation:	\$100.00
Legal Description:	40-foot strip through Government Lot 3, Sec. 28, Twp. 16N, Rge. 15W, Missoula County
Trust Beneficiary:	MSU 2 nd

Item Summary

Missoula 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 the Land Board grant approval of this historic right of way for Missoula County.

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Missoula County Commissioners
200 West Broadway
Missoula, MT 59802

Application No.: 17877
R/W Purpose: a public county road known as South Placid Lake Road
Lessee Agreement: N/A (Historic)
Acreage: 4.07
Compensation: \$3663.00
Legal Description: 60-foot strip through Government Lot 7, S2SE4,
Sec. 30, Twp. 16N, Rge. 15W,
Missoula County

Trust Beneficiary: MSU 2nd

Item Summary

See page 15

DNRC Recommendation

See page 15

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Missoula County Commissioners 200 West Broadway Missoula, MT 59802
Application No.:	17878
R/W Purpose:	a public county road known as South Placid Lake Road
Lessee Agreement:	N/A (Historic)
Acreage:	2.57
Compensation:	\$2313.00
Legal Description:	20-foot strip through N2NW4 & 60-foot strip through N2NE4, Sec. 32, Twp. 16N, Rge. 15W, Missoula County
Trust Beneficiary:	MSU 2 nd

