

**AGENDA**  
**REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS**  
 June 19, 2023, at 9:00 a.m.  
 Supreme Court Chambers, Mazurek Justice Building  
 Helena, MT

**ACTION ITEMS**

- |        |   |  |
|--------|---|--|
| 0623-1 | <b><u>DEQ: LAND ACQUISITION – Belt Acid Mine Drainage Water Treatment Facility</u></b><br><i>Benefits: N/A (non-trust land)</i><br><i>Location: Cascade County</i>  | <b>APPROVED 5-0</b>                      |
| 0623-2 | <b><u>TIMBER SALES:</u></b><br><b><u>A. Sand Coulee</u></b><br><i>Benefits: Common Schools</i><br><i>Location: Cascade County</i><br><b><u>B. Windy Woods</u></b><br><i>Benefits: Common Schools</i><br><i>Location: Meagher County</i> | <b>APPROVED 5-0</b>                      |
| 0623-3 | <b><u>OIL AND GAS SALE: (June 6, 2023)</u></b><br><i>Benefits: Common Schools</i><br><i>Location: Daniels, Richland, Sheridan and Toole Counties</i>  | <b>APPROVED 5-0</b>                      |
| 0623-4 | <b><u>CABIN AND HOME SITE SALES: Final Approval for Sale</u></b><br><i>Benefits: Montana Tech</i><br><i>Location: Flathead County</i>   | <b>APPROVED 5-0</b>                      |
| 0623-5 | <b><u>EASEMENTS: Standard Grants</u></b><br><i>Benefits: Common Schools</i><br><i>Location: Missoula, Sweet Grass, Valley and Yellowstone Counties</i>  | <b>APPROVED 5-0</b>                      |
| 0623-6 | <b><u>LAND USE LICENSES: Yellowstone and Ravalli Counties</u></b><br><i>Benefits: Public Trust Lands – Navigable Waterways</i><br><i>Location: Yellowstone and Ravalli Counties</i>   | <b>APPROVED 5-0</b>                      |
| 0623-7 | <b><u>DNRC AND BOARD OF LAND COMMISSIONERS DEFENDANTS ON MISSOURI RIVER OWNERSHIP LITIGATION</u></b><br><i>Benefits: Common Schools, Public Land Trust</i><br><i>Location: Roosevelt County</i>   | <b>APPROVED 4-0</b><br><b>AG RECUSED</b> |

**PUBLIC COMMENT**



# 0623-1

DEQ: LAND ACQUISITION

Belt Acid Mine Drainage Water Treatment Facility



**Land Board Agenda Item  
June 19, 2023**

**0623-1 DEQ: Land Acquisition - Belt Acid Mine Drainage Water Treatment Facility**

**Location:** Belt, Cascade County

**Trust Benefits:** N/A

**Trust Revenue:** N/A

**Item Summary**

The Montana Department of Environmental Quality (DEQ) proposes to acquire a 1/10-acre parcel of private property (the Huntsberger property) in Belt, Montana from Penny Huntsberger of Great Falls, MT for the purpose of building an acid mine drainage (AMD) water treatment plant (Water Treatment Plant). The Water Treatment Plant will be designed and constructed to eliminate contamination (iron, aluminum, and other trace metals) currently leaching into Belt Creek from abandoned mines.

Belt Creek runs through the center of the community of Belt, Montana (Figure 1) and is listed as an impaired water body because of impacts from past coal mining. Belt Creek serves as a primary recreation area for Belt residents, and if remediated, it could provide economic opportunities for irrigation and fishing tourism; however, its existing impaired condition prevents these uses. Belt Creek is impaired because elevated iron and aluminum from two abandoned coal mines directly drain into it. Iron and aluminum also leach into Belt Creek from Coke Oven Flats (Belt Cinder Pit) (See attached report: Water Treatment Fact Sheet, Summer 2017).



**Figure 1 - Downtown Belt Fall 2016**

The original location for the Water Treatment Plant site was planned for Coke Oven Flats next to Belt Creek in Belt, MT (Figure 2). A geotechnical study was conducted, and the site was determined to be too unstable to support the Water Treatment Plant. The new site is located on the bench west of Belt, MT on DEQ owned property. The location of the Huntsberger property is adjacent to Anaconda Street in Belt, MT and is between DEQ property and BNSF property (Figure 3). The Huntsberger property currently contains part of the collection piping system and has had Acid Mine Water running through it for many years. A lift station will be constructed on this site for collection and transfer of French Coulee AMD. Acquiring this site will allow DEQ's engineer to design and construct the Water Treatment Plant without boring under the BNSF Railroad tracks, saving significant time and money. (See attached report: Ms\_Huntsberger\_Property\_Memo\_71320)



Figure 2 – Previously Proposed Location of Belt AMD Water Treatment Facility

The parcel is located just south of the City of Belt, MT City limits, Cascade County, and all are in Section 26, Township 19 North, Range 06 East, and specifically include:

Ms. Huntsberger holds title to the parcel DEQ seeks to acquire (Figure 4). A Title Search was completed showing 8 easements associated with the parcel. HGL reviewed these easements (See attached report: HGL MT DEQ Belt Easement Review). None of the easements appear to conflict with HGL's design for the Water Treatment Plant. Ms. Huntsberger has signed a Contract for Sale of Real Property (subject to Board of Land Commissioner approval) to sell this .1-acre property for \$24,000.00. In 2020, MT Cadastral showed an assessed value for the property of \$20,790.00. Currently, MT Cadastral shows an assessed value of \$24,000.00. (last updated in 2021 and 2022). Because MT Cadastral contains an appraised value from the MT Department of Revenue, and DEQ believes that price reflects current market value, a fee appraisal was not performed.

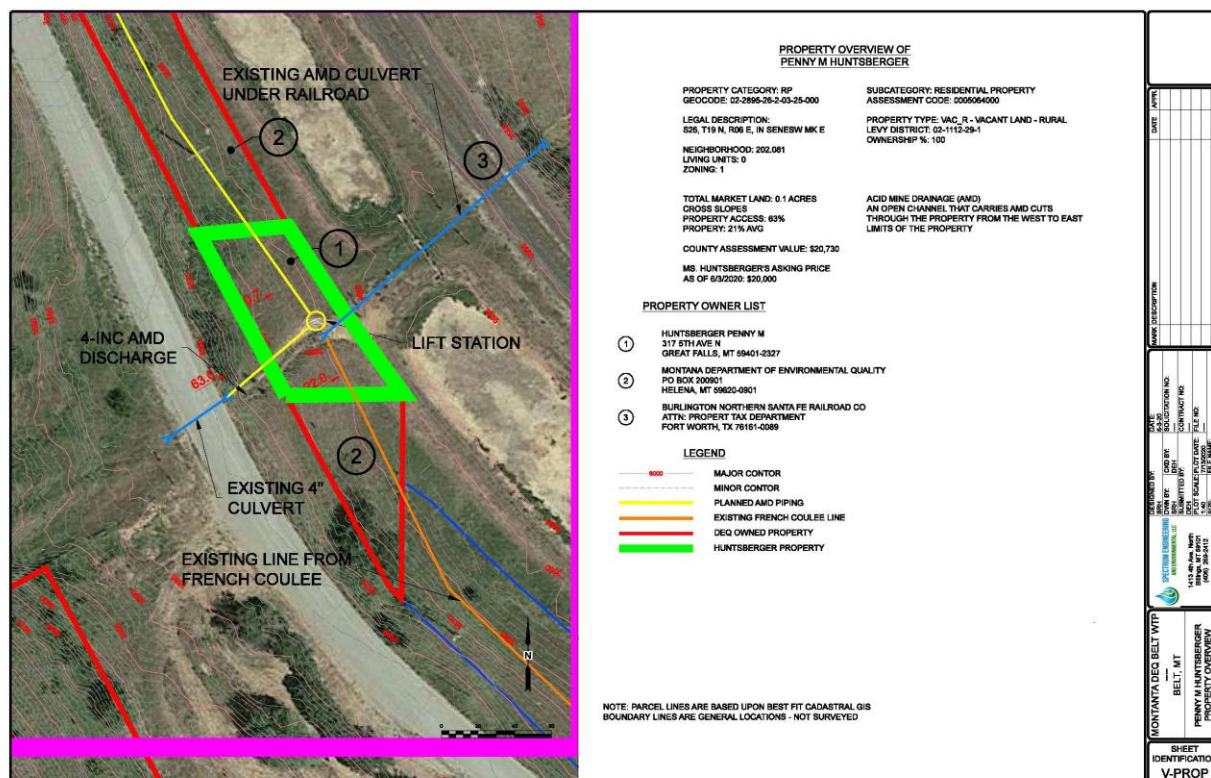


Figure 4 – Huntsberger Property Location and Utilities

DEQ has determined that its purchase of the Huntsberger property would not have any significant impact to the environment. The water treatment project is not controversial and garners great public support. DEQ's public comment period on the Water Treatment Plant plans only received one (1) comment, which had nothing to do with DEQ's proposed acquisition of the Huntsberger property. DEQ's proposed acquisition of the Huntsberger property is not controversial. ARM 17.4.610(4) states: "For an action with limited environmental impact and limited public interest, no further public review may be warranted." Nevertheless, DEQ plans to keep the public informed of the project by providing updates on [deq.mt.gov](http://deq.mt.gov) and sending updates to the Cascade County Commissioners and the City of Belt.

Under § 82-4-239(6), MCA, DEQ may purchase property necessary for reclamation if the purchase is approved by the Board of Land Commissioners.

### **Request for Board Approval**

This proposed property acquisition will not only facilitate the construction of the acid mine drainage Water Treatment Plant to reclaim Belt Creek but will also help to mitigate the current pollution on the Huntsberger property, the result of years of AMD water flowing across the parcel. DEQ requests that the State Board of Land Commissioners approve DEQ's proposed purchase of the Huntsberger property for \$24,000.00. The funding source for this purchase will be federal AML funds from the United States Office of Surface Mining and Reclamation (OSMRE). This acquisition is critical for completing the Water Treatment Plant to restore Belt Creek.

### **Attachments**

Belt Acid Mine Drainage Water Treatment Fact Sheet, Summer 2017  
 Ms\_Huntsberger\_Property\_Memo\_71320  
 HGL MT DEQ Belt Easement Review  
 Signed Contract for Sale of Real Property (Huntsberger property)

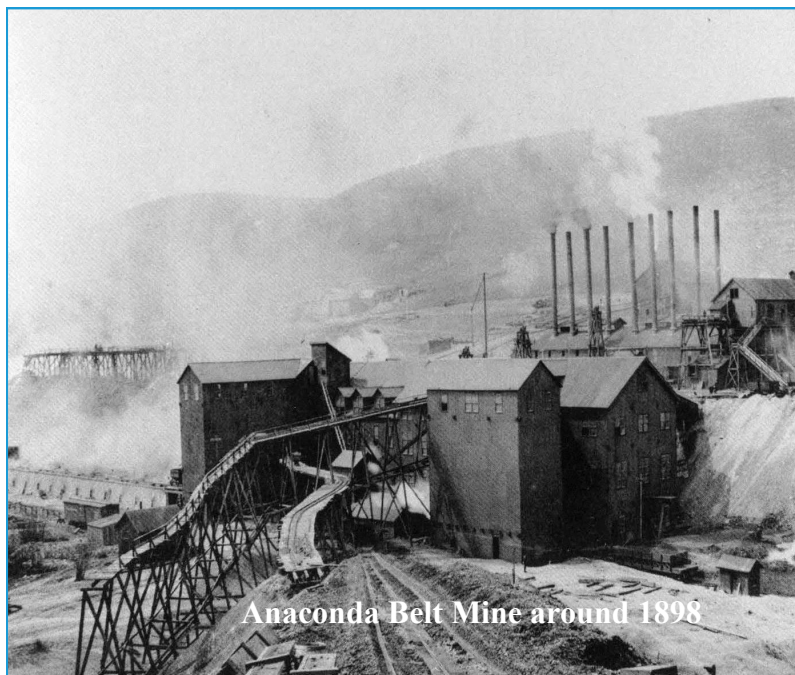
## Water Treatment for Acid Mine Drainage in Belt, Cascade County

### Abandoned Mine Lands

Summer 2017

#### Background

Numerous coal mines once operated around Belt starting with the mine opened by John Castner in 1877. In 1893, Anaconda Copper Mining purchased Castner's coal mine and the size of the operation increased rapidly. Coal production from the Anaconda Belt Mine peaked in the late 1890s and included a workforce of 1200 employees. The mine followed a six foot coal seam over 12,000 feet west from the mine adit, which was near the current location of the Belt water storage tanks. Room and pillar mining was conducted with coal removed from rooms and pillars of coal left to support the roof of the mine. The operation included one hundred beehive ovens producing coke for copper ore smelting in Anaconda and Great Falls. Following the turn of the century, coal production from the mine slowed and the mine closed in 1924. Smaller mines located on the east side of Belt Creek operated as late as 1963.



