

Environmental Assessment Checklist

Project Name: Seiver Easement
Proposed Implementation Date: June 2017
Proponent: David & Helena Seiver and Plains Unit, Northwest Land Office, Montana DNRC
County: Sanders

Type and Purpose of Action

Description of Proposed Action:

The Plains Unit of the Montana Department of Natural Resources and Conservation (DNRC), along with David and Helena Seiver is proposing the Seiver Easement. The project is located approximately 10 miles north of Plains, Montana on State lands in Section 14, T21N, R26W (refer to Attachments vicinity map A-1 and project map A-2) and includes the following sections:

Beneficiary	Legal Description	Total Acres	Treated Acres
Public Buildings	S14, T21N, R26W	640	1

The easement relocation and amendment was requested by Helena Seiver for the following reasons:

- An ongoing, contentious relationship with a landowner who does not want to allow the Seivers to utilize the legal easement through his property to access the Seiver property in Section 11, T21N, R26W.
- The fjord crossing is in a deep narrow cavern and crosses a fjord in Lynch Creek.
- The existing easement only allows access to 60 acres of the 320 acres owned by the Seivers.

The Seivers hold an easement on State Land in S14, T21N, R26W known as Lupine Lane, which starts at a junction with the County Road 1075, then enters Ed Hicks-Beach and then crosses Harold Overbeck's property. The existing road crosses through a fjord in Upper Lynch Creek on the Overbeck property. Objectives of the project include relocating an existing road and amend the existing easement. The relocation would allow the Seivers to access their property without entering Hick-Beach property. There would be an environmental benefit to Lynch Creek as traffic would no longer cross through the fjord in Upper Lynch Creek. The DNRC, State of Montana would gain a permanent access to approximately 220 acres in Section 14. The amended easement would grant an easement through State Lands for a single family residence on privately owned land. The easement would be 30 feet wide, with 15 feet on each side of center. The existing easement on Lupine Lane, known as Symmes Driveway Easement, provides access for only 60 of the privately owned 320 acres. The proposed access would utilize approximately ½ mile of existing road and require approximately 400 feet of new road construction. The Symmes Driveway Easement would be rescinded on Lupine Lane and the road prism, approximately 350' of existing road on State lands would be obliterated.

Proposed activities include: relocate road and easement, construct approximately 400 feet of road and obliterate Lupine Lane (approximately 300 feet of road), and install a bridge over Lynch Creek. All costs associated with the proposed activities would be the responsibility of David and Helena Seiver.

Action	Quantity
Proposed Road Activities	
	# Miles
New Permanent Road Construction	0.10
Road Reconstruction	0.01
Road Obliteration	0.10
Other Activities	
Grant Easement	0.25
Easement Rescinded	0.10

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

The DNRC would manage lands involved in this project in accordance with:

- The State Forest Land Management Plan (DNRC 1996),
- Administrative Rules for Forest Management (ARM 36.11.401 through 471),
- The Montana DNRC Forested State Trust Lands Habitat Conservation Plan (HCP) (DNRC 2010),
- All other applicable state and federal laws.

Project Development

SCOPING:

- DATE: August 5, 2016. Reopened scoping February 27, 2017 due to adjacent landowners interest.
- PUBLIC SCOPED: Public involvement has been solicited through local newspaper advertisements (Clark Fork Valley Press), in addition to letters sent to adjacent landowners and a grazing lessee.
- COMMENTS RECEIVED:
 - How many: 7
 - Concerns: The two private landowners directly affected by the road relocation are in favor of the project. The landowners in the Hideaway subdivision are generally not in favor of the project.
 - An attorney for an adjacent landowner, Ed Hicks-Beach, asked for further explanation of easement amendment and location. The landowner stated the project was an acceptable solution to the easement dispute. Supports the project.

