

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
May 17, 2021, at 9:00 a.m.
Mazurek Justice Building, Supreme Court Chambers
Helena, MT

ACTION ITEMS

- 0521-1 Timber Sales: Edna Mountain Returns **APPROVED 5-0****
Benefits: Common Schools
Location: Lincoln County
- 0521-2 Agriculture and Grazing Leases: Competitive Bid Hearings **APPROVED 5-0****
A. Lease #10855
Benefits: Common Schools
Location: Rosebud County
B. Lease #1128
Benefits: Common Schools
Location: Cascade County
C. Lease #9064
Benefits: Montana Tech
Location: Cascade County
D. Lease #3061000
Benefits: Common Schools
Location: Missoula County
- 0521-3 Cabin and Home Sites: Final Approval for Sale **APPROVED 4-1****
A. Missoula County **Mr. Downing Opposed**
Benefits: MSU 2nd
Location: Missoula County
B. Sanders County
Benefits: Common Schools, Public Buildings
Location: Sanders County
- 0521-4 Land Banking Parcels: Final Approval for Sale **APPROVED 5-0****
Benefits: Common Schools
Location: Musselshell County
- 0521-5 Easements: **APPROVED 5-0****
Benefits: Common Schools, Pine Hills School, Public Land Trust – Nav. River
Location: Carter, Madison, Mineral, Power River, Sanders, Sweet Grass, and Stillwater Counties

PUBLIC COMMENT

0521-1

TIMBER SALES:

Edna Mountain Returns

**Land Board Agenda Item
May 17, 2021**

0521-1 Timber Sale: Edna Mountain Returns

Location: Lincoln County
S16, T34N R26W

Trust Beneficiaries: Common Schools

Trust Revenue: \$731,918 (estimated, minimum bid)

Item Summary

Location: The Edna Mountain Returns Timber Sale is located approximately 5 miles due west of Trego, MT.

Size and Scope: The sale includes 8 harvest units (*288 acres*) of tractor logging.

Volume: The estimated harvest volume is 22,335 tons (*3.491 MMBF*) of sawlogs.

Estimated Return: The minimum bid is \$32.77 per ton, which would generate approximately \$731,918 for the Common Schools Trust and approximately \$103,634 in Forest Improvement fees.

Prescription: This sale has the following harvest prescriptions: seedtree with reserves, shelterwood with reserves, selection harvest, and improvement cut. These treatments have been designed to reduce fuel loads in the Wildland Urban Interface, comply with the Department of Natural Resources and Conservation's (DNRC's) Habitat Conservation Plan (HCP), and improve residual stand health.

Road Construction/Maintenance: DNRC is proposing 1.3 miles of new temporary road construction, 2.1 miles of temporary road reconstruction, and 6.2 miles of road maintenance.

Access: Access is obtained through Poston Camp Road (U.S. Forest Service cost-share road).

Public Comments: One comment was received from a local mill voicing support for the sale.

DNRC Recommendation

The director recommends the Land Board direct DNRC to sell the Edna Mountain Returns Timber Sale.

State Trust Land Vicinity Map Stillwater Unit

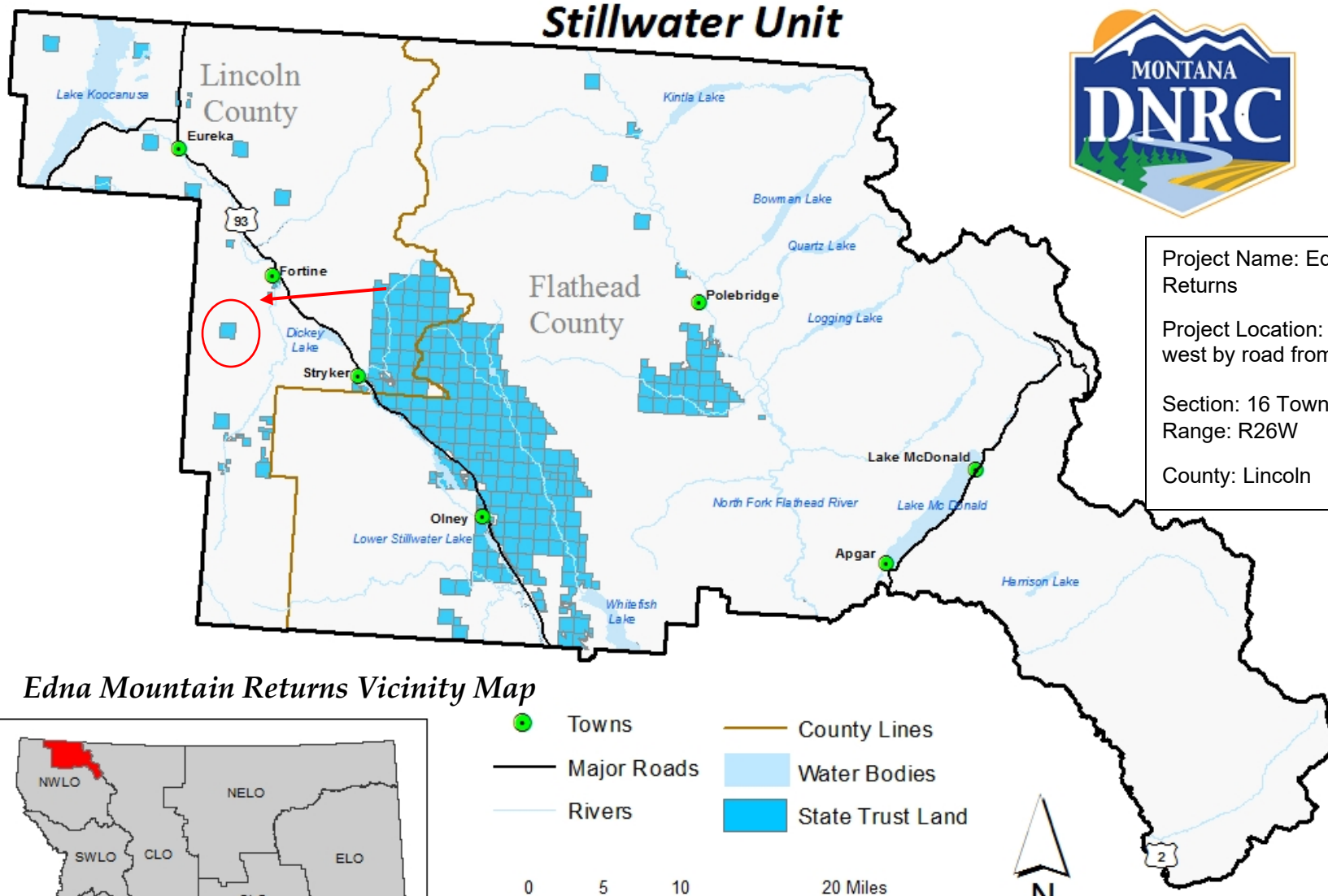


Project Name: Edna Mountain Returns

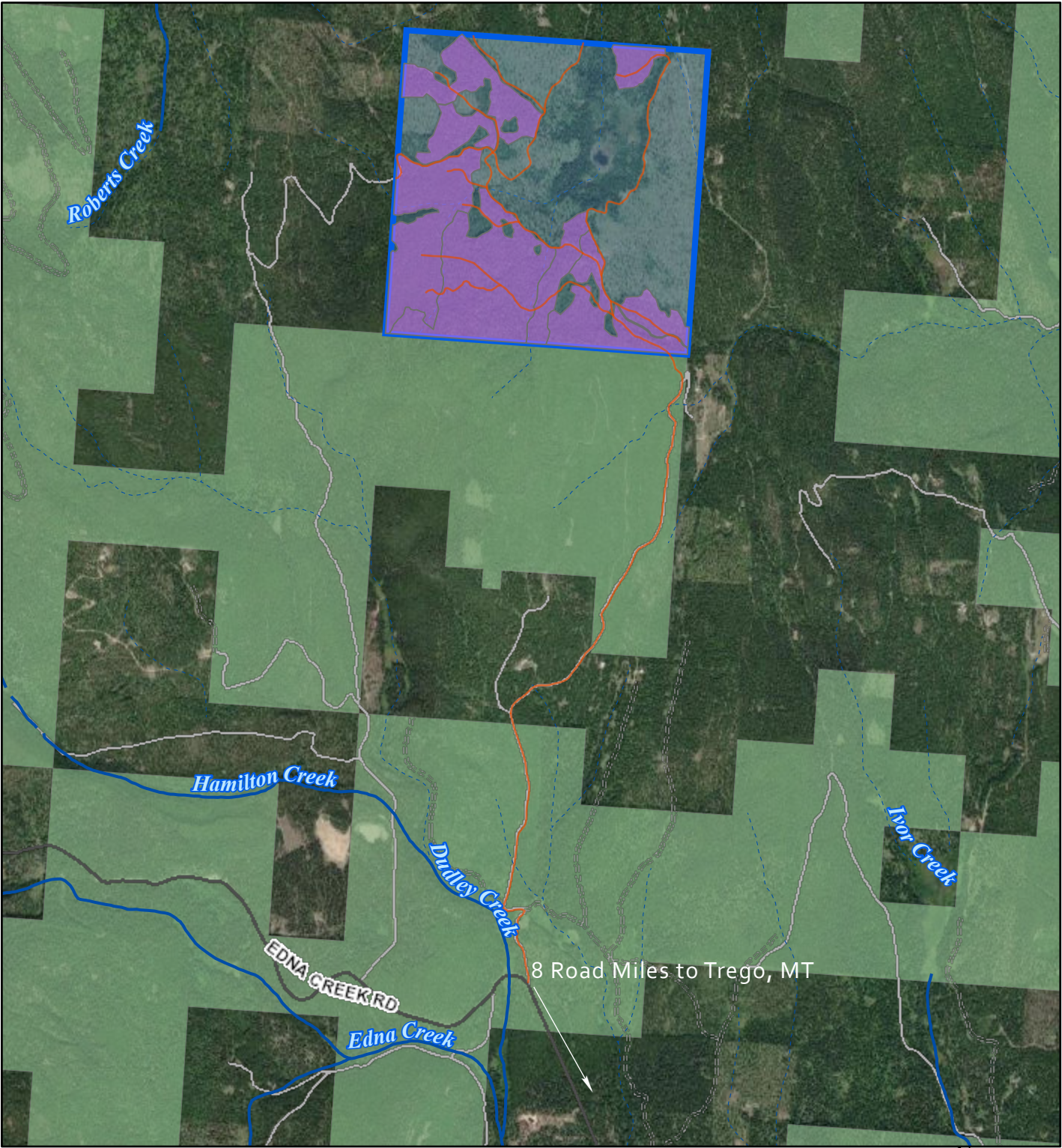
Project Location: 10 miles west by road from Trego, MT.

Section: 16 Township: T34N
Range: R26W

County: Lincoln



Edna Mountain Returns Haul Route and Harvest Units



- Haul Route
- Edna Mountain Returns Harvest Units
- DNRC Trust Lands
- Perennial Stream
- Intermittent Stream
- US Forest Service

0 0.55 1.1 Miles



0521-2

AGRICULTURE AND GRAZING LEASES

Competitive Bid Hearings

A. Lease No. 10855 – Dominic & Shauna Murnion (Lessee)

Royce Ponessa (Bidder)

B. Lease No. 1128 – Adam & Walter Bink (Lessee)

Scott Hinderager (Bidder)

C. Lease No. 9064 – Jim Ledford, Tonya Toren & Laura Helms (Lessee)/ Babette Eustance (Bidder)

D. Lease No. 3061000 – John & Whitney Rimel (Lessee)

Greg Stephens (Bidder)

0521-2 Agriculture and Grazing Leases: Competitive Bid Hearings**A. Lease No. 10855 – Dominic & Shauna Murnion (Lessee)/Royce Ponessa (Bidder)****Location: Rosebud County****Trust Benefits: Common Schools****Trust Revenue: \$5,737.50 Annually****B. Lease No. 1128 – Adam & Walter Bink (Lessee)/Scott Hinderager (Bidder)****Location: Cascade County****Trust Benefits: Common Schools****Trust Revenue: \$4,805.28 Annually****C. Lease No. 9064 – Jim Ledford, Tonya Toren & Laura Helms (Lessee)/Babette Eustance (Bidder)****Location: Cascade County****Trust Benefits: Montana Tech****Trust Revenue: \$2,401.00 Annually****D. License No. 3061000 – John & Whitney Rimel (Lessee)/Greg Stephens (Bidder)****Location: Missoula County****Trust Benefits: Common Schools****Trust Revenue: \$1,188.00 Annually****Item Summary**

On April 22, 2021 the Department of Natural Resources and Conservation held Competitive Bid Hearings for State of Montana Agricultural and Grazing Lease No's. 10855, 1128 & 9064; and License No. 3061000, which are being renewed. If the Lessee wishes to renew the lease for another term he or she must submit an application. If other persons inquire about the availability of a lease, their names and addresses are noted in the file and they are sent applications and bid forms at the time of lease renewal. If a Lessee exercises the preference right but believes that the bid amount is excessive, he or she may request a hearing before the Director. The purpose of the hearing is twofold: 1) to determine the best-qualified Lessee for the upcoming lease term; and 2) to ascertain the appropriate rental rate for that term.

DNRC Recommendation

Based on information and testimony at the hearings, the Director recommends the following:

Lease #10855 – The Director recommends the lease be issued to the existing lessee at \$56.25/AUM.

Lease #1128 – The Director recommends the lease be issued to the existing lessee at \$33.84/AUM.

Lease #9064 – The Director recommends the lease be issued to the existing lessee at \$24.50/AUM.

License #3061000 – The Director recommends the license be issued to the existing licensee at \$22.00/AUM.

2021 AGRICULTURE AND GRAZING COMPETITIVE BID HEARINGS

Findings and Recommendation to the Montana Board of Land Commissioners For Agricultural and Grazing Lease Nos. 10855, 1128, 9064, and State Grazing License No. 3061000

Amanda Kaster, Director

Montana Department of Natural Resources and Conservation

May 17, 2021



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I. Introduction: Agriculture and Grazing Competitive Bid Hearings Legal Overview and Background

A. Competitive Bid Hearing Process Generally

Under ARM 36.25.117, if a lessee exercises its preference right but believes that the bid amount is excessive, he or she may request a hearing. The purpose of the hearing is: 1) to determine the best-qualified lessee for the upcoming lease term; and 2) to ascertain the appropriate rental rate for that term. In accordance with the Montana Constitution, its statutes, and regulations, as well as the policy of the Montana Board of Land Commissioners (Land Board), the Montana Department of Natural Resources and Conservation (DNRC) offers informal competitive bid hearings for existing lessees who would like to contest a high bid in renewing a lease of state trust agriculture and grazing land. Mont. Const. Art. X, § 4; MCA § 77-1-209, -6-205, & -212; ARM 36.25.117. The role of the DNRC in conducting these competitive bid hearings is for the Director to make a recommendation to the Land Board as to the most suitable lease rate as well as lessee for the state trust land in question. ARM 36.25.117(9)(c). These hearings are conducted outside the requirements of the Montana Administrative Procedures Act (MAPA), in accordance with ARM 36.25.117(9)(c), which states that, “The hearing is not subject to MAPA and the board may accept or reject the director's recommendation.”

The Land Board must evaluate the Director's recommendation based on its role as a fiduciary for the state school trust lands and seek to find which lessee and what lease rate will be in the state's best interests. MCA § 77-1-202. The current policy of the Board authorizes the Director to hold the competitive bid hearings; hear the evidence; and make recommendations to the Land Board. ARM 36.25.117. The rental rate and lessee must be chosen based upon the evidence presented at the hearing. The Director in making a recommendation, and the Land Board

in making its decision, must avoid consideration of information provided outside the hearing.

The following will detail the review criteria established in statute, regulation, and case law to be used when determining (1) the most appropriate lessee and (2) the appropriate lease rate for the new term of the lease.

B. Criteria for Selecting the Most Appropriate Lessee

To ensure the lessee selected is the one most advantageous to the trust beneficiary, both the lessee and high bidder provide information at the hearing to address the following to nine criteria set out within ARM 36.25.117(9)(b):

- 1) Whether they have an intended grazing or cropland management plan for the new term of the lease;
- 2) What their experience is associated with the classified use of the land;
- 3) Any other non-state lands that are fenced and managed in common with the state land;
- 4) Any intended grazing or cropland improvements that will benefit the health and productivity of the state lands;
- 5) The details of their weed management plan;
- 6) Their management goals and objectives and monitoring procedures;
- 7) What the method or route used to access the state land;
- 8) Any other information the director deems necessary to provide a recommendation to the board; and,
- 9) The incorporation of all or part of this information as terms and conditions in the new lease agreement.

In choosing the appropriate lessee, the Land Board is not held hostage by the existing lessee's preference right to meet the high bid and maintain control of the lease. An absolute statutory preference right to renew state trust land agricultural and grazing leases was declared unconstitutional by Judge Jeffrey Sherlock in *Broadbent v. State of Montana, et al.* because it impermissibly interfered with the constitutional power of the Land Board, under Art. X, Section 4 of the Montana Constitution, to choose its lessees. First Mont. Judic. Dist. Ct., Cause No. BDV-2003-361; see MCA § 77-6-205(2). The Land Board, in response to Judge Sherlock's ruling, amended ARM 36.25.117 to exercise its constitutional prerogative to grant a qualified

preference right to incumbent lessees in good standing. Through this rule, the Land Board expressed a general proclivity towards incumbent lessees provided they have not committed illegal subleasing and have no history of lease violations. However, in all instances, the Land Board reserves the right to choose the best-qualified lessee.

C. Criteria for Evaluating the Lease Rate

In exercising its discretion, the Land Board may authorize a lower bid rental rate if it finds the contesting lessee establishes the bid is not in the best interest of the state because:

- 1) it is above community standards for a lease of the land;
- 2) would cause damage to the tract; or
- 3) would impair its long-term productivity.

Mont. Code Ann. § 77-6-205(2); *State ex rel. Thompson v. Babcock*, 147 Mont. 46, 52–53, 409 P.2d 808, 811 (1966) (“In deciding what the full market value for a lease is, the usual ‘willing buyer-willing seller’ test has little application. A more appropriate test is the value of a similar lease in the particular community.”). If the Land Board chooses to reduce the bid, it “shall set forth its findings and conclusions in writing and inform the lessee and competitive bidder of the reduction. It is the duty of the Land Board to secure the best lessees possible, so that the state may receive the maximum return possible with the least injury occurring to the land. *Id.*”

The Land Board has previously recognized full market value encompasses the concept of sustained yield. MCA § 77-6-101. In *Jerke v. State Dept. of Lands*, the Montana Supreme Court held that a Grazing District which was not a lessee of a state grazing lease could not exercise a preference right. 182 Mont. 294, at 296-297, 597 P.2d 49 at 50-51 (1979). The Court described the rationale of the preference right to meet a high bid as follows:

Sustained yield is the policy which favors the long-term [sic] productivity of the land over the short-term [sic] return of income. *State ex rel. Thompson v. Babcock*, supra. The preference right seeks to further this policy by inducing the State's lessees to follow good agricultural practices and make improvements on the land.

This is accomplished by guaranteeing that the lessees will not lose the benefits of their endeavors by being outbid when their leases terminate. They are preferred and may renew their leases by meeting the highest bid submitted.

Id. (internal citation omitted).