Anaconda Belt Mine around 1898

#### The Problem

The coal includes sulfur in pyrite nodules up to 4 inches in diameter. Groundwater flows through the open mine workings and pyrite in the coal breaks down forming sulfuric acid. The water discharging from the mines is highly acidic and contains extremely high levels of dissolved metals. The abandoned mines discharge approximately 250 acre-feet of contaminated water to Belt Creek each year. On average, approximately 700 pounds of iron and 500 pounds of aluminum are discharged each day. This contaminated water accounts for much of the flow in Belt Creek during base flow conditions from the late summer through early spring each year. Lower Belt Creek has been identified as an impaired water body not fully supporting its beneficial uses.



Acid Mine Drainage contaminating Belt Creek

#### Cleanup Alternatives

The high metal loads and extended winters limit the effectiveness of passive treatment approaches such as the use of constructed wetlands. The Abandoned Mine Lands Program is evaluating active treatment technologies to address the acid mine drainage and contamination of Belt Creek.

## Water Treatment for Acid Mine Drainage in Belt, Cascade County

### Abandoned Mine Lands

Summer 2017

Active treatment of mine impacted water has proven to be successful in Montana and across the country in treating mine impacted water. An **Engineering Evaluation/Cost Analysis and Environmental Assessment For Water Treatment of Acid Mine Discharges in Belt, Montana** has been developed. The evaluation considers multiple treatment technologies and options for disposal of the byproducts of the treatment process. The preferred alternative employs hydrated lime to neutralize the acidity of the mine impacted water. The second step of the treatment process is the clarification step in which precipitated metals are removed. Hydrated lime is widely used in treating mine impacted water because it provides the most cost-effective means of neutralizing acidic water. The proposed alternative for water treatment has proven to be robust and effective in many applications. The complete draft Engineering Evaluation/Cost Analysis and Environmental Assessment document is available online at <http://deq.mt.gov/Land/AbandonedMines/CurrentProjects>

### Schedule

Engineering specifications for the water treatment plant will be developed in 2017 and the project will be released for bidding. It is expected that construction of the facility will occur in 2018. The facility is scheduled to be operational in 2019.

### Public Benefit

The residents of Belt have lived with acid mine drainage and the contamination of Belt Creek for over 100 years. The ditches that convey the acid mine discharges are open and freely accessible to the public. The Anaconda Mine discharge enters Belt Creek opposite of the Belt City park. A sandy beach area is located on the opposite bank from the discharge, and this area is utilized as a swimming area by the community.

The proposed treatment provides the most certain method to minimize human exposure to the mine water and environmental contamination. Successful implementation of this project will greatly benefit residents of Belt and all Montanans by treating the mine discharges and returning Belt Creek to fully supporting its beneficial uses.



Belt Creek Fall 2016



Water Treatment Plant discharge  
McLaren Tailings Reclamation Project  
Cooke City, MT

### Contacts

#### Tom Henderson

Project Manager  
Montana DEQ  
406-444-6492  
THenderson@mt.gov

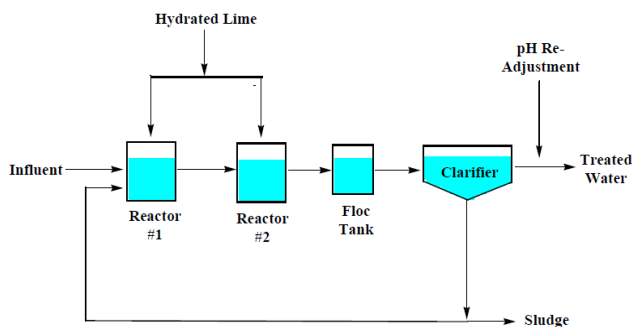
#### Autumn Coleman

AML Program Manager  
Montana DEQ  
406-444-6555  
AColeman@mt.gov

# Water Treatment for Acid Mine Drainage in Belt, Cascade County

## Abandoned Mine Lands

Summer 2017



Process Flow Diagram 10-1: Preferred Alternative: Single-stage conventional hydrated lime treatment process depicting major equipment

The preferred alternative in Belt is a Single-stage conventional hydrated lime treatment process with a clarifier.

Hydrated lime would be added to acid mine drainage, flocculent would be added and then sludge would settle in a clarifier.

The proposed Belt Water Treatment Plant would occupy approximately 2 acres in Coke Oven Flats outside of Belt, Montana.

Similar water treatment plant in Swift Gulch at the Zortman-Landusky Mine near Hayes, Montana.



Flocculent is added to condense the sludge.

# Water Treatment for Acid Mine Drainage in Belt, Cascade County

## Abandoned Mine Lands

Summer 2017



Clarifier Unit designed to filter out the sludge for disposal. The result would be a discharge of clean water to Belt Creek.

Clarifier Unit will be similar to the one pictured here in Pennsylvania.



Acid mine drainage sludge created after treatment. Three alternatives are considered for sludge management:

1. ReInjection into the underground mine workings (no visible sludge ponds).
2. Disposal in a DEQ repository near Belt.
3. Disposal in a licensed landfill.



## **Technical Memorandum Belt WTP Property Purchase / Railroad Crossing**

**Date** July 13, 2020

**To** Bill Snoddy  
Montana DEQ

**From** Drew Herrera, PE

### **Belt WTP Property Purchase / Railroad Crossing**

#### **Introduction**

This memo presents the information regarding the purchase of Penny Huntsberger's (Ms. Huntsberger) property and its relationship to the Belt Water Treatment Plant (WTP) project. The future Belt WTP will collect AMD from three sources near Anaconda Street in Belt, MT. The three sources of water are the Anaconda Mine Discharge, the French Coulee collection system, and a pipe known as "4-Inch Pipe" with an unknown source. Currently, water from the Anaconda Mine Discharge flows underground from the former Anaconda Mine Adit and expresses itself in a downstream ditch on the east side of 5<sup>th</sup> St. South. The French Coulee collection system and the 4-Inch Pipe discharge on Ms. Huntsberger's property. The AMD reports to a culvert via a ditch on the east side of her property before it discharges on the east side of the BNSF railroad line.

#### **Justification for Ms. Huntsberger Property Purchase**

The most economical and practical solution to capture and convey the 4-Inch and French Coulee water is to install a small lift station on Ms. Huntsberger's property where AMD can be conveyed via a 2" HDPE line to the future main lower vault/lift station that will be located approximately 1,100 feet north on DEQ owned property west of the BNSF rail line. The property and general layout are shown in the attached drawings V-PROP and C-PRELIM.

If Huntsberger's property is not acquired, AMD must be captured on the east side of the BNSF rail line and then pumped back to the west which will require boring water lines under the BNSF rail line. Due to the multiple sources of AMD, two separate easement permits will be required. BNSF charges dearly for the easement permits to cross their railroad. The easement permits have two options for payment. This first option is a onetime fee for a 25-year term. The second option is an annual payment for the 25-year term. A 6% discount rate for the net present value for the annual payment option is also presented.

- 1) Easement Permit # 1
  - Onetime payment for the 25-year term: \$42,428
  - Annual payment option: \$7,428 the first year with an annual fee of \$2,100 beginning the 2<sup>nd</sup> year for the 25-year term.
  - The annual fee option would result in a total cost of \$57,828 for the 25-year term. At a 6% discount rate the NPV for Permit # 1 is \$31,871.
- 2) Easement Permit # 2
  - Onetime payment fee for the 25-year term: \$38,700
  - Annual payment option: \$3,700 for the first year with an annual fee of \$2,100 beginning the 2<sup>nd</sup> year for the 25-year term.
  - The annual fee option would result in a total cost of \$54,100 for the 25-year term. At a 6% discount rate the NPV for Permit # 2 is \$28,354.

After the each 25-year term expires, both permits would need to be reissued with another round of payments. Based on a 2% inflation, this would likely result in approximately \$78,659 and \$71,748 respectfully for the second 25-year term permit. With a lifespan of 50 years the permit cost to bore under the railroad would likely exceed \$230,000 and a 75-year lifespan would exceed \$500,000.

A more cost-effective alternative is to purchase the Huntsberger property (Map Tract 1) and never have to deal with the railroad. With the Huntsberger property transferred to the DEQ, the DEQ would then own all the property (Map Tracts 1 & 2) needed to collect and pump the AMD to the proposed WTP.

The DEQ properties (Tracts labeled 2) were acquired by DEQ from Montana Department of Transportation where the properties were deemed to have zero value. Ms. Huntsberger's property has been assessed by the county at a value of \$20,730. Ms. Huntsberger was contacted in June 2020 and she expressed interest in selling her property with an initial asking price of \$20,000.

While the asking price might seem high in relation to adjacent properties, the cost of not acquiring this property would be much higher due to costly easement permits to cross the railroad.



Bob Flesher, Senior Environmental Project Manager  
 Superfund, AML, and Construction Bureau  
 Montana Department of Environmental Quality  
 Metcalf Building  
 1520 E. 6<sup>th</sup> Avenue  
 Helena, MT 59620-0901

RE: Easement Review regarding the Huntsberger property

Dear Mr. Flesher:

Contained in this letter are HydroGeoLogic, Inc. (HGL) findings from evaluating the easements and deeds associated with the 0.1 acre Huntsberger property located in Belt Montana, as indicated in the Alta Commitment for Title Insurance completed by Flying S Title & Escrow formerly known as First American Title Company. This evaluation was conducted in support of the Montana Department of Environmental Quality's (MT DEQ) due diligence process for potential land purchases.

Evaluation Summary:

It is with reasonable professional certainty, that the easements and deeds associated with Huntsberger property would not be detrimental to construction and operation of the proposed collection and conveyance system for mine impacted water.

Summary of Individual Easements and Deeds:

Book 133, Pages 120-121:	Contains an electric line and phone line right-of-way easement for the utility companies. Reasonable use of this easement is to allow the utilities to operate and maintain equipment on the property. This will not have a negative effect on the Belt WTP project.
Book 216, Pages 571-572:	Contains an easement for held by the state of Montana for a 180 foot wide section of land located in T19N, R6E, Section 27 E2NW4 for highway. This will not have a negative effect on the Belt WTP project.
Book 226, Pages 345-346	This is not an easement but a deed for real property (0.42 acres more or less) located in NE4SW4 of Section 26, T19N, R6E sold to Cascade County. This appears to now belong to the City of Belt and be where their water tanks are located.
Reel 92, Document 1490	Contains an easement for the City of Belt to access water tanks. and located in T19N, R6E, Section 26 E2SW4 and S2NW4. The

315 N 24TH STREET, LOWER  
 BILLINGS, MT 59101  
 406-259-2412



location of the easement will not affect the Belt WTP project construction and operations.

Reel 98, Doc 800

Contains an easement for a 5-6 foot deep ditch for water line with 15 foot wide adjacent to Lots 1-6 and located in Section 26 SW4. The location of the easement will not affect the Belt WTP project construction and operations.

Reel 165, Document 112

Contains an electric line easement located in Section 23 NE4SE4, Section 24 N2SW4. Reasonable use of this easement is to allow the utilities to operate and maintain equipment on the property. This will not have a negative effect on the Belt WTP project.

Reel 277, Document 529

Contains a phone line easement located in NE4SW4 (within project footprint) and E2, T19N, R6E, Section 26. Reasonable use of this easement is to allow the utilities to operate and maintain equipment on the property. This will not have a negative effect on the Belt WTP project.

Book 136, Page 545

Contains an electric transmission line easement. Reasonable use of this easement is to allow the utilities to operate and maintain equipment on the property. This will not have a negative effect on the Belt WTP project.

**Appendix:**

Appendix A – Contains the easements and deeds that were evaluated.

If you need additional information, please feel free to call me at 406-259-2412, or by email at [aherrera@hgl.com](mailto:aherrera@hgl.com).

Sincerely,

*Drew Herrera*

Drew Herrera, P.E.  
Vice President

### Contract for Sale of Real Property

Subject to approval of the purchase by the Montana Department of Natural Resources State Board of Land Commissioners (DNRC Land Board), the Montana Department of Environmental Quality (DEQ) agrees to buy, and Penny M. Huntsberger agrees to sell, real property (the Property) in Belt, Montana for \$24,000.00. The legal description for the Property is described in the Property Record Card, attached as EXHIBIT A. DEQ understands that the property is sold "as is" without any warranties.

