

These abbreviated summary minutes and the audio recording will become the official adopted minutes at the next Land Board meeting when the board votes to officially approve them. Until then they are considered a draft.

MINUTES
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, July 15, 2019 at 9:00 am
State Capitol, Room 303
Helena, MT

Please note: *The Land Board has adopted the audio recording of its meetings as the official record, as allowed by [2-3-212, MCA](#). These minutes provide an abbreviated summary of the Land Board discussion, public testimony, action taken, and other activities. The time designations listed are approximate and may be used to locate the referenced discussion on the audio recording of this meeting. Access to an electronic copy of these minutes and the audio recording is provided from the Land Board webpage at <http://dnrc.mt.gov/LandBoard>. The written minutes summary, along with the audio recordings, are listed by meeting date on the Land Board Archive webpage.*

Members Present

Governor Steve Bullock
Attorney General Tim Fox (via phone)
Commissioner of Securities and Insurance Matthew Rosendale
Secretary of State Corey Stapleton
Superintendent of Public Instruction Elsie Arntzen

Members Absent

None

Testifying Staff

John Tubbs, DNRC Director
Martin Balukas, FWP Lands Program
Darlene Edge, FWP, Lands Program Manager
Shawn Thomas, DNRC Trust Land Administrator
Jessica Hoag, DNRC Property Management Section Supervisor

Attachments

Related Materials, Attachment 1 – sign-in sheet
Related Materials, Attachment 2 – Jack Connors, Doney Crowley P.C.

Call to Order

00:00:31 Governor Bullock called the meeting to order.
00:00:44 Commissioner Rosendale moved to approve the June 17, 2019, minutes. The motion was seconded by Secretary of State Stapleton and carried unanimously.

Business Considered

0719-1 FWP: Mount Haggin WMA Addition/ Fee Acquisition

00:00:59 Mr. Tubbs gave an overview of the item.
00:01:06 Martin Balukas, FWP, Lands Section
00:02:42 Governor Bullock

Public Comment

00:02:51 Mike Mueller, Rocky Mountain Elk Foundation, Land Program Manager
00:04:54 Governor Bullock
00:04:58 Nick Gevock, Montana Wildlife Federation, Conservation Director
00:05:38 Governor Bullock

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00:05:47 Commissioner Rosendale moved to approve item 0719-1. The motion was seconded by Attorney General Fox.

Board Discussion/Comments

00:06:00 Governor Bullock
00:06:02 Superintendent Arntzen
00:06:03 Governor Bullock
00:06:03 Superintendent Arntzen
00:06:17 Mr. Tubbs
00:06:18 Mr. Balukas
00:06:19 Superintendent Arntzen
00:06:19 Mr. Balukas
00:06:48 Superintendent Arntzen
00:06:49 Mr. Balukas
00:06:49 Superintendent Arntzen
00:06:53 Mr. Balukas
00:06:55 Superintendent Arntzen
00:07:23 Mr. Tubbs
00:07:32 Mr. Balukas
00:07:41 Superintendent Arntzen
00:07:42 Mr. Balukas
00:07:43 Superintendent Arntzen
00:07:44 Mr. Balukas
00:07:48 Mr. Tubbs
00:07:48 Mr. Balukas
00:07:49 Superintendent Arntzen
00:07:51 Mr. Tubbs
00:07:51 Mr. Balukas
00:08:07 Superintendent Arntzen
00:08:20 Mr. Balukas
00:08:25 Superintendent Arntzen
00:08:27 Darlene Edge, FWP, Lands Section
00:08:34 Superintendent Arntzen
00:08:50 Mrs. Edge
00:08:52 Governor Bullock
00:08:53 Superintendent Arntzen
00:08:53 Mrs. Edge
00:08:54 Governor Bullock
00:08:57 Mrs. Edge
00:09:07 Superintendent Arntzen
00:09:18 Mrs. Edge
00:09:19 Superintendent Arntzen
00:09:19 Mrs. Edge
00:09:39 Superintendent Arntzen
00:09:41 Governor Bullock
00:09:43 Commissioner Rosendale
00:10:15 Governor Bullock

00:10:21 The motion to approve item 0719-1 carried unanimously.

0719-2 **Timber Sales: Foy's Lake Fuels Reduction Project**

00:10:32 Mr. Tubbs gave an overview of the item.
00:11:14 Governor Bullock

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00:11:22 Secretary Stapleton
00:11:23 Attorney General Fox moved to approve item 0719-2. The motion was seconded by Secretary Stapleton.

00:11:34 The motion to approve item 0719-2 carried unanimously.

0719-3 **Land Banking Parcels: Preliminary Approval for Sale
Byron Boucher Farms, Inc.**

00:11:47 Mr. Tubbs gave an overview of the item.
00:12:13 Governor Bullock
00:12:23 Commissioner Rosendale moved to approve item 0719-3. The motion was seconded by Secretary Stapleton.

00:12:35 The motion to approve item 0719-3 carried unanimously.

0719-4 **Land Banking Parcels: Set Minimum Bid for Sale
Lazy T3 Red Angus, Inc.**

00:12:47 Mr. Tubbs gave an overview of the item.
00:13:10 Governor Bullock
00:13:20 Commissioner Rosendale moved to approve item 0719-4. The motion was seconded by Superintendent Arntzen.
00:13:30 Attorney General Fox
00:13:33 Governor Bullock

00:13:42 The motion to approve item 0719-4 carried unanimously.

0719-5 **Cabin & Home Sites: Set Minimum Bid for Sale
Mudd Creek: Sale No. 954, 955, 956, 957**

00:13:51 Mr. Tubbs gave an overview of the item.
00:14:25 Governor Bullock
00:14:34 Secretary Stapleton moved to approve item 0719-5. The motion was seconded by Commissioner Rosendale.

00:14:46 The motion to approve item 0719-5 carried unanimously.

0719-6A **Easements
A. Standard Grant**

00:15:08 Mr. Tubbs gave an overview of the item.
00:15:48 Governor Bullock
00:15:58 Commissioner Rosendale moved to approve item 0719-6A. The motion was seconded by Superintendent Arntzen.

Board Discussion/Comments

00:16:15 Governor Bullock
00:16:17 Commissioner Rosendale
00:16:30 Mr. Tubbs
00:16:31 Commissioner Rosendale
00:18:52 Mr. Tubbs
00:19:02 Governor Bullock
00:19:07 Shawn Thomas, DNRC, Trust Land Administrator
00:20:45 Governor Bullock
00:20:56 Mr. Thomas
00:21:39 Mr. Tubbs

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00:22:38 Governor Bullock
00:22:39 Commissioner Rosendale
00:23:18 Governor Bullock
00:23:52 Commissioner Rosendale
00:24:14 Governor Bullock
00:24:21 Commissioner Rosendale
00:24:22 Governor Bullock

00:24:37 The motion to approve item 0719-6A carried unanimously.

0719-6B **Easements**
B. Paul Armstrong Private Access

00:24:43 Governor Bullock
00:24:46 Mr. Tubbs gave an overview of the item

Public Comment

00:25:49 Governor Bullock
00:26:01 Paul Armstrong, Applicant
00:27:47 Governor Bullock
00:27:55 Al Bodle, Adjacent Land Owner
00:29:26 Governor Bullock
00:29:35 Kelly Ingalls, Round Grove Ranch, Lessee
00:31:00 Governor Bullock
00:31:10 Robert Godwin, Hunter
00:32:00 Governor Bullock
00:32:07 Dan Thurman, Adjacent Land Owner
00:32:24 Governor Bullock
00:32:32 Jack Connors, Doney Crowley P.C., Attorney
00:49:23 Governor Bullock
00:49:33 Jim Thompson, Previous Owner Armstrong's Land
00:51:00 Governor Bullock
00:51:10 Mr. Bodle
00:52:08 Governor Bullock
00:52:52 Mr. Tubbs
00:53:21 Governor Bullock
00:53:31 Mr. Tubbs
00:53:32 Governor Bullock
00:53:38 Mr. Tubbs
00:54:01 Superintendent Arntzen
00:54:12 Mr. Tubbs
00:54:46 Governor Bullock
00:54:47 Mr. Tubbs
00:55:27 Governor Bullock
00:55:31 Mr. Tubbs
00:55:37 Governor Bullock

00:55:37 Governor Bullock moved to deny approval of Easement item 0719-6B.
The motion was seconded by Secretary Stapleton.

Board Discussion/Comments

00:55:55 Commissioner Rosendale
00:56:19 Mr. Thomas
00:59:47 Governor Bullock

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01:00:04 Mr. Connors
01:00:20 Governor Bullock
01:00:27 Mr. Connors
01:00:51 Governor Bullock
01:00:56 Mr. Connors
01:01:23 Governor Bullock
01:01:34 Secretary Stapleton
01:01:39 Governor Bullock
01:01:54 Secretary Stapleton
01:01:55 Commissioner Rosendale
01:01:12 Mr. Thomas
01:02:36 Superintendent Arntzen
01:02:38 Governor Bullock
01:02:38 Superintendent Arntzen
01:02:48 Mr. Thomas
01:03:00 Superintendent Arntzen
01:03:20 Mr. Thomas
01:03:54 Superintendent Arntzen
01:03:59 Mr. Thomas
01:04:15 Superintendent Arntzen
01:04:31 Governor Bullock
01:04:31 Superintendent Arntzen
01:05:05 Mr. Tubbs
01:06:11 Governor Bullock
01:08:12 Commissioner Rosendale
01:08:57 Governor Bullock
01:09:00 Superintendent Arntzen
01:09:49 Governor Bullock
01:10:36 Superintendent Arntzen
01:10:37 Governor Bullock
01:10:40 Superintendent Arntzen
01:11:12 Governor Bullock
01:11:13 Commissioner Rosendale
01:11:13 Mr. Tubbs
01:11:29 Governor Bullock
01:11:29 Mr. Tubbs
01:11:35 Superintendent Arntzen
01:11:36 Mr. Tubbs
01:11:58 Governor Bullock
01:12:02 Attorney General Fox
01:12:06 Governor Bullock
01:12:06 Attorney General Fox
01:13:20 Governor Bullock
01:13:21 Secretary Stapleton
01:13:57 Governor Bullock
01:14:48 Superintendent Arntzen
01:14:55 Governor Bullock
01:14:55 Superintendent Arntzen
01:15:10 Mr. Tubbs
01:15:31 Superintendent Arntzen
01:15:41 Governor Bullock
01:15:42 Superintendent Arntzen
01:15:57 Governor Bullock

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01:16:39 Superintendent Arntzen
01:17:22 Governor Bullock
01:17:32 Superintendent Arntzen
01:17:58 Governor Bullock
01:18:24 Attorney General Fox
01:18:26 Governor Bullock

01:18:38 The motion to deny approval of easement item 0719-6B carried unanimously.

0719-7 Informational Item: 2019 Real Estate Project List

01:18:52 Mr. Tubbs gave an overview of the item.
01:19:00 Mrs. Hoag, DNRC, Property Management Section Supervisor
01:21:01 Governor Bullock

General Public Comment

01:21:27 Randy Knowles, Great Falls Resident
01:33:54 Governor Bullock
01:34:07 Commissioner Rosendale
01:34:09 Governor Bullock
01:34:16 David Stone, Anaconda Sportsman's Club, Vice President
01:36:08 Governor Bullock
01:36:10 Commissioner Rosendale
01:36:48 Mr. Thomas
01:39:02 Governor Bullock
01:39:02 Commissioner Rosendale
01:39:03 Governor Bullock
01:39:10 Mr. Thomas
01:39:11 Mr. Tubbs
01:39:14 Governor Bullock
01:39:29 Mr. Thomas
01:39:29 Governor Bullock
01:39:30 Mr. Thomas
01:39:35 Governor Bullock
01:39:35 Mr. Thomas
01:39:40 Governor Bullock
01:39:40 Mr. Thomas
01:39:55 Mr. Tubbs
01:40:20 Governor Bullock
01:40:26 Commissioner Rosendale
01:40:28 Mr. Tubbs
01:40:32 Mr. Thomas
01:40:37 Governor Bullock

Adjournment

01:40:49 Adjournment

PRESIDENT

ATTEST

/s/ Steve Bullock
Steve Bullock, Governor

/s/ John E. Tubbs
John E. Tubbs, DNRC Director



DONEY CROWLEY P.C.
ATTORNEYS AT LAW

Montana Board of Land Commissioners

July 15, 2019 meeting

Paul Armstrong

Right-of-Way Easement Application

DIAMOND BLOCK, SUITE 200, 44 WEST 6TH AVENUE, P.O. BOX 1185, HELENA, MONTANA 59624-1185 406-443-2211 406-449-8443 FAX



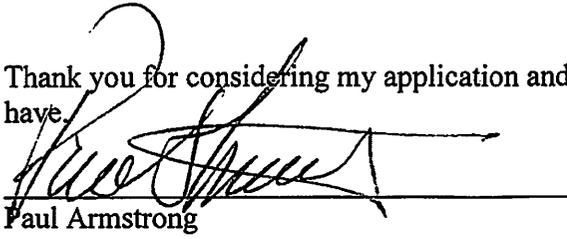
Statement in support of easement application

Since approximately the 1860's a road known as the "spring breakup road" has crossed the portion of State land to the south of my property. During certain times of the year, the road was the only access from the Townsend/Missouri River Valley to my residence, and it was heavily used during the homestead period. While the road was heavily used in the past, it appears it was never declared a county road or public access. Currently the road departs from Gurnett Creek Road, a county road, on the section of State land in Section 16, Township 8 North, Range 3 East, Broadwater County, and then proceeds to my property, which is located immediately to the north, in the Southeast quarter of Section 9. See attached map.

