

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, March 19, 2018 at 9:00 am
State Capitol, Room 303
Helena, MT

ACTION ITEMS

- 0318-1 FWP: Horse Creek Complex Conservation Easements**
Benefits: N/A (non-trust land) **0318-1 WITHDRAWN 3/15/18**
Location: Dawson, Wibaux Counties
- 0318-2 Timber Sales: Lynch Lake**
Benefits: Common Schools
Location: Lincoln County
APPROVED 5-0
- 0318-3 Oil and Gas Lease Sale (March 6, 2018)**
Benefits: Common Schools, Public Buildings, Public Land Trust/Navigable Rivers
Location: Richland, Roosevelt, Rosebud, Sheridan, Toole Counties
APPROVED 5-0
- 0318-4 Land Banking Parcels: Final Approval for Sale**
Benefits: Common Schools
Location: Teton County
APPROVED 5-0
- 0318-5 Cabin and Home Site Sales: Preliminary Approval for Sale**
Benefits: Common School, Montana Tech, MSU 2nd, Public Buildings
Location: Custer, Fallon, Flathead, Lewis & Clark, Missoula, Sanders, Sweet Grass Counties
APPROVED 5-0
- 0318-6 Easements**
Benefits: Common Schools, Capitol Buildings, MSU-Eastern/UM-Western, Pine Hills Schools, Public Land Trust
Location: Blaine, Broadwater, Cascade, Chouteau, Hill, Liberty, Musselshell, Toole, Valley Counties
APPROVED 5-0
- 0318-7 INFORMATIONAL ITEM: FWP: Proposed Land Exchange-White Bear Fishing Access Site**
Benefits: N/A (non-trust land)
Location: Cascade County

PUBLIC COMMENT

0318-1

FWP: HORSE CREEK COMPLEX
CONSERVATION EASEMENTS

WITHDRAWN

0318-1 FWP: Horse Creek Complex Conservation Easements

Location: Dawson, Wibaux Counties
Trust Benefits: N/A (non-trust land)
Trust Revenue: N/A

Item Summary

The Department of Fish, Wildlife and Parks (FWP) proposes to purchase two separate overlapping perpetual Conservation Easements (CE) in Dawson and Wibaux counties, Montana. The reason for two overlapping Conservation Easements is to take advantage of available funding sources. The first CE is the Horse Creek Complex 1 (ALE) Conservation Easement ("ALE CE"), which is funded in part by the Natural Resources Conservation Service (NRCS) Agricultural Lands Easement (ALE) program and encompasses approximately 10,536.49 acres. The second CE, the Horse Creek Complex 2 (FWP) Conservation Easement ("FWP CE"), is funded entirely by Habitat Montana (HM) and includes an additional 4,839.87 acres, for a total of approximately 15,376 acres. The FWP CE encompasses the entire property, including the 3,200 acres presently owned by GNP, which will be acquired by the Landowner at closing. The FWP CE cannot be subdivided, thus ensuring that the land remains as a single parcel. Based upon values determined by an independent appraiser, the purchase of the two easements would not exceed \$6,150,000, pending a final appraisal review. The ALE CE is valued at \$4,300,000. NRCS will contribute \$1,619,820 toward the purchase of the ALE CE, and FWP will pay \$2,680,180 from HM. The FWP CE is valued at \$1,850,000, and FWP will pay that amount from HM. The total cost to FWP for both the ALE and FWP CE's is \$4,530,180.

The property transitions from rolling hardwood draws and grasslands on the north, to badlands, and finally to extensive Wyoming big sagebrush grasslands on the south. The ranch provides habitat for mule deer, white-tailed deer, antelope, sharp-tailed grouse, and a diversity of nongame species. It is within sage-grouse general habitat. A conservation easement would increase public hunting and recreational opportunities and protect wildlife habitat.

FWP conducted public scoping to identify potential issues related to the conservation easement proposal. The EA was released for a 31-day comment period ending January 18, 2018. A public hearing was held in Wibaux on January 4, 2018. During the public comment period a total of 42 comments were received; 27 in support and 14 opposed. Opposition was primarily related to "not enough public access" and the valuation. The number of parking areas was increased from 3 to 5 and the Management Plan will provide for the potential for overnight camping. The Decision Notice issued on January 25, 2018 supported moving forward with the proposal. The F and W Commission unanimously approved the HCC CE's on February 15, 2018. Subsequent to the MEPA public process and F and W Commission approval, public support of this project from all over the state has been consistently positive. Few letters opposing the project have been received. The Land Board has received copies of all letters.

Rationale for Land Board Action

The Horse Creek Complex Conservation Easements are an example of cooperative efforts between federal and state agencies, and a private landowner to achieve conservation goals beneficial on a local, state, and national level. Acquisition would implement conservation strategies identified in the FWP 2015 Wildlife Action Plan, conserve a diversity of important eastern Montana habitat types, and provide perpetual public recreational access on 5,360 of presently inaccessible state and federal land, and an additional 15,376 acres of fee title land while keeping the land in private ownership.

Department Recommendation

FWP recommends the Land Board approve Fish, Wildlife & Parks acquisition of both the ALE and FWP Horse Creek Complex Conservation Easements.

Figure 1 Vicinity map of the Horse Creek Complex Conservation Easements.

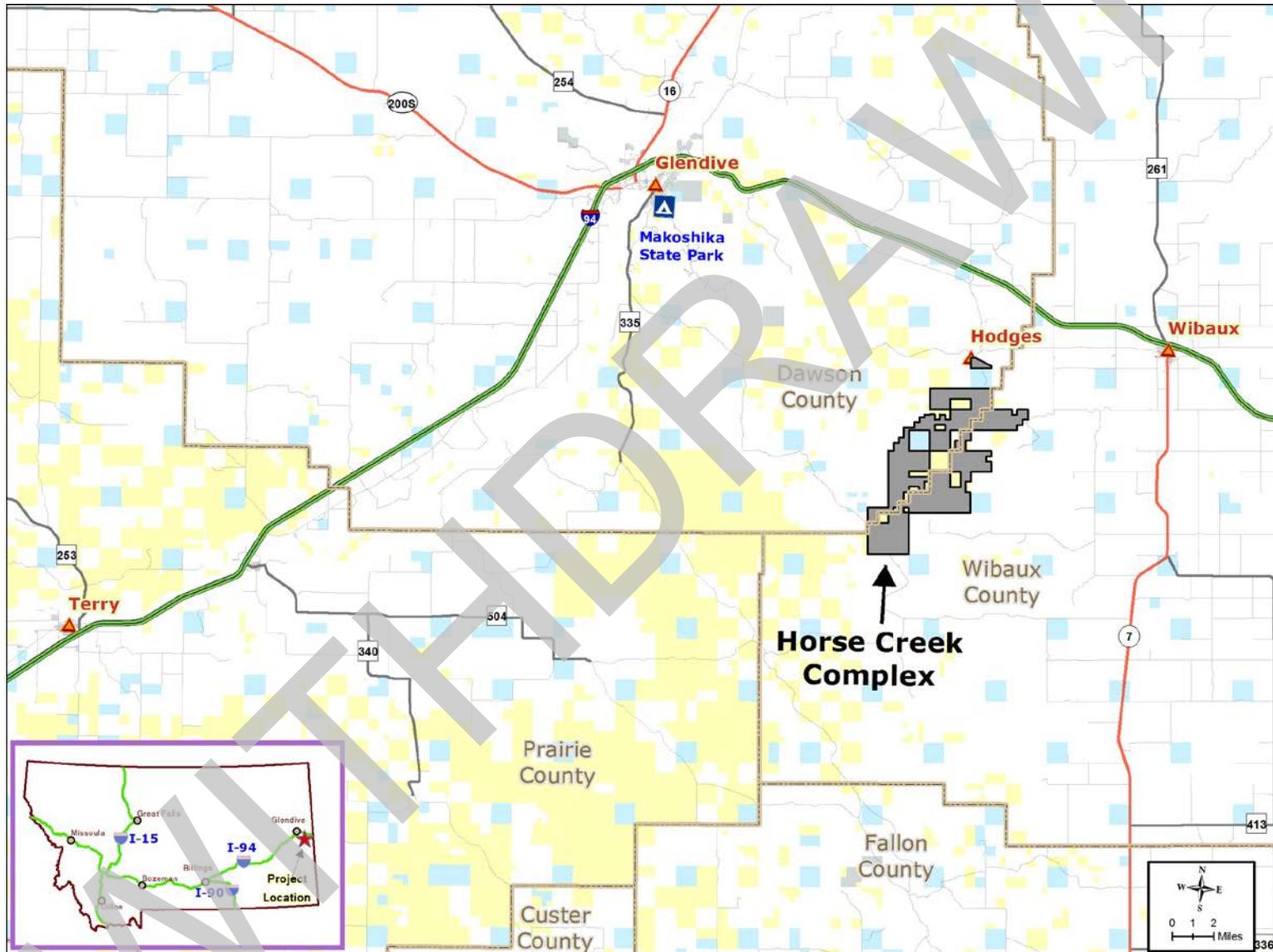
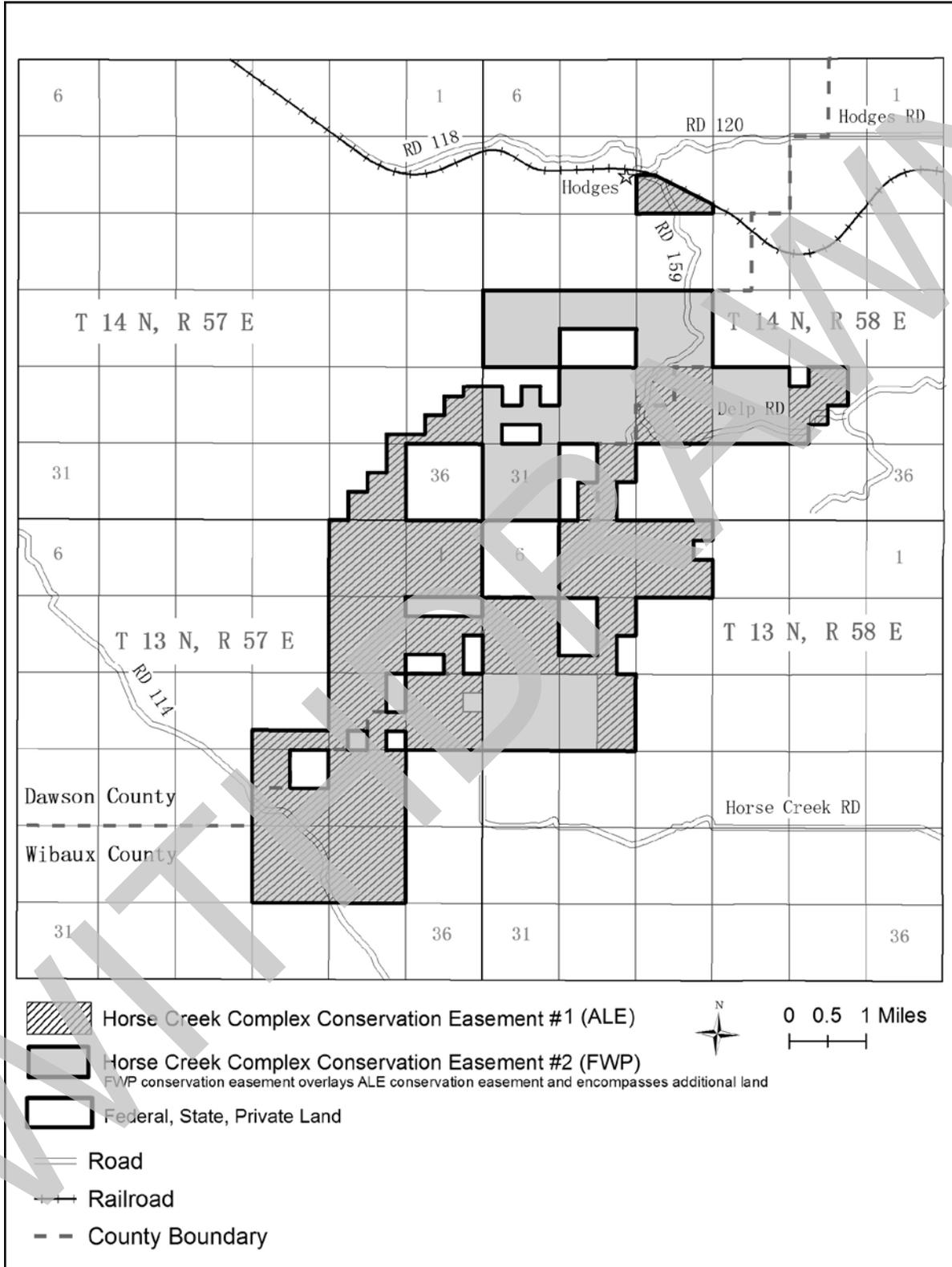


Figure 2 Location map of the Horse Creek Complex Conservation Easements.



After Recording, please return to:
 Department of Fish, Wildlife & Parks
 Land Unit
 P.O. Box 200701
 Helena, MT 59620-0701

Horse Creek Complex 1 (ALE)

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (“Easement”) is granted this _____ day of _____, 201__, by Springhill Ranch, a Montana Corporation, 618 Ranch Access South, Wibaux, MT 59353-9060 (“Landowner”) to the Montana Department of Fish, Wildlife and Parks, an agency of the State of Montana, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 (“Department”) and with a right of enforcement to the United States of America (the “United States”), acting by and through the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”).

The following Exhibits are attached hereto and incorporated into this Deed of Conservation Easement by this reference.

Exhibit A - Legal Description of the Horse Creek Complex 1(ALE)
 Conservation Easement

Exhibit B - Map of the Land

Exhibit C - FWP Minimum Standards for Grazing Livestock
 and ALE Grasslands Component Plan

Exhibit D - Map of Existing Development Area, and Seeded Areas

Exhibit E - NRCS Agricultural Land Easement “Minimum Terms for Agricultural Land Easements”.

Exhibit F - Paleontological Resources

I. RECITALS

- A. The people of the State of Montana recognize that certain native plant communities and important fish and wildlife habitat are worthy of perpetual conservation, and have authorized the Department to acquire perpetual conservation easements, as described in § 76-6-101 *et seq.*, Montana Code Annotated (“MCA”), from willing Landowners by voluntary, cooperative means to conserve native plant communities, habitat and other natural resources of value.

- B. The Landowner is the sole owner of certain real property in Wibaux County and Dawson County, Montana (the “Land” or “Protected Property”), comprised of approximately 10,536.49 acres legally described in Exhibit A and depicted in Exhibit B.
- C. The Land possesses significant agricultural values and communities of native plants and fish and wildlife habitat, natural and scenic open-space lands, and public recreational opportunities, all of which are collectively termed “Conservation Values” and are valuable to the people of Montana and worthy of perpetual conservation.
- D. The Conservation Values of the Land can be protected in perpetuity by the Landowner and the Department through the grant of a conservation easement to the Department with the Landowner retaining fee title to the Land and overall management of the Land consistent with the terms and conditions of this Easement.
- E. Landowner and Department agree that the Conservation Values of the Land should be preserved and maintained by the continuation of land use patterns that do not significantly impair or interfere with the protection and preservation of these Conservation Values, in perpetuity.
- F. The Land provides important opportunities for public recreational hunting, wildlife viewing and trapping and the Landowner and the Department specifically intend that this Easement afford public hunting access for recreational purposes and wildlife management purposes.
- G. This Deed of Conservation Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (“ACEP”) 16 U.S.C. § 3865, *et seq.* and 7 CFR Part 1468 for the purposes of protecting grazing uses and related Conservation Values by restoring and conserving the Land.
- H. The Landowner intends by executing this Easement, freely, without restriction, and voluntarily, to grant to the Department this Easement, and its associated rights, to preserve and protect the Conservation Values in perpetuity.

II. AGREEMENT

In consideration of the sums paid by the Department, and in further consideration of the recitals, mutual covenants, and terms contained in this Easement and pursuant to the laws of the State of Montana and in particular to the Open-Space and Voluntary Conservation Easement Act, §§ 76-6-101, *et seq.*, MCA; the Department’s wildlife habitat acquisition authority, §§ 87-1-209, *et seq.*, MCA; and Title 70, Chapter 17, MCA, the Landowner voluntarily grants and conveys to the Department, and the Department accepts, a conservation easement in perpetuity, with warranties of title, consisting of the following rights and restrictions over and across the Land described in Exhibit A and shown in Exhibit B.

A. PURPOSES

1. The purpose of this Easement is to preserve, protect, and restore upon mutual agreement with the Landowner, in perpetuity the Conservation Values of the Land, including but not limited to the habitat the Land provides for a variety of wildlife species, and to prevent any use that will interfere with the Conservation Values of the Land. The Landowner and the Department intend this Easement to limit the uses of the Land to those activities that are consistent with the Conservation Values and the purposes of the Easement.
2. An additional specific purpose of this Easement is to provide to the Department pursuant to its authority to acquire interests in land at § 87-1-209, MCA, on behalf of the public, the right of reasonable access to the Land for recreational uses, in accordance with the terms and conditions set forth in Section II.B.5 below.
3. If one or more of the purposes of this Easement may no longer be accomplished, such failure of purpose shall not be deemed sufficient cause to terminate the entire Easement as long as any other purpose of the Easement may be accomplished. The Department and Landowner recognize that changes in economic conditions, in agricultural technologies, in accepted farm, ranch and forest management practices, and in the situation of the Landowner may result in an evolution of agricultural, silvicultural, and other uses of the Land, and such uses are permitted provided they are and remain consistent with the Purposes of this Easement.
4. Pursuant to the terms of § 76-6-107, MCA, the Land preserved by this Easement as natural land, may not, except as specifically provided herein and pursuant to statute, be converted or diverted to any uses other than those provided for by this Easement.

B. RIGHTS CONVEYED TO THE DEPARTMENT

The rights conveyed to the Department in perpetuity by this Easement are the following:

1. **Identification and Protection.** To identify, preserve, protect, and enhance by mutual agreement, in perpetuity, the Conservation Values; subject, however, to the rights reserved by the Landowner in this Easement in Section C below, and further subject to all third-party rights of record in and to the Land that are not subordinated to the terms and conditions of this Easement.
2. **Access.** Upon notice to the Landowner, to enter upon and to inspect the Land; to observe, study, and make scientific observations of the Land's wildlife, wildlife habitat and ecosystems; and to establish and maintain vegetation monitoring transects and enclosures, all to assure that the Department's rights in the Land are maintained and all in a manner that will not unreasonably interfere with the use of the Land by the Landowner. The Department shall also have the right to enter the Land to enforce the rights granted to the Department in this Easement, and Landowner expressly convey to the Department a right of immediate entry onto the Land if, in the Department's sole judgment, such entry is necessary to prevent damage to or destruction of the Conservation Values protected by this Easement. Aside from the rights of access granted in this paragraph and in Paragraph

II.B.5., this Easement does not grant the Department, nor the public, any rights to enter upon the Land.

3. **Injunction and Restoration.** To enjoin any activity on the Land or use of the Land which is inconsistent with the purposes and terms of this Easement, or which may have a significant adverse impact on the Conservation Values, and to enforce the reasonable restoration of any Conservation Values that may be damaged by such activities.
4. **Markers.** To place and replace, during inspections authorized above, small markers to identify boundaries, corners, and other reference points on the Land. Landowner shall not remove such markers without **Prior Approval** to the Department and without the Department's consent, which will not be unreasonably denied, as provided in Section II.G below.
5. **Public Recreational Access.** The right, on behalf of the general public, of access for the purpose of recreational hunting, trapping, and wildlife viewing on the Land and across the Land to adjacent public land as provided for in the Management Plan and in accordance with the following terms and conditions:
 - a. The Landowner has the right to manage the distribution of the public on the Land to address reasonable concerns for the safety of persons and property, including livestock. The landowner may require the public to obtain permission prior to entering the Land.
 - b. The public may hunt game animals and game birds of all sex and age classes in accordance with hunting regulations adopted by the State of Montana.
 - c. When requested by members of the public during all hunting seasons set by the state of Montana, Landowner must permit a minimum of 400 hunters on the Land per year ("hunter days") on a first-come, first-served basis.
 1. A "hunter day" is defined as one hunter hunting on the Land for one day, or any part of one day, measured from midnight to midnight.
 2. The Landowner, Landowner's immediate family, Landowner's shareholders, partners, employees, and immediate family of shareholders, partners, and employees of the Landowner are not defined as members of the general public by this Easement for the purpose of calculating "hunter days." The term "immediate family" is defined to include spouses, children, in-laws, and parents.
 3. Public access for hunting must be managed on a non-preferential and nondiscriminatory basis.
 - d. The hunting seasons during which the public is allowed access to the Land for hunting under this paragraph must be set and may be changed from time to time by the State of Montana in accordance with applicable laws, regulations, and policies.

e. The grant of hunting rights by the Landowner to the Department contained in this Paragraph II.B.5. shall be deemed exclusive to the Department for the benefit of the public and are specifically conveyed pursuant to: (i) § 70-17-102(1), MCA, and thereby this grant creates a servitude running with the Land, and (ii) the Montana Open Space Land and Voluntary Conservation Easement Act, § 76-6-101 *et seq.*, MCA, and thereby this grant creates a conservation easement for the purpose of protecting significant open-space land protected and preserved for recreational purposes under § 76-6-104(3)(a), MCA.

f. Those members of the public who have access to the Land pursuant to Paragraph II B.5 shall also have motor vehicle access over and across county roads and shall park in those designated areas referred to as “Parking Areas” as shown and described in the Management Plan. There shall be a minimum of 5 Parking Areas, 4 of which shall be located in the northern portion of the Land, and 1 in the southern portion of the Land. The Parking Areas shall be spaced a minimum of 1 mile apart, and provide adequate parking to accommodate hunters during the fall hunting season (see Paragraph II.B.5.d. above), approximately 4 spaces per Parking Area. The public may not drive off these roads for any purpose, except with the express permission of the Landowner or the Landowner’s agent. The public may travel on foot from the Parking Areas or from other publicly accessible areas to hunt, trap, and/or view wildlife throughout the Land for the purposes and in the manner prescribed in this Paragraph II.B.5. of this Easement. Furthermore, the public may travel by foot from the Parking Areas to access adjacent publicly accessible lands which allow public recreational use. Upon agreement with the Landowner, the Department may open additional roads and parking areas as shown and described in the Management Plan. All roads and Parking Areas used for access by the public will be shown in the up-to-date Management Plan.

g. Furthermore, the Department reserves the right to temporarily restrict the public’s access to the Land as deemed necessary or appropriate to protect the Land, wildlife or wildlife habitat, or the public.

h. Notwithstanding any provision that may be construed to the contrary, Landowner may deny access to anyone who is not conducting, or has not in the past conducted, herself or himself in a prudent, responsible, and safe manner and denial of access for this reason shall not be deemed preferential or discriminatory.

i. Public access for trapping and wildlife viewing will be directed by the Management Plan. Those members of the public participating in these activities will not count toward the minimum hunter days outlined in Paragraph II B.5. above.

j. Except as specifically set forth in this Paragraph II.B.5., this Easement does not grant public access to any portion of the Land for any reason. This Easement does not grant any public right of overnight camping.

k. The Landowner may participate in programs offered by the Department or other entities intended to reimburse or compensate the Landowner for the impacts of hunter use

of the Land. However, the Landowner and the Department acknowledge that any such hunter-impact program is administered separately from this Easement; that such program may or may not persist through time; that such program may or may not be offered for the Landowner's participation; and that nothing in this Easement provides any assurance that the Landowner will be offered the opportunity for or be accepted into any such program.

C. LANDOWNER'S RIGHTS

The Landowner reserves to themselves, and to their heirs, successors and assigns, all rights accruing from ownership of the Land, including the right to enter and manage the Land and engage in or permit others to engage in all uses of the Land that (a) are not expressly conveyed to the Department; (b) are not prohibited or restricted by this Conservation Easement; (c) are consistent with the purposes of this Conservation Easement; and (d) do not harm the Conservation Values of the Land. Some of these reserved rights identified in this Section II.C are subject to specified conditions or to the requirement of, and procedures for, obtaining the Department's **Prior Approval** or **Prior Notice** as described in Paragraph II.G. of this Easement. Without limiting the generality of the previous statements and subject to the restrictions on Landowner's activities in this Conservation Easement set forth in Paragraph II.D. hereof, the Landowner expressly reserves the following rights;

1. **Livestock Grazing.** The right to raise, pasture and graze livestock, and the right to lease pasture to another agricultural operator to raise, pasture, and graze livestock; provided that any livestock grazing is consistent with a grazing system as approved in writing by the Department as part of the Management Plan described in Paragraph II.E. of this Easement; is in accordance with the "FWP Minimum Standards for Grazing Livestock and ALE Grasslands Component Plan" more particularly described in Exhibit C attached hereto and incorporated herein by this reference; and is consistent with other specific terms in this Easement governing livestock grazing. The Management Plan provides the details of livestock grazing on the Land, including schematic diagrams of the pasture systems to be used. Any changes in the Management Plan must be adopted in a manner consistent with Paragraph II.E. in this Easement, and any grazing system so adopted or revised must continue to conform to the "FWP Minimum Standards for Grazing Livestock and ALE Grasslands Component Plan" as described in Exhibit C. For the purposes of this Easement, livestock is defined as cattle; provided, however, that other species of grazing animal may be substituted for cattle with **Prior Approval**.
2. **Leasing the Land for Agricultural Purposes.** The Land may be leased to another agricultural operator for agricultural purposes, provided that: (a) a written lease must be entered into by the Landowner and the lessee(s); (b) the lease must require the lessee to follow the terms of the Easement, as well as any applicable provisions of the Management Plan; and (c) a copy of the executed lease must be provided to the Department. The Landowner retains responsibility under this Easement for ensuring compliance with the terms of the Easement and Management Plan by lessee(s). Lease of the Land, or of a portion of the Land, is subject to **Prior Notice**, so the Department can

evaluate and provide input for the Landowner and lessee(s) to assist in compliance with the Conservation Easement, Management Plan and grazing system.

3. **Habitat Restoration and Enhancement.** The right to conduct fish and wildlife habitat restoration and enhancement projects, in cooperation with the Department and consistent with the Management Plan. Any habitat restoration or enhancement project not specifically provided for in the Management Plan requires **Prior Approval**.
4. **Water Resources and Facilities.** The right to use, develop, and maintain water resources, including stock water ponds, ditches, irrigation structures and equipment, canals, pumps and pump sites, pipelines and water wells, necessary for grazing, wildlife, habitat restoration and improvement, and all agricultural purposes that are allowed by this Easement; provided, however, any new water development or change in water use or water distribution that would have a significant adverse impact on a perennial or ephemeral river or stream, streamflow, wetlands, riparian vegetation, or wildlife habitat, wildlife movement, or migration on or through the Land is prohibited. Maintenance of canals, ditches, culverts and drains – including the periodic removal of vegetation as necessary to keep water management facilities in operational condition – is not a violation of this Easement. Additionally, it is understood that maintenance of reservoirs, ditches and other water-resource facilities may involve removal and deposit of accumulated soil and organic matter, and the Department hereby agrees that such soil and organic matter may be removed from the water-resource facilities and deposited on the Land at or near the location of the removal activity in a manner customary to such operations and consistent with the Conservation Values.
5. **Residential Development Areas.** The purpose of the Residential Development Areas is to allow Landowner flexibility in the use of the residences and outbuildings and to cluster residential uses and other non-agricultural structures on the Land. If necessary, wells and drain fields and buried propane tanks and associated buried pipelines may be located outside of the Residential Development Areas.
 - a. One existing Residential Development Area as shown in Exhibit D.
 - b. With **Prior Approval**, the Landowner may delineate a second Residential Development Area no more than 10 acres in size. Landowner must submit the proposed location and dimensions of said new Residential Development Area to the Department.
 - c. If a new Residential Development Area is approved pursuant to this Paragraph II.C. 5, the Department may file in the public records of the affected county a “Notice of Exercise of Reserved Development Right” that documents the location of the approved new Residential Development Area for the information and benefit of Landowner, Department, and their respective successors and assigns, and the public.
 - d. No more than two Residential Development Areas are permitted on the Land.

- 6. Residential Structures and Outbuildings.** Landowner reserves the right to reside in, and to construct, maintain, repair, remodel, remove and replace up to a maximum of four single-family residences, including the one existing residence. Residences must be located in Residential Development Areas described in Paragraph II.C.5. above. **Prior Notice** is required to build or move residences or outbuildings.
- a. Landowner reserves the right to construct, maintain, repair, remove, and replace additional outbuildings and commercial buildings within the Residential Development Area.
 - b. **Outbuildings.** For the purposes of this Easement, the term “Outbuildings” means those structures that are built within the Residential Development Areas pursuant to this Paragraph II.C.6. and are not used for human habitation but which are appurtenant to the permitted residences, including, but not limited to, offices, recreational structures, greenhouses, root and wine cellars, gazebos, pools, hot tubs, sheds, workshops, residential fences, commercial structures and garages.
 - c. **Temporary recreational residential shelters.** Landowner may place and make use of tents, tarps, yurts, tepees, campers, or other shelters without permanent foundations upon the Land on a temporary basis from time to time for personal use of Landowner and invited guests.
- 7. Agricultural Structures.** Landowner retains the right to, maintain, repair, remodel, remove, and make additions to, and replace the following agricultural structures on the Land:
- a. Agricultural structures that are not used for human habitation, including, but not limited to barns, chicken houses, shelters, sheds, machine sheds, corrals, livestock loading docks, culverts, bridges, ditches, and irrigation structures. Barns for uses other than agriculture uses must be located in the Residential Development Areas.
 - b. With **Prior Approval**, the right to construct new agricultural structures on the Land.
- 8. Man-made Structures.** Landowner has the following rights pertaining to man-made structures (in addition to those rights for structures and facilities for water use and irrigation development that are provided in Paragraph II.C.4.):
- a. The right to remove, maintain, or repair existing fences, corrals and other livestock containment structures.
 - b. With **Prior Notice** the right to construct, renovate, or replace fences (including corrals and other livestock containment structures) necessary for generally accepted agricultural land management purposes. Any new or renovated fence or other barrier that the Department determines would significantly impact wildlife habitat or wildlife movement or migration on or through the Land must be “**wildlife friendly**” as provided in the

Management Plan. This does not apply to corrals, fences, windbreaks, and other structures necessary to contain livestock, or protect stored feed.

9. **Roads.** To construct new and maintain existing roads and bridges or waterway crossings as herein permitted. Any road, bridge, or waterway crossings constructed shall be sited and maintained so as to minimize adverse impacts on the Conservation Values. Any new road construction (but not including maintenance of existing roads) shall be subject to **Prior Approval** of the Department, as set forth in Section II.G of this Easement. The Department's approval shall be contingent on confirmation that (a) the road's intended purpose is permitted by this Easement, (b) its location will not result in significant soil erosion, and (c) the new road shall not materially disturb wildlife or wildlife habitat or other protected Conservation Values. The Landowner's written request for approval shall include a construction plan describing the purpose of the road, its location on a topographic map and, to the extent deemed necessary by the Department, discussion of the following: road grade, drainage, erosion/sedimentation impacts and mitigating efforts, areas of cut and fill, and special concerns like culvert placement, bridges, fords, buffer strips between roads and streams, and fish and wildlife impacts and mitigating efforts. Seeding and reestablishment of cover vegetation, which is native or is representative of adjacent perennial plant species, and control of noxious weeds on exposed cuts, fills and banks is required on any new road construction.
10. **Noncommercial Recreational Use.** Landowner reserves to themselves and to their immediate family the right to use the Land for noncommercial recreational purposes, including hunting, in accordance with Section II.B.5. and Section II.D.9.
11. **Utilities.**
- a. Existing Utilities. Landowner retains the right to maintain, repair, and upgrade utilities existing on the Land at the time of the grant of this Easement, including utility structures, lines, conduits, cables, wires, or pipelines ("Utilities").
 - b. New Utilities on the Land. Subject to **Prior Approval**, Landowner retains the right to install and construct new Utilities upon, over, under, within, or beneath the Land to existing and subsequently constructed structures and improvements that are expressly permitted on the Land by this Easement. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.11.d. ("Utility Plan") below.
 - c. New Utilities serving adjacent properties. Subject to **Prior Approval**, the Landowner retains the right to construct new Utilities and grant any associated Utility right-of-way easement serving adjacent properties. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.11.d. below.
 - d. Utility Plan. Landowner shall contact the Department prior to the preparation of the Utility Plan to obtain the required information to be included in such Plan that the Department deems relevant. Landowner and the Department will mutually determine the completeness of the Utility Plan and its adherence to the general and specific intentions

of this Easement prior to the Department's approval of the Plan. Any new and expanded utility services and associated right-of-way easements must be memorialized in a written agreement that is recorded in the public records of the affected counties, signed by the Landowner, the Department, and the utility service provider prior to construction.

12. Renewable Energy Generation for Use On the Land. With the **Prior Approval** of the Department, Landowner reserves the right to construct wind, solar, hydropower and other types of renewable energy generation facilities ("renewable energy production") solely for use on the Land, except that any incidental surplus energy may be sold commercially for use off the Land or credited to Landowner's utility service. Design and location of facilities and fixtures associated with renewable energy generation is subject to **Prior Approval** of the Department.

13. Pesticide Application and Weed Management.

a. Landowner shall have the right to use legally authorized pesticides (as defined by MCA 80-8-102) on seeded areas as described in Paragraph II.C.17. and shown on Exhibit D, and Residential Development Areas as described in Paragraph II.C.5. Except as provided in Paragraph II.C.13.b., d., and e. below, **Prior Approval** is required to use pesticides on the Land on other than seeded areas and Residential Development Areas. Any pesticide use should be only in the amount and frequency constituting the minimum necessary based on pesticide label use instructions and all applicable state and federal regulations concerning use to accomplish reasonable control of the targeted pest species.

b. **Weed Management.** The right to use herbicides for control of noxious weeds, as defined by the state of Montana or other lawful authority with jurisdiction, and other invasive nonnative plants. Such use must be in the amount and frequency of application constituting the minimum necessary to accomplish reasonable control of weeds, and in a manner that will minimize damage to native plants. The Landowner shall have the right to use biological control agents for weed control, provided that these biological agents have been approved for the specified use by appropriate governmental agencies; and further provided that livestock used for weed control shall comply with the grazing system in Exhibit C unless otherwise authorized by **Prior Approval**.

c. **Prior Approval** is required for aerial application of any pesticide or biological control agent on the Land.

d. Landowner shall have the right to use legally authorized pesticides that are directly applied to livestock for health purposes.

e. Prairie dogs are not currently present on or adjacent to the Easement. Should prairie dog control be deemed necessary, **Prior Notice** is required for pesticide use to control prairie dogs.

14. Regulation of Public Use. The right to regulate public use of the Land at all times; subject, however, to the right of public hunting, trapping, and wildlife viewing access granted to the Department in Paragraph II.B.5.

15. Oil, Gas, or Mineral Exploration and Extraction. Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Landowner as of the date of the Easement or later acquired by Landowner, using any surface mining, subsurface mining, or dredging method, from the Land is prohibited; but may be subject to 82-11-202, MCA. However, with **Prior Approval**, limited mining activity for materials (e.g., sand, gravel, scoria, or shale) used for agricultural operations on the Land is allowed where the extraction of materials used for such agricultural operations is limited, localized, and does not harm the Conservation Values or the agricultural uses of the Land.

a. The existing extraction sites will be identified in the Baseline Report.

b. No more than two areas of no more than two acres each may be used at any time. Extraction locations must be reclaimed within one year of cessation of use. Seeding and reestablishment of cover vegetation, which is native or is representative of adjacent perennial plant species, and control of noxious weeds is required.

c. If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this Easement is executed, and their interests have not been subordinated to the Easement, the Landowner must notify the Department as soon as practical after Landowner becomes aware of any proposed exploration or extraction activity by such third party. Landowner and the Department shall confer to review the proposed activity and to determine ways to best mitigate any potential impact on the Land and the Conservation Values of the proposed activities. Landowner and the Department shall subsequently cooperate in an effort to encourage the third party to adopt recommended mitigating measures in the third party's exploration and development activities, and subject to the provisions of § 82-10-504 MCA. Nothing herein shall prevent a third party mineral interest from a reasonable right of ingress or egress or prevent surface occupancy as allowed by law. Nothing herein shall require the Landowner to indemnify the Department for exploration or extraction activity by any third-party mineral interest owner.

16. Subdivision and Conveyance of Land Ownership.

a. For the purposes of this Easement, the Land shall be considered to comprise one unit, as described in Exhibit A and shown in Exhibit B. The Landowner and the Department mutually intend that the entire Land shall be maintained in unified title as a single unit. Further, for the purposes of this Easement, any other parcel designation existing at or subsequent to the date of the conveyance of this Easement, including but not limited to government lots, aliquot parts, and certificates of survey, are considered to be an integral part of the Unit within which they are located, and may not be divided, subdivided, separated or conveyed separately from the entirety.

b. The Landowner may sell, grant, donate, bequeath or otherwise convey the Land in its entirety to another party.

c. Landowner shall provide the Department with **Prior Notice** before entering into an agreement that would commit the Landowner to convey the Land to another party. The purpose of this notice is to afford the Department with the opportunity to review the proposed conveyance document and any associated legal agreement to ensure consistency with the provisions of this Paragraph II.C.16.

17. Surface Alteration. With Prior Notice, and as agreed to in the Management Plan, the right to seed those areas shown as “seeded areas” on Exhibit D (approximately 327.11 acres) for grazing uses and grassland restoration and conservation. Cultivation of seeded areas is prohibited.

18. Industrial or Commercial Uses. The right to:

a. Conduct agricultural production and related activities as provided for in this Easement and the Management Plan.

b. With **Prior Approval** and subject to the terms of Exhibit F, where applicable, conduct temporary or seasonal outdoor activities or events, as provided in the Management Plan.

c. With **Prior Approval**, and provided it does not significantly increase vehicular traffic to or through the Land, operate home-based businesses, small-scale manufacturing of products and distribution of those products, small-scale commercial enterprises related to agriculture including but not limited to agri-tourism, processing, packaging, and marketing of farm or forest products, farm and machinery repair, and small-scale commercial enterprises compatible with agriculture.

D. RESTRICTIONS ON LANDOWNER’S ACTIVITIES

Any activity on or use of the Land that is inconsistent with the purposes and terms of this Easement is prohibited. Without limiting this general prohibition, the following activities and uses are expressly prohibited or restricted.

- 1. Timber.** Landowner shall not transfer, encumber, sell, lease, or otherwise sever any timber right from the Land; except, however, Landowner may sell the rights to harvest timber for a specific forest management action authorized and approved under the provisions of II.D.2.
- 2. Vegetation Removal.** The destruction, removal, control, or manipulation of native vegetation, sagebrush, planted nesting cover, or permanent cover is prohibited, except as part of or incidental to the agricultural activities and other land uses specifically allowed by this Easement or as specifically provided for in the Management Plan. The removal of live or standing dead trees is prohibited without **Prior Approval**; however, the

Landowner does not require **Prior Approval** to remove trees and other woody vegetation that pose a threat to human safety, travel ways, or structures.

3. Wetland and Riparian Areas.

a. For the purpose of this conservation easement, riparian areas are defined as vegetation zones adjacent to rivers, streams, and wetlands including banks and adjacent uplands and are influenced by adjacent flowing or standing water or by a shallow water table caused by river-associated groundwater. Wild hay fields, active river channels, or eroded river banks devoid of effective wildlife cover, are not considered riparian areas.

b. The draining, filling, dredging, leveling, burning, ditching, or diking of any natural or manmade wetland or riparian area, streambank stabilization, or any other activity that significantly impacts any such area is prohibited. However, wetland areas may be restored, developed or enhanced, by either the Landowner or the Department, to benefit wildlife and to further the purposes of the Easement as a part of a restoration activity approved under Paragraph II.C.3.

c. The control, removal, or manipulation of any trees, willows, or other woody vegetation by any means is prohibited, except as needed for the ordinary course of maintaining fences and ditches provided for and allowed under this Easement or as may be allowed by the Department as part of an approved plan specifically directed to improve fish or wildlife habitat.

4. Subdivision. The legal or de facto division or subdivision of the Land is prohibited, which shall include, but shall not be limited to, any subdivision, short subdivision, platting, binding site plan, testamentary division, or other process by which the Land is divided into lots or in which legal or equitable title to different portions of the Land are held by different owners. The Landowner may not indirectly subdivide all or any part of the Land through the allocation of property rights among partners, shareholders, or members of any legal entity (including a homeowner's association), the creation of a horizontal property regime, interval or time-share ownership arrangement, leasing, partitioning among tenants-in-common, judicial partition, or by any other means. The Landowner and the Department mutually intend that the entire Land shall be maintained in unified title as a single unit. Notwithstanding any other provision of this Paragraph to the contrary, however, the Landowner may lease the Land for agricultural purposes subject to the terms of this Easement and the Management Plan described in Paragraph II.E. of this Easement.

The Land may not be used as open or natural space or parkland for any subdivision or development purposes or requirements on land not covered by this Easement, nor may the Landowner transfer any development or subdivision rights separate from the Land.

5. Water Rights. Landowner will not transfer, encumber, sell, lease, or otherwise separate water rights from the Land. If Landowner receives notice or becomes aware of a situation

under which water rights may be lost from the Land, Landowner shall notify the Department, and the parties may work cooperatively to address the situation.

6. **Agricultural Chemicals.** The use of pesticides, including but not limited to herbicides, rodenticides, insecticides, and biological control agents in a manner other than as provided for in Paragraph II.C.13 is prohibited.
7. **Roads.** The construction of roads in a manner other than as provided for in Paragraph II.C.9. is prohibited.
8. **Surface Alteration.** Except for grazing uses and grassland restoration and conservation as described in Paragraph II.C.17, the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial non-grassland agricultural product is prohibited.
9. **Commercial Recreation.** The sale or lease of access to the Land for hunting, fishing, trapping, or wildlife viewing purposes, whether or not as a part of a commercial outfitting or guiding business, is prohibited. Operating a commercial hunting, fishing, trapping, or wildlife viewing operation, or charging fees (sometimes known as trespass fees) for hunting, fishing, trapping, or wildlife viewing on the Land or for access across the Land to reach public land or other private land, is prohibited.
10. **Mineral Exploration and Extraction.** Landowner may not engage in, authorize, or contract for any exploration for, or development and extraction of minerals, coal, ore, bentonite, oil and gas, other hydrocarbons, soils, rock, sand, gravel, or similar materials, except as provided for Paragraph II.C.15. Any other mineral exploration, development, or extraction is prohibited.
11. **Residential Use.** Residential use of the Land or any portion thereof is prohibited, other than as provided for in Paragraph II.C. 5 and 6.
12. **Commercial Feedlot.** The establishment or operation of a commercial feedlot is prohibited. A commercial feedlot is defined for purposes of this Easement as a permanently constructed confined area or facility within which the Land is not grazed or cropped annually, for the purposes of engaging in the business of the reception and feeding of livestock for hire. Nothing in this Easement shall be construed to prevent Landowner from seasonally confining livestock in areas for feeding, calving, or similar activities, and nothing herein shall prevent Landowner from leasing pasture, corrals and agricultural improvements to third parties, subject to the terms of this Easement.
13. **Shooting Preserve, Wildlife Propagation and Related Activities.** The use of the Land as a game farm, game bird farm, shooting preserve, fur farm, zoo or menagerie, or in connection with the ownership, leasing, keeping, holding, capture, propagation, release, introduction, or trade in any animal that may pose a genetic or disease threat to any mammalian, avian, reptilian, aquatic or amphibian wildlife species, whether or not

indigenous to Montana, is prohibited; however, Landowner have the right to have ranch dogs and household pets on the Land. This prohibition does not apply to the introduction, transplantation or release of fish or wildlife species on the Land by the Department, which must have the consent of the Landowner for any such introduction, transplantation or release on the Land. Domestic livestock, with the exception of sheep and goats, is allowed. Sheep and goats are allowed with **Prior Approval**.

