

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, August 19, 2019 at 9:00 am
State Capitol, Room 303
Helena, MT

ACTION ITEMS

- 0819-1** **Timber Sales: Topwood** **APPROVED 5-0**
Benefits: Common Schools
Location: Lake County
- 0819-2** **Land Banking Parcels: Preliminary Approval for Sale** **APPROVED 5-0**
- A. Fergus County: Berg**
Benefits: Common Schools
Location: Fergus County
- B. Fergus County: Rolling Hills**
Benefits: Common Schools
Location: Fergus County
- C. Beaverhead County: LaCense**
Benefits: Pine Hills School, Common Schools
Location: Beaverhead County
- 0819-3** **Land Banking Parcels: Final Approval for Sale Lupfer Townhouse** **APPROVED 5-0**
Benefits: Public Buildings
Location: Flathead County
- 0819-4** **Cabin and Home Sites: Set Minimum Bid for Sale** **APPROVED 5-0**
- A. Gallatin County**
Benefits: Western/ Eastern
Location: Gallatin County
- B. Lewis and Clark County**
Benefits: Common Schools
Location: Lewis & Clark County
- C. Missoula County**
Benefits: MSU 2nd
Location: Missoula County
- 0819-5** **Easements:** **APPROVED 5-0**
Benefits: Acquired Lands – Public Schools, Capitol Buildings, Common Schools, Public Land Trust – Nav. Rivers
Location: Cascade, Chouteau, Flathead, Gallatin, Jefferson, Madison, McCone, Missoula, Park, Rosebud, Stillwater, Valley, Wheatland, Yellowstone
- 0819-6** **Commercial Lease: Proposed Wind Development** **APPROVED 5-0**
Benefits: School for the Deaf and Blind
Location: Wheatland and Meagher Counties

PUBLIC COMMENT

0819-1

TIMBER SALE

**Land Board Agenda Item
August 19, 2019**

0819-1 Timber Sale: Topwood

**Location: County: Lake County
Sections: 22 and 28, T24N, R18W**

Trust Beneficiaries: Common Schools

Trust Revenue: \$388,041 (estimated, minimum bid)

Item Summary

Location: The Topwood timber sale is located approximately 12 air miles southwest of Swan Lake, Montana.

Size and Scope: The sale includes 4 harvest units totaling 318 acres of skyline and tractor logging.

Volume: The estimated harvest volume is 21,739 tons (4.196 MMBF) of saw logs

Estimated Return: The minimum bid is \$17.85 per ton, which would generate approximately \$388,041 for the Common Schools Trust and approximately \$ 51,087 in Forest Improvement fees.

Prescription: The Topwood timber sale will be harvested using seed tree and old growth maintenance prescriptions. These treatments promote growth of natural regeneration by providing an onsite seed source through retention of seed trees and increase the resiliency of the old growth portions of the sale.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 1.3 miles of new road construction, and 16 miles of road maintenance.

Access: Access to the sale is obtained through the Fatty Creek, Whitetail, and Woodward Point road systems.

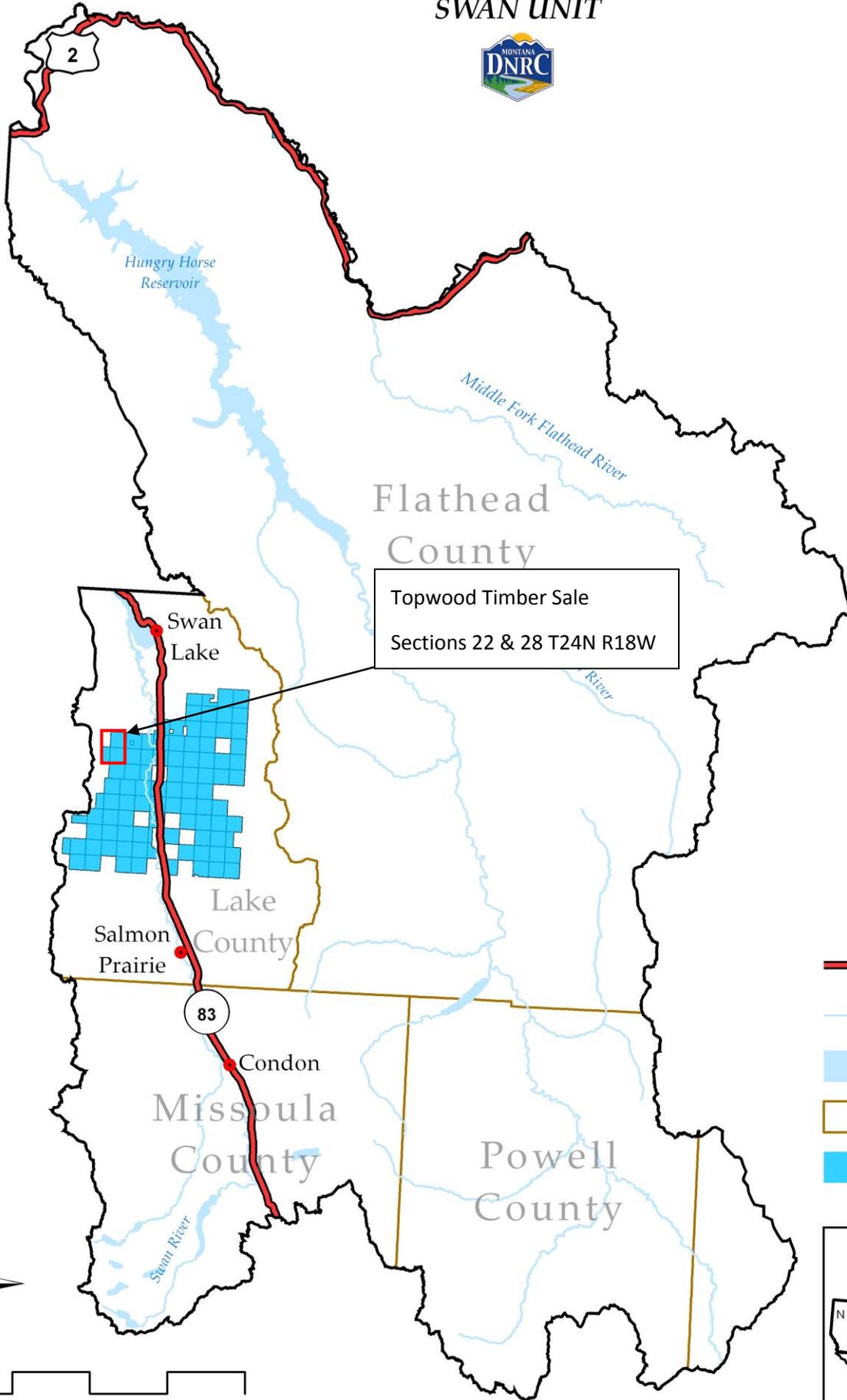
Public Comments: Three comments were received in response to the Wood Lion Draft Environmental Impact Statement which covers this timber sale. All comments were recorded and responded to in the Final Environmental Impact Statement.

DNRC Recommendation

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

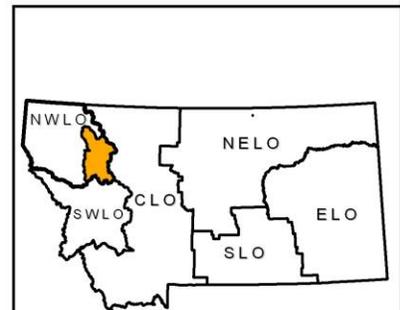
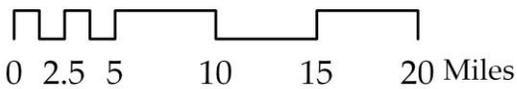
TOPWOOD TIMBER SALE VICINITY MAP SWAN UNIT

0819-1



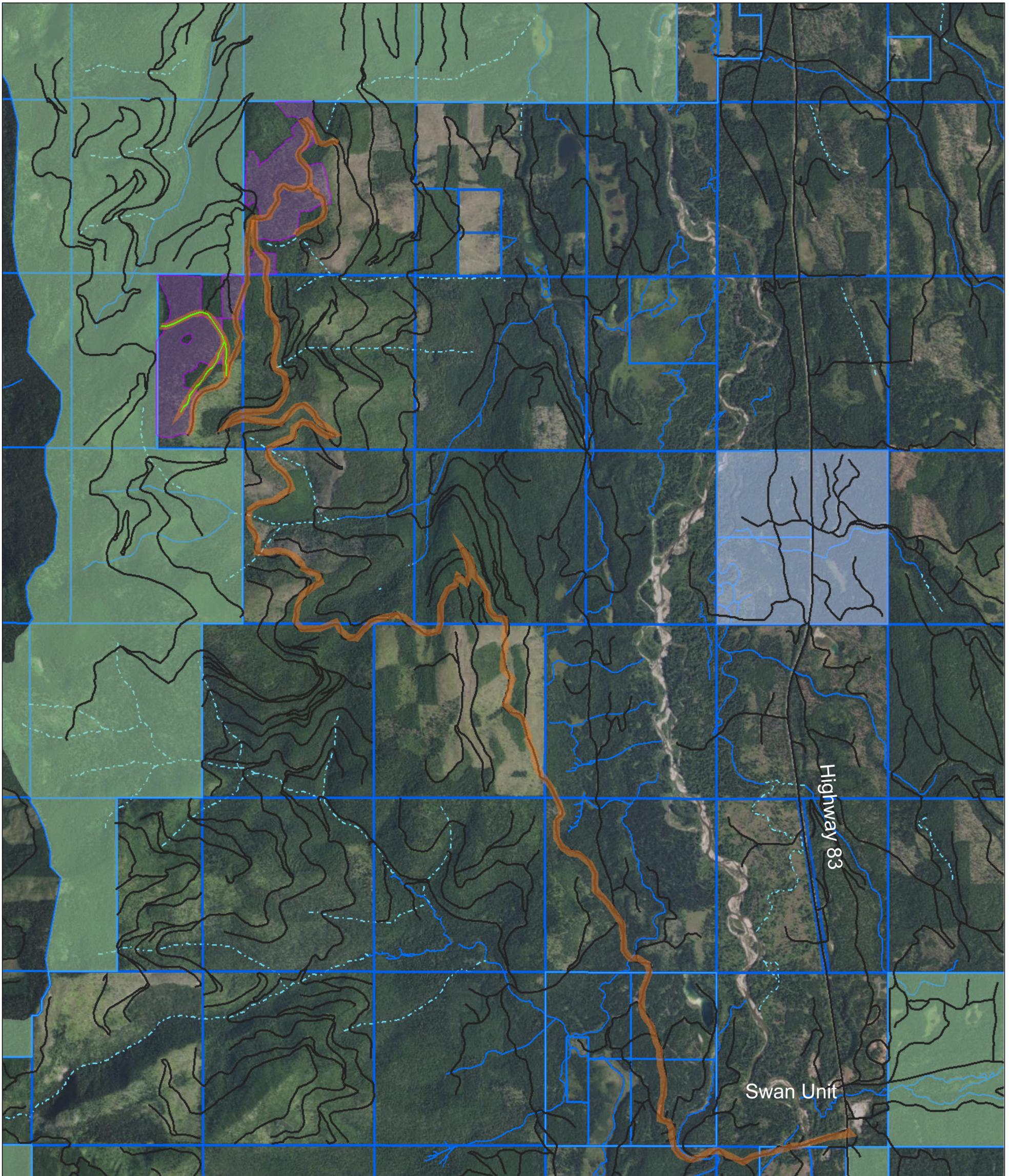
Topwood Timber Sale
Sections 22 & 28 T24N R18W

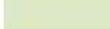
- Towns
- Major Roads
- Rivers
- Water Bodies
- County Border
- State Trust Land



8/13/19

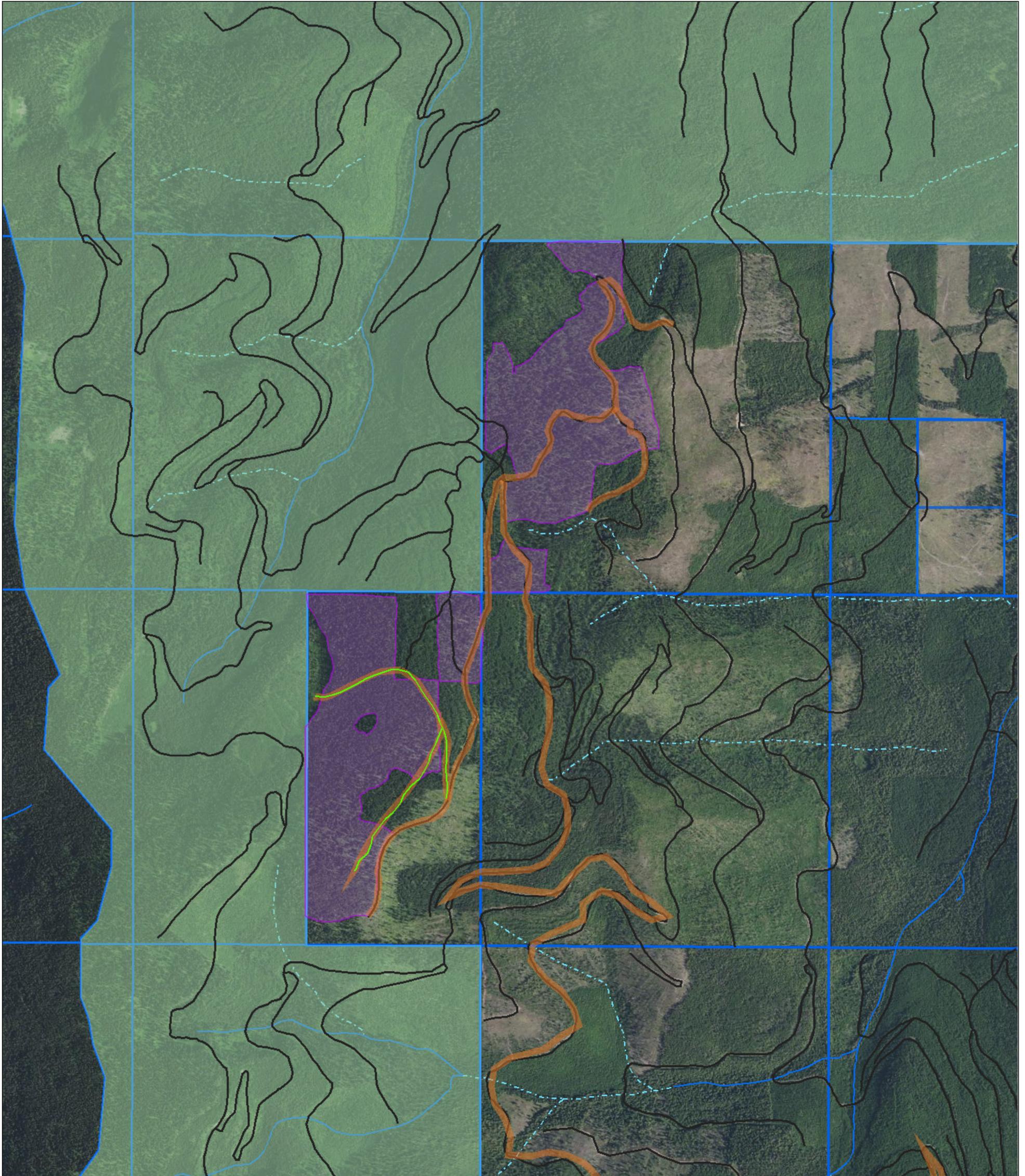
Topwood Timber Sale Haul Route



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



Topwood Timber Sale Harvest Units



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



0819-2

LAND BANKING PRELIMINARY APPROVAL

- A. Fergus County: Berg
- B. Fergus County: Rolling Hills
- C. Beaverhead County: LaCense

**Land Board Agenda Item
August 19, 2019**

0819-2A Land Banking Parcel: Preliminary Approval for Sale #1073 Berg

Location: Fergus County

Trust Benefits: Common Schools

Trust Revenue: Appraisal to be completed after preliminary approval

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting preliminary approval to sell one parcel totaling approximately 640 acres nominated for sale in Fergus County. The sale was nominated by the lessee and is located approximately 24 miles north of Winnett, Montana.

Sale #	# of Acres	Legal	Nominator	Trust
1073	640±	ALL, Section 36, T19N-R26E	Jon & Connie Berg	Common Schools

Sale parcel 1073 includes approximately 640 acres of grazing land. The parcel has below average productivity for agricultural and grazing lands statewide. The lessee currently holds a lease and license on the site, and an additional party, Under Wild Skies Outfitters, holds a temporary recreational use license on the parcel. Licensees do not have preferential rights in the Land Banking Sale Process but can participate in the public auction.

This isolated parcel is surrounded by private land except for 320 acres of BLM land to the north that is not legally accessible to the public. Eight total comments were received in opposition to the sale citing lack of access for hunting. Two of these comments were from adjacent land owners and the remaining six were parties who receive seasonal permission to access the state parcel from one of the current adjoining land owners, Double R Outfitters, LLC.

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

With the Land Board's preliminary approval to sell these parcels, DNRC can continue the due diligence necessary to fully evaluate these parcels and process them for sale.

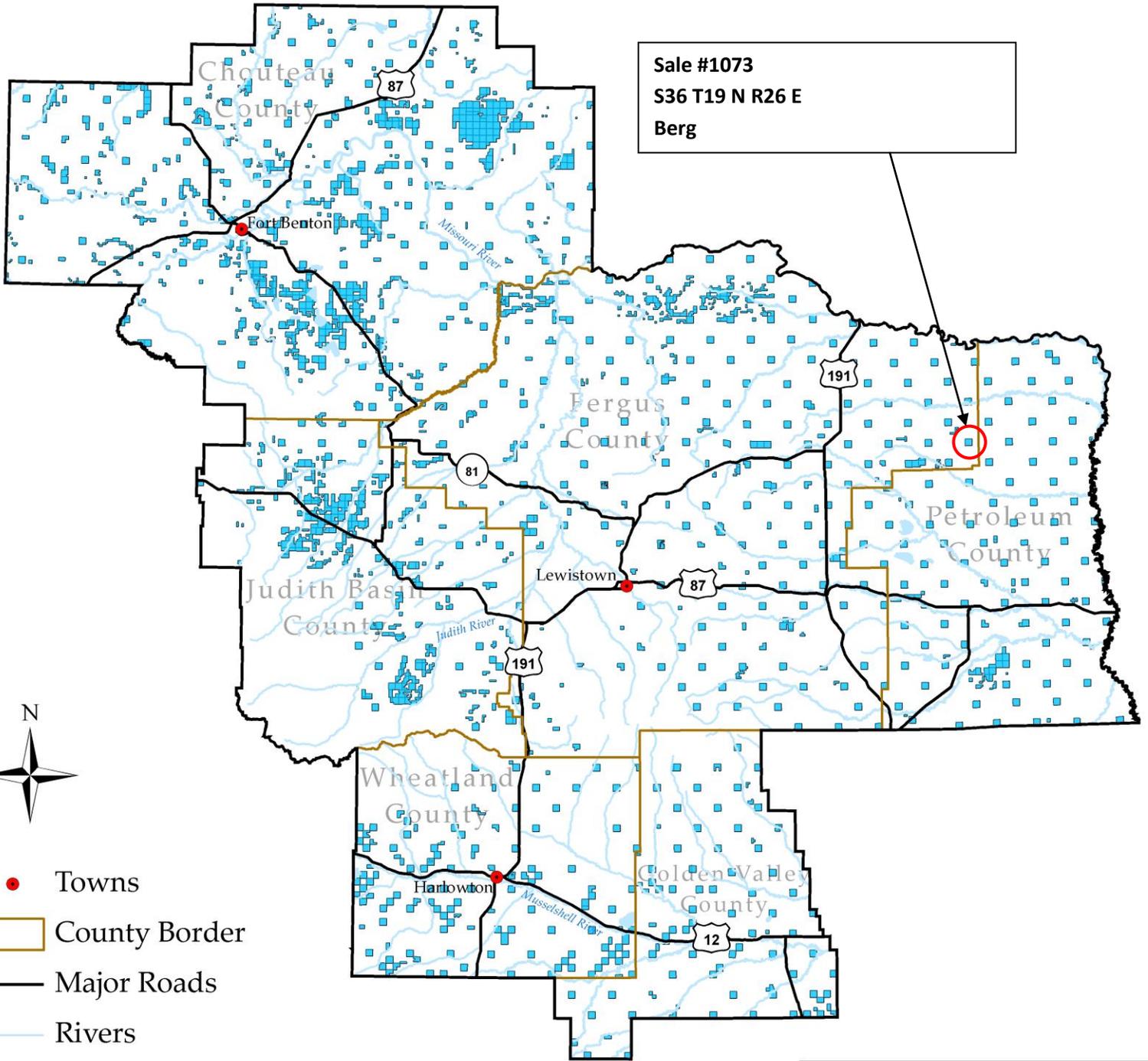
DNRC Recommendation

The director recommends the Land Board grant preliminary approval to sell this parcel.

BERG VICINITY MAP

LEWISTOWN UNIT

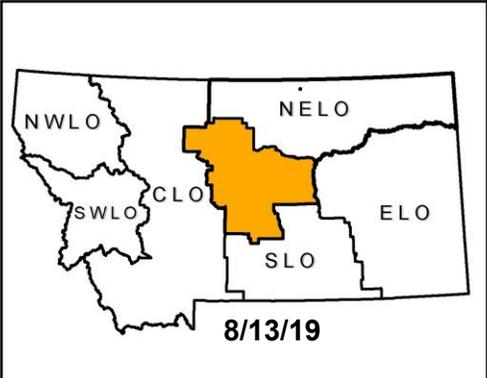
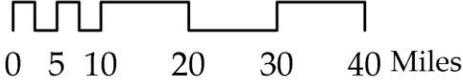
0819-2A



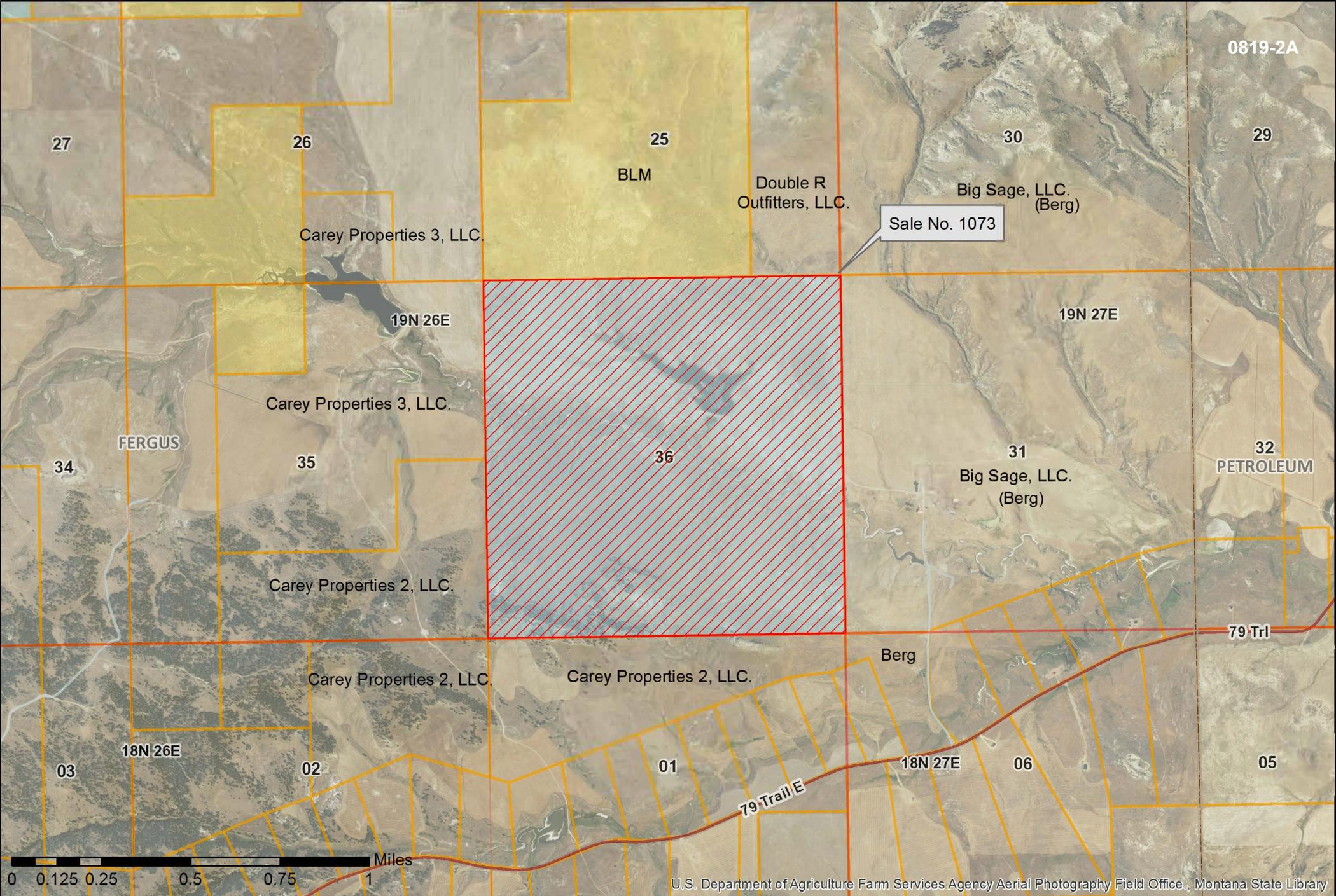
Sale #1073
S36 T19 N R26 E
Berg



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



8/13/19



0819-2A

27

26

25

30

29

BLM

Double R
Outfitters, LLC.

Big Sage, LLC.
(Berg)

Sale No. 1073

Carey Properties 3, LLC.

19N 26E

19N 27E

Carey Properties 3, LLC.

FERGUS

34

35

36

31

32

PETROLEUM

Big Sage, LLC.
(Berg)

Carey Properties 2, LLC.

79 Trl

Carey Properties 2, LLC.

Carey Properties 2, LLC.

Berg

03

18N 26E

02

01

18N 27E

06

05

79 Trail E



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



Location: Fergus County
 Legal Description: S36 T19N R26E
 Prepared on: 15 JULY 2019
 Prepared by: DNRC REMB Staff
 Projection: NAD 1983 - MT State Plane

Fergus County Sale: Berg
 Sale No. 1073, Common Schools

 Land Sale
  Montana State Trust Land
  Bureau of Land Management



**Land Board Agenda Item
August 19, 2019**

0819-2B Land Banking Parcel: Preliminary Approval for Sale #1077 Rolling Hills

Location: Fergus County

Trust Benefits: Common Schools

Trust Revenue: Appraisal to be completed after preliminary approval

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting preliminary approval to sell one parcel totaling approximately 640 acres nominated for sale in Fergus County. The sale was nominated by the lessee and is located approximately 10 miles southeast of Winifred, Montana.

Sale #	# of Acres	Legal	Nominator	Trust
1077	640±	ALL, Section 16, T20N-R20E	Rolling Hills Gumbo Ranch, Inc.	Common Schools

Sale parcel 1077 includes approximately 119 acres of hay land and 521 acres of grazing land. The parcel has below average productivity for agricultural and grazing lands statewide.

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

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

With the Land Board's preliminary approval to sell these parcels, DNRC can continue the due diligence necessary to fully evaluate these parcels and process them for sale.

DNRC Recommendation

The director recommends the Land Board grant preliminary approval to sell this parcel.

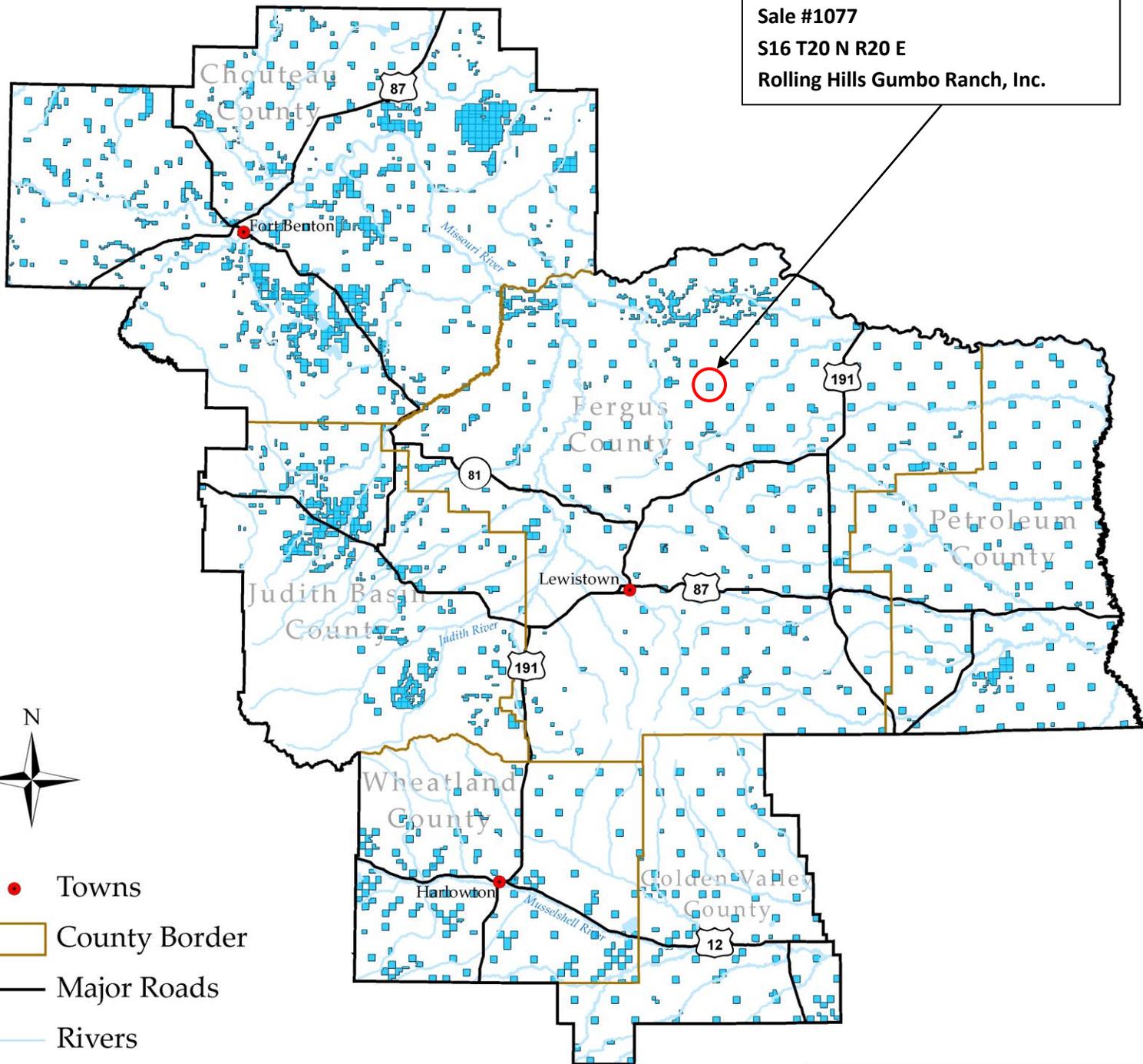
ROLLING HILLS GUMBO RANCH, INC. VICINITY MAP

LEWISTOWN UNIT

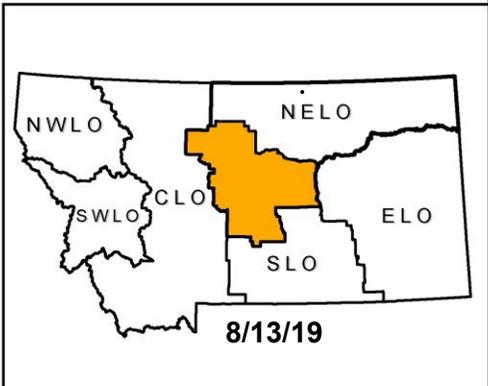
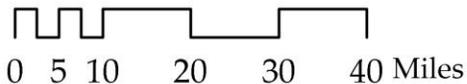
0819-26

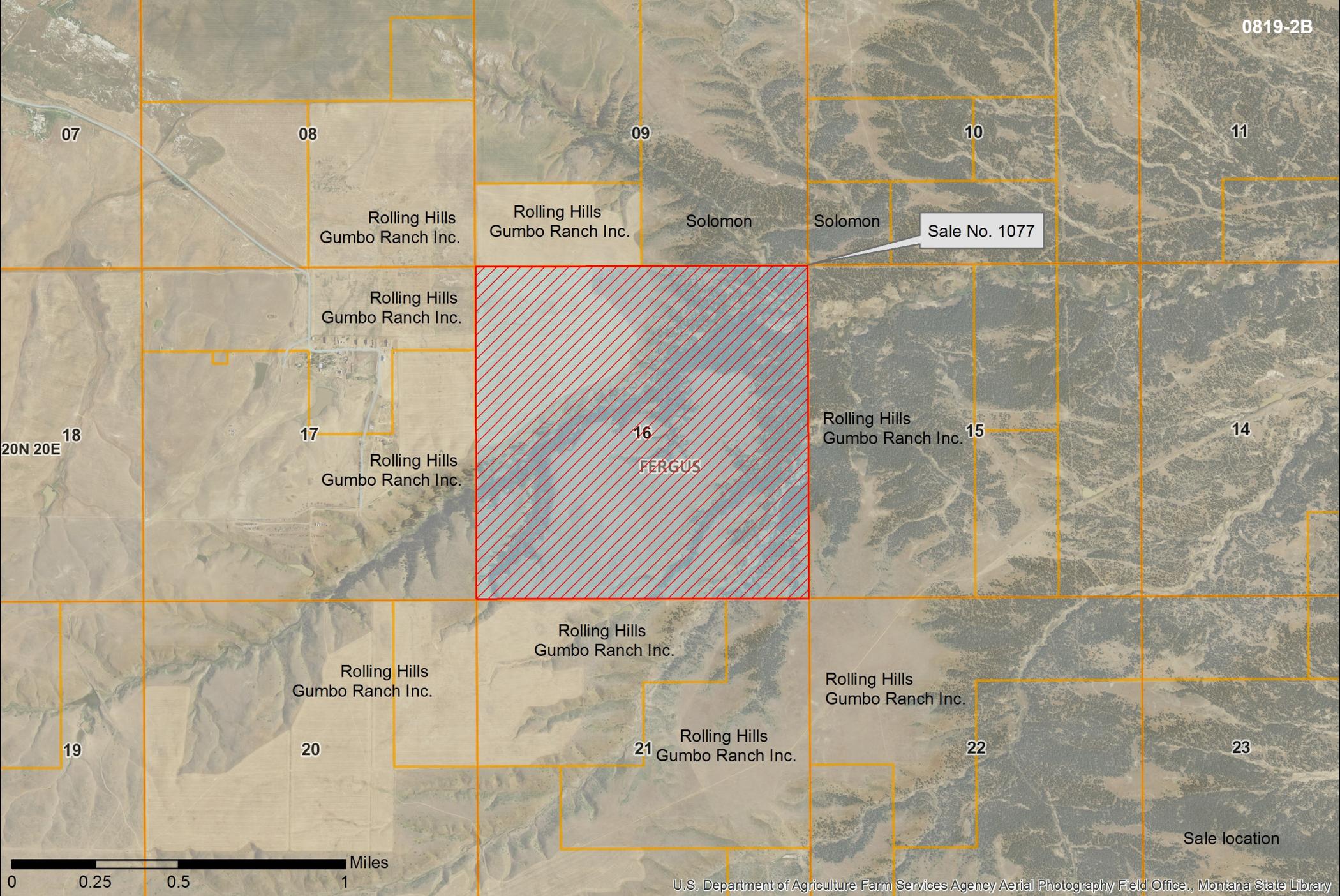


Sale #1077
S16 T20 N R20 E
Rolling Hills Gumbo Ranch, Inc.



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





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



Location: Fergus County
 Legal Description: S16 T20 N R20 E
 Prepared on: 15 JULY 2019
 Prepared by: DNRC REMB Staff
 Projection: NAD 1983 - MT State Plane

Fergus County Sale: Rolling Hills Gumbo Ranch, Inc.
 Sale No. 1077, Common Schools

 Land Sale
  Montana State Trust Land
  Bureau of Land Management



**Land Board Agenda Item
August 19, 2019**

0819-2C Land Banking Parcel: Preliminary Approval for Sale #1056, 1057, 1059 LaCense Beaverhead County

Location: Beaverhead County

Trust Benefits: Pine Hills School, Common Schools

Trust Revenue: Appraisal to be completed after preliminary approval

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting preliminary approval to sell three parcels totaling 440 acres nominated for sale in Beaverhead County. The sales were nominated by the lessee and are located south of Dillon, Montana.

Sale #	# of Acres	Legal	Nominator	Trust
1056	160±	N2N2, T8S-R8W, Sec. 24	LaCense, LLC	Pine Hills School
1057	240±	SE4NW4, NW4NE4, S2SE4, E2SW4, T8S-R8W, Sec. 13	LaCense, LLC	Common Schools
1059	40±	SW4SE4, T8S-R8W, Sec. 12	LaCense, LLC	Common Schools

The sale parcels have been used primarily for livestock grazing purposes and each can support the following:

Sale #	AUMs
1056	39
1057	45
1059	8

Together, this block of state trust land is surrounded entirely by private land and not legally accessible to the public. The sale of these parcels would not restrict or eliminate access to adjacent private land. The Bureau of Land Management (BLM) also has checkerboard ownership in this region, but the agency's ability to access their parcels will not be affected by the sale of these parcels.

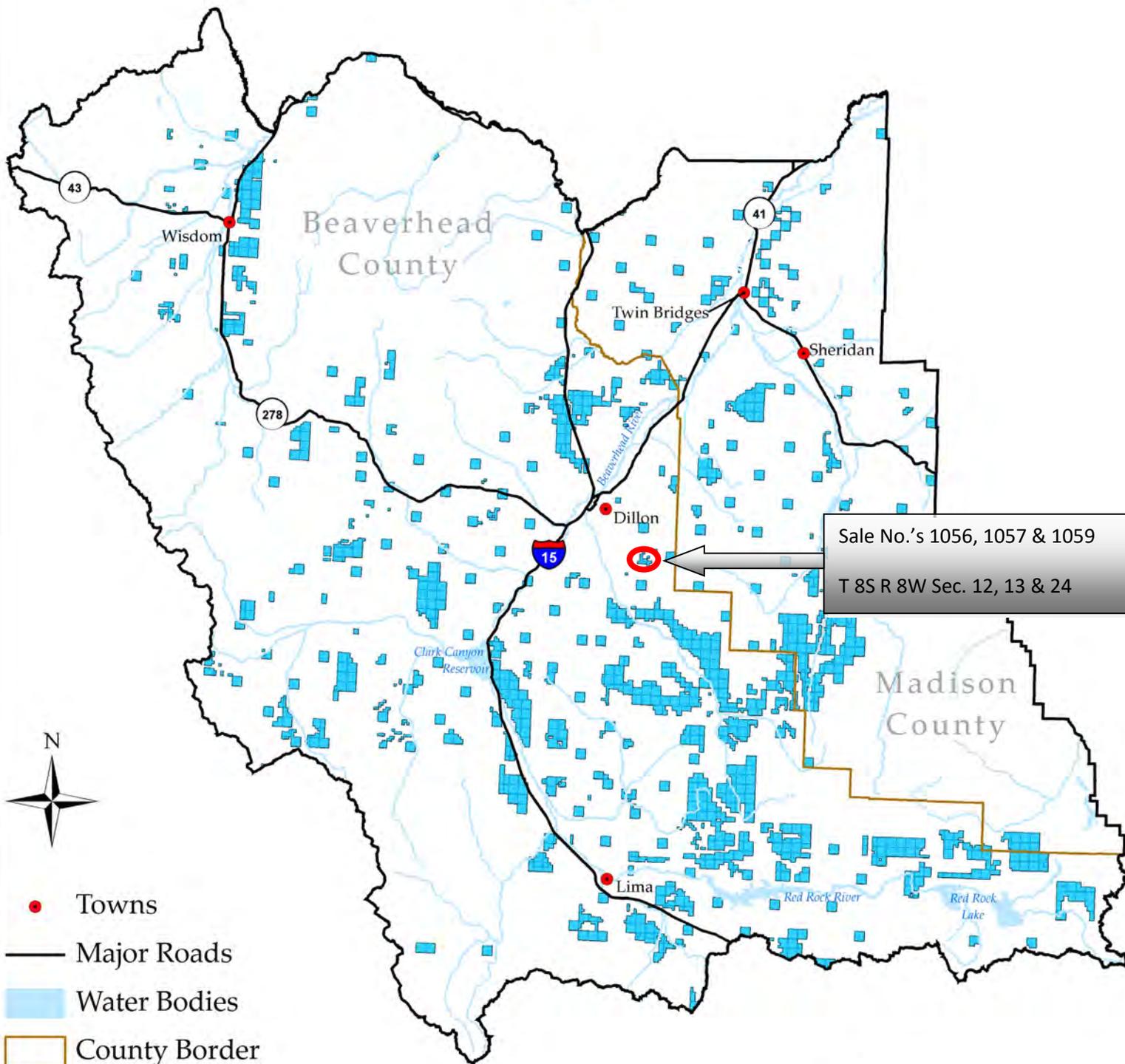
MEPA scoping has been completed, with no potentially negative issues related to the sale of these parcels identified.

With the Land Board's preliminary approval to sell these parcels, DNRC can continue the due diligence necessary to fully evaluate and process each parcel for sale.

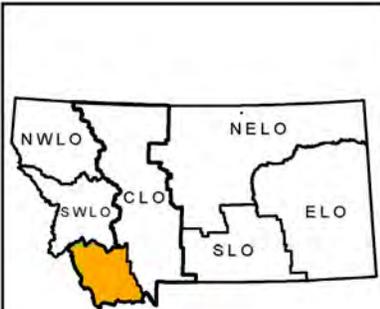
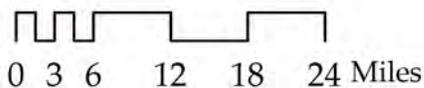
DNRC Recommendation

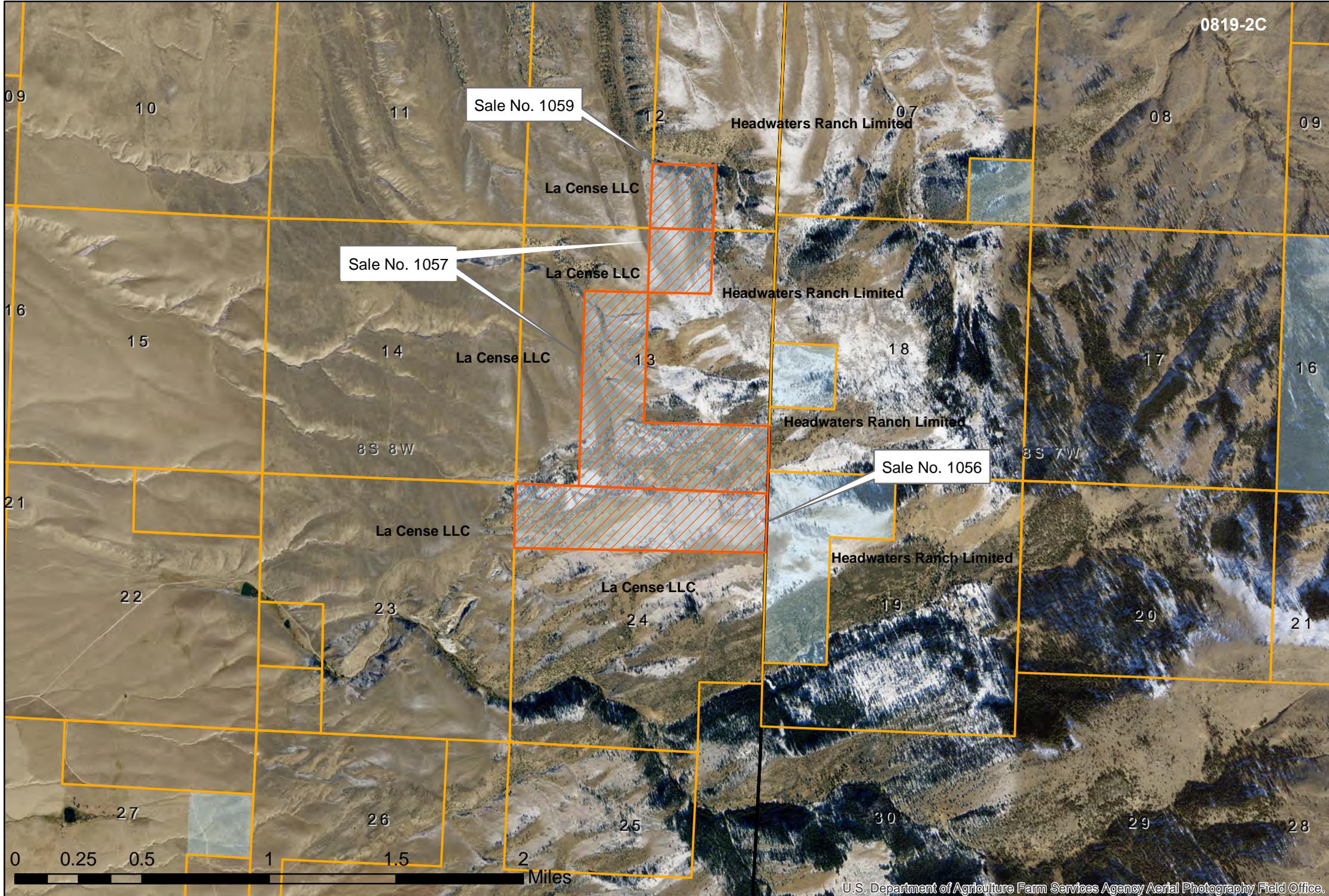
The director recommends the Land Board grant preliminary approval to sell these parcels.

