

AGENDA
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
May 15, 2023, at 9:00 a.m.
Supreme Court Chambers, Mazurek Justice Building
Helena, MT

ACTION ITEMS

- 0523-1 Timber Sales:** **APPROVED 5-0**
 A. McKay Creek
 Benefits: Common School Trust
 Location: Sanders County
 B. Short Star
 Benefits: Public Schools (90%), School for the Deaf and Blind (10%)
 Location: Flathead County
 C. West and Pieces
 Benefits: Common School Trust
 Location: Missoula County
 D. Goldielogs
 Benefits: Common School Trust
 Location: Missoula County
- 0523-2 Agriculture and Grazing Leases: Competitive Bid Hearings** **APPROVED 5-0**
 A. Lease No. 3372-Pronghorn Farms (Lessee)/Jeff Lindbolm (Bidder)
 Benefits: Common School Trust
 Location: Sheridan County
 B. Lease No. 3901-Ransan Farmin Inc. (Lessee)/Jeff Lindbolm (Bidder)
 Benefits: Common School Trust
 Location: Sheridan County
 C. Lease No. 3802-Vintage Acres (Lessee)/Red Flames Ranch LLC (Bidder)
 Benefits: Common School Trust
 Location: Chouteau County
 D. Lease No. 9310-Danreuther Aq Inc. (Lessee)/Red Flames Ranch LLC (Bidder)
 Benefits: Common School Trust
 Location: Chouteau County
- 0523-3 Cabin and Home Site Sales: Final Approval for Sale** **APPROVED 4-1**
 Benefits: Common School Trust
 Location: Judith Basin County
- 0523-4 Easements: Standard Grants** **APPROVED 5-0**
 Benefits: Common School Trust, Public Buildings, Public Land Trust
 Location: Flathead, Phillips, Ravalli, and Sheridan Counties
- 0523-5 Land Use License:** **APPROVED 5-0**
 Benefits: Public Land Trust – Navigable Waterways Trust
 Location: Flathead County
- 0523-6 Authority to Begin Rulemaking for Amending Land Board Approval of Issuance of Licenses for Navigable Waterways:** **APPROVED 5-0**
 Benefits: Public Land Trust – Navigable Waterways Trust
 Location: State of Montana

PUBLIC COMMENT

0523-1

TIMBER SALES:

A. McKay Creek

B. Short Star

C. West and Pieces

D. Goldielogs

**Land Board Agenda Item
May 15, 2023**

0523-1A Timber Sale: McKay Creek

Location: Sanders
36 T26N R32W

Trust Beneficiaries: Common Schools

Trust Revenue: \$714,241 (estimated, minimum bid)

Item Summary

Location: The McKay Creek Timber Sale is located approximately 5 miles Southeast of Noxon, Montana.

Size and Scope: The sale includes 10 harvest units (*490 acres*) of tractor and cable logging.

Volume: The estimated harvest volume is 44,780 tons (*7.4 MMBF*) of sawlogs.

Estimated Return: The minimum bid is \$15.95 per ton, which would generate approximately \$714,241 for the Common Schools Trust and approximately \$197,032 in Forest Improvement fees.

Prescription: This sale would utilize a seed tree harvest prescription designed to move stands towards the desired future condition and help mitigate the effect of root rot and dwarf mistletoe.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 4.0 miles of new permanent road construction and 6.2 miles of road maintenance.

Access: Access is obtained through a cost-share road with U.S. Forest Service and a Reciprocal Access Agreement with Stimson Lumber Company.

Public Comments: Two public comments were received. The Sanders County Commissioners commented in support of this timber sale. Thompson River Lumber commented in support of the timber sale and expressed concerns over noxious weed management. DNRC incorporated these concerns into project planning and design.

DNRC Recommendation

The DNRC recommends the Land Board direct DNRC to sell the McKay Creek Timber Sale.

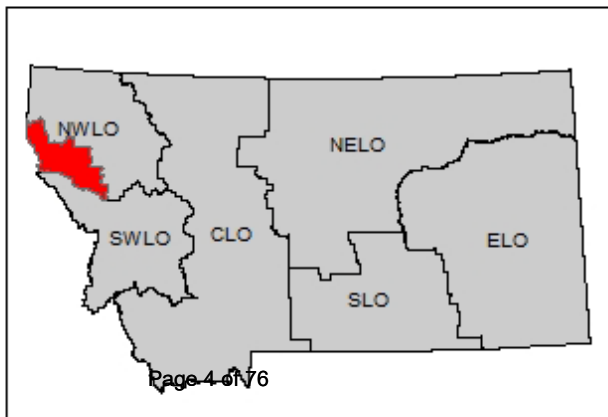
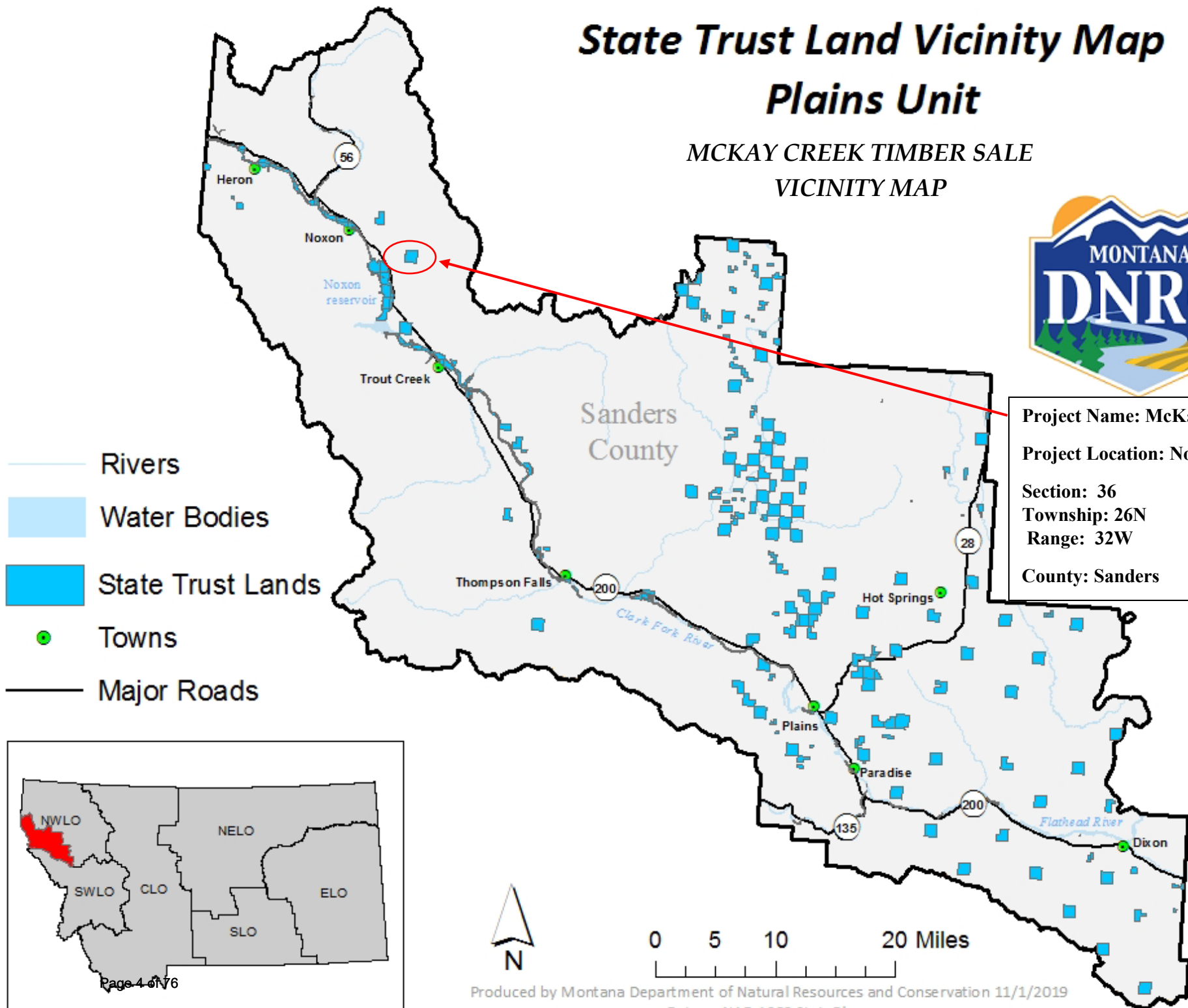
State Trust Land Vicinity Map

Plains Unit

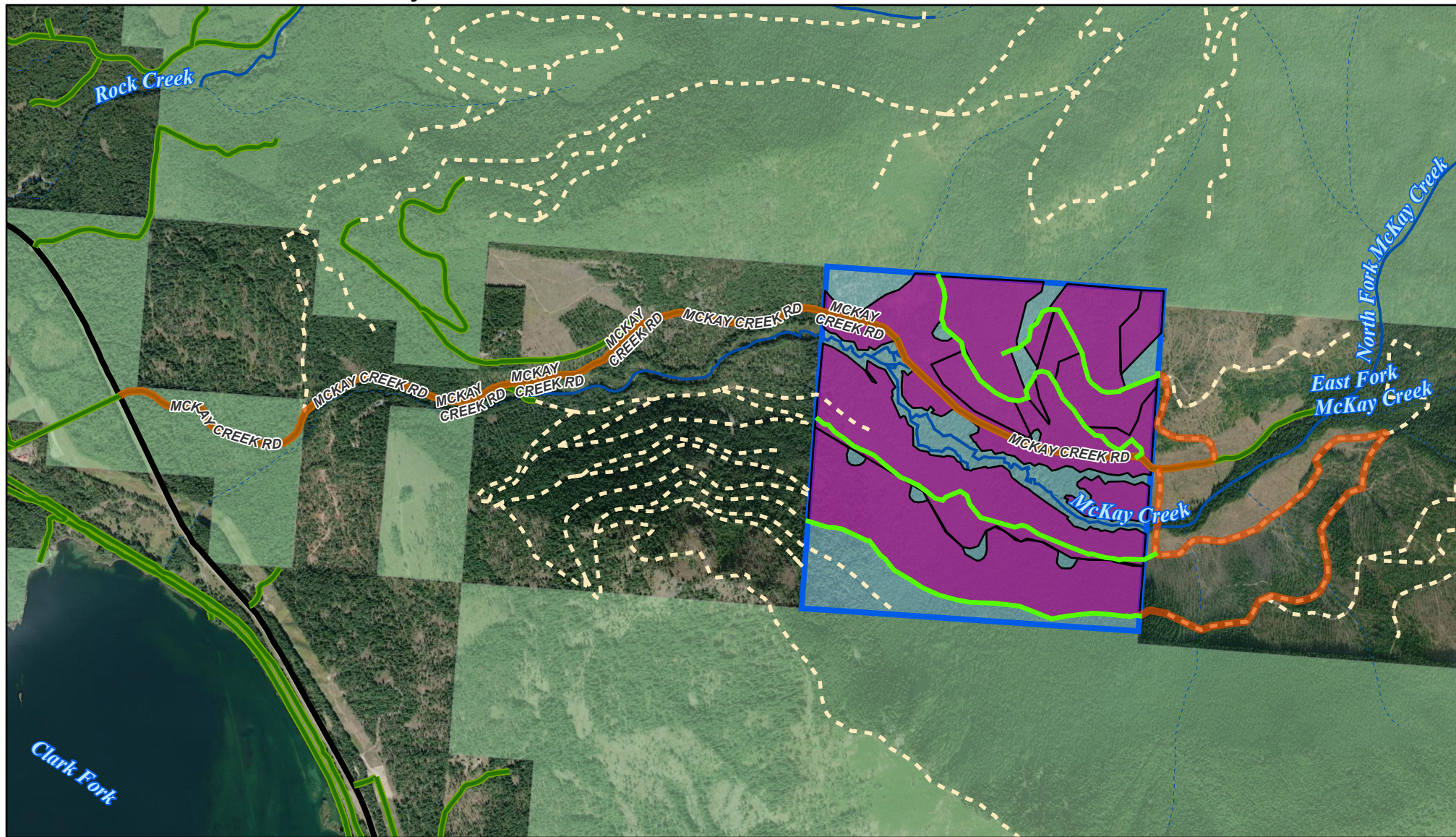
MCKAY CREEK TIMBER SALE
VICINITY MAP



Project Name: McKay Creek
Project Location: Noxon, MT
Section: 36
Township: 26N
Range: 32W
County: Sanders



McKay Creek Timber Sale Harvest Units and Haul Route



- | | | |
|--------------|----------------------|-----------------------------|
| — Haul Route | — Open/Public Roads | — Perennial Stream |
| — New Road | — Restricted Class A | — Intermittent Stream |
| FMB_Roads | — Harvest Units | — US Forest Service |
| — Highway | — DNRCTrust Lands | — Montana State Trust Lands |

0 0.25 0.5 0.75 1 Miles



**Land Board Agenda Item
May 15, 2023**

0523-1B Timber Sale: Short Star

Location: Flathead County
Sections 13, 14, & 24, T31N R24W

Trust Beneficiaries: Public Buildings (90%) and
School for the Deaf and Blind (10%)

Trust Revenue: \$487,032 (estimated, minimum bid)

Item Summary

Location: The Short Star Timber Sale is located approximately 13 miles west of Whitefish, Montana.

Size and Scope: The sale includes 15 harvest units (399 acres) of tractor logging.

Volume: The estimated harvest volume is 19,536 tons (2.9 MMBF) of sawlogs.

Estimated Return: The minimum bid is \$24.93 per ton, which would generate approximately \$487,032 for the Capitol Buildings and the school of the Deaf & Blind Trusts and approximately \$77,753 in Forest Improvement fees.

Prescription: This sale would utilize commercial thinning, seed tree, shelterwood and overstory removal harvest prescriptions designed to enhance the vigor of stands, address insect and disease issues, and establish regeneration.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 0.6 miles of road reconstruction and 6.4 miles of road maintenance.

Access: Access is obtained through county roads.

Public Comments: Five comments were received. Two comments were received from industry representatives and one comment from a neighboring landowner expressed support for the project. One comment from another neighboring landowner expressed concern about the streamside management zone, water quality, roads, noxious weeds and harvest treatments. A representative from Blackfeet tribe expressed no concern with the project. All concerns were addressed in the Environmental Assessment document.

DNRC Recommendation

The DNRC recommends the Land Board direct DNRC to sell the Short Star Timber Sale.