- 14. Commercial and Industrial Use.** Except as permitted in Section II.C., the establishment or operation of any commercial or industrial uses or activities on the Land, including, but not limited to, guest ranching, outfitting, restaurant, campground, trailer park, motel, commercial swimming pool, gas station, retail outlet, or facility for the large-scale manufacture of any products is prohibited.
- 15. Waste Disposal.** The processing, dumping, storage or disposal of waste, refuse and debris on the Land is prohibited, except within a single landfill for disposing of and containing personal household and agricultural rubbish and other non-toxic materials in accordance with state law and in a manner and location as provided for in the Management Plan. Abandoned homesteads and preexisting dump sites described in the Baseline Report are exempt from this provision, and with **Prior Notice** may be buried on-site or otherwise disposed of. No new material may be added to these preexisting sites. The deposit of natural organic material derived from livestock and crop production on the Land, and the deposit of material from water-resource facility maintenance activities provided for in Paragraph II.C.4., are not considered waste disposal.
- 16. Hazardous Materials.** Any petroleum products, explosives, hazardous substances, toxic substances, and any other substance which may pose a present or potential hazard to human health or the environment shall not be released or dumped on the Land at any time, and shall not be stored or used, except as lawfully stored and used in necessary quantities for agricultural purposes and except as part of the oil and gas exploration and development activities specifically provided for in this Easement. The installation of underground storage tanks is prohibited.

E. MANAGEMENT PLAN

The parties to this Easement developed a Management Plan for grazing management, public access and public use management, wildlife habitat enhancement and restoration, wildlife passage improvement measures, and other matters pertaining to the management of the natural resources of the Land under this Easement. The Management Plan includes a description of the ALE Grasslands Components. The Management Plan has been signed by the Landowner and the Department, and represents a contractual agreement between the parties to abide by its specific requirements, management actions, and restrictions. However, if there is any inconsistency between the terms of the Management Plan and this Easement, the terms of this Easement control. The parties shall meet periodically as needed to review the Management Plan and, if deemed necessary, to propose amendments. Any amendment to the Management Plan must have the written consent of both parties.

In the event that the Land is to be conveyed or has been conveyed to a new owner (“Successor in Interest”), the Department agrees to enter into discussions with the Successor in Interest for the purpose of reviewing the existing Management Plan and determining any revisions that might be appropriate to facilitate management of the Land in a manner consistent with the terms of the Easement and protection of the Conservation Values. The Successor in Interest may sign, acknowledge, and thereby continue the Management Plan that is in effect at the time of the transfer of ownership, or the Successor in Interest may sign and acknowledge a revised Management Plan agreed upon by the Department. However, in the event that the Successor in Interest has not executed with the Department a continuation of the existing Management Plan or a revised Management Plan, then the Management Plan in effect at the time of the ownership transfer shall remain in full force and effect.

F. EASEMENT BASELINE REPORT

The parties agree that a Conservation Easement Baseline Report (Baseline Report), including photographs, maps, surveys, studies, reports, and other documentation, has been completed by a Department biologist or natural resource professional familiar with the area, reviewed by the Department and Landowner, and acknowledged by them to be an accurate representation of the physical and biological condition of the Land and its physical improvements as of the date of the conveyance of this Easement. The original Baseline Report shall be maintained in the files of the Department and shall be made available to Landowner for inspection and reproduction at Landowner’s request. The parties intend that the Baseline Report shall be used by the Department to monitor Landowner’s compliance with the terms and conditions of this Easement. In the event a controversy arises with respect to the nature of the biological and/or physical condition of the Land and its improvements, the parties may use the report, as well as all other relevant or material documents, surveys, reports, or other information to assist in the resolution of the controversy. From time to time, with the agreement by the Landowner, the Department may prepare (or have prepared) an Updated Easement Baseline Report to document any habitat restoration or other improved habitat conditions. Upon review and approval of the updated report by the Landowner and the Department, the improved conditions documented in the Updated Easement Baseline Report shall be considered the baseline conditions to be conserved and against which the impacts of future activities shall be evaluated.

G. PRIOR NOTICE AND PRIOR APPROVAL

1. Whenever **Prior Notice** is required under this Easement, Landowner must notify the Department as provided for in this section in writing not less than 30 days prior to the date the Landowner intends to undertake such activity, unless, for safety reasons, a shorter period is necessary in which case Landowner shall give the Department as much notice as is possible under the circumstances. The purpose of requiring the Landowner to notify the Department prior to undertaking certain permitted activities is to afford the Department an opportunity to ensure that such activities are designed and carried out in a manner consistent with this Easement and its Purposes.

2. Any notice from the Department to the Landowner will be given by electronic correspondence, telephone, or as otherwise agreed, and must be at least 3 days prior to the date of occurrence unless the Department, in its sole discretion, determines that a violation is

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threatened or imminent or that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values.

3. Whenever **Prior Approval** is required under this Easement, Landowner must notify the Department in writing not less than 60 days prior to the date the Landowner intends to undertake the activity. The notice must be sent by courier service, or registered or certified mail, return receipt requested, or by courier, or personal delivery, and must describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Department to make an informed judgment as to its consistency with this Easement and its Purposes. The Department has 60 days from its receipt of such notice to review the proposed activity and to notify the Landowner of any objections to the proposed activity. If it is possible that the proposed activity can be modified to be consistent with the terms of the Easement, the Department shall inform the Landowner of the manner in which the proposed activity as modified may be conducted. The Department's response to Landowner's notice shall be sent by registered or certified mail, return receipt requested, or delivered by courier, or personal delivery service. In the event the Department denies the Landowner's proposed activity, the Department may provide a written determination with analysis of why such activity would significantly impact the Conservation Values of the Land.

4. If the Department fails to respond to Landowner's notice of **Prior Approval** within 60 days of their receipt of the notice, the proposed activity shall be deemed to be consistent with the terms of this Easement, and the Department shall have no further right to object to the activity identified by such notice.

5. The Landowner shall be under no liability or obligation for any failure to give **Prior Notice** or seek **Prior Approval** for any activity undertaken by Landowner necessitated by virtue of fire, flood, acts of God, or other element, or any other emergency reasonably deemed by Landowner to exist; provided, however, after such an event, if there is damage to the Conservation Values, the Landowner shall notify the Department of any such damage as soon as practicable.

6. Except as otherwise stated in this Easement, any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by registered or certified mail, return receipt requested, or delivered by courier, or personal delivery service, addressed as follows:

To Landowner:
 Springhill Ranch
 618 Ranch Access South
 Wibaux, MT 59353-9060

To Department:
 Department of Fish, Wildlife & Parks
 Attention: Administrator, Wildlife Division
 1420 E. Sixth Avenue
 P.O. Box 200701
 Helena, MT 59620-0701

With a copy to:

Department of Fish, Wildlife & Parks
 Attention: Regional Supervisor
 352 I-94 Business Loop
 Miles City, MT 59301

or to such other address as the parties from time to time shall designate by written notice to the others. The parties shall provide each other current contact information, including phone numbers and email addresses. All notices which are so addressed and paid for shall be deemed effective when personally delivered, or, if sent by courier or mailed, on the earlier of receipt or five business days after deposit thereof with a courier or mail service, return receipt requested.

H. REMEDIES FOR UNAUTHORIZED USES AND PRACTICES

If the Department determines that the Landowner has violated the terms of this Easement, or if the Landowner undertakes any activity requiring approval of the Department without first obtaining such approval, the Department shall give written notice to the Landowner of the violation and demand corrective action sufficient to cure the violation, and, when the violation involves injury to the Land resulting from any use or activity inconsistent with the terms of this Easement, to restore the portion of the Land so damaged. If the Landowner:

1. fails to cure the violation within 30 days after receipt of notice from the Department, or
2. under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing the violation within the 30-day period (or, within 30 days of Landowner's receipt of notice from the Department, if Landowner fails to agree with the Department in writing on a date by which efforts to cure such violation will reasonably begin), or
3. fails to continue diligently to cure such violation until finally corrected,

the Department may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement. The Department may seek to enjoin the violation, by temporary or permanent injunction, to require the restoration of the Land to the condition that existed prior to any such injury, and, if restoration is not possible to fully compensate for injury to the Conservation Values, to recover monetary damages for to which it may be entitled for violation of the terms of this Easement.

If the Department, in its sole discretion, determines that a violation is threatened or imminent and that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, the Department may pursue its remedies under this paragraph without prior notice to the Landowner or without waiting for the period provided for cure to expire.

The Department's rights under this provision apply equally in the event of either actual or threatened violation of the terms of this Easement. The Landowner agrees that the Department's remedies at law for any violation of the terms of this Easement are inadequate. Accordingly, the Department is entitled to injunctive relief. If injunctive relief is inadequate to restore the

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Conservation Values as a result of a violation and to compensate the Department and the public for the loss and damage to the Department's rights, the Department shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Value protected by this Easement including, without limitation, damages for the loss of scenic, aesthetic, or natural resource values. Without limiting Landowner's liability therefore, the Department, in its sole discretion may apply any damages recovered to the cost of undertaking any corrective action on the Land. The Department's remedies described in this section are cumulative and are in addition to all remedies available at law or in equity.

Nothing contained in this Easement may be construed to entitle the Department to bring any action against the Landowner for any injury to or change in the Land resulting from causes beyond the Landowner's control, including, without limitation, fire, flood, storm, and natural earth movement, or from any prudent action taken to prevent, abate, or mitigate significant injury to the Land resulting from such causes.

Enforcement of the terms of this Easement is at the discretion of the Department, and any forbearance by the Department to exercise its rights under this Easement in the event of any breach of any term of this Easement by the Landowner may not be deemed or construed to be a waiver by the Department of that term or of any subsequent breach of the same or any other term of this Easement. No delay or omission by the Department in the exercise of any right or remedy upon any breach by Landowner may impair the right or remedy or be construed as a waiver, nor may any forbearance or delay give rise to a claim of laches, estoppel or prescription.

Costs of restoration of the Conservation Values that are attributable to Landowner's violation or breach of the terms of this Easement shall be borne by Landowner, unless a court orders otherwise or unless the parties mutually agree to share such costs. In the event of litigation concerning the terms of this Easement, the prevailing party is entitled to its costs and attorneys' fees.

If a dispute arises between Landowner and the Department concerning interpretation of the meaning of this Easement or concerning the consistency of any proposed use or activity with the terms or purposes of this Easement, and if Landowner agrees in writing not to proceed with the use or activity pending resolution of the dispute, either Landowner or the Department may refer the dispute to mediation by request made in writing to the other party. Within 10 days of receipt of such referral, Landowner and the Department will select an impartial mediator who shall conduct the mediation and thereby assist the parties in resolving the dispute cooperatively. Each party shall pay an equal share of the mediator's fee. In referring any matter arising under this Easement to mediation, Landowner and the Department agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation and is therefore often preferable to litigation. Nevertheless, mediation pursuant to this paragraph shall be voluntary, and this mediation provision shall not be interpreted as precluding or limiting the parties from seeking legal or equitable remedies available under this Section II.H.

I. HOLD HARMLESS AND INDEMNITY

The Landowner shall hold harmless and indemnify the Department and its employees, agents, and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes

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of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Land, as a result of the negligence or willful misconduct of the Landowner or their agents, employees or contractors, unless due to the negligence or willful misconduct of the Department or its agents, employees, or contractors. Nothing herein shall create any indemnity obligation by the Landowner to the Department for any hunter, angler, or recreational user of the property, unless such loss or injury is due to the negligence or willful misconduct of the Landowner or their agents, employees or contractors.

The Department similarly agrees to hold harmless and indemnify the Landowner and their employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person or physical damage to any property, resulting from any action, omission, condition, or other matter related to or occurring on or about the Land, as a result of the Department's exercise of its rights granted under this Easement, unless due to the negligence or willful misconduct of the Landowner or their agents, employees or contractors.

J. TERMINATION, EXTINGUISHMENT, CONDEMNATION, REIMBURSEMENT

This Easement constitutes a real property interest immediately vested in the Department. It is the unequivocal intention of the parties that the conservation purposes of this Easement are carried out in perpetuity. If, however, circumstances arise in the future that render the purposes of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The parties agree that changed economic conditions may not be considered as circumstances justifying the modification, termination or extinguishment of this Easement.

If the Department or Landowner seeks to extinguish this Easement by judicial proceedings, or should any interest in the Land be taken by the exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation with the **Prior Approval** of the Department, the Department is entitled to a proportional share of the proceeds of any sale, exchange, or involuntary conversion of the Land formerly subject to this Easement. The Landowner and the Department shall act jointly to recover the full value of the property interests in the Land subject to the taking or in lieu purchase and all direct costs or incidental damages to which each is entitled.

For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Land unencumbered by the Easement remains constant as determined as of the date of this grant. The parties agree that this ratio is ___ percent, as was determined by independent appraisal at the time of the grant of this Easement, and the parties further agree that the value of any future interest of the Department will not include any value attributable to authorized improvements to the Land made by the Landowner after the date of this grant. Therefore, in the event of any whole or partial judicial extinguishment, or eminent domain or purchase in lieu of condemnation, Landowner shall be entitled to receive from the financially liable party ___ percent of the

unencumbered value of the real property and the Department shall be entitled to receive ____ percent of the unencumbered value of the real property. The Department shall use all such proceeds that it receives in a manner consistent with the conservation purposes of this Easement.

K. SUBORDINATION

If at the time of conveyance of this Easement, the Land is subject to a mortgage [or Deed of Trust or Contract for Deed] or other security interest, in favor of _____ [Bank], [address] (“Lienholder”). Said Mortgage/Deed of Trust/Abstract of Contract for Deed was recorded on _____, in Book _____, page _____, under Document No. _____, Records of _____ County, Montana (the “Mortgage”), the Lienholder has agreed by separate Subordination Agreement, which will be recorded immediately after this Easement is granted, to subordinate its rights in the Land to this Easement to the extent necessary to permit the Department to enforce the purposes of the Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of the Lienholder or other holders of a security interest. The priority of the existing mortgage or other security interest with respect to any valid claim to the proceeds of the sale or insurance, or to the leases, rents, and profits of the Land is not affected by this Easement. All provisions contained in this Section II.K., shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

L. ASSIGNMENT

This Easement is transferable, but the Department may assign this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under the laws of the state of Montana. As a condition of any assignment, the Department shall require that the conservation purposes of this Easement are to be carried out in perpetuity.

M. AMENDMENT

If circumstances arise under which an amendment to or modification of this Easement would be appropriate as set forth in the Department’s Amendment Policy, the Landowner and the Department are free to jointly amend this Easement; provided that no amendment may be allowed that will affect the compliance with or the qualification of this Easement under any applicable laws, including § 76-6-101, *et seq.*, MCA, or §170(h) of the Internal Revenue Code, as amended. Any amendment must be consistent with the purposes of this Easement, may not affect its perpetual duration, and either must enhance, or must have no effect on, the Conservation Values which are protected by this Easement. Furthermore, any amendment must not result in prohibited inurement or private benefit to the Landowner or any other parties. Any Easement amendment must be in writing, signed by both parties, and recorded in the public records of the affected counties.

N. RECORDING

The Department shall record this instrument in a timely fashion in the official records of the affected counties and may re-record it at any time as may be required to preserve its rights in this Easement.

O. REPRESENTATIONS AND WARRANTIES

Landowner represents and warrants that, after reasonable investigation and to the best of their knowledge:

1. Landowner has clear title to the Land; that Landowner has the right to convey this Conservation Easement; and that the Land is free and clear of any encumbrances, except those encumbrances that have been expressly approved by the Department.
2. Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in anyway, harmful or threatening to human health or the environment, that has occurred on the Land prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements. No deposit, disposal, or other release of any hazardous substance has occurred on or from the Land, in violation of applicable law.
3. No underground storage tanks are located on the Land, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Land in a manner not in compliance with the applicable federal, state, and local laws, regulations, and requirements.
4. Landowner and the Land are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Land and its use.
5. There is no pending or threatened litigation in any way affecting, involving, or relating to the Land, other than the ongoing statewide adjudication of water rights in Montana.
6. No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failing to comply with, any federal, state, or local law, regulation, or requirement applicable to the Land or its use, nor do there exist any facts or circumstances that Landowner might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

P. GENERAL PROVISIONS

1. Controlling Law. The interpretation and performance of this Easement will be governed by the laws of the State of Montana.
2. Construction. Any general rule of construction to the contrary notwithstanding, this Easement must be liberally construed in favor of the grant to effect the purposes of this

Easement and the policy and purposes of § 76-6-101, *et seq.*, MCA. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid must be favored over any interpretation that would render it invalid.

3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section II.M above.
4. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or reversion of Landowner's title in any respect.
5. Successors. This Easement is binding upon, and inures to the benefit of the parties, their heirs, administrators, successors and assigns, and continues as a servitude running in perpetuity with the Land.
6. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Land, except that liability for acts or omissions occurring prior to transfer survive transfer.
7. Severability. If any provision of this Easement is found to be invalid, the remainder of the provisions of this Easement remain in effect.
8. Subordination. No provision of this Easement is to be construed as impairing the ability of Landowner to use the Land as collateral for any loan, provided that any mortgage or lien arising after the date of execution of this Easement shall be subordinate to the terms of this Easement.
9. Subsequent Deeds and Instruments. The Landowner agrees that reference to this Easement will be made in any subsequent purchase and sale agreements, deeds, or other legal instruments conveying an interest in the Property (including any leasehold interest).
10. Counterparts. This Easement may be executed in counterparts which, taken together, shall constitute one and the same instrument.
11. Joint Obligation. The obligations imposed by this Easement upon Landowner shall be joint and several.
12. Section Headings. Section headings are for convenience only and will not be given effect in interpretation of this Easement.

TO HAVE AND TO HOLD unto the Department, its successors, and assigns FOREVER.

IN WITNESS WHEREOF, the Landowner and the Department have set their hands on the day and year first above written.

This Agricultural Land Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (ACEP). The Exhibit E is attached hereto and incorporated herein by reference and will run with the land in perpetuity. As required by 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468, and as a condition of receiving ACEP funds, all present and future uses of the Protected Property identified in Exhibit A is and will remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Deed Terms For The Protection Of Agricultural Use in Exhibit E that is appended to and made a part of this easement deed.

GRANTED BY: LANDOWNER

STATE OF MONTANA)
 : **ss.**
COUNTY OF DAWSON)

This instrument was signed before me on _____, 201__,
by _____.

Notary Public

(SEAL)

STATE OF MONTANA)
 : **ss.**
COUNTY OF WIBAUX)

This instrument was signed before me on _____, 201__,
by _____.

Notary Public

(SEAL)

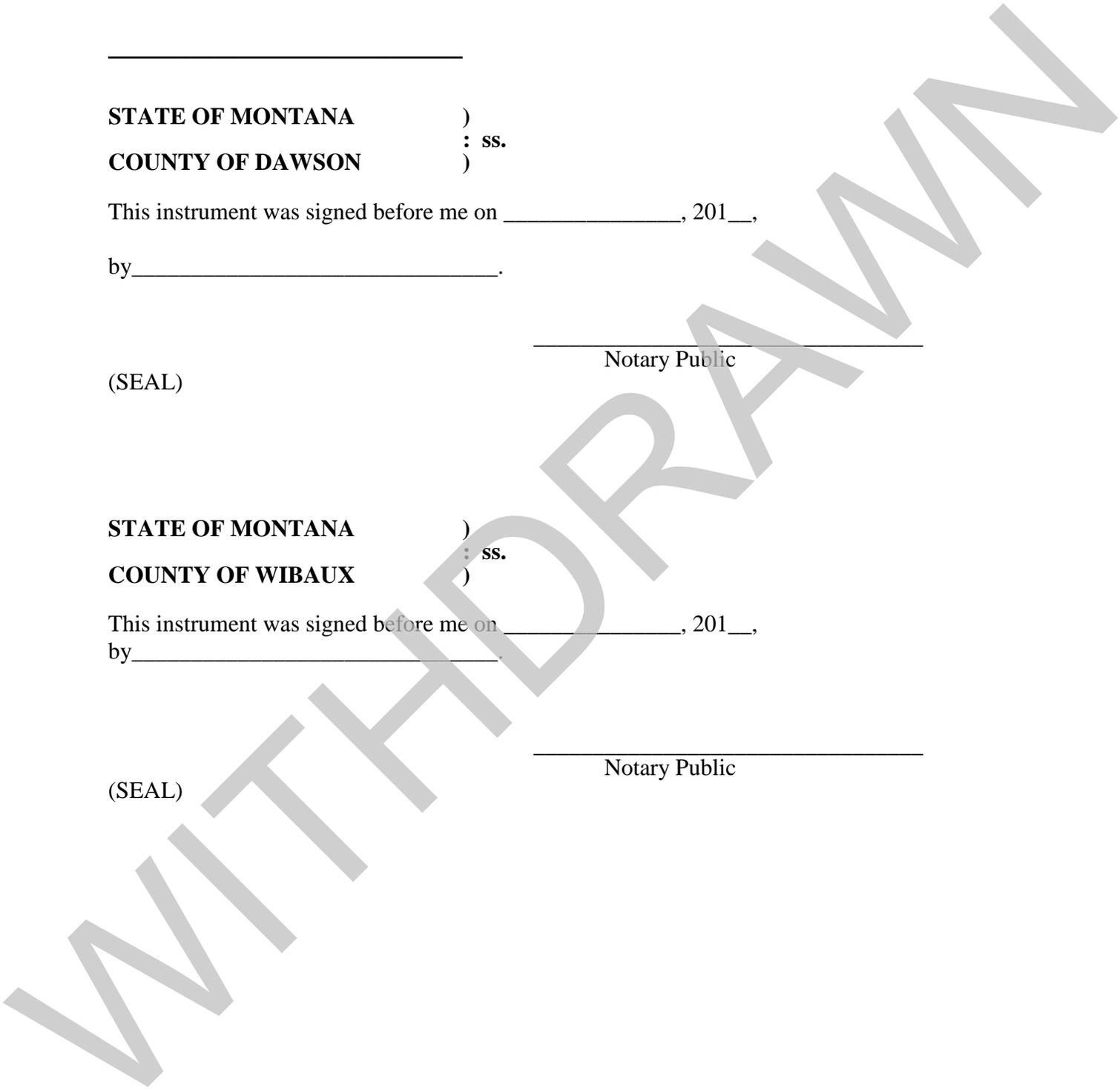


EXHIBIT A**Legal Description of the Horse Creek Complex 1 (ALE)
Conservation Easement****Wibaux County****T13N, R57E MPM**Section 13: NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$

Section 14: N1/2SE1/4, SW1/4SE1/4

Section 22: S1/2

Section 23: All

Section 26: All

Section 27: All

T13N, R58E MPM

Section 4: Lots 1, 2, 3, 4, S1/2NW1/4, SW1/4NE1/4, S1/2

Section 5: All

Section 7: All

Section 8: NE1/4, W1/2SE1/4, S1/2SW4

Section 17: E $\frac{1}{2}$ **T14N, R58E MPM**

Section 26: W1/2NE1/4, E1/2NW1/4, SW1/4NW1/4, N1/2SW1/4, SW1/4SW1/4

Section 28: S1/2, NE1/4

Section 32: NE1/4, W1/2SE1/4

Dawson County**T13N, R57E MPM**

Section 1: Lots 1, 2, 3, 4, S1/2N1/2, S1/2

Section 2: Lot 4, SE1/4NE1/4, SW1/4, E1/2SE1/4

Section 2: Lots 1, 2, 3, SW1/4NE1/4, S1/2NW1/4, W1/2SE1/4

Section 11: All

Section 12: S1/2N1/2, W1/2SE1/4, N1/2SW1/4

Section 14: NW $\frac{1}{4}$ Section 14: W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15: S $\frac{1}{2}$ S $\frac{1}{2}$ Section 22: S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 22: N $\frac{1}{2}$ NW $\frac{1}{4}$ **T14N, R57E MPM**Section 25: S1/2SW1/4SW1/4, SE1/4SW1/4, S1/2NE1/4SW1/4, S1/2SW1/4NE1/4,
SE1/4NE1/4, SE1/4

Section 26: S1/2SE1/4SE1/4

Section 35: SE1/4SW1/4, S1/2NE1/4SW1/4, S1/2SW1/4NE1/4, NE1/4NE1/4, SE1/4NE1/4, SE1/4

T14N, R58E MPM

Section 9: That portion of the S ½ laying south of the Railroad Right of Way.

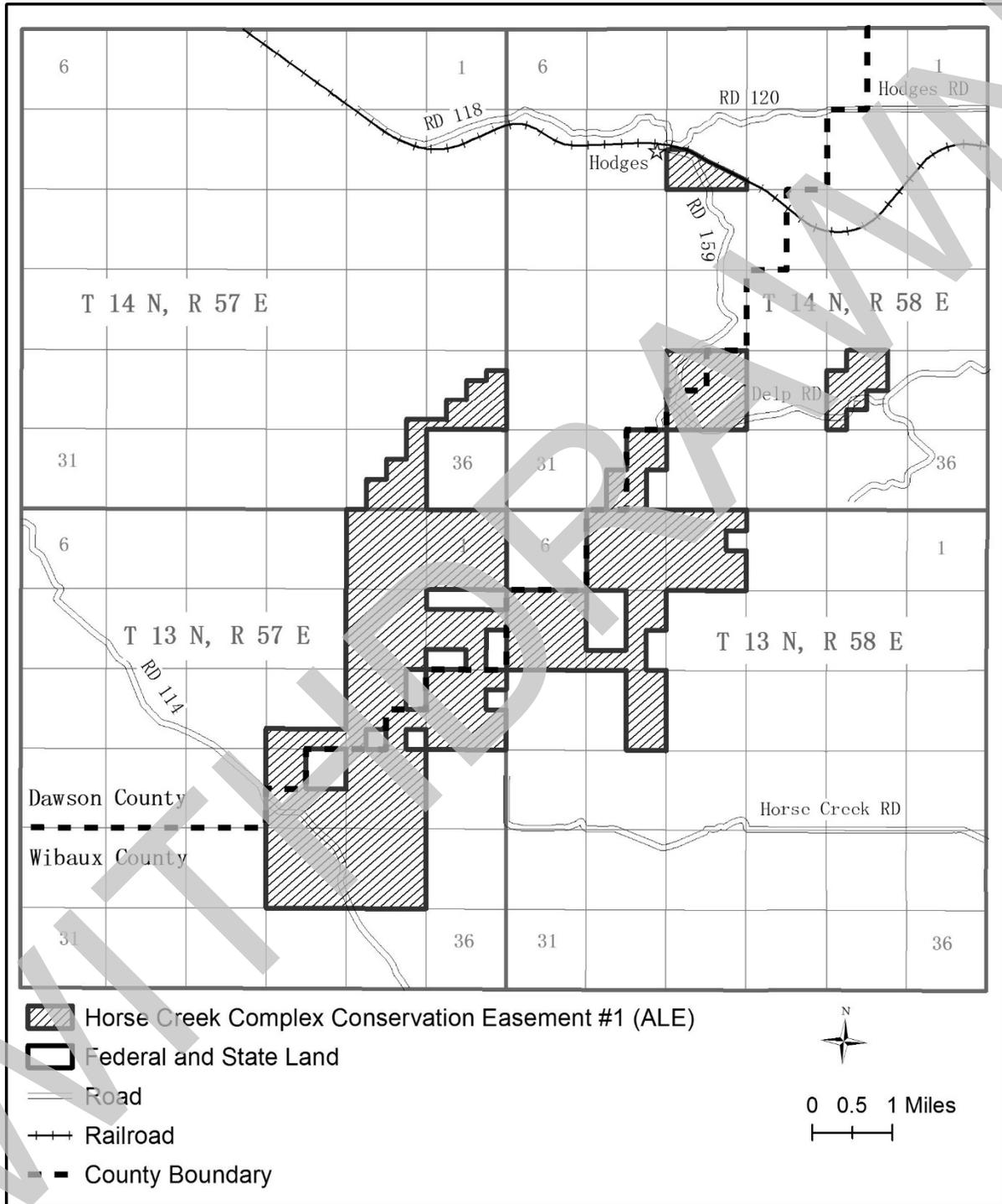
Section 28: NW ¼

Section 32: E ½ SW ¼

END OF EXHIBIT A

WITHDRAWN

EXHIBIT B MAP OF THE LAND



END OF EXHIBIT B

*Horse Creek Complex Conservation Easement 1 (ALE)
Springhill to FWP
February 28, 2018*

EXHIBIT C
FWP MINIMUM STANDARDS FOR GRAZING LIVESTOCK
AND
ALE GRASSLANDS COMPONENT PLAN

Introduction

The following grazing standards represent the minimum required by FWP of a landowner who reserves the right to pasture and graze livestock (private and public land). These standards apply to all FWP funded projects; at times it may be necessary to provide more rest from grazing than described as minimum to meet specific wildlife or fisheries habitat objectives. The minimum is most frequently applied (without additional adjustment for wildlife and fisheries needs) on projects like conservation easements and Upland Game Bird Habitat Enhancement Projects where the property remains in private ownership and agricultural use remains the primary objective. On FWP-managed Wildlife Management Areas (WMAs), wildlife production and habitat conservation are the primary objective and when livestock grazing occurs it is not unusual for the amount of rest from livestock grazing to exceed that required by the minimum standard. Also on WMAs, grazing intensity may be reduced to a level significantly lower than allowable by the minimum standard. These standards are designed to address management of both upland and riparian landforms.

Why a minimum standard?

Livestock grazing is the predominant land use in Montana. As the state's primary fish and wildlife management agency, FWP is actively involved with livestock grazing as it influences fish and wildlife habitats throughout Montana. About 2.4 million cattle are maintained in Montana. Livestock grazing occurs on about 69% of the state's land surface. Potential impacts to fish, wildlife and their habitats caused by grazing are well documented in the literature. Also well documented are potential benefits for conservation that can be derived for some wildlife species through carefully planned livestock grazing strategies. Conserving wildlife habitat while continuing livestock grazing typically requires management strategies that differ from those employed for the sole purpose of maintaining a sustainable livestock forage base that maximizes livestock production. One reason for the difference in management strategies is because vegetation is much more than a forage base for wildlife. Vegetation species composition, structure, and diversity are important aspects of cover essential to the survival and production of wildlife. Healthy riparian communities are critical not only for aquatic species but for proper channel and flood plain function. Seventy-five percent of all Montana wildlife species rely on riparian areas for all or a portion of their lives. This includes many species covered in the FWP's Comprehensive Fish and Wildlife Strategy. When livestock grazing occurs, it is not unusual for cover to be the population limiting factor for many species. Aldo Leopold referred to this concept of habitat quality as 'Quality of Landscape'. Addressing cover is especially important in implementation of FWP's Comprehensive Fish and Wildlife Strategy. It is therefore possible that a livestock operator may be employing a grazing strategy that maintains a sustainable forage base on most of the property, but may not be providing adequate forage, cover, or floral diversity for important fish and wildlife species.

Sustainable livestock production often employs grazing strategies emphasizing production and maintenance of grass species while placing less emphasis on the maintenance of forbs and woody plants. Many wildlife species require grazing strategies that emphasize healthy woody plants and availability of forbs and grass seed heads on at least portions of the landscape every year. The maintenance of robust woody vegetation and cover is also a very important component of healthy riparian systems. Healthy ecological systems are essential for a variety of aquatic and terrestrial riparian obligates.

The purpose of FWP's minimum grazing standards is to achieve a balance between maintaining sustainable agriculture and quality fish and wildlife habitat on working ranches and to provide flexibility to conserve and protect habitat needs on WMAs where wildlife habitat is the primary objective and agriculture is secondary. FWP has applied the standard successfully over the past 30 years on a variety of projects ranging from working cattle ranches to FWP WMAs. There are examples in Montana and other states where a grazing standard similar to FWP's is being applied by livestock operators independent of FWP.

Grazing Plan

Prior to grazing livestock, the Landowner and FWP must agree upon and implement a grazing plan. A grazing plan includes a map of the pastures, a grazing formula specific to those pastures, the class of livestock, and other information pertinent to the management of livestock. Format for the grazing plan is included as part of the management plan template for conservation easements. The grazing plan will be included as part of the Management Plan for easement projects, and will define the limits and extent to which grazing may occur. The Management Plan may be amended by mutual consent, as more particularly described in Paragraph II.E. of the Conservation Easement. For other projects, the management plan will be included as an attachment to the grazing lease or contract. On conservation easements, the grazing plan will be enforceable only on lands covered by the easement.

Upland Minimum Grazing Standard for Summer/Fall Systems

This standard applies to upland pastures in native plant communities (i.e. generally on soils that have never been plowed) and for all riparian pastures. The grazing plan must meet or exceed minimum levels of periodic rest from livestock grazing to allow native plants adequate opportunity to reproduce and replenish root reserves. The minimum amount of rest required for any pasture grazed in one year during the plant growing season is defined as rest throughout the following year's growing season (i.e. grazing deferred until seed-ripe), followed by one year of yearlong rest, as shown in Table 1. Each pasture receives only one grazing treatment per year, and the treatments are rotated annually as shown in Table 1. The growing season is defined as beginning with the period of rapid plant growth (generally early to mid-May) until seed-ripe for the latest maturing native grasses, such as bluebunch wheatgrass or western wheatgrass (generally early August). Because the exact dates can vary as much as a few weeks depending on the location in Montana, specific dates for livestock movement are developed for each project. Occasionally it may be necessary for the grazing system to allow for some livestock to be in the pasture scheduled for the A treatment (Table 1)

beyond the growing season.

A three-pasture grazing system is used as an example (Table 1) to show how the landowner might typically rotate livestock through pastures to meet the minimum levels and required sequence of rest from livestock grazing. In practice, the landowner is not limited to any particular number of pastures; many projects include more than three pastures. In some instances, sub-pastures are employed to meet riparian or other objectives on the land. If livestock are grazed, they must be moved through the pastures in compliance with these standards and the grazing plan. Where grazing occurs during the growing season, the three-treatments outlined in Table 1 are essential and the total number of pastures and/or sub-pastures will vary between projects.

Table 1. Livestock Grazing Formula using a three pasture approach as an example.

Grazing Seasons	Pasture 1	Pasture 2	Pasture 3
Year One	A	B	C
Year Two	B	C	A
Year Three	C	A	B
When all treatments have been applied to all pastures, the grazing rotation begins again at year one.			
A = livestock grazing allowed during the growing season; B = livestock grazing begins after seed-ripe time; C = rest from livestock grazing yearlong.			

Winter and/or Early Spring Grazing

In some situations, an early grazing treatment (prior to mid- May) may be considered. However, it must be kept in mind that grazing capacity and forage production in the year a pasture is grazed from winter to beyond mid-May, will be temporarily reduced. On projects where early spring grazing (prior to rapid plant growth) is combined with summer (active growing season) grazing the three grazing treatments described in Table 1 must be employed.

It is usually more efficient to manage winter grazing separately from spring-summer grazing. If livestock are to be grazed in a native range or riparian pasture in winter or early spring (generally December through early May), and a separate grazing formula is required, it must be coordinated with the summer-fall grazing system as follows: Minimum required rest in pastures where livestock are grazed and/or fed hay during winter is one winter of rest in every two (2) years. Hay, grain, salt, protein or other supplements will not be placed in riparian areas during winter or any other season. Minimum required rest in pastures where livestock are grazed in spring, prior to early May, is one spring of rest in every two years. Any pastures grazed later in spring than early-mid May require the greater amount of rest shown in the table 1. As a minimum, when grazing is limited to winter or the non-growing season period, a two-pasture alternate use approach is frequently used. The area designated for winter grazing is divided into two pastures and each year one pasture is grazed during winter months and the other rested and use is alternated from year to year.

During winter months cattle tend to concentrate in wooded areas (shrub or tree-dominated

areas) for shelter. This must be kept in perspective when assessing the impacts to woody vegetation. It is often the case that with careful placement of hay, cattle impacts to woody vegetation can be kept to a small portion of the area. If this is not the case, it might be necessary to fence a portion of the woody vegetation to protect it from damage, but should only be done once efforts to control livestock distribution by other means have proven ineffective. An acceptable level of impact will vary depending on the objectives (i.e. a level of woody vegetation impact acceptable for a working cattle ranch may be much different than for a WMA).

Scope

The goal is to include as much of the lands under easement as possible within the grazing system, but one must be realistic in recognizing the unique needs of a livestock operation. For instance, it may be necessary to set aside small areas as animal husbandry units to be used at the landowner's discretion. Such areas might include calving pastures, branding pastures, sorting pens, bull pastures, holding corrals, or pastures used for weaning and shipping. Also, one or more pastures may be necessary for rounding up or transitioning livestock between summer/fall and winter seasons, which may require annual fall grazing. As long as the majority of the native rangelands involved are within a grazing system that meets the minimum standards for yearlong rest and season long deferment, this is acceptable.

Non-native Pasture

It is common for livestock operators to have pastures on their land that are non-native range. The landowner's goal is usually to keep these pastures productive as non-native pasture. The pastures typically are seeded with an exotic pasture grass or grass mix. On occasion forbs like dry-land alfalfa are included in the planting. The minimum standards for season long deferment and yearlong rest applied to native rangelands do not necessarily apply to non-native pastures. In cases of non-native pasture, a grazing strategy that is coordinated with the grazing system and meets the needs of the ranch should be worked out. In the case of crested wheatgrass pasture it may be necessary to allow grazing early (late-winter or early spring) each year to maintain palatability. In the case of other pasture grasses, such as smooth brome, a deferred approach works well; a pasture is grazed during the growing season in year one then deferred from grazing until near seed-ripe in year 2 (about the time such grasses would normally be harvested as hay). This will maintain the productivity of the non-native species until replanting is necessary and in some cases maintain them as attractive feeding sites for large wild ungulates. It is important to keep in mind that these areas, unlike native range, are essentially cropland and whether grazed or left idle will eventually need some sort of agricultural practice to maintain their productivity.

It is usually best to leave irrigated pasture management to the landowner's discretion. If important riparian is included in the field it might be necessary to fence the riparian zone from the irrigated pasture to protect it from livestock grazing. Usually grazing strategies employed on irrigated pasture are not consistent with proper management of key native riparian plants. In such situations, it may be necessary to apply the guideline Series entitled: The Need for Stream Vegetated Buffers Parts 1 through 3, Montana Department of Environmental Quality

2008.

Livestock operators often place cows in hayfields during winter months. In such cases the field should be managed at the landowner's discretion and in some instances, it might be necessary to fence out riparian from the hayfield to protect it from grazing.

Stocking Rate

Usually FWP does not require a maximum stocking rate as part of the grazing strategy on easements or Upland Game Bird Habitat Enhancement Projects. In such cases it is clearly stated in the grazing plan, that the maximum stocking rate will be ultimately determined by the operator's ability to conform to the grazing system. In other words, the livestock numbers may increase as long as the plan can be followed and livestock movement dates are not compromised. Such an approach is consistent with the reality that, for most easement projects, the primary use of the land is agricultural.

Occasionally a landowner has requested that an upper limit stocking rate be established as a stipulation in the easement. As long as the number of livestock is realistic this is not a problem.

On lands owned by FWP any grazing that occurs will be at stocking levels determined by the agency and approved by the FWP Commission.

Mineral and Other Supplements

On privately owned grazing lands the landowner is given more discretion on locations for placement of mineral block than on FWP lands. However, regardless of land ownership the placing of mineral block within riparian areas will be strongly discouraged. On FWP lands the placement of mineral block will be described as part of the grazing plan. Supplements will be placed away from riparian areas, ponds, and roads. Rocky (stable soil) areas on ridge tops or in the trees are preferred sites.

On FWP lands livestock within pasture grazing systems are not to be fed hay.

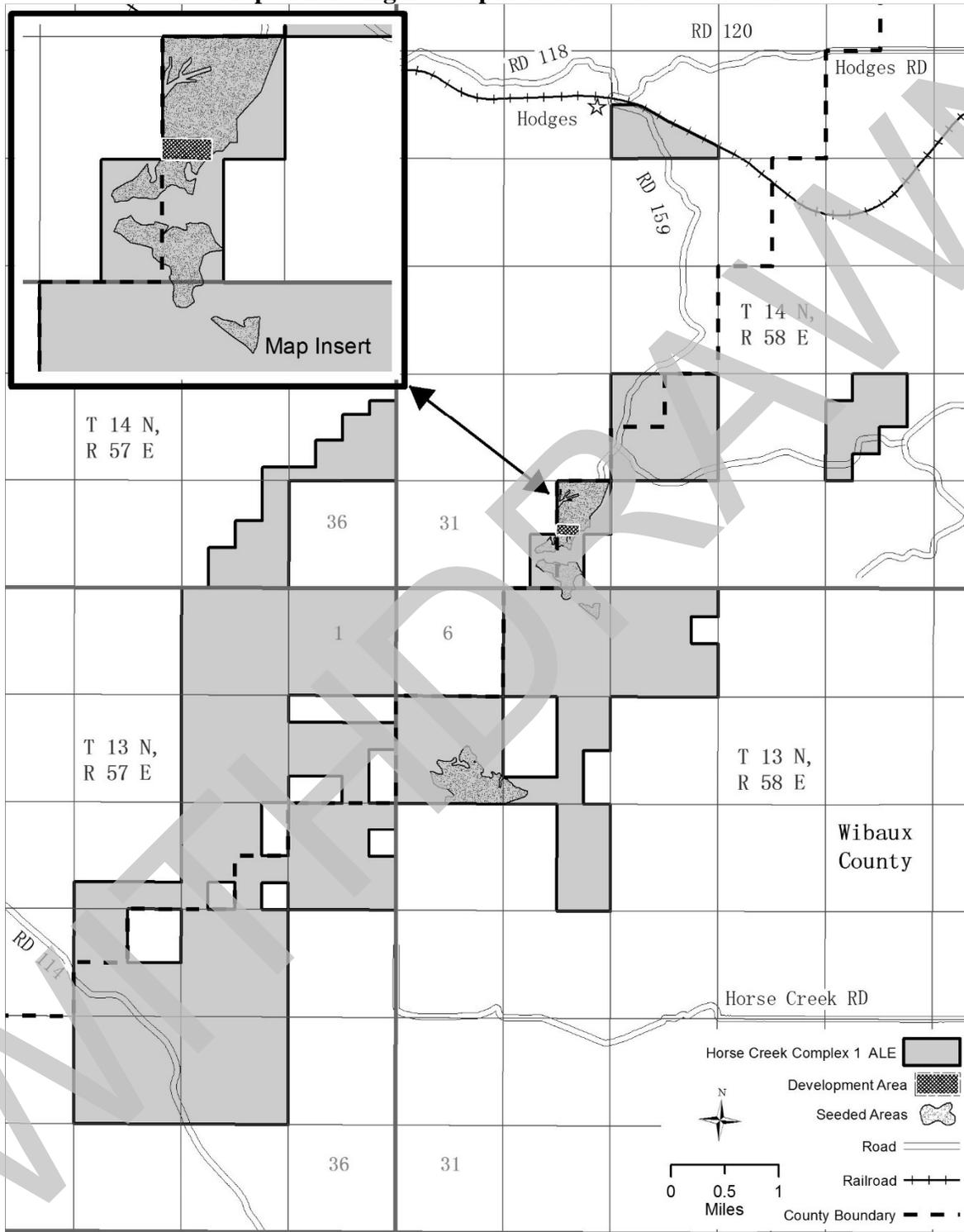
Flexibility

Rarely, a severe environmental influence (i.e. fire, drought, grasshoppers) may require a onetime deviation from the prescribed grazing plan. In such cases the landowner is to notify the local FWP representative of the problem. In a timely manner the local FWP representative, Habitat Section representative, and landowner will meet to discuss the issue and work out a solution. It is important to keep in mind that short term adjustments to the grazing plan must be the exception rather than the rule. Allowing grazing to occur in a pasture scheduled for rest is always a last resort. FWP has managed grazing systems across Montana through a variety of severe environmental events. This experience has shown that when a legitimate problem exists an alternative can usually be found that avoids grazing the pastures scheduled for rest.