BEAVERHEAD COUNTY SALE VICINITY MAP – LACENSE LLC 0819-2C
DILLON UNIT



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





Location: Beaverhead County
 Prepared on: 13 AUGUST 2019
 Prepared By: DNRC REMB Staff
 Projection: NAD 1983 MT State Plane

Beaverhead County Sale: LaCense, LLC
 Sale No. 1056, 1057 & 1059, Pine Hills & Common Schools

 Land Sales  Montana State Trust Land  Owner Parcel

8/13/19



0819-3

LAND BANKING FINAL APPROVAL

**Land Board Agenda Item
August 19, 2019**

0819-3 Land Banking Parcel: Final Approval for Sale #1048

Location: Flathead County

Trust Benefits: Public Buildings

Trust Revenue: \$319,000

Item Summary

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

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

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

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

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

Economic Analysis:

Short-term – The rate of return was 4.29% during the ten years of augmented rental income. The rate of return without the net revenue guarantee is 1.61%. The parcel would continue to receive this return if it remains in state ownership.

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

Cultural/Paleontological Resources:

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

Background:

In November 2018, the Land Board granted preliminary approval for this parcel to continue through the Land Banking sale evaluation process. This property was appraised by an independent Montana-certified General Real Estate Appraiser who provided an appraisal that conforms with the Uniform Standards of Professional Appraisal Practice and provided reasonable estimates of the current fair market value of the subject property. In April 2019, the Land Board set the minimum bid at the appraised value with access as follows:

Appraised value of sale parcel:

Sale #	Appraised As-Is Fair Market Value	Minimum Bid	Highest Bid at Auction
1048	\$290,000	\$290,000	\$319,000

Sale Price:

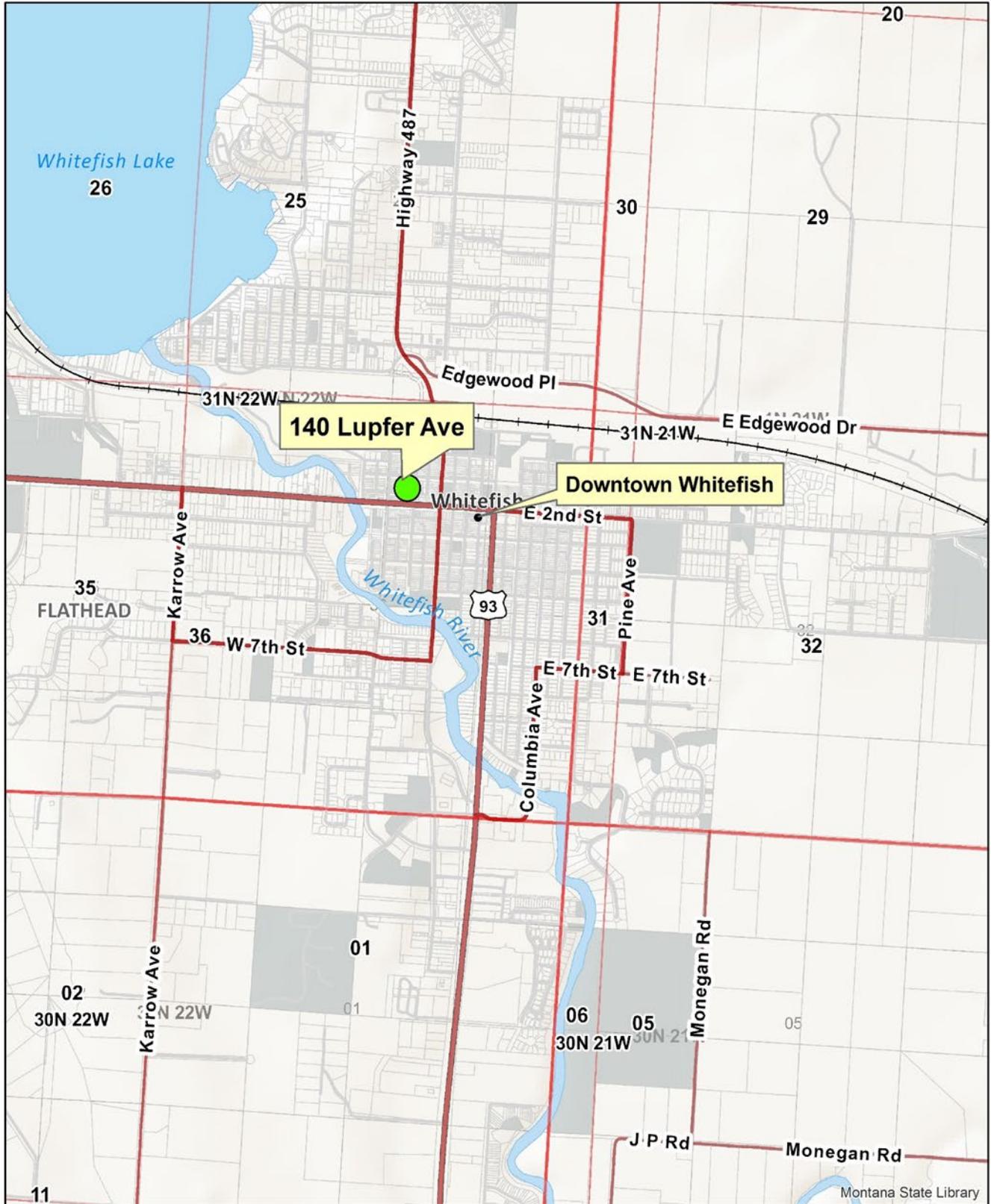
The parcel was sold at a public auction on July 17, 2019. The Department received bid deposits from three qualified bidders. The parcel sold for the highest bid amount listed above.

DNRC Recommendation

The director recommends final approval of Land Banking Sale #1048. The sale will close within 30 days of final approval by the Land Board.



LOT #1 LUPFER TOWNHOUSE



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



0819-4

CABIN AND HOMESITE SALES

- A. Gallatin County
- B. Lewis and Clark County
- C. Missoula County

**Land Board Agenda Item
August 19, 2019**

0819-4A Cabin and Home Sites: Set Minimum Bid for Sale

Location: Gallatin County

Trust Benefits: Western/Eastern

Trust Revenue: \$635,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting to set the minimum bid for 3 cabin sites nominated for sale in Gallatin County. These sales were nominated by DNRC and the lessees in conjunction with the Cabin and Home Site Sale Program.

Sale No.	Acres	Legal Description	Nominator	Trust
1010	1.07±	Tract 5, COS 2991, T3S-R6E, Sec. 1	Robert & Lyndsey Kaufmann	Western/Eastern
1011	0.94±	Tract 3, COS 2989, T3S-R6E, Sec. 1	DNRC	Western/Eastern
1035	1.02±	Tract 2, COS 2991, T3S-R6E, Sec. 1	Jonathan C. Moran	Western/Eastern

The parcels are currently leased as cabin sites and produce an average income for residential leases statewide. The parcels will be sold with the access that is currently provided under their lease agreements and can be conveyed by DNRC.

Economic Analysis:

Short term – The average rates of return on these sale parcels are as follows. The parcels will continue to receive these returns if they remain in state ownership.

Sale No.	Rate of Return
1010	1.286%
1011	1.512%
1035	4.660%

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

Cultural/Paleontological Resources:

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

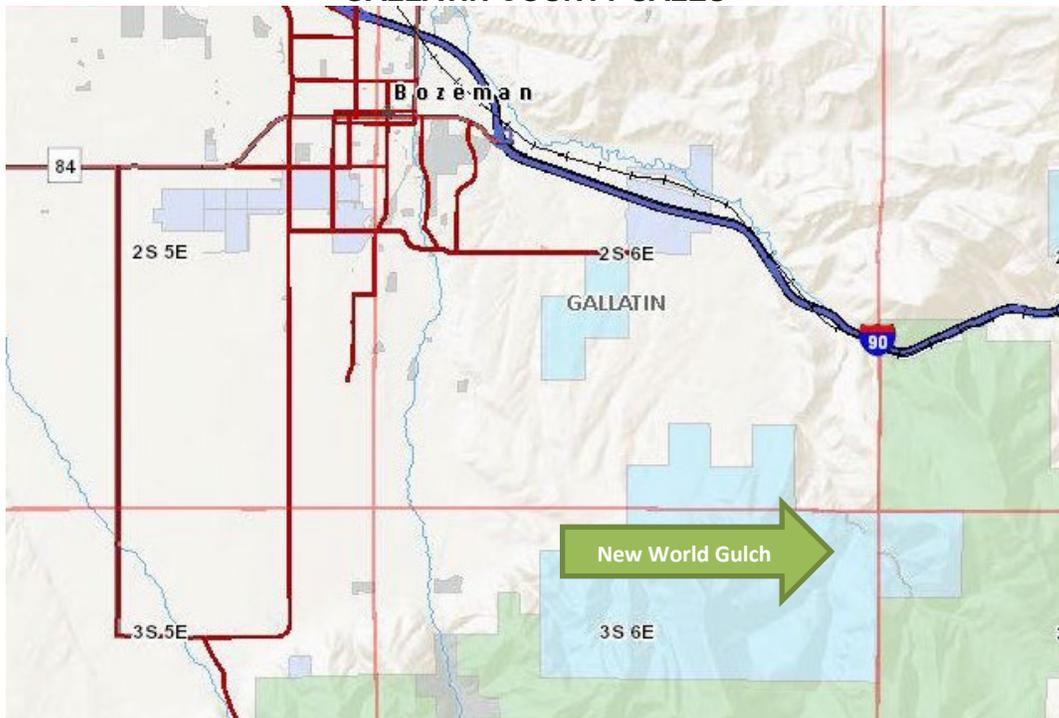
Appraised Values of Land and Improvements:

Sale Nos.	Appraised Land Value	Appraised Improvements Value
1010	\$235,000	\$371,000
1011	\$200,000	N/A
1035	\$200,000	\$50,000

DNRC Recommendation

The director recommends that the Land Board set the minimum bid for these cabin sites at the appraised land value and the maximum value of compensation for the improvements shown above.

GALLATIN COUNTY SALES



New World Gulch, T3S-R6E, Sec. 1, Gallatin County



**Land Board Agenda Item
August 19, 2019**

0819-4B Cabin and Home Sites: Set Minimum Bid for Sale

Location: Lewis & Clark County

Trust Benefits: Common Schools

Trust Revenue: \$116,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting to set the minimum bid for 4 cabin sites nominated for sale in Lewis & Clark County. These sales were nominated by DNRC and the lessees in conjunction with the Cabin and Home Site Sale Program.

Sale No.	Acres	Legal Description	Nominator	Trust
990	1.432±	Lot 14, COS 3242262, T14N-R8W, Sec. 16	DNRC	Common Schools
991	1.079±	Lot 23, COS 3242262, T14N-R8W, Sec. 16	DNRC	Common Schools
1038	1.000±	Lot 10, COS 3242262, T14N-R8W, Sec. 16	Jean Redfearn	Common Schools
1039	1.100±	Lot 49, COS 3242262, T14N-R8W, Sec. 16	Brian J. Weiss	Common Schools

The parcels are currently leased as cabin sites and produce an average income for residential leases statewide. The parcels will be sold with the access that is currently provided under their lease agreements and can be conveyed by DNRC.

Economic Analysis:

Short term – The average rates of return on these sale parcels are as follows. The parcels will continue to receive these returns if they remain in state ownership.

Sale No.	Rate of Return
990	0.253%
991	0.271%
1038	6.583%
1039	7.092%

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

Cultural/Paleontological Resources:

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

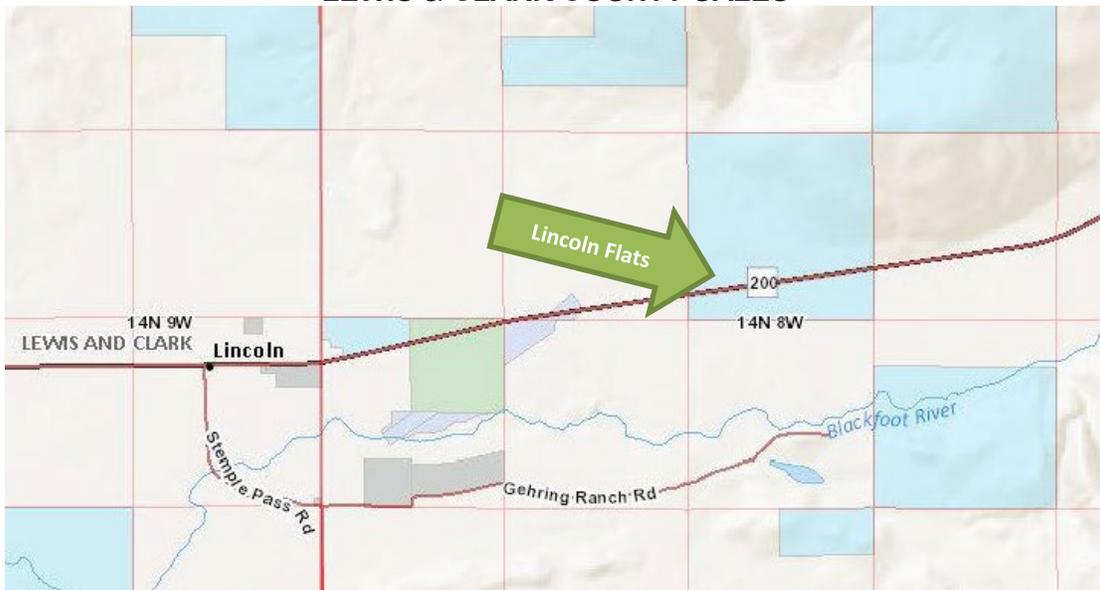
Appraised Values of Land and Improvements:

Sale Nos.	Appraised Land Value	Appraised Improvements Value
990	\$30,000	\$75,000
991	\$28,000	\$28,600
1038	\$30,000	N/A
1039	\$28,000	N/A

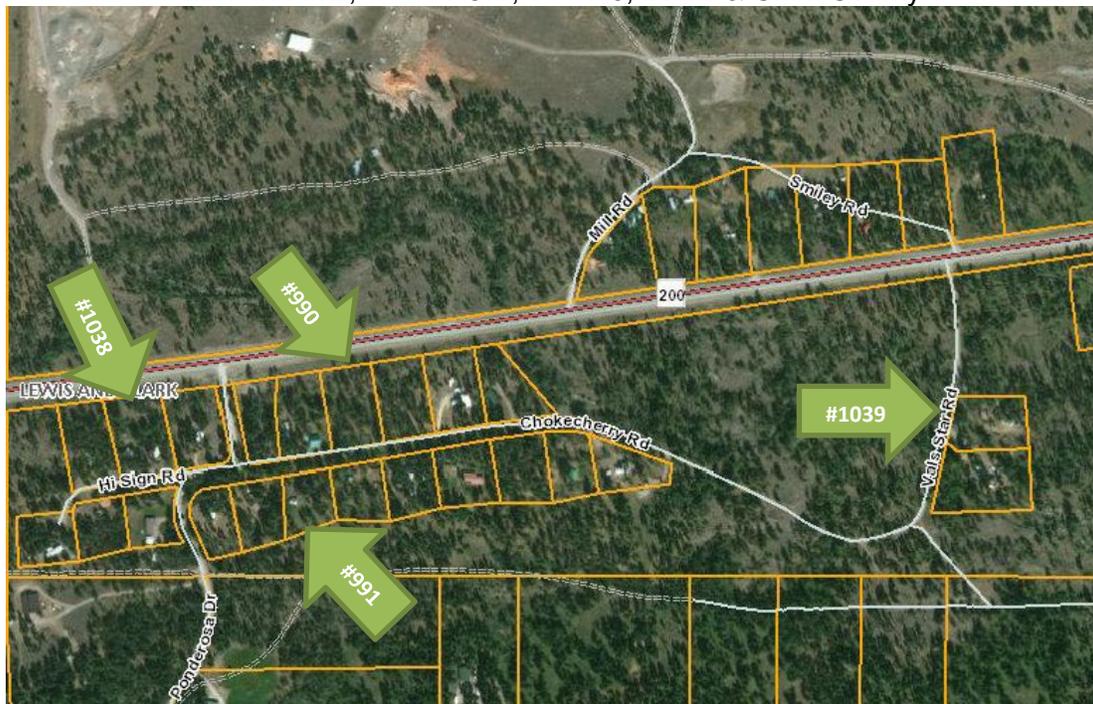
DNRC Recommendation

The director recommends that the Land Board set the minimum bid for these cabin sites at the appraised land value and the maximum value of compensation for the improvements shown above.

LEWIS & CLARK COUNTY SALES



Lincoln Flats, T14N-R8W, Sec. 16, Lewis & Clark County



**Land Board Agenda Item
August 19, 2019**

0819-4C Cabin and Home Sites: Set Minimum Bid for Sale

Location: Missoula County

Trust Benefits: MSU 2nd

Trust Revenue: \$3,714,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting to set the minimum bid for 17 cabin sites nominated for sale in Missoula County. These sales were nominated by DNRC and the lessees in conjunction with the Cabin and Home Site Sale Program.

Sale No.	Acres	Legal Description	Nominator	Trust
918	2.890±	Lot 2, Morrell Flats, COS 5840, Section 14, T16N-R15W	DNRC	MSU 2 nd
936	2.074±	Lot 3, Morrell Flats, COS 5840, Section 14, T16N-R15W	DNRC	MSU 2 nd
1030	2.200±	Lot 1, Morrell Flats, COS 5840, Section 14, T16N-R15W	Christy Hughes, Michael & John Hamilton	MSU 2 nd
1031	1.722±	Lot 14A, Morrell Flats, COS 5840, Section 14, T16N-R15W	Angela & Ken Miller	MSU 2 nd
1032	1.723±	Lot 16, Morrell Flats, COS 5840, Section 14, T16N-R15W	Angela & Ken Miller	MSU 2 nd
992	1.250±	Lot 3, Placid Lake East, COS 6623, Section 28, T16N-R15W	Sally Rusk	MSU 2 nd
997	1.437±	Lot 6, Placid Lake West, COS 5049, Section 30, T16N-R15W	Heidi Wadsworth	MSU 2 nd
998	2.511±	Lot 9, Placid Lake West, COS 5049, Section 30, T16N-R15W	Margaret Coldiron	MSU 2 nd
999	0.815±	Lot 11, Placid Lake West, COS 5049, Section 30, T16N-R15W	James E. Nelson	MSU 2 nd
1000	0.769±	Lot 12, Placid Lake West, COS 5049, Section 30, T16N-R15W	Cherche Prezeau, Brian Morris, Mary Gear Hutchison	MSU 2 nd
1001	0.853±	Lot 13, Placid Lake West, COS 5049, Section 30, T16N-R15W	Louis C. Erck Revocable Trust	MSU 2 nd
1002	0.511±	Lot 15, Placid Lake West, COS 5049, Section 30, T16N-R15W	Beverly Jean Mitchell Family Trust	MSU 2 nd
1003	1.188±	Lot 5, Seeley Lake Outlet West, COS 5140, Section 4, T16N-R15W	Mark & Timothy Latrielle	MSU 2 nd

1005	1.233±	Lot 8, Seeley Lake Outlet West, COS 5140, Section 4, T16N-R15W	Marvin Gilbert	MSU 2 nd
1006	2.532±	Lot 13, Seeley Lake Outlet West, COS 6624, Section 4, T16N-R15W	Thomas & Denise Talarico	MSU 2 nd
1007	0.86±	Lot 22, Seeley Lake Outlet West, COS 5140, Section 4, T16N-R15W	Dale Spettigue & Joseph Gollette	MSU 2 nd
1008	1.862±	Lot 24, Seeley Lake Outlet West, COS 5140, Section 4, T16N-R15W	Patrick Hayes	MSU 2 nd

The parcels are currently leased as cabin sites and produce an average income for residential leases statewide. The parcels will be sold with the access that is currently provided under their lease agreements and can be conveyed by DNRC.

Economic Analysis:

Short term – The average rates of return on these sale parcels are as follows. The parcels will continue to receive these returns if they remain in state ownership.

Sale No.	Rate of Return	Sale No.	Rate of Return
918	0.000%	1000	3.604%
936	0.000%	1001	3.767%
1030	3.230%	1002	3.978%
1031	6.908%	1003	4.047%
1032	6.908%	1005	2.492%
992	2.853%	1006	1.943%
997	3.300%	1007	3.246%
998	3.837%	1008	2.726%
999	3.680%		

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

Cultural/Paleontological Resources:

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

Appraised Values of Land and Improvements:

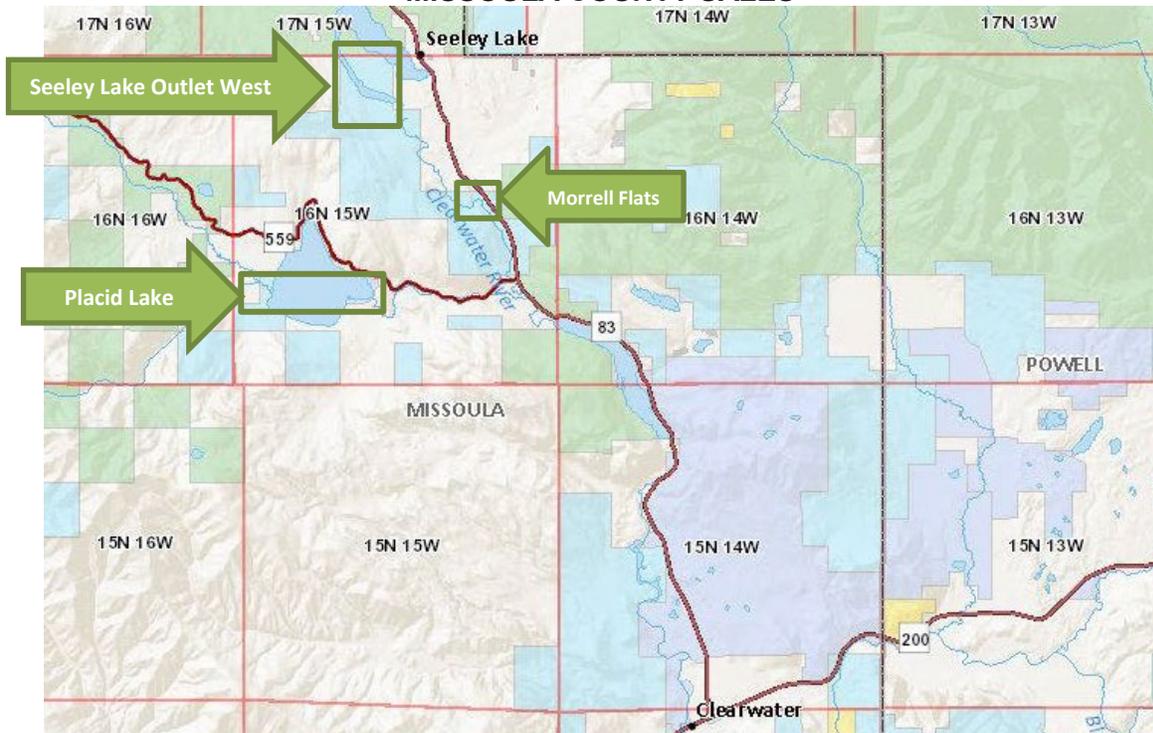
Sale Nos.	Appraised Land Value	Appraised Improvements Value
918	\$80,000	N/A
936	\$80,000	N/A

1030	\$80,000	\$157,000
1031	\$30,000	\$46,000
1032	\$30,000	N/A
992	\$490,000	\$60,000
997	\$423,000	\$356,000
998	\$348,000	\$152,000
999	\$345,000	\$90,000
1000	\$348,000	\$67,000
1001	\$357,000	\$123,000
1002	\$320,000	\$125,000
1003	\$161,000	\$159,000
1005	\$161,000	\$174,000
1006	\$146,000	\$336,000
1007	\$154,000	\$296,000
1008	\$161,000	\$234,000

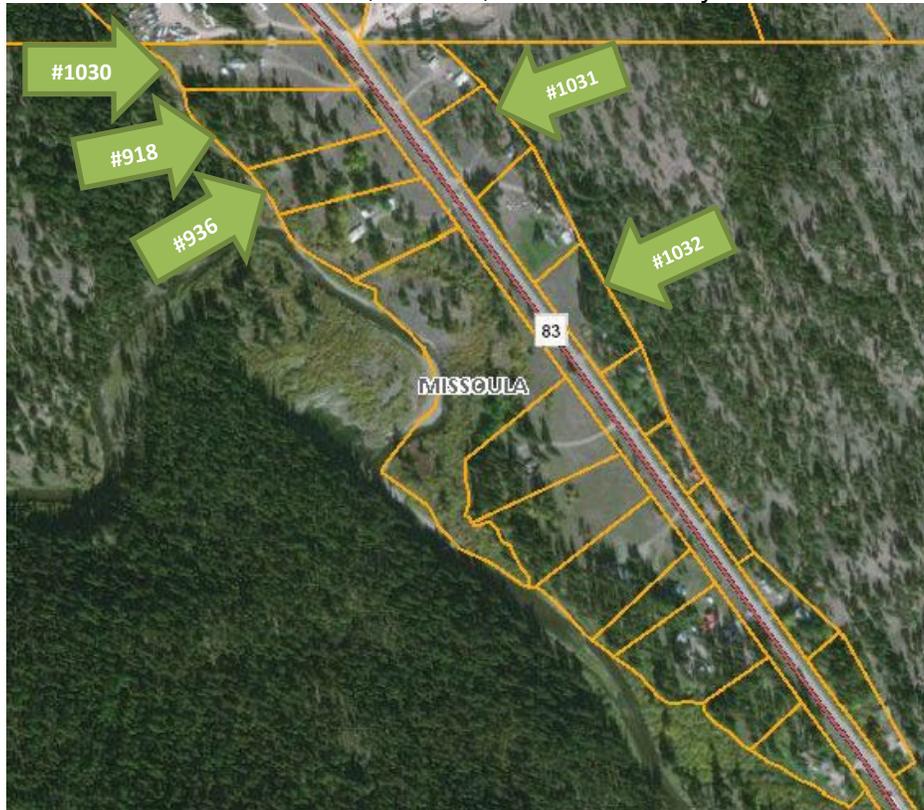
DNRC Recommendation

The director recommends that the Land Board set the minimum bid for these cabin sites at the appraised land value and the maximum value of compensation for the improvements shown above.

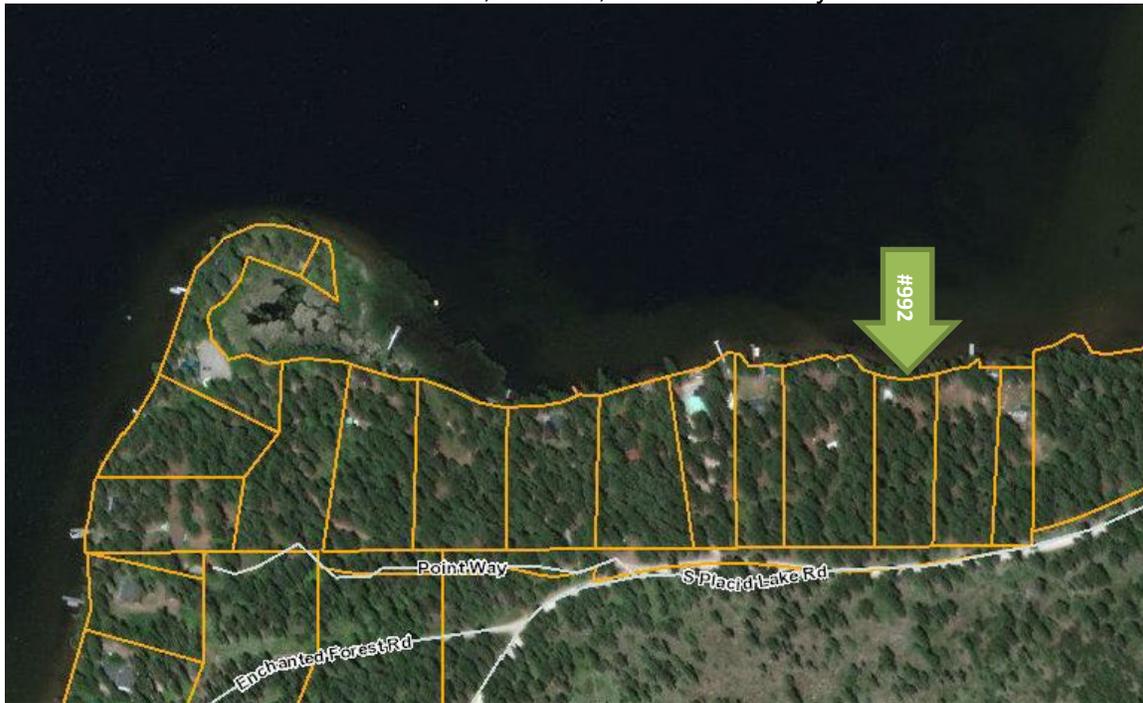
MISSOULA COUNTY SALES



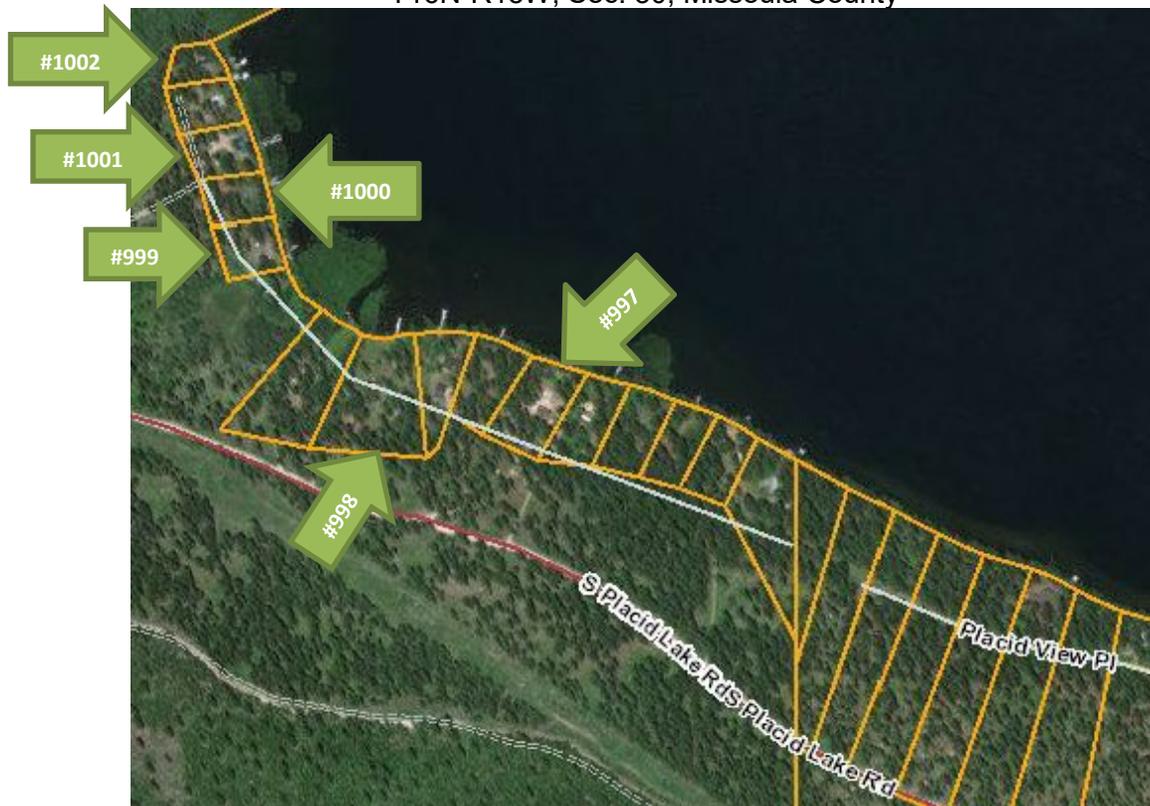
Morrell Flats T16N-15W, Sec. 14, Missoula County



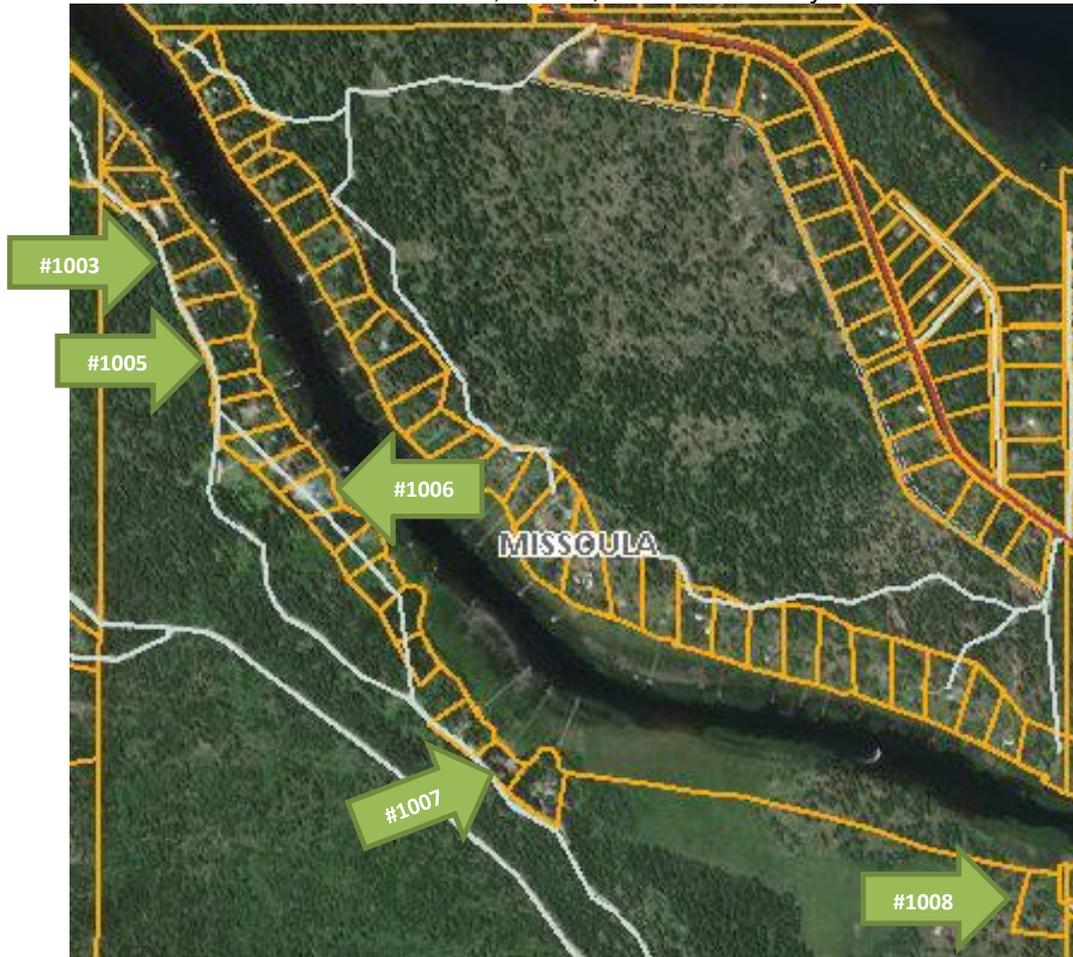
Placid Lake East
T16N-R15W, Sec. 28, Missoula County



Placid Lake West
T16N-R15W, Sec. 30, Missoula County



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



0819-5

EASEMENTS

**Land Board Agenda Item
August 19, 2019**

0819-5 Easements

Location: Cascade, Chouteau, Flathead, Gallatin, Jefferson, Madison, McCone, Missoula, Park, Rosebud, Stillwater, Valley, Wheatland, Yellowstone

Trust Benefits: Acquired Lands – Public Schools, Capitol Buildings, Common Schools, Public Land Trust – Nav. Rivers

**Trust Revenue: Acquired Lands -Public Schools = \$2,055
Capitol Buildings = \$1,550
Common Schools = \$210,343
Public Land Trust = \$138,531**

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Qwest Corp. dba CenturyLink QC	Buried Fiber Optic Cable	Permanent	2-3
NorthWestern Energy	Historic Overhead Electric Lines & Buried Pipelines	Permanent	4-45
James H. Carlson	Private Access Road	Permanent	46-47
Nemont Telephone Coop. Inc	Buried Telecommunications Cable	Permanent	48-49
Tongue River Electric Coop. Inc	Overhead Electrical Transmission	Permanent	50-51
Montana Department of Transportation	Highway and Bridge Construction and Maintenance	Permanent	52-55
Douglas Harcksen	Overhead Electrical Distribution	Permanent	56-57
Montana Department of Transportation	Highway Construction and Maintenance	Permanent	58-59

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Qwest Corporation dba CenturyLink QC
 1021 Chestnut
 Helena, MT 59601

Application No.: 7554 (Amended)
 R/W Purpose: a buried existing copper telephone cable and a new fiber optic cable

Lessee Agreement: N/A (Unleased)
 Acreage: 1.37±
 Compensation: \$5,533.00±
 Legal Description: 20-foot strip through N2SW4, SW4SW4, Sec. 16, Twp. 8N, Rge. 3W, Jefferson County

Trust Beneficiary: Common Schools

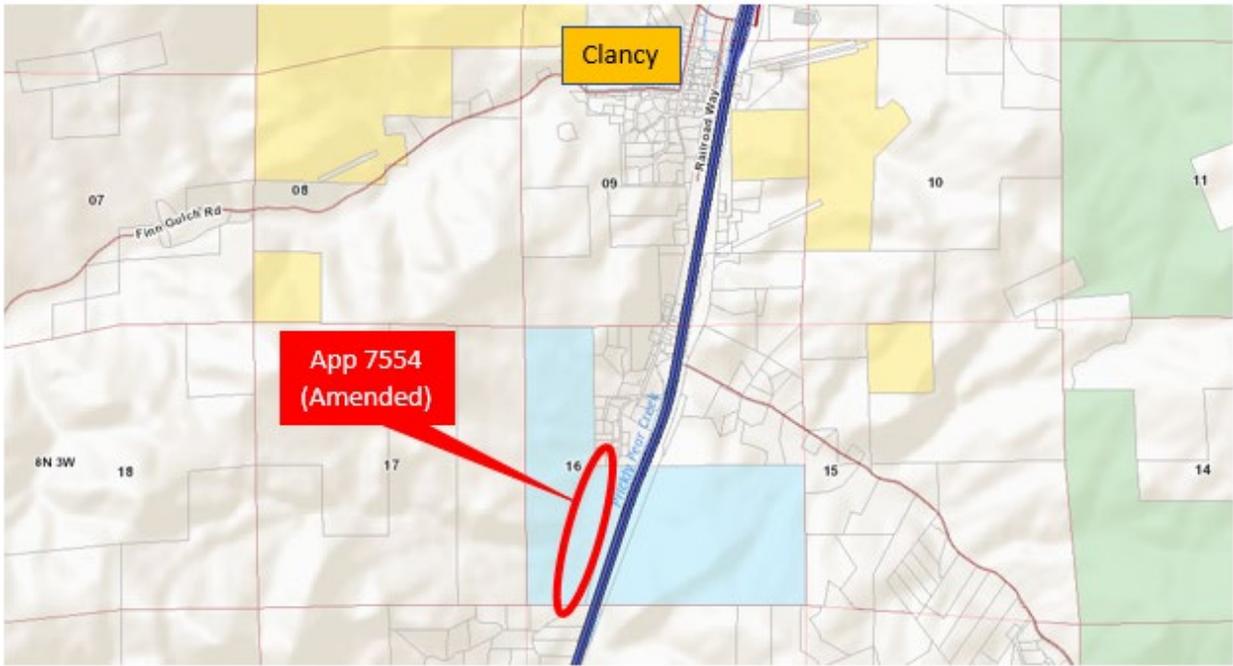
Item Summary

Qwest Corporation is requesting an amendment to their existing easement utility corridor for the purpose of installing a new fiber optic cable. The existing easement contains a copper telephone cable that will remain in use. This project is part of the Federal Communications Commission Connect America program to install broadband infrastructure in rural areas. The new fiber optic cable will be co-located with the existing copper cable in an already disturbed corridor, therefore minimal impacts are expected. The Department will require Qwest Corporation provide an as-built survey of the constructed line to ensure it follows the existing corridor and that any additional acreage encumbered is properly reimbursed to the common schools trust.

DNRC Recommendation

The director recommends approval of Qwest Corporation's easement request.

R/W Application 7554 (Amended)



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18338
 R/W Purpose: an overhead 12.47 kV electric distribution line
 Lessee Agreement: N/A (Historic)
 Acreage: 0.98
 Compensation: \$17,150.00
 Legal Description: 30-foot strip through the SW4SW4, Sec. 33, Twp. 1N, Rge. 4E,
 Gallatin County
 Trust Beneficiary: Common Schools

Item Summary

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

DNRC Recommendation

The director recommends approval of these historic rights of way for Northwestern Energy.

APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18340
R/W Purpose: an overhead 7.2 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.92
Compensation: \$16,100.00
Legal Description: 30-foot strip through the SE4SE4, Sec. 32, Twp. 1N, Rge. 4E,
Gallatin County
Trust Beneficiary: Common Schools

Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18348
R/W Purpose: an overhead 12.47 kV electric distribution line and 6 buried
12.47 kV electric distribution lines

Lessee Agreement: N/A (Historic)
Acreage: 5.85
Compensation: \$87,750.00
Legal Description: four 30-foot strips through W2NW4; two 30-foot strips through
S2SW4; and a 30-foot strip through W2W2, S2SW4, SW4SE4,
Sec. 11, Twp. 1S, Rge. 4E, Gallatin County

Trust Beneficiary: Common Schools

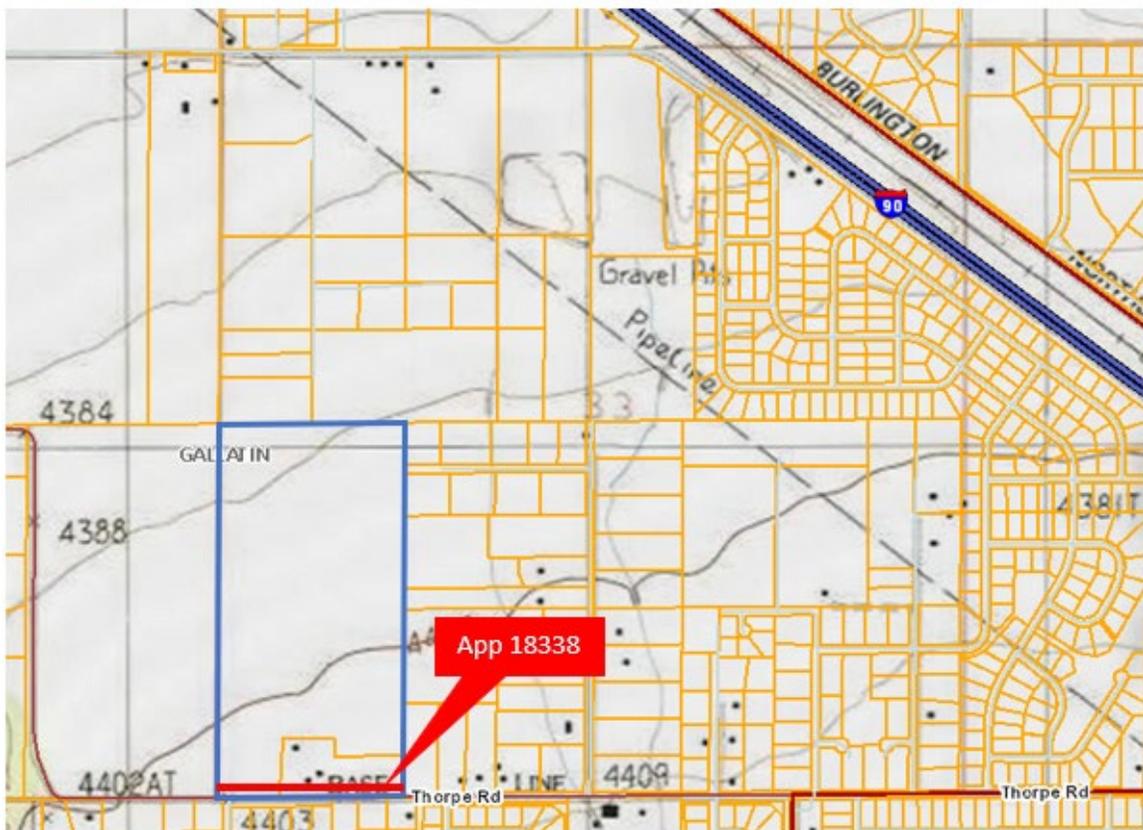
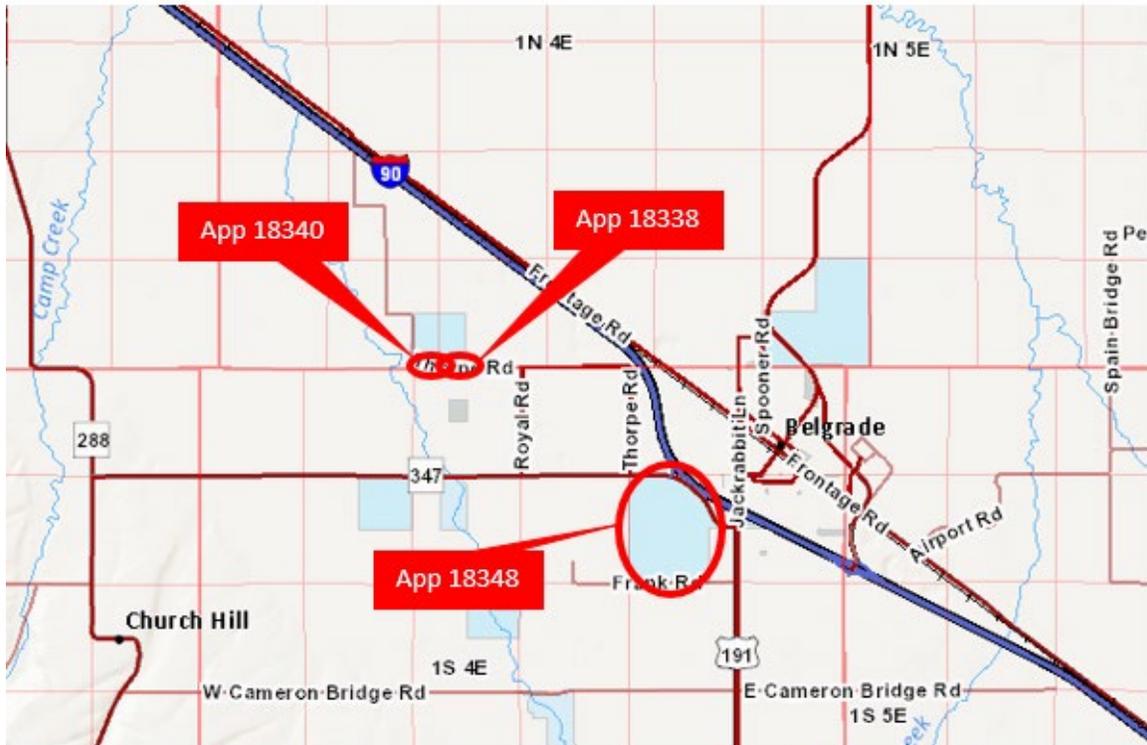
Item Summary

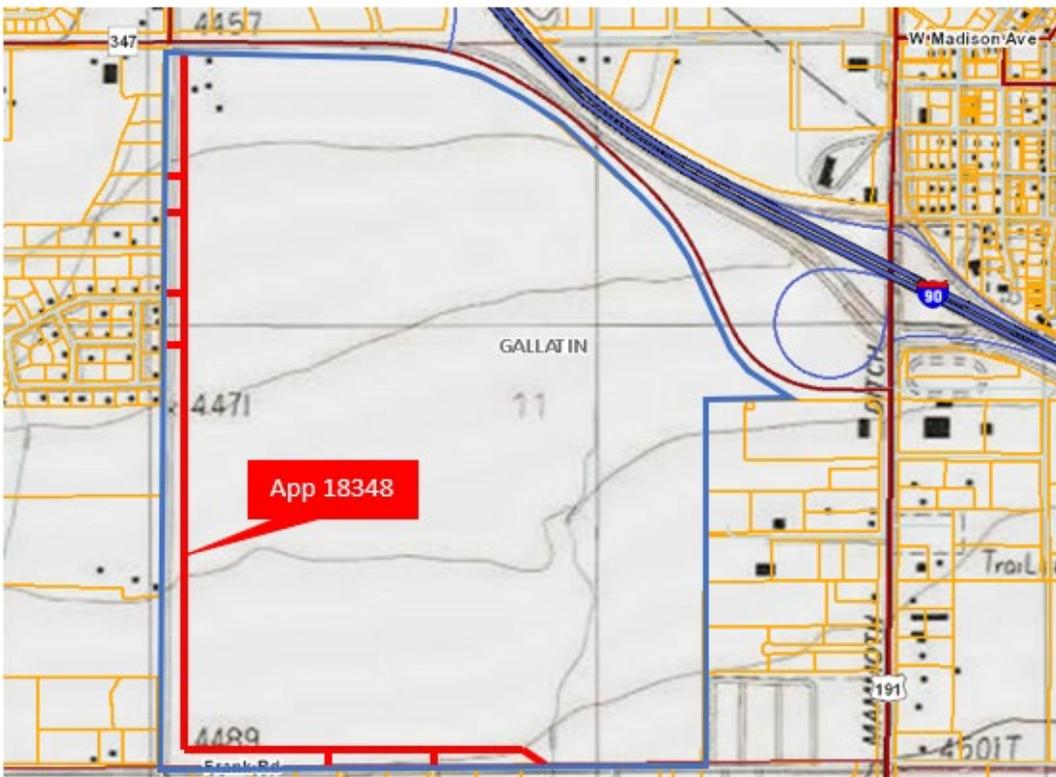
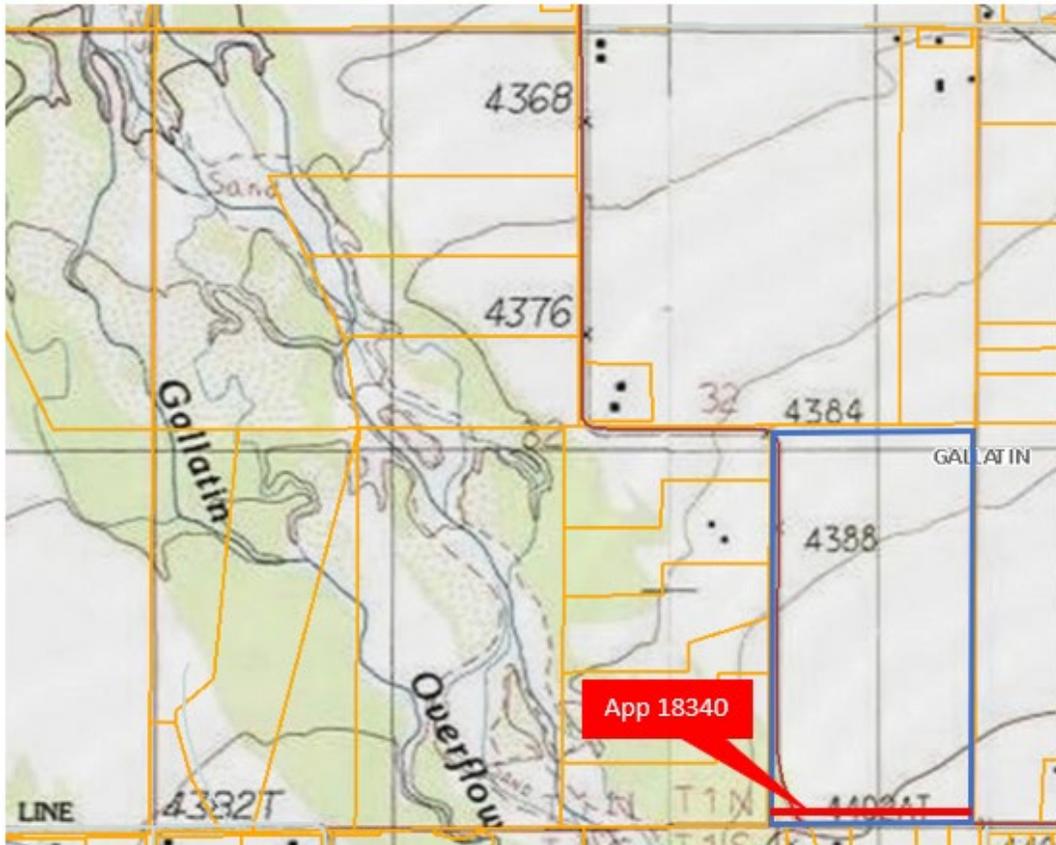
See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18338, 18340, & 18348





APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18443
R/W Purpose: an overhead 100 kV electric transmission line
Lessee Agreement: N/A (Historic)
Acreage: 8.57
Compensation: \$10,284.00
Legal Description: 60-foot strip through E2NW4, SW4NE4, N2SE4, SE4SE4, Sec. 9,
Twp. 3S, Rge. 1W, Madison County
Trust Beneficiary: Common Schools

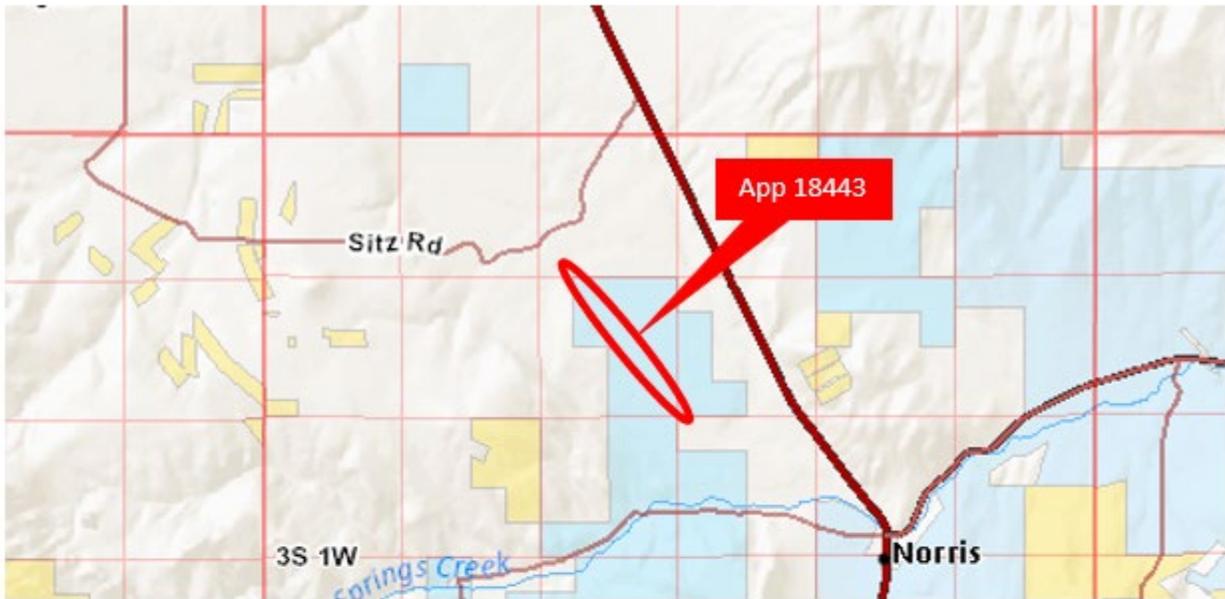
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18443



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18477
R/W Purpose: three buried 12.47 kV electric distribution lines
Lessee Agreement: N/A (Historic)
Acreage: 0.92
Compensation: \$43,757.00
Legal Description: one 30-foot strip through Gov. Lot 5 and two 30-foot strips
through Gov. Lot 8, Sec. 16, Twp. 9S, Rge. 8E, Park County
Trust Beneficiary: Common Schools

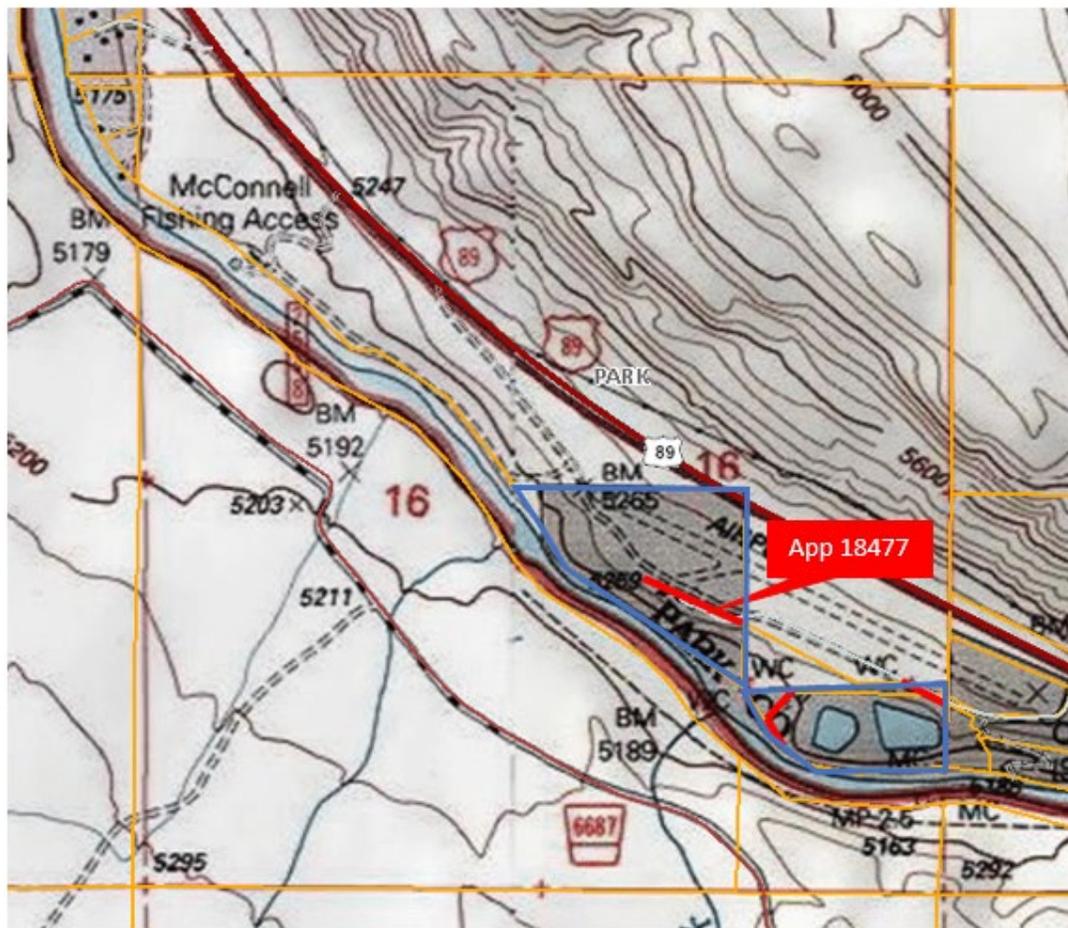
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18477



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18490
R/W Purpose: a buried 7.2kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.95
Compensation: \$1,140.00
Legal Description: 30-foot strip through Gov. Lot 3, Sec. 36, Twp. 11S, Rge. 1E,
Madison County
Trust Beneficiary: Common Schools

Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18491
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.05
Compensation: \$655.00
Legal Description: 10-foot strip across the Madison River in SW4SE4, Sec. 33,
Twp. 11S, Rge. 2E, Madison County
Trust Beneficiary: Public Land Trust - Nav. River

Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18492
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.02
Compensation: \$478.00
Legal Description: 10-foot strip across the Madison River in SE4SE4, Sec. 34,
Twp. 11S, Rge. 2E, Madison County
Trust Beneficiary: Public Land Trust - Nav. River

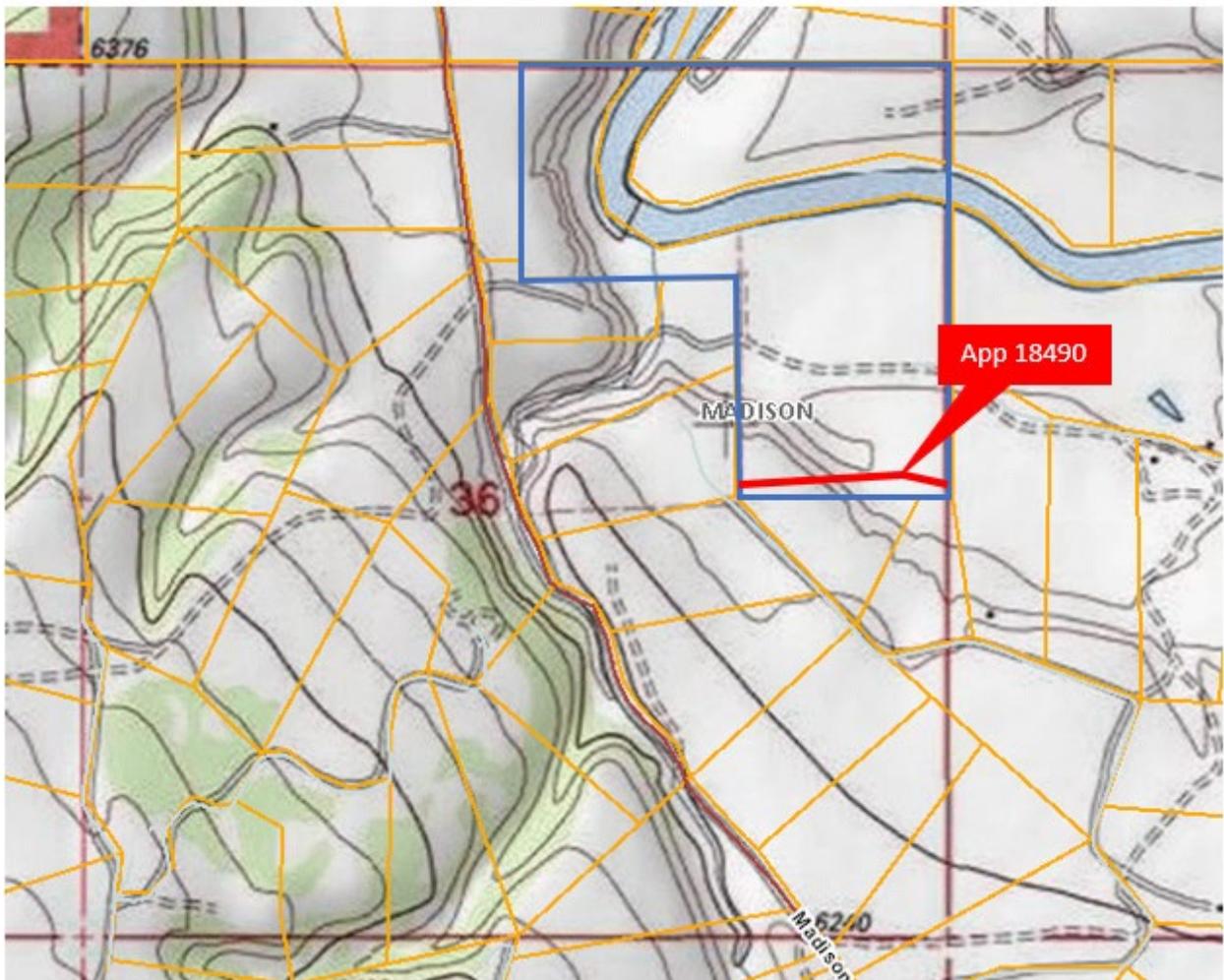
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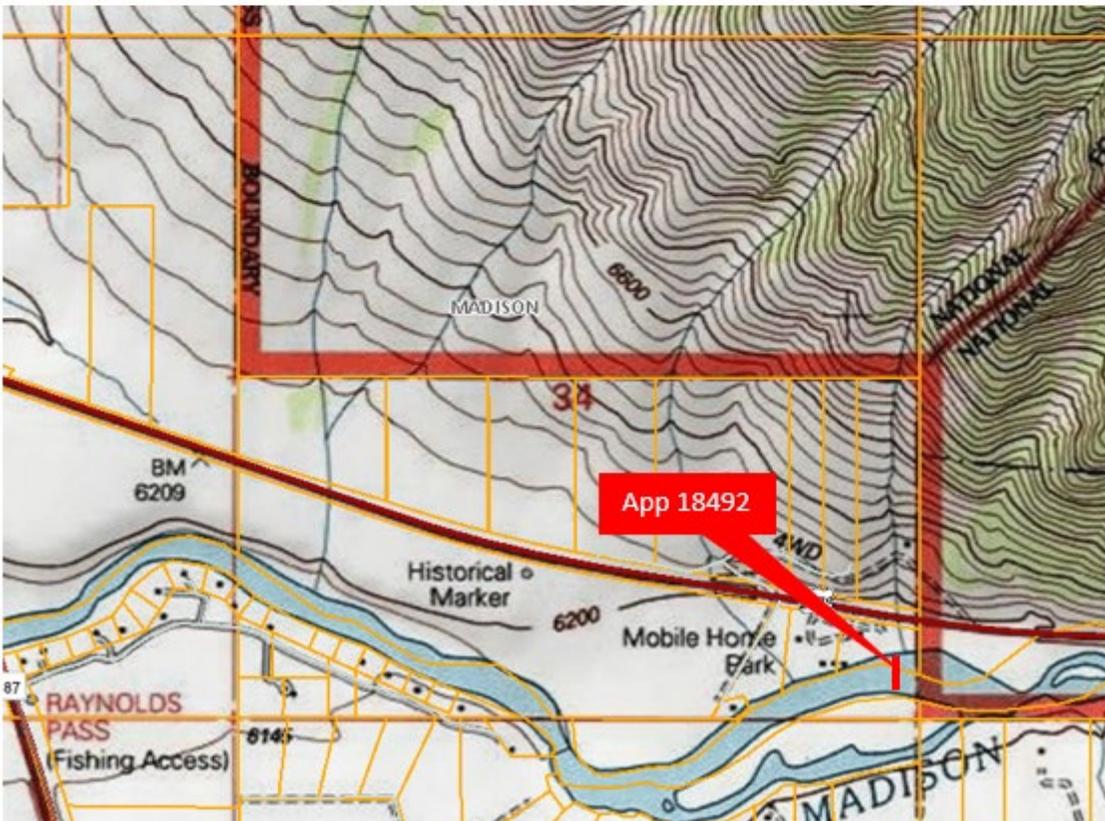
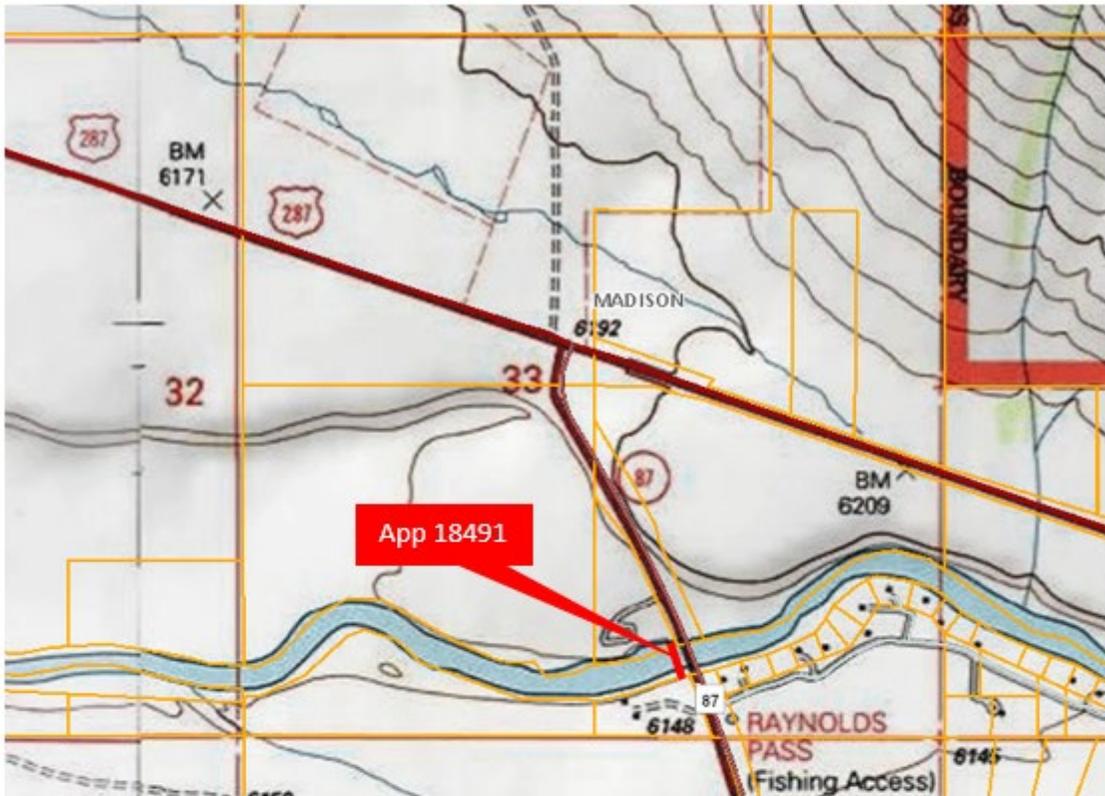
See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18490, 18491, & 18492





APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18493
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.07
Compensation: \$2,367.00
Legal Description: 10-foot strip across the Madison River in NE4NW4, Sec. 3,
Twp. 12S, Rge. 2E, Madison County
Trust Beneficiary: Public Land Trust - Nav. River

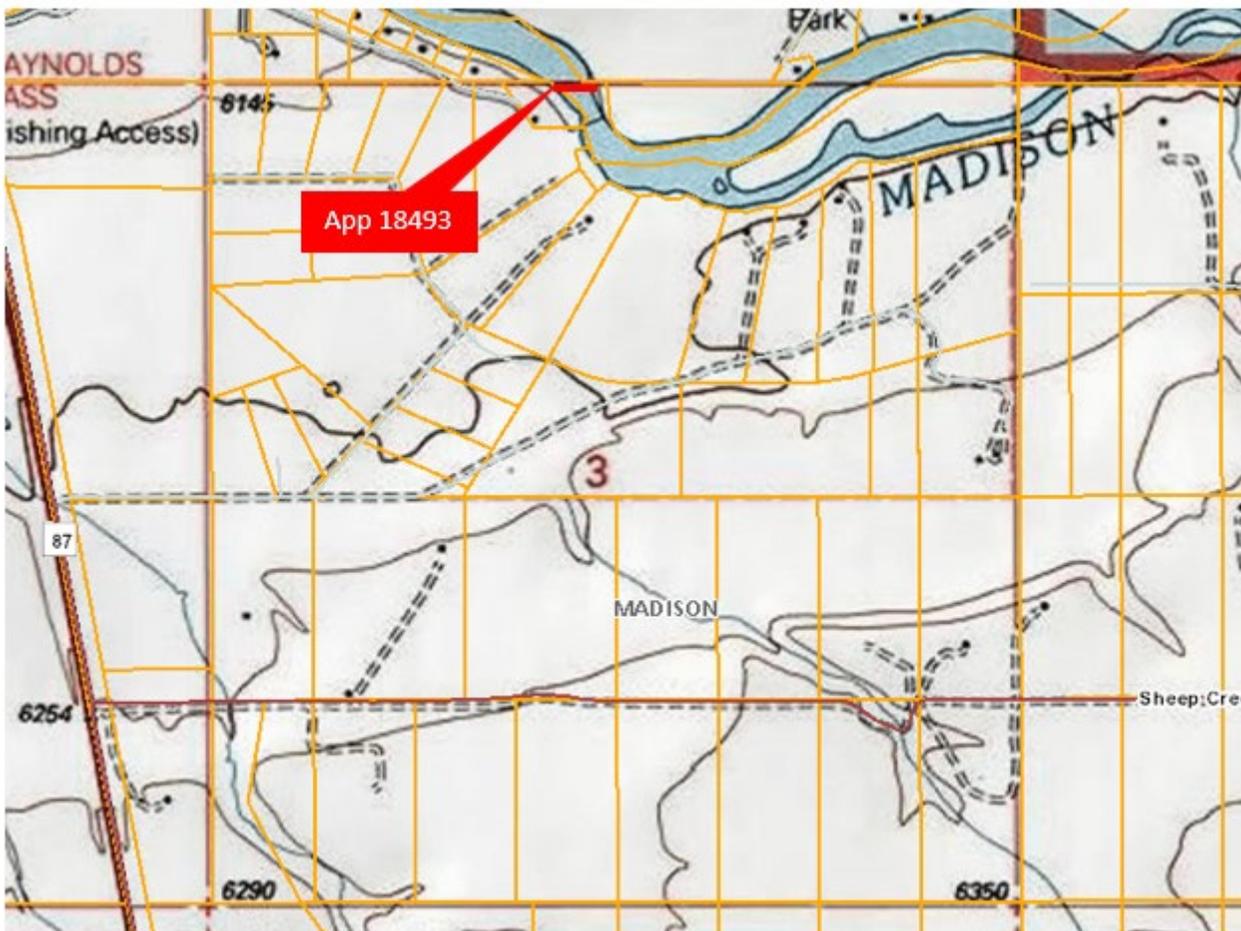
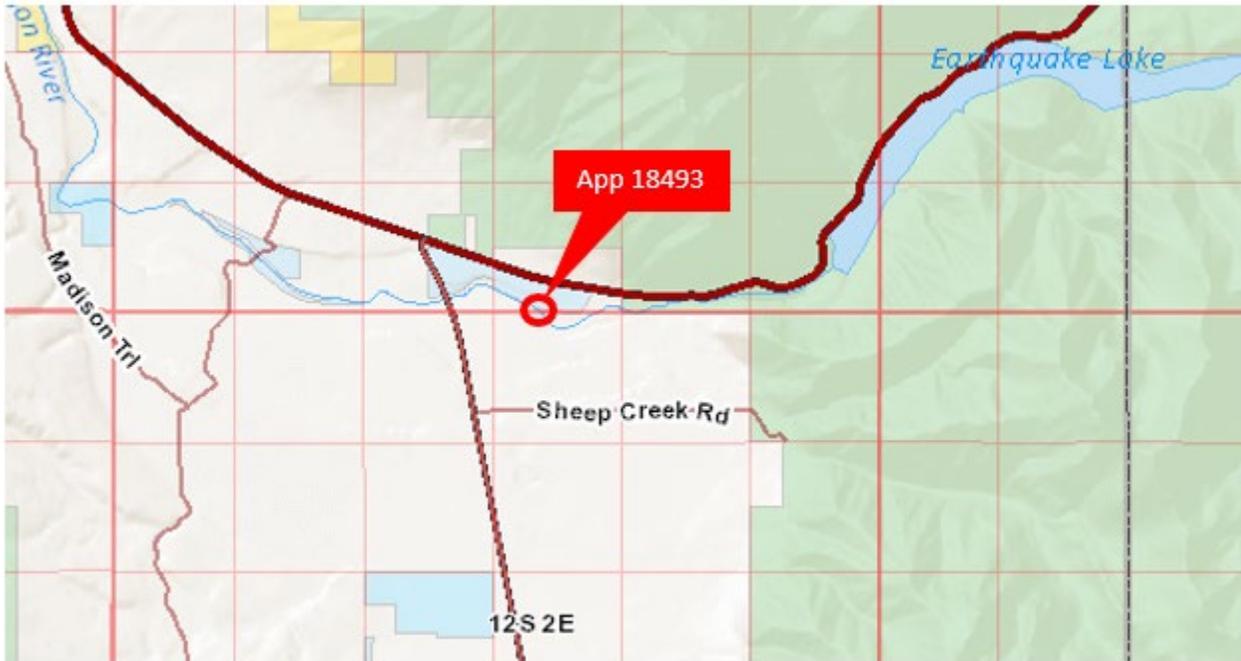
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18493



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18495
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.77
Compensation: \$2,124.00
Legal Description: 30-foot strip through S2SE4, Sec. 36 Twp. 2N, Rge. 2E,
Gallatin County
Trust Beneficiary: Common Schools

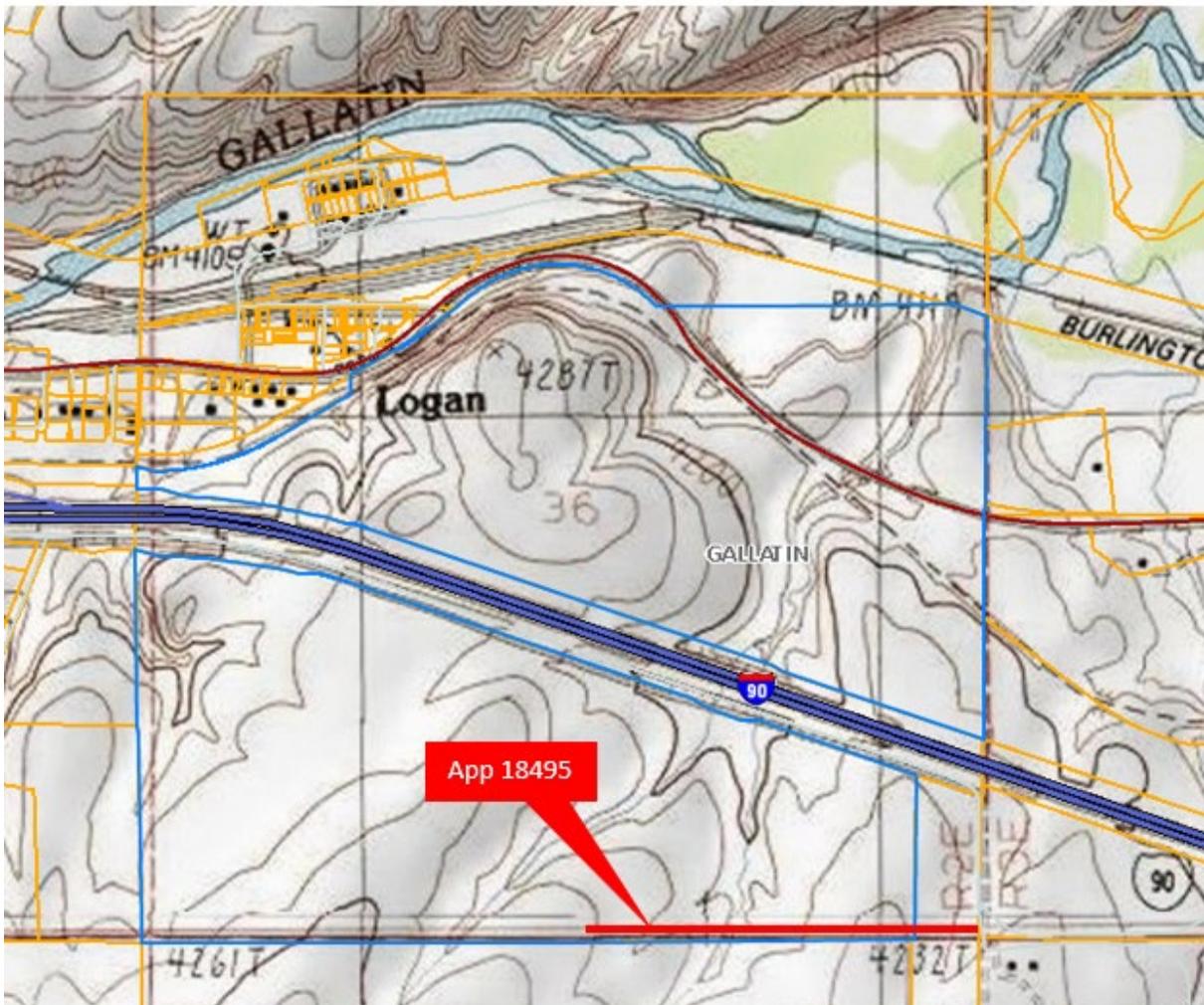
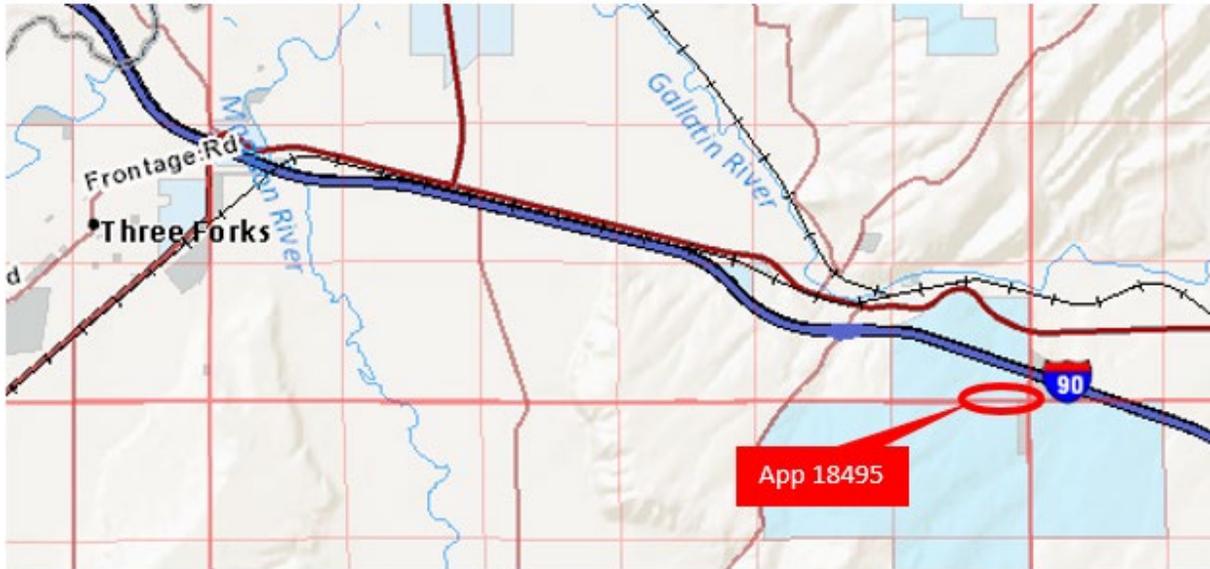
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18495



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18497
R/W Purpose: two overhead 7.2kV electric distribution lines
Lessee Agreement: N/A (Historic)
Acreage: 1.44
Compensation: \$1,728.00
Legal Description: 30-foot strip through SW4NW4, NW4SW4, and a 30-foot strip through E2SE4, SW4SE4, Sec. 16, Twp. 2S, Rge. 7E, Gallatin County

Trust Beneficiary: Common Schools

Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18498
R/W Purpose: an overhead 161kV electric transmission line
Lessee Agreement: N/A (Historic)
Acreage: 0.17
Compensation: \$425.00
Legal Description: 30-foot strip across the Yellowstone River in NW4SE4, Sec. 4,
Twp. 6S, Rge. 8E, Park County
Trust Beneficiary: Public Land Trust - Nav. River

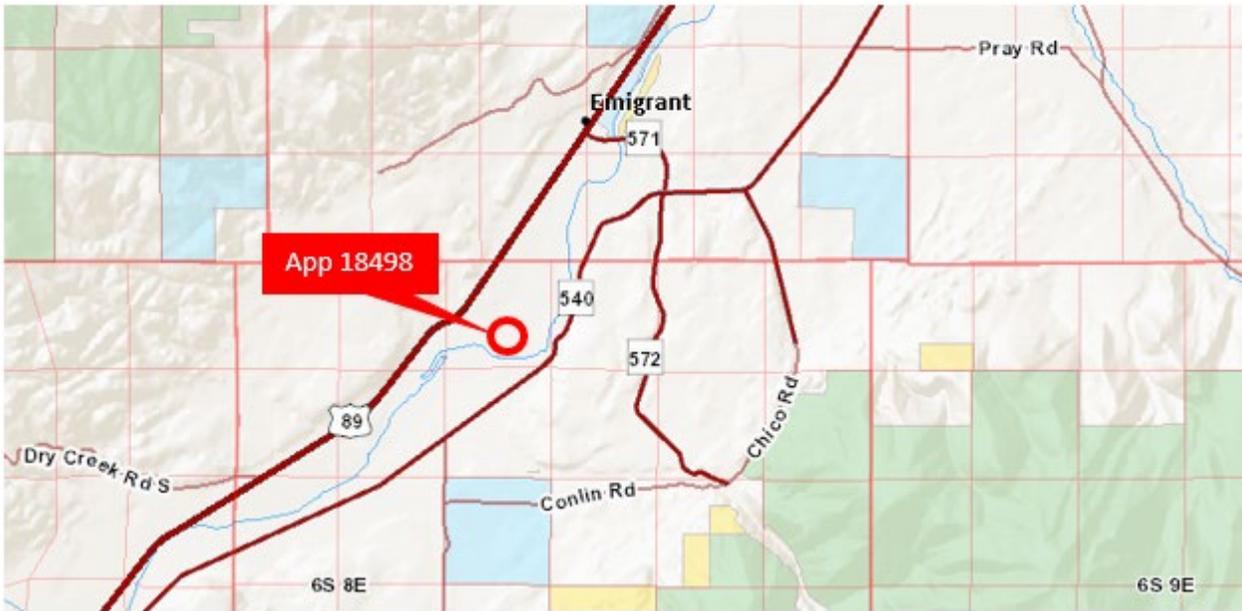
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18498



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18531
R/W Purpose: two overhead 12.47 kV electric distribution lines
Lessee Agreement: N/A (Historic)
Acreage: 5.98
Compensation: \$4,186.00
Legal Description: 30-foot strip through SW4NW4, W2SW4 and a 30-foot strip through N2N2, Sec. 16, Twp. 3N, Rge. 24E, Yellowstone County
Trust Beneficiary: Common Schools

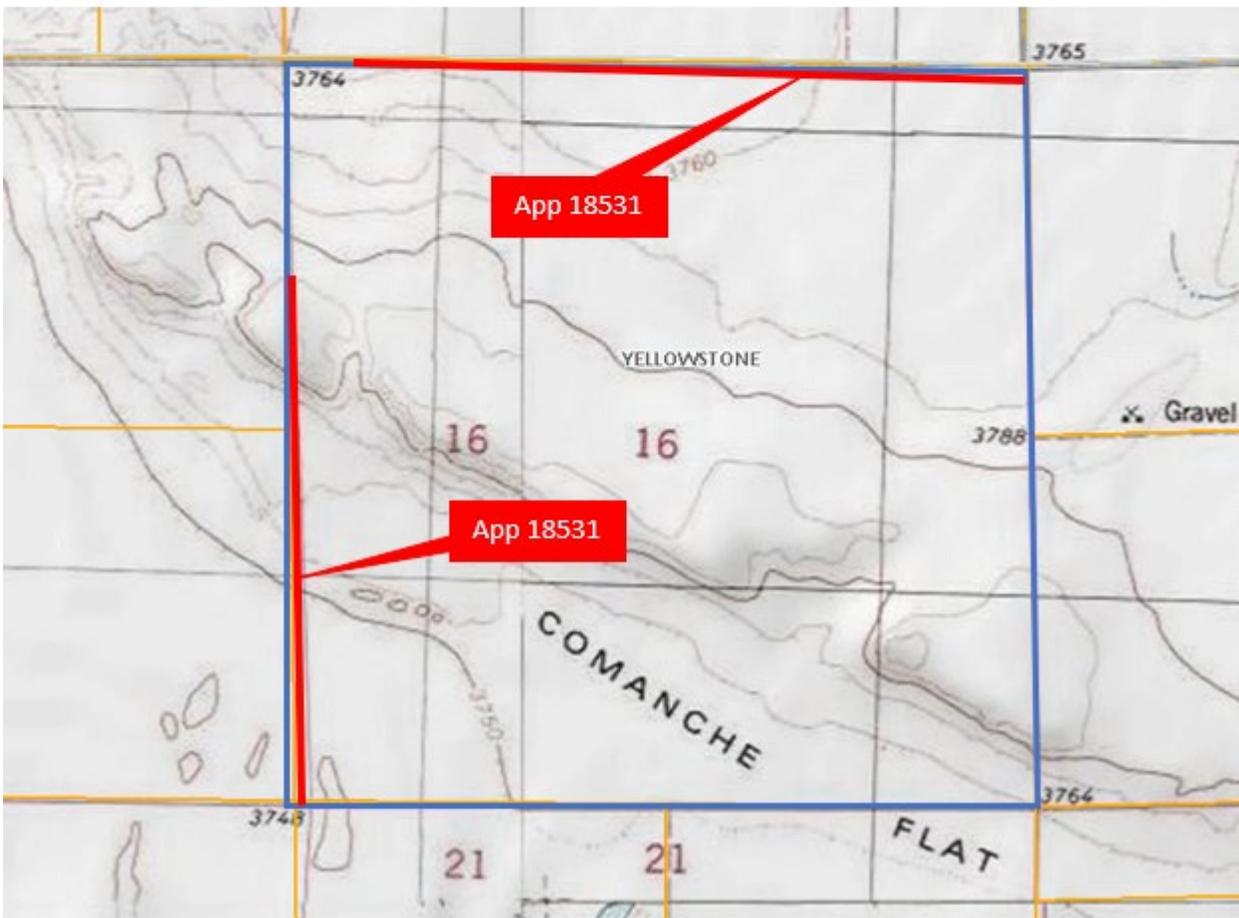
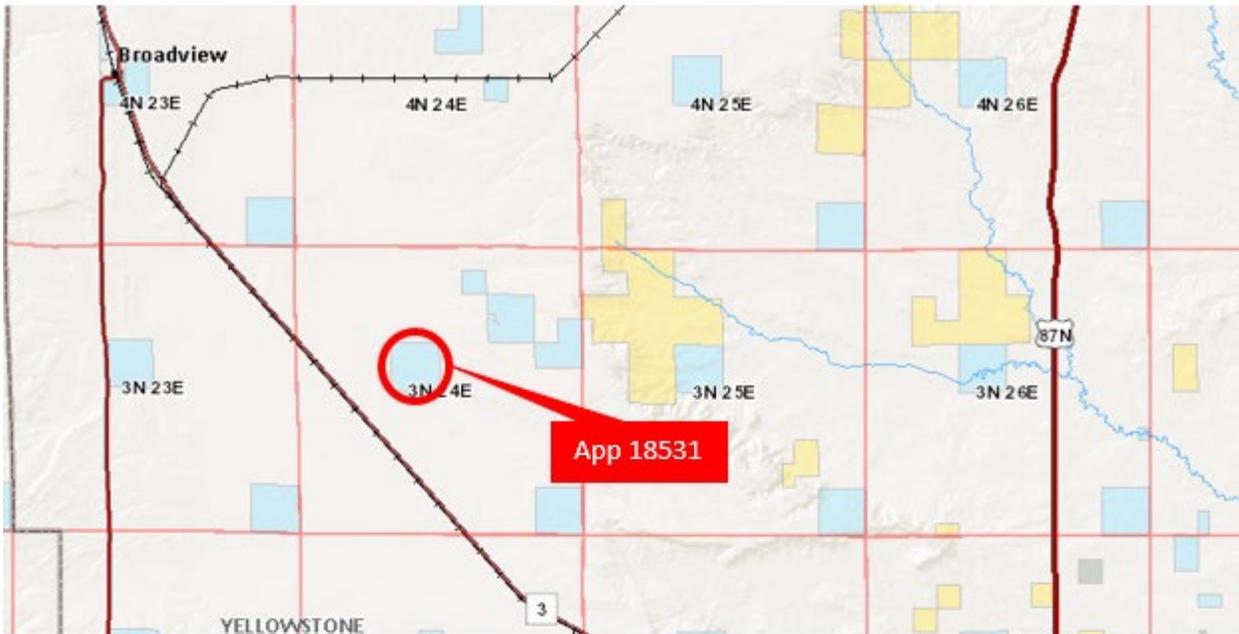
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18531



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18534
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 3.58
Compensation: \$2,506.00
Legal Description: 30-foot strip through N2N2, Sec. 16, Twp. 4N, Rge. 25E,
Yellowstone County
Trust Beneficiary: Common Schools

