

**AGENDA**  
**REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS**  
**Monday, April 15, 2019 at 9:00 am**  
**Supreme Court Chambers, Mazurek Justice Building**  
**Helena, MT**

**ACTION ITEMS**

- 0419-1**    **Timber Sales**  
              **Antice Point North**  
                  *Benefits: Common Schools*  
                  *Location: Flathead County*

**APPROVED 5-0**

- 0419-2**    **Cabin and Home Sites: Set Minimum Bid for Sale**  
              **A. Sale No. 958**  
                  *Benefits: MSU 2<sup>nd</sup>*  
                  *Location: Missoula County*

- B. Sale No. 963**  
                  *Benefits: MSU 2<sup>nd</sup>*  
                  *Location: Missoula County*

**APPROVED 5-0**

- 0419-3**    **Land Banking Parcels: Set Minimum Bid for Sale #1048**  
                  *Benefits: Public Buildings*  
                  *Location: Flathead County*

**APPROVED 5-0**

- 0419-4**    **Settlement Agreement and Stipulation for Dismissal of Claims: Gallatin County and Elizabeth Kelley**  
                  *Benefits: Eastern/Western Colleges, Montana Tech*  
                  *Location: Gallatin County*

**APPROVED 5-0**

- 0419-5**    **Easements**  
              **A. Standard Grants**  
                  *Benefits: Capitol Buildings, Common Schools, Public Land Trust, University of Montana*  
                  *Location: Broadwater, Carter, Cascade, Fallon, Gallatin, Jefferson, Wibaux*

- B. Kingsbury Colony Reciprocal Access Agreement**  
                  *Benefits: Common Schools*  
                  *Location: Pondera County*

**APPROVED 5-0**

**PUBLIC COMMENT**

# 0419-1

TIMBER SALES:

Antice Point North

**Land Board Agenda Item  
April 15, 2019**

**0419-1 Timber Sale: Antice Point North**

**Location: Flathead County  
Sections 4, 5, and 6 of T33N R23W & Section 32 of T34N R23W**

**Trust Beneficiaries: Common Schools**

**Trust Revenue: \$463,757**

**Item Summary**

**Location:** The Antice Point North Timber Sale is located approximately 5 miles north of Olney, MT in Flathead county.

**Size and Scope:** The sale includes 5 harvest units (180 acres) with 1 optional unit (48 acres) using tractor (43 acres) and skyline (137 acres) logging.

**Volume:** The estimated harvest volume is 23,061 tons (4,644 MBF) of sawlogs.

**Estimated Return:** The minimum bid is \$20.11 per ton, which would generate approximately \$463,757 for the Common Schools Trust and approximately \$56,268.84 in Forest Improvement fees.

**Prescription:** This sale has a harvest prescriptions of seed tree with reserves (3 units), clear cut with reserves (1 unit + Optional Unit), and seed tree with group retention of large diameter Douglas-fir and western larch (1 unit).

**Road Construction/Maintenance:** Department of Natural Resources and Conservation (DNRC) is proposing 0.6 miles of temporary road construction; 3.5 miles of road reconstruction or heavy maintenance, and 24.6 miles of road maintenance.

**Access:** Access is obtained through the Upper Whitefish Road via Stryker Ridge Road, and Johnson road systems.

**Public Comments:** There were no public comments received during the scoping process; this sale was analyzed under the larger Antice Stryker Environmental Assessment published in April 2016.

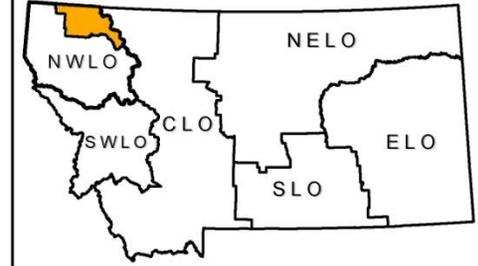
**DNRC Recommendation**

The director recommends the Land Board direct DNRC to sell the Antice Point North Timber Sale.

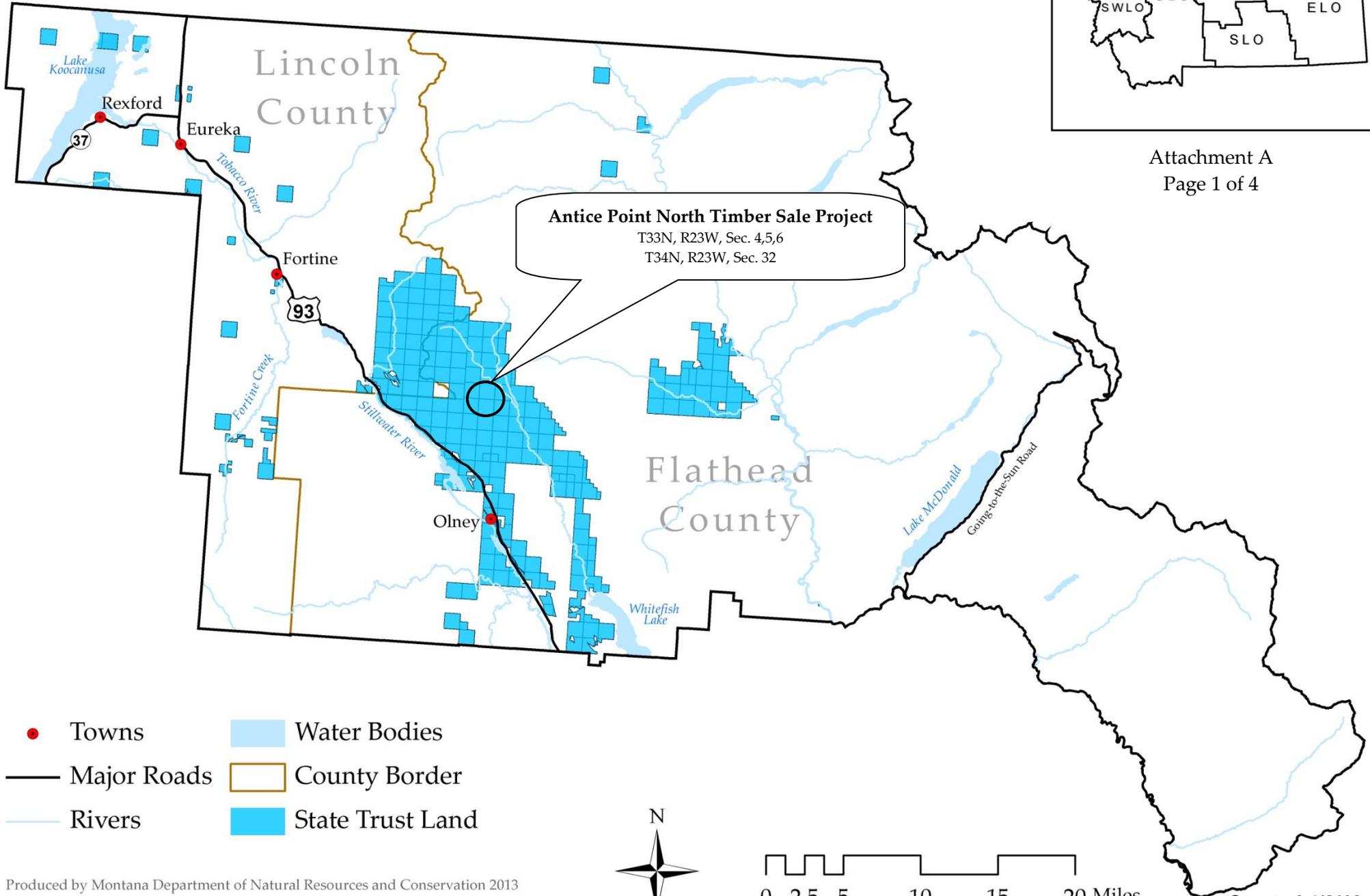
# ANTICE POINT NORTH VICINITY MAP STILLWATER UNIT

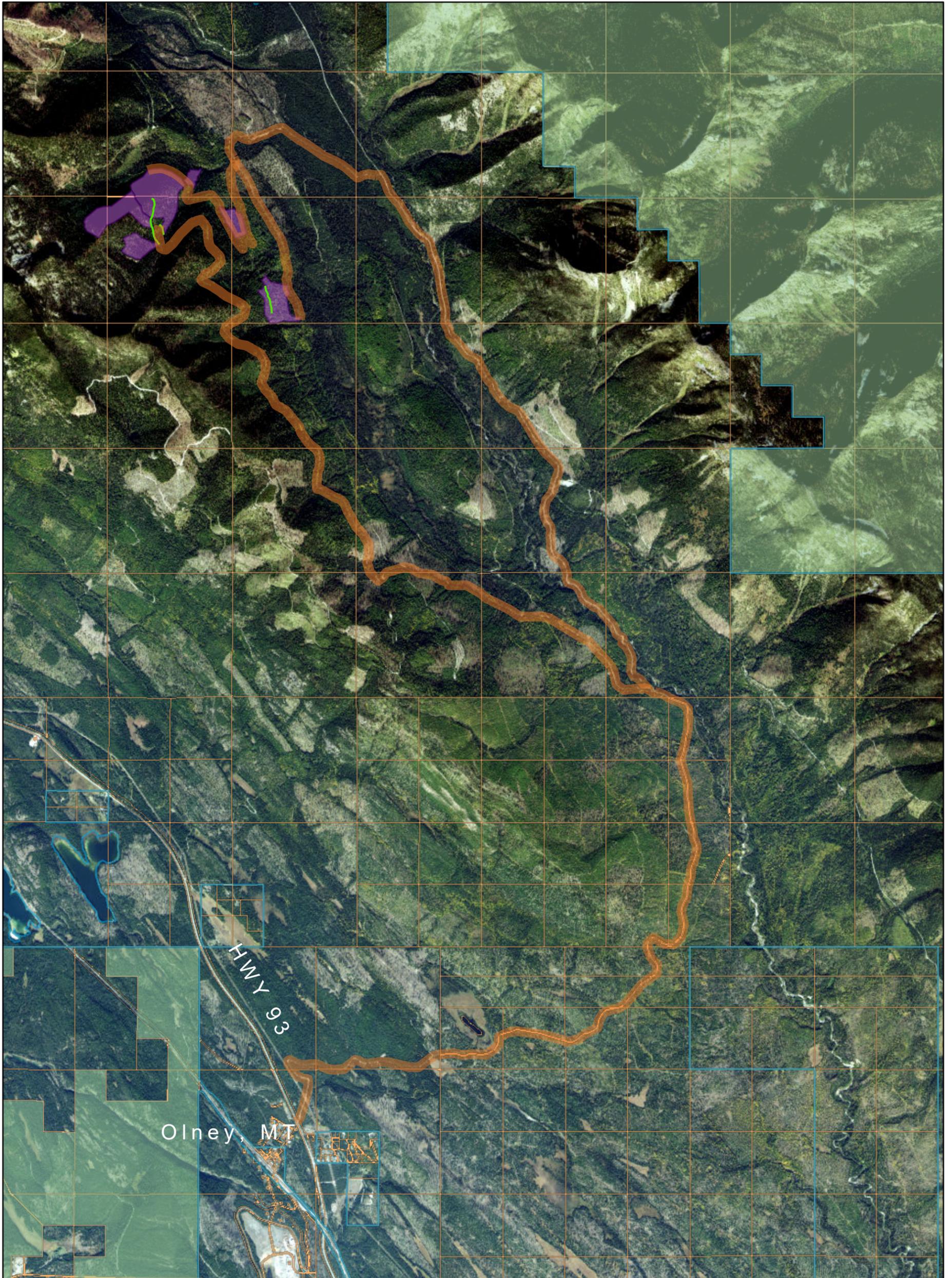


0419-1



Attachment A  
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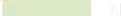




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|--|--|--|
|  Existing Road       |  Perennial Stream       |  USFS Land  |
|  New Road            |  Intermittent Stream    |  USFWS Land |
|  Road Reconstruction |  Proposed Harvest Units |  BLM Land   |
|  Haul Route          |  DNRC Surface Tracts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





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



# 0419-2

CABIN SITE SALES:

Set Minimum Bid for Sale

- A. Missoula County # 958
- B. Missoula County # 963

**Land Board Agenda Item  
April 15, 2019**

**0419-2A Cabin and Home Sites: Set Minimum Bid for Sale**

**A. Sale No. 958**

**Location:** Missoula County

**Trust Benefits:** MSU 2<sup>nd</sup>

**Trust Revenue:** \$77,500

**Item Summary**

The Department of Natural Resources and Conservation (DNRC) requests to set the minimum bid for the sale of a cabin site in Flathead County. This sale was nominated by the lessees and DNRC in conjunction with the Cabin and Home Site Sale Program and brought to the Land Board for preliminary approval on March 19, 2018.

<b>Sale Number</b>	<b># of Acres</b>	<b>Legal</b>	<b>Nominator</b>	<b>Trust</b>
958	0.700±	Lot 1, Seeley Lake Outlet East, COS 4875, Sec. 4, T16N-R15W, Missoula County	Kirk & Kim Mace	MSU 2 <sup>nd</sup>

This sale parcel is currently leased as a cabin site and produces an average income for residential leases statewide.

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

**Economic Analysis**

Short term – The average rate of return for the sale parcel is as follows:

<b>Sale #</b>	<b>Rate of Return</b>
958	2.959%

Long term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through DNRC's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.62% on acquisitions with income generated from annual lease payments.

**Cultural/Paleontological Resources**

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

**Appraised Value**

The values for this sale parcel was set after a hearing on the originally-appraised value of the land which took place in December 2018. The hearing was requested by the sale proponents within the time frame allotted by the Cabin and Home Site Sale Program process.

The hearing examiner recommended no change from the originally-appraised value of the land after additional consideration, which resulted in the following values:

<b>Sale #</b>	<b>Original Appraised Value of the Land</b>	<b>Value of the Land Determined by the Hearing</b>	<b>Appraised Value of Improvements</b>	<b>Value of the Improvements Determined by the Hearing</b>
958	\$77,500	\$77,500	\$48,000	<i>Value of improvements not considered at hearing.</i>

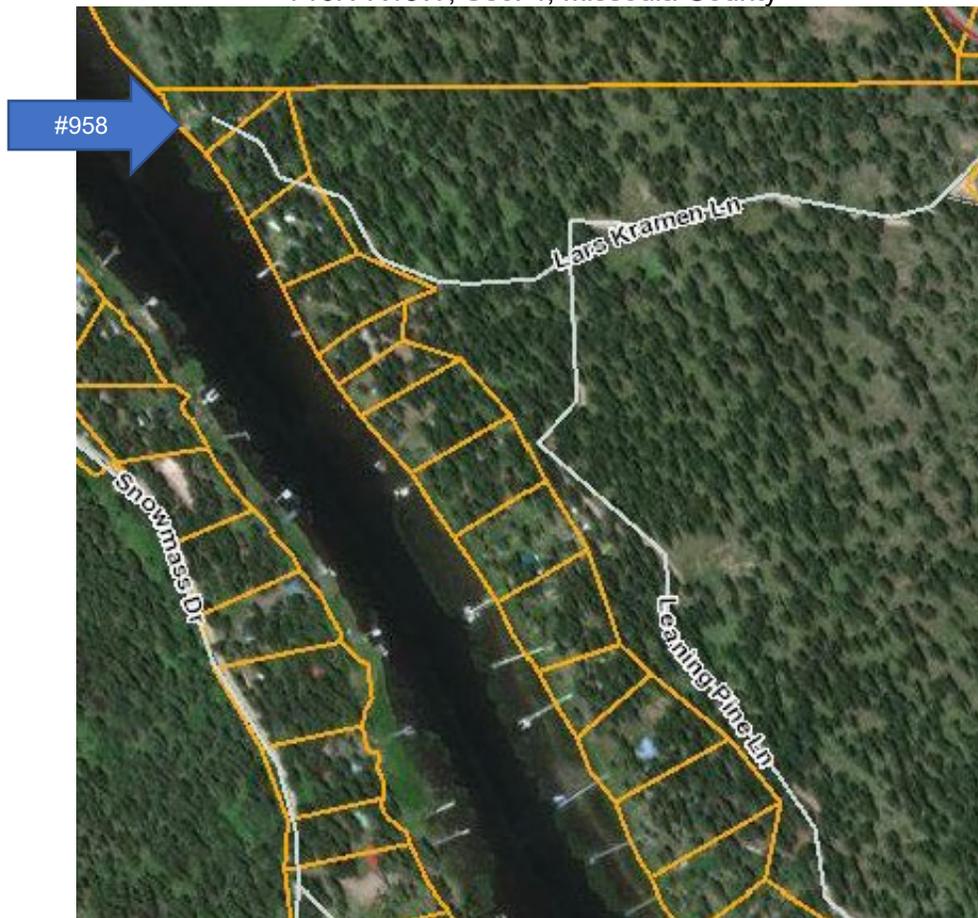
**DNRC Recommendation**

The director recommends that the Land Board set the minimum bid for this sale parcel at the value of the land determined by the valuation hearing as shown above.

### MISSOULA COUNTY SALE



### Seeley Lake Outlet East Sale #958 T16N-R15W, Sec. 4, Missoula County



**Land Board Agenda Item  
April 15, 2019**

**0419-2B Cabin and Home Sites: Set Minimum Bid for Sale**  
**B. Sale No. 963**  
**Location:** Missoula County  
**Trust Benefits:** MSU 2<sup>nd</sup>  
**Trust Revenue:** \$77,500

**Item Summary**

The Department of Natural Resources and Conservation (DNRC) requests to set the minimum bid for the sale of a cabin site in Flathead County. This sale was nominated by the lessees and DNRC in conjunction with the Cabin and Home Site Sale Program and brought to the Land Board for preliminary approval on March 19, 2018.

<b>Sale Number</b>	<b># of Acres</b>	<b>Legal</b>	<b>Nominator</b>	<b>Trust</b>
963	0.851±	Lot 10, Seeley Lake Outlet East, COS 4875, Sec. 4, T16N-R15W, Missoula County	Michael B. Vasser & Jennifer S. Duax	MSU 2 <sup>nd</sup>

This sale parcel is currently leased as a cabin site and produces an average income for residential leases statewide.

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

**Economic Analysis**

Short term – The average rate of return for the sale parcel is as follows:

<b>Sale #</b>	<b>Rate of Return</b>
963	6.648%

Long term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through DNRC's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.62% on acquisitions with income generated from annual lease payments.

**Cultural/Paleontological Resources**

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

**Appraised Value**

The values for this sale parcel was set after a hearing on the originally-appraised value of the land which took place in December 2018. The hearing was requested by the sale proponents within the time frame allotted by the Cabin and Home Site Sale Program process.

The hearing examiner decreased the original appraised value of the land after additional consideration, which resulted in the following values:

<b>Sale #</b>	<b>Original Appraised Value of the Land</b>	<b>Value of the Land Determined by the Hearing</b>	<b>Appraised Value of Improvements</b>	<b>Value of the Improvements Determined by the Hearing</b>
963	\$77,500	\$77,500	\$118,000	<i>Value of improvements not considered at hearing.</i>

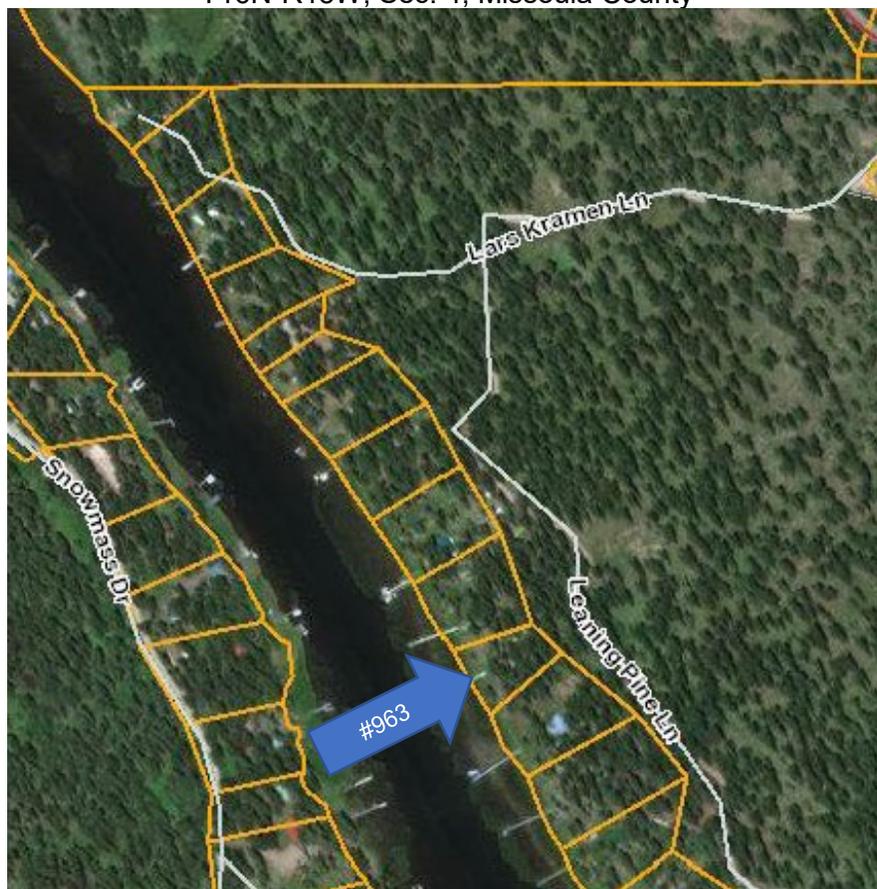
**DNRC Recommendation**

The director recommends that the Land Board set the minimum bid for this sale parcel at the value of the land determined by the valuation hearing as shown above.

### MISSOULA COUNTY SALE



**Seeley Lake Outlet East Sale #963**  
T16N-R15W, Sec. 4, Missoula County



# 0419-3

LAND BANKING PARCELS:

Set Minimum Bid for Sale #1048

**Land Board Agenda Item  
April 15, 2019**

**0419-3 Land Banking Parcel: Set the Minimum Bid for Sale #1048**

**Location: Flathead County**

**Trust Benefits: Public Buildings**

**Trust Revenue: \$290,000**

**Item Summary**

The Department of Natural Resources and Conservation (DNRC) is requesting to set minimum bid to sell one parcel totaling approximately .043 acre with a commercial building improvement nominated for sale in Flathead County. The sale was nominated by the DNRC NWLO/Kalispell Unit and is located at 140 Lupfer Avenue, Whitefish, Montana.

<b>Sale #</b>	<b># of Acres</b>	<b>Legal</b>	<b>Nominator</b>	<b>Trust</b>
1048	.043±	Lot 1 of Lupfer Townhouses T31N-R22W, Sec. 36	DNRC/NWLO Kalispell Unit	Public Buildings

The sale parcel is a commercial townhouse which was received as a part of a larger land exchange in 2009. That exchange included provisions that the proponent guarantees the State Trust Lands a net revenue of \$30,000 annually for ten years. The ten-year guarantee which augmented the rental income has expired. The prior guaranteed rental revenue far exceeds the current market rental rates. In addition to loss of the guaranteed rental income are concerns of vacancy cost and future repairs and improvements.

The sale parcel is within a platted commercial zone in the city of Whitefish. The sale of this parcel would not restrict or eliminate access to adjacent private land.

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

**Economic Analysis:**

Short-term – The rate of return was 4.29% during the ten years of augmented rental income. The rate of return without the net revenue guarantee is 1.77%. The parcel would continue to receive this return if it remains in state ownership.

Long-term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through the department's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 2.62% on acquisitions with income generated from annual lease payments.

**Cultural/Paleontological Resources:**

A Class I level of cultural resource inventory was conducted for the proposed sale. No cultural or paleontological resources have been identified in the area of potential effect. The urban area where the states land is located has been heavily disturbed with development, and because the townhouse is less than 50 years old this sale will have no effect on state owned Heritage Properties as defined by the Montana State Antiquities Act.

**Background:**

In November 2018, the Board granted preliminary approval for this parcel to continue through the Land Banking sale evaluation process.

**Appraised value of sale parcel:**

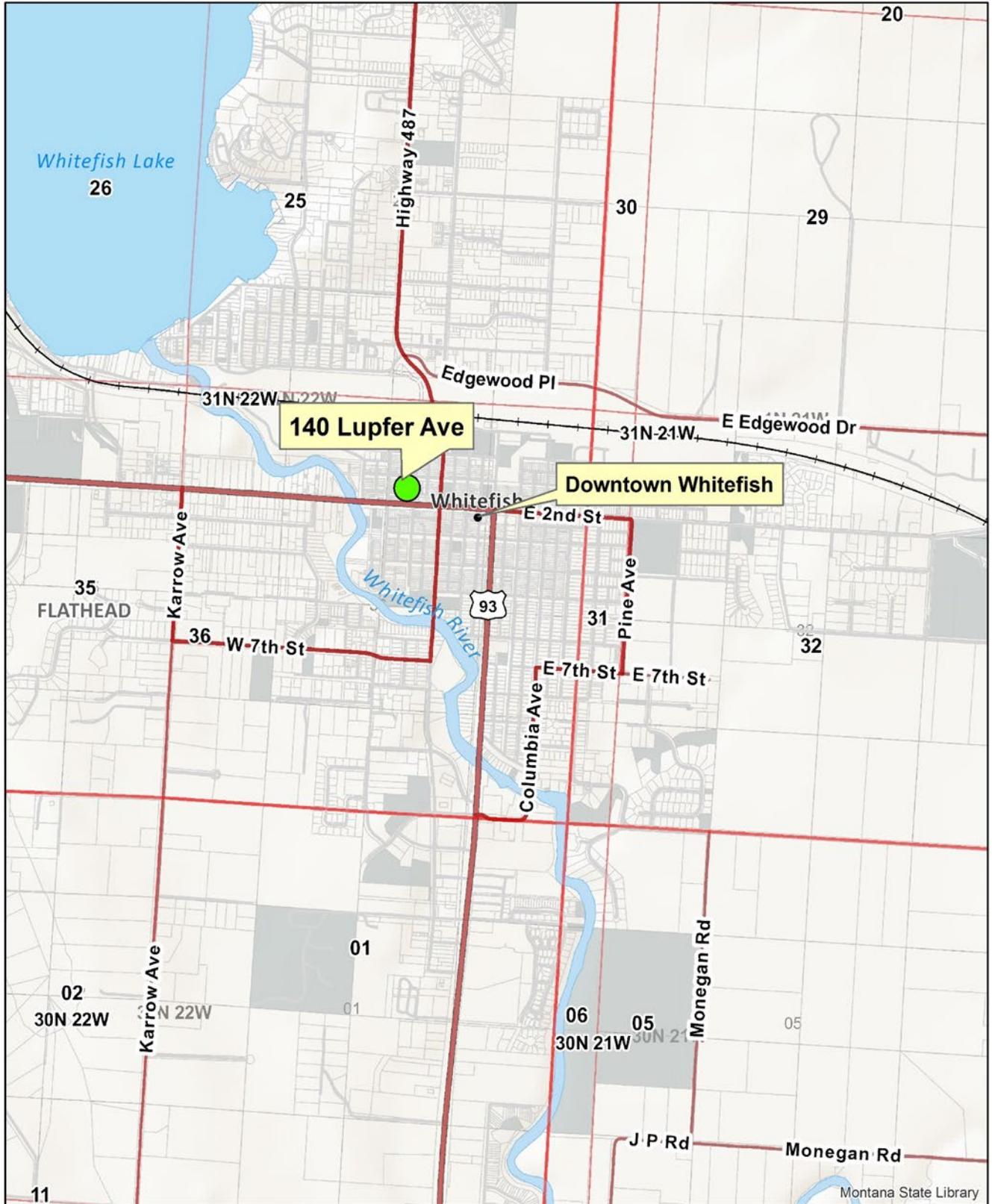
<b>Sale #</b>	<b>Appraised As-Is Fair Market Value</b>	<b>Recommended Minimum Bid</b>
1048	\$290,000	\$290,000

**DNRC Recommendation**

The director recommends the Land Board set the minimum bid at the value shown above.