END OF EXHIBIT C

EXHIBIT D

Map of Existing Development Area and Seeded Areas



END OF EXHIBIT D

U.S. Department of Agriculture
Natural Resources Conservation Service

Horse Creek Complex

EXHIBIT E

MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS

The Agricultural Conservation Easement Program, 16 U.S.C Section 3865 et seq., facilitated and provided funding for the purchase of an Agricultural Land Easement (ALE) on real property described in Exhibit A, hereafter referred to as “the Protected Property” for the purpose of protecting grazing uses and related conservation values by restoring and conserving the Protected Property.

Springhill Ranch, a Montana Corporation acknowledges that the ALE is acquired by the Department to protect grazing uses and related conservation values by restoring and conserving the Protected Property. Baseline conditions of the Protected Property are set forth in a Baseline Documentation Report, a copy of which is maintained in the files of the Department.

In order to ensure compliance with the Agricultural Conservation Easement Program, 16 U.S.C Section 3865 et seq. and 7 CFR Part 1468, the following rule of interpretation will govern any and all inconsistencies between the ALE and this Exhibit. Notwithstanding any other provision of the ALE, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Section I and II. If the terms and conditions in Section I and II are inconsistent with terms and conditions in other sections of the ALE, Section I and II will control; provided however, if other sections of the ALE have terms and conditions that are consistent with, but more restrictive to the rights of the Landowner than the terms and conditions in Section I, Paragraphs 1, 2, and 3, those more restrictive terms and conditions will control. If other sections of the ALE are more restrictive to the rights of the Landowner than Section I Paragraph 4 and 5 and Section II then Section I Paragraph 4 and 5 and Section II will control.

SECTION I - MINIMUM CONSERVATION DEED RESTRICTIONS

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Protected Property as a whole.

The terms and conditions of the ALE run with the land and are binding upon the Landowner, the Department and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:

1. Agricultural Land Easement Plan. As required by 16 U.S.C. Section 3865a, agricultural production and related uses of the Protected Property are subject to an ALE Plan, as approved by NRCS, to promote the long-term viability of the land to meet the ALE purposes. The ALE Plan must also be approved by the Landowner and Department. Landowner agrees the use of the

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property will be subject to the ALE Plan on the Protected Property.

The ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this ALE. The Department and Landowner agree to update the ALE Plan in the event the agricultural uses of the Protected Property change. A copy of the current ALE Plan is kept on file with the Department.

The Department must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the ALE Plan, NRCS may notify the Department. NRCS will give the Department and Landowner a reasonable amount of time, not to exceed 180 days, to take corrective action. If Department fails to enforce the terms of the ALE, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.

2. Limitation on Impervious Surfaces. Impervious surfaces will not exceed **2%**, of the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property, including, but not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Department by this ALE.

3. Limitations on Nonagricultural Uses. Any activities inconsistent with the purposes of the ALE are prohibited. The provisions of this ALE limit the types of agricultural operations that can occur on the Protected Property to those that restore or conserve grassland, and protect grazing uses, and related conservation values. The following activities are inconsistent with the purposes of ALE and are specifically prohibited, subject to the qualifications stated below:

(A) *Subdivision* – Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited.

(B) *Industrial or Commercial Uses* – Industrial or commercial activities on the Protected Property are prohibited except for the following:

(i) agricultural production and related uses conducted as described in the ALE Plan;

(ii) the sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the conservation purposes of this Easement;

(iii) temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, and related conservation values of the Protected Property herein protected;

(iv) commercial enterprises related to agriculture or forestry including but not limited to *agritourism, processing, packaging, and marketing of farm or forest*

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products, farm machinery repair, and farm wineries.

(v) small-scale commercial enterprises compatible with agriculture or forestry.

Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by the Department, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

Fences may be maintained and replaced and new fences installed only in accordance with the ALE Plan and consistent with grassland species management requirements.

(D) *Granting of easements for utilities and roads* – The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact *the protection of the grazing uses, grassland conservation value*, and related conservation values of the Protected Property as determined by the Department in consultation with the Chief of NRCS.

(E) *Surface Alteration* – Grading, blasting, filling, sod farming, earth removal, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:

- (i) dam construction in accordance with an ALE plan to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation;
- (ii) erosion and sediment control pursuant to a plan approved by the Department or;
- (iii) soil disturbance activities required in the construction of approved agricultural structures, roads and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; or
- (iv) Grazing uses or grassland restoration and conservation activities conducted in accordance with the ALE Plan.

(F) *Oil, Gas, or Mineral Exploration and Extraction* – Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this ALE or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from Protected Property is prohibited. Provided however, limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Protected Property is allowed where the extraction of materials used for such agricultural operations is limited, localized, and small with a defined area and acreage identified in EXHIBIT F and does not harm the conservation values or the agricultural uses of the Protected Property.

If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this ALE is executed, and their interests have not been subordinated to this ALE, the Landowner must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this paragraph (F).

Any mineral leases or other conveyances of minerals entered into or renewed after the date of this ALE Deed are subordinate to the terms of this Deed and will incorporate by reference in this Deed.

(G) *Crop Cultivation* - Except for grazing uses and grassland restoration and conservation, the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial non-grassland agricultural product is prohibited.

4. Preserving Agricultural Uses: No uses will be allowed that decrease the ALE's protection for the grazing uses and related conservation values or adversely impact the restoration or conservation of the grassland, and related conservation values of the Protected Property. Allowed uses of the Protected Property include, the specific uses allowed in Section I, Paragraph (3)(B) (i)-(v) and the following activities, subject to the qualifications stated below:

(A) *Agricultural Production* – The production, processing, and marketing of livestock and agricultural products compatible with restoration and conservation of grassland, grazing uses, and related conservation values is allowed provided it is conducted in a manner consistent with the terms of the ALE Plan described in Section I, Paragraph 1.

(B) *Forest Management and Timber Harvest* – Forest management and timber harvesting is allowed, provided it is carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Protected Property. In addition, if the Protected Property contains 40 contiguous acres of forest or 20 percent of the Protected Property is forestland then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resource manager, in consultation with the Grantee. A forest management plan will not be required for the following allowed noncommercial activities: (i) cutting of trees for the construction of allowed roads, utilities and structures on the Protected Property, (ii) cutting of trees for trail clearing, (iii) cutting of trees for domestic use as firewood or for other domestic uses by Grantor, (iv) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (v) removal of invasive species.

(C) *On-Farm Energy Production* – Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits, with minimal impact on the conservation values of the Protected Property and consistent with the purposes of the ALE.

(D) *Grassland Uses of the Protected Property* – Landowner is allowed to graze, hay, harvest for hay and non-crop seed production, mow, construct fire breaks, conduct fire pre-suppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and conservation purposes of this ALE. The term "common grazing practices" means those practices customary to the region where the Protected Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Protected Property. Landowner must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified in the ALE Plan. Determinations of nesting seasons for birds whose populations are in significant decline and the areas of the property affected by this restriction will be set forth within the ALE Plan for the Protected Property that has been approved by Landowner, Department, and NRCS.

SECTION II - PROTECTION OF THE UNITED STATES' INTERESTS

1. United States Right of Enforcement. Pursuant to 16 U.S.C. Section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of the ALE are not enforced by the holder of the ALE. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Department, or its successors or assigns, fails to enforce any of the terms of this ALE, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Landowner, including, but not limited to, attorney's fees and expenses related to Landowner's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Department, including, but not limited to, attorney's fees and expenses related to Department's violations or failure to enforce the easement against the Landowner up to the amount of the United States contribution to the purchase of the ALE.

The Department will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Department and Landowner are in compliance with the ALE and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the ALE, the ALE Plan, and the United States Cooperative Agreement with the Department, the United States will have reasonable access to the Protected Property with advance notice to Department and Landowner or Landowner's representative.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Department and Landowner or Landowner's representative at the earliest practicable time.

2. General Disclaimer and Landowner's Warranty. The United States, its employees,

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agents, and assigns disclaim and will not be held responsible for Department's or Landowner's negligent acts or omissions or Department's or Landowner's breach of any representation, warranty, covenant, or agreements contained in this ALE Deed, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

Landowner must indemnify and hold harmless United States, their employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which United States may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Landowner negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Agricultural Land Easement Deed or violations of any Federal, State, or local laws, including all Environmental Laws.

3. Environmental Warranty. Landowner warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Landowner warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Landowner further warrants that it has no actual knowledge of an undisclosed release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Furthermore, Landowner warrants the information disclosed to the Department and United States regarding any past violations or non-compliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

Moreover, Landowner hereby promises to hold harmless and indemnify Department and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Landowner or any other prior owner of the Protected Property. Landowner indemnification obligation will not be affected by any authorizations provided by Department or the United States to Landowner with respect to the Protected Property or any restoration activities carried out by Department at the Protected Property; provided, however, that Department will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Department.

"Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or

standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

4. Extinguishment, Termination, and Condemnation. The interests and rights under this Agricultural Land Easement may only be extinguished or terminated with written approval of the Department and the United States. Due to the Federal interest in this ALE, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Protected Property.

With respect to a proposed extinguishment, termination, or condemnation action, the Department and the United States stipulate that the fair market value of the ALE is _____ percent, hereinafter the “Proportionate Share,” of the fair market value of the land unencumbered by this ALE. The Proportionate Share will remain constant over time.

If this ALE is extinguished, terminated, or condemned, in whole or in part, then the Landowner must reimburse Department and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this ALE. The fair market value will be determined at the time all or a part of this ALE is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Department and the United States.

The allocation of the Proportionate Share between the Department and the United States will be as follows: (a) to the Department or its designee, _____ percent of the Proportionate Share; and (b) to the United States _____ percent of the Proportionate Share. Until such time as the Department and the United States receive the Proportionate Share from the Landowner or the Landowner successor or assign, the Department and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Department, the Department must reimburse the United States for the amount of the Proportionate Share due to the United States.

5. Amendment. This ALE may be amended only if, in the sole and exclusive judgment of the Department and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this ALE and complies with all applicable laws and regulations. The Department must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended ALE, such amendments must

be mutually agreed upon by the Department, Landowner, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void

END OF EXHIBIT E

WITHDRAWN

EXHIBIT F

Paleontological Resources

The extraction of paleontological resources is conditioned and limited as follows:

1. Prior to commencing excavation of a major paleontological find, or the excavation of an area larger than one contiguous acre on the Land, Landowner shall submit to the Department an Operating Plan describing the proposed:

- Location, size, and boundary of disturbance or excavation area;
- Size of footprint for all associated activities;
- Access routes;
- Timing of excavation season;
- Reclamation plan that includes methods, materials, and timeline;
- Compatibility with hunting and other public use of the property.

Before any surface disturbance as described in Paragraph 1 occurs upon the Land the Landowner must obtain the written approval of the Operating Plan by FWP's Wildlife Division Administrator or FWP's Director. Such approval shall not be unreasonably withheld. In the event that the Operating Plan is not approved by FWP, FWP shall make good faith efforts to work with Landowner to develop an acceptable Operating Plan.

3. Excavation shall not exceed a total of five acre of the Land whether contiguous or non-contiguous. No excavation shall be operated in the same location for more than three continuous years. FWP may waive such restrictions pursuant to the Operating Plan.

4. Prior to any surface disturbance of the property, Landowner shall segregate and store the top 18 inches of topsoil, or all available topsoil, whichever is applicable to the site.

5. Landowner shall be responsible for control of noxious weed infestations that result from paleontological activities until infestation no longer exists. Landowner shall exercise reasonable care in the conduct of its research activities to reduce the likelihood or impact of noxious weed infestation. Landowner shall further comply with the Montana County Noxious Weed Management Act, § 7-22-2101 MCA, *et seq.*, as follows:

If the Landowner disturbs vegetation on the Land for any reason related to paleontological excavation, Landowner shall reclaim and revegetate the disturbed area. Landowner shall submit to the Department a written plan specifying the methods to be used to accomplish revegetation. The plan must describe the time and method of seeding, fertilization, proposed plant species, use of weed-free seed, and the weed management procedures to be used. The plan must receive the Department's **Prior Approval** before being implemented by the Landowner. Landowner shall re-grade any disturbed areas to their approximate original contour, apply topsoil, and revegetate all disturbed areas with an approved seeding mixture to the satisfaction of FWP. If the first seeding

of compatible grass species does not germinate to the satisfaction of FWP, Landowner shall reseed those areas remaining open to erosion and weeds.

6. No paleontological activities shall be conducted during the Montana big game rifle hunting season without the express written consent of FWP. Such consent may occur pursuant to the Operating Plan.

7. Prior to any surface disturbing activity, Landowner shall submit a reclamation bond to be held by FWP to ensure the reclamation of the disturbed lands as described herein. The bond shall be equal to the inflation-adjusted appraised value of the Easement of the acres to be disturbed by Landowner and shall be specified in the Operating Plan.

8. Reclamation of areas one acre or less will be initiated within one year of completion of excavation. In all cases, reclamation shall be initiated on areas one acre or less within three years of disturbance. FWP may waive such restrictions.

END OF EXHIBIT F

After Recording, please return to:
 Department of Fish, Wildlife and Parks
 Land Unit
 P.O. Box 200701
 Helena, MT 59620-0701

Horse Creek Complex 2 (FWP)

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (“Easement”) is granted this _____ day of _____, 201__, by Springhill Ranch, a Montana Corporation, 618 Ranch Access South, Wibaux, Montana 59353-9060 (“Landowner”) to the Montana Department of Fish, Wildlife and Parks, an agency of the State of Montana, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 (“Department”).

The following Exhibits are attached hereto and incorporated into this Deed of Conservation Easement by this reference.

Exhibit A - Legal Description of the Horse Creek Complex 2 (FWP)
 Conservation Easement

Exhibit B - Map of the Land

Exhibit C - FWP Minimum Standards for Grazing Livestock

Exhibit D - Map of Existing Development Areas, Seeded Areas, and Cultivated Areas

Exhibit E - Paleontological Resources

I. RECITALS

- A.** The people of the State of Montana recognize that certain native plant communities and important fish and wildlife habitat are worthy of perpetual conservation, and have authorized the Department to acquire perpetual conservation easements, as described in § 76-6-101 *et seq.*, Montana Code Annotated (“MCA”), from willing Landowners by voluntary, cooperative means to conserve native plant communities, habitat and other natural resource of value.
- B.** The Landowner is the owner of certain real property in Wibaux County and Dawson County, Montana (the “Land”), legally described in Exhibit A, attached hereto and incorporated herein by this reference. The Conservation Easement Boundary is depicted in Exhibit B.

C. Two separate and distinct overlapping Deeds of Conservation Easement encumber all or a portion of the Horse Creek Complex. The first easement (Horse Creek Complex Deed of Conservation Easement 1) encompasses approximately 10,536.49 acres of land within the Horse Creek Complex, funded in part through the Agricultural Conservation Easement Program, 16 U.S.C. § 3865, *et seq.* This program facilitates and provides funding to the Department for the purchase of an Agricultural Land Easement (“ALE”) which is depicted on Exhibit B and referred to there as the “ALE Area.” For purposes of clarity, this easement shall be referred to in this document as the “ALE.” By funding this easement, the USDA-NRCS recognizes that a portion of the Land provides agricultural values worth conserving in perpetuity.

This second Easement (Horse Creek Complex Deed of Conservation Easement 2) covers the entire 15,376.36-acre property described in Exhibit A and depicted on Exhibit B. This Easement complements the ALE, by encumbering additional acreage and acquiring additional rights from the Landowner not acquired through the ALE. Thus, the land is encumbered by both the ALE and also this second larger Easement. This Easement is in addition to the ALE and in no way amends, modifies, or supersedes the terms of the ALE.

- D. The Land possesses significant agricultural values and communities of native plants, fish and wildlife habitat, natural and scenic open-space lands, and public recreational opportunities, all of which are collectively termed “Conservation Values” and are valuable to the people of Montana and worthy of perpetual conservation.
- E. The Conservation Values of the Land can be protected in perpetuity by the Landowner and the Department through the grant of a conservation easement to the Department with the Landowner retaining fee title to the Land and overall management of the Land consistent with the terms and conditions of this Easement.
- F. Landowner and Department agree that the Conservation Values of the Land will be preserved and maintained by the continuation of land use patterns that do not significantly impair or interfere with the protection and preservation of these Conservation Values, in perpetuity.
- G. The Land provides important opportunities for public recreational hunting and fishing, and trapping, and wildlife viewing and the Landowner and the Department specifically intend that this Easement afford public hunting access for recreational purposes and for wildlife management purposes.
- H. The Landowner intends, by executing this Easement, freely, without restriction, and voluntarily, to grant to the Department this Easement, and its associated rights, to preserve and protect the Conservation Values in perpetuity.

II. AGREEMENT

In consideration of the sums paid by the Department, and in further consideration of the recitals, mutual covenants, and terms contained in this Easement and pursuant to the laws of the State of Montana and in particular to the Open-Space and Voluntary Conservation Easement Act, § 76-6-

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101, *et seq.*, MCA; the Department's wildlife habitat acquisition authority, § 87-1-209, *et seq.*, MCA; and Title 70, Chapter 17, MCA, the Landowner voluntarily grants and conveys to the Department, and the Department accepts, a conservation easement in perpetuity, with warranties of title, consisting of the following rights and restrictions over and across the Land described in Exhibit A and shown on Exhibit B.

A. PURPOSES

1. The purpose of this Easement is to preserve, protect, and restore, upon mutual agreement with the Landowner, in perpetuity, the Conservation Values of the Land, including but not limited to the habitat the Land provides for a variety of wildlife species, and to prevent any use that will interfere with the Conservation Values of the Land. The Landowner and the Department intend this Easement to limit the uses of the Land to those activities that are consistent with the Conservation Values and the purposes of the Easement.
2. An additional specific purpose of this Easement is to provide to the Department pursuant to its authority to acquire interests in land at § 87-1-209, MCA, on behalf of the public, the right of reasonable access to the Land for recreational uses, in accordance with the terms and conditions set forth in Section II.B.5 below.
3. If one or more of the purposes of this Easement may no longer be accomplished, such failure of purpose shall not be deemed sufficient cause to terminate the entire Easement as long as any other purpose of the Easement may be accomplished. The Department and Landowner recognize that changes in economic conditions, in agricultural technologies, in accepted farm, ranch and forest management practices, and in the situation of the Landowner may result in an evolution of agricultural, silvicultural, and other uses of the Land, and such uses are permitted provided they are and remain consistent with the Purposes of this Easement.
4. Pursuant to the terms of § 76-6-107, MCA, the Land preserved by this Easement as natural land, may not, except as specifically provided herein and pursuant to statute, be converted or diverted to any uses other than those provided for by this Easement.

B. RIGHTS CONVEYED TO THE DEPARTMENT

The rights conveyed to the Department in perpetuity by this Easement are the following:

1. **Identification and Protection.** To identify, preserve, protect, and enhance by mutual agreement, in perpetuity, the Conservation Values; subject, however, to the rights reserved by the Landowner in this Easement in Section C below, and further subject to all third-party rights of record in and to the Land that are not subordinated to the terms and conditions of this Easement.
2. **Access.** Upon **Prior Notice** to the Landowner, to enter upon and to inspect the Land; to observe, study, and make scientific observations of the Land's wildlife, wildlife habitat

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and ecosystems; and to establish and maintain vegetation monitoring transects and enclosures, all to assure that the Department's rights in the Land are maintained and all in a manner that will not damage growing crops or unreasonably interfere with the use of the Land by the Landowner. The Department shall also have the right to enter the Land to enforce the rights granted to the Department in this Easement, and Landowner expressly conveys to the Department a right of immediate entry onto the Land if, in the Department's sole judgment, such entry is necessary to prevent damage to or destruction of the Conservation Values protected by this Easement. Aside from the rights of access granted in this paragraph and in Paragraph II.B.5., this Easement does not grant the Department, nor the public, any rights to enter upon the Land.

3. **Injunction and Restoration.** To enjoin any activity on the Land or use of the Land which is inconsistent with the purposes and terms of this Easement, or which may have a significant adverse impact on the Conservation Values, and to enforce the reasonable restoration of any Conservation Values that may be damaged by such activities.
4. **Markers.** To place and replace, during inspections authorized above, small markers to identify boundaries, corners, and other reference points on the Land. Landowner shall not remove such markers without **Prior Approval** to the Department and without the Department's consent, which will not be unreasonably denied, as provided in Section II.G below.
5. **Public Recreational Access.** The right, on behalf of the general public, of access for the purpose of recreational hunting, trapping, and wildlife viewing on the Land and across the Land to adjacent public land as provided for in the Management Plan and in accordance with the following terms and conditions:
 - a. The Landowner has the right to manage the distribution of the public on the Land to address reasonable concerns for the safety of persons and property, including livestock. The landowner may require the public to obtain permission prior to entering the Land.
 - b. The public may hunt game animals and game birds of all sex and age classes in accordance with hunting regulations adopted by the State of Montana.
 - c. When requested by members of the public during all hunting seasons set by the state of Montana, Landowner must permit a minimum of 600 hunters on the Land per year ("hunter days") on a first-come, first-served basis. The 600 hunter days includes the 400 hunter days provided for in the Horse Creek Complex 1 (ALE) Conservation Easement recorded _____, for a total minimum of 600 hunter days on the Land per year.
 1. A "hunter day" is defined as one hunter hunting on the Land for one day, or any part of one day, measured from midnight to midnight.

2. The Landowner, Landowner's immediate family, Landowner's shareholders, partners, employees, and immediate family of shareholders, partners, and employees of the Landowner are not defined as members of the general public by this Easement for the purpose of calculating "hunter days". The term "immediate family" is defined to include spouses, children, in-laws, and parents.
 3. Public access for hunting must be managed on a non-preferential and nondiscriminatory basis.
- d. The hunting seasons during which the public is allowed access to the Land for hunting under this paragraph must be set and may be changed from time to time by the State of Montana in accordance with applicable laws, regulations, and policies.
 - e. The grant of hunting rights by the Landowner to the Department contained in this Paragraph II.B.5. shall be deemed exclusive to the Department for the benefit of the public and are specifically conveyed pursuant to: (i) § 70-17-102(1), MCA, and thereby this grant creates a servitude running with the Land, and (ii) the Montana Open Space Land and Voluntary Conservation Easement Act, § 76-6-101 *et seq.*, MCA, and thereby this grant creates a conservation easement for the purpose of protecting significant open-space land protected and preserved for recreational purposes under § 76-6-104(3)(a), MCA.
 - f. Those members of the public who have access to the Land pursuant to Paragraph II B.5 shall also have motor vehicle access over and across county roads and shall park in those designated areas referred to as "Parking Areas" as shown and described in the Management Plan. There shall be a minimum of 5 Parking Areas, 4 of which shall be located in the northern portion of the Land, and 1 in the southern portion of the Land. The Parking Areas shall be spaced a minimum of 1 mile apart, and provide adequate parking to accommodate hunters during the fall hunting season (see Paragraph II.B.5.d. above), approximately 4 spaces per Parking Area. The public may not drive off these roads for any purpose, except with the express permission of the Landowner or the Landowner's agent. The public may travel on foot from the Parking Areas or from other publicly accessible areas to hunt, trap, and/or view wildlife throughout the Land for the purposes and in the manner prescribed in this Paragraph II.B.5. of this Easement. Furthermore, the public may travel by foot from the Parking Areas to access adjacent publicly accessible lands which allow public recreational use. Upon agreement with the Landowner, the Department may open additional roads and parking areas as shown and described in the Management Plan. All roads and Parking Areas used for access by the public will be shown in the up-to-date Management Plan.
 - g. Furthermore, the Department reserves the right to temporarily restrict the public's access to the Land as deemed necessary or appropriate to protect the Land, wildlife or wildlife habitat, or the public.

- h. Notwithstanding any provision that may be construed to the contrary, Landowner may deny access to anyone who is not conducting, or has not in the past conducted, herself or himself in a prudent, responsible, and safe manner and denial of access for this reason shall not be deemed preferential or discriminatory.
- i. Public access for trapping and wildlife viewing will be directed by the Management Plan. Those members of the public participating in these activities will not count toward the minimum hunter days outlined in Paragraph II B.5. above.
- j. Except as specifically set forth in this Paragraph II.B.5., this Easement does not grant public access to any portion of the Land for any reason. This Easement does not grant any public right of overnight camping.
- k. The Landowner may participate in programs offered by the Department or other entities intended to reimburse or compensate the Landowner for the impacts of hunter use of the Land. However, the Landowner and the Department acknowledge that any such hunter-impact program is administered separately from this Easement; that such program may or may not persist through time; that such program may or may not be offered for the Landowner's participation; and that nothing in this Easement provides any assurance that the Landowner will be offered the opportunity for or be accepted into any such program.

C. LANDOWNER'S RIGHTS

The Landowner reserves to themselves, and to their heirs, successors and assigns, all rights accruing from ownership of the Land, including the right to enter and manage the Land and engage in or permit others to engage in all uses of the Land that (a) are not expressly conveyed to the Department; (b) are not prohibited or restricted by this Conservation Easement; (c) are consistent with the purposes of this Conservation Easement; and (d) do not harm the Conservation Values of the Land. Some of these reserved rights identified in this Section II.C are subject to specified conditions or to the requirement of, and procedures for, obtaining the Department's **Prior Approval** or **Prior Notice** as described in Paragraph II.G. of this Easement. Without limiting the generality of the previous statements and subject to the restrictions on Landowner's activities in this Conservation Easement set forth in Paragraph II.D. hereof, the Landowner expressly reserves the following rights;

1. **Livestock Grazing.** The right to raise, pasture and graze livestock, and the right to lease pasture to another agricultural operator to raise, pasture, and graze livestock; provided that any livestock grazing is consistent with a grazing system as approved in writing by the Department as part of the Management Plan described in Paragraph II.E. of this Easement; is in accordance with the "FWP Minimum Standards for Grazing Livestock" more particularly described in Exhibit C attached hereto and incorporated herein by this reference; and is consistent with other specific terms in this Easement governing livestock grazing. The Management Plan provides the details of livestock grazing on the Land, including schematic diagrams of the pasture systems to be used.

Any changes in the Management Plan must be adopted in a manner consistent with Paragraph II.E. in this Easement, and any grazing system so adopted or revised must continue to conform to the “FWP Minimum Standards for Grazing Livestock” as described in Exhibit C. For the purposes of this Easement, livestock is defined as cattle; provided, however, that other species of grazing animal may be substituted for cattle with **Prior Approval**.

2. **Agricultural Activities**. The right to use the Land and to use equipment on the Land for agricultural purposes and to manage habitat for wildlife, all in a manner consistent with the following provisions:
 - a. The areas cultivated at the time the Easement is granted and shown in the Baseline Report may continue to be cultivated according to the terms of the Management Plan. If the cultivated land is used for grazing, livestock grazing will comply with the terms of the Easement and the Management Plan.
 - b. With Prior Notice, and as agreed to in the Management Plan, the right to seed those areas shown as “seeded areas” on Exhibit D (approximately 327.11 acres) for grazing uses and grassland restoration and conservation. Cultivation of seeded areas is prohibited.
 - c. Areas not designated in the Baseline Report as “Residential Development Areas”, “cultivated” or “seeded areas” shall be considered “rangeland” and may be used for livestock grazing, consistent with the provisions of Paragraph II.C.1.
3. **Leasing the Land**. With **Prior Notice**, the Land may be leased to another agricultural operator for agricultural purposes, provided that:
 - a. A written lease must be entered into by the Landowner and the lessee(s);
 - b. The lease must require the lessee to follow the terms of the Easement, as well as any applicable provisions of the Management Plan; and,
 - c. A copy of the executed lease must be provided to the Department.
 - d. Landowner retains responsibility under this Easement for ensuring compliance with the terms of the Easement and Management Plan by lessee(s).
4. **Habitat Restoration and Enhancement**. The right to conduct fish and wildlife habitat restoration and enhancement projects, in cooperation with the Department and consistent with the Management Plan. Any habitat restoration or enhancement project not specifically provided for in the Management Plan requires **Prior Approval**.
5. **Water Resources and Facilities**. The right to use, develop, and maintain water resources, including stock water ponds, ditches, irrigation structures and equipment, canals, pumps and pump sites, pipelines and water wells, necessary for grazing, wildlife, habitat restoration and improvement, and all agricultural purposes that are allowed by this

Easement; provided, however, any new water development or change in water use or water distribution that would have a significant adverse impact on a perennial or ephemeral river or stream, streamflow, wetlands, riparian vegetation, or wildlife habitat, wildlife movement, or migration on or through the Land is prohibited. Maintenance of canals, ditches, culverts and drains – including the periodic removal of vegetation as necessary to keep water management facilities in operational condition – is not a violation of this Easement. Additionally, it is understood that maintenance of reservoirs, ditches and other water-resource facilities may involve removal and deposit of accumulated soil and organic matter, and the Department hereby agrees that such soil and organic matter may be removed from the water-resource facilities and deposited on the Land at or near the location of the removal activity in a manner customary to such operations and consistent with the Conservation Values.

- 6. Residential Development Areas.** The purpose of the Residential Development Areas is to allow Landowner flexibility in the use of the residences and outbuildings and to cluster residential uses and other non-agricultural structures on the Land. If necessary, wells and drain fields and buried propane tanks and associated buried pipelines may be located outside of the Residential Development Areas.
- a. There are presently two existing Residential Development Areas on the Land as shown in Exhibit D.
 - b. With **Prior Approval**, the Landowner may delineate a third Residential Development Area no more than 10 acres in size. Landowner must submit the proposed location and dimensions of said new Residential Development Area to the Department.
 - c. If a new Residential Development Area is approved pursuant to this Paragraph II.C. 6, the Department may file in the public records of the affected county a “Notice of Exercise of Reserved Development Right” that documents the location of the approved new Residential Development Area for the information and benefit of Landowner, Department, and their respective successors and assigns, and the public.
 - d. No more than three Residential Development Areas are permitted on the Land.
- 7. Residential Structures and Outbuildings.** Landowner reserves the right to reside in, and to construct, maintain, repair, remodel, remove and replace up to a maximum of four single-family residences, including the two existing residences. Residences must be located in Residential Development Areas described in Paragraph II.C.6. above. **Prior Notice** is required to build or move residences or outbuildings.
- a. Landowner reserves the right to construct, maintain, repair, remove, and replace additional outbuildings and commercial buildings within the Residential Development Area.
 - b. Outbuildings. For the purposes of this Easement, the term “Outbuildings” means those structures that are built within the Residential Development Areas pursuant to this

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Paragraph II.C.7. and are not used for human habitation but which are appurtenant to the permitted residences, including, but not limited to, offices, recreational structures, greenhouses, root and wine cellars, gazebos, pools, hot tubs, sheds, workshops, residential fences, commercial structures and garages.

c. Temporary recreational residential shelters. Landowner may place and make use of tents, tarps, yurts, tepees, campers, or other shelters without permanent foundations upon the Land on a temporary basis from time to time for personal use of Landowner and invited guests.

8. Agricultural Structures. Landowner retains the right to, maintain, repair, remodel, remove, and make additions to, and replace the following agricultural structures on the Land:

a. Agricultural structures that are not used for human habitation, including, but not limited to barns, chicken houses, shelters, sheds, machine sheds, corrals, livestock loading docks, culverts, bridges, ditches, and irrigation structures. Barns for uses other than agriculture uses must be located in the Residential Development Areas.

b. With **Prior Approval**, the right to construct new agricultural structures on the Land.

9. Man-made Structures. Landowner has the following rights pertaining to man-made structures (in addition to those rights for structures and facilities for water use and irrigation development that are provided in Paragraph II.C.5.):

a. The right to remove, maintain, or repair existing fences, corrals and other livestock containment structures.

b. With **Prior Notice** the right to construct, renovate, or replace fences (including corrals and other livestock containment structures) necessary for generally accepted agricultural land management purposes. Any new or renovated fence or other barrier that the Department determines would significantly impact wildlife habitat or wildlife movement or migration on or through the Land must be "**wildlife friendly**" as provided in the Management Plan. This does not apply to corrals, fences, windbreaks, and other structures necessary to contain livestock or protect stored feed.

10. Roads. To construct new and maintain existing roads and bridges or waterway crossings as herein permitted. Any road, bridge, or waterway crossings constructed shall be sited and maintained so as to minimize adverse impacts on the Conservation Values. Any new road construction (but not including maintenance of existing roads) shall be subject to **Prior Approval** of the Department, as set forth in Section II.G of this Easement. The Department's approval shall be contingent on confirmation that (a) the road's intended purpose is permitted by this Easement, (b) its location will not result in significant soil erosion, and (c) the new road shall not materially disturb wildlife or wildlife habitat or other protected Conservation Values. The Landowner's written request for approval shall include a construction plan describing the purpose of the road, its location on a

topographic map and, to the extent deemed necessary by the Department, discussion of the following: road grade, drainage, erosion/sedimentation impacts and mitigating efforts, areas of cut and fill, and special concerns like culvert placement, bridges, fords, buffer strips between roads and streams, and fish and wildlife impacts and mitigating efforts. Seeding and reestablishment of cover vegetation, which is native or is representative of adjacent perennial plant species, and control of noxious weeds on exposed cuts, fills and banks is required on any new road construction.

11. Noncommercial Recreational Use. Landowner reserve to themselves and to their immediate family the right to use the Land for noncommercial recreational purposes, including hunting, in accordance with Section II.B.5. and Section II.D.9.

12. Utilities.

a. Existing Utilities. Landowner retains the right to maintain, repair, and upgrade utilities existing on the Land at the time of the grant of this Easement, including utility structures, lines, conduits, cables, wires, or pipelines (“Utilities”).

b. New Utilities on the Land. Subject to **Prior Approval**, Landowner retains the right to install and construct new Utilities upon, over, under, within, or beneath the Land to existing and subsequently constructed structures and improvements that are expressly permitted on the Land by this Easement. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.12.d. (“Utility Plan”) below.

c. New Utilities serving adjacent properties. Subject to **Prior Approval**, the Landowner retains the right to construct new Utilities and grant any associated Utility right-of-way easement serving adjacent properties. The Department will require the Landowner to submit a Utility Plan as outlined in Paragraph II.C.12.d. below.

d. Utility Plan. Landowner shall contact the Department prior to the preparation of the Utility Plan to obtain the required information to be included in such Plan that the Department determines to be relevant. Landowner and the Department will mutually determine the completeness of the Utility Plan and its adherence to the general and specific intentions of this Easement prior to the Department’s approval of the Plan. Any new and expanded utility services and associated right-of-way easements must be memorialized in a written agreement that is recorded in the public records of affected counties, signed by the Landowner, the Department, and the utility service provider prior to construction.

13. Renewable Energy Generation for Use On the Land. With the **Prior Approval** of the Department, Landowner reserves the right to construct wind, solar, hydropower and other types of renewable energy generation facilities (“renewable energy production”) solely for use on the Land, except that any incidental surplus energy may be sold commercially for use off the Land or credited to Landowner’s utility service. Design and location of facilities and fixtures associated with renewable energy generation is subject to **Prior Approval** of the Department.

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14. Pesticide Application and Weed Management.

a. Landowner shall have the right to use legally authorized pesticides (as defined by MCA 80-8-102) on seeded areas as described in Paragraph II.C.2. and shown on Exhibit D, and Residential Development Areas as described in Paragraph II.C.6. Except as provided in Paragraph II.C.14.b., d., and e. below, **Prior Approval** is required to use pesticides on the Land on other than seeded areas and Residential Development Areas. Any pesticide use should be only in the amount and frequency constituting the minimum necessary based on pesticide label use instructions and all applicable state and federal regulations concerning use to accomplish reasonable control of the targeted pest species.

b. **Weed Management.** The right to use herbicides for control of noxious weeds, as defined by the state of Montana or other lawful authority with jurisdiction, and other invasive nonnative plants. Such use must be in the amount and frequency of application constituting the minimum necessary to accomplish reasonable control of weeds, and in a manner that will minimize damage to native plants. The Landowner shall have the right to use biological control agents for weed control, provided that these biological agents have been approved for the specified use by appropriate governmental agencies; and further provided that livestock used for weed control shall comply with the grazing system in Exhibit C unless otherwise authorized by **Prior Approval**.

c. **Prior Approval** is required for aerial application of any pesticide or biological control agent on the Land.

d. Landowner shall have the right to use legally authorized pesticides that are directly applied to livestock for health purposes.

e. Prairie dogs are not currently present on or adjacent to the Easement. Should prairie dog control be deemed necessary, **Prior Notice** is required for pesticide use to control prairie dogs.

15. Regulation of Public Use. The right to regulate public use of the Land at all times; subject, however, to the right of public hunting, trapping, and wildlife viewing access granted to the Department in Paragraph II.B.5.

16. Oil, Gas, or Mineral Exploration and Extraction. Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Landowner as of the date of the Easement or later acquired by Landowner, using any surface mining, subsurface mining, or dredging method, from the Land is prohibited; but may be subject to 82-11-202, MCA. However, with **Prior Approval**, limited mining activity for materials (e.g., sand, gravel, scoria, or shale) used for agricultural operations on the Land is allowed where the extraction of materials used for such agricultural operations is limited, localized, and does not harm the Conservation Values or the agricultural uses of the Land.

a. The existing extraction sites will be identified in the Baseline Report.

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b. No more than two areas of no more than two acres each may be used at any time. Extraction locations must be reclaimed within one year of cessation of use. Seeding and reestablishment of cover vegetation, which is native or is representative of adjacent perennial plant species, and control of noxious weeds is required.

c. If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this Easement is executed, and their interests have not been subordinated to the Easement, the Landowner must notify the Department as soon as practical after Landowner becomes aware of any proposed exploration or extraction activity by such third party. Landowner and the Department shall confer to review the proposed activity and to determine ways to best mitigate any potential impact on the Land and the Conservation Values of the proposed activities. Landowner and the Department shall subsequently cooperate in an effort to encourage the third party to adopt recommended mitigating measures in the third party's exploration and development activities, and subject to the provisions of § 82-10-504 MCA. Nothing herein shall prevent a third party mineral interest from a reasonable right of ingress or egress or prevent surface occupancy as allowed by law. Nothing herein shall require the Landowner to indemnify the Department for exploration or extraction activity by any third-party mineral interest owner.

17. Subdivision and Conveyance of Land Ownership. For the purposes of this Easement:

a. The Land shall be considered to comprise one unit, as described in Exhibit A and shown on Exhibit B. The Landowner and the Department mutually intend that the entire Land shall be maintained in unified title as a single unit. Further, for the purposes of this Easement, any other parcel designation existing at or subsequent to the date of the conveyance of this Easement, including but not limited to government lots, aliquot parts, and certificates of survey, are considered to be an integral part of the Unit within which they are located, and may not be divided, subdivided, separated or conveyed separately from the entirety.

b. The Landowner may sell, grant, donate, bequeath or otherwise convey the Land in its entirety to another party.

c. Landowner shall provide the Department with **Prior Notice** before entering into an agreement that would commit the Landowner to convey the Land to another party. The purpose of this notice is to afford the Department with the opportunity to review the proposed conveyance document and any associated legal agreement to ensure consistency with the provisions of this Paragraph II.C.17.

18. Industrial or Commercial Uses. The right to:

a. Conduct agricultural production and related activities as provided for in this Easement and the Management Plan.

b. With **Prior Approval** and subject to the terms of Exhibit F, where applicable, conduct temporary or seasonal outdoor activities or events, as provided in the Management Plan.

c. With **Prior Approval**, and provided it does not significantly increase vehicular traffic to or through the Land, operate home-based businesses, small-scale manufacturing of products and distribution of those products, small-scale commercial enterprises related to agriculture including but not limited to agri-tourism, processing, packaging, and marketing of farm or forest products, farm and machinery repair, and small-scale commercial enterprises compatible with agriculture.

D. RESTRICTIONS ON LANDOWNER'S ACTIVITIES

Any activity on or use of the Land that is inconsistent with the purposes and terms of this Easement is prohibited. Without limiting this general prohibition, the following activities and uses are expressly prohibited or restricted.

1. **Vegetation Removal.** The destruction, removal, control, or manipulation of native vegetation, sagebrush, planted nesting cover, or permanent cover is prohibited, except as part of or incidental to the agricultural activities and other land uses specifically allowed by this Easement or as specifically provided for in the Management Plan. The removal of live or standing dead trees is prohibited without **Prior Approval**; however, the Landowner does not require **Prior Approval** to remove trees and other woody vegetation that pose a threat to human safety, travel ways, or structures.
2. **Wetland and Riparian Areas.** For the purpose of this conservation easement:
 - a. Riparian areas are defined as vegetation zones adjacent to rivers, streams, and wetlands including banks and adjacent uplands and are influenced by adjacent flowing or standing water or by a shallow water table caused by river-associated groundwater. Wild hay fields, cultivated fields, active river channels, or eroded river banks devoid of effective wildlife cover, are not considered riparian areas.
 - b. The draining, filling, dredging, leveling, burning, ditching, or diking of any natural or manmade wetland or riparian area, streambank stabilization, or any other activity that significantly impacts any such area is prohibited. However, wetland areas may be restored, developed or enhanced, by either the Landowner or the Department, to benefit wildlife and to further the purposes of the Easement as a part of a restoration activity approved under Paragraph II.C.3.
 - c. The control, removal, or manipulation of any trees, willows, or other woody vegetation by any means is prohibited, except as needed for the ordinary course of maintaining fences and ditches provided for and allowed under this Easement or as may be allowed by the Department as part of an approved plan specifically directed to improve fish or wildlife habitat.