Stability of land tenure encourages existing lessees to make greater improvements in the land, knowing they will likely be able to utilize these improvements in the future, and that stability of tenure allows lessees to operate more efficiently and with greater care and stewardship towards the land. The duty to maximize revenue return to the trust estate from the trust property is always subject to the duty to preserve the financial productivity of the trust lands for future continued use and income. MCA § 77-1-202(1)(a)-(b); see also Oklahoma Education Association v. Nigh, 642 P.2d 230 at 238 (1982). No applicant for a grazing lease can compel the Land Board to grant it an interest in state trust lands, especially where the concept of sustained yield is ignored. See, *Skillman v. Department of State Lands*, 188 Mont. 383, 613 P.2d 1389 (1980); *Gibson v. Stewart*, 50 Mont. 404, 147 P. 276 (1915) (Whether a tract of state land shall be leased is a question addressed to the sole discretion of the Land Board.); MCA §77-6-206 (“[T]he board may withdraw any agricultural or grazing land from further leasing for such period as the board determines to be in the best interest of the state”).

The Montana Supreme Court recognizes an excessive rental rate may economically compel a Lessee to mismanage a lease, for example, by grazing all the available forage, reducing applications of costly fertilizer and/or herbicide, or foregoing summer fallow treatments or pasture rest rotations. *State ex rel. Thompson v. Babcock*, 147 Mont. 46, 52–53, 409 P.2d 808, 811 (1966). When state lands are over-grazed or farmed with minimal input costs, they become degraded with noxious weeds, poor soil conditions, and less forage or crops, all of which decrease future income for trust beneficiaries. In extreme cases, the productivity of the land may be permanently damaged. It is in the best interests

of the State to set a rental rate which balances revenue generation with sustained yield. In this "balancing act," the Land Board must maximize long-term income by allowing lessees a sufficient monetary incentive to exercise wise range management and agricultural practices. If the rate is too low, the trust beneficiary will not receive full market value for its lands. If the rate is too high, the Lessee will be induced to over-graze the tract, or reduce inputs such as herbicides, and long-term trust income will inevitably suffer.

As a result of the competitive bid hearing process, the Director recommends the rental rate for the next term of the grazing or agricultural lease. The economic viability of these leases fluctuates according to prevailing weather conditions and commodity prices; both of which can vary wildly across Montana and for the relevant market. Despite these fluctuations, the grazing rental charged by the Land Board must be paid by a lessee regardless if any forage upon the lease is utilized. By contrast, private lessors generally do not collect rentals when they no longer have forage available for lease. Consequently, setting an appropriate rental rate, to sustain the long-term viability of "school trust" leases and maximize long-term income, is simply not as easy as accepting the highest bid. If it were, there would be no need for a hearing on the subject.

D. 2021 Competitive Bid Hearings Overview

In 2021, the Director granted four requests for competitive bid hearings. The hearings were conducted on April 22, 2021, at the headquarters of the DNRC, located at 1539 Eleventh Avenue in Helena, Montana. The hearings were electronically recorded and all witnesses testified under oath. The hearings were otherwise conducted in an informal manner, meaning the proceedings were conversational, with set times for the witnesses to present information, ask and answer questions, and offer any closing thoughts. The objective was to give each party the opportunity to be fully heard in a manner that allowed for evaluation of the criteria necessary for

the Land Board to reach a decision. The Montana Rules of Evidence were not strictly applied, but irrelevant, immaterial, or incompetent information was excluded. The lessees and high bidders were both given an opportunity to review the relevant field evaluation form, the renewal application, the competitive bids and applications – including the relevant high bid, the correspondence, the previous lease rental, the DNRC County Competitive Bid Average, and information from the Montana Agricultural Statistics Statewide 2020 private grazing rate survey.

Present at the hearings were: the Lessees, the High Bidders, DNRC Director Amanda Kaster; Trust Lands Management Division Administrator Shawn Thomas; Agriculture and Grazing Management Bureau Chief Kelly Motichka; DNRC Attorney, Brian Bramblett for Lease No. 10855, DNRC Attorney Ada Montague Stepleton for Lease Nos. 1128, 9064, and License 3061000; Conrad Unit Manager Erik Eneboe; Helena Unit Manager, Heidi Crum for Lease Nos. 9064 and 1128, Range Management Specialist, Eastern Land Office, Scott Aye for Lease No. 10855, and Trust Land Use Specialists Seth Ulrich for Lease No. 10855; Dylan Craft for Lease Nos. 1128, 9064; and Jordan Rice for License No. 3061000. Also present was Land Section Supervisor, Ryan Call, assisting with online technology as well as several staffers for the Land Board who attended the hearings in an observational capacity.

In preparation for this hearing, both the lessees and the high bidders were notified of the time and place of the hearing and given copies of ARM 36.25.117. The Director accepted into the record the following information:

1. The DNRC's County Competitive Grazing Lease Bid Average for Rosebud County being \$25.32/AUM, Cascade County being \$33.84/AUM, and Missoula County being \$24.07/AUM for 2020
2. The Montana Agricultural Statistics Statewide Service Report of Grazing Fee Rates

for private leases in Montana reporting an average rate of \$24.50/AUM.

3. Information and testimony provided by the lessees and high bidders.

The following bid hearing summaries provide an overview of the relevant testimony and evidence considered during the hearing to substantiate the findings and conclusions relied on in the Director's recommendation to the Land Board.

II. Contested Bid Hearing for Lease No. 10855

County: Rosebud

Lessee: Domenic (Fred) and Shauna Murnion

High Bidder: Royce Ponessa

Hearing Time: Thursday, April 22, 2021 @ 8:00 a.m.

Tracts: T11N R44E S16: All, West of Hwy 59 – 434 acres – Common School Grant

Grazing Acres: 426

AUM Rating: 102

Unsuitable Acres: 8

Ag (Crop) Acres: 0

High Bid: \$100.00/AUM

Other Bids: None

Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Rosebud County Bid Averages: \$25.32/AUM

MT Ag Statistics 2020 Private Lease Rate: \$24.50/AUM

A. Findings

The Lessee, Domenic (Fred) Murnion, appeared and testified by phone. The High Bidder, Royce Ponessa also appeared and testified by phone.

The state lease is approximately 26 miles Northwest of Miles City. It contains 426 acres of grazing land. The tract is accessible by Highway 59N, in which bisects the tract.

Prior to the hearing, Lessee Murnion provided a narrative report covering the nine criteria of ARM 36.25.117(9)(b), which the Director made part of the record. He discussed his acquisition of this lease by partial assignment in 2018 as part of a larger deeded purchase. The lease was assigned to him with the grazing rate set at the minimum rate. Minimum rate for 2020 was \$12.92/AUM.

Mr. Murnion testified that he has had the lease for three years and had acquired the lease through assignment when he purchased other adjacent deeded property. He has used the parcel for close to 20 years through subleasing from others. He holds other state leases in the area as well and there have been no previous issues with

these leases.

He felt the bid was a grievance against him. He has always taken care of the lease. He figures at this price it would equal out to \$1200 per year on a \$800 calf, with input costs of \$150 to \$200 from that. He grazes it for 30-45 days out of the year, flash grazing and then not grazing the rest of the year. He would continue to do this practice in the future.

There is crested wheatgrass bordering the tract and near the highway which is an early grass. There is brome down in the flats which is an early grass, in which once it cures is not very palatable. They try to use this through mid-June before the grass dries up. They then move cattle to other pastures with later native grasses. This rotation works well for them and the grass is utilized.

Mr. Murnion testified that there are no noxious weeds on the tract. With the highway going through the tract there is potential for noxious weeds in the future. They would take care of this if this were to happen.

His tract possesses no independent source of water, which limits its use. Mr. Murnion mentioned interest in the development of a pit in the middle of the tract to slow down the trailing of cattle back to his tract for water. The tract is fenced entirely with the highway being one boundary. There is a gate to his adjacent land to the west that allows for access to water on his deeded ground. The cattle therefore go between his private property and the state trust land.

Mr. Murnion mentioned that he has never had this type of bid happen to him before. He has three other leases with the DNRC. He sent a copy of his other lease invoices where he pays \$13.41/AUM this year.

Mr. Murnion testified that he leases private grazing land in Garfield County for \$25/AUM. Most of his land is in Garfield County with his ranch being 20 miles north of this tract.

High Bidder Ponessa testified that he borders this property as well on the South side. He stated that this bid is not a grievance and that it is a legitimate bid. He stated that it is high because it is a competitive bid process. A smaller bid would have been a waste of time. He stated that a lease close by was bid on and leased for close to \$60/AUM. He stated other people in the area have paid \$600 an acre for rangeland and it calculates to about \$100/AUM. He admits it is not economical at this rate.

He has three water sources on his private land next to this parcel. A few years ago he enrolled in a conservation easement with FWP. There is a rest rotation system with them for grazing. 1/3 of his pastures are set aside every year. He runs a conservative grazing system. He does not overgraze. He would incorporate this tract into this rest rotation plan. Fencing on tract is compatible to his deeded parcel by a gate.

He has been ranching in the area for nineteen years, with his family homesteading in Treasure County over 100 years ago, so he is not new to agriculture. He did not provide an accounting for how he would pay the high bid of \$100/AUM or how it would impact his ability to manage the lease without negatively impacting the land.

He indicated that he felt this tract should have been available for bid three years ago when the rest of the Angela Farms came up for bid. He feels that would have been fair for everyone and would not resulted in the request for a hearing and nobody could claim this bid is a grievance. It would have been open to everyone equally.

DNRC staff explained that the tract was not available for bid three years ago as this tract was not a part of the Angela Farms acquisition in which parcels were put out to bid to the highest bidder. This tract was acquired through assignment from Jump Angela Farms in a private transaction to Mr. Murnion.

Mr. Murnion stated that this was the only FWP conservation easement in the area and if he were to sell his land out and have the extra cash that he would be able to manage it like Mr. Ponessa. Most ranchers are trying to stand on their own. After the hearing Lessee Murnion sent an email to DNRC Staff, which was not considered by the Director in this recommendation as it was not part of the record of the hearing.

According to DNRC staff, a nearby Angela farms grazing lease, which was a vacant tract when put up for bid in 2018, received a high bid of \$56.26/AUM. Given an absence of evidence from either party for alternative actual lease rates in this area, DNRC staff recommended not going below this amount as doing so will not be commensurate with the market in the area. A lease rate of \$56.25/AUM should not impact the ability of the lessee to make a profit from the lease while still maintaining the productivity of the land, though it is on the high end. There was no evidence placed into the record to indicate the going rate for the area is less,

though Lessee Murnion did indicate he holds one private lease in neighboring Garfield County at a rate of \$25/AUM. The location of this private lease is not in DNRC's staff opinion comparable with Lease No. 10855.

B. Recommendation

The Director recommends that the Board issue the next term of this lease to the current lessee, Dominic (Fred) & Shauna Murnion, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the rate of \$56.25/AUM, which reflects the prevailing community standard for leases of this type.

III. Contested Bid Hearing for Lease No. 1128

County: Cascade

Lessee: Adam Bink and Walter Bink

High Bidder: Scott Hinderager

Hearing Time: Thursday, April 22, 2021 @ 9:00 a.m.

Tracts: T21N T1W S16: All – 640 acres - Common School Grant

Grazing Acres: 640 AUM Rating: 142 Ag (Crop) Acres: 0 Acres

High Bid: \$65.00/AUM

Other Bids: None

Previous Rental: \$22.13/AUM

Prevalent Community Rental Information:

State Land Cascade County Bid Averages: \$33.84/AUM

MT Ag Statistics 2020 Private Lease Rate: \$24.50/AUM

A. Findings

The Lessees, Adam and Walter Bink appeared and testified in person, as did the High Bidder, Scott Hinderager. Adam Bink testified for his party and provided a narrative report covering the nine criteria of ARM 36.25.117(9)(b), which the Director made part of the record.

The state lease is approximately 3 miles Northwest of Sun River. It contains 640 acres of grazing land. The parcel is isolated with no legal access.

Mr. Bink testified that he requested the hearing because he felt that it was an excessively high bid. He feels that matching \$65/AUM could set a precedent that could hurt the long-term management of State Lands.

Mr. Bink testified that the state grazing average for 2020 was \$23.50 according to USDA's NASS statistics. This is a combination of government and private lease rates. He also had spoken with the Cascade County Extension Agent and she had told him that Cascade County was bringing anywhere from \$18 to \$40/AUM, depending on the type of range. According to Mr. Bink, Ms. Malisani (extension agent) previously stated that most of the county ranged from \$22 to \$26/AUM. Cash lease rates for pasture in Cascade County near where this tract is located average at \$10/acres. Cash lease rates in surrounding counties such as Teton and

Lewis & Clark range from \$6 to \$6.50/acre. The \$65/AUM far exceeds the cash lease values for pasture.

Mr. Bink testified that this tract of State grazing land has been managed by the Bink family since 1969 and that Mr. Hinderager has been bidding up his family's state leases since this time. Mr. Bink's father, who was the lessee in 2001, objected to a high bid from Mr. Hinderager and was successful in maintaining the lease at that time. The board found in favor of the Binks and reduced the bid to near the state's minimum.

Mr. Bink testified that he was under the understanding that when Mr. Hinderager's lease came up for renewal in 2014, there were weed management issues as well as other management issues. He mentioned that he would like DNRC to look back at Mr. Hinderager's lease #9412 to review his past management.

Mr. Bink stated that his family has grazed this parcel since 1969 primarily in the late fall and winter months. By doing so, it allowed the forage both spring and fall growing months to strengthen its diversity and productivity. By 2000, the AUMs increased from 121 to 151. In 2011, the AUMs were reduced to 142 due to cheat grass. In 2010, they changed grazing times to spring grazing. This practice reduced seed production and broke up seed mats of cheatgrass and cattle utilizing the early green growth from the cheat grass also is an added benefit. For the past several years the grazing has taken place from April 20 to May 31. The AUMs vary from yearlings to cow/calf pairs depending on the year.

Mr. Bink plans to build 2 miles of fence on the tract, dividing it into 4 – 160-acre pastures and implementing a deferred rotation system targeting cheat grass through higher intensity shorter duration grazing. This will be a benefit to the tract in the long run.

Mr. Bink also testified that weed management is a priority to them. They do not feel there is a weed issue on the tract. The lease receives a lot of outside influence such as having an easement on the tract, hunting season and occasional horseback riding, all of which contribute to noxious weeds. Spring and fall spot spraying has been their weed management practice using 4wheelers, side-by-sides, and a hand held sprayer. Goats have also been successfully used over the last 40 years. They make a real effort every year to address any weeds.

Mr. Bink stated that their management goals are simply to maintain and improve their range condition and productivity. Adam and Walter are both MSU graduates with range degrees. The tract is of great importance to their family operation and has been for over 50 years. He believes the \$65 bid is highly excessive and could

hurt Montana's producers. Weed control, thoughtful grazing management and maintaining good fences may become impaired by having to pay such a price. Budgets for future improvements to benefit the lease could also be affected. They indicate they are prepared to pay this unfair price if it is the only option as it would be difficult to operate the ranch without this section. The family has a good working relationship with the State of Montana and has other leases in Teton County.

The lease tract is in excellent condition with good plant production. There are intermittent streams on this tract, which can present weed dispersal issues. As for access, Lessee Bink's private property abuts the state trust land.

Mr. Hinderager testified that he has bordered this property for 48 years. He has always wanted to lease it. He has farmland near Greenfield Irrigation District. He has a state lease that borders this one on the south in which he runs yearlings as he can run them any time of year. He raises registered cattle and horses.

Mr. Hinderager provided nearby Greenfield Irrigation District grazing competitive bid numbers to justify his high bid. Of the 78 parcels bid, 38 had no access or water. His current lease was bid at \$52/AUM when it was renewed previously.

Mr. Hinderager stated again that he borders this tract and if you have to truck cattle to pasture you would need to figure in at least \$6/AUM for transporting. This is why he bid the way he did.

High Bidder Hinderager indicated he has had some weed issues with the management of his state lease in the past, though it has improved. He put out beetles about 35 years ago and it has taken time, but it works. They have a lot of Russian Olive on his tract as well. He has a gravel pit on the west that has brought in weeds as well. He intends to fence the tract down the middle for rotational rest.

According to DNRC staff, Lessee Bink is a good existing lessee with a proven track record after leasing the tract for a long time. The Cascade County average of \$33.84 is a fair rate. DNRC staff indicated that \$65/AUM is too high based on the community average and could be detrimental to management. Lessee Bink testified that the average for Cascade County is \$18-\$45. Staff calculated that out of 74 GID lease bids ranging from \$15/AUM to \$75/AUM, the average GID lease rate per AUM is \$31.17.

B. Recommendation

The Director recommends that the Board issue the next term of this lease to the

existing lessees, Adam & Walter Bink, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the rate of \$33.84/AUM, which reflects the prevailing community standard for leases of this type.

IV. Contested Bid Hearing for Lease No. 9064

County: Cascade

Lessee: Jim Ledford, Tonya Toren and Laura Helms

High Bidder: Babette Eustance

Hearing Time: Thursday, April 22, 2021 @ 10:00 a.m.

Tract: T20N R1E S3: Lots 1,2,3, SE4NW4, S2NE4, SE4, E2SW4 – 481.26 Acres – Montana Tech Grant

Grazing Acres: 468

AUM Rating: 98

Unsuitable Acres: 13.26

High Bid: \$24.50/AUM

Other Bids: None

Previous Rental: \$17.65/AUM

Prevalent Community Rental Information:

State Land Cascade County Bid Averages: \$33.84/AUM

MT Ag Statistics 2020 Private Lease Rate: \$24.50/AUM

A. Findings

Jim Ledford and his wife, Mickey Ledford, testified and appeared in person for the Lessee. High Bidder, Babette Eustace, testified and appeared via Zoom. Lessee Ledford provided a narrative report prior to the hearing, generally covering the criteria of ARM 36.25.117(9)(b), which the Director made part of the record.

The state lease is located approximately 3.5 Southwest of Vaughn. It contains 468 acres of grazing land. The tract is isolated and has no legal access.

Mr. Ledford testified that this tract of state grazing land has been managed by several lessees and that there were issues in the past, but he is working with DNRC staff to remedy them.

Mr. Ledford testified that he was not fully informed of the conditions of the lease until fairly recently. He has been on the land for over 10 years with an individual named Kevin Cox. He never explained the terms of the lease to him. He split the lease with Kevin for tax purposes. He now splits it with Tanya, who purchased the adjacent property from Kevin. He operates the land more now with Tanya and they

manage it together. They border it with their property. The fencing works in conjunction with their deeded property as well as Tanya's. They have corrals, etc. on adjacent deeded property that totals approximately 20 acres. It is an unusual set up. They had pictures to show the set up. They tried to send the pictures for the record. The DNRC was not able to receive them due to size of file so they were not considered for the record.

He admitted to not having any clue as to the operation of the lease when Kevin operated it. Kevin assumed the lease when he purchased their house. A few years prior to Kevin selling, the lease was grazed by horses. When Mr. Ledford was added to the lease, they ran a few yearlings. He admitted to putting 26 – 32 head of cow/calf pairs out there until the grass is eaten. They testified that they own the cattle.

They cleaned up barbed wire and other garbage on the tract as well as fixing fence. Tract is fenced entirely.

There is erosion from the wind, Lessee stated.

He testified that Dylan Craft came out last year and explained the expectations of the DNRC for the lease as well as what needed to be done as far as management of the lease.

They have been working on weed control. There is white top in the drainages. He sprays from an ATV. He spends about \$500/ year on weed management. He started out spending \$1500/year.

He does not want to lose the lease. He wants to make it productive. They enjoy watching livestock on the tract.

The lease tract does not have water and Lessee Ledford hauls water to the site for cattle. He would like to graze 30 pair on the 468-acre tract. His weed management consists of hand pulling and applying chemical spray. His property abuts the tract and contains the calving pens and corrals. Lessee Ledford indicated he would like to use the cow-calf operation as his retirement income.

Mr. Ledford testified that without the lease, he could not operate. He purchased hay this year and cannot afford to do so every year. He feels the cost of managing makes the bid high. He will pay this bid to keep the lease. Mrs. Ledford indicted they have spent many hours improving the lease.

High Bidder Eustace also provided a written statement prior to the hearing addressing generally the criteria of ARM 36.25.117(9)(b), which was made part of the record. Ms. Eustance testified that the bid amount she offered is a fair amount and possibly low for the local market.