- Harold Overbeck- Would like to see the easement through his property relinquished. Supports the project.
 - Bill Henefin- Asked for detailed information. Had no problem with the project.
 - Dawn Krebs- Expressed personality conflict with the Seivers, concerned about possibility of a subdivision being developed, decrease in property value to her land, concerned about a developed pond on Seiver property with no permits and water rights, concerned she may be able to see and hear traffic from the Seivers and increased public access.
 - Bobby Kolby- Expressed personality conflict with the Seivers, concerned about possibility of a subdivision being developed, concerned about a developed pond on Seiver property with no permits and water rights, and is concerned about increased public access.
 - Keith Pilgeram, Grazing Lessee- Concerned about a developed pond on Seiver property with no permits and water rights, concerned about any subdivision development, public and grazing access, and open grazing/fencing issues.
 - Marvin Tanner- Concerned about subdivision, concerned about a developed pond on Seiver property with no permits and water rights, cost to the State and public access.
 - Tom Mills- Concerned about the grazing and cattle on his property, concerned about people from out of State and with money not following rules, concerned about a rumored subdivision and another town growing just 7 miles from Plains.
- Results: Explained to all concerned the project is to relocate and amend an existing easement due to environmental concerns in the fjord crossing in Lynch Creek and to ease the tension between Hicks Beach and Seivers. The easement would be 30 feet wide and for a single family residence, this would not meet subdivision requirements for the county approval. Public vehicle access would be restricted with a gate at the bridge with access only to the Seiver's, the grazing lessee and the DNRC, non- motorized use would still be allowed.

DNRC specialists were consulted, including: Tony Nelson, NWLO Hydrologist and Leah Breidinger, NWLO Wildlife Biologist.

Internal and external issues and concerns were incorporated into project planning and design and will be implemented in associated contracts.

OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED: *(Conservation Easements, Army Corps of Engineers, Road Use Permits, etc.)*

- **United States Fish & Wildlife Service-** DNRC is managing the habitats of threatened and endangered species on this project by implementing the Montana DNRC Forested Trust Lands HCP and the associated Incidental Take Permit that was issued by the United States Fish & Wildlife Service (USFWS) in February of 2012 under Section 10 of the Endangered Species Act. The HCP identifies specific conservation strategies for managing the habitats of grizzly bear, Canada lynx, and three fish species: bull trout, westslope cutthroat trout, and Columbia redband trout.

This project complies with the HCP. The HCP can be found at www.dnrc.mt.gov/HCP.

- **Montana Department of Environmental Quality (DEQ)-** DNRC is classified as a major open burner by DEQ and is issued a permit from DEQ to conduct burning activities on state lands managed by DNRC. As a major open-burning permit holder, DNRC agrees to comply with the limitations and conditions of the permit.
- **Sanders County Soil Conservation Board-** A private landowner, operating on State Lands, would be required to obtain a Short-term Exemption from Montana's Surface Water Quality Standards (318 Authorization) for activities such as replacing or installing a bridge on a stream that may introduce sediment above natural levels into streams.
- **Montana/Idaho Airshed Group-** The DNRC is a member of the Montana/Idaho Airshed Group which was formed to minimize or prevent smoke impacts while using fire to accomplish land management objectives and/or fuel hazard reduction (Montana/Idaho Airshed Group 2006). The Group determines the delineation of airsheds and impact zones throughout Idaho and Montana. Airsheds describe those geographical areas that have similar atmospheric conditions, while impact zones describe any area in Montana or Idaho that the Group deems smoke sensitive and/or having an existing air quality problem (Montana/Idaho Airshed Group 2006). As a member of the Airshed Group, DNRC agrees to burn only on days approved for good smoke dispersion as determined by the Smoke Management Unit.
- **Montana Department of Fish, Wildlife and Parks (DFWP)-** A Stream Protection Act Permit (124 Permit) is required from DFWP for activities that may affect the natural shape and form of a stream's channel, banks, or tributaries.

ALTERNATIVES CONSIDERED:

No-Action Alternative: Do not relocate easement road. Do not amend easement to allow access to the Seiver's 320 acres. Do not obliterate Lupine Lane and do not install bridge over Lynch Creek.

Action Alternative: Relocate and amend the easement permitted for access to the Seiver property.