3. **Subdivision.** The legal or de facto division or subdivision of the Land is prohibited, which shall include, but shall not be limited to, any subdivision, short subdivision, platting, binding site plan, testamentary division, or other process by which the Land is divided into lots or in which legal or equitable title to different portions of the Land are held by different owners. The Landowner may not indirectly subdivide all or any part of the Land through the allocation of property rights among partners, shareholders, or members of any legal entity (including a homeowner's association), the creation of a horizontal property regime, interval or time-share ownership arrangement, leasing, partitioning among tenants-in-common, judicial partition, or by any other means. The Landowner and the Department mutually intend that the entire Land shall be maintained in unified title as a single unit. Notwithstanding any other provision of this Paragraph to the contrary, however, the Landowner may lease the Land for agricultural purposes subject to the terms of this Easement and the Management Plan described in Paragraph II.E. of this Easement.

The Land may not be used as open or natural space or parkland for any subdivision or development purposes or requirements on land not covered by this Easement, nor may the Landowner transfer any development or subdivision rights separate from the Land.

5. **Water Rights.** Landowner will not transfer, encumber, sell, lease, or otherwise separate water rights from the Land. If Landowner receives notice or becomes aware of a situation under which water rights may be lost from the Land, Landowner shall notify the Department, and the parties may work cooperatively to address the situation.
6. **Agricultural Chemicals.** The use of herbicides, biological control agents, and pesticides in a manner other than as provided for in Paragraph II.C.14 is prohibited.
7. **Roads.** The construction of roads in a manner other than as provided for in Paragraph II.C.10. is prohibited.
8. **Land Cultivation.** The cultivation or farming of any portion of the Land is prohibited, except as allowed for in Paragraph 2.C.2, or for habitat restoration or enhancement activities authorized pursuant to the terms of this Easement.
9. **Commercial Recreation.** The sale or lease of access to the Land for hunting, fishing, trapping, or wildlife viewing purposes, whether or not as a part of a commercial outfitting or guiding business, is prohibited. Operating a commercial hunting, fishing, trapping, or wildlife viewing operation, or charging fees (sometimes known as trespass fees) for hunting, fishing, trapping, or wildlife viewing on the Land or for access across the Land to reach public land or other private land, is prohibited.
10. **Mineral Exploration and Extraction.** Landowner may not engage in, authorize, or contract for any exploration for, or development and extraction of minerals, coal, ore, bentonite, oil and gas, other hydrocarbons, soils, rock, sand, gravel, or similar materials, except as provided for Paragraph II.C.16. Any other mineral exploration, development, or extraction is prohibited.

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- 11. Residential Use.** Residential use of the Land or any portion thereof is prohibited, subject to Paragraph II.C. 6 and 7.
- 12. Commercial Feedlot.** The establishment or operation of a commercial feedlot is prohibited. A commercial feedlot is defined for purposes of this Easement as a permanently constructed confined area or facility within which the Land is not grazed or cropped annually, for the purposes of engaging in the business of the reception and feeding of livestock for hire. Nothing in this Easement shall be construed to prevent Landowner from seasonally confining livestock in areas for feeding, calving, or similar activities, and nothing herein shall prevent Landowner from leasing pasture, corrals and agricultural improvements to third parties, subject to the terms of this Easement.
- 13. Shooting Preserve, Wildlife Propagation and Related Activities.** The use of the Land as a game farm, game bird farm, shooting preserve, fur farm, zoo or menagerie, or in connection with the ownership, leasing, keeping, holding, capture, propagation, release, introduction, or trade in any animal that may pose a genetic or disease threat to any mammalian, avian, reptilian, aquatic or amphibian wildlife species, whether or not indigenous to Montana, is prohibited; however, Landowner have the right to have ranch dogs and household pets on the Land. This prohibition does not apply to the introduction, transplantation or release of fish or wildlife species on the Land by the Department, which must have the consent of the Landowner for any such introduction, transplantation or release on the Land. Domestic livestock, with the exception of sheep and goats, is allowed. Sheep and goats are allowed with **Prior Approval**.
- 14. Commercial and Industrial Use.** Except as permitted in Section II.C., the establishment or operation of any commercial or industrial uses or activities on the Land, including, but not limited to, guest ranching, outfitting, restaurant, campground, trailer park, motel, commercial swimming pool, gas station, retail outlet, or facility for the large-scale manufacture of any products is prohibited.
- 15. Waste Disposal.** The processing, dumping, storage or disposal of waste, refuse and debris on the Land is prohibited, except within a single landfill for disposing of and containing personal household and agricultural rubbish and other non-toxic materials in accordance with state law and in a manner and location as provided for in the Management Plan. Abandoned homesteads and preexisting dump sites described in the Baseline Report are exempt from this provision, and with **Prior Notice** may be buried on-site or otherwise disposed of. No new material may be added to these preexisting sites. The deposit of natural organic material derived from livestock and crop production on the Land, and the deposit of material from water-resource facility maintenance activities provided for in Paragraph II.C.5., are not considered waste disposal.
- 16. Hazardous Materials.** Any petroleum products, explosives, hazardous substances, toxic substances, and any other substance which may pose a present or potential hazard to human health or the environment shall not be released or dumped on the Land at any time, and shall not be stored or used, except as lawfully stored and used in necessary

quantities for agricultural purposes and except as part of the oil and gas exploration and development activities specifically provided for in this Easement. The installation of underground storage tanks is prohibited.

E. MANAGEMENT PLAN

The parties to this Easement developed a Management Plan for grazing management, public access and public use management, wildlife habitat enhancement and restoration, wildlife passage improvement measures, and other matters pertaining to the management of the natural resources of the Land under this Easement. The Management Plan has been signed by the Landowner and the Department, and represents a contractual agreement between the parties to abide by its specific requirements, management actions, and restrictions. However, if there is any inconsistency between the terms of the Management Plan and this Easement, the terms of this Easement control. The parties shall meet periodically as needed to review the Management Plan and, if deemed necessary, to propose amendments. Any amendment to the Management Plan must have the written consent of both parties.

In the event that the Land is to be conveyed or has been conveyed to a new owner (“Successor in Interest”), the Department agrees to enter into discussions with the Successor in Interest for the purpose of reviewing the existing Management Plan and determining any revisions that might be appropriate to facilitate management of the Land in a manner consistent with the terms of the Easement and protection of the Conservation Values. The Successor in Interest may sign, acknowledge, and thereby continue the Management Plan that is in effect at the time of the transfer of ownership, or the Successor in Interest may sign and acknowledge a revised Management Plan agreed upon by the Department. However, in the event that the Successor in Interest has not executed with the Department a continuation of the existing Management Plan or a revised Management Plan, then the Management Plan in effect at the time of the ownership transfer shall remain in full force and effect.

F. EASEMENT BASELINE REPORT

The parties agree that a Conservation Easement Baseline Report (Baseline Report), including photographs, maps, surveys, studies, reports, and other documentation, has been completed by a Department biologist or natural resource professional familiar with the area, reviewed by the Department and Landowner, and acknowledged by them to be an accurate representation of the physical and biological condition of the Land and its physical improvements as of the date of the conveyance of this Easement. The original Baseline Report shall be maintained in the files of the Department and shall be made available to Landowner for inspection and reproduction at Landowner’s request. The parties intend that the Baseline Report shall be used by the Department to monitor Landowner’s compliance with the terms and conditions of this Easement. In the event a controversy arises with respect to the nature of the biological and/or physical condition of the Land and its improvements, the parties may use the report, as well as all other relevant or material documents, surveys, reports, or other information to assist in the resolution of the controversy. From time to time, with the agreement by the Landowner, the Department may prepare (or have prepared) an Updated Easement Baseline Report to document any habitat restoration or other improved habitat conditions. Upon review and approval of the updated report

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by the Landowner and the Department, the improved conditions documented in the Updated Easement Baseline Report shall be considered the baseline conditions to be conserved and against which the impacts of future activities shall be evaluated.

G. PRIOR NOTICE AND PRIOR APPROVAL

- 1.** Whenever **Prior Notice** is required under this Easement, Landowner must notify the Department as provided for in this section in writing not less than 30 days prior to the date the Landowner intends to undertake such activity, unless, for safety reasons, a shorter period is necessary in which case Landowner shall give the Department as much notice as is possible under the circumstances. The purpose of requiring the Landowner to notify the Department prior to undertaking certain permitted activities is to afford the Department an opportunity to ensure that such activities are designed and carried out in a manner consistent with this Easement and its Purposes.
- 2.** Any notice from the Department to the Landowner will be given by electronic correspondence, telephone, or as otherwise agreed, and must be at least 3 days prior to the date of occurrence unless the Department, in its sole discretion, determines that a violation is threatened or imminent or that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values.
- 3.** Whenever **Prior Approval** is required under this Easement, Landowner must notify the Department in writing not less than 60 days prior to the date the Landowner intends to undertake the activity. The notice must be sent by courier service, or registered or certified mail, return receipt requested, or by courier, or personal delivery, and must describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Department to make an informed judgment as to its consistency with this Easement and its Purposes. The Department has 60 days from its receipt of such notice to review the proposed activity and to notify the Landowner of any objections to the proposed activity. If it is possible that the proposed activity can be modified to be consistent with the terms of the Easement, the Department shall inform the Landowner of the manner in which the proposed activity as modified may be conducted. The Department's response to Landowner's notice shall be sent by registered or certified mail, return receipt requested, or delivered by courier, or personal delivery service. In the event the Department denies the Landowner's proposed activity, the Department may provide a written determination with analysis of why such activity would significantly impact the Conservation Values of the Land.
- 4.** If the Department fails to respond to Landowner's notice of **Prior Approval** within 60 days of their receipt of the notice, the proposed activity shall be deemed to be consistent with the terms of this Easement, and the Department shall have no further right to object to the activity identified by such notice.
- 5.** The Landowner shall be under no liability or obligation for any failure to give **Prior Notice** or seek **Prior Approval** for any activity undertaken by Landowner necessitated by virtue of fire, flood, acts of God, or other element, or any other emergency reasonably deemed by Landowner

to exist; provided, however, after such an event, if there is damage to the Conservation Values, the Landowner shall notify the Department of any such damage as soon as practicable.

6. Except as otherwise stated in this Easement, any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by registered or certified mail, return receipt requested, or delivered by courier, or personal delivery service, addressed as follows:

To Landowner:
Springhill Ranch
618 Ranch Access South
Wibaux, MT 59353-9060

To Department:
Department of Fish, Wildlife & Parks
Attention: Administrator, Wildlife Division
1420 E. Sixth Avenue
P.O. Box 200701
Helena, MT 59620-0701

With a copy to:
Department of Fish, Wildlife & Parks
Attention: Regional Supervisor
352 I-94 Business Loop
Miles City, MT 59301

or to such other address as the parties from time to time shall designate by written notice to the others. The parties shall provide each other current contact information, including phone numbers and email addresses. All notices which are so addressed and paid for shall be deemed effective when personally delivered, or, if sent by courier or mailed, on the earlier of receipt or five business days after deposit thereof with a courier or mail service, return receipt requested.

H. REMEDIES FOR UNAUTHORIZED USES AND PRACTICES

If the Department determines that the Landowner has violated the terms of this Easement, or if the Landowner undertakes any activity requiring approval of the Department without first obtaining such approval, the Department shall give written notice to the Landowner of the violation and demand corrective action sufficient to cure the violation, and, when the violation involves injury to the Land resulting from any use or activity inconsistent with the terms of this Easement, to restore the portion of the Land so damaged. If the Landowner:

1. fails to cure the violation within 30 days after receipt of notice from the Department, or
2. under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing the violation within the 30-day period (or, within 30 days of

Landowner's receipt of notice from the Department, if Landowner fails to agree with the Department in writing on a date by which efforts to cure such violation will reasonably begin), or

3. fails to continue diligently to cure such violation until finally corrected,

the Department may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement. The Department may seek to enjoin the violation, by temporary or permanent injunction, to require the restoration of the Land to the condition that existed prior to any such injury, and, if restoration is not possible to fully compensate for injury to the Conservation Values, to recover monetary damages for to which it may be entitled for violation of the terms of this Easement.

If the Department, in its sole discretion, determines that a violation is threatened or imminent and that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, the Department may pursue its remedies under this paragraph without prior notice to the Landowner or without waiting for the period provided for cure to expire.

The Department's rights under this provision apply equally in the event of either actual or threatened violation of the terms of this Easement. The Landowner agrees that the Department's remedies at law for any violation of the terms of this Easement are inadequate. Accordingly, the Department is entitled to injunctive relief. If injunctive relief is inadequate to restore the Conservation Values as a result of a violation and to compensate the Department and the public for the loss and damage to the Department's rights, the Department shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Value protected by this Easement including, without limitation, damages for the loss of scenic, aesthetic, or natural resource values. Without limiting Landowner's liability therefore, the Department, in its sole discretion may apply any damages recovered to the cost of undertaking any corrective action on the Land. The Department's remedies described in this section are cumulative and are in addition to all remedies available at law or in equity.

Nothing contained in this Easement may be construed to entitle the Department to bring any action against the Landowner for any injury to or change in the Land resulting from causes beyond the Landowner's control, including, without limitation, fire, flood, storm, and natural earth movement, or from any prudent action taken to prevent, abate, or mitigate significant injury to the Land resulting from such causes.

Enforcement of the terms of this Easement is at the discretion of the Department, and any forbearance by the Department to exercise its rights under this Easement in the event of any breach of any term of this Easement by the Landowner may not be deemed or construed to be a waiver by the Department of that term or of any subsequent breach of the same or any other term of this Easement. No delay or omission by the Department in the exercise of any right or remedy upon any breach by Landowner may impair the right or remedy or be construed as a waiver, nor may any forbearance or delay give rise to a claim of laches, estoppel or prescription.

Costs of restoration of the Conservation Values that are attributable to Landowner's violation or breach of the terms of this Easement shall be borne by Landowner, unless a court orders otherwise or unless the parties mutually agree to share such costs. In the event of litigation concerning the terms of this Easement, the prevailing party is entitled to its costs and attorneys' fees.

If a dispute arises between Landowner and the Department concerning interpretation of the meaning of this Easement or concerning the consistency of any proposed use or activity with the terms or purposes of this Easement, and if Landowner agrees in writing not to proceed with the use or activity pending resolution of the dispute, either Landowner or the Department may refer the dispute to mediation by request made in writing to the other party. Within 10 days of receipt of such referral, Landowner and the Department will select an impartial mediator who shall conduct the mediation and thereby assist the parties in resolving the dispute cooperatively. Each party shall pay an equal share of the mediator's fee. In referring any matter arising under this Easement to mediation, Landowner and the Department agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation and is therefore often preferable to litigation. Nevertheless, mediation pursuant to this paragraph shall be voluntary, and this mediation provision shall not be interpreted as precluding or limiting the parties from seeking legal or equitable remedies available under this Section II.H.

I. HOLD HARMLESS AND INDEMNITY

The Landowner shall hold harmless and indemnify the Department and its employees, agents, and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Land, as a result of the negligence or willful misconduct of the Landowner or their agents, employees or contractors, unless due to the negligence or willful misconduct of the Department or its agents, employees, or contractors. Nothing herein shall create any indemnity obligation by the Landowner to the Department for any hunter, angler, or recreational user of the property, unless such loss or injury is due to the negligence or willful misconduct of the Landowner or their agents, employees or contractors.

The Department similarly agrees to hold harmless and indemnify the Landowner and their employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person or physical damage to any property, resulting from any action, omission, condition, or other matter related to or occurring on or about the Land, as a result of the Department's exercise of its rights granted under this Easement, unless due to the negligence or willful misconduct of the Landowner or their agents, employees or contractors.

J. TERMINATION, EXTINGUISHMENT, CONDEMNATION, REIMBURSEMENT

This Easement constitutes a real property interest immediately vested in the Department. It is the unequivocal intention of the parties that the conservation purposes of this Easement are carried out in perpetuity. If, however, circumstances arise in the future that render the purposes of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The parties agree that changed economic conditions may not be considered as circumstances justifying the modification, termination or extinguishment of this Easement.

If the Department or Landowner seeks to extinguish this Easement by judicial proceedings, or should any interest in the Land be taken by the exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation with the **Prior Approval** of the Department, the Department is entitled to a proportional share of the proceeds of any sale, exchange, or involuntary conversion of the Land formerly subject to this Easement. The Landowner and the Department shall act jointly to recover the full value of the property interests in the Land subject to the taking or in lieu purchase and all direct costs or incidental damages to which each is entitled.

For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Land unencumbered by the Easement remains constant as determined as of the date of this grant. The parties agree that this ratio is ___ percent, as was determined by independent appraisal at the time of the grant of this Easement, and the parties further agree that the value of any future interest of the Department will not include any value attributable to authorized improvements to the Land made by the Landowner after the date of this grant. Therefore, in the event of any whole or partial judicial extinguishment, or eminent domain or purchase in lieu of condemnation, Landowner shall be entitled to receive from the financially liable party ___ percent of the unencumbered value of the real property and the Department shall be entitled to receive ___ percent of the unencumbered value of the real property. The Department shall use all such proceeds that it receives in a manner consistent with the conservation purposes of this Easement.

K. SUBORDINATION

If at the time of conveyance of this Easement, the Land is subject to a mortgage [or Deed of Trust or Contract for Deed] or other security interest, in favor of _____ [Bank], [address] (“Lienholder”). Said Mortgage/Deed of Trust/Abstract of Contract for Deed was recorded on _____, in Book _____, page _____, under Document No. _____, Records of _____ County, Montana (the “Mortgage”), the Lienholder has agreed by separate Subordination Agreement, which will be recorded immediately after this Easement is granted, to subordinate its rights in the Land to this Easement to the extent necessary to permit the Department to enforce the purposes of the Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of the Lienholder or other holders of a security interest. The priority of the existing mortgage or other security interest with respect to any valid claim to the proceeds of the sale or insurance, or to the leases, rents, and profits of the Land is not affected by this Easement. All provisions contained in this Section II.K., shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

L. ASSIGNMENT

This Easement is transferable, but the Department may assign this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under the laws of the state of Montana. As a condition of any assignment, the Department shall require that the conservation purposes of this Easement are to be carried out in perpetuity.

M. AMENDMENT

If circumstances arise under which an amendment to or modification of this Easement would be appropriate as set forth in the Department's Amendment Policy, the Landowner and the Department are free to jointly amend this Easement; provided that no amendment may be allowed that will affect the compliance with or the qualification of this Easement under any applicable laws, including § 76-6-101, *et seq.*, MCA, or §170(h) of the Internal Revenue Code, as amended. Any amendment must be consistent with the purposes of this Easement, may not affect its perpetual duration, and either must enhance, or must have no effect on, the Conservation Values which are protected by this Easement. Furthermore, any amendment must not result in prohibited inurement or private benefit to the Landowner or any other parties. Any Easement amendment must be in writing, signed by both parties, and recorded in the public records of affected counties.

N. RECORDING

The Department shall record this instrument in a timely fashion in the official records of the affected counties and may re-record it at any time as may be required to preserve its rights in this Easement.

O. REPRESENTATIONS AND WARRANTIES

Landowner represents and warrants that, after reasonable investigation and to the best of their knowledge:

1. Landowner has clear title to the Land; that Landowner has the right to convey this Conservation Easement; and that the Land is free and clear of any encumbrances, except those encumbrances that have been expressly approved by the Department.
2. Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in anyway, harmful or threatening to human health or the environment, that has occurred on the Land prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements. No deposit, disposal, or other release of any hazardous substance has occurred on or from the Land, in violation of applicable law.

*Horse Creek Complex 2 FWP Conservation Easement
Springhill to FWP
February 28, 2018*

3. No underground storage tanks are located on the Land, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Land in a manner not in compliance with the applicable federal, state, and local laws, regulations, and requirements.
4. Landowner and the Land are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Land and its use.
5. There is no pending or threatened litigation in any way affecting, involving, or relating to the Land, other than the ongoing statewide adjudication of water rights in Montana.
6. No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failing to comply with, any federal, state, or local law, regulation, or requirement applicable to the Land or its use, nor do there exist any facts or circumstances that Landowner might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

P. GENERAL PROVISIONS

1. Controlling Law. The interpretation and performance of this Easement will be governed by the laws of the State of Montana.
2. Construction. Any general rule of construction to the contrary notwithstanding, this Easement must be liberally construed in favor of the grant to effect the purposes of this Easement and the policy and purposes of § 76-6-101, *et seq.*, MCA. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid must be favored over any interpretation that would render it invalid.
3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section II.M above.
4. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or reversion of Landowner's title in any respect.
5. Successors. This Easement is binding upon, and inures to the benefit of the parties, their heirs, administrators, successors and assigns, and continues as a servitude running in perpetuity with the Land.

- 6. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Land, except that liability for acts or omissions occurring prior to transfer survive transfer.
- 7. Severability. If any provision of this Easement is found to be invalid, the remainder of the provisions of this Easement remain in effect.
- 8. Subordination. No provision of this Easement is to be construed as impairing the ability of Landowner to use the Land as collateral for any loan, provided that any mortgage or lien arising after the date of execution of this Easement shall be subordinate to the terms of this Easement.
- 9. Subsequent Deeds and Instruments. The Landowner agrees that reference to this Easement will be made in any subsequent purchase and sale agreements, deeds, or other legal instruments conveying an interest in the Property (including any leasehold interest).
- 10. Counterparts. This Easement may be executed in counterparts which, taken together, shall constitute one and the same instrument.
- 11. Joint Obligation. The obligations imposed by this Easement upon Landowner shall be joint and several.
- 12. Section Headings. Section headings are for convenience only and will not be given effect in interpretation of this Easement.

TO HAVE AND TO HOLD unto the Department, its successors, and assigns FOREVER.

IN WITNESS WHEREOF, the Landowner and the Department have set their hands on the day and year first above written.

GRANTED BY: LANDOWNER

STATE OF MONTANA)
 : ss.
 COUNTY OF DAWSON)

This instrument was acknowledged before me on _____, 201___,

by _____.

Notary Public

(SEAL)

STATE OF MONTANA)

*Horse Creek Complex 2 FWP Conservation Easement
 Springhill to FWP
 February 28, 2018*

COUNTY OF WIBAUX) : ss.

This instrument was acknowledged before me on _____, 201__, by _____.

(SEAL)

Notary Public

ACCEPTED BY: MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

Martha Williams, Director

STATE OF MONTANA)
COUNTY OF LEWIS AND CLARK) : ss.

This instrument was acknowledged before me on _____, 201__, by Martha Williams, as Director of the Montana Department of Fish, Wildlife and Parks.

_____, 201__, by _____
This instrument was acknowledged before me on

(SEAL)

Notary Public

EXHIBIT A

Legal Description of the Horse Creek Complex 2 (FWP) Conservation Easement

**Legal Property Description of Horse Creek Complex,
Wibaux County****T13N, R57E MPM**

Section 13: All
 Section 14: N1/2SE1/4, SW1/4SE1/4
 Section 22: S1/2
 Section 23: All
 Section 26: All
 Section 27: All

T13N, R58E MPM

Section 4: Lots 1, 2, 3, 4, S1/2NW1/4, SW1/4NE1/4, S1/2
 Section 5: All
 Section 7: All
 Section 8: NE1/4, W1/2SE1/4, S1/2SW4
 Section 17: All
 Section 18: All

T14N, R58E MPM

Section 26: W 1/2 NE 1/4, E 1/2 NW 1/4, SW 1/4 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 .
 Section 27: All
 Section 28: S 1/2, NE 1/4
 Section 32: NE 1/4, W 1/2 SE 1/4

**Legal Property Description Horse Creek Complex,
Dawson County****T13N, R57E MPM**

Section 1: Lots 1, 2, 3, 4, S1/2N1/2, S1/2
 Section 2: Lot 4, SE1/4NE1/4, SW1/4, E1/2SE1/4
 Section 2: Lots 1, 2, 3, SW1/4NE1/4, S1/2NW1/4, W1/2SE1/4
 Section 11: All
 Section 12: S1/2N1/2, W1/2SE1/4, N1/2SW1/4
 Section 14: NW 1/4
 Section 14: W 1/2 NE 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4
 Section 15: S 1/2 S 1/2
 Section 22: S 1/2 NW 1/4
 Section 22: N 1/2 NW 1/4

T14N, R57E MPM

Section 25: S1/2SW1/4SW1/4, SE1/4SW1/4, S1/2NE1/4SW1/4,
 S1/2SW1/4NE1/4, SE1/4NE1/4, SE1/4
 Section 26: S1/2SE1/4SE1/4

*Horse Creek Complex 2 FWP Conservation Easement
 Springhill to FWP
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Section 35: SE1/4SW1/4, S1/2NE1/4SW1/4, S1/2SW1/4NE1/4,
NE1/4NE1/4, SE1/4NE1/4, SE1/4

T14N, R58E MPM

Section 9: That portion of the S ½ laying south of the Railroad Right of
Way.

Section 19: ALL

Section 20: N ½

Section 21: All

Section 28: NW ¼

Section 29: All

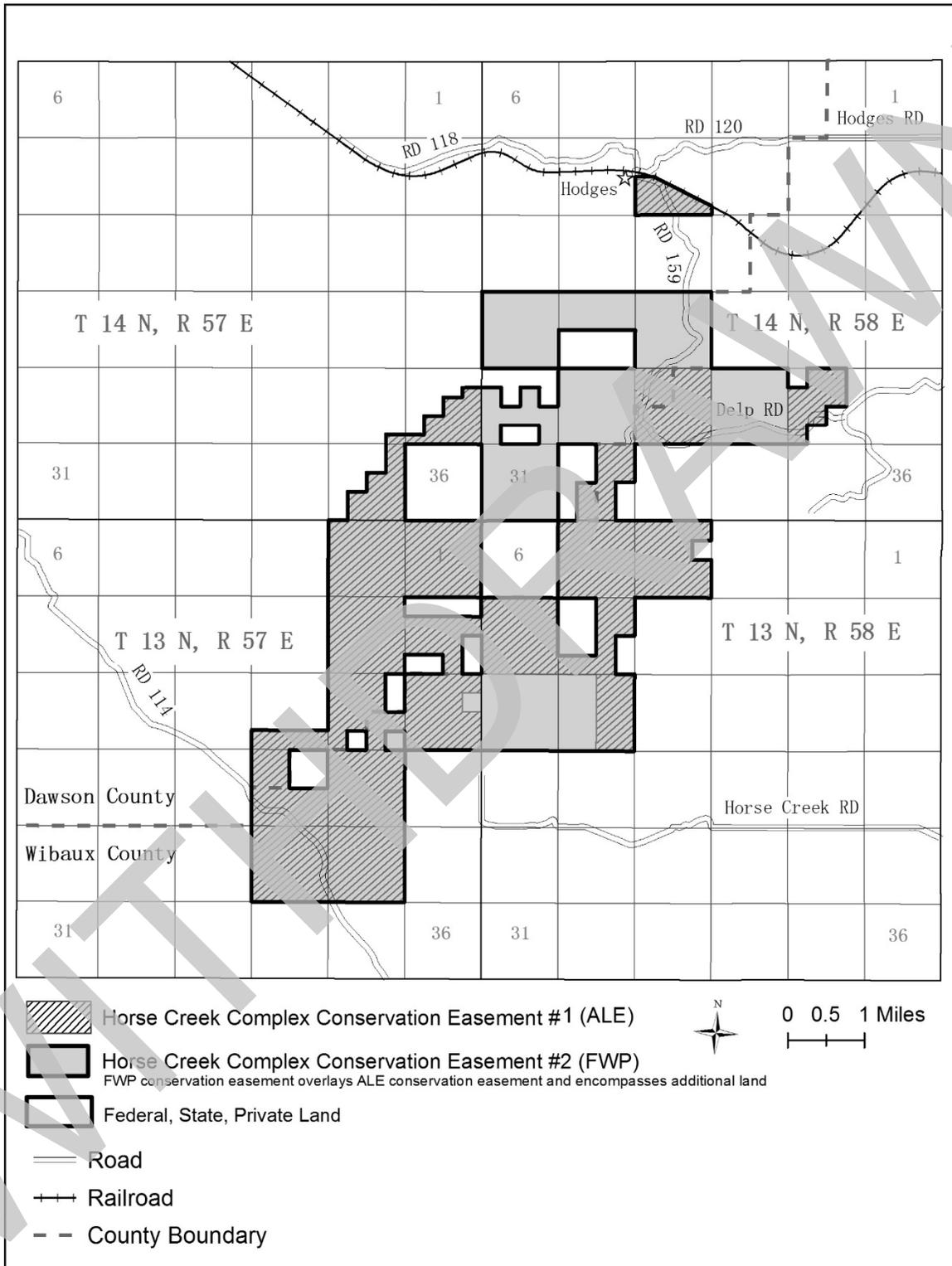
Section 30: Lots 2, 3, 4, NE ¼ SW ¼ , SW ¼ NE ¼ , N ½ SE ¼ , SE ¼ SE ¼

Section 31: All

Section 32: E ½SW ¼

END OF EXHIBIT A

**EXHIBIT B
MAP OF THE LAND**



END OF EXHIBIT B

*Horse Creek Complex Conservation Easement 2 (FWP)
Springhill to FWP
February 28, 2018*

EXHIBIT C

FWP MINIMUM STANDARDS FOR GRAZING LIVESTOCK

Introduction

The following grazing standards represent the minimum required by FWP of a landowner who reserves the right to pasture and graze livestock (private and public land). These standards apply to all FWP funded projects; at times it may be necessary to provide more rest from grazing than described as minimum to meet specific wildlife or fisheries habitat objectives. The minimum is most frequently applied (without additional adjustment for wildlife and fisheries needs) on projects like conservation easements and Upland Game Bird Habitat Enhancement Projects where the property remains in private ownership and agricultural use remains the primary objective. On FWP-managed Wildlife Management Areas (WMAs), wildlife production and habitat conservation are the primary objective and when livestock grazing occurs it is not unusual for the amount of rest from livestock grazing to exceed that required by the minimum standard. Also on WMAs, grazing intensity may be reduced to a level significantly lower than allowable by the minimum standard. These standards are designed to address management of both upland and riparian landforms.

Why a minimum standard?

Livestock grazing is the predominant land use in Montana. As the state's primary fish and wildlife management agency, FWP is actively involved with livestock grazing as it influences fish and wildlife habitats throughout Montana. About 2.4 million cattle are maintained in Montana. Livestock grazing occurs on about 69% of the state's land surface. Potential impacts to fish, wildlife and their habitats caused by grazing are well documented in the literature. Also well documented are potential benefits for conservation that can be derived for some wildlife species through carefully planned livestock grazing strategies. Conserving wildlife habitat while continuing livestock grazing typically requires management strategies that differ from those employed for the sole purpose of maintaining a sustainable livestock forage base that maximizes livestock production. One reason for the difference in management strategies is because vegetation is much more than a forage base for wildlife. Vegetation species composition, structure, and diversity are important aspects of cover essential to the survival and production of wildlife. Healthy riparian communities are critical not only for aquatic species but for proper channel and flood plain function. Seventy-five percent of all Montana wildlife species rely on riparian areas for all or a portion of their lives. This includes many species covered in the FWP's Comprehensive Fish and Wildlife Strategy. When livestock grazing occurs, it is not unusual for cover to be the population limiting factor for many species. Aldo Leopold referred to this concept of habitat quality as 'Quality of Landscape'. Addressing cover is especially important in implementation of FWP's Comprehensive Fish and Wildlife Strategy. It is therefore possible that a livestock operator may be employing a grazing strategy that maintains a sustainable forage base on most of the property, but may not be providing adequate forage, cover, or floral diversity for important fish and wildlife species.

Sustainable livestock production often employs grazing strategies emphasizing production and maintenance of grass species while placing less emphasis on the maintenance of forbs and woody plants. Many wildlife species require grazing strategies that emphasize healthy woody plants and availability of forbs and grass seed heads on at least portions of the landscape every year. The maintenance of robust woody vegetation and cover is also a very important component of healthy riparian systems. Healthy ecological systems are essential for a variety of aquatic and terrestrial riparian obligates.

The purpose of FWP's minimum grazing standards is to achieve a balance between maintaining sustainable agriculture and quality fish and wildlife habitat on working ranches and to provide flexibility to conserve and protect habitat needs on WMAs where wildlife habitat is the primary objective and agriculture is secondary. FWP has applied the standard successfully over the past 30 years on a variety of projects ranging from working cattle ranches to FWP WMAs. There are examples in Montana and other states where a grazing standard similar to FWP's is being applied by livestock operators independent of FWP.

Grazing Plan

Prior to grazing livestock, the Landowner and FWP must agree upon and implement a grazing plan. A grazing plan includes a map of the pastures, a grazing formula specific to those pastures, the class of livestock, and other information pertinent to the management of livestock. Format for the grazing plan is included as part of the management plan template for conservation easements. The grazing plan will be included as part of the Management Plan for easement projects, and will define the limits and extent to which grazing may occur. The Management Plan may be amended by mutual consent, as more particularly described in Paragraph II.E. of the Conservation Easement. For other projects, the management plan will be included as an attachment to the grazing lease or contract. On conservation easements, the grazing plan will be enforceable only on lands covered by the easement.

Upland Minimum Grazing Standard for Summer/Fall Systems

This standard applies to upland pastures in native plant communities (i.e. generally on soils that have never been plowed) and for all riparian pastures. The grazing plan must meet or exceed minimum levels of periodic rest from livestock grazing to allow native plants adequate opportunity to reproduce and replenish root reserves. The minimum amount of rest required for any pasture grazed in one year during the plant growing season is defined as rest throughout the following year's growing season (i.e. grazing deferred until seed-ripe), followed by one year of yearlong rest, as shown in Table 1. Each pasture receives only one grazing treatment per year, and the treatments are rotated annually as shown in Table 1. The growing season is defined as beginning with the period of rapid plant growth (generally early to mid-May) until seed-ripe for the latest maturing native grasses, such as bluebunch wheatgrass or western wheatgrass (generally early August). Because the exact dates can vary as much as a few weeks depending on the location in Montana, specific dates for livestock movement are developed for each project. Occasionally it may be necessary for the grazing system to allow for some livestock to be in the pasture scheduled for the A treatment (Table 1) beyond the growing season.

A three-pasture grazing system is used as an example (Table 1) to show how the landowner might typically rotate livestock through pastures to meet the minimum levels and required sequence of rest from livestock grazing. In practice, the landowner is not limited to any particular number of pastures; many projects include more than three pastures. In some instances, sub-pastures are employed to meet riparian or other objectives on the land. If livestock are grazed, they must be moved through the pastures in compliance with these standards and the grazing plan. Where grazing occurs during the growing season, the three-treatments outlined in Table 1 are essential and the total number of pastures and/or sub-pastures will vary between projects.

Table 1. Livestock Grazing Formula using a three pasture approach as an example.

Grazing Seasons	Pasture 1	Pasture 2	Pasture 3
Year One	A	B	C
Year Two	B	C	A
Year Three	C	A	B
When all treatments have been applied to all pastures, the grazing rotation begins again at year one.			
A = livestock grazing allowed during the growing season; B = livestock grazing begins after seed-ripe time; C = rest from livestock grazing yearlong.			

Winter and/or Early Spring Grazing

In some situations, an early grazing treatment (prior to mid- May) may be considered. However, it must be kept in mind that grazing capacity and forage production in the year a pasture is grazed from winter to beyond mid-May, will be temporarily reduced. On projects where early spring grazing (prior to rapid plant growth) is combined with summer (active growing season) grazing the three grazing treatments described in Table 1 must be employed.

It is usually more efficient to manage winter grazing separately from spring-summer grazing. If livestock are to be grazed in a native range or riparian pasture in winter or early spring (generally December through early May), and a separate grazing formula is required, it must be coordinated with the summer-fall grazing system as follows: Minimum required rest in pastures where livestock are grazed and/or fed hay during winter is one winter of rest in every two (2) years. Hay, grain, salt, protein or other supplements will not be placed in riparian areas during winter or any other season. Minimum required rest in pastures where livestock are grazed in spring, prior to early May, is one spring of rest in every two years. Any pastures grazed later in spring than early-mid May require the greater amount of rest shown in the table 1. As a minimum, when grazing is limited to winter or the non-growing season period, a two-pasture alternate use approach is frequently used. The area designated for winter grazing is divided into two pastures and each year one pasture is grazed during winter months and the other rested and use is alternated from year to year.

During winter months cattle tend to concentrate in wooded areas (shrub or tree-dominated areas) for shelter. This must be kept in perspective when assessing the impacts to woody vegetation. It is often the case that with careful placement of hay, cattle impacts to woody

vegetation can be kept to a small portion of the area. If this is not the case, it might be necessary to fence a portion of the woody vegetation to protect it from damage, but should only be done once efforts to control livestock distribution by other means have proven ineffective. An acceptable level of impact will vary depending on the objectives (i.e. a level of woody vegetation impact acceptable for a working cattle ranch may be much different than for a WMA).

Scope

The goal is to include as much of the lands under easement as possible within the grazing system, but one must be realistic in recognizing the unique needs of a livestock operation. For instance, it may be necessary to set aside small areas as animal husbandry units to be used at the landowner's discretion. Such areas might include calving pastures, branding pastures, sorting pens, bull pastures, holding corrals, or pastures used for weaning and shipping. Also, one or more pastures may be necessary for rounding up or transitioning livestock between summer/fall and winter seasons, which may require annual fall grazing. As long as the majority of the native rangelands involved are within a grazing system that meets the minimum standards for yearlong rest and season long deferment, this is acceptable.

Non-native Pasture

It is common for livestock operators to have pastures on their land that are non-native range. The landowner's goal is usually to keep these pastures productive as non-native pasture. The pastures typically are seeded with an exotic pasture grass or grass mix. On occasion forbs like dry-land alfalfa are included in the planting. The minimum standards for season long deferment and yearlong rest applied to native rangelands do not necessarily apply to non-native pastures. In cases of non-native pasture, a grazing strategy that is coordinated with the grazing system and meets the needs of the ranch should be worked out. In the case of crested wheatgrass pasture it may be necessary to allow grazing early (late-winter or early spring) each year to maintain palatability. In the case of other pasture grasses, such as smooth brome, a deferred approach works well; a pasture is grazed during the growing season in year one then deferred from grazing until near seed-ripe in year 2 (about the time such grasses would normally be harvested as hay). This will maintain the productivity of the non-native species until replanting is necessary and in some cases maintain them as attractive feeding sites for large wild ungulates. It is important to keep in mind that these areas, unlike native range, are essentially cropland and whether grazed or left idle will eventually need some sort of agricultural practice to maintain their productivity.

It is usually best to leave irrigated pasture management to the landowner's discretion. If important riparian is included in the field it might be necessary to fence the riparian zone from the irrigated pasture to protect it from livestock grazing. Usually grazing strategies employed on irrigated pasture are not consistent with proper management of key native riparian plants. In such situations, it may be necessary to apply the guideline Series entitled: The Need for Stream Vegetated Buffers Parts 1 through 3, Montana Department of Environmental Quality 2008.

Livestock operators often place cows in hayfields during winter months. In such cases the field should be managed at the landowner's discretion and in some instances, it might be necessary to fence out riparian from the hayfield to protect it from grazing.

Stocking Rate

Usually FWP does not require a maximum stocking rate as part of the grazing strategy on easements or Upland Game Bird Habitat Enhancement Projects. In such cases it is clearly stated in the grazing plan, that the maximum stocking rate will be ultimately determined by the operator's ability to conform to the grazing system. In other words, the livestock numbers may increase as long as the plan can be followed and livestock movement dates are not compromised. Such an approach is consistent with the reality that, for most easement projects, the primary use of the land is agricultural.

Occasionally a landowner has requested that an upper limit stocking rate be established as a stipulation in the easement. As long as the number of livestock is realistic this is not a problem.

On lands owned by FWP any grazing that occurs will be at stocking levels determined by the agency and approved by the FWP Commission.

Mineral and Other Supplements

On privately owned grazing lands the landowner is given more discretion on locations for placement of mineral block than on FWP lands. However, regardless of land ownership the placing of mineral block within riparian areas will be strongly discouraged. On FWP lands the placement of mineral block will be described as part of the grazing plan. Supplements will be placed away from riparian areas, ponds, and roads. Rocky (stable soil) areas on ridge tops or in the trees are preferred sites.

On FWP lands livestock within pasture grazing systems are not to be fed hay.

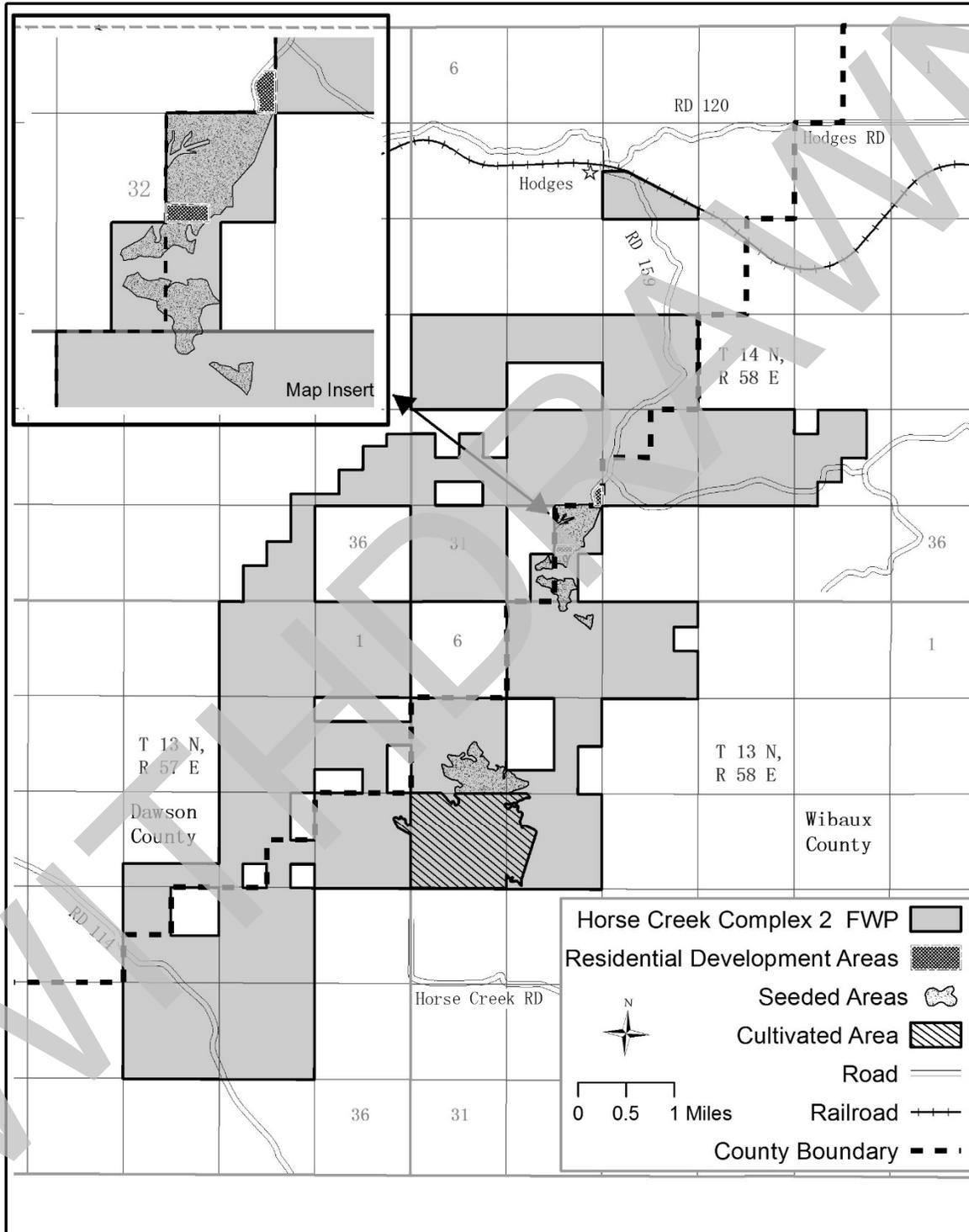
Flexibility

Rarely, a severe environmental influence (i.e. fire, drought, grasshoppers) may require a onetime deviation from the prescribed grazing plan. In such cases the landowner is to notify the local FWP representative of the problem. In a timely manner the local FWP representative, Habitat Section representative, and landowner will meet to discuss the issue and work out a solution. It is important to keep in mind that short term adjustments to the grazing plan must be the exception rather than the rule. Allowing grazing to occur in a pasture scheduled for rest is always a last resort. FWP has managed grazing systems across Montana through a variety of severe environmental events. This experience has shown that when a legitimate problem exists an alternative can usually be found that avoids grazing the pastures scheduled for rest.