# LOT #1 LUPFER TOWNHOUSE



Location: 140 Lupfer Ave, Whitefish, MT  
County: Flathead  
Date: October 30, 2018  
Prepared by: REMB Staff



# 0419-4

Settlement Agreement and Stipulation for Dismissal  
of Claims: Gallatin County and Elizabeth Keeley

**Land Board Agenda Item  
April 15, 2019**

0419-4

**Proposed AGREEMENT AND STIPULATION FOR DISMISSAL OF CLAIMS AGAINST THE STATE OF MONTANA in Gallatin County v. State of Montana, in State District Court in and for Gallatin County (DV-12-707AX), and Elizabeth Kelley and Gallatin County v. Bunker, in State District Court in and for Gallatin County (DV-12-863B).**

**Location: Gallatin County**

**Trust Benefits: Section 1 – Easter/Western Colleges, Section 6 – Montana Tech**

**Item Summary**

The County filed Cause Number DV-12-707AX, Gallatin County, Montana, through its Board of County Commissioners v. State of Montana, against the State on October 2, 2012, in the Eighteenth Montana Judicial District, Gallatin County seeking recognition of a county road and damages for trespass. Elizabeth Kelley filed Cause Number DV-12-863B, Elizabeth Kelley v. Elizabeth F. Bunker, et al, seeking to quiet title to certain real property located in Gallatin County, Montana, and naming the State as one Defendant. The Court allowed the County to intervene in the case Elizabeth Kelley v. Elizabeth F. Bunker, et al, No. DV-12-863B on July 5, 2013. The Court subsequently consolidated No. DV-12-863B and DV-12-707AX for all purposes on October 1, 2013. All defendants except the State have disclaimed interest or been defaulted out of the quiet title action, Elizabeth Kelley v. Elizabeth F. Bunker, et al, No. DV-12-863B, leaving the State the only remaining defendant disputing title to the real property known as the “Cooper Flume.” Upon consolidation of the actions, one basis for the County’s claims against the State became that the County held an interest in a grant from the State of Montana to Walter Cooper on November 21, 1903, in the form of State Patent 456, known as the “Cooper Flume,” which states “the foregoing grant is made with the understanding that the right of the public to travel over, maintain and use the wagon road now in use through Bear Canyon, over and across said right of way shall never be denied.” On August 24, 1903, the State Board of Land Commissioners approved the sale of a right-of-way 100 feet wide or fifty feet on each side of the center line being a total of 16.09 acres at \$10.00 per acre to Walter Cooper and the price paid, as shown by historical records, is a price greater than the land was valued at the time of the grant, which was between \$1.00 and \$6.00 the per acre. Upon payment of \$160.90, the State, through State Patent 456, granted to Walter Cooper “all real property situated in Gallatin County, State of Montana,” as described therein, which also includes that “the foregoing grant is made with the understanding that the right of the public to travel over, maintain and use the wagon road now in use through Bear Canyon, over and across said right of way shall never be denied.”

The existence of a public right-of-way pursuant to Mont. Code Ann. § 7-14-2622 and the validity and nature of the interest granted through State Patent 456 are disputed by the State. The approximate location of most of the purported “right of way” to the public in State Patent 456 travels from the northern boundary of Section 1, Township 3 South, Range 6 East, MPM to the southern boundary of Section 6, Township 3 South, Range 7 East MPM.

Both the County and Elizabeth Kelley intend to settle with, and dismiss with prejudice, the claims against the State in accordance with the terms and conditions of an Agreement and Stipulation for Dismissal of Claims Against the State of Montana. The County, Elizabeth Kelley, and State engaged in good faith negotiations to settle their respective claims and defenses. The County, Elizabeth Kelley, and the State have discussed terms upon which to amicably resolve any and all disputes pertaining to the claims in this consolidated Action without any party admitting the validity or accuracy of any claims or defenses

**DNRC Recommendation**

The director recommends the Land Board direct DNRC to enter into this Agreement and Stipulation for Dismissal of Claims Against the State of Montana to resolve the respective contentions in the Gallatin County District Court actions and the respective claims and defenses in those actions.

EIGHTEENTH JUDICIAL DISTRICT, GALLATIN COUNTY, MONTANA

GALLATIN COUNTY, MONTANA,	)	No. DV-12-707AX
through its Board of County Commissioners,	)	
	)	
Plaintiff,	)	<b>AGREEMENT AND</b>
	)	<b>STIPULATION FOR</b>
vs.	)	<b>DISMISSAL OF CLAIMS</b>
	)	<b>AGAINST THE STATE OF</b>
STATE OF MONTANA,	)	<b>MONTANA</b>
	)	
Defendant.	)	
_____	)	
ELIZABETH KELLEY,	)	
	)	
Plaintiff,	)	No. DV-12-863B
	)	
GALLATIN COUNTY, MONTANA,	)	
through its Board of County Commissioners,	)	
	)	
Intervenor-Plaintiff,	)	
	)	
vs.	)	
	)	
ELIZABETH FRANCIS BUNKER, et al.	)	
	)	
Defendants.	)	
_____	)	

This Agreement and Stipulation for Dismissal of Action ("Agreement") is made by and between the *GALLATIN COUNTY, MONTANA* (County), *ELIZABETH KELLEY*, and the *STATE OF MONTANA* (State) effective on the \_\_\_ day of \_\_\_\_\_, 2019.

**WHEREAS**, The County filed Cause Number DV-12-707AX, *Gallatin County, Montana, through its Board of County Commissioners v. State of Montana*, against the State on October 2, 2012, in the Eighteenth Montana Judicial District, Gallatin County (Action) seeking recognition of a county road and damages for trespass;

**WHEREAS**, Elizabeth Kelly filed Cause Number DV-12-863B, *Elizabeth Kelley v. Elizabeth F. Bunker, et. al*, seeking to quiet title to certain real property located in Gallatin County, Montana, and naming the State as one Defendant;

**WHEREAS**, the Court allowed the County to intervene in the case *Elizabeth Kelley v. Elizabeth F. Bunker, et. al*, No. DV-12-863B on July 5, 2013;

**WHEREAS**, The Court subsequently consolidated No. DV-12-863B and DV-12-707AX for all purposes on October 1, 2013;

**WHEREAS**, all defendants except the State have disclaimed interest or been defaulted out of the quiet title action, *Elizabeth Kelley v. Elizabeth F. Bunker, et. al*, No. DV-12-863B, leaving the State the only remaining defendant disputing title to what the real property known as the “Cooper Flume;”

**WHEREAS**, upon consolidation of the actions, one basis for the County’s claims against the State became that the County held an interest in a grant from the State of Montana to Walter Cooper on November 21, 1903, in the form of State Patent 456, known as the “Cooper Flume,” which states “the foregoing grant is made with the understanding that the right of the public to travel over, maintain and use the wagon road now in use through Bear Canyon, over and across said right of way shall never be denied;”

**WHEREAS**, on August 24, 1903, the State Board of Land Commissioners approved the sale of a right-of-way 100 feet wide or fifty feet on each side of the center line being a total of 16.09 acres at \$10.00 per acre to Walter Cooper and the price paid, as shown by historical records, is a price greater than the land was valued at the time of the grant, which was between \$1.00 and \$6.00 the per acre.

**WHEREAS**, upon payment of \$160.90, the State, through State Patent 456, granted to Walter Cooper “all real property situated in Gallatin County, State of Montana,” as described

therein, which also includes that “the foregoing grant is made with the understanding that the right of the public to travel over, maintain and use the wagon road now in use through Bear Canyon, over and across said right of way shall never be denied;”

*WHEREAS*, the existence of a public right-of-way pursuant to Mont. Code Ann. § 7-14-2622 and the validity and nature of the interest granted through State Patent 456 are disputed by the State;

*WHEREAS*, the approximate location of most of the purported “right of way” to the public in State Patent 456 is at or near the area set forth in Exhibit A, which is incorporated herein by reference, the “right of way” travels from the northern boundary of Section 1, Township 3 South, Range 6 East MPM to the southern boundary of Section 6, Township 3 South, Range 7 East MPM;

*WHEREAS*, both the County and Elizabeth Kelley intend to settle with, and dismiss with prejudice, the claims against the State in accordance with the terms and conditions of this Agreement;

*WHEREAS*, the County, Elizabeth Kelley, and State have engaged in good faith negotiations, to settle all claims and defenses;

*WHEREAS*, the Board of Gallatin County Commissioners have authority to resolve this matter pursuant to Montana law;

*WHEREAS*, the State of Montana, by and through the State Board of Land Commissioners, has authority to resolve this matter pursuant to Montana law;

and

*WHEREAS*, the County, Elizabeth Kelley, and State have discussed terms upon which to amicably resolve any and all disputes pertaining to the claims in this consolidated Action without any party admitting the validity or accuracy of any claims or defenses.

In consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree that the foregoing recitals are true and correct and as follows:

**Part 1: Elizabeth Kelley and State**

1. Elizabeth Kelley and the State agree that Elizabeth Kelley's claims in this Action and any other action shall be dismissed with prejudice, without either party paying for damages, costs or attorney's fees at the time the following conditions are satisfied:

- a. Elizabeth Kelley records a real quit-claim deed to the property at issue in Cause Number DV-12-863B, known as the "Cooper Flume" with the Gallatin County Clerk and Recorder quit-claiming any interest in said real property.
- b. The State records an instrument with the Gallatin County Clerk and Recorder granting fee title to the Kelley's of certain real property, yet to be surveyed, but generally located in Section 1, Township 3 South, Range 6 East, MPM not to exceed five and three-quarters acres, more or less, which parcel shall contain at least 5 acres southwest of Old Pine Way.

2. Elizabeth Kelley and the State shall confer in good faith regarding the exact location, survey requirements, and grant for the instruments described above, although generally the parcel will be located within Section 1, Township 3 South, Range 6 East, MPM, with access off of Old Pine Way.

3. Prior to the grants being recorded, Elizabeth Kelly agrees to provide the State a survey of both State Patent 456 and the agreed upon fee title parcel.

4. The fee parcel size of approximately five and three quarters acres acre in Section 1, Township 3 South, Range 6 East, MPM is contingent upon the survey for State Patent 456 showing at least approximately five and three quarters acres surveyed within Section 1, Township 3 South, Range 6 East, MPM. In no case will the size of the fee patent grant to Elizabeth Kelley be larger than the acreage surveyed for State Patent 456 within Section 1, Township 3 South, Range 6 East, MPM, or the 16.09 acres paid for and granted in State Patent 456.

5. If, because of the requirement described above in Section 4, a fee parcel in Section 1 becomes an impossibility, the State and Elizabeth Kelly shall confer in good faith to find a suitable parcel in Section 6, Township 3 South, Range 7 East MPM. However, the same condition must apply. Specifically, the agreed suitable parcel identified within Section 6, Township 3 South, Range 7 East MPM is contingent the survey for State Patent 456 showing equal or less acreage surveyed within Section 6, Township 3 South, Range 7 East MPM. In no case will the size of the fee patent grant to Elizabeth Kelley be larger than the acreage surveyed for State Patent 456 within Section 6, Township 3 South, Range 7 East MPM, or the 16.09 acres paid for and granted in State Patent 456.

## **Part 2: County and State**

6. The County and State stipulate and agree that the County's claims in the Action and any other action shall be dismissed with prejudice, without either party paying for damages, costs or attorney's fees, at the time the following condition is satisfied:

- a. Upon the recording of the instruments described in Part 1 above, an additional real property instrument is recorded with the Gallatin County Clerk and Recorder in the name of the County for a right of way for use as a 60 foot and 30 foot public access from the northern boundary of Section 1, Township 3 South, Range 6 East, MPM to the southern boundary of Section 6, Township 3 South, Range 7 East MPM, Gallatin County, Montana, substantially in the location at or near that set forth in Exhibit B to this Agreement ("Public Access Easement").
- b. The County and State agree that Exhibit B to this Agreement is an approximate location of the Public Access Easement right of way including references to the use and scope of the right of way based on location and sets forth the approximate location of the right of way to the public referred to in State Patent 456 relevant to the Action. The final location, use, and scope of the right of way will be set forth in the instrument itself.

The State will not object to the County holding a public hearing after notice in order to adopt a resolution pursuant to Sec. 7-14-2101(2), MCA which will declare the Public Access Easement a county road under Montana law. Additionally, the State will not object to the Court

recognizing, in its order dismissing the Action, the County's resolution declaring the Public Access Easement a county road under Montana law.

7. No party shall post fencing, signage or notices inconsistent with the public right to travel over or across the lands set forth in the Public Access Easement. The County and State will consult on the posting of any fencing, signage or notices.

8. As additional consideration for this Agreement, County shall not be liable to the State for any value of the area set forth in any part of the Public Access Easement right of way pursuant to any law, including Mont. Code Ann. § 77-1-130, as the cost of the initial right-of-way through State Patent 456 which includes "the right of the public to travel over, maintain and use the wagon road now in use through Bear Canyon, over and across said right of way shall never be denied;" has already been paid to the State, *inter alia*.

9. The County and State shall confer in good faith regarding the scope, language, exact location of the Public Access Easement right of way and potential conflicting rights pertaining thereto. The State will initiate the Public Access Easement right of way document through presentation of its standard Trail Easement form to the County. The Public Access Easement right of way document will recite the basis of the grant to the County is State Patent 456 dated November 21, 1903. The act of presentation of the standard Trail Easement form shall not bind the County to any of the terms set forth therein and such form will be negotiated in good faith. The County acknowledges that grant of the Public Access Easement right of way may be affected by:

- a. The ability of the State to grant rights to the County based on State Patent 456 (November 21, 1903), for that part of the proposed Public Access Easement right of way that is currently subject to Right of Way Deed, Easement No. D-14509 which the State granted to the Forest Service on April 10, 2013. The State shall work in good faith to resolve or mitigate conflicts with the Forest Service in order to make such a grant to the County or to allow the Forest Service to make the grant directly to the County. The County recognizes that if the State is unable to make or facilitate such a grant that it could be argued that the right of

way granted from the State to the County as set forth herein could have a gap for that portion of the right-of-way already granted to the Forest Service through Right of Way Deed, Easement No. D-14509.

10. The County acknowledges that grant of the Public Access Easement right of way is contingent on the necessity of filing the quit-claim deed by Elizabeth Kelley to the State for the real property described in State Patent 456 as set forth in Part 1 above.

11. The County acknowledges any planned construction or improvements (bridges, trail grading or surfacing) related to the location depicted as a 30 foot trail use in Exhibit B that is immediately adjacent to, and intersects “Bear Creek”, a perineal class 1 stream, will be conducted in accordance with relevant law in order to protect the stream bed, banks, riparian vegetation and associated water quality.

12. The parties agree that they have entered the contract evidenced by this Agreement as a bargain, supported by consideration, between mutually situated parties represented by legal counsel. The parties agree that pecuniary compensation does not afford adequate relief pursuant to the terms of this contract and thus they agree that the Montana Eighteenth Judicial District Court will retain personal and subject matter jurisdiction to entertain requests by a party to grant injunctive relief or specific performance to compel compliance with its terms.

13. The provisions of this Agreement, including the recitals set forth above, shall apply to and be binding upon the parties, their heirs, assignees, successors, agents, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under, through, or for the parties agreeing hereto.

14. The terms stated in this Agreement constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties, be they express or implied, oral or written, except those that are expressly set forth herein. The terms of this Agreement supersede

all previous letters, memoranda of understanding, notes, conversations, and agreements, whether expressed or implied. This Agreement may not be modified verbally.

15. The Parties shall execute any additional documents and cooperate as reasonably necessary to effectuate the terms of this Agreement.

16. The parties acknowledge by signing this Agreement that they have read and understand its terms and that they have the legal authority to bind the entity or agency on whose behalf they sign.

17. The parties agree that this Agreement may be filed with the Court by their respective legal counsel.

GALLATIN COUNTY, MONTANA

\_\_\_\_\_  
Chair, Board of County Commissioners

STATE OF MONTANA

\_\_\_\_\_  
Name:  
Title:

ELIZABETH KELLEY

\_\_\_\_\_  
Elizabeth Kelley

FILED with the Eighteen Judicial District, Gallatin County, Montana on the \_\_\_\_ day of \_\_\_\_\_, 2019.

For Gallatin County, Montana:

GRAY LAW OFFICE

\_\_\_\_\_  
Christopher B. Gray

For the State of Montana:

MONTANA ATTORNEY GENERAL

\_\_\_\_\_  
Mark Phares

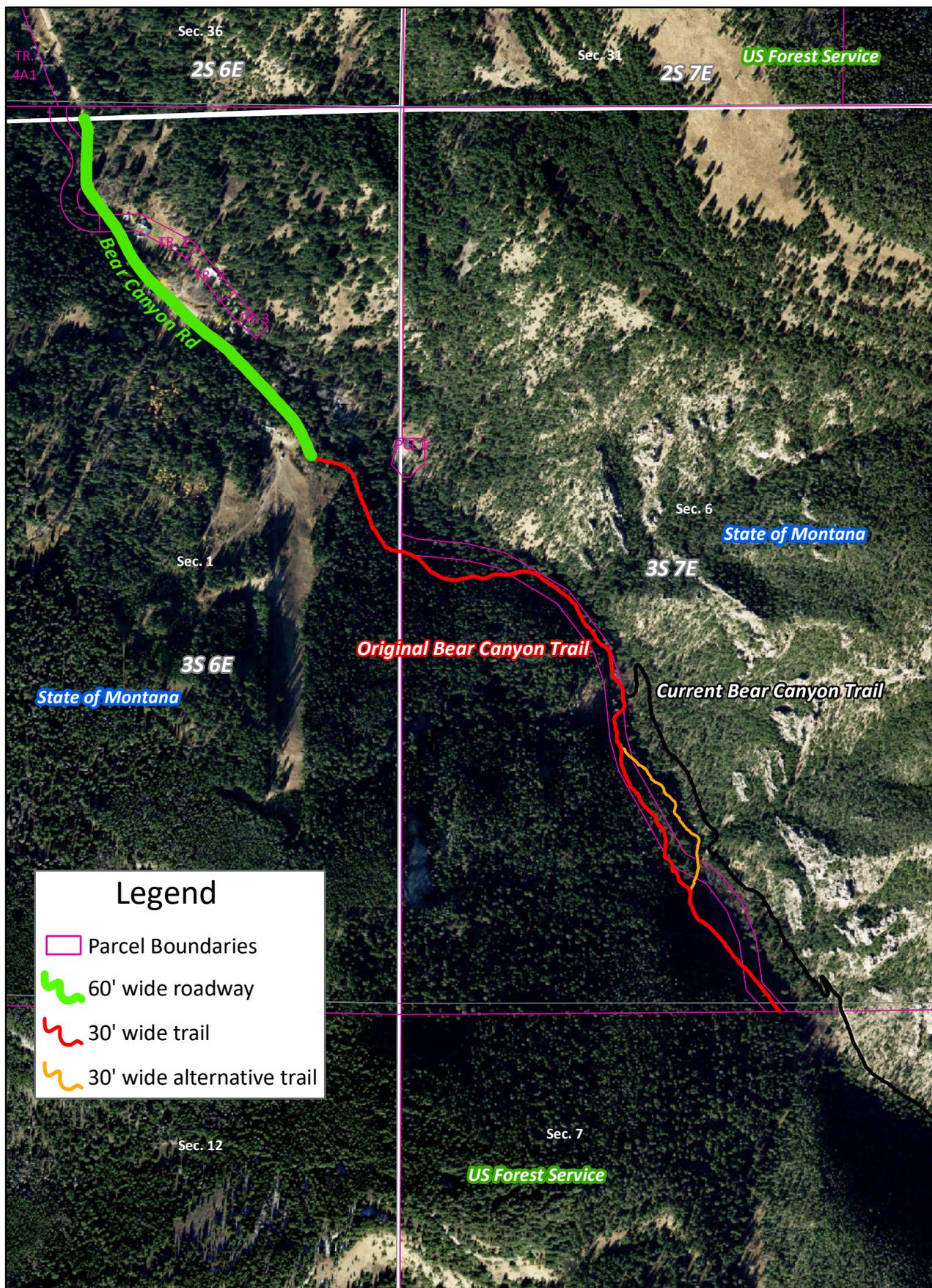
For Elizabeth Kelley:

\_\_\_\_\_  
Alanah Griffith

Exhibit A  
(SURVEY)

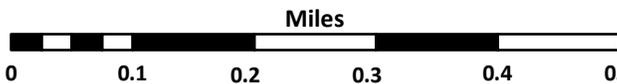
Exhibit B  
(MAP)

# Bear Canyon



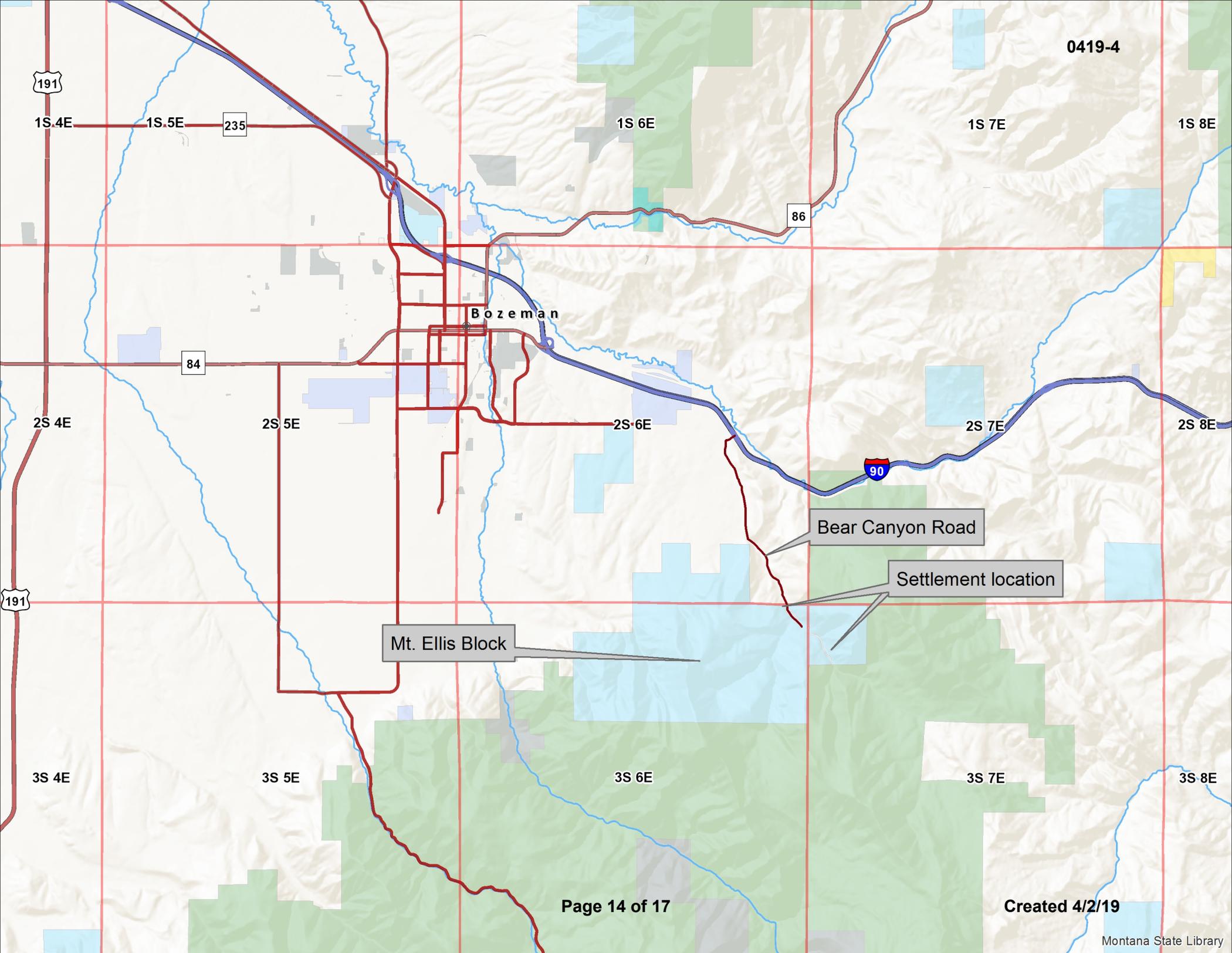
**Legend**

- Parcel Boundaries
- 60' wide roadway
- 30' wide trail
- 30' wide alternative trail



Created 4/2/19





0419-4

191

1S 4E

1S 5E

235

1S 6E

1S 7E

1S 8E

86

Bozeman

84

2S 4E

2S 5E

2S 6E

2S 7E

2S 8E

90

Bear Canyon Road

Settlement location

Mt. Ellis Block

3S 4E

3S 5E

3S 6E

3S 7E

3S 8E



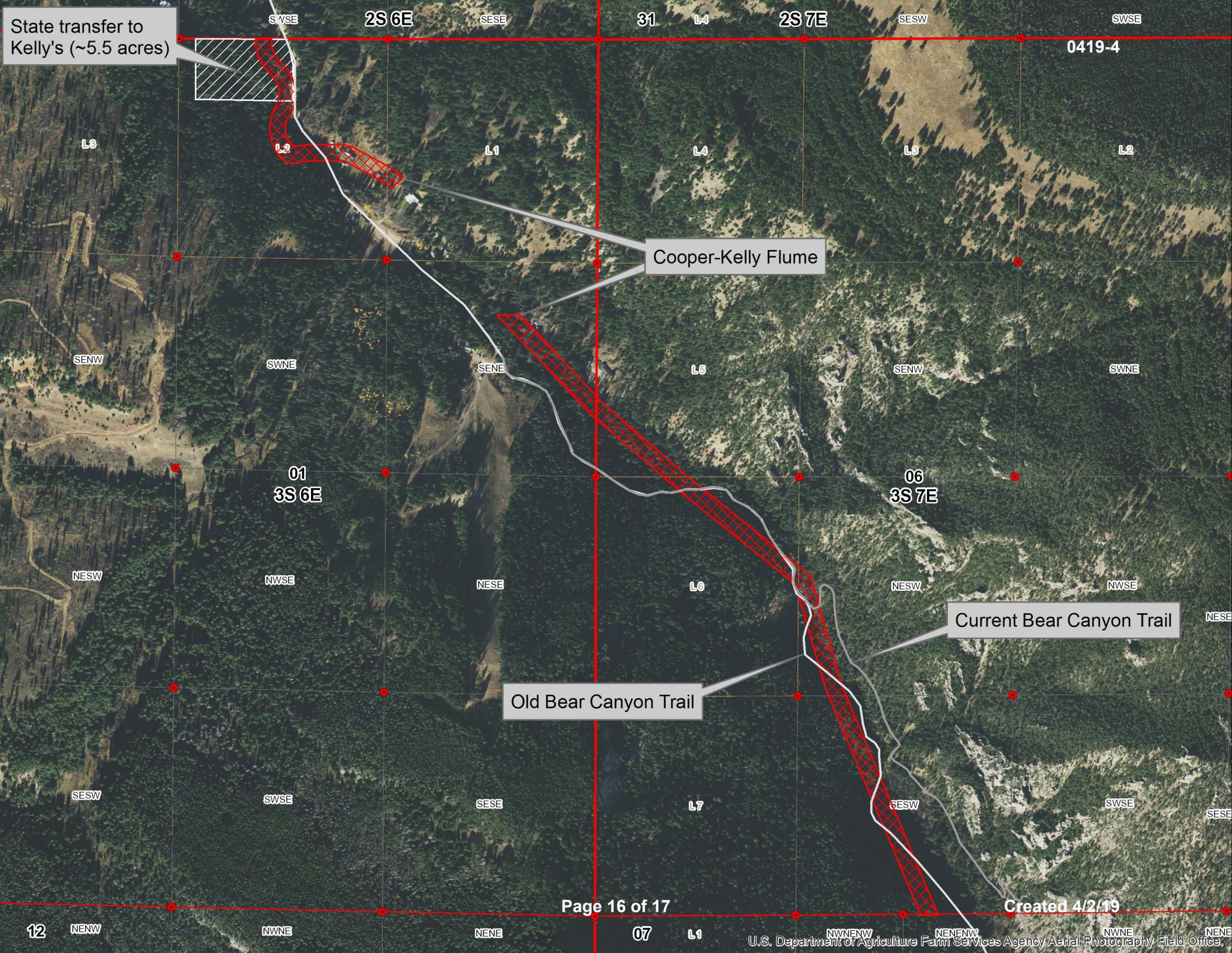
State transfer to Kelly's (~5.5 acres)



Cooper-Kelly Flume

Current Bear Canyon Trail

Old Bear Canyon Trail



# CERTIFICATE OF SURVEY

LOCATED IN THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 6 EAST AND THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 7 EAST P.M.M., GALLATIN COUNTY, MONTANA

**PURPOSE OF SURVEY:**

DEPENDENT RESURVEY OF PARCEL DESCRIBED IN BOOK 30 PAGE 617

**LEGAL DESCRIPTION**

No legal description requires as per 24.183.1104  
 "(C) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel"

**THIS SURVEY WAS PERFORMED FOR:**

MARIAM BUNKER

**CERTIFICATE OF SURVEYOR**

I, the undersigned, Shannon J. Marinko, Registered Land Surveyor, do hereby certify that I have performed the survey shown on this Certificate of Survey, that such survey was made between 11/9/2017 and \_\_\_\_\_, that said survey is true and complete as shown, and that the monuments found and set are of the character and occupy the positions shown thereon.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2017.