I am a 100% combat disabled Army veteran with 17 years of service. While I am proud to have served my country, it has left me with limited physical mobility. My neck is fused C2&3, my lower back is fused L3 L4 and L5, both hips have been replaced, my right knee has been replaced and my left wrist was fused in June. Currently, I have an access to my property via a narrow road that connects the north side of my property to Duck Creek Road. However, portions of that access road are steep, with switchbacks up the side of a mountain. The road is primitive and, during the winter, the road is often impassable except with a 4x4 vehicle with chains or a snowmobile. In fact, several people have slid off the road in the last couple of years. Due to my disabilities and injuries, including most recently a broken hip, I am no longer able to place chains on my vehicle. And, if I were to become stuck, I cannot shovel my vehicle out of the snow or walk long distances to find help. There is no cellphone coverage from the intersection of Hwy 284 and Duck Creek to my home (9.9 miles). On several occasions, I have been stranded at my home days on end because I was unable to use the access road. Since the access road (marked in blue on the map) is 3.5 miles long, I fear being stranded in a remote area far from my home without cell coverage. Also, I have needed to call the ambulance for medical emergencies and the first responders have stated the existing access is dangerous and that they might not be able, or willing to, access my home in the event of a future emergency.

Thus, I am seeking an easement to use the spring breakup road, marked in red on the attached map. That existing road across State land has a moderate pitch and it does not cut across the side of a mountain. This makes the access safer for me, my guests, and first responders. I don't believe that my use of the existing road will materially impact State land. There has been a road across the section of State land for decades, and my use of the road would be less frequent than how the road was used during the homestead period. In addition, the section of State land was recently clear-cut. During the process, the logging company tore up the land with logging equipment, making skid trails and brush piles across State land. My use of the land for access only will be inconsequential compared to the logging operation. In addition, granting the easement will not limit the future uses of the land by the State. I am not seeking an exclusive easement and I would be glad to share the roadway with the present and future Lessee of the land. Further, if I am granted the easement, I would of course help maintain the roadway, which would increase the value of the State land section by providing better access. I would also pay any reasonable and required compensation to the State for the easement.

Thank you for considering my application and I would be glad to answer any questions you may have.



Paul Armstrong

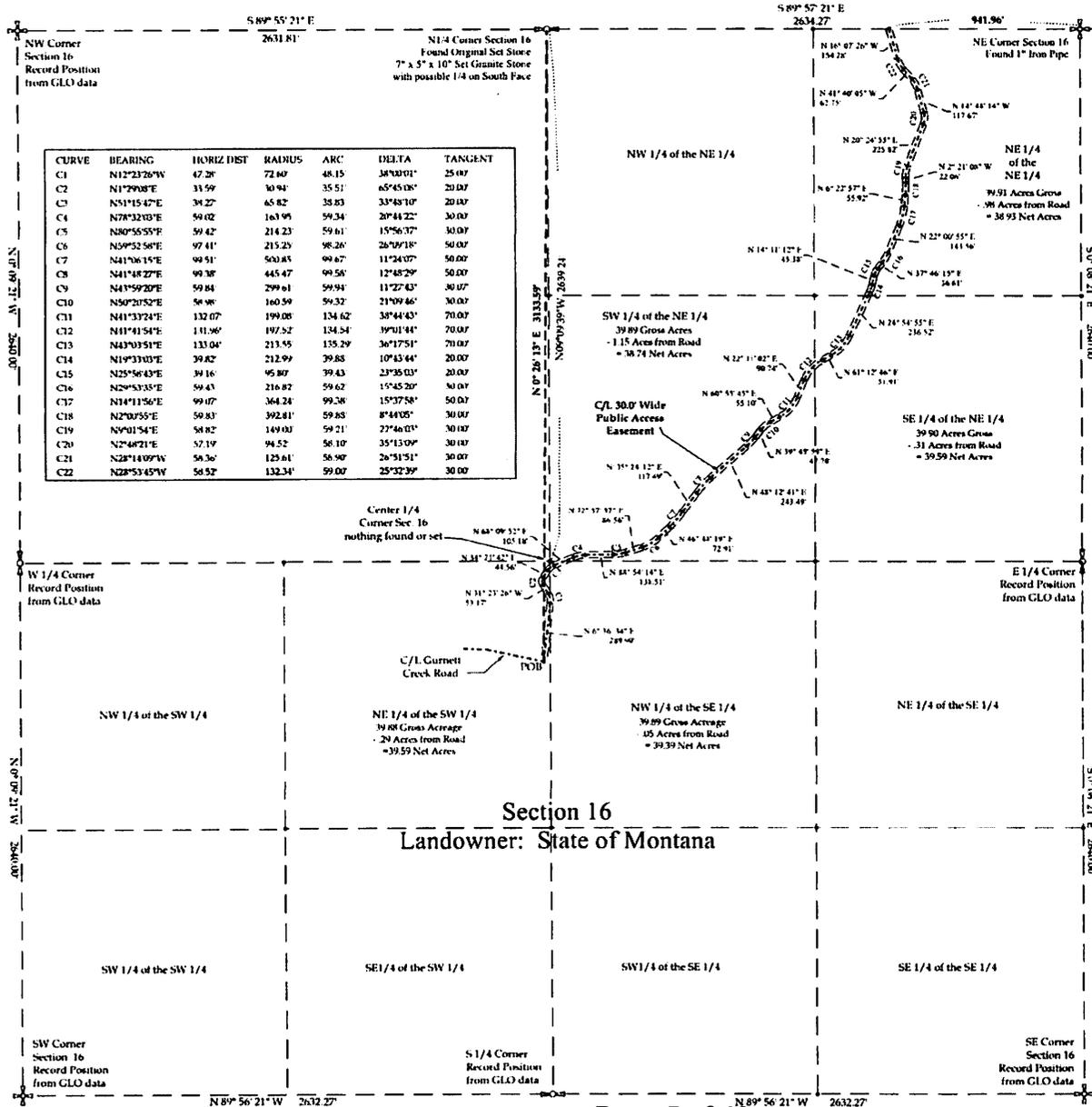
Dated this 13 day of September, 2018

Exhibit A: To Create a 30' Wide Public Access Easement Situating in Section 16,

Township 8 North, Range 3 East, P.M.M.,
Broadwater County, Montana.

Landowner: State of Montana
Requested By:
Paul Armstrong
May 16, 2018

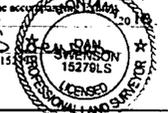
Legal Description:
30' Wide Public Access Easement:
A 30.00 foot Wide Public Access Easement situated in Section 16, Township 8 North, Range 3 East, P.M.M., Broadwater County, Montana, being 15.0 feet wide each side of the centerline and whose centerline is more particularly described as follows: Commence at a point in the centerline of Gurnett Creek Road from which the North 1/4 corner of said section, bears N07°26'13"E for 3133.59 feet; thence leaving said point of beginning and along herein described centerline the following forty five (45) courses:
N6°36'34"E for 289.80 feet; thence along a 72.60 feet radius curve to the left (chord bears N12°23'26"W 47.28 feet) 48.15 feet; thence N31°23'26"W for 53.17 feet; thence along a 30.94 feet radius curve to the right (chord bears N1°29'08"E 33.59 feet) 35.51 feet; thence N74°21'42"E for 44.56 feet; thence along a 65.82 feet radius curve to the right (chord bears N51°15'47"E 38.27 feet) 38.83 feet; thence N68°09'52"E for 105.18 feet; thence along a 163.95 feet radius curve to the right (chord bears N78°32'03"E 59.02 feet) 59.34 feet; thence N88°54'14"E for 138.51 feet; thence along a 214.23 feet radius curve to the left (chord bears N80°55'55"E 59.42 feet) 59.61 feet; thence N77°57'37"E for 86.56 feet; thence along a 215.25 feet radius curve to the left (chord bears N59°52'58"E 97.41 feet) 98.26 feet; thence N46°48'19"E for 72.91 feet; thence along a 500.85 feet radius curve to the left (chord bears N41°06'15"E 99.51 feet) 99.67 feet; thence N35°21'12"E for 117.49 feet; thence along a 445.47 feet radius curve to the right (chord bears N41°48'27"E 99.38) 99.58; thence N48°12'41"E for 243.49 feet; thence along a curve 299.61 feet curve to the left (chord bears N43°59'20"E for 59.84 feet) 59.94 feet; thence N39°45'59"E for 47.70 feet; thence along a 160.59 feet radius curve to the right (chord bears N50°20'52"E 58.98 feet) 59.32 feet; thence N60°55'45"E for 55.10 feet; thence along a 199.08 feet radius curve to the left (chord bears N41°33'24"E 132.07 feet) 134.62 feet; thence N22°11'02"E for 30.74 feet; thence along a 197.52 feet radius curve to the right (chord bears N41°41'54"E 131.96 feet) 134.54 feet; thence N61°12'48"E for 51.91 feet; thence along a 213.55 feet radius curve to the left (chord bears N43°03'51"E 133.04 feet) 135.29 feet; thence N24°54'55"E for 236.52 feet; thence along a 212.99 feet radius curve to the left (chord bears N19°33'03"E 39.82 feet) 39.88 feet; thence N14°11'12"E for 45.38 feet; thence along a 95.80 feet radius curve to the right (chord bears N25°58'43"E 39.16 feet) 39.43 feet; thence N37°46'15"E for 36.61 feet; thence along a 216.82 feet radius curve to the left (chord bears N29°53'35"E 59.43 feet) 59.62 feet; thence N22°00'55"E for 143.56 feet; thence along a 364.24 feet radius curve to the left (chord bears N14°11'56"E 99.07 feet) 99.38 feet; thence N6°22'57"E for 35.57 feet; thence along a 392.81 feet radius curve to the left (chord bears N20°55'E 59.83 feet) 59.88 feet; thence N22°11'08"W for 22.06 feet; thence along a 149.00 feet radius curve to the right (chord bears N9°01'34"E 38.82 feet) 39.21 feet; thence N20°24'55"E for 225.82 feet; thence along a 94.52 feet radius curve to the left (chord bears N2°48'21"E 57.19 feet) 58.10 feet; thence N14°48'14"W for 117.67 feet; thence along a 125.61 feet radius curve to the left (chord bears N28°14'09"W 58.36 feet) 58.90 feet; thence N41°40'05"W for 62.75 feet; thence along a 132.34 feet radius curve to the right (chord bears N28°53'45"W 58.52 feet) 59.00 feet; thence N16°07'26"W for 154.28 feet to a point on the North line of said Section 16 and point of terminus of said Access Easement, from which the NE corner of said Section 16 bears S89°57'21"E for 941.96 feet



Surveyors Note: The North 1/4 Corner and Northeast corner of Section 16 are found monuments. The remaining corners of Section 16 are from GLO Record Data

Certificate of Survey:
I hereby certify the attached Exhibit is a true representation of an easement location performed under my supervision and control on May 17, 2018 and described the same as shown on the accompanying plat and dated this 5 day of May, 2018.

Surveyor: *D.A.M.*
Dan Swenson, L.S. No. 15278
P.O. Box 177
Townsend, MT. 59644



Sec. 16, T. 8N., R. 3E., P.M.M., Broadwater Co., Mt.			
Land Owner: State of Montana			
Exhibit: To create a 30' Wide Public Access Easement			
Schauber Surveying		286-4602	
SCALE 400 Ft/in	PRINT DATE 6-5-2018	FILE NAME 3905M 6-24-18 TRV	JOB 3905
DRAWN BY D.A.S.	REVISION 7/16/19	JOB 3905	

LEGEND

- Section Corner
- Quarter Corner
- Point of Beginning

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
Central Land Office - Helena Unit



STEVE BULLOCK, GOVERNOR

STATE OF MONTANA

PHONE: (406) 458-3500
FAX: (406) 458-3506

8001 N. MONTANA AVENUE
HELENA, MT 59602

May 30, 2019

Doney Crowley P.C. Attorneys at Law
Jack G. Connors
P.O. Box 1185
Helena, MT 59624

RE: Gurnett Creek Private Road ROW Application, Paul Armstrong (Proponent)
Section 16, T18N, R3E

Dear Mr. Connors,

The purpose of this letter is to inform you of the findings of the Helena Unit review of the private road easement application you submitted on behalf of your client, Mr. Paul Armstrong. After considerable review, the Central Land Office will recommend to the Montana Board of Land Commissioners to deny Mr. Armstrong's application for right-of-way across state trust land in Section 16, T18N, R3E. The rationale for this recommendation follows:

The proposed easement does not comply with the intent of ROW statute 77-2-102 and the Access Road Easement Policy (DNRC 2006). The proponent has not demonstrated necessity which warrants a permanent encumbrance on State Trust Land. The ROW will have significant detrimental impacts to the value, management, and potential future uses of the State Trust Land:

- Granting the ROW will diminish the value of the state land while enhancing the value of the private, deeded land
- The proposed ROW would reduce the flexibility of Trust Land management by limiting future uses and long-term productivity of the State Trust Land
- Granting the ROW could set a precedent which may result in numerous, similar requests on State Trust Land, especially this specific parcel.
- No settlement of damages has been reached between the proponent and the lessee. Conflicts exist between the Private Driveway Use and livestock management and grazing.
- The proposed ROW will be detrimental to recreation activities on the legally accessible state parcel.