State Trust Land Vicinity Map

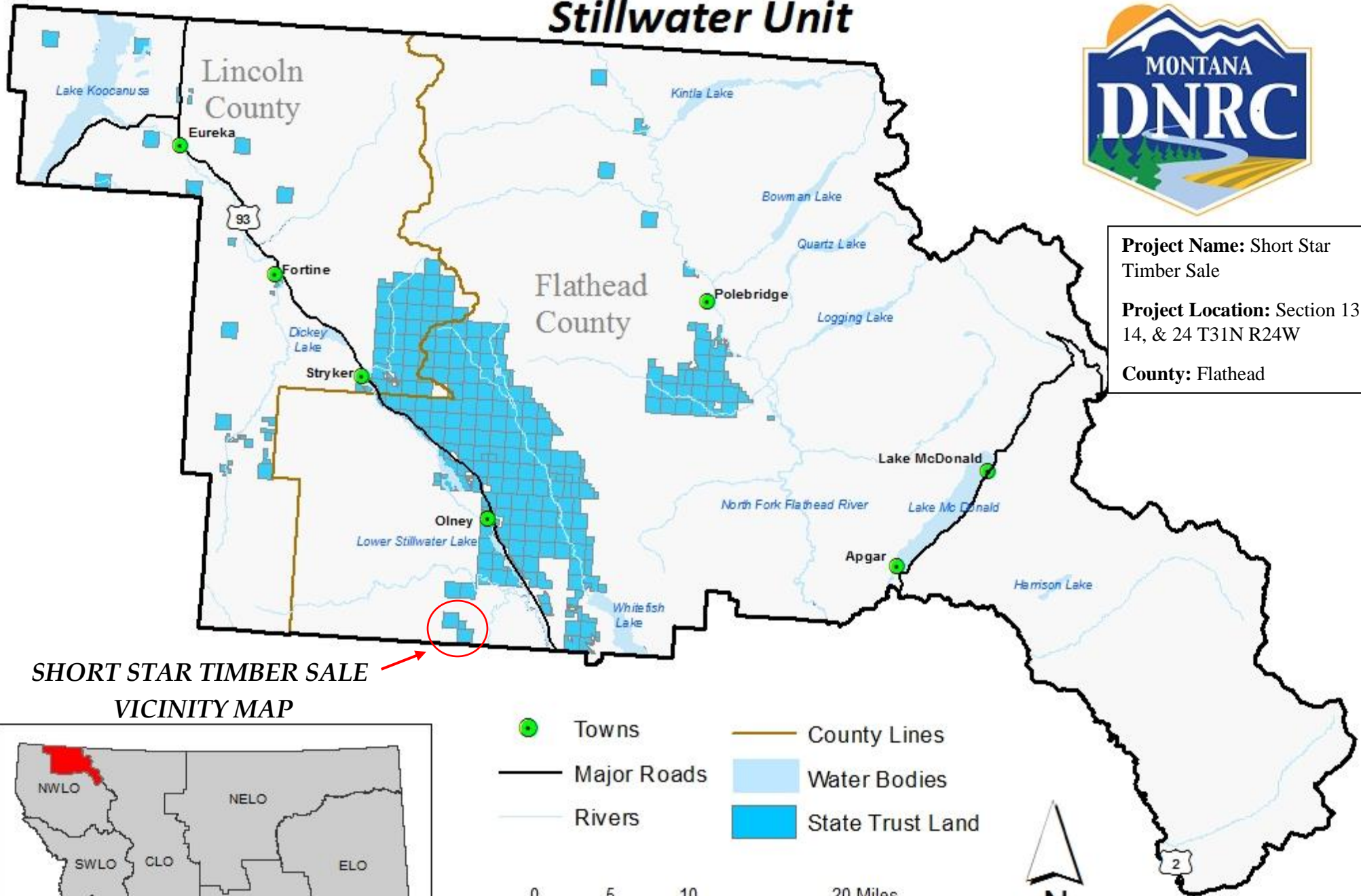
Stillwater Unit



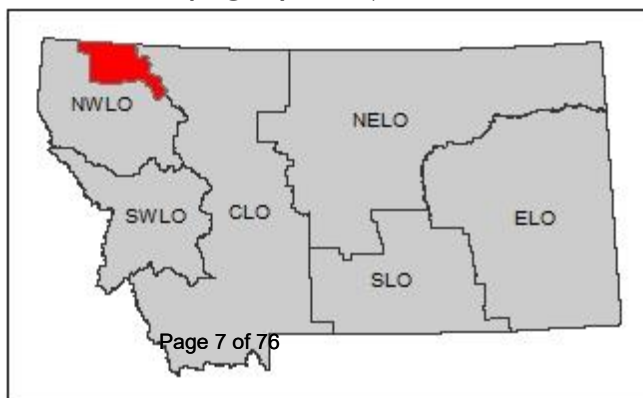
Project Name: Short Star
Timber Sale

Project Location: Section 13,
14, & 24 T31N R24W

County: Flathead



**SHORT STAR TIMBER SALE
VICINITY MAP**



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

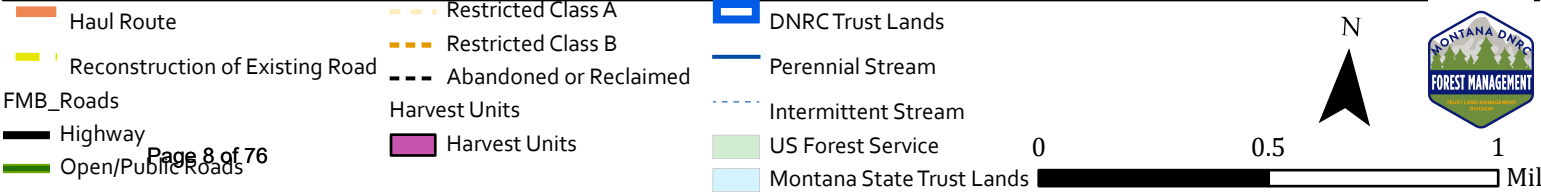
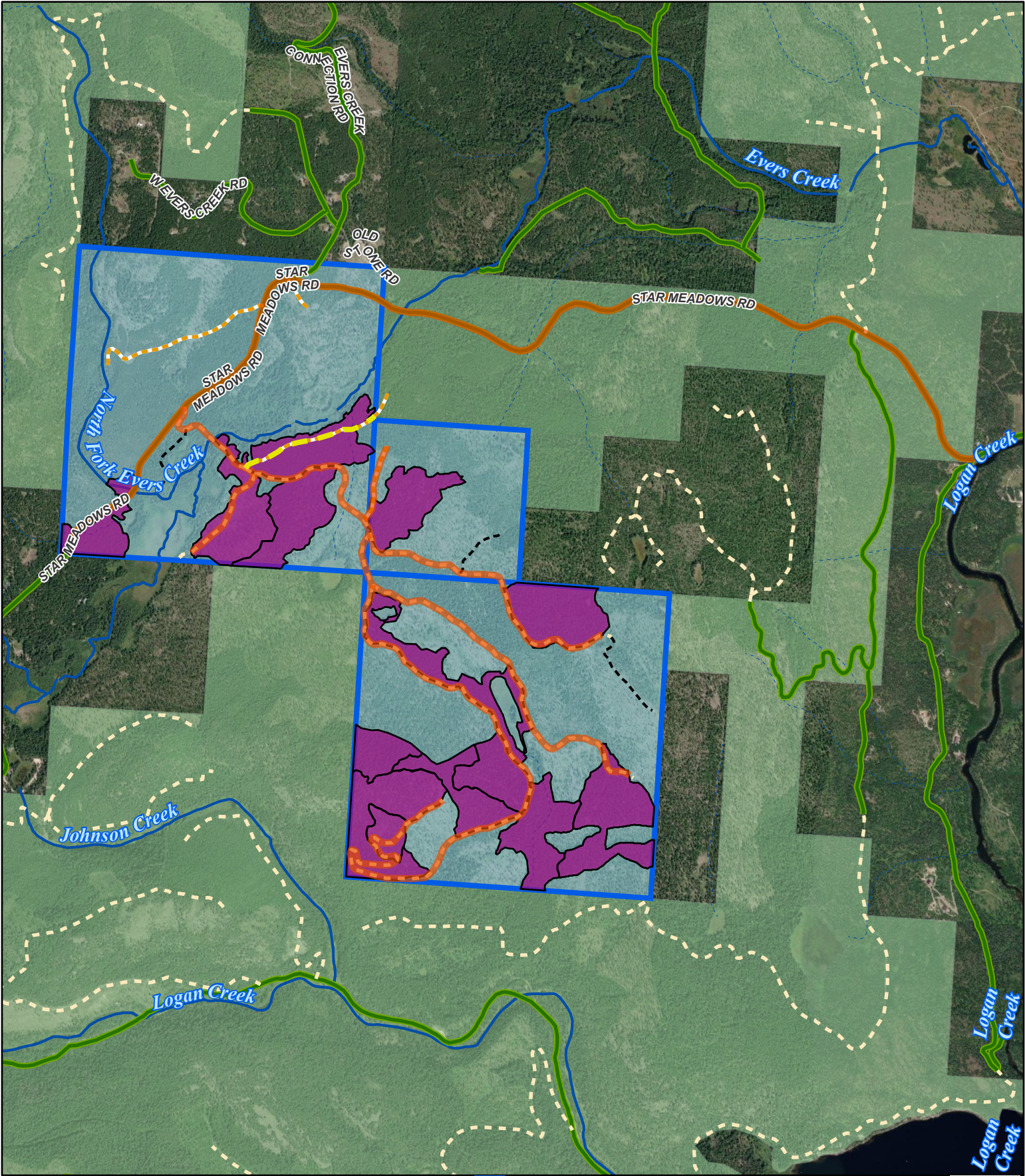
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Produced by Montana Department of Natural Resources and Conservation 11/1/2019

Datum: NAD 1983 StatePlane

Short Star Timber Sale Haul Route and Harvest Units



**Land Board Agenda Item
May 15, 2023**

0523-1C Timber Sale: West and Pieces

Location: Missoula County
Section 36, T16N, R16W

Trust Beneficiaries: Common School Trust

Trust Revenue: \$115,939 (estimated, minimum bid)

Item Summary

Location: The West and Pieces Timber Sale is located approximately 4 miles southwest of Seeley Lake, Montana.

Size and Scope: The sale includes 8 harvest units (*246 acres*) of ground-based logging.

Volume: The estimated harvest volume is 7,719 tons (*1.162 MMBF*) of sawlog.

Estimated Return: The minimum bid is \$15.02 per ton, which would generate approximately \$115,939 for the Common School Trust and approximately \$25,308 in Forest Improvement fees.

Prescription: This sale would utilize shelterwood, sanitation, and overstory removal harvest prescriptions designed to address insect and disease issues and to promote general forest health.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 0.15 miles of new permanent road construction and 7.24 miles of road maintenance.

Access: Access is obtained through an existing easement with Plum Creek Timber Company.

Public Comments: One public comment was received from a nearby land caretaker concerned about aesthetics, roads, water quality and sedimentation, and wildlife. DNRC addressed all concerns within the Environmental Assessment.

DNRC Recommendation

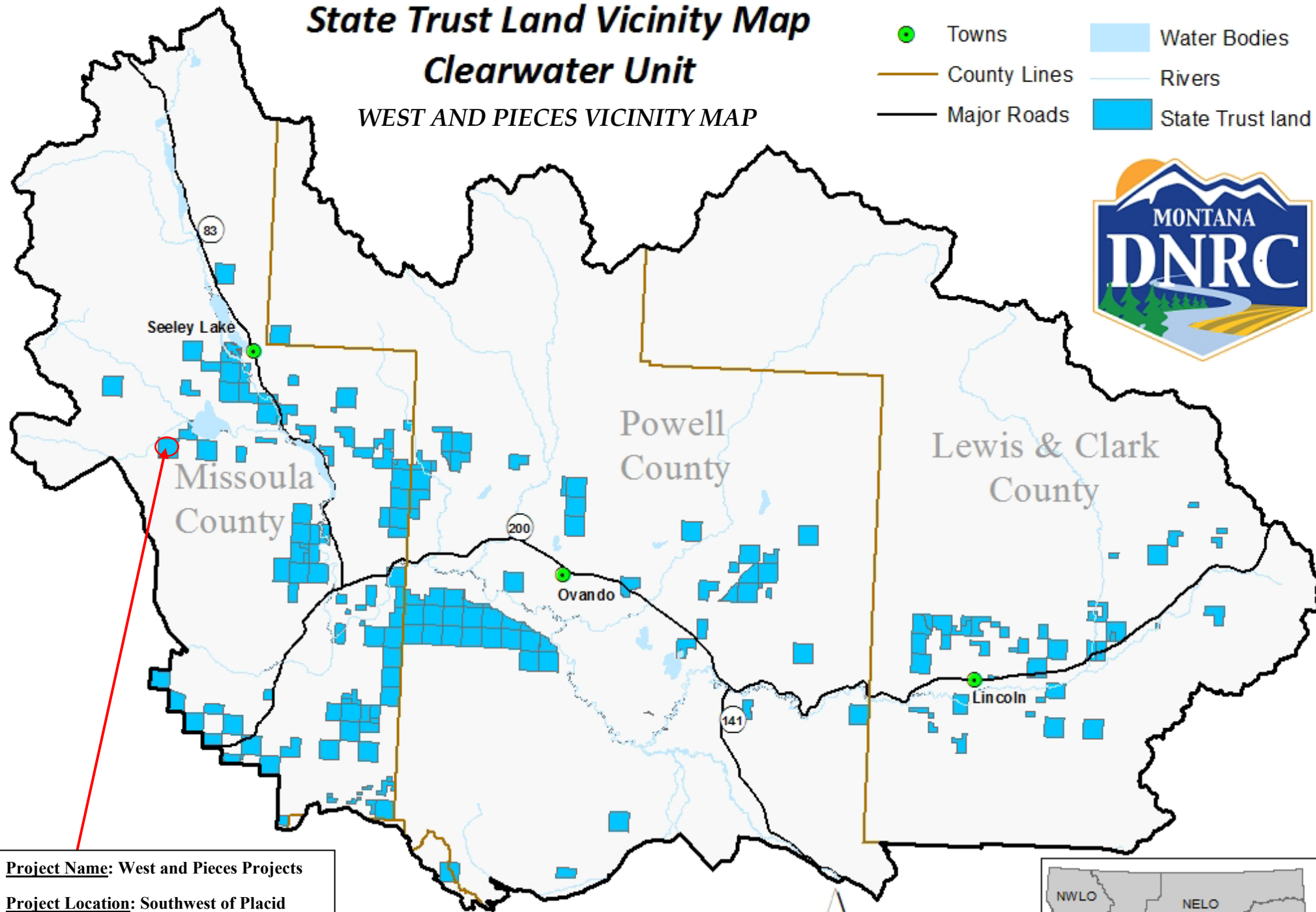
The DNRC recommends the Land Board direct DNRC to sell the West and Pieces Timber Sale.

State Trust Land Vicinity Map

Clearwater Unit

WEST AND PIECES VICINITY MAP

- Towns
- County Lines
- Major Roads
- Water Bodies
- Rivers
- State Trust land



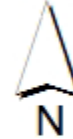
Project Name: West and Pieces Projects

Project Location: Southwest of Placid Lake

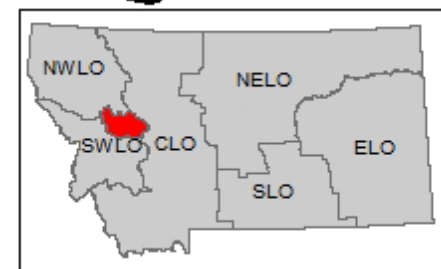
Section: 36, Township: 16N, Range: 16W

County: Missoula

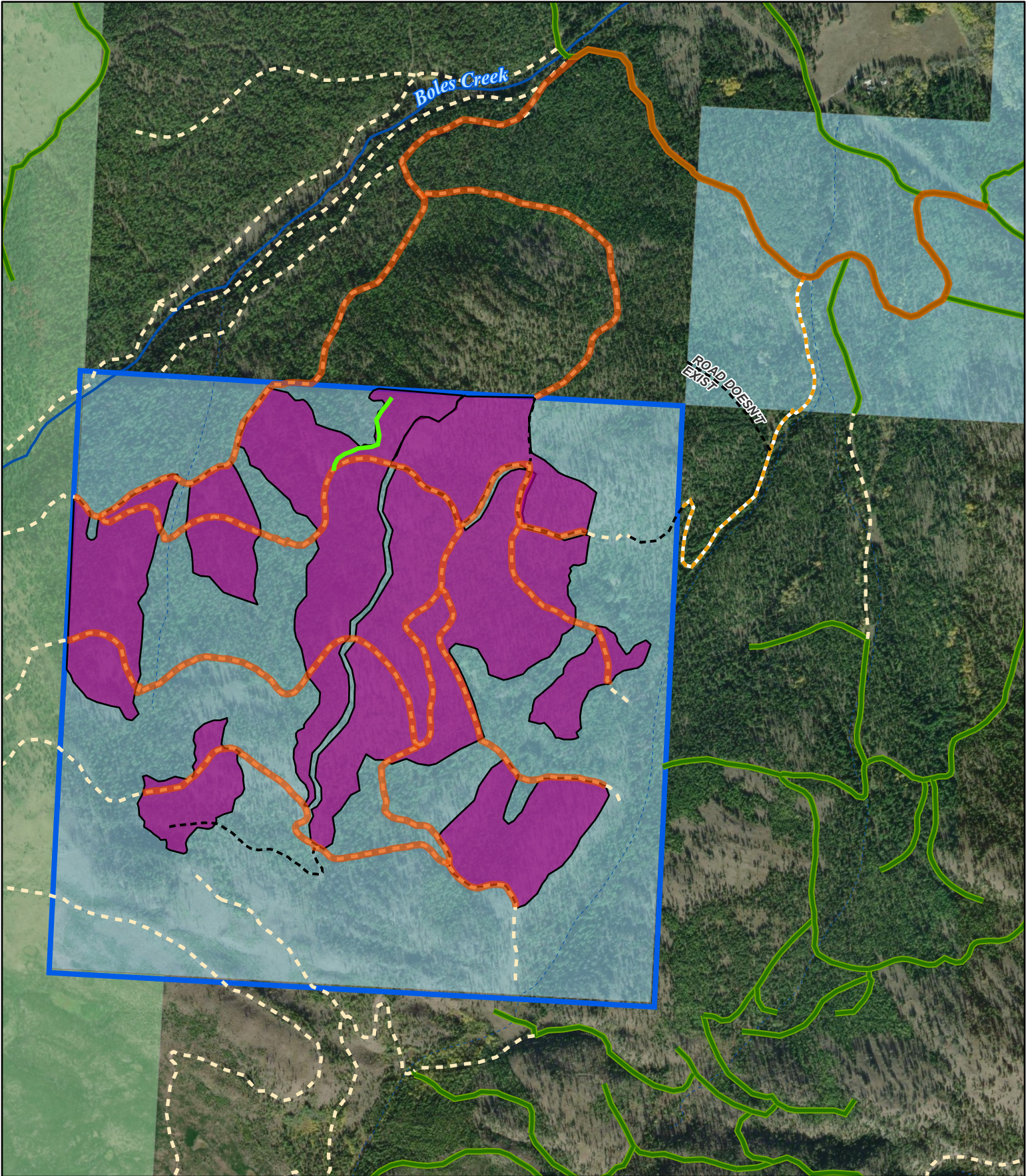
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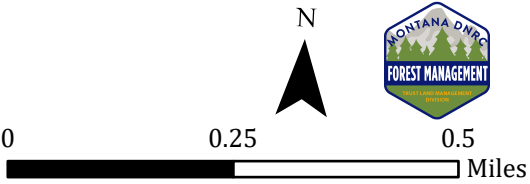
Produced by Montana Department of Natural Resources and Conservation 11/1/2019
Datum: NAD 1983 StatePlane



West and Pieces Timber Sale Haul Route and Harvest Units



- Haul Route
- New Road
- FMB_Roads
- Highway
- Open/Public Roads
- Restricted Class A
- Restricted Class B
- Abandoned or Reclaimed
- Harvest Units
- Harvest Units
- DNRC Trust Lands
- Perennial Stream
- Intermittent Stream
- US Forest Service
- Montana State Trust Lands



**Land Board Agenda Item
May 15, 2023**

0523-1D Timber Sale: Goldielogs

Location: Missoula County
Section 36 T14N R17W

Trust Beneficiaries: Common Schools

Trust Revenue: \$169,204 (estimated, minimum bid)

Item Summary

Location: The Goldielogs Timber Sale is located approximately 15 aerial miles east of Missoula, Montana.

Size and Scope: The sale includes 4 harvest units (*497 acres*) of ground based and skyline logging.

Volume: The estimated harvest volume is 17,301 tons (*2.9 MMBF*) of sawlogs.

Estimated Return: The minimum bid is \$9.78 per ton, which would generate approximately \$169,204 for the Common Schools Trust and approximately \$64,360 in Forest Improvement fees.

Prescription: This sale would utilize an Individual Tree Selection harvest prescription designed to generate revenue for the trust, reduce fuel load, and improve stand health and vigor by promoting natural regeneration and addressing insect and disease issues.