Shannon J. Marinko #LS-14456  
 Hyalite Engineers, PLLC.

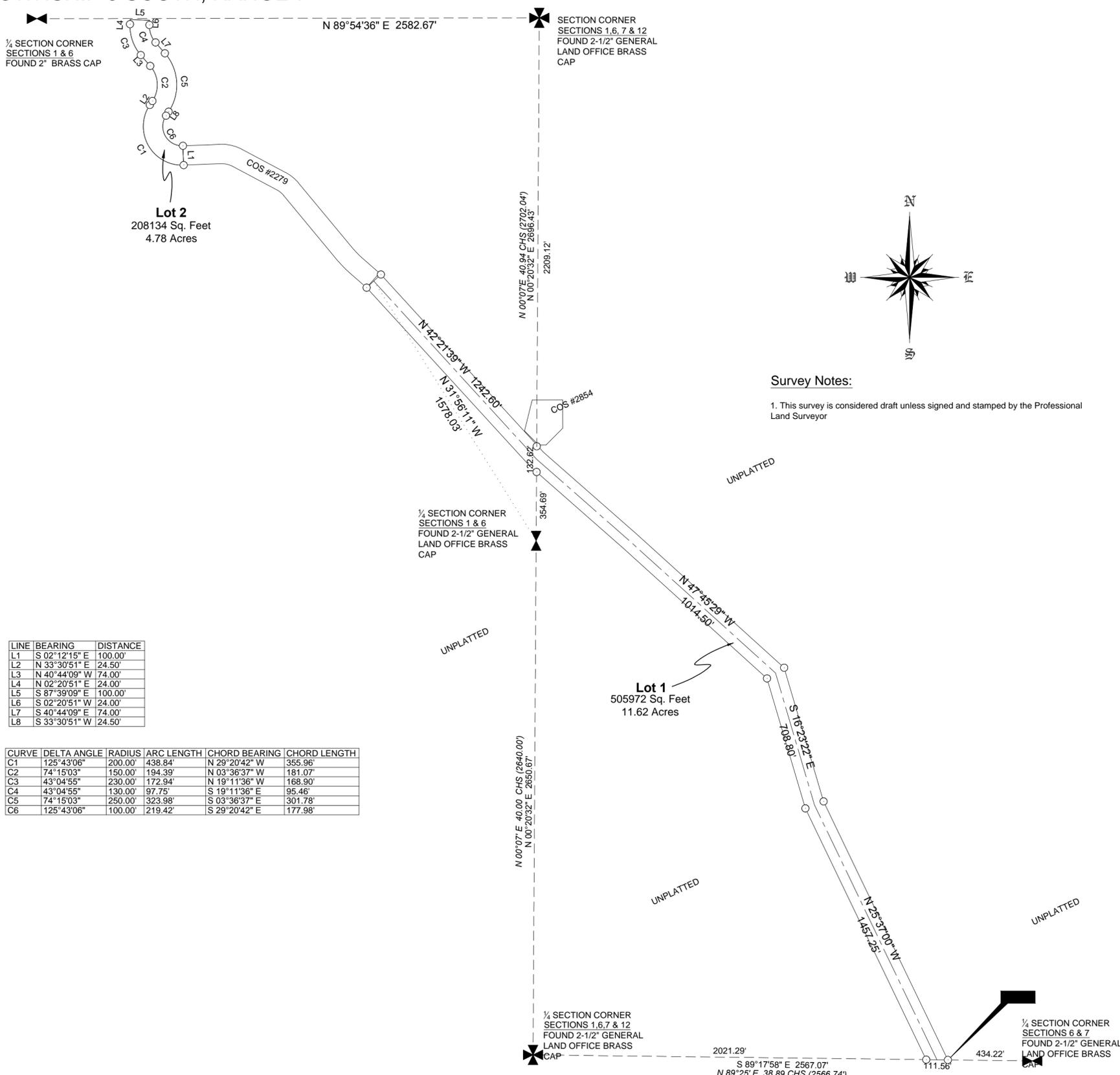
**CERTIFICATE OF CLERK AND RECORDER**

I, \_\_\_\_\_, Clerk and Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office at \_\_\_\_\_ o'clock, (a.m., or p.m.), this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2017, and recorded in Book \_\_\_\_\_ of Plats on Page \_\_\_\_\_, Records of the Clerk and Recorder, Gallatin County, Montana.

Charlotte Mills  
 Gallatin County Clerk and Recorder

**LEGEND**

- ✚ FOUND SECTION CORNER MONUMENT AS DESCRIBED
- ✚ FOUND 1/4 SECTION CORNER MONUMENT AS DESCRIBED
- FOUND C&H YELLOW PLASTIC CAP OR AS DESCRIBED
- SET 5/8"x24" REBAR WITH 2" ALUMINUM CAP MARKED HYALITE ENGINEERS 14456LS
- (R) RECORD
- (M) MEASURED
- CHS CHAINS (66')
- P.O.B. POINT OF BEGINNING



**Survey Notes:**

1. This survey is considered draft unless signed and stamped by the Professional Land Surveyor

LINE	BEARING	DISTANCE
L1	S 02°12'15" E	100.00'
L2	N 33°30'51" E	24.50'
L3	N 40°44'09" W	74.00'
L4	N 02°20'51" E	24.00'
L5	S 87°39'09" E	100.00'
L6	S 02°20'51" W	24.00'
L7	S 40°44'09" E	74.00'
L8	S 33°30'51" W	24.50'

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	125°43'06"	200.00'	438.84'	N 29°20'42" W	355.96'
C2	74°15'03"	150.00'	194.39'	N 03°36'37" W	181.07'
C3	43°04'55"	230.00'	172.94'	N 19°11'36" W	168.90'
C4	43°04'55"	130.00'	97.75'	S 19°11'36" E	95.46'
C5	74°15'03"	250.00'	323.98'	S 03°36'37" E	301.78'
C6	125°43'06"	100.00'	219.42'	S 29°20'42" E	177.98'

**BASIS OF BEARING**  
 Geodetic North @  
 GPS Position  
 LAT. 45°53'50.11" NORTH  
 LONG. 111°04'37.35" WEST

**CERTIFICATE OF SURVEY  
 GALLATIN COUNTY,  
 MONTANA**



1/4	SEC	T	R
6	3S	7E	

**HYALITE**  
 2304 N. 7th AVE STE L BOZEMAN, MT 59715  
 PHONE: (406) 587-2781 FAX: (406) 522-9225  
 www.hyaliteeng.com

DRAWN	DATE	DEPENDENT RESURVEY
SJM	7/4/2018	
SCALE	SHEET	PROJECT NUMBER
1"=300'	1 OF 1	172826

# 0419-5

## Easements:

- A. Standard Grants
- B. Kingsbury Colony Reciprocal Access Agreement

**Land Board Agenda Item  
April 15, 2019**

**0419-5A Easements**

**Location: Broadwater, Carter, Cascade, Fallon, Gallatin, Jefferson, Missoula, Wibaux**

**Trust Benefits: Capitol Buildings, Common Schools, Public Land Trust- Nav. Rivers, University of Montana**

**Trust Revenue: Capitol Buildings = \$6,420  
Common Schools = \$334,511  
Public Land Trust = \$11,209  
University of Montana = \$1,616**

**Item Table of Contents**

<b>Applicant</b>	<b>Right-of-Way Purpose</b>	<b>Term</b>	<b>Page(s)</b>
NorthWestern Energy	Historic Overhead Electric Lines & Buried Pipelines	Permanent	1-39
City of Great Falls	Buried Municipal Waterline	Permanent	40-43
Department of Natural Resources and Conservation (DNRC) – Southwestern Land Office	Radio Communications Site	Permanent	44-45
OneOk Elk Creek Pipeline LLC.	Buried Natural Gas Pipeline	30-year	46-66

APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18292  
R/W Purpose: a buried 12" natural gas pipeline  
Lessee Agreement: N/A (Historic)  
Acreage: 6.70  
Compensation: \$3,685.00  
Legal Description: 50-foot strip through the NW4NW4, S2NW4, NE4SW4, N2SE4,  
Sec. 6, Twp. 1N, Rge. 2W, Jefferson County  
Trust Beneficiary: Common Schools

Item Summary

NorthWestern Energy has made application for multiple overhead electric distribution and transmission lines and natural gas pipelines 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

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APPLICANTS AND RIGHTS OF WAY INFORMATION

---

Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18293  
R/W Purpose: a buried 12" natural gas pipeline  
Lessee Agreement: N/A (Historic)  
Acreage: 6.27  
Compensation: \$3449.00  
Legal Description: 50-foot strip through the N2S2, SE4SE4, Sec. 5, Twp. 1N,  
Rge. 2W, Jefferson County  
Trust Beneficiary: Common Schools

Item Summary

See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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APPLICANTS AND RIGHTS OF WAY INFORMATION

---

Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18294  
R/W Purpose: a buried 12" natural gas pipeline  
Lessee Agreement: N/A (Historic)  
Acreage: 1.06  
Compensation: \$583.00  
Legal Description: 50-foot strip through the SW4SW4, Sec. 4, Twp. 1N, Rge. 2W,  
Jefferson County  
Trust Beneficiary: Common Schools

Item Summary

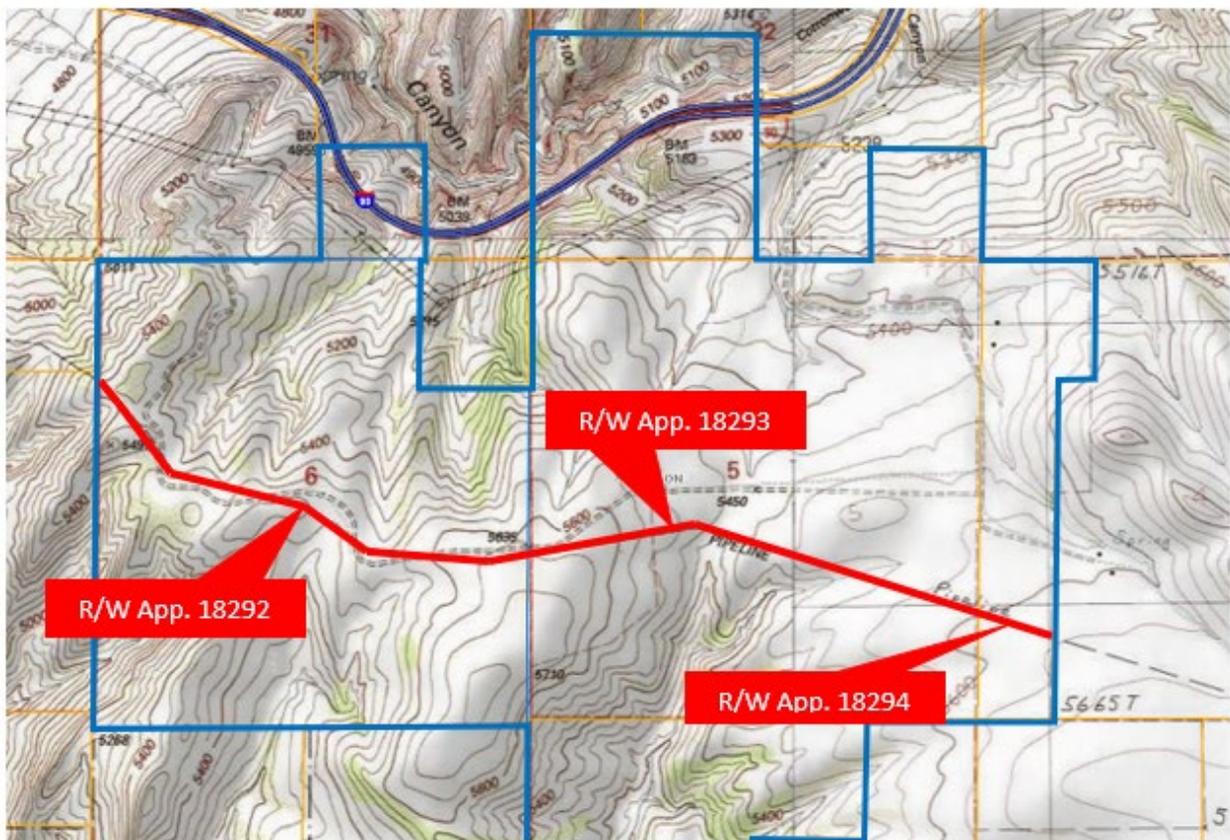
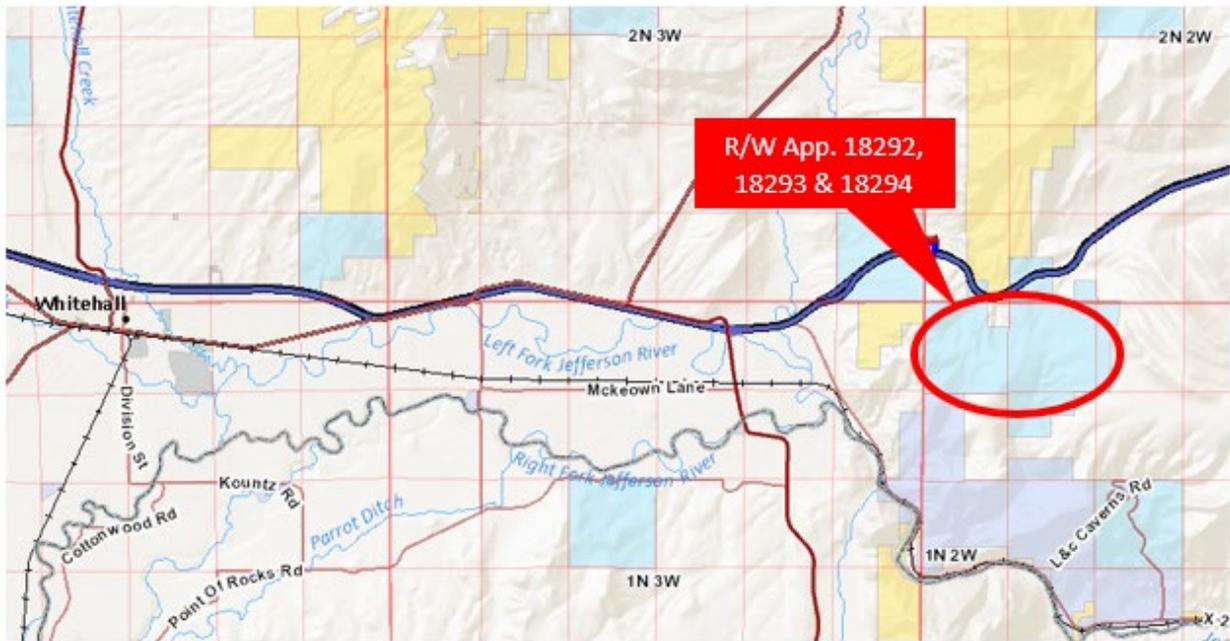
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18292, 18293 & 18294



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18295  
R/W Purpose: a buried 12" natural gas pipeline  
Lessee Agreement: N/A (Historic)  
Acreage: 0.48  
Compensation: \$192.00  
Legal Description: 50-foot strip across the Madison River in N2NE4, Sec. 8, Twp. 1N,  
Rge. 2E, Gallatin County  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

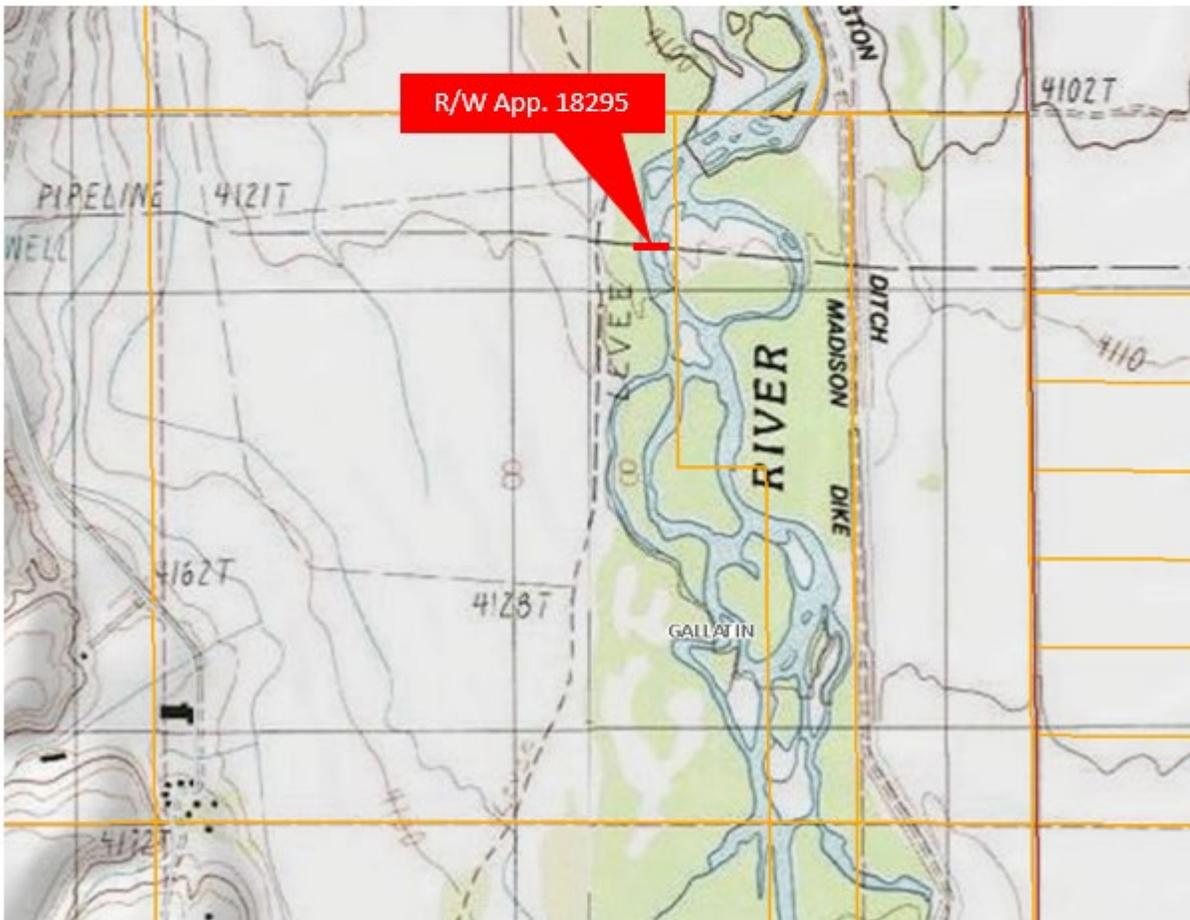
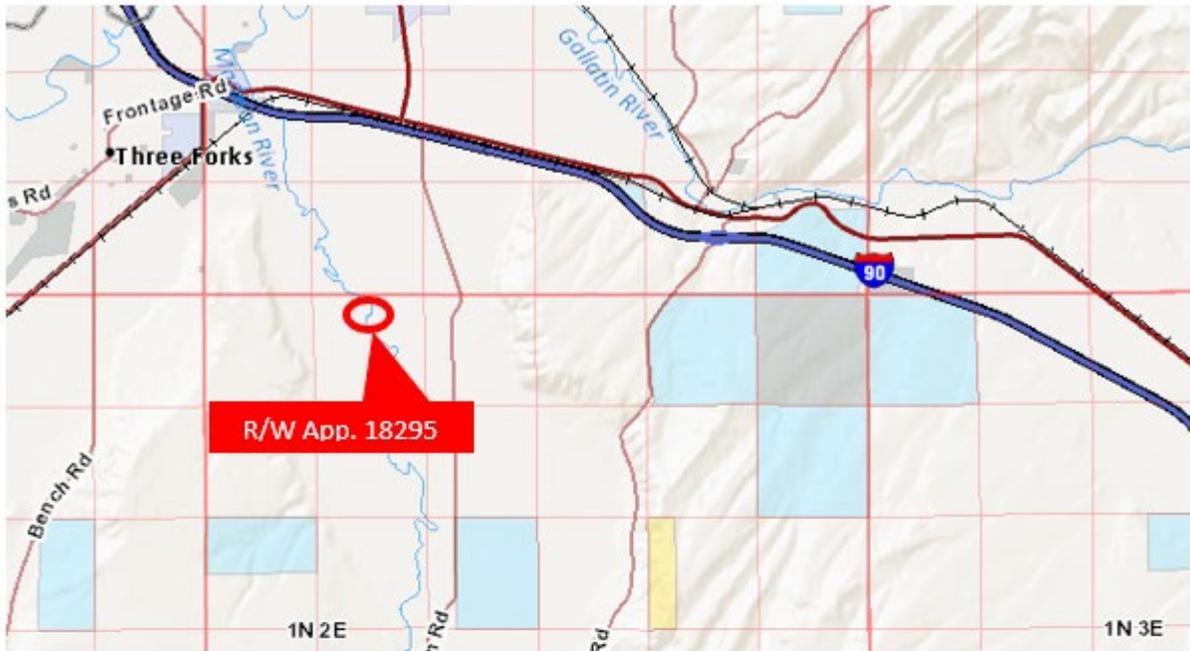
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18295



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18296  
R/W Purpose: a buried 12" natural gas pipeline  
Lessee Agreement: N/A (Historic)  
Acreage: 0.27  
Compensation: \$108.00  
Legal Description: 50-foot strip across the Jefferson River in NW4NW4, Sec. 8,  
Twp. 1N, Rge. 1E, Gallatin County  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

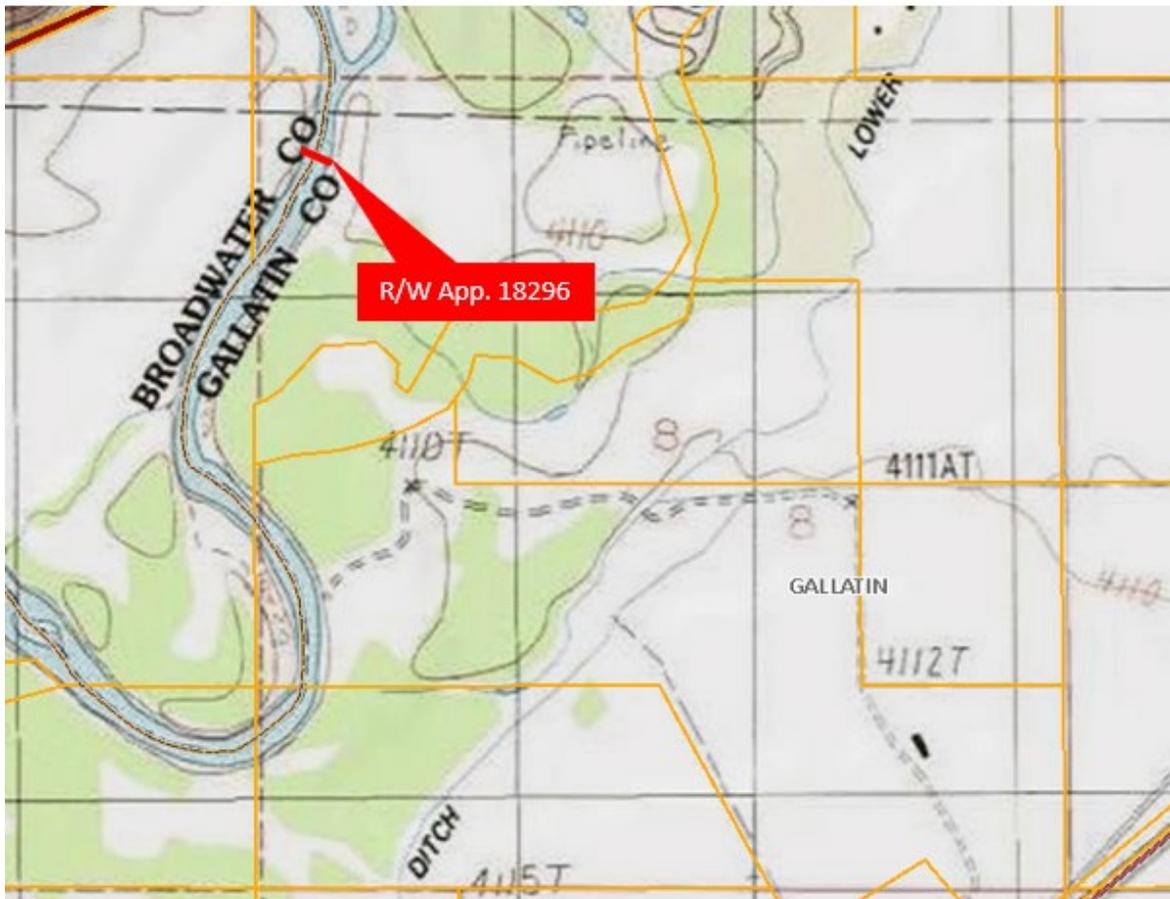
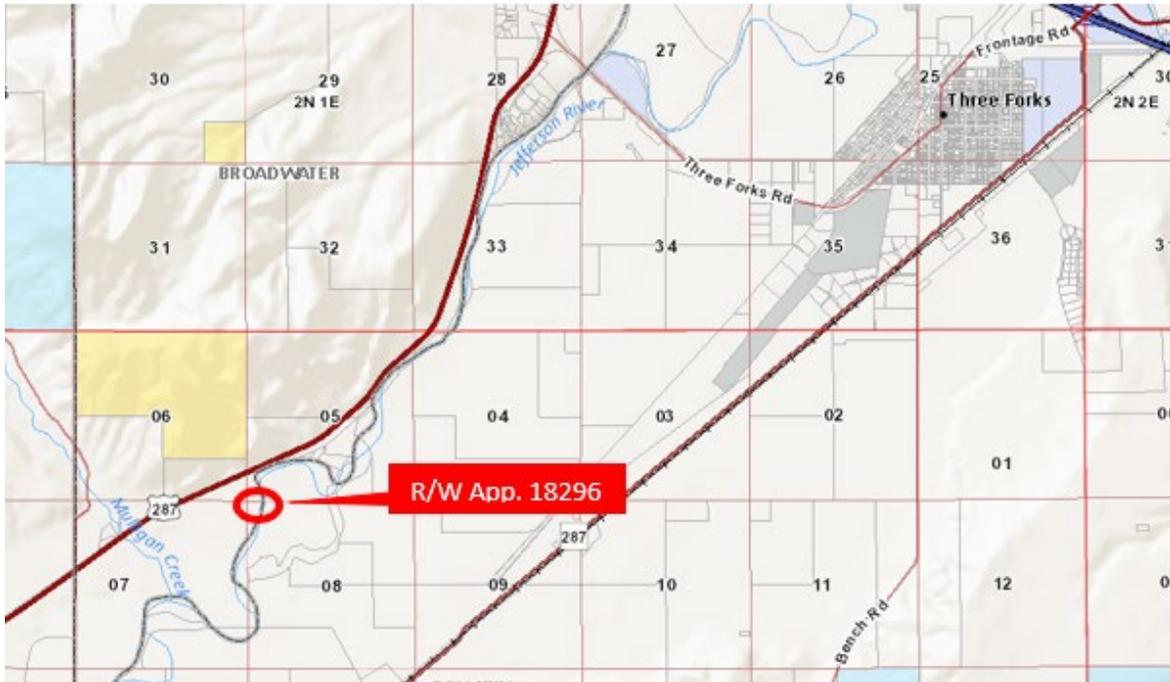
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18296