She has 80 acres adjacent to the Ledford's. She has almost 30 years of livestock experience. She intends to put on the tract 30 horses (for a part of June) and 30 goats. For July and August, there would be approximately 10 head of horses. She would pasture goats in smaller areas of the tract and move them, using a trailer for shelter at night to protect goats from predators. She would use the goats to manage weeds and then sell them for meat. She also works as an outfitter and has horses as part of her operation. The tract would help support her outfitting business by allowing additional pasture for her horses. She feels the generalization of horses being hard on pasture is incorrect and that any livestock can overgraze. She feels the AUM structure allows for this. Her income is not dependent on selling beef, so it would not affect her bottom line.

She was confused as to who held the lease. She would not sublease it out and would be the sole lessee. She indicated she has witnessed more than 6 calves pastured on the lease.

She expressed that she has managed her own land very well. She has worked with county for her own weed management. She has white top on her property. She previously scattered manure piles which had weeds. She has stopped doing this.

She testified she would follow expectations for management of the lease. She realizes there are challenges to the lease as far as soils and topography.

She testified that she has access to Taft Road that borders the fence line to the tract. She stated she had easement to access Taft Road. She also would haul water in a large truck with 2000-gallon tank.

Ms. Eustance testified that she has nothing against the Ledfords or their management. She feels they should have had a grasp on the terms of the lease over the past 10 years. She had apprehension about putting in a bid against her neighbor, however, she has a business to run and will management it well. She indicated she would be a willing partner with the state to improve the lease.

Ms. Eustance asked if there were receipts for Mr. Ledford's past management

expenses to justify him contesting bid. He responded that he did not have receipts with him, however, he could obtain them as they are part of his filed taxes. They were ultimately not provided for the record.

DNRC staff questioned the status of Taft Road. It is not a county road, it is private.

DNRC staff indicated concern that the grazing impacts of 30 horses and 30 goats on the tract would likely degrade the land. DNRC staff also determined after the hearing that High Bidder Eustance did not have legal access to the tract. Concerns about Lessee Ledford's ability to manage the tract appear to be remediable by working together as well as by including special lease stipulations regarding overall lease management. Going forward, the DNRC will work with the lessee on securing written weed and grazing management plans specifying use and notification of management activities.

B. Recommendation

The Director recommends that the Board issue the next term of this lease to the existing lessee, Jim Ledford, Tonya Toren & Laura Helms, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the rate of \$24.50/AUM, which reflects the prevailing community standard for leases of this type.

V. Contested Bid Hearing for License No. 3061000

County: Missoula

Licensee: John and Whitney Rimel

High Bidder: Greg Stephens

Hearing Time: Thursday, April 22, 2021 @ 4:00 p.m.

Tracts: T12N R19W S16: All - 616.19 ac. - Common School Grant

Grazing Acres: 616.19 AUM Rating: 54 Ag Acres: 0

High Bid: \$22.00/AUM

Other Bids: None

Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Missoula County Bid Averages: \$24.07/AUM

MT Ag Statistics 2020 Private Lease Rate: \$24.50/AUM

A. Findings

John Rimel appeared and testified in person for the Lessee. High Bidder Greg Stephens also appeared in person to provide testimony. Mr. Rimel provided a visual report of a slideshow of pictures of the tract at the hearing and verbally covered the criteria of ARM 36.25.117(9)(b), which the Director made part of the record.

This tract is located approximately 5 miles Southeast of Missoula. It contains 616.19 acres of forested grazing land. The tract is isolated and has no legal access.

Mr. Rimel testified that this tract of state grazing land has been managed by his family since 1989. The section saddles the Miller Creek Ridge near Missoula. Most of the terrain is quite steep. The property adjoins his deeded property, which overlooks the Missoula Valley. In 2018 DNRC conducted a timber sale on the property resulted in 108 acres being logged. The road built for the logging was the first road constructed on the property. His property borders on the North side in section 9. The east is bordered by TNC and the City of Missoula. To the West is the Hayden Ranch.

Mr. Rimel summarized the topography, fencing, and overall condition of the license by providing DNRC with a photo slideshow of the property.

Mr. Rimel stated that he has not had cattle graze on the property for the two years since the timber sale as there had been a fair amount of disturbance and this allowed for reseeding of grasses. He did not want to do anything to cause damage. There is not a lot of grass as to date. There are quite a few elk that graze the tract.

To the south of the tract is the MPG Ranch. They operate a research area. They have a lot of elk and are finding the elk are detrimental to their property. The elk migrate onto the lease.

The tract had been severely overgrazed when they took it over in 1989. There were bucking horse stock on the property year-round. Approximately 30-40 head of horses. Fences were down on the tract. There is still a remnant herd of the horses, now wild, running near the property.

The grass is primarily bunchgrass. The property was full of knapweed and leafy spurge when they acquired it. He attempted to use a helicopter to spray a portion of the lease and was unable to reach certain portions because of the steepness of the terrain, nor could it be done by ATV. The soils are not that great either, so he was hesitant about the use of herbicide. He has been active putting out biocontrol for control. They have proved effective. There is a presence of ventenata, which is similar to cheat grass in appearance, but is listed as a noxious weed. Prickly Pear cactus is also found.

They run a small cow/calf operation and the parcel connects two parts of their operation. They have done a lot of weed control over the years. They do not graze every year and use rotation practices. He also uses the neighboring ranch as part of their rotation practice.

Mr. Rimel testified that the lease tract does not have water and is characterized by steep and rocky slopes. The section is not completely fenced. They have water on their property, and they put out salt there as well, so the cattle migrate to his property for water. They have a spring on their property as well on Miller Creek parcel. There is a small spring on the neighboring TNC parcel that does not supply this tract. There is no legal access to property. It is completely surrounded by private property. They have always used the lease in conjunction with their private land.

Mr. Rimel testified that it is not prime grazing, but he values the lease. Some years he cannot graze it due to how dry it is and the impacts the wildlife have on available grasses. There are elk taken off every year from hunting. This is why he is contesting the bid value. Plus, there is no water. He has no other leases in the area. Most of the leases he is familiar with in the area are 50% forested and have steep terrain that is not hospitable for grazing cattle.

Mr. Rimel wants to keep the lease regardless of the bid; however, he mentioned the bid doubles what he pays now. He feels the property is marginal and not worth this amount as far as feasibility. He feels that overtime the logging that was done previously will enhance the grazing. It will take a few years yet.

The DNRC sets AUM carrying capacity to account for the productivity of the tract. Mr. Rimel didn't have any evidence for lease rates that would support something less than the high bid, which was less than the county average.

His plan is to continue grazing the tract using an established rotational schedule with his and his neighbor's land. He will eventually fence off the TNC side of the parcel.

High Bidder Stephens testified that he and his son run a cow-calf operation in the Bitterroot Valley and that they are looking for pasture to expand their operation. He has leased in the Bitterroot Valley for the last few years. Has worked with the U.S. Forest Service as well, and his grazing management practices go along with his other leases.

He has continually improved any leases that he has leased privately. This parcel is what he is looking for as he is trying to get away from irrigated pasture and changing irrigation pipe. It is easier to go in with a fencing crew and develop springs than to deal with leases closer to town.

He did not research the access to this portion. He thought there was access because of the logging roads. He had planned on packing fencing to the property. He does everything on horseback. If there is no legal access, then he would not want the lease.

He feels the bid is very reasonable for the area and that other operators would pay this as well. He hauls cattle to Chalice, Idaho, for \$35/AUM. He hauls to Billings and pays the same. He calculated that it would be \$.27/day to maintain the property

at the current rate.

He feels the current lessee should be developing water, such as drilling a well, and completely fencing the tract. Mr. Rimel does not agree.

Mr. Stephens asks the committee to consider the bid as the rate of the lease if the current lessee keeps it as he feels it is fair. He wants the lease but cannot use it without access.

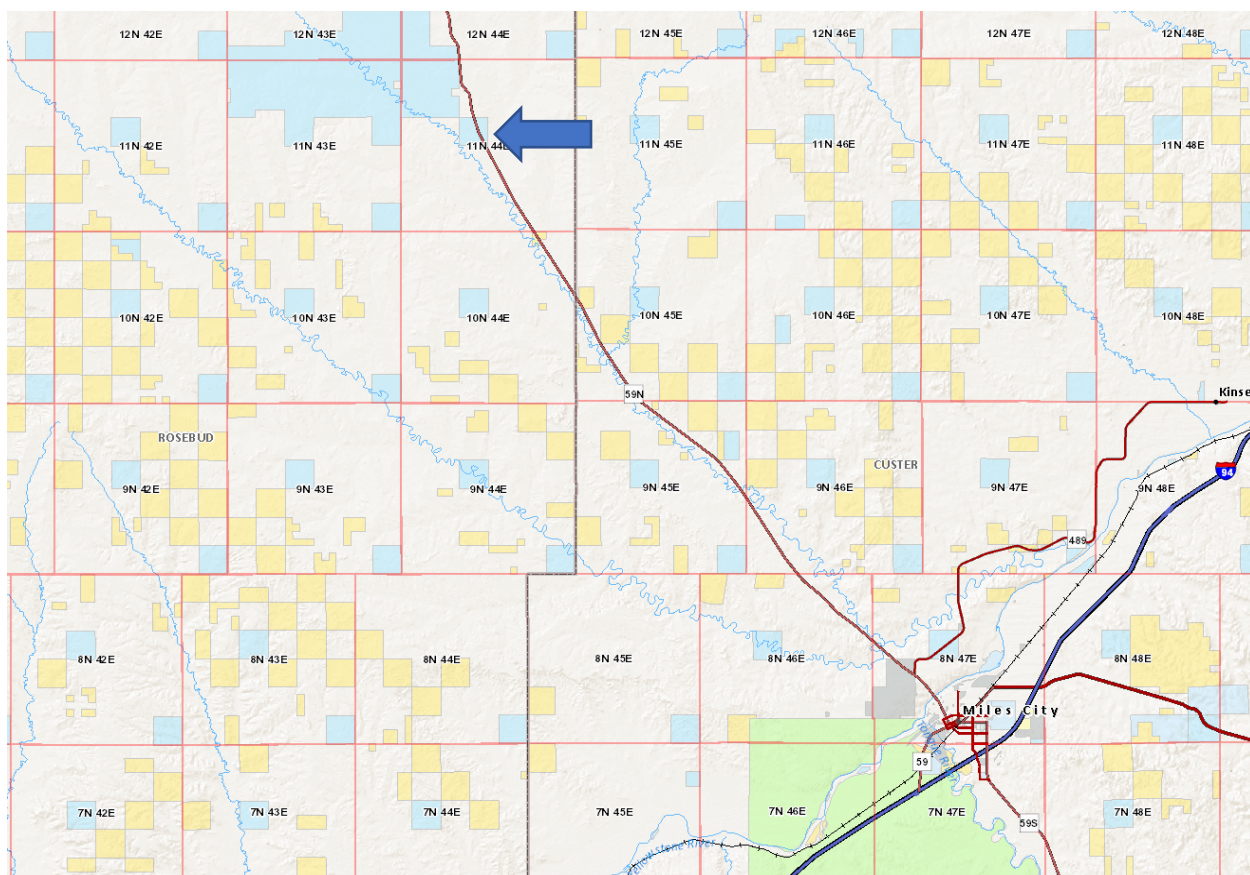
His grazing plan would be to not overgraze. He would not want his calves to come off pasture light at the end of the season. He would spray on horseback for weed control. He also indicated he would plan for water to be developed or hauled. On a ten-year contract, he expressed that he was comfortable putting money into the tract to develop it, as it pays in the long run to do this. He is looking for stability in his leases.

DNRC staff determined that there was no legal access to the property. DNRC only had temporary access for the timber sale.

DNRC staff indicated that the current lease rate is below the competitive bid DNRC county average of \$24.07/AUM. They also concurred that the high bid is fair for the area even given the limitations of the tract in terms of slope, soil quality, and access to water.

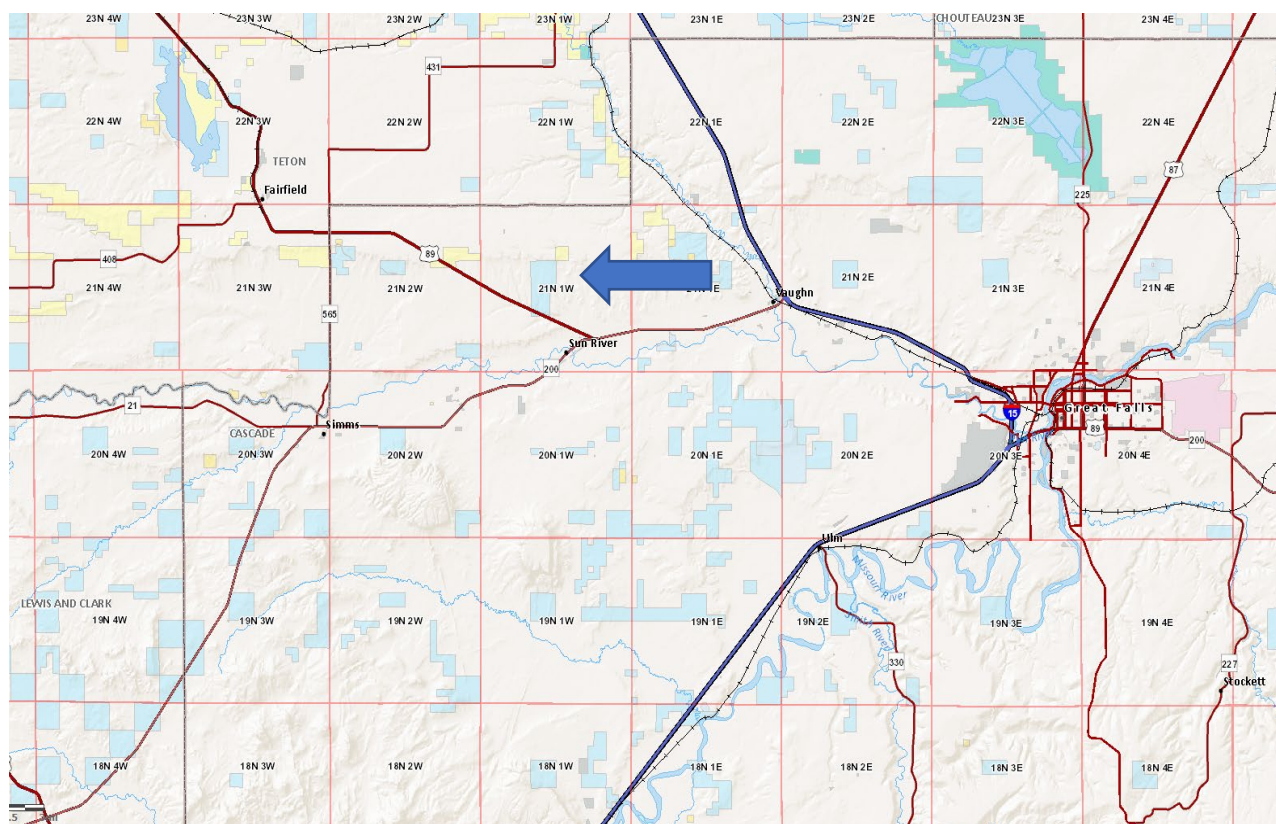
B. Recommendation

The Director recommends that the Board issue the next term of this license to the current licensees, John & Whitney Rimel, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the rate of \$22.00/AUM, which reflects the prevailing community standard for leases of this type.