The Department intends to present this recommendation to the Land Board at their June 17, 2019 meeting. This meeting is open to the public and you may provide testimony regarding this recommendation. Should you choose to do so, please contact the Land Board's secretary, Shauna Simpson, prior to June 12, 2019. Please call me if you have questions.

Regards,

Hoyt Richards, Central Land Office Area Manager

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Doug Boutilier
 4965 US HWY 12 West
 Helena, MT 59601

Application No.: 18688
 R/W Purpose: a private access road for the purpose of access to one single family residence and associated outbuildings

Lessee Agreement: ok
 Acreage: 2.06
 Compensation: \$8,875.00
 Legal Description: 30-foot strip through SW4NW4, NW4SW4, Sec. 27, Twp. 10N, Rge. 4W, Lewis and Clark County

Trust Beneficiary: Common Schools

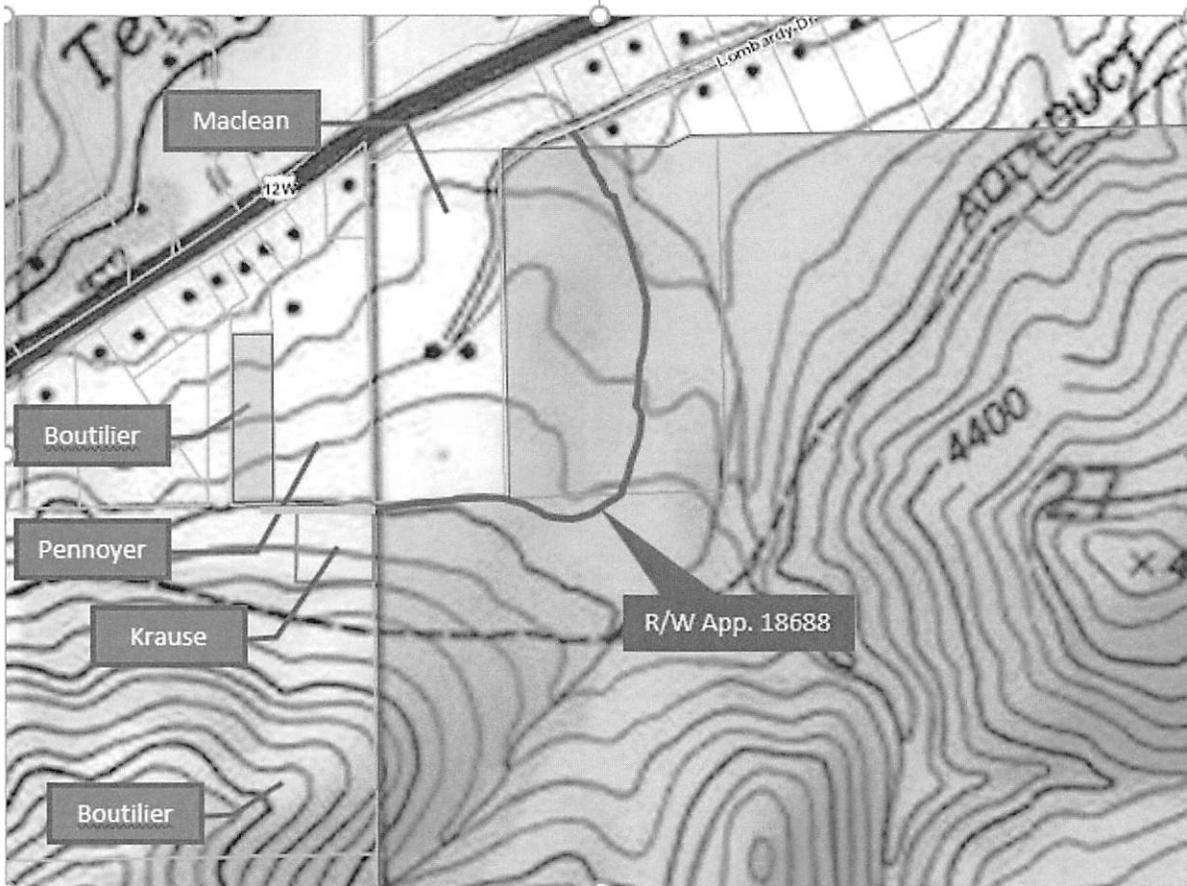
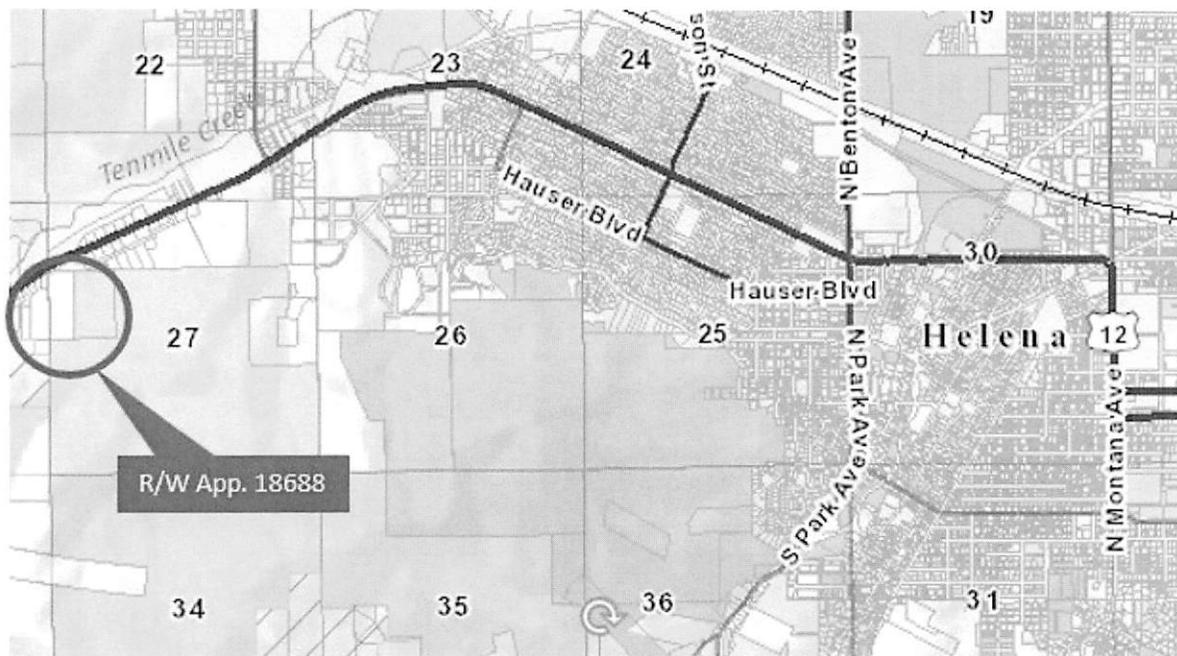
Item Summary

Doug Boutilier has requested an easement to utilize an existing road on State Land to access a 2.5 acre parcel he owns, described as Tract B of COS 3107661, in Sec. 28, Twp. 10N, Rge. 4W. Mr. Boutilier owns adjacent property to this 2.5-acre parcel, however it is not physically possible to locate a road from his existing ownership to this property. This property is just west of the city limits of Helena and access to the State Land is through Lombardy Drive, a county road. The access road currently provides access to a separate 2-acre parcel of land adjoining State Land and Mr. Boutilier's larger parcel and access across this parcel is necessary in order for Mr. Boutilier to enjoy legal access to the 2.5 acre parcel. The private landowners have agreed to provide an easement to Mr. Boutilier so long as the Land Board approves his request across State Land. The Department solicited public comment for the proposal and received only one comment, from a landowner along Lombardy Drive. That comment generally discussed conditions of Lombardy Drive (not on State Land) and impacts from additional use. Lombardy Drive is a public road and the public currently drives it to reach a small parking area on State Land for recreation purposes. The Department has analyzed the request and determined that additional use by Mr. Boutilier will cause minimal impacts to the State land. Because an existing easement holder also uses the road on State each party will have responsibilities for maintenance attributed to their respective use. It will also be stipulated that use of the road is subject to general recreational use rules on State land.

DNRC Recommendation

The director recommends approval of the private access road easement to Mr. Boutilier

R/W Application 18688



Rights of Way Applications

October 25, 2017

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Mica Jean Wright, Roger W. Bergmann, & Ruth Ellen Levin
 Revocable Trust
 1629 Stoney Brook Drive
 Las Vegas, NV 89108

Application No.: 17137
 R/W Purpose: a private access road to one single family residence and associated outbuildings and for timber management

Lessee Agreement: ok
 Acreage: 4.86
 Compensation: \$8505.00
 Legal Description: 30-foot strip through E2NW4, NE4SW4, W2SE4, Sec. 36, Twp. 26N, Rge. 28W, Lincoln & Sanders County
 Trust Beneficiary: Common Schools

Item Summary

Applicants have requested residential and timber management access to their private property located in Sanders County. Access to the state land is via a US Forest Service controlled road known as Elk Creek Road that intersects a county road from the north. The Forest Service holds an easement for the public across state land, shown in blue on the map following this agenda item. The route to applicant's parcel on the state land from Elk Creek Road is shown on red on this same exhibit. The majority of the road is on an existing two-track alignment that will be reconstructed, with approximately 700 feet of new road construction occurring. New construction is necessary to avoid using a portion of existing road that is within the Upper Whitney Creek riparian zone. This proposal will provide a benefit to the state for management and public access purposes in that the road will be upgraded to a better standard which will facilitate a future planned timber sale. Reciprocal opportunities are not available, immediate state parcels in the area have legal access through Forest Service (including public) or Weyerhaeuser (resource management only) easements.

Applicants private land to be accessed is described as:

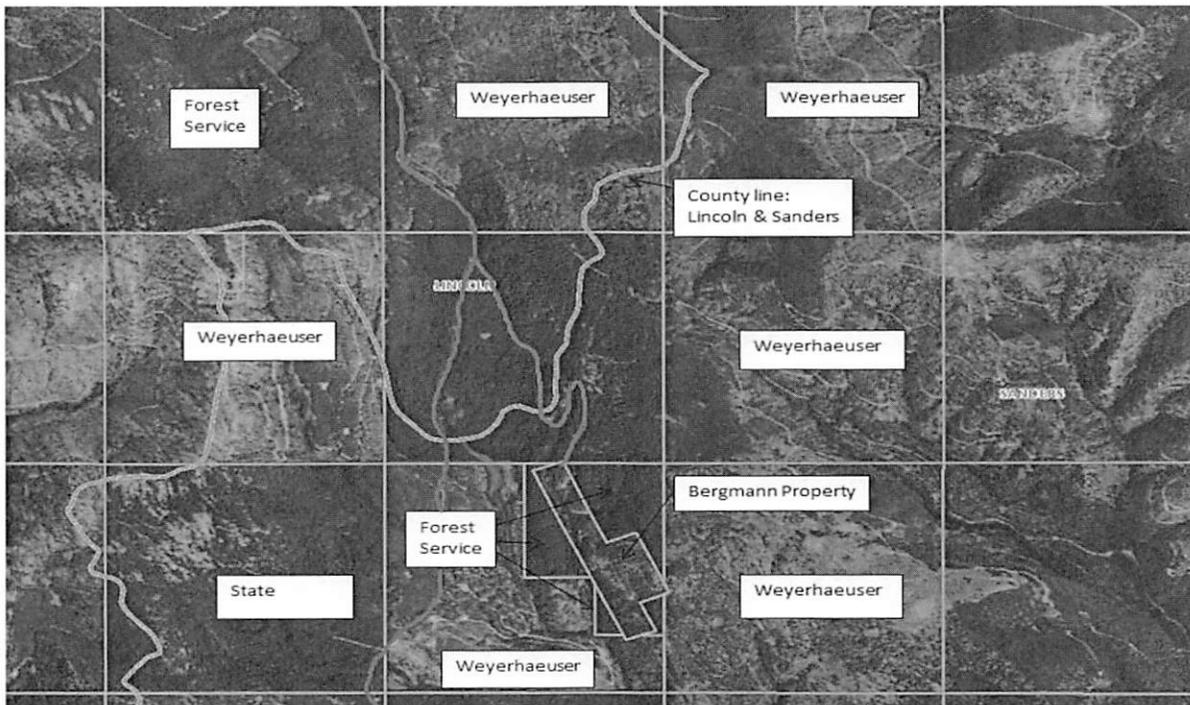
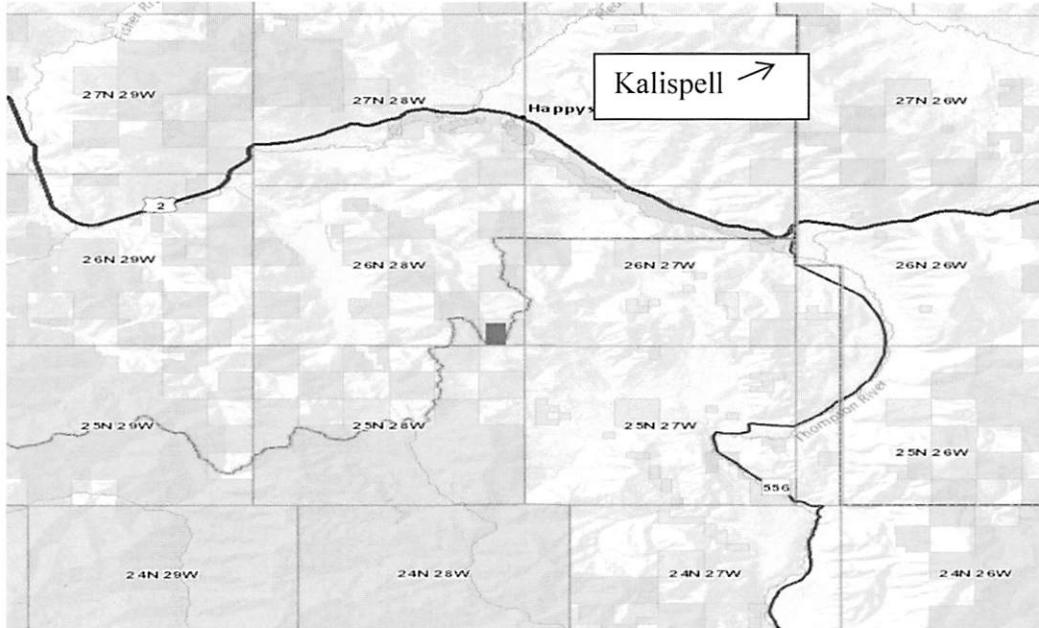
- Sec. 1, Twp. 25N, Rge. 28W – MES Pat 956077 (76 ac)