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18297  
R/W Purpose: a buried 3" natural gas pipeline  
Lessee Agreement: N/A (Historic)  
Acreage: 0.07  
Compensation: \$123.00  
Legal Description: 20-foot strip across the Jefferson River in SW4SE4, Sec. 29,  
Twp. 1N, Rge. 1E, Gallatin & Jefferson Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18298  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.04  
Compensation: \$100.00  
Legal Description: 10-foot strip across the Jefferson River in SW4SE4, Sec. 29,  
Twp. 1N, Rge. 1W, Gallatin & Jefferson Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18299  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.05  
Compensation: \$100.00  
Legal Description: 10-foot strip across the Jefferson River in SE4SE4, Sec. 29,  
Twp. 1N, Rge. 1W, Gallatin & Jefferson Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

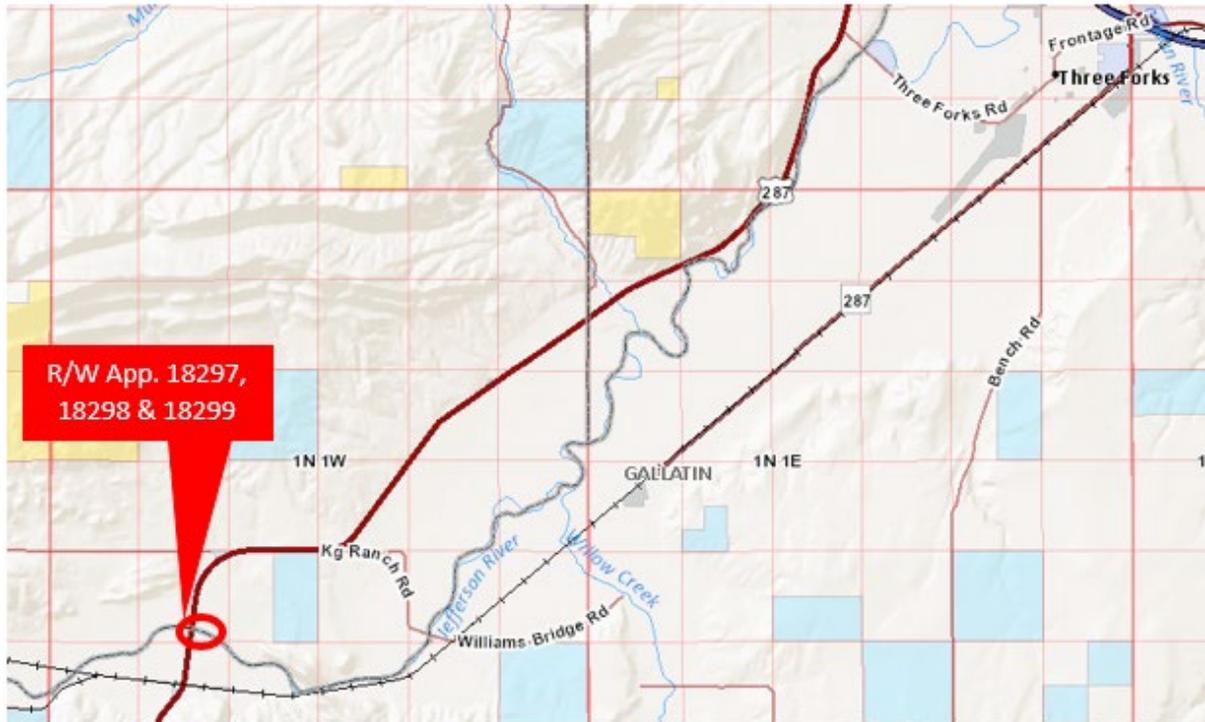
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18297, 18298, & 18299



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18300  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.05  
Compensation: \$100.00  
Legal Description: 10-foot strip across the Jefferson River in NE4NE4, Sec. 34 &  
NW4NW4, Sec. 35, Twp. 1N, Rge. 1W,  
Gallatin & Jefferson Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

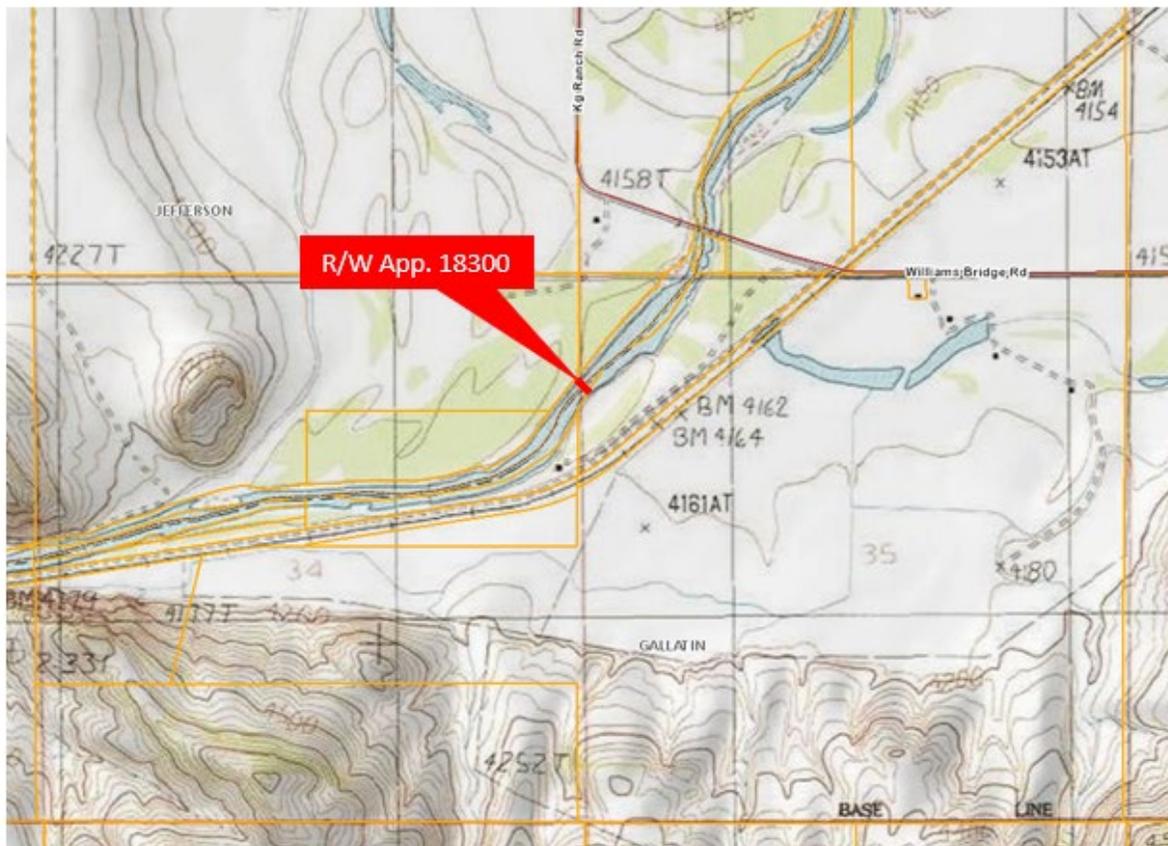
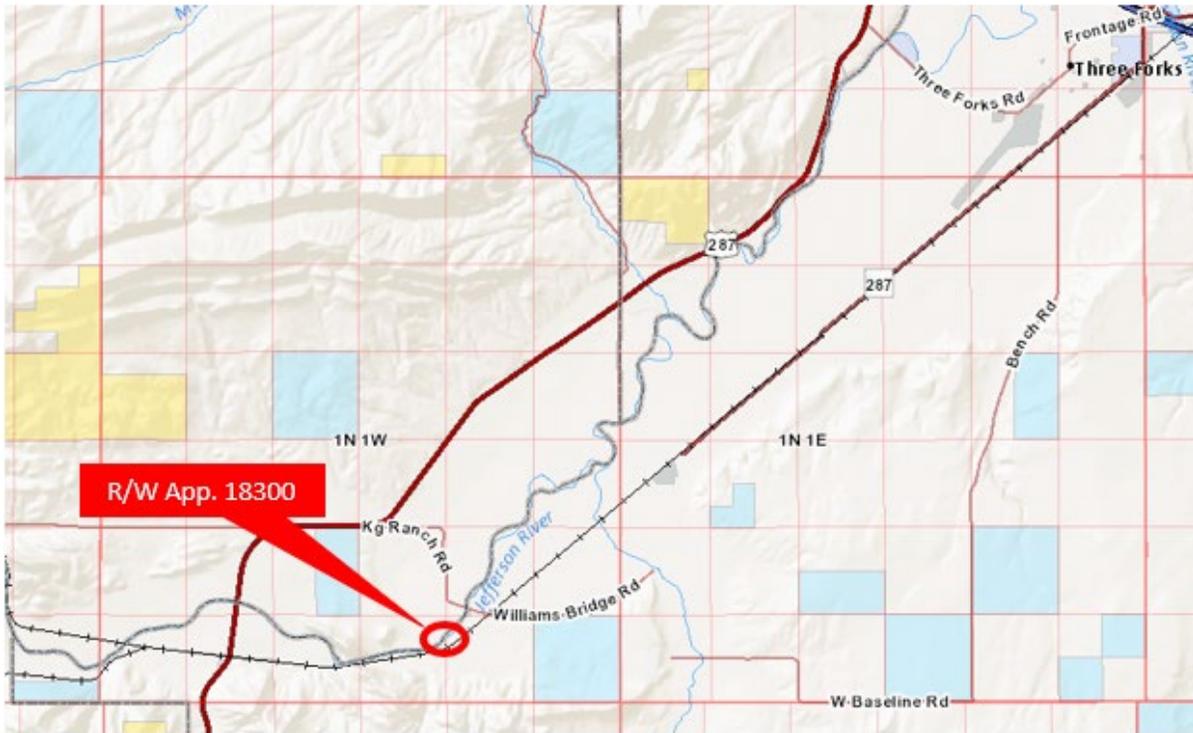
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18300



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18301  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 3.68  
Compensation: \$2,944.00  
Legal Description: 30-foot strip through the S2S2, Sec. 34, Twp. 1N, Rge. 1E,  
Gallatin County  
Trust Beneficiary: Capitol Buildings

Item Summary

See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18302  
R/W Purpose: an overhead 7.2 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 3.54  
Compensation: \$2,832.00  
Legal Description: 30-foot strip through the N2NW4, SE4NW4, Sec. 26, Twp. 1N,  
Rge. 1E, Gallatin County  
Trust Beneficiary: Capitol Buildings

Item Summary

See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18303  
R/W Purpose: a buried 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.03  
Compensation: \$100.00  
Legal Description: 30-foot strip through the SW4SW4, Sec. 20, Twp. 1N, Rge. 1E,  
Gallatin County  
Trust Beneficiary: Capitol Buildings

Item Summary

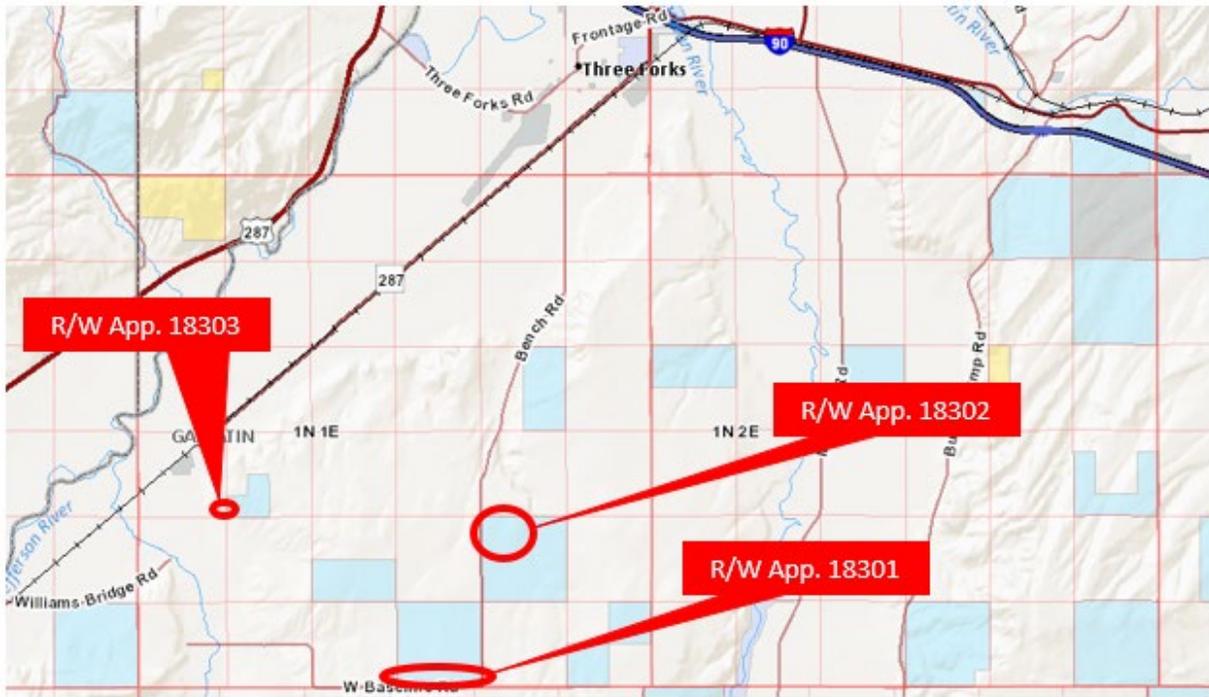
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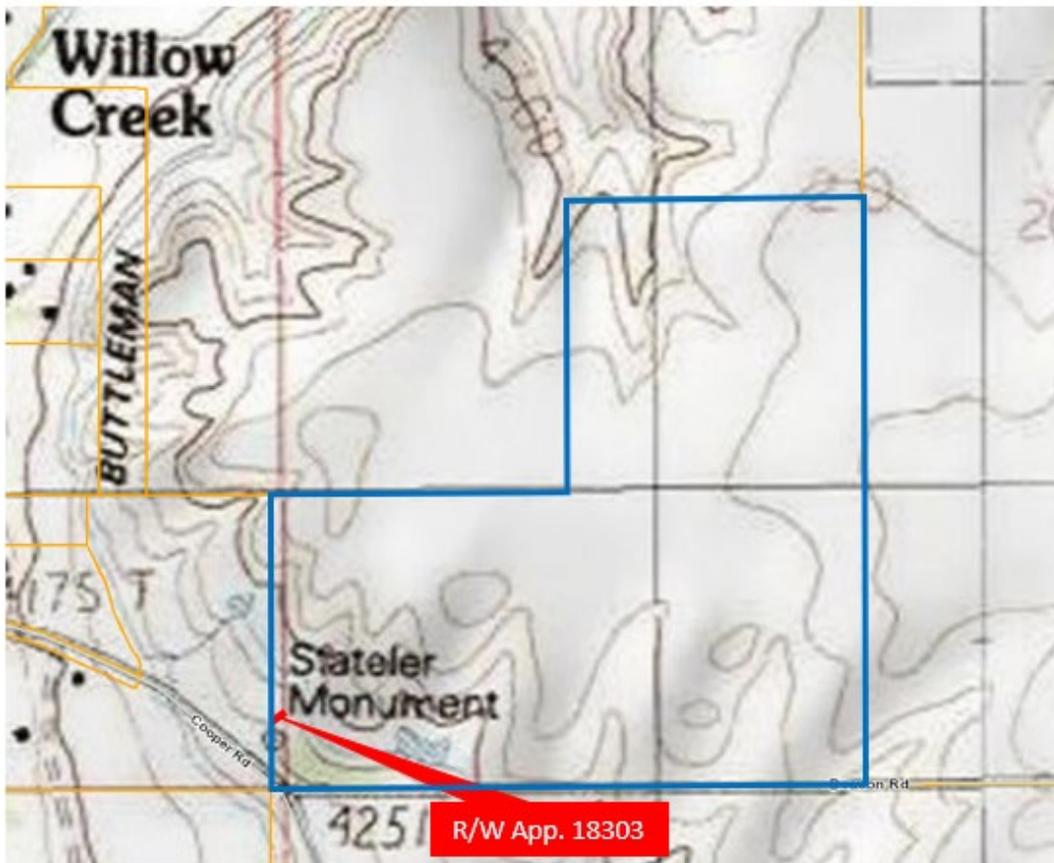
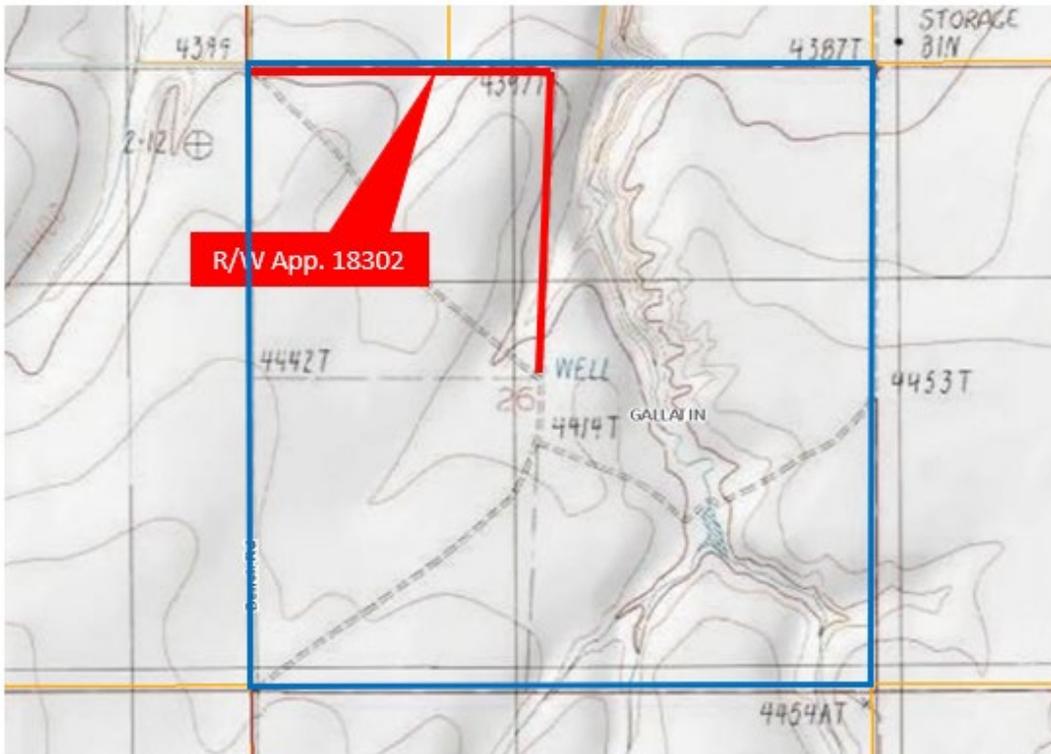
DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18301, 18302 & 18303





APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18304  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 2.02  
Compensation: \$1,616.00  
Legal Description: 30-foot strip through the E2NW4, NW4NE4, Sec. 8, Twp. 1S,  
Rge. 2E, Gallatin County  
Trust Beneficiary: University of Montana

Item Summary

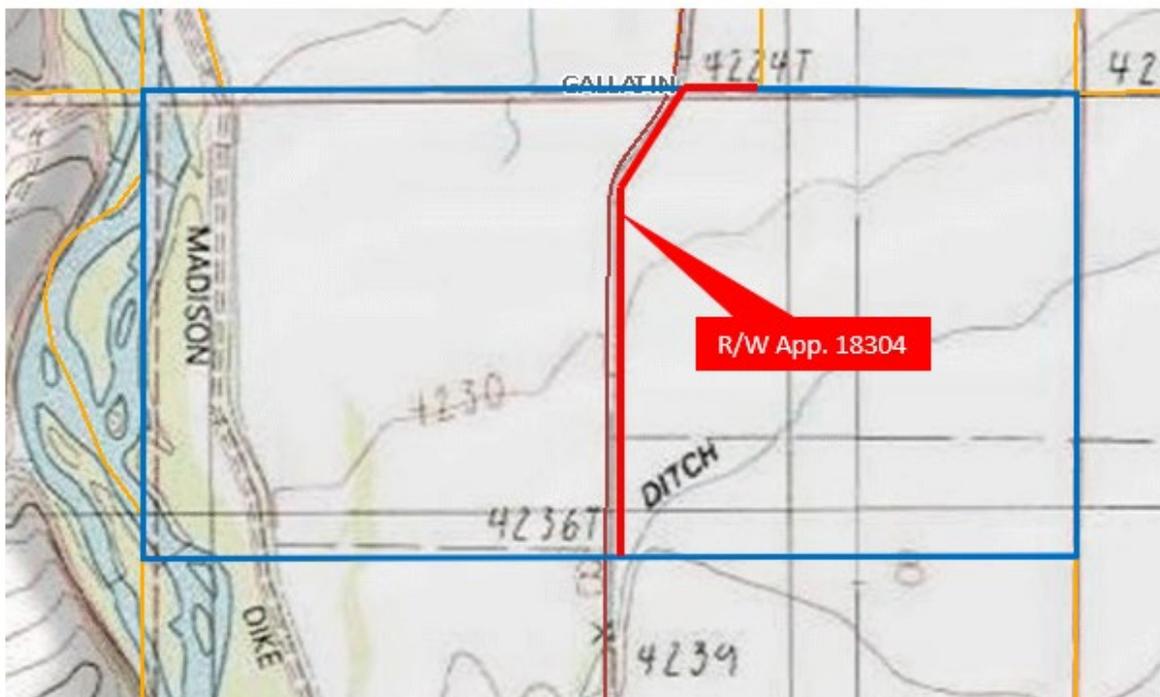
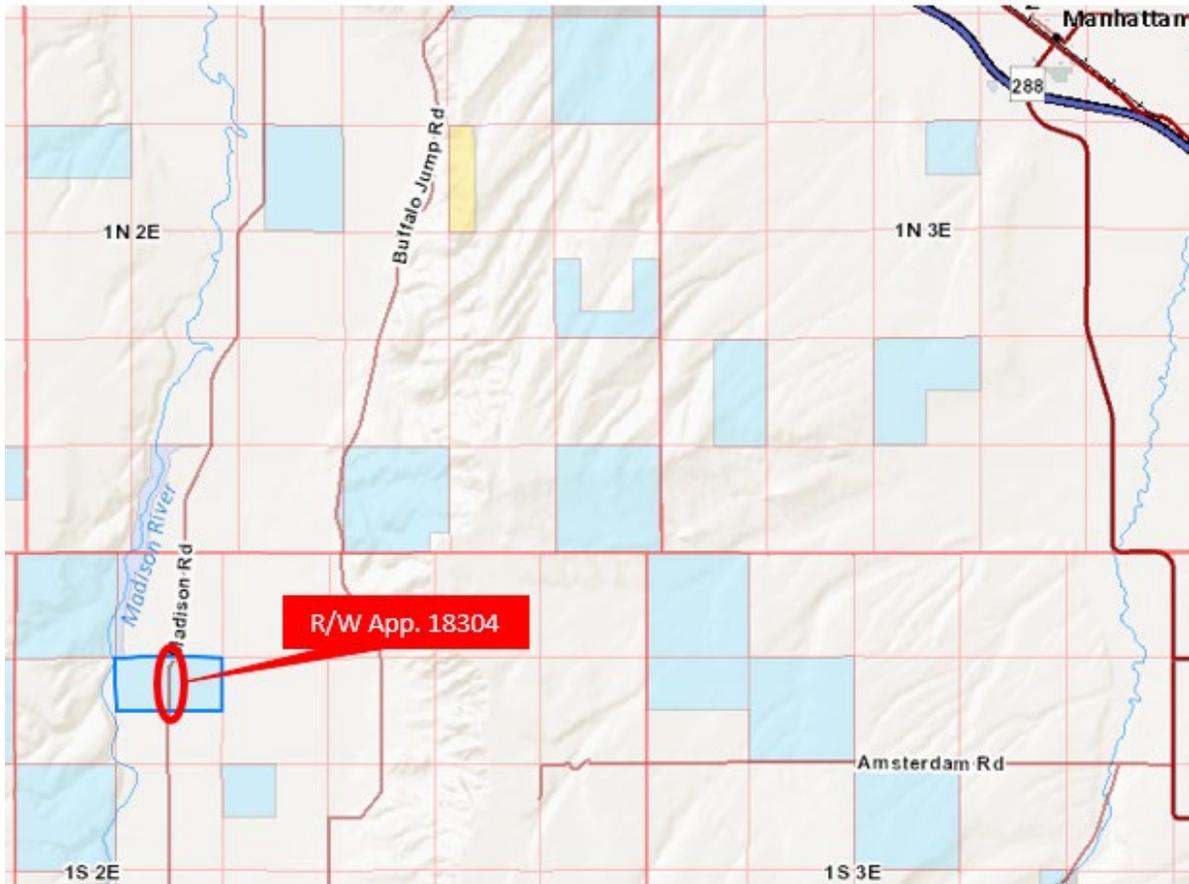
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18304



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18305  
R/W Purpose: an overhead 7.2 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.63  
Compensation: \$630.00  
Legal Description: 30-foot strip through the NW4NW4, Sec. 34, Twp. 1N, Rge. 2E,  
Gallatin County  
Trust Beneficiary: Common Schools