END OF EXHIBIT C

EXHIBIT D

Map of Existing Development Areas, Seeded Areas, and Cultivated Areas



END OF EXHIBIT D

EXHIBIT E

Paleontological Resources

The extraction of paleontological resources is conditioned and limited as follows:

1. Prior to commencing excavation of a major paleontological find, or the excavation of an area larger than one contiguous acre on the Land, Landowner shall submit to FWP an Operating Plan describing the proposed:

- Location, size, and boundary of disturbance or excavation area;
- Size of footprint for all associated activities;
- Access routes;
- Timing of excavation season;
- Reclamation plan that includes methods, materials, and timeline;
- Compatibility with hunting and other public use of the property.

2. Before any surface disturbance as described in Paragraph 1 occurs upon the Land the Landowner must obtain the written approval of the Operating Plan by FWP's Wildlife Division Administrator or FWP's Director. Such approval shall not be unreasonably withheld. In the event that the Operating Plan is not approved by FWP, FWP shall make good faith efforts to work with Landowner to develop an acceptable Operating Plan.

3. Excavation shall not occupy more than five total acres of the Land, whether contiguous or non-contiguous. No excavation shall be operated in the same location for more than three continuous years. FWP may waive such restrictions pursuant to the Operating Plan.

4. Prior to any surface disturbance of the property, Landowner shall segregate and store the top 18 inches of topsoil, or all available topsoil, whichever is applicable to the site.

5. Landowner shall be responsible for control of noxious weed infestations that result from paleontological activities until infestation no longer exists. Landowner shall exercise reasonable care in the conduct of its research activities to reduce the likelihood or impact of noxious weed infestation. Landowner shall further comply with the Montana County Noxious Weed Management Act, § 7-22-2101 MCA, *et seq.*, as follows:

If the Landowner disturbs vegetation on the Land for any reason related to paleontological excavation, Landowner shall reclaim and revegetate the disturbed area. Landowner shall submit to the Department a written plan specifying the methods to be used to accomplish revegetation. The plan must describe the time and method of seeding, fertilization, proposed plant species, use of weed-free seed, and the weed management procedures to be used. The plan must receive the Department's **Prior Approval** before being implemented by the Landowner. Landowner shall re-grade any disturbed areas to their approximate original contour, apply topsoil, and revegetate all disturbed areas with an approved seeding mixture to the satisfaction of FWP. If the first seeding

of compatible grass species does not germinate to the satisfaction of FWP, Landowner shall reseed those areas remaining open to erosion and weeds.

6. No paleontological activities shall be conducted during the Montana big game rifle hunting season without the express written consent of FWP. Such consent may occur pursuant to the Operating Plan.

7. Prior to any surface disturbing activity, Landowner shall submit a reclamation bond to be held by FWP to ensure the reclamation of the disturbed lands as described herein. The bond shall be equal to the inflation-adjusted appraised value of the Easement of the acres to be disturbed by Landowner and shall be specified in the Operating Plan.

8. Reclamation of areas one acre or less will be initiated within one year of completion of excavation. In all cases, reclamation shall be initiated on areas one acre or less within three years of disturbance. FWP may waive such restrictions.

END OF EXHIBIT E

0318-2

TIMBER SALES: LYNCH LAKE

**Land Board Agenda Item
March 19, 2018**

0318-2 Timber Sale: Lynch Lake
Location: Lincoln County
Section 16, T28N, R27W
Trust Beneficiaries: Common Schools
Trust Revenue: \$543,899 (estimated, minimum bid)

Item Summary

Location: The Lynch Lake Timber Sale is located approximately 35 miles west of Kalispell, MT.

Size and Scope: The project contains 3 harvest units (527 acres) of tractor logging.

Volume: The estimated volume is 24,511 tons (3.9 MMBF) of sawlogs.

Estimated Return: The minimum bid is \$22.19 per ton which would generate approximately \$543,899 for the Common Schools Trust and approximately \$92,652 in Forest Improvement fees.

Prescription: This sale has commercial thin, sanitation, and shelterwood harvest prescriptions. Shelterwood treatments are designed to provide for ponderosa pine regeneration and to promote healthy, disease and insect resistant stands. Commercial thinning and sanitation treatments are designed to remove disease and insect infected trees while improving the health and vigor of residual trees. Timber harvest will remove ponderosa pine, Douglas-fir, western larch, lodgepole pine, Engelmann spruce, subalpine fir, and grand fir.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 1.42 miles of new road construction, 1.05 miles of road reconstruction, and 22.6 miles of road maintenance.

Access: Access to the project area is obtained through temporary road use agreements with the United States Forest Service, Weyerhaeuser, and a private landowner.

Public Comments: Two public comments were received. The Northern Cheyenne Tribal Historic Preservation Office and Chippewa Cree Cultural Resources Preservation Department requested reports of any cultural surveys conducted in the project area. DNRC responded to the tribes that we have no record of any cultural resources in the project area. If an unanticipated cultural resource is discovered, all project related activities will cease until the resource can be adequately evaluated. DNRC will keep the interested parties informed of any discoveries.

DNRC Recommendation

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

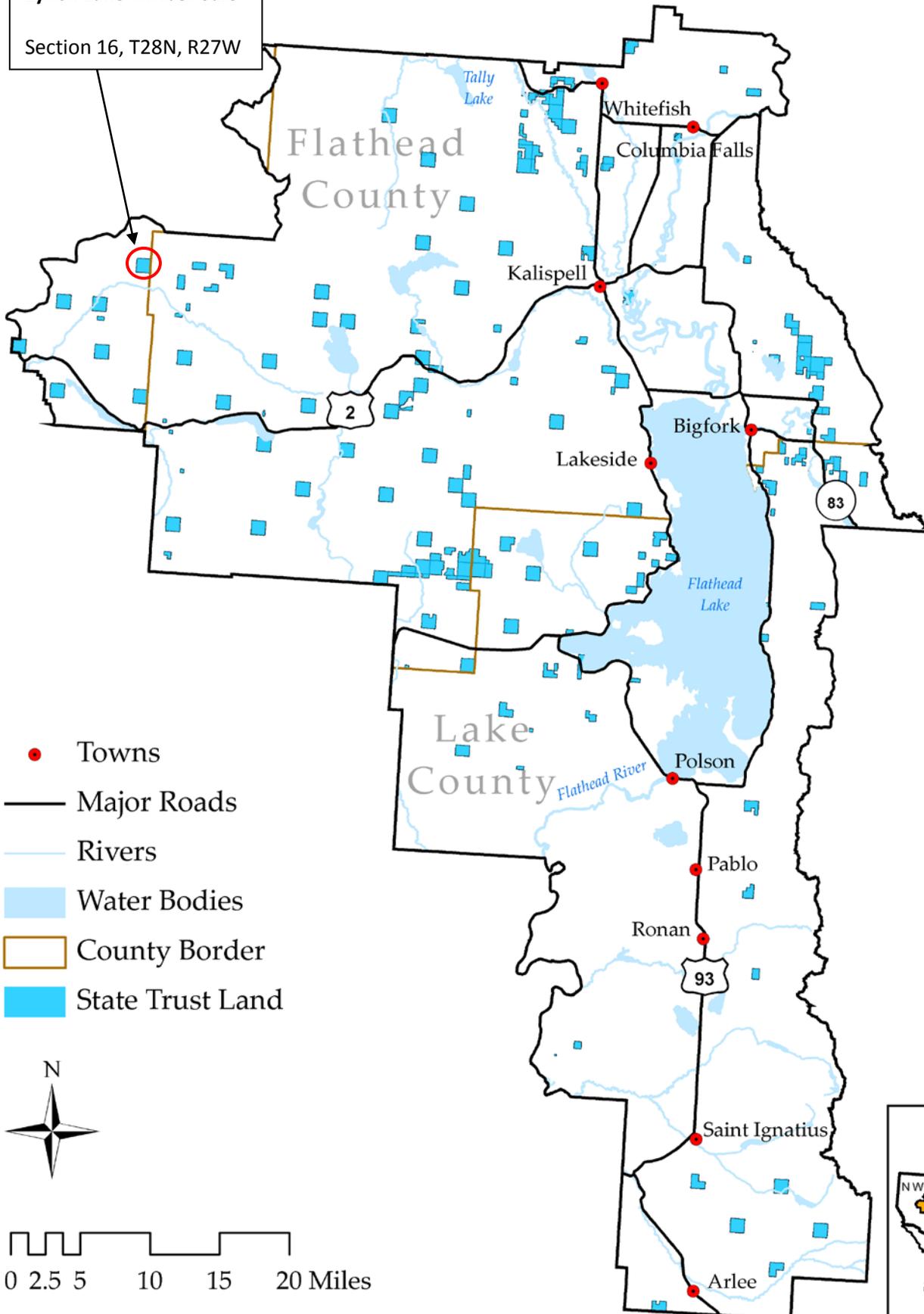
LYNCH LAKE TIMBER SALE VICINITY MAP KALISPELL UNIT

0318-2



Lynch Lake Timber Sale

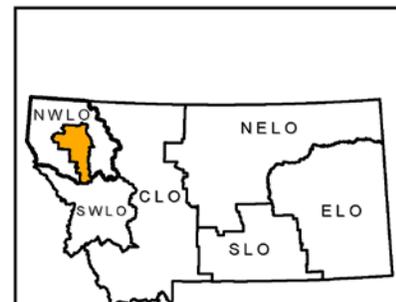
Section 16, T28N, R27W



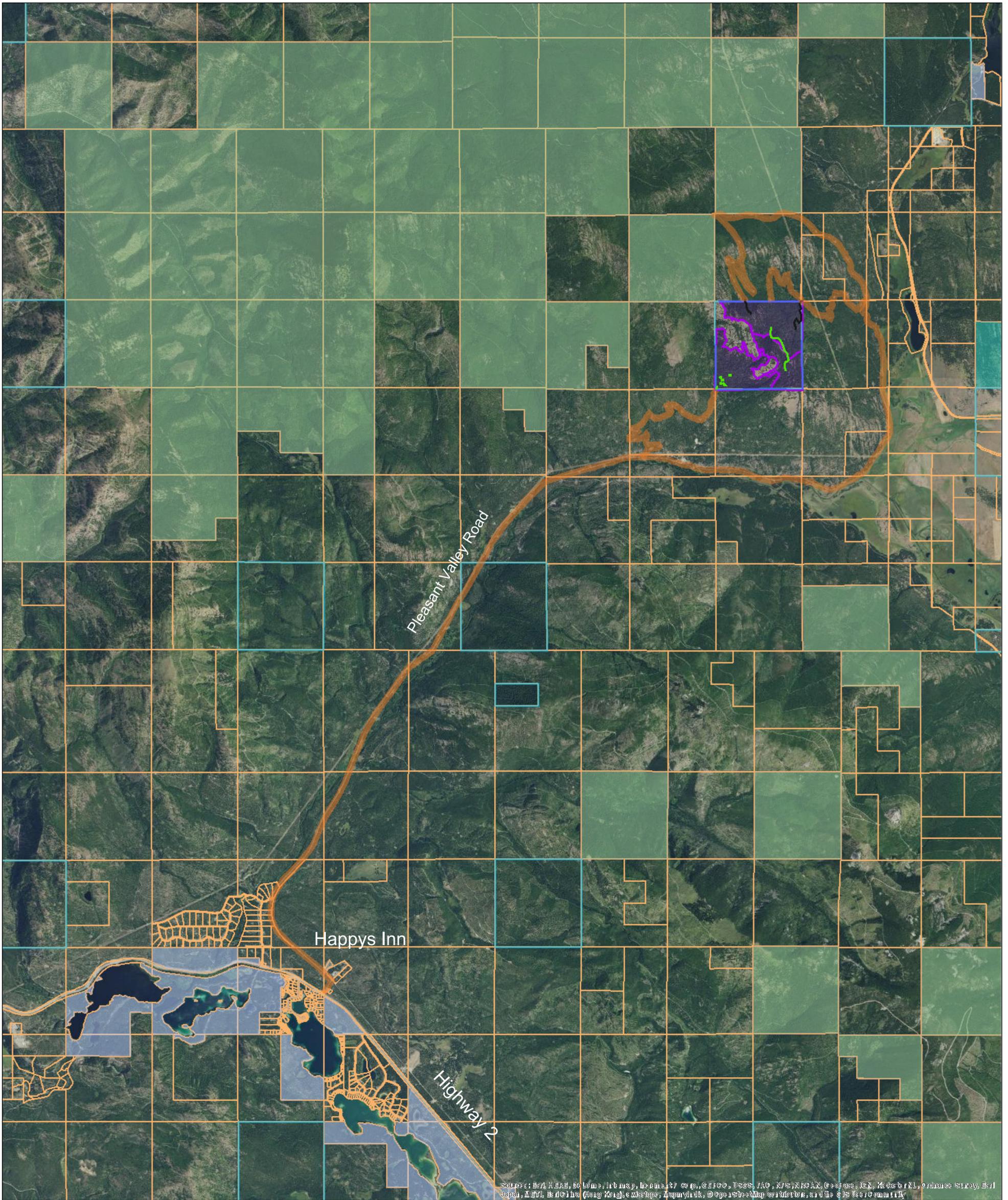
- Towns
- Major Roads
- Rivers
- Water Bodies
- County Border
- State Trust Land



0 2.5 5 10 15 20 Miles



Lynch Lake Timber Sale Haul Route Map



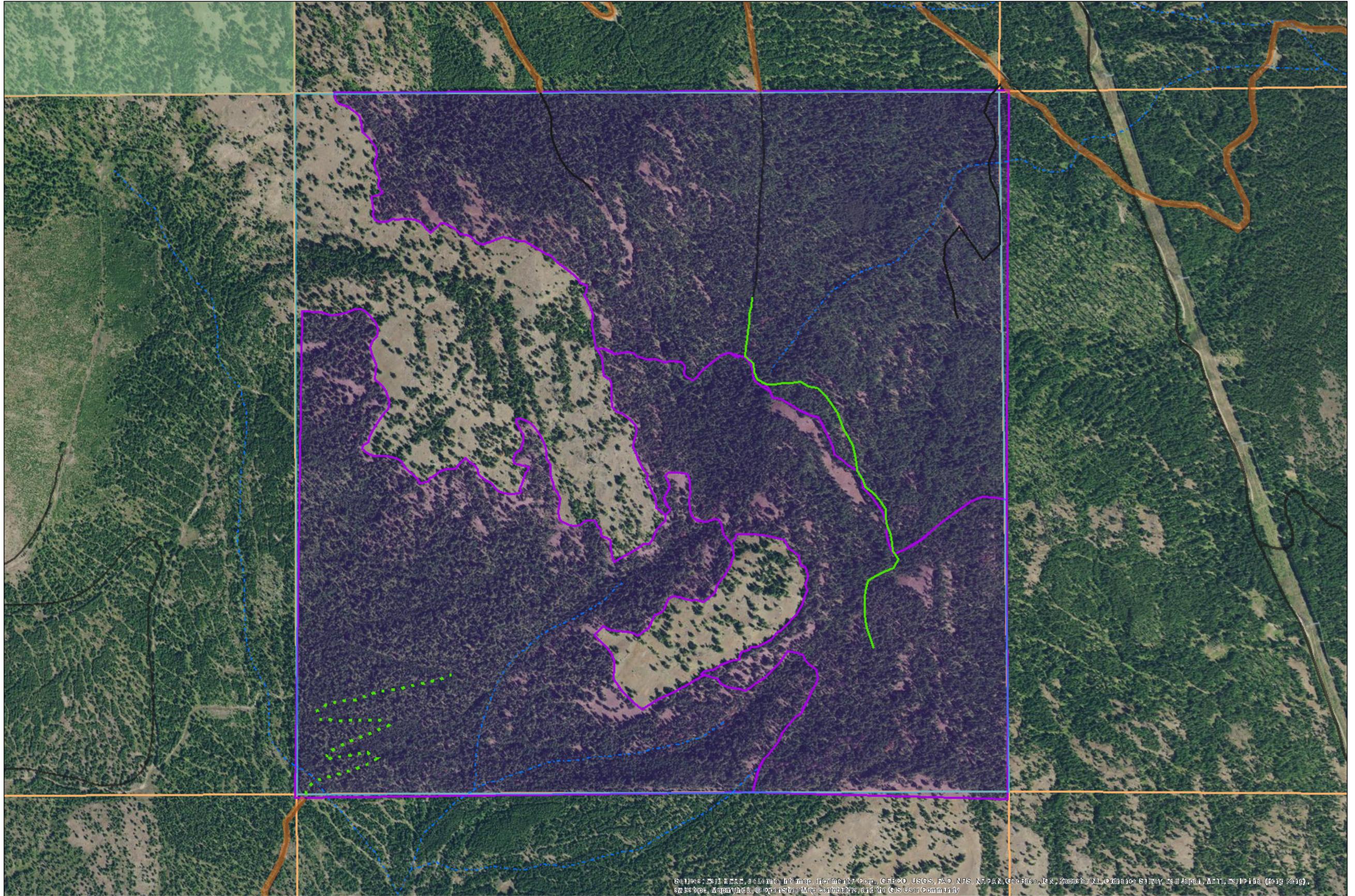
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GEBCO, IGN, Karttunen, Orange Street, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, Mapbox, OpenStreetMap contributors, and the GIS User Community



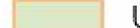
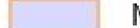
- | | | |
|---------------------|------------------------|--------------|
| Existing Road | Perennial Stream | USFS Land |
| New Road | Intermittent Stream | Private Land |
| Road Reconstruction | Proposed Harvest Units | BLM Land |
| Haul Route | DNRC Surface Tracts | MT FWP |

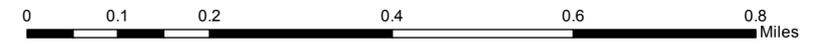


Lynch Lake Timber Sale Harvest Unit Map



Source: Esri, DeLorme, Intermap, Incorp., GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Swisstopo, UTM-22, UTM-32, Swisstopo, Mapbox, OpenStreetMap contributors, and the GIS User Community

- | | | |
|---|--|--|
|  Existing Road |  Perennial Stream |  USFS Land |
|  New Road |  Intermittent Stream |  Private Land |
|  Road Reconstruction |  Proposed Harvest Units |  BLM Land |
|  Haul Route |  DNRC Surface Tracts |  MT FWP |



0318-3

OIL AND GAS LEASE SALES: (March 6, 2018)

**Land Board Agenda Item
March 19, 2018**

0318-3 Oil and Gas Lease Sale (March 6, 2018)**Location: Richland, Roosevelt, Rosebud, Sheridan, Toole Counties****Trust Benefits: Common Schools, Public Buildings, Public Land Trust /
Navigable Rivers****Trust Revenue: \$914,847.72****Item Summary**

The Department of Natural Resources and Conservation (DNRC) held an oil and gas lease sale on March 6, 2018, in the Montana Room at the Montana DNRC building. A total of fifty-three tracts were offered for lease. Fifty-three tracts were leased for a total of \$914,847.72. The fifty-three tracts that were sold covered a total of 26,741.87 acres. The average bid per acre was \$34.21.

The high competitive bid for the March 6, 2018 sale was \$335.00 per acre for Tract 5 and the largest total bid was \$211,200.00 for Tract 7, both in Richland County.

DNRC Recommendation

The director recommends Land Board approval to issue the leases from the March 6, 2018 oil and gas lease sale.

State of Montana
Oil & Gas Lease Sale - March 6, 2018
Lease Sale Results

The following described lands were offered for oil and gas leasing through oral competitive bidding in the Department of Natural Resources and Conservation Montana Room, 1539 Eleventh Avenue, Helena, Montana, beginning at 9:00 am, March 6, 2018.

Tract	Stipulations	Twp	Rng	Sec	Description	Acres	Bid/Acre	Total Bid	Lessee
Richland									
1	1, 2, 3, 4, 5, 6, 7, 10, 16	26.N	57.E	3	Lots 3, 4, S2NW4, SW4SE4, E2SW4	280.46	\$160.00	\$44,873.60	KRAKEN OIL & GAS II LLC
2	1, 2, 3, 4, 5, 6, 16	26.N	57.E	6	NE4SE4	40.00	\$56.00	\$2,240.00	KRAKEN OIL & GAS II LLC
3	1, 2, 3, 4, 5, 6, 7, 16	26.N	57.E	10	E2NW4, W2NE4, NW4SE4, NE4SW4	240.00	\$175.00	\$42,000.00	KRAKEN OIL & GAS II LLC
4	1, 2, 3, 4, 5, 6, 7, 16	26.N	57.E	22	SE4NW4, S2NE4, S2	440.00	\$225.00	\$99,000.00	KRAKEN OIL & GAS II LLC
5	1, 2, 3, 4, 5, 6, 7, 16	26.N	57.E	27	N2, SE4, N2SW4, SE4SW4	600.00	\$335.00	\$201,000.00	KRAKEN OIL & GAS II LLC
6	1, 2, 3, 4, 5, 6, 16	26.N	57.E	33	W2SW4	80.00	\$105.00	\$8,400.00	EMPIRE OIL COMPANY
7	1, 2, 3, 4, 5, 6, 16	26.N	57.E	36	All	640.00	\$330.00	\$211,200.00	KRAKEN OIL & GAS II LLC
Roosevelt									
8	1, 2, 3, 4, 5, 6, 10, 13, 15, 16	27.N	56.E	6	Lots 3, 4, Missouri Riverbed and related acreage	206.00	\$27.00	\$5,562.00	NISKU ROYALTY, LP
9	1, 2, 3, 4, 5, 6, 7, 16	28.N	56.E	30	SE4NW4, S2NE4	120.00	\$27.00	\$3,240.00	NISKU ROYALTY, LP
10	1, 2, 3, 4, 5, 6, 10, 16	28.N	56.E	31	Lot 4, SE4SW4	75.00	\$30.00	\$2,250.00	L6NRG, LLC
Rosebud									
11	1, 2, 3, 4, 5, 6, 9	9.N	33.E	6	Lots 1, 2, 3, 4, 5, SE4NW4, S2NE4	316.87	\$2.50	\$792.18	HOOVER & STACY, INC.
12	1, 2, 3, 4, 5, 6, 9	9.N	33.E	14	E2	320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
13	1, 2, 3, 4, 5, 6, 7, 9	9.N	33.E	16	All	640.00	\$2.75	\$1,760.00	HOOVER & STACY, INC.
14	1, 2, 3, 4, 5, 6, 9	9.N	34.E	16	All	640.00	\$1.50	\$960.00	HOOVER & STACY, INC.
15	1, 2, 3, 4, 5, 6, 9	10.N	32.E	14	SE4	160.00	\$2.00	\$320.00	HOOVER & STACY, INC.
16	1, 2, 3, 4, 5, 6, 9	10.N	32.E	16	All	640.00	\$1.50	\$960.00	HOOVER & STACY, INC.
17	1, 2, 3, 4, 5, 6, 7, 8	10.N	32.E	30	E2NW4, NE4, E2SE4	320.00	\$2.25	\$720.00	HOOVER & STACY, INC.
18	1, 2, 3, 4, 5, 6, 9	10.N	32.E	36	All	640.00	\$3.00	\$1,920.00	HOOVER & STACY, INC.
19	1, 2, 3, 4, 5, 6, 7, 9, 14	10.N	33.E	16	All	640.00	\$20.00	\$12,800.00	HOOVER & STACY, INC.
20	1, 2, 3, 4, 5, 6, 9	10.N	33.E	36	All	640.00	\$29.00	\$18,560.00	HOOVER & STACY, INC.
21	1, 2, 3, 4, 5, 6, 7, 9	10.N	34.E	16	All, below the base of the Kootenai formation	640.00	\$55.00	\$35,200.00	HOOVER & STACY, INC.
22	1, 2, 3, 4, 5, 6, 9	10.N	34.E	32	All, below the base of the Kootenai formation	640.00	\$27.00	\$17,280.00	HISTORIC PROPERTIES LLC
23	1, 2, 3, 4, 5, 6, 7, 9	10.N	34.E	36	All, subject to RR R/W	640.00	\$28.00	\$17,920.00	HISTORIC PROPERTIES LLC
24	1, 2, 3, 4, 5, 6, 9	11.N	33.E	5	Lots 1, 2, 3, 4, S2N2, S2	640.40	\$11.00	\$7,044.40	HOOVER & STACY, INC.
25	1, 2, 3, 4, 5, 6, 9	11.N	33.E	6	Lots 1, 2, S2NE4, SE4	320.00	\$8.00	\$2,560.00	HOOVER & STACY, INC.
26	1, 2, 3, 4, 5, 6, 7, 9	11.N	33.E	9	All	640.00	\$10.00	\$6,400.00	HOOVER & STACY, INC.
27	1, 2, 3, 4, 5, 6, 7, 9	11.N	33.E	16	All	640.00	\$22.00	\$14,080.00	HOOVER & STACY, INC.
28	1, 2, 3, 4, 5, 6, 9	11.N	34.E	4	S2	320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
29	1, 2, 3, 4, 5, 6, 7, 9	11.N	34.E	16	All	640.00	\$10.00	\$6,400.00	HOOVER & STACY, INC.
30	1, 2, 3, 4, 5, 6, 9	11.N	34.E	18	E2E2, SW4NE4, SE4NW4, NE4SW4, NW4SE4	320.00	\$8.00	\$2,560.00	HOOVER & STACY, INC.

Tract	Stipulations	Twp	Rng	Sec	Description	Acres	Bid/Acre	Total Bid	Lessee
Rosebud									
31	1, 2, 3, 4, 5, 6, 7, 9	11.N	34.E	31	Lots 1, 2, 3, 4, E2, E2W2, below the base of the Cretaceous (3rd Cat Creek) formation	629.08	\$62.00	\$39,002.96	HOOVER & STACY, INC.
32	1, 2, 3, 4, 5, 6, 7, 9	11.N	34.E	36	All	640.00	\$22.00	\$14,080.00	HOOVER & STACY, INC.
33	1, 2, 3, 4, 5, 6, 9	12.N	32.E	12	E2	320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
34	1, 2, 3, 4, 5, 6, 9	12.N	32.E	16	All	640.00	\$1.50	\$960.00	HOOVER & STACY, INC.
35	1, 2, 3, 4, 5, 6, 9	12.N	32.E	26	N2	* 320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
36	1, 2, 3, 4, 5, 6, 9	12.N	32.E	28	S2	320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
37	1, 2, 3, 4, 5, 6, 7, 9	12.N	32.E	36	All	640.00	\$10.00	\$6,400.00	HOOVER & STACY, INC.
38	1, 2, 3, 4, 5, 6, 9	12.N	33.E	16	All	640.00	\$14.00	\$8,960.00	HOOVER & STACY, INC.
39	1, 2, 3, 4, 5, 6, 7, 9	12.N	33.E	31	Lots 11-30	834.02	\$15.00	\$12,510.30	HOOVER & STACY, INC.
40	1, 2, 3, 4, 5, 6, 7, 9	12.N	33.E	31	Lots 1-10, NE4, E2NW4, below the base of the Tyler formation	618.08	\$15.00	\$9,271.20	HOOVER & STACY, INC.
41	1, 2, 3, 4, 5, 6, 7, 9	12.N	33.E	36	Lots 1-24, N2	1244.52	\$21.00	\$26,134.92	HOOVER & STACY, INC.
42	1, 2, 3, 4, 5, 6, 7, 9	12.N	34.E	16	All	640.00	\$10.00	\$6,400.00	HOOVER & STACY, INC.
43	1, 2, 3, 4, 5, 6, 7, 9	12.N	34.E	30	E2	320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
44	1, 2, 3, 4, 5, 6, 7, 9	12.N	34.E	31	Lots 1, 2, 3, 4, E2	377.68	\$1.50	\$566.52	HOOVER & STACY, INC.
45	1, 2, 3, 4, 5, 6, 7, 9	12.N	34.E	36	All	640.00	\$10.00	\$6,400.00	HOOVER & STACY, INC.
46	1, 2, 3, 4, 5, 6, 9	13.N	32.E	34	W2	320.00	\$1.50	\$480.00	HOOVER & STACY, INC.
47	1, 2, 3, 4, 5, 6, 7, 9	13.N	32.E	36	All	640.00	\$10.00	\$6,400.00	HOOVER & STACY, INC.
Sheridan									
48	1, 2, 3, 4, 5, 6, 16	36.N	55.E	36	All	640.00	\$1.75	\$1,120.00	NISKU ROYALTY, LP
49	1, 2, 3, 4, 5, 6, 16	36.N	57.E	36	All	640.00	\$1.75	\$1,120.00	NISKU ROYALTY, LP
50	1, 2, 3, 4, 5, 6, 11, 16	37.N	56.E	36	All	640.00	\$1.75	\$1,120.00	NISKU ROYALTY, LP
51	1, 2, 3, 4, 5, 6, 11, 16	37.N	57.E	36	All	640.00	\$1.75	\$1,120.00	NISKU ROYALTY, LP
Toole									
52	1, 2, 3, 4, 5, 6, 7, 12	35.N	3.W	36	All, less 0.24 acre patented RR R/W in NW4NW4	639.76	\$1.50	\$959.64	FARLEIGH OIL PROPERTIES
53	1, 2, 3, 4, 5, 6, 7, 11	37.N	3.W	36	All	640.00	\$1.50	\$960.00	FARLEIGH OIL PROPERTIES

* Part or all of tract is not state-owned surface

Summary by Lessor

	Total Acres	Total Tracts
Dept. of Natural Resources and Conservation	26,741.87	53

Oil and Gas Lease Sale Summary

Total Tracts	53
Total Acres	26,741.87
Total Bid Revenue	\$914,847.72
Average Bid Per Acre	\$34.21

State of Montana
Oil & Gas Lease Sale - March 6, 2018
Stipulations

- 1 Lessee shall notify and obtain approval from the Department's Trust Land Management Division (TLMD) prior to constructing well pads, roads, power lines, and related facilities that may require surface disturbance on the tract. Lessee shall comply with any mitigation measures stipulated in TLMD's approval.
- 2 Prior to the drilling of any well on or into the lease premises, lessee shall send one copy of the well prognosis, including Form 22 "Application for Permit" to the Department's Trust Land Management Division (TLMD). After a well is drilled and completed, lessee shall send one copy of all logs run, Form 4A "Completion Report", and geologic report to TLMD. A copy of Form 2 "Sundry Notice and Report of Wells" or other appropriate Board of Oil and Gas Conservation form shall be sent to TLMD whenever any subsequent change in well status or operator is intended or has occurred. Lessee shall also notify and obtain approval from the TLMD prior to plugging a well on the lease premises.

Issuance of this lease in no way commits the Land Board to approval of coal bed methane production on this lease. Any coal bed methane extraction wells would require subsequent review and approval by the board.
- 3 The TLMD will complete an initial review for cultural resources and, where applicable, paleontological resources of the area intended for disturbance and may require a resources inventory. Based on the results of the inventory, the TLMD may restrict surface activity for the purpose of protecting significant resources located on the lease premises.
- 4 The lessee shall be responsible for controlling any noxious weeds introduced by lessee's activity on State-owned land and shall prevent or eradicate the spread of those noxious weeds onto land adjoining the lease premises. The lessee's methods of control shall be reviewed and approved by the Department's Unit Office that has jurisdiction for that locale.
- 5 The definitions of "oil" and "gas" provided in 82-1-111, MCA, do not apply to this lease for royalty calculation purposes.
- 6 If the State does not own the surface, the lessee must contact the owner of the surface in writing at least 30 days prior to any surface activity. A copy of the correspondence shall be sent to TLMD.
- 7 Due to unstable soil conditions on this tract and/or topography that is rough and/or steep, surface use may be restricted or denied. Seismic activity may be restricted to poltershots.
- 8 This lease is located within designated sage grouse general habitat. Proposed activities are subject to, and shall comply with, all provisions, stipulations and mitigation requirements of the Montana Sage Grouse Habitat Conservation Strategy, as implemented by Governor's Executive Orders 10-2014, 12-2015, and amendments thereto. Contact the TLMD prior to preparing a project proposal.
- 9 This lease is located within designated sage grouse core habitat. Proposed activities are subject to, and shall comply with, all provisions, stipulations and mitigation requirements of the Montana Sage Grouse Habitat Conservation Strategy, as implemented by Governor's Executive Orders 10-2014, 12-2015, and amendments thereto. Contact the TLMD prior to preparing a project proposal.
- 10 Unless otherwise approved by the Department in writing, wells and related surface infrastructure, including new road construction, are prohibited within 1/2 mile of the centerline of a navigable river, lake or reservoir, and within 1/4 mile of direct perennial tributary streams of navigable waterways, on or adjacent to the tract. No surface occupancy is allowed within the bed of a river, stream, lake or reservoir, islands and accretions or abandoned channels.
- 11 Due to the floodplain/wetlands area(s), surface use may be restricted or denied.
- 12 Any activity within 1/8 mile of the river, stream, floodplain, or lake/reservoir on or adjacent to this tract must be approved in writing by the TLMD prior to commencement. No surface occupancy is allowed within the bed of the river and/or stream, abandoned channels, the bed of the lake/reservoir, or on islands and accretions associated with the river, stream, or lake/reservoir.

- 13 This tract contains navigable riverbeds. No surface occupancy is allowed within the bed of the navigable river, abandoned channels, or on islands and accretions. In addition, upon completion of a successful well, where river title is disputed, the lessee will file an interpleader action under Rule 22, M.R.Civ.P. in the Montana District Court, or other court having jurisdiction, in which the leased lands are located for all acreage within the lease in which the title is disputed. The lessee shall name all potential royalty claimants as defendants.
- 14 No surface occupancy of the cemetery site is permitted without written approval of TLMD.
- 15 If the lessee completes a successful oil and/or gas well, and if land title is disputed, the lessee shall fund professional land surveys as needed to determine the location and acreage encompassed by the spacing and/or pooling unit and the state lease acreage within that unit. Surveys shall be conducted by a licensed land surveyor acceptable to the Department, and shall be prepared pursuant to survey requirements provided by the Department.
- 16 If whooping cranes are observed on-site, construction and/or maintenance activities shall be suspended until birds leave the area.

State of Montana
Oil & Gas Lease Sale - March 6, 2018
Applicant List

Tract	Twp	Rng	Sec	Description	Acres	Applicant
Richland						
1	26.N	57.E	3	Lots 3, 4, S2NW4, SW4SE4, E2SW4	280.46	L6NRG, LLC
2	26.N	57.E	6	NE4SE4	40.00	L6NRG, LLC
3	26.N	57.E	10	E2NW4, W2NE4, NW4SE4, NE4SW4	240.00	L6NRG, LLC
4	26.N	57.E	22	SE4NW4, S2NE4, S2	440.00	EMPIRE OIL COMPANY
5	26.N	57.E	27	N2, SE4, N2SW4, SE4SW4	600.00	EMPIRE OIL COMPANY
6	26.N	57.E	33	W2SW4	80.00	L6NRG, LLC
7	26.N	57.E	36	All	640.00	L6NRG, LLC
Roosevelt						
8	27.N	56.E	6	Lots 3, 4, Missouri Riverbed and related acreage	206.00	L6NRG, LLC
9	28.N	56.E	30	SE4NW4, S2NE4	120.00	L6NRG, LLC
10	28.N	56.E	31	Lot 4, SE4SW4	75.00	L6NRG, LLC
Rosebud						
11	9.N	33.E	6	Lots 1, 2, 3, 4, 5, SE4NW4, S2NE4	316.87	HOOVER & STACY, INC.
12	9.N	33.E	14	E2	320.00	HOOVER & STACY, INC.
13	9.N	33.E	16	All	640.00	HOOVER & STACY, INC.
14	9.N	34.E	16	All	640.00	HOOVER & STACY, INC.
15	10.N	32.E	14	SE4	160.00	HOOVER & STACY, INC.
16	10.N	32.E	16	All	640.00	HOOVER & STACY, INC.
17	10.N	32.E	30	E2NW4, NE4, E2SE4	320.00	HOOVER & STACY, INC.
18	10.N	32.E	36	All	640.00	HOOVER & STACY, INC.
19	10.N	33.E	16	All	640.00	HOOVER & STACY, INC.
20	10.N	33.E	36	All	640.00	HOOVER & STACY, INC.
21	10.N	34.E	16	All, below the base of the Kootenai formation	640.00	HOOVER & STACY, INC.
22	10.N	34.E	32	All, below the base of the Kootenai formation	640.00	HOOVER & STACY, INC.
23	10.N	34.E	36	All, subject to RR R/W	640.00	HOOVER & STACY, INC.
24	11.N	33.E	5	Lots 1, 2, 3, 4, S2N2, S2	640.40	HOOVER & STACY, INC.
25	11.N	33.E	6	Lots 1, 2, S2NE4, SE4	320.00	HOOVER & STACY, INC.
26	11.N	33.E	9	All	640.00	HOOVER & STACY, INC.
27	11.N	33.E	16	All	640.00	HOOVER & STACY, INC.
28	11.N	34.E	4	S2	320.00	HOOVER & STACY, INC.
29	11.N	34.E	16	All	640.00	HOOVER & STACY, INC.
30	11.N	34.E	18	E2E2, SW4NE4, SE4NW4, NE4SW4, NW4SE4	320.00	HOOVER & STACY, INC.
31	11.N	34.E	31	Lots 1, 2, 3, 4, E2, E2W2, below the base of the Cretaceous (3rd Cat Creek) formation	629.08	HOOVER & STACY, INC.
32	11.N	34.E	36	All	640.00	HOOVER & STACY, INC.
33	12.N	32.E	12	E2	320.00	HOOVER & STACY, INC.
34	12.N	32.E	16	All	640.00	HOOVER & STACY, INC.
35	12.N	32.E	26	N2	320.00	HOOVER & STACY, INC.
36	12.N	32.E	28	S2	320.00	HOOVER & STACY, INC.
37	12.N	32.E	36	All	640.00	HOOVER & STACY, INC.
38	12.N	33.E	16	All	640.00	HOOVER & STACY, INC.
39	12.N	33.E	31	Lots 11-30	834.02	HOOVER & STACY, INC.
40	12.N	33.E	31	Lots 1-10, NE4, E2NW4, below the base of the Tyler formation	618.08	HOOVER & STACY, INC.
41	12.N	33.E	36	Lots 1-24, N2	1244.5	HOOVER & STACY, INC.
42	12.N	34.E	16	All	640.00	HOOVER & STACY, INC.
43	12.N	34.E	30	E2	320.00	HOOVER & STACY, INC.
44	12.N	34.E	31	Lots 1, 2, 3, 4, E2	377.68	HOOVER & STACY, INC.
45	12.N	34.E	36	All	640.00	HOOVER & STACY, INC.
46	13.N	32.E	34	W2	320.00	HOOVER & STACY, INC.
47	13.N	32.E	36	All	640.00	HOOVER & STACY, INC.
Sheridan						
48	36.N	55.E	36	All	640.00	EMPIRE OIL COMPANY
49	36.N	57.E	36	All	640.00	EMPIRE OIL COMPANY
50	37.N	56.E	36	All	640.00	EMPIRE OIL COMPANY
51	37.N	57.E	36	All	640.00	EMPIRE OIL COMPANY

Tract	Twp	Rng	Sec	Description	Acres	Applicant
Toole						
52	35.N	3.W	36	All, less 0.24 acre patented RR R/W in NW4NW4	639.76	FARLEIGH OIL PROPERTIES
53	37.N	3.W	36	All	640.00	FARLEIGH OIL PROPERTIES

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

P.O. Box 201601

Helena, Montana 59620-1601

The following is a list of oil and gas leases, which expired or terminated in December 2017.

COUNTY	TWP	RNG	SEC	DESCRIPTION	ACRES
Blaine					
	31 N	20 E	16	All	640.00
	31 N	20 E	21	All	640.00
	31 N	21 E	16	All	640.00
	31 N	21 E	22	E2	320.00
	31 N	21 E	26	W2	320.00
	31 N	21 E	27	All	640.00
	31 N	21 E	28	N2NW4	80.00
	31 N	21 E	36	All	640.00
	34 N	19 E	35	NW4NW4	40.00
Dawson					
	13 N	55 E	16	All	640.00
Powder River					
	7 S	51 E	36	All	640.00
Richland					
	22 N	58 E	34	NW4	160.00
	24 N	51 E	20	S2	320.00
	25 N	51 E	16	All	640.00
	27 N	54 E	25	S2SE4	80.00
Sheridan					
	35 N	57 E	16	All	640.00
	37 N	55 E	36	All	640.00
Toole					
	33 N	2 W	15	E2, below the base of the Swift formation	320.00
	34 N	2 W	21	SE4NW4, NW4NE4, N2S2, SE4SE4, SW4SW4, below the base of the Rierdon formation	320.00
	34 N	2 W	28	NW4NW4, S2NW4, E2NE4, N2SE4, NE4SW4, below the base of the Rierdon formation	320.00
	35 N	4 W	34	SW4NE4, E2E2, NW4SE4	240.00

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

0318-3

Trust Land Management Division



STEVE BULLOCK, GOVERNOR

1539 ELEVENTH AVENUE

DIRECTOR'S OFFICE (406) 444-2074
TELEFAX NUMBER (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

TO ALL INTERESTED PARTIES:

RE: June 5, 2018 Oil and Gas Lease Sale

In order to give as much advance notice as possible, please be advised that the date of the June 2018 Oil and Gas Lease Sale has been set for **TUESDAY, JUNE 5, 2018**, at 9:00 a.m. in the Montana Room of the Department of Natural Resources and Conservation building at 1539 Eleventh Avenue, Helena, Montana, across from the Capitol Hill Mall. Please call the Department of Natural Resources and Conservation for detailed directions, if necessary.