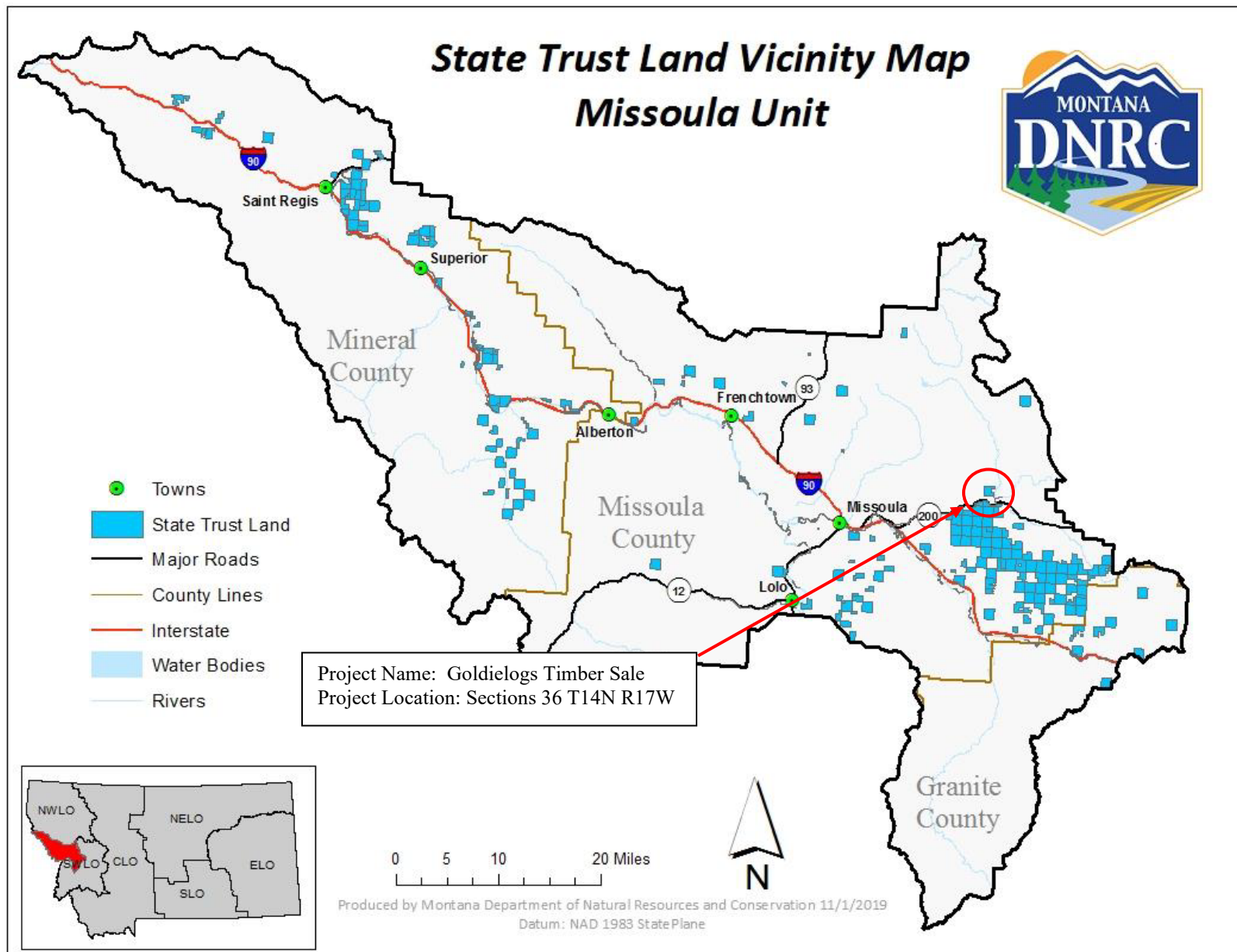
Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 0.5 miles of new permanent road construction, 0.5 miles of temporary road construction, 0.7 miles of reconstruction, and 6.8 miles of road maintenance.

Access: Access is obtained through cost share roads with the U.S. Forest Service and an existing easement with a local landowner.

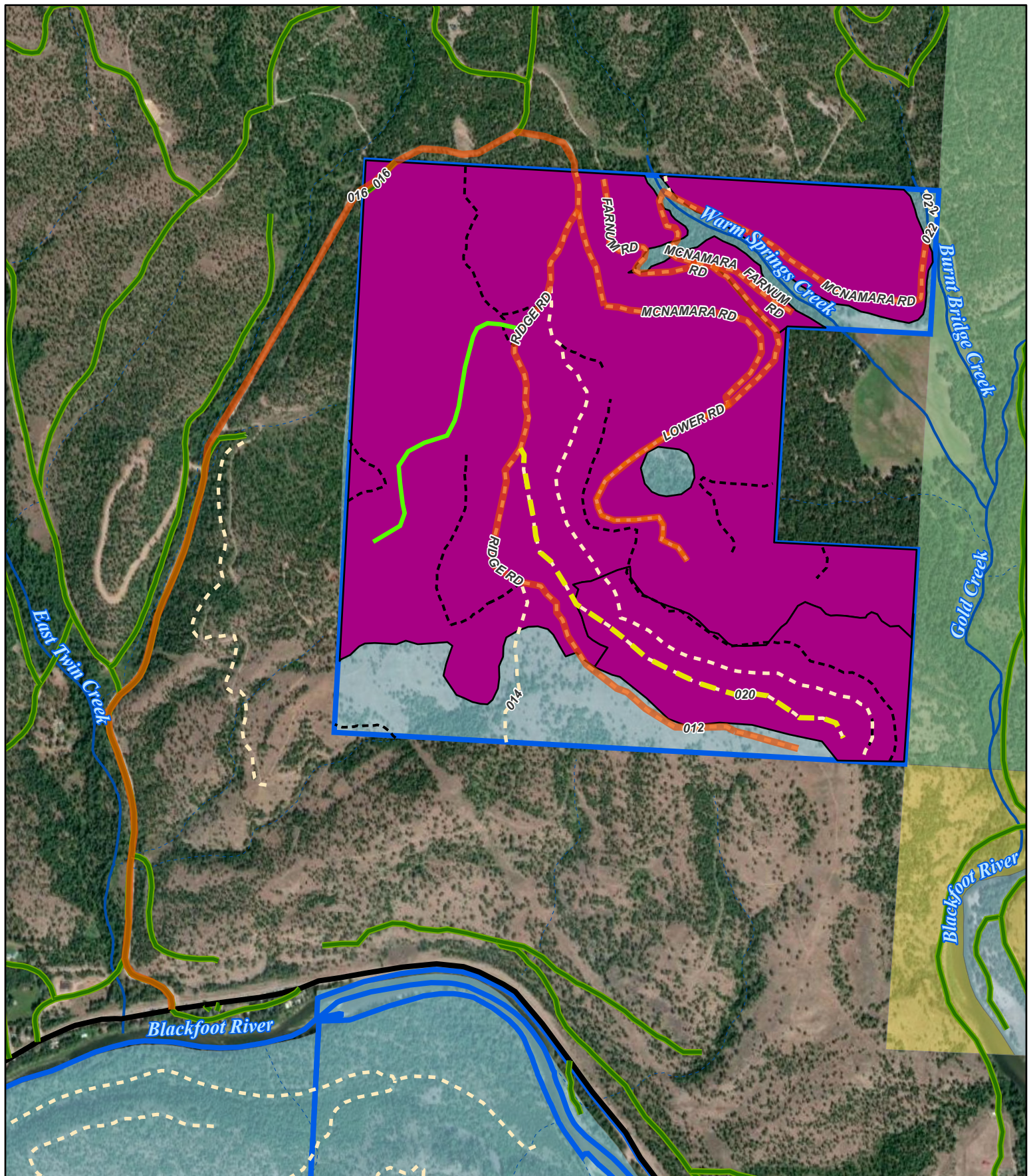
Public Comments: Eighteen public comments were received. One comment from an industry representative and three comments from local residents expressed support for the project. Fourteen comments from local residents, recreationalists, and non-profit organizations expressed concern about wildlife, vegetation, harvest prescriptions, recreation, educational values, economics, old growth, roads, soils, weeds, climate change and cumulative effects. All public concerns were addressed directly with the individual or within the Environmental Assessment (EA). All public comments and DNRC responses are available in Attachment B of the EA. On May 3, 2023, DNRC met at the project area with two commenters who requested an on-site visit to clarify and resolve additional questions they had about the proposed project.

DNRC Recommendation

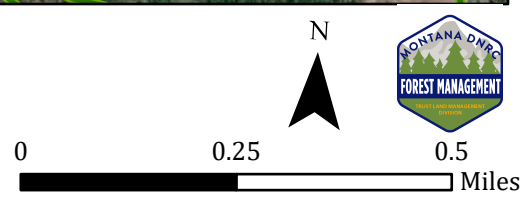
The DNRC recommends the Land Board direct DNRC to sell the Goldielogs Timber Sale.



Goldielogs Timber Sale Haul Route and Harvest Units



- | | | |
|---|--|---|
| — Haul Route | — Open/Public Roads | — Perennial Stream |
| — New Road | - - - Restricted Class A | - - - Intermittent Stream |
| — Reconstruction of Existing Road | - - - Restricted Class B | Bureau of Land Management |
| - - - Abandoned or Reclaimed | Harvest Units | US Forest Service |
| = DNRC Trust Lands | State of Montana Misc. | Montana State Trust Lands |



0523-2

AGRICULTURE AND GRAZING LEASES:

Competitive Bid Hearings

A. Lease No. 3372 - Pronghorn Farms (Lessee)

Jeff Lindbolm (Bidder)

B. Lease No. 3901 - Ransan Farmin Inc (Lessee)

Jeff Lindbolm (Bidder)

C. Lease No. 3802 - Vintage Acres (Lessee)

Red Flame Ranch LLC (Bidder)

D. Lease No. 9310 - Danreuther Ag Inc. (Lessee)

Red Flame Ranch LLC (Bidder)

0523-2 Agriculture and Grazing Leases: Competitive Bid Hearings

A. Lease No. 3372 – Pronghorn Farms (Lessee)/Jeff Lindblom (Bidder)

Location: Sheridan County

Trust Benefits: Common Schools

Trust Revenue: \$16,438.40 Annually

B. Lease No. 3901 – Ransan Farmin Inc. (Lessee)/Jeff Lindblom (Bidder)

Location: Sheridan County

Trust Benefits: Common Schools

Trust Revenue: \$15,554.00 Annually

C. Lease No. 3802 – Vintage Acres (Lessee)/Red Flame Ranch LLC (Bidder)

Location: Chouteau County

Trust Benefits: Common Schools

Trust Revenue: \$5,400.00 Annually

D. Lease No. 9310 – Danreuther Ag Inc. (Lessee)/Red Flame Ranch LLC (Bidder)

Location: Chouteau County

Trust Benefits: Common Schools

Trust Revenue: \$3,180.00 Annually

Item Summary

On April 12 & 13, 2023 the Department of Natural Resources and Conservation held Competitive Bid Hearings for State of Montana Agricultural and Grazing Lease No's. 3372, 3901, 3802 & 9310 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 #3372 – The Director recommends the lease be issued to the existing lessee at \$55.00/acre.

Lease #3901 – The Director recommends the lease be issued to the bidder at a rate of 35% crop share with a \$55/acre guarantee, whichever is greater.

Lease #3802 – The Director recommends the acreage in section 36 be issued to the existing lessee at \$40/AUM and 25% crop share and the 40 acres in section 27 be issued to the bidder at \$100/AUM and 25% crop share.

Lease# 9310 – The Director recommends the lease be issued to the existing lessee at \$40/acre.

2023 AGRICULTURE AND GRAZING COMPETITIVE BID HEARINGS

Findings and Recommendation to the Montana Board of Land Commissioners For Agricultural and Grazing Lease Nos. 3372, 3901, 3802 and 9310.

Amanda Kaster, Director

Montana Department of Natural Resources and Conservation

May 15, 2023



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

A. Competitive Bid Hearing Process

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 of 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. 2023 Competitive Bid Hearings Overview

In 2023, the Director granted four requests for competitive bid hearings. The hearings were conducted on April 12 & 13, 2023, 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 2022 private grazing rate survey and information from Montana State University (MSU) 2022 Montana state-wide and Sheridan and Chouteau County agriculture per acre cash lease rates.

Present at the hearings were: the Lessees; the High Bidders; DNRC Director Amanda Kaster; Trust Lands and Forestry Management Division Administrator Shawn Thomas; Trust Lands Deputy Division Administrator Ryan Weiss; Agriculture and Grazing Management Bureau Chief Kelly Motichka; DNRC Attorney, Cameron Boster; Northeastern Area Manager Clive Rooney, Glasgow Unit Manager Matt Poole for Lease #'s 3372 & 3901; Lewistown Unit Manager Jocce Hedrick for Lease #'s 3802 & 9310; Lewistown Unit Land Use Specialist Dustin Lenz for Lease #'s 3802 & 9310; . Also present was DNRC Attorney Jason Kampman as well as several DNRC Ag & Grazing Bureau employees and staffers for the Land Board who attended the hearings in an observational capacity via Zoom.

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 Ten – Year Bid Average for Sheridan County being \$23.20/AUM and Chouteau County being \$19.76.
2. The Montana Agricultural Statistics Statewide Service Report of Grazing Fee Rates for private leases in Montana reporting an average rate of \$27.00/AUM for 2022.
3. The Montana State University (MSU) statewide agricultural per acre lease rates of

\$37.50/acre for 2022, Sheridan County at \$40.50/acre for 2022 and Chouteau County at \$34.50/acre for 2022.

4. 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. 3372

County: Sheridan

Lessee: Pronghorn Farms

High Bidder: Jeff Lindblom

Hearing Time: Wednesday, April 12, 2023 @ 8:30 a.m.

Tracts: T36N R54E S16: N2 – 320 acres – Common School Grant

Agriculture Acres: 298.88

Unsuitable Acres: 21.01

High Bid: 35% crop share with a \$55/acre guarantee, whichever is greater

Other Bids: None

Previous Rental: Minimum with a \$30/acre cash lease agreement

Prevalent Community Rental Information:

State Land Sheridan County Bid Averages: 34% crop share & \$28.50/acre

Montana State University (MSU) statewide agricultural per acre lease rates of \$37.50/acre and Sheridan County \$40.50/acre for 2022.

A. Findings

The Lessee, Pronghorn Farms (Blake Rasmussen), appeared and testified by Zoom. The High Bidder, Jeff Lindblom, also appeared and testified by Zoom. All parties provided testimony under oath.

The state lease is approximately 3 miles west of Raymond, MT. It contains 298.88 acres of agriculture land. The tract is accessible by Soo Line Road in the Northeast corner of the tract.

Prior to the hearing, Lessee Rasmussen provided a narrative report covering the nine criteria of ARM 36.25.117(9)(b), which the Director made part of the record.

At the start of Mr. Blake Rasmussen's testimony, he outlined his main arguments and concerns with the high bid that Mr. Lindblom submitted. Mr. Rasmussen claimed that the bid Mr. Lindblom submitted was excessive, above community standards, and detrimental to the community and the long-term health of the leased school trust land.

To support his argument, Mr. Rasmussen first explained that a 35% crop share rate was excessive, above community standards, and detrimental to the long-term productivity of the Lease. Mr. Rasmussen explained that due to modern farming conditions, the input costs of growing valuable crops like chickpeas, lentils, or canola have significantly increased. Because of increased input costs, small profitably margins for crop share leases are rendered even smaller.

Mr. Rasmussen also noted that crop share leases in his community are typically designed so that the lessor of the land shares input costs. The State of Montana does not share input costs with lessees, which makes crop-share lease arrangements less profitable than other crop-share leases

in Mr. Rasmussen's community. Mr. Rasmussen testified that he is aware of 33% and 25% crop-share leases in his community, but that in both cases, the lessor shares input costs with the lessee.

Mr. Rasmussen also testified that the high cost and narrow profitability margins of crop-share leases drive lessee decisions about which crops to grow. Mr. Rasmussen stated that valuable crops like chickpeas, which have high input costs, are less likely to be grown than less valuable crops like lentils or durum wheat, which have lower input costs.

Mr. Rasmussen then testified about why Mr. Lindblom's \$55/acre cash lease guarantee bid was excessive and above community standards. Mr. Rasmussen stated that his cash lease agreements with other Lessors range between \$35 to \$45 an acre, depending on the quality of soil and the availability of bin storage on the lease. In Mr. Rasmussen's opinion, the ground underlying this lease is average, and the State should impose an average rent.

Mr. Rasmussen also offered testimony regarding the Lessee's history of investing in the productivity of the Lease. Mr. Rasmussen described the Lessee's efforts to reclaim and restore five oil sites and associated roads on the lease. He also stated the Lessee had applied BioSul to the Lease, which will enhance the quality of the soil on the Lease for several years. Mr. Rasmussen also noted the Lease has been held by his family since 1913, and that they have always enjoyed a good relationship with the State.

Mr. Lindblom testified that his \$55/acre bid is comparable to what he pays for similar ground in the same area as the leased land. According to Mr. Lindblom, the average per-acre rent he pays for ground in the same is \$57.35, which is slightly greater than the bid he submitted. Although Mr. Lindblom noted he was "putting himself out there at \$55," he stated he was not concerned because the rent is comparable to what he already pays for other leased ground.

Mr. Lindblom agreed with Mr. Rasmussen that the crop-share arrangement offered by the State is not ideal, due to the State not sharing input costs.

Mr. Lindblom indicated that the lease is two miles from his house and next to other ground he rents, so it would be easy to manage. Although he has not farmed the soil, Mr. Lindblom indicated he believes it is good ground. He stated that he believed his offered bid represented a good business decision, and that he was confident he would not lose money on the arrangement.

In response to a question from Mr. Rasmussen, Mr. Lindblom also indicated that high input costs would not influence his decision to grow high-input crops like chickpeas as part of his crop rotation.

During Mr. Rasmussen's closing statement, he repeated that he believes crop-share arrangements are generally detrimental to school trust land. He noted that although the \$55/acre bid was probably fair, including crop-share arrangements in these leases leads to Lessees cheating the State. He also noted that growing a good crop is what's best for the soil.

During Mr. Lindblom's closing statement, he indicated that the 33% crop share bid will make it more difficult to make money off the lease. Despite these difficulties, Mr. Lindblom asserted that

he believes there is still money to be made, and his bid is reasonable.

DNRC agrees that with current day farming practices, privately held leases are generally based on a cash lease rate. Any crop share leases at a rate above 25% typically involve landowner share of the input costs. DNRC does not share in any input costs. Both parties agreed in their testimony that the rate of \$55.00/acre was fair without the crop share component. DNRC is required to competitively bid agriculture leases at a crop share basis with a cash guarantee over 33.3% crop share per statute, 77-6-501(4) - For all agricultural leases issued through competitive bidding provided for under 77-6-202 or 77-6-205, the department shall require on any competitive bid greater than a one-third crop share a minimum annual guarantee of not less than \$15 an acre.

B. Recommendation

The Director recommends that the Board issue the next term of this lease to the current lessee, Pronghorn Farms, as the best-qualified Lessee. The Director also recommends the Board set the rental rate for this lease at the rate of \$55.00/acre with no crop share. This keeps the competitive bid rate at the per acre value while recognizing the impracticality of the crop share portion of the bid.

III. Contested Bid Hearing for Lease No. 3901

County: Sheridan

Lessee: Ransan Farmin Inc.

High Bidder: Jeff Lindblom

Hearing Time: Wednesday, April 12, 2021 @ 9:30 a.m.

Tracts: T36N T54E S16: S2- 320 acres - Common School Grant

Agriculture Acres: 282.8

Unsuitable Acres: 37.2 Acres

High Bid: 35% crop share with a \$55/acre guarantee, whichever is greater

Other Bids: None

Previous Rental: Minimum with a \$30/acre cash lease agreement

Prevalent Community Rental Information:

State Land Sheridan County Bid Averages: 34% crop share & \$28.50/acre

Montana State University (MSU) statewide agricultural per acre lease rates of \$37.50/acre and Sheridan County \$40.50/acre for 2022.