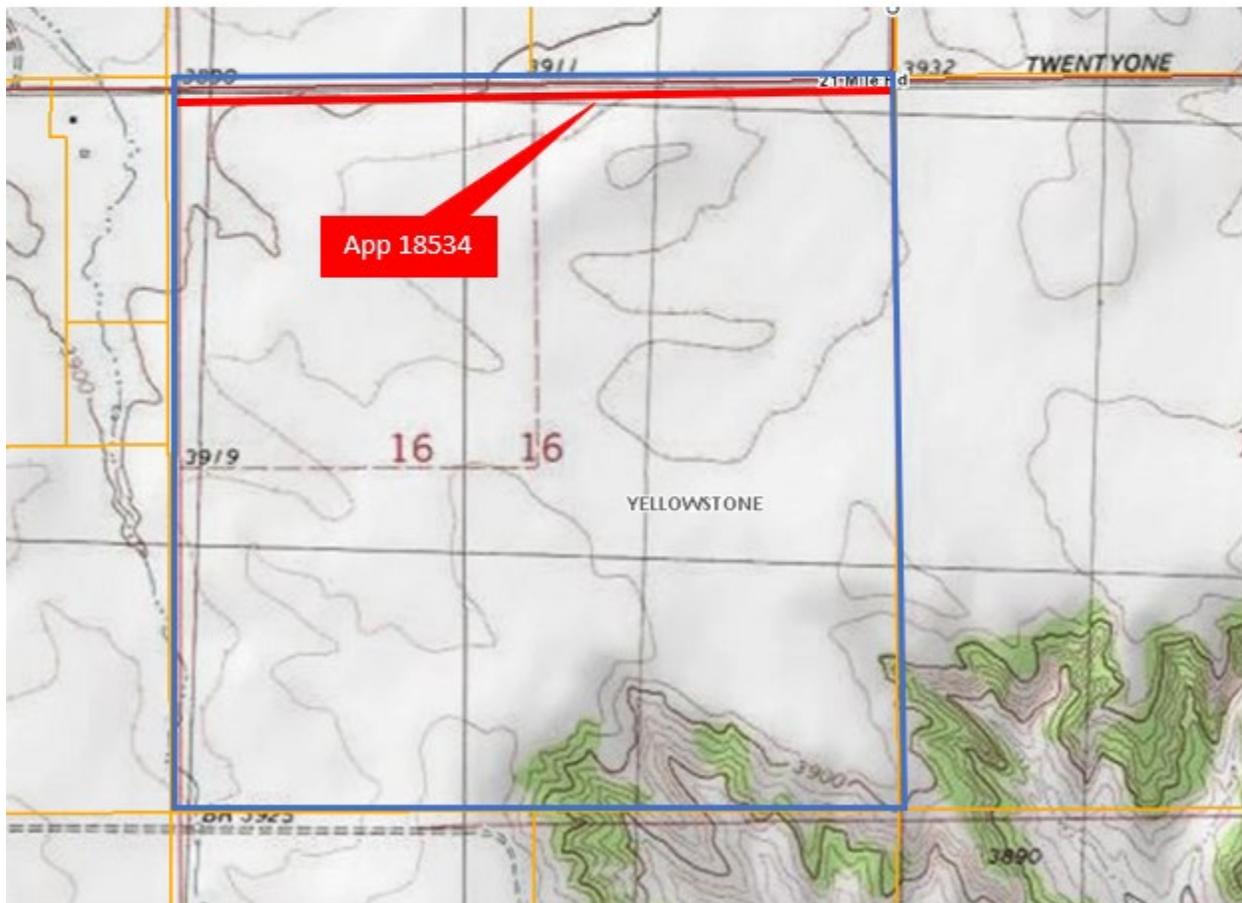
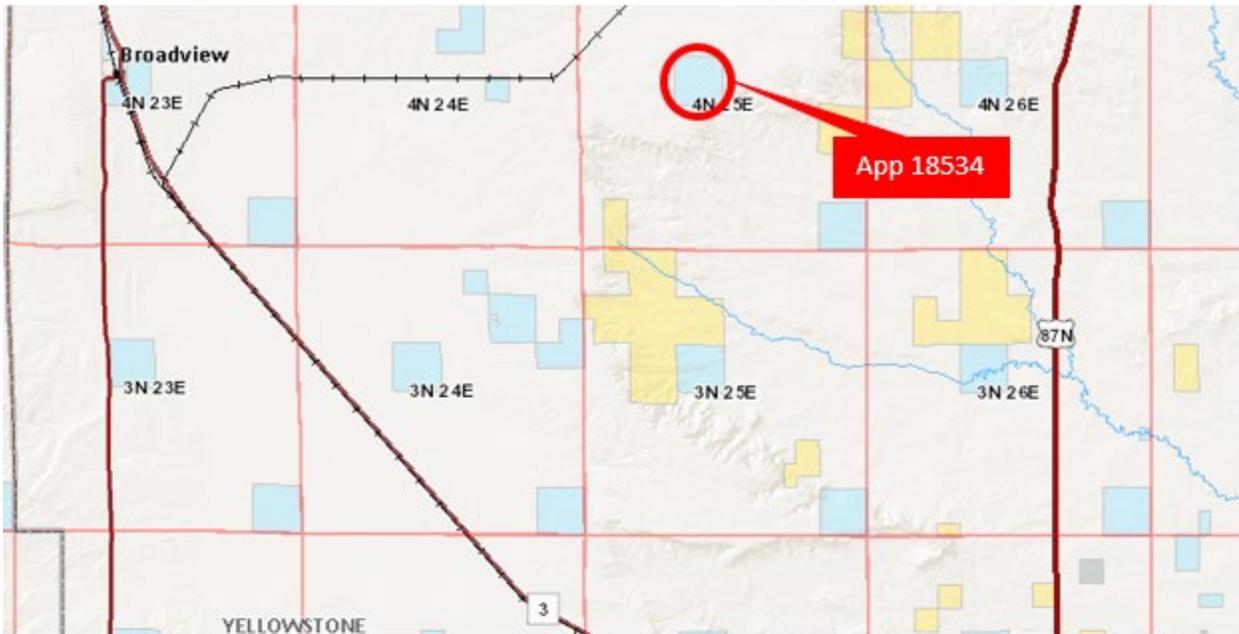
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18534



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18539
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.37
Compensation: \$685.00
Legal Description: 30-foot strip through E2SE4, Sec. 36, Twp. 4N, Rge. 21E,
Stillwater County
Trust Beneficiary: Common Schools

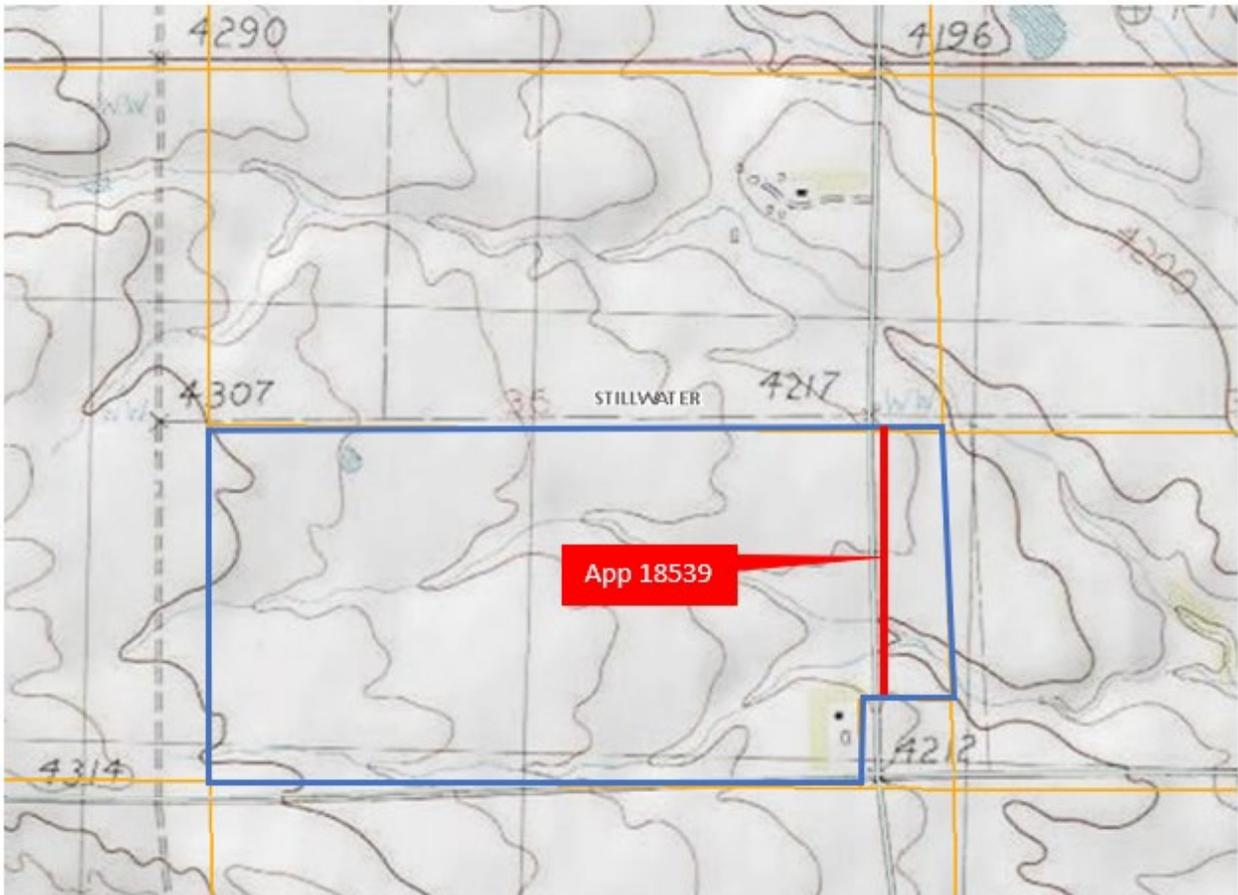
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18539



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18558
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 2.02
Compensation: \$1,010.00
Legal Description: 30-foot strip through E2NE4, NE4SE4, Sec. 1, Twp. 7N, Rge. 17E,
Wheatland County
Trust Beneficiary: Common Schools

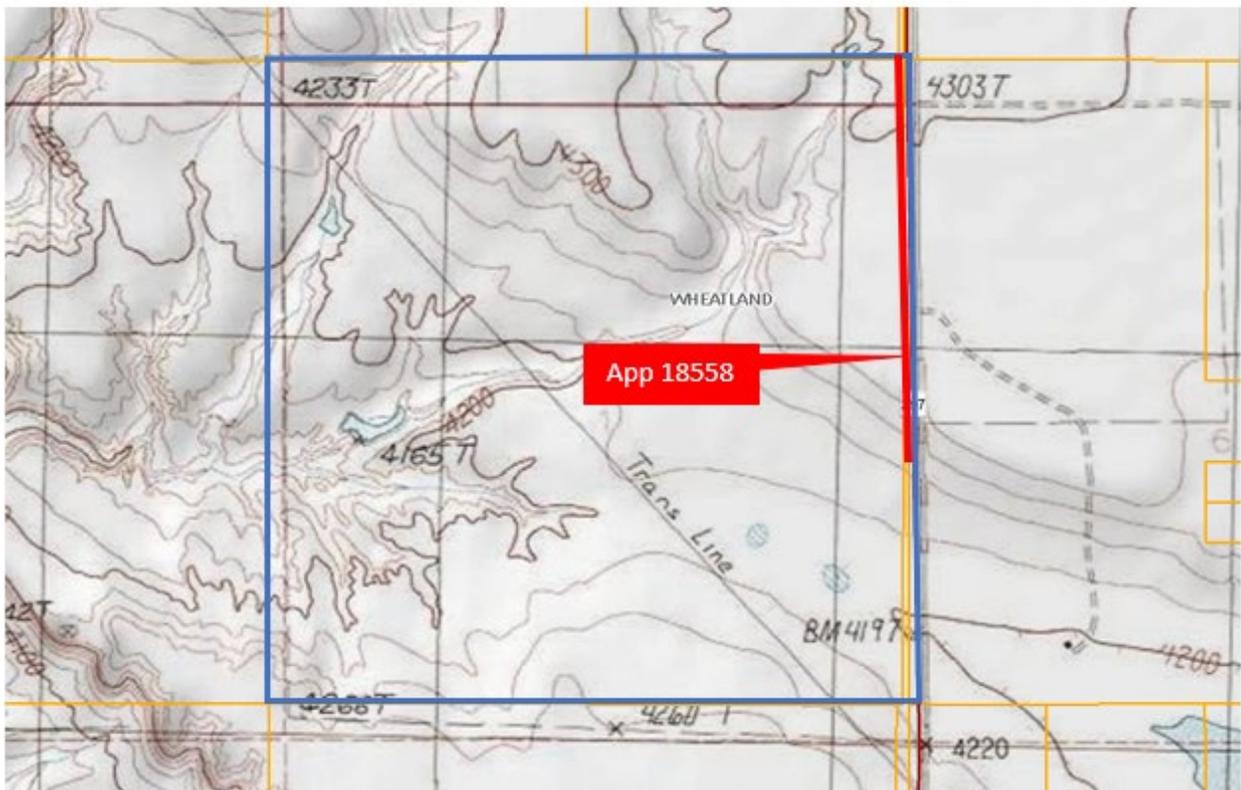
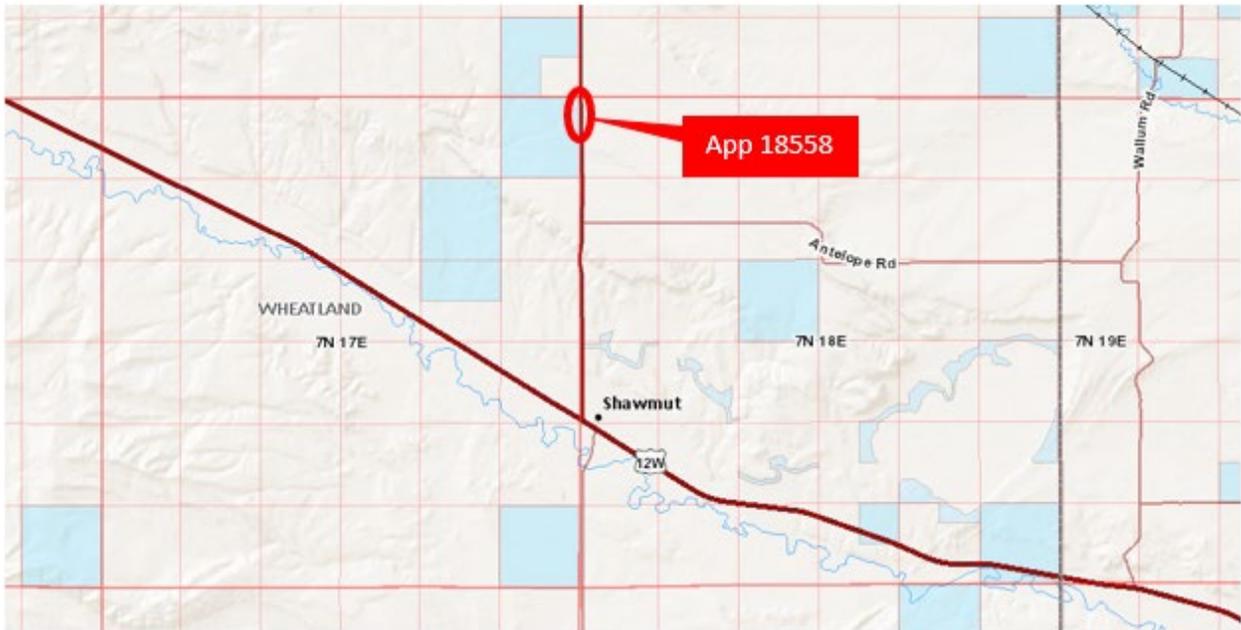
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18558



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18580
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.28
Compensation: \$576.00
Legal Description: 30-foot strip through E2SE4, Sec. 30, Twp. 10N, Rge. 32E,
Rosebud County
Trust Beneficiary: Common Schools

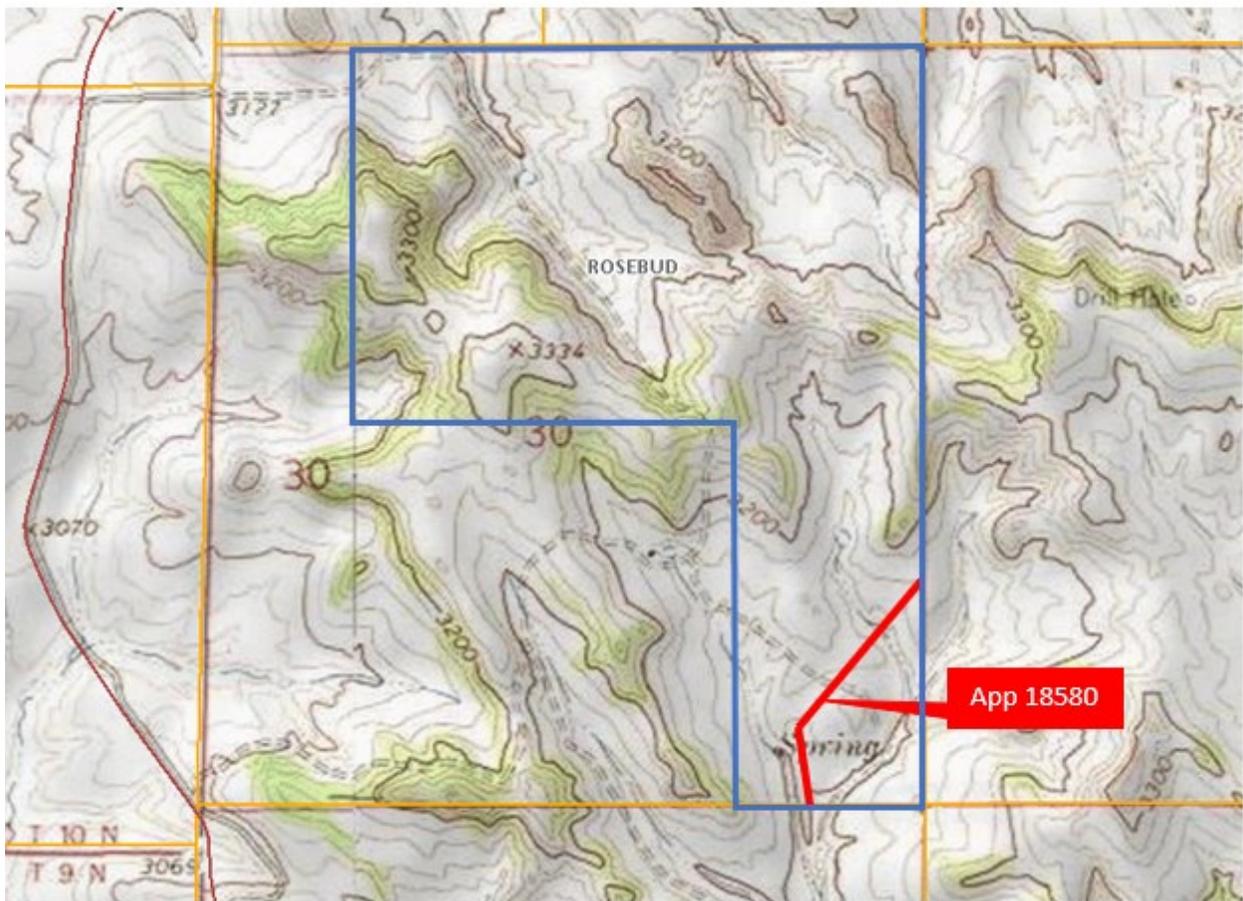
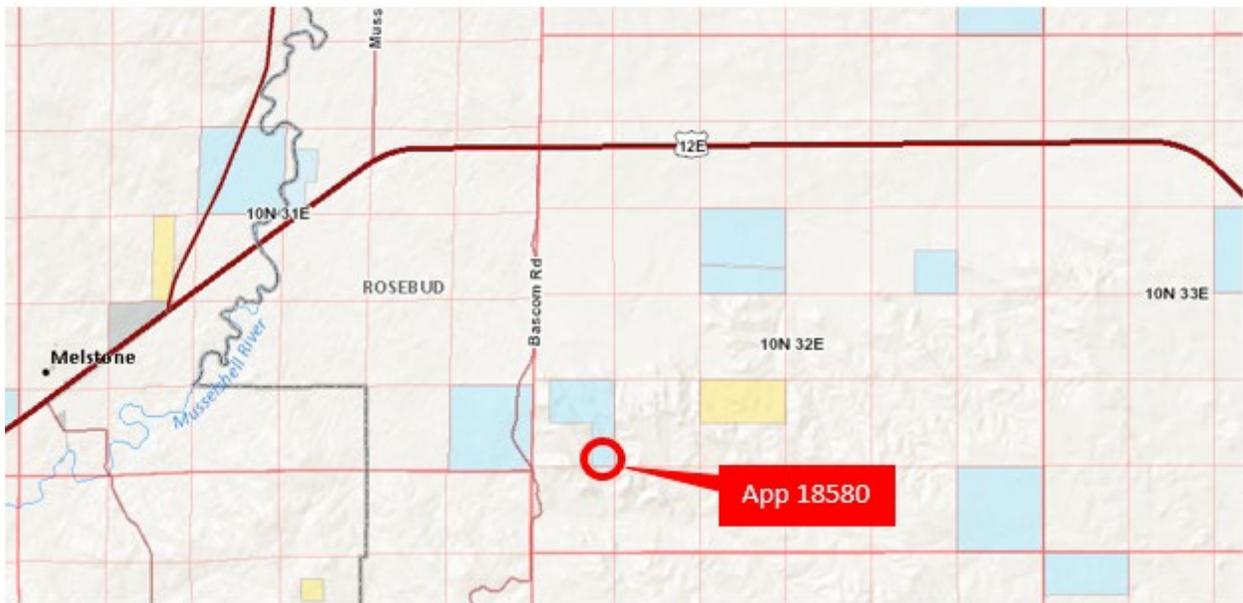
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18580



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18587
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.60
Compensation: \$720.00
Legal Description: 30-foot strip through E2NW4, SW4NE4, Sec. 4, Twp. 11N,
Rge. 32E, Rosebud County
Trust Beneficiary: Common Schools

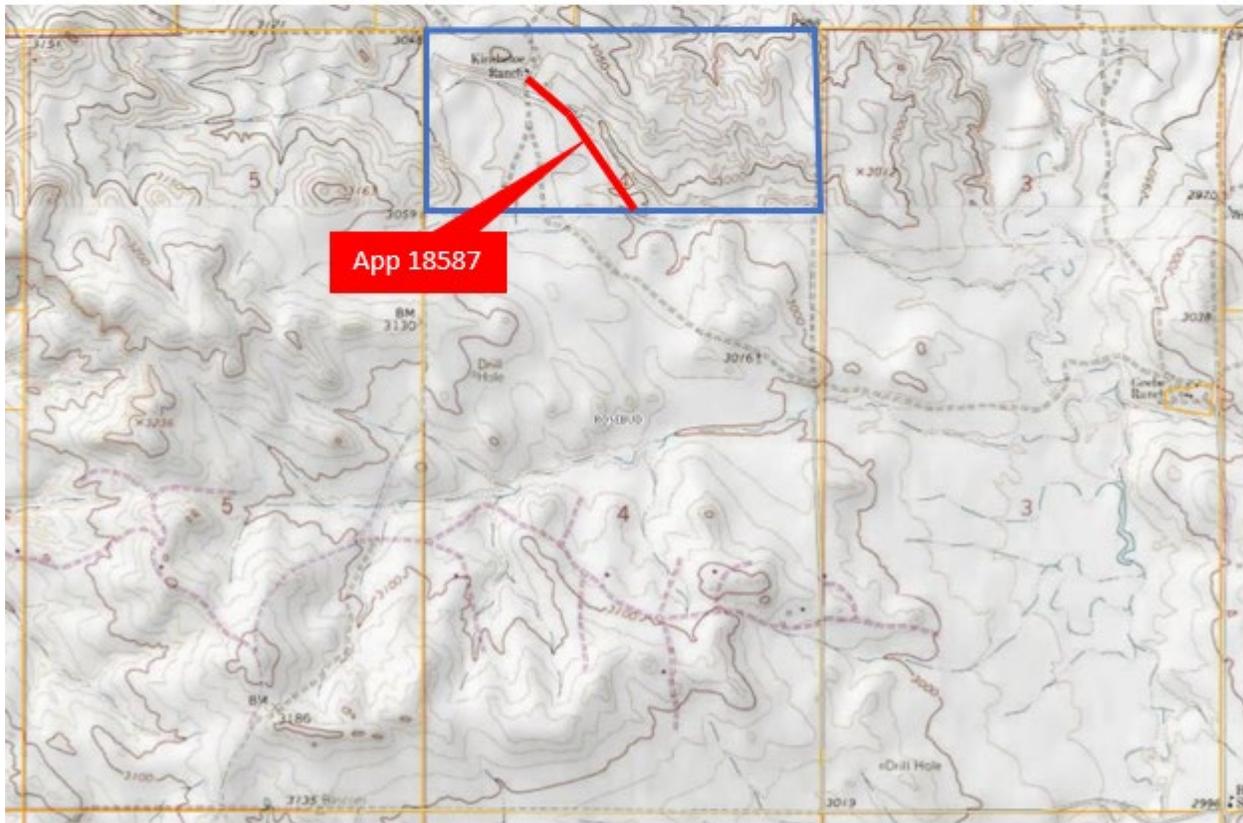
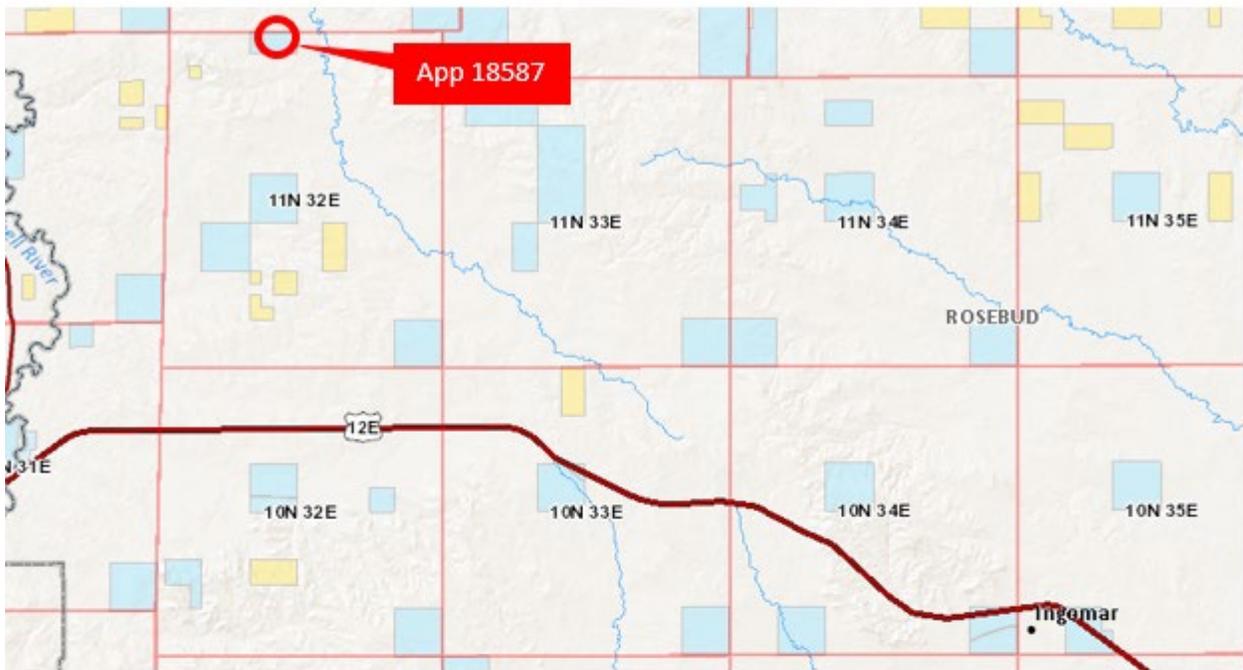
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18587



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18588
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.31
Compensation: \$140.00
Legal Description: 30-foot strip through N2NE4, Sec. 20, Twp. 11N, Rge. 33E,
Rosebud County
Trust Beneficiary: Common Schools

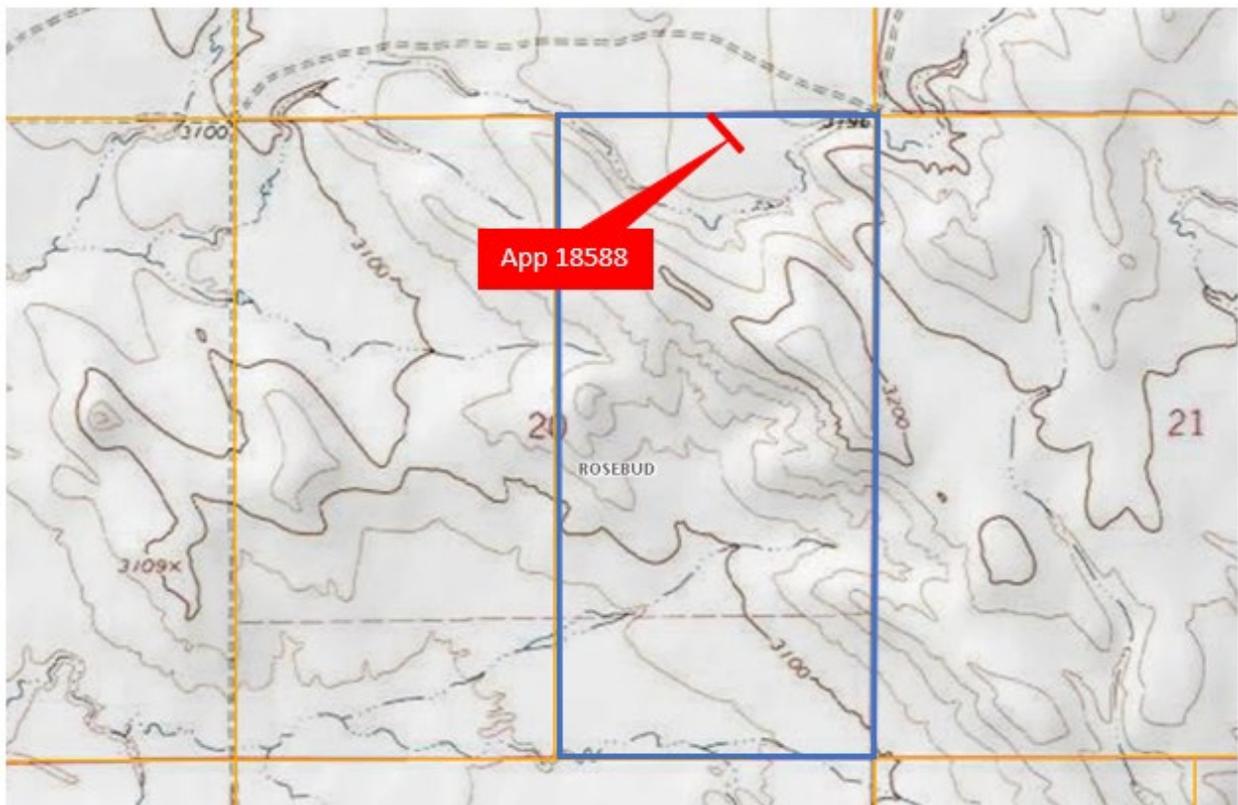
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18588



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18591
R/W Purpose: an overhead 69 kV electric transmission line
Lessee Agreement: N/A (Historic)
Acreage: 3.53
Compensation: \$2,880.00
Legal Description: 40-foot strip through NE4SW4, W2SE4, SE4SE4, Sec. 16,
Twp. 11N, Rge. 31E, Rosebud County
Trust Beneficiary: Common Schools

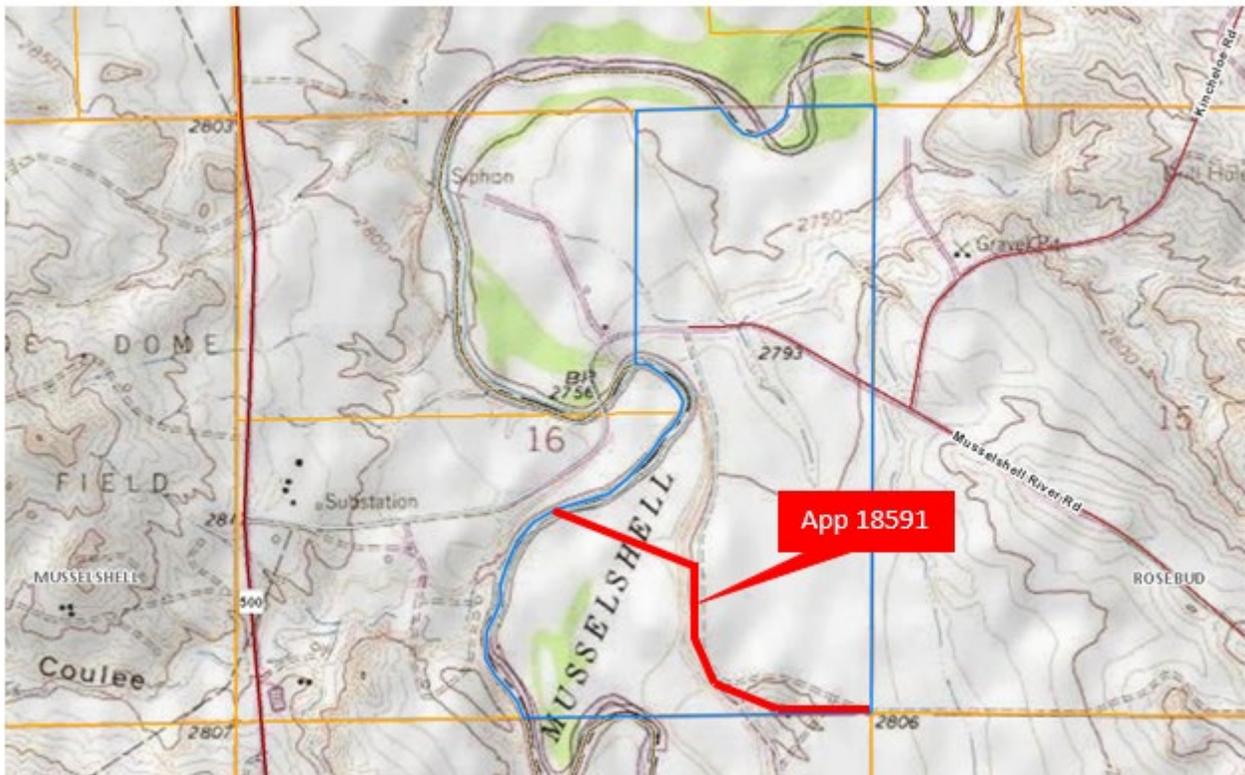
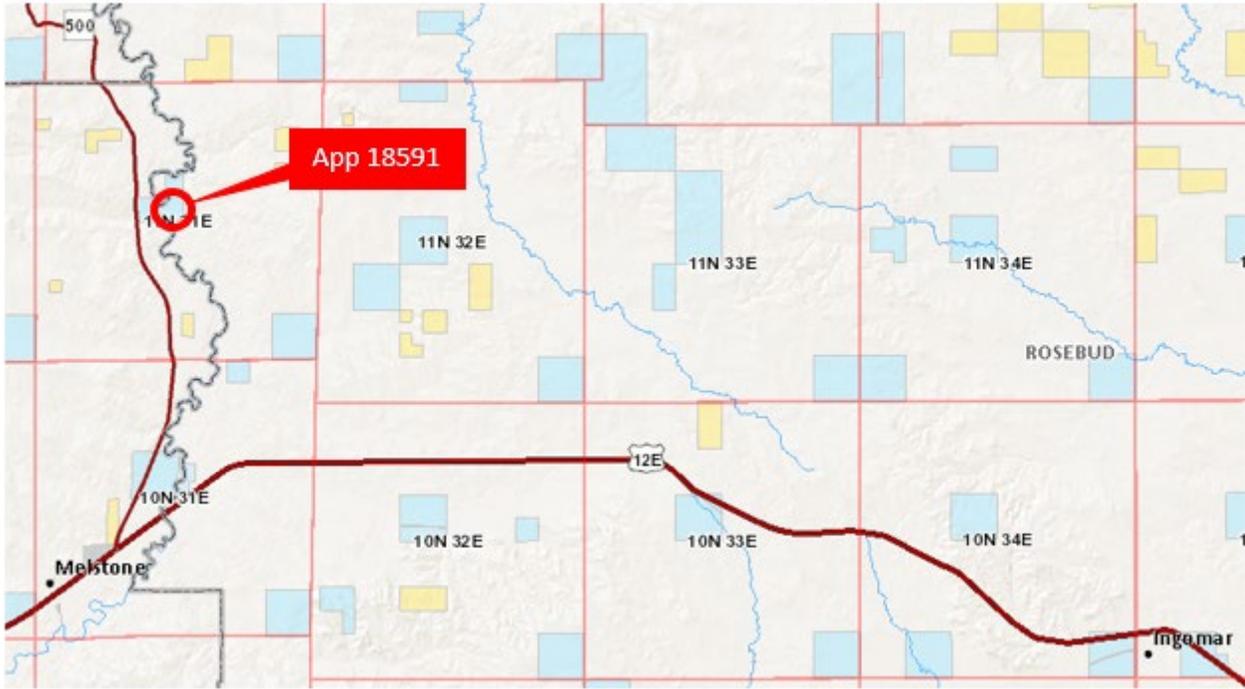
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18591



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18614
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 0.63
Compensation: \$284.00
Legal Description: 30-foot strip through Gov. Lots 6 & 7, Sec. 31, Twp. 12N,
Rge. 33E, Rosebud County
Trust Beneficiary: Common Schools

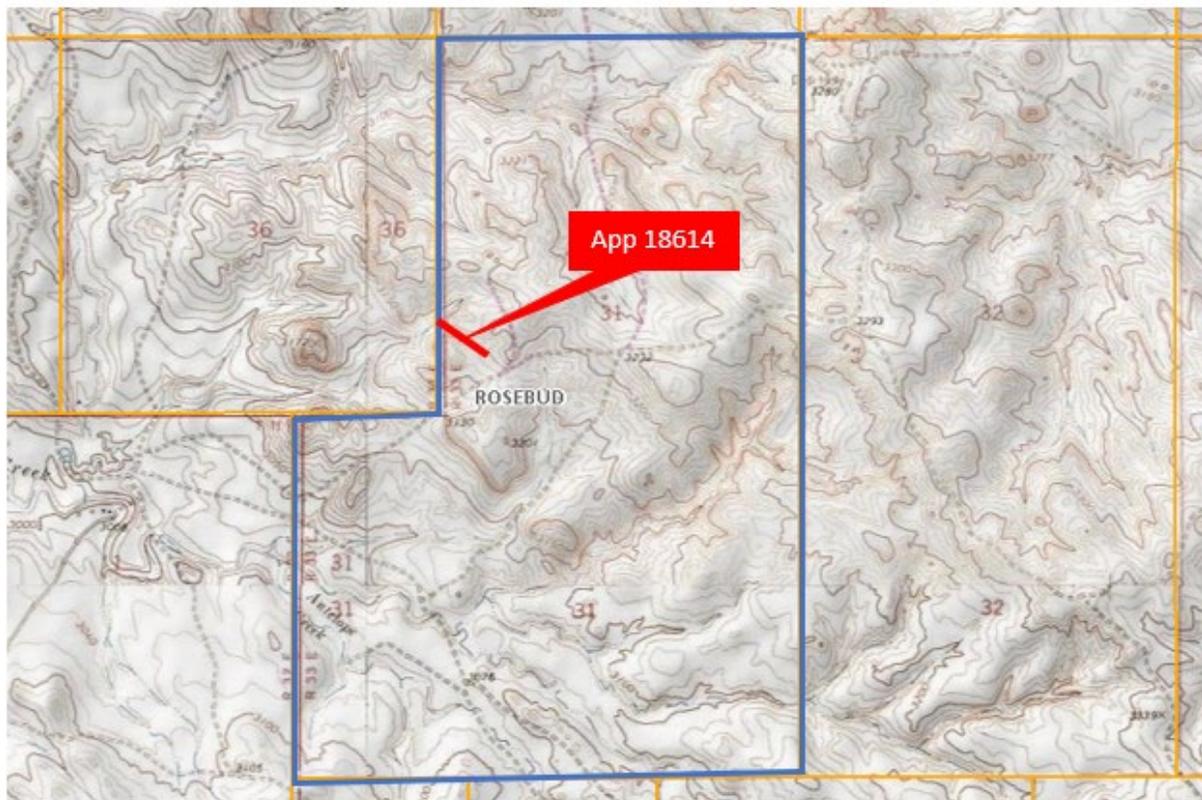
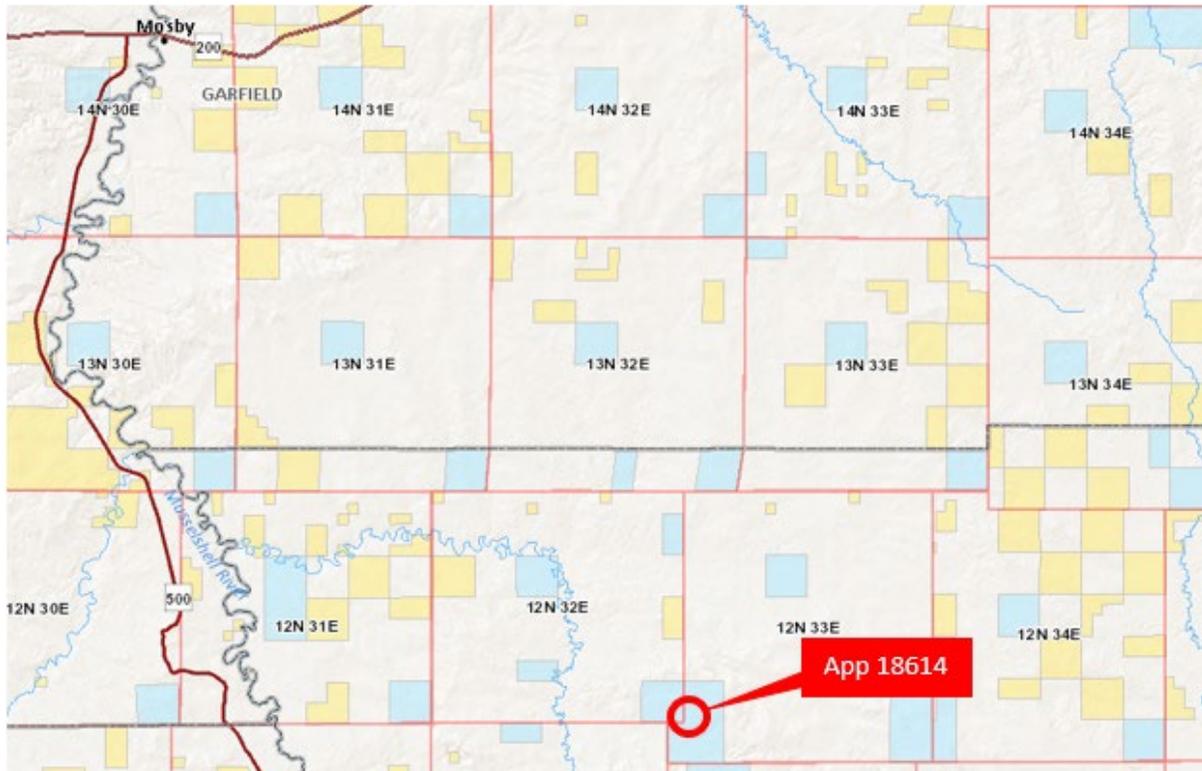
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18614



APPLICANTS AND RIGHTS OF WAY INFORMATION

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

Application No.: 18648
R/W Purpose: an overhead 12.47 kV electric distribution line
Lessee Agreement: N/A (Historic)
Acreage: 1.06
Compensation: \$477.00
Legal Description: 30-foot strip through SW4NW4, Sec. 29, Twp. 20N, Rge. 13E,
Chouteau County
Trust Beneficiary: Common Schools

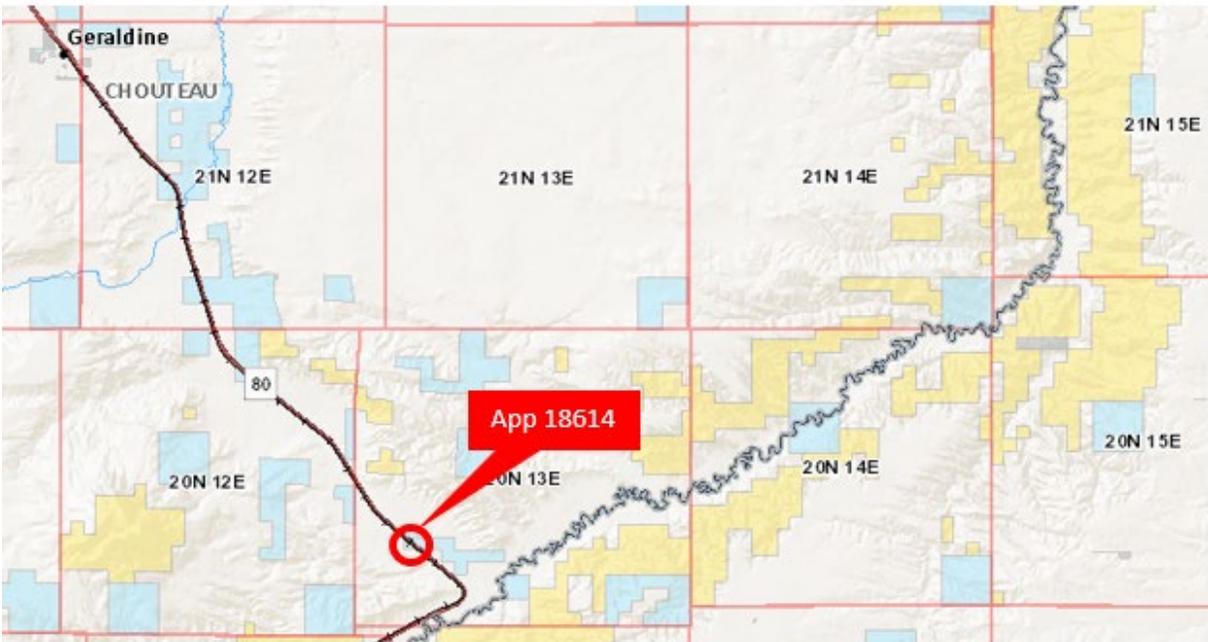
Item Summary

See page 4 for Summary

DNRC Recommendation

See page 4 for Recommendation

R/W Application 18648



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: James H. Carlson
1015 Taylor
Missoula, MT 59802