DNRC Recommendation

The director recommends approval of this private access road.

Rights of Way Applications

October 25, 2017



Application # 17137 – Wright, et al.

Rights of Way Applications

December 19, 2016

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Chad & Elizabeth Hutchins
 1819 23rd Ave, Apt. E 222
 Seattle WA 98122

Application No.: 17457
 R/W Purpose: a private access road to a one single family residence and associated outbuildings

Lessee Agreement: ok
 Acreage: 0.23
 Compensation: \$4,754.00
 Legal Description: tract of land in SE4NE4, Sec. 36, Twp. 4N, Rge. 2E, Gallatin County

Trust Beneficiary: Common Schools

Item Summary

Chad & Elizabeth Hutchins have made application for a private access road encroaching on State Trust land for access to their home and garage. The area in trespass on State Trust land has also been fenced. In 2007 the predecessors in interest to the Hutchins constructed a residence within approximately 5 feet of the section line between the private property and State Trust land. As constructed the tuck-under garage faces the section boundary line and results in access crossing the State. The applicants are in process of selling the property and wish to rectify the encroachment. Because the access road and fencing were constructed without authorization after 1997, and pursuant to §77-1-125, MCA, the Department is recommending the Land Board assess a trespass penalty equal to two times the land value for this encroachment, equaling \$4,264.00. The base value for the easement is \$490.00 which is added to the penalty, resulting in a total easement cost of \$4,754.00. The private property to be accessed is described as:

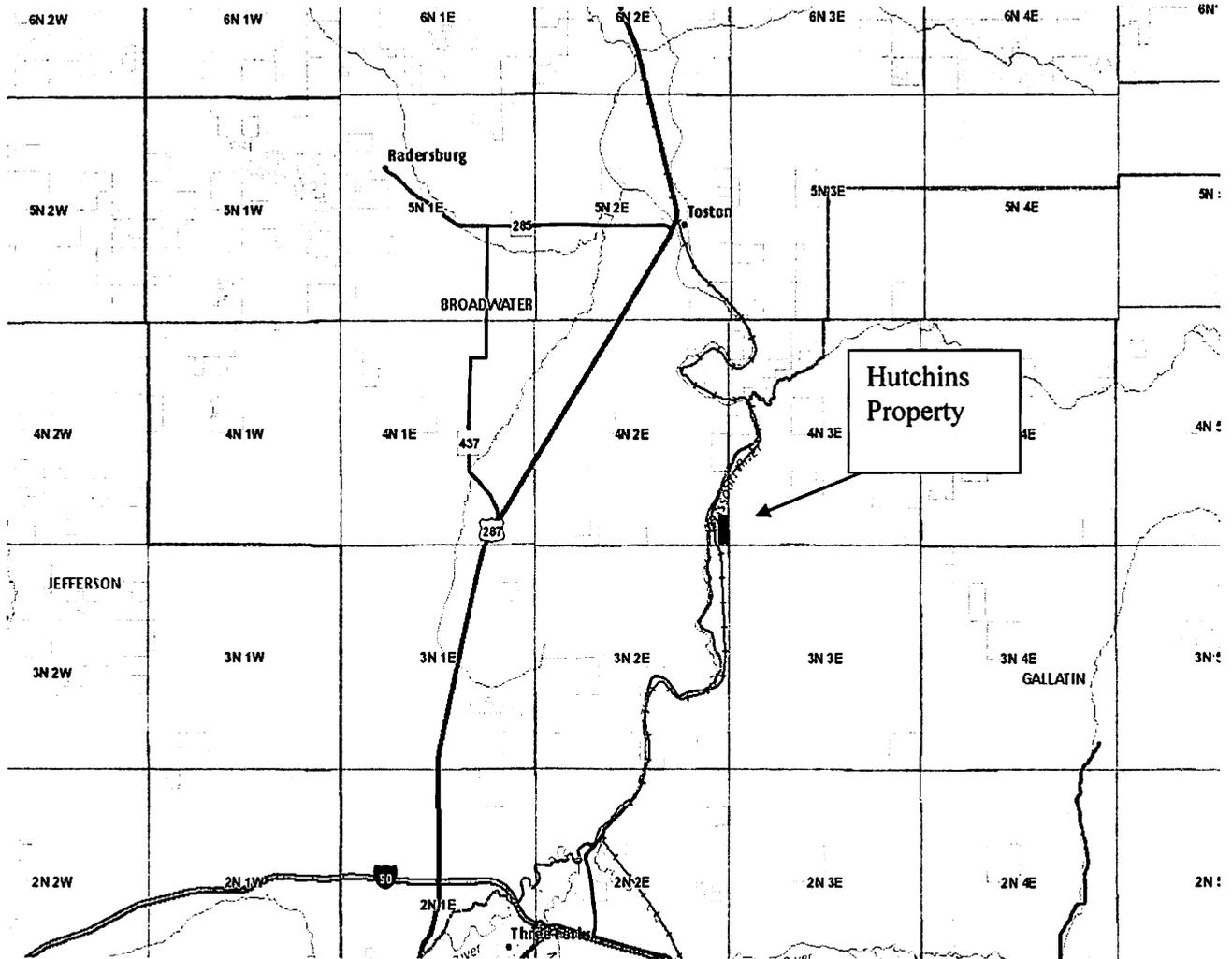
- Sec. 31, Twp. 4N, Rge. 3E – Lot 818; W2W2SW4NW4 of COS 865

DNRC Recommendation

The director recommends approval of this private access road encroachment and penalty assessment.

Rights of Way Applications

December 19, 2016



Application # 17457 – Hutchins

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Road Access Easement
Proposed Implementation Date:	October 2016
Proponent:	Hutchins
Location:	SE4NE4 Section 36 Township 4N Range 2E
County:	Gallatin County
Trust:	Common Schools

I. TYPE AND PURPOSE OF ACTION

Right of Way Easement application for a driveway that allows for access to the back of the residence.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

Grazing lessee

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

None

3. ALTERNATIVES CONSIDERED:

Action: Process the application for Right of Way Easement.

No Action: Do not process the application for Right of Way Easement.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

Soils are Brocko Silt Loam, located on flat terrain.

Action Alternative: A driveway of about 100 feet will cross the property on flat ground, no adverse effects would be expected.

No Action Alternative: Native range would remain unchanged.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

There is no water on the site, nor would site drainage contribute to a water source.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

Native range and a yard scape are the existing condition.

Action Alternative: A driveway of about 100 feet will cross the property on flat ground. A native surface driveway under dry conditions dust would be produced when used, but due to the scope of the proposal no adverse effects would be expected.

No Action Alternative: Native range would remain unchanged.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

Native range and a yard scape are the existing condition.

Action Alternative: A driveway of about 100 feet will cross the property on flat ground. A native surface driveway will eliminate a small amount of vegetation, but due to the scope of the proposal no adverse effects would be expected.

No Action Alternative: Native range would remain unchanged

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Native range and a yard scape are the existing condition.

Action Alternative: A driveway of about 100 feet will cross the property on flat ground. Due to the scope of the proposal no adverse effects would be expected.

No Action Alternative: Native range would remain unchanged

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

The Black Tailed Prairie Dog is listed as a species of concern by the Montana Natural Heritage program.

No effect would be expected with either alternative.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

No historical and/or archaeological sites have been identified.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

Native range and a yard scape are the existing condition.

Action Alternative: A driveway of about 100 feet will cross the property on flat ground. Due to the scope of the proposal no adverse effects would be expected.

No Action Alternative: Native range would remain unchanged

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

Neither alternative would require resources.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

None.

IV. IMPACTS ON THE HUMAN POPULATION

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

No effect under either alternative.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

No effect under either alternative.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

No effect under either alternative.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

No effect under either alternative.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

No effect under either alternative.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

None.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

No effect under either alternative.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

No effect under either alternative.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

No effect under either alternative.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

No effect under either alternative.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

The determined value for an easement on this parcel would be \$2,132.15 per acre for 0.232 acres of encumbrance returning \$494.65 to the permanent fund.

EA Checklist Prepared By:	Name: Craig Campbell	Date: 10/5/16
	Title: Bozeman Unit Manager	

V. FINDING

25. ALTERNATIVE SELECTED:

Action: Process the application for Right of Way Easement.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

I have determined that none of the anticipated environmental impacts outlined in the EA are significant according to the criteria outlined in ARM 36.2.524. I find that no impacts are regarded as severe, enduring, geographically widespread, or frequent. Further, I find that the quantity and quality of various resources, including any that may be considered unique or fragile, will not be adversely affected to a significant degree. I find no precedent for future actions that would cause significant impacts, and I find no conflict with local, State, or Federal laws, requirements, or formal plans. In summary, I find that the identified adverse impacts will be avoided, controlled, or mitigated by the design of the project to the extent that the impacts are not significant.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

- EIS
 More Detailed EA
 No Further Analysis

EA Checklist Approved By:	Name: Katie Svoboda
	Title: Bozeman Unit Office Manager
Signature: Katie Svoboda /s/	Date: 10/5/16

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Staffanson/Snodgrass Easement
Proposed Implementation Date:	2018
Proponent:	Scott Staffanson Family
Location:	T22N-58E-Sec 14 NW 1/4
County:	Richland County

I. TYPE AND PURPOSE OF ACTION

The proponents have filed a right of way easement application with the DNRC for a 30-foot existing road. The proponent is seeking to improve the road to an all-weather standard and utilize it for access to deeded ground located in section 15 to the west.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

The Proponent has submitted a DS 406a application for right of way form. The proposed easement would be 30 feet wide with a length of approximately 2904 feet. The total acreage requested for the easement is 2 acres. The Proponent is also the surface lessee and has signed the DS- 457 Settlement of Surface Damage form. Due to the small scope of the project no public comment was sought. A field inspection was made on August 21st, 2018.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

None

3. ALTERNATIVES CONSIDERED:

Alternative A- Approve the easement right of way application.
Alternative B- No action.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

Alternative A- Some soil disturbance would take place where the existing road would be improved. The soils in the area are composed of shallow and shallow with gravel types. This soil is not fragile or compactable.
Alternative B-No Impact

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Alternative A- No Significant Impact

Alternative B- No Impact

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

Alternative A- Pollutants and Particulates may be increased during the construction phase of the project. After the completion of the project pollutant and particulate levels should return to normal. Increase in pollutants during construction should be negligible.

Alternative B- No Impact

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

Alternative A- Where the construction takes place there may be disturbance to the vegetation cover. The current plant community in the area is comprised mostly native species. Current Species on the site include but are not limited to Western Wheatgrass (*agropyron smithii*), Bluebunch Wheatgrass (*agropyron spicatum*), Green Needlegrass (*stipa viridula*), Sideoats Grama (*bouteloua curtipendula*), Little Bluestem (*schizachyrium scoparium*), Needle and Thread (*stipa comata*), Threadleaf Sedge (*carex filifolia*), Blue Grama (*bouteloua gracilis*), Sandberg Bluegrass (*poa secunda*), Prairie Junegrass (*koleria pyramidata*) Silver Sagebrush (*artemisia cana*), Yucca (*yucca*), and Crested Wheatgrass (*Agropyron cristatum*). The proponent will be required to reseed the disturbed area not in the roadbed to a native grass mixture upon completion of the project.