Under § 82-4-239(6), MCA, DEQ is required to obtain approval for this property purchase. If the DNRC Land Board approves this purchase, DEQ will complete the purchase as soon as its processes allow. If the DNRC Land Board disapproves of this purchase, this contract is void, and DEQ has no obligation to purchase the Property or otherwise compensate Penny M. Huntsberger.

**Notice to Seller:** This is a legal document. You may wish to consult an attorney before signing this document. If you would prefer for DEQ to communicate with an attorney retained by you, please let us know. You are not required to have an attorney represent you in this matter, DEQ is merely informing you that DEQ has no objection if you choose to.

Penny M. Huntsberger  
Penny M. Huntsberger, Seller

5-17-23  
Date

STATE BOARD OF LAND COMMISSIONERS: By: \_\_\_\_\_, Date \_\_\_\_

Approved as to form and content: DEQ Legal: By: Jee m. muller Date 5/18/23



# Property Record Card

## Summary

### Primary Information

**Property Category:** [RP](#)  
**Geocode:** [02-2895-26-2-03-25-0000](#)  
**Primary Owner:**  
[HUNTSBERGER PENNY M](#)  
[317 5TH AVE N](#)  
[GREAT FALLS, MT 59401-2327](#)  
**NOTE:** See the Owner tab for all owner information

**Subcategory:** [Residential Property](#)  
**Assessment Code:** [0005064000](#)  
**PropertyAddress:**  
**COS Parcel:**

### Certificate of Survey:

**Subdivision:**

### Legal Description:

[S26, T19 N, R06 E, IN SENESW MK E](#)

**Last Modified:** [4/26/2023 8:17:30 PM](#)

### General Property Information

**Neighborhood:** [202.081](#)  
**Living Units:** [0](#)  
**Zoning:**  
**Linked Property:**

[No linked properties exist for this property](#)

### Exemptions:

[No exemptions exist for this property](#)

### Condo Ownership:

**General:** [0](#)  
**Limited:** [0](#)

### Property Factors

**Topography:**  
**Utilities:**  
**Access:**  
**Location:**

**Fronting:**  
**Parking Type:**  
**Parking Quantity:**  
**Parking Proximity:**

### Land Summary

<u>Land Type</u>	<u>Acres</u>	<u>Value</u>
Grazing	<a href="#">0.000</a>	<a href="#">00.00</a>
Fallow	<a href="#">0.000</a>	<a href="#">00.00</a>
Irrigated	<a href="#">0.000</a>	<a href="#">00.00</a>
Continuous Crop	<a href="#">0.000</a>	<a href="#">00.00</a>
Wild Hay	<a href="#">0.000</a>	<a href="#">00.00</a>
Farmsite	<a href="#">0.000</a>	<a href="#">00.00</a>
ROW	<a href="#">0.000</a>	<a href="#">00.00</a>
NonQual Land	<a href="#">0.000</a>	<a href="#">00.00</a>
Total Ag Land	<a href="#">0.000</a>	<a href="#">00.00</a>
Total Forest Land	<a href="#">0.000</a>	<a href="#">00.00</a>
Total Market Land	<a href="#">0.100</a>	<a href="#">00.00</a>

### Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
<a href="#">2/18/2005</a>	<a href="#">0000</a>	<a href="#">99333</a>			

Owners

Party #1

Default Information: HUNTSBERGER PENNY M  
317 5TH AVE N

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 11/6/2007 12:52:01 AM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2022	24000	0	24000	COST
2021	24000	0	24000	COST
2020	20790	0	20790	COST

Market Land

Market Land Item #1

Method: Acre Type: Primary Site

Width: Depth:

Square Feet: 00 Acres: 0.1

Valuation

Class Code: 2101 Value:

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land

No ag/forest land exists for this parcel

# 0623-2

TIMBER SALES:

A. Sand Coulee

B. Windy Woods



**Land Board Agenda Item  
June 19, 2023**

**0623-2A Timber Sale: Sand Coulee**

**Location:** Cascade County,  
Section 16, Township 16 North, Range 5 East

**Trust Beneficiaries:** Common Schools

**Trust Revenue:** \$23,079 (Negotiated Rate for Limited Access Sale)

**Item Summary**

**Location:** The Sand Coulee Limited Access (LA) Timber Sale is located approximately 14 miles west of Monarch, Montana.

**Size and Scope:** The sale includes 6 harvest units (*183 acres*) of tractor logging.

**Volume:** The estimated harvest volume is 4900 tons (*700MBF*) of Douglas-fir sawlogs.

**Estimated Return:** The negotiated bid is \$4.71 per ton, which would generate approximately \$23,079 for the Common Schools Trust and approximately \$5,733 in Forest Improvement fees.

**Prescription:** This sale would utilize a seed tree harvest prescription to capture timber value while improving forest health, vigor and productivity and reducing susceptibility to insects, pathogens and fire in the project area.

**Road Construction/Maintenance:** The Department of Natural Resources and Conservation (DNRC) is proposing 0.4 miles of new permanent road construction and 4.3 miles of road maintenance.

**Access:** The purchaser has obtained access to this timber sale through private landowners.

**Public Comments:** One comment was received. Montana Department of Fish, Wildlife and Parks (FWP) commented on possible species occurrences of bats, wolverine and Clarks Nutcracker within the project area. All project issues and concerns were incorporated into project planning and design and addressed within the environmental assessment document.

**DNRC Recommendation**

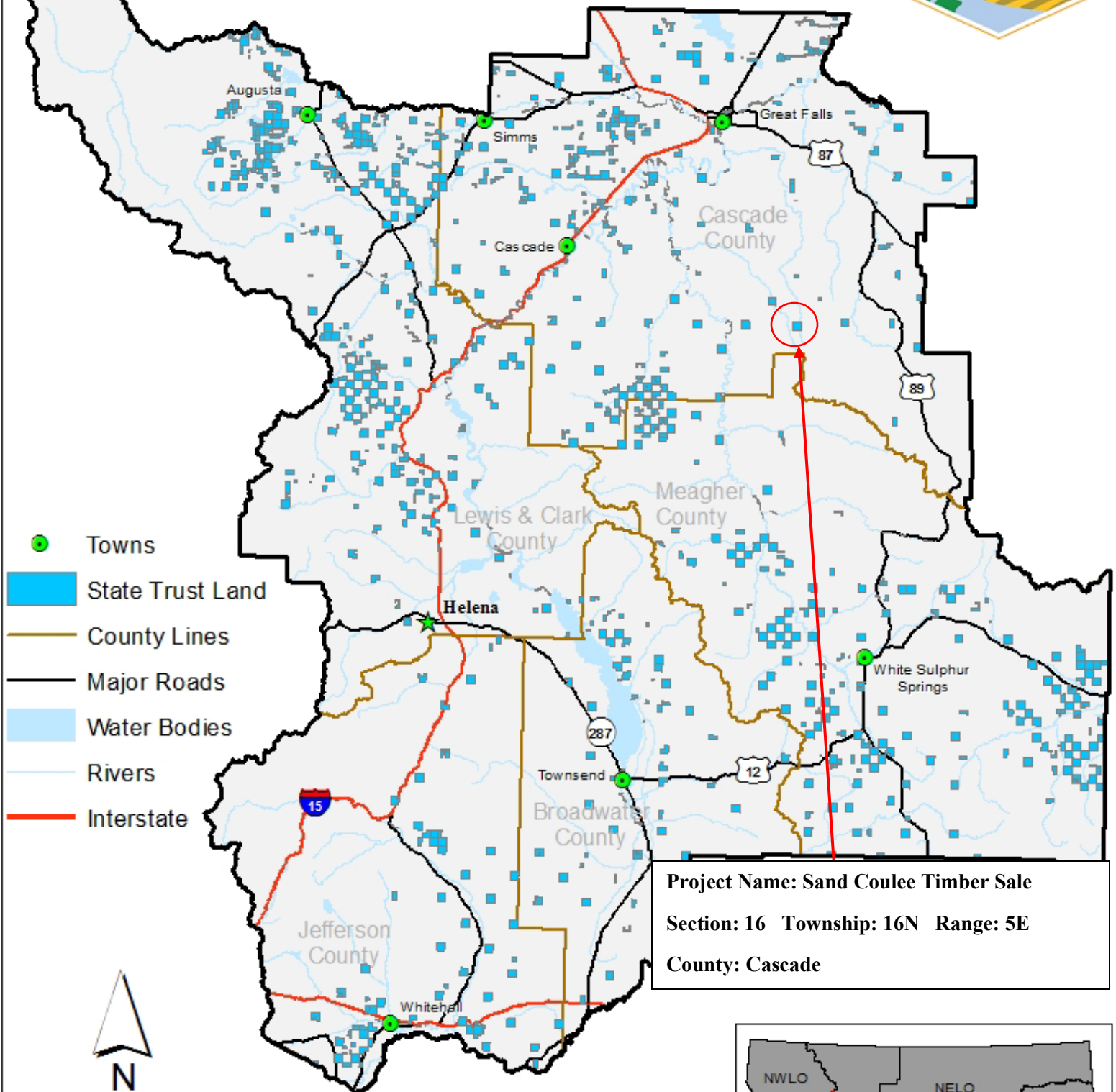
The DNRC recommends the Land Board direct DNRC to sell the Sand Coulee LA Timber Sale.



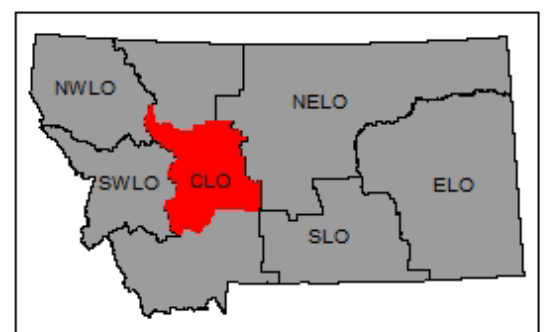
# State Trust Land Vicinity Map

## Helena Unit

### SAND COULEE VICINITY MAP

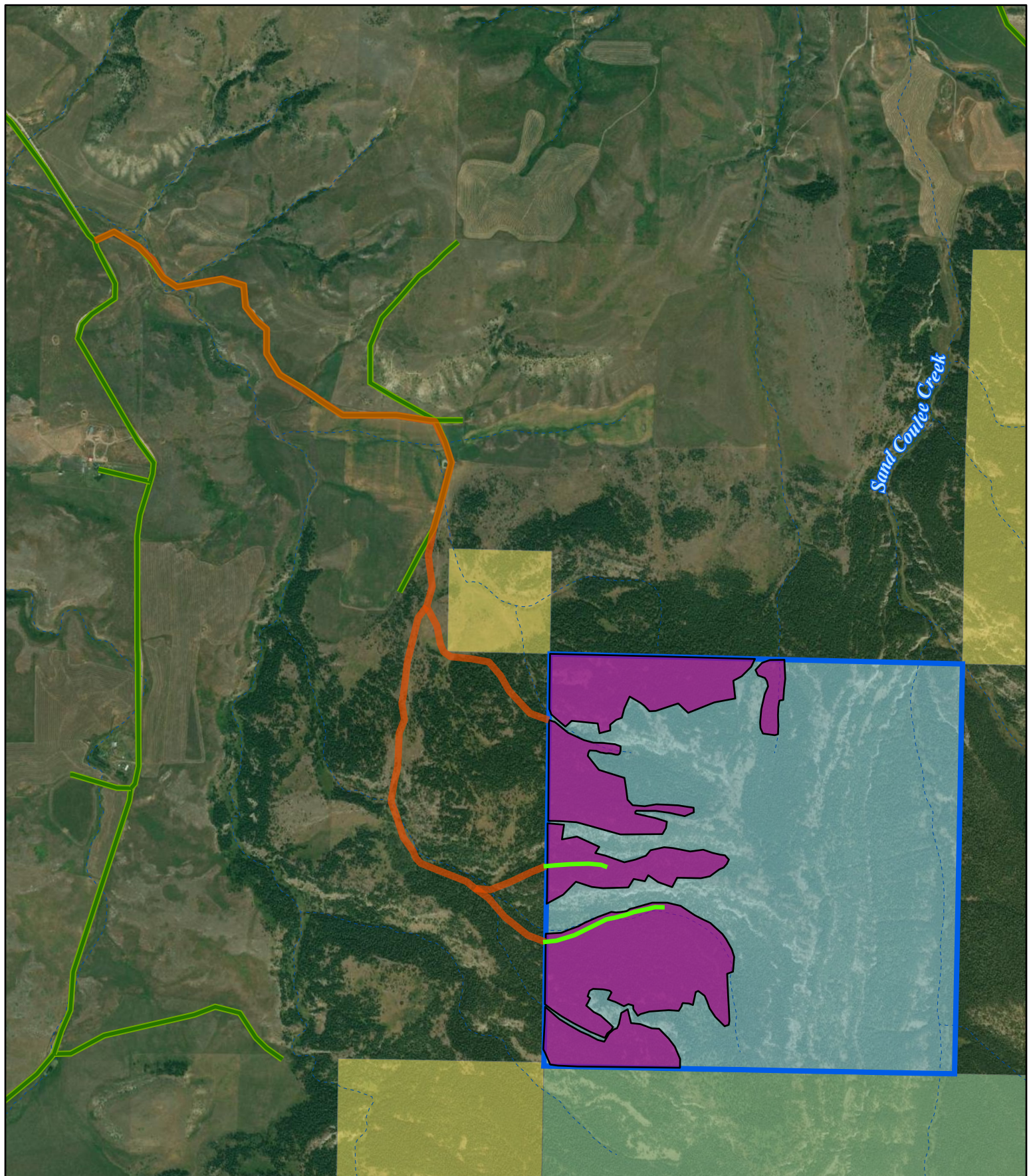


**Project Name:** Sand Coulee Timber Sale  
**Section:** 16 **Township:** 16N **Range:** 5E  
**County:** Cascade

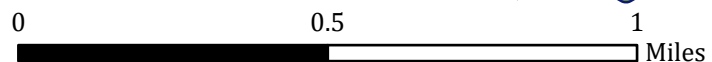


# Sand Coulee Timber Sale Haul Route and Harvest Units

0623-2A



- Haul Route
- Open/Public Roads
- Bureau of Land Management
- New Road
- Harvest Units
- US Forest Service
- DNRCTrust Lands
- Montana State Trust Lands
- Highway
- Intermittent Stream