Item Summary

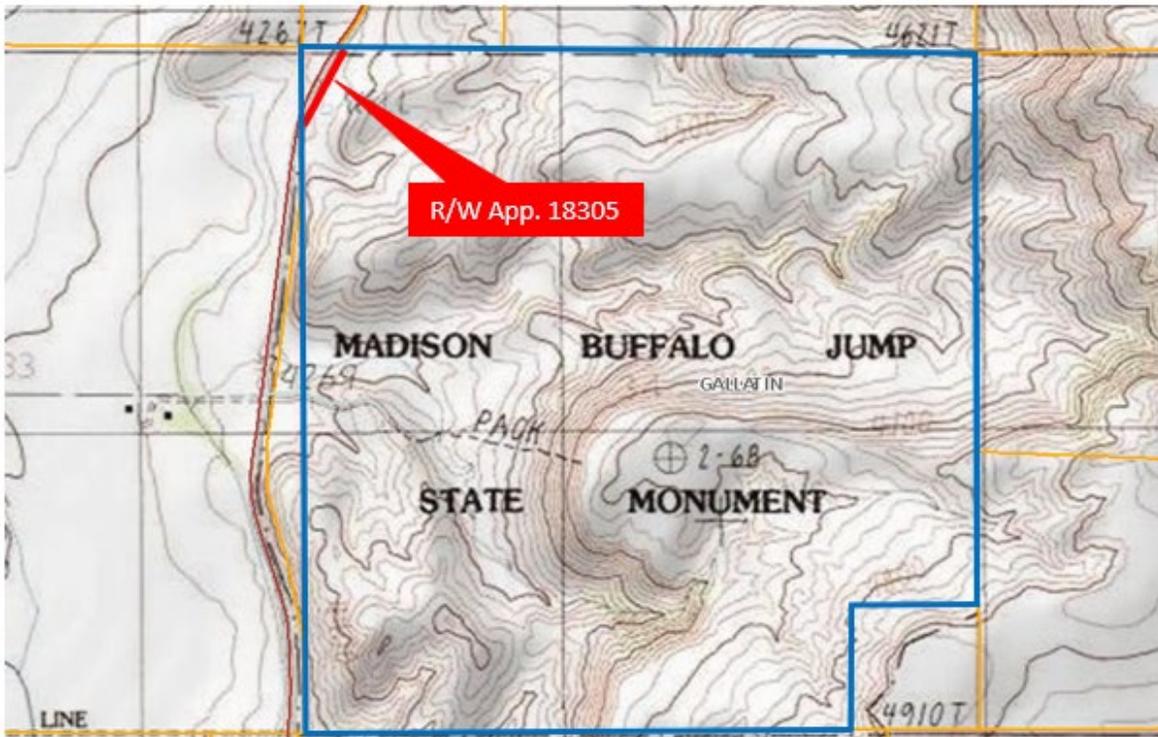
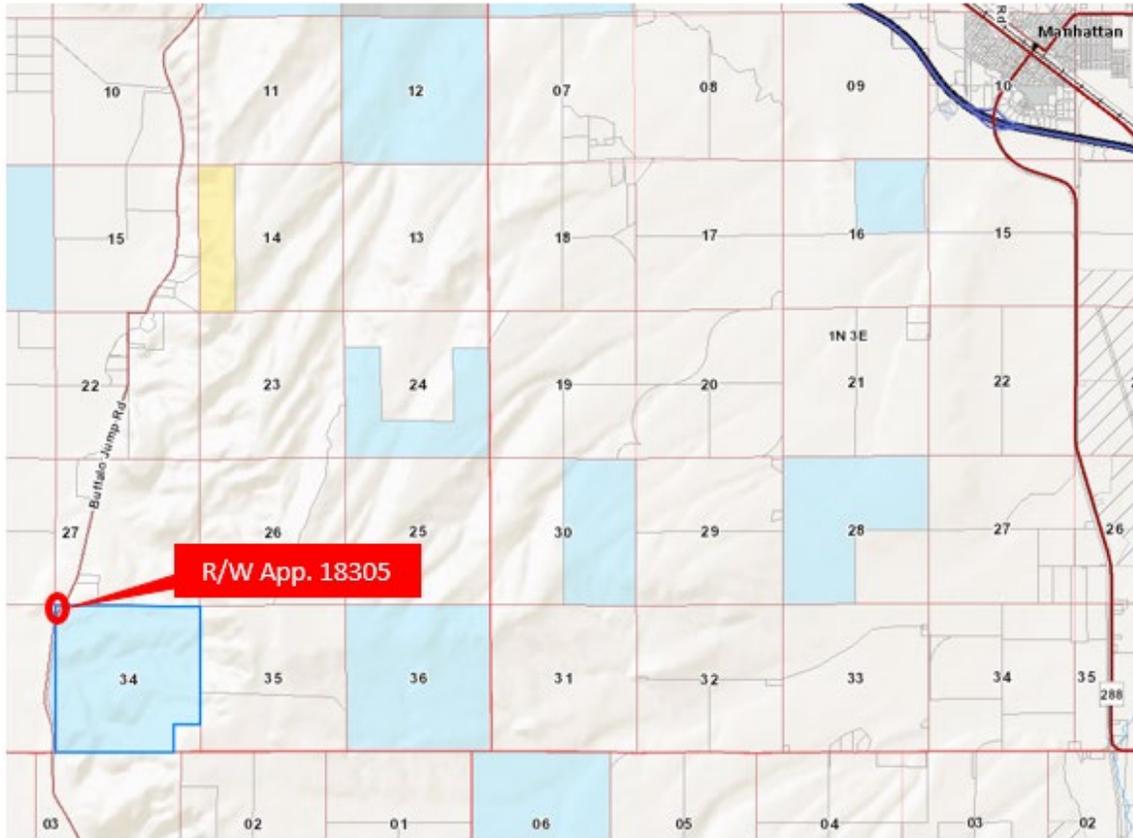
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18305



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18307  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.95  
Compensation: \$950.00  
Legal Description: 30-foot strip through the N2NE4, Sec. 16, Twp. 1N, Rge. 3E,  
Gallatin County  
Trust Beneficiary: Common Schools

Item Summary

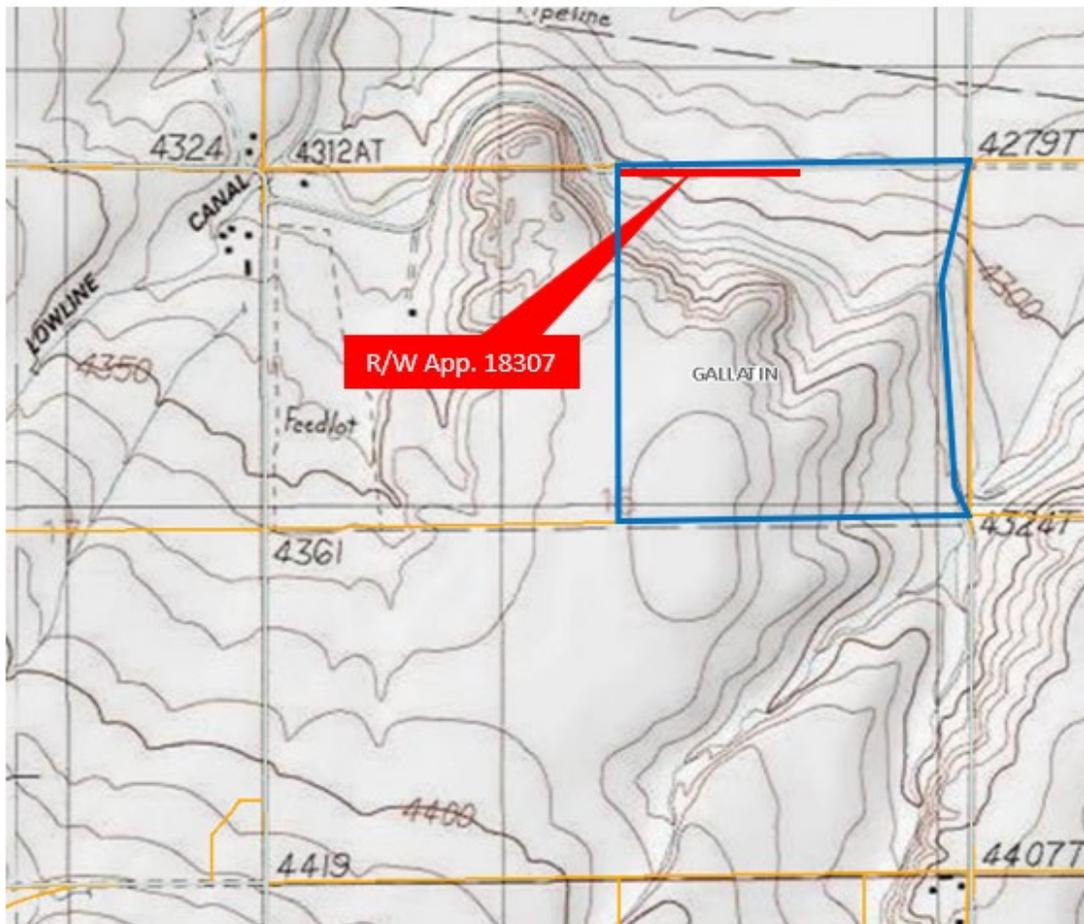
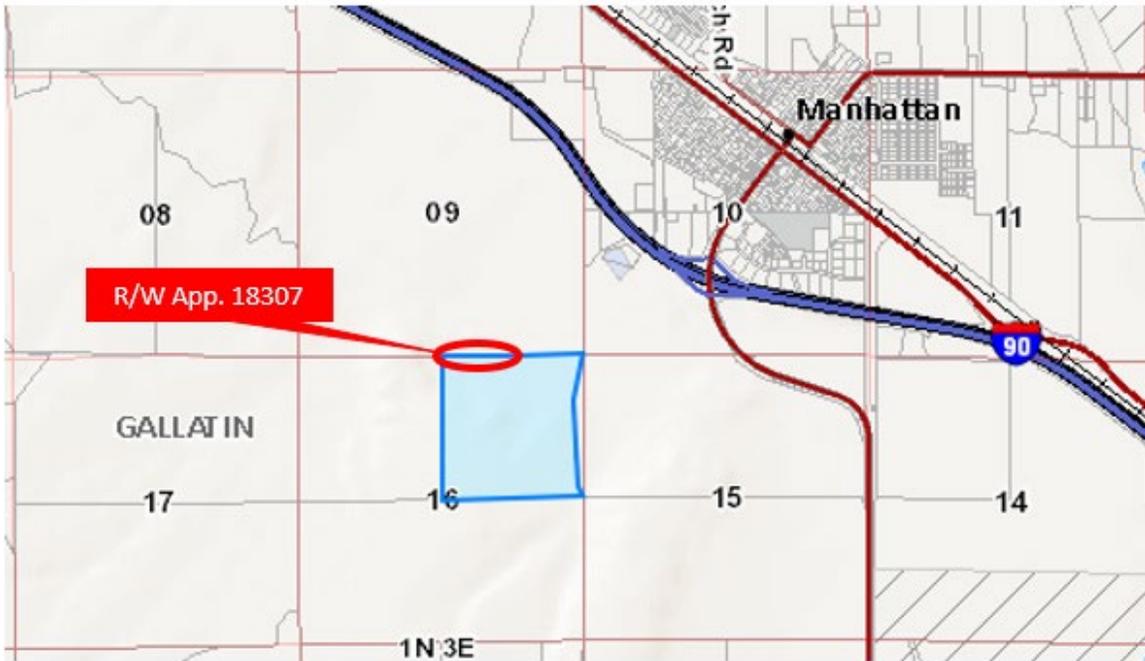
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18307



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18309  
R/W Purpose: an overhead 12.47kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.06  
Compensation: \$105.00  
Legal Description: 10-foot strip across the Jefferson River in NW4NE4, Sec. 31,  
Twp. 1N, Rge. 1W, Gallatin & Jefferson Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

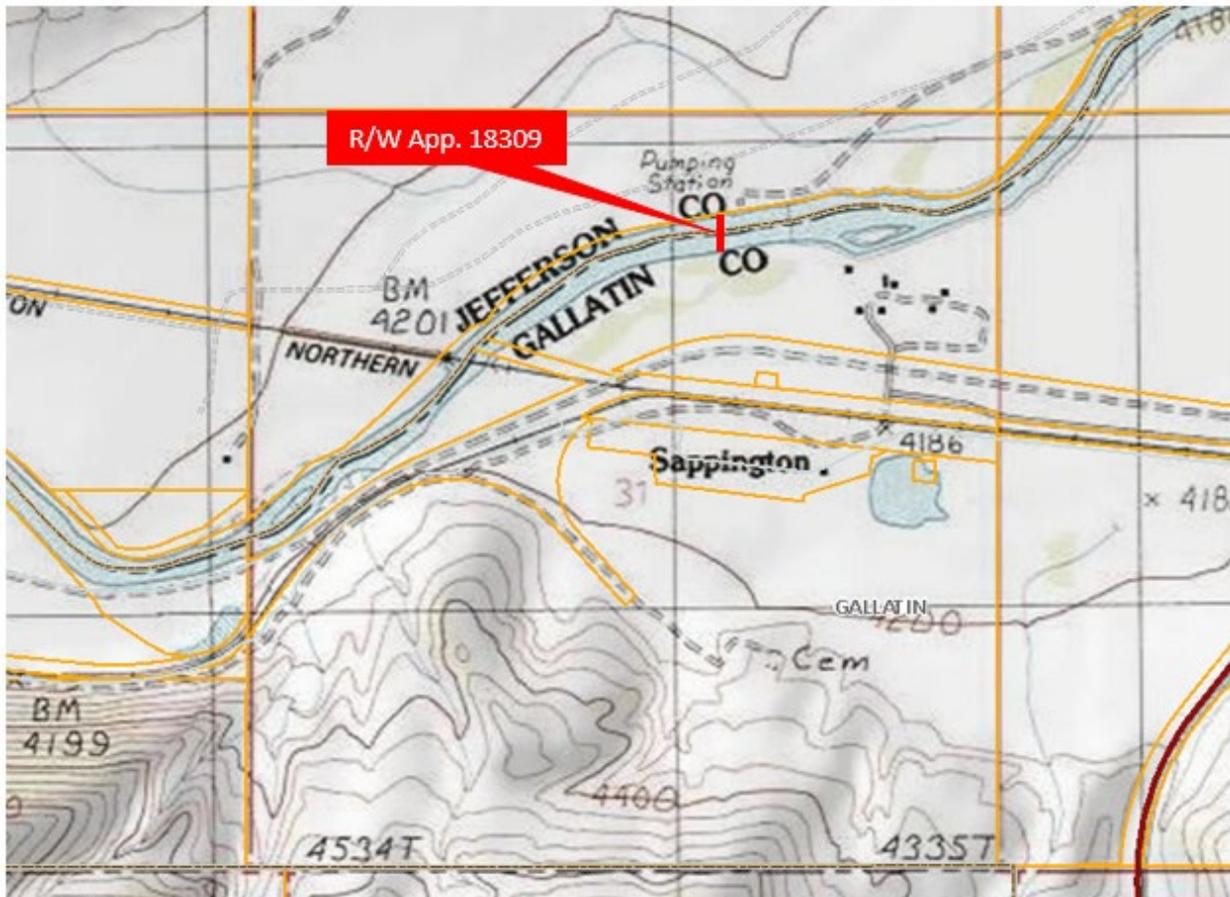
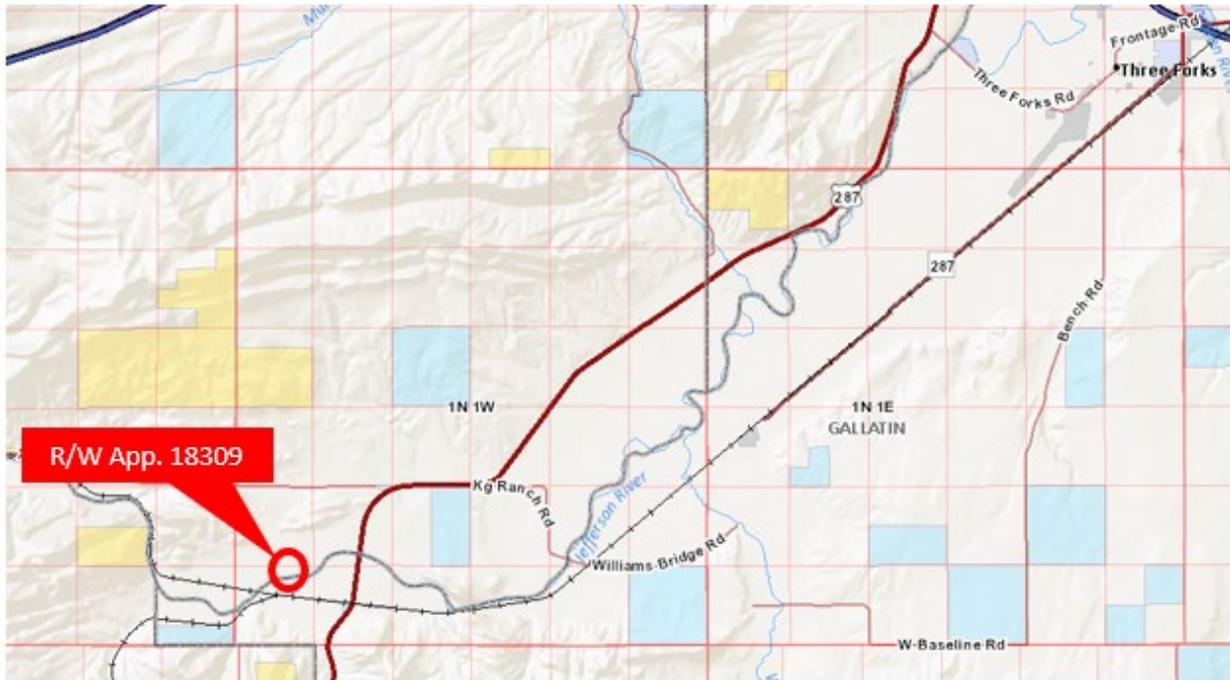
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18309



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18310  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.10  
Compensation: \$175.00  
Legal Description: 10-foot strip across the Jefferson River in SE4NW4, Sec. 31,  
Twp. 1N, Rge. 1W, Gallatin & Jefferson Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

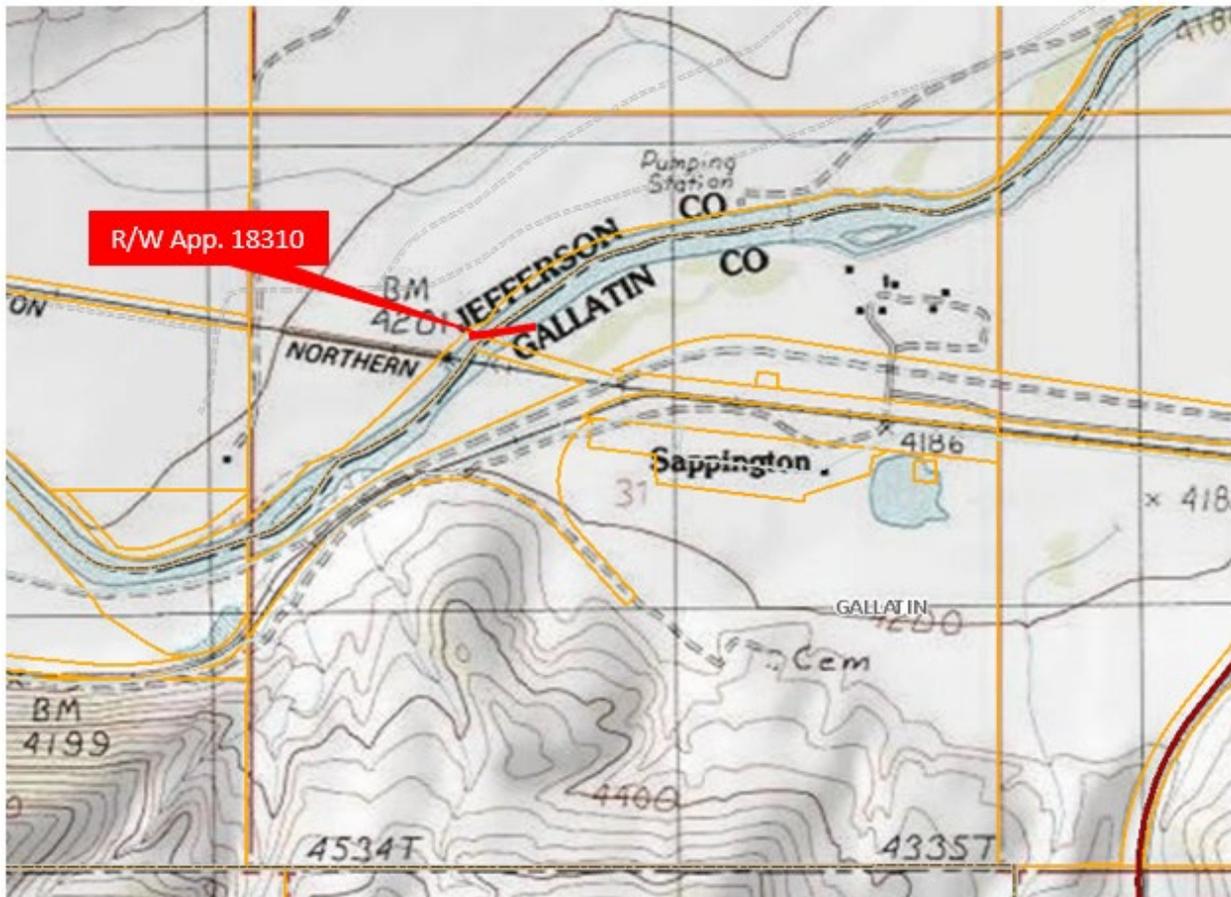
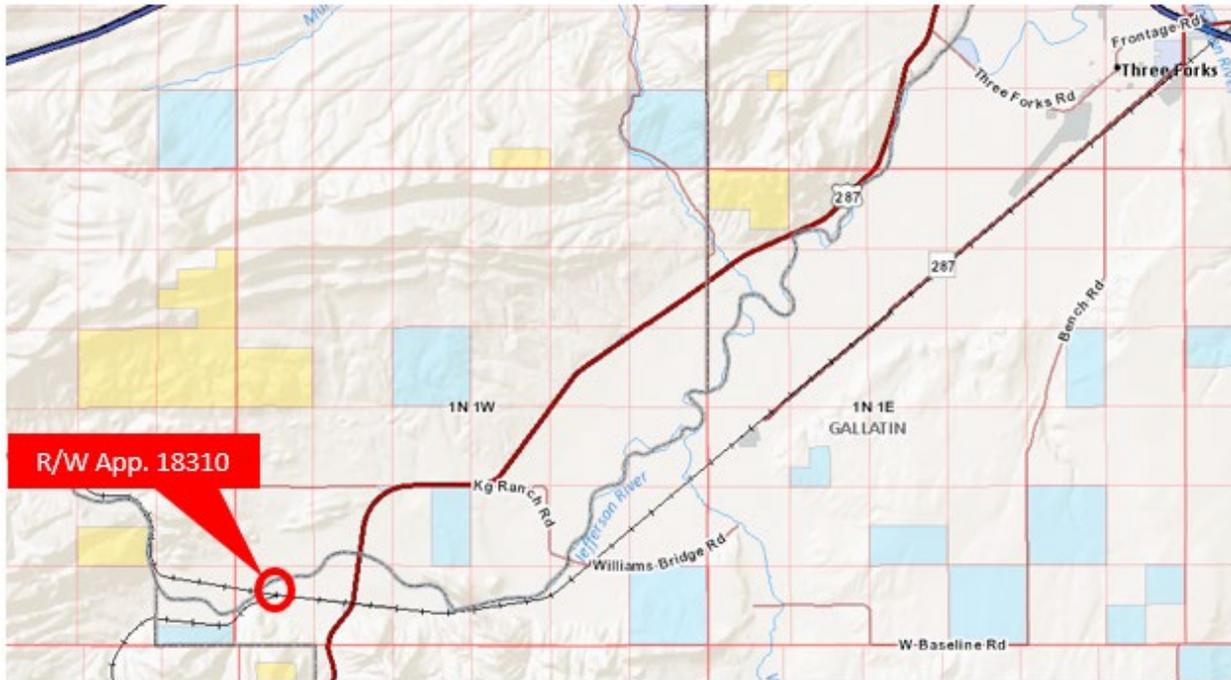
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18310



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18311  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 4.27  
Compensation: \$2,349.00  
Legal Description: 30-foot strip through the S2NW4, NE4SW4, NW4SE4, S2SE4,  
Sec. 16, Twp. 1N, Rge. 2W, Jefferson County  
Trust Beneficiary: Common Schools

Item Summary

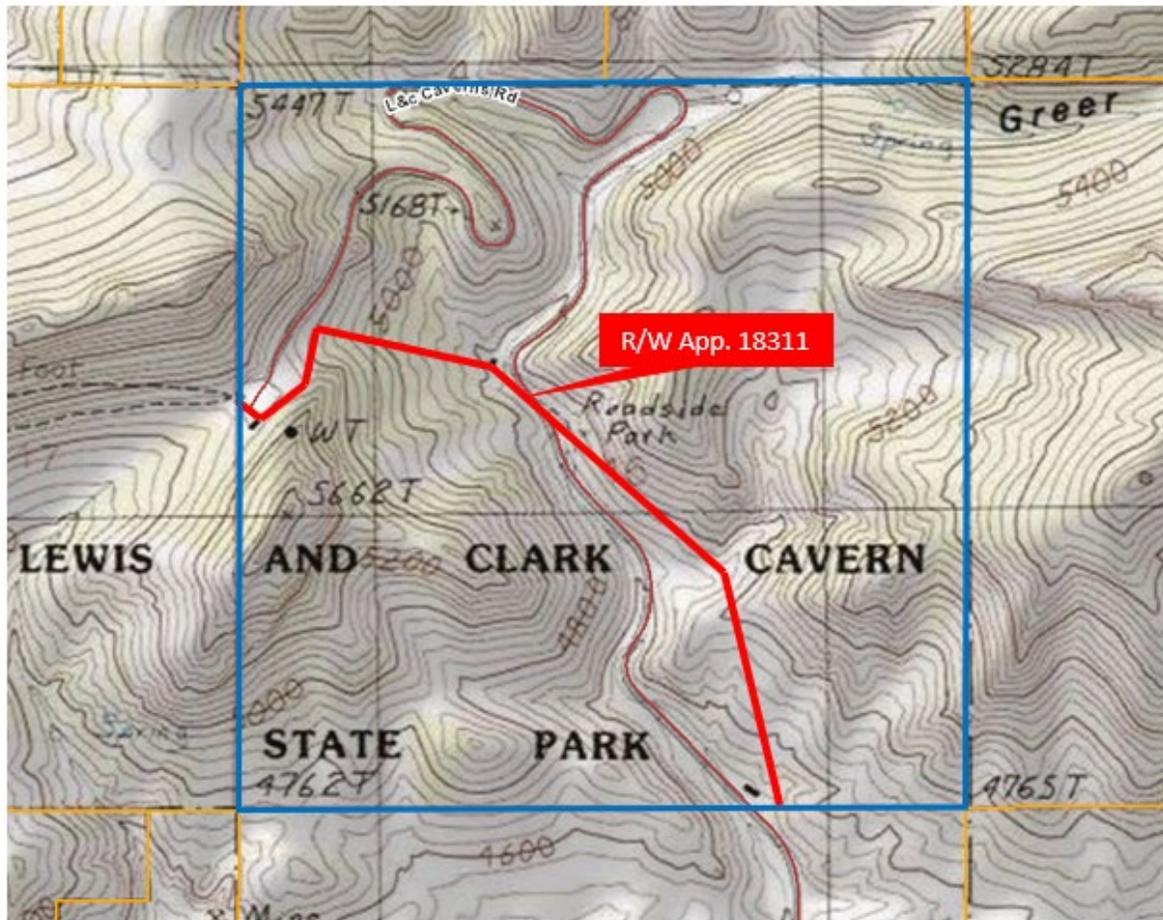
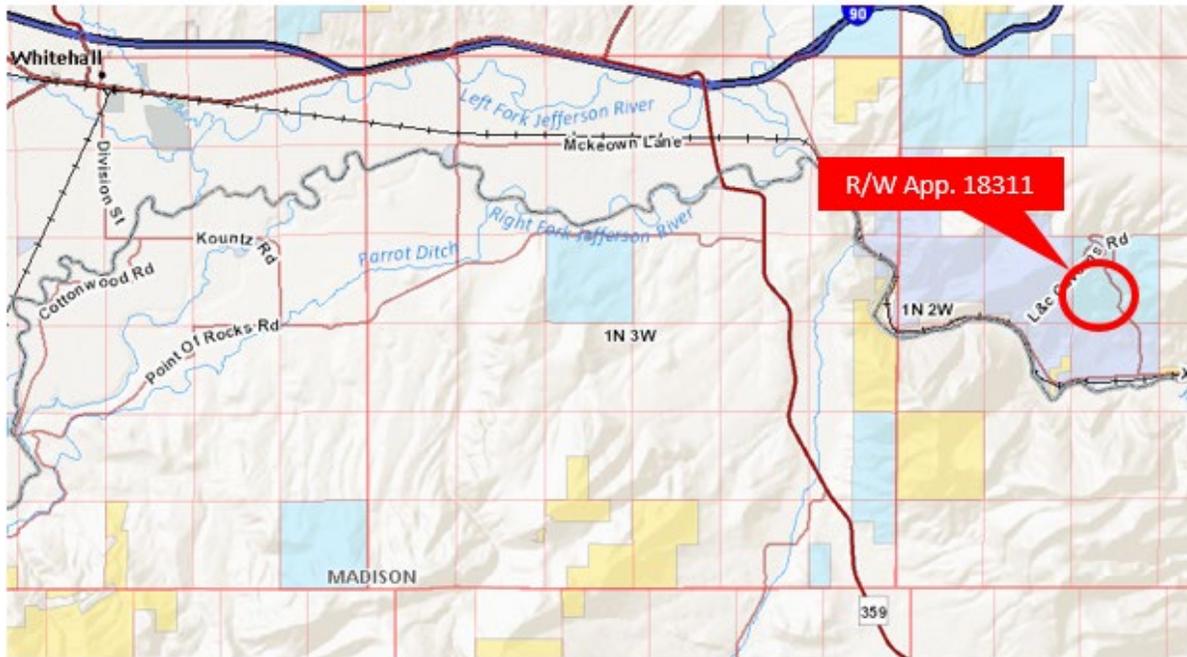
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18311