Item Summary

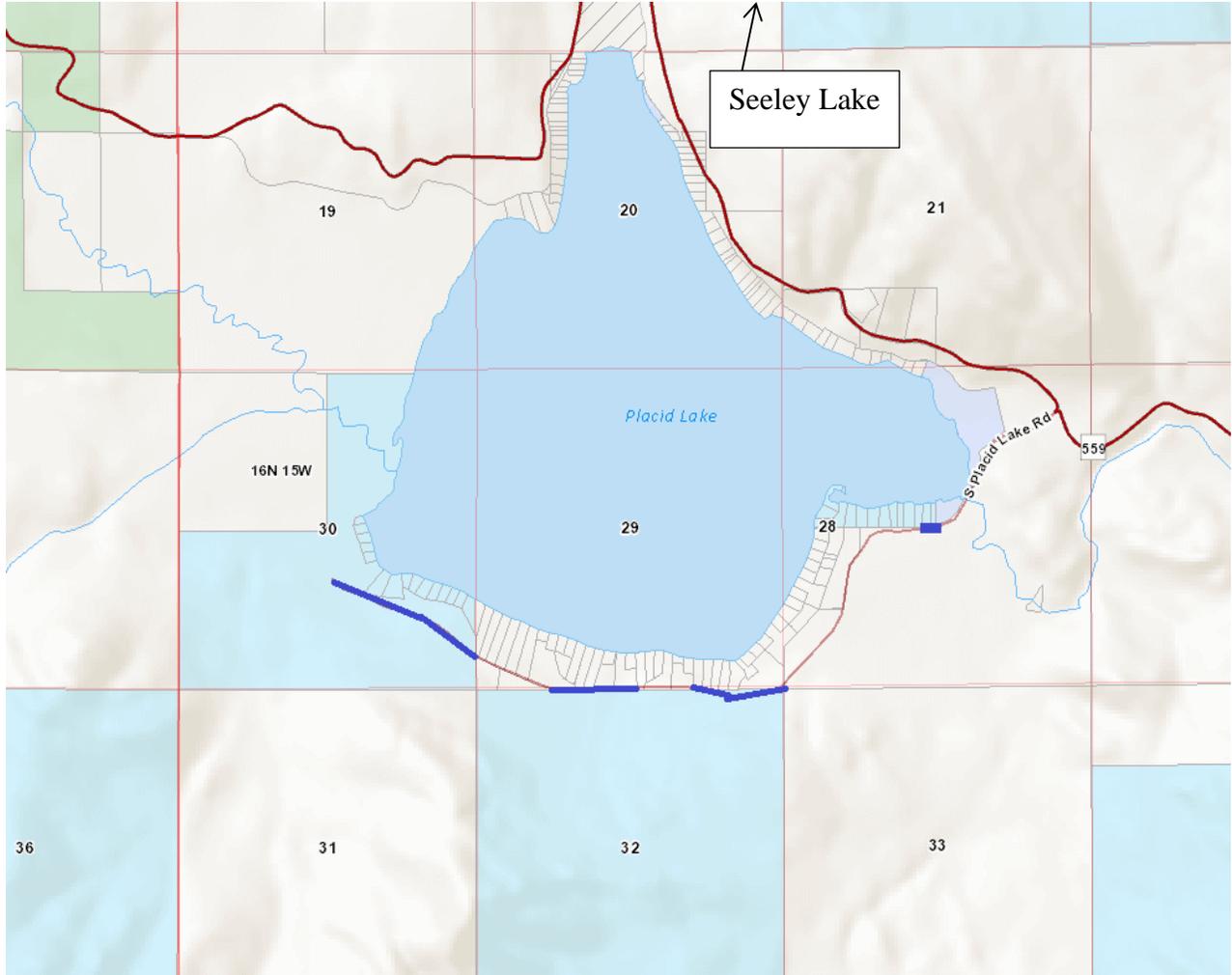
See page 15

DNRC Recommendation

See page 15

Rights of Way Applications

May 22, 2017



Application #'s 17876 – 17878 – Missoula County Commissioners

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northern Telephone Cooperative, Inc. PO Box 190 Sunburst, MT 59482
Application No.:	17904
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	0.4
Compensation:	\$200.00
Legal Description:	20-foot strip through SW4SE4, Sec. 23, Twp. 37N, Rge. 2E, Toole County
Trust Beneficiary:	Public Buildings

Item Summary

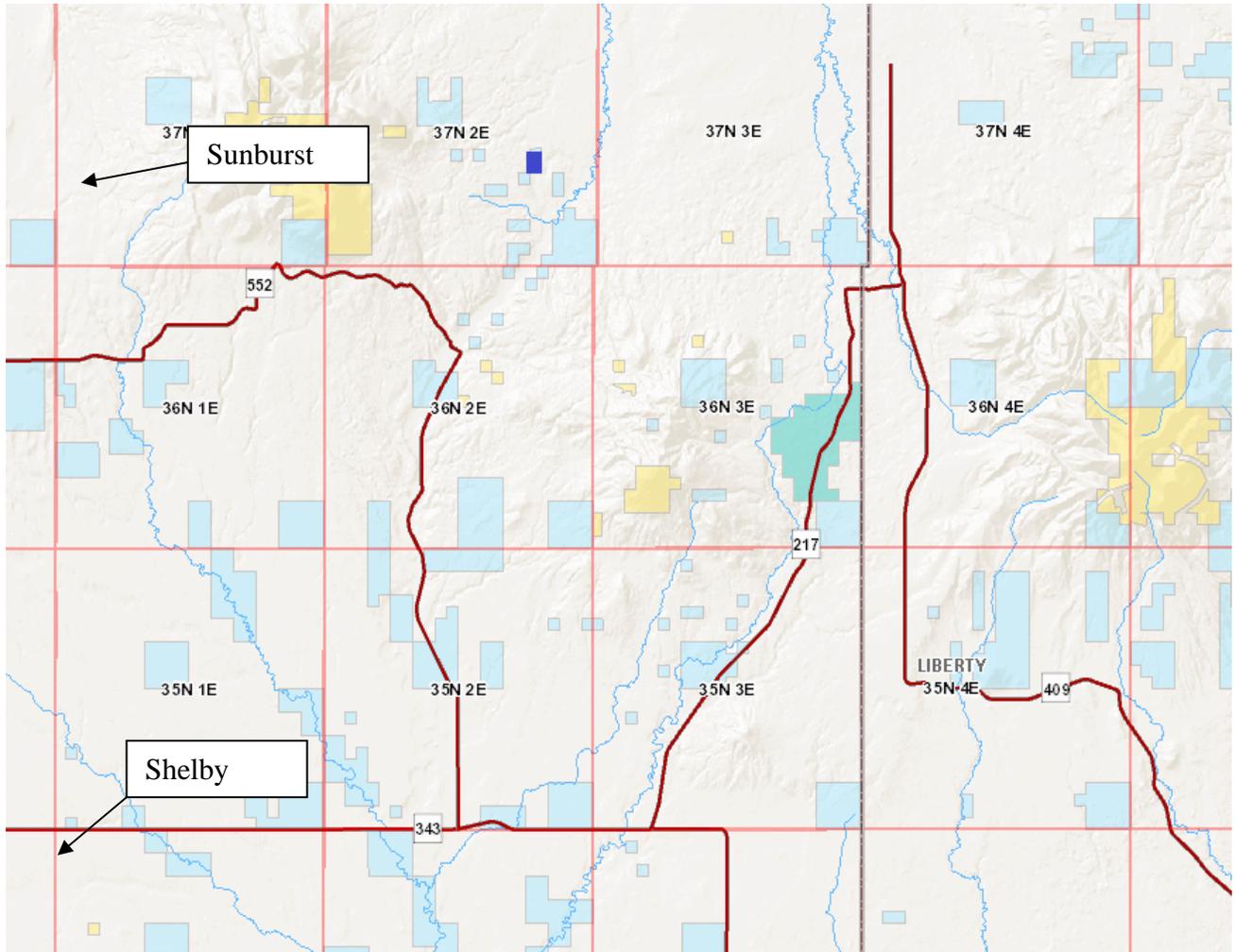
Northern Telephone Cooperative, Inc., has made application for the installation of new underground telecommunications facilities to upgrade their current facilities and services to the Sunburst Exchange serving area in and around Sunburst, Montana. These improvements will offer state-of-the-art telecommunications toll and distribution facilities, as well as future growth capabilities. The proposed route was determined by field review as the most direct route between terminus locations while also providing access to existing and future network considerations. The proposed route will provide accessibility for construction and maintenance since it is located primarily along existing roadways.