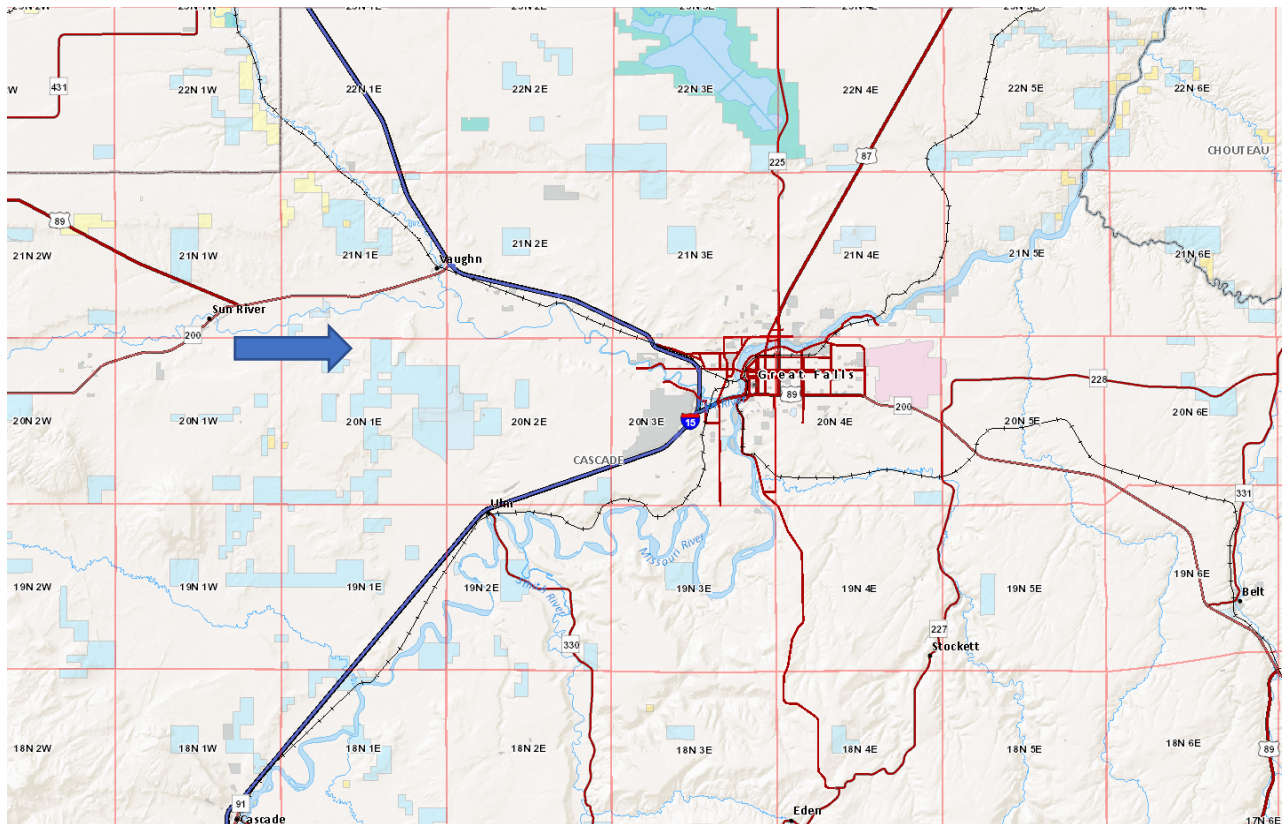
LEASE #10855

T11N R44E SECTION 16



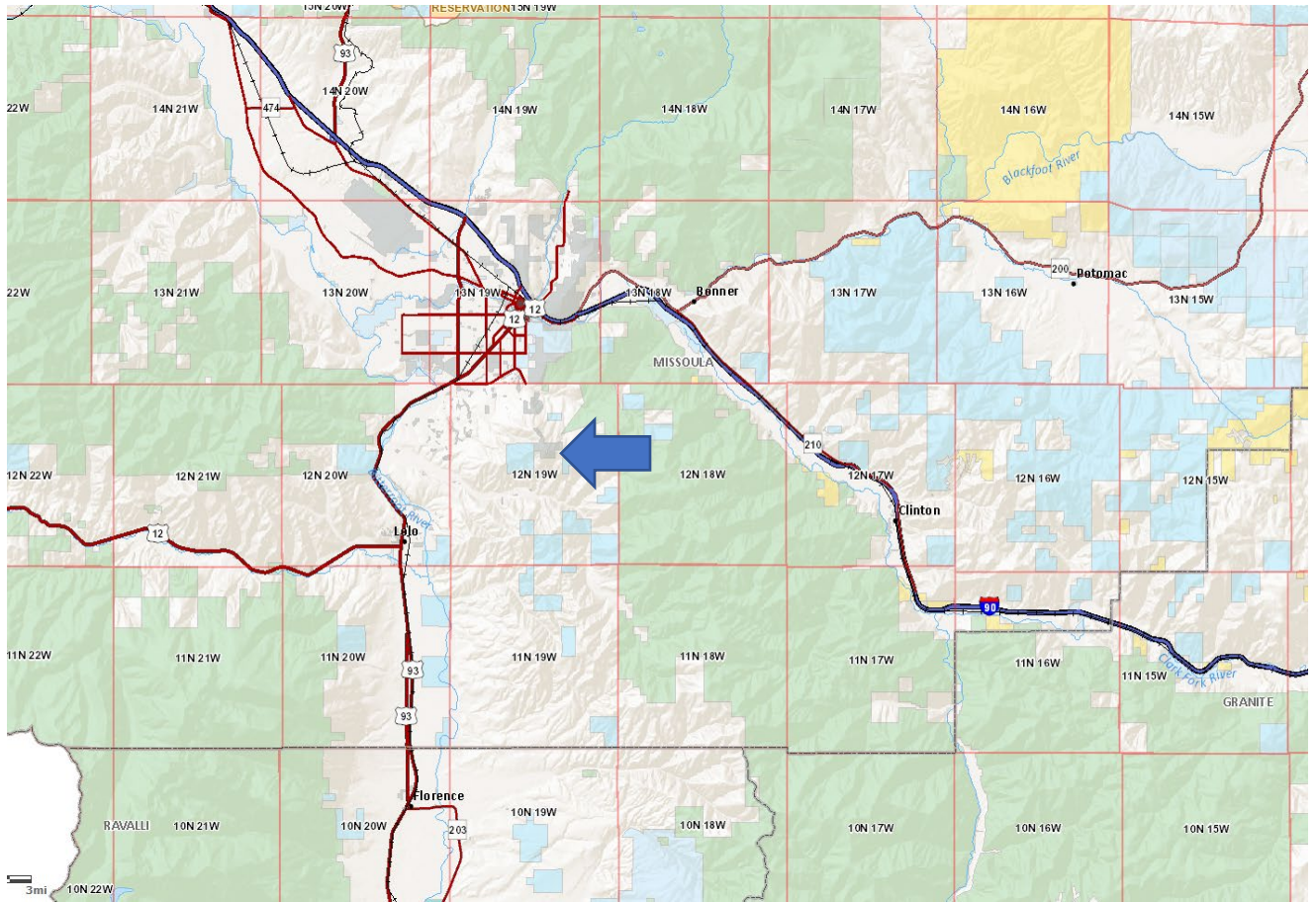
LEASE # 1288

T21N 1W SECTION 16



LEASE # 9064

T20N R1E SECTION 3



LICENSE # 3061000

T12N R19W SECTION 16

0521-3

CABIN AND HOME SITE SALES:

Final Approval for Sale

A. Missoula County

B. Sanders County

**Land Board Agenda Item
May 17, 2021**

0521-3A Cabin and Home Sites: Final Approval for Sale

A. Missoula

Location: Missoula County

Trust Benefits: MSU 2nd

Trust Revenue: \$436,500

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval for sale of 5 cabin sites nominated for sale in Missoula County. These sales were nominated by the lessees in conjunction with the Cabin and Home Site Sale Program.

Sale No.	Acres	Legal Description	Nominator	Trust
1099	1.221±	Lot 14, Seeley Lake Outlet East, COS 4875, Section 4, T16N-R15W	Mathew J. Johnson	MSU 2 nd
1100	1.093±	Lot 15, Seeley Lake Outlet East, COS 4875, Section 4, T16N-R15W	Wallace, Nila, & Holly Beebe	MSU 2 nd
1101	1.699±	Lot 26, Seeley Lake Outlet East, COS 4875, Section 4, T16N-R15W	Timothy J. & Cindy A. Thurston	MSU 2 nd
1102	1.813±	Lot 27, Seeley Lake Outlet East, COS 4875, Section 4, T16N-R15W	Mitchell Parrish, Jeremy Jensen, Cody Mickelson	MSU 2 nd
1103	1.646±	Lot 28, Seeley Lake Outlet East, COS 4875, Section 4, T16N-R15W	Steve & Diane Holden	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
1099	3.059%
1100	4.413%
1101	6.055%
1102	3.659%
1103	6.832%

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 2.91% on acquisitions with income generated from annual lease payments.

Background

These sales were granted preliminary approval by the Land Board in April 2020 (Approved 5-0) to proceed through the Cabin and Home Site Sale Program. The Land Board set the minimum bid for the land and the maximum value of compensation for the improvements in February 2021 (Approved 5-0).

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.

Access/Recreational Use:

As part of the cabin site sale process, the State will convey any access that it has and can be conveyed to the purchaser of the cabin or home site property. Current cabin/home site access is limited to the lessee and does not provide access or recreational use to the general public. State lands classified as cabin or home sites are closed to general recreational use by the public in accordance with ARM 36.25.150(1)(a). Therefore, the State is not selling land under the cabin site sale program that the public is permitted to use for recreation. Rather, the funds generated by these sales will go towards purchasing new lands that will have dedicated public access and recreational opportunities.

Appraised Values of Land and Improvements

Sale Nos.	Appraised Land Value	Appraised Improvements Value	Final Sale Price
1099	\$72,000	\$203,000	\$72,000
1100	\$71,500	\$150,000	\$71,500
1101	\$73,000	\$145,000	\$73,000
1102	\$147,000	\$228,000	\$147,000
1103	\$73,000	\$239,000	\$73,000

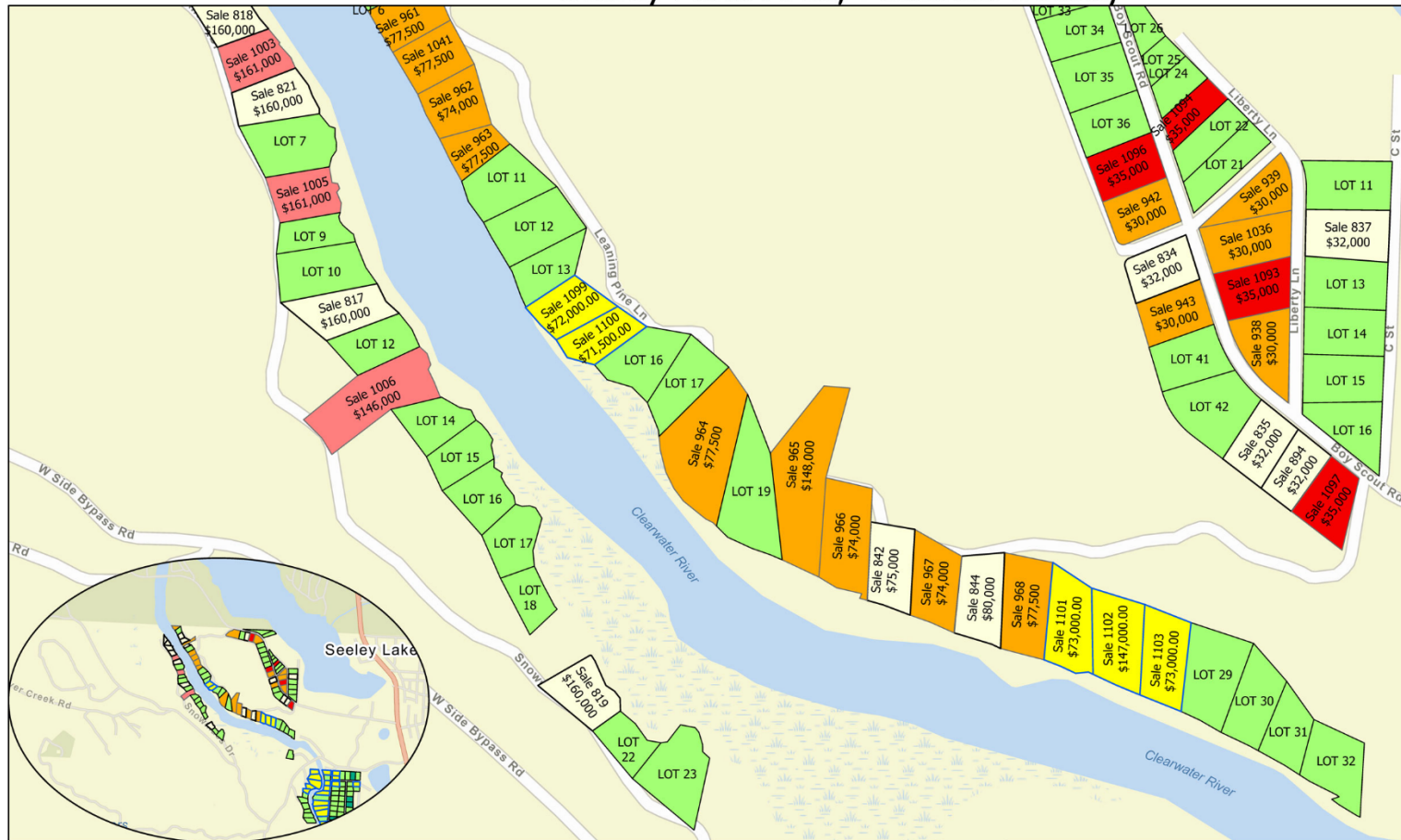
Sale Price

These sales sold at public auction on April 21, 2021. DNRC received a bid deposit from one qualified bidder for each sale who was the current lessee. The sites sold for the final sale prices listed above.

DNRC Recommendation

The director recommends the Land Board grant final approval for the sale of these cabin sites at the values shown above.

Seeley Lake Area, Missoula County



0 0.13 0.25 0.5 Miles



Trust Lands Cabin Site Sales
Map Created by REMB staff
April 2021

**Land Board Agenda Item
May 17, 2021**

**0521-3B Cabin and Home Sites: Final Approval for Sale
B. Sanders County**

Location: Sanders County
Trust Benefits: Common Schools, Public Buildings
Trust Revenue: \$82,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) is requesting final approval for sale of 2 cabin sites nominated for sale in Sanders County. These sales were nominated by the lessees in conjunction with the Cabin and Home Site Sale Program.

Sale No.	Acres	Legal Description	Nominator	Trust
1115	1.627±	Tract 2, COS 3491, Section 36, T24N-R27W	Jerry Pope & Michelle Day	Common Schools
1116	2.280±	Lot 7, Mudd Creek, COS 3534, Section 12, T22N-R27W	Dennis K. Mayhew	Public Buildings

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
1115	2.145%
1116	1.587%

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 2.91% on acquisitions with income generated from annual lease payments.

Background

Preliminary Land Board approval was granted in April of 2020 (Approved 5-0). The Land Board set the minimum bid for the land and the maximum value of compensation for the improvements in February 2021 (Approved 5-0).

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.

Access/Recreational Use:

As part of the cabin site sale process, the State will convey any access that it has and can be conveyed to the purchaser of the cabin or home site property. Current cabin/home site access is limited to the lessee and does not provide access or recreational use to the general public. State lands classified as cabin or home sites are closed to general recreational use by the public in accordance with ARM 36.25.150(1)(a). Therefore, the State is not selling land under the cabin site sale program that the public is permitted to use for recreation. Rather, the funds generated by these sales will go towards purchasing new lands that will have dedicated public access and recreational opportunities.

Appraised Values of Land and Improvements:

Sale No.	Appraised Land Value	Appraised Improvements Value	Final Sale Price
1115	\$50,000	\$110,000	\$50,000
1116	\$32,000	\$18,000	\$32,000

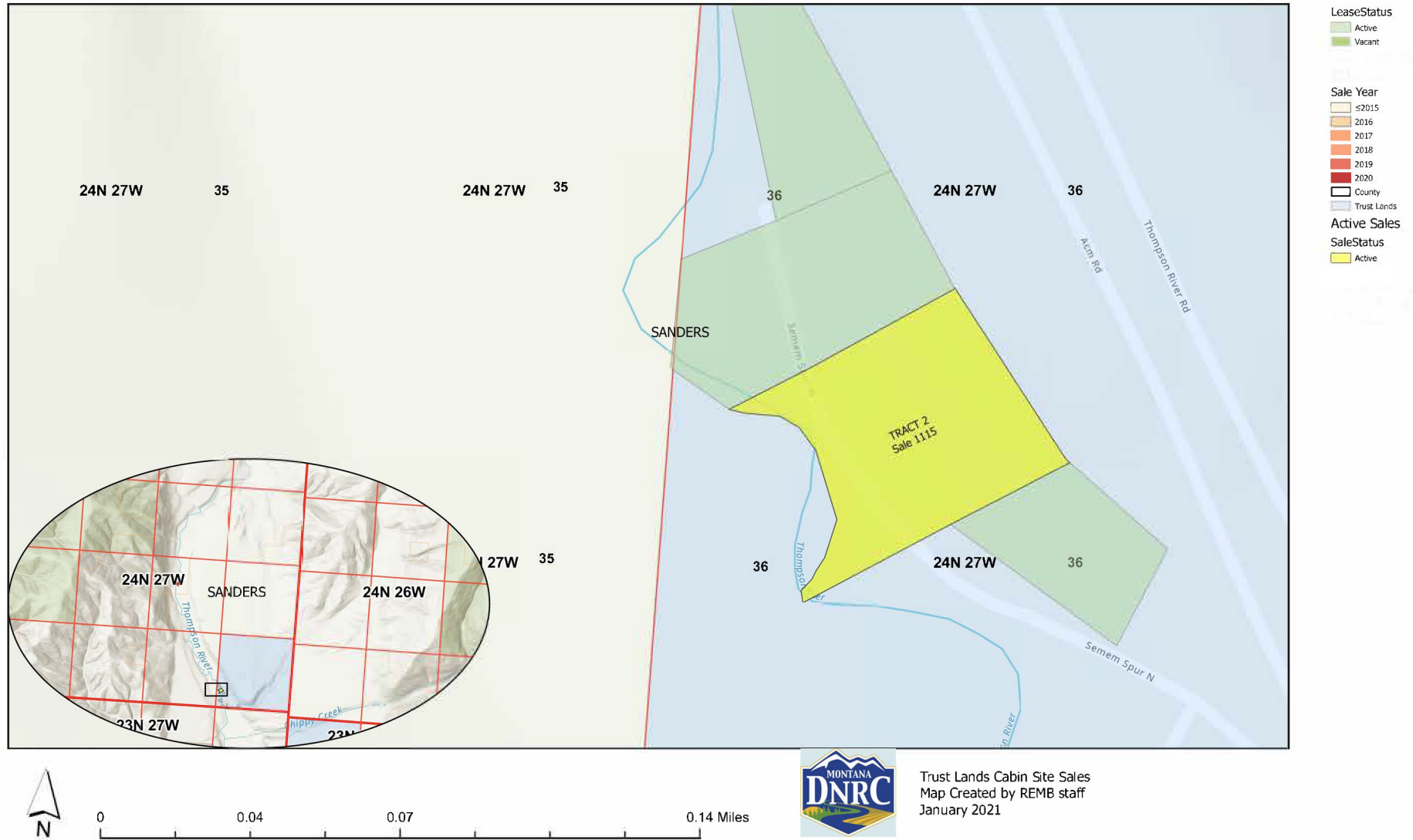
Sale Price

These sales sold at public auction on April 22, 2021. DNRC received a bid deposit from one qualified bidder for each sale who was the current lessee. The sites sold for the final sale prices listed above.

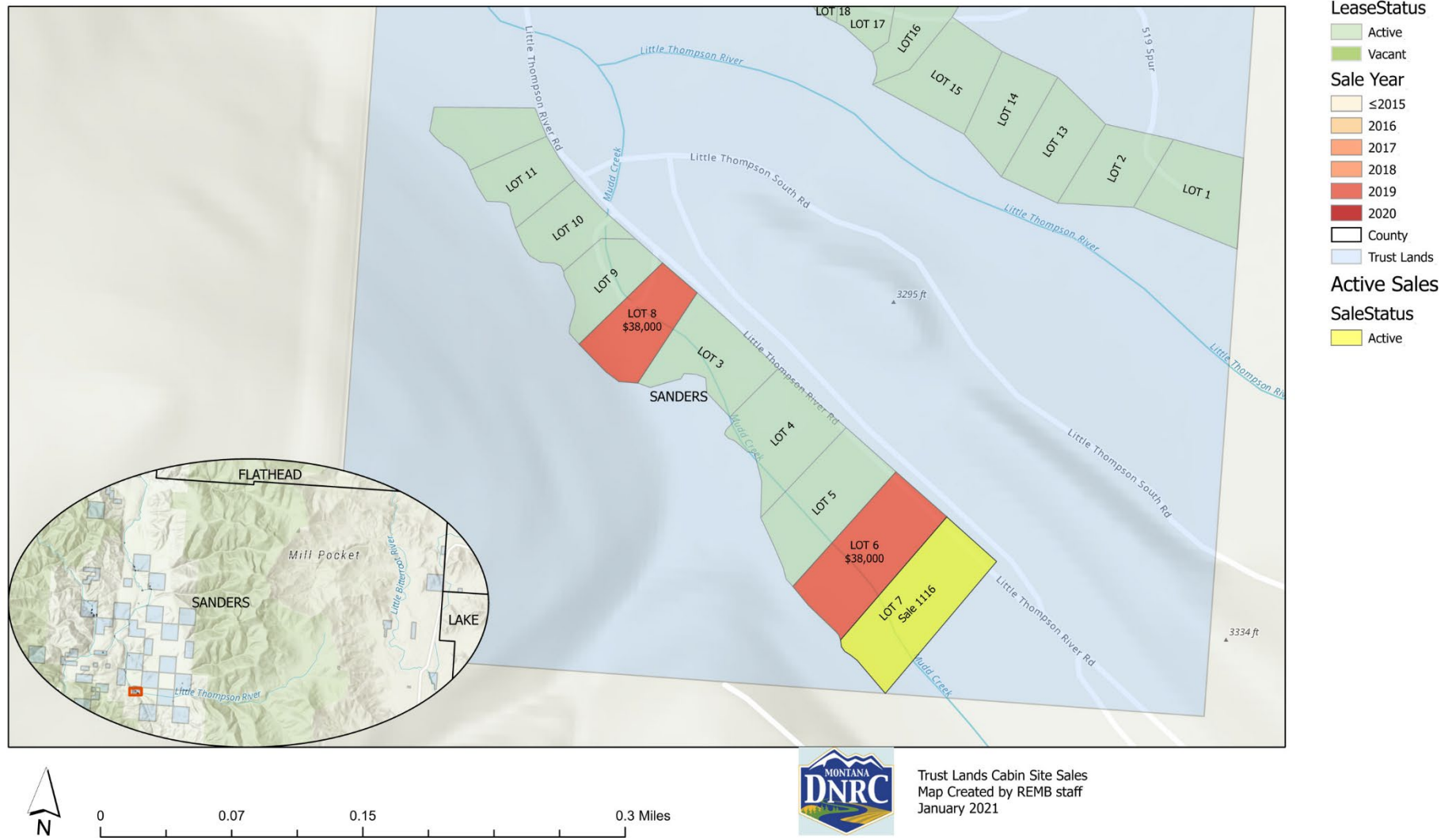
DNRC Recommendation

The director recommends the Land Board grant final approval for the sale of these cabin sites at the values shown above.