**Land Board Agenda Item  
June 19, 2023**

**0623-2B Timber Sale: Windy Woods**

**Location:** Meagher County  
Section 16, Township 8 North, Range 5 East

**Trust Beneficiaries:** Common Schools

**Trust Revenue:** \$79,099 (Negotiated Rate for Limited Access Sale)

**Item Summary**

**Location:** The Windy Woods Limited Access (LA) Timber Sale is located approximately 11 miles southwest of White Sulphur Springs, Montana.

**Size and Scope:** The sale includes 8 harvest units (*268 acres*) of tractor logging.

**Volume:** The estimated harvest volume is 4258 tons (*655 MBF*) of sawlogs, 3500 tons of post & rail and 2800 tons of firewood.

**Estimated Return:** The negotiated bid is \$6.74 per ton, which would generate approximately \$28,699 for the Common Schools Trust and approximately \$5,365 in Forest Improvement fees. An additional revenue of \$28,000 for post & rail and \$22,400 for firewood products would be generated.

**Prescription:** This sale would utilize seed tree and clearcut harvest prescriptions to capture value from dead and green timber while improving the forest health, vigor and productivity, and reducing susceptibility to insects, pathogens and fire in the project area.

**Road Construction/Maintenance:** The Department of Natural Resources and Conservation (DNRC) is proposing 0.4 miles of new permanent restricted road construction, 1.9 miles of new temporary road construction, 0.6 miles of temporary road reconstruction, and 20.2 miles of road maintenance.

**Access:** The purchaser has obtained access to this timber sale through a private landowner.

**Public Comments:** One public comment was received from the Northern Cheyenne tribal representative requesting a Class I and/or Class III cultural resource report. The DNRC staff archaeologist conducted a Class I level review for the area of potential effect, which did not identify any cultural or paleontological resources in the project area.

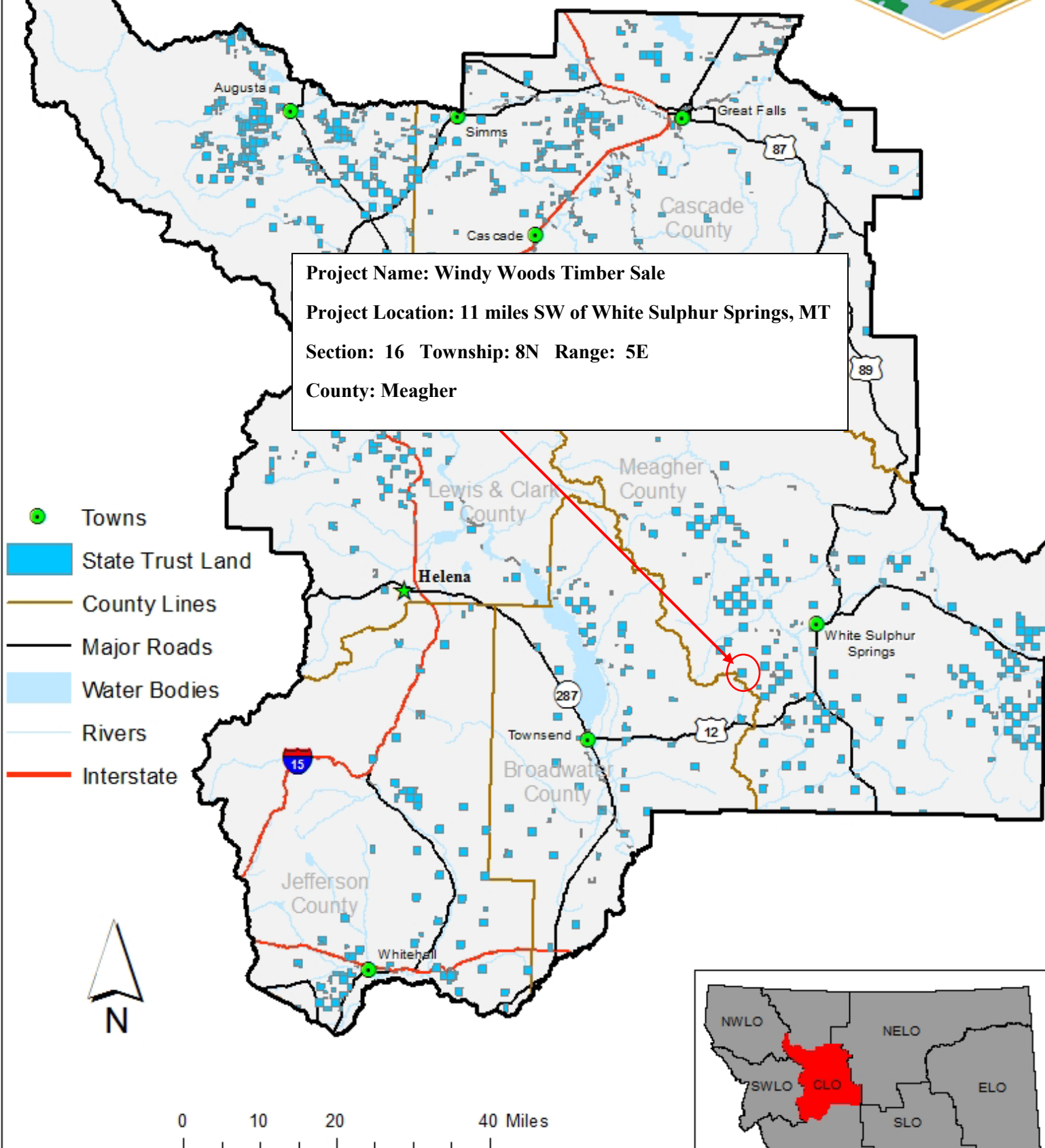
**DNRC Recommendation**

The DNRC recommends the Land Board direct DNRC to sell the Windy Woods LA Timber Sale.



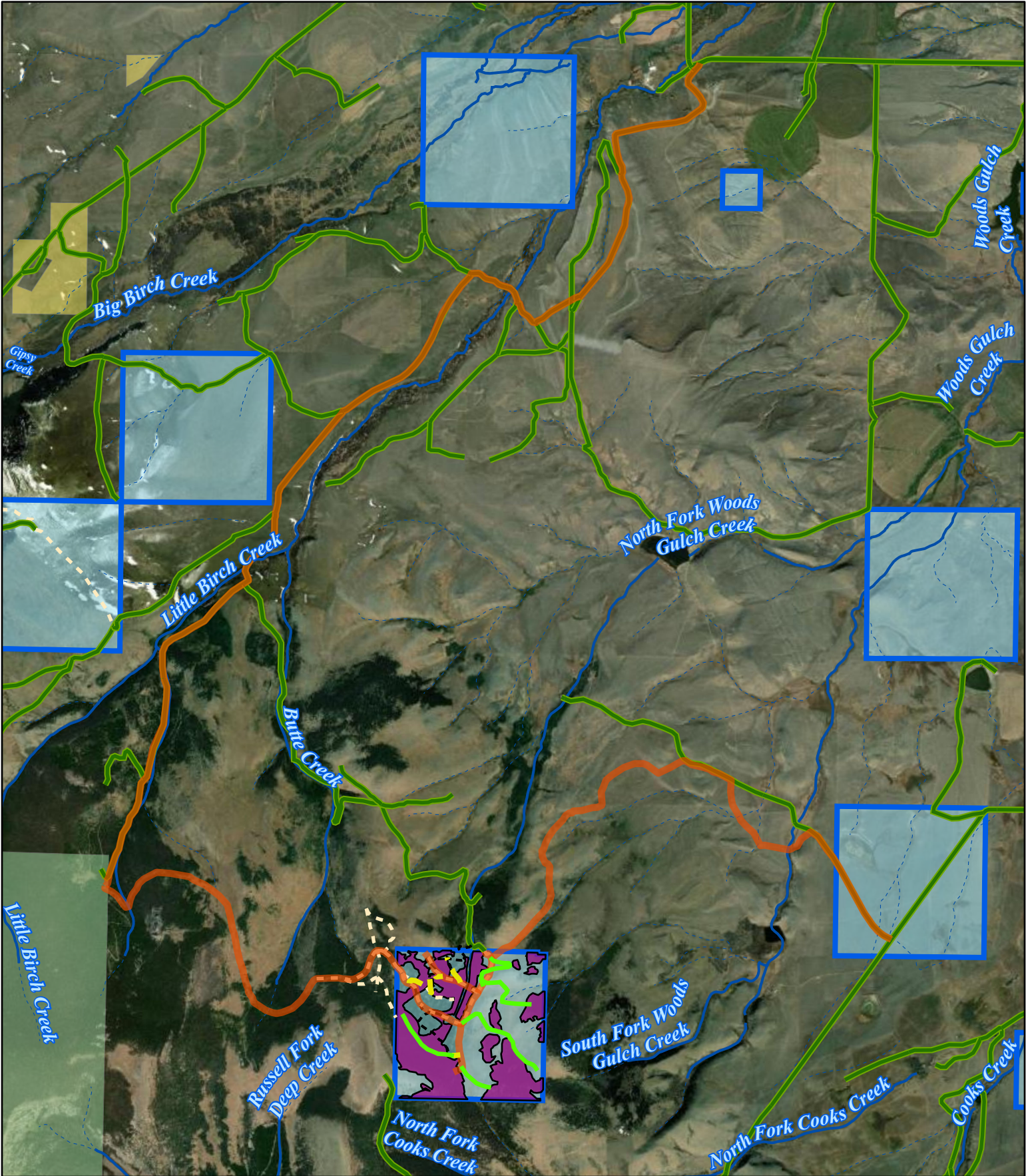
# State Trust Land Vicinity Map Helena Unit