A. Findings

Randy Christensen appeared in person on behalf of the lessee, Ransan Farmin Inc. Jeff Lindblom, the high bidder, appeared via Zoom.

The state lease is approximately 3 miles west of Raymond, MT. It contains 282.8 acres of agriculture land. The parcel is accessible via Tobiason Rd.

Mr. Christensen began the Lessee's testimony by noting that stability for both the Lessee and the State is an important goal of leasing school trust land. Mr. Christensen noted that he has farmed this lease for many years and has always done so according to the rules. Mr. Christensen stated that he is a good farmer and has done well with several state leases for several years.

Mr. Christensen stated that he cannot sign a lease that includes a 35% percent crop share. According to Mr. Christensen, 35% is unreasonable and outside community standards, especially if the State does not share input costs. Mr. Christensen noted that \$55/acre may be reasonable for the area, but the inclusion of 35% crop share renders the lease unworkable. Mr. Christensen stated he could not pass on such a lease to the individual he is currently mentoring on the lease.

Mr. Christensen indicated he has subleased the lease to another person for the first-time last year. Mr. Christensen stated that he sold all of his big farming equipment in Sheridan County, and that one of his goals in retaining the lease is to pass it on to the young farmer he is currently mentoring. Mr. Christensen noted that he is still observing how this other younger farmer handles the lease, to determine whether he does a good job.

Although Mr. Christensen noted he has other equipment outside of Sheridan County that he could use to farm the lease, he admitted that he is unsure of how he intends to proceed in the future. He could not state clearly whether he would continue to farm the lease himself, or

whether it would be subleased or assigned to a second party who was not present at the hearing and did not offer testimony or evidence.

In response to Mr. Christensen's testimony, Mr. Lindblom disagreed with Mr. Christensen's statement that a 35% crop share lease is unworkable. Mr. Lindblom stated that he has crop share leases with similar crop share percentages, and he is still able to make money.

Mr. Lindblom noted that the individual who subleased Mr. Christensen's lease seeded in June last year, and lives ten miles away from the Lease. Mr. Lindblom claimed he lives only two miles from the Lease, and that he is confident that planting a good crop at the right time would permit him to make money on the Lease.

Mr. Christensen asked Mr. Lindblom whether the profitable one-third crop share Leases require the Lessor to share input costs, and Mr. Lindblom replied they did not. Mr. Lindblom did acknowledge, however, that his profitable one-third crop share leases are leased from Mr. Lindblom's father.

Mr. Shawn Thomas, noting that an objective of the hearing is to find the best Lessee for the long-term productivity of the tract, asked Mr. Christensen how he could satisfy that criteria if he intended to assign the lease to another party. Mr. Christensen admitted that he was undecided about what to do, noting that if he were younger and in better health, he would continue to farm the Lease himself.

Mr. Christensen noted the young farmer he might assign the lease to is young, does not have as much money, but wants to farm the Lease. Mr. Christensen stated, however, that he could not hand over a Lease with a 35% percent crop share, because he believed it was unlikely any bank would finance an operation with such a high percentage crop share.

Mr. Clive Rooney asked Mr. Christensen to clarify when his sublessee seeded as there was mention of it being seeded late. Mr. Christensen agreed seeding occurred in June but could not provide a specific date.

DNRC discussed the fact that the current lessee did not present a long-term plan for the lease and is unsure of the long-term farming practices of the young farmer he is mentoring. Due to these facts, there are concerns for the long-term productivity and stability of the lease. DNRC sees that the bidder is a proven, successful farmer and is certain that the overall long-term stability of the tract would be best managed by the bidder.

B. Recommendation

The Director recommends that the Board issue the next term of this lease to the bidder, Jeff Lindblom, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the bid rate of 35% or \$55/acre, whichever is greater.

IV. Contested Bid Hearing for Lease No. 3802

County: Chouteau

Lessee: Vintage Acres

High Bidder: Red Flame Ranch LLC

Hearing Time: Thursday, April 13, 2023 @ 8:30 a.m.

Tract: T26N R10E S27: SE4NW4 – 40 acres – Pine Hills School

T26N R10E S36: Lots 1,2,3, W2, W2E2, SE4SE4 – 633.21 acres – Common Schools

Grazing Acres: 554.42 AUM Rating: 123

Agriculture Acres: 2.01 CRP Acres: 80.47 Unsuitable Acres: 36.31

High Bid: \$100.00/AUM

25% Crop Share

Other Bids: None

Previous Rental: Minimum

Prevalent Community Rental Information:

State Land Chouteau County Bid Averages: \$19.76/AUM - 33% Crop Share and \$36.59/acre

Montana State University (MSU) Statewide private per acre cropland rate: \$37.50/acre and

Chouteau County \$34.50/acre for 2022.

A. Findings

Calvin Danreuther testified and appeared in person on behalf of the lessee, Vintage Acres. Sean Sayers testified and appeared in person on behalf of the bidder, Red Flame Ranch LLC. Lessee, Mr. Danreuther, provided a narrative report and pictures prior to the hearing as did the bidder, Sean Sayers, 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 6 miles Northeast of Loma. It contains 554.42 acres of grazing land, 2.01 acres of agriculture and 80.47 acres of CRP. The 40-acre tract located in section 27 is land locked by the bidder, Red Flame Ranch LLC's private deeded land. Section 36 is accessible to Red Flame Ranch LLC by their deeded land on the Southern and Western borders of the section. The Northern portion of the section is accessible by Vintage Acres LLC via their deeded land. The Missouri River borders a majority of the Eastern side of the tract. During Mr. Danreuther's testimony, he argued that he is the best lessee for the long-term productivity of the land, and that Mr. Sayer's \$100.00/AUM bid exceeds community standards.

Mr. Danreuther asserted that as a Lessee, Vintage Acres has done a significant amount to encourage the health of the tract and to maintain and install improvements.

Mr. Danreuther noted the grass on the lease is healthy despite the recent drought. He noted they have installed new fences, repaired fence corners, and maintained existing fences. He described the extensive water line improvements installed on the lease and described their plans to address the prairie dog problem that has arisen on the lease. Mr. Danreuther stated that they have made a

long-term commitment to the lease.

Mr. Danreuther also stated that \$100.00/AUM far exceeds the community standard in the area where the Lease is located. According to Mr. Danreuther, AUM rates in his community may be anywhere between \$12-\$40/AUM, depending on the quality of the tract.

Before Mr. Sayers provided testimony, he noted that the improvements on the lease described when he submitted his bid included approximately \$1,200-\$1,400 of fencing. He stated Mr. Danreuther appeared to have described significantly more improvements during his testimony compared to what appeared in the bid packet and stated that all applicable improvements should have been included in the bid packet.

Mr. Sayers asked how Mr. Danreuther was controlling prairie dogs. Mr. Danreuther stated they shot and poisoned them when they could but noted more needed to be done.

Mr. Sayers's testimony emphasized that his ownership of parcels adjoining the lease will lead to greater utilization and profit from the lease.

First, Mr. Sayers noted that 40 acres offered in the bid package are completely landlocked by Mr. Sayers's land. Mr. Sayers noted that he is the only potential lessee who could access these acres, and that others' lack of access over time may be detrimental to those acres. Mr. Danreuther acknowledged he cannot access those acres.

Mr. Sayers also noted that his land borders the remainder of the offered Lease on 2.5 sides of the Lease. Mr. Sayers explained that because of his adjacent land, he would be able to access and irrigate additional acres that are currently difficult for others to access or irrigate. He stated that the number of more-valuable agricultural and irrigated agricultural acres would increase on the Lease if it were awarded to him.

Mr. Sayers indicated that he has no debt, mortgages, or loans, and has the financial capacity to care for the Lease and add improvements. He described the grants he has received to upgrade his pivots and install improved water lines. Mr. Sayers also noted that he has worked with the NRCS to develop a formal grazing practice. Mr. Sayers also stated that his father used to hold this Lease.

In response to a question from Mr. Danreuther, Mr. Sayers indicated that he leases some of his land to other operators to farm. However, Mr. Sayers stated that he would personally work the State acres in the Lease if it were awarded to him, and not sublease the acres.

In response to a question from Mr. Shawn Thomas, both Mr. Sayers and Mr. Danreuther discussed the accessibility of a large number of CRP acres on the west side of the Leased tract. Mr. Sayers claimed that it would be difficult for Mr. Danreuther to access those acres through the State lease, and that if he developed a road to access those acres, it would be an expensive process for the State. Mr. Danreuther did not concede that he could not access the CRP acres, but he did acknowledge that it may be difficult.

DNRC concurred that the 40 acres within section 27 is completely surrounded by the bidder's, Red Flame Ranch's, deeded land. There is no access for the current lessee to cross Red Flame Ranch's private land, therefore this acreage should be split out into a separate lease under the bidder's name. The current lessee is a good lessee, in which there has never been any management issues or concerns with the lease. \$100/AUM is above community standards and could potentially pose detrimental long term negative impacts to the larger portion (section 36) of the lease. The 40-acre tract must remain at \$100/AUM and 25% crop share as that is what the bidder bid (77-6-205)(2) The board shall accept the highest bid. If the lessee exercises the preference right and believes the bid to be excessive, the lessee may request an administrative hearing.); however the portion that the lessee will retain would benefit to be lowered in order to preserve the long-term productivity and sustainability of the tract.

B. Recommendation

The Director recommends that the Board divide this lease between the current lessee and the bidder. The 40 acres in Section 27 should be split out into a separate lease under the bidder's name at the bid rate of \$100/AUM with 8 AUMs and 25% crop share. The remainder of the lease under section 36 is recommended to stay in the existing lessee's name, Vintage Acres, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the rate of \$40.00/AUM, with 115 AUMs, which reflects the prevailing community standard for leases of this type, as well as the bid of 25% crop share.

V. Contested Bid Hearing for Lease No. 9310

County: Chouteau

Lessee: Danreuther Ag Inc.

High Bidder: Red Flame Ranch LLC

Hearing Time: Thursday, April 13, 2023 @ 9:30 a.m.

Tracts: T26N R10E S33: SE4SW4, SW4SE4 – 80 acres - Common School Grant

Agriculture Acres: 79.5

Unsuitable Acres: 0.5

High Bid: 34% Crop Share with a \$80/acre guarantee, whichever is greater

Other Bids: None

Previous Rental: Minimum with a \$30/acre cash lease agreement

Prevalent Community Rental Information:

State Land Chouteau County Bid Averages: 33% Crop Share and \$36.59/ac.

Montana State University (MSU) statewide agricultural per acre lease rates of \$37.50/acre and Chouteau County \$34.50/acre for 2022.

A. Findings

Keith Danreuther appeared and testified in person for the Lessee, Danreuther Ag Inc. High Bidder, Sean Sayers of Red Flame Ranch LLC, also appeared in person to provide testimony and submitted a written narrative. Mr. Danreuther provided a narrative report and pictures prior to the hearing that covered the criteria of ARM 36.25.117(9)(b), which the Director made part of the record.

This tract is located approximately 2 miles Northeast of Loma. It contains 79.5 acres of agriculture land. The tract is isolated and has no legal access. Glen Worrall Farms Inc owns the deeded land to the North, West and South of the tract. Red Flame Ranch owns the deeded land to the East. The current lessee has a private lease with Glen Worrall Farms Inc and is able to access the parcel.

Mr. Danreuther testified that Mr. Sayers's bid exceeds community standards, and that Danreuther Ag, Inc., will continue to be good lessees who invest in the long-term productivity of the Lease.

Mr. Danreuther noted that the Lease is located in the middle of a parcel that Mr. Danreuther currently leases and farms. He stated that they submit soil samples every year for every crop they plant to a North Dakota laboratory, and that they always follow the fertilization recommendations arising from that analysis. Mr. Danreuther also claimed they have started to use FieldView software that analyses weather, yield, and other factors to provide detailed information. Mr. Danreuther also stated that they proactively address all weed or insect issues that arise on the Lease.

Mr. Sayers asked Mr. Danreuther about the term of the lease which Mr. Danreuther claimed borders the State Lease. Mr. Danreuther replied it is an indefinite, verbal lease that he has worked for approximately ten years.

Mr. Clive Rooney asked Mr. Danreuther to identify the owner of the land Mr. Danreuther leases adjacent to the Lease. Mr. Danreuther stated the land is owned by the Worrells, who are his landlords for the adjacent lease. Mr. Danreuther stated he has a 25% crop-share lease with the Worrells.

Mr. Shawn Thomas asked Mr. Danreuther if he held other state leases, and Mr. Danreuther replied that he did. He added that the average per-acre rent he pays for his other leases is \$36.00/acre, and either 25% crop-share or 33% if the owner shares input costs. Mr. Danreuther indicated he currently farms approximately 27,000 acres, after beginning with 2,700 acres.

During Mr. Sayers's testimony, he addressed why he believed his bid is appropriate and why he is the best Lessee for long-term productivity of the Lease.

Mr. Sayers indicated he owns the property that borders the eastern side of the Lease. He stated he would widen a coulee and build a road, if necessary, in order to enhance access from his property to the Lease. He also stated that he would utilize a secondary water line on the Lease, and that he could install fence around the Lease.

Mr. Sayers acknowledged that his bid was high, but he noted that a prospective lessee has to be competitive in the competitive bidding process in order to acquire land. He stated that his lack of debt and financial resources would permit him to break even on the Lease, and that his long-term outlook makes this competitive bid a good business decision for him.

Mr. Danreuther asked Mr. Sayers about his access to the Lease. Mr. Danreuther noted that the coulee access would be difficult and indicated work might be necessary to develop that access route. Mr. Sayers agreed, and stated Mr. Danreuther has easier access to the Lease, currently.

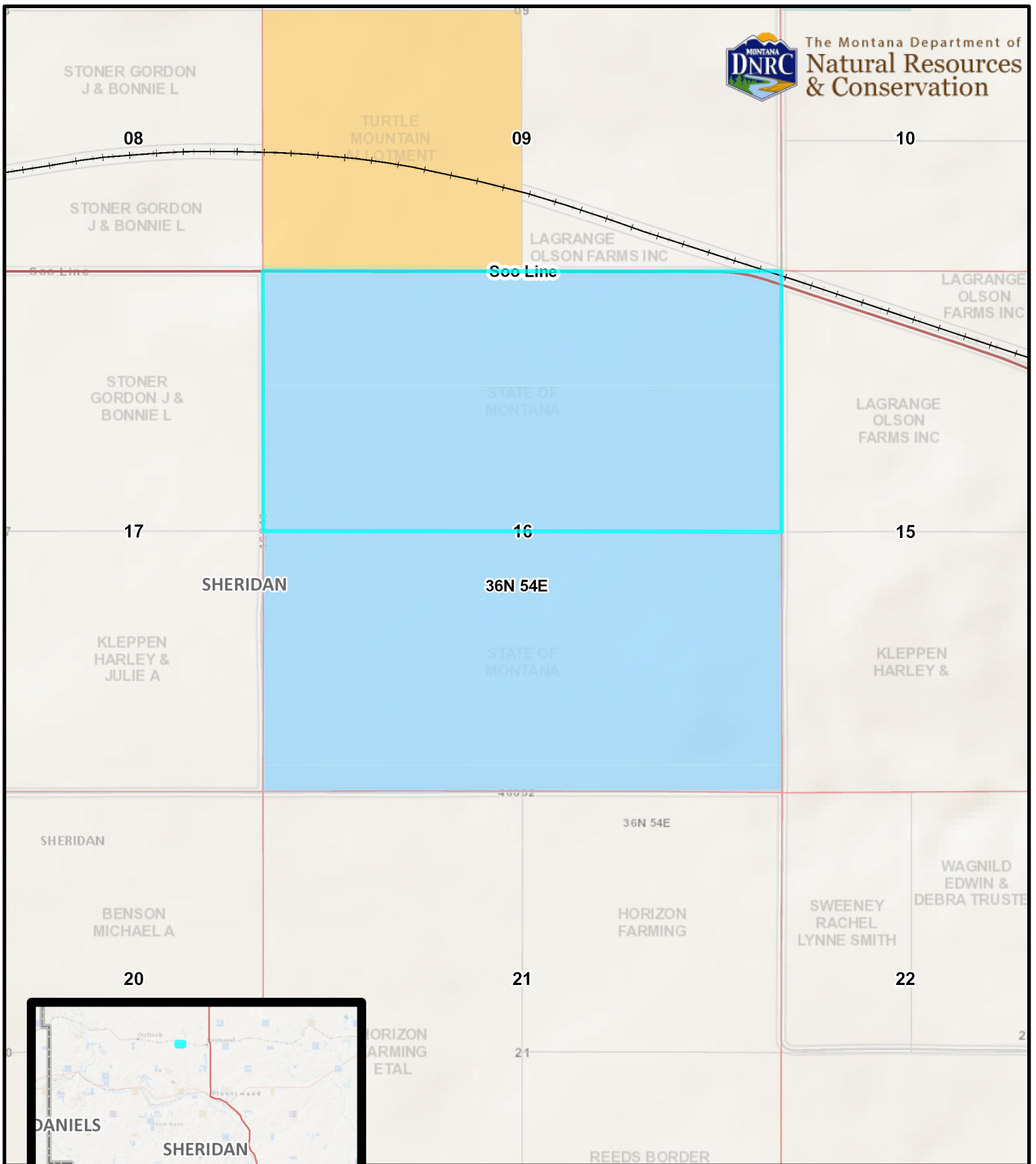
In response to a question from Ms. Jocce Hedrick, Mr. Sayers confirmed at the end of the hearing that he intended to plant hay on the Lease, and possibly develop a plan to graze the Lease in the future.

DNRC staff discussed the bidder's plan of converting the agriculture acreage to hay and determined that transitioning to hay is not ideal for the long-term health and productivity of this lease. DNRC agrees that with current day farming practices, privately held leases are generally based on a cash lease rate. Any crop share leases at a rate above 25% typically involve landowner share of the input costs. DNRC does not share in any of these input costs. The \$80.00/acre portion of the bid is above community standards for Chouteau County. DNRC feels that \$40.00/acre is a fair cash rate that would not contribute to any long-term detrimental impacts to the lease. DNRC is required to competitively bid agriculture leases at a crop share basis with a cash guarantee over 33.3% crop share per statute, 77-6-501(4) - For all agricultural leases issued through competitive bidding provided for under 77-6-202 or 77-6-205, the department shall require on any competitive bid greater than a one-third crop share a minimum annual guarantee




of not less than \$15 an acre.