Sanders County



Mudd Creek, Sanders County



0521-4

LAND BANKING PARCELS:

Final Approval for Sale

**Land Board Agenda Item
May 17, 2021**

0521-4 Land Banking Parcel: Final Approval for Sale

Location: Musselshell County

Trust Benefits: Common Schools

Trust Revenue: \$95,000

Item Summary

The Department of Natural Resources and Conservation (DNRC) requests final approval to sell one parcel totaling approximately 160 acres nominated for sale in Musselshell County. The sale was nominated by the lessee and is located approximately 15 miles northwest of Roundup, Montana.

Sale #	# of Acres	Legal	Nominator	Trust
1055	160±	SW4 T10N-R24E, Sec. 24	Byron Boucher Farms, Inc.	Common Schools

The sale parcel has been used primarily for livestock grazing purposes and can support 112 AUMs.

This sale parcel is surrounded by private land and is not legally accessible by the public. 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 average rate of return on the sale parcel is 1.07%. 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 land 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 2.91% on acquisitions with income generated from annual lease payments.

Cultural/Paleontological Resources:

Scoping letters were sent to regional Tribal Historic Preservation Officers. No response was returned that identified a specific cultural resource issue. A Class I (literature review) level review was conducted by the DNRC staff archaeologist for the area of potential effect (APE). This entailed inspection of project maps, DNRC's sites/site leads database, land use records, General Land Office Survey Plats, and control cards. The Class I search results revealed that no cultural or paleontological resources have been identified in the APE, but it should be noted that Class III level inventory work has not been conducted there to date.

Because the topographic setting and geology suggest a low to moderate likelihood of the presence of cultural or paleontologic resources, because the Holocene age soils are thin, and because the entire tract was previously cultivated disposition of the state parcel is expected to have No Effect to Antiquities. No additional archaeological investigative work is warranted.

Background:

In July 2019, the Board granted preliminary approval for this parcel to continue through the Land Banking sale evaluation process. After appraisal, the Land Board set the set the minimum bid in January of 2021 (Approved 5-0) at the appraised value.

Appraised Value:

The appraisal was prepared by Montana General Certified Appraiser Timothy B. Hogan, ASA, IFAS of Hogan Appraisal, LLC in Billings, Montana.

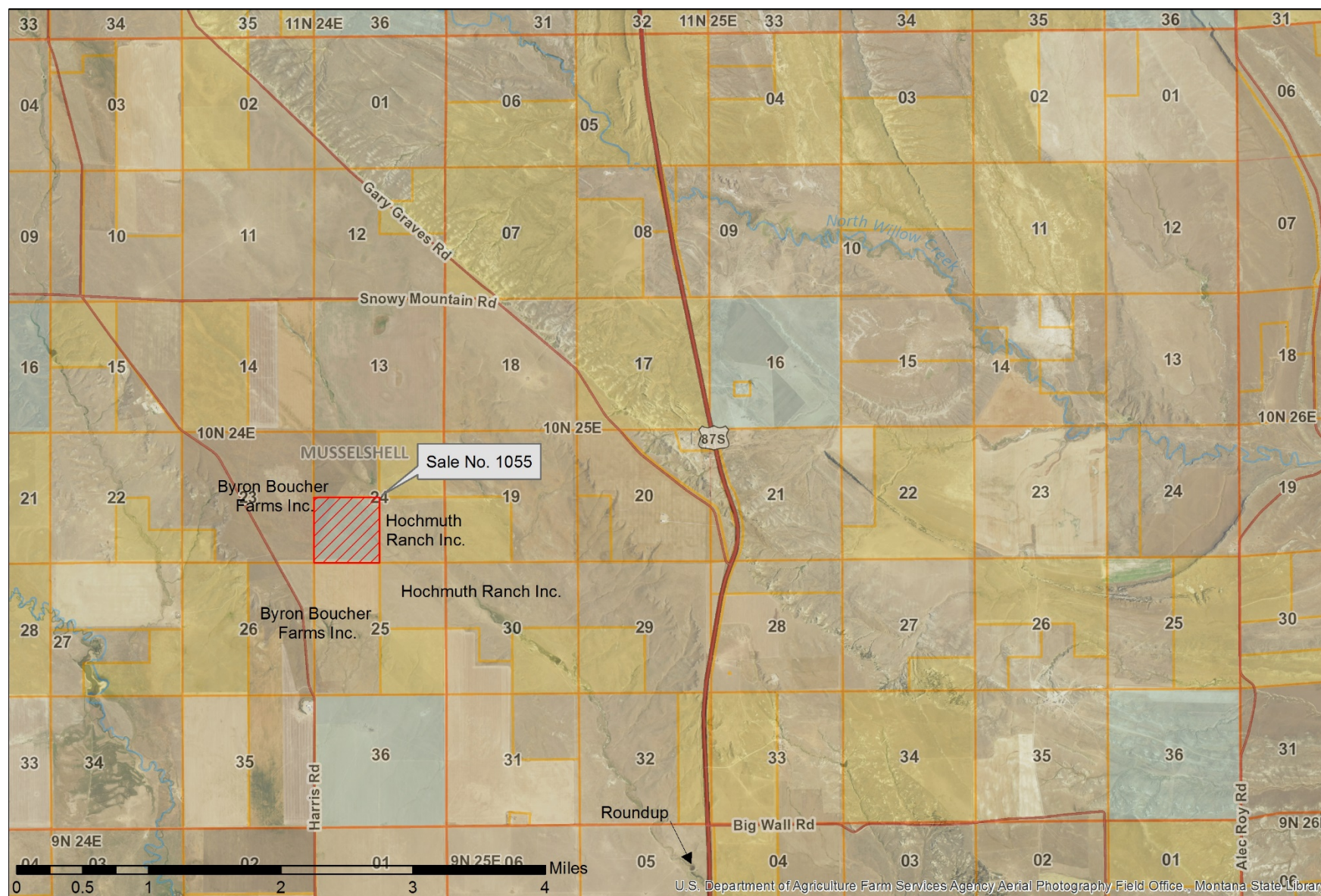
Sale #	Appraised Value	Final Sale Price
1055	\$95,000	\$95,000

Sale Price:

The parcel sold at public auction on April 1, 2021. There was one qualified bidder for the sale, which was the current lessee. The parcel sold for the final sale price shown above.

DNRC Recommendation

The director recommends the Land Board grant final approval for this Land Banking sale at the value shown above.



Location: Musselshell County
 Prepared on: 26 JUNE 2019
 Prepared by: DNRC REMB Staff
 Projection: NAD 1983 - MT State Plane

Musselshell County Sale: Byron Boucher Farms, Inc.
 Sale No. 1055, Common Schools



Land Sales



Montana State Trust Land



Owner Parcel



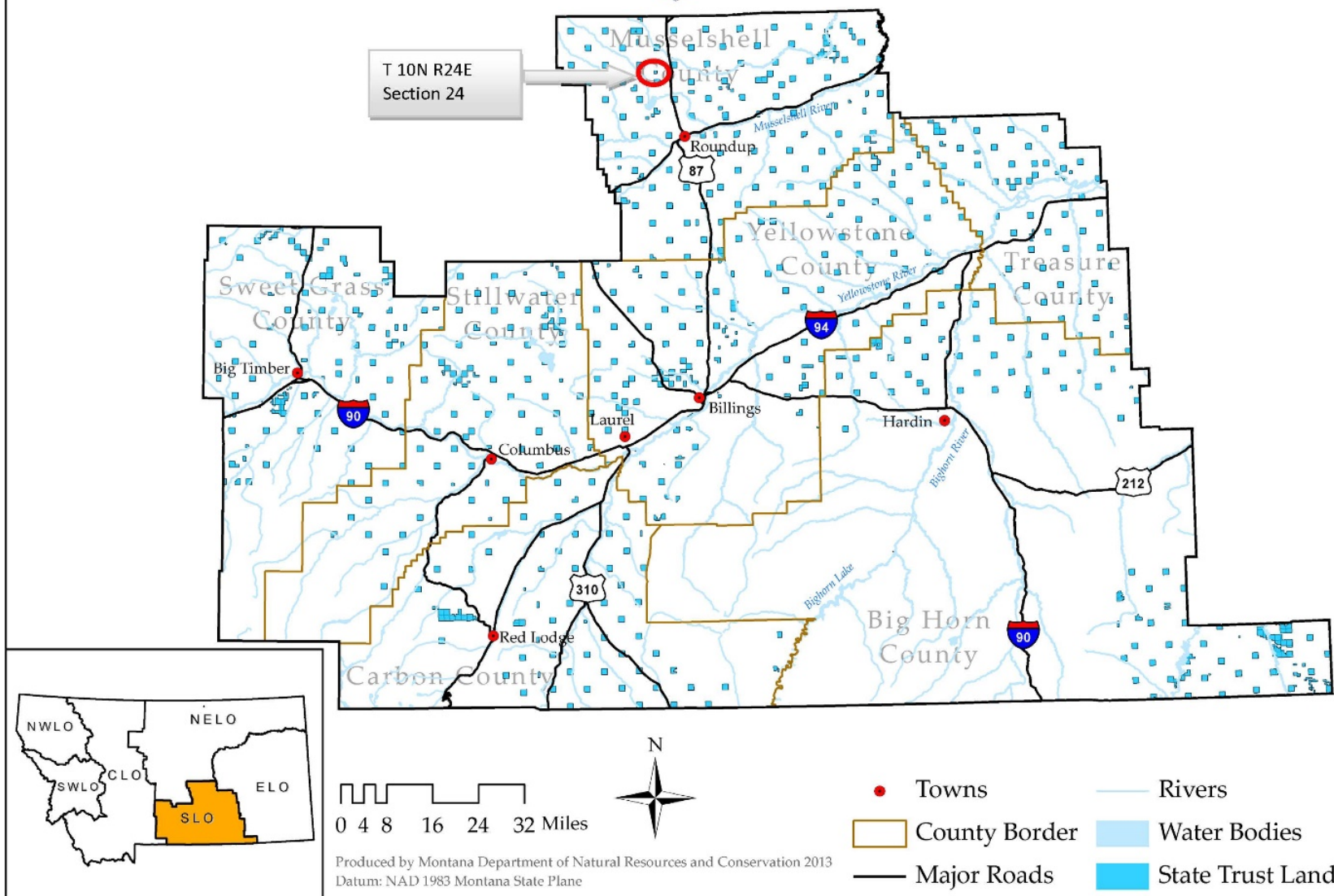
Bureau of Land Management



SALE # 1055 BYRON BOUCHER VICINITY MAP
SOUTHERN LAND OFFICE



T 10N R24E
 Section 24



0521-5

EASEMENTS:

**Land Board Agenda Item
May 17, 2021**

0521-5 Easements

Location: Carter, Madison, Mineral, Powder River, Sanders, Sweet Grass,
Stillwater

Trust Benefits: Common Schools, Pine Hills School,
Public Land Trust – Nav. River

Trust Revenue: Common Schools = \$15,860
Public Land Trust = \$604

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Triangle Telephone Cooperative Association, Inc.	Buried Telecommunications Cable	Permanent	60-65
Missoula Electric Cooperative, Inc	Overhead Electrical Distribution Line	Permanent	66-67
Blackfoot Telephone Cooperative, Inc.	Buried Fiber Optic Cable	Permanent	68-69
Triangle Telephone Cooperative Association, Inc.	Buried Telecommunications Cable	Permanent	70-73
3 Rivers Telephone Cooperative, Inc.	Buried Fiber Optic Cable	Permanent	74-75
Range Telephone Cooperative	Buried Fiber Optic Cable	Permanent	76-83
Otter Creek Ranch, LLC	Private Access Road	Permanent	84-85

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	8890 (Amended)
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	3.24
Compensation:	\$1,094.00
Legal Description:	a 20-foot strip through W2NW4, SE4NW4, NE4SW4, W2SE4, SE4SE4, Sec. 16, Twp. 3N, Rge. 18E, Sweet Grass County
Trust Beneficiary:	Common Schools

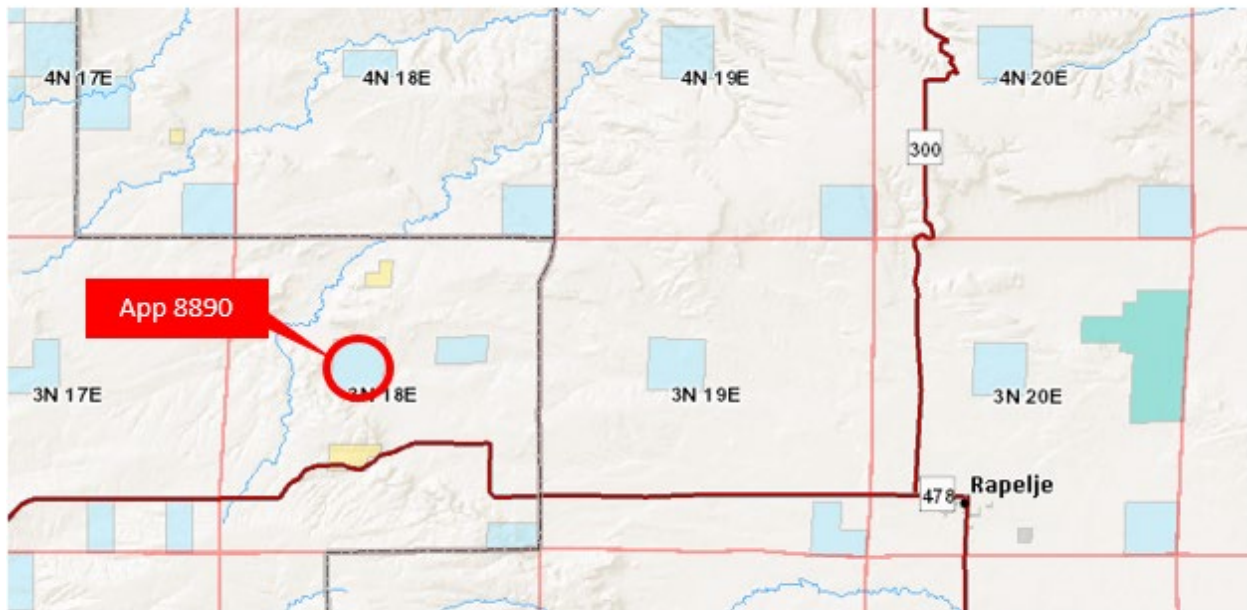
Item Summary

Triangle Telephone Coop is requesting amendments to existing easement utility corridors for the purpose of installing a new fiber optic cable in the Big Timber exchange area. The existing easements contain copper telephone cables that will be abandoned in place. The new fiber optic cable will provide state of the art telecommunications facilities to rural customers and increased capacity. As the new line will be trenched within the existing corridor minimal impacts are expected. Portions of the proposed installation are within general sage grouse habitat and The Montana Sage Grouse Oversight Team (MSGOT) has reviewed and approved the project.

DNRC Recommendation

The director recommends approval of the application of Triangle Telephone Cooperative.

R/W Application 8890 (Amended)



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	8891 (Amended)
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	1.73
Compensation:	\$1,720.00
Legal Description:	a 20-foot strip through N2SW4, S2NE4, Sec. 16, Twp. 2N, Rge. 16E, Sweet Grass County
Trust Beneficiary:	Common Schools

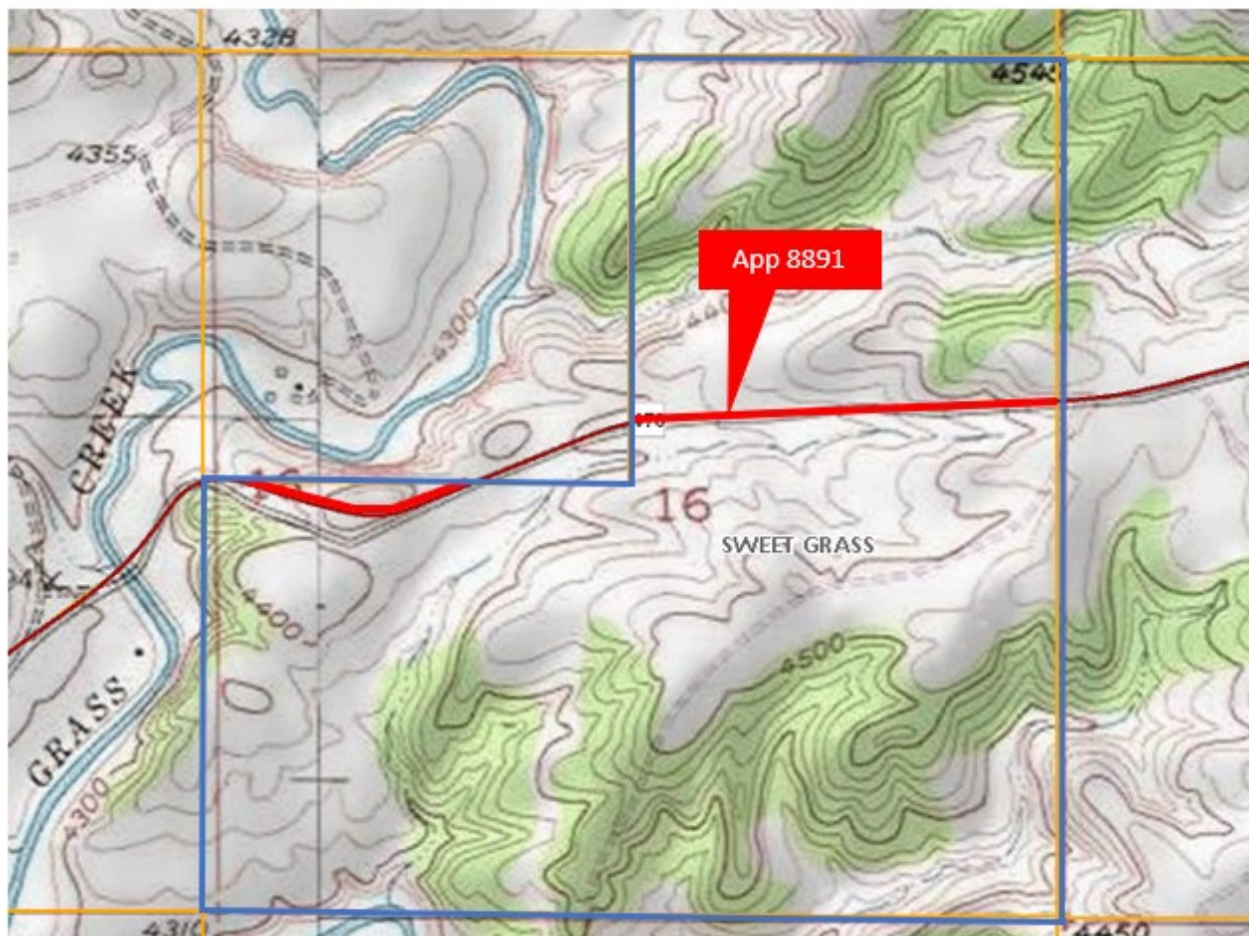
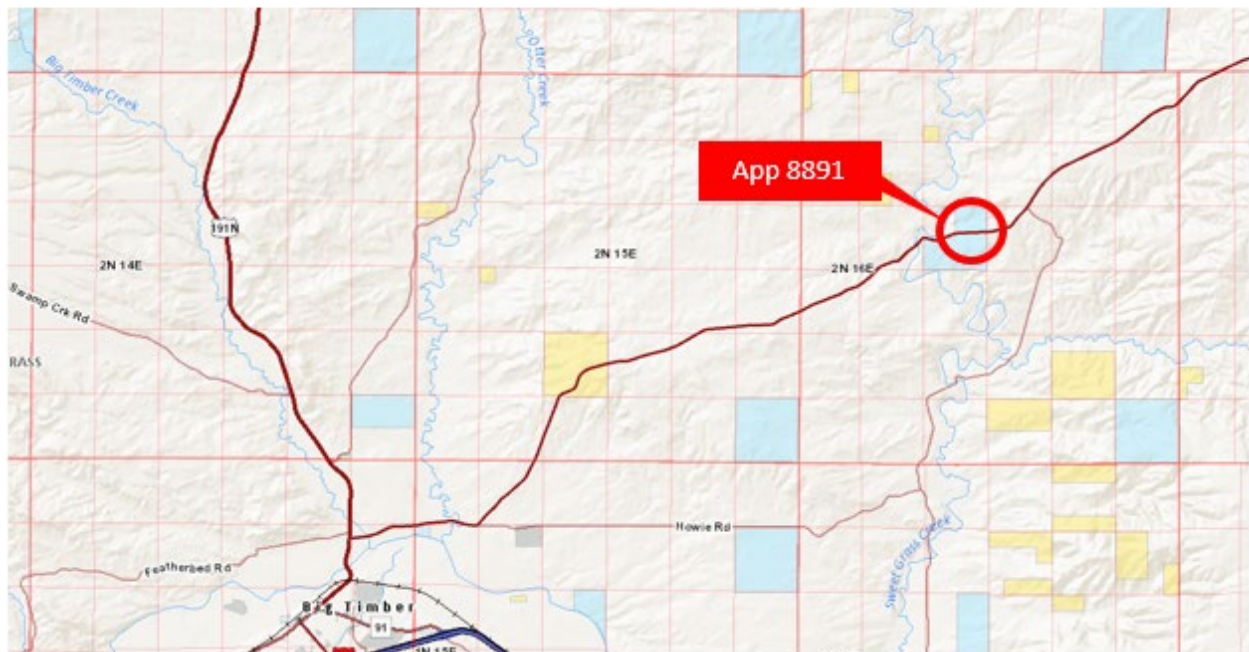
Item Summary

See page 60 for summary.