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18312  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 2.77  
Compensation: \$2,216.00  
Legal Description: 30-foot strip through the SE4SW4, S2SE4, Sec. 16, Twp. 1N,  
Rge. 2E, Gallatin County  
Trust Beneficiary: Common Schools

Item Summary

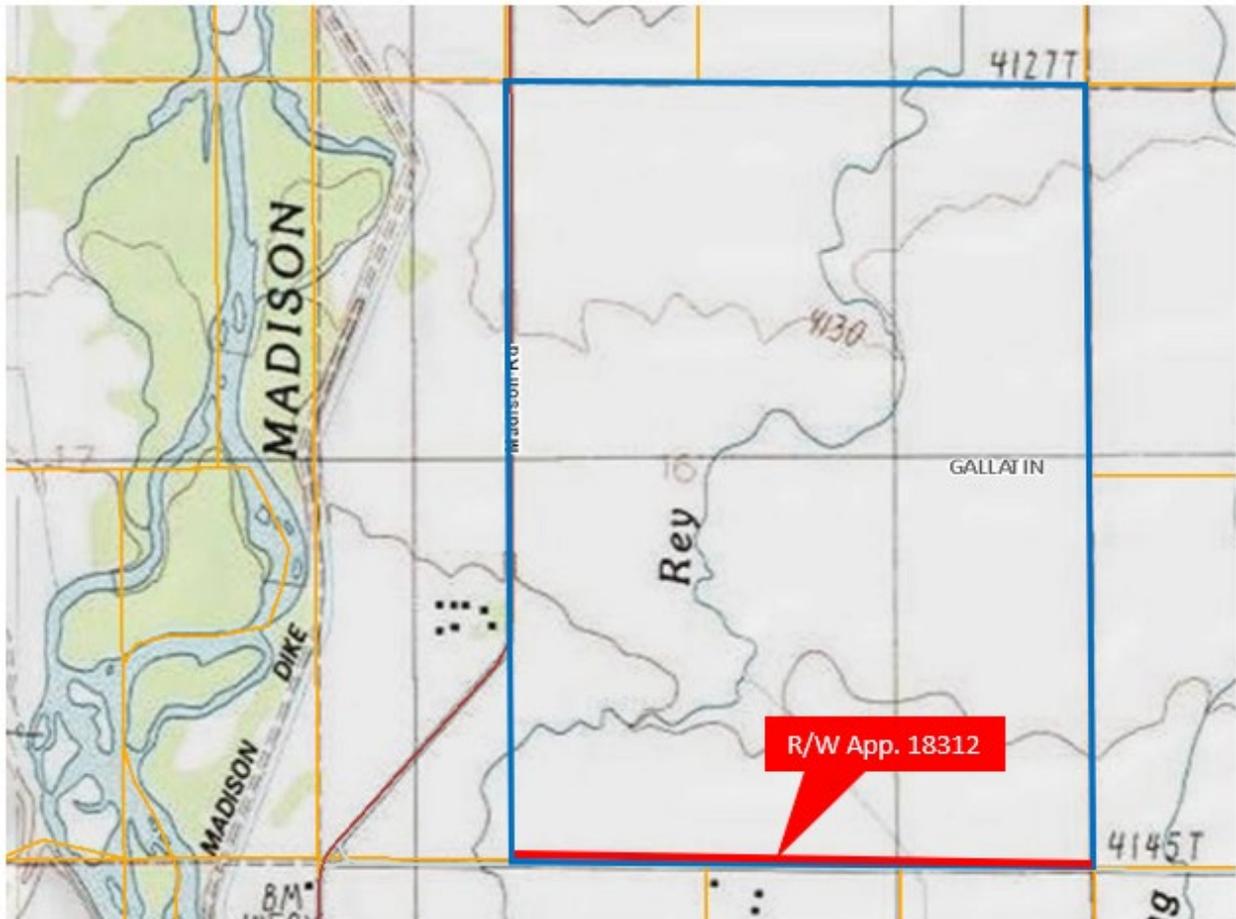
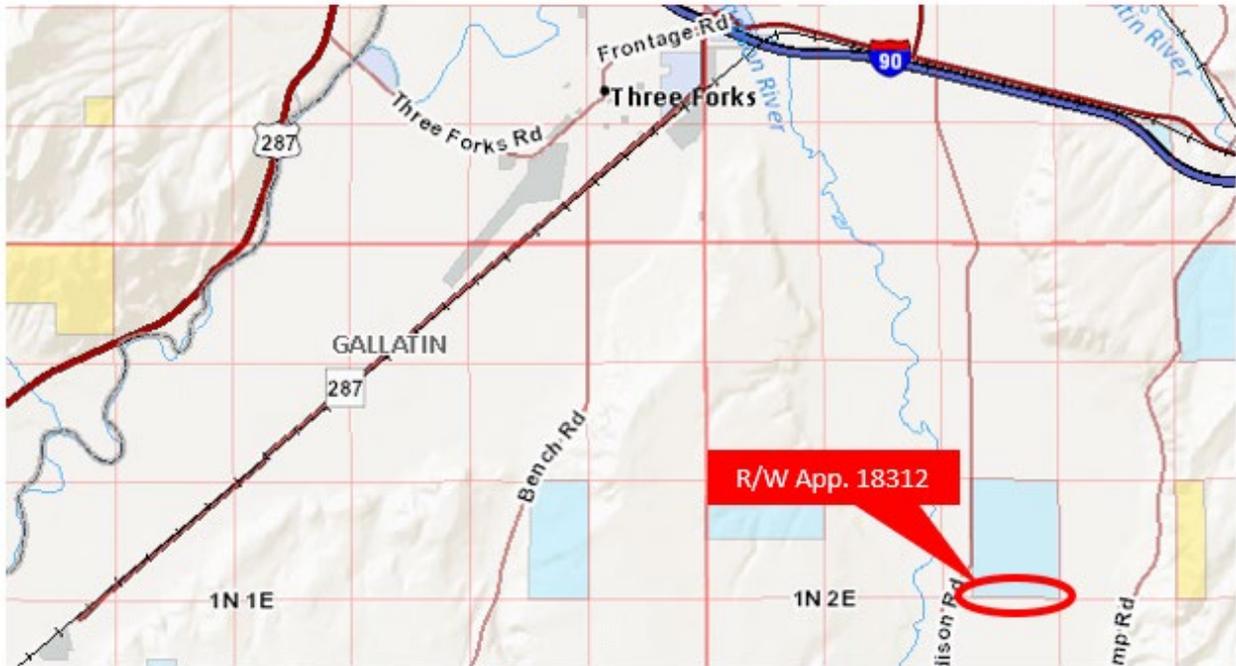
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18312



APPLICANTS AND RIGHTS OF WAY INFORMATION

---

Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18313  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.02  
Compensation: \$100.00  
Legal Description: 10-foot strip across the Madison River in NE4NE4, Sec. 20,  
Twp. 1N, Rge. 2E, Gallatin County  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

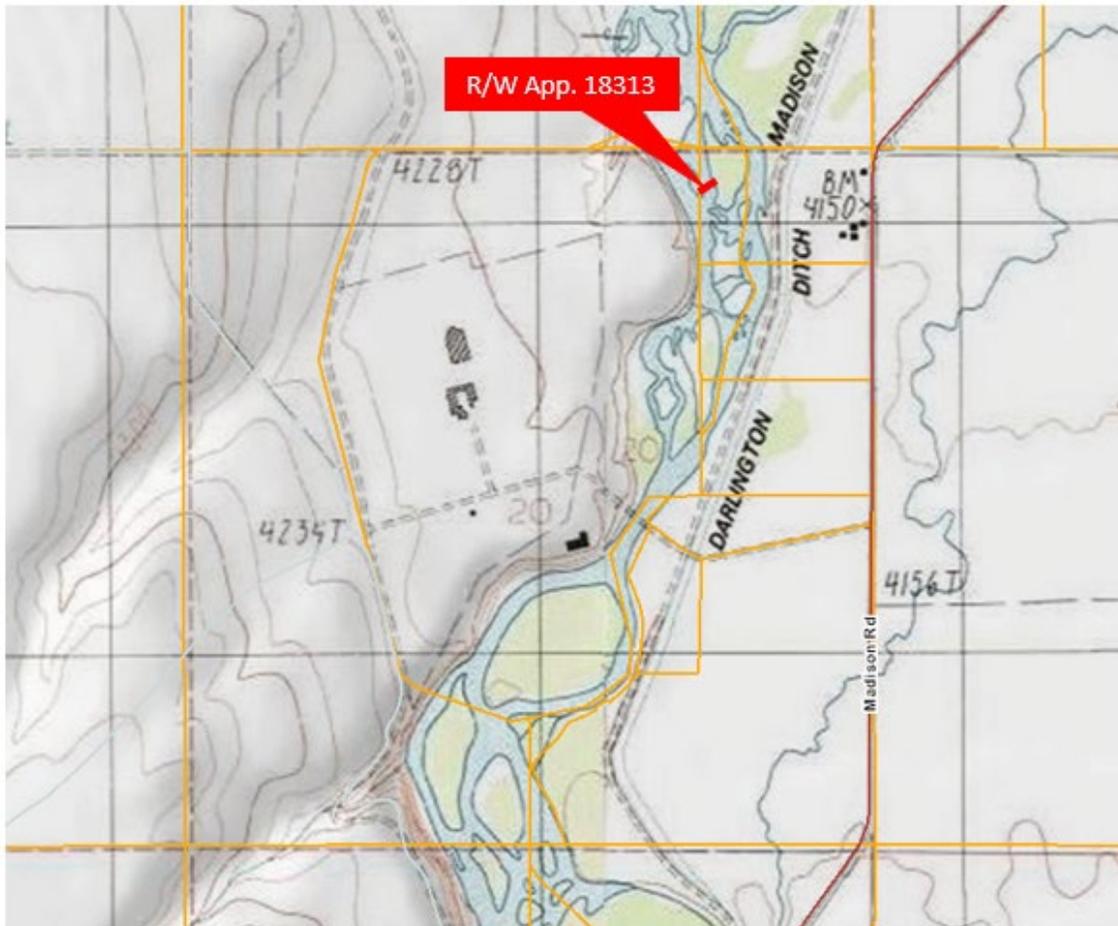
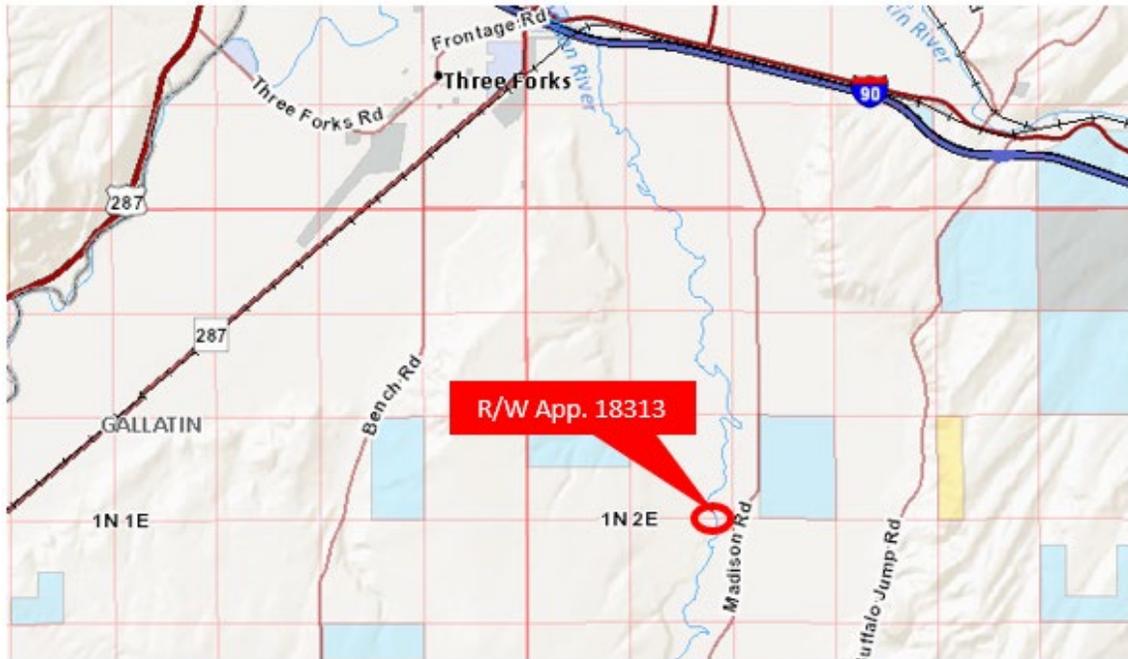
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18313



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18314  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.68  
Compensation: \$544.00  
Legal Description: 30-foot strip through the SW4SW4, Sec. 20, Twp. 1N, Rge. 1E,  
Gallatin County  
Trust Beneficiary: Capitol Buildings

Item Summary

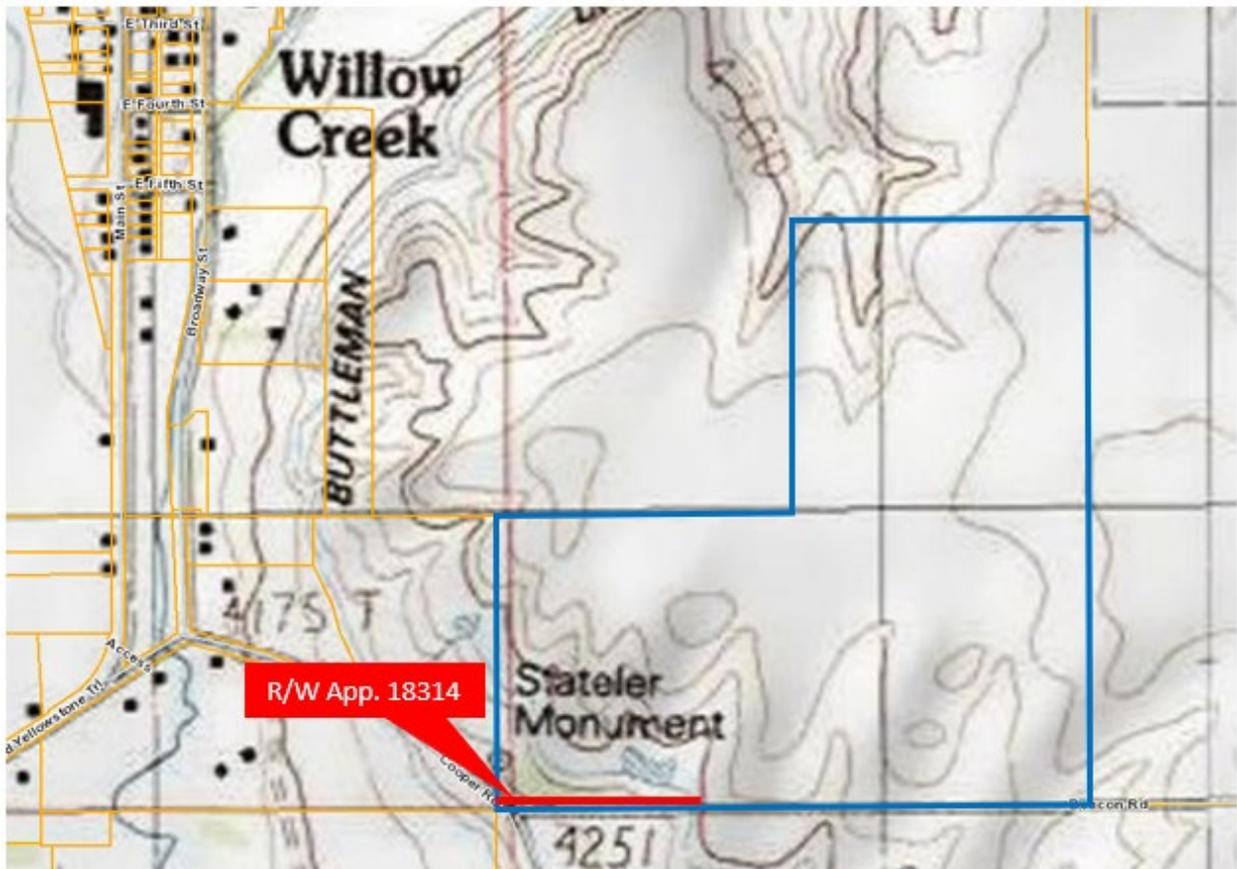
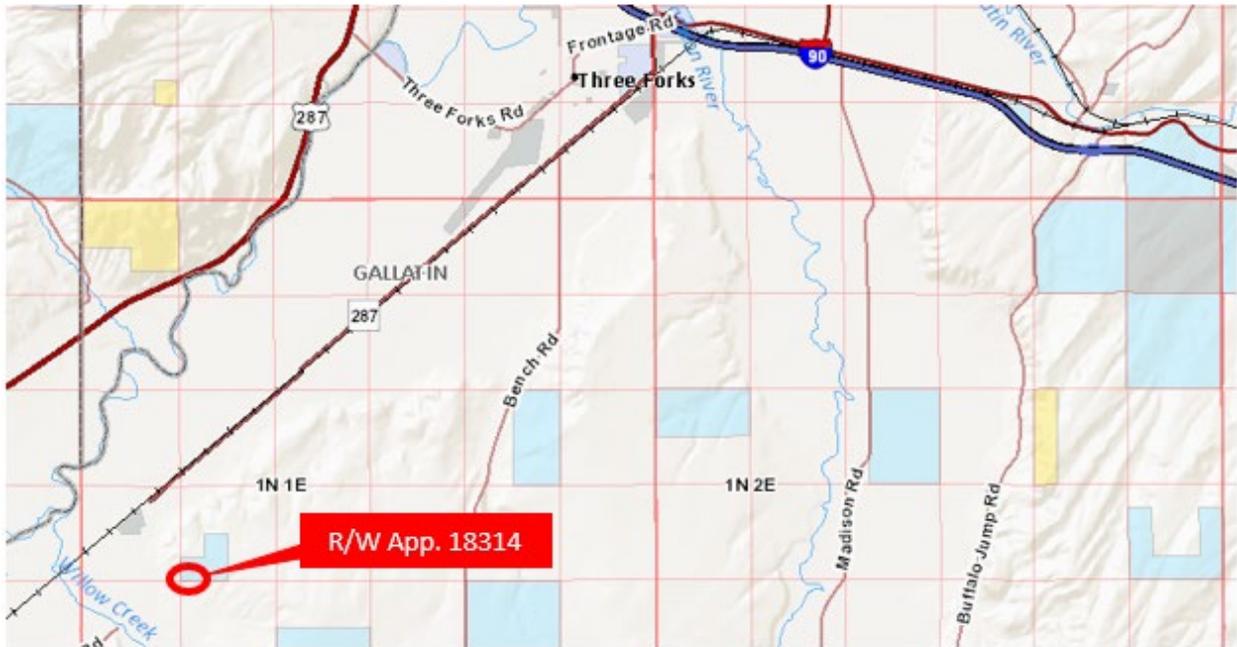
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18314



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: NorthWestern Energy  
11 E. Park  
Butte, MT 59701

Application No.: 18315  
R/W Purpose: an overhead 12.47 kV electric distribution line  
Lessee Agreement: N/A (Historic)  
Acreage: 0.05  
Compensation: \$100.00  
Legal Description: 10-foot strip across the Jefferson River in SE4SE4, Sec. 7,  
Twp. 1N, Rge. 1E, Broadwater & Gallatin Counties  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

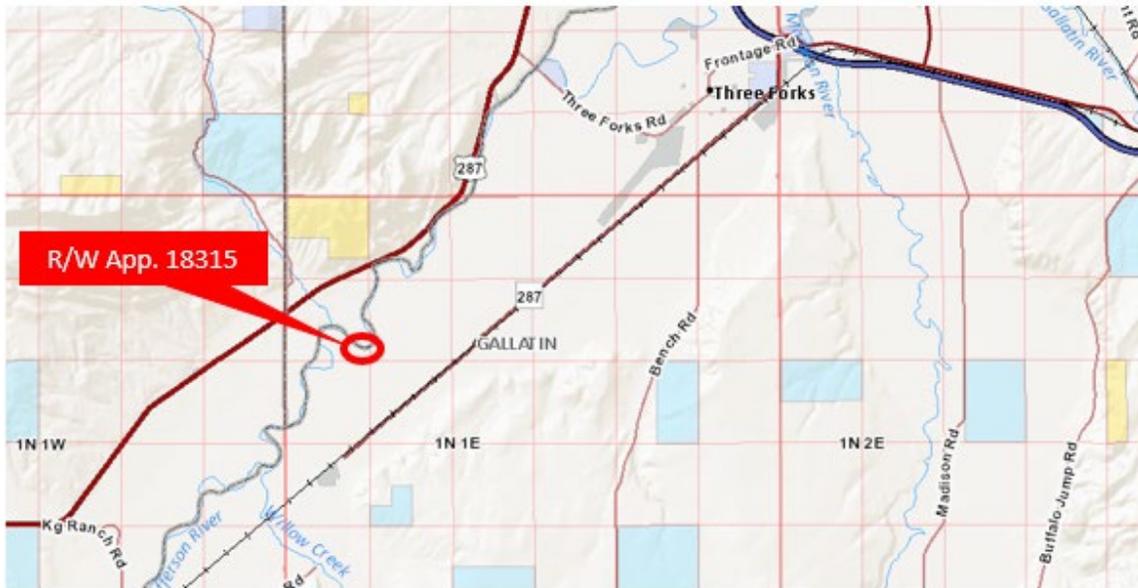
See page 1 for Summary

DNRC Recommendation

See page 1 for Recommendation

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R/W Application 18315



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: City of Great Falls  
PO Box 5021  
Great Falls, MT 59403-5021

Application No.: 18705  
R/W Purpose: a buried 24" municipal waterline  
Lessee Agreement: N/A (Nav. River)  
Acreage: 0.33  
Compensation: \$8,049.00  
Legal Description: 20-foot strip across the Missouri River in SE4SW4 & NW4SE4,  
Sec. 14, Twp. 20N, Rge. 3E, Cascade County  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

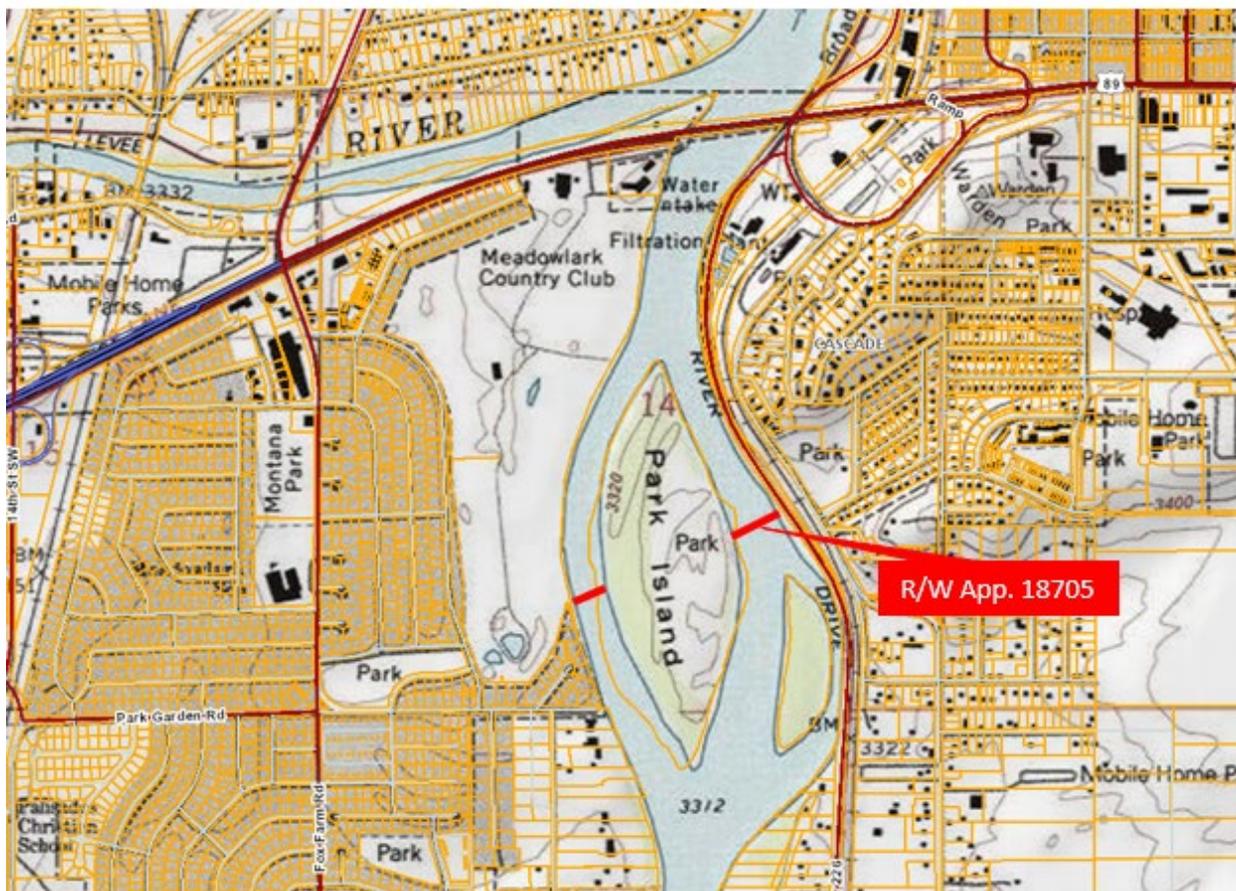
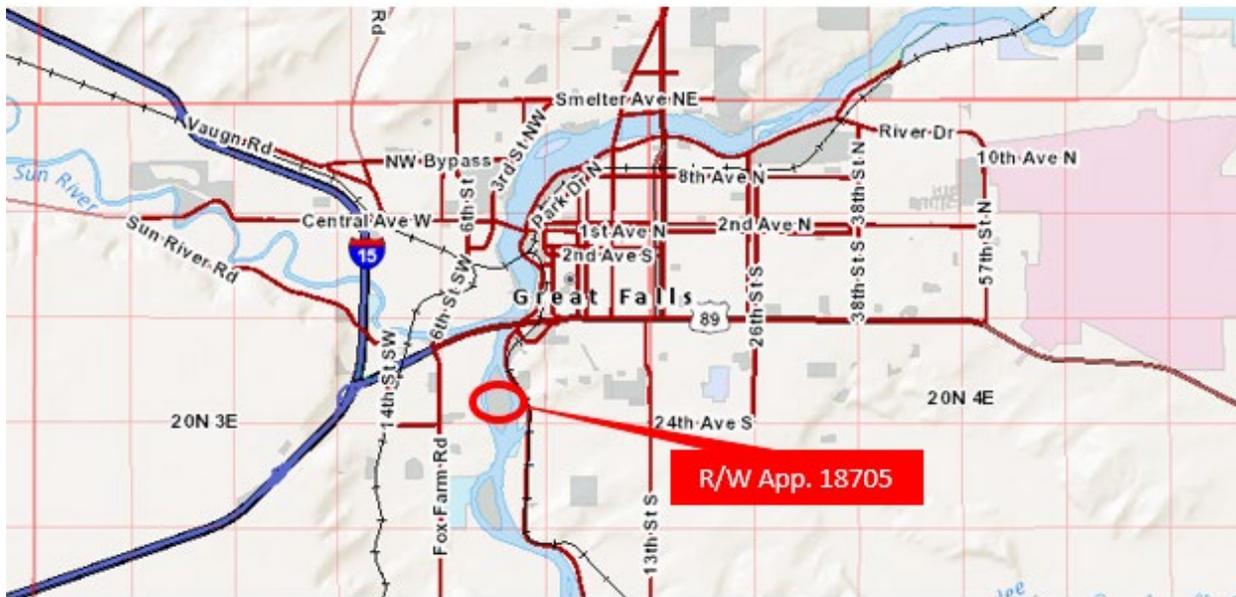
The City of Great Falls is proposing to install a new 24" water pipeline under the Missouri River to connect to existing water mains. The proposed water pipeline is necessary to provide reliable service to residents and improve water flow capacity on the west side of the City of Great Falls and will address the population growth in Great Falls. The proposed pipeline will be directional drilled to a depth of between 30 and 80 feet under the river bed, which was determined by conducting hydraulic analysis and prediction of the rate of scour at the crossing.