B. Recommendation

The Director recommends that the Board issue the next term of this lease to the current lessee, Danreuther Ag Inc, as the best-qualified Lessee, and that the Board set the rental rate for this lease at the rate of \$40.00/Acre, which closely reflects the prevailing community standard for leases of this type.

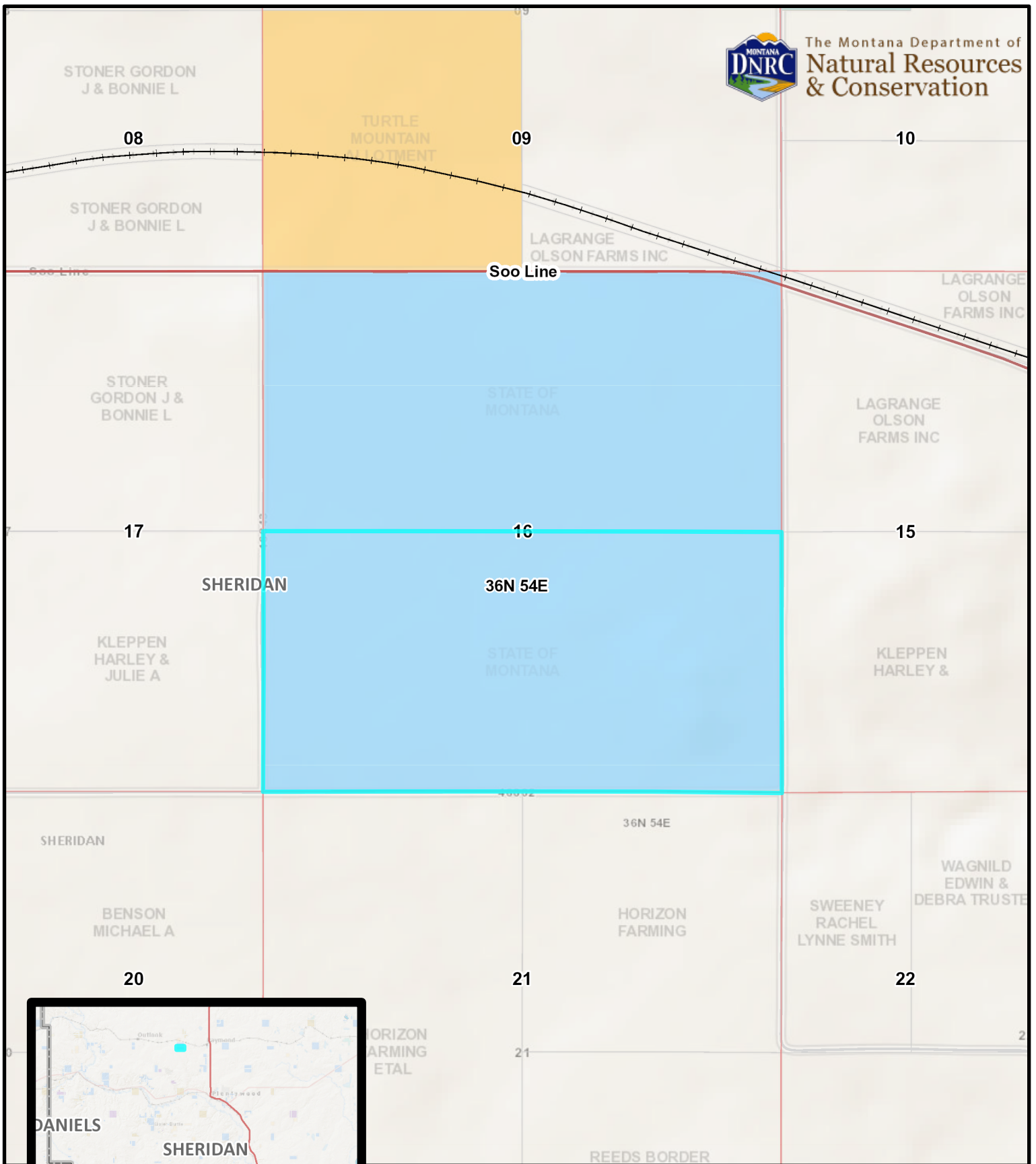


AG LEASE 3372
36N 54E 16 N2
Competitive Bid 2023

-  State Trust Land
-  Federal Land
-  Private Land

0 0.13 0.25 0.5 Miles



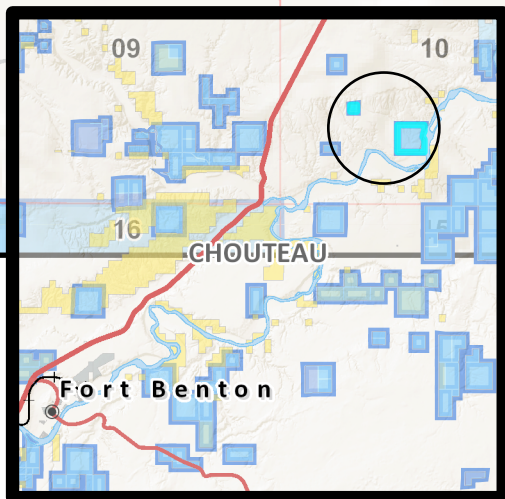
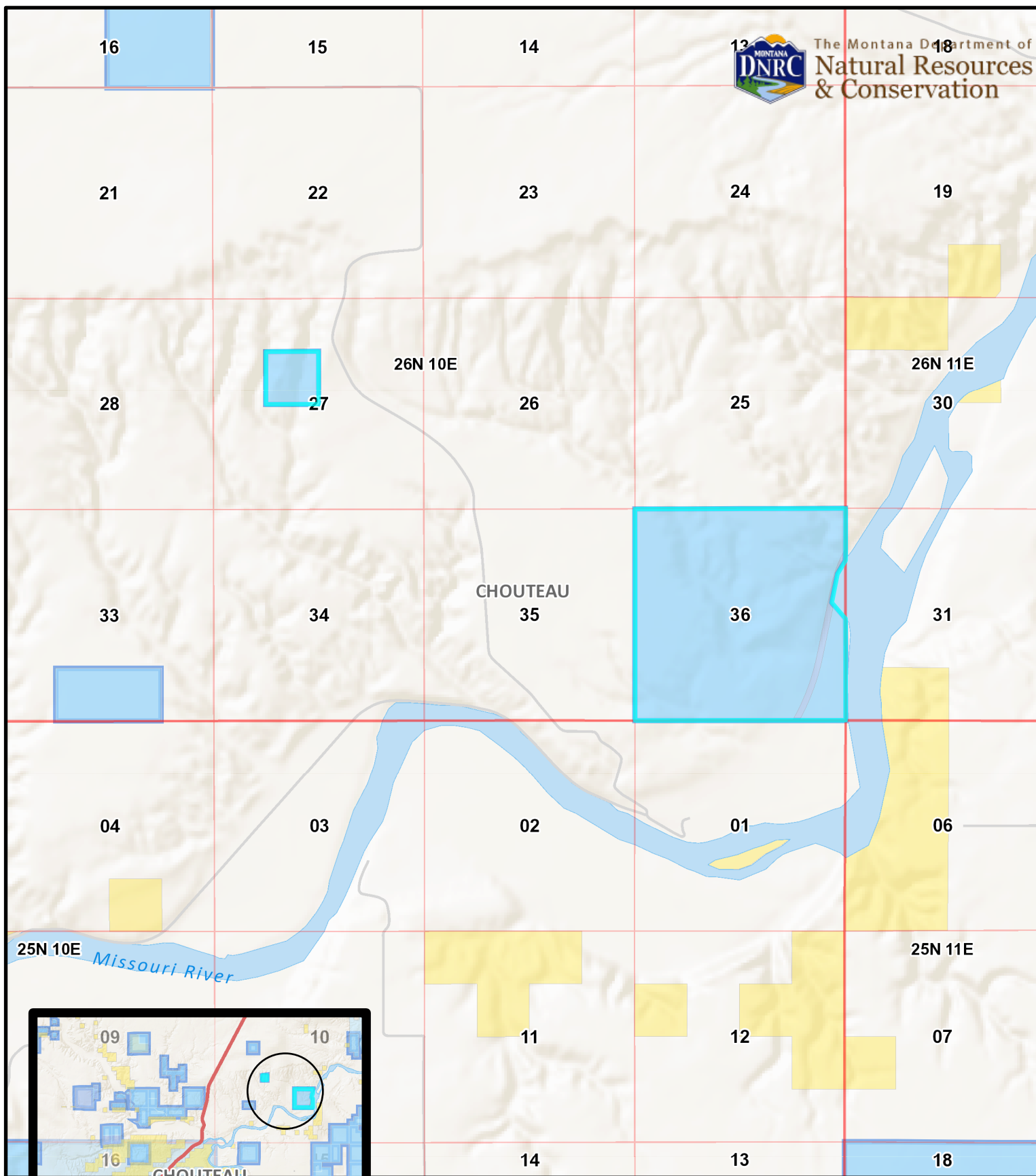


AG LEASE 3901
36N 54E 16 S2
Competitive Bid 2023


- State Trust Land
- Federal Land
- Private Land

0 0.13 0.25 0.5 Miles





Grazing LEASE 3802
26N 10E 27 SE4NW4
40 Acres
26N 10E 36 Lots 1,2,3
W2, W2E2, SE4SE4
633.21 Acres

-  State Trust Land
-  Federal Land
-  Private Land

0 0.3 0.6 1.2 Miles



VINTAGE
ACRES LLC



The Montana Department of
**Natural Resources
& Conservation**

26

25

25

30

RED FLAME
RANCH LLC

26N 10E

26

25

26N 10E

STATE OF
MONTANA

26N 11E

VINTAGE
ACRES LLC

RED FLAME
CHOUTEAU LLC

35

35

36

36

36

31

STATE OF
MONTANA

STATE OF
MONTANA

Cippard Rd

RED FLAME
RANCH LLC

RED FLAME
RANCH LLC

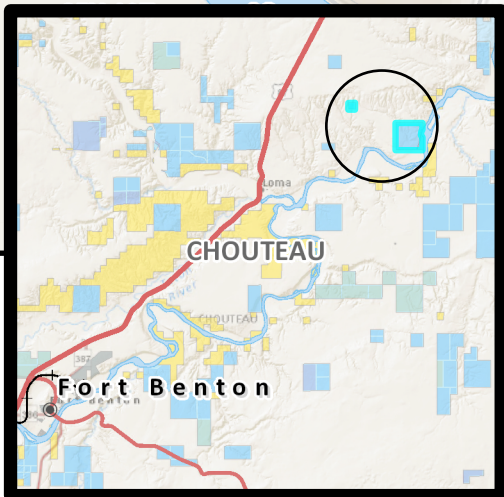
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RED FLAME
RANCH LLC

06
25N 11E

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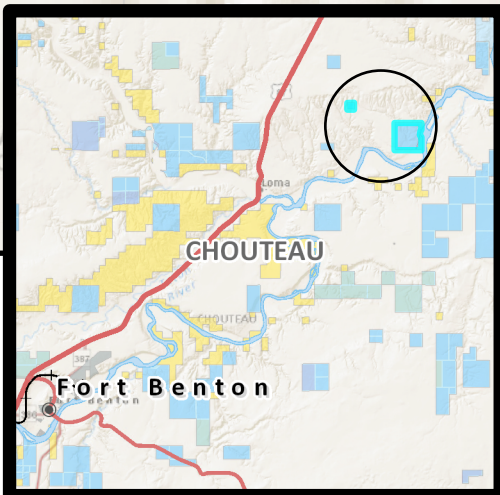
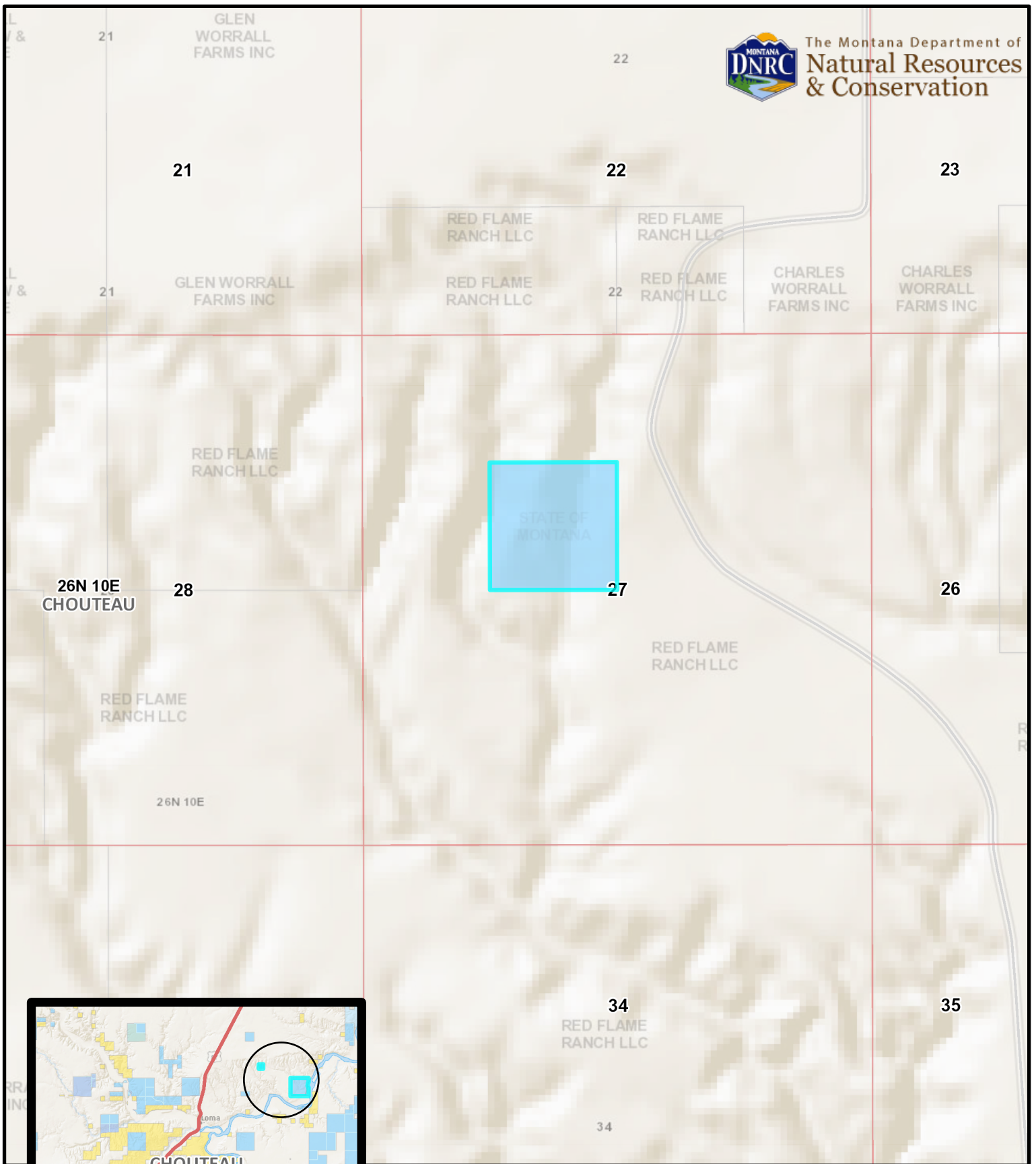


Grazing LEASE 3802
26N 10E 27 SE4NW4
40 Acres
26N 10E 36 Lots 1,2,3
W2, W2E2, SE4SE4
633.21 Acres




State Trust Land
Federal Land
Private Land


0 0.13 0.25 0.5 Miles





Grazing LEASE 3802
26N 10E 27 SE4NW4
40 Acres
26N 10E 36 Lots 1,2,3
W2, W2E2, SE4SE4
633.21 Acres

 State Trust Land
 Federal Land
 Private Land

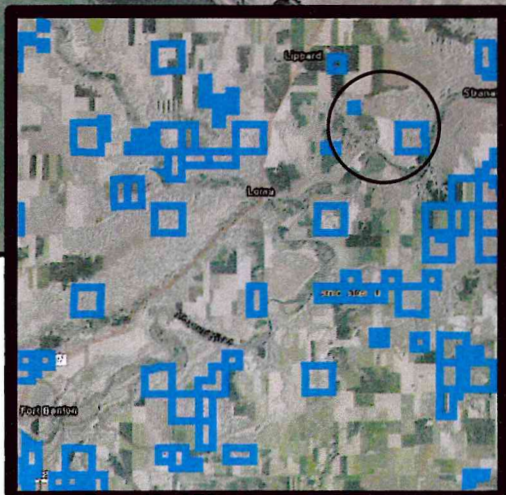
0 0.13 0.25 0.5 Miles







CRP

Pivot
Overlap



Grazing LEASE 3802
26N 10E 27 SE4NW4
40 Acres
26N 10E 36 Lots 1,2,3
W2, W2E2, SE4SE4
633.21 Acres

 State Trust Land
 Federal Land
 Private Land

0 0.13 0.25 0.5 Miles




29

28

26N 10E



The Montana Department of
Natural Resources
& Conservation

27

WORRALL
ROTHERS
FARMS

RED FLAME
RANCH LLC

26N 10E

GLEN WORRALL
FARMS INC

33

34

32

32

WORRALL
BROTHERS
FARMS

GLEN
WORRALL
FARMS INC

STATE OF
MONTANA
CHOUTEAU

GLEN WORRALL
FARMS INC

GLEN WORRALL
FARMS INC

05

05

25N 10E

04

03

RED FLAME
RANCH LLC

RED FLAME
RANCH LLC

RED FLAME
RANCH LLC

RED FLAME
RANCH LLC

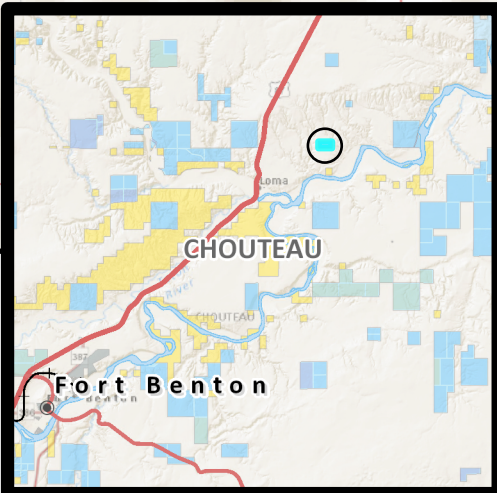
USDI BUREAU
OF LAND MGMT
(RESERVED)

RED
FLAME
RANCH LLC

09

10

RED FLAME
RANCH LLC



AG LEASE 9310
26N 10E 33
SE4SW4, SW4SE4
80 Acres
Competitive Bid 2023

State Trust Land
Federal Land
Private Land

0 0.13 0.25 0.5 Miles



0523-3

CABIN AND HOME SITE SALES:

Final Approval for Sale

**Land Board Agenda Item
May 15, 2023**

0523- 3 Cabin and Home Site: Final Approval for Sale

Location: Judith Basin County

Trust Benefits: Common Schools

Trust Revenue: \$52,000

The Department of Natural Resources and Conservation (DNRC) is requesting final approval for the sale of one (1) home site nominated for sale in Judith Basin County. This sale was nominated by the lessee in conjunction with the 2020-2021 Cabin and Home Site Sales Program.