Impacts on the Physical Environment

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

VEGETATION:

Vegetation Existing Conditions:

Vegetation	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
No-Action														
Noxious Weeds	X				X				X					
Rare Plants	X				X				X					
Vegetative community	X				X				X					
Old Growth	X				X				X					
Action														
Noxious Weeds	X				X				X					
Rare Plants	X				X				X					
Vegetative community	X				X				X					
Old Growth	X				X				X					

SOIL DISTURBANCE AND PRODUCTIVITY:

Soil Disturbance and Productivity Existing Conditions: The proposed easement would involve use of an existing road and the construction of approximately 300 feet of new road. The existing road is a moderate standard forest road that meets applicable BMPs.

Soil Disturbance and Productivity	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
No-Action														
Physical Disturbance (Compaction and Displacement)	X				X				X					
Erosion	X				X				X					
Nutrient Cycling	X				X				X					
Slope Stability	X				X				X					
Soil Productivity	X				X				X					
Action														

Soil Disturbance and Productivity	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
Physical Disturbance (Compaction and Displacement)				X				X				X	Y	S1
Erosion		X				X				X			Y	S2
Nutrient Cycling		X				X				X			Y	S3
Slope Stability	X				X				X					
Soil Productivity				X				X				X	Y	S1

Comments:

S1: By definition, new road construction would displace and compact areas of the road prism. This would be done intentionally and would affect the short-term and long-term productivity of the affected area. These impacts are not considered detrimental, but a change in land use for the easement area.

S2: Erosion risk would be increased on the proposed road easement due to exposure of bare soil. These effects can be mitigated by requiring installation of all applicable BMPs on all existing and new roads.

S3: The roads on the easement area would not retain woody debris for nutrient cycling due to road status. This would be done intentionally and would affect the short-term and long-term nutrient cycling in the affected area. These impacts are not considered detrimental, but a change in land use for the easement area.

Soil Mitigations:

- Implement all applicable BMPs on new and existing roads
- Promptly seed all exposed soil with a site-appropriate grass seed mix concurrent with construction to minimize risk of erosion and invasive weed propagation

WATER QUALITY AND QUANTITY:

Risk of adverse cumulative watershed effects as a result of this proposed easement is low. All but 300 feet of the proposed road easement is existing road. A stream crossing would be re-installed to complete this project.

Water Quality and Quantity Existing Conditions: Lynch Creek is not listed on the 2016 list of waterbodies in need of a water quality restoration plan. Stream channel form and function is good at the proposed easement site with healthy stream banks and flow regime.

Water Quality & Quantity	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		

Water Quality & Quantity	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
No-Action														
Water Quality	X				X				X					
Water Quantity	X				X				X					
Action														
Water Quality	X				X				X					W1
Water Quantity	X				X				X					W2

Comments:

W1: Water quality is not expected to be affected by this proposed easement provided all applicable BMPs are applied to all existing and proposed new road segments; and provided a properly sized stream crossing structure is installed across Lynch Creek.

W2: Water quantity would not be affected by the proposed easement.

Water Quality & Quantity Mitigations:

- Implement all applicable BMPs for all existing and proposed new road segments
- Install a 30-foot bridge across Lynch Creek at the existing crossing site.
- Proponent must apply for and implement all requirements of applicable stream permitting prior to and during construction of the Lynch Creek crossing.

FISHERIES:

Fisheries Existing Conditions: Lynch Creek supports a variety of fish species, including westslope cutthroat trout. Habitat has not been directly assessed for this project, but stream channel form and function is good in the proposed easement area.

No-Action: No direct or indirect impacts would occur to affected fish species or affected fisheries resources beyond those described in Fisheries Existing Conditions. Cumulative effects (other related past and present factors; other future, related actions; and any impacts described in Fisheries Existing Conditions) would continue to occur.