The deadline filing date for submitting applications on tracts to be nominated for the sale in June is 5:00pm on March 20, 2018. Applications must be received in this office by that date.

If you have any questions, please contact me at jmason2@mt.gov or (406) 444-4576.

Julie Mason, Supervisor
Mineral Leasing Section
Minerals Management Bureau

0318-4

LAND BANKING PARCELS

FINAL APPROVAL FOR SALE

**Land Board Agenda Item
March 19, 2018**

0318-4 Land Banking Parcel: Final Approval for Sale

Location: Teton County
Trust Benefits: Common Schools
Trust Revenue: \$89,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval on two parcels totaling approximately 282.08 acres nominated for sale in Teton County. The sales were nominated by the lessee and are located approximately 21 miles northwest of Choteau, Montana.

Sale #	# of Acres	Legal	Nominator	Trust
772	120±	NW¼SW¼, S½SW¼ T27N-R7W, Sec 35	Rockport Colony	Common Schools
773	42.08±	Government Lot 2 T26N-R7W, Sec 2	Rockport Colony	Common Schools

Sale parcel 772 is used primarily for livestock grazing purposes. The parcel has lower than average productivity for grazing land statewide.

Sale parcel 773 includes approximately 9.2 acres of agricultural land and 32.88 acres of grazing land. The parcel has lower than average productivity for agricultural and grazing lands statewide.

Sale parcel 772 is legally accessible by the public; however, overall recreational value is low because the site is adjacent to Rockport Colony's calving barn.

Sale parcel 773 is not legally accessible by the public.

No potentially negative issues were identified through the MEPA process regarding the sale of these parcels.

Economic Analysis:

Short term – The average rate of return on the sale parcel 772 is 1.32% and for sale parcel 773 is 0.58% These parcels would continue to receive this return if it remains in state ownership.

Long-term – The funds from the sale of these parcels would be combined with other sale funds to purchase replacement lands through the 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 proposed for sale was inventoried to Class III standards for cultural and paleontological resources. No cultural or paleontological resources 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 Land Board granted preliminary approval for these parcels to continue through the Land Banking sale evaluation process. These parcels were appraised by an independent appraiser contracted by DNRC concluding a total market value of \$86,000. The appraisal was prepared by a Certified General Appraiser complying with the Uniform Standards of Professional Appraisal Practice, and provided reasonable estimates of the current fair market value of the subject properties. In July of 2017 the Land Board set the minimum bids as follows:

Appraised Value:

Sale #	Appraised Value with Access	Recommended Minimum Bid
772	\$66,000	\$66,000
773	\$23,000	\$23,000

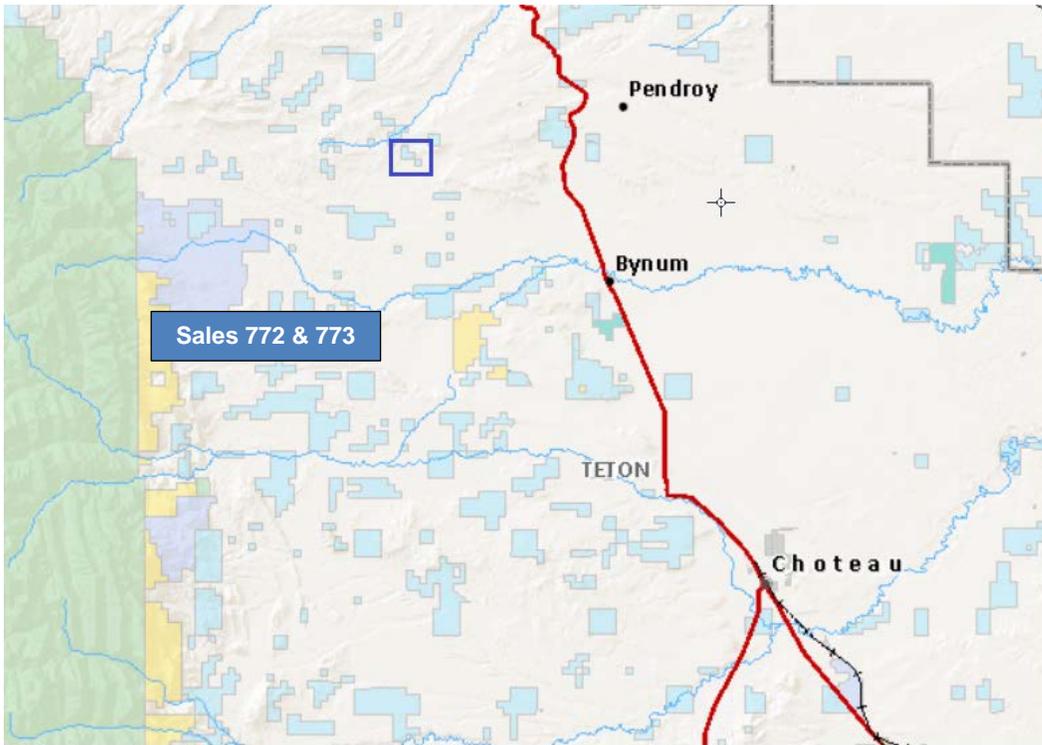
Sale Price

These parcels were sold at public auction February 28, 2018. The DNRC received bid deposits from one qualified bidder, the Rockport Colony, for each parcel. The minimum bid amount was received for each parcel for a total of \$89,000.

DNRC Recommendation

The director recommends final approval of Land Banking Sale #s 772 and 773. These sales will be closed within 30 days of final approval by the Land Board.

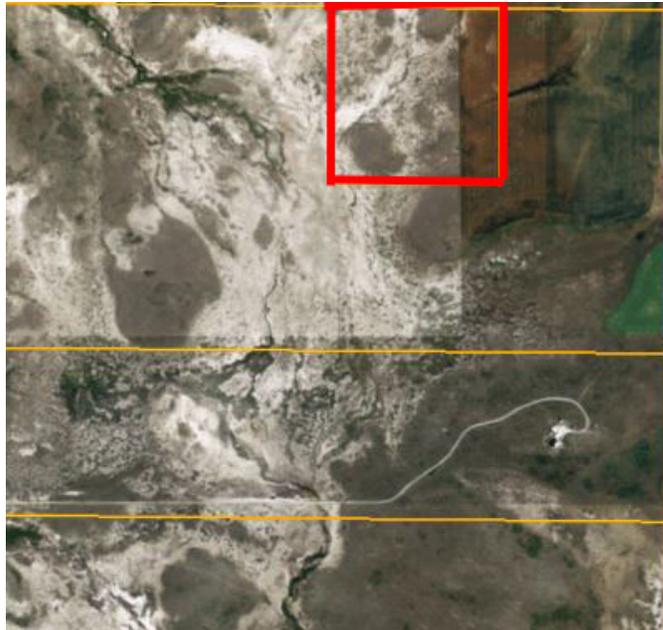
Teton County Sale Location Map



Sale #772
NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$
Section 35, T27N-R7W



Sale #773
Lot 2
Section 2, T26N-R7W



0318-5

CABIN AND HOME SITE SALES

PRELIMINARY APPROVAL FOR SALE

**Land Board Agenda Item
March 19, 2018**

0318-5 Cabin and Home Site Sales: Preliminary Approval for Sale

Location: Custer, Fallon, Flathead, Lewis & Clark, Missoula, Sanders, Sweet Grass Counties

Trust Benefits: Common Schools, Montana Tech, MSU 2nd, 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 51 cabin and home sites nominated for sale in Custer, Fallon, Flathead, Lewis & Clark, Missoula, Sanders, and Sweet Grass Counties. These sales were nominated by the lessees and DNRC in conjunction with the Cabin and Home Site Sale Program.

Sale Number	# of Acres	Legal	Nominator	Trust
920	1.37	Lot 2, McGregor Lake T26N-R25W, Sec. 16, Flathead County	Kathleen Toren	Common Schools
921	1.43	Lot 3, McGregor Lake T26N-R25W, Sec. 16, Flathead County	Karol K. Stack	Common Schools
922	1.61	Lot 7, McGregor Lake T26N-R25W, Sec. 16, Flathead County	Donald & Sara Ericksen	Common Schools
923	1.35	Lot 12, McGregor Lake T26N-R25W, Sec. 16, Flathead County	Donald & Claudia Dennison	Common Schools
924	1.35	Lot 13, McGregor Lake T26N-R25W, Sec. 16, Flathead County	Robert & Tuula Betts	Common Schools
925	1.49	Lot 27, McGregor Lake T26N-R25W, Sec. 16, Flathead County	James F. Slaton	Common Schools
926	1.47	Lot 17, McGregor Lake T26N-R25W, Sec. 16, Flathead County	DNRC	Common Schools
927	1.53	Lot 22, McGregor Lake T26N-R25W, Sec. 16, Flathead County	DNRC	Common Schools
928	1.21	Lot 23, McGregor Lake T26N-R25W, Sec. 16, Flathead County	DNRC	Common Schools
929	0.658	Lot 22, Echo Lake T27N-19W, Sec. 5 Flathead County	Lance & Julie Miller	Montana Tech
930	0.646	Lot 23, Echo Lake T27N-19W, Sec. 5 Flathead County	Floyd R. & Helen M. Cook	Montana Tech
931	0.965	Lot 40, Echo Lake T27N-19W, Sec. 5 Flathead County	Brian & Cari Schlauch	Montana Tech
932	1.06	Lot 3, Lincoln Flats T14W-R8W, Sec. 16, Lewis & Clark County	Theresa Proff	Common Schools

933	1	Lot 4, Lincoln Flats T14W-R8W, Sec. 16, Lewis & Clark County	Ronald & Lisa Gibson	Common Schools
934	1	Lot 13, Lincoln Flats T14W-R8W, Sec. 16, Lewis & Clark County	Steven Neiffer	Common Schools
935	1.426	Lot 16, Lincoln Flats T14W-R8W, Sec. 16, Lewis & Clark County	Melissa Gilbert	Common Schools
936	2.07	Lot 3, Morrell Flats, T16N-R15W, Sec. 14, Missoula County	DNRC	MSU 2 nd
937	1.656	Lot 1, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	David Batchelder & Bridget Laird	MSU 2 nd
938	1.449	Lot 17, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	Olive Sol & Patricia Ann Doty	MSU 2 nd
1036	1.639	Lot 19, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	Brian & Nadine Pedersen	MSU 2 nd
939	1.217	Lot 20, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	Richard & Elizabeth Meyn	MSU 2 nd
940	3.148	Lot 27, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	Brian Bertsch	MSU 2 nd
941	2.189	Lot 31, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	J & E Contracting	MSU 2 nd
942	1.293	Lot 38, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	Marvin & Lynn Job, Bryce & Marcey Campbell	MSU 2 nd
943	1.291	Lot 40, Seeley Lake Development T16N-R15W, Sec. 4, Missoula County	David & Connie Murray	MSU 2 nd
944	1.42	Lot 7, Seeley Lake North T17N-R15W, Sec 16, Missoula County	Dan Larson	Common Schools
945	0.831	Lot 9, Seeley Lake North T17N-R15W, Sec 16, Missoula County	Stephen & Kathleen Thompson	Common Schools
946	3.47	PT SW4SE2 T1N-R15E, Sec. 29, Sweet Grass County	Howard Roberts	Common Schools
947	<10	Unsurveyed lot in PT SW4SW4 T9N-55E, Sec. 12, Custer County	David Hoenke	Common Schools
948	<10	Unsurveyed lot in SW4SW4 T6N-R57E, Sec. 36, Fallon County	Shelley Mackay & Barnet J. Dean	Common Schools
949	1.376	Lot 3, Rogers Lake T27N-R23W, Sec. 30, Flathead County	DNRC	Montana Tech
950	1.654	Lot 5, Rogers Lake T27N-R23W, Sec. 30, Flathead County	DNRC	Montana Tech

951	1.719	Lot 4, Rogers Lake T27N-R23W, Sec. 30, Flathead County	Tom Larson & Katherine Folck	Montana Tech
952	1.255	Lot 6, Rogers Lake T27N-R23W, Sec. 30, Flathead County	Linda Garstang	Montana Tech
953	1.245	Lot 10, Rogers Lake T27N-R23W, Sec. 30, Flathead County	Jessica Thompson	Montana Tech
954	0.64	Lot in Mudd Creek T22N-R27W, Sec. 12 Sanders County	Brenda Dutra	Public Buildings
955	1.46	Lot 1, Mudd Creek T22N-R27W, Sec. 12 Sanders County	Erick Dickson, et al.	Public Buildings
956	1.76	Lot 6, Mudd Creek T22N-R27W, Sec. 12 Sanders County	Randy & Marcia Johnson	Public Buildings
957	2.14	Lot 19, Mudd Creek T22N-R27W, Sec. 12 Sanders County	Charles A. Bishop Irrevocable Residuary Trust	Public Buildings
958	0.7	Lot 1, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Kirk & Kim Mace	MSU 2 nd
959	0.512	Lot 5, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Daniel, Deanna, & Kimberly Schwenk	MSU 2 nd
960	1.351	Lot 6, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Gregg E. Sautter	MSU 2 nd
961	1.315	Lot 7, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Jacquelyn & Robert Todd White	MSU 2 nd
962	1.349	Lot 9, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Virginia McHugh	MSU 2 nd
963	0.851	Lot 10, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Michael B. Vasser & Jennifer S. Duax	MSU 2 nd
964	3.174	Lot 18, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Christopher W. & Christopher W.E. Boland	MSU 2 nd
965	1.905	Lot 20, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Glen & Carol Richards	MSU 2 nd
966	2.075	Lot 21, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Marvin & Marianne Maki	MSU 2 nd
967	1.54	Lot 23, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Carolyn E. Gies	MSU 2 nd
968	1.826	Lot 25, Seeley Lake Outlet East T16N-R15W, Sec. 4 Missoula County	Gerald & Rae-Jean Johnson	MSU 2 nd
969	1.84	Lot B, Six Mile T15N-R22W, Sec. 12 Missoula County	Therese M. Keating	MSU 2 nd

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

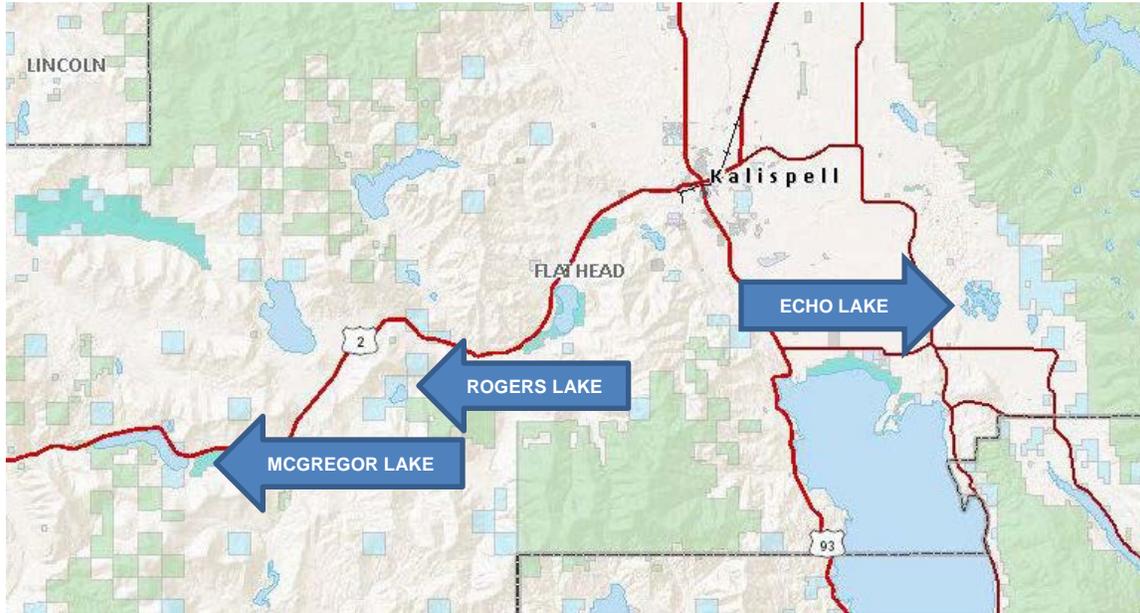
Preliminary approval allows DNRC to enter these sites in the Cabin/Home Site Sales process, the next step of which is an appraisal by a Montana general certified appraiser in spring and summer of 2018. After appraisal, these sites will be brought to the Land Board again to set the minimum bid for the land and maximum value of any improvements.

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 grant preliminary approval to sell these cabin and home sites.

FLATHEAD COUNTY SALES

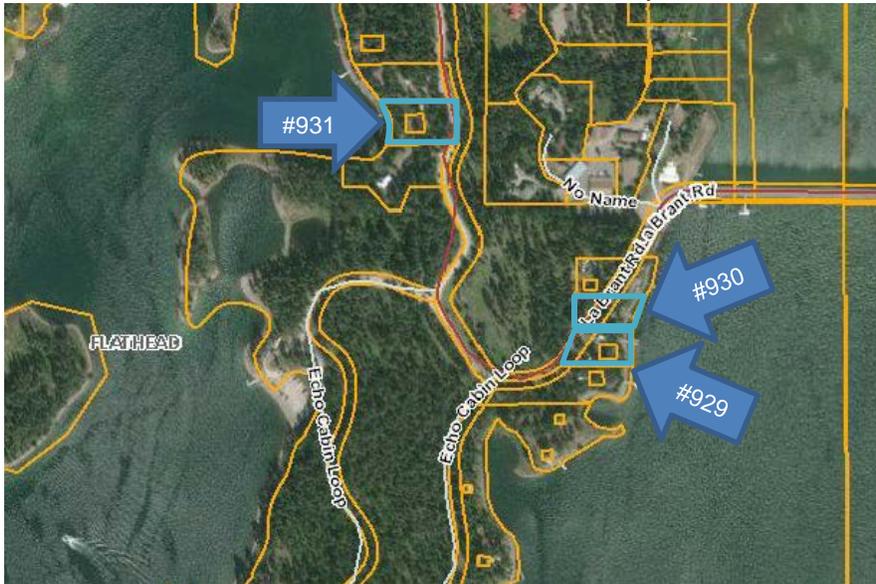


McGregor Lake
T26N-R25W, Sec. 16, Flathead County



Echo Lake

T27N-19W, Sec. 5, Flathead County



Rogers Lake

T27N-R23W, Sec. 30, Flathead County

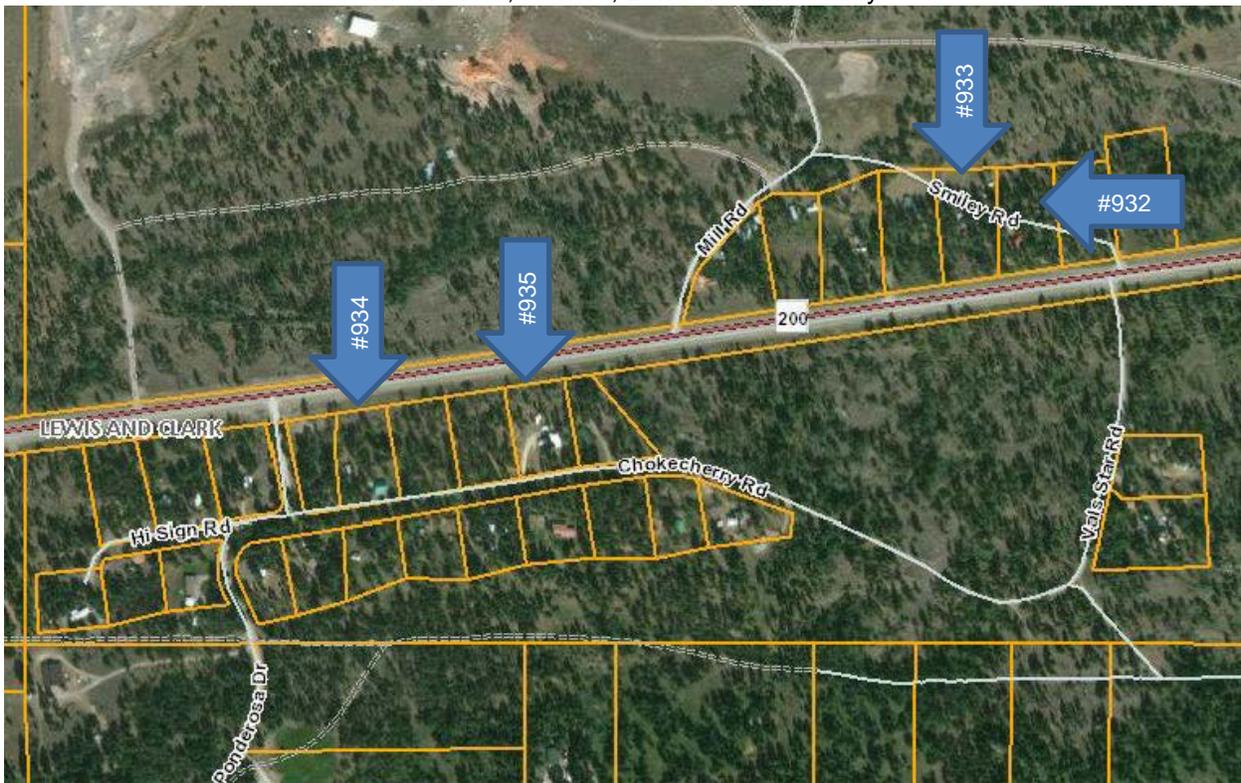


LEWIS & CLARK COUNTY SALES



Lincoln Flats

T14W-R8W, Sec. 16, Lewis & Clark County

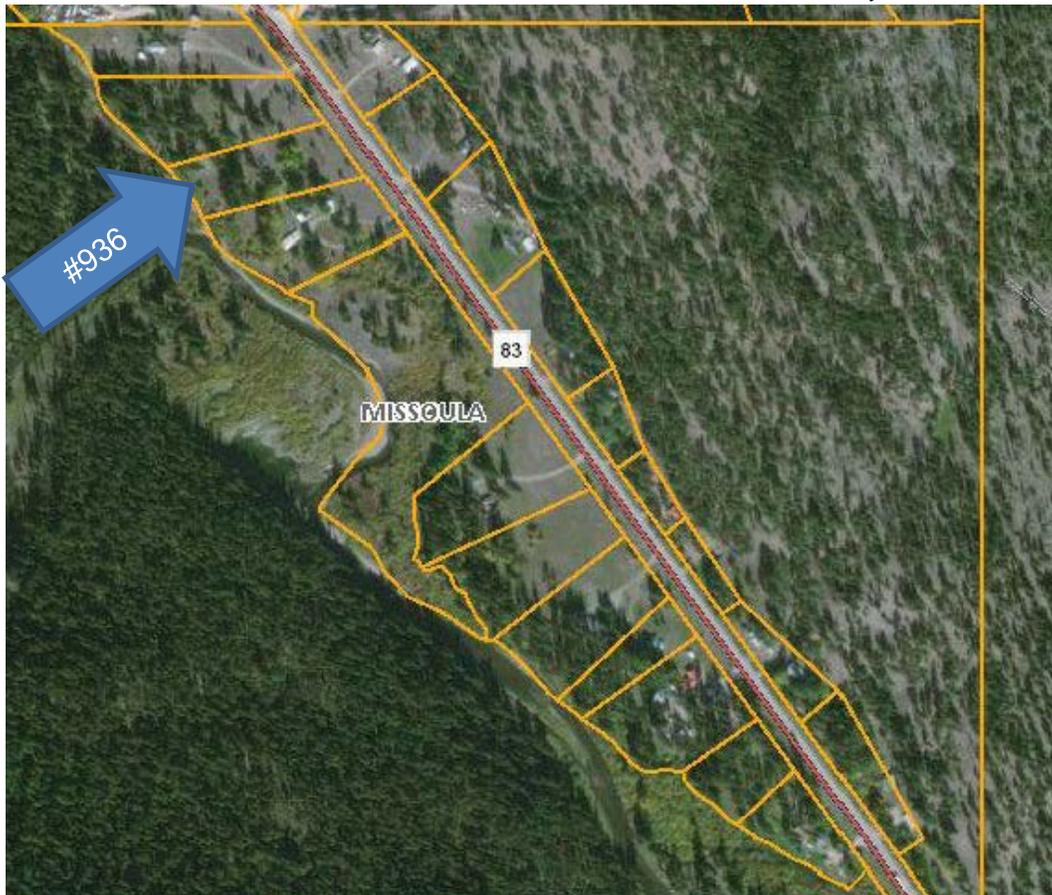


MISSOULA COUNTY SALES

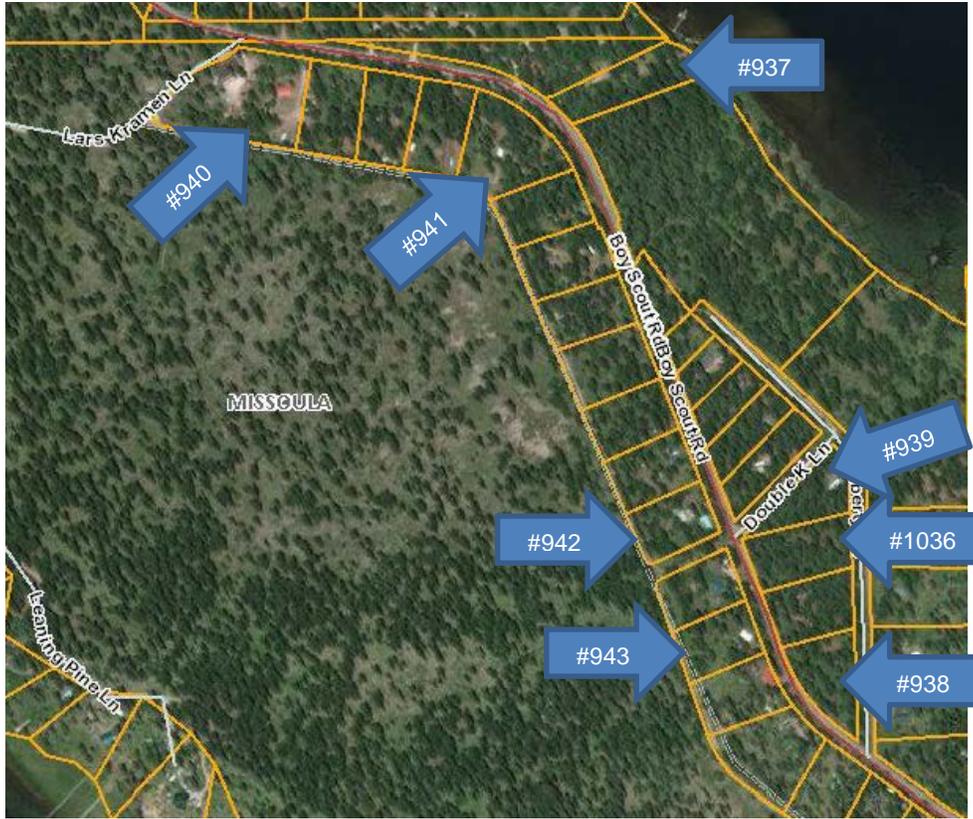


Morrell Flats

Lot 3, Morrell Flats, T16N-R15W, Sec. 14, Missoula County



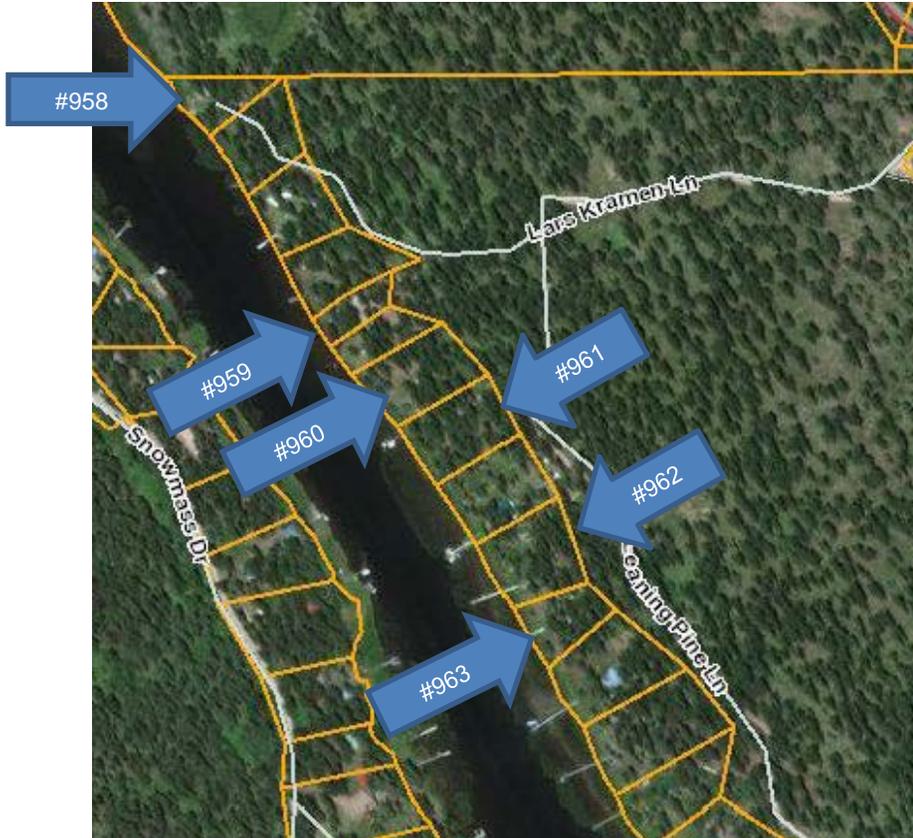
Seeley Lake Development T16N-R15W, Sec. 4, Missoula County



Seeley Lake North T17N-R15W, Sec 16, Missoula County



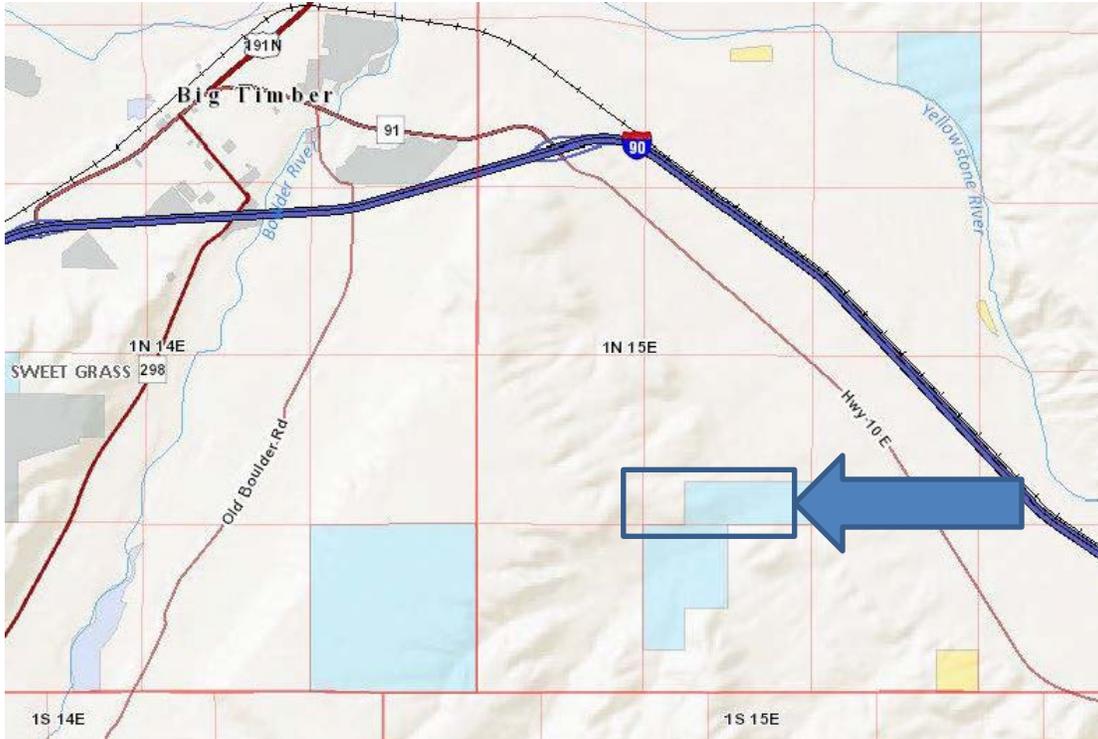
Seeley Lake Outlet East
T16N-R15W, Sec. 4, Missoula County



Six Mile
Lot B, Six Mile, T15N-R22W, Sec. 12, Missoula County

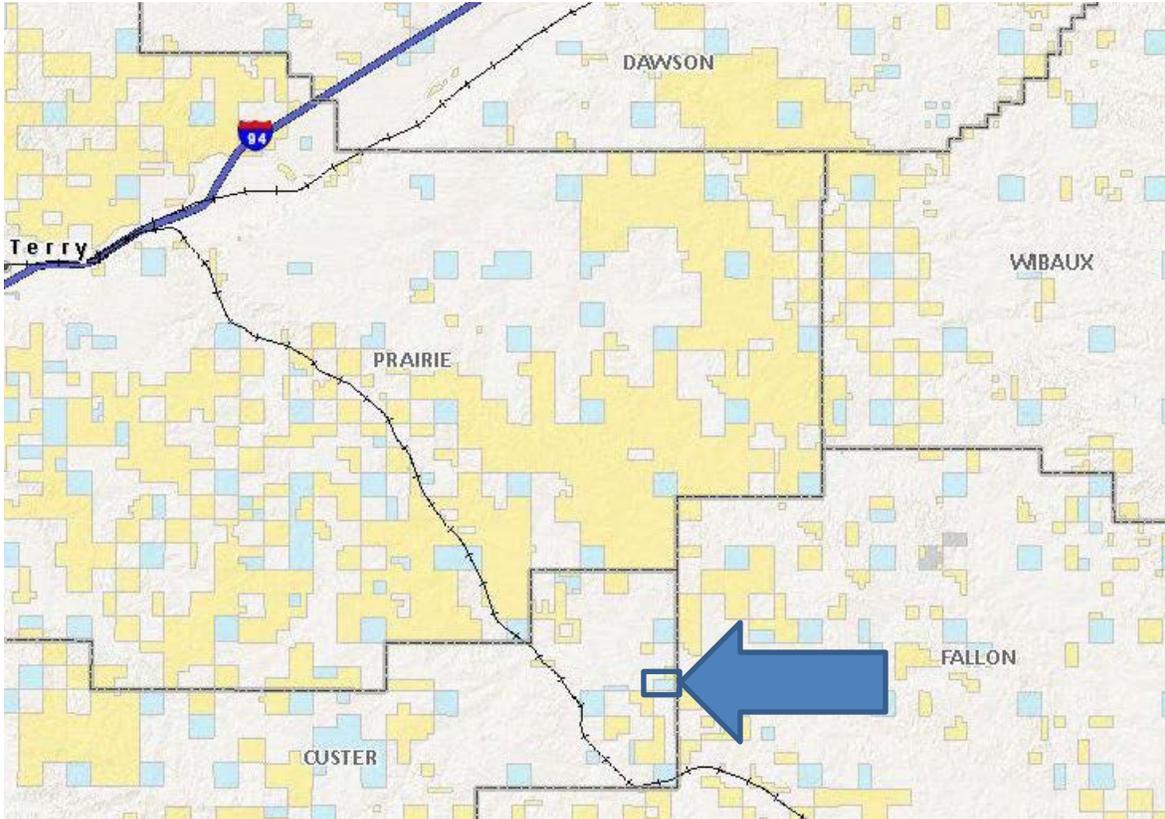


SWEET GRASS COUNTY SALE
PT SW4SE2, T1N-R15E, Sec. 29, Sweet Grass County



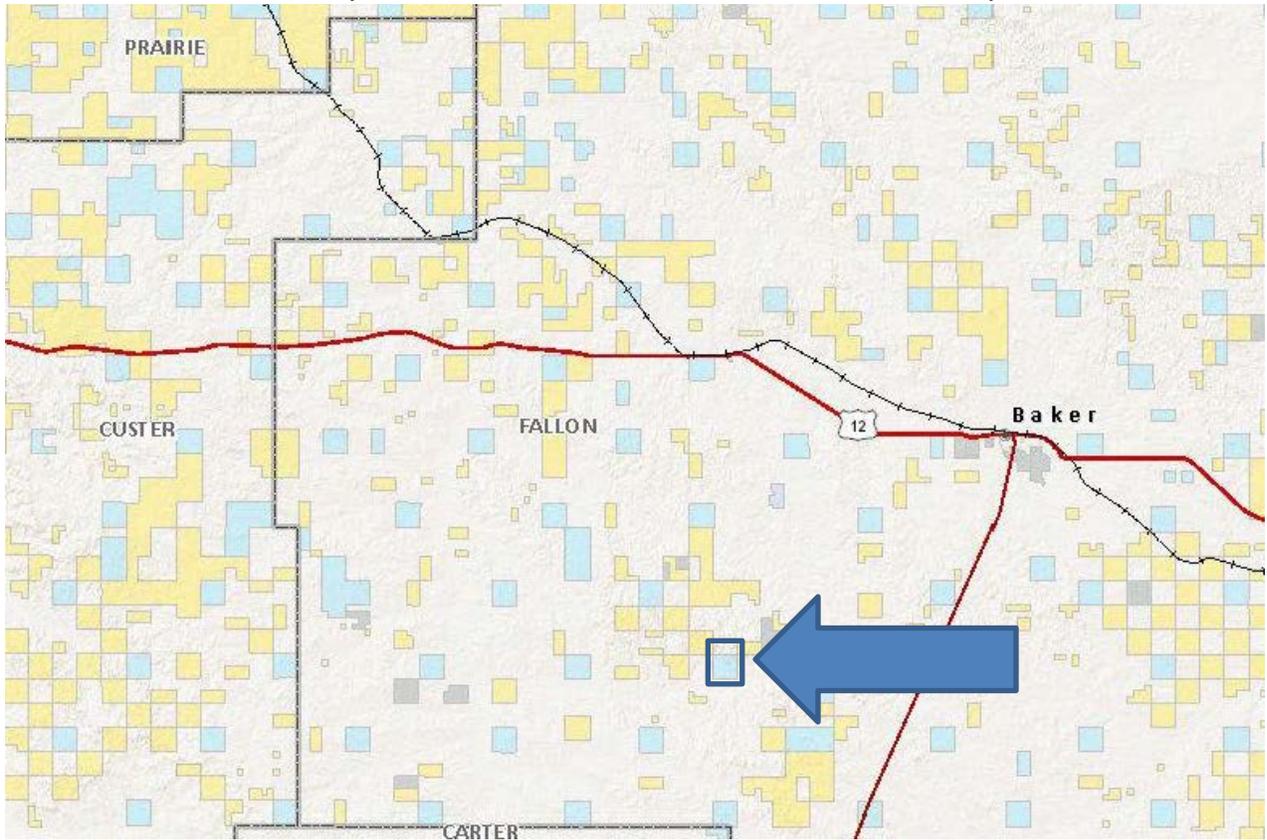
CUSTER COUNTY SALE

Unsurveyed lot in PT SW4SW4, T9N-55E, Sec. 12, Custer County

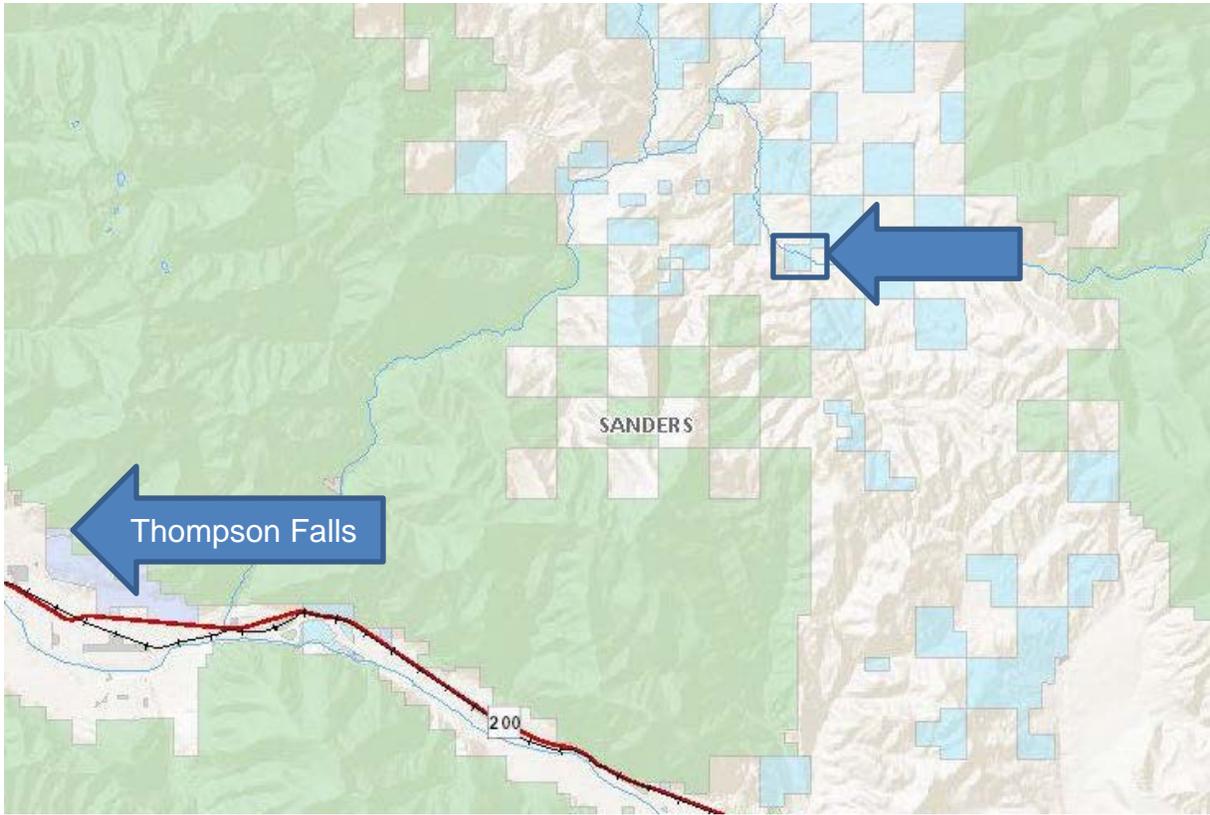


FALLON COUNTY SALE

Unsurveyed lot in SW4SW4, T6N-R57E, Sec. 36, Fallon County



SANDERS COUNTY SALES



Mudd Creek

Unsurveyed lots in Mudd Creek, T22N-R27W, Sec. 12, Sanders County



0318-6

EASEMENTS

**Land Board Agenda Item
March 19, 2018**

0318-6 Easements

Location: Blaine, Broadwater, Cascade, Chouteau, Hill, Liberty, Musselshell,
Toole, Valley