Application No.: 18778
R/W Purpose: a private access road for the purpose of access to one single-family residence and associated outbuildings

Lessee
Agreement: N/A (Historic)
Acreage: 4.11
Compensation: \$2,055.00
Legal Description: 12-foot strip through NW4NW4 Section 29, SW4SW4 Section 20 and E2E2, NW4NE4, N2NW4, SW4NW4, Sec. 19, Twp. 12N, Rge. 15W, Missoula County
Trust Beneficiary: Acquired Lands - Public Schools

Item Summary

James H. Carlson has made application for the use of an existing road for access to one single family residence and associated outbuildings. The road has been in place for years and authorization for continued use is being requested pursuant to §77-1-130, MCA, which allows for recognition of such historic access. The private property to be accessed is described as:

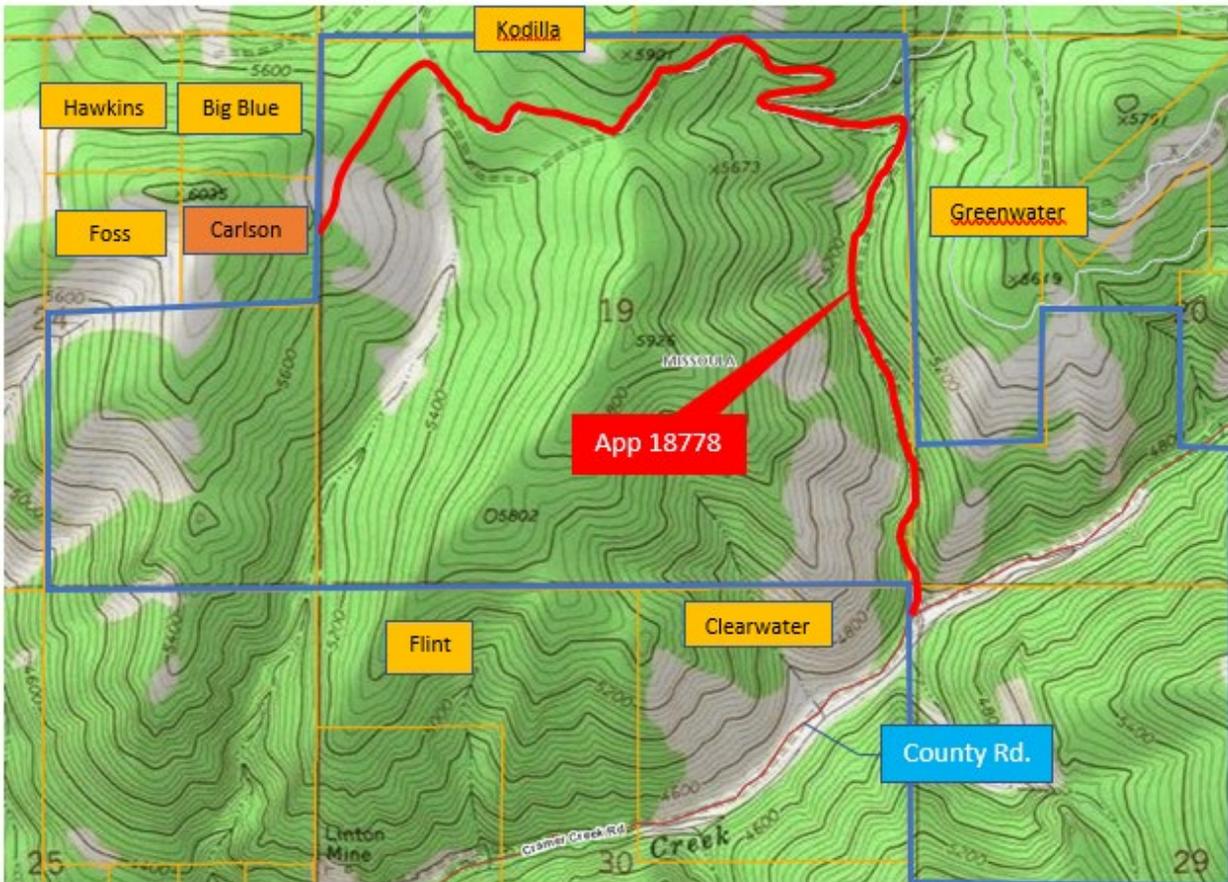
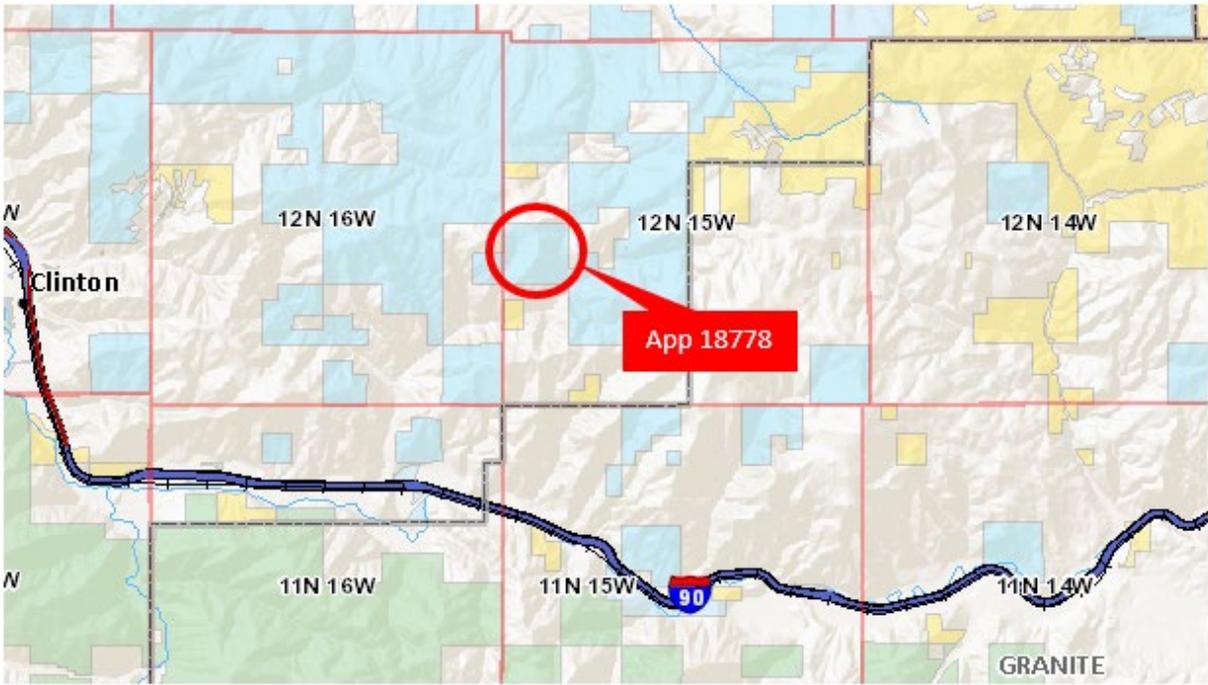
- SE4NE4, Sec. 24, Twp. 12N, Rge. 16W

The existing road is an old logging road with steep terrain and slopes. For this reason, the Department is recommending the easement be issued with stipulations that prohibit snowplowing in the winter. Additionally, the easement will stipulate that access for recreation on State Land is not given or implied and that access is solely for ingress and egress to the private lands of Mr. Carlson.

DNRC Recommendation

The director recommends approval of this historic easement request

R/W Application 18778



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Nemont Telephone Cooperative Inc
 PO Box 600
 Scobey, MT 59263

Application No.: 18779
 R/W Purpose: a buried telecommunications cable
 Lessee Agreement: ok
 Acreage: 4.31
 Compensation: \$1,448.00
 Legal Description: 20-foot strip through Gov. Lots 5 & 7, S2SW4, E2SW4, SW4NW4
 and a 20-foot strip across the Missouri River adjoining Gov. Lots 5
 & 7 in SE4, Sec. 36, Twp. 27N,
 Rge. 41E, McCone and Valley Counties
 Trust Beneficiary: Common Schools & Public Land Trust - Nav. River

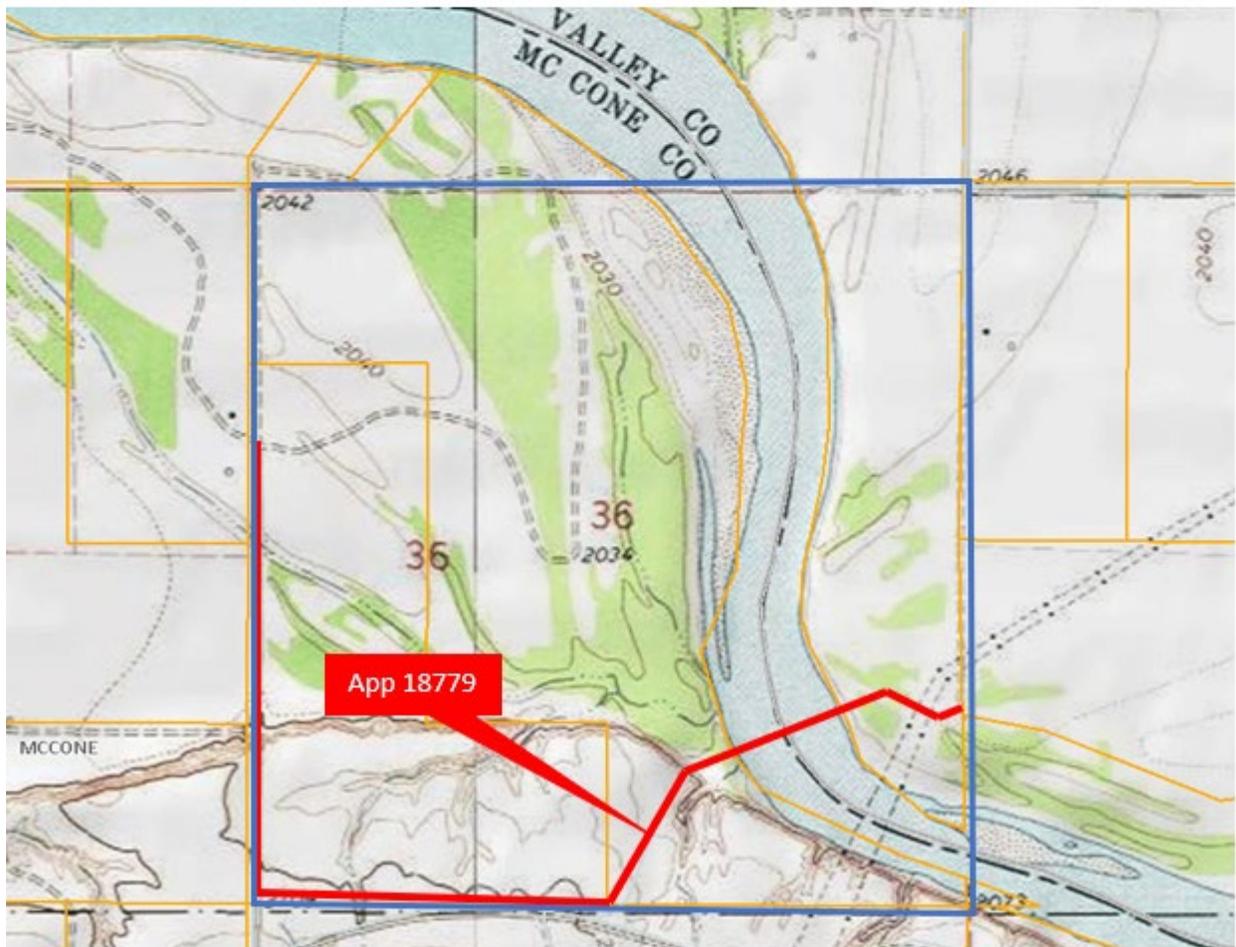
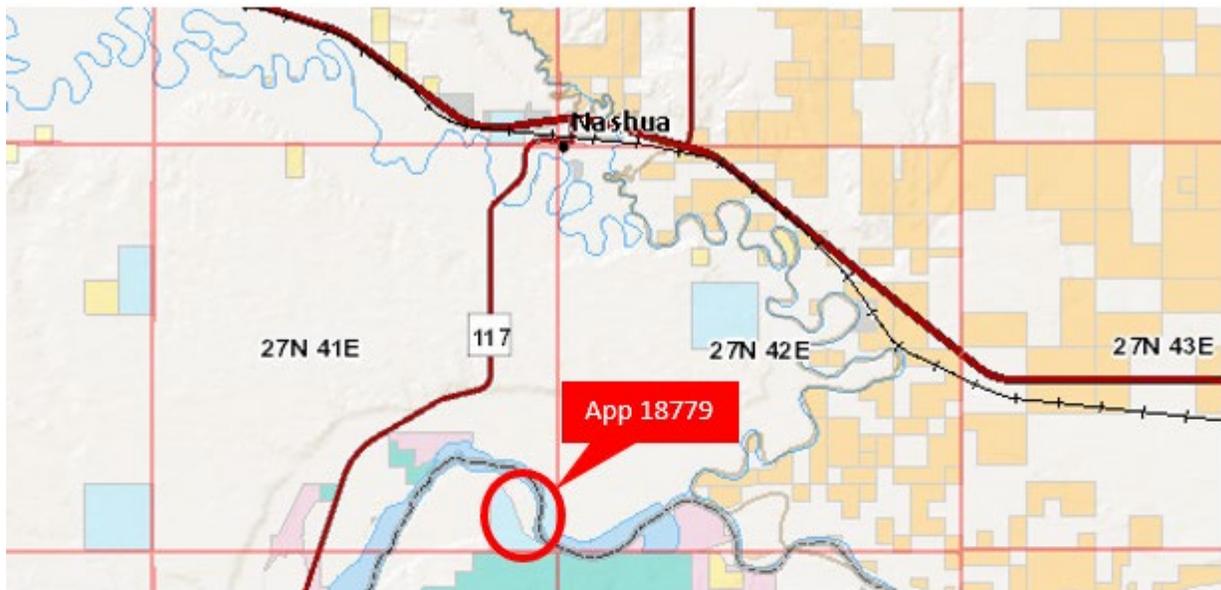
Item Summary

Nemont Telephone Cooperative is proposing to install a new telecommunications cable in the area around Nashua to upgrade current facilities and services. Existing copper cables are at capacity and have outlived their life expectancy. The new telecommunications cable will provide the ability to fulfill new service requests and deploy full broadband services. The proposed route is located along existing roads and previously disturbed ground, therefore minimal impacts are expected. The State Land crossed by this project is not located within sage grouse habitat, therefore consultation with the sage grouse program was not necessary.

DNRC Recommendation

The director recommends approval of this easement request for Nemont Telephone.

R/W Application 18779



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Tongue River Electric Cooperative Inc.
 PO Box 138
 Ashland, MT 59003

Application No.: 18780
 R/W Purpose: an overhead 115kV electric transmission line
 Lessee Agreement: yes
 Acreage: 0.15
 Compensation: \$413.00
 Legal Description: a tract in the NW4NW4, Sec. 36, Twp. 13N, Rge. 53E,
 Prairie County
 Trust Beneficiary: Common Schools

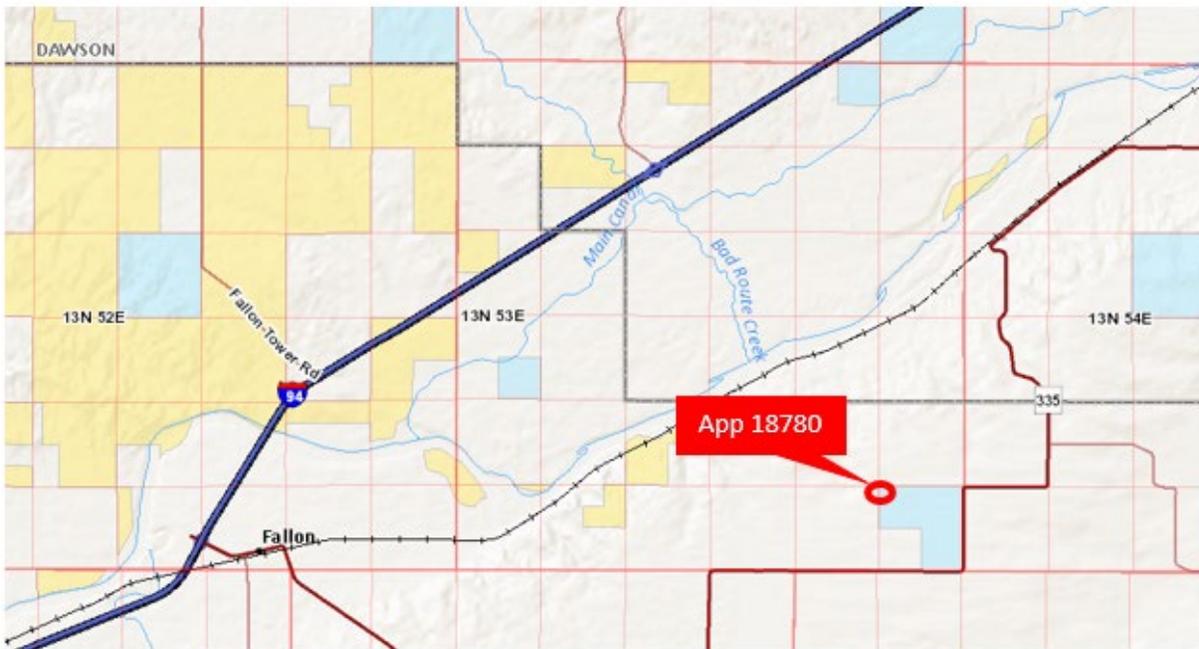
Item Summary

Tongue River Electric Coop. is requesting an easement to construct a new 115 kV electric transmission line across State land. The proposed transmission line will supply a pump station associated with the Keystone XL Pipeline and provide an interconnection at the O'Fallon Substation operated by Western Area Power Administration to the pump station. The proposed route was chosen to co-locate the project through and adjacent to existing disturbed corridors. Only one power pole will be constructed on State Land, a result of landowner resistance to placement of the powerline on private land. The total length of the project is 16.2 miles and portions impact sage grouse habitat. The applicant has received approval of the project through the sage grouse program and it is noted that the State land proposed to be crossed is not within sage grouse habitat.

DNRC Recommendation

The director recommends approval of the easement for Tongue River Electric Coop.

R/W Application 18780



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Montana Department of Transportation
 PO Box 201001
 Helena, MT 59620-1001

Application No.: 18781
 R/W Purpose: highway construction and maintenance, including occupancy
 by public utilities as defined in §69-4-101 MCA

Lessee Agreement: N/A (Navigable River)
 Acreage: 1.03
 Compensation: \$134,544.00
 Legal Description: tract of land across the Clark Fork River in NW4SW4, Sec. 22,
 Twp. 13N, Rge. 19W, Missoula County
 Trust Beneficiary: Public Land Trust - Nav. River

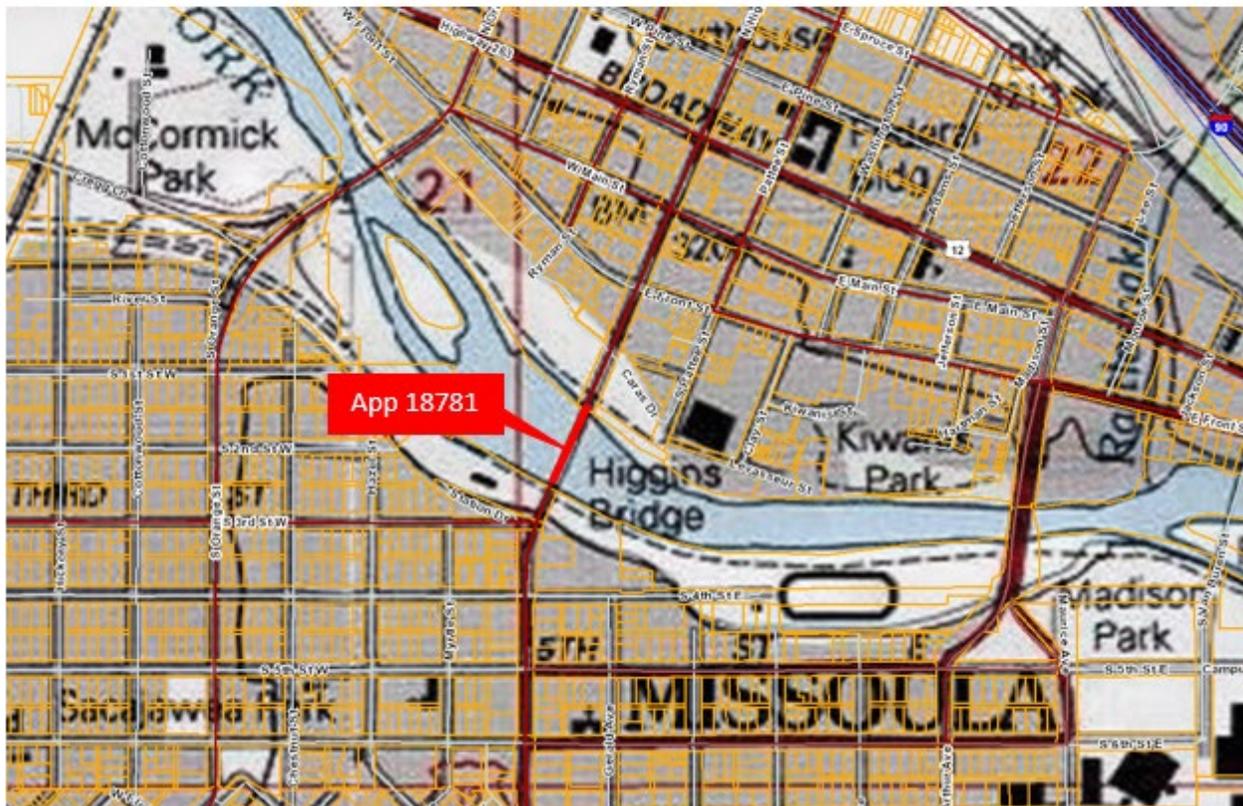
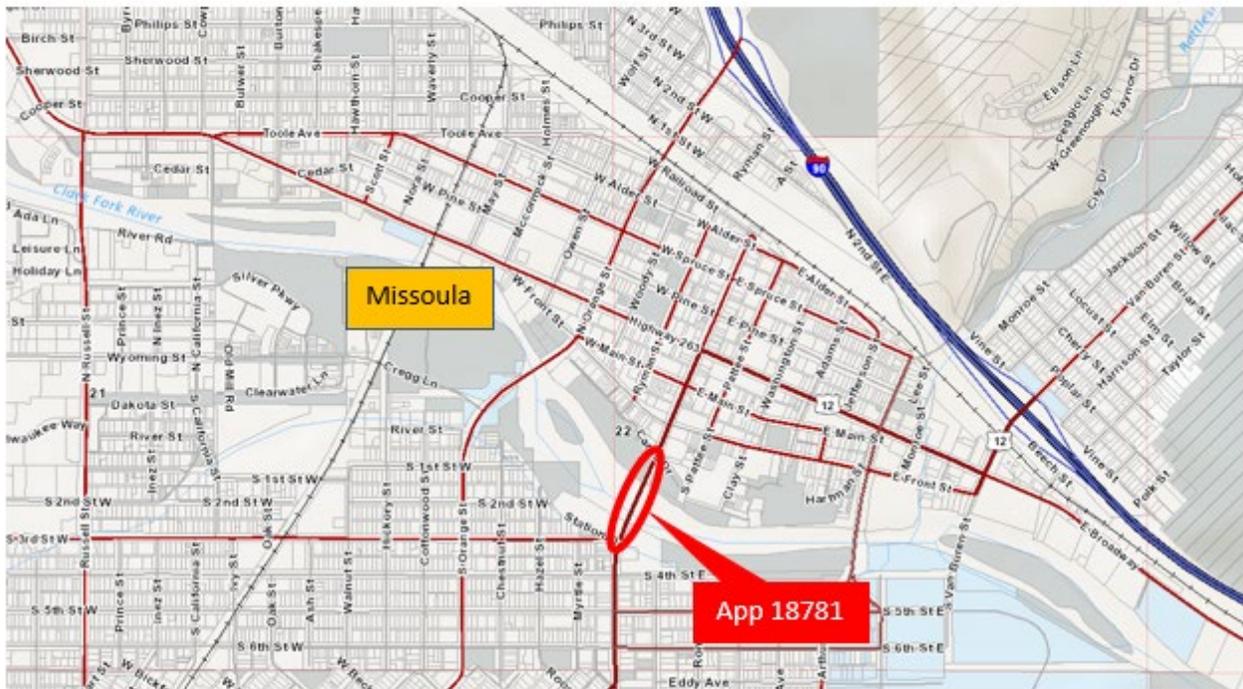
Item Summary

The Montana Department of Transportation (MDT) is proposing to repair or rehabilitate the deteriorated elements of the Higgins Avenue bridge and improve multi-modal transportation facilities across the bridge. The proposed project involves structural rehabilitation of the bridge that will include bridge deck replacement, repair steel superstructure as needed, along with widening the bridge to the west to provide for separated shared-use paths on both sides of the bridge.

DNRC Recommendation

The director recommends approval of the proposed easement to MDT.

R/W Application 18781



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Montana Department of Transportation
 PO Box 201001
 Helena, MT 59620-1001

Application No.: 18782
 R/W Purpose: highway construction and maintenance, including occupancy by
 public utilities as defined in §69-4-101 MCA

Lessee Agreement: Pending
 Acreage: 0.10
 Compensation: \$9,414.00
 Legal Description: tract in the SE4NE4, Sec. 36, Twp. 29N, Rge. 22W,
 Flathead County

Trust Beneficiary: Common Schools

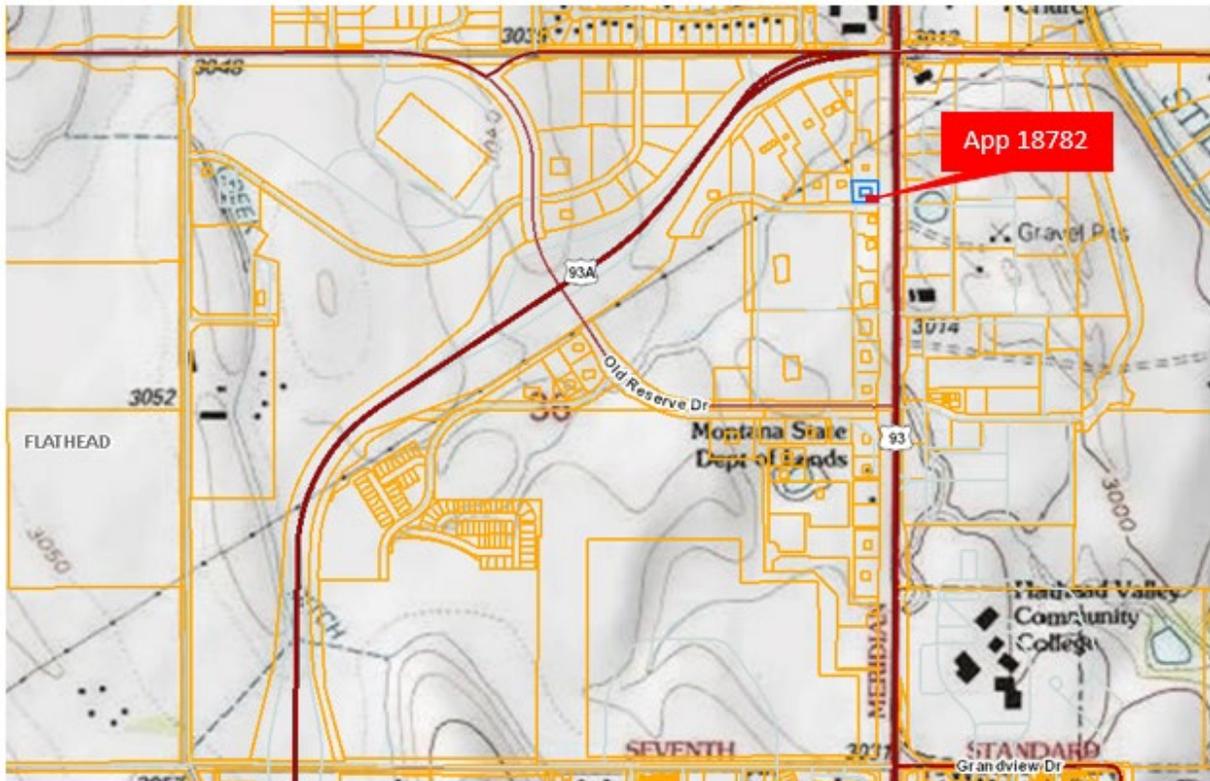
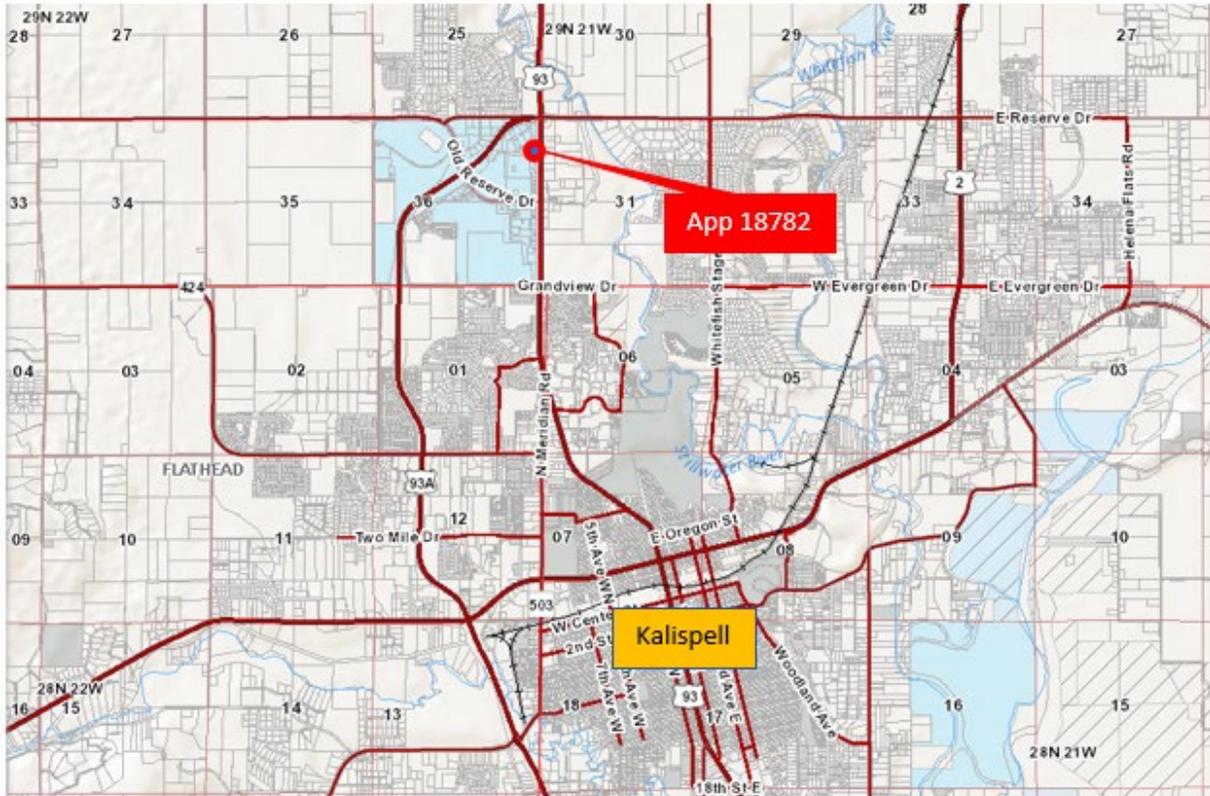
Item Summary

This proposed project is to improve the intersection of Treeline Road and US 93 on the State parcel under multiple commercial developments. The existing raised medians and offset alignments for traffic are a safety issue. Under this project the medians will be removed and the exclusive left turn lanes at the intersection will be properly aligned. The project will include upgraded signal equipment and pedestrian facilities including pedestrian ramps, push buttons and pedestrian signals to meet current standards. An exclusive southbound right turn lane will also be included in the project. The current commercial lessee is aware of the project and has been involved in the planning. At this time negotiations over the value of the landscaping improvements, lawn and two maple trees, are ongoing. It is expected to be settled within a short period of time.

DNRC Recommendation

The director recommends approval of the proposed easement to Montana Department of Transportation (MDT).

R/W Application 18782



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Douglas Harcksen
PO Box 493
Twin Bridges, MT 59754

Application No.: 18783
R/W Purpose: an overhead 7.2kV electric distribution line
Lessee Agreement: ok
Acreage: 0.01
Compensation: \$100.00
Legal Description: 20-foot strip through NW4NW4, Sec. 16, Twp. 3S, Rge. 5W,
Madison County
Trust Beneficiary: Common Schools

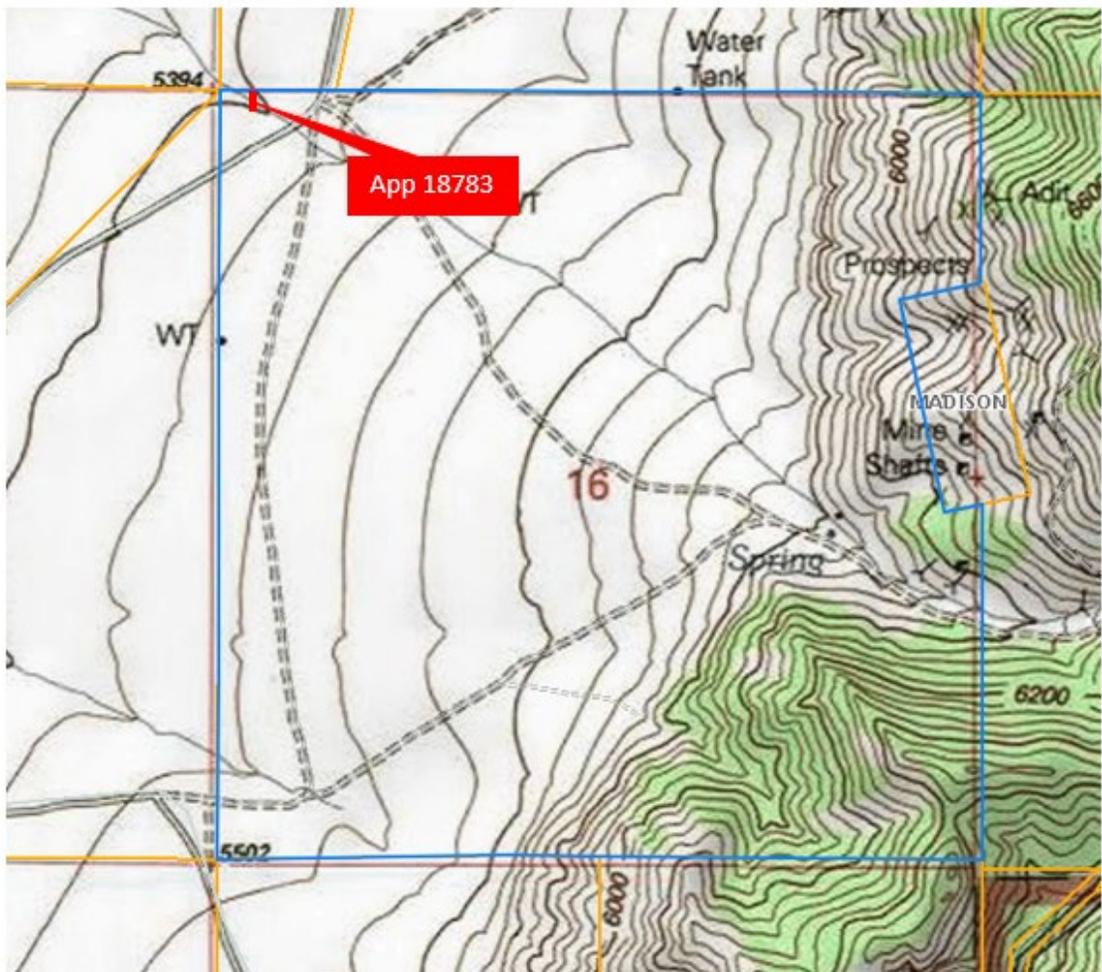
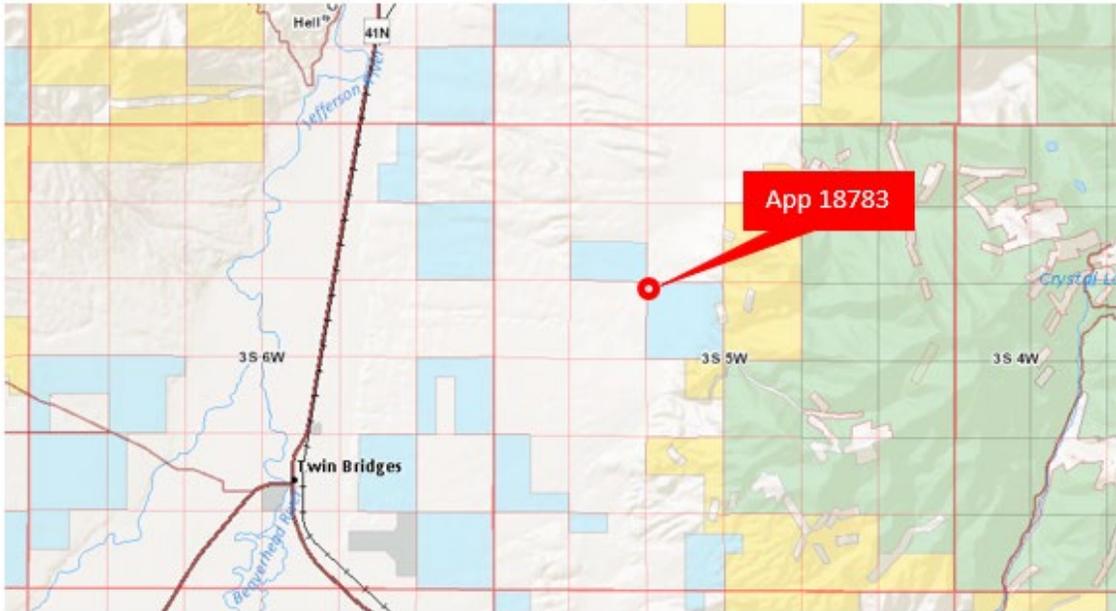
Item Summary

Doug Harcksen requested electrical utility service to his private lands from NorthWestern Energy. NorthWestern Energy advised that they would prefer Mr. Harcksen apply for the easement in his own name as the line only serves his property. The 118-foot request will tie in to an existing NorthWestern Energy overhead powerline which is under an easement from the State. The easement will stipulate that the electrical service is appurtenant to Mr. Harcksen's private property. Minimal impacts are expected from the installation of this proposed line.

DNRC Recommendation

The director recommends approval of the easement for Mr. Harcksen.

R/W Application 18783



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Montana Department of Transportation
 PO Box 201001
 Helena, MT 59620-1001

Application No.: 18784
 R/W Purpose: highway construction and maintenance, including occupancy by
 public utilities as defined in §69-4-101 MCA

Lessee Agreement: ok
 Acreage: 2.48
 Compensation: \$1,550.00
 Legal Description: a tract in the SE4SE4, Sec. 33, Twp. 22N, Rge. 4E,
 Cascade County
 Trust Beneficiary: Capitol Buildings

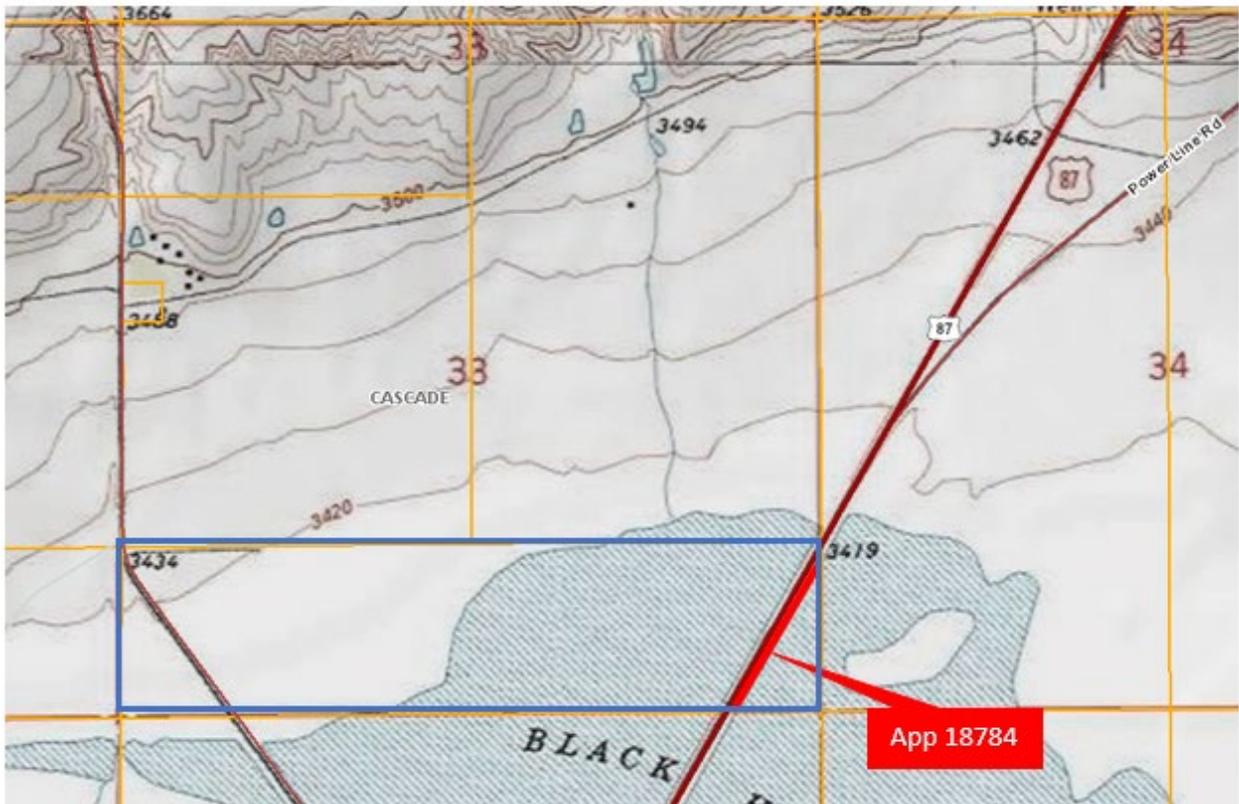
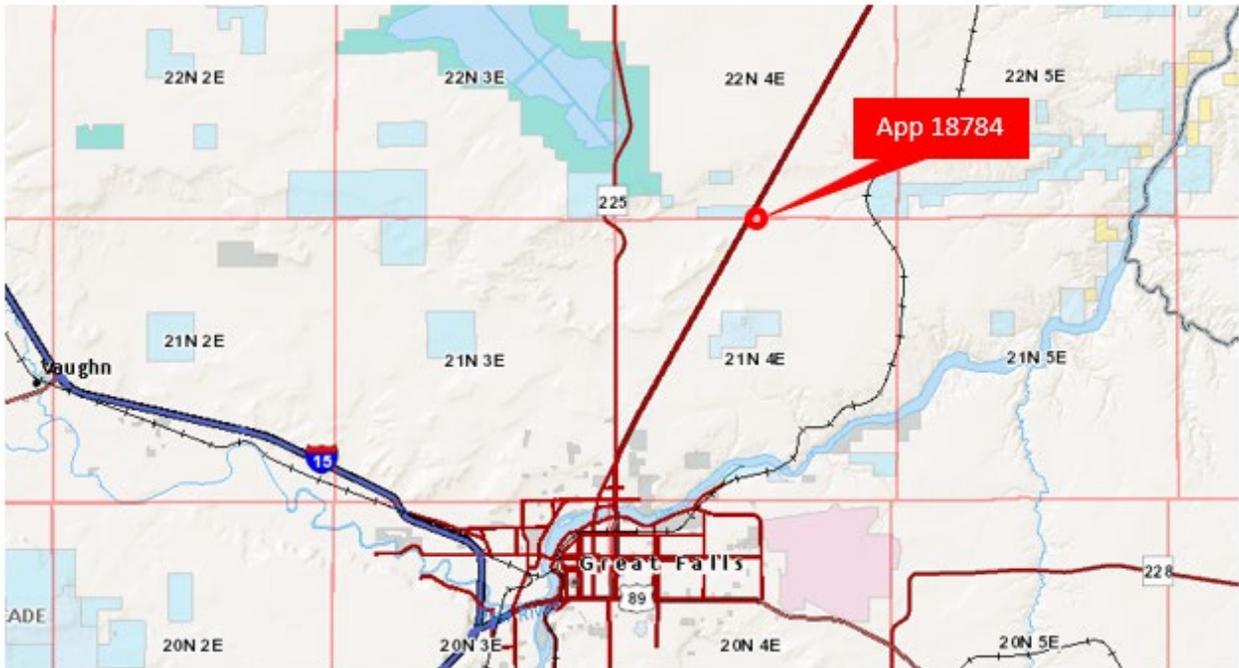
Item Summary

Montana Department of Transportation (MDT) is planning to reconstruct Highway 87 North of Great Falls to improve safety. This project includes widening the existing highway along both sides and constructing a flatter vertical alignment to improve passing sight distance. In addition, the project will construct passing lanes and applicable turn lanes.