DNRC Recommendation

The director recommends the Land Board grant approval of this buried telecommunications cable.

Rights of Way Applications

May 22, 2017



Application # 17904 – Northern Telephone Cooperative, Inc.

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	ONEOK Rockies Midstream, LLC 1301 East Front Ave Bismark, ND 58504
Application No.:	17931
R/W Purpose:	an 8" buried natural gas pipeline
Lessee Agreement:	ok
Acreage:	0.66
Compensation:	\$8649.00
Legal Description:	30-foot strip through SE4SE4, Sec. 27, Twp. 27N, Rge. 57E, Roosevelt County
Trust Beneficiary:	Public Buildings

Item Summary

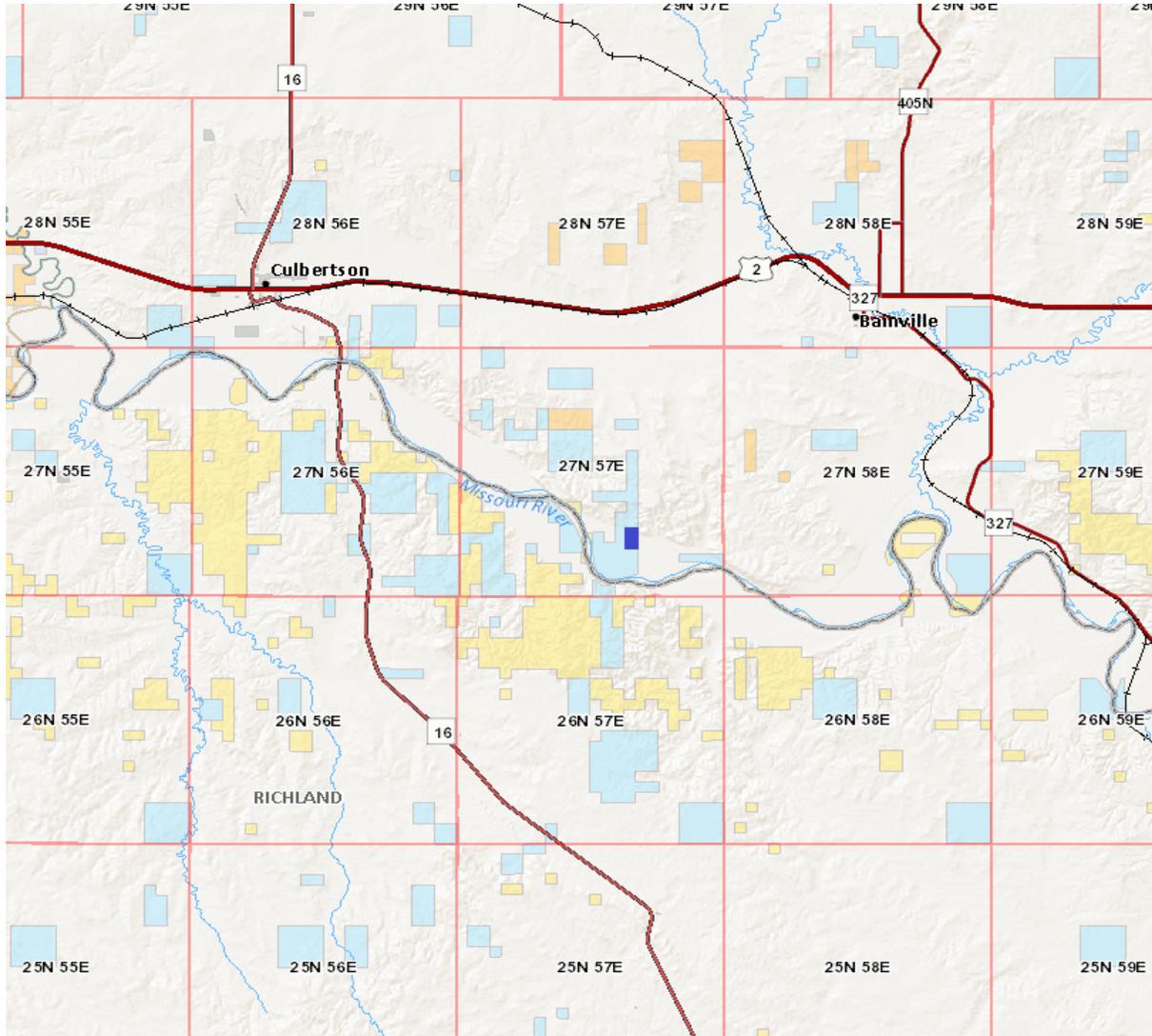
ONEOK Rockies Midstream, LLC, has made application for an 8" buried natural gas pipeline. The purpose of this pipeline is for the collection of natural gas from the Star Coulee Multiwell pad located on this state school section. ONEOK Rockies Midstream, LLC, has offered compensation in the amount of \$150/rod which is consistent with other installations in the area.

DNRC Recommendation

The director recommends the Land Board grant approval of this 30-Year term easement request.

Rights of Way Applications

May 22, 2017



Application # 17931 – ONEOK Rockies Midstream, LLC

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Range Telephone Cooperative, Inc. PO Box 127 Forsyth, MT 59327
Application No.:	17933
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	0.02
Compensation:	\$100.00
Legal Description:	tract of land in the NW4NW4, Sec. 36, Twp. 1S, Rge. 47E, Powder River County
Trust Beneficiary:	Common Schools