Sale No.	Acres	Legal Description	Nominator	Trust
1162	10.22±	Parcel A, COS 441 T15N-R15E, Section 18	Steven & Greg Grove	Common Schools

Background

Preliminary Land Board approval was granted in April of 2020 (Approved 5-0) for this site to be included as part of the 2020-2021 Cabin and Home Site Sale Program. The Land Board set the minimum bid for this home site at the appraised land value and the maximum value of compensation for the improvements in February of 2023 (Approved 4-1).

Cultural/Paleontological Resources:

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

Access/Recreational Use:

As part of the cabin and home 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.

Economic Analysis:

Short term – The average rate of return on this sale parcel is 1.955%. The parcel will continue to receive this return if it remains in state ownership. The income rate of return will likely grow smaller over the next 20 years, as average annual value appreciation is greater than the annual rent increase.

Long term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through DNRC's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 3.33% on acquisitions with income generated from annual lease payments. However, the rates of return on land acquired more recently have been higher, ranging from 3.58% on acquisitions purchased within the last five years to 3.89% for lands acquired within the last ten years.

Appraised Values of Land and Improvements:

The appraisal was prepared by Montana General Certified Appraisers J. Scott Crosby and Valerie Crosby of Crosby Analytics, LLC in Cowley, Wyoming.

Sale No.	Appraised Land Value	Appraised Improvements Value	Final Sale Price
1162	\$52,000	\$458,000	\$52,000

Sale Price

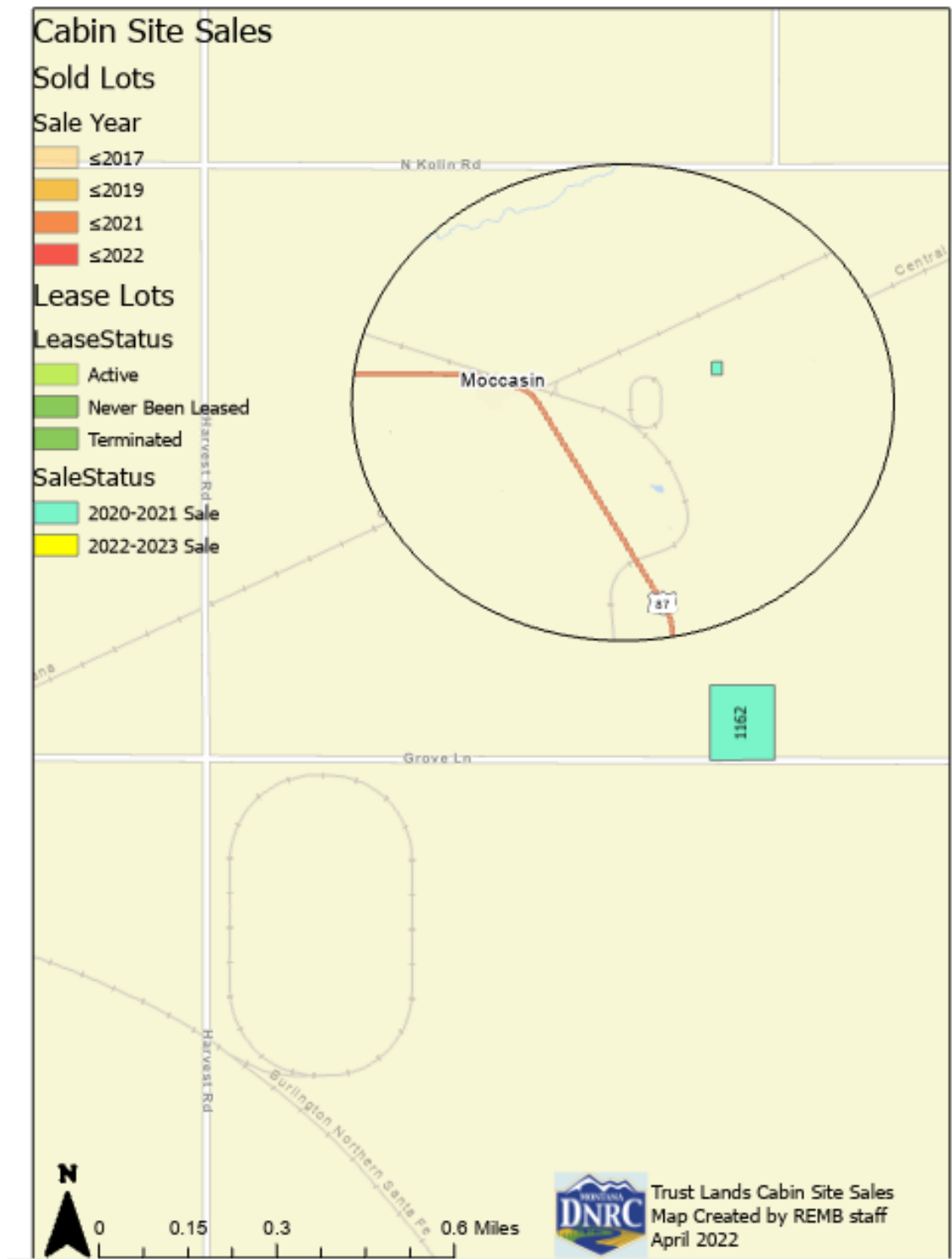
The home site sold at public auction on April 20, 2023. There was one qualified bidder for the sale. The site sold for the final sale price listed above.

DNRC Recommendation

The DNRC recommends the Land Board grant final approval for the sale of this home site at the value shown above.

Judith Basin County

Sale #1162



0523-4

EASEMENTS:

Standard Grants

**Land Board Agenda Item
May 15, 2023**

0523-4 Easements: Standard Grants

Location: Flathead, Phillips, Ravalli, Sheridan

Trust Benefits: Common Schools, Public Buildings, Public Land Trust

Trust Revenue: Common Schools = \$21,513.00
Public Buildings = \$5,060.00
Public Land Trust = \$368.00

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Flathead Electric Cooperative	Submerged Electric Distribution	Permanent	69-70
Blackfoot Telephone Cooperative	Buried Fiber Optic Cable	Permanent	71-78
Triangle Telephone Cooperative	Buried Fiber Optic Cable	Permanent	79-80
MT Dept. of Transportation	Highway Reconstruction	Permanent	81-82
Sheridan County (MDT)	County Road Relocation	Permanent	83-84

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Flathead Electric Cooperative, Inc. 2510 US Hwy 2 East Kalispell, MT 59901
Application No.:	19450
R/W Purpose:	a submerged conduit containing a 7.2 kV electric distribution line
Lessee Agreement:	N/A (Navigable River)
Acreage:	0.01
Compensation:	\$368.00
Legal Description:	10-foot strip across Flathead Lake between Gov. Lots 7 and 9, Sec. 26, Twp. 27N, Rge. 21W, Flathead County
Trust Beneficiary:	Public Land Trust – Navigable Rivers

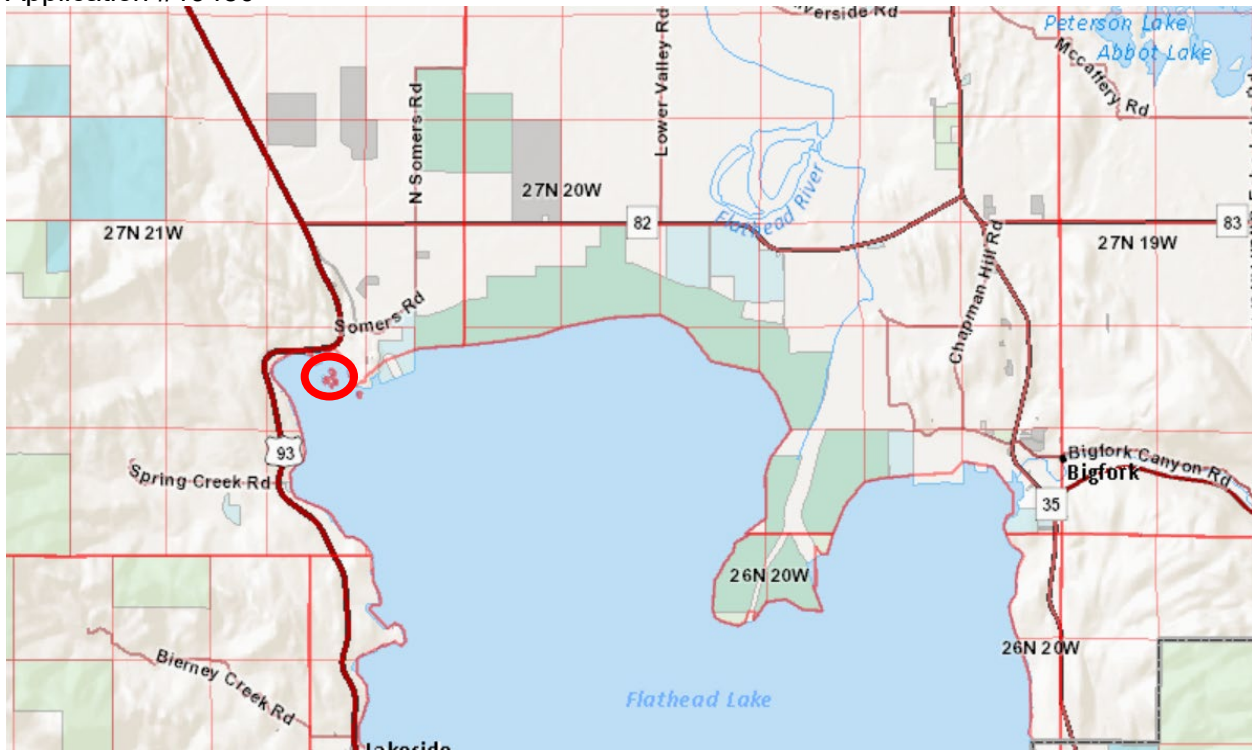
Item Summary

Flathead Electric Cooperative, Inc. is requesting an easement to install an underwater cable in Somers Bay, extending primary power between islands. The existing power infrastructure from which this new cable will be extended was authorized by the Land Board in 2011. The proposed electrical line from Island Lot 7 to Island Lot 9 will be buried on land with the 3" conduit pipe containing the electric distribution line being weighted and laying on the lake bed between the low water areas. Directional drill boring is not an option due to the topography and rocky composite of the islands. An overhead line is also not an option as it would pose a hazard for sailboats and would also be aesthetically unsightly in a popular recreation area.

DNRC Recommendation

The DNRC recommends approval of the application of Flathead Electric Cooperative, Inc.

Application #19450



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blackfoot Telephone Cooperative, Inc. 1221 North Russell St. Missoula, MT 59808
Application No.:	19491
R/W Purpose:	buried fiber optic cable
Lessee Agreement:	ok
Acreage:	1.40
Compensation:	\$4,715.00
Legal Description:	30-foot strip through NE4NE4, Sec. 8 and W2NW4, Sec. 9, Twp. 2N, Rge. 19W, Ravalli County
Trust Beneficiary:	Public Buildings

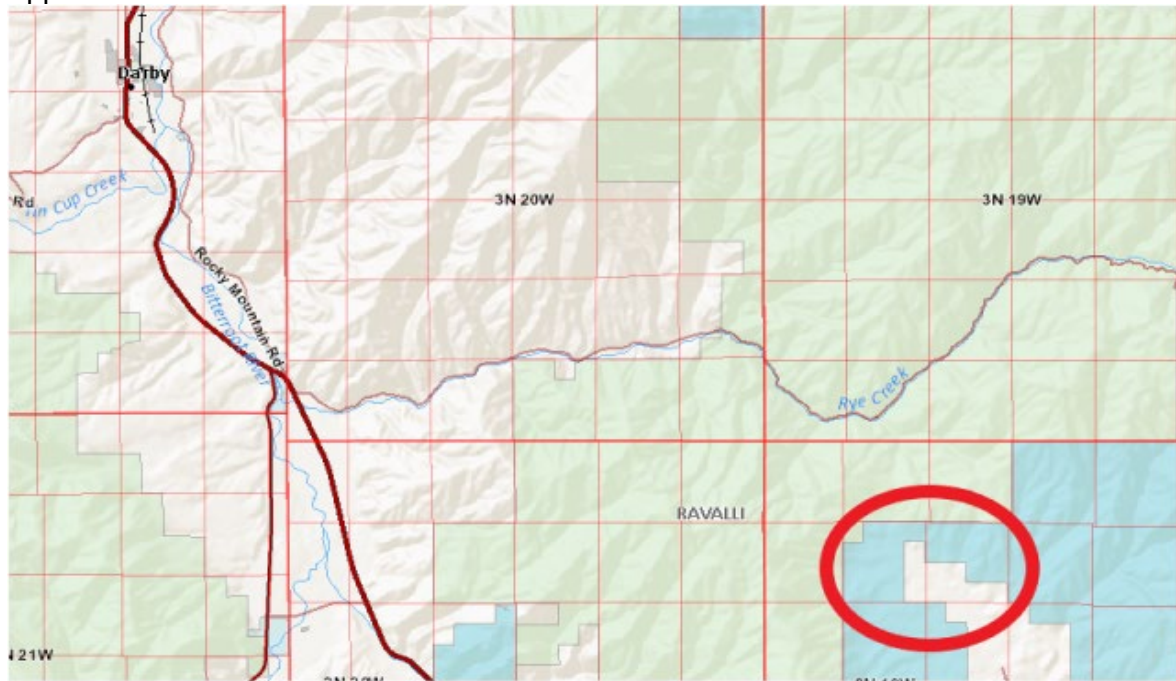
Item Summary

Blackfoot Telephone Cooperative, Inc. is requesting an easement to install an upgraded buried fiber optic cable. This line is part of a project to provide broadband service in locations that are currently underserved. The new fiber optic cable will be primarily trenched along an existing road, therefore minimal impacts are expected to occur. The proposed route is the most direct route between terminus locations.

DNRC Recommendation

The DNRC recommends approval of the application of Blackfoot Telephone Cooperative, Inc.

Application #19491



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blackfoot Telephone Cooperative, Inc. 1221 North Russell St. Missoula, MT 59808
Application No.:	19492
R/W Purpose:	buried fiber optic cable
Lessee Agreement:	ok
Acreage:	1.03
Compensation:	\$2,369.00
Legal Description:	30-foot strip through SE4NW4, NE4SW4, Sec. 16, Twp. 2N, Rge. 19W, Ravalli County
Trust Beneficiary:	Common Schools

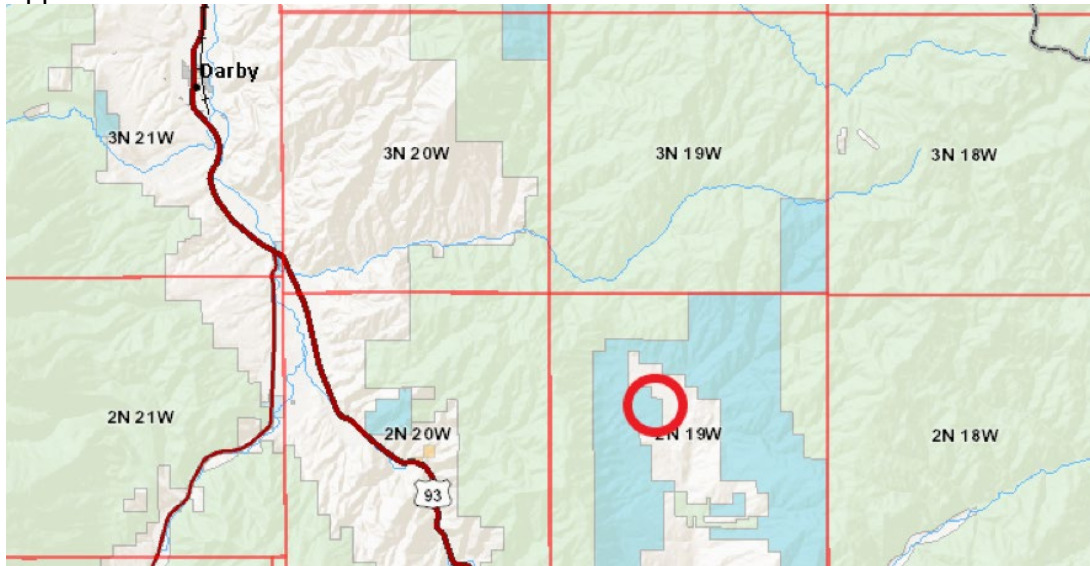
Item Summary

Continuation of Blackfoot Telephone Cooperative, Inc. applications.

DNRC Recommendation

The DNRC recommends approval of the application of Blackfoot Telephone Cooperative, Inc.