## WINDY WOODS VICINITY MAP

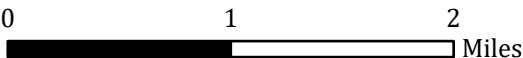


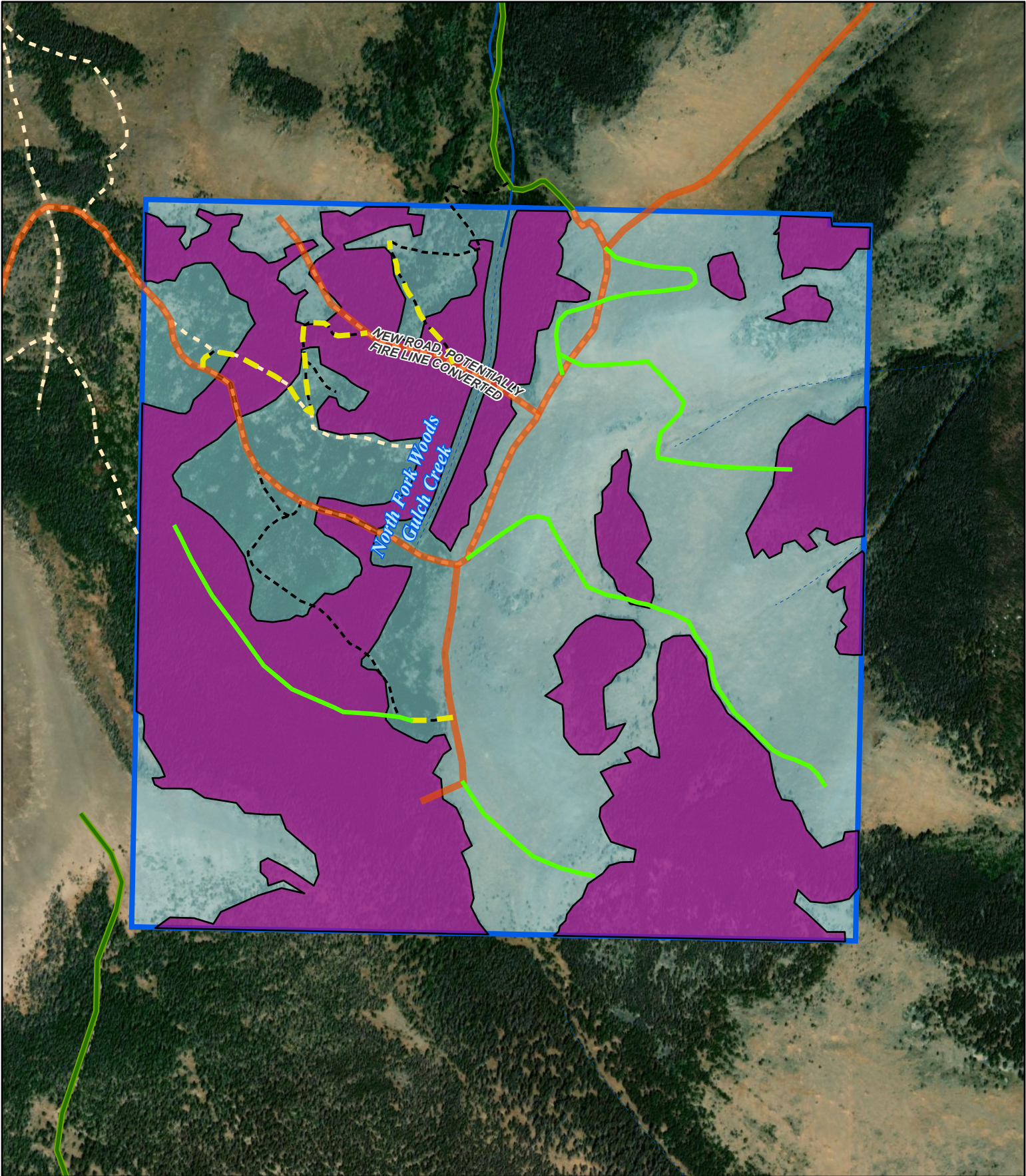
Windy Woods Timber Sale Haul Route

0623-2B

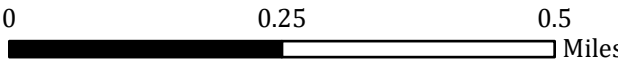


- Haul Route
- New Road
- Reconstruction of Existing Road
- FMB\_Roads
- Highway
- Open/Public Roads
- Restricted Class A
- Abandoned or Reclaimed
- Harvest Units
- DNRC Trust Lands
- Perennial Stream
- Intermittent Stream
- Bureau of Land Management
- US Forest Service
- Montana State Trust Lands





- |                                 |                        |                           |
|---------------------------------|------------------------|---------------------------|
| Haul Route                      | Open/Public Roads      | Perennial Stream          |
| New Road                        | Restricted Class A     | Intermittent Stream       |
| Reconstruction of Existing Road | Abandoned or Reclaimed | Montana State Trust Lands |
| Harvest Units                   | DNRC Trust Lands       |                           |



# 0623-3

OIL AND GAS LEASE SALE:

June 6, 2023



**Land Board Agenda Item  
June 19, 2023**

**0623-3   Oil and Gas Lease Sale (June 6, 2023)**

**Location:** Daniels, Richland, Sheridan, Toole

**Trust Benefits:** Common Schools

**Trust Revenue:** \$23,837.28

**Item Summary**

The Department of Natural Resources and Conservation (DNRC) held an online oil and gas lease sale that started on May 31, 2023 and closed on June 6, 2023, through an online auction company, EnergyNet. A total of fifteen tracts were offered for lease. Fifteen tracts were leased for a total of \$23,837.28. The fifteen tracts that were sold covered a total of 4,858.48 acres. The average bid per acre was \$4.91.

The high competitive bid for the June 6, 2023 sale was \$61.00 per acre and the largest total bid was \$4,787.28 for Tract 14 in Toole County.

**DNRC Recommendation**

The director requests Land Board approval to issue the leases from the June 6, 2023, oil and gas lease sale.



**State of Montana**  
**Oil & Gas Lease Sale - June 6, 2023**  
**Lease Sale Results**

The following described lands were offered for oil and gas leasing through an online bidding service, EnergyNet, beginning May 31, 2023 and closed on June 6, 2023.

Tract	Stipulations	Twp	Rng	Sec	Description	Acres	Bid/Acre	Total Bid	Lessee
<b>Daniels</b>									
1	1, 2, 3, 4, 5, 6	36.N	51.E	16	S2	320.00	\$1.50	\$480.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
<b>Richland</b>									
2	1, 2, 3, 4, 5, 6, 10	25.N	51.E	36	ALL	* 640.00	\$2.00	\$1,280.00	WHITE ROCK ENERGY LLC
3	1, 2, 3, 4, 5, 6, 7, 12	27.N	56.E	22	NE4NE4, SW4NW4, W2SW4	160.00	\$22.00	\$3,520.00	CLOVE HITCH LLC
<b>Sheridan</b>									
4	1, 2, 3, 4, 5, 6, 10, 12	35.N	54.E	14	SW4SE4	40.00	\$2.50	\$100.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
5	1, 2, 3, 4, 5, 6, 10, 12	35.N	54.E	16	ALL	640.00	\$6.00	\$3,840.00	NISKU ROYALTY LP
6	1, 2, 3, 4, 5, 6, 8, 12	35.N	54.E	23	NW4, W2NE4	240.00	\$1.50	\$360.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
7	1, 2, 3, 4, 5, 6, 12	35.N	54.E	26	NW4NE4	40.00	\$2.50	\$100.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
8	1, 2, 3, 4, 5, 6, 7, 8, 12	35.N	54.E	36	ALL	640.00	\$6.00	\$3,840.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
9	1, 2, 3, 4, 5, 6, 8, 10, 12	35.N	55.E	21	NE4NE4, SW4NE4, NW4SE4, S2SE4	200.00	\$7.00	\$1,400.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
10	1, 2, 3, 4, 5, 6, 8, 10, 12	35.N	55.E	28	NW4NW4, S2NW4, E2NE4, NE4SW4	240.00	\$7.00	\$1,680.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
11	1, 2, 3, 4, 5, 6, 7, 13	36.N	51.E	36	ALL	640.00	\$1.50	\$960.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
12	1, 2, 3, 4, 5, 6, 8, 9	36.N	52.E	32	E2NW4, E2SE4, SW4SE4, NE4SW4, N2SE4SW4	260.00	\$1.50	\$390.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
13	1, 2, 3, 4, 5, 6, 8	36.N	52.E	36	ALL	* 640.00	\$1.50	\$960.00	4-JW LTD DBA 4-JW LIMITED PARTNERSHIP
<b>Toole</b>									
14	1, 2, 3, 4, 5, 6, 10, 11	35.N	4.W	4	LOTS 1, 2	* 78.48	\$61.00	\$4,787.28	MONTALBAN OIL & GAS OPERATIONS INC
15	1, 2, 3, 4, 5, 6, 14	36.N	4.W	33	S2SE4	* 80.00	\$1.75	\$140.00	MONTALBAN OIL & GAS OPERATIONS INC

\* Part or all of tract is not state-owned surface

## Summary by Lessor

	Total Acres	Total Tracts
Dept. of Natural Resources and Conservation	4,858.48	15

## Oil and Gas Lease Sale Summary

Total Tracts	15
Total Acres	4,858.48
Total Bid Revenue	\$23,837.28
Average Bid Per Acre	\$4.91

**State of Montana**  
**Oil & Gas Lease Sale - June 6, 2023**  
**Stipulations**

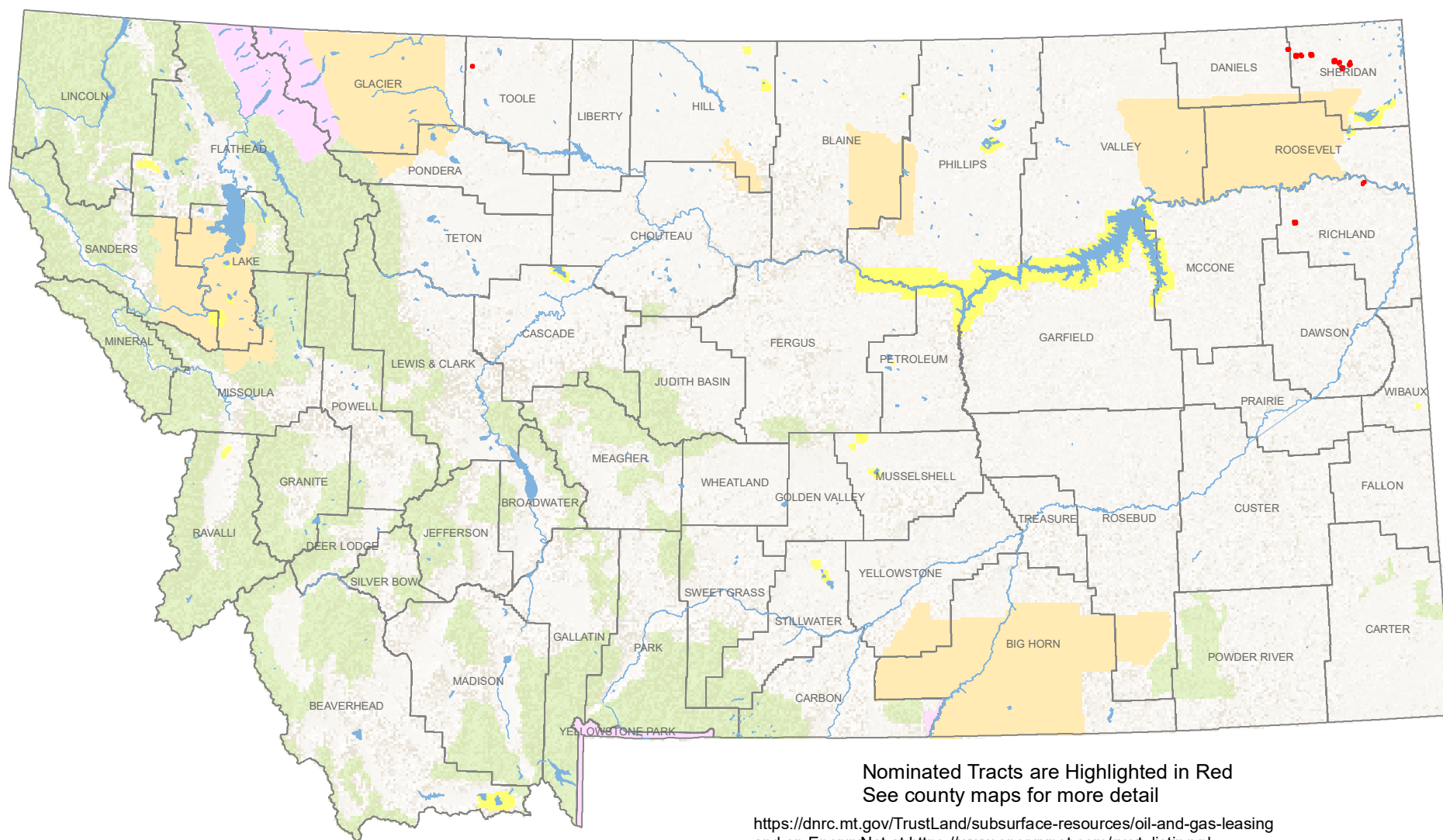
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- 1 Lessee shall notify and obtain approval from the Department's Trust Land Management Division (TLMD) prior to constructing well pads, roads, power lines, and related facilities that may require surface disturbance on the tract. Lessee shall comply with any mitigation measures stipulated in TLMD's approval.
- 2 Prior to the drilling of any well on or into the lease premises, lessee shall send one copy of the well prognosis, including Form 22 "Application for Permit" to the Department's Trust Land Management Division (TLMD). After a well is drilled and completed, lessee shall send one copy of all logs run, Form 4A "Completion Report", and geologic report to TLMD. A copy of Form 2 "Sundry Notice and Report of Wells" or other appropriate Board of Oil and Gas Conservation form shall be sent to TLMD whenever any subsequent change in well status or operator is intended or has occurred. Lessee shall also notify and obtain approval from the TLMD prior to plugging a well on the lease premises.  
  