Trust Benefits: Common Schools, Capitol Buildings, MSU-Eastern/UM-Western,
Pine Hills School, Public Land Trust

Trust Revenue: Common Schools = \$22,800
Capitol Buildings = \$700
MSU Eastern/UM Western = \$189
Pine Hills School = \$864
Public Land Trust = \$16,016

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Northwestern Energy	Historic Overhead Electric	Permanent	1-26
Northern Telephone Cooperative	Historic Buried Telephone	Permanent	27-28
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Mid-Rivers Telephone Coop.	Buried Fiber Optic Cable	Permanent	31-33
MT Department of Transportation	Highway Bridge Replacement	Permanent	34-35

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Street Butte, MT 59701
Application No.:	17581
R/W Purpose:	an overhead 12.47 kV electric distribution line
Lessee Agreement:	N/A (Historic)
Acreage:	3.19
Compensation:	\$2,712.00
Legal Description:	30-foot strip through SW4NW4, N2SW4, SE4SW4, Sec. 16, Twp. 30N, Rge. 6E, Liberty County
Trust Beneficiary:	Common Schools

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 these historic rights of way for Northwestern Energy.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17621
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.19
Compensation: \$1,012.00
Legal Description: 30-foot strip through NW4NW4, Sec. 27, Twp. 30N, Rge. 6E,
Liberty County
Trust Beneficiary: Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17622
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.91
Compensation: \$774.00
Legal Description: 30-foot strip through NE4NE4, Sec. 28, Twp. 30N, Rge. 6E,
Liberty County
Trust Beneficiary: Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17918
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.09
Compensation: \$100.00
Legal Description: 30-foot strip through W2NW4, Sec. 19, Twp. 29N, Rge. 7E,
Liberty County
Trust Beneficiary: Capitol Buildings

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17922
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 3.77
Compensation: \$3,146.00
Legal Description: 30-foot strip NE4SE4, S2SE4, S2SW4, Sec. 9, Twp. 27N, Rge. 6E,
Trust Beneficiary: Chouteau County
Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17924
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.72
Compensation: \$1,032.00
Legal Description: 30-foot strip through SW4SE4, SE4SW4, Sec. 3, Twp. 19N,
Rge. 1E, Cascade County
Trust Beneficiary: Common Schools, Pine Hills School

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17927
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.01
Compensation: \$100.00
Legal Description: 10-foot strip across the Milk River in NW4NW4, Sec. 29,
Twp. 28N, Rge. 40E, Valley County
Trust Beneficiary: Public Land Trust

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17950
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.01
Compensation: \$100.00
Legal Description: 10-foot strip across the Milk River in NW4NE4, Sec. 23,
Twp. 28N, Rge. 39E, Valley County
Trust Beneficiary: Public Land Trust

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Street Butte, MT 59701
Application No.:	17953
R/W Purpose:	an overhead 4.16 kV electric distribution line
Lessee Agreement:	N/A (Historic)
Acreage:	1.89
Compensation:	\$1,607.00
Legal Description:	30-foot strip through S2SE4, NW4SE4, Sec. 31, Twp. 33N, Rge. 13E, Hill County
Trust Beneficiary:	Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 17986
R/W Purpose: an overhead 4.16 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.84
Compensation: \$1,564.00
Legal Description: 30-foot strip through S2SW4, Sec. 32, Twp. 33N, Rge. 13E,
Hill County
Trust Beneficiary: Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 18023
R/W Purpose: an overhead 12.47 electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.86
Compensation: \$1,075.00
Legal Description: 50-foot strip across the Missouri River in SE4NW4, Sec. 4,
Twp. 24N, Rge. 9E, Chouteau County
Trust Beneficiary: Public Land Trust

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 18024
R/W Purpose: an overhead 12.47 electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.49
Compensation: \$613.00
Legal Description: 50-foot strip across the Missouri River in SE4SW4, Sec. 8,
Twp. 24N, Rge. 9E, Chouteau County
Trust Beneficiary: Public Land Trust

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 18135
R/W Purpose: an overhead 7.2 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.63
Compensation: \$189.00
Legal Description: 30-foot strip through NE4SE4, Sec. 25, Twp. 33N, Rge. 17E,
Blaine County
Trust Beneficiary: MSU-Eastern/UM-Western

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 18136
R/W Purpose: an overhead 4.16 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.03
Compensation: \$100.00
Legal Description: 30-foot strip across the Milk River in SE4SW4, Sec. 1, Twp. 27N,
Rge. 41E, Valley County
Trust Beneficiary: Public Land Trust

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 18138
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.02
Compensation: \$100.00
Legal Description: 30-foot strip across the Milk River in NE4NE4, Sec. 1, Twp. 27N,
Rge. 41E, Valley County
Trust Beneficiary: Public Land Trust

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Street Butte, MT 59701
Application No.:	18141
R/W Purpose:	an overhead 69 kV electric transmission line with 12.47 kV distribution underbuilt
Lessee Agreement:	N/A (Historic)
Acreage:	2.0
Compensation:	\$600.00
Legal Description:	60-foot strip through W2NW4, Sec. 19, Twp. 29N, Rge. 7E, Liberty County
Trust Beneficiary:	Capitol Buildings

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Street Butte, MT 59701
Application No.:	18142
R/W Purpose:	an overhead 69 kV electric transmission line with 12.47 kV distribution underbuilt
Lessee Agreement:	N/A (Historic)
Acreage:	4.51
Compensation:	\$1,353.00
Legal Description:	40-foot strip through E2E2, Sec. 25, Twp. 29N, Rge. 6E, Liberty County
Trust Beneficiary:	Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Energy 11 East Park Street Butte, MT 59701
Application No.:	18143
R/W Purpose:	an overhead 69 kV electric transmission line with 12.47 kV distribution underbuilt
Lessee Agreement:	N/A (Historic)
Acreage:	0.34
Compensation:	\$102.00
Legal Description:	40-foot strip through NW4NW4, Sec. 30, Twp. 29N, Rge. 7E, Liberty County
Trust Beneficiary:	Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

Application No.: 18144
R/W Purpose: an overhead 69 kV electric transmission line
Lessee Agreement: N/A (Historic)
Acreage: 2.56
Compensation: \$1,536.00
Legal Description: 40-foot strip through S2NE4, NW4NE4, NE4NW4, Sec. 36,
Twp. 29N, Rge. 38E, Valley County
Trust Beneficiary: Common Schools

Item Summary

See page 1 for summary.

DNRC Recommendation

See page 1 for recommendation.

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Northwestern Energy
11 East Park Street
Butte, MT 59701

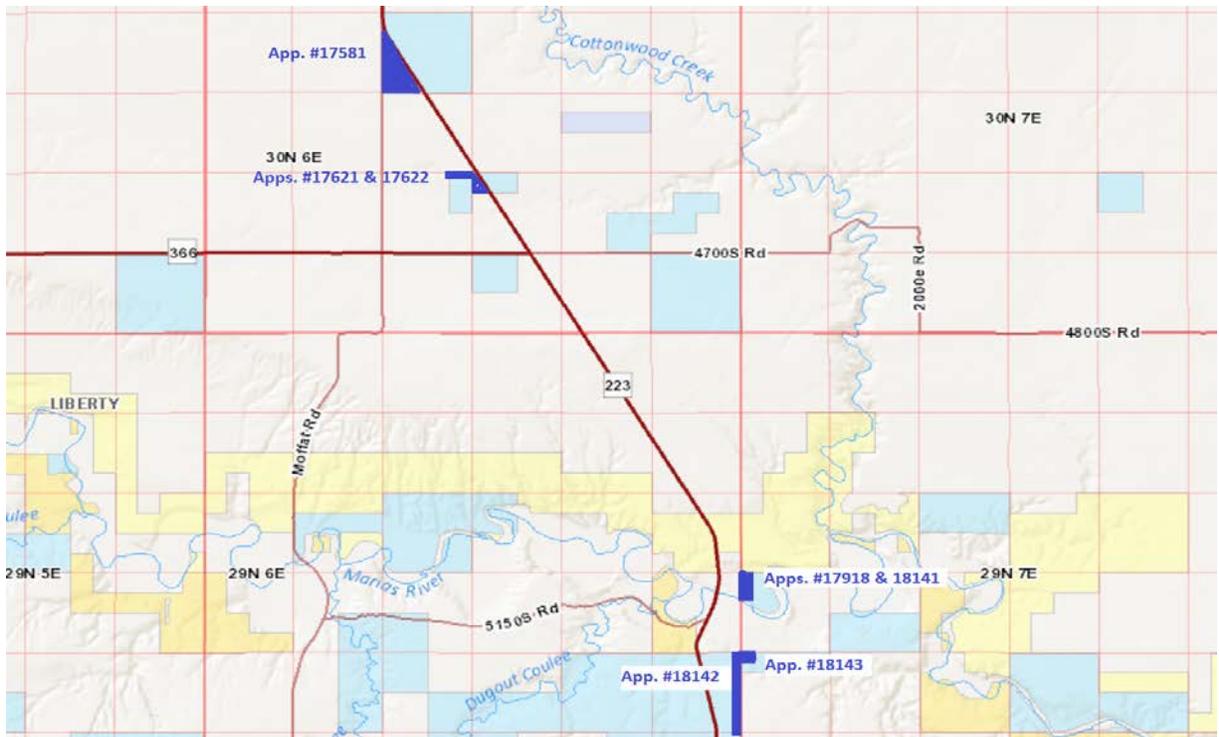
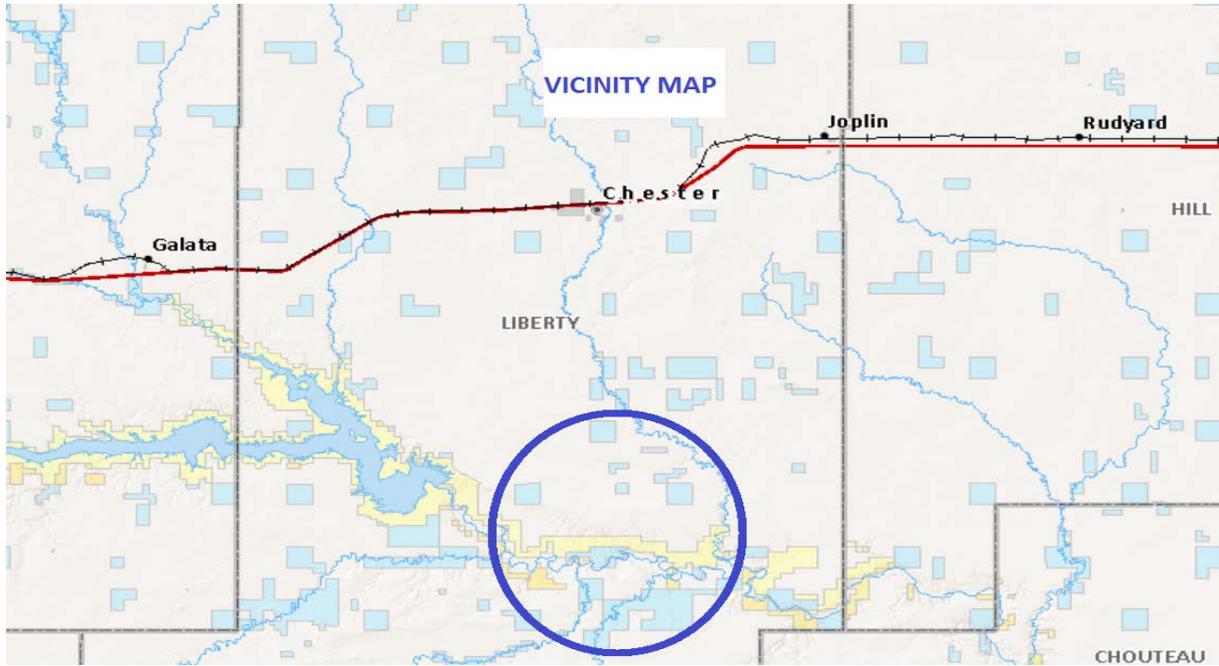
Application No.: 18145
R/W Purpose: an overhead 69 kV electric transmission line
Lessee Agreement: N/A (Historic)
Acreage: 0.05
Compensation: \$100.00
Legal Description: 40-foot strip through SW4SW4, Sec. 16, Twp. 28N, Rge. 40E,
Valley County
Trust Beneficiary: Common Schools

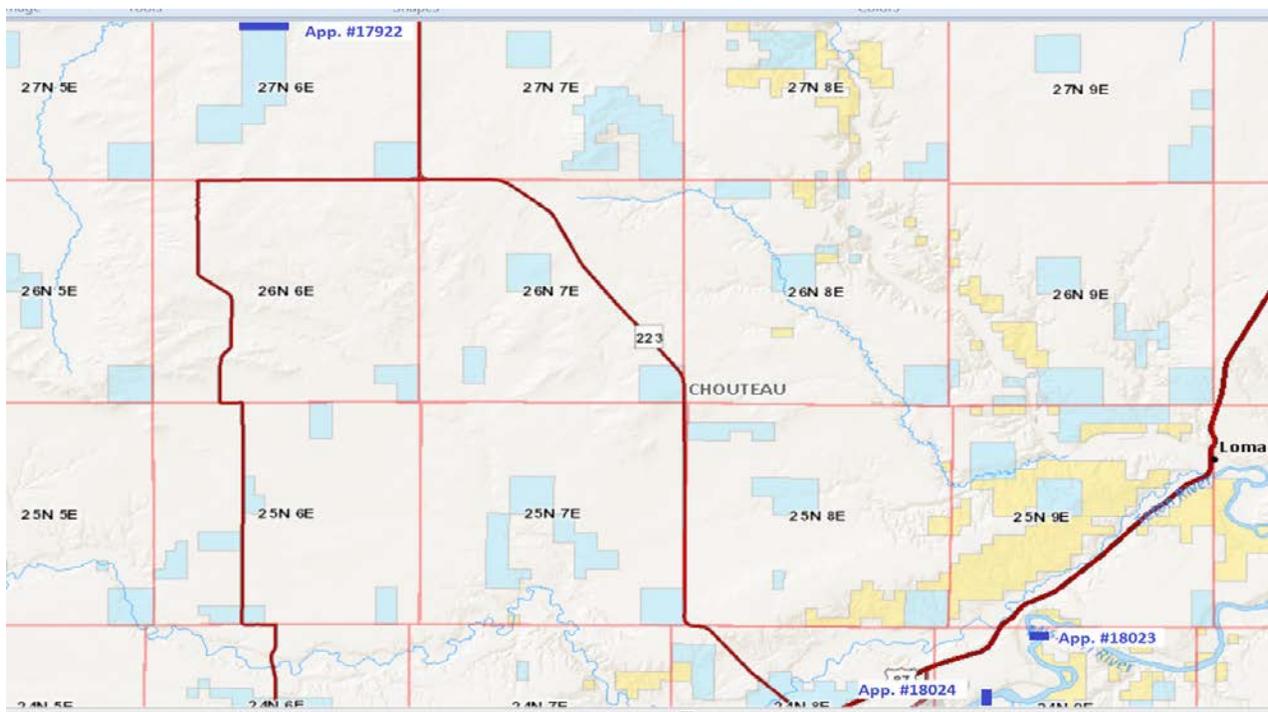
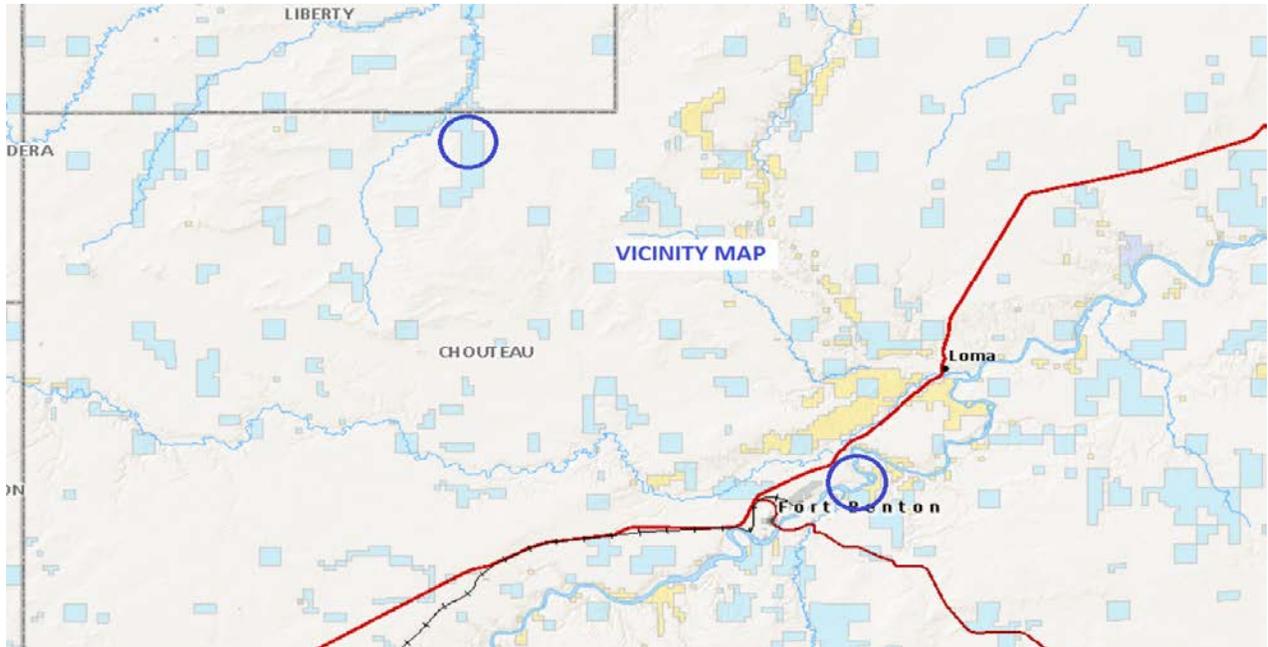
Item Summary

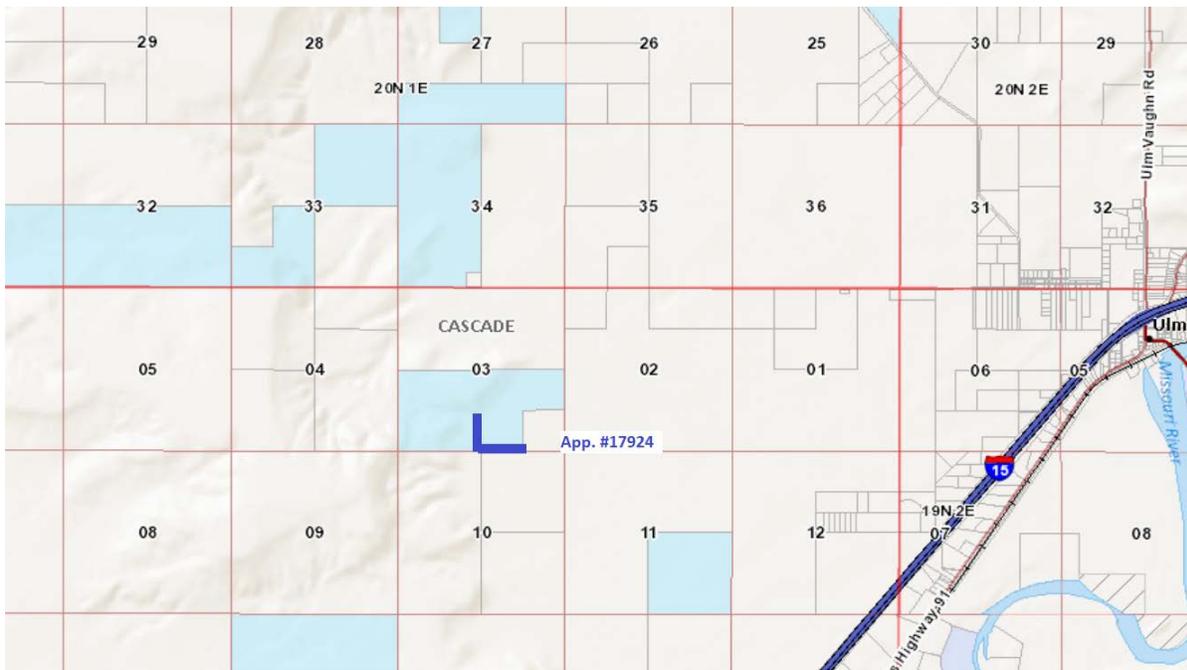
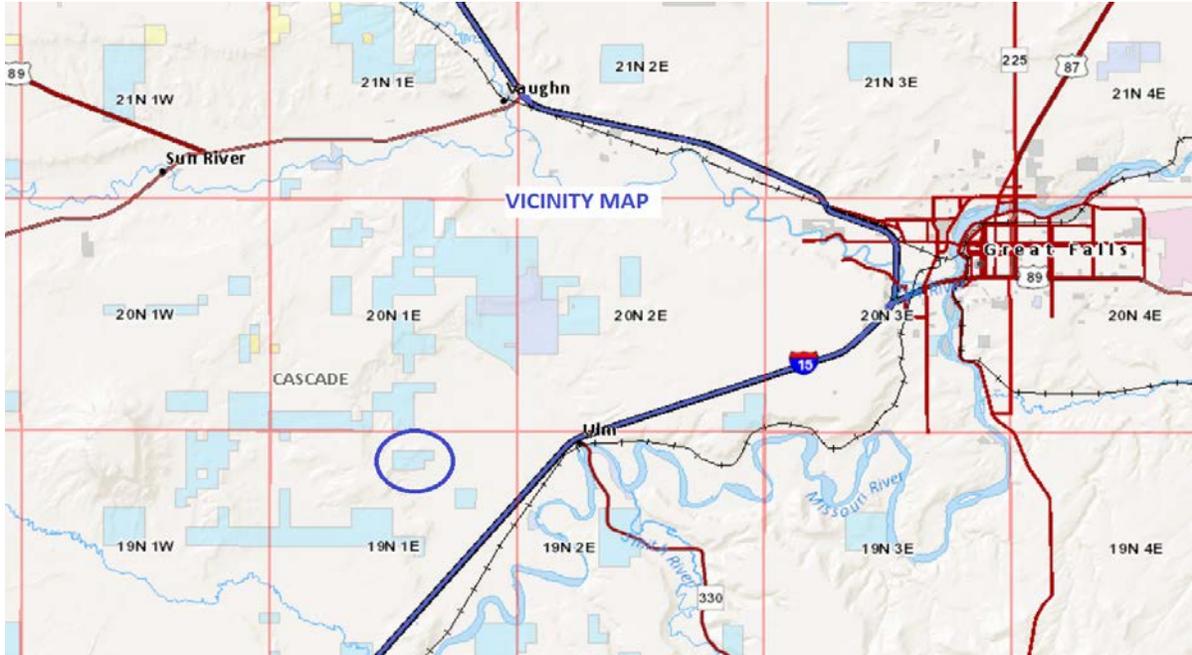
See page 1 for summary.

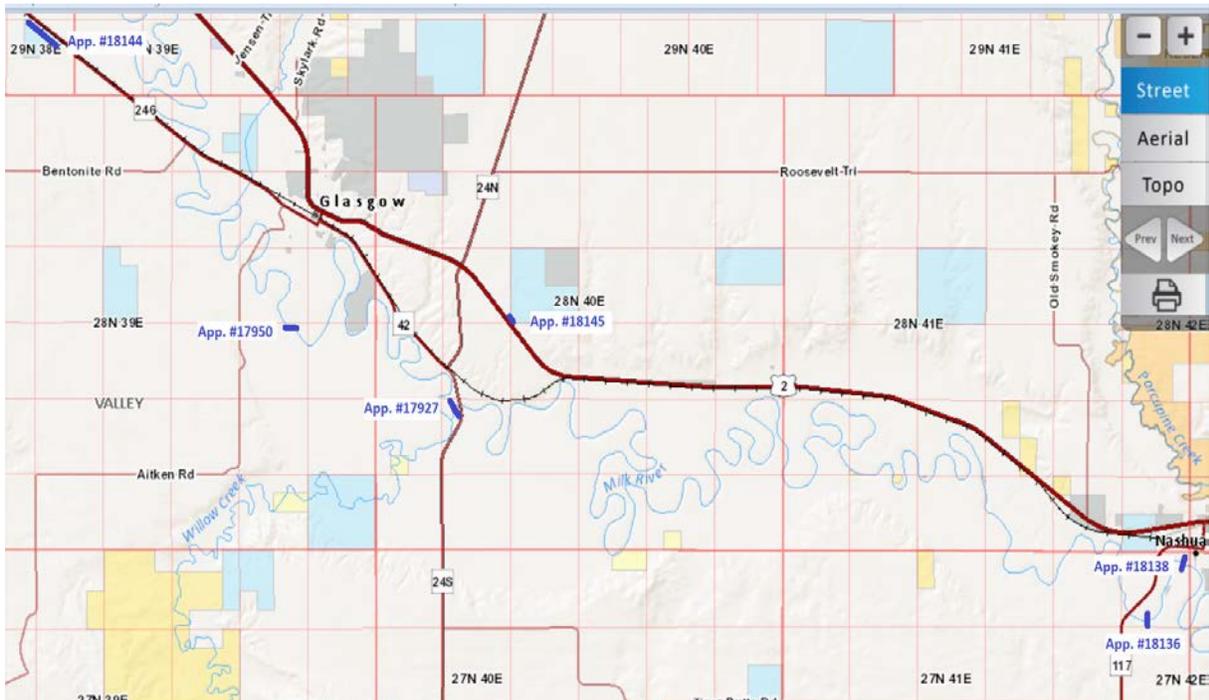
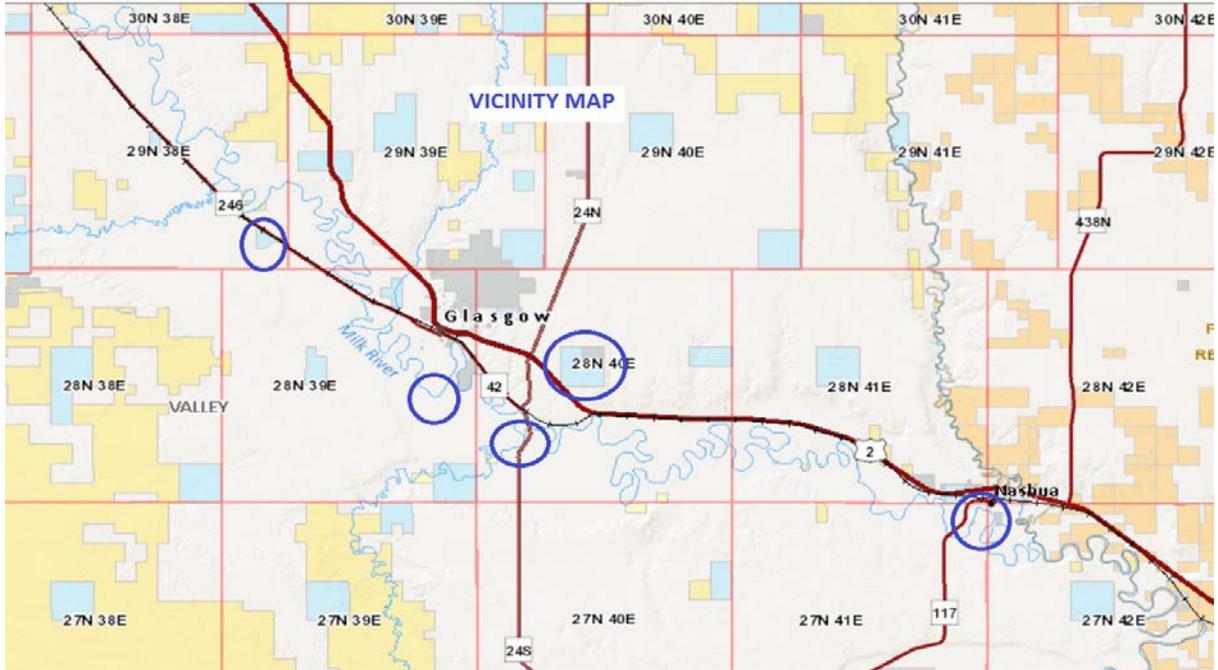
DNRC Recommendation

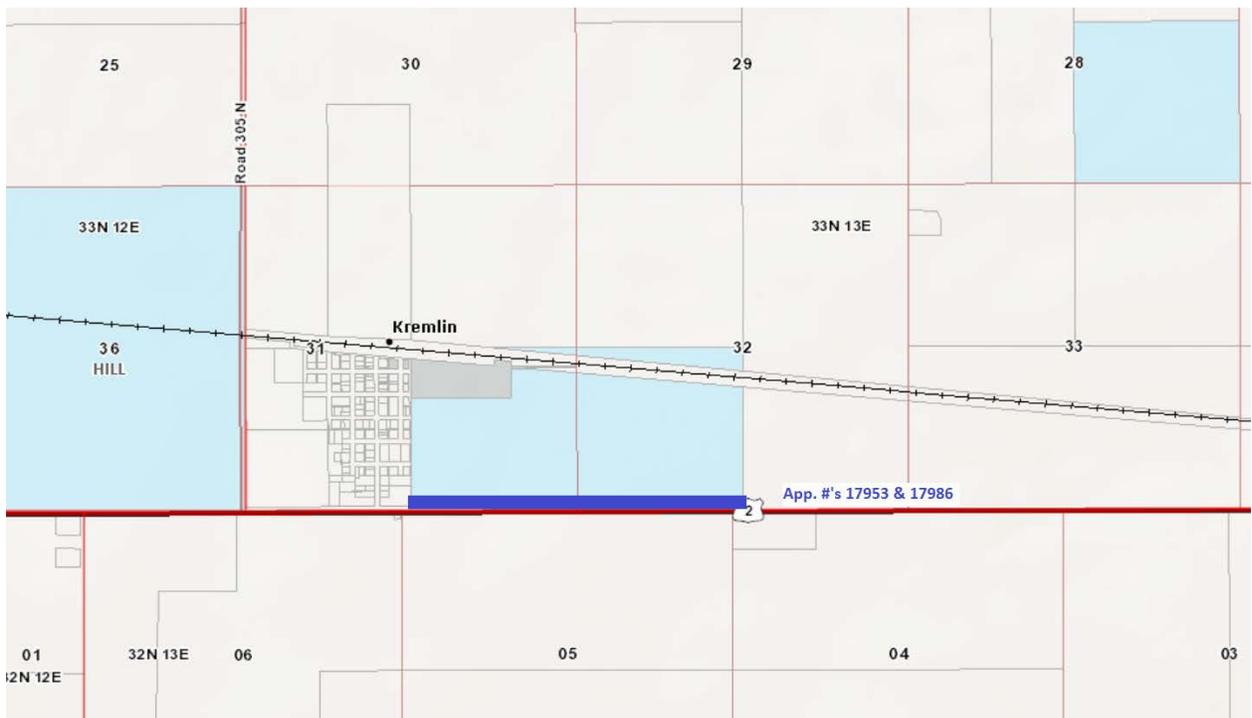
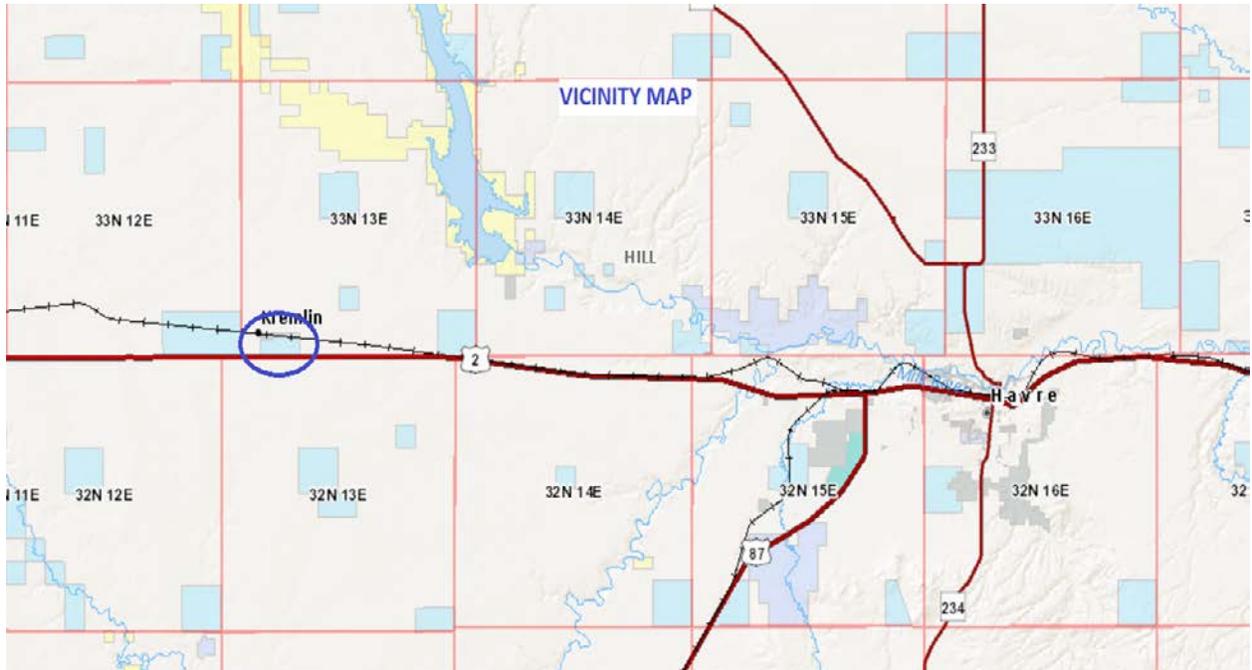
See page 1 for recommendation.

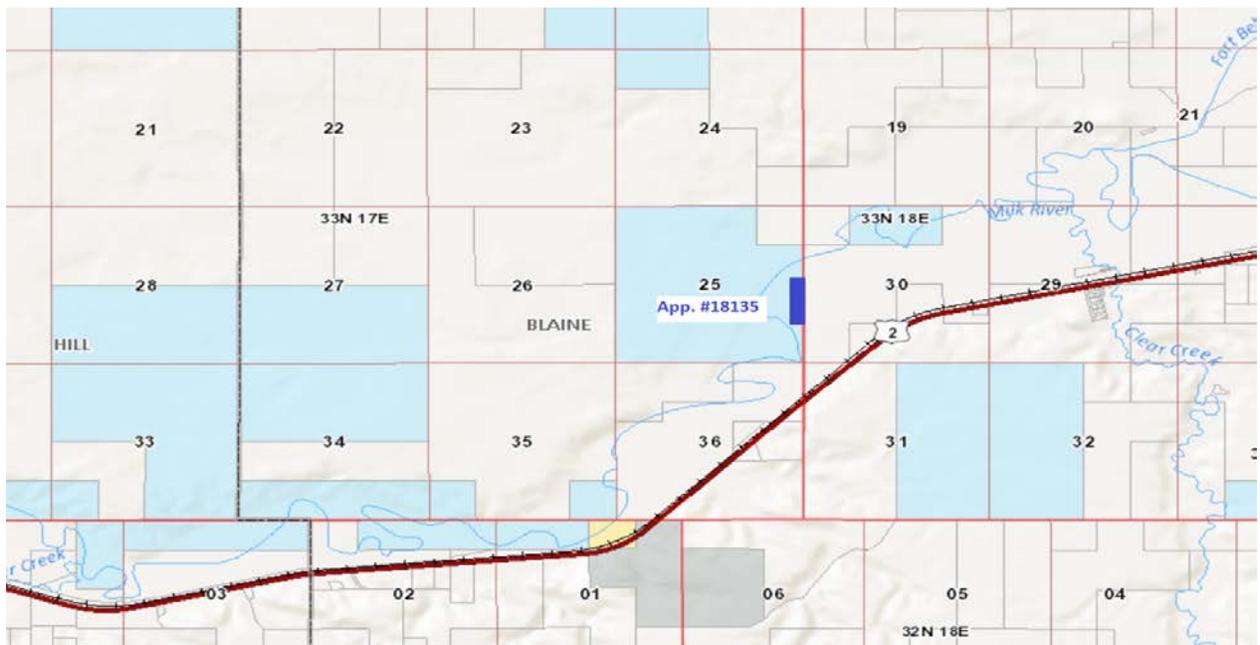
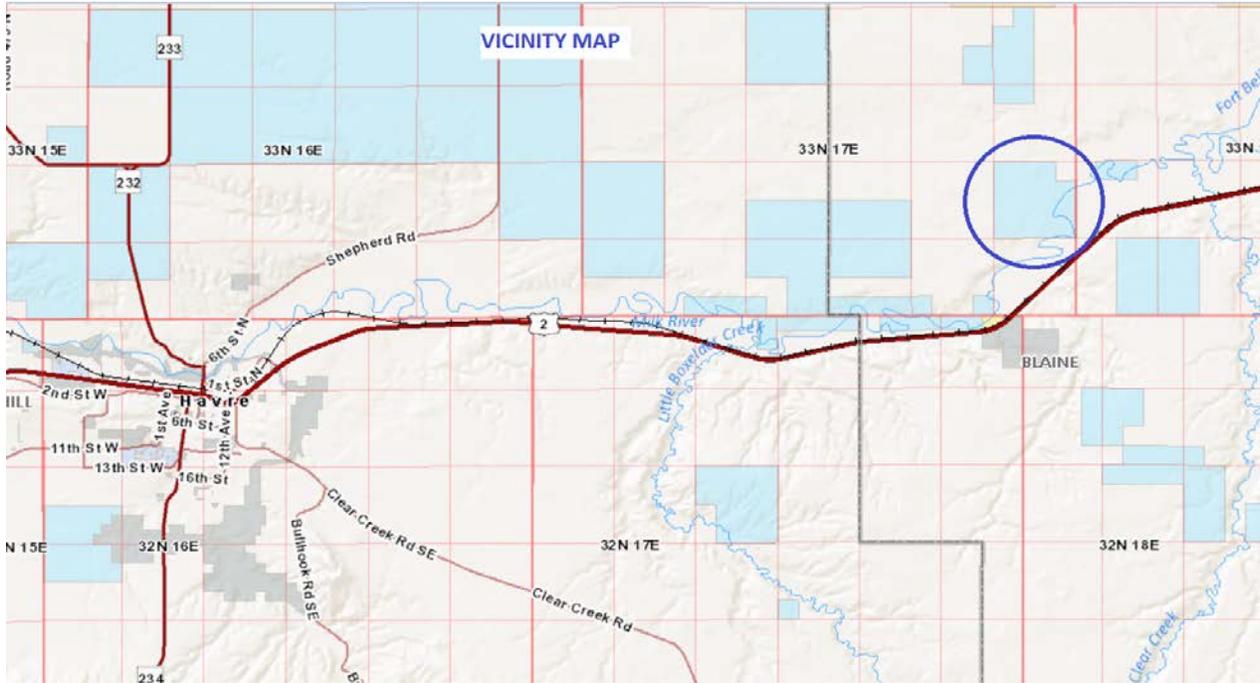












APPLICANTS AND RIGHTS OF WAY INFORMATION

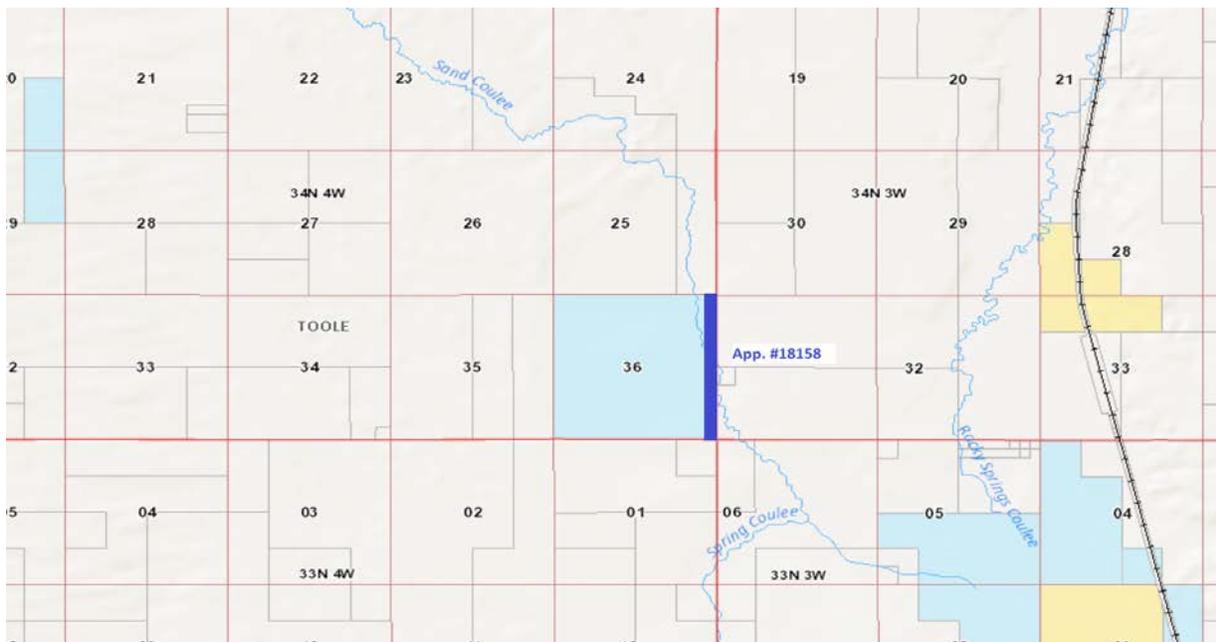
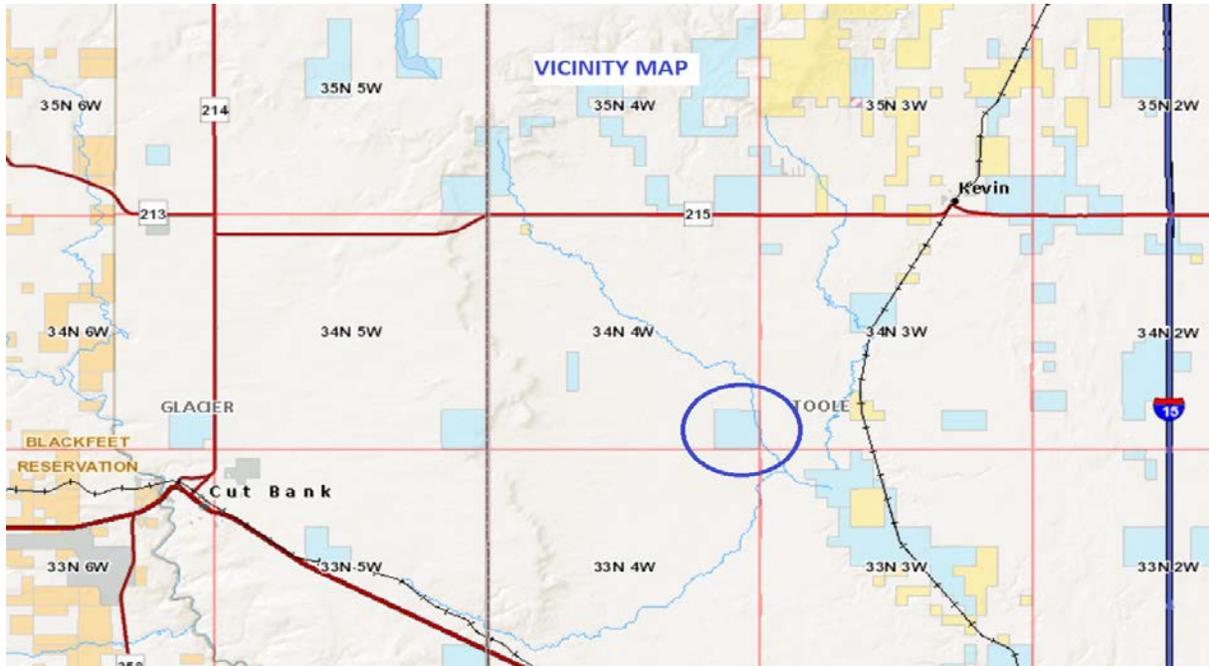
Applicant:	Northern Telephone Cooperative, Inc. P O Box 190 Sunburst, MT 59482
Application No.:	18158
R/W Purpose:	a buried telecommunications line
Lessee Agreement:	N/A (Historic)
Acreage:	2.42
Compensation:	\$1,331.00
Legal Description:	20-foot strip through E2E2, Sec. 36, Twp. 34N, Rge. 4W, Toole County
Trust Beneficiary:	Common Schools

Item Summary

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

DNRC Recommendation

The director recommends approval of this historic buried telecommunications line.