Action Alternative (see Fisheries table below):

Fisheries	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
No-Action														
Sediment	X				X				X					
Flow Regimes	X				X				X					
Woody Debris	X				X				X					

Fisheries	Impact												Can Impact Be Mitigated?	Comment Number	
	Direct				Secondary				Cumulative						
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High			
Stream Shading	X				X				X						
Stream Temperature	X				X				X						
Connectivity	X				X				X						
Populations	X				X				X						
Action															
Sediment		X				X				X				Y	F1
Flow Regimes	X				X				X						
Woody Debris	X				X				X						
Stream Shading	X				X				X						
Stream Temperature	X				X				X						
Connectivity	X				X				X						F2
Populations		X				X				X				Y	F3

Comments:

F1: Low risk of sediment is due to exposure of bare soil through road construction and use. Risk is minimized through implementation of all applicable BMPs

F2: Lynch Creek crossing is recommended to be a 30-foot bridge on existing pads from prior bridge placement. Spill-through design of bridge would ensure natural streambed through crossing site.

F3: Low risk of impacts to fish populations is related to sediment risk discussed in comment F1

Fisheries Mitigations:

- Implement all applicable BMPs for all existing and proposed new road segments
- Proponent must apply for and implement all requirements of applicable stream permitting prior to and during construction of the Lynch Creek crossing.

WILDLIFE:

No-Action: The proposed easement would not be granted and no direct, indirect or cumulative effects to wildlife would be anticipated.

Action Alternative (see Wildlife table below): Overall, the proposed activities are anticipated to have a negligible effect on wildlife considering that 300 feet of road would be constructed and 350 feet of existing road would be obliterated on state lands.

Wildlife	Impact												Can Impact be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
Threatened and Endangered Species														
Grizzly bear <i>(Ursus arctos)</i> Habitat: Recovery areas, security from human activity	X				X				X					
Canada lynx <i>(Felix lynx)</i> Habitat: Subalpine fir habitat types, dense sapling, old forest, deep snow zone	X				X				X					
Sensitive Species														
Bald eagle <i>(Haliaeetus leucocephalus)</i> Habitat: Late-successional forest within 1 mile of open water	X				X				X					
Black-backed woodpecker <i>(Picoides arcticus)</i> Habitat: Mature to old burned or beetle-infested forest	X				X				X					
Coeur d'Alene salamander <i>(Plethodon idahoensis)</i> Habitat: Waterfall spray zones, talus near cascading streams	X				X				X					
Columbian sharp-tailed grouse <i>(Tympanuchus</i>	X				X				X					

Wildlife	Impact												Can Impact be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<i>Phasianellus columbianus</i> Habitat: Grassland, shrubland, riparian, agriculture														
Common loon (<i>Gavia immer</i>) Habitat: Cold mountain lakes, nest in emergent vegetation	X				X				X					
Fisher (<i>Martes pennanti</i>) Habitat: Dense mature to old forest less than 6,000 feet in elevation and riparian		X				X			X				N	WI-1
Flammulated owl (<i>Otus flammeolus</i>) Habitat: Late-successional ponderosa pine and Douglas-fir forest	X				X				X					
Gray Wolf (<i>Canis lupus</i>) Habitat: Ample big game populations, security from human activities	X				X				X					
Harlequin duck (<i>Histrionicus histrionicus</i>) Habitat: White-water streams, boulder and cobble substrates	X				X				X					
Northern bog lemming (<i>Synaptomys borealis</i>) Habitat: Sphagnum meadows, bogs, fens with thick moss mats	X				X				X					
Peregrine falcon (<i>Falco peregrinus</i>) Habitat: Cliff features near open	X				X				X					

Wildlife	Impact												Can Impact be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
foraging areas and/or wetlands														
Pileated woodpecker <i>(Dryocopus pileatus)</i> Habitat: Late-successional ponderosa pine and larch-fir forest		X				X			X				N	WI-2
Townsend's big-eared bat <i>(Plecotus townsendii)</i> Habitat: Caves, caverns, old mines	X				X				X					
Wolverine <i>(Gulo gulo)</i> Habitat: Alpine tundra and high-elevation boreal forests that maintain deep persistent snow into late spring	X				X				X					
Big Game Species														
Elk		X				X			X				N	WI-3
Whitetail		X				X			X				N	WI-3
Mule Deer	X				X				X					

Comments:

WI-1: The proposed 300 feet of road construction would occur in fisher habitat. However, considering the small amount of trees that would be removed, the location of the construction adjacent to the Jones Ranch Road, and that a similar amount of road would be obliterated, negligible adverse direct, indirect, or cumulative effects to fisher would be anticipated.