Alternative B- No Impact

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Alternative A- There may be very minimal effects on any animal habitats within the boundaries of the project construction. Wildlife that inhabit the project area include antelope, deer, coyotes, rodents, reptiles, migratory and prairie birds. Wildlife may be temporarily disturbed during the construction of the project. After completion of the project there should be no lasting impacts to these species.

Alternative B- No Impact

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

Alternative A- A search of the Montana Natural Heritage Database shows no threatened, endangered or sensitive species within the general project area. The proposed easement is not located within general, core or connectivity Greater Sage Grouse habitat.

Alternative B- No Impact

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

Alternative A-A Class I (literature review) level review was conducted by the DNRC staff archaeologist for the area of potential effect (APE). This entailed inspection of project maps, DNRC's sites/site leads database, land use records, General Land Office Survey Plats, and control cards. The Class I search revealed that no cultural or paleontological resources have been identified in the APE. Because the area of potential effect on state land is within an existing roadway, no additional archaeological investigative work will be conducted in response to this proposed development. However, if previously unknown cultural or paleontological materials are identified during project related activities, all work will cease until a professional assessment of such resources can be made.

Alternative B- No Impact

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

Alternative A- The proposed easement would encompass an area of approximately 2 acres. Road easement would be on an existing road, cumulative impacts to the aesthetics should be minimal.

Alternative B- No Impact

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

Alternative A- No significant impact

Alternative B- No Impact

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

None

IV. IMPACTS ON THE HUMAN POPULATION
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- | |
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| <ul style="list-style-type: none"> • <i>RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.</i> • <i>Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.</i> • <i>Enter "NONE" if no impacts are identified or the resource is not present.</i> |
|--|

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

Alternative A- No significant impacts

Alternative B- No Impact

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

Alternative A- The proposed road easement should have a positive effect on agricultural Activities and production.

Alternative B- No Impact

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

Alternative A- No significant impacts

Alternative B- No Impact

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

Alternative A- No significant impact

Alternative B- No Impact

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

Alternative A- No impacts expected.

Alternative B- No Impact

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

Alternative A- No Significant Impact

Alternative B- No Impact

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

Alternative A- No Significant Impact

Alternative B- No Impact

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

Alternative A- No Significant Impact

Alternative B- No Impact

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

Alternative A- No Significant Impact

Alternative B- No Impact

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

Alternative A- No Significant Impact

Alternative B- No Impact

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

Alternative A- This will provide income for the trust in the form of the purchase of a permanent easement. The amount of which would be set at \$800.00.

Alternative B- No Impact

EA Checklist Prepared By:	Name: Scott Aye	Date: 11-8-2018
	Title: Land Program Manager	

V. FINDING

25. ALTERNATIVE SELECTED:

Alternative A

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

The granting of the requested right of way easement upon state owned trust lands for the proposed Staffanson Road Easement project should not result in nor cause significant environmental impacts. The predicted environmental impacts have been identified and mitigation measures addressed in the EA checklist. The predicted impacts will be adequately mitigated through the construction and reclamation plans. The proposed action satisfies the trusts fiduciary mandate and ensures the long-term productivity of the land. An environmental assessment checklist is the appropriate level of analysis for the proposed action

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS More Detailed EA No Further Analysis

EA Checklist Approved By:	Name: Andy Miller Title: Forester
Signature: 	Date: 11-8-2018

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Jones Access Road Easement
Proposed Implementation Date:	2019
Proponent:	Susan B. Jones
Location:	T5N R45E Sec 14
County:	Custer County

I. TYPE AND PURPOSE OF ACTION

Susan B. Jones (Proponent) has filed an application with the DNRC for the purpose of receiving an easement for a private road. This proposal will affect the listed tract of Trust Land.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:
Provide a brief chronology of the scoping and ongoing involvement for this project.

The Proponent has submitted a DS 406a form. The proposed easement will be 30 feet wide with a length of approximately 2,678.71 feet. The total acreage requested for the easement is 1.837 acres, more or less. The proponent of the project has provided DS-457 Notice of Settlement of Damages from the surface lessees of the tract.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:
 None

3. ALTERNATIVES CONSIDERED:
 Alternative A- Approve the easement right of way application.
 Alternative B- No action.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:
Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

Alternative A- Some soil disturbance may take place along the route during construction and maintenance; this is partially an existing unimproved road. The soils in the area are composed of silty soil types. This soil is not fragile or compactable.
 Alternative B-No Impact

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:
Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Alternative A- No Significant Impact
 Alternative B- No Impact

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

Alternative A- Pollutants and Particulates may be increased during any road construction and maintenance. After any work is completed, the pollutant and particulate levels should return to normal. Increase in particulates during improvement should be negligible.

Alternative B- No Impact

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

Alternative A- Where the construction takes place there may be disturbance to the vegetation cover. The current plant community in the project area are a mix of native and introduced species. Predominant species on the site include but are not limited to Alfalfa (*Medicago sativa*), Western Wheatgrass (*Agropyron smithii*), Green Needlegrass (*Stipa viridula*), Needle and Thread (*Stipa comata*), Threadleaf Sedge (*Carex filifolia*), Blue Grama (*Bouteloua gracilis*), Prairie Junegrass (*Koleria pyramidata*), Cheatgrass (*Bromus tectorum*), and Fringed sagewort (*Artemisia frigida*). This route is partially on an existing unimproved road with an approach to the county road already in place. The proponent will be required to reseed the non-road surface area to a native grass mixture upon completion of the project if there is a disturbance.

Alternative B- No Impact

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Alternative A- There may be very minimal effects on any animal habitats within the boundaries of the project construction. Any construction work done will be of a short timeline, and the impacted area is a small portion of the greater landscape. Wildlife that inhabit the project area include antelope, deer, coyotes, rodents, reptiles, migratory and prairie birds. Wildlife may be temporarily disturbed during the construction of the project. After completion of the project there should be no lasting impacts to these species.

Alternative B- No Impact

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

Alternative A- A search of the Montana Natural Heritage Program database showed the following observations of Species of Concern within the general project area: **Black-tailed Prairie Dog** (*Cynomys ludovicianus*), **Swift Fox** (*Vulpes velox*), **Brewer's Sparrow** (*Spizella breweri*), **Greater Sage-Grouse** (*Centrocercus urophasianus*), **Sharp-tailed Grouse** (*Tympanuchus phasianellus*), **Northern Leopard Frog** (*Lithobates pipiens*). The project is located within Greater Sage Grouse General Habitat. The proponent has received a consultation letter from the Sage Grouse Conservation Program and will follow the recommendations outlined in that document.

Alternative B- No Impact

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

Alternative A- No historical or archeological sites were noted within the proposed easement area upon field inspection and a review of the TLMS database. A Class I (literature review) level review was conducted by the DNRC staff archaeologist for the area of potential effect (APE). This entailed inspection of project maps, DNRC's sites/site leads database, land use records, General Land Office Survey Plats, and control cards. The Class I search revealed that no cultural or paleontological resources have been identified in the APE. Because little ground disturbance is expected with the proposed project, and because the local geology is not likely to produce caves, rock shelters, or sources of tool stone, no additional archaeological investigative work will be conducted. However, if previously unknown cultural or paleontological materials are identified during project related activities, all work will cease until a professional assessment of such resources can be made.

Alternative B- No Impact

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

Alternative A- The proposed easement for an access road would encompass an area of approximately 1.837 acres. Any impacts should be short term in nature. There would be no lasting increase to noise or light due to the project.

Alternative B- No Impact

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

Alternative A- No significant impact

Alternative B- No Impact

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

None

IV. IMPACTS ON THE HUMAN POPULATION
<ul style="list-style-type: none"> • RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered. • Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading. • Enter "NONE" if no impacts are identified or the resource is not present.

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

Alternative A- Any construction work would be completed by trained professionals. There are inherent risks involved in the heavy construction industry and the workers accept risks as an occupational hazard.

Alternative B- No Impact

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

Alternative A- It could have a positive effect on Agricultural Activities and Production.

Alternative B- No Impact

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

Alternative A- No significant impact

Alternative B- No Impact

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

Alternative A- If a single-family residence is built on the adjoining deeded section, there could be an increase in tax revenues.

Alternative B- No Impact

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

Alternative A- No significant impact.

Alternative B- No Impact

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

Alternative A- No Significant Impact

Alternative B- No Impact

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

Alternative A- No Significant Impact

Alternative B- No Impact

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

Alternative A- No Significant Impact

Alternative B- No Impact

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

Alternative A- No Significant Impact

Alternative B- No Impact

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

Alternative A- No Significant Impact

Alternative B- No Impact

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

Alternative A- This will provide income for the trust in the form of the purchase of a permanent easement. The fee schedule for dryland agriculture land in this area is \$800.00 per acre which will amount to a total of \$1,469.60 for the 1.837 acres in this project.

Alternative B- No Impact

EA Checklist Prepared By:	Name: Aaron Kneeland	Date: 5/6/2019
	Title: Land Use Specialist	

V. FINDING

25. ALTERNATIVE SELECTED:

Alternative A

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

The granting of the requested right of way easement upon state owned trust lands for the proposed access road easement project should not result in nor cause significant environmental impacts. The predicted environmental impacts have been identified and mitigation measures addressed in the EA checklist. The predicted impacts will be adequately mitigated through the construction and reclamation plans. The proposed action satisfies the trusts fiduciary mandate and ensures the long-term productivity of the land. An environmental assessment checklist is the appropriate level of analysis for the proposed action

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS

More Detailed EA

No Further Analysis

	Title: Eastern Land Office, Land Program Manager
Signature: /S/ Scott Aye	Date: 5/6/2019

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

0719-6B Paul Armstrong Private Access

Location: Broadwater County

Trust Benefits: Common Schools

Trust Revenue: Common Schools = \$ 2,780

Applicant: Paul Armstrong
285 Lost Trail Road
Townsend MT 59644

Application No.: 18751
R/W Purpose: a private access road to one single-family residence
Lessee Agreement: needed
Acreage: 2.78
Compensation: \$2,780.00
Legal Description: 30-foot strip through NE4SW4, NW4SE4, SW4NE4, E2NE4,
Sec. 16, Twp. 8N, Rge. 3E, Broadwater County
Trust Beneficiary: Common Schools

Item Summary

Paul Armstrong has made application for a private road easement across State Trust land for the purpose of access to his private, deeded land for residential purposes. Mr. Armstrong's residence was constructed in approximately 2011 and, therefore, does not meet the qualifications under the historic right of way statute. Thus, the Department's review and analysis of Mr. Armstrong's application follows the Land Board's Access Road Policy.

Mr. Armstrong owns the SE4 of Section 9, Township 8 North, Range 3 East. Legal and primary access to this property exists from Duck Creek Road (a county road to the forest boundary) and Lost Trail Road, a private subdivision access road serving Mr. Armstrong's property and multiple property owners within Sections 3, 4 and 9. The existing private subdivision road is approximately 3.5 miles long with some switchbacks and variant grades.

The State Trust land in Section 16 is currently leased for grazing and is heavily used for non-motorized public recreation and hunting. In June 2017 the Land Board approved the Hooligan Billy Mack timber sale on this section with sale operations set to wrap up in late summer of 2019. Prior to the timber sale, the roads within Section 16 were primitive, two track trails used primarily for administrative purposes. Segments of roads were reconstructed and maintained to support the active timber sale, however upon completion of the harvest, the roads will be returned to their native state through implementation of BMP's for erosion, seeded with native

grasses, and gated to prohibit motorized use. Erosion risk is moderate for these soils with increased risk if surface soil is removed or used during wet conditions. Road standards and Best Management Practices applied are consistent with low-standard restricted access road closed to all use during wet periods and spring break-up. Additionally, a segment of the proposed road to be used by Mr. Armstrong is a very primitive trail past the last timber sale harvest unit and would require construction for vehicular use.

Public scoping for the request was conducted with 17 comments being received. Fifteen comments were received from adjoining landowners and recreationists; one comment from the proponent's legal counsel; and one comment from DFWP. Only one comment supported the proponent's proposal with the remaining 16 being opposed for various reasons, the majority being the potential to displace wild game from the parcel due to motorized use, conflicts with livestock grazing, as well as the potential for other landowners to request similar easements from the State.