APPLICANTS AND RIGHTS OF WAY INFORMATION

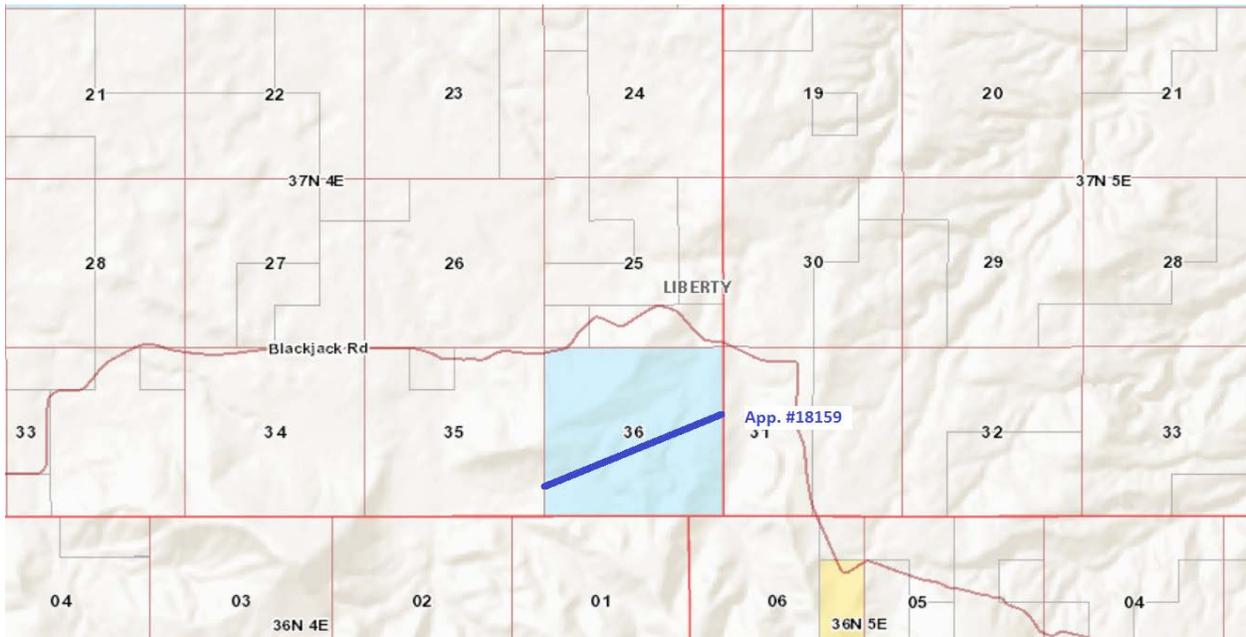
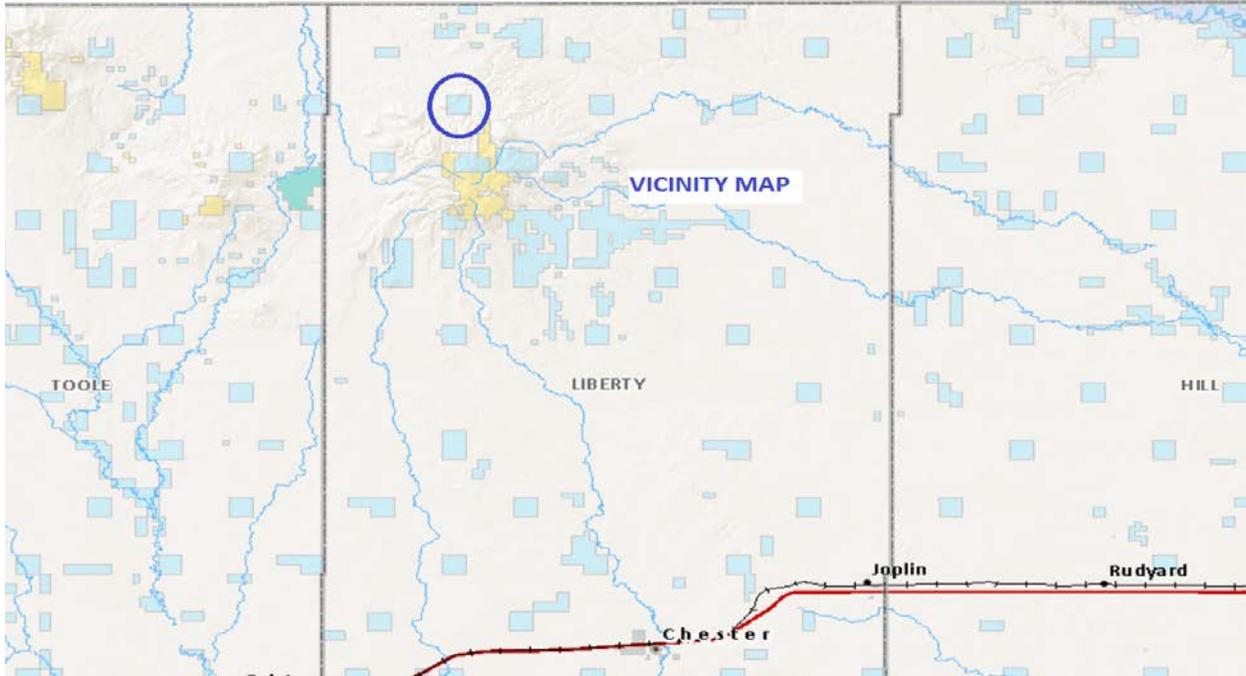
Applicant:	Tempel Contracting, Inc. 1850 1200 Road South Joplin, MT 59530
Application No.:	18159
R/W Purpose:	a buried 4" natural gas pipeline
Lessee Agreement:	ok
Acreage:	4.46
Compensation:	\$5,880.00
Legal Description:	30-foot strip through S2NE4, SE4NW4, NE4SW4, S2SW4, Sec. 36, Twp. 37N, Rge. 4E, Liberty County
Trust Beneficiary:	Common Schools

Item Summary

Tempel Contracting, Inc. has made application for a 4" natural gas pipeline. The pipeline was previously authorized and installed under a Land Use Licenses issued in 2001. This application is to convert the license to a 30-year term easement. Tempel Contracting has agreed to compensation in the amount of \$15.00/road which is consistent with other pipeline installations in the area.

DNRC Recommendation

The director recommends approval of this application for a 30-year term.



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Mid-Rivers Telephone Cooperative P O Box 280 Circle, MT 59215
Application No.:	18160
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	ok
Acreage:	0.13
Compensation:	\$105.00
Legal Description:	16-foot strip through W2SW4, Sec. 16, Twp. 6N, Rge. 24E, Musselshell County
Trust Beneficiary:	Common Schools

Item Summary

Mid-Rivers Telephone Cooperative is upgrading service to the town of Lavina and surrounding area in the service exchange. The proposed cable will be installed along existing access roads and previously disturbed areas so minimal impacts to the environment will occur. Alternative routes were explored but eliminated due to topographic, environmental and economic reasons.

DNRC Recommendation

The director recommends approval of this buried telecommunications cable.

APPLICANTS AND RIGHTS OF WAY INFORMATION

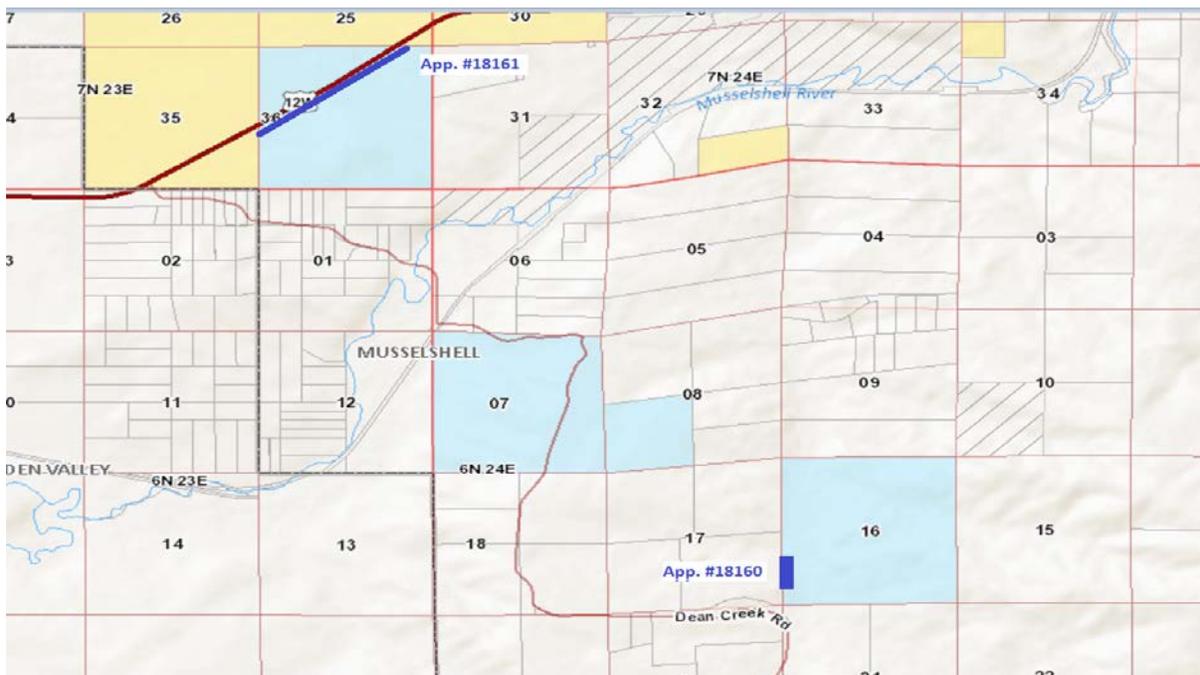
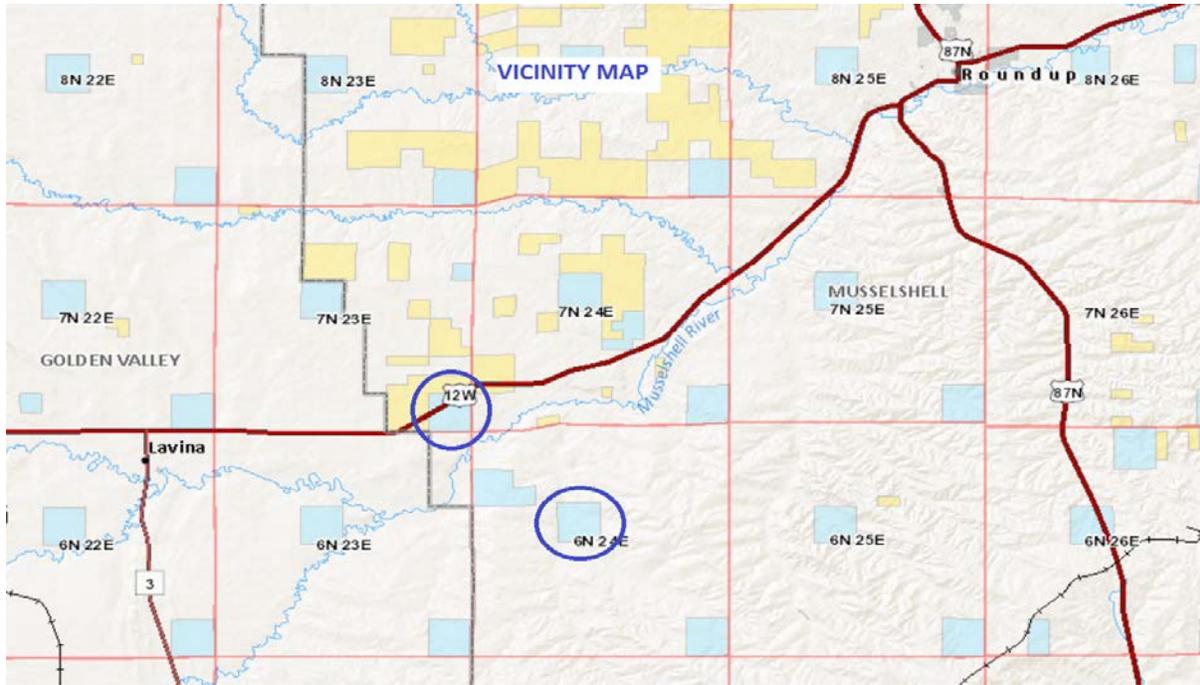
Applicant:	Mid-Rivers Telephone Cooperative P O Box 280 Circle, MT 59215
Application No.:	18161
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	N/A (Historic)
Acreage:	1.76
Compensation:	\$1,410.00
Legal Description:	16-foot strip through NW4NE4, NE4NW4, S2NW4, Sec. 36, Twp. 7N, Rge. 23E, Musselshell County
Trust Beneficiary:	Common Schools

Item Summary

See page 31 for item description. Additionally, this Section of State Trust land is located within Sage Grouse General Habitat. Mid-Rivers has consulted with MSGOT for the proposed project and reclamation of disturbed areas and control of noxious weeds is recommended. If approved by the Land Board the easement issued to Mid-Rivers will contain these specific recommendations.

DNRC Recommendation

See page 31 for recommendation.



APPLICANTS AND RIGHTS OF WAY INFORMATION

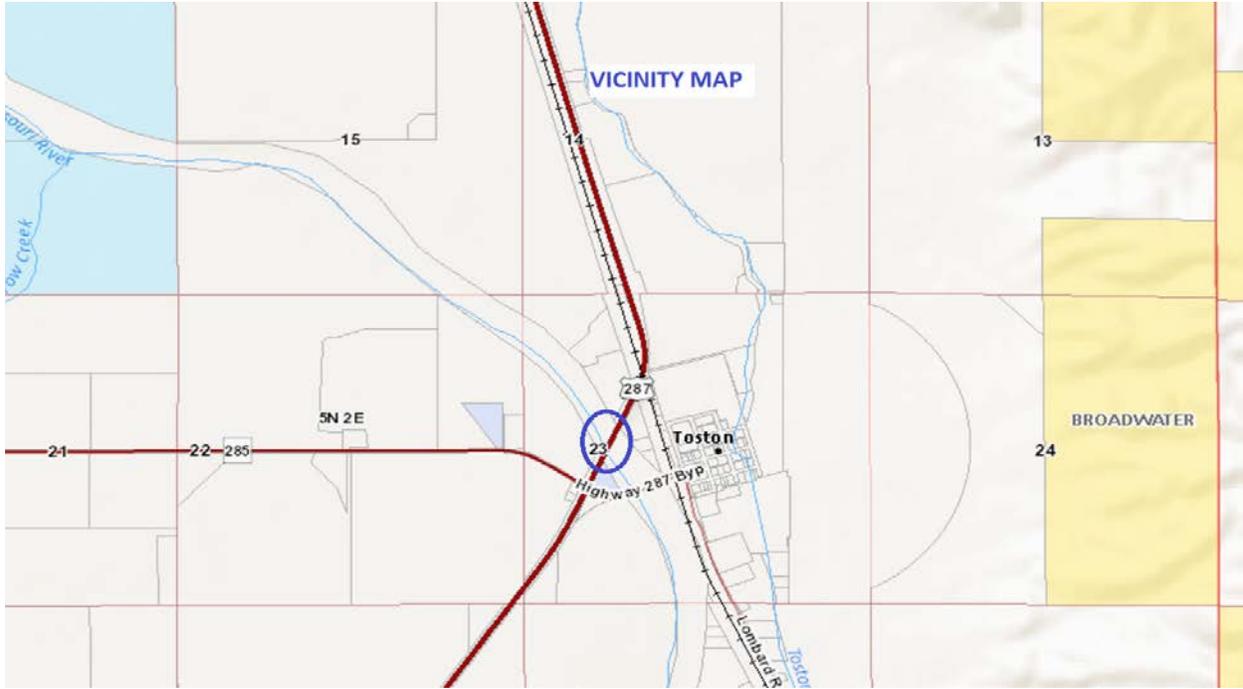
Applicant:	MT Dept. of Transportation P O Box 201001 Helena, MT 59620-1001
Application No.:	18162
R/W Purpose:	highway bridge construction and maintenance, including occupancy by public utilities
Lessee Agreement:	N/A (Navigable River)
Acreage:	2.62
Compensation:	\$13,928.00
Legal Description:	Tract of land across the Missouri River adjacent to Gov. Lots 2, 8, 3, 7 & 6, Sec. 23, Twp. 5N, Rge. 2E, Broadwater County
Trust Beneficiary:	Public Land Trust

Item Summary

The MDT is proposing to reconstruct, relocate and widen portions of Highway 287 near Toston, which includes replacement of the existing highway bridge. The purpose of the project is to widen the roadway from two to four lanes with a center turn lane to improve safety and drivability of the highway and to bring the roadway and bridge up to federal design standards.

DNRC Recommendation

The director recommends approval of the MDT application for highway bridge replacement.



0318-7

INFORMATIONAL ITEM:
FWP: PROPOSED LAND EXCHANGE
WHITE BEAR FISHING ACCESS SITE

**INFORMATIONAL ITEM
Land Board Agenda Item
March 19, 2018**

0318-7	<u>FWP: Proposed Land Exchange White Bear Fishing Access Site</u>
Location:	Cascade County
Trust Benefits:	N/A (non-trust land)
Trust Revenue:	N/A

Proposal

Fish, Wildlife and Parks (FWP) would exchange the White Bear Fishing Access Site (FAS) for a parcel of approximately equivalent value at a location selected by FWP on the Missouri River at the existing Carter Ferry FAS. The exchange parcel would be an addition to the existing Carter Ferry FAS. There is a prospective buyer who would like to acquire the White Bear FAS.

Background

White Bear FAS is located on the Missouri River on the south edge of Great Falls and consists of approximately 41.27 acres (Figure 1). The land for the FAS was donated to FWP in the early 1980's (1981-82) by the developers of the Fox Farm Subdivision. There are no roads interior to the FAS that are open to the public. In recent years, the FAS has become an attractive gathering place for members of the public who engage in illegal activities. The FAS is heavily vegetated with shrubs and trees, providing cover for visitors wishing to engage in illegal activities. It has become a gathering place for under-age use of alcohol, illegal drug use, violent behavior, public disturbance, vandalism and litter throughout the year, particularly during summer months (June-September, see Exhibit 1). In 2014 one user left the site heavily intoxicated after several hours of drinking alcohol and was killed in a vehicle accident only a few miles from the site. Montana FWP received public scrutiny and blame in the aftermath.

The illegal activity has caused numerous disturbances to neighboring landowners and other legitimate FAS users and requires a high law enforcement presence and high demand on FWP operations and maintenance resources. Much of the illegal activity is not related to fish and wildlife statutes. Given the limited authority of game wardens to police only fish and wildlife statutes, other law enforcement agencies are called to enforce criminal violations. Neighbors have expressed concerns about their safety and security by users of the FAS. Between June 29, 2013 and July 4, 2015 there were 125 incidents addressed by Great Falls Police, Cascade County sheriff, ambulance and Gore Hill Rural Volunteer Fire Department. An additional 93 incidents were addressed by FWP personnel between 2010 and 2014.

In 2015, FWP was authorized by the Fish and Wildlife Commission (Commission) to pursue two land exchanges to replace this FAS. While negotiations were initiated with two landowners, neither resulted in a successful conclusion. Due to the recurring problems with criminal and non-sporting activity FWP was directed by the Commission to find a long-term solution to the problem. In February 2017 the Commission determined that disposal through sale of the FAS was not an option. A Land Exchange (LEX) was the only method of disposal endorsed by the Commission. At its February 2018 Commission meeting, the Commissioners once again confirmed their support for FWP to pursue a land exchange for the White Bear FAS and provided their authority to close the White Bear FAS seasonally in 2018 reflecting the previous closure dates in 2015, 2016 and 2017.

In 2015, the Commission closed the FAS from June-September in an attempt to reduce or eliminate illegal activities while a long-term solution was being explored. The FAS has been

closed during summer months since 2015 due to ongoing illegal activities. During this time FWP has been pursuing leads for a LEX.

Public Involvement Process & Results

For the last 10 years, the public has complained about users at the FAS (Bertellotti, personal communication, 2017). Representatives for the neighbors of the FAS came to the September 2014 Commission meeting and raised concerns about their safety during the non-agenda items public comment period. The public and the Cascade County Sheriff provided testimony during the 2015 seasonal closure process. FWP staff met with the Homeowners Association frequently to address complaints and personal safety concerns. The Commission closed the FAS in 2015. Public complaints to the commission in 2016 resulted in another emergency closure, and the Commission continued the closure in 2017. The public has had substantial input on the status of the FAS. Even with summer closure of the FAS, there are still incidents of illegal activity, primarily during summer months.

Alternatives and Analysis

In 2015 and 2016 FWP explored two options for LEX, which were unsuccessful. In exploring the options, it was evident that those who wished to acquire the land were looking at the potential increase in value from subdivision of the FAS into homesites and marketing the land as homesites. In 2016 the White Bear FAS appraised for \$82,600. The FAS is encumbered with an agricultural exemption that precluded any development. In order to optimize the return to FWP, in Fall 2016 FWP initiated discussions with Cascade County about the potential for subdivision of the FAS. Much of the FAS is within FEMA defined flood zones, but there may be two potential homesites on the property. FWP commissioned a preliminary survey of the property in October 2016 to determine the location of potential homesites. The potential homesites are shown on Figure 1.

FWP performed a comprehensive search for potential FAS replacement sites over several years, which included cold calls to landowners who own desirable riverfront property in the general vicinity to ascertain if they were interested in selling, as well as working with realtors familiar with real estate in the greater Great Falls area. In summer 2017 FWP identified two potential land exchange parcels. First, a 2.2-acre site on the Missouri River at the I-15 exit 244 along the River Recreation frontage road. This was purchased by a private buyer prior to FWP being able to further assess the potential suitability of the parcel for land exchange.

The second site is the 105-acre parcel at Carter Ferry (Figure 2 and Figure 3), and would be an addition to the existing Carter Ferry FAS. The existing Carter Ferry FAS (Figure 3) consists of two discontinuous parcels, one being 0.33-acre that utilizes the Carter Ferry ramp for boat launching. The other parcel is 19 acres located upstream of, and discontinuous with the boat launch. The 19 acres is located on an upland bench above the Missouri (Figure 3).

The Carter Ferry FAS Proposed Addition is contiguous around the existing Carter Ferry FAS boat launch (Figure 3). The Proposed Addition has approximately 0.25 mile of Missouri river shoreline immediately downstream of the existing Carter Ferry FAS. The existing Carter Ferry FAS site is extensively used by sporting public from Fort Benton, Great Falls and surrounding communities. The Carter Ferry is still in operation, and the existing FAS interferes with parking for Ferry operations, creating congestion during spring, summer, and fall when parking occurs on the edge of the county road and at the Ferry Ramp.

The Missouri River at this location provides angling for smallmouth bass, sauger, walleye, northern pike, shovelnose sturgeon, channel catfish and a myriad of non-game fish. FWP estimated this section of the Missouri River had 18,126 angler days in 2013 and 12,305 angler days in 2015, and provides unique boating, floating, fishing, and recreational opportunities near Great Falls. Besides fishing, other recreation at this site includes hunting for waterfowl, upland game birds, and mule deer; trapping furbearers, birdwatching and nature walks. There are two public accesses upstream of Carter Ferry. Morony Dam is 16.2 miles upstream and has a launch for small water craft (canoe, kayak and rafts). Widow Coulee FAS is 12.5 miles upstream and has a concrete boat ramp. Downstream, the two closest boat launches are 16 miles (Fort Benton) and 36 miles (Loma) away. The existing FAS and Proposed Addition are accessible by county road. With minimal development, the 105 acre proposed addition would provide expanded parking, public access for shore fishing in the Missouri River, an opportunity to develop camping along the Missouri River, and expanded hunting and hiking.

FWP received an inquiry from a potential buyer about purchasing the White Bear FAS. Subsequent conversation with the potential buyer determined that the buyer would entertain a LEX. The buyer is willing to purchase land chosen by FWP for a replacement FAS and exchange it for the White Bear property as long as the values are similar. The potential buyer is willing to acquire the White Bear FAS in as-is condition for the appraised value (\$250,000), and take on the responsibility of going through the subdivision process with Cascade County after acquisition. The potential buyer has been on site with their builder, and is assured that this is a reasonable transaction. However, the potential homesites have not been approved by Cascade County.

The asking price for the Carter Ferry parcel is \$255,000, which is more than the White Bear FAS appraised value of \$250,000. FWP is directed to receive full market value, or more for land sold (MCA 87-1-209 (3)(d)). There are no requirements to obtain similar acreage, and in this case FWP would be acquiring more acreage for approximately the same price.

The prospective Buyer is willing to make an offer on the potential LEX parcel. The transaction would not be completed until FWP goes through the requisite due diligence process (MEPA, county notification, and final approval of the FW Commission and Land Board). In the interest of informing the Land Board of prospective projects, and due to the need to move forward with this project in a timely manner, FWP is presenting this information.

If there are further questions, please contact Candace Durran, Land Unit, FWP. cdurran@mt.gov or 444-3939.

Exhibit 1

White Bear Closure Statistics

6/3/2015- Called out to White Bear at 2100 and 2230. Contacted two subjects at 2230 issuing 3 citations. 1 Fishing without, 2 Commission rules/regs. Destroyed a small amount of marijuana and pipe.

6/5/2015- Called to White Bear for trespass issues, UTL

6/7/2015- FG 420 responded to trespass complaint, 3 WW's.

6/8/2015- Received multiple text messages and Tip Mont reports of 5-6 people in White Bear from very reliable source near the site, unable to respond.

6/9/2015- Received complaint of trespassing, responded and issued verbal warning

6/9/2015- Received complaint of trespassing at 2100, vehicle left while I was en route

6/10/2015- FG 411 received Tip Mont complaint of possible drug activity at White Bear. FG 43 and myself responded finding two people in the site, some small evidence of equipment commonly used for drugs, arrested one male on outstanding warrants, advised a juvenile female of her warrants. The vehicle was broke down and unable to start, we locked it to the best of our abilities before clearing.

6/13/2015- Received complaint of trespassing from multiple homeowners along with photos of the vehicles parked in front of a gate leading into a private recreation area. We responded from Cascade and contacted 6 subjects ranging in age from 13-17. They admitted to seeing the signs and going in anyways. They also said they were in there on the 12th and they lost a cell phone and a shoe which was their reason for returning, I gave 6 verbal warnings.

6/18/2015- Received a Tip Mont complaint stating a vehicle was driving around the neighborhood several times before it parked in front of the FAS gate. Minutes later another vehicle pulled up where a hand to hand transaction of some sort took place. Shortly after this a deputy vehicle drove down the road and both vehicles took off as soon as they saw the deputy. This information came from an informant that gives reliable information throughout the summer.

6/25/2015- Called out to White Bear for trespass issues at 2100. Passed two possible suspects near the site but did not have enough suspicion to pull them over.

6/27/2015- Called to White Bear for trespass at 2000. Contacted a total of 7 adults and 3 children, I issued 4 verbal warnings and 3 written warnings. One male was a registered violent offender for a forcible robbery without a valid DL; the other had a no bond warrant out of Washington State that was not extraditable from Montana. His warrant was for a parole violation stemming from a violent robbery.

6/28/2015- Found vehicle parked at homeowner's lot that walked down to White Bear to float river. I was unable to contact them due to barn fire nearby.

6/29/2015- Received 8 messages of trespassing at White Bear from neighbors to the site. I did not get the messages until it was too late to respond.

7/3/2015- FG411 and FG 43 contacted people at the rope swing who lived nearby. A verbal warning was given.

7/19/2015- Received messages of trespassing at White Bear, was on days off unable to respond

8/6/2015- Received Tip Mont of trespassing at White Bear, vehicle belongs to neighbor. Subject was witnessed walking dogs and was in the site approximately 20 mins. This was after she stopped to read the signs.

8/14/2015 – Received Tip Mont report of people in White Bear. FG 420 responded and gave 2 verbal warnings for trespass.

8/15/2015- Took another Tip Mont for trespassing, will be investigating.

8/15/2015- Received text messages of subjects at beach. FG 410 responded. 8/23/2015- Responded to text message at White Bear. 7 NTA's issued.

2016 Issues after closure

03/05/2016- Responded to text message of people in site at 2100, UTL.

03/20/2016- Issued verbal warning for subject who operated motorcycle to the beach area

04/08/2016- Missed 5 messages from neighbors stating after hours use and unlawful fire. Unable to Respond.

04/10/2016- Responded to two different groups in after hours with fires. Issued 2 NTA's for fires and gave 8 verbals for after hours, driving without a license, and obstructing a peace officer.

04/18/2016- Responded to complaint of unlawful fire and after hours use at Whitebear. UTL.

06/03/2016- Found unregistered vehicle in parking lot; initiated traffic stop to find a highly intoxicated male passenger with an unlicensed female driver. Issued NTA for parks motor vehicle violation.

06/20/2016- 6 MIP's. Verbal warnings issued.

06/22/2016- Called out at 2230 for 7 High School kids at the site, all given verbal warnings.

06/29/2016- FG 43 observed use of marijuana from a large water bong, subjects left area before we could drive around to the site. FG 43 issued 1 NTA to the parent of a child under the age of 12 not wearing a PFD on a kayak. After further investigation it was found that at least 3 adults in the group had warrants for their arrest however with a low bond amount and overcrowding at the detention center they were not arrested.

2016 Closure 07/15/2016

07/16/2016- Called to trespassing. Appeared they used the site as a launch point for rafting.

07/17/2016- Called to trespassing. Was on vehicle wreck near Belt, vehicles were gone by the time I arrived.

07/19/2016- FG 420 called to Whitebear. Found multiple people in site one with a \$1,000 warrant. Issued NTA for unregistered vehicle and gave a warning for no driver's license. Issued NTA for fishing without a license. Gave multiple warnings for trespassing.

07/23/2016- Missed complaint of trespassing, on vacation. 07/24/2016- Missed complaint of trespassing, on vacation.

07/25/2016- Multiple complaints of trespassing, returning from vacation.

07/27/2016- Witnessed person in the FAS from across river, was UTL when I arrived.

07/29/2016- FG 411 contacted several people in site, issued 1 NTA

07/30/2016- Contacted group in boat that trespassed, verbal

warning 07/31/2016- Complaint of trespassing, on day off unable to respond 08/01/2016- FG 411 called to trespassing, UTL

08/02/2016- Contacted several people in site. Male had a caution for violent tendencies as well as protection order on previous family. Female obstructed justice by giving 2 false DOB's.

Issued male NTA for comm rules and regs, issued female NTA for obstruction.

08/14/2016- Received message from neighbor regarding trespass, on day off unable to respond.

2016 Issues after closure

03/05/2016- Responded to text message of people in site at 2100, UTL.

03/20/2016- Issued verbal warning for subject who operated motorcycle to the beach area

04/08/2016- Missed 5 messages from neighbors stating after hours use and unlawful fire. Unable to Respond.

04/10/2016- Responded to two different groups in after hours with fires. Issued 2 NTA's for fires and gave 8 verbals for after hours, driving without a license, and obstructing a peace officer.

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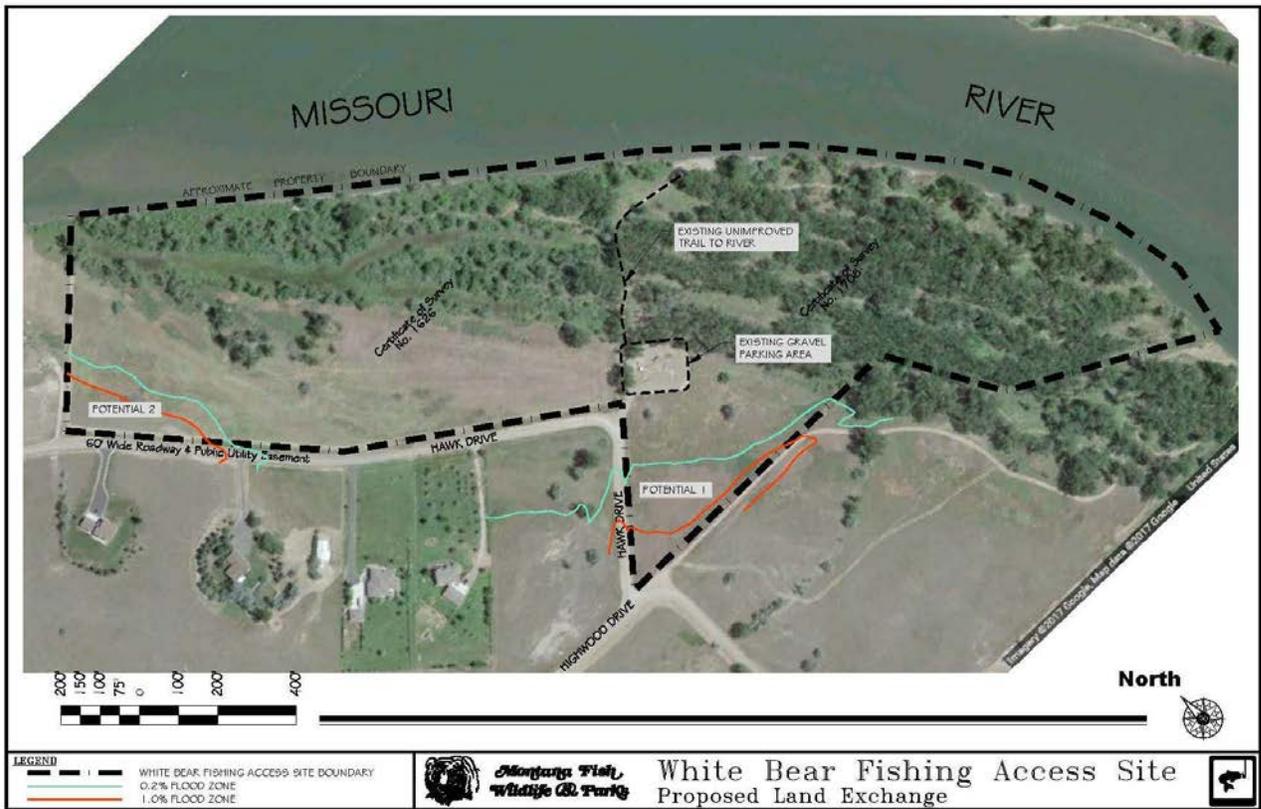
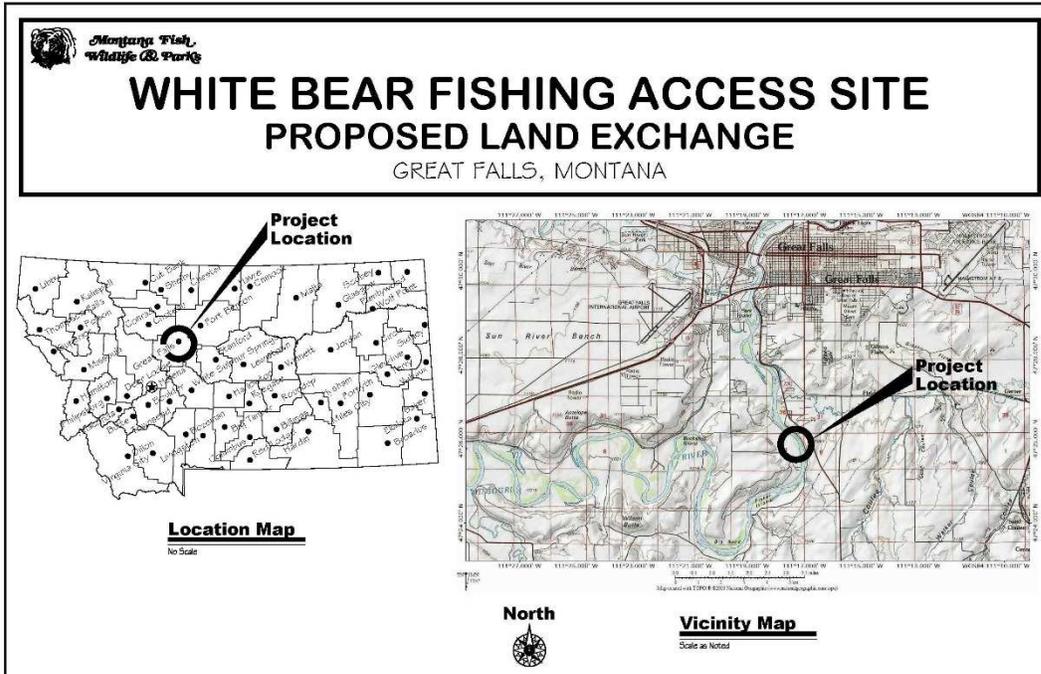
2017 Issues after closure

06/08/2017- Responded to trespass complaint
07/01/2017- Responded to trespass complaint
07/02/2017- Responded to trespass complaint

Continuing Issues

- Speeding to and from the site
- Littering to and from the site
- Filling the latrine with litter
- After hours use
- Illicit drug use
- Driving after drinking alcohol
- Vandalism to the site and mailboxes along the route
- Minors consuming alcohol
- Lack of adherence to closure
- Multiple complaints during summer of 2017 with subjects gone on arrival

Figure 1. Location Map, White Bear Fishing Access Site.



LEGEND
 - - - - - WHITE BEAR FISHING ACCESS SITE BOUNDARY
 - - - - - 0.2% FLOOD ZONE
 - - - - - 1.0% FLOOD ZONE



White Bear Fishing Access Site
 Proposed Land Exchange



Figure 2. Vicinity Map, Proposed Carter Ferry Fishing Access Site Addition.

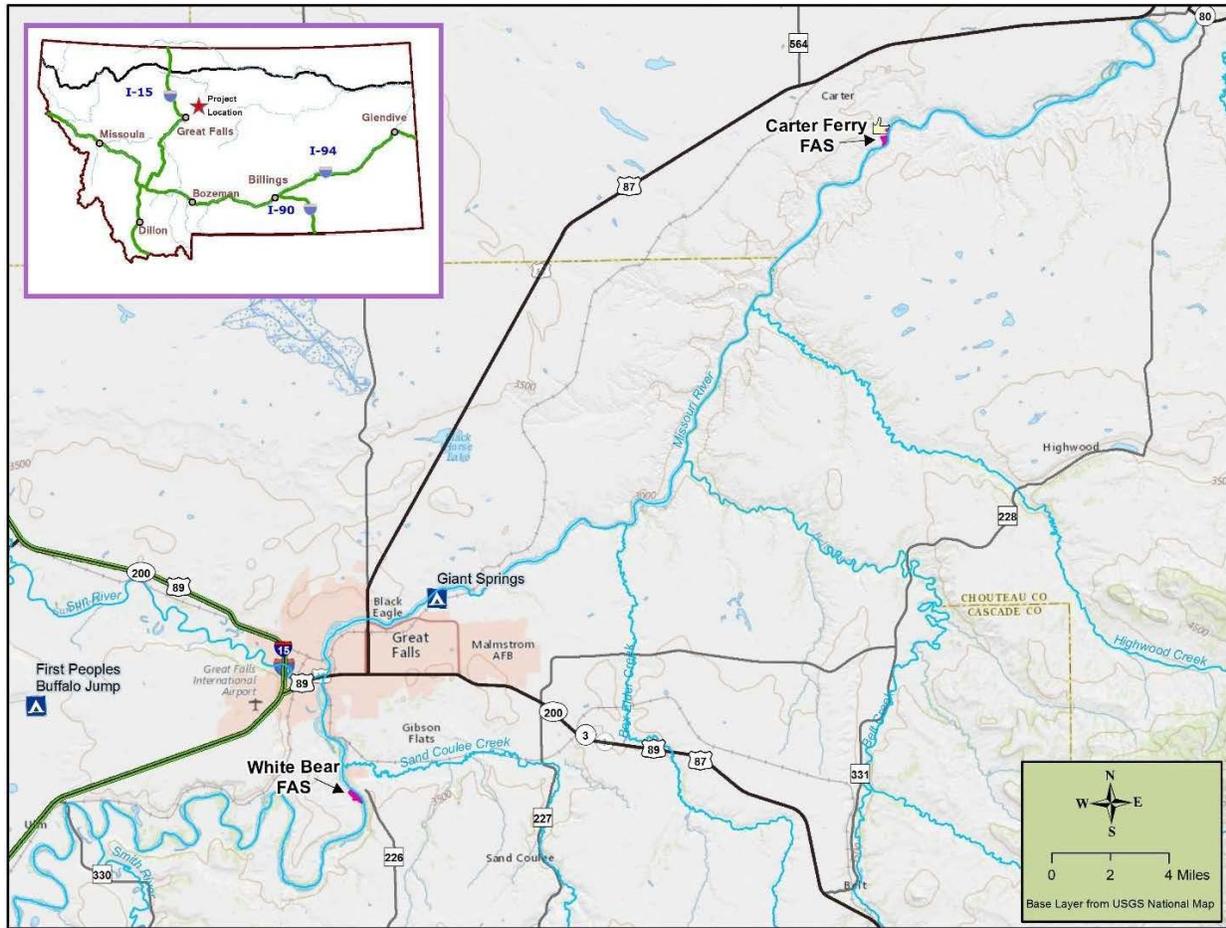


Figure 3. Location Map, Proposed Carter Ferry Fishing Access Site Addition.