DNRC Recommendation

The director recommends approval of this easement request by MDT.

R/W Application 18784



0819-6

COMMERCIAL LEASE:

PROPOSE WIND DEVELOPMENT

**Land Board Agenda Item
August 19, 2019**

0819-6 Commercial Lease: Proposed Wind Development

Location: Wheatland and Meagher Counties

Trust Benefits: Deaf and Blind School

Trust Revenue: \$81,620

Item Summary

The Department of Natural Resources and Conservation is requesting approval to issue an exclusive Option to Lease for 3,080 acres. The Option to Lease provides for site control for rights associated with wind power project development, as well as the right for the optionee to enter into a long-term commercial Lease for the construction and operation of a wind power project. The proposed trust land is intermingled with private land that is already leased to the proponent for a wind project. The proposed Option to Lease would facilitate the State's ability to participate in the wind development that is planned around the trust land parcels and share in the long-term revenue opportunity afforded the adjacent private land owner within the project's boundaries. The proposed Option to Lease and associated commercial Lease include land within Sections 16, 18, 20, 28, 30 and 32 in Township 9N, Range 12E in Wheatland County, and Section 24 in Township 9N, Range 11 East in Meagher County.

The proposed Option to Lease is for up to five years. If a Lease is exercised during the Option to Lease period, the proponent could commence construction and development of wind power facilities on the trust lands designated in the Lease. The Lease includes a 30-year initial term, followed by two 10-year renewal options.

In March of 2007, a request for proposals (RFP) was issued for wind development on the subject property. At the time of the RFP, the procedure for acquiring wind leases on trust land included issuance of a land use license for wind development rights and environmental studies and did not require Land Board approval prior to issuance of a Lease. Accordingly, the proponent has held a land use license for the subject property and has so far compensated the trust \$46,750 in license fees. Additionally, an Environmental Impact Statement (EIS) was completed during the land use license term and a record of decision was signed for completion of a lease agreement for development of up to 15 turbines on the subject trust land.

The Department is bringing this project forward for Land Board approval to align the contract type and required approval process with our current policies and Administrative Rules of Montana (ARM) in advance of any development.

Trust Revenue:

Under the Option to Lease: annual rent will be a rate per-acre based on the entire 3,080-acre premises. The annual rent under the Option increases in annual increments starting at \$7,700 in year one, to \$30,800 in year five.

Under a commercial Lease: annual rent will consider the greater of three factors: applicable statutory minimum base rent for the leased land; revenue shares from actual energy sold; or production capacity for the number of megawatts (MW) installed on the Lease premises.

The proponent must establish site control in order to secure a power purchaser. The power purchaser will drive the ultimate size of the development.

Land Value	Under Option to Lease	Under Commercial Lease		
	Option Fees Annual fee graduates for 5 years from \$2.50/acre - \$10/acre	Annual Rent is the Higher of these Factors		
		3% of Land Value Current minimum rent	\$2,500 per MW Installed Capacity	Revenue Sharing
\$2,464,000	\$81,620* <i>*if Option is held for 5 years</i>	\$73,920* +2% annually <i>*in year 1, if Option is exercised for full 3,080 acres</i>	\$25,000-\$75,000* +1.5% annually <i>*in year 1 for a range of 10MW- 30MW</i>	3.00% yrs 1-10 3.25% yrs 11-15 3.50% yrs 16-20 3.75% yrs 21-25 4.00% yrs 26-30

Proposal:

In March of 2007 an RFP was issued for wind development on the subject property. Horizon Wind Energy was the successful proponent. EDP Renewables subsequently acquired Horizon Wind Energy and later rebranded the company as EDP Renewables North America (EDPR NA). The name on the proposal was formally changed to EDPR NA in 2011. It is typical for a commercial developer to create a project company for a development project. Martinsdale Wind Farm, LLC, is EDPR NA's project company for the proposed wind development. Accordingly, Martinsdale Wind Farm, LLC is the name shown on all DNRC lease contracts related to this development.

The entire wind development project is proposed to be between 200-300 megawatts. The trust land portion is proposed to contribute up to 10-30 megawatts, or 3%-15% of the production capacity of the entire project. EDPR NA forecasts commercial operation by the end of 2022, assuming a contract with a power purchaser is established, and all necessary permitting is secured, including Land Board approval of the Lease in this item.

MEPA:

A final EIS for the proposed development was completed in April of 2009. EDPR NA has contacted the sage grouse oversight team regarding the process for evaluating the project's impacts, if any, on sage grouse habitat, and is coordinating with the US Fish & Wildlife Service, Montana Fish Wildlife, & Parks, and other agencies, in developing an environmental study plan as part of ongoing environmental site evaluation. EDPR NA began their most recent round of bird and big game counts in July 2019. Any significant variations in conditions from those analyzed within the EIS, will be analyzed through the appropriate MEPA process based on the findings, prior to executing the Lease.

Existing Uses on the proposed project area:

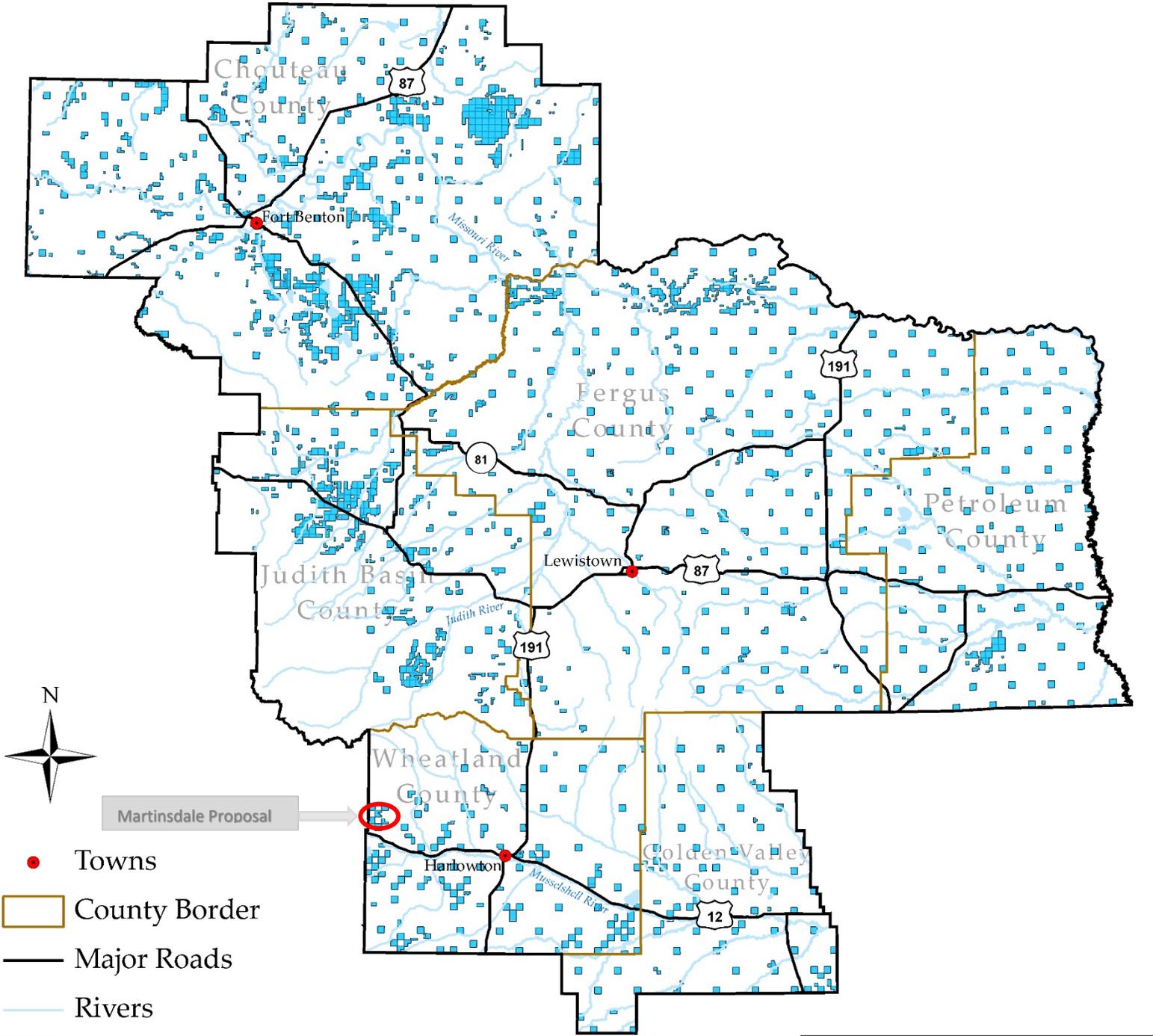
In Fiscal Year 2019, revenue from agriculture and grazing leases within the project area totaled \$50,850. Agriculture and grazing uses are compatible with wind development, and lease operations will continue within the project area up until construction begins. During wind farm construction, operations would be partially and temporarily interrupted. After wind farm construction, agriculture and grazing activities would reconvene and continue generating revenue for the trust.

Agriculture and Grazing Leases: The project area currently has four active agriculture and/or grazing leases with the Martinsdale Colony. These leases would remain intact until such time that a commercial Lease is executed. If a commercial Lease is executed, the agriculture and grazing leases will be withdrawn in accordance with their lease terms. The commercial Lease will become the primary use of the land, and the agriculture and grazing uses will be reauthorized through land uses licenses. Upon that transition, the proponent must compensate the agriculture and grazing lessees for any improvements upon the land in accordance with MCA § 77-6-302.

The Director recommends that the Board approve the Option to Lease and associated commercial Lease for the Martinsdale Wind Farm in Wheatland and Meagher Counties.

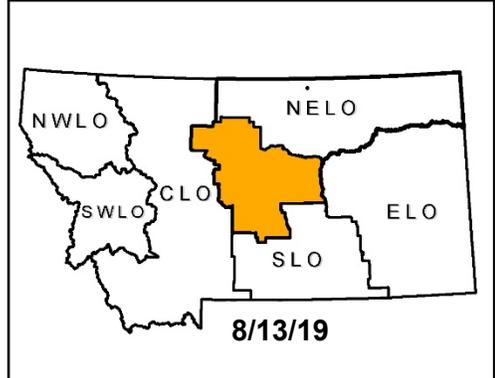
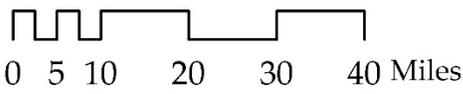


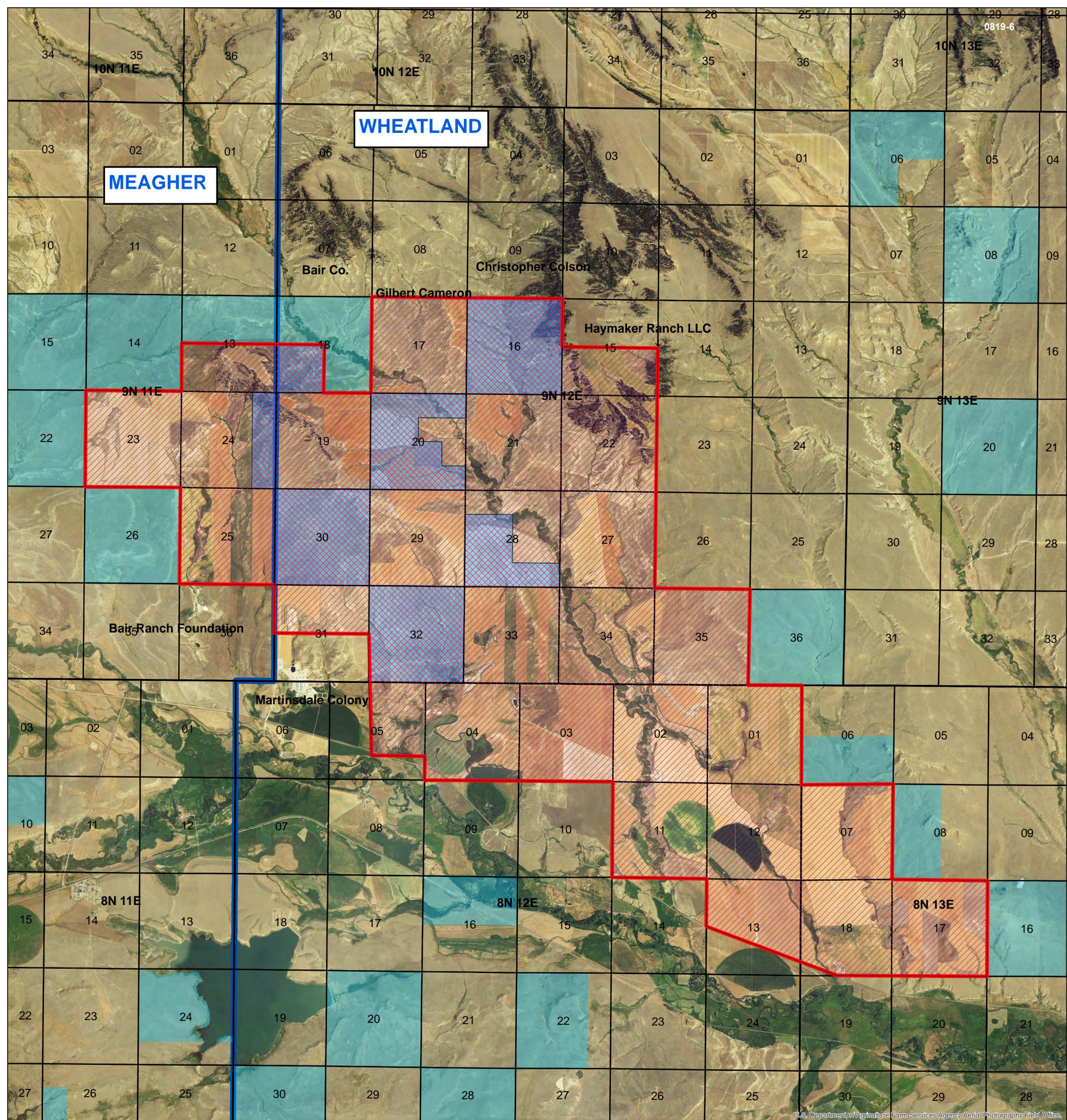
MARTINSDALE WIND PROPOSAL VICINITY MAP



Martinsdale Proposal

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





U.S. Department of Agriculture Farm Services Agency Aerial Photography Field Office

Legend

-  Martinsdale Colony - Trust Land Ag Lease in Project Boundary
-  Martinsdale Colony - Private Lease to Martinsdale Wind LLC
-  Project Boundary
-  TRS
-  Trust Lands
-  County



Martinsdale Wind Farm Vicinity Map
Location: Wheatland & Meagher Counties
Date: 8/7/2019
Prepared By: REMB Staff Member
Projection: NAD83 Montana State Plane



*Neighboring landowners adjacent to Trust Lands included in Project Area listed on map



MONTANA DEPARTMENT OF NATURAL
RESOURCES & CONSERVATION

OPTION TO LEASE AGREEMENT #3080010

This Option to Lease Agreement, is entered into this 20th Day of August 2019 (the “Effective Date”), by and between the Montana Department of Natural Resources and Conservation, whose address is P.O. Box 201601, Helena, MT 59620 (hereinafter referred to as the “Department”) and **Martinsdale Wind Farm LLC** whose address is 808 Travis Street, Suite 700, Houston, TX 77002 (hereinafter referred to as the “Optionee”).

GRANT OF OPTION: In consideration of an annual payment, the Department grants to the Optionee a non-assignable exclusive option to lease 3,080 acres described as:

County	Description	Sec.	Twp.	Rge.	Acres
Wheatland	ALL	16	9N	12E	640
Wheatland	SW4	18	9N	12E	160
Wheatland	W2, N2NE4, NW4SE4, and S2SE4	20	9N	12E	520
Wheatland	ALL	30	9N	12E	640
Wheatland	S4, N2SW4, and S2NW4	28	9N	12E	320
Wheatland	ALL	32	9N	12E	640
Meagher	E4	24	9N	11E	160

And as illustrated in Exhibit A (“Premises”), attached hereto, upon those terms and conditions as in the form, terms, and conditions of that lease agreement attached hereto as Exhibit B, and incorporated herein as if fully set forth. The annual fee for the option to lease shall be:

Year one:	\$2.50 per acre, or \$7,700 within thirty (30) days of the Effective Date
Year two:	\$3.50 per acre, or \$10,780 on the first anniversary of the Effective Date
Year three:	\$4.50 per acre, or \$13,860 on the second anniversary of the Effective Date
Year four:	\$6.00 per acre, or \$18,480 on the third anniversary of the Effective Date
Year five:	\$10.00 per acre, or \$30,800 on the fourth anniversary of the Effective Date

TERM: This Option to Lease shall remain in effect from the date of this Option to Lease Agreement for five years until 12 noon, Mountain Time on the 20th Day of August 2024, at which time it will expire and terminate automatically. Optionee may exercise this Option to Lease and execute a Lease at any time during the term. If the option is exercised prior to the expiration of the term of this Option to Lease Agreement, rent paid for the unused portion of the option term will be applied to the first year rental payment of the Lease.

The Optionee may terminate this Option to Lease at any time prior to the expiration of the foregoing term. The Optionee will provide the Department with a written notice of early termination at least thirty (30) days prior to the intended date of early termination. Upon the Department’s receipt of such notice of termination, this Option shall terminate and the Optionee shall be released from all obligations under this Option, other than those obligations that expressly survive such termination. Under early termination, Optionee shall not be entitled to any refund of any prepaid payments for the Grant of Option.

PAYMENT OF SPECIAL ASSESSMENTS AND TAXES: Optionee will pay all special assessments (i.e. SIDs, RIDs, etc.) and other like impositions levied, assessed, or attributable to the lease premises described in Exhibit “A” during the Term. The Optionee will pay before delinquent, directly to the taxing

authority, all Taxes that may accrue during or are attributable to any part of the Option term, including privilege taxes, also known as beneficial use taxes, per MCA 15-24-1203.

EXISTING LEASES: Optionee acknowledges that Optionee enters into this Option to Lease subject to any leases or other rights existing on the Effective Date. A list of the leases existing on the Effective Date is attached hereto as Schedule 1.

LEASES DURING THE OPTION TERM: Should the Department enter into additional lease or leases after the effective date of this Option to Lease and before Optionee exercises its option (“Future Leases”), the Department shall furnish Optionee with a copy of such lease or leases upon execution of such agreement(s). Further, all Future Leases shall contain (i) a notice to the lessee under the Future Lease of the existence of this Option to Lease and Optionee’s rights hereunder and under the Lease and (ii) require that all lessees under the Future Leases work in good faith with Optionee and the Department to site any buildings, roads, pipelines, drill sites, utility lines, drainage areas, retention areas, and other structures and infrastructure (permanent or temporary) in a manner that will not materially interfere with Optionee’s intended use of the Premises under this Option and the Lease.

MANNER OF EXERCISE OF OPTION: The Optionee may exercise the option granted in the preceding paragraph at any time before the expiration of the option period, for any or all of the Option to Lease premises, by giving written notice of exercise of the option to the Department, at the address of the Department set out above. The notice of exercise of the option must specify the date upon which the lease is to commence, and such date must be within the term of the option. If no date is specified, the lease term will begin immediately as of the date of the notice of exercise of the option.

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

DUE DILIGENCE AUTHORIZED: Through the term of this Option to Lease, Optionee is permitted to access the option to lease Premises for the limited purpose of conducting due diligence activities in support of project regulatory approval, data collection, and environmental monitoring, in accordance with the following:

PERMITTED ACTIVITIES:

- 1) Data collection, survey, geotechnical sampling, and environmental research in support of project design, review and land use regulatory approval.
- 2) The Optionee shall obtain prior written approval, not to be unreasonably withheld, from the Department for the locations of all geotechnical borings and/or siting of any towers, or other equipment. All disturbed sites shall be reclaimed pursuant to the Reclamation section listed below.

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

DATA SHARING: Should the Optionee choose to not exercise this lease option, and does not enter into a lease, the Optionee agrees to share any and all data collected on the lease premises described in Exhibit “A”, including, but not limited to raw wind data and environmental data.

ACCESS TIMING RESTRICTIONS: Optionee must consult with the Department at least twenty-four (24) hours prior to accessing the option to lease Premises during the option period. The Department reserves the right to restrict any activity to the extent necessary to accommodate environmental or safety concerns, provided that the Department shall make a good faith effort to ensure that Optionee's due diligence activities are reasonably accommodated during the Option term.

WEEDS AND INVASIVE PLANTS: Optionee shall be responsible for controlling all noxious weeds and non-native grass species and other plants regulated by the Montana Weed Control Association on the Premises that were introduced by Optionee's activities thereon.

RECLAMATION: Optionee shall take all reasonable precautions to prevent or minimize damage to natural (i.e., vegetation, soil, water, wildlife), and cultural resources within the areas of the Option to Lease. Optionee shall reclaim any disturbed areas in the option to lease premises to the specifications of the Department. Such reclamation shall include, but not be limited to, the elimination of all traces of disturbance, compaction, and movement of construction equipment. Optionee shall be required to reseed all disturbed areas with native species of grasses, unless other arrangements are agreed upon between the Department and Optionee in writing. The seed mix used in the reclamation shall be approved in advance by the Northeastern Land Office. When any action requires disturbance, all soil materials shall be salvaged, safeguarded from loss due to wind or water erosion or machinery activity, and shall be replaced on all disturbed areas.

LIABILITIES: Optionee hereby assumes all responsibility for all claims, damages, and lawsuits that result from any and all damages, injury or death to persons and/or property that occur on or about said land caused by or arising out of Optionee's use of the subject area hereunder. Optionee does not assume any liability for any claims, damages, and lawsuits caused by the negligence or willful misconduct of the Department. The Optionee further agrees that it will be responsible for any damage caused when entering, crossing or leaving state-owned subject land. In no event will Optionee be liable for consequential or punitive damages.

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

Date: _____

STATE OF MONTANA, MONTANA DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION

By: _____

Mike Atwood, Chief
Real Estate Management Bureau

ACKNOWLEDGMENT

STATE OF MONTANA
County of Lewis and Clark

This instrument was acknowledged before me on _____, ____, by
_____, as _____ of the Montana Department of
Natural Resources and Conservation.

(Notary Signature)

[SEAL]

Date: _____

OPTIONEE

Martinsdale Wind Farm LLC

By: _____

Its: _____

ACKNOWLEDGMENT

STATE OF _____

County of _____

This instrument was acknowledged before me on _____, ____, by
_____, as _____ of
Optionee, _____.

(Notary Signature) [SEAL]

SCHEDULE 1 – EXISTING LEASES AND OTHER RIGHTS

The Option to Lease is subject to existing leases and easements. The applicable leases and easements are included in the following pages of this Schedule 1 and are identified as:

Lease 3758 Martinsdale Colony Inc

Lease 4803 Martinsdale Colony

Lease 4804 Martinsdale Colony

Lease 9557 Martinsdale Colony

Easement D-9814 Chris Colson

Easement D-1760 The Montana Power Company

Easement D-1759 The Montana Power Company

Easement D-3721 The Montana Power Company

Easement D-493 The Great Falls Power Company

AGRICULTURAL & GRAZING LEASE OF STATE LANDS

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

Date this lease takes effect: **March 01, 2017**

Customer #: **2133**

Name of Lessee: MARTINSDALE COLONY INC

Address or Box No.: C/O WALTER WIFE 7760 HWY 12 W

City/State/Zip: MARTINSDALE MT 59053

Land Located in Wheatland County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres
<u>S2NW4, SW4, S2SE4</u>	<u>28</u>	<u>9N</u>	<u>12E</u>	<u>320.00</u>

Total number of leased acres, **320** more or less belonging to **Deaf & Blind School** Grant.

Grazing Acres: **55.5** Agricultural Acres: **264.5** Unsuitable Acres: **0**
 Other Acres **0** Hayland Acres **0** CRP Acres **0**

Terms of Grazing Use and Rental Rate: **Minimum**

Terms of Agricultural Use and Rental Rate: **Minimum**

Purpose for which the land is leased: **GRAZING & AGRICULTURE**

Term of lease: **10 years** Date of expiration: **February 28, 2027**

THIS LEASE HAS A CARRYING CAPACITY OF ⁴⁶ ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

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

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

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

1. ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.
2. ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.
3. CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.
4. SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.
 (a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.
 (b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)
5. REPORTS--Lessee is required to submit reports as requested by the Director, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.
6. CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the department of such grazing may be cause for cancellation of the lease.

7. **FEDERAL FARM PROGRAM COMPLIANCE**--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.
8. **IMPROVEMENTS**--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitability for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.
9. **LIENS ON BUILDINGS AND CROPS**--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.
10. **COMPENSATION FOR IMPROVEMENTS**--(a) If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents (\$2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
- (b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
- (c) Summer fallowing (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.
11. **ASSIGNMENT OF LEASE**--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.
12. **RENEWAL LEASE**--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.
13. **CANCELLATION OF LEASE BY THE STATE**--The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.
14. **LANDS MAY BE SOLD**--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.
15. **RESERVATION**--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
- (a) **MINERAL AND TIMBER RESERVATION**--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
- (b) **ADDITIONAL RESERVATIONS**--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.
16. **NOXIOUS WEEDS AND PESTS**--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114, MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

- 17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user. except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.
- 18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States. such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.
- 19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.
- 20. INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.
- 21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties, fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.
- 22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.
- 23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use, as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.
- 24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.
- 25. SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the said Board of Land Commissioners this day of **MAY 15 2017**, 20 .

Walter Wiff for
 LESSEE SIGNATURE
Martinsdale Colony

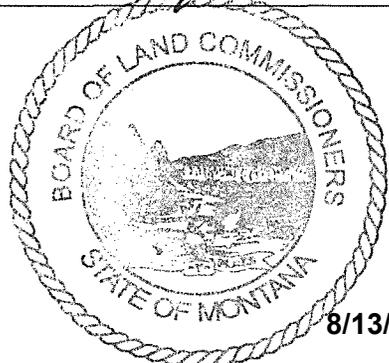
Box 152
 ADDRESS OR BOX NO.

Martinsdale MT 59053
 CITY STATE ZIP CODE

406-572-3329
 PHONE NUMBER

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

by: Amanda Taylor



AGRICULTURAL & GRAZING LEASE OF STATE LANDS

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

Date this lease takes effect: **March 01, 2010**

Name of Lessee: MARTINSDALE COLONY

Address or Box No.: C/O PETE WIPF P O BOX 152

City/State/Zip: MARTINSDALE MT 59053

Land Located in Wheatland County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres
ALL	16	9N	12E	640.00

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

Grazing Acres: **640** Agricultural Acres: **0** Unsuitable Acres: **0**
 Other Acres: **0** Hayland Acres: **0** CRP Acres: **0**

Terms of Grazing Use and Rental Rate: **Minimum**

Terms of Agricultural Use and Rental Rate: **Minimum**

Purpose for which the land is leased: **GRAZING**

Term of lease: **10 years** Date of expiration: **February 29, 2020**

THIS LEASE HAS A CARRYING CAPACITY OF 142 ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

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

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

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

1. ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.
2. ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.
3. CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.
4. SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.
 (a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.
 (b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)
5. REPORTS--Lessee is required to submit reports as requested by the Director, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.
6. CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the

department of such grazing may be cause for cancellation of the lease.

7. **FEDERAL FARM PROGRAM COMPLIANCE**--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.
8. **IMPROVEMENTS**--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitability for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.
9. **LIENS ON BUILDINGS AND CROPS**--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.
10. **COMPENSATION FOR IMPROVEMENTS**--(a) If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents (\$2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
(b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
(c) Summer following (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.
11. **ASSIGNMENT OF LEASE**--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.
12. **RENEWAL LEASE**--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference, right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.
13. **CANCELLATION OF LEASE BY THE STATE**--The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.
14. **LANDS MAY BE SOLD**--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.
15. **RESERVATION**--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
(a) **MINERAL AND TIMBER RESERVATION**--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
(b) **ADDITIONAL RESERVATIONS**--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.
16. **NOXIOUS WEEDS AND PESTS**--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114, MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this

provision when directed to do so by the Department may result in cancellation of the entire lease.

- 17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user, except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.
- 18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States, such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.
- 19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.
- 20. INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.
- 21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties, fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.
- 22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.
- 23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use," as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.
- 24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.
- 25. SPECIAL CONDITIONS--
 - The lessee must develop and implement a renovation plan for the west half of the section in conjunction with Department staff from the Lewistown office. Grazing on the west half may only occur when the renovation plan has been completed and has been approved by Department staff. The lessee shall be responsible for ensuring proper livestock distribution.

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto

set his hand and affixed the seal of the said Board of Land Commissioners this APR 09 2010 day of _____, 20____

Martinsdale Colony Inc by [Signature]
LESSEE SIGNATURE

MARY SEXTON
DIRECTOR, DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

PoBox 152
ADDRESS OR BOX NO.

by: [Signature]

Martinsdale, Wyo 59053
CITY STATE ZIP CODE



AGRICULTURAL & GRAZING LEASE OF STATE LANDS

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

Date this lease takes effect: **March 01, 2015**

Customer #: **2133**

Name of Lessee: MARTINSDALE COLONY

Address or Box No.: C/O WALTER WIPF 7760 HWY 12 W

City/State/Zip: MARTINSDALE MT 59053

Land Located in Wheatland County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres
THAT PT LYING S & E OF FENCE	18	9N	12E	511.04
W2, N2NE4, S2SE4, NW4SE4	20	9N	12E	520.00
LOTS 1 - 4 INC, E2W2, E2	30	9N	12E	640.35
ALL	32	9N	12E	640.00

Total number of leased acres, **2311.39** more or less belonging to **Deaf & Blind School** Grant.

Grazing Acres: **1768.09** Agricultural Acres: **537** Unsuitable Acres: **0**
 Other Acres **0** Hayland Acres **6.3** CRP Acres **0**

Terms of Grazing Use and Rental Rate: **Minimum**

Terms of Agricultural Use and Rental Rate: **Minimum**

Purpose for which the land is leased: **GRAZING & AGRICULTURE**

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

THIS LEASE HAS A CARRYING CAPACITY OF 737 ANIMAL UNIT MONTHS.. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

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

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

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

- ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.
- ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.
- CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.
- SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.
 (a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.
 (b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)
- REPORTS--Lessee is required to submit reports as requested by the Director, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.
- CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the department of such grazing may be cause for cancellation of the lease.

7. **FEDERAL FARM PROGRAM COMPLIANCE**--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.
8. **IMPROVEMENTS**--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitability for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.
9. **LIENS ON BUILDINGS AND CROPS**--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.
10. **COMPENSATION FOR IMPROVEMENTS**--(a) If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents (\$2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
- (b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
- (c) Summer fallowing (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.
11. **ASSIGNMENT OF LEASE**--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.
12. **RENEWAL LEASE**--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.
13. **CANCELLATION OF LEASE BY THE STATE**--The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.
14. **LANDS MAY BE SOLD**--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.
15. **RESERVATION**--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
- (a) **MINERAL AND TIMBER RESERVATION**--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
- (b) **ADDITIONAL RESERVATIONS**--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.
16. **NOXIOUS WEEDS AND PESTS**--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114, MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

- 17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user, except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.
- 18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States, such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.
- 19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.
- 20. INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.
- 21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties, fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.
- 22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.
- 23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use," as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.
- 24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.
- 25. SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the said Board of Land Commissioners this day of **MAY 12 2015**, 20 .

Martensdale Colony by West Wind
LESSEE SIGNATURE

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

7760 Highway 12 West 5/12/15
ADDRESS OR BOX NO.

by: Amanda [Signature]

Martensdale MT 59053
CITY STATE ZIP CODE



406-592-3329
PHONE NUMBER

AGRICULTURAL & GRAZING LEASE OF STATE LANDS

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

Date this lease takes effect: **March 01, 2016**

Customer #: **2133**

Name of Lessee: MARTINSDALE COLONY INC

Address or Box No.: C/O WALTER WIPF 7760 HWY 12 W

City/State/Zip: MARTINSDALE MT 59053

Land Located in Meagher County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres
THAT PORTION OF THE S2N2 LOCATED SOUTH OF THE EAST - WEST FENCELINE	13	9N	11E	34.60
E2E2	24	9N	11E	160.00

Total number of leased acres, **194.6** more or less belonging to **Deaf & Blind School** Grant.

Grazing Acres: **83.7** Agricultural Acres: **89.2** Unsuitable Acres: **0**
 Other Acres **0** Hayland Acres **21.7** CRP Acres **0**

Terms of Grazing Use and Rental Rate: **Minimum**

Terms of Agricultural Use and Rental Rate: **Minimum**

Purpose for which the land is leased: **GRAZING & AGRICULTURE**

Term of lease: **10 years** Date of expiration: **February 28, 2026**

THIS LEASE HAS A CARRYING CAPACITY OF 40 ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

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

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

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

1. ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.
2. ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.
3. CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.
4. SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.
 (a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.
 (b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)
5. REPORTS--Lessee is required to submit reports as requested by the Director, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.
6. CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the department of such grazing may be cause for cancellation of the lease.

7. **FEDERAL FARM PROGRAM COMPLIANCE**--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.
8. **IMPROVEMENTS**--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitability for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.
9. **LIENS ON BUILDINGS AND CROPS**--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.
10. **COMPENSATION FOR IMPROVEMENTS**--(a) If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents (\$2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
- (b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
- (c) Summer fallowing (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.
11. **ASSIGNMENT OF LEASE**--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.
12. **RENEWAL LEASE**--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.
13. **CANCELLATION OF LEASE BY THE STATE**--The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.
14. **LANDS MAY BE SOLD**--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.
15. **RESERVATION**--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
- (a) **MINERAL AND TIMBER RESERVATION**--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
- (b) **ADDITIONAL RESERVATIONS**--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.
16. **NOXIOUS WEEDS AND PESTS**--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114, MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

- 17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user. except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.
- 18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States. such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.
- 19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.
- 20. INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.
- 21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties, fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.
- 22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.
- 23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use, as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.
- 24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.
- 25. SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the said Board of Land Commissioners this day of MAY 18 2016 , 20

Martinsdale Colony by Walter Wipf
LESSEE SIGNATURE

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

Box 152
ADDRESS OR BOX NO.

by: Amanda Taylor

Martinsdale MT 59053
CITY STATE ZIP CODE

406-572-3329
PHONE NUMBER



Right of Way Application No. 10824
Affecting a 30-foot strip of land
through E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$
Sec. 16, Twp. 9N, Rge. 12E
Wheatland County, Montana

*Assigned to Chris Colson
9/5/2000*

*700680
54
01*

EASEMENT NO. D-9814

RIGHT OF WAY DEED

=====

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Know ye that the State of Montana (hereinafter referred to as "Grantor"), in consideration of the sum of Eight Hundred Eighty-Eight and No/100 Dollars (\$888.00) now paid, grants to Thomas W. and Linda L. Hayden (hereinafter referred to as "Grantee") a limited term right of way not to exceed thirty (30) years from date of issue for a private access road upon and across State lands, as follows:

A 30-foot strip of land through E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 16, Township 9 North, Range 12 East, Principal Meridian Montana, Wheatland County, Montana, more particularly described as follows:

A tract or strip of land 30 feet wide, 15 feet on each side of a centerline described as follows:

Beginning at a point on the South line of Section 16, Township 9 North, Range 12 East, marked by a 5/8" rebar with LS 11956 cap (said point bearing S89°44'31"E along the Section fence 3,815.1 feet from a steel fence post marking the apparent SW corner of Section 16); thence N18°25'43"E 137.90 feet to a 5/8" rebar with LS11956 cap; thence N11°55'52"E 1009.78 feet to a 5/8" rebar with LS11956 cap; thence N28°25'01"E 921.98 feet to a 5/8" rebar with LS11956 cap; thence N11°48'30"W 440.89 feet to a 5/8" rebar with LS11956 cap; thence N41°56'39"W 626.67 feet to a 5/8" rebar with LS11956 cap; thence S77°04'04"W 567.24 feet to a 5/8" rebar with LS11956 cap; thence N73°39'28"W 386.76 feet to a 5/8" rebar with LS11956 cap; thence S80°23'35"W 190.57 feet to a 5/8" rebar with LS11956 cap; thence N01°37'56"W 228.60 feet to a 5/8" rebar with LS11956 cap; thence N20°10'01"W 176.08 feet to a 5/8" rebar with LS11956 cap; thence N09°24'29"W 430.44 feet to a 5/8" rebar with LS11956 cap; thence N44°37'27"W 242.90 feet to a 5/8" rebar with LS11956 cap; thence N12°38'39"W 433.00 feet to a 5/8" rebar with LS11956 cap; thence N49°39'03"W 171.15 feet to a 5/8" rebar with LS11956 cap; thence N02°38'50"E 268.34 feet to a 5/8" rebar with LS11956 cap; thence N05°59'06"W 232.72 feet to a 5/8" rebar with LS11956 cap; thence N06°17'52"W 532.76 feet to a 5/8" rebar with LS11956 cap; said point being on the North line of Section 16, bearing S89°54'17"E along the Section line fence 2,280.6 feet from the fence corner marking the apparent NW corner of Section 16. From this point marking the end of the easement, a 3 inch brass cap monument, marked G.L.O. 1915 T10N R12E S32, S33, bears N11°29'10"W 10,810.03 feet.

The above-described right of way contains a total of 4.8 acres, more or less.

The grant of this easement is subject to the following conditions:

The Grantee shall comply with the Montana Antiquities Act, Title 22, Chapter 3, Part 4, MCA.

It is also agreed that the Grantee shall comply with such rules or regulations as may be hereafter imposed by the State Board of Land Commissioners to insure that the environment will be adequately protected and the public health and safety not be endangered.

ASSIGNMENT OF RIGHT OF WAY DEED

Execute ~~and duplicate~~ and send ~~copy~~ to Department of Natural Resources and Conservation, Trust Land Management Division
Fee for Recording Assignment of Rights of Way Deed is \$50.00

THIS ASSIGNMENT, made this 18th day of July, 2000, by and between Thomas W and Linda L Hayden parties of the first part and Chris Colson of Harlowton, MT the party of the second part:

WITNESSETH: that the said parties of the first part for and in consideration of the sum of One Dollars in hand paid by said party of the second part, the receipt of which is hereby acknowledged, do as by these presents, hereby assign, transfer and set over unto the said party of the second part, (his) (her) (their) (its) heirs and assigns forever, all right, title and interest in and to the right of way easement heretofore granted by the State of Montana, described as follows, to-wit: Right of Way Application No. 10824 for a 30-foot strip of land embracing E 1/4 NW 1/4, S 1/4 NE 1/4, NE 1/4 SE 1/4, S 1/4 SE 1/4 Section 16, Township 9N, Range 12E, containing 4.8 acres, in the county of Wheatland, Montana, under the covenants, conditions and terms of Right of Way Deed No. D-9814, issued June 17, 1996 by the State Board of Land Commissioners for the State of Montana.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set (his) (her) (their) (its) hand and seal(s) the day and year first above written.

Thomas W Hayden
THOMAS W HAYDEN
Linda L Hayden
LINDA L HAYDEN

Subscribed and sworn to before me this 18th day of July, 2000.



William C. Hieber
Notary Public for the State of Montana
Residing at Harlowton, MT
My Commission Expires 5-21-04

PARTY(IES) OF THE SECOND PART SIGNATURE(S)

The party of the second part hereby accepts the rights, duties, and obligations inherent in the party of the first part's interests & ownership of the above described right of way easement:

Chris Colson

Subscribed and sworn to before me this 21 day of July, 2000.

Karen C. Lee
Notary Public for the State of Montana
Residing at Harlowton, MT
My Commission Expires 11-1-02

OFFICE OF DIRECTOR, DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Helena, Montana September 5, 2000

This is to certify that the foregoing assignment was this day approved and recorded.

Paul R. Clark
DIRECTOR

Fee of \$50.00 entered: 18-9-00 Amount: \$50.00 Reception Number: 1013
By: ANA (unintelligible)

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

Wheatland
12-27-30
DADA
75/6

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of _____
_____ TWENTY FIVE AND NO/100 _____ Dollars
now paid, grants to _____ THE MONTANA POWER COMPANY _____
a corporation, a right of way for an _____
_____ ELECTRIC TRANSMISSION AND TELEPHONE SYSTEM _____

upon and across state lands, as follows:

A tract or strip of land 12 feet wide, 6 feet on each side of a center line described as follows:

Starting at a point on the North and South center line of Section 32, Township 9N., Range 12E., M. P. M., which point is 736.3 feet North of South quarter corner of said Section 32, thence South 65° 24' East, 1753 feet, to a point on the South line of said Section 32, which point is 1047.5 feet West of the Southeast corner of said Section 32, and containing an area of 0.483 acres, more or less.

This right of way is granted upon the express condition, which is accepted by the grantee, that the State and its lessees and purchasers shall have the right to use and fully enjoy the land hereby granted, except the part that is actually occupied by the poles and supports, to cultivate, seed and harvest the crops thereon; and that the grantee and its successors and assigns shall pay any and all damages which may result to crops, fences and other property from the construction, maintenance, operation or removal of the said telephone and telegraph lines; the said damages if not mutually agreed upon shall be ascertained and determined by three disinterested persons, one of whom to be appointed by the purchaser or lessee of the land, heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed as aforesaid. The award of such three persons shall be final and conclusive.

It is also understood and agreed by and between the parties hereto that in any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

Wheatland
12-27-35
D & DA
7546

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of -----
FIFTY AND NO/100-----Dollars
now paid, grants to THE MONTANA POWER COMPANY
a corporation, a right of way for a
ELECTRIC TRANSMISSION AND TELEPHONE SYSTEM

upon and across state lands, as follows:

A tract or strip of land 12 feet wide, 6 feet on each side of a center line described as follows:

Starting at a point on the West line of Section 32, Township 9N., Range 12E., M. P. M., which point is 600 feet South of the West quarter corner of said Section 32, thence South 65° 24' East, 3040 feet to a point on the North and south center line of said Section 32, which point is 736.3 feet North of the South quarter corner of said Section 32, and containing an area of 0.837 acres, more or less.

This right of way is granted upon the express condition, which is accepted by the grantee, that the State and its lessees and purchasers shall have the right to use and fully enjoy the land hereby granted, except the part that is actually occupied by the poles and supports, to cultivate, seed and harvest the crops thereon; and that the grantee and its successors and assigns shall pay any and all damages which may result to crops, fences and other property from the construction, maintenance, operation or removal of the said telephones and telegraph lines; the said damages if not mutually agreed upon shall be ascertained and determined by three disinterested persons, one of whom to be appointed by the purchaser or lessee of the land, heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed as aforesaid. The award of such three persons shall be final and conclusive.

It is also understood and agreed by and between the parties hereto that if any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

RIGHT OF WAY DEED

DATA
7-27-55
2546

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of

- FIVE AND NO/100 - Dollars

now paid, grants to - THE MONTANA POWER COMPANY, A CORPORATION -

a right of way for a - SINGLE POLE ELECTRIC DISTRIBUTION POWER LINE - 7200 VOLTS -

upon and across state lands, as follows:

A tract or strip of land 20 feet wide, being 10 feet on each side of a center line described as follows:

Beginning at a point which is 765 feet due North and 84 feet due West of the South Quarter corner of Section 32, Township 9 North, Range 12 East, Montana Principal Meridian, proceed South 19°32' West for a distance of 812 feet to a point of termination which is 371 feet due West of the South Quarter corner of said Section 32, and containing 0.373 of an acre, more or less.

This right of way is granted upon the express condition, which is accepted by the grantee, that the State and its lessees and purchasers shall have the right to use and fully enjoy the land hereby granted, except the part that is actually occupied by the poles and supports, to cultivate seed and harvest the crops thereon; and that the grantee and its successors and assigns shall pay any and all damages which may result to the crops, fences and other property from the construction, maintenance, operation or removal of the said electric distribution power line. The said damages if not mutually agreed upon shall be ascertained and determined by three disinterested persons, one of whom to be appointed by the purchaser or lessee of the land, heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed as aforesaid. The award of such three persons shall be final and conclusive.

It is also understood and agreed by and between the parties hereto that if any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

No. D-493

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of -----
-----One Hundred Twenty-five and 00/100 (\$125.00)-----Dollars
now paid, grants to the GREAT FALLS POWER COMPANY,
a corporation, a right of way for a transmission line and telephone line, for the transmission of
electric power for general commercial purposes, -----

upon and across state lands, as follows:

Re R/W App'n No. 630: in Sec. 32, T. 9 N., R. 12 E., Meagher County.

3 SE 1/4 SW 1/4
2.7500
5-3-16
ADA
7968

SW 1/4:- A strip of land Twenty-five (25) feet in width, having 12.5 feet of such width on each side of the center line of survey hereinafter described, and extending over and across from the west side to the east side of the Southwest Quarter (SW 1/4) of Section Thirty-two (32), in Township Nine (9) North, of Range Twelve (12) East of the Principal Meridian of Montana, in Meagher County, containing an area of 1.67 acres, more or less, and said center line of survey being particularly described as follows, to-wit:-

Beginning at a point on the west line of said SW 1/4 of Section 32, from which point the quarter section corner on the west line of said Section 32 bears North distant 370.0 feet; running thence South 65 degrees and 28 minutes East a distance of 2910.0 feet, to a point on the east line of said SW 1/4 of Section 32, from which point the quarter section corner on the south line of said Section 32 bears South distant 780.0 feet.