In analyzing the application of Mr. Armstrong in conformity to the Access Road Policy the Department identified the following:

- The applicant has not demonstrated a necessity for access through the State land that justifies a permanent encumbrance on State Trust Land
- Granting the easement will diminish the value of the State land while enhancing the value of the private, deeded land
- The proposed easement could negatively impact the stability of the soils environment and would reduce the flexibility of Trust Land management by limiting future uses and long-term productivity
- Granting the easement could set a precedent which may result in numerous, similar requests to use the road on State Trust Land as a way of convenience to avoid a longer commute
- Vehicular access is detrimental to the recreation activities on this legally accessible State Trust parcel
- The applicant and lessee cannot agree as to damages to the leasehold interest. Conflicts between vehicular use and livestock management are anticipated

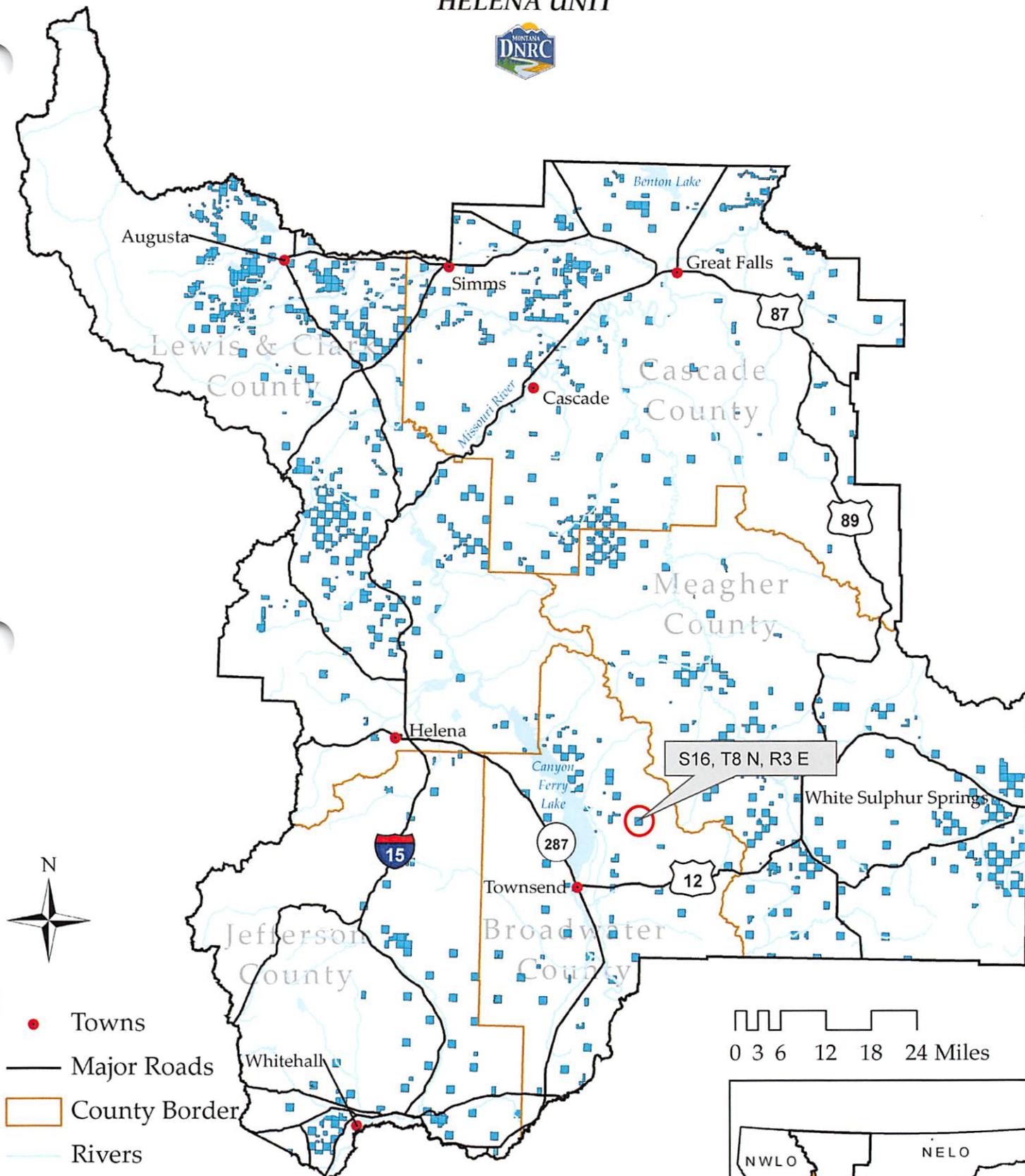
The Department has concluded that the proposed easement request is contrary to the general requirements of the Access Road Policy.

DNRC Recommendation

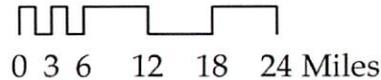
The director recommends the Land Board deny the request of Paul Armstrong for a private access road across Section 16, Township 8 North, Range 3 East.

PAUL ARMSTRONG PRIVATE ACCESS VICINITY MAP HELENA UNIT

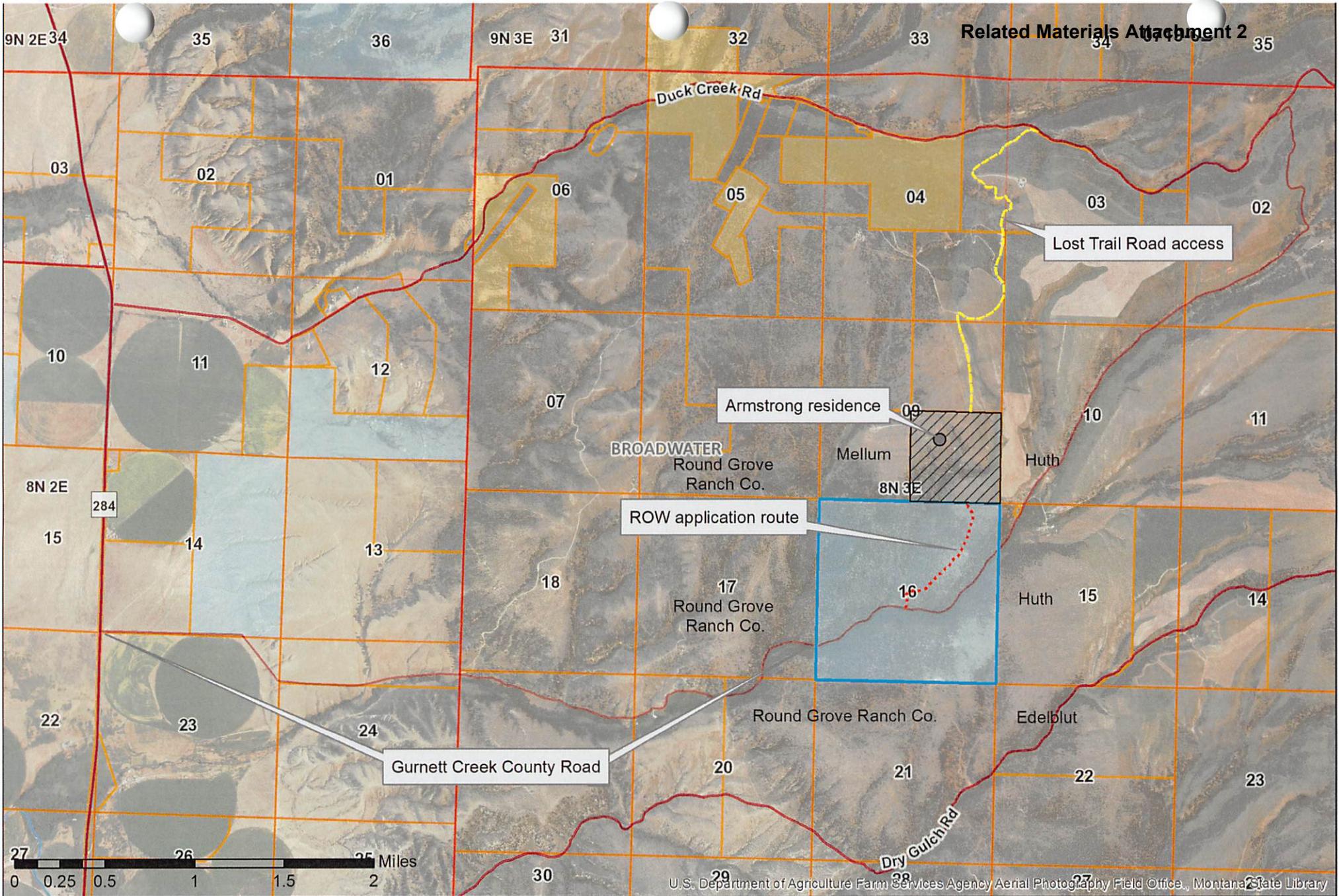
0719-6B



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



6/28/19
7/16/19



U.S. Department of Agriculture Farm Services Agency Aerial Photography Field Office, Montana State Library



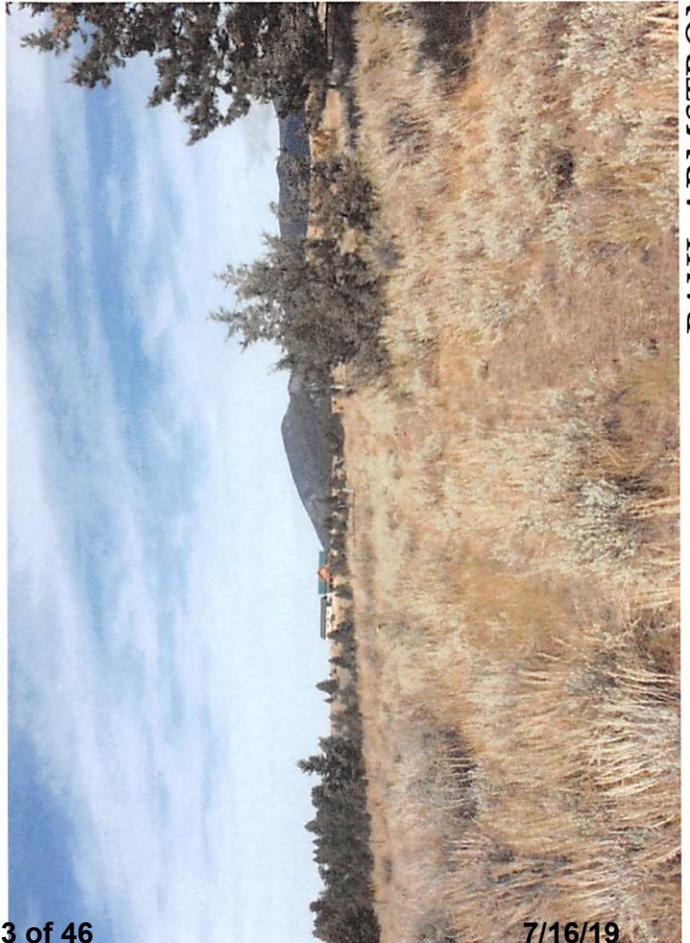
Location: Broadwater County
 Prepared on: 19 JUNE 2019
 Prepared by: RMW
 Projection: NAD 1983 - MT State Plane

Legend

- Proposed Access
- - - - - Existing Access
- Existing Road
- Armstrong
- S16, T8 N, R3 E
- Parcel

6/28/19
 Montana State Trust Land
 United States Forest Service
 Bureau of Land Management
 7/16/19





CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Gurnett Creek Private Road ROW Application
Proposed Implementation Date:	Dependent on Land Board Action
Proponent:	Paul Armstrong
Location:	Section 16 T8N R3E
County:	Broadwater

I. TYPE AND PURPOSE OF ACTION

Mr. Paul C. Armstrong proposes a private road right-of-way (ROW) across State Trust Land in Section 16, T8N, R3E as a secondary access to his property at 285 Lost Trail Road Townsend, MT in Section 9, T8N, R3E. The ROW would apply to an existing primitive, two-track road that is occasionally used for administrative purposes. The lower portion of the road was used recently to conduct logging operations. This portion of the road will be restricted, seeded, and gated at the termination of a timber sale that is currently operational. Mr. Armstrong proposes to use the road "as is" maintaining the condition of the road as necessary. The proposed ROW access request begins at the junction of the above-mentioned road and Gurnett Creek Road (County Road), being 4,043 feet long and 30 feet wide encumbering 2.78 acres.

Beneficiary	Legal Description	Total Acres	Project Acres
Common Schools Trust	T8N R3E Section 16	640	2.78

The lands involved in this proposed project are held in trust by the State of Montana. (Enabling Act of February 22, 1889; 1972 Montana Constitution, Article X, Section 11). The Board of Land Commissioners and the DNRC are required by law to administer these trust lands to produce the largest measure of reasonable and legitimate return over the long run for the beneficiary institutions (Section 77-1-202, MCA).

The DNRC would manage lands involved in this project in accordance with the Access Road Easement Policy-Montana Board of Land Commissioners, September 18, 2006 and all other applicable state and federal laws regarding this proposed project.

- Attachments:
- Exhibit A-Vicinity Map
 - Exhibit B-Project Map-Topographical
 - Exhibit C & C2-Project Map-Aerial Photo
 - Exhibit D-Photo Points/Photos (11)
 - Exhibit E-Scoping Notice
 - Exhibit F-Comments Received Table
 - Exhibit G-Montana Natural Heritage SOC Report

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:
Provide a brief chronology of the scoping and ongoing involvement for this project.