DNRC Recommendation

See page 60 for recommendation

R/W Application 8891 (Amended)



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	8946 (Amended)
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	3.14
Compensation:	\$1,154.00
Legal Description:	a 20-foot strip through E2E2, NW4NE4, Sec. 16, Twp. 3N, Rge. 17E, Sweet Grass County
Trust Beneficiary:	Common Schools

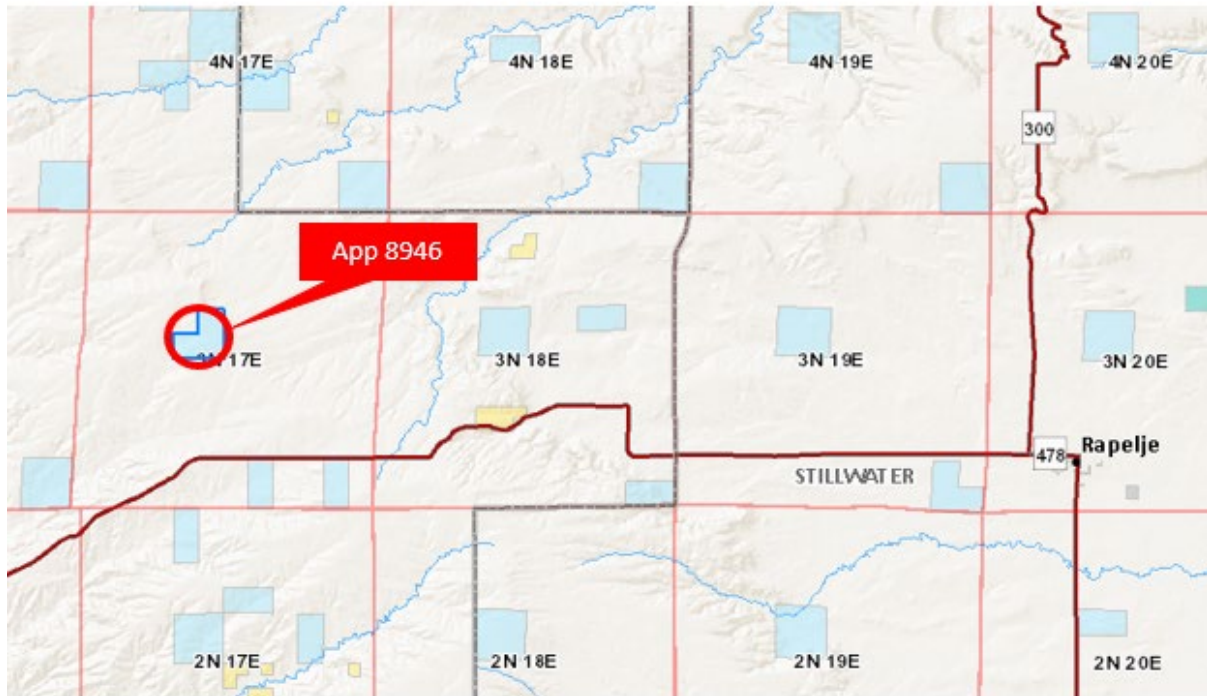
Item Summary

See page 60 for summary.

DNRC Recommendation

See page 60 for recommendation

R/W Application 8946 (Amended)



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Missoula Electric Cooperative, Inc. 1700 West Broadway Missoula, MT 59808
Application No.:	15724 (Amended)
R/W Purpose:	an overhead 3-phase 7.2kV electrical distribution line
Lessee Agreement:	N/A (Nav. River)
Acreage:	0.16
Compensation:	\$100.00
Legal Description:	30-foot strip across the Clark Fork River in SE4SW4, Sec. 36, Twp. 15N, Rge. 24W, Mineral County
Trust Beneficiary:	Public Land Trust - Nav. River

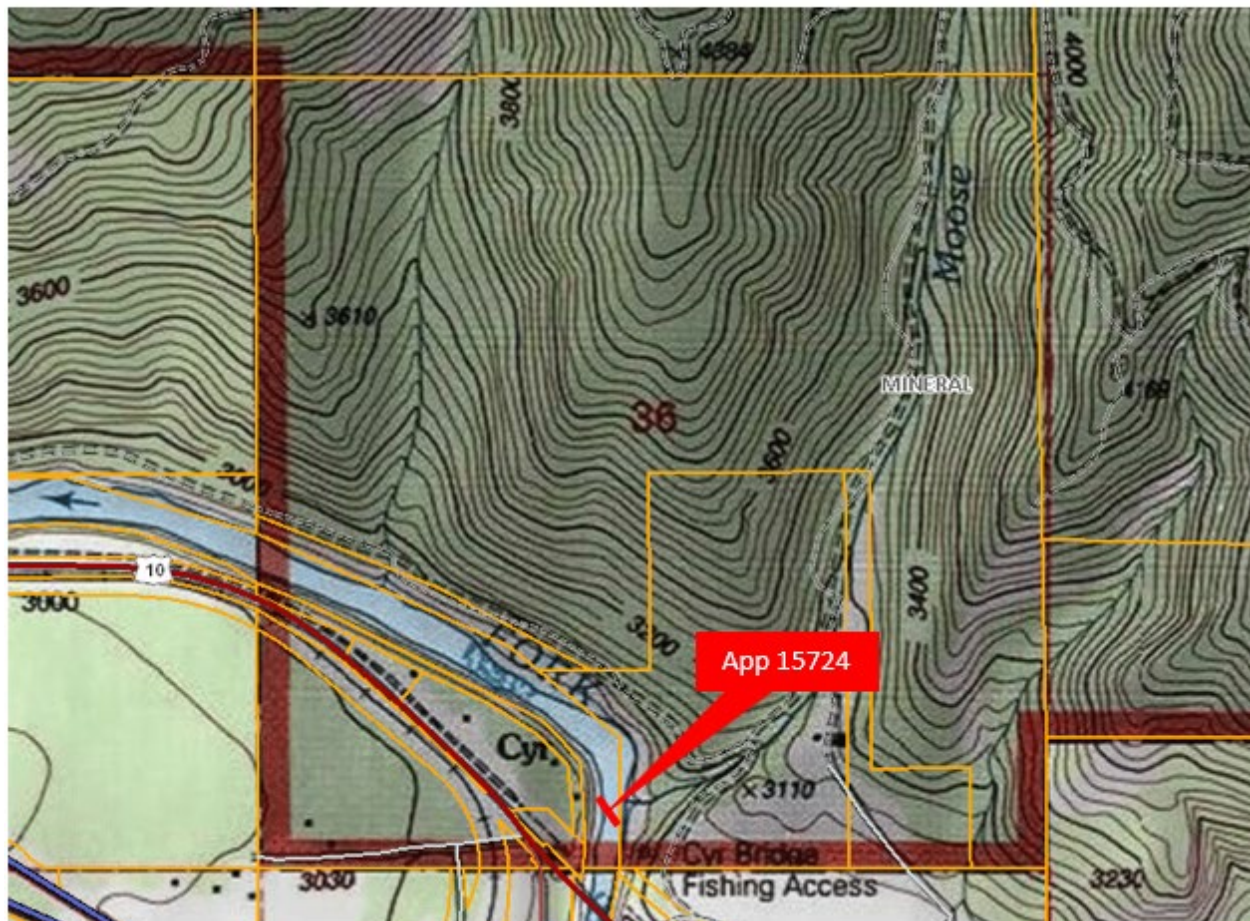
Item Summary

Missoula Electric Coop. is requesting an amendment to their existing easement for the purpose of upgrading the existing electrical facilities. In order to meet the demand for additional services in the area due to development the proposed project will upgrade the existing facilities to add three new lines to the existing easement. Because the lines will need to be spaced 5 feet apart, the width of the existing easement will also need to be amended to a 30-foot width.

DNRC Recommendation

The director recommends approval of the application of Missoula Electric Cooperative, Inc

R/W Application 15724 (Amended)



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blackfoot Telephone Cooperative, Inc 1221 North Russell St. Missoula, MT 59808
Application No.:	19064
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	N/A (Unleased)
Acreage:	0.79
Compensation:	\$2,607.00
Legal Description:	10-foot strip through W2NW4, NW4SW4, Sec. 36, Twp. 25N, Rge. 32W, Sanders County
Trust Beneficiary:	Common Schools

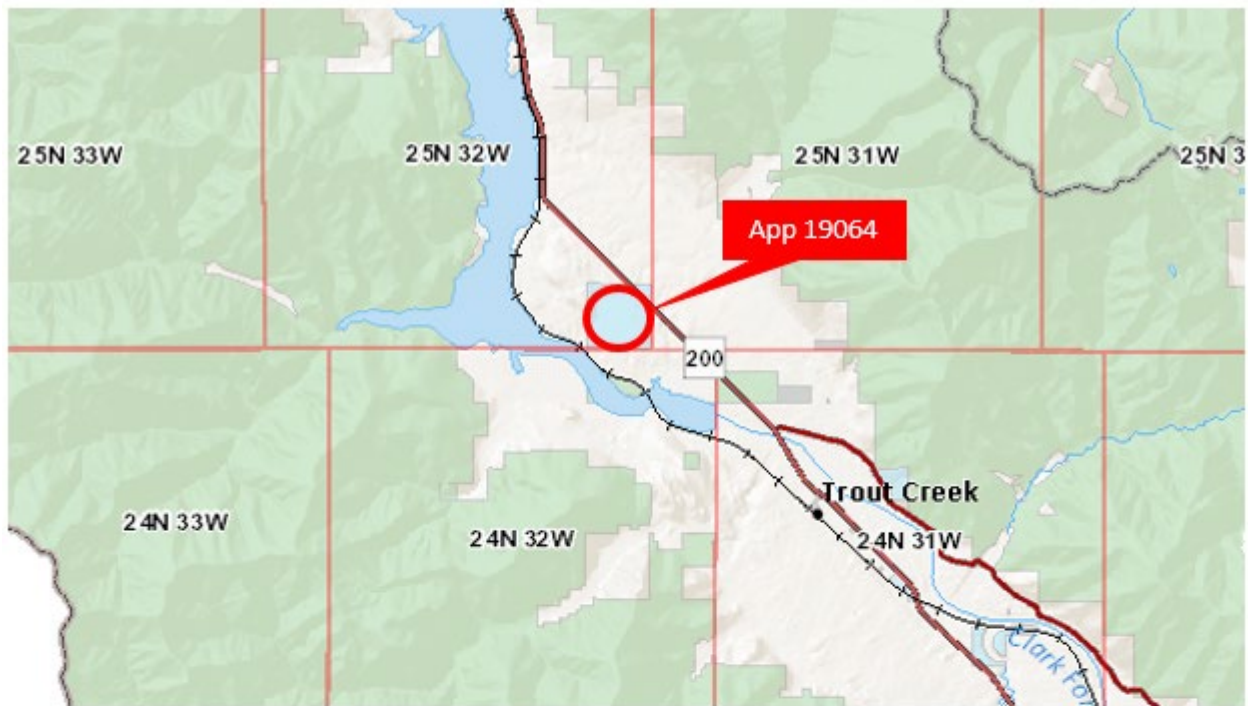
Item Summary

Blackfoot Telephone Coop is requesting an easement to provide upgraded services to several private properties. The proposal is to install new infrastructure in relocated private driveways on State Trust land over which the private landowners acquired easements for in 2003. Previous access routes were in trespass, as were the cable utilities that provided service to these homes. The copper wires previously in place in the old locations are at the end of their useful life and Blackfoot Telephone is in the process of upgrading communication facilities in the general Thompson Falls area. As the new line will be co-located within the newer and safer access road there will be minimal impacts to the Trust Land and utility service will be legitimized through an easement.

DNRC Recommendation

The director recommends approval of the application of Blackfoot Telephone Cooperative Inc.

R/W Application 19064



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	19076 (Amended)
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	1.02
Compensation:	\$714.00
Legal Description:	20-foot strip through N2NW4, Sec. 9, Twp. 2N, Rge. 22E, Stillwater County
Trust Beneficiary:	Common Schools

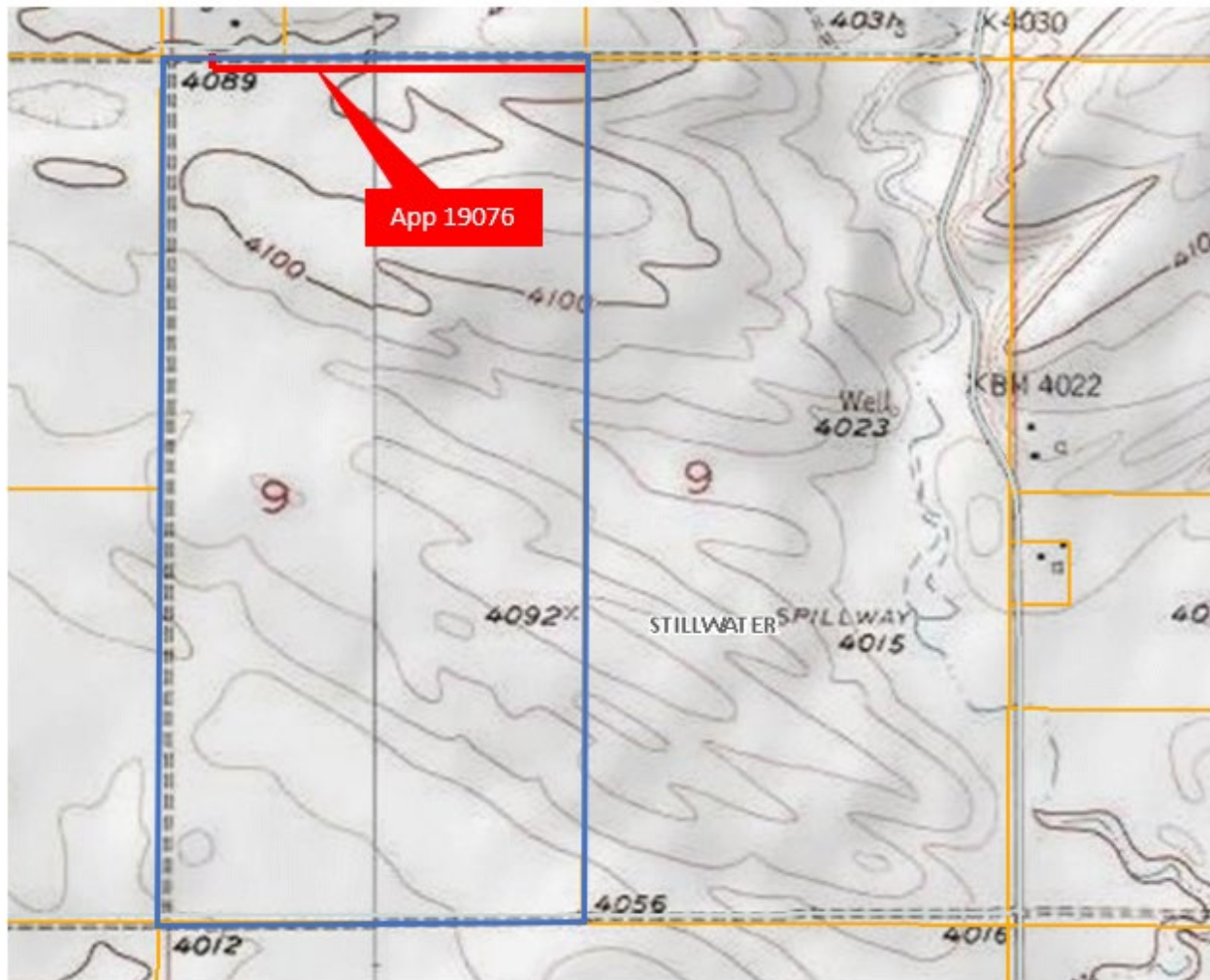
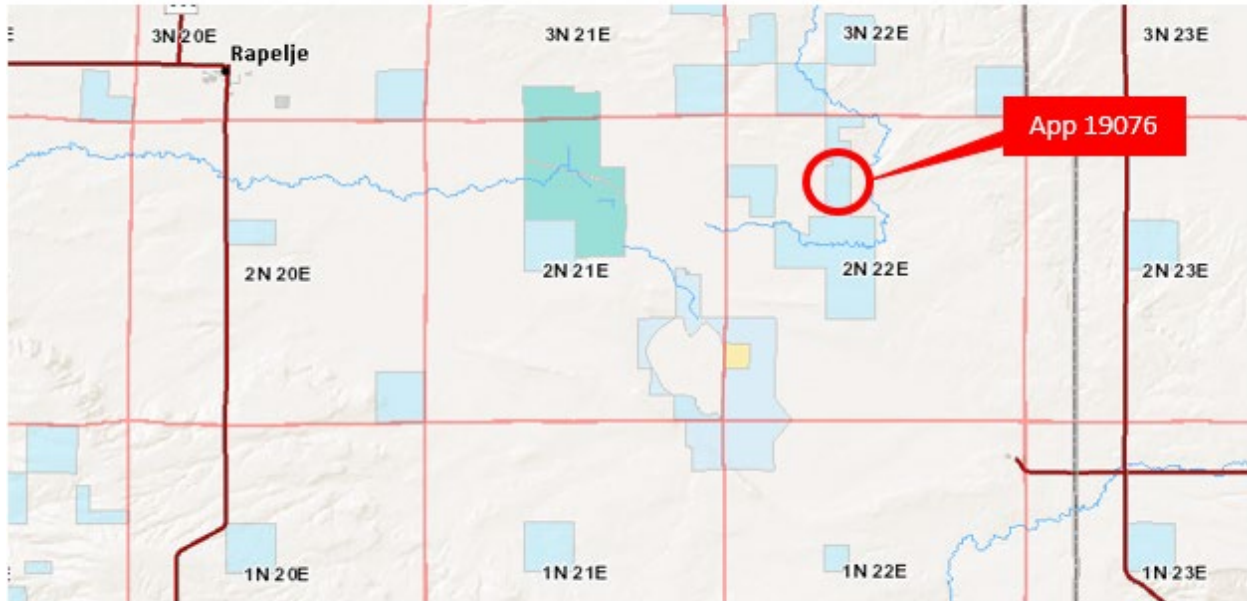
Item Summary

This item and the following item are part of the Triangle Telephone fiber optic upgrade in Sweet Grass and Stillwater Counties. The State Trust land involved with this item and the following was acquired through a Land Banking acquisition in 2017. Existing easements had been issued by the former landowner to allow for a copper cable. Because the intent is to abandon the copper cable from the existing easement in place and install a new fiber optic line a new easement must be issued pursuant to the statutes for State Trust Land. Minimal impacts are expected due to the ground being previously disturbed and the new fiber optic line being placed within the same corridor. The affected land is within Sage Grouse habitat and The Montana Sage Grouse Oversight Team (MSGOT) has approved the project.