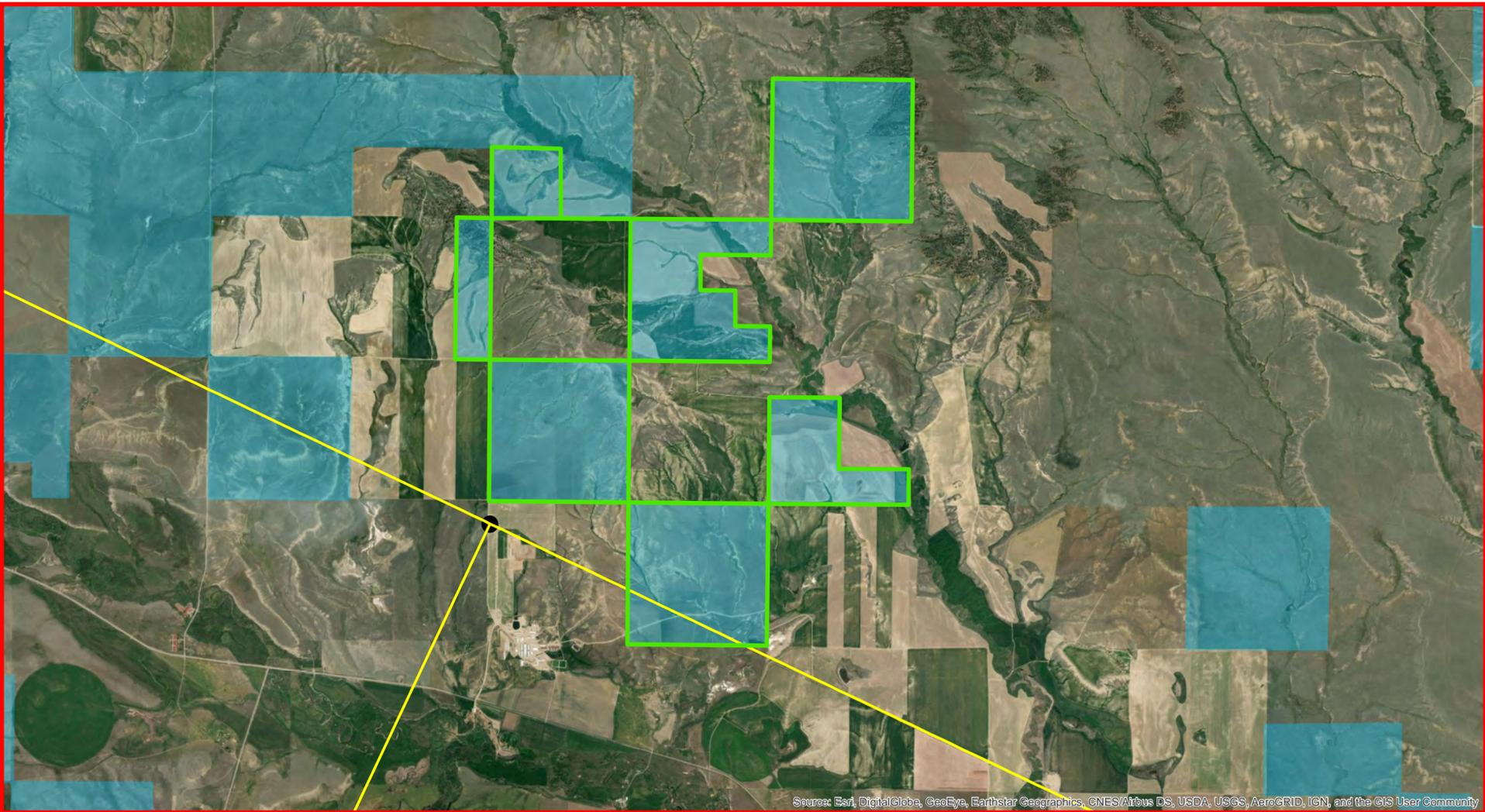
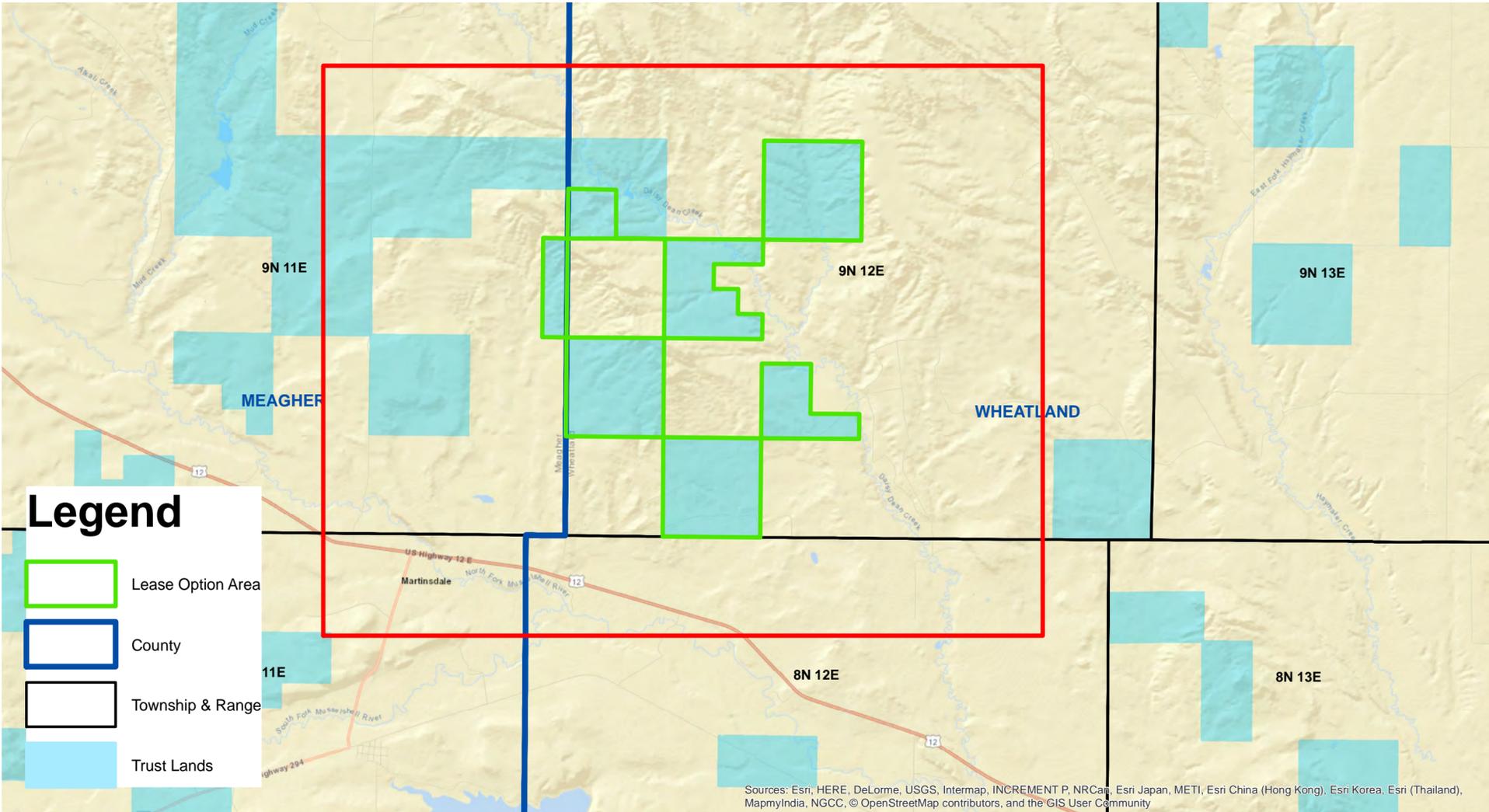
S 1/2 SE 1/4:- A strip of land Twenty-five (25) feet in width, having 12.5 feet of such width on each side of the center line of survey hereinafter described, and extending over and across from the west side to the south side of the South Half of the Southeast Quarter (S 1/2 SE 1/4) of said Section Thirty-two (32), in township and range aforesaid, containing an area of 1.08 acres, more or less, and said center line of survey being particularly described as follows, to-wit:-

Beginning at a point on the west line of said S 1/2 SE 1/4 of said Section 32, from which point the quarter section corner on the south line of said Section 32 bears South distant 780.0 feet; running thence South 65 degrees and 28 minutes East a distance of 1890.0 feet to a point on the south line of said S 1/2 SE 1/4 of Section 32, from which point the southeast corner of said Section 32 bears East distant 909.0 feet.

THIS GRANT IS MADE SUBJECT TO THE CONDITION that said strips of land shall not be fenced off from the remainder of the land in the quarter sections or other legal subdivisions of land of which they respectively form a part.-----

OPTION EXHIBIT A - PREMISES

Martinsdale Wind



Legend

- Lease Option Area
- Existing Power Transmission Lines
- Electric Substations
- Trust Lands

Miles
0 3

Location: Wheatland & Meagher Counties
 Date: 7/25/2019
 Prepared By: REMB Staff Member
 Projection: NAD83 Montana State Plane

Inset Area from top map shown in bottom map



EXHIBIT B

MARTINSDALE WIND FARM LLC

**MEAGHER AND WHEATLAND COUNTIES,
MONTANA**

LEASE NO. 3080010

Contents

1. LEASE TERM AND PROPERTY DESCRIPTION.....	5
2. RENT SCHEDULE	5
3. PURPOSE.	6
4. DEFINITIONS.....	6
5. EXHIBITS.....	11
6. LEASE TERM, RENEWAL, TERMINATION, AND RELEASE.....	11
6.1 Term.	11
6.2 Renewal Option.	11
6.3 Lessee Right to Terminate; Release.	11
7. RIGHTS; COVENANTS; CONDITION OF PREMISES; RESERVATIONS.....	12
7.1 Lessee’s Rights.....	12
7.2 Lessor and Lessee Covenants.....	12
7.3 Condition of Land.	12
7.4 Lessor Reservation of Mineral Interests.....	13
7.5 Lessor Reservation of Other Rights.	13
7.6 Reservation of Right to Evaluate Recreational Use.	14
8. RENT; INSTALLATION FEES; OTHER PAYMENT TERMS; AUDIT RIGHTS.	14
8.1 Base Rent and Operating Rent.	14
8.2 Installation Fees.....	15
8.3 Additional Payment to State Agricultural and Grazing Lessees.....	16
8.4 Late Charge.	16
8.5 Additional Rent.	17
8.6 Most Favored Nations.	17
8.7 Lessor Audit Rights.....	17
9. SITE PLAN; IMPROVEMENTS; RESTORATION.	17
9.1 Preliminary Site Plan.....	17
9.2 Site Plan.	17
9.3 Construction of Improvements and Alterations; Approval.....	18
9.4 Title to Improvements.	18
9.5 Removal of Lessee Improvements and Restoration.	18
9.6 Post-Construction Restoration.....	19
9.7 Secondary Uses	19
10. USE AND ENVIRONMENTAL COMPLIANCE.....	19
10.1 Use and Compliance.....	19
10.2 Compliance with Title 77, MCA.	20
10.3 Environmental Monitoring and Montana Environmental Policy Act (MEPA).	20
10.4 Environmental Matters.....	20
10.5 Survival.	21
11. UTILITIES; REPAIRS; WATER RIGHTS.....	21
11.1 Installation and Repairs.	21
11.2 Utilities.....	21
11.3 Water Rights.....	21
12. TAXES.....	21
12.1 Payment of Taxes.	21
12.2 Special Assessments.....	21
13. INSURANCE.	21

13.1	Types of Required Insurance.....	21
13.2	Terms of Insurance.....	22
14.	DAMAGE OR DESTRUCTION.....	23
15.	CONDEMNATION.....	23
15.1	Notice.....	23
15.2	Termination Option on Substantial Taking.....	23
15.3	Continuation of Lease.....	23
15.4	Awards for Permanent Taking.....	24
15.5	Award for Temporary Taking.....	24
16.	ASSIGNMENT, SUBLETTING AND FINANCING.....	24
16.1	Assignment.....	24
16.2	Subletting.....	25
16.3	Financing.....	25
16.4	Assignment by Lessor.....	26
17.	LEASE EXPIRATION.....	26
17.1	Condition at End of Lease.....	26
17.2	Holding Over.....	27
18.	LIENS AND ESTOPPEL CERTIFICATES.....	27
18.1	Liens.....	27
18.2	Lien Contests.....	27
18.3	Estoppel Certificates.....	27
19.	DEFAULTS BY LESSEE AND LESSOR’S REMEDIES.....	27
19.1	Defaults by Lessee.....	27
19.2	Lessor’s Remedies.....	28
19.3	Cure by Lessor.....	28
20.	DEFAULTS BY LESSOR AND LESSEE’S REMEDIES.....	29
20.1	Defaults by Lessor.....	29
20.2	Lessee’s Remedies.....	29
21.	DECOMMISSIONING AND RECLAMATION PLAN AND BOND.....	29
22.	LESSEE LIABILITY; INDEMNIFICATION.....	30
23.	UTILITY INSTALLATION.....	30
24.	MISCELLANEOUS.....	31
24.1	Force Majeure.....	31
24.2	Notices.....	31
24.3	Binding Effect.....	31
24.4	Entire Agreement; Modifications.....	31
24.5	Enforcement Expenses.....	31
24.6	No Waiver.....	31
24.7	Captions.....	32
24.8	Severability.....	32
24.9	Authority to Bind.....	32
24.10	Only Lessor/Lessee Relationship.....	32
24.11	Reasonableness.....	32
24.12	Governing Law; Venue; Jurisdiction; Rule of Construction.....	32
24.13	Time of Essence.....	32
24.14	Broker.....	32
24.15	Cooperation.....	32
24.16	Recording.....	33

24.17 Wind Energy Rights Act.....33
24.18 Confidentiality.....33
24.19 Survival of Terms, Conditions, Restrictions Reservations, and Covenants.....33
25. SIGNATURES 33

THIS COMMERCIAL LEASE AGREEMENT (this “Lease”) is entered into as of the _____ day of _____, _____, (the “Commencement Date”), by and between the **State of Montana by and through its Board of Land Commissioners**, whose address is P.O. BOX 201601 Helena, MT 59620-1601 (hereinafter referred to as “Lessor”), and _____, whose address is _____ (hereinafter referred to as the “Lessee”).

1. LEASE TERM AND PROPERTY DESCRIPTION

Lease Number	Commencement Date	Term of Lease	Expiration Date
3080010		30 Years	

Land Located in Meagher and Wheatland Counties.

County	Description	Sec.	Twp.	Rge.	Acres
Wheatland	ALL	16	9N	12E	640
Wheatland	SW4	18	9N	12E	160
Wheatland	W2, N2NE4, NW4SE4, and S2SE4	20	9N	12E	520
Wheatland	ALL	30	9N	12E	640
Wheatland	S4, N2SW4, and S2NW4	28	9N	12E	320
Wheatland	ALL	32	9N	12E	640
Meagher	E4	24	9N	11E	160

2. RENT SCHEDULE

The rental fee prior to the Operations Date will be the Base Rent. The rental fee for any year after the Operations Date shall be the greater of: Base Rent; Percentage Rent; or Capacity Rent. The following schedule shows a summary of Rent payments and is not a comprehensive representation of the Rent conditions. All Rent will be paid according to Section 8 of this Lease.

Annual Rent				
<i>Paid in advance until operations date</i>				
Minimum Rent		Operating Fees		
Lease Year	Base Rent	Production Year	Capacity Rent Per MW Insalled	Percentage Rent Applied to Gross Revenues
1	Land Value x 3%	1	\$2,500.00	3.00%
2	Year 1 x 1.02	2	\$2,537.50	3.00%
3	Year 2 x 1.02	3	\$2,575.56	3.00%
4	Year 3 x 1.02	4	\$2,614.20	3.00%
5	Year 4 x 1.02	5	\$2,653.41	3.00%
6	Year 5 x 1.02	6	\$2,693.21	3.00%
7	Year 6 x 1.02	7	\$2,733.61	3.00%
8	Year 7 x 1.02	8	\$2,774.61	3.00%
9	Year 8 x 1.02	9	\$2,816.23	3.00%

10	Year 9 x 1.02	10	\$2,858.47	3.00%
11	Year 10 x 1.02	11	\$2,901.35	3.25%
12	Year 11 x 1.02	12	\$2,944.87	3.25%
13	Year 12 x 1.02	13	\$2,989.05	3.25%
14	Year 13 x 1.02	14	\$3,033.88	3.25%
15	Year 14 x 1.02	15	\$3,079.39	3.25%
16	Year 15 x 1.02	16	\$3,125.58	3.50%
17	Year 16 x 1.02	17	\$3,172.46	3.50%
18	Year 17 x 1.02	18	\$3,220.05	3.50%
19	Year 18 x 1.02	19	\$3,268.35	3.50%
20	Year 19 x 1.02	20	\$3,317.38	3.50%
21	Year 20 x 1.02	21	\$3,367.14	3.75%
22	Year 21 x 1.02	22	\$3,417.64	3.75%
23	Year 22 x 1.02	23	\$3,468.91	3.75%
24	Year 23 x 1.02	24	\$3,520.94	3.75%
25	Year 24 x 1.02	25	\$3,573.76	3.75%
26	Year 25 x 1.02	26	\$3,627.36	4.00%
27	Year 26 x 1.02	27	\$3,681.77	4.00%
28	Year 27 x 1.02	28	\$3,737.00	4.00%
29	Year 28 x 1.02	29	\$3,793.06	4.00%
30	Year 29 x 1.02	30	\$3,849.95	4.00%

3. **PURPOSE.**

The purpose of this Lease is for the use of state trust land described in Section 1 of this Lease for the Operations of a wind farm and associated Wind Power Facilities.

4. **DEFINITIONS.**

In this Lease, the following defined terms have the meanings set forth below:

“**Base Rent**” means the amount obtained by multiplying the Land Value by the applicable Lease Rate Percentage in accordance with § 77-1-905, MCA, or subsequent Laws governing rental rates for wind power developments on State Trust Land. The Base Rent is increased annually by two percent (2%).

“**Capacity Rent**” means the amount obtained by applying the Capacity Rent Rate per megawatt Installed Capacity on the Land.

“**Capacity Rent Rate**” means \$2,500 for the first Production Year and is increased annually by one and one-half percent (1.5%) each year thereafter.

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

“**Commercial Purpose**” is, as defined by § 77-1-902(3)(a), MCA, an industrial enterprise, retail sales outlet, business and professional office building, warehouse, motel, hotel, hospitality enterprise,

commercial or concentrated recreational use, multifamily residential development, and other similar business. Lessor acknowledges and deems that the use of the Land by Lessee for the purposes permitted and contemplated under this Lease constitutes a Commercial Purpose hereunder and under said statute.

“Default Rate” means one percent compounded monthly.

“Department” means the Montana Department of Natural Resources and Conservation.

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

“Environmental Laws” means any applicable existing and future Laws relating to, or imposing liability or standards of conduct concerning: the protection of human health, the environment or natural resources, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling, Releases or threatened Releases of Hazardous Substances, including without limitation: (a) the Comprehensive Environmental Cleanup and Responsibility Act, 75-10-701, *et seq.*, MCA; (b) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*; (c) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 5101, *et seq.*; (d) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*; (e) the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, *et seq.*; (f) the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; (g) the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; (h) the Safe Drinking Water Act, 42 U.S.C. § 300f, *et seq.*; and (i) the Major Facility Siting Act (MFSA), Mont. Code Ann. §§ 75-20-101 *et seq.*

“Expiration Date” means the last day of the Term of the Lease.

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

“Force Majeure” means fire, earthquake, flood, fire, high winds, ice, or other casualty or accident; war, civil strife, strikes, lockouts or labor disputes or other violence; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any governmental agency or utility; or any other act or condition beyond the reasonable control of a party hereto.

“Gross Revenues” for the purposes of calculating Percentage Rent, as described in Section 8 below, means the aggregate total revenue actually received by Lessee during the applicable Production Year, from the sale of electrical energy (other than Test Electricity) generated from Wind Power Facilities located on the Land or owned or operated by Lessee and metered at the point of interconnection collectively with (and including) the Turbines located on the Land, as applicable, net of all sales and use taxes and wheeling, integration, transmission and/or congestion charges (if any) imposed thereon or attributable thereto. Gross Revenues also include payments received by Lessee from: (a) the sale of renewable energy credits or pollution credits or greenhouse gas reduction credits that directly result from generation of electrical energy from such Operational Turbines; (b) any power purchaser, if such

payments are made specifically in lieu of revenues from the normal operation of such Operational Turbines; and (c) amounts received by Lessee in hedging transactions which shall be reduced by amounts paid by Lessee in hedging transactions entered into by Lessee, it being understood that the Lessee and Department share proportionately in the risks and benefits of such hedging transactions, provided any hedging transaction entered into with an affiliate or subsidiary shall be entered into in good faith and on an arm's length basis. Gross Revenues do not include: (i) production tax credits, other tax benefits and credits, or any reimbursement thereof, or a payment elected instead of production tax credits pursuant to Section 1603 of the American Recovery and Reinvestment Act of 2009 (or any extension or renewal thereof, or any successor program); (ii) payments from the sale, lease, sublease, assignment, transfer or other disposition directly or indirectly of Wind Power Facilities (except that Lessee may not sell or otherwise transfer any part of the fee interest in the Land) or any other of Lessee's improvements, trade fixtures or chattel or the transfer or sale whether directly or indirectly of all or part of the membership interests in Lessee or any of their affiliates or subsidiaries; (iii) payments from the sale, modification or termination of any obligation under a power purchase contract; (iv) payments from the sales of electrical energy for which payment is not received; (v) revenues received not in lieu of revenues from the normal operation of the Turbine; and (vi) any rental or other payment received by Lessee in exchange for Lessee's assigning, subleasing, mortgaging or otherwise transferring all or any interests of Lessee in this Lease. If Lessee sells the production, energy, electricity or capacity from the Wind Power Facilities to a person or entity affiliated with, or in any way related to, Lessee, then "Gross Revenues" means all consideration paid for said production, energy, electricity or capacity, regardless of time or place of receipt, under the first contract which is an arm's length bona fide transaction, (provided that such dollar amount shall be increased annually after the Commencement Date on each anniversary thereof by two percent per year). Gross Revenues shall be calculated on a cash basis as opposed to an accrual basis, meaning that Gross Revenues shall not include revenues that are not actually received during the billing period.

"Hazardous Substances" means any and all substances, materials or wastes that are declared to be, or defined or regulated as, hazardous or toxic in the Comprehensive Environmental Cleanup and Responsibility Act, §75-10-701, *et seq.*, MCA, or under any Environmental Laws.

"Improvements" means any structures or Wind Power Facilities installed or constructed by Lessee upon the Land.

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

"Land" means the real property described in Section 1 of this Lease.

"Land Value" means the full market value of the Land as determined by the applicable appraisal and in accordance with any Market Adjustment. The Land Value for Base Rent calculations through the first Market Adjustment is \$800.00 per acre.

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

"Lease Rate Percentage" means a percentage that is applied to the Land Value to determine Base Rent for a given year. The Lease Rate Percentage means three percent (3%) of the Land Value unless adjusted at a scheduled Market Adjustment in accordance with § 77-1-905, MCA, as applicable.

"Lease Year" means the 12-month period starting on the Commencement Date and each anniversary of

this date thereafter.

“Lender” means: (i) any financing institution or other person or entity that from time to time provides secured financing for some or all of Lessee’s Wind Power Facilities or Operations, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicating lender involved in whole or in part in such financing, their successor and assigns; or (ii) any power purchase agreement off-taker who takes a Lender’s Lien as security for the performance of the obligations under the power purchase agreement.

“Lender’s Lien” means any lien, assignment of rents, assignment of leases, security agreement or other hypothecating instrument (including any sale-leaseback arrangement entered into for financing purposes) encumbering Lessee’s interest under this Lease or the leasehold estate in the Wind Power Facilities hereby created (but shall not include any portion of the fee interest in the Land) , or any interest hereunder, Lessee’s rents and other sums due from any Sublessees, Lessee’s rights under Subleases and any other agreements executed in connection with Lessee’s use or operation of the Premises, or Lessee’s interest in any fixtures, machinery, equipment, buildings, Improvements or other property constituting a part of the Wind Power Facilities with the exception of any portion of the Land comprising part of the Wind Power Facilities.

“Lender’s Lien Holder” means the holder(s) of any promissory note or the obligee(s) of any other obligation secured by a Lender’s Lien.

“Market Adjustment” means a review of current Base Rent factors, conducted at scheduled intervals during the term of the Lease, which will be used to determine the Base Rent Schedule for the next period. It includes consideration of the minimum Lease Rate Percentage at the time, as well as an appraisal process to update the Lease area Land Value. The Market Adjustment Schedule and Provisions are found in **Exhibit C**.

“Operations Date” means the date a power purchasing utility or other entity first receives power (other than Test Electricity) produced from any of the Turbines located on the Land or included within each Project that includes Turbines located on the Land. Lessee shall provide written notice to Lessor of the Operations Date, within 30 days of said date.

“Operations” means (a) determining the feasibility of wind energy conversion for any such Projects, including studies of wind speed, wind direction and other meteorological data; (b) converting wind energy into electrical energy, and collecting and transmitting the electrical energy so converted; (c) developing, constructing, reconstructing, erecting, installing, improving, replacing, relocating and removing from time to time, and using, maintaining, repairing, operating and monitoring Wind Power Facilities; (d) vehicular and pedestrian ingress, egress and access to and from Wind Power Facilities, including by cranes and other construction equipment, over and across the Land by means of roads and lanes thereon if existing, or otherwise by such roads and ways, including but not limited to Turning Radiuses from public roads, if necessary, as Lessee or anyone else may construct from time to time; and (e) conducting surveys, tests and studies, including but not limited to biological, cultural, geotechnical and environmental testing, drilling, and sampling and studies.

“Operational Turbine” means a Turbine that (a) has been installed and is producing electric energy (other than Test Electricity) pursuant to this Lease, and (b) which has not been removed by Lessee.

“Percentage Rent” means a share of Gross Revenues as described in Section 8.1(b).

“Premises” means the Land and all Improvements.

“Production Year” means the 12 calendar month period during the Term beginning with the Operations Date and ending on December 31 of each year. The first Production Year may be less than a 12-month period.

“Project” means one or more Turbines and associated Wind Power Facilities that are constructed, installed and/or operated on the Land and/or on other real property in the vicinity of the Land, by or on behalf of Lessee, as an integrated energy generating and delivery system.

“Qualified Lender” means any Lender who notifies Lessor in writing of its name, its address for notices, and the fact that it is a Lender.

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

“Rent” means Base Rent, Capacity Rent, or Percentage Rent and/or all other amounts, including installation fees, required to be paid by Lessee under this Lease.

“Sublease” means a sublease, license, concession, or other agreement (whether written or oral) according to which Lessee grants any party the right to use or possess all or any portion of the Premises, subject and subordinate to Lessee’s retained interest in this Lease.

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

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

“Substantial Taking” means a Taking of at least 15 percent of the Land or Improvements which, in Lessee’s and Lessor’s reasonable judgment, will materially and adversely interfere with any development or use of the Premises that Lessee is then conducting or intends in good faith to conduct in the future.

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

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

“Term” means the duration of this Lease, beginning on the Commencement Date, as set forth in Section 1 of this Lease as the same may be extended or earlier terminated as herein provided.

“Test Electricity” means electricity delivered to the point of interconnection for which no payment is received.

“Turbine(s)” means wind turbine generator(s).

“Turning Radius” means a temporary construction road entrance to accommodate the turning of large or long vehicles and equipment.

“Wind Power Facilities” means (a) Turbines, wind energy conversion systems and wind power generating

facilities (including associated towers, foundations and other structures and equipment and other power generation facilities) to be operated in conjunction with wind turbine installations, in each case of any type or technology; (b) transmission facilities, including overhead and underground transmission, distribution and collector lines, wires and cables, splice and junction boxes, switch panels, conduits, footings, foundations, towers, poles, crossarms, guy lines and anchors; (c) substations, interconnection and/or switching facilities, circuit breakers and transformers; (d) operation and maintenance buildings; (e) overhead and underground control, communications and radio relay systems and telecommunications equipment, including microwave towers, dishes, and control, fiber, wires, cables, conduit and poles; (f) meteorological towers, guy wires, braces and wind measurement equipment; (g) roads and erosion control facilities; (h) temporary laydown yards; (i) signs; (j) fences and other safety and protection facilities; and (k) other improvements, facilities, appliances, machinery and equipment associated with any of the foregoing.

5. EXHIBITS.

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

Exhibit A – Memorandum of Lease

Exhibit B – Vicinity Map

Exhibit C – Market Adjustment Schedule and Provisions

Exhibit D – Reclamation Plan

Exhibit E – Environmental Monitoring

Exhibit F – Existing Rights

Exhibit G – Site Plan

6. LEASE TERM, RENEWAL, TERMINATION, AND RELEASE.

6.1 Term.

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

6.2 Renewal Option.

Unless at the time of renewal a default by Lessee (as defined below) shall be continuing following the expiration of any notice and cure period hereunder, Lessee may renew the Lease, extending the Term, for one period of ten (10) years and, thereafter, Lessee may renew this Lease, extending the Term, for a second period of ten (10) years. Lessee must provide Lessor written notice of Lessee's intention to renew the Lease delivered at least 6 months prior to the expiration of the original or extended term.

6.3 Lessee Right to Terminate; Release.

Lessee shall have the right, in accordance with the terms of this Lease, at any time and from time to time during the Term, to surrender or terminate all or any portion of its right, title and interest in this Lease, provided that no partial surrender or termination of this Lease shall be for less than tracts of approximately forty (40) acres or a governmental lot corresponding to a quarter-quarter section, by giving Lessor not less than sixty (60) days written notice thereof and by executing and causing to be acknowledged and recorded a release describing with particularity the portion of such right, title or interest so released and the part of the Land to which it applies. Upon any such release by Lessee, the parties' respective rights and obligations hereunder (including as to the rental payments) shall cease as to the portion of the Land or the right, title or

interest herein as to which such release applies including a prorated reduction in the Base Rent, but in no case shall surrender or termination be effective until Lessee shall have made complete restoration, reclamation and protection of the surface rights of the Land as may be determined by Lessor in accordance with the terms of this Lease. This Lease and the parties' respective rights and obligations hereunder shall remain in full force and effect as to any right, title, and interest of Lessee not so released.

7. RIGHTS; COVENANTS; CONDITION OF PREMISES; RESERVATIONS.

7.1 Lessee's Rights.

The Land leased by this Lease shall be used and occupied for the Operations of Wind Power Facilities, as those terms are defined above. In addition:

a) Lessee shall have the exclusive right to develop and use the Land for wind energy purposes and to convert all of the wind resources of the Land; provided, however, that nothing expressly or impliedly contained in this Lease or represented to Lessee shall be construed as requiring Lessee to: (i) construct and continue operation of any Wind Power Facilities from time to time located on the Land or elsewhere or (ii) generate or sell any minimum or maximum amount of electrical energy from the Land; and the decision when and to what extent to construct, install or operate Wind Power Facilities, or to generate or sell electrical energy, shall be solely in Lessee's discretion, subject to Section 8.1(c) of this Lease.

b) Lessee shall have an exclusive right to use, convert, maintain, and capture the free and unobstructed flow of wind over and across the Land.

c) Lessee shall have a non-exclusive right for audio, visual, view, reflective light, shadow flicker, noise, shadow and any other effects attributable to the Operations on the Land.

d) Lessee shall have an exclusive right to permit the rotors of Turbines located on property adjacent to the Land to overhang the Land and encroach into any applicable setback.

7.2 Lessor and Lessee Covenants.

Lessor covenants that Lessee will have quiet and peaceful possession of the Land subject only to the terms, conditions, and reservations of this Lease, including prior existing rights described in Exhibit F, "Existing Rights". Lessor covenants to observe and perform all of the terms, covenants, and conditions applicable to Lessor in this Lease. Lessor covenants and agrees that neither Lessor's activities nor those activities authorized by Lessor upon the Land will interfere with, impair or materially increase the cost of (i) the construction, installation, maintenance or operation of any Improvements or any Project, (ii) vehicular or pedestrian access to, or the transmission of energy from, the Land, any Improvements or any Project, (iii) any Operations of Lessee on the Land or with respect to any Project or (iv) the undertaking of any other activities or the free enjoyment and exercise of any other rights or benefits given to or permitted Lessee hereunder, or (v) in any other way, unreasonably interfere with the free and unobstructed flow of wind over and across the Land.

Lessee covenants to pay the Rent when due, to make a good faith effort to report to Lessor any unauthorized or unpermitted use of the Premises, except that failure to report such unauthorized or unpermitted use shall not be considered a Default, and covenants to observe and perform all of the terms, covenants, and conditions applicable to Lessee in this Lease.

7.3 Condition of Land.

Except as expressly set forth in this Lease, Lessee accepts possession of the Land on the Commencement Date in the then-current condition on an "AS IS, WHERE IS, AND WITH ALL FAULTS" basis. Lessor makes, and Lessee affirms that Lessor has made, no representations or warranties of any kind whatsoever with regard to the condition of the land or its fitness or suitability for any particular purpose. Lessee acknowledges that it is solely responsible for performing its own due diligence and for becoming fully familiar with the condition of the Land and any applicable rights, reservations, restrictions, uses, or other conditions that might affect its development or use for a particular purpose. Lessor represents and warrants: (i) that Lessor has no knowledge of any litigation pending and no knowledge of any actions,

claims or other legal or administrative proceedings pending, threatened or anticipated with respect to or which could affect the Land; (ii) that Lessor has no knowledge of any commitments or agreements with any governmental agency or public or private utility affecting the Land or any portion thereof that have not been disclosed in writing by Lessor to Lessee; and (iii) that Lessor has not received any notice or other communication from any governmental authority alleging that the Land is in violation of any applicable Environmental Law.

7.4 Lessor Reservation of Mineral Interests

No transfer of mineral ownership, mineral rights, or pore space rights, including sand, gravel, scoria, or stone, is intended or granted to Lessee by or through this Lease. Rather, Lessor expressly excepts and reserves from this Lease all rights to all oil, gas, and other minerals in, on or under the Land and that might be produced or mined from the Land. Lessor reserves the right to develop the minerals on the Land owned by Lessor as long as such development (including any drilling or mining) is outside the 650 foot diameter circle around each Turbine and does not interfere with Lessee's use of the Land with the exception of the prior rights of existing leases. Lessor has had and will have a full opportunity to investigate the status of all existing leases, and the past, present and any future (or potential) mining activities under the existing leases. Lessee enters into and accepts this Lease subject to the prior rights of existing leases. Lessor shall include as a term and condition to any conveyance on or after the Commencement Date of any interest in the mineral estate in the Land, including any lease thereof, that any owner or lessee, as applicable, of any mineral interest in the Land (a) shall use the surface of the Land only in a manner that does not interfere with Lessee's surface use of the Land as described herein and with due regard for the rights of Lessee with respect to the surface use, (b) shall limit any activity to occur only on those areas of the surface of the Land that are not closer to any Turbine or proposed Turbine of Lessee than three hundred twenty-five (325) feet from the center point of any Turbine; provided, however, that temporary or permanent equipment for oil and gas exploration or production, such as drilling and workover rigs, may be installed on the Land so long as it is installed at least three hundred twenty-five (325) feet from the base of any Turbine or proposed Turbine of Lessee. No minerals of any kind, including but not limited to sand, gravel, or stone, found on the Land, shall be sold by the Lessee unless purchased from Lessor.

7.5 Lessor Reservation of Other Rights.

Lessor reserves the following rights, subject to the terms and conditions of this Lease:

- a) All rights and privileges of every kind and nature, except as are herein specifically granted;
- b) The right to lease all or any portion of the Land to other persons for the purposes of exploring for and removing timber, and all other naturally occurring resources, together with reasonable and adequate rights of entry and surface rights necessary and convenient to exercise such reserved rights. The foregoing does not apply to the extraction of subsurface resources, which are addressed in Section 7.4. Such new grants shall be compatible with the rights and privileges granted to Lessee herein and shall be subordinate to the rights of Lessee. Any new grant as described in this part (b) shall include provisions requiring that such third-party grantee indemnify Lessee for any and all damages caused to any structures or Wind Power Facilities placed upon the surface of the Land by Lessee subsequent to the Commencement Date;
- c) The right at all times during the life of this Lease to go upon the Land and every part thereof for the purpose of inspecting the same to ascertain if said Lessee and those holding thereunder by and from it are carrying out the terms, covenants, and agreements of this Lease, subject to compliance with the safety rules and procedures of Lessee;
- d) The right at any time to grant an easement or right-of-way upon, over, under, through, or across all or any part of the Land for any ditch, reservoir, communication system, electric power line, pipeline, or other lawful purpose. Such new grants shall not interfere with the rights and privileges granted to Lessee herein, and shall be subordinate to the rights of Lessee. Any new grant of easement or right-of-way upon, over, or across the Land shall include provisions requiring that such third-party grantee reimburse Lessee for any and all damages caused to any structures or Wind Power Facilities placed upon the surface of the

Land by Lessee subsequent to the Commencement Date; and

e) The right to use the Land, and grant permits or licenses to use the land, for other surface uses including agriculture, livestock grazing, ranching, and other purposes, provided, however, that within the setback area of the Turbines consisting of approximately a 650-foot diameter circle around each Turbine which shall be exclusive to Lessee, Lessor shall have no right to use the Land for any purposes except for the growing of crops, grazing of livestock, and pedestrian activities.

7.6 Reservation of Right to Evaluate Recreational Use.

As of the Commencement Date, the Land will be closed to general recreational use due to categorical exclusion for recreational use of state lands under an active commercial lease pursuant to ARM 36.25.150(1). However, the Department reserves the right to evaluate any petition to exclude a specific leased tract from such categorical exclusion pursuant to ARM 36.25.150(2). Lessor will notify the Lessee of a petition to re-open the Land and may restrict the recreational use that is permitted on the Land, including appropriate limitations on the discharge of firearms or other restrictions necessary to ensure human safety and Lessee's ability to operate the Project without interference. Lessee shall post all such categorically closed Land at all customary access points with signs provided by the Department or duplicated from signs provided by the Department pursuant to ARM 36.25.150(3). In no event shall any recreational use occur within three hundred twenty-five (325) feet from the base of any Turbine or interfere with the rights granted to Lessee under this Lease.

The ARM for recreational use and categorical exclusions is currently under review and is may be changed in the near future. This lease is subject to all laws and rules as they may be changed over time. If the referenced ARM language is modified prior to lease execution, this section may be modified accordingly.

8. RENT; INSTALLATION FEES; OTHER PAYMENT TERMS; AUDIT RIGHTS.

8.1 Base Rent and Operating Rent.

All Rent due to Lessor will be paid in lawful money of the United States of America, at Lessor's Address, post-marked or received via electronic funds transfer on or before the due date, without notice or demand and without right of deduction, abatement, or setoff. Lessee shall provide written notice to Lessor of the Operations Date, and shall pay to Lessor basic and operating rent, as follows:

a) **Pre-Operations Date Rent.** Lease fees due prior to the Operations Date shall be paid annually, in advance, on the Commencement Date, and on each anniversary of the Commencement Date thereafter. The Lease fee for the first Lease Year must be paid through a cashier's check drawn on a Montana bank, by Automated Clearing House Transfer, or through a wire transfer. The lease fee shall be the Base Rent provided in the Rent Schedule in Section 2 of this Lease until the Operations Date. Should the Operations Date occur in the middle of a payment cycle under this subsection, a credit would be prorated and applied to the next invoice accordingly.

b) **Post-Operations Date Rent.** Following the Operations Date, the annual lease fee for each Production Year will be payable in arrears, due on or before March 1 annually. The annual amount due shall be the greater of the Base Rent, Capacity Rent, or Percentage Rent. Along with each payment of Rent under this subsection, Lessee shall deliver to Lessor a report detailing calculation data for Capacity Rent and Percentage Rent values for each year. Such report shall include, but not be limited to, specific information on installed capacity and Operational Turbines upon the Land by date, and Gross Revenue calculations, for the applicable Production Year upon the Land.

- i. **Base Rent.** Base Rent is the amount obtained by multiplying the Land Value by the applicable Lease Rate Percentage, increased annually by two percent (2%).
- ii. **Capacity Rent.** Capacity Rent is calculated annually based on Operational Turbines located on the Land during the applicable Production Year. It is calculated as the product of the Capacity Rent Rate as multiplied by the number of megawatts of Installed Capacity of all Operational Turbines located on the Land during the applicable Production Year. The Capacity Rent Rate

- is \$2,500 for the first Production Year and is increased by one and one-half percent (1.5%) annually each year thereafter.
- iii. **Percentage Rent.** Percentage Rent is calculated annually based on Gross Revenues received from production by the Wind Power Facilities located on the Land, or in the event power is commingled with power produced from Wind Power Facilities from property other than the Land, from the Wind Power Facilities within the Project. In the event power is commingled with power produced from Wind Power Facilities from property other than the Land, then Lessee shall calculate the Percentage Rent as set forth below for the indicated Production Year multiplied by the Gross Revenues actually received over the course of a Production Year multiplied by a fraction, the numerator of which is the megawatts of Installed Capacity of the Operational Turbines then installed on the Land and the denominator of which is the total megawatts of Installed Capacity of all Operational Turbines then installed in the Project. The percentage applied to the Gross Revenues to calculate the Percentage Rent is 3 percent for Production Years one (1) through ten (10); 3.25 percent for Production Years eleven (11) through fifteen (15); 3.5 percent for Production Years sixteen (16) through twenty (20); 3.75% for Production Years twenty-one (21) through twenty-five (25); and 4% for Production Year twenty-six (26) through the end of the Term. It is the intent of the Lessor and the Lessee that Gross Revenues shall not include any revenues other than those set forth in the definition of Gross Revenues in this Lease.
- c) Notwithstanding anything to the contrary herein, in the event that construction of the Wind Power Facilities has not occurred on or before the tenth (10) anniversary of the Commencement Date, Lessee shall pay to Lessor rent, until the earlier of the Operations Date or the termination of the Lease, in an amount equal to the greater of: (i) the Base Rent or (ii) the Capacity Rent for the planned number of Operational Turbines as shown on the Preliminary Site Plan.

Lessor and Lessee agree to amend the Rent Schedule in this Lease as necessary to reflect the actual Operational Turbines and actual acreage leased upon the Operations Date or at any time thereafter if the number of Operational Turbines on the Land or actual acreage leased changes.

8.2 Installation Fees.

Unless specified otherwise, all installation fees are due within forty-five (45) days after the Operations Date.

a) Turbine Capacity.

Lessee shall pay to Lessor a one-time installation fee equal to \$1,500 per megawatt of Installed Capacity for Turbines installed on the Land. Should the Project not be fully installed by the Operations Date, payment must be made for the remaining Installed Capacity within sixty (60) days of operation as to the applicable Turbine. Additional installation fees will be due for replacement of any existing Turbines only if the installed capacity is increased, in which case Lessee shall pay for an installation fee for the difference between the originally Installed Capacity and the new Installed Capacity. This provision will apply when a Turbine is replaced due to damage or Lessee elects to repower the Project.

b) Roads, Transmission Lines, and Underground Cabling.

Lessee shall pay to Lessor the following one-time installation fee payments:

- i) **New Roads:** \$.50 per lineal foot of new roads constructed by or for Lessee on the Land;
- ii) **Transmission Lines:** \$2.00 per lineal foot of overhead transmission lines installed by or for Lessee on the Land.

Overhead or underground lines, cabling and wires (which shall be deemed to include any electrical lines, communications lines, fiber optic cables and grounding wires) that are bundled or co-located with, adjacent or parallel to, or stacked along with other overhead or underground lines, cabling and wires on an integrated set of poles or in a single trench shall be considered a single line, cable or wire for purposes of determining the total distance that such line, cable or wire traverses the Land and calculating the amount due hereunder. No additional installation fee payment shall be due upon any replacement of an

existing road, transmission line, or underground cable upon the Land during the term of this Lease. In instances of co-located, parallel or adjacent roads, lines, or cables, the installation will be treated as a single installation and the highest applicable per lineal foot installation fee described within this subsection shall apply.

c) Meteorological Tower.

If a meteorological tower is installed by Lessee on the Land, Lessee shall pay to Lessor a one-time installation fee equal to \$500.00 per meteorological tower installed, payable within forty-five (45) days of the date the meteorological tower is installed. No additional installation fee payment shall be due upon any replacement of an existing meteorological tower during the term of this Lease.

d) Temporary Laydown Yard.

If a portion of the Land is used by Lessee as temporary laydown yard for temporary storage of Lessee's equipment and materials in connection with the construction of the Improvements, then Lessee shall pay to Lessor a one-time use fee equal to \$48.00 per acre occupied by such temporary laydown yard. No additional installation fee payment shall be due upon any replacement of such temporary laydown yard during the term of this Lease, except to the extent of any increase in occupied acreage resulting therefrom. Any temporary laydown yard shall be reclaimed to its original condition in accordance with Section 9.6.

e) Turning Radius.

If a portion of the Land is used by Lessee as a Turning Radius area for Lessee's equipment in connection with the construction of the Improvements, then Lessee shall pay to Lessor a one-time use fee equal to \$24.00 per acre occupied by such turning radius. No additional installation fee payment shall be due upon any replacement of such turning radius during the term of this Lease, except to the extent of any increase in occupied acreage resulting therefrom.

f) Substations and Operation and Maintenance Building.

Any substations, interconnection and/or switching facilities, or similar high voltage transmission facility or any operation and maintenance buildings installed on the Land shall require an installation fee of \$5,000.

8.3 Additional Payment to State Agricultural and Grazing Lessees.

Lessee shall be liable and agrees to pay Lessor's surface lessee(s) for damage to improvements of such surface lessee(s), potentially including the breaking of land crops or other agricultural products on the Land. Lessee agrees to work closely with the Department to meet this requirement. This obligation shall not be interpreted to create third-party beneficiary rights in favor of such surface lessee. Any payment for crop damage or damage to any other agricultural product shall be based upon prevailing rates in the county in which the Land is located for such crop or agricultural products and shall be prorated for any partial acres.