Issuance of this lease in no way commits the Land Board to approval of coal bed methane production on this lease. Any coal bed methane extraction wells would require subsequent review and approval by the board.
- 3 The TLMD will complete an initial review for cultural resources and, where applicable, paleontological resources of the area intended for disturbance and may require a resources inventory. Based on the results of the inventory, the TLMD may restrict surface activity for the purpose of protecting significant resources located on the lease premises.
- 4 The lessee shall be responsible for controlling any noxious weeds introduced by lessee's activity on State-owned land and shall prevent or eradicate the spread of those noxious weeds onto land adjoining the lease premises. The lessee's methods of control shall be reviewed and approved by the Department's Unit Office that has jurisdiction for that locale.
- 5 The definitions of "oil" and "gas" provided in 82-1-111, MCA, do not apply to this lease for royalty calculation purposes.
- 6 If the State does not own the surface, the lessee must contact the owner of the surface in writing at least 30 days prior to any surface activity. A copy of the correspondence shall be sent to TLMD.
- 7 Due to unstable soil conditions on this tract and/or topography that is rough and/or steep, surface use may be restricted or denied. Seismic activity may be restricted to poltershots.
- 8 The lessee is responsible to pay for all damages, including penalties and charges assessed by the USDA-CFSA on CRP lands, as a result of drilling and production on the tract.
- 9 Unless otherwise approved by the Department in writing, wells and related surface infrastructure, including new road construction, are prohibited within 1/2 mile of the centerline of a navigable river, lake or reservoir, and within 1/4 mile of direct perennial tributary streams of navigable waterways, on or adjacent to the tract. No surface occupancy is allowed within the bed of a river, stream, lake or reservoir, islands and accretions or abandoned channels.
- 10 Due to the floodplain/wetlands area(s), surface use may be restricted or denied.
- 11 This tract has (an) existing well(s) and related facilities. The lessee has 45 days from the effective date of this lease to determine whether or not to assume responsibility from the former lessee for the well(s) and any existing facilities. The lessee may not enter the well(s) until a change of operator has been filed with, and approved by, the Board of Oil and Gas Conservation. If a change of operator is accepted, the(se) well(s) must be returned to commercial production or plugged and the well site(s) reclaimed within 18 months from the effective date of this lease.
- 12 If whooping cranes are observed on-site, construction and/or maintenance activities shall be suspended until birds leave the area.
- 13 Wildlife species of concern have been identified on or near this tract. Identified species will be avoided, unless otherwise authorized by the TLMD. Additional mitigation measures may also be required.
- 14 This lease is spaced into an adjacent off-tract well.

# STATE OF MONTANA JUNE 6, 2023 OIL AND GAS ONLINE LEASE SALE

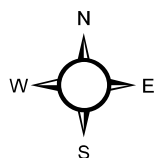
## Hosted by EnergyNet

### FINAL LIST MAP - ALL TRACTS



Nominated Tracts are Highlighted in Red  
See county maps for more detail

<https://dnrc.mt.gov/TrustLand/subsurface-resources/oil-and-gas-leasing>  
and on EnergyNet at [https://www.energynet.com/govt\\_listing.pl](https://www.energynet.com/govt_listing.pl)





# 0623-4

CABIN AND HOME SITE SALES:

Final Approval for Sale



**Land Board Agenda Item  
June 19, 2023**

**0623-4 Cabin and Home Sites: Final Approval for Sale**

**Location:** Flathead County

**Trust Benefits:** Montana Tech

**Trust Revenue:** \$675,000

The Department of Natural Resources and Conservation (DNRC) is requesting final approval for the sale of one (1) cabin site nominated for sale in Flathead County. The sale was nominated by the DNRC in conjunction with the 2022-2023 Cabin and Home Site Sales Program.

<b>Sale No.</b>	<b>Acres</b>	<b>Legal Description</b>	<b>Nominator</b>	<b>Trust</b>
<b>2030</b>	0.851±	Lot 16, Echo Lake, COS 18885 T27N-R19W, Section 5	DNRC	Montana Tech

**Background**

Preliminary Land Board approval was granted in April of 2022 (Approved 4-1) for the site to be included as part of the 2022-2023 Cabin Site Sales Program. The Land Board set the minimum bid for this cabin site at the appraised land value and the maximum value of compensation for the improvements in September of 2022 (Approved 4-1).

**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 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.

**Economic Analysis:**

Short term – The cabin site is not leased, therefore, the average rate of return on this sale parcel is 0%. The parcel will continue to receive this return if it remains in state ownership.

Long term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through 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 of this cabin site was prepared by Montana General Certified Appraiser Elliott M. Clark, MAI of Clark Real Estate Appraisal of Whitefish, Montana.

<b>Sale No.</b>	<b>Appraised Land Value</b>	<b>Appraised Improvements Value*</b>	<b>Final Sale Price</b>
<b>2030</b>	\$666,000	\$9,000	\$675,000

\*DNRC owns the improvements, which were auctioned with the land and will be transferred to the winning bidder

**Sale Price**

The cabin site sold at public auction on May 4, 2023. There was one registered 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 cabin site at the value shown above.

# Echo Lake, Flathead County





# 0623-5

EASEMENTS:

Standard Grants



**Land Board Agenda Item  
June 19, 2023**

**0623-5 Easements**

**Location:** Missoula, Sweet Grass, Valley and Yellowstone Counties

**Trust Benefits:** Common Schools

**Trust Revenue:** Common Schools = \$35,040

**Item Table of Contents**

<b>Applicant</b>	<b>Right-of-Way Purpose</b>	<b>Term</b>	<b>Page(s)</b>
Triangle Telephone Cooperative Association, Inc.	Buried fiber optic cable	Permanent	49-50 53-56
Nemont Telephone Cooperative, Inc.	Buried fiber optic cable	Permanent	51-52
Cenex Pipeline, LLC	Buried Refined Fuels Pipeline	30-Year Term	57-58
USDI – Bureau of Land Management	Public Motorized Access Road	Permanent	59-60



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	7959 (Amended)
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	ok
Acreage:	3.64
Compensation:	\$3,892.00
Legal Description:	20-foot strip through S2N2, NE4NE4, Sec. 36, Twp. 2N, Rge. 14E, Sweet Grass County
Trust Beneficiary:	Common Schools

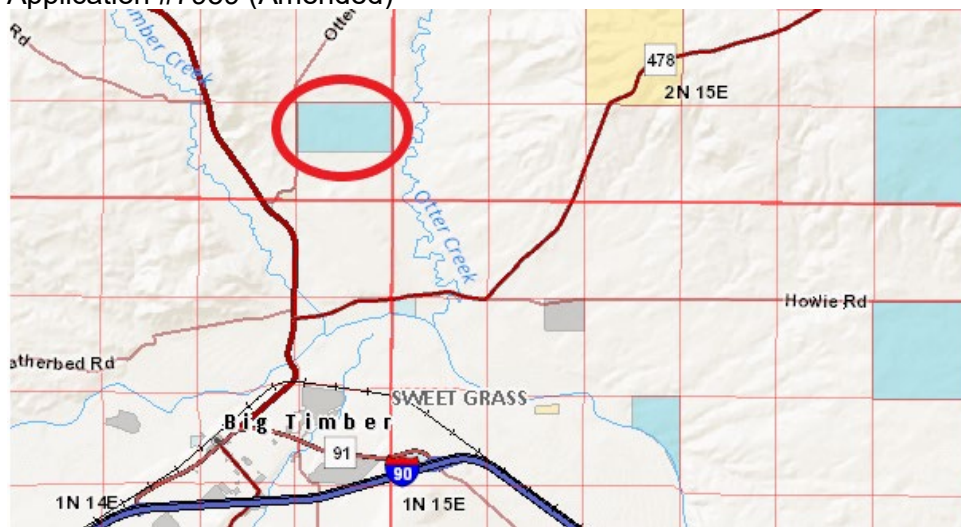
Item Summary

Project Telephone Company is proposing to add a buried fiber optic cable to a segmented portion of an existing easement that contains copper telephonic cable. The existing copper cable will remain in place. This project will provide upgraded services to the Big Timber area. The new fiber optic cable will be trenched in a portion of the existing easement corridor adjacent to county roads. Minimal impacts are expected to occur.

DNRC Recommendation

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

## Application #7959 (Amended)



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant:	Nemont Telephone Cooperative, Inc. PO Box 600 Scobey, MT 59263
Application No.:	19557
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	ok
Acreage:	2.46
Compensation:	\$738.00
Legal Description:	20-foot strip through N2N2, Sec. 36, Twp. 34N, Rge. 39E, Valley County
Trust Beneficiary:	Common Schools

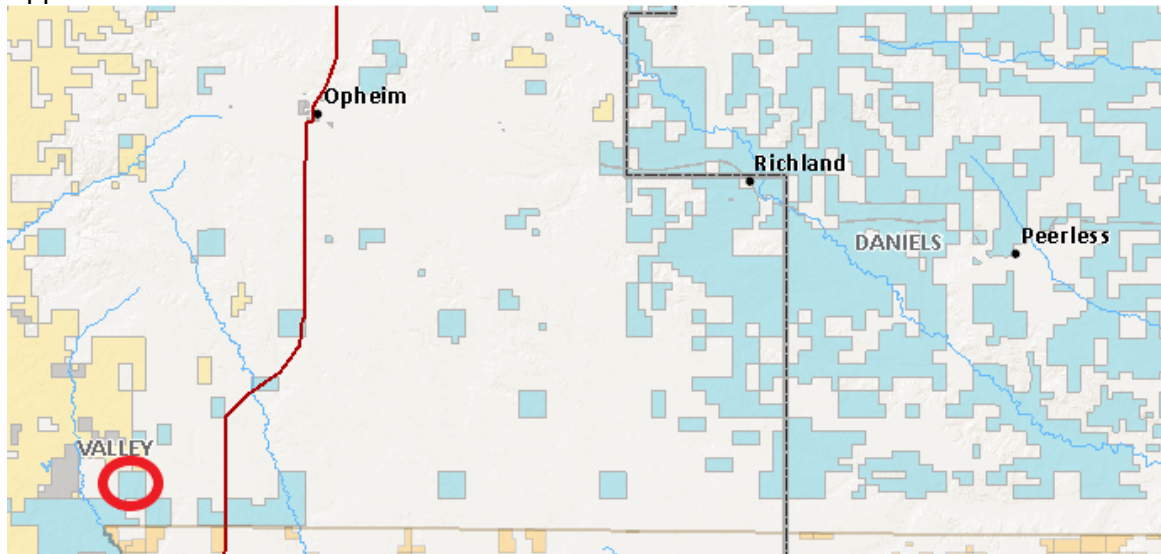
Item Summary

Nemont Telephone Cooperative, Inc. is requesting an easement to provide fiber optic service to a compressor station to the west of Highway 24 in Valley County, Montana. 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 Nemont Telephone Cooperative, Inc.

Application #19557



APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	19558
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	ok
Acreage:	2.05
Compensation:	\$1,320.00
Legal Description:	20-foot strip through SE4NE4, NE4SE4, Sec. 36, Twp. 3N, Rge. 13E, Sweet Grass County
Trust Beneficiary:	Common Schools

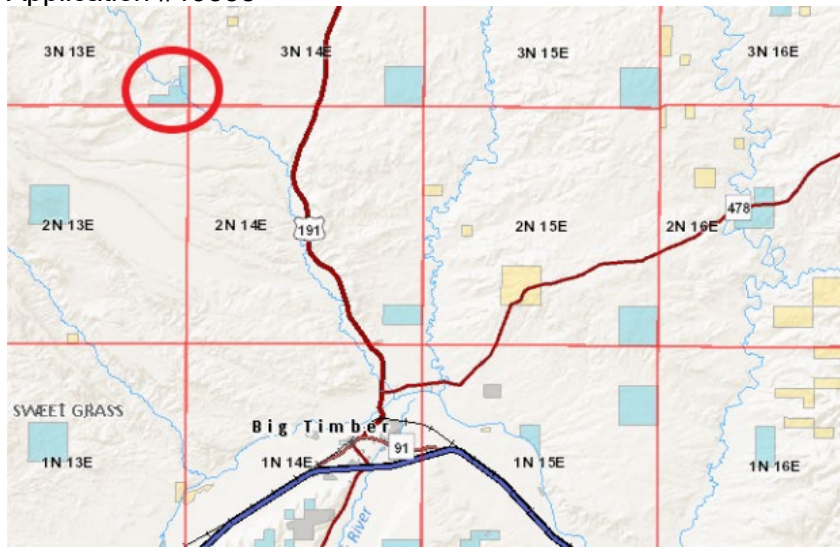
Item Summary

Triangle Telephone Cooperative Association, Inc. is requesting an easement to replace and upgrade existing buried telecommunications facilities. These upgrades will provide service to the Big Timber Exchange and serve in and around Geraldine, Montana. 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 Triangle Telephone Cooperative Association, Inc.