Item Summary

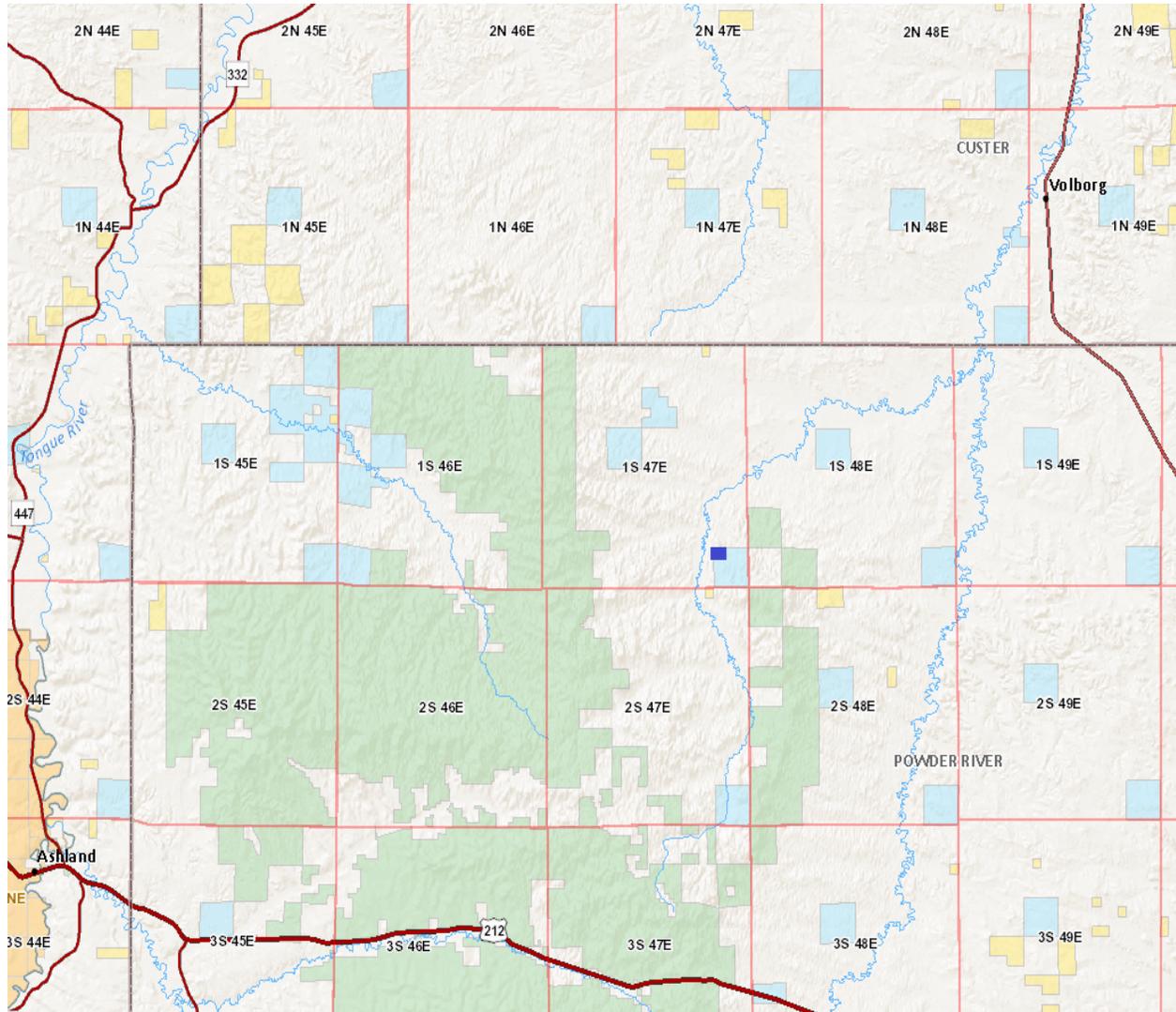
Range Telephone Cooperative, Inc., has made application to upgrade their telecommunications internet service and provide broadband capabilities to subscribers along the East Fork of Otter Creek-Stacey Road and Little Pumpkin Creek Road located northeast of Ashland. The existing copper line has outlived its life expectancy and needs constant maintenance and upkeep. The chosen corridor follows an existing telecommunications route so as to limit impact to the environment, except for this small portion, as easement could not be secured from an adjacent landowner; therefore, this small portion is needed to connect the route.