Application #19492



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blackfoot Telephone Cooperative, Inc. 1221 North Russell St. Missoula, MT 59808
Application No.:	19493
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	ok
Acreage:	1.05
Compensation:	\$2,415.00
Legal Description:	30-foot strip through NW4SW4 and SW4SE4, Sec. 26, Twp. 2N, Rge. 19W, Ravalli County
Trust Beneficiary:	Common Schools & Public Buildings

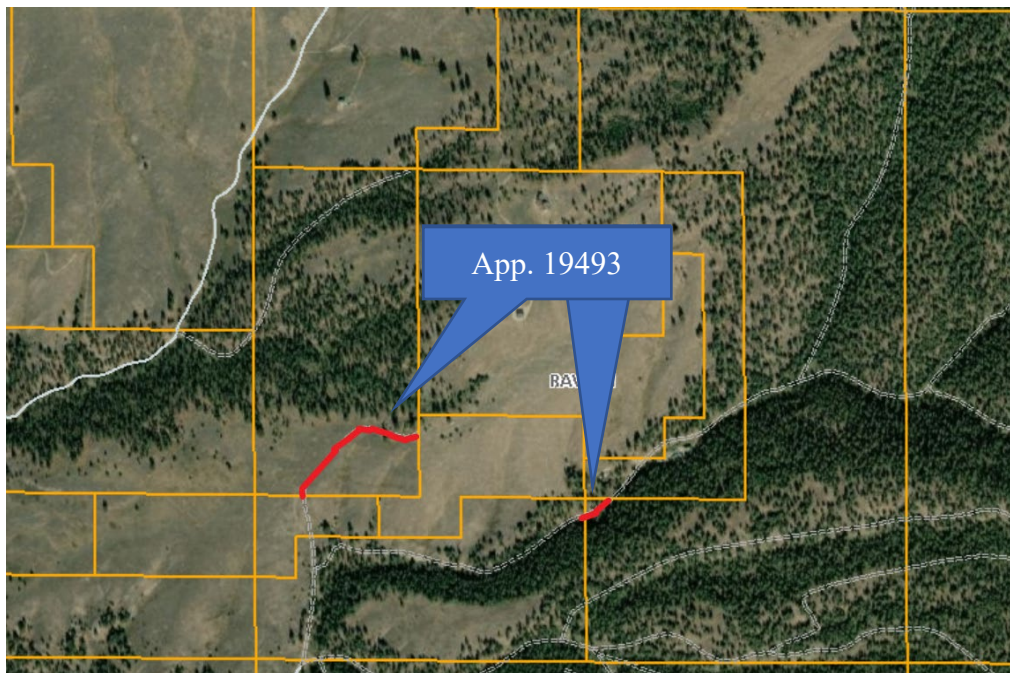
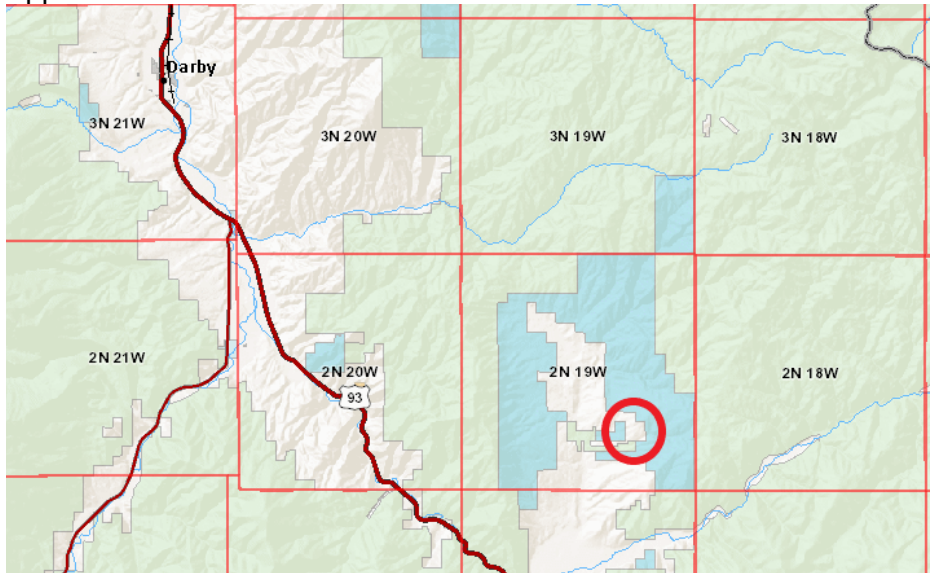
Item Summary

Continuation of Blackfoot Telephone Cooperative, Inc. applications.

DNRC Recommendation

The DNRC recommends approval of the application of Blackfoot Telephone Cooperative, Inc.

Application #19493



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Blackfoot Telephone Cooperative, Inc. 1221 North Russell St. Missoula, MT 59808
Application No.:	19494
R/W Purpose:	buried fiber optic cable
Lessee Agreement:	ok
Acreage:	2.06
Compensation:	\$8,645.00
Legal Description:	30-foot strip through N2NE4, Sec. 34 and NW4NW4, Sec. 35, Twp. 2N, Rge. 19W, Ravalli County
Trust Beneficiary:	Common Schools

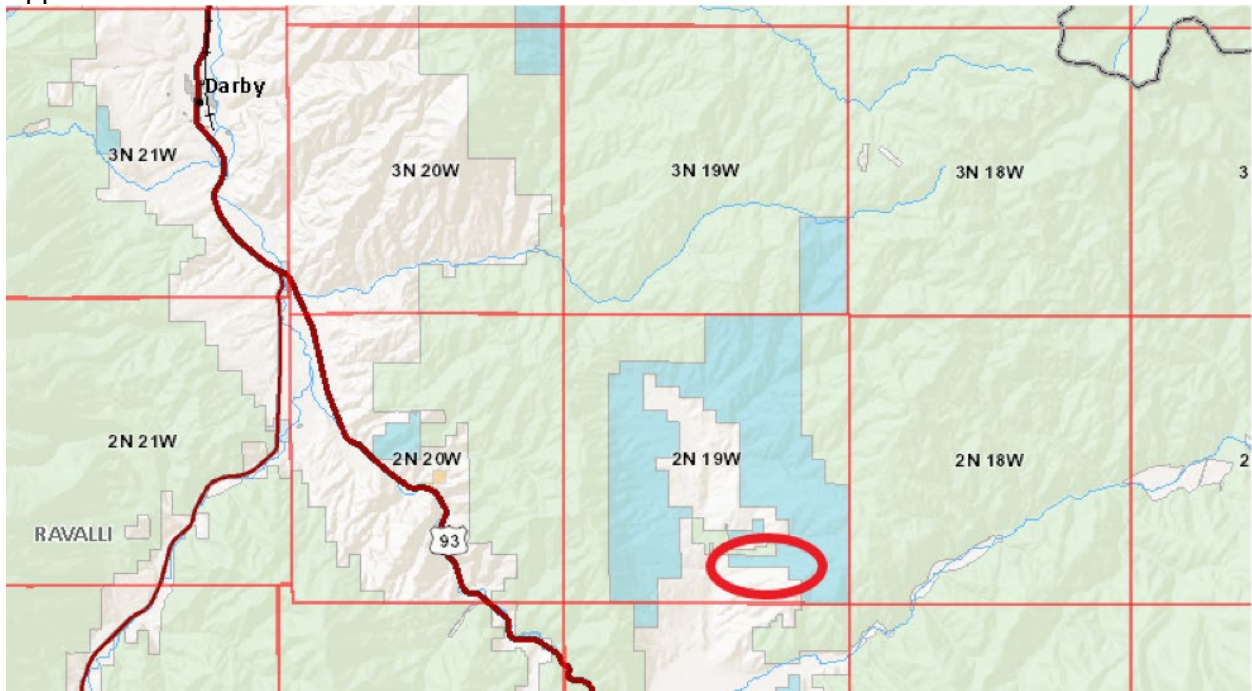
Item Summary

Continuation of Blackfoot Telephone Cooperative, Inc. applications.

DNRC Recommendation

The DNRC recommends approval of the application of Blackfoot Telephone Cooperative, Inc.

Application #19494



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Triangle Telephone Cooperative Association PO Box 1220 Havre, MT 59501
Application No.:	19543
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	Needed
Acreage:	2.66
Compensation:	\$1,064.00
Legal Description:	20-foot strip through NW4SW4, S2NW4, SW4NE4, N2NE4, Sec. 16, Twp. 29N, Rge. 26E, Phillips County
Trust Beneficiary:	Common Schools

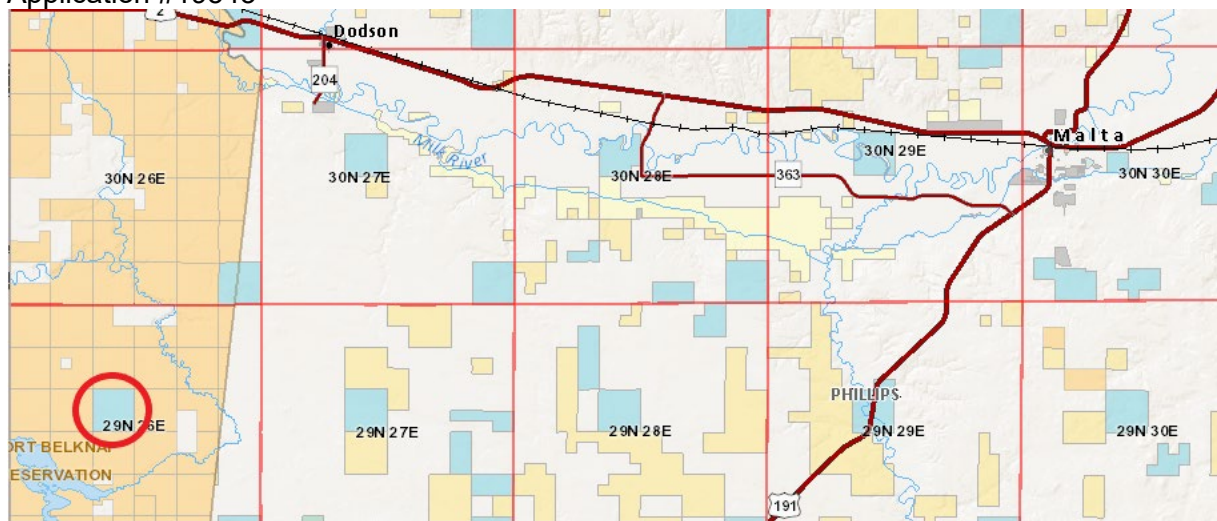
Item Summary

Triangle Telephone Cooperative Association, Inc. is requesting an easement to install buried fiber optic telecommunications facilities on State Trust land. The project will provide upgraded service capabilities in the Malta exchange area. The new fiber optic cable will be primarily trenched along existing roads, therefore minimal impacts are expected to occur. The proposed route is the most direct route between terminus locations.

DNRC Recommendation

The DNRC recommends approval of the application of Triangle Telephone Cooperative Association.

Application #19543



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Montana Department of Transportation PO Box 201001 Helena, MT 59620
Application No.:	19550
R/W Purpose:	highway construction and maintenance including occupancy by public utilities as defined in §69-4-101, MCA
Lessee Agreement:	ok
Acreage:	4.72
Compensation:	\$7,080.00
Legal Description:	tract of land in S2S2, Sec. 16, Twp. 33N, Rge. 57E, Sheridan County
Trust Beneficiary:	Common Schools

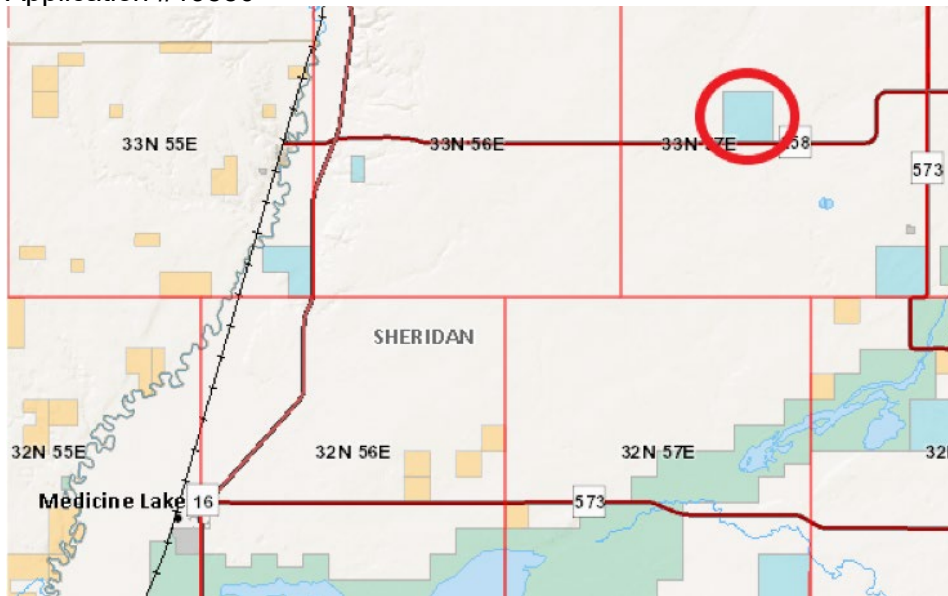
Item Summary

Montana Department of Transportation is requesting an easement to reconstruct a section of Secondary Highway 258 in Sheridan County. The reconstruction would improve horizontal and vertical alignments and add two-foot shoulders; use full-depth reclamation to improve the ride and restore the service life of the surfacing.

DNRC Recommendation

The DNRC recommends approval of the application of Montana Department of Transportation.

Application #19550



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Sheridan County %MT Dept. of Transportation PO Box 201001 Helena, MT 59620
Application No.:	19555
R/W Purpose:	a county public road
Lessee Agreement:	ok
Acreage:	0.19
Compensation:	\$285.00
Legal Description:	a tract of land in SW4SW4 and SE4SE4, Sec. 16, Twp. 33N, Rge. 57E, Sheridan County
Trust Beneficiary:	Common Schools

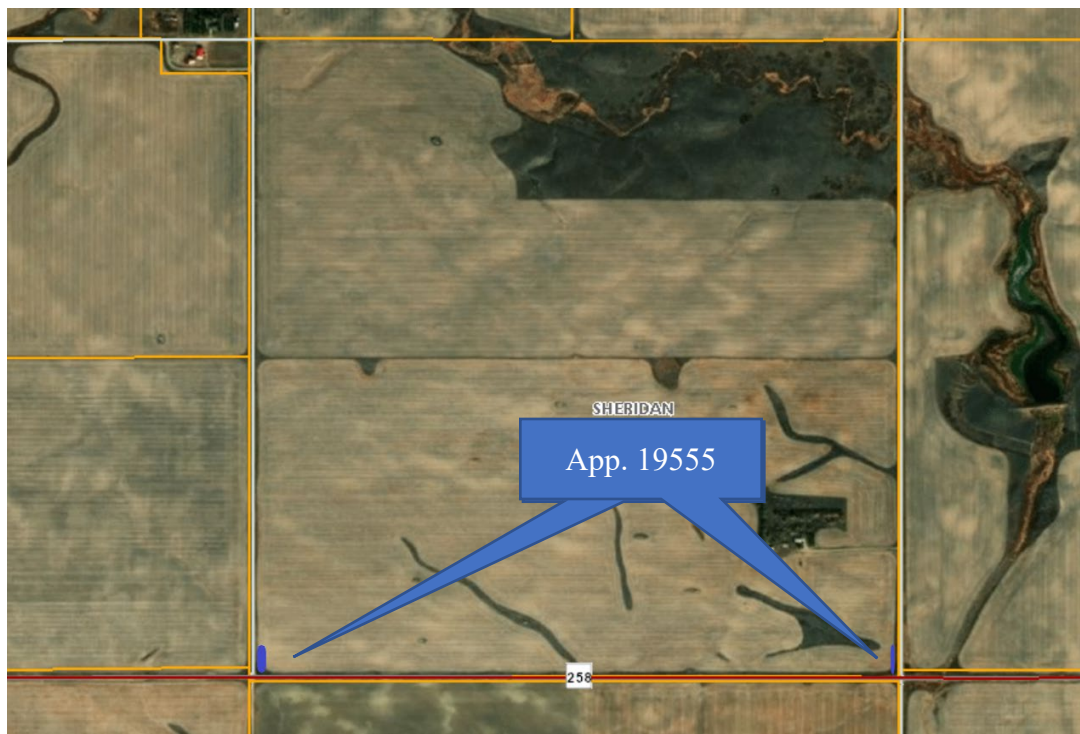
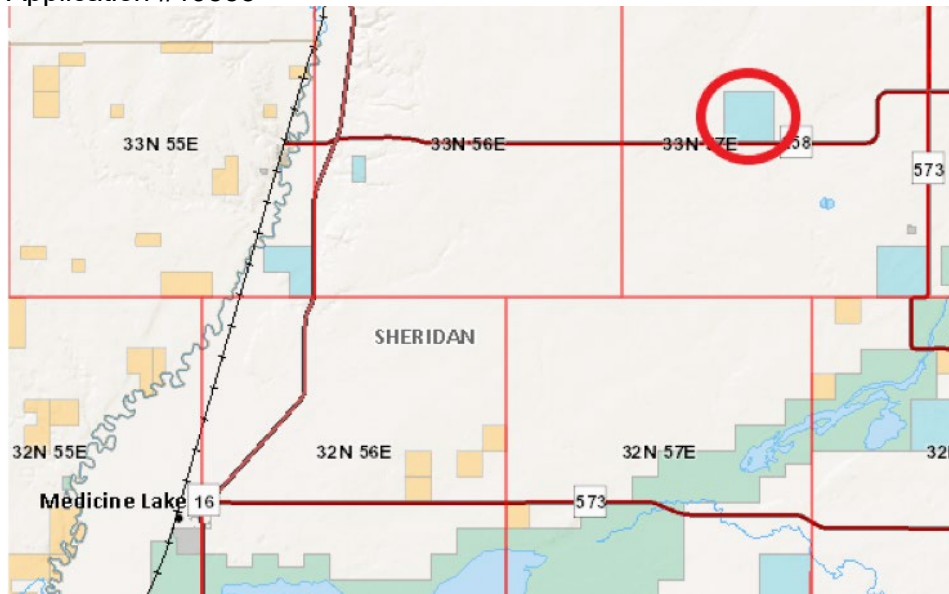
Item Summary

Continuation of Montana Department of Transportation applications.

DNRC Recommendation

The DNRC recommends approval of the application of Montana Department of Transportation.

Application #19555



0523-5

LAND USE LICENSE:

Flathead County

**Land Board Agenda Item
May 15, 2023**

0523-5 Land Use License

Location: Whitefish Lake, Flathead County

Trust Benefits: Public Land Trust – Navigable Waterways

Trust Revenue: \$4,500.00

Item Table of Contents

Applicant	Land Use License Purpose	Term	Page(s)
Water & Environmental Tech – Ben and Cindy Mansur	Install a waterline within the low water mark of Whitefish Lake for irrigation to adjacent property.	10 years	89-92
Water & Environmental Tech – Linda A Smith Trust	Install a waterline, electrical conduit, and pump within the low water mark of Whitefish Lake for irrigation and domestic water to adjacent property.	10 years	93-95
Water & Environmental Tech – Bob and Lisa Bailey	Install a waterline within the low water mark of Whitefish Lake for irrigation and domestic water to adjacent property.	10 years	97-99

NAVIGABLE WATER LAND USE LICENSE
May 15, 2023

Applicant:	Water & Environmental Tech o/b/o Ben and Cindy Mansur 102 Cooperative Way, Suite 100 Kalispell, MT 59901
License No.:	LUL 305-2300057
Purpose:	Placement of waterline in Whitefish Lake for irrigation.
Acreage:	0.25
Compensation:	\$1,500.00
Legal Description:	NE ¼ NE ¼ NW ¼ Sec. 10 T31N R22W
Trust Beneficiary:	Public Land Trust – Navigable Waterways

Item Summary

The contractor will place a waterline into Whitefish Lake for irrigational purposes. The waterline will be used on adjacent property owned by Ben and Cindy Mansur. This will be a 10-year License with the option to renew upon expiration. Pursuant to ARM 36.25.1102(3), a land use license for this purpose is subject to final land board approval.