DNRC Recommendation

The director recommends approval of the City of Great Falls easement request

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R/W Application 18705



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: City of Great Falls  
PO Box 5021  
Great Falls, MT 59403-5021

Application No.: 18706  
R/W Purpose: a buried 20" municipal waterline  
Lessee Agreement: N/A (Nav. River)  
Acreage: 0.08  
Compensation: \$1,957.00  
Legal Description: 20-foot strip across the Sun River in NW4NW4, Sec. 14,  
Twp. 20N, Rge. 3E, Cascade County  
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

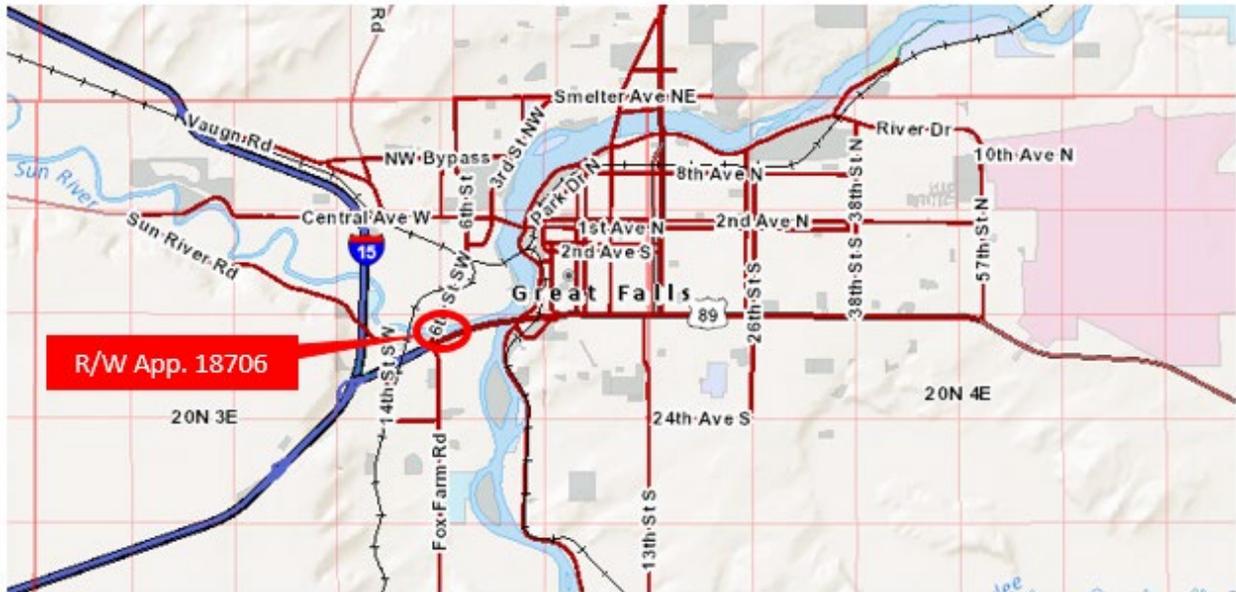
See summary on page 40.

DNRC Recommendation

The director recommends approval of the City of Great Falls easement request

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R/W Application 18706



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: Department of Natural Resources and Conservation, Southwestern  
Land Office  
1401 27th Avenue  
Missoula, MT 59804

Application No.: 18707  
R/W Purpose: a radio communications site  
Lessee Agreement: N/A (Unleased)  
Acreage: 0.06  
Compensation: \$4,008.00  
Legal Description: tract in Gov. Lot 3, Sec. 30, Twp. 13N, Rge. 18W,  
Missoula County  
Trust Beneficiary: Common Schools

Item Summary

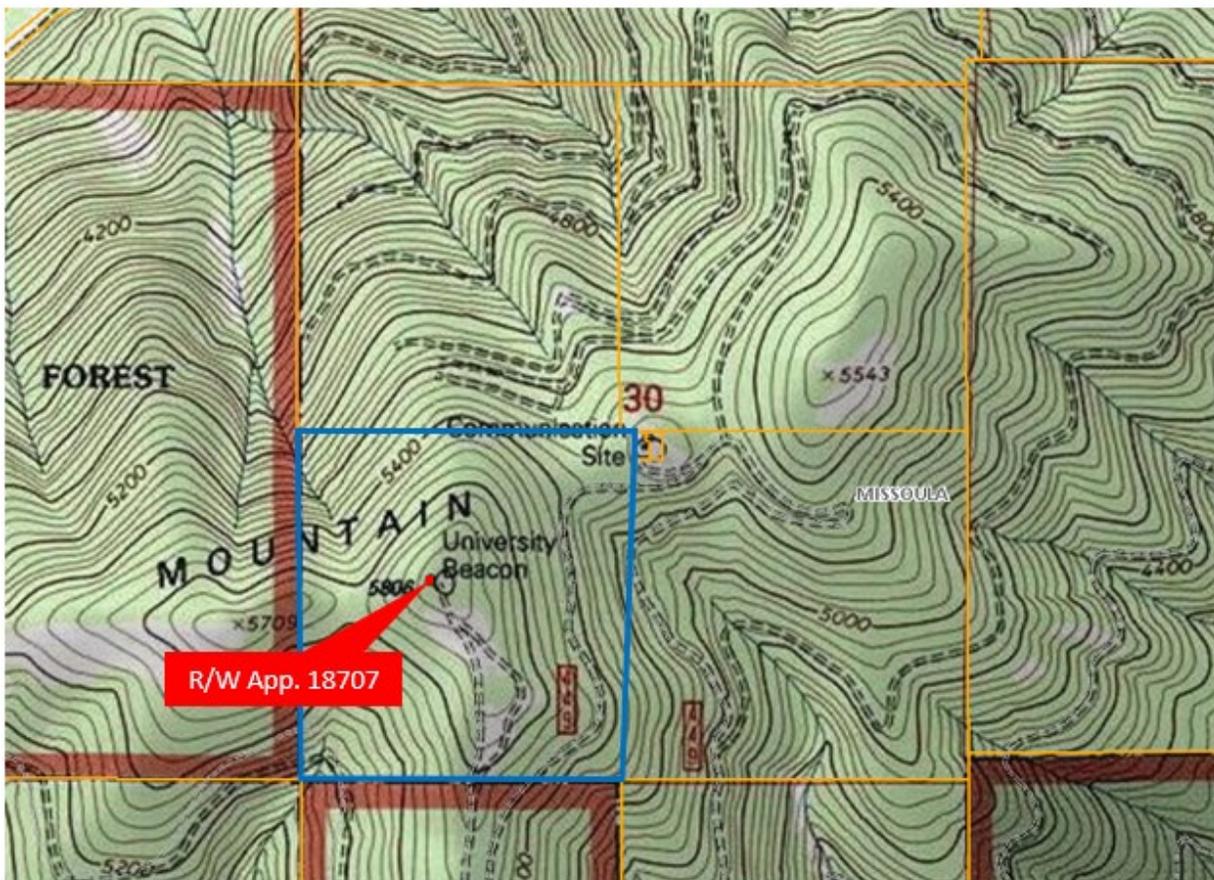
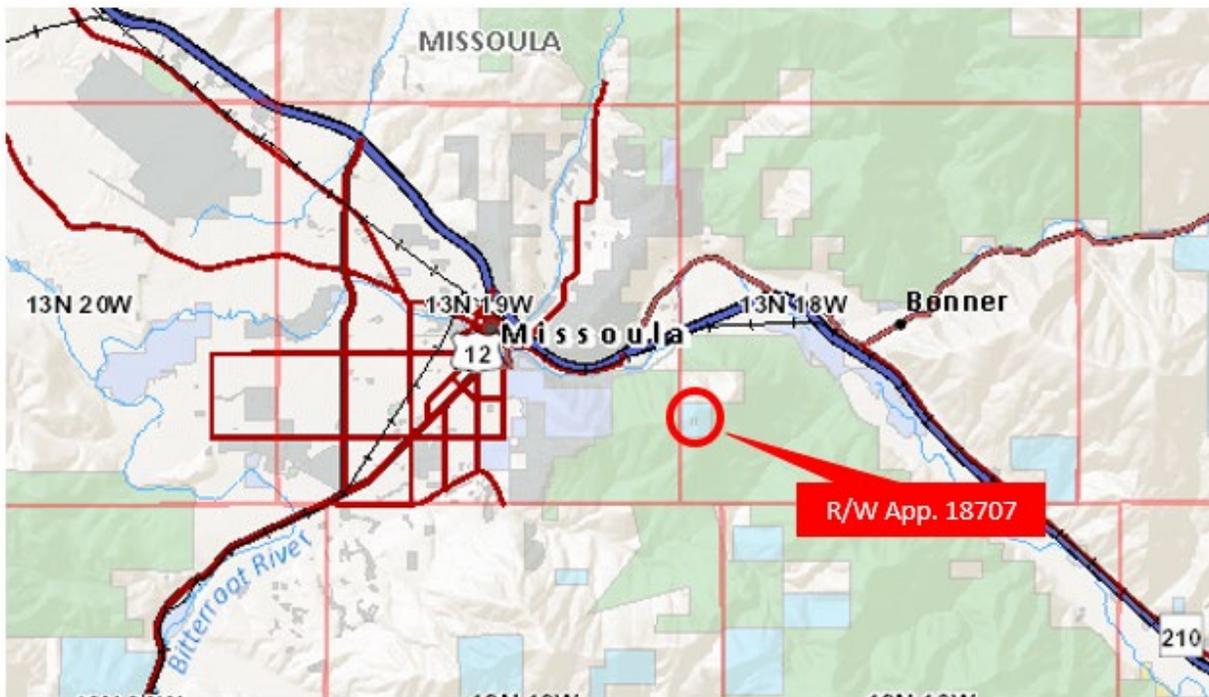
The DNRC has occupied and utilized the existing University Mountain airway beacon site for several years under an agreement with the Federal Aviation Administration (FAA) and the Montana Department of Transportation (MDT). This facility is critical to the DNRC's radio communications system associated with fire protection responsibilities. When the MDT determined they no longer wished to retain ownership of several airway beacons in the State the DNRC began working with MDT to transfer ownership of University Mountain airway beacon and the associated communications building to the DNRC Southwest Land Office. MDT has recently signed over the ownership of the facility to the DNRC through a Bill of Sale. Because this facility is on State Trust land and managed by DNRC on behalf of the Common Schools beneficiary, continued use of the surface must be authorized and compensation made to the Trust. The DNRC is requesting a permanent easement to continue occupation of the beacon and communications building that support fire protection.

DNRC Recommendation

The director recommends approval of a permanent easement to the DNRC.

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R/W Application 18707



## APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
 1818 W. Fulton St., Suite 102  
 Rapid City, SD 57702

Application No.: 18708  
 R/W Purpose: a 20" natural gas steel pipeline  
 Lessee Agreement: ok  
 Acreage: 6.16  
 Compensation: \$32,500.00  
 Legal Description: 50-foot strip through W2NE4, NW4SE4, E2SE4, Sec. 16,  
 Twp. 1S, Rge. 60E, Carter County  
 Trust Beneficiary: Common Schools

### Item Summary

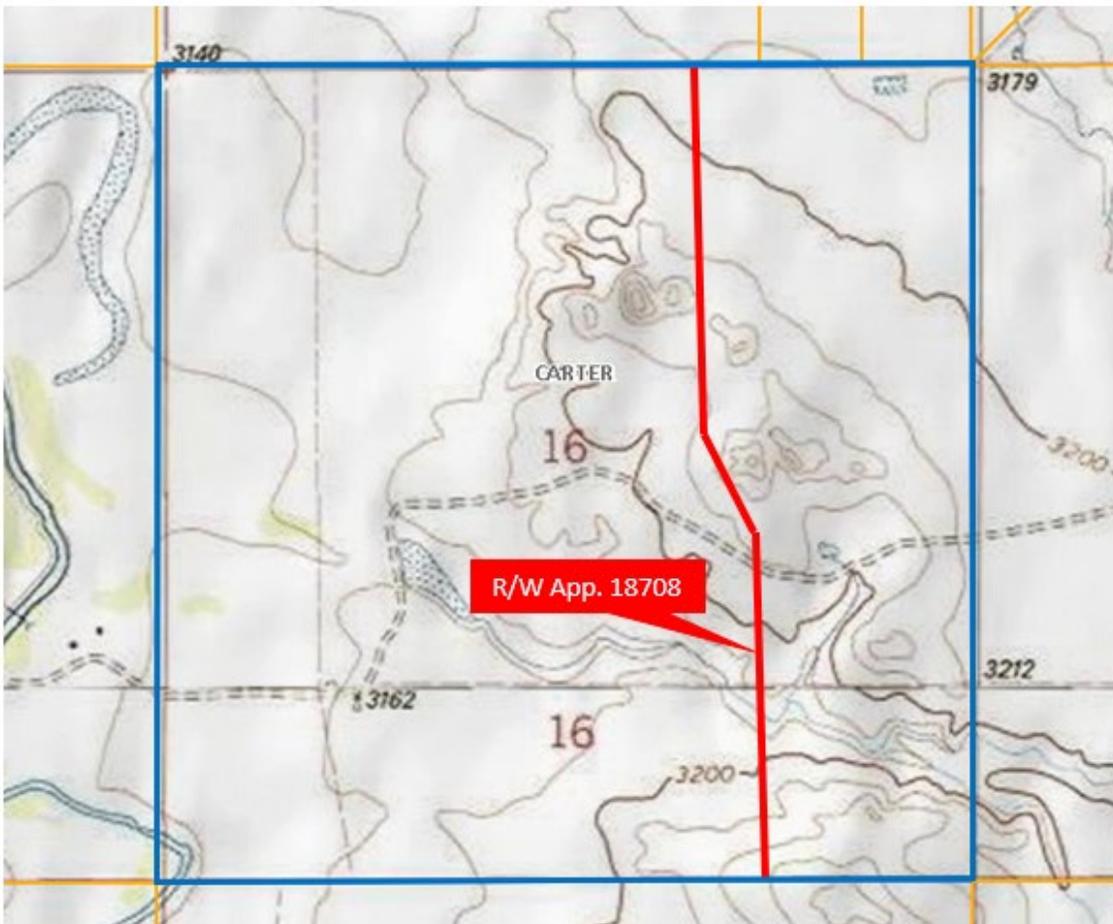
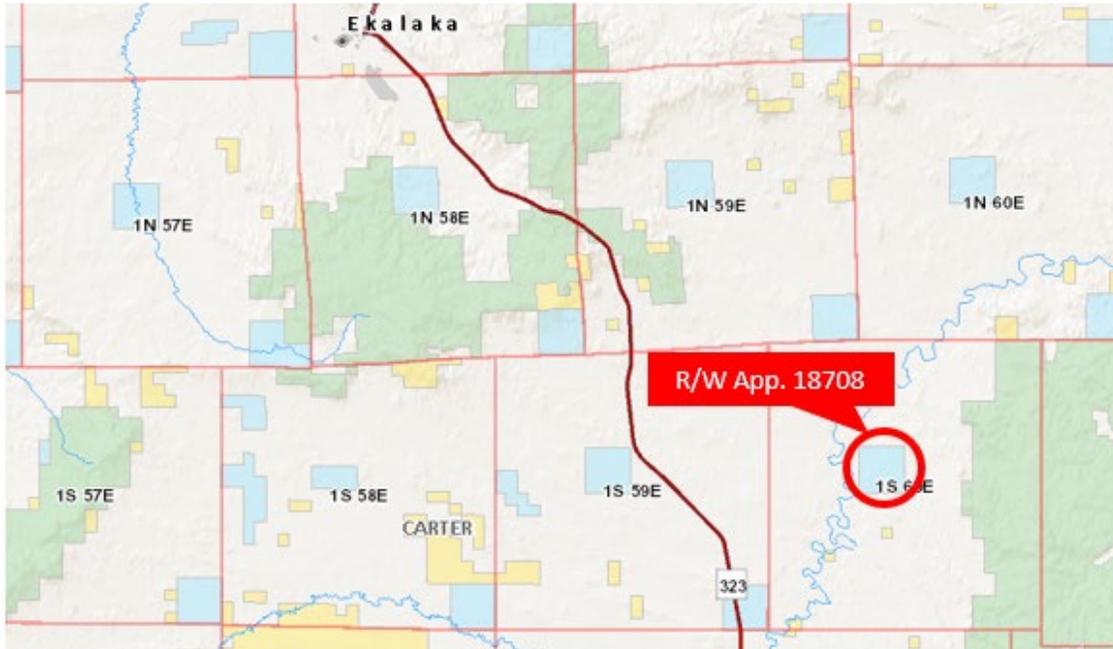
OneOk Elk Creek Pipeline LLC is requesting easements for a new 20" natural gas pipeline that will originate in Richland County and terminate at an existing OneOk facility near Bushton, Kansas. Overall, the proposed pipeline will involve construction of 187.7 miles of pipe in Montana, of which 9.9 miles cross State Trust land. The request to construct a new, higher capacity pipeline is due to the existing Bakken pipeline being at capacity and the need to transport additional natural gas resources to other regions. The route parallels the existing OneOk Bakken 12" pipeline that was approved by the Land Board in 2012. Throughout the planning process OneOk has held multiple public meetings, including regular meetings with the local County Commissioners, County Weed Boards, Economic Development Councils and the Chamber of Commerce. The DNRC conducted public scoping efforts in December 2018 and January 2019 and did not receive any comments for this project. OneOk submitted this project through the Sage Grouse Habitat Conservation Program and consultation with MSGOT occurred. Portions of the project are located with both general and core habitat and OneOk has agreed to a compensatory mitigation plan in compliance with the existing Executive Orders. All permits issued by DNRC will provide reference to and require performance of the approved mitigation plan. OneOk has offered compensation to the State in the amount of \$100/rod, which is the general compensation for the area.

### DNRC Recommendation

The director recommends approval of the OneOk Elk Creek Pipeline easements for a term of 30-years.

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R/W Application 18708



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18709  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 6.06  
Compensation: \$31,997.00  
Legal Description: 50-foot strip through E2E2, Sec. 16, Twp. 2S, Rge. 60E,  
Carter County  
Trust Beneficiary: Common Schools

Item Summary

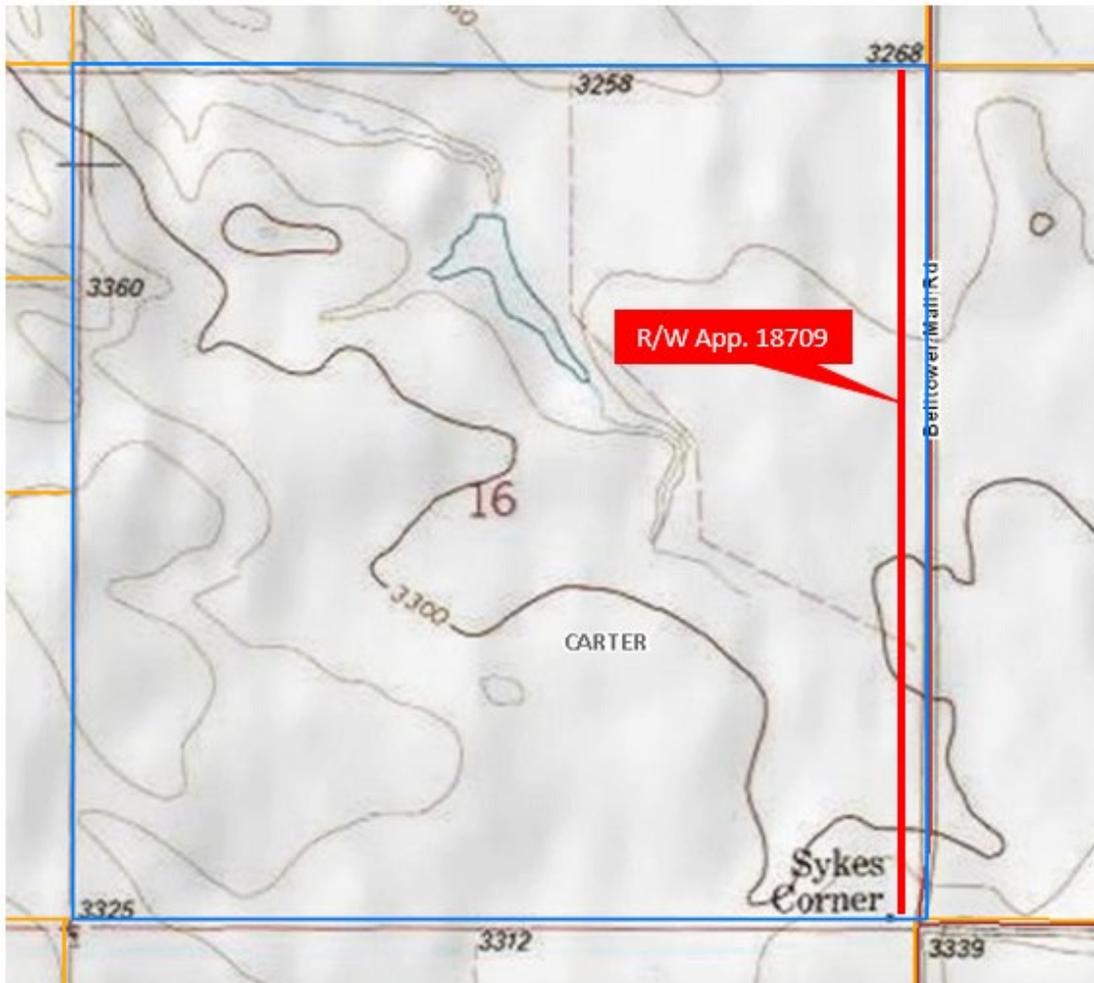
See summary on page 46.

DNRC Recommendation

See recommendation on page 46.

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R/W Application 18709



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18710  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 6.35  
Compensation: \$33,547.00  
Legal Description: 50-foot strip through E2NE4, SW4NE4, W2SE4, SE4SW4,  
Sec. 16, Twp. 6S, Rge. 62E, Carter County  
Trust Beneficiary: Common Schools

Item Summary

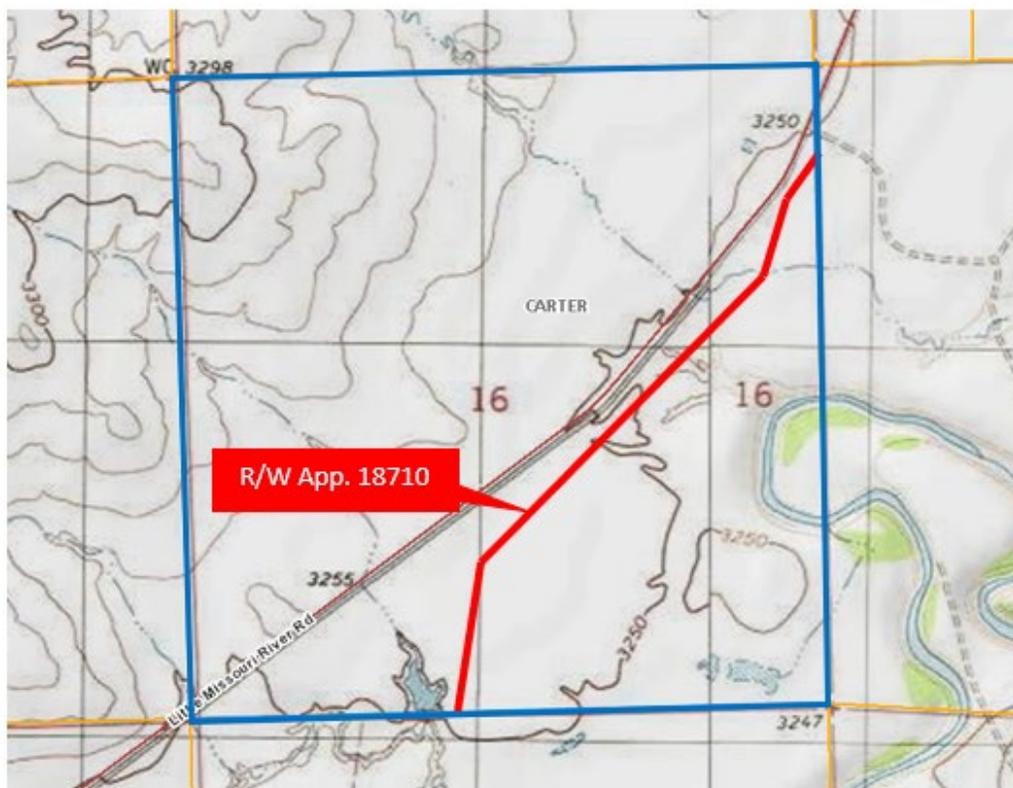
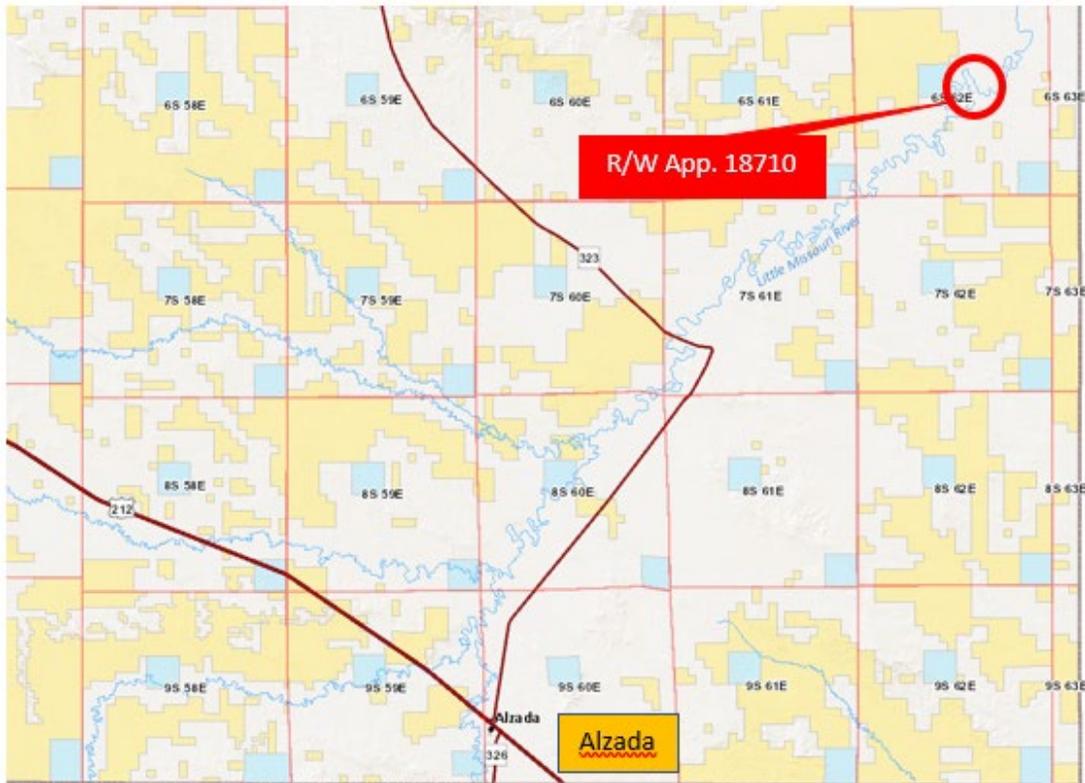
See summary on page 46.