## Application #19558



## APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant:	Triangle Telephone Cooperative Association, Inc. PO Box 1220 Havre, MT 59501
Application No.:	19559
R/W Purpose:	a buried fiber optic telecommunications cable
Lessee Agreement:	ok
Acreage:	2.05
Compensation:	\$2,460.00
Legal Description:	20-foot strip through E2E2, Sec. 16, Twp. 1S, Rge. 14E, Sweet Grass County
Trust Beneficiary:	Commons Schools

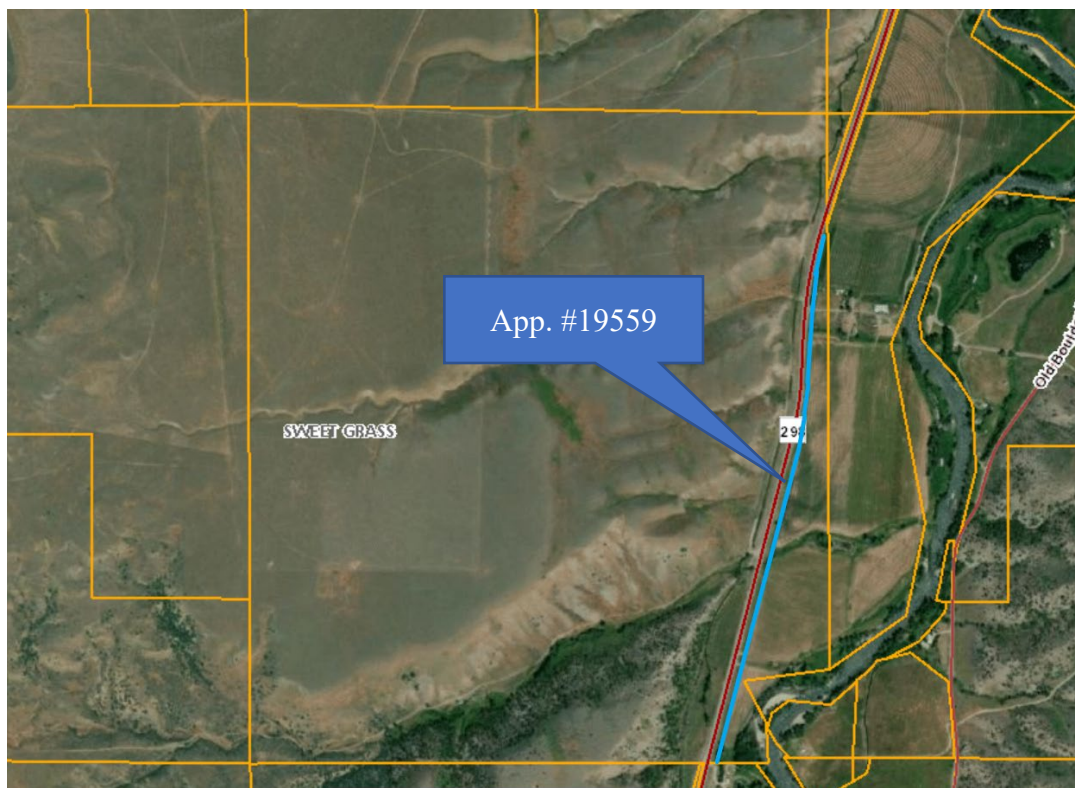
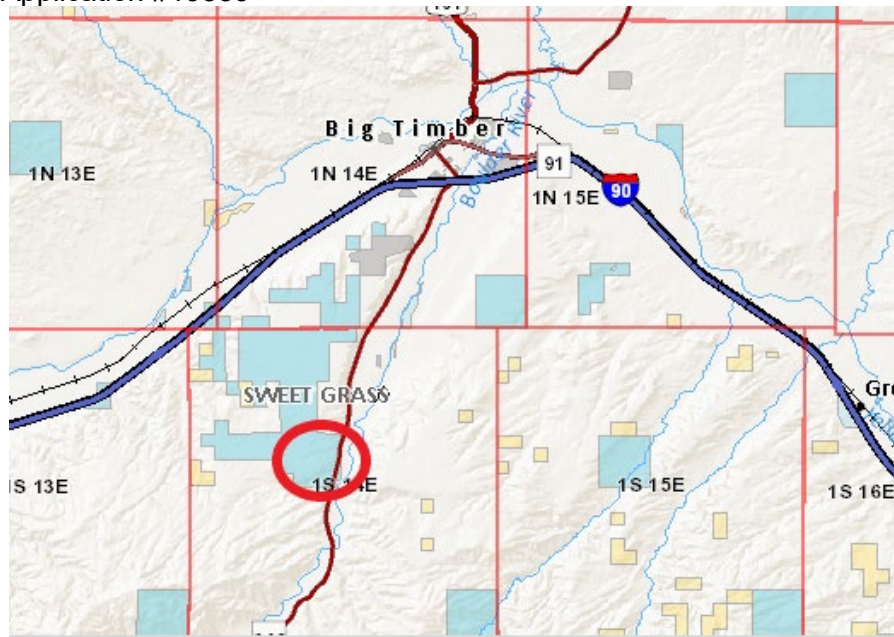
### Item Summary

Triangle Telephone Cooperative Association, Inc. is requesting an easement to bury a new fiber optic line to serve rural customers in the Big Timber exchange area. The new fiber optic cable will be primarily trenched along Highway 298, 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, Inc.

Application #19559



## APPLICANTS AND RIGHTS OF WAY INFORMATION

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Applicant:	Cenex Pipeline, LLC 803 US HWY 212 South Laurel, MT 59044
Application No.:	19560
R/W Purpose:	a buried 10" refined fuels pipeline
Lessee Agreement:	ok
Acreage:	3.36
Compensation:	\$26,630
Legal Description:	50-foot strip through NW4SE4, S2SE4, Sec. 36, Twp. 1N, Rge. 26E, Yellowstone County
Trust Beneficiary:	Common Schools

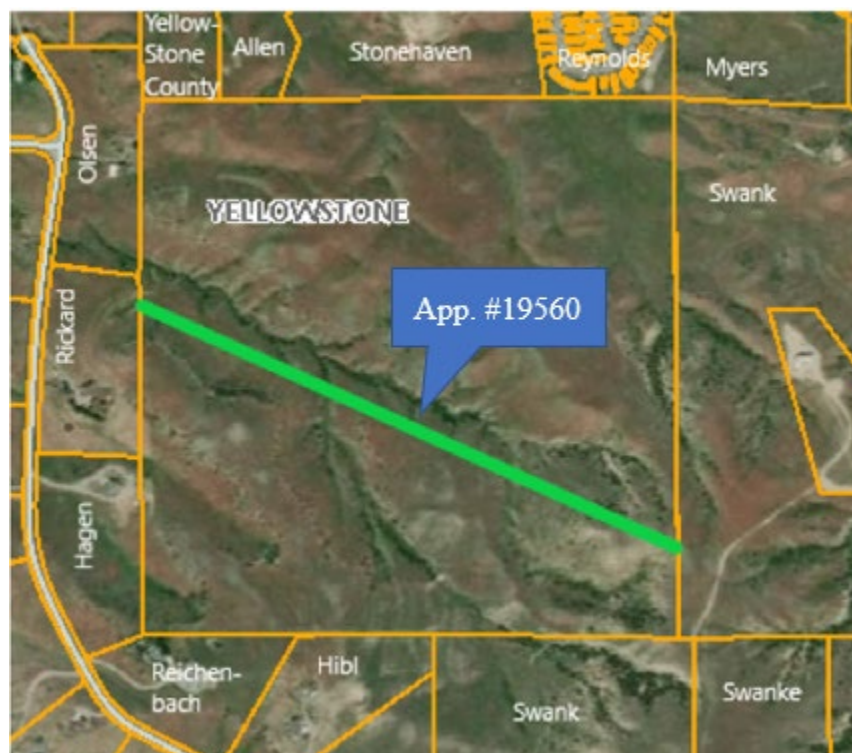
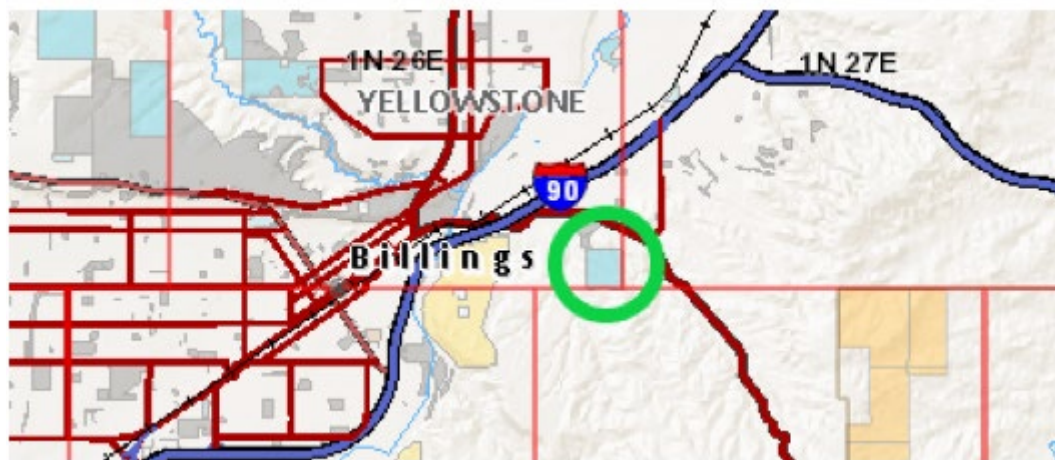
### Item Summary

Cenex Pipeline, LLC is requesting an easement for the purpose of relocating an existing 10" pipeline. This relocation will take the pipeline outside of a densely populated area in the City of Billings and provide for expanded capacity to meet increased demand in a safe and efficient manner. The pipeline will be both trenched and directional drilled to a depth of 8 feet below the surface. The general path of the pipeline follows a steep sloped hillside and embankment adjacent to a drainage, thus the different methods for construction. Minor disturbance will occur with the installation, however the area will be reclaimed and reseeded. Consistent with previous Land Board direction, this easement is proposed to be issued for a term of 30-years.

### DNRC Recommendation

The DNRC recommends approval of the application of Cenex Pipeline, LLC for a 30-year term.