SCOPING:

The FWP, the lessee, the proponent, and adjacent landowners and residents on Gurnett Creek Road were sent a scoping letter (see attached scoping notice). The DNRC received and accepted 15 comments from all interested parties (see Exhibit F-Comments Received).

Agencies, Groups or Individuals Scoped:	Project Relationship:	Location of Comments Addressed in the Environmental Analysis:
DNRC – Internal Scoping	Neutral-Landowner	n/a
Paul Armstrong via Attorney Jack G. Connors	Proponent, in favor of the project	n/a
Mark Deleray/Adam Grove	FWP Region 3 Supervisor/FWP Biologist / wildlife concerns, public recreation opportunity	Item 7 (page 4) Item 8 (pages 4-7)
Round Grove Ranch Co, Kelly Ingalls	Grazing Lessee/Adjacent Landowner/ Grazing lease concerns	Item 7 (page 4) Item 13 (page 9) Item 15 (page 10) Item 24 (page 12)
4B Land and Cattle LLC Mary K. and Thomas W. Huth Al Bodle John Mellum James and Peggy Thompson	Adjacent Landowners and residents on Gurnett Creek Road / wildlife concerns, public recreation opportunities, rule, policy, law concerns, safety, fairness in determining approval	Item 7 (page 4) Item 8 (pages 4-7) Item 13 (page 9) Item 14 (page 10) Item 15 (page 10) Item 20 (page 11) Item 23 (page 12) Item 24 (page 12)
Rich Vickers Charles Cetak Brad Barr Eugene R. Rostvold Alan Steel Joe Gill Bill and Kris Kinney Lonnie and Deena Gobbs Tim Hendrickson	Interested parties submitting comments / wildlife concerns, recreation opportunities, rule, policy, law concerns, fairness in determining approval	Item 7 (page 4) Item 8 (pages 4-7) Item 13 (page 9) Item 14 (page 10) Item 20 (page 11) Item 23 (page 12) Item 24 (page 12)

DNRC specialists were consulted, including: Jeff Schmalenberg (FMB Science Program Supervisor/Manager), Devin Healy (HU Forester), Heidi Crum (HU Land Use Specialist), Ross Baty (FMB Wildlife Biologist) and Patrick Rennie TLMD (Archeologist).

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

DNRC is not aware of other agencies besides the proponent with jurisdiction. DNRC is not aware of other permits needed to complete this project.

3. ALTERNATIVES CONSIDERED:

Alternative A - No Action Alternative: Deny the application for an easement.

Alternative B - Proposed Action Alternative: Issuing proponent a new easement of 4,043 feet (30 feet wide) on an existing restricted road, totaling 2.78 acres for residential purposes in perpetuity for the encumbered section of state land mentioned above.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

Evaluation of the impacts on the No-Action and Action Alternatives including direct, secondary, and cumulative impacts on the Physical Environment.

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

The area of the proposed ROW is located on moderate to steep slopes with underlying geologic structure forming the terrain and abrupt draws. This is a moderate precipitation area. There are no especially unusual or unique geologic features in the proposed project area. Slopes are stable. Rock outcrops occur on ridges and convex slopes.

The primary soils within the project area are a complex of Woodrock-Rock soil complex, which are extremely rocky loams on 25-60% slopes with deeper soils on more moderate slopes of 15-35%. Surface soils are very shallow and site productivity is low with approximately 10-15 tons of coarse wood debris per acre. Erosion risk is moderate on most slopes with increased risk as slopes exceed 40% or as organic surface soils are removed. This soil type is easily drained and tend to be droughty in late summer months (Hooligan Billy Mack Timber Sale EAC, April 2017).

The current road in question meets the level of BMP's that were designed for a restricted access road. This assumes that low level administrative use will allow the establishment of grass seed and decrease the erosion potential on the road surface overtime. This level of applied BMP's also assumes strict adherence to the season of administrative use, so roads are not used during wet periods and/or spring breakup.

Alternative A - No Action: No direct, secondary, and cumulative impacts will occur.

Alternative B - Action: Direct, secondary, and cumulative impacts to the soil resource within the easement area would be low as the land use within the footprint of the easement has previously been converted from forest products to transportation. Erosion potential on the road surface would be expected to increase commensurate with the volume of vehicle traffic and season of use. Continued monitoring of road drainage and implementing required maintenance would mitigate potential secondary effects to water quality but the Department would have no way to control traffic volume or season of use. This presents a moderate level uncertainty regarding the low risk of increased erosion potential and could certainly elevate to a moderate to high level of erosion risk commensurate with level and season of use as well as BMP maintenance.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Gurnett Creek, a Class I tributary to Canyon Ferry Reservoir, flows east-west thru the project area with Bill Mack Gulch (Class III) contributing occasional flow from the north within the project area. Gurnett Creek is classified as B-1 under the Montana Water-use Classifications. Waters classified B-1 are to be maintained suitable for drinking, culinary, and food processing purposes, after conventional treatment; bathing, swimming, and recreation; growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply (Hooligan Billy Mack Timber Sale EAC, April 2017).

No direct sediment delivery is currently occurring from the project area road to Gurnett Creek or to Billy Mack Gulch. Best management practices (BMPs) are currently in place and protecting water quality but increased future use over that of low level administrative access in which the road was designed will require continued maintenance and strict adherence to season of use as rutting decreases BMP effectiveness in protecting water quality.

Alternative A - No Action: No direct, secondary, and cumulative impacts will occur.

Alternative B - Action: Low level direct, secondary and cumulative impacts to water quality would be expected if the road surface remains unvegetated because of increased use resulting in increased sediment production. An increase in sediment production would also increase the likelihood of sediment delivery during high intensity rainfall or rapid snowmelt events typically associated with a 25 to 50-year precipitation event (low probability).

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

The project area is in Airshed 6 which includes all of Broadwater County. The closest Class 1 airshed is in the Gates of the Mountains Wilderness. Year-round homes, ranches, farms, and seasonal residences exist near the project area. Driving the road could create dust which may affect local air quality. The road surface is native soil.

Alternative A - No Action: No Action: No direct, secondary, and cumulative impacts will occur.

Alternative B – Action: Minimal direct, secondary or cumulative impacts to air quantity are anticipated. This use would be in short duration when the road is used to access the proponent’s property. Adherence to BMP standards for road construction should be required.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

The cover type is Douglas-fir and ponderosa pine. The majority of forested stands are included in fuel model eight. Open grassy stands of timber are included in fuel model 2. Noxious weed species present in the area include spotted knapweed, Canada thistle, and hounds tongue. Forested stands in this section are 90-110 years old. The age of the stands is less than 200 years old age they do not meet DNRC criteria to be considered old growth. No plat species of concern are known to be in the area of the harvest. Within the township that the project occurs in whitebark pine is noted as the only observed species of concern, and typically white bark pine does not occur at the elevation of the project area (Hooligan Billy Mack Timber Sale EAC, April 2017).

Cover, quantity and quality of vegetative communities would be negatively impacted by the proposed Right of Way. The proposal includes the vehicle use of a 2-track trail which enters the State land in NW¼ of the section and meanders SW to meet Gurnett Creek Road. A search on the Montana Natural Heritage Program found no vegetative species of concern in this section. According to the most recent field evaluation completed in 2016 by the DNRC Helena Unit Land Use Specialist the trail goes through forested and shallow native rangeland sites. The forested site contains a Douglas fir canopy. The forest understory consists of shrubs including snowberry, current, and woods rose; forbs including lupine, western yarrow, arrowleaf balsamroot and sticky geranium; and grasses including rough fescue, Idaho fescue and bluebunch wheatgrass. The shallow native range site located in the NW¼ of this section is dominated by big sagebrush, forbs and grasses including rough fescue, bluebunch wheatgrass and Idaho fescue. The field evaluation documents spotted knapweed, a noxious weed, scattered throughout the shallow native range site. The field evaluation also states the grazing lessee has been managing spotted knapweed with herbicide and grazing and has decreased this weed’s population density on this tract.

This tract is currently under a contract to harvest the timber, which will terminate August 15, 2019. The Environmental Assessment completed in 2017 by the DNRC Helena Unit Forester for this tract documents noxious weed species Canada Thistle and houndstongue. The timber harvest site will be treated with herbicide for a period of three years after the harvest is complete and disturbed sites will be reseeded. Vehicle traffic in

the proposed Right of Way could impede the weed suppression efforts and seeded sites to reestablish vegetation.

Alternative A - No Action: No Action: No direct, secondary, and cumulative impacts will occur.

Alternative B – Action: Vehicle traffic with the proposed Right of Way would impact the vegetative species composition. The current condition of this trail is mostly vegetated. Increased traffic on the existing trail would reinforce soil compaction, increase erosion potential and result in limited plant growth. Increased traffic could also result in the need for heavy equipment to maintain the road in a passable condition. Heavy equipment could further damage healthy native plant communities and increase weed populations. Vehicles traveling along this trail would likely increase the invasive species on this tract overall. Existing spotted knapweed and cheatgrass populations would increase with traffic. Vehicles could potentially bring in other invasive species and lead to a decrease in grazing carrying capacity of this tract.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Fisheries distribution information was based on Montana Fish, Wildlife and Parks MFISH database (MFISH 2017). Gurnett Creek supports brook trout within the project area. Based on the water quality analysis, Gurnett Creek is fully supporting the growth and propagation of salmonid fishes and associated aquatic life, though no native fish assembles are present (Hooligan Billy Mack Timber Sale EAC, April 2017).

Alternative A – No Action: No direct, secondary, and cumulative impacts will occur.

Alternative B – Action: Given the low probability of sediment delivery events as outlined in the water quality analysis, a very low risk of low level effects to fish habitat would be expected because of implementing the no action alternative.

WILDLIFE: The project area provides habitat for several species native to Montana, including elk, mule deer and white-tailed deer. The project area is predominately forested, and it is surrounded by private land. Public access is currently limited to an open road that runs along Gurnett Creek and other forest roads are restricted from open public access. The project area is a state parcel with legal access from the Gurnett Creek Road and it is a popular local hunting destination in fall.

Cumulative Effects: Cumulative effects were evaluated for the project area and by considering the effects of the proposed action in addition to those likely impacts associated with the surrounding 8 sections (5,760 ac. total). Livestock grazing, timber harvesting and public recreation are potential identified activities in the cumulative effects analysis area.

Alternative A – No Action: No potential for disturbance to wildlife would be anticipated. No additional motorized vehicle use would occur. No direct effects would occur and negligible indirect, or cumulative effects would occur.

Alternative B – Action Alternative (see Wildlife table below):

Wildlife	Impact												Can Impact be Mitigated ?	Comment Number	
	Direct				Secondary				Cumulative						
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High			
Threatened and Endangered															

Related Materials Attachment 2

Wildlife	Impact												Can Impact be Mitigated ?	Comment Number	
	Direct				Secondary				Cumulative						
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High			
Species															
Canada lynx (<i>Felix lynx</i>) Habitat: Subalpine fir habitat types, dense sapling, old forest, deep snow zone	X				X					X				N/A	1
Wolverine (<i>Gulo gulo</i>)	X				X					X				N/A	1
Sensitive Species															
Bald eagle (<i>Haliaeetus leucocephalus</i>) Habitat: Late-successional forest within 1 mile of open water	X				X					X				N/A	2
Black-tailed prairie dog (<i>Cynomys ludovicianus</i>) Habitat: grasslands, short-grass prairie, sagebrush semi-desert	X				X					X				N/A	2
Gray Wolf (<i>Canis lupus</i>) Habitat: Ample big game populations, security from human activities	X				X					X				N/A	2
Harlequin duck (<i>Histrionicus histrionicus</i>) Habitat: White-water streams, boulder and cobble substrates	X				X					X				N/A	2
Mountain plover (<i>Charadrius montanus</i>) Habitat: short-grass prairie & prairie dog towns	X				X					X				N/A	2
Peregrine falcon (<i>Falco peregrinus</i>) Habitat: Cliff	X				X					X				N/A	2

Wildlife	Impact												Can Impact be Mitigated ?	Comment Number	
	Direct				Secondary				Cumulative						
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High			
features near open foraging areas and/or wetlands															
Greater Sage grouse (<i>Centrocercus urophasianus</i>) Habitat: sagebrush semi-desert	X				X					X				N/A	2
Townsend's big-eared bat (<i>Plecotus townsendii</i>) Habitat: Caves, caverns, old mines	X				X					X				N/A	2
Big Game Species															
Elk		X				X				X				Yes	4
Whitetail		X				X				X				Yes	4
Mule Deer		X				X				X				Yes	4
OTHER															
Golden Eagle	X				X					X				N/A	2
Public Hunting and Success			X				X				X			NO	5
Snags and Coarse Woody Debris			X				X			X				NO	6

Comments:

- (1) The project area occurs outside of the normal distribution of Canada Lynx and Wolverine in Montana. Thus, no direct, secondary or cumulative effects to these species would be anticipated.
- (2) The project area is either out of the range of the normal distribution for this species, suitable habitat is not present, or habitat would not be altered in a manner that would adversely affect this species. Thus, no direct, secondary or cumulative effects would be anticipated.
- (3) The project area is not located in Greater Sage Grouse general habitat or core habitat.
- (4) Displacement of elk, mule deer and white-tailed deer, could occur during all seasons where active motorized trips occur on the currently restricted easement road in consideration. Potential disturbance and displacement could occur daily to weekly within an approximately 1/4 -mile disturbance corridor along the motorized route, depending on the frequency of trips taken by the easement holder. Thus, minor adverse direct, secondary, and cumulative effects to these species would be expected.
- (5) Should the proposed residential easement be issued, unregulated vehicle access and trips would be allowed in perpetuity, which could result in the displacement of elk and deer, particularly during hunting season. Further, it would be difficult to control hunting from roadways, which would likely create equity issues with local public recreationists and hunters. Hunter success in this area by the general public would also likely be adversely affected. These effects would potentially occur over the long term and

could intensify should the easement holder subdivide their property creating additional avenues for multiple parties to use the State road under the proposed easement. While the scope of the impact is relatively small at ~640 acres, the potential for lasting disturbance and displacement and reduced opportunity could be considerable. Should new landowners acquire access through the easement in the future, additional cumulative effects associated with unregulated access would be expected.