WI-2: The proposed 300 feet of road construction would occur in pileated woodpecker habitat. Considering snags and snag recruits would only be removed if they are located in the road prism, negligible adverse direct, indirect, or cumulative effects to pileated woodpeckers are anticipated.

WI-3: Potential winter range for white-tailed deer and elk is present in the vicinity of the easement. Negligible effects to thermal cover would result from removal of trees for road construction. Disturbance to wintering game may increase slightly due to traffic from one family on the easement. However, 350 feet of road on state lands would also be obliterated, reducing traffic in that area.

ARCHAEOLOGICAL SITES / AESTHETICS / DEMANDS ON ENVIRONMENTAL RESOURCES:

Will Alternative result in potential impacts to:	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
No-Action														
Historical or Archaeological Sites	X				X				X					
Aesthetics	X				X				X					
Demands on Environmental Resources of Land, Water, or Energy	X				X				X					
Action														
Historical or Archaeological Sites	X				X				X					
Aesthetics	X				X				X					
Demands on Environmental Resources of Land, Water, or Energy	X				X				X					

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

- Jones Berger Timber Sale, 2014
- Jones Ranch Easement CATEX, 2014
- Upper Lynch MTOE Timber Sale, 2013
- Shiloh Road Timber Sale, 2009
- Lynch Creek Blowdown Salvage 3 & 4, 2007
- Lynch Creek 612 Cat Ex, 2007
- West Lynch Timber Sale, 2002

Impacts on the Human Population

Evaluation of the impacts on the proposed action including direct, secondary, and cumulative impacts on the Human Population.

Will Alternative result in potential impacts to:	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
No-Action														
Health and Human Safety														
Industrial, Commercial and Agricultural Activities and Production	X				X				X					
Quantity and Distribution of Employment	X				X				X					
Local Tax Base and Tax Revenues	X				X				X					
Demand for Government Services	X				X				X					
Access To and Quality of Recreational and Wilderness Activities	X				X				X					
Density and Distribution of population and housing	X				X				X					
Social Structures and Mores	X				X				X					
Cultural Uniqueness and Diversity	X				X				X					
Action														
Health and Human Safety			X		X				X				Y	H1
Industrial, Commercial and Agricultural Activities and Production	X				X				X					
Quantity and Distribution of Employment														
Local Tax Base and Tax Revenues	X				X				X					
Demand for Government Services	X				X				X					

Will Alternative result in potential impacts to:	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
Access To and Quality of Recreational and Wilderness Activities	X				X				X					
Density and Distribution of population and housing	X				X				X					
Social Structures and Mores	X				X				X					
Cultural Uniqueness and Diversity	X				X				X					

Comments:

H1: Adjoining neighbor has threatened proponent and surrounding landowners verbally and physically for utilizing legal easements.

Mitigations: Relocating the easement access would bypass all other private land.

Locally Adopted Environmental Plans and Goals: *List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.*

NA

References

DNRC. 2010. Montana Department of Natural Resources and Conservation Forested State Trust Lands Habitat Conservation Plan: Final EIS, Volume II, Forest Management Bureau, Missoula, Montana.

Environmental Assessment Checklist Prepared By:

Name: Colette Morgan
Title: Administrative Assistant
Date: April 4, 2017

Finding

Alternative Selected

The Action Alternative is selected for implementation.

Significance of Potential Impacts

No significant impacts have been identified. Lynch Creek would have beneficial impacts as the fjord crossing would no longer be needed. The State would benefit by gaining access to approximately 220 acres of Trust Land. The relocation of the easement would ease tension between neighbors that Lupine Lane crosses through.