DNRC Recommendation

The director recommends the Land Board grant approval of this buried telecommunications cable request.

Rights of Way Applications

May 22, 2017



Application # 17933 – Range Telephone Cooperative, Inc.

Rights of Way Applications

May 22, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	William K., Teresa D., & Janelle Smith 5300 Grant Street Orlando, FL 32812
Application No.:	17456A
R/W Purpose:	a private access road for the purpose of access to one single family residence and associated outbuildings
Lessee Agreement:	N/A (Historic)
Acreage:	1.63
Compensation:	\$630.00
Legal Description:	30-foot strip through NE4SE4, Sec. 6, Twp. 14N, Rge. 8W, Lewis & Clark County
Trust Beneficiary:	Public Buildings

Item Summary

The Smiths have made application to amend their existing easement for the use of an existing road for access to one single family residence and associated outbuildings. The amendment is to add 0.42 ac to easement to correct the road length on state land. The road has been in place for years and authorization for continued use is being requested pursuant to §77-1-130, MCA, which allows for recognition of such historic access. The private property to be accessed is described as:

- Sec. 6, Twp. 14N, Rge. 8W – W2 of Lot 4

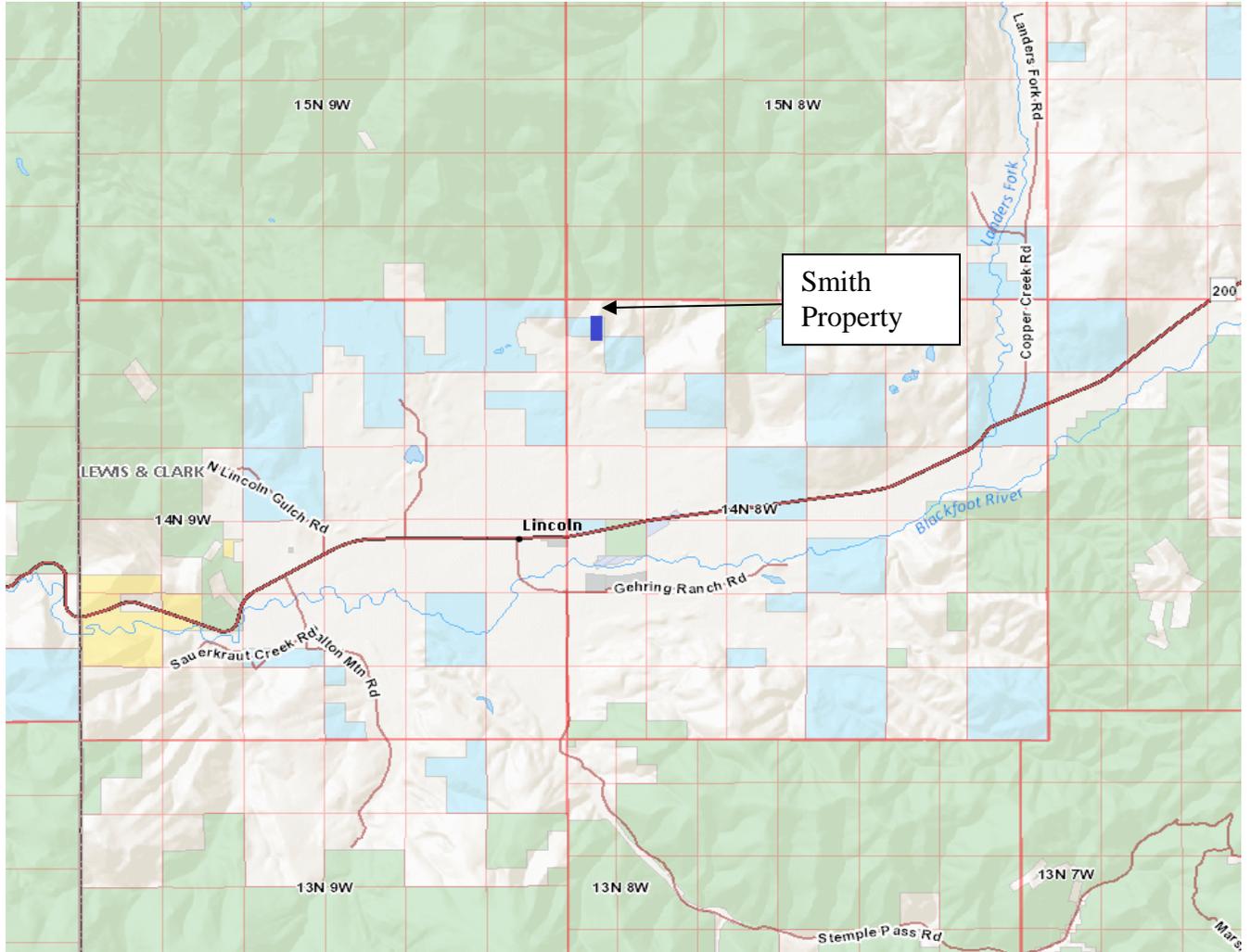
While the private property adjoins US Forest Service lands to the north the public has access to both the state land and Forest Service lands through Sucker Creek Road that traverses both state and federal ownership.