8.4 Late Charge.

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

8.5 Additional Rent.

Lessor will not be required to pay any costs or expenses or provide any services in connection with Lessee's use of the Land. Accordingly, Lessee covenants and agrees to separately pay, in addition to the Rent, all utilities and services attributable to Lessee's use of the Land and all taxes and special assessments levied against Lessee's Improvements, whether assessed separately or not, as provided in Sections 11 and 12 below.

8.6 Most Favored Nations.

When constructed by Lessee, the Lessee Improvements will be a part of a single, integrated wind power Project. Lessor and Lessee agree that if Lessee has entered into, or hereafter enters into one or more wind energy agreements or similar instruments with other landowners in the Project area under which Lessee agrees to pay such other landowner: (a) a dollar amount per megawatt of installed capacity used to calculate fees similar to Capacity Rent, (b) a percentage amount used to calculate royalties similar to the Percentage Rent, or (c) a dollar amount per acre used to calculate a minimum annual fee similar to Base Rent, which is more favorable than equivalent rates set forth in this agreement, then Lessee shall notify Lessor and prepare and deliver to Lessor for execution an amendment, which Lessor reserves the right to sign at its discretion, to this Lease modifying the payment terms hereunder to match the more-favorable corresponding terms. The more favorable terms shall be effective as to Lessor on the date such terms became effective for the other landowner or the Commencement Date, whichever is later. If necessary, Lessee shall submit payment, along with an accounting, to Lessor for the difference between the amount actually paid to date and the amount that would have been paid had the amended terms been in effect since the date they became effective for the other property(ies).

8.7 Lessor Audit Rights.

Lessee shall provide all reasonable documentation necessary for Lessor to conduct a meaningful audit. Lessee agrees that Lessor, or any representative of Lessor, legislative auditors, or the legislative fiscal analyst shall have the right at all reasonable times, but not more than once every eighteen (18) months, and upon provision of reasonable notice, to inspect all reasonable documentation necessary for Lessor to conduct a meaningful audit pertaining to the calculation of amounts due under this Lease at Lessee's principal office within the United States.

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

9. SITE PLAN; IMPROVEMENTS; RESTORATION.

9.1 Preliminary Site Plan

No later than one (1) year after the Commencement Date, Lessee shall deliver to Lessor a preliminary site plan showing proposed locations of the Wind Power Facilities which shall be used solely for the purposes of Section 8.1(c) to determine Capacity Rent if construction has not commenced.

9.2 Site Plan.

Within thirty (30) days after the appropriate governmental agency has approved plans for any construction or grading activities on the Land, the Lessee shall provide the Lessor with a copy of the approved site plan. The site plan shall identify the applicable parcel(s) and include a drawing of the pertinent parcel(s) of the Land locating the Wind Power Facilities, utilities and grading, and a drawing of the elevation of the energy generating equipment and transmission facilities. The site plan shall also identify any and all planned improvements, including improvements necessary to calculate installation

fees under this Lease.

9.3 Construction of Improvements and Alterations; Approval.

Lessee may construct, operate, and maintain Improvements on the Land as approximately located on the site plan. Except for the Improvements depicted on the site plan, Lessee shall not construct, install, alter, or demolish and remove, any Improvements on the Land without approval as shown through the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, and shall be deemed granted unless Lessor shall deliver to Lessee written objection, with reasonable detail as to the basis for Lessor's objection and identifying the Improvements that are objectionable, within thirty (30) days after Lessee's request for approval. In the event that Lessor provides such timely written objection, Lessor and Lessee shall thereafter meet and shall use diligent and good faith efforts to resolve Lessor's reasonable objections as promptly as possible and agree upon revisions to the site plan containing any changes so agreed upon by the parties. Notwithstanding the foregoing, without additional approval, Lessee may make minor deviations and adjustments to the final siting of Improvements as reasonably necessitated by concealed conditions or other construction or engineering considerations or requirements, provided that such minor deviations do not conflict with any findings in the final environmental review document. The movement of any Turbine, access road and transmission lines up to fifty (50) feet and the movement of underground collection and distribution line up to 250 feet shall be deemed minor, provided the same do not conflict with any findings in the final environmental review document. All expenses of constructing, installing, maintaining, repairing, altering, or demolishing any Improvements shall be the sole responsibility of Lessee. Lessee shall at all times comply with all Laws, including any applicable city and state building codes and fire codes. Lessor shall have the right to post notices of non-responsibility or similar notices on the Land in order to protect the Land against any liens resulting from such work.

If Lessee commences construction of Improvements on the Land, Lessee shall diligently endeavor to cause the Operations Date to occur within eighteen (18) months, subject to conditions of Force Majeure. Within 180 days of the completion of the initial Improvements for the Land, Lessee shall deliver to Lessor an electronic ALTA/NSPS "as-built" survey of the Premises in both .shp (or other ArcGIS compatible file) and .pdf format. The Lessee shall thereafter furnish the Lessor with copies of any updated plans showing all changes and modifications thereto. The Lessee shall also furnish to the Lessor copies of certificates of occupancy or other similar documents issued to certify completion of construction in compliance with applicable requirements.

9.4 Title to Improvements.

During the Term, Lessee will be deemed to own, and hold title to, all Improvements subject only to the Lessor's reversionary interest in the Improvements upon the expiration of the Lease. Lessee shall have the right to grant liens or other security interests in the Improvements.

Upon the expiration of the Lease, title to all Improvements then held by Lessee that remain upon the Land, except moveable personal property not constituting fixtures, will automatically vest in Lessor without representation or warranty per MCA §77-1-906(2).

9.5 Removal of Lessee Improvements and Restoration.

Prior to the expiration, surrender, or termination of this Lease, including early termination (subject to Lender's rights under Section 16.3), whether as to the entire Land or only as to a part thereof, Lessee shall fulfill all obligations provided within the Reclamation Plan attached hereto as **Exhibit D**, as developed between Lessee and Lessor after completion of the appropriate environmental analysis document prior to executing this Lease. In addition to, and in accordance with, the terms of the Reclamation Plan, Lessee shall (a) remove from the Land (or such part thereof, as applicable) any Improvements owned, installed or constructed by Lessee thereon, except for any roads that Lessor allows to remain on the Land and any

underground collection and distribution lines and Turbine foundations three (3) feet or more below the surface; (b) leave the surface of the Land (or such part thereof, as applicable) free from debris; and (c) otherwise restore the portion of the Land affected by Lessee to a condition as close as practicable to the condition it was in before Lessee's use. Restoration includes, if applicable, the reseeded of affected areas with grasses and/or natural vegetation in accordance with reasonable and customary land care and maintenance standards in the area relating to weed control and the restoration of disturbed pastureland, as reasonably determined by Lessee upon consultation with county agricultural authorities and in coordination with Lessor, as to matters including seed types and seeding timing and processes, it being the intent that Lessor be able to utilize the Land in the same manner as before Lessee's use. Lessee shall be required to remove footings and foundations to the greater of (i) thirty-six (36) inches below the surface of the land or (ii) the depth (if any) required by applicable Law. Lessee shall provide Lessor with an ALTA/NSPS survey in .pdf or other electronic format that depicts the exact locations of improvements that the Lessee does not entirely remove and intends to allow to revert to Lessor. The provisions of this paragraph shall survive the termination or cancellation of this Lease.

9.6 Post-Construction Restoration.

Upon the completion of the construction of the Lessee Improvements, all Land disturbed by Lessee, its agents, contractors, and/or employees, and not required for continuing operations of the Wind Power Facilities, shall be restored to a condition and forage density reasonably similar to its original condition and forage density, consistent with the continued use of the Land pursuant to this Lease. Reclamation shall include, as reasonably required, leveling, terracing, mulching, and other reasonably necessary steps to prevent soil erosion, to ensure the establishment of suitable grasses and forbs, and to control noxious weeds and pests. After the completion of construction, no refuse, waste, or other litter of any kind shall be left on the Land by Lessee. This post-construction reclamation requirement is separate and apart from the requirements found in Section 9.5 above.

9.7 Secondary Uses

After post-construction restoration is complete in accordance with Section 9.6, Lessee's use of the Land for Wind Power Facilities shall not unreasonably disturb grazing, agriculture, or other permitted secondary uses of the Land, granted under one or more leases, licenses, or permits issued prior to the Commencement Date.

10. USE AND ENVIRONMENTAL COMPLIANCE.

10.1 Use and Compliance.

The Lessee shall comply with all applicable Laws, rules, and regulations in effect upon the Commencement Date of this Lease and those Laws, rules, and regulations that may be enacted or adopted thereafter from time to time and that do not impair or impede the obligations of this Lease and that do not deprive the Lessee of an existing property right recognized by law. Lessee shall keep Lessee's Improvements in good repair, and pay all costs and expenses in connection therewith. Lessee shall not commit waste or permit impairment or deterioration of the Land (construction, installation, and removal of Improvements contemplated by this Lease, ordinary wear and tear, and damage by casualty and condemnation excepted). Excavations and Improvements shall be maintained in a safe condition to prevent injury to persons, livestock, and wildlife.

a) Noxious Weeds. The Lessee shall be responsible for controlling noxious weeds introduced or proliferated by Lessee's activity on the Premises or adjacent state-owned land. After the Operations Date, the Lessee shall coordinate with the Lessor's North Eastern Land Office for weed control and the development of a weed management plan for the Premises. The Lessee shall comply with the Montana County Noxious Weed Management Act.

b) Construction Time Periods. All construction activities will be conducted so as to minimize

rutting and soil compaction after consultation with the Northeastern Land Office of Lessor.

c) Resource Removal. Lessee will not cut or otherwise remove any timber or standing trees, or soil or other vegetation upon the Land unless authorized to do so by Lessor. Provided however, Lessee shall be allowed to remove timber, standing trees and vegetation within: (i) a 650 foot diameter circle around each Turbine; (ii) seventy-five feet of any underground collection and distribution line and overhead transmission line; or (iii) fifty (50) feet of any access road, and otherwise as required by the National Electric Safety Code.

10.2 Compliance with Title 77, MCA.

Lessor and Lessee specifically acknowledge that the Land is state school trust land managed by the Montana Board of Land Commissioners and agree that this Lease is subject to the provisions of Title 77, Montana Code Annotated (MCA), and all associated Administrative Rules of Montana (ARM).

10.3 Environmental Monitoring and Montana Environmental Policy Act (MEPA).

Environmental analysis is required prior to execution of this Lease. Lessee understands additional environmental monitoring is required from the Lessee after construction and/or operations, based on the Project specifications and the environmental analysis conducted prior to lease execution. Additional monitoring requirements are made part of this Lease and attached hereto as **Exhibit E**. Lessee agrees to pay all costs associated with such environmental monitoring and any MEPA document(s) as may be required.

10.4 Environmental Matters.

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

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

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

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

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

10.5 Survival.

The reimbursement obligations under this Section 10 will survive the expiration or earlier termination of this Lease.

11. UTILITIES; REPAIRS; WATER RIGHTS.

11.1 Installation and Repairs.

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

11.2 Utilities.

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

11.3 Water Rights.

Any water right appropriated or secured on the Land by any individual or party for use on or off such Land shall be appropriated or secured in the name of the Lessor unless prior written permission to do otherwise is granted by the Lessor. Lessor shall be notified prior to such development or appropriation of water right.

12. TAXES.

12.1 Payment of Taxes.

Lessee will pay before delinquent, directly to the taxing authority, all taxes that accrue during, or are attributable to, any part of the Term and levied against Lessee's Improvements, including privilege taxes, also known as beneficial use taxes, per §15-24-1203, MCA, if applicable and any other taxes levied by the State including electrical generation taxes listed in § 15-24-3004, *et seq.*, MCA.

12.2 Special Assessments.

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

13. INSURANCE.

13.1 Types of Required Insurance.

Lessee shall procure and maintain, or cause one or more of its Sublessees to provide and keep in force and name Lessor as an additional insured, the following:

a) Commercial General Liability Insurance: For the duration of this Lease and until the Lessor certifies that reclamation is complete, Lessee shall purchase and maintain commercial general liability insurance, when combined with umbrella liability insurance, in the amount of \$1,000,000 per occurrence / \$2,000,000 aggregate, covering claims for bodily injury, death, personal injury, and property damage, arising or allegedly arising out of, in connection with, or on account of this Lease, any act or omission of

Lessee, or any act or omission of Lessee's officers, agents, employees, or subcontractors, except to the extent due to the negligence or willful misconduct of Lessor, its agents and employees. This provision is intended to require Lessee to purchase and maintain general liability insurance that includes protection for Lessee's own acts or omissions, alleged acts or omissions, negligent conduct, and alleged negligent conduct.

b) Property Insurance. For the duration of this Lease and until the Lessor certifies that reclamation is complete, Lessee shall purchase and maintain all-risk fire and extended coverage property insurance (including standard extended endorsement perils, leakage from fire protective devices and other water damage) covering loss or damage to the Improvements and betterments in a sufficient amount in Lessee's reasonable discretion.

c) Worker's Compensation and Employer's Liability Insurance. For the duration of this Lease and until the Lessor certifies that reclamation is complete, Lessee shall either obtain and maintain an independent contractor exemption or shall purchase and maintain worker's compensation and employer's liability insurance covering Lessee and its employees and agents. Lessee shall also require each of its major sub-contractors, for the duration of this Lease and until the Lessor certifies that reclamation is complete, to either obtain and maintain an independent contractor's exemption or to purchase and maintain workers' compensation and employer's liability insurance covering each sub-contractor and its employees and agents.

d) Environmental Impairment Liability Insurance. To the extent such liability is not covered by the commercial general liability policy set forth in Section 13.1(a) above, for the duration of this Lease and until the Lessor certifies that reclamation is complete, Lessee shall purchase and maintain environmental impairment liability insurance in the amount of \$1,000,000 per occurrence/ \$2,000,000 aggregate protecting Lessee and the State, their elected and appointed officials, agents, and employees, against all claims for environmental contamination arising or allegedly arising out of or in connection with this Lease, except to the extent caused by the negligence or willful misconduct of Lessor. This provision is intended to require Lessee to purchase and maintain environmental impairment liability insurance that includes protection for Lessee's own acts or omissions, alleged acts or omissions, negligent conduct, and alleged negligent conduct. If Lessee can obtain environmental impairment liability insurance only on a "claims made" basis, it shall obtain the longest retroactive date and extended reporting periods available.

e) Automobile Liability Insurance. For the duration of this Lease and until the Lessor certifies that reclamation is complete, Lessee shall purchase and maintain business automobile liability insurance covering any automobile – including all owned, hired and non-owned automobiles – used in connection with Lessee's business. Business automobile liability insurance shall have a combined single limit of \$1,000,000 per accident. Lessee shall require each of its major sub-contractors to purchase and maintain business automobile liability insurance with the same limits.

13.2 Terms of Insurance.

a) Each insurance policy required by this Lease shall be written for the limits of liability specified in this Lease or required by law, whichever coverage is greater.

b) Each insurance policy required by this Lease shall be written on an "occurrence" basis, or a "claims made" basis provided any claims under such policy shall be retroactive to the Commencement Date of this Lease and shall expire two (2) years after the expiration or termination of this Lease, unless otherwise agreed to by subsequent written agreement between Lessee and Lessor.

c) Each insurance policy required by this Lease shall be maintained without interruption for the time periods required by this Lease and Lessee shall provide that coverage will not be canceled for any reason without giving Lessor at least thirty (30) days prior written notice of cancellation, except that a (ten) 10 day written notice shall apply for cancellation by insurer due to non-payment of premiums.

d) Lessee is responsible for paying all premiums, deductibles, and retentions applicable to each insurance policy required by this Lease.

e) All insurance coverage of any kind purchased and maintained by Lessee or any sub-contractor as required by this Lease shall be purchased only from an insurance carrier currently authorized to do business in the State of Montana with an A. M. Best's rating of no less than A- or a Standard & Poor rating of A.

f) All insurance coverage of any kind purchased and maintained by Lessee or any sub-contractor as required by this Lease shall be primary coverage but only to the extent of the liabilities assumed hereunder by the parties. Any insurance or self-insurance maintained separately by Lessor, its officers, officials, employees, or volunteers shall be excess of the Lessee's or sub-contractor's insurance and shall not contribute with it but only to the extent of the liabilities assumed hereunder by the parties.

g) Lessor shall be included as an additional insured under the policies, to the extent of the liabilities arising under this Lease, on the declaration pages of the general liability, property, environmental impairment liability, business automobile liability, and excess/umbrella policies required by this Lease as named insureds (Lessee being identified as the primary or first named insured) but only to the extent of the liabilities assumed hereunder by the parties.

h) Lessee, its sub-contractors, or the insurance carrier issuing all insurance policies required by this Lease must provide a certificate of coverage of such policies to Lessor prior to execution of this Lease and as a necessary condition precedent to the formation, and enforceability of any provision, of this Lease.

i) Failure to obtain and maintain all required insurance shall be considered a material breach of this Lease. Lessee shall notify Lessor immediately if any insurance required by this Lease is canceled, expires, changes, is reduced, or restricted in coverage or if any insurer notifies Lessee of its intent to cancel, allow to expire, change, reduce, or restrict the coverage of such insurance.

j) The indemnity and insurance provisions of this Lease can be modified only by subsequent written agreement between Lessee and Lessor.

14. DAMAGE OR DESTRUCTION.

In the event of any Substantial Damage arising from or relating to Lessee's activities on and use of the Land or any Improvements from any causes whatsoever, Lessee shall promptly give written notice thereof to Lessor. Lessee shall promptly repair or restore the Land or remove any damaged Improvements and restore the affected portion of the Land as nearly as possible to its condition immediately prior to such damage or destruction unless Lessor and Lessee mutually agree in writing that such repair and restoration is not feasible, in which event this Lease shall thereupon terminate upon Lessee's completion of a remediation plan developed by the Department pursuant to this Section. Lessee's duty to repair any damage or destruction of the Land, and to restore or remove any Improvements and to restore the Land, shall not be conditioned upon the availability of insurance proceeds from which the cost thereof may be paid. Unless this Lease is so terminated by mutual agreement as described in this Section 14, there shall be no abatement or reduction in Rent during such period of repair and restoration.

15. CONDEMNATION.

15.1 Notice.

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

15.2 Termination Option on Substantial Taking.

If a Substantial Taking occurs during the Term, Lessee may, at its option, terminate this Lease by giving notice to Lessor on or before sixty (60) days after the Taking Date. In such event, this Lease will terminate thirty (30) days after the date of Lessee's notice of termination, and all Base Rent and other Rent will be apportioned to the date Lessee surrenders possession.

15.3 Continuation of Lease.

If a Taking occurs during the Term that is not a Substantial Taking, then this Lease will remain in full force and effect according to its terms, except that effective as of the Taking Date this Lease will

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

15.4 Awards for Permanent Taking.

If there is compensation paid as a result of any Taking of the Land or Lessee's interest therein, then the award or compensation payable therefor, whether pursuant to a judgment, by agreement or otherwise, including any damages and interest (collectively, the "Award"), will be allocated as follows: (a) any portion of the Award attributable to the Taking of or injury to this Lease, or the Improvements shall be paid to Lessee, without reduction on account of any early termination effected due to the Taking; (b) any portion of the Award attributable to any cost or loss that Lessee may sustain in the removal and/or relocation of the Improvements, or Lessee's chattels and trade fixtures, shall be paid to Lessee; (c) any portion of the Award attributable to Lessee's anticipated or lost profits, to damages because of deterrent to Lessee's business or to any special damages of Lessee, shall be paid to Lessee; and (d) any portion of the Award attributable to the Taking of the fee, and all remaining amounts of the Award, shall be paid to Lessor.

15.5 Award for Temporary Taking.

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

16. ASSIGNMENT, SUBLETTING AND FINANCING.

16.1 Assignment.

Lessee shall not assign its interest under this Lease, in whole or as to any part, without Lessor's prior written consent, which shall not be unreasonably withheld, conditioned or delayed if the proposed assignee is: (a) an affiliate of Lessee; (b) a present or future purchaser of electricity generated by the Improvements or engaged in the transmission or distribution of such electricity; (c) a party to a merger or reorganization transaction involving Lessee or a sale or transfer involving all or substantially all of Lessee's assets, including, but not limited to, the Improvements; or (d) any collateral assignment of the Lease in connection with a financing transaction. For other such assignments, such consent may be determined in Lessor's sole and absolute discretion. Notwithstanding the foregoing, Lessor's consent will not be required for any transfer of Lessee's interest under this Lease to a Foreclosure Transferee. Lessor will recognize any Foreclosure Transferee as a substitute Lessee under this Lease and will honor all rights and interest of such substitute Lessee as if the substitute Lessee was the initial Lessee under this Lease. Any such Foreclosure Transferee shall be bound by the terms and conditions of this Lease. Additionally, if the Foreclosure Transferee is a Qualified Lender, such Qualified Lender shall have the right to assign its interest under this Lease without the consent of Lessor and, upon such assignment, Lessor shall recognize the assignee as a substitute Lessee under this Lease and the Qualified Lender shall be released of any further liability under the Lease. However, any assignee must be registered with the Montana Secretary of State to conduct business in the State of Montana. If Lessee assigns its rights in this Lease, as permitted or approved pursuant to this Section 16, then Lessee shall be relieved of all liabilities

hereunder accruing from and after the date of such assignment, but only if (i) the assignor gives Lessor notice of the assignment, and where consent is required obtains Lessor's written consent; (ii) the assignment is expressly made subject to this Lease; (iii) the assignee expressly assumes Lessee's obligations which arise on or after the date of such assignment; and (iv) the assignee has the resources necessary to satisfy its obligations under this Lease. An assignment as described in this paragraph shall not relieve Lessee from any liability that arose prior to the assignment, in accordance with § 77-1-909, MCA. Any member of Lessee shall have the right from time to time without Lessor's consent to transfer any membership interest in Lessee to one or more persons or entities.

16.2 Subletting.

Lessee may sublease the Land or portions thereof in accordance with the terms of this Section. Lessee may grant possessory or use rights under its leasehold estate under this Lease, whether by sublease, license, or another instrument. Lessee shall not enter into any sublease without Lessor's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. Lessee shall inform Lessor of all proposed subleases by delivering a copy of the sublease to Lessor. No sublease shall be effective until a valid sublease agreement with a valid attornment provision is delivered to the Lessor, as hereinafter provided. All subleases shall include an attornment provision whereby upon the early termination of this Lease or repossession of the Land by Lessor, the Sublessee shall attorn to the Lessor as its landlord under all of the terms, covenants and conditions of this Lease (prorated for the actual amount of Land used by Sublessee) for the balance of the remaining Term, with the same force and effect as if Sublessee were the Lessee under this Lease. Such attornment shall be effective and self-operative immediately upon Lessee's termination, and each Sublessee subject thereto shall agree to execute, acknowledge, and deliver to Lessor any document that Lessor reasonably requests to confirm such attornment.

16.3 Financing.

a) Lessee's Right to Encumber. Throughout the Term, Lessee may from time to time, upon written notice to Lessor, but without having to secure Lessor's consent, execute and deliver one or more Lender's Liens recurring any indebtedness or other obligation of Lessee. Without limiting the generality of the foregoing, Lessee may execute and deliver Lender's Liens to secure promissory notes evidencing construction, interim or permanent financing for the Land or Improvements, or to secure Lessee's obligations under development, reimbursement or other agreements with governmental or quasi-governmental entities, utility companies or other third parties concerning matters such as sales or property tax abatement or rebate programs, public improvements or utilities. A Qualified Lender shall have the absolute right to do one, some, or all of the following things without further consent from Lessor: (a) assign its Lender's Lien; (b) enforce its Lender's Lien or other security instrument other than a mortgage or other interest in the underlying land; (c) acquire title to the Wind Power Facilities under this Lease as a Foreclosure Transferee; (d) take possession of and operate the Wind Power Facilities and the Improvements or any portion thereof in accordance with this Lease and perform any obligations to be performed by Lessee hereunder, or cause a receiver to be appointed to do so; (e) assign or transfer the leasehold estate under this Lease to a third party; or (f) exercise any rights of Lessee hereunder. Nothing in this section shall be construed to convey an interest in the underlying land.

b) Qualified Lender's Cure Rights. Each Qualified Lender shall have the absolute right to substitute itself for Lessee and perform the duties of Lessee hereunder, including for purposes of curing any default or alleged default by Lessee, including any uncured Default by Lessee (as defined below). As a precondition to exercising any rights or remedies as a result of any default or alleged default by Lessee, Lessor shall deliver a duplicate copy of the applicable default notice to each Qualified Lender concurrently with delivery of such notice to Lessee. In the event of an uncured Default by Lessee after delivery of such notice and the expiration of Lessee's cure period, but prior to terminating this Lease or exercising any other right or remedy hereunder for a Default by Lessee, Lessor will give each Qualified Lender notice of such Default by Lessee, and afford it a period of: (a) Thirty (30) days after such notice is

given in which to cure such Default by Lessee if such Default by Lessee is a failure to pay Rent; or (b) Sixty (60) days after such notice is given in which to cure such Default by Lessee if such Default by Lessee is not a failure to pay Rent; provided, however, that if such Default by Lessee is not a failure to pay Rent and is susceptible of cure by a Qualified Lender, but cannot reasonably be cured within such 60-day period, then so long as any Qualified Lender commences a cure within such 60-day period (and notifies Lessor that it has done so), its cure period will be extended for as long as reasonably necessary for it to diligently pursue the cure to completion. However, if such Default by Lessee is not a failure to pay Rent and is susceptible of cure by a Qualified Lender, but cannot reasonably be cured until the Qualified Lender obtains possession of the Land, then so long as any Qualified Lender commences to obtain possession of the Land within such 60-day period (and notifies Lessor that it has done so), its cure period will be extended for as long as reasonably necessary for it to obtain possession of the Land, and then promptly commence and thereafter diligently pursue the cure to completion. If a Qualified Lender is prohibited by any process or injunction issued by any court or by reason of any action of any court having jurisdiction over any bankruptcy or insolvency proceeding involving Lessee from commencing or prosecuting the proceedings described above, then the 60-day period specified above for commencing such proceedings shall be extended for the period of such prohibition.

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

d) New Lease to Qualified Lender. If this Lease (a) terminates because of Lessee's uncured Default by Lessee; or (b) is rejected or disaffirmed pursuant to bankruptcy law or any other law affecting creditors' rights, then, so long as a Qualified Lender has cured any such monetary Default by Lessee, and is making commercially reasonable efforts to cure any such non-monetary Default by Lessee as provided herein, Lessor shall immediately, upon written request from such Qualified Lender, received within ninety (90) days after any such event, without demanding additional consideration therefor, recognize the Qualified Lender's interest in this Lease, or enter into a new lease in favor of such Qualified Lender. The new lease shall: (i) contain the same agreements, terms, provisions and limitations as this Lease (except for any requirements that have been fulfilled by Lessee prior to such termination, foreclosure, rejection or disaffirmance hereinafter referred to as a "Terminating Event"); (ii) be for a term commencing on the date of such Terminating Event, and continuing for the remaining Term before giving effect to such Terminating Event; (iii) contain a lease of the Land or such portion thereof as to which such Qualified Lender held a Leasehold Mortgage on the date of such Terminating Event; (iv) enjoy the same priority as this Lease over any lien, encumbrance or other interest created by Lessor. At the option of the Qualified Lender, the new lease may be executed by a designee of such Qualified Lender, without the Qualified Lender assuming the burdens and obligations of Lessee thereunder. The provisions of this paragraph shall survive the termination or cancellation of this Lease.

16.4 Assignment by Lessor.

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

17. LEASE EXPIRATION.

17.1 Condition at End of Lease.

Upon the expiration or termination of this Lease, Lessee shall leave the Land in good condition and shall peaceably surrender the same to Lessor. Prior to expiration or termination, Lessee shall have removed its Improvements and personal property and shall have restored the Land according to the terms of this Lease. All Improvements and personal property remaining on the Land on the day after the

expiration or termination date, shall be conclusively deemed abandoned by the Lessee and shall become property of Lessor without further notice to Lessee.

17.2 Holding Over.

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

18. LIENS AND ESTOPPEL CERTIFICATES.

18.1 Liens.

Lessee will not allow any liens to be recorded, filed, claimed, or asserted against the Land. In the event a lien is recorded, filed, claimed, or asserted, Lessee will cause the same to be released or discharged within thirty (30) days thereafter. If the Lessee defaults under the foregoing covenant, then the Lessor may, upon written notice to Lessee, cause any such claimed lien to be released of record by bonding or payment or any other means available. All sums paid and costs and expenses incurred by the Lessor in connection therewith, together with interest on all such sums at the Default Rate from the date incurred until paid, will be due and owing from the Lessee to the Lessor upon demand therefore.

18.2 Lien Contests.

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

18.3 Estoppel Certificates.

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

19. DEFAULTS BY LESSEE AND LESSOR'S REMEDIES.

19.1 Defaults by Lessee.

Each of the following events, which continue beyond any applicable notice and cure period, will constitute a "Default by Lessee" under this Lease, except that the parties may agree, in writing, to extend the time for cure provided for any of the Defaults listed below, and if the time for cure is so extended the Default shall not be held to have occurred until the mutually agreed time for cure has elapsed:

a) Failure to Pay Rent. Lessee fails to pay any Base Rent or any other Rent, including late charges and interest accruing thereon, payable by Lessee under the terms of this Lease when due, and such failure continues for thirty (30) days after written notice from Lessor to Lessee of such failure;

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

c) Execution and Attachment against Lessee. Lessee's interest under this Lease or in the Premises is taken upon execution or by other process of law directed against Lessee, or is subject to any attachment by any creditor or claimant against Lessee and such attachment is not discharged or disposed of within thirty (30) days after levy; provided, however, that this provision shall not apply in the event of a foreclosure or transfer in lieu of foreclosure under a Leasehold Mortgage or other exercise of rights under a Lender's Lien by a Qualified Lender, or to a transfer of Lessee's interest in this Lease and the Premises to a Foreclosure Transferee.

d) Fraud or Misrepresentation. Lessee's fraud or misrepresentation, or concealment of material facts relating to its procurement of this Lease, which if known to Lessor would have prevented its issuance of this Lease. Any material false certification or statement by Lessee in any other document or report required to be submitted under this Lease, which was known to be false by Lessee at the time it was made, shall, at the discretion of Lessor, be deemed a Default by Lessee under this Lease.

e) Unauthorized Use of Premises. Lessee's, Lessee's employees and agents, its subcontractors, or its subcontractor's employees' and agents' use of the Premises for any unlawful or unpermitted purpose, and such unlawful use continues for thirty (30) days after written notice from Lessor to Lessee to cease such use.

f) Abandonment or Non-operation. Lessee's express or implied abandonment of the Lease Premises or non-operation of Wind Power Facilities upon the Land for 12 consecutive months.

19.2 Lessor's Remedies.

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

19.3 Cure by Lessor.

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

a) Termination of Lease. In the event of a Default by Lessee, Lessor shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative; provided, however, that Lessor shall not commence any action or proceeding in which termination, cancellation, rescission or reformation of this Lease is sought as a remedy except as provided below:

- i. Lessor shall not seek termination, cancellation, rescission, or reformation without first

- allowing Lessee an opportunity to cure any alleged failure, breach, or default through notice as provided by Section 24.2;
- ii. Lessor shall not seek termination, cancellation, rescission, or reformation for any of the defaults listed in Section 19.1(a) – (c) except as provided for nonpayment of awarded damages described in subpart (iii) below;
 - iii. If Lessee fails to pay to Lessor within the time specified by any court of last resort with jurisdiction any damages awarded Lessor by such court, then Lessor may, after giving a notice and subject to Section 16.3(b), terminate this Agreement. Lessor may pay or perform any obligations of the Lessee that have not been paid or performed as required hereunder and to obtain (a) subrogation rights therefor and (b) prompt reimbursement from Lessee for the actual, reasonable and verifiable out-of-pocket costs of such payment or performance.

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

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

20. DEFAULTS BY LESSOR AND LESSEE'S REMEDIES.

20.1 Defaults by Lessor.

Either of the following events, which continue beyond the applicable notice and cure period, will constitute a "Default by Lessor" under this Lease: (a) Lessor breaches or fails to comply with any provision of this Lease applicable to Lessor, and such breach or noncompliance continues for a period of thirty (30) days after notice thereof from Lessee to Lessor; or, (b) if such breach or noncompliance cannot be reasonably cured within such 30-day period and Lessor does not commence to cure such breach or noncompliance within such 30-day period and does not thereafter pursue such cure in good faith to completion.

20.2 Lessee's Remedies.

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

21. DECOMMISSIONING AND RECLAMATION PLAN AND BOND.

Upon the 15th anniversary of the commencement of commercial operation of the Project, the Lessee shall furnish Lessor a good and sufficient corporate surety bond or letter of credit, in the amount specified

in the Reclamation Plan attached to this lease as **Exhibit D**. The bond shall secure the full performance by the Lessee of its decommissioning of the project and reclamation of the Land. The bond shall be in form and issued by a surety company acceptable to the Lessor. The bond shall be reviewed every five (5) years and may be adjusted by the Lessor to assure that reclamation will occur in accordance with the Reclamation Plan. A new or modified bond shall be delivered to the Lessor not less than thirty (30) days following Lessor's request for an additional bond. The Lessee shall have a bond or letter of credit in effect at all times until one (1) year after the expiration of the Lease Term, or one (1) year after cessation of operations, whichever is later, unless fully drawn upon earlier by Lessor or unless Lessor provides the issuer of the bond or letter of credit written notice authorizing the termination of the bond. Upon (a) the expiration of the Lease Term, and (b) Lessee's compliance with its reclamation obligations, as reasonably determined by Lessor, Lessor shall be obligated to provide written notice to the issuer of the bond or letter of credit authorizing the termination of the bond or letter of credit, as applicable. Any such written notice shall be provided by Lessor within ten (10) days of written request by Lessee. Lessee's failure to have a bond or letter of credit in effect at all times required by this Lease in the full amount required by Lessor shall constitute a material breach of this Lease unless otherwise agreed to by Lessor. The Lessee's obligation under this paragraph shall survive the termination of this Lease.

22. LESSEE LIABILITY; INDEMNIFICATION.

Lessee shall protect, defend, indemnify, and save harmless Lessor, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, penalties, fines, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Lessee's employees and agents, its subcontractors, its subcontractor's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, violation of or non-compliance with any laws, regulations, or rules, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of, in connection with, or on account of this Lease, any act or omission of Lessee, or any act or omission of Lessee's officers, agents, employees, or subcontractors, provided, however, that in no event shall Lessee be responsible for defending, indemnifying or holding harmless Lessor to the extent of any claim, damage, injury, judgment, liabilities, penalties, fines or losses caused by, arising from or to the extent contributed to by the negligence or willful misconduct of Lessor.

In no event shall Lessor or Lessee or any of their respective officers, directors, members, partners, shareholders, employees, agents or affiliates be liable for special, indirect, exemplary, punitive or consequential damages of any nature whatsoever connected with or resulting from the performance or non-performance of this Lease or any exhibit attached hereto, including without limitation damages or claims in the nature of lost revenue, income or profits, loss of use, or cost of capital, irrespective of whether such damages are reasonably foreseeable and irrespective of whether such claims are based upon negligence, strict liability, contract, operation of law or otherwise.

Lessee waives all claims, demands, causes of action, and recourse against Lessor, including claims of contribution or indemnity, arising in favor of Lessee on account of property damage, personal injury, bodily injury, death, violation of or non-compliance with any laws, regulations, or rules, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with, any act or omission of Lessee not authorized by this Lease, or any act or omission of Lessee's officers, agents, employees, or subcontractors not authorized by this Lease.

23. UTILITY INSTALLATION

The Lessee, at its sole cost and expense, shall determine the availability of, and shall cause to be installed in, on, and about the Land, all facilities necessary to supply thereto all water, sewer, gas, electricity, telephone, and other like services required in the Lessee's operations hereunder. The Lessee shall pay all connection or acreage assessments or charges levied by any public utility, agency, or municipality with

respect to their services. Notwithstanding the foregoing, the Lessee shall not enter into any contract or agreement with any city, county, or other governmental agency or body or public utility with reference to sewer lines or connections, water lines or connections, or street improvements relating to the Land without the prior written consent of the Lessor, which consent shall not be unreasonably withheld.

24. MISCELLANEOUS

24.1 Force Majeure.

If performance of this Lease or any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure", the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction, or interference. The affected party shall use reasonable efforts to avoid or remove such causes of nonperformance and shall immediately continue performance hereunder whenever such causes are removed.

24.2 Notices.

All notices or other communications required or permitted under this Lease shall be in writing and shall be deemed properly given and received: (a) when actually given and received, if delivered in person to a party who acknowledges receipt in writing; or (b) one (1) business day after deposit with a private courier or overnight delivery service with a written acknowledgment of receipt; or (c) five (5) business days after the date postmarked on the cover of any correspondence or notice when deposited in the United States mail, certified - return receipt requested, with postage prepaid. All such notices shall be sent to the address shown for Lessor and Lessee respectively in the introductory paragraph of this Lease. In the case of notices to a Qualified Lender, to the address set forth in its most recent notice to Lessor. Any party may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph.

24.3 Binding Effect.

Each of the provisions of this Lease shall run with the land and will extend to bind or inure to the benefit of, as the case may be, Lessor and Lessee, and their respective heirs, successors, Sublessees, and assigns during the Term of this Lease.

24.4 Entire Agreement; Modifications.

This Lease contains the entire agreement between the parties respecting its subject matter. Any agreement, understanding, representation, statement, promise, or inducement respecting the Premises, this Lease, or any other matter referenced herein not expressly set forth in this Lease or a subsequent writing signed by both parties is null and void. All modifications to this Lease must be in writing and signed by the Lessor and the Lessee. No purported modifications or amendments, including without limitation any oral agreement (even if supported by new consideration), course of conduct, or absence of a response to a unilateral communication, shall be binding on either party. If executed properly, modifications of this Lease do not need independent consideration to be legally enforceable.

24.5 Enforcement Expenses.

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

24.6 No Waiver.

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

the time and in the manner specifically stated.

24.7 Captions.

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

24.8 Severability.

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

24.9 Authority to Bind.

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

24.10 Only Lessor/Lessee Relationship.

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

24.11 Reasonableness.

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

24.12 Governing Law; Venue; Jurisdiction; Rule of Construction.

This Lease will be governed by and construed according to the laws of the State of Montana. In the event of litigation concerning this Lease, venue shall be in the First Judicial District in and for the County of Lewis and Clark, Montana. The parties acknowledge and agree that they have each participated in the drafting of this Lease, and therefore, any rule of construction to the effect that ambiguities are to be resolved against the party drafting a contract shall not be employed in the interpretation of this Lease and is hereby waived.

24.13 Time of Essence.

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

24.14 Broker.

Lessor represents and warrants that no broker or agent negotiated, or was instrumental in negotiating or consummating this Lease on behalf of Lessor. Lessee will indemnify and hold Lessor harmless from all damages paid or incurred by the Lessee from any claims asserted against Lessor by brokers or agents claiming through the Lessee.

24.15 Cooperation.

Lessor shall fully support and cooperate with Lessee in the conduct of its Operations and the exercise of its rights hereunder, and in carrying out and otherwise giving full force and effect to the purpose and intent of this Lease, including in Lessee's efforts to obtain from any governmental authority or any other person or entity any environmental impact review, permit, entitlement, approval, authorization or other rights necessary or convenient in connection with Operations. Lessor shall have no monetary obligation in paying any permit fees or consultant charges associated with any governmental permits required.

24.16 Recording.

This Lease may not be recorded. Lessor and Lessee shall execute in recordable form and Lessee shall then record a memorandum of this Lease in the form attached to this Lease as **Exhibit A**. Following due and proper compliance with its rules, regulations, and procedures, Lessor shall consent to the recordation of the interest of an assignee in the Land and the recordation of any documents related to the Project.

24.17 Wind Energy Rights Act.

The parties acknowledge and agree that this Lease shall be construed and given effect in accordance with §70-17-401, MCA, *et seq.*, the Montana Wind Energy Rights Act, to the extent applicable, as follows:

a) Term Specification. The parties acknowledge and agree that, if this Lease and/or the leasehold estate demised hereunder shall not have sooner expired or terminated in accordance with the terms hereof, the Term shall expire and terminate on _____, said date defining the specified term and date of termination contemplated under §70-17-406(1)(d), MCA.

b) Tax Liability. Nothing in this Lease shall be construed as making Lessor liable, and Lessee shall be responsible, for any property tax associated with the Wind Power Facilities and the Projects or other equipment related to the development of the Wind Power Facilities and the Projects during the Term, as required under §70-17-406(1)(f), MCA.

c) Compliance with Laws. Lessee shall comply with federal, state, and local laws and regulations, including those applicable to the Wind Power Facilities and the Projects, as required under §70-17-406(1)(h), MCA.

d) Remedies. Notwithstanding anything in this Section or this Lease to the contrary, to the extent that this Lease or any terms hereof should fail to be in accordance with the requirements set forth in §70-17-401, MCA, *et seq.*, including specifically, but without limitation, §70-17-406(1), MCA, this Lease shall be construed as reformed to the minimum extent necessary so as to satisfy such requirements. The parties agree that, to the fullest extent permitted by law, reformation of this Lease shall be the sole and exclusive remedy of the parties in the event of any failure or alleged failure of this Lease to be in accordance with the foregoing requirements.

24.18 Confidentiality.

Lessee understands that, in accordance with Mont. Const. art. II, § 9, and Montana's public records laws, as such laws may be amended, that Lessor must disclose to the public upon request any records it receives from Lessee. Lessor shall not disclose any information it receives from Lessee that Lessee has previously identified as confidential and that the Lessor determines in its sole discretion is protected from mandatory public disclosure under a specific exemption to the Montana public records laws.

24.19 Survival of Terms, Conditions, Restrictions Reservations, and Covenants.

Any term, condition, restriction, reservation, or covenant that gives rise to any rights or claims of Lessor against Lessee and Lessee against Lessor shall be deemed to survive the termination, relinquishment, or abandonment of this Lease until all claims have been settled or resolved.

25. SIGNATURES

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

LESSEE, MARTINSDALE WIND FARM LLC:

By: _____
 AUTHORIZED SIGNATORY NAME AND TITLE

The foregoing instrument was acknowledged before me this _____ day of _____,

20 ____ by LESSEE AUTHORIZED SIGNATORY NAME as authorized signatory of Martinsdale Wind Farm LLC, a Delaware limited liability company.

STATE OF _____

COUNTY OF _____

Notary Public

LESSOR, STATE OF MONTANA, DNRC:

By: _____

MIKE ATWOOD, CHIEF
REAL ESTATE MANAGEMENT BUREAU

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by MIKE ATWOOD, CHIEF, REAL ESTATE MANAGEMENT BUREAU, State of Montana, DNRC.

STATE OF MONTANA

COUNTY OF _____

Notary Public

EXHIBIT A

Form of Memorandum – Placeholder

The placeholder will be replaced with the actual exhibit prior to lease signature.

EXHIBIT B

Vicinity Map

This placeholder will be replaced with the actual exhibit prior to the Commencement Date.

EXHIBIT C
MARKET ADJUSTMENT
SCHEDULE AND PROVISIONS

Base Rent for the Land shall be subject to Market Adjustments determined in accordance with these provisions. The Market Adjustments will apply in Lease Years 36, 46, 61, 76 and 91. The process for the Market Adjustment will commence on the date that is 90 days after the first day of Lease Years 35, 45, 60, 75, and 90 as applicable (the "Market Date").

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

SELECTION OF APPRAISERS

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

DETERMINATION OF BASE RENT

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

Lessor Appraisal = \$6.50 per square foot

Lessee Appraisal = \$6.10 per square foot

Land Value= \$6.30 per square foot

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

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

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

The Land Value shall be the mathematical average of the two appraisals that are closest in dollar amount.

The Land Value determined in accordance with the foregoing provisions shall be binding and conclusive on the parties. Base Rent for the land, as adjusted by the Market Adjustment, shall be amount obtained by multiplying the Land Value by the Lease Rate Percentage determined in accordance with 77-1-905, MCA, or subsequent laws governing rental rates for wind power developments on State Trust Land or the rate bid in the lease proposal, whichever is higher.

QUALIFICATIONS OF APPRAISERS; REPLACEMENT

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

SCOPE OF WORK

The Lessor shall draw up the scope of work that meets the statutory requirements at the time, and supply the scope of work to all appraisers. The scope of work shall specify that the appraisal is for the Land only, and does not consider the presence of Wind Power Facilities. All appraisals conducted during a Market Adjustment shall be subject to the same scope of work.

BRIEFING SESSION

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

PAYMENT

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

MARKET ADJUSTMENT SCHEDULE

Lease Year	Schedule
35	"Market Adjustment"
36 through 45	Base Rent resulting from year 35 Market Adjustment applied.
45	"Market Adjustment"
46 through 60	Base Rent resulting from year 45 Market Adjustment applied.
60	"Market Adjustment"
61 through 75	Base Rent resulting from year 60 Market Adjustment.
75	"Market Adjustment"
76 through 90	Base Rent resulting from year 75 Market Adjustment applied.
90	"Market Adjustment"
91 through 99	Base Rent resulting from year 90 Market Adjustment applied.

EXHIBIT D**Reclamation Plan**

This exhibit is dependent on the lease proposal and subsequent Environmental Analysis.

The placeholder will be replaced with the actual exhibit prior to lease signature. The final exhibit will include specific reclamation requirements, including reclamation bond amount and review schedule.

EXHIBIT E

Environmental Monitoring

This placeholder will be replaced with the actual exhibit prior to the Commencement Date.

EXHIBIT

Existing Rights

This placeholder will be replaced with the actual exhibit prior to the Commencement Date.

EXHIBIT G

Site Plan

This placeholder will be replaced with the actual exhibit no later than one (1) year after the Commencement Date and will be amended in accordance with this Lease.