Need for Further Environmental Analysis

EIS

More Detailed EA

No Further Analysis

Environmental Assessment Checklist Approved By:

Name: David M. Olsen

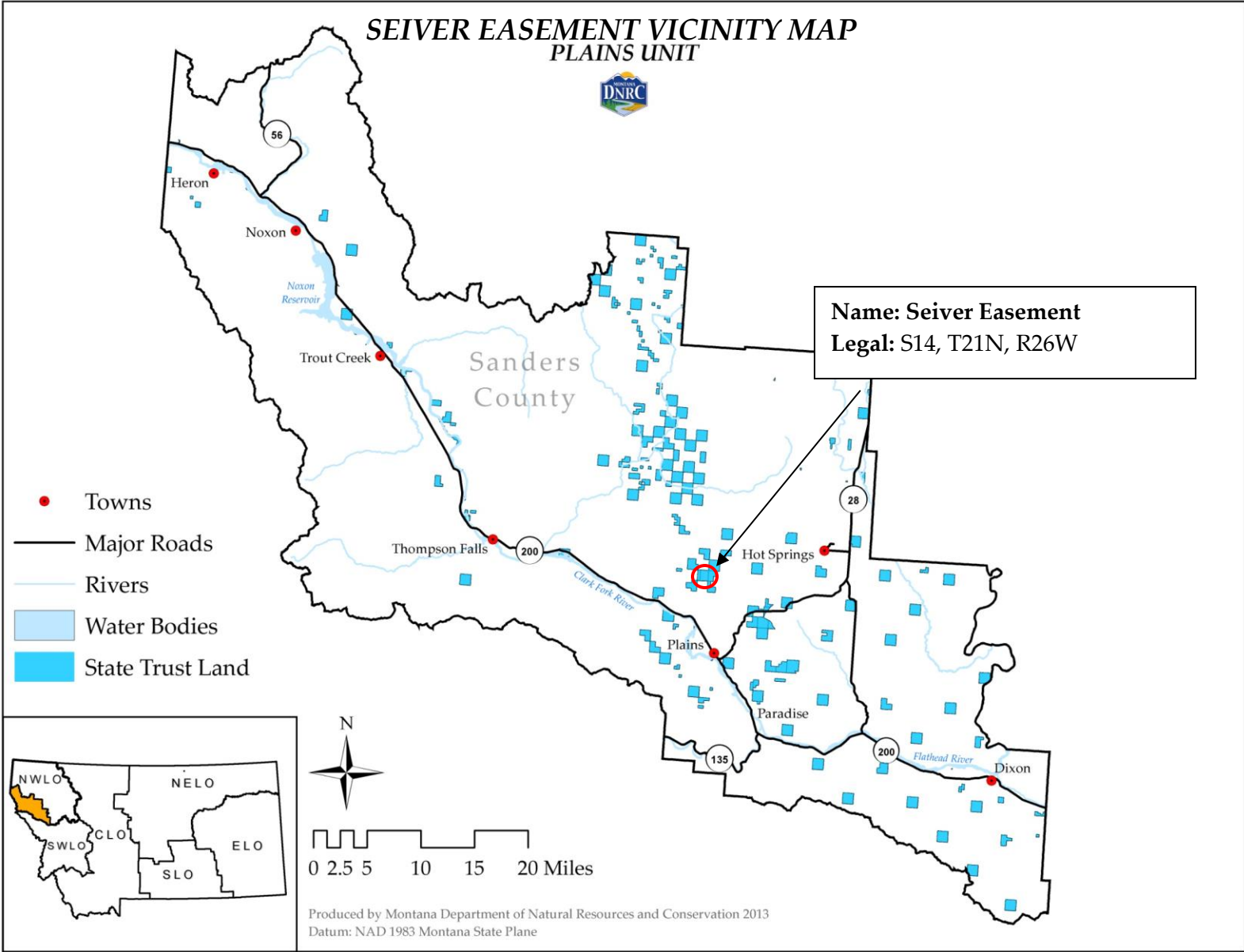
Title: Plains Unit Manager

Date: April 10, 2017

Signature: */s/ David M Olsen*

Attachment A- Maps

A-1: Vicinity Map



A-2: Easement Map