Application #19560



## APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	United States of America Bureau of Land Management 3255 Fort Missoula Road Missoula MT 59804
Application No.:	19566
R/W Purpose:	a perpetual, non-exclusive easement to locate, construct, use, maintain, improve and repair a public motorized access road
Lessee Agreement:	N/A (Existing Road)
Acreage:	3.11
Compensation:	\$23,325.00 (added to the MOU Balance Sheet)
Legal Description:	tract of land in E2SE4, Sec. 35 and W2SW4, Sec. 36, Twp. 15N, Rge. 14W, Missoula County
Trust Beneficiary:	Common Schools

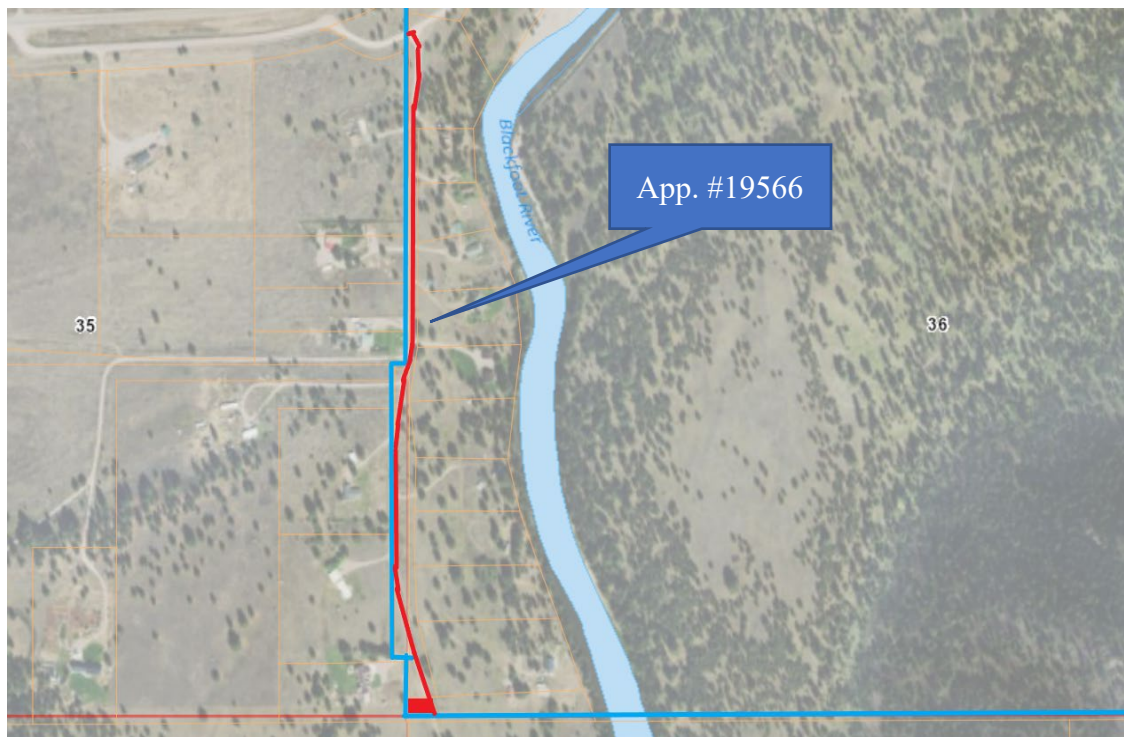
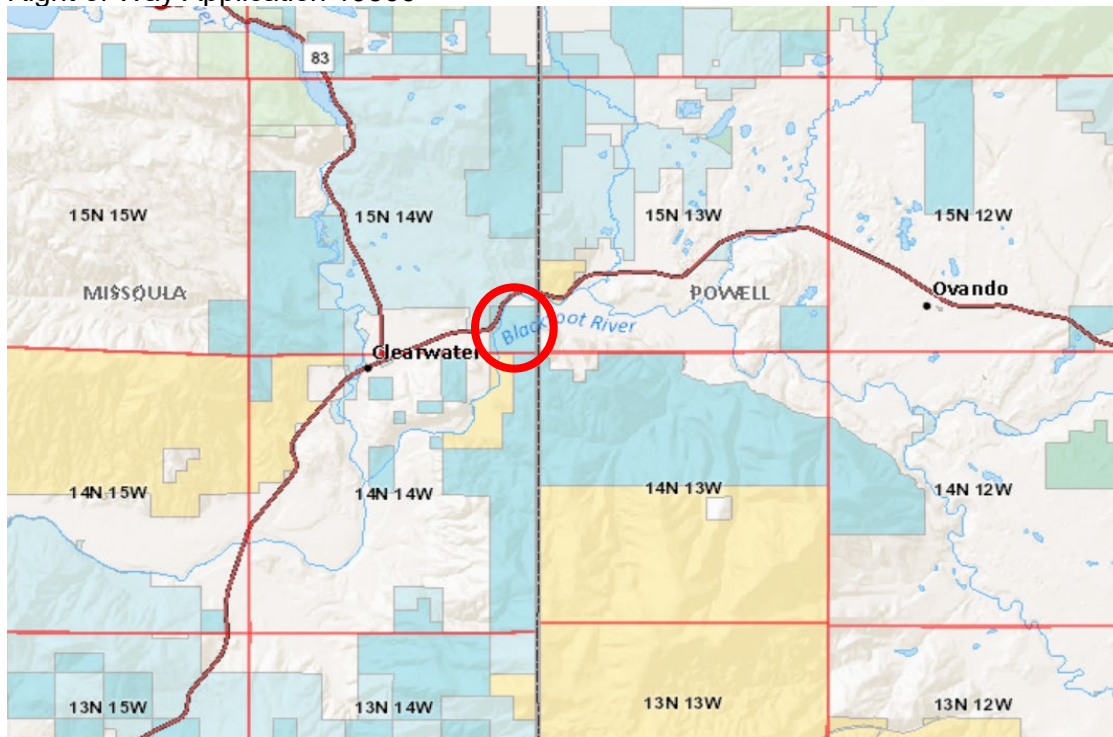
### Item Summary

The Bureau of Land Management has made an application pursuant to the Memorandum of Understanding (MOU) with the DNRC to acquire a public road easement on the Sperry Grade Road near Clearwater. The MOU, adopted by the Land Board in 2001, provides for the State of Montana and the BLM to exchange access easements over time, with the value of said easements being maintained on a balance sheet. In no circumstance will the BLM owe the State on the balance sheet, however the State may carry a balance due with the BLM. Currently, DNRC has obtained legal easements across several tracts of BLM Lands with a total value of \$52,020 being owed. If approved by the Land Board, this easement grant to BLM will reduce the total the State owes the BLM to \$28,695. The proposed easement will include a small parking area for the public to legally access BLM lands, a portion of which were acquired by BLM through a private land donation in 2011. The BLM land are immediately adjacent to State Trust Land and are held under a conservation easement that does not provide for motorized use, thus the public has been parking on the State Trust Land. The DNRC acquired, via land donation approved by the Land Board in 2021, a narrow tract of land over which a portion of the Sperry Grade Road is located upon, which is part of the road system proposed for easement to BLM. This easement grant will provide legal access for the public to recreate on BLM land and State Trust land, as well as provide access to the Blackfoot River.

### DNRC Recommendation

The DNRC recommends approval of the application of the USA, Bureau of Land Management.

## Right of Way Application 19566



# 0623-6

LAND USE LICENSES:

Yellowstone and Ravalli Counties



**Land Board Agenda Item  
June 19, 2023**

**0623-6 Land Use License:**

**Location:** Yellowstone River, Yellowstone County & Bitterroot River, Ravalli County

**Trust Benefits:** Public Land Trust – Navigable Waterways

**Trust Revenue:** \$1,650.00

**Item Table of Contents**

<b>Applicant</b>	<b>Land Use License Purpose</b>	<b>Term</b>	<b>Page(s)</b>
James Hein	To remove rock and rubble from eight bendway weirs that were previously constructed and have washed out.	1 year	64-66
Overturf Ditch Co.	To temporarily place concrete blocks in the Bitterroot River to divert water to a headgate for irrigation purposes.	10 years	67-69

NAVIGABLE WATER LAND USE LICENSE  
June 19, 2023

Applicant: James Hein  
2917 Highway 312  
Worden, MT 59088

License No.: LUL 305-2300068  
Purpose: Removal of rock and rubble from previous weir construction.  
Acreage: 1.5  
Compensation: \$150.00  
Legal Description: NE ¼ SE ¼ Sec. 21 T3N R29E  
Trust Beneficiary: Public Land Trust – Navigable Waterways

Item Summary

The purpose of this license is for removing rock and rubble from eight bendway weirs that were previously constructed in the Yellowstone River and have partially washed out. This will be a one-year license. 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 James Hein.

# James Hein Weir Removal

LUL 309-2300068 - Bendway Weir removal  
21-T3N-R29E

0623-6

Section 22

3N 29E

Section 21

### \*\*\*Disclaimer

The DNRC Southern Land Office makes no warranty, expressed or implied regarding the accuracy of the information in this map and reserves the right to correct, update, modify, or replace this information without notification.

Prepared By : Joe Holzwarth - DNRC

Date: 10 May 2023

NAD 1983 MT State Plane FIPS 2500 (Meters)

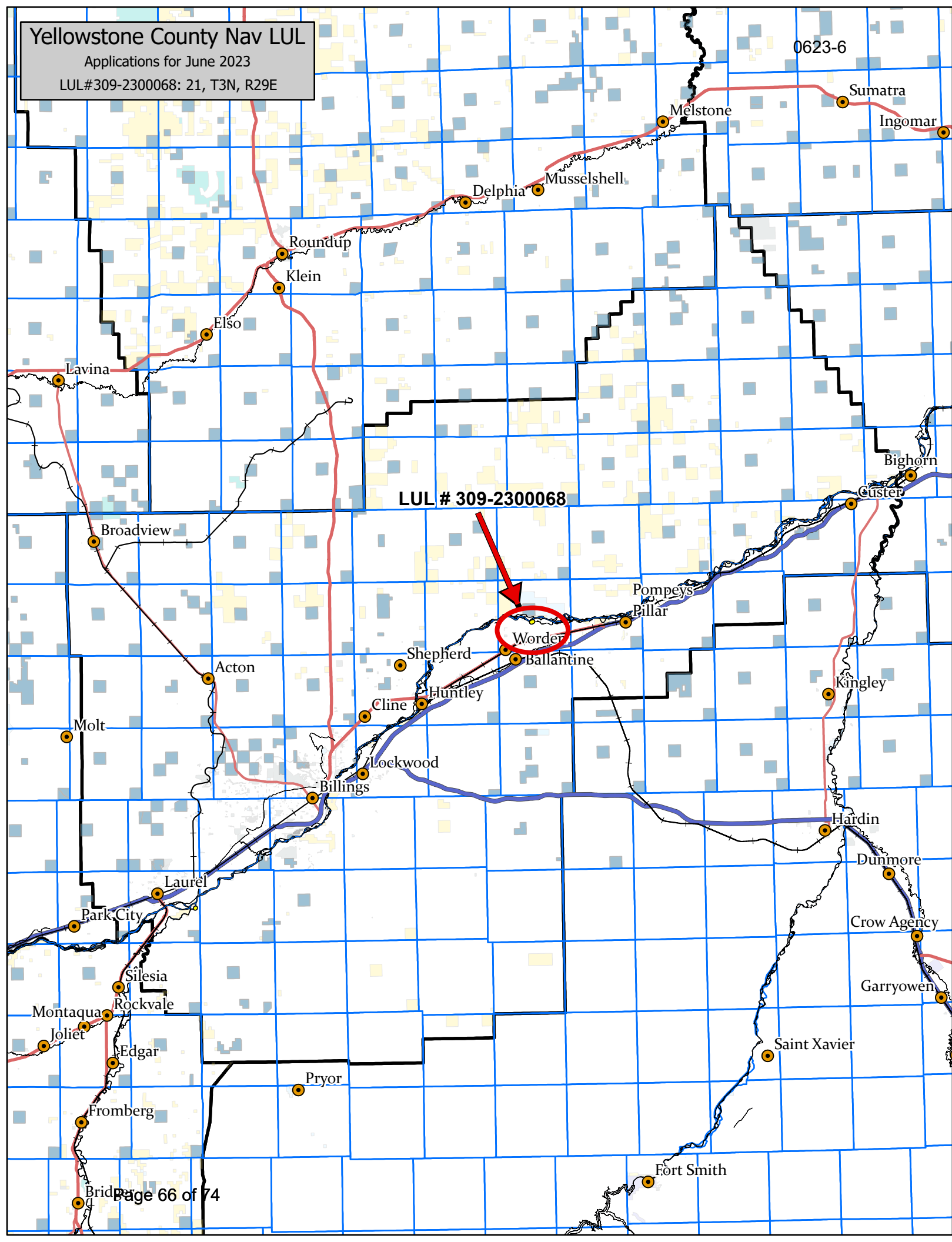
### Legend

- Approx. Bendway Weir Area
- Private Property

# Yellowstone County Nav LUL

Applications for June 2023

LUL#309-2300068: 21, T3N, R29E



NAVIGABLE WATER LAND USE LICENSE  
June 19, 2023

Applicant: Overturf Ditch Co.  
c/o Wayne Buhler, President  
3198 Old Darby Rd  
Darby, MT 59829

License No.: LUL 30X-23000XX  
Purpose: Placement of concrete blocks in the Bitterroot for irrigation.  
Acreage: 0.25  
Compensation: \$1,500.00  
Legal Description: SE ¼ NE ¼ Sec. 14 T3N R21W  
Trust Beneficiary: Public Land Trust – Navigable Waterways

Item Summary

Using a trackhoe above high-water mark, concrete blocks will be placed in the Bitterroot River to divert water into the headgate of the irrigation ditch. The blocks will be placed in July and removed in November each year. 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 the Overturf Ditch Co.

# State Trust Land Vicinity Map

## Hamilton Unit

*Overturf Ditch Co. Diversion VICINITY  
MAP*