DNRC Recommendation

The DNRC recommends approval of the license for Water & Environmental Tech on behalf of Ben and Cindy Mansur.

State Trust Land Vicinity Map

Stillwater Unit

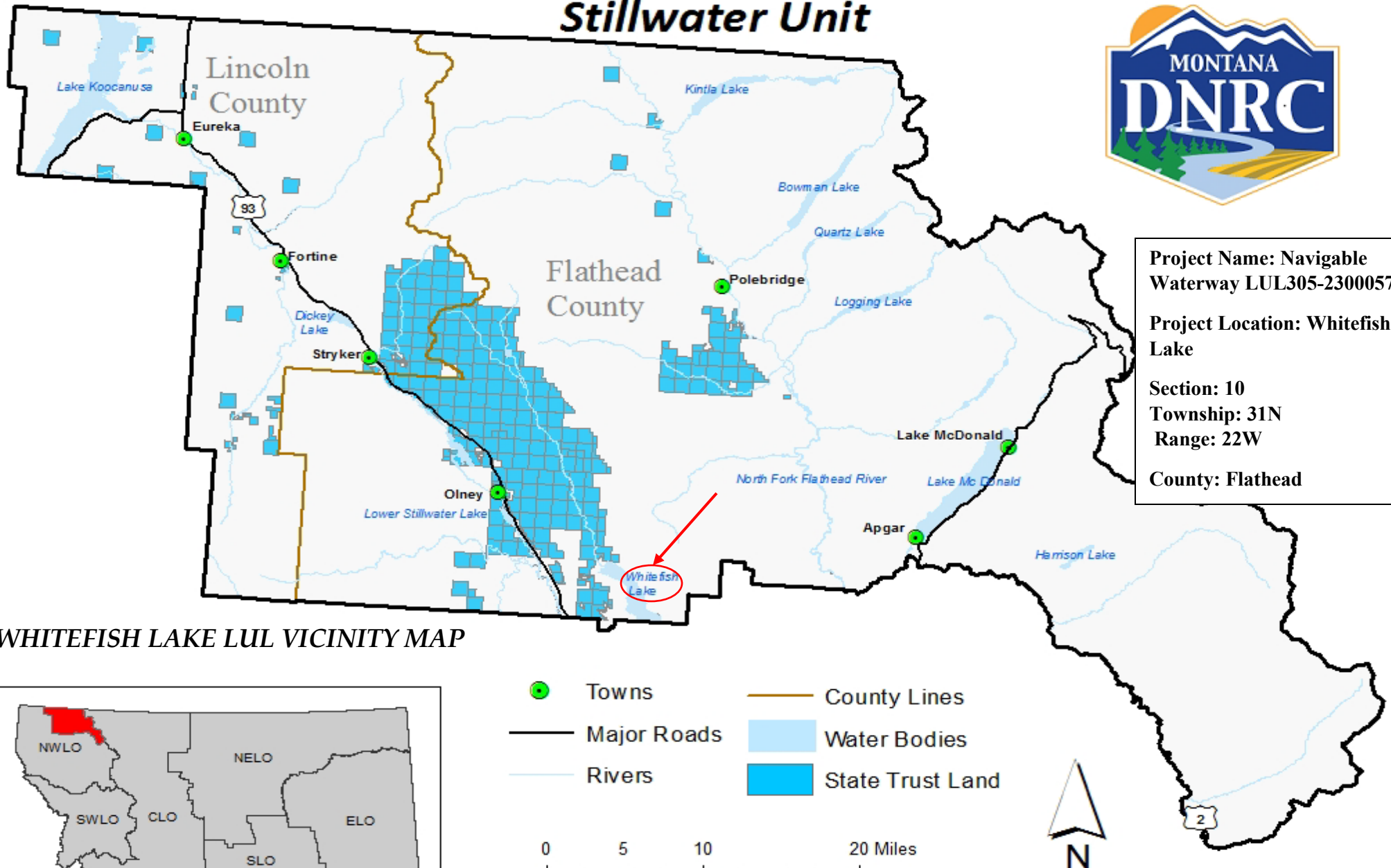


Project Name: Navigable
Waterway LUL305-2300057

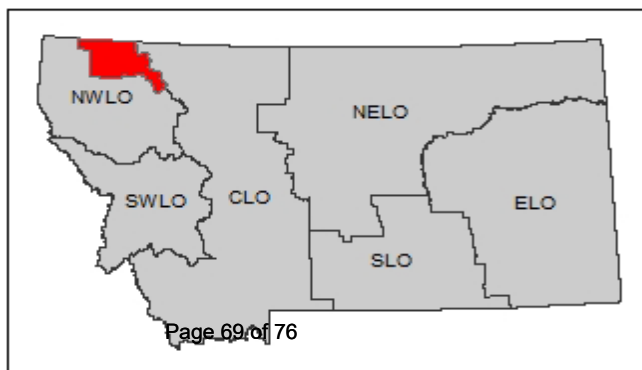
Project Location: Whitefish
Lake

Section: 10
Township: 31N
Range: 22W

County: Flathead



WHITEFISH LAKE LUL VICINITY MAP



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

0 5 10 20 Miles



Produced by Montana Department of Natural Resources and Conservation 11/1/2019

Datum: NAD 1983 StatePlane

NAVIGABLE WATER LAND USE LICENSE
May 15, 2023

Applicant:	Water & Environmental Tech o/b/o Linda A Smith Trust 102 Cooperative Way, Suite 100 Kalispell, MT 59901
License No.:	LUL 305-2300053
Purpose:	Placement of waterline in Whitefish Lake for irrigation.
Acreage:	0.25
Compensation:	\$1,500.00
Legal Description:	NW ¼ NW ¼ Sec. 14 T31N R22W
Trust Beneficiary:	Public Land Trust – Navigable Waterways

Item Summary

The contractor will place a waterline, electrical conduit, and water pump into Whitefish Lake for irrigational and domestic water purposes. The waterline will be used on adjacent property owned by the Linda A Smith Trust. This will be a 10-year License with the option to renew upon expiration. Pursuant to ARM 36.25.1102(3), a land use license for this purpose is subject to final land board approval.

DNRC Recommendation

The DNRC recommends approval of the license for Water & Environmental Tech on behalf of the Linda A Smith Trust.

State Trust Land Vicinity Map

Stillwater Unit

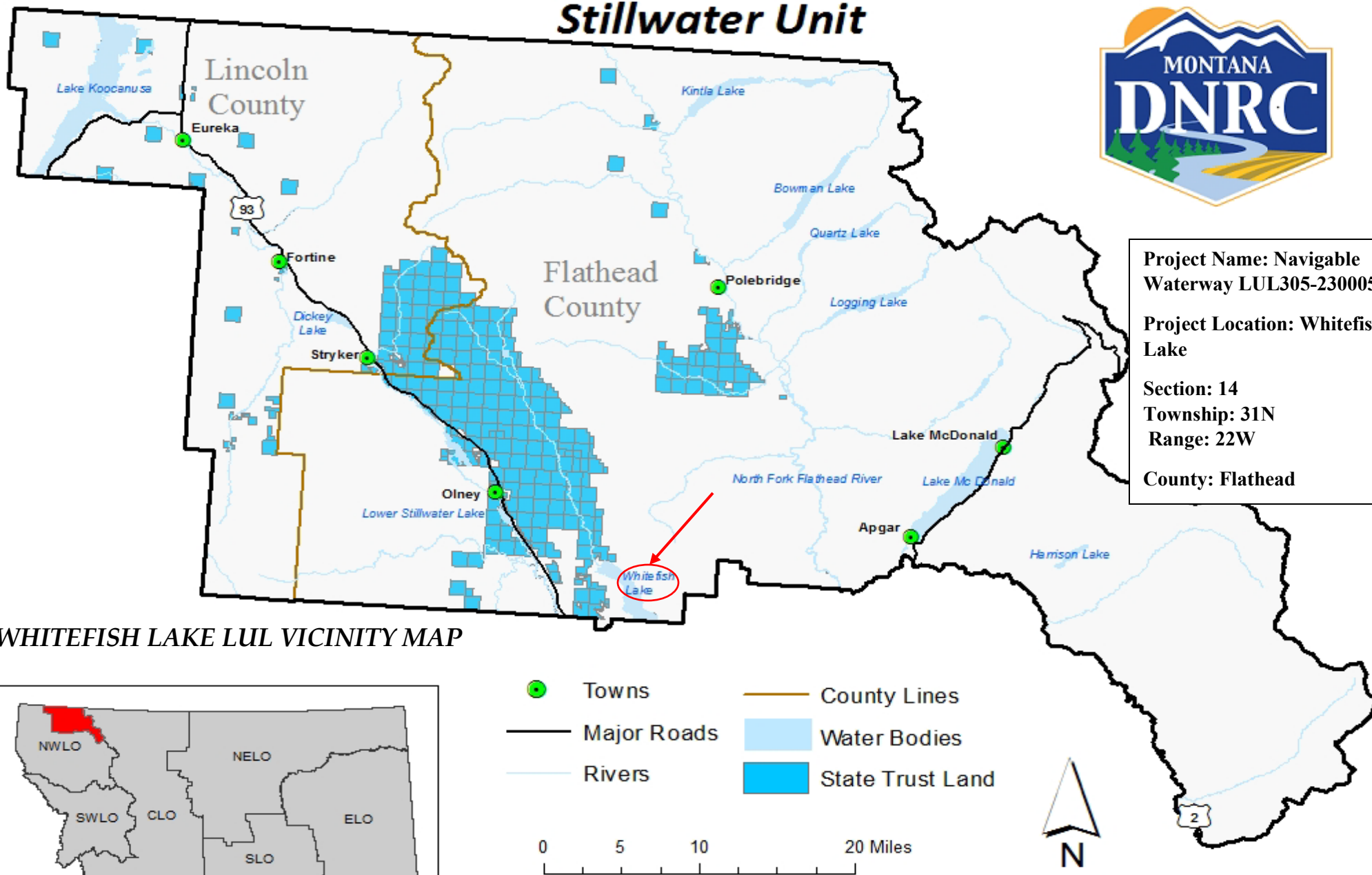


Project Name: Navigable
Waterway LUL305-2300053

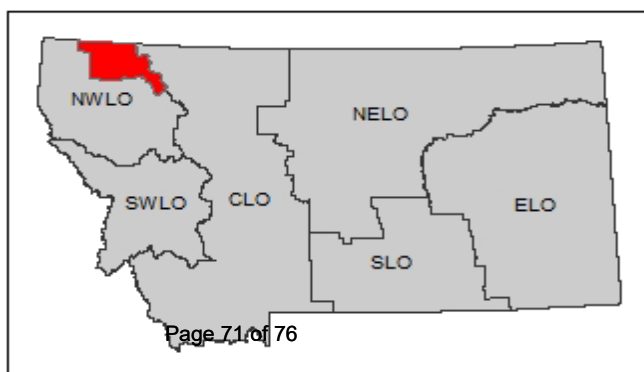
Project Location: Whitefish
Lake

Section: 14
Township: 31N
Range: 22W

County: Flathead



WHITEFISH LAKE LUL VICINITY MAP



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

0 5 10 20 Miles



Produced by Montana Department of Natural Resources and Conservation 11/1/2019

Datum: NAD 1983 StatePlane

NAVIGABLE WATER LAND USE LICENSE
May 15, 2023

Applicant:	Water & Environmental Tech o/b/o Bob and Lisa Bailey 102 Cooperative Way, Suite 100 Kalispell, MT 59901
License No.:	LUL 305-2300052
Purpose:	Placement of waterline in Whitefish Lake for irrigation.
Acreage:	0.25
Compensation:	\$1,500.00
Legal Description:	NW ¼ NW ¼ Sec. 14 T31N R22W
Trust Beneficiary:	Public Land Trust – Navigable Waterways

Item Summary

The contractor will place a waterline into Whitefish Lake for irrigational and domestic water purposes. The waterline will be used on adjacent property owned by Bob and Lisa Bailey. This will be a 10-year License with the option to renew upon expiration. Pursuant to ARM 36.25.1102(3), a land use license for this purpose is subject to final land board approval.

DNRC Recommendation

The DNRC recommends approval of the license for Water & Environmental Tech on behalf of Bob and Lisa Bailey.

State Trust Land Vicinity Map

Stillwater Unit

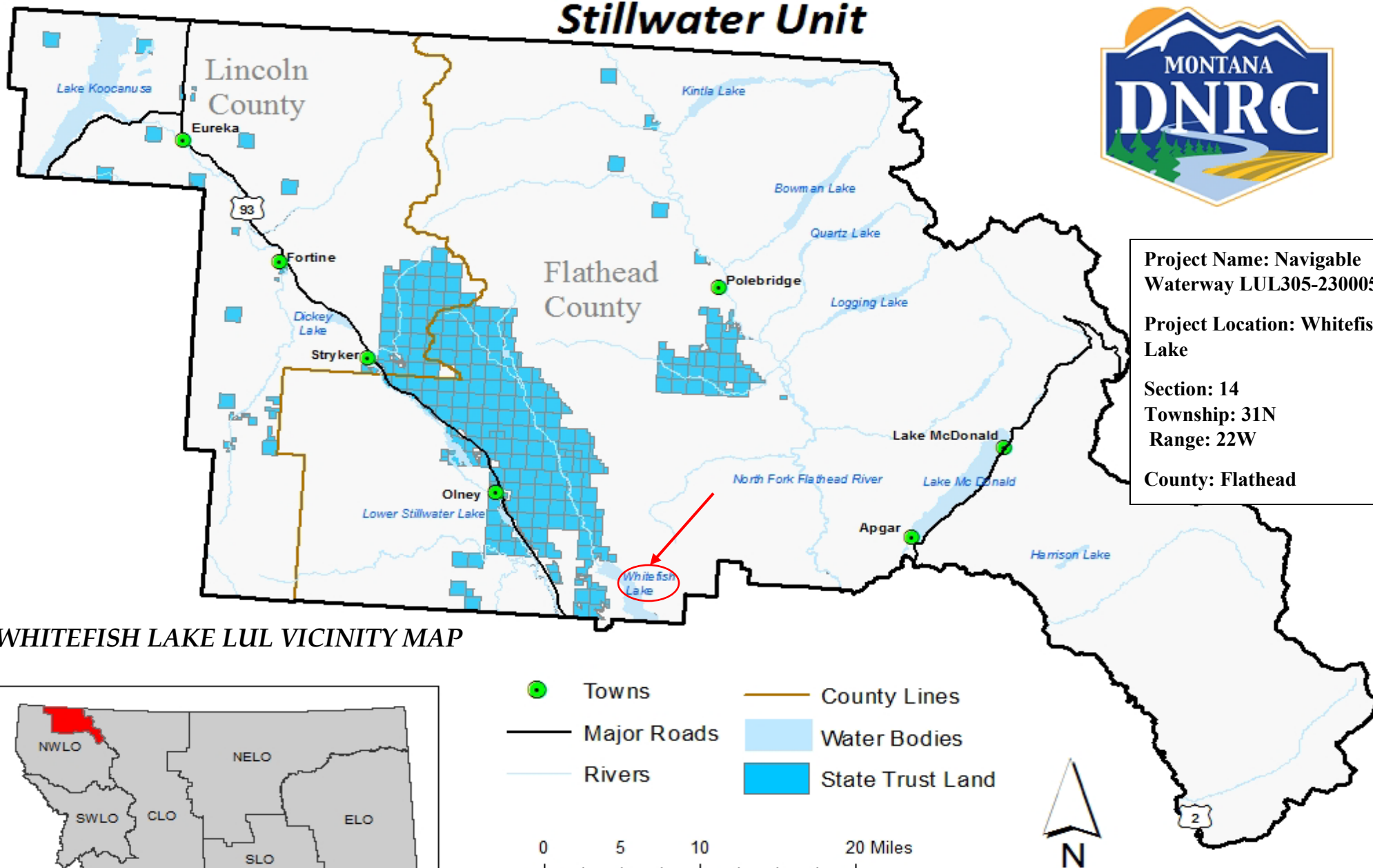


Project Name: Navigable
Waterway LUL305-2300052

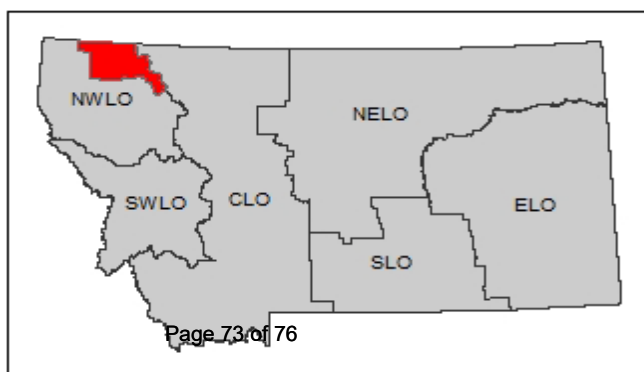
Project Location: Whitefish
Lake

Section: 14
Township: 31N
Range: 22W

County: Flathead



WHITEFISH LAKE LUL VICINITY MAP



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

0 5 10 20 Miles



Produced by Montana Department of Natural Resources and Conservation 11/1/2019

Datum: NAD 1983 StatePlane

0523-6

AUTHORITY TO BEGIN RULEMAKING FOR
AMENDING LAND BOARD APPROVAL OF
ISSUANCE OF LICENSES FOR NAVIGABLE
WATERWAYS:

**Land Board Agenda Item
May 15, 2023**

0523-6 Authority to Begin Rulemaking for Amending Land Board Approval of Issuance of Licenses for Navigable Waterways

Location: State of Montana

Trust Benefits: Public Land Trust – Navigable Waterways

Trust Revenue: Unknown

Item Summary

The Real Estate Management Bureau is seeking Land Board authority to begin the rulemaking process of amending ARM 36.25.1102 to allow the DNRC to issue land use licenses on non-adjudicated navigable waterways without requiring Land Board approval. This proposal is consistent with statute for navigable riverbed use and administrative rule for issuing land use licenses under surface management and navigable waterways.

If passed, the rulemaking process requires a proposal notice to be sent to the Secretary of State for publication and may also require a public hearing to be held by the DNRC. After notice and hearing, but prior to finalizing rulemaking, the DNRC would seek final Land Board approval.

DNRC Recommendation

The DNRC recommends the Land Board approve this request to begin rulemaking for amendment of administrative rules for navigable waterways.