DNRC Recommendation

The director recommends the Land Board grant approval of the amendment to this historic private access road.

Rights of Way Applications

May 22, 2017



Application # 17456A – William K., Teresa D., & Janelle Smith

**Land Board Agenda Item
May 22, 2017**

0517-7B Stillwater-Lazy Swift Easement Exchange

Location: Flathead County

Trust Benefits: Common Schools, MSU 2nd, MSU Morrill, MSU-Eastern/
UM-Western, Pine Hills School, Public Buildings,
School for Deaf & Blind, Montana Tech

Trust Revenue: \$71,145

Item Summary

**Stillwater-Lazy Swift Easement Exchange Agreement
Right of Way Application File Number 17973**

Applicant

Weyerhaeuser Company
220 Occidental Ave S.
Seattle, Washington 98104

The Trust for Public Lands
101 Montgomery Street, Suite 900
San Francisco, CA 94104

Purpose of Reciprocal Access Agreement

State land is intermingled with Weyerhaeuser Company (Cooperator) property. In order for the parties to gain additional legal access, they have proposed to exchange easements as part of this Easement Exchange Agreement.

1. The state will grant a 60-foot easement to the Cooperator for all lawful purposes (including buried utilities) over Upper Whitefish Road, Lupfer Loop Road, and Lazy Lupfer Road for the benefit of Cooperator lands in the "Stillwater-Olney Block".
2. The state will grant a 40-foot easement to the Cooperator for resource management purposes over Upper Jellison Road and Middle Jellison Road for the benefit of Cooperator lands in the "Stillwater-Olney Block".
3. The Cooperator will grant a 60-foot easement to the state for all lawful purposes (including buried utilities) over Upper Whitefish Road, Lower Whitefish Road, Lupfer Loop Road, and Lazy Lupfer Road for the benefit of state lands in the "Stillwater-Olney Block".
4. Under this Agreement, the state is acquiring access rights in favor of the public for motorized recreational use over Upper Whitefish Road, Lower Whitefish Road, and Lupfer Loop Road. Cooperator is acquiring access rights in favor of the public for motorized recreational use over Upper Whitefish Road.

Legal Description (R/W)**Flathead County**

State Land burdened:

T32N, R22W

Sec. 7 – (SNS) LOTS 1 - 4, SE4NW4, NE4SW4
 Sec. 18 – (ACB) LOT 1

T32N, R23W

Sec. 5 – (SM) S2S2
 Sec. 6 – (SRS) SE4SE4
 Sec. 7 – (DDA) E2NE4
 Sec. 8 – (PB) NW4NW4
 Sec. 21 – (SNS) SE4SE4
 Sec. 27 – (PB) S2SW4, NW4SW4, N2
 Sec. 28 – (ACI) E2NE4
 Sec. 34 – (SM) SE4, W2NE4, NE4NW4

T33N, R22W

Sec. 19 – (CS) LOT 4
 Sec. 30 – (CS) LOTS 3 & 4, NE4NW4; (ACB) LOTS 1 & 2
 Sec. 31 – (ACB) LOT 1, NE4NW4, W2E2, E2SW4

Coop Land burdened:

T31N, R23W

Sec. 3 – LOTS 1 & 2

T32N, R23W

Sec. 1 – LOT 1
 Sec. 3 – LOT 2, SW4NE4, SE4NW4, N2SW4, SW4SW4
 Sec. 4 – N2SE4, SE4SE4, S2SW4, NE4SW4
 Sec. 22 – SE4
 Sec. 23 – S2S2, NW4SW4
 Sec. 24 – S2SW4
 Sec. 25 – N2N2, SW4NE4
 Sec. 26 – NE4NE4

T33N, R23W

Sec. 25 – W2E2, NE4NW4
 Sec. 36 – SE4SW4, W2E2

Total R/W Acres

State grant to Coop: 62.73 acres
 Coop grant to State: 63.26 acres

Total R/W Miles

State grant to Coop: 10.00 miles
 Coop grant to State: 8.70 miles

General Information

Land Office: NWLO

Unit Office: Stillwater Unit Office

County: Flathead

Affected Trusts: Common Schools (CS), Public Buildings (PB), MSU 2nd (ACB), MSU Morrill (ACI), MSU-Eastern/UM-Western (SNS), Montana Tech (SM), School for the Deaf & Blind (DDA), and Pine Hills School (SRS)

Land Classification: Forest

Costs to be Borne by Each Party

Excess costs for land values are summarized as follows:

	EXCESS COSTS	
	Cooperator owes State	State owes Cooperator
Land Value	\$ 141,182	\$ 70,037
Net Balance	\$ 71,145	

Land values are calculated with consideration given to trusts burdened and trusts benefited by the easement granted. The remaining Net Balance of \$71,145 that the Cooperator owes the state will be paid in cash after approval of this agreement by the Land Board.

Results of MEPA Analysis

No significant impacts are expected and no further analysis required.

Benefits to State*Describe the rights regarding which DNRC lands are being accessed.*

Provides improved permanent access for all lawful purposes to 43,727 acres of state trust lands:

Common Schools	33,689 acres
Public Buildings	1,230 acres
MSU 2 nd	3,849 acres
MSU Morrill	1,192 acres
State Normal School	852 acres
Montana Tech	1,865 acres
School for the Deaf & Blind	701 acres
Pine Hills School	349 acres

Describe the public access situation and the effects of this agreement.

Under this agreement, the state is acquiring access rights for the public for motorized recreational use over Upper Whitefish Road, Lower Whitefish Road, and Lupfer Loop Road.

Describe other benefits associated with completing the agreement.

Provides for an integrated transportation system which reduces road densities and potential resource impacts to water quality and wildlife habitat.

Provides for acquisition costs to be shared and thereby reduces access acquisition costs, shared financial obligations for road maintenance, resurfacing, weed management, and road reconstruction, if need be, to current road standards.

DNRC Recommendation

After review of the documents, exhibits, and benefits to the state, the director recommends the Land Board approve this proposed Easement Exchange Agreement with the Cooperator, contingent upon the fee title transfer of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23 and 24 of Township 32 North, Range 23 West and Sections 25, 26, 27, 34, 35 and 36 of Township 33 North, Range 23 West to the Trust for Public Lands; and subsequent purchase of Conservation Easements by Montana Department of Fish, Wildlife and Parks (FWP) on the above-described parcels.

Since the Cooperator is granting rights in favor of the public on three major travel routes into the Stillwater State Forest and the majority of Cooperator lands to be accessed will be under Conservation Easements, the director also recommends waiving the 1% conveyance fee in the grants.