- (6) Should the proposed residential easement be issued, unregulated vehicle access and trips would be allowed in perpetuity, which could result in greater potential for illegal firewood cutting. Thus, the presence and abundance of large snags and downed logs near the easement road would be expected to be sparse, reducing these important habitat attributes in the vicinity of the easement road. Further, it would be difficult to control illegal firewood harvesting from roadways, which could create equity issues with local public firewood cutters, that cannot have the same legal access. These effects would potentially occur over the long term and could intensify should the easement holder subdivide their property creating additional avenues for multiple parties to use the State road under the proposed easement. While the scope of the impact is relatively small at ~640 acres, the potential for the perpetual removal of accessible dead trees would be high. Should new landowners acquire access through the easement in the future, additional cumulative effects associated firewood cutting due to unregulated access would be expected.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

The project area is a mix of forested Douglas-fir and ponderosa pine stands. Numerous large live trees and snags exist in the project area, including approximately 30.7 trees per acre that are 15"-20" dbh and another 13.8 trees per acre that are greater than 21" dbh. Individual grizzly bears could occasionally use the project area while dispersing or possibly foraging. Potential habitat exists for flammulated owls (570 acres) and pileated woodpeckers (458 acres) in the project area. While no gray wolf packs have been documented in the vicinity, some use could be possible given that suitable habitats are present in the vicinity (Hooligan Billy Mack Timber Sale EAC, April 2017).

Alternative A – No Action: No direct, secondary, or cumulative impacts will occur. (See attached list for *Species of Concern*)

Alternative B – Action: No direct, secondary or cumulative effects is expected to unique, endangered or fragile environmental resources would be expected because of implementing the action alternative.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

DNRC Archaeologist, Patrick Rennie, was consulted on February 27, 2019. He provided the following comment: The DNRC has conducted a class I (records search). DNRC has no record of cultural resources in the area of potential effect. Tribal Historic Preservation Officers have not identified tribal cultural resources in the project area.

Alternative A – No Action: No direct, secondary, or cumulative impacts will occur.

Alternative B – Action: *Mitigations*-If an unanticipated cultural resource is discovered, all project related activities would cease until the resource can be adequately evaluated.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

These tracts are in a rural, agricultural area in the foothills of Big Belt Mountains in proximity to the east shore of Canyon Ferry Lake between Canyon Ferry Dam and Townsend, MT. While the views and vistas are scenically grand, the state land does not provide unique scenic qualities not also encountered on adjacent lands. Motorized use on the Gurnett Creek Road (county road), the origination of the proposed easement, occurs now. Limited, industrial development is present regarding farming and timber management in the area. Residential and recreational use also occurs.

Alternative A – No Action: No direct, indirect, or cumulative impacts will occur.

Alternative B – Action: The proposed alternative would cause permanent and short-duration impacts to aesthetics as the proponent or their company use the road. Vehicle use would cause short-duration increases in noise levels in perpetuity. The road prism will be obvious to the public who use the area for recreation, however distant views of the road will only be visible to those who can observe the area from higher elevations. The proposed action would be in addition to the existing noise levels.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

The area does not contain limited resources. Nearby activities consist mostly of permanent and seasonal residential, recreational activities, farming and ranching operations. Recreational activities will be addressed later in this document.

Alternative A – No Action: No direct, indirect, or cumulative impacts will occur.

Alternative B – Action: Implementing the Proposed Alternative is not expected to result in significant impacts on environmental resources.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA (this analysis also includes programmatic policy):

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

The Hooligan Billy Mack Timber Sale EAC was completed in the Spring of 2017. Lower portions of this road were analyzed for administrative access, specifically log skidding and the mobilization of timber harvesting equipment. Impacts to the environment resulting from the timber sale are temporary. Motorized vehicle use associated with the timber harvest activities will cease after work on the timber sale including rehabilitation and mitigations are complete.

Alternative A – No Action: No direct, secondary, and cumulative impacts will occur.

Alternative B – Action: Approval of this ROW would contradict DNRC's *Access Road Easement Policy-- 2006* (Montana Board of Land Commissioners) under item # 6 (a). The project also does not meet the criteria to "overcome" the presumed detriments listed (i, ii, iii) in the same item. This policy can be found at the following link: <http://dnrc.mt.gov/divisions/trust/docs/real-estate-management/rights-of-way-docs/rw-accessroadeasementpolicy-reduced.pdf>

- i-The impacts of the project are significant and would be a permanent encumbrance. These impacts include but are not limited to the following:
 - Granting the ROW will diminish the value of the state land while enhancing the value of the private, deeded land
 - The proposed ROW would reduce the flexibility of Trust Land management by limiting future uses and long-term productivity of the State Trust Land
 - Granting the ROW could set a precedent which may result in numerous, similar requests on State Trust Land, especially this specific parcel.
- ii-The proponent has access to their land and home which has been used as primary access to the property since the proponent obtained ownership of the land.
- iii-The proponent is unable to grant additional access to isolated state lands.

As of this drafting, the current lessee and the proponent have not reached agreement regarding a settlement of damages resulting from the proposed use. The lessee described the perceived conflicts in a written response to the proponent and are included in the ROW application. The lessee provided the same comments during the scoping period (please refer to Exhibit F). If the ROW is approved and no agreement is reached between the proponent and the lessee, the dispute will go through arbitration proceedings.

IV. IMPACTS ON THE HUMAN POPULATION
<ul style="list-style-type: none"> • <i>RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.</i> • <i>Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.</i> • <i>Enter "NONE" if no impacts are identified or the resource is not present.</i>

14. HUMAN HEALTH AND SAFETY:
Identify any health and safety risks posed by the project.

The proposed project would create human health and/or safety risks associated with the public use on foot or on horseback on legally accessible State Trust Land where vehicle traffic occurs.

Alternative A – No Action: No direct, indirect, or cumulative impacts will occur.

Alternative B – Action: Approval of the ROW would result in a small increase of risk to users of this parcel due to a slight increase of exposure to vehicle traffic.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:
Identify how the project would add to or alter these activities.

Nearby activities consist mostly of residential and seasonal residential, recreational activities, farming and ranching operations. The lessee has raised concerns regarding the proposed ROW conflicting with their grazing management. Concerns exist regarding livestock security where the proposed ROW would exit State Trust Land and enter the proponent's property. A gate or livestock barrier would need to be installed and used appropriately by the proponent when livestock is present (please refer to Exhibit F).

Alternative A – No Action: No direct, indirect, or cumulative impacts will occur.

Alternative B – Action: Granting the proposed ROW may cause disruption to on-going livestock grazing on the State Trust Land.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:
Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

The proposed ROW would not create employment opportunities of any kind.

Alternative A – No Action: No impacts to quantity and distribution of employment will occur.

Alternative B – Action: No impacts to quantity and distribution of employment are anticipated.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

Alternative A – No Action: No impacts to the state tax base and/or tax revenues will occur

Alternative B- Action: The project will not have any measurable effects to local or state tax revenues

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

Alternative A – No Action: No impacts to traffic, road uses, or government services will occur.

Alternative B – Action: Traffic would slightly increase on Gurnett Creek Road (Broadwater County Road).

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

The DNRC is not aware of other plans or projects in the area.

Alternative A – No Action: No impacts to local environmental plans and goals will occur.

Alternative B – Action: No impacts to local environmental plans and goals are anticipated to occur.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

Legal, public access does exist to this parcel of state land in Section 16 T8N R3E. Recreational activities are common in the project area. Some of the most common recreational activities in this area include: hiking, antler hunting, upland bird and big game hunting (Grouse, Turkey, Bear, Deer, Elk, etc.) This parcel's uniqueness is it is single public land parcel (640 acres) with county road (public) access in this area of Gurnett Creek surrounded by private land. Sportsmen and women have voiced concerns about a possible degradation in the quality of hunting experience on this parcel. An additional road with motorized vehicle use may be a detriment to hunting.

Alternative A – No Action: No impacts to the quality of recreational and wilderness activities will occur.

Alternative B – Action: Impacts to the quality of recreational and wilderness activities will occur due to vehicle traffic on the proposed ROW in perpetuity.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

The proposal does not include any increases to housing or developments. However, secondary access would be provided to the home of the proponent.

Alternative A – No Action: No impacts to the density and/or distribution of population and housing will occur.

Alternative B – Action: The proposal does not include increases to housing or developments. No direct or cumulative effects to population or housing are anticipated.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

The DNRC is not aware of any native, unique or traditional lifestyles or communities in the vicinity.

Alternative A – No Action: No impacts to social structures, native/traditional lifestyles, or communities will occur.

Alternative B – Proposed Action: No impacts to the area's social structures, native/traditional lifestyles, or communities are anticipated to occur

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

The uniqueness of this parcel is the limited use this parcel receives; it is a remote State Trust Land Parcel with county road access to State Trust Land. The county road terminates on the northern boundary of the parcel. The public does not travel through this parcel to other locations. The public travels to and through this parcel on the county road to use this parcel for recreation almost exclusively. The number of landowners who access their deeded lands beyond the State Trust Land is very small.

Alternative A – No Action: No impacts to cultural uniqueness and diversity will occur.

Alternative B – Action: Impacts to the area's cultural uniqueness and/or diversity are anticipated to occur.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

The goal of the Trust Land Management Division, DNRC is to manage the State of Montana's Trust Land resources to achieve the highest and best use of State Trust Lands in a way that generates revenue for the trust beneficiaries and is sustainable for future generations while considering environmental factors and protecting the future income-generating capacity of the land. In so doing, the DNRC must follow policy, rule and law.

Alternative A – No Action: Future income-generating, sustainable uses will not be impacted by a permanent ROW easement for secondary access.

Alternative B – Action: The proposed project would grant Mr. Paul C. Armstrong right-of-way across state land in Section 16 T8N, R3E. Compensation to the trust beneficiary would total \$2,780 (2.78 x \$1000/acre). Future income-generating, sustainable uses may be impacted by a permanent ROW easement for secondary access. This alternative is officially discouraged by the Department of Natural Resources and Conservation per the Access Road Easement Policy.

References

DNRC 2017. Hooligan Billy Mack Timber Sale EAC: Impacts on the Physical Environment. Montana Department of Natural Resources, Central Land Office, Helena, Montana. (Available upon request)
DNRC 2006. Access Road Easement Policy. Montana Board of Land Commissioners, September 18, 2006. <http://dnrc.mt.gov/divisions/trust/docs/real-estate-management/rights-of-way-docs/rw-accessroadeasementpolicy-reduced.pdf>

EA Checklist Prepared By:	Name: Andy Burgoyne	Date: 5/9/2019
	Title: CLO Trust Land Program Manager	

V. FINDING

25. ALTERNATIVE SELECTED:

The Central Land Office recommends the selection of the **No Action Alternative**. The Action Alternative does **not** comply with the intent of ROW statute 77-2-102 and the Access Road Easement Policy (DNRC 2006). The proponent has not demonstrated necessity which warrants a permanent encumbrance on State Trust Land. The proposed ROW would provide one-time income to the trust (Common Schools), however, if-granted, the ROW will have significant detrimental impacts to the value, management, and potential future uses of the State Trust Land:

- Granting the ROW will diminish the value of the state land while enhancing the value of the private, deeded land
- The proposed ROW would reduce the flexibility of Trust Land management by limiting future uses and long-term productivity of the State Trust Land
- Granting the ROW could set a precedent which may result in numerous, similar requests on State Trust Land, especially this specific parcel.
- No settlement of damages has been reached between the proponent and the lessee. Conflicts exist between the Private Driveway Use and livestock management and grazing.
- Detrimental to recreation activities on the legally accessible state parcel

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

No substantial or unacceptable, detrimental impacts to water, soil, fisheries, Threatened and Endangered or Sensitive Species are anticipated resulting from selecting the no action alternative.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

- EIS
 More Detailed EA
 No Further Analysis

EA Checklist Approved By:	Name: Hoyt Richards	
	Title: Central Land Office Area Manager	
Signature:	<i>Hoyt Richards</i>	Date: 5-30-19