DNRC Recommendation

The director recommends approval of the application of Triangle Telephone Coop.

R/W Application 19076



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	19077 (Amended)
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	ok
Acreage:	2.13
Compensation:	\$1,491.00
Legal Description:	a 20-foot strip through W2SW4, SW4NW4, S2NW4NW4, Sec. 17, Twp. 2N, Rge. 22E, Stillwater County
Trust Beneficiary:	Common Schools

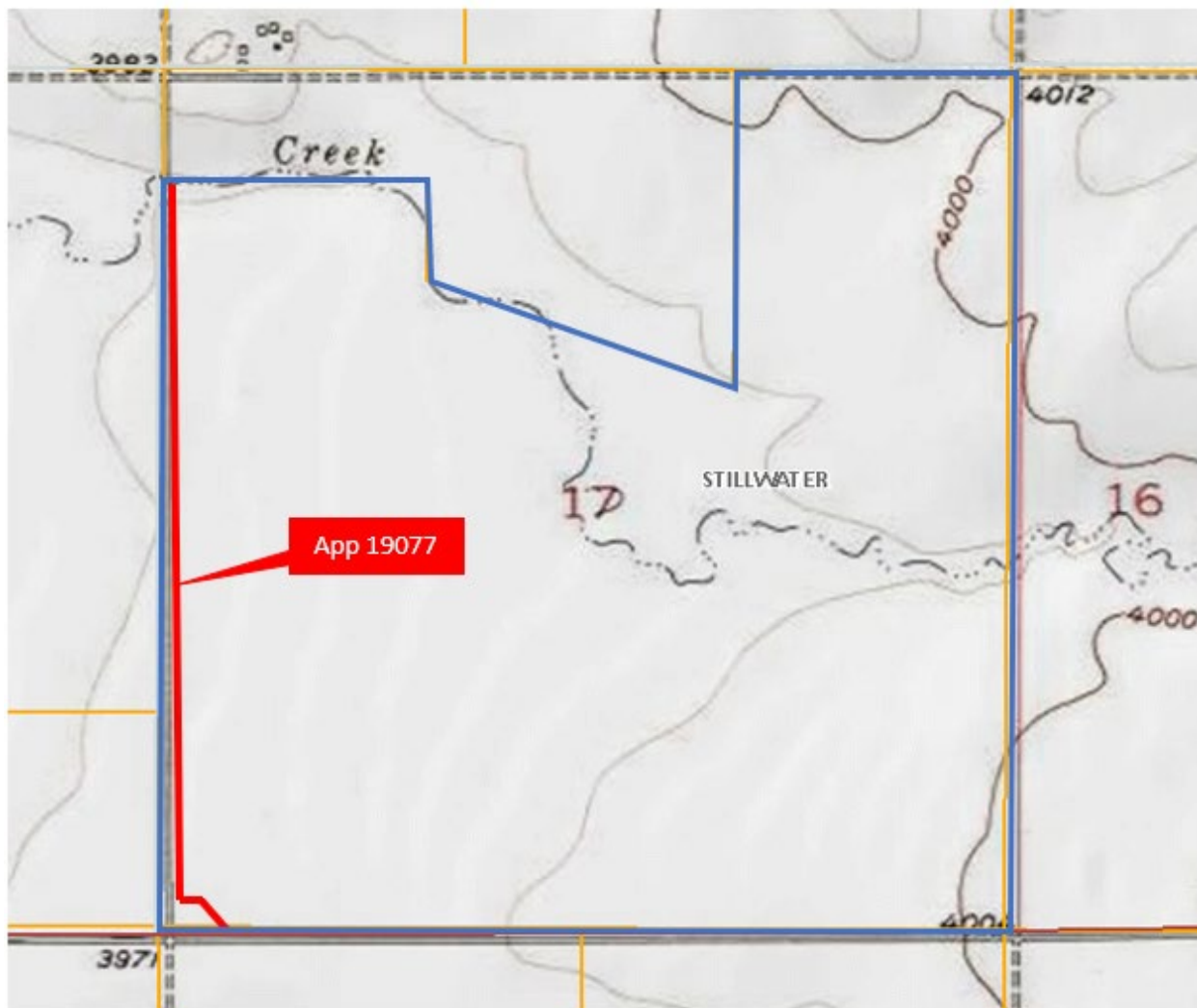
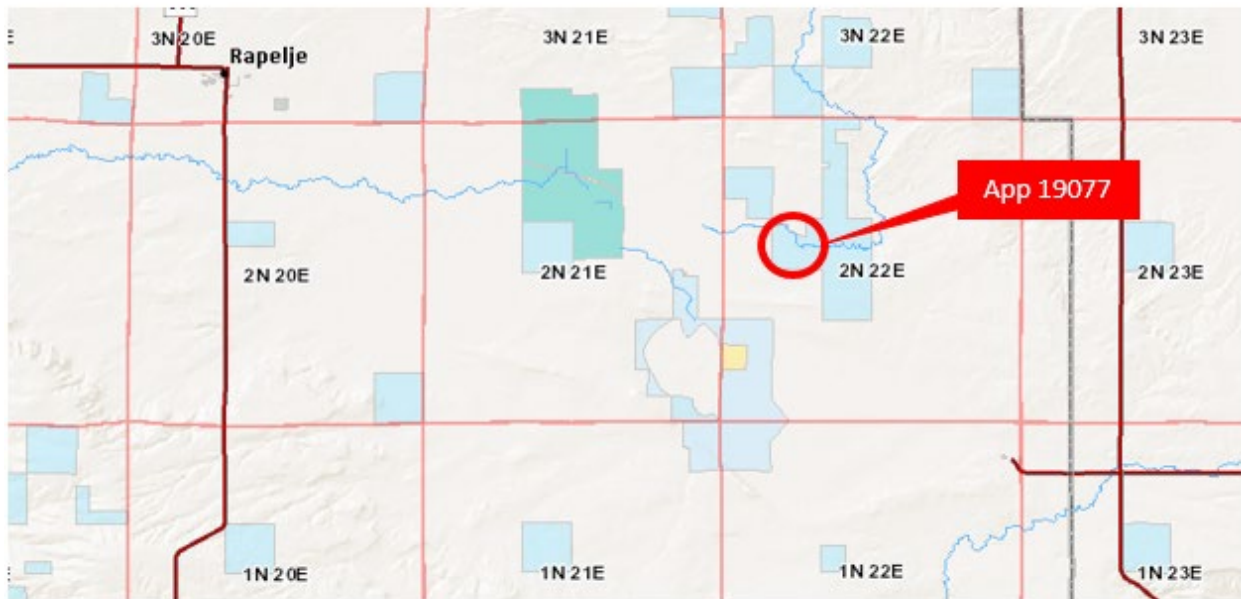
Item Summary

See page 70 for summary.

DNRC Recommendation

See page 70 for recommendation

R/W Application 19077



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	3 Rivers Telephone Cooperative, Inc PO Box 429 Fairfield, MT 59436-0429
Application No.:	19078
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	N/A (Nav. River)
Acreage:	0.05
Compensation:	\$504.00
Legal Description:	10-foot strip across the Madison River in NE4NW4, Sec. 17, Twp. 7S, Rge. 1W, Madison County
Trust Beneficiary:	Public Land Trust - Nav. River

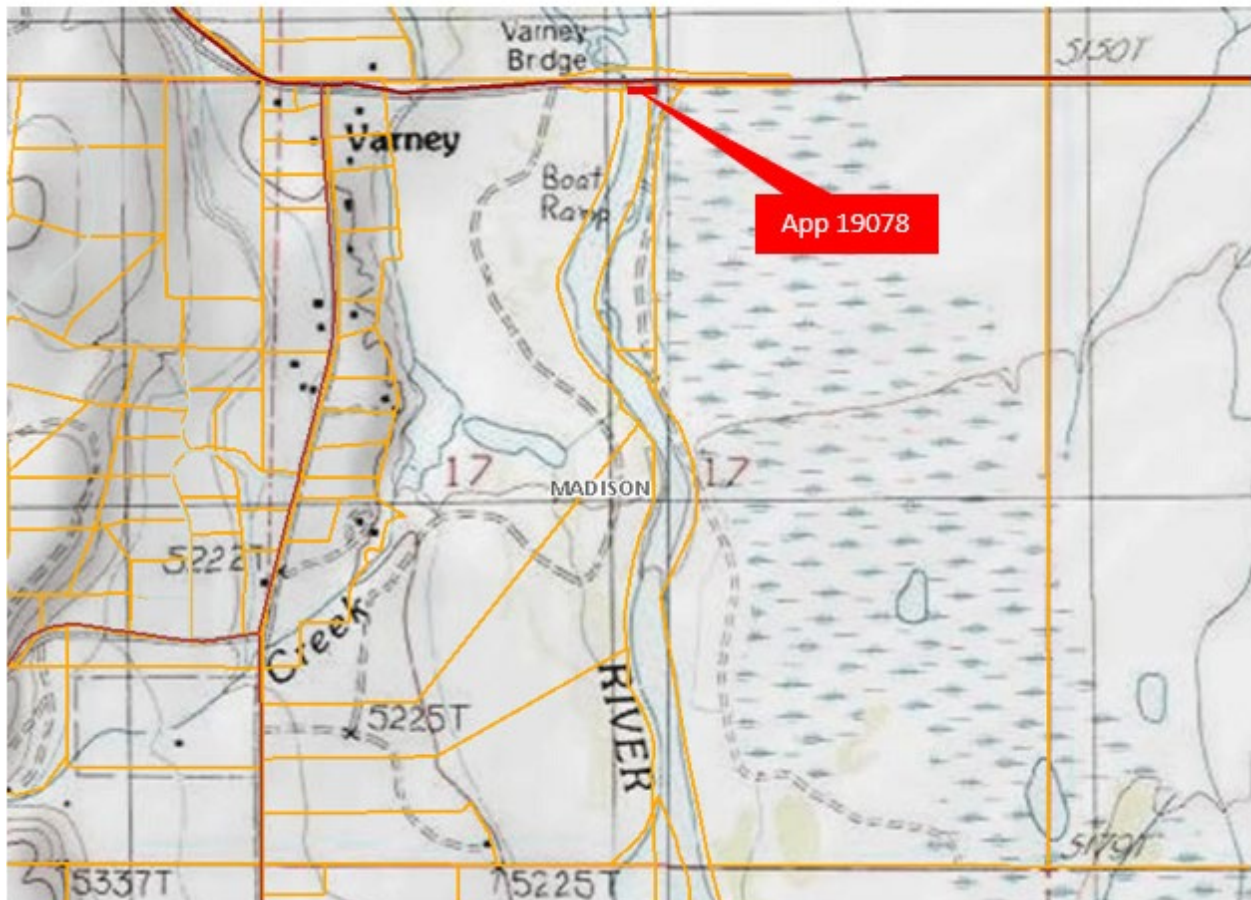
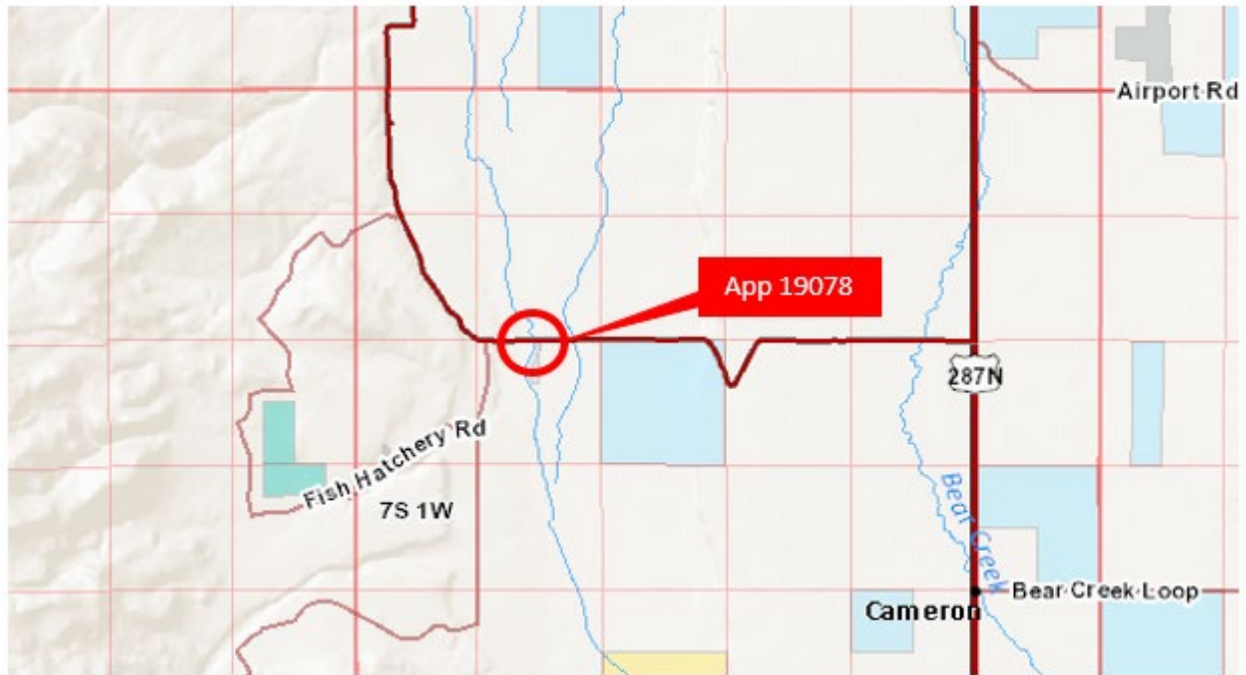
Item Summary

3 Rivers Telephone Cooperative is requesting an easement to bore a fiber optic cable under the Madison River as part of a 90-mile communications facility upgrade in rural Madison County. This project is to provide Fiber to the Home (FTTH) facilities in the form of high-speed internet and broadband services to rural communities.

DNRC Recommendation

The director recommends approval of the application of 3Rivers Telephone Cooperative.

R/W Application 19078



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Range Telephone Cooperative 2325 E. Front St. Forsyth, MT 59327
Application No.:	19082
R/W Purpose:	a buried telecommunications cable
Lessee Agreement:	N/A (Historic)
Acreage:	0.49
Compensation:	\$294.00
Legal Description:	16-foot strip through NE4SW4, Sec. 18, Twp. 4S, Rge. 55E, Carter County
Trust Beneficiary:	Common Schools

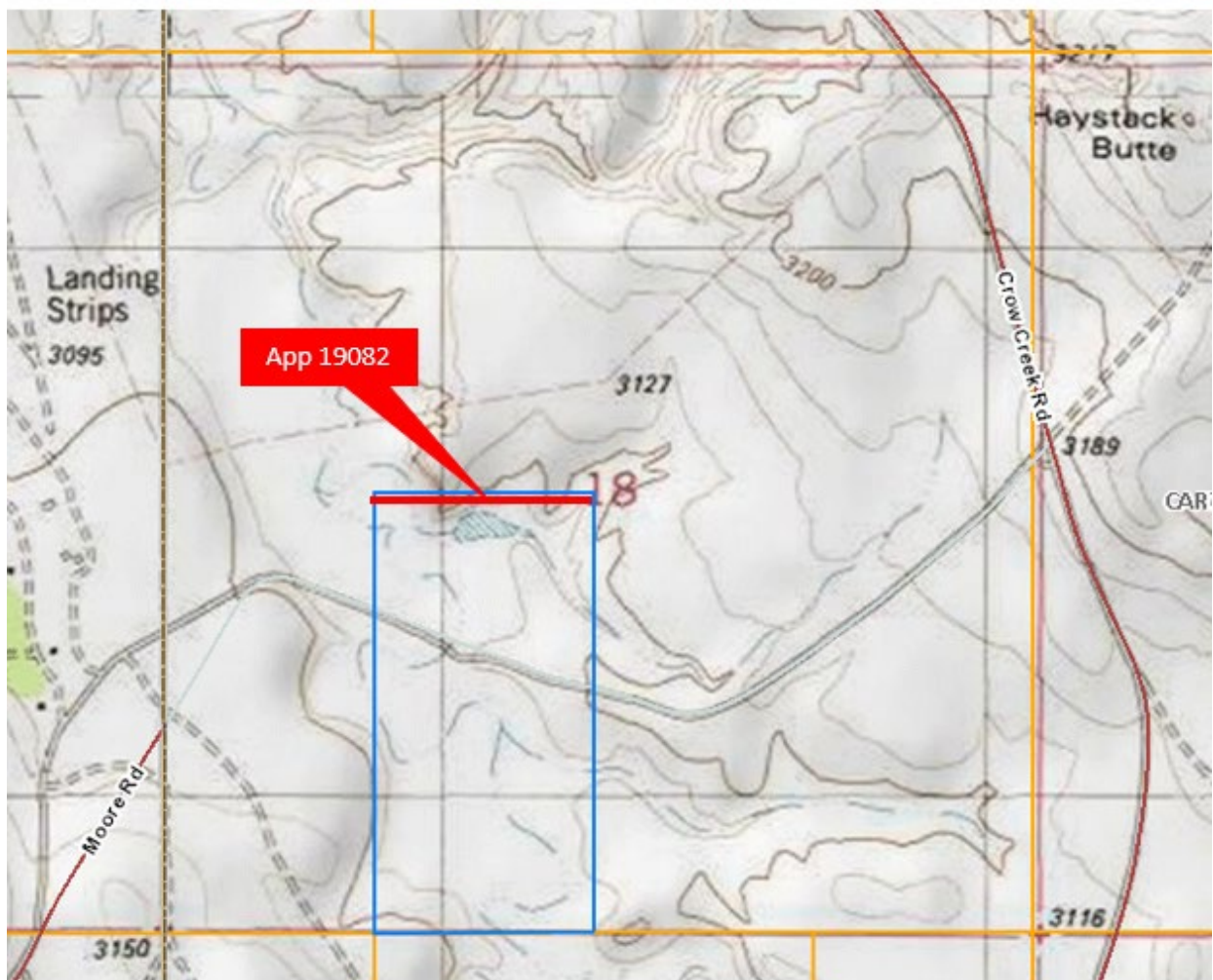
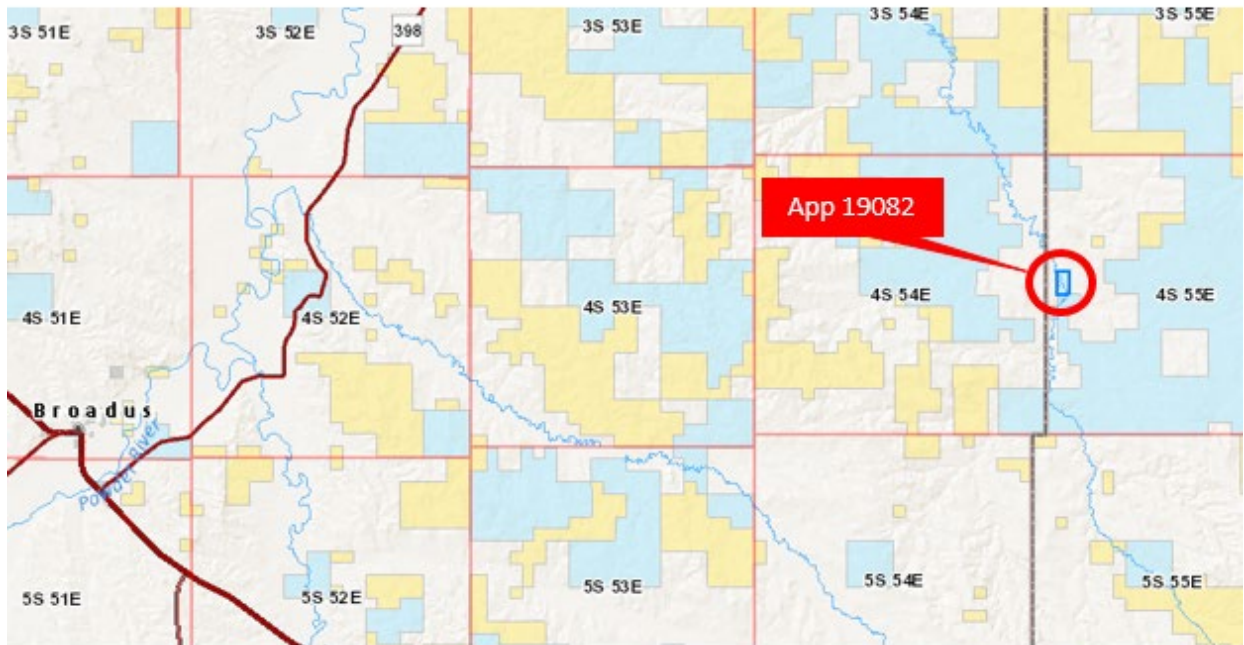
Item Summary

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

DNRC Recommendation

The director recommends approval of this historic right of way for Range Telephone Coop.