DNRC Recommendation

See recommendation on page 46.

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R/W Application 18710



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18711  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 6.13  
Compensation: \$32,274.00  
Legal Description: 50-foot strip through Gov. Lot 1, SE4NE4, E2SE4, Sec. 3,  
Twp. 3N, Rge. 60E, Fallon County  
Trust Beneficiary: Common Schools

Item Summary

See summary on page 46.

DNRC Recommendation

See recommendation on page 46.

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18712  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 3.13  
Compensation: \$16,511.00  
Legal Description: 50-foot strip through E2NE4, NE4SE4, Sec. 10, Twp. 3N,  
Rge. 60E, Fallon County  
Trust Beneficiary: Common Schools

Item Summary

See summary on page 46.

DNRC Recommendation

See summary on page 46.

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18713  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 5.57  
Compensation: \$29,398.00  
Legal Description: 50-foot strip through E2E2, Sec. 34, Twp. 4N, Rge. 60E,  
Fallon County  
Trust Beneficiary: Common Schools

Item Summary

See summary on page 46.

DNRC Recommendation

See recommendation on page 46

APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18714  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 6.64  
Compensation: \$35,021.00  
Legal Description: 50-foot strip through W2NE4, NW4SE4, E2SW4, Sec. 16,  
Twp. 12N, Rge. 59E, Wibaux County  
Trust Beneficiary: Common Schools

Item Summary

See summary on page 46.

DNRC Recommendation

See recommendation on page 46.

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APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18715  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 2.16  
Compensation: \$11,404.00  
Legal Description: 50-foot strip through E2NE4, Sec. 34, Twp. 15N, Rge. 59E,  
Wibaux County  
Trust Beneficiary: Common Schools

Item Summary

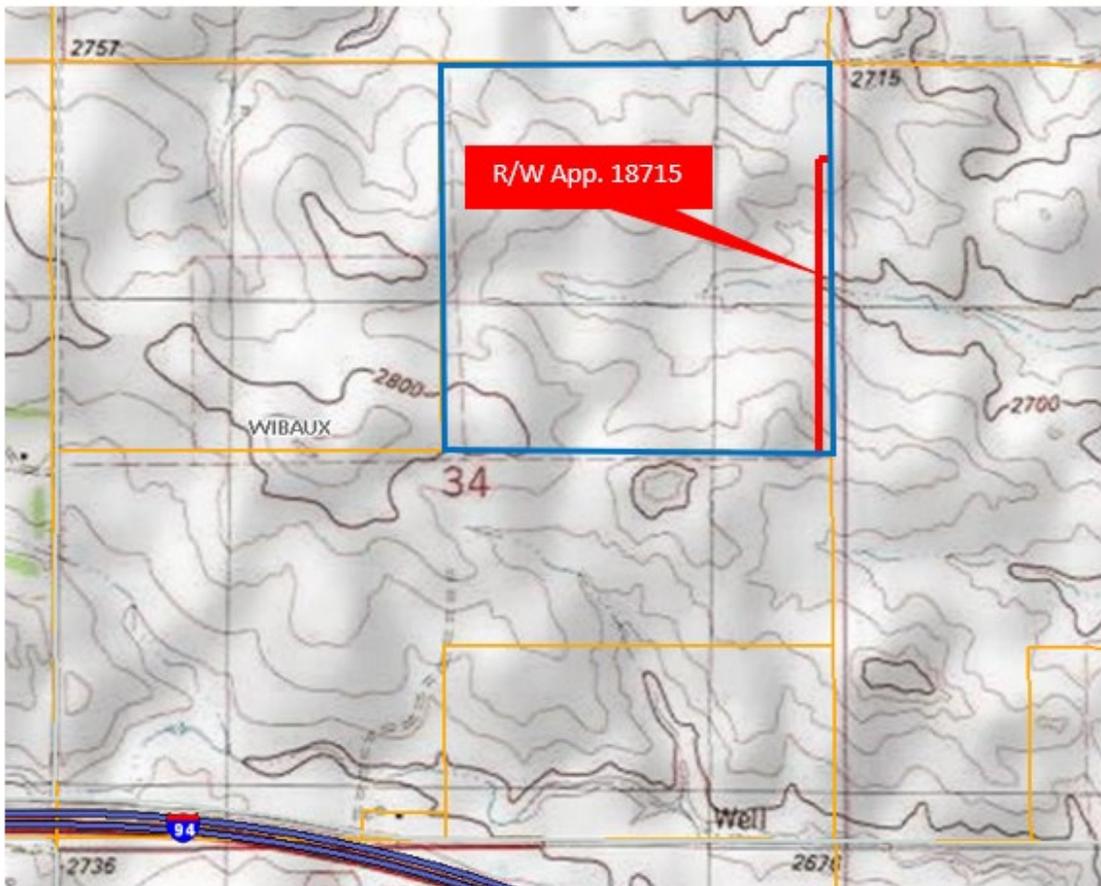
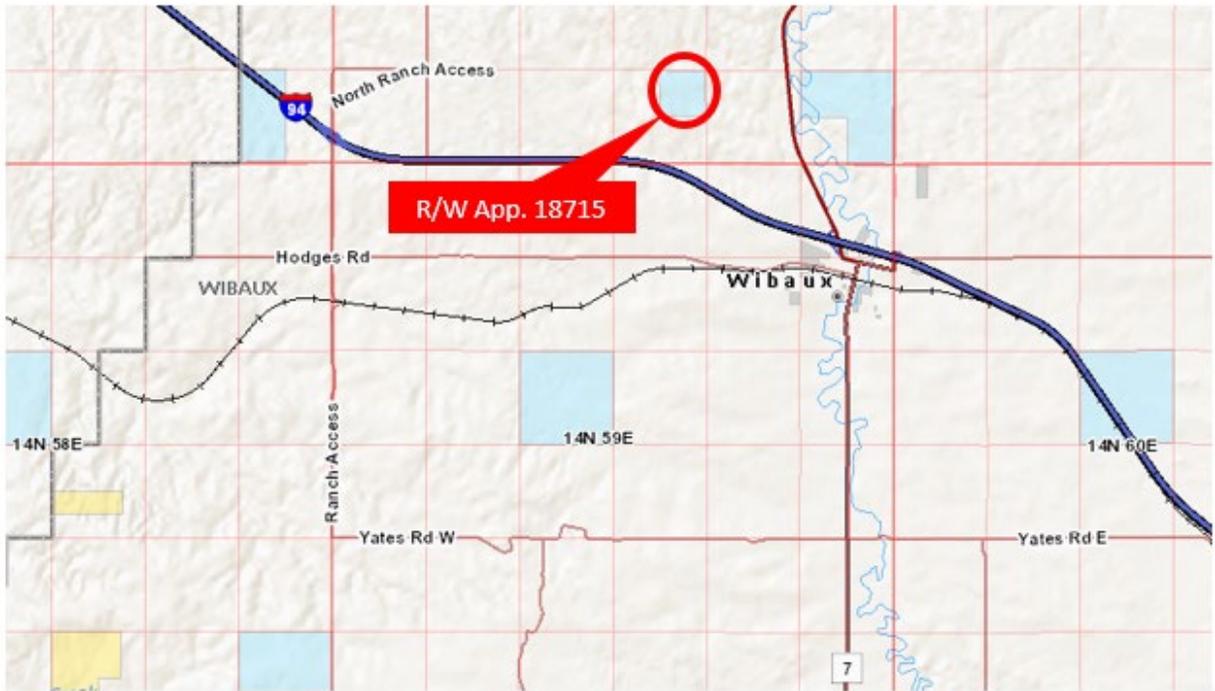
See summary on page 46.

DNRC Recommendation

See summary on page 46.

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R/W Application 18715



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18716  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 6.07  
Compensation: \$32,032.00  
Legal Description: 50-foot strip through E2NW4, SW4NW4, E2SW4, Sec. 16,  
Twp. 16N, Rge. 60E, Wibaux County  
Trust Beneficiary: Common Schools

Item Summary

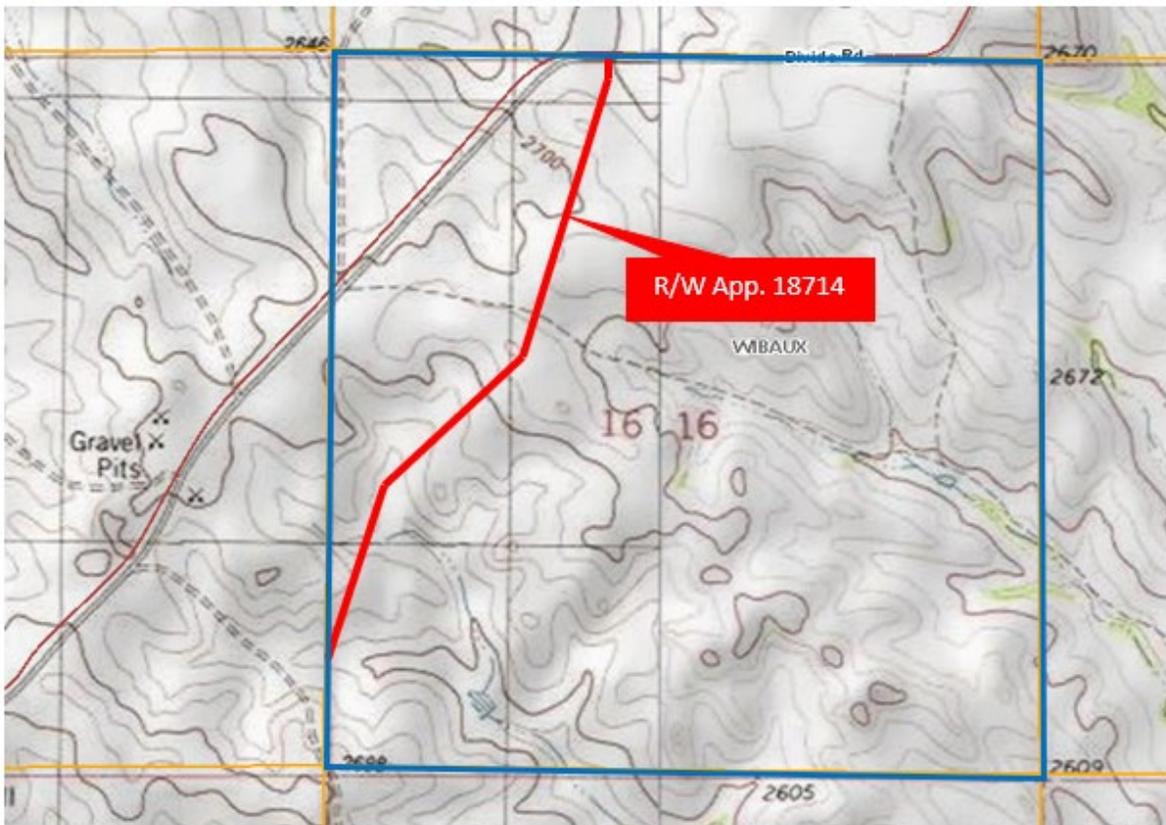
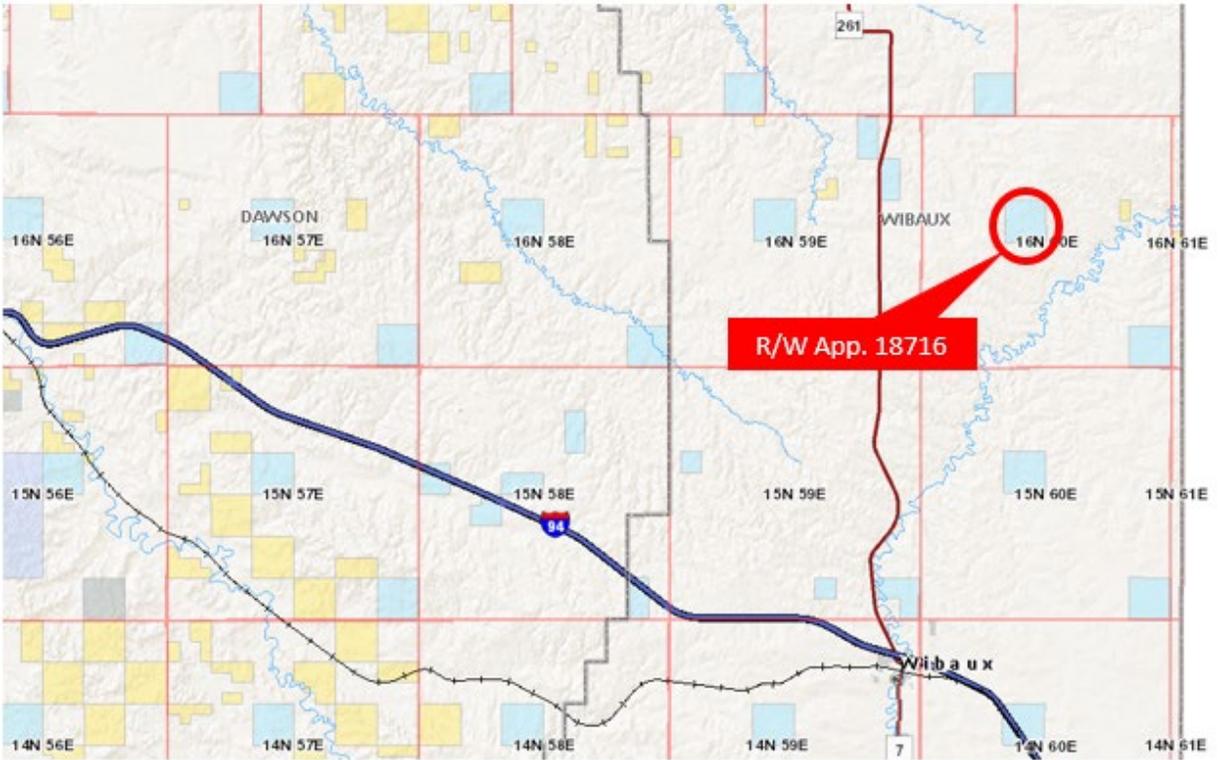
See summary on page 46.

DNRC Recommendation

See summary on page 46.

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R/W Application 18716



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18717  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 7.04  
Compensation: \$37,149.00  
Legal Description: 50-foot strip through W2NE4, SE4NW4, NE4SW4, W2SW4,  
Sec. 16, Twp. 17N, Rge. 60E, Wibaux County  
Trust Beneficiary: Common Schools

Item Summary

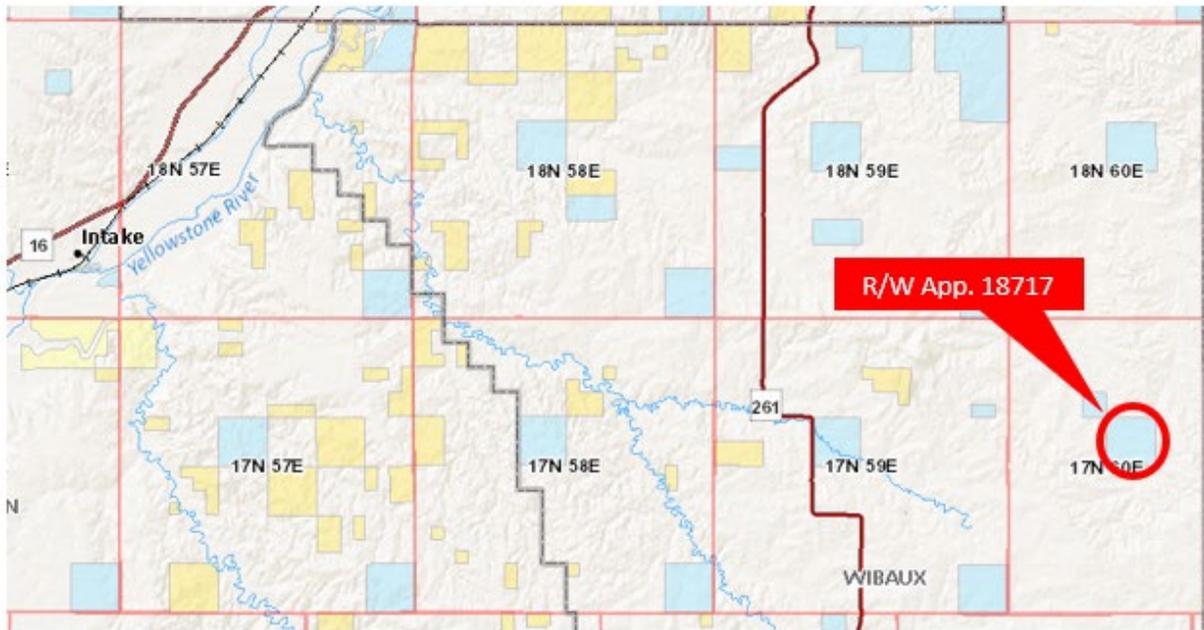
See page 46 for summary.

DNRC Recommendation

See page 46 for recommendation.

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R/W Application 18717



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant: OneOk Elk Creek Pipeline, LLC  
1818 W. Fulton St., Suite 102  
Rapid City, SD 57702

Application No.: 18718  
R/W Purpose: a 20" natural gas steel pipeline  
Lessee Agreement: ok  
Acreage: 4.70  
Compensation: \$24,808.00  
Legal Description: 50-foot strip through W2NE4, W2SE4, Sec. 34, Twp. 19N,  
Rge. 60E, Wibaux County  
Trust Beneficiary: Common Schools

Item Summary

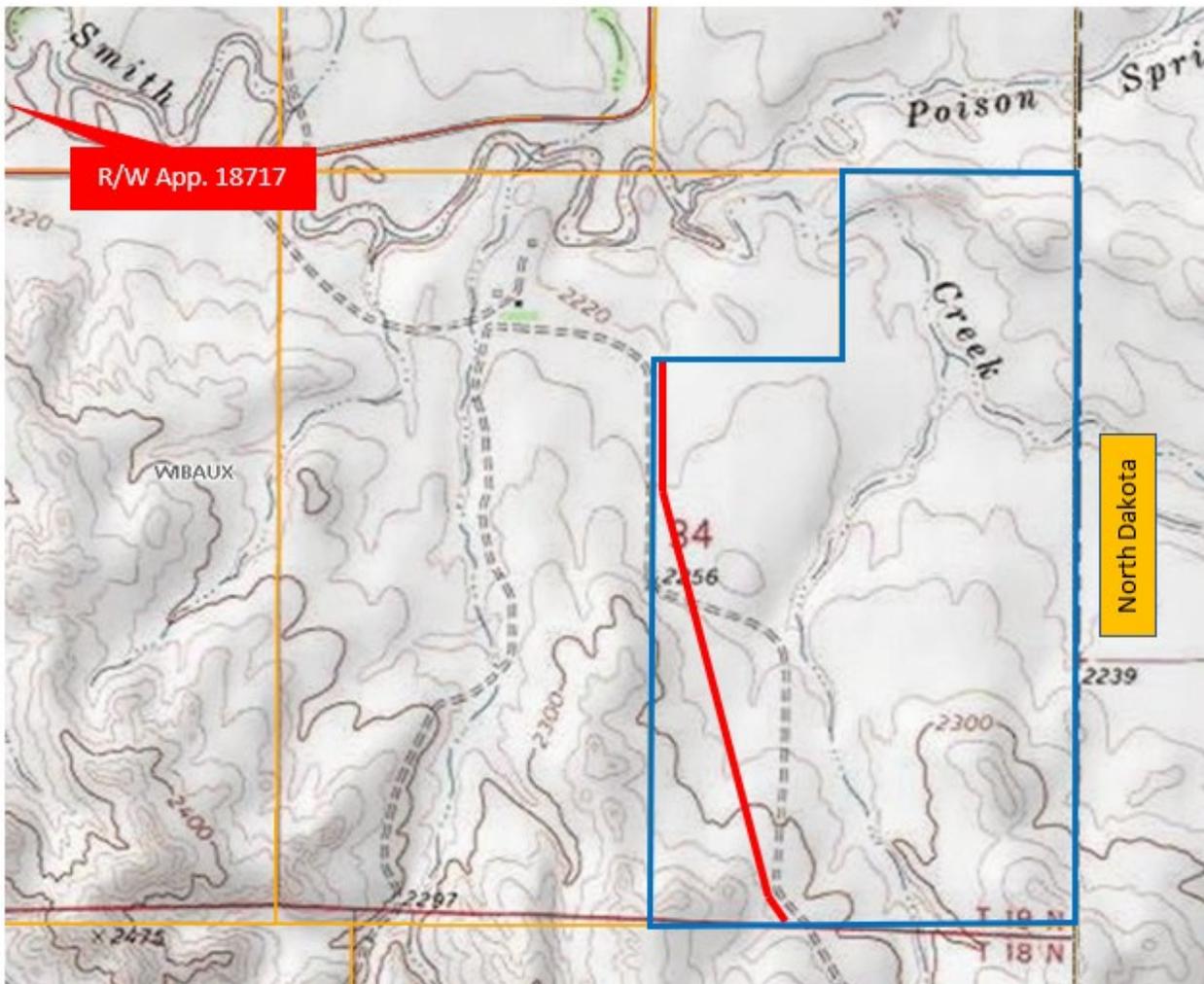
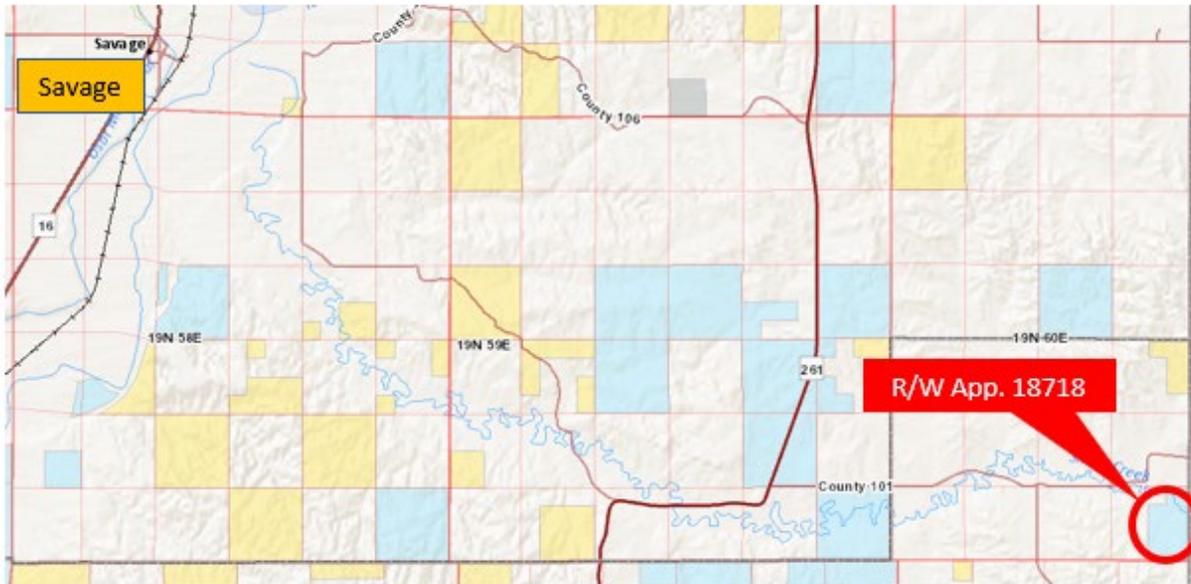
See page 46 for summary.

DNRC Recommendation

See page 46 for recommendation.

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R/W Application 18718



**Land Board Agenda Item  
April 15, 2019**

**0419-5B      Kingsbury Colony Reciprocal Access Agreement Summary Right of Way Application File No. 18052**

**I.      Cooperator:**

KINGSBURY COLONY  
600 Kingsbury Colony Road  
Valier, MT 59486

**II.     Purpose of Reciprocal Access Agreement:**

State land is intermingled with the Kingsbury Colony's property. In order for both parties to gain legal access, they have proposed to exchange easements as part of this Reciprocal Access Agreement (Agreement).

The State will grant a perpetual non-exclusive easement, 30 feet in width, to Cooperator for the purpose of constructing, reconstructing, maintaining, repairing, and using a road or road segment for all lawful purposes, including buried utilities.

Cooperator will grant a perpetual non-exclusive easement, 30 feet in width to the State for the purpose of constructing, reconstructing, maintaining, repairing, and using a road or road segment for all lawful purposes, including buried utilities.

**Legal Description (R/W):**

Pondera County:

State Land burdened -	Sec. 7, Twp. 29N, Rge. 7W –	2.07 acres
	Sec. 18, Twp. 29N, Rge. 7W –	0.91 acres
	Sec. 12, Twp. 29N, Rge.8W –	1.60 acres
	Sec. 13, Twp. 29N, Rge. 8W –	2.73 acres
State Land benefited -	Sec. 6, Twp. 29N, Rge. 7W -	80 acres
	Sec. 7, Twp. 29N, Rge. 7W –	282.54 acres
	Sec. 18, Twp. 29N, Rge. 7W –	85.45 acres
	Sec. 12, Twp. 29N, Rge. 8W –	160 acres
	Sec. 13, Twp. 29N, Rge. 8W –	80 acres
Coop Land burdened -	Sec. 5, Twp. 29N, Rge. 7W –	5.82 acres
	Sec. 7, Twp. 29N, Rge. 7W –	2.18 acres
	Sec. 8, Twp. 29N, Rge. 7W –	1.09 acres
Coop Land benefited -	Sec. 7, Twp. 29N, Rge. 7W –	328.06 acres
	Sec. 18, Twp. 29N, Rge. 7W –	565.15 acres
Coop Land benefited -	Sec. 12, Twp. 29N, Rge. 8W –	280 acres
	Sec. 13, Twp. 29N, Rge. 8W –	560 acres

**Total R/W Acres:**

State grant to Coop: 7.31 acres (30-ft)  
 Coop grant to State: 9.09 acres (30-ft)

**Total R/W Miles:**

State grant to Coop: 2.01 miles  
 Coop grant to State: 2.50 mile

**III. General Information:**

Land Office: Central Land Office  
 Unit Office: Conrad Unit  
 County: Pondera  
 Affected Trusts: Common Schools (C.S.)  
 Land Classification: Grazing

**VI. Costs to be Borne by Each Party:**

Excess costs, by land value and road costs are summarized as follows:

	EXCESS COSTS	
	State owes Cooperator	Cooperator owes State
Land Value	\$ 1,388	\$ 3,270
Road Costs	\$ 1,909	\$ 2,997
Total Value/Costs	\$ 3,297	\$ 6,267

**NET BALANCE**

Land Value	\$ 1,882
Road Costs	\$ 1,088
Subtotals	<b>\$ 2,970</b>

**TOTAL LAND AND ROAD**

**\$ 2,970**

State will receive payment of \$2,970.

Land values are calculated with consideration given to trusts burdened and trusts benefited by the easement granted. The remaining Net Balance of \$2,970 that the Cooperator owes State will be paid after approval of this Agreement by the Land Board.

**VI. Results of MEPA Analysis:**

No significant impacts are expected and no further analysis required

**VII. Benefits to State:**

1. Describe the rights regarding which Department of natural Resources and Conservation (DNRC) lands are being accessed.
  - Provides full permanent access for all lawful purposes (including utilities) to 688 acres of State Trust Lands (Common Schools).

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

- As a result of this agreement, there will be no change to the access rights in favor of the public (no public access to State Secs. 6, 7 and 18 in Twp. 29N, Rge. 7W and State Secs. 12 and 13, Twp. 29N, Rge. 8W).

3. Describe other benefits associated with completing the agreement.

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

**VIII. Recommendation/Action:**

After review of the documents, exhibits, and benefits to the State, the director recommends approval of this proposed Reciprocal Access Agreement with the Cooperator.