R/W Application 19082



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Range Telephone Cooperative. 2325 E. Front St. Forsyth, MT 59327
Application No.:	19083
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	ok
Acreage:	1.78
Compensation:	\$1,068.00
Legal Description:	16-foot strip through NW4NE4, E2NW4, SW4NW4, NW4SW4, Sec. 16, Twp. 1S, Rge. 48E, Powder River County
Trust Beneficiary:	Common Schools

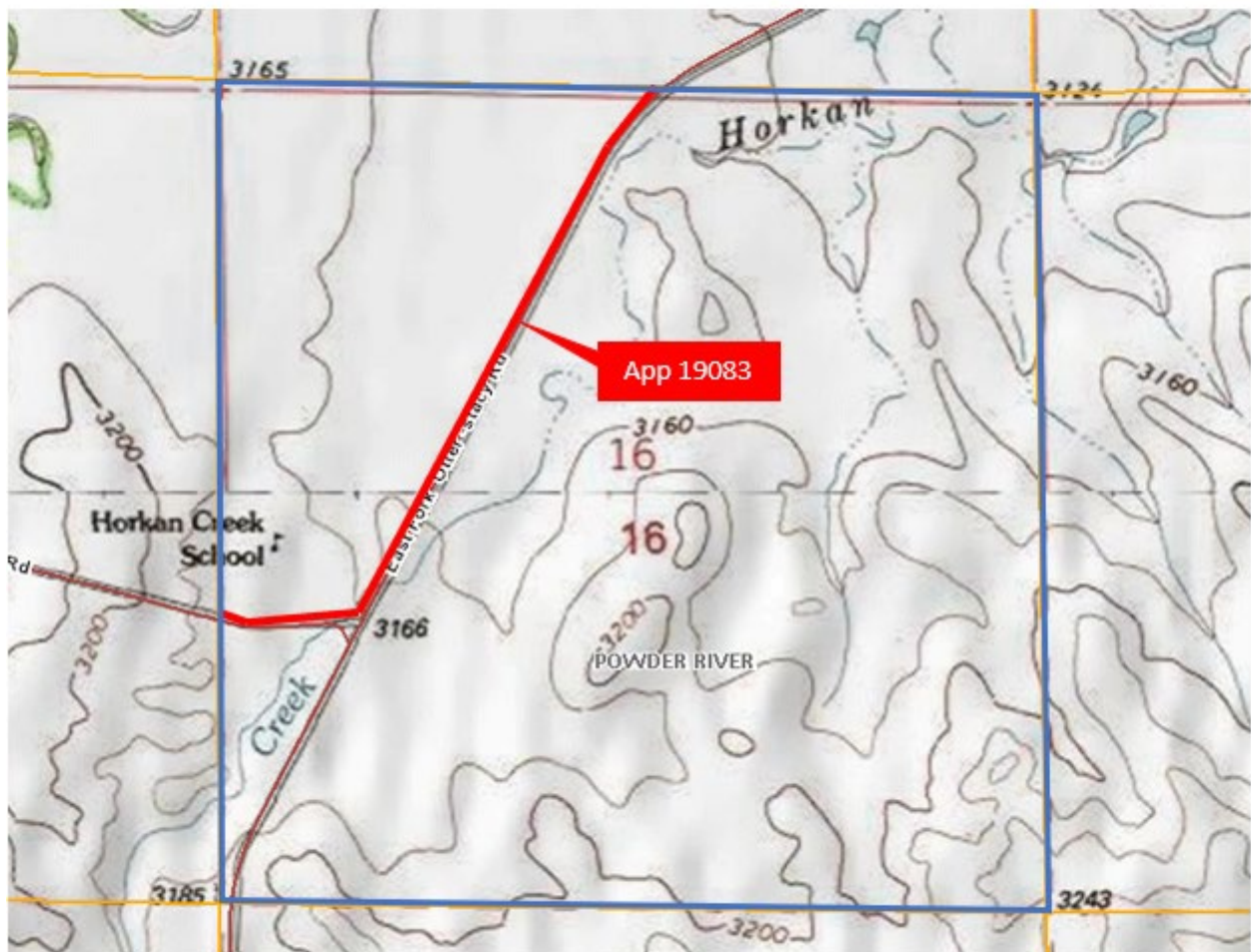
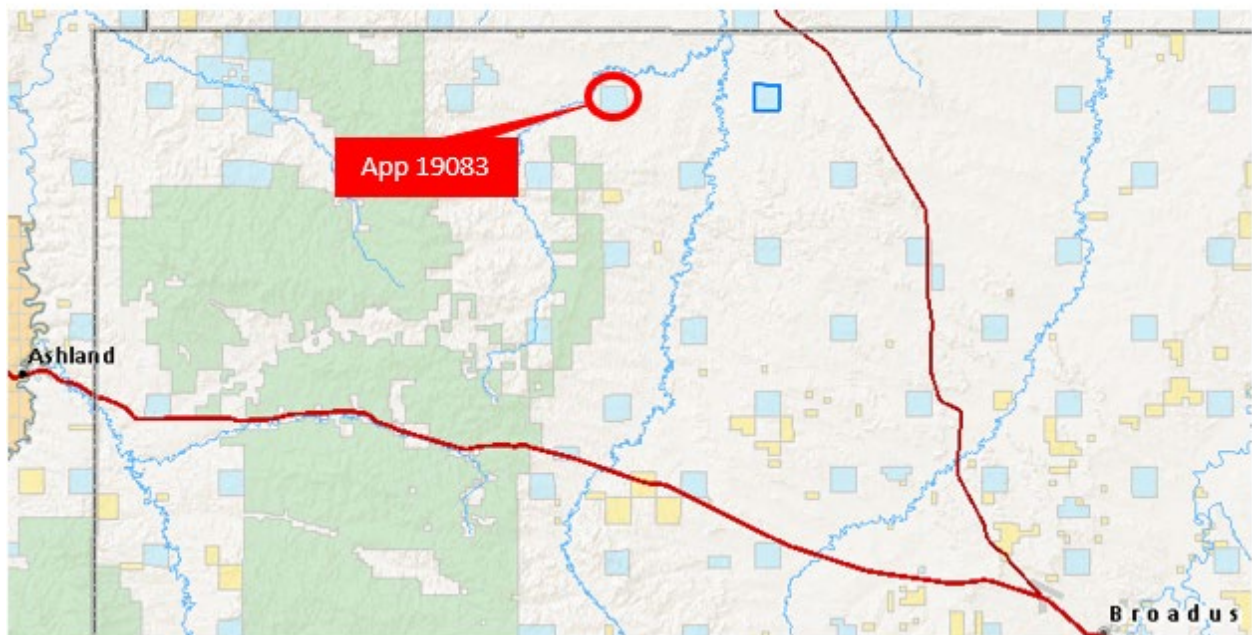
Item Summary

Range Telephone Cooperative is requesting an easement to place a fiber optic cable across State Trust land in rural Powder River County. This easement is part of a 112-mile project to provide upgraded services northwest of Broadus. The cable will be installed using a direct plow method and is located along existing roadways where ground disturbance has previously occurred. The project is within general Sage Grouse habitat and has received approval from The Montana Sage Grouse Oversight Team (MSGOT). Range Telephone has agreed to mitigation, including seasonal construction as outlined in Governor's Execution Orders 12-2015 and 21-2015.

DNRC Recommendation

The director recommends approval of the application of Range Telephone Cooperative.

R/W Application 19083



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Range Telephone Cooperative 2325 E. Front St. Forsyth, MT 59327
Application No.:	19084
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	ok
Acreage:	2.00
Compensation:	\$1,200.00
Legal Description:	16-foot strip through E2E2, Sec. 36, Twp. 1S, Rge. 48E, Powder River County
Trust Beneficiary:	Common Schools

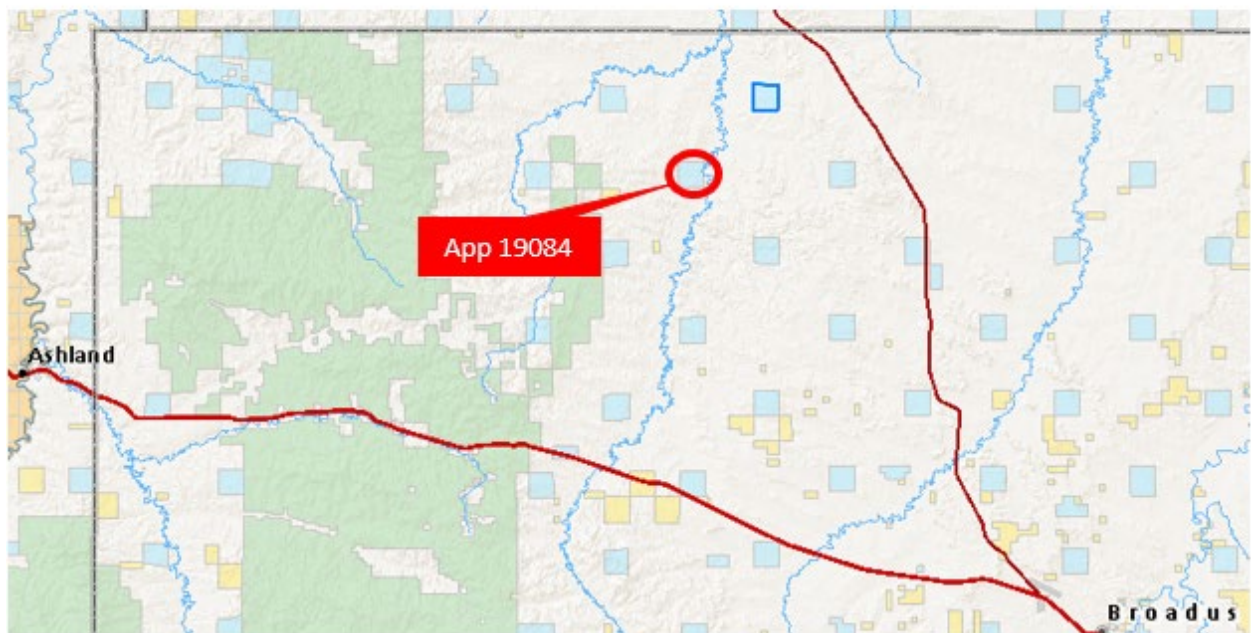
Item Summary

See page 78 for summary.

DNRC Recommendation

See page 78 for recommendation

R/W Application 19084



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Range Telephone Cooperative 2325 E. Front St. Forsyth, MT 59327
Application No.:	19085
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	ok
Acreage:	2.45
Compensation:	\$1,470.00
Legal Description:	16-foot strip through W2E2, and a 16-foot strip through S2SE4, Sec. 16, Twp. 2S, Rge. 51E, Powder River County
Trust Beneficiary:	Common Schools

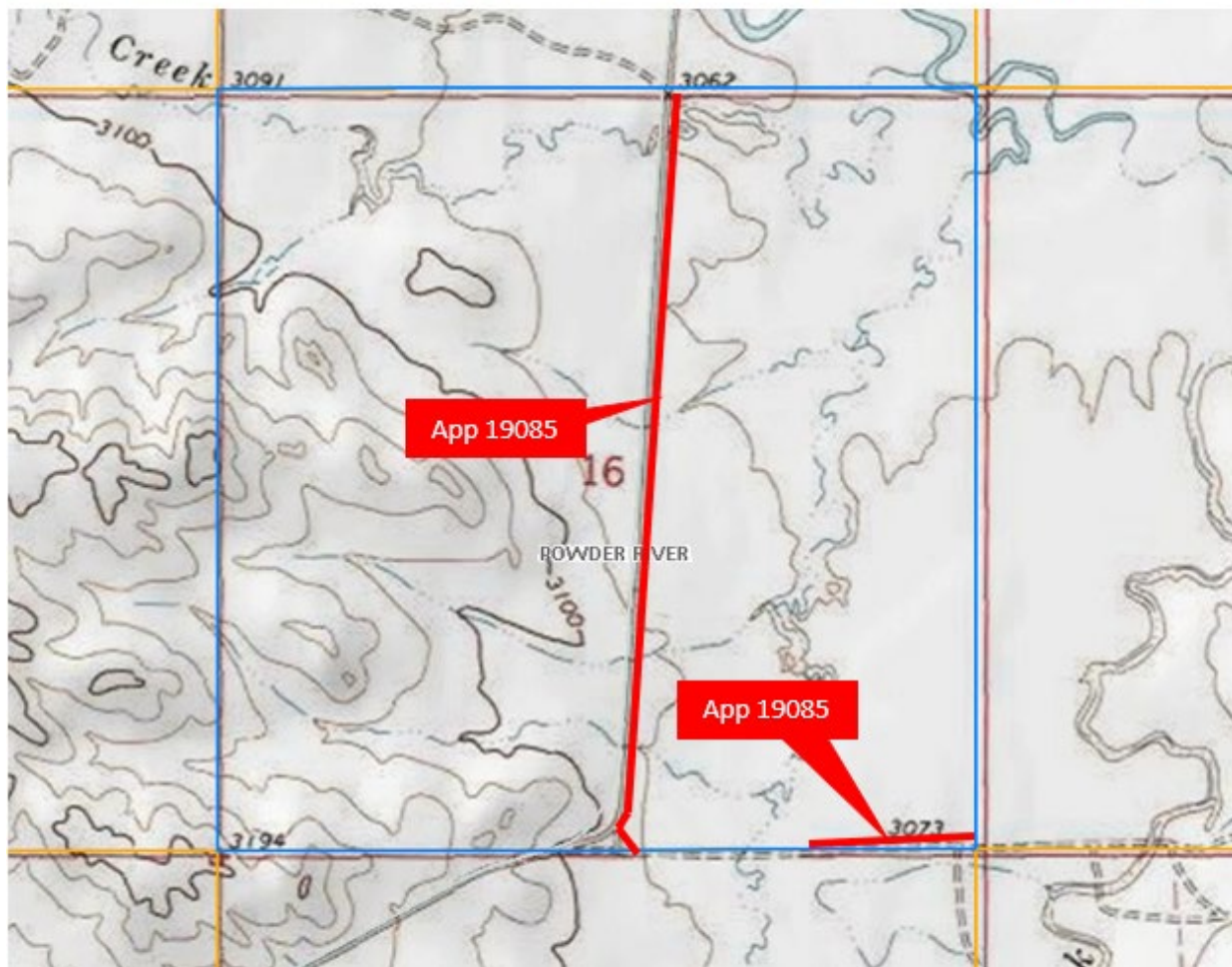
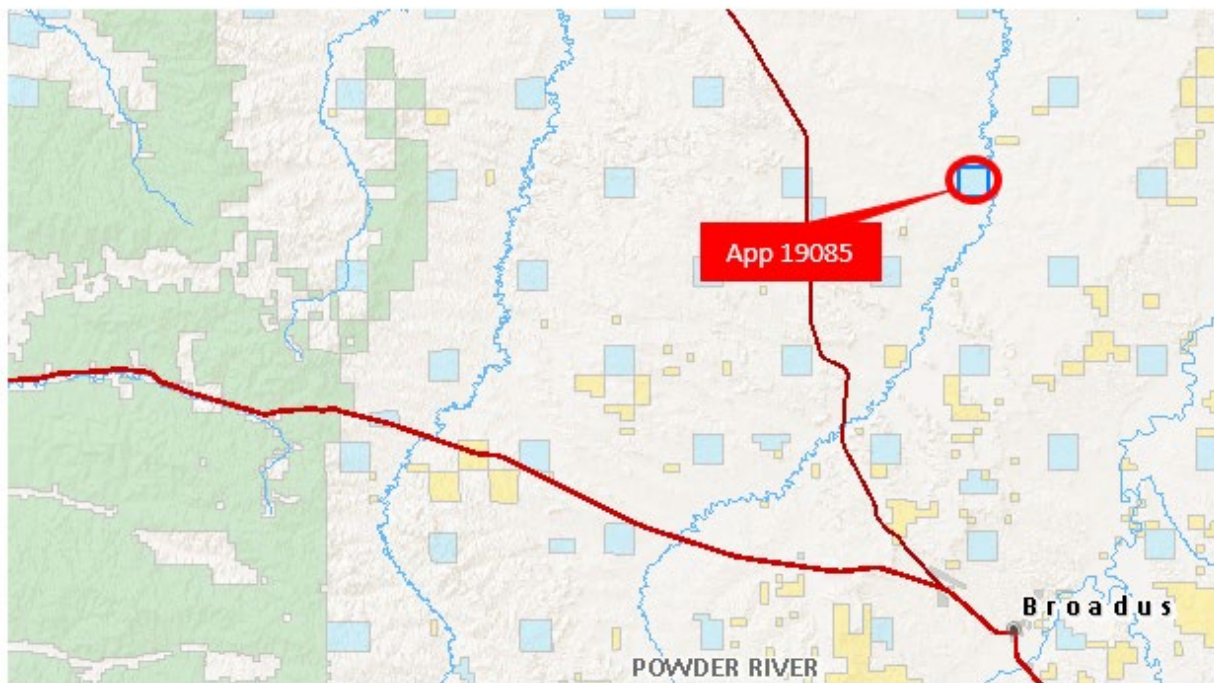
Item Summary

See page 78 for summary.

DNRC Recommendation

See page 78 for recommendation

R/W Application 19085



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Otter Creek Ranch, LLC. PO Box 1147 Bozeman, MT 59771-1147
Application No.:	19086
R/W Purpose:	a private access road to a single-family residence and associated outbuildings and to conduct normal farming, ranching and timber management activities
Lessee Agreement:	N/A (Historic)
Acreage:	2.54
Compensation:	\$3,048.00
Legal Description:	20-foot strip through S2N2, Sec. 36, Twp. 2N, Rge. 14E, Sweet Grass County
Trust Beneficiary:	Common Schools

Item Summary

Otter Creek Ranch LLC. has made application for the use of an existing road to access a single-family residence and associated outbuildings and to conduct normal farming, ranching and timber management activities. The road has been in place for many years and authorization for continued use is being requested pursuant to §77-1-130, MCA, which allows for recognition of such historic access. The State Land is legally accessible through a county road, and therefore reciprocal access is unnecessary. The private property of applicant to be accessed is described as:

- All: Sec. 31, Twp. 2N, Rge. 15E, Sweet Grass County

DNRC Recommendation

The director recommends approval of the application of Otter Creek Ranch, LLC.

R/W Application 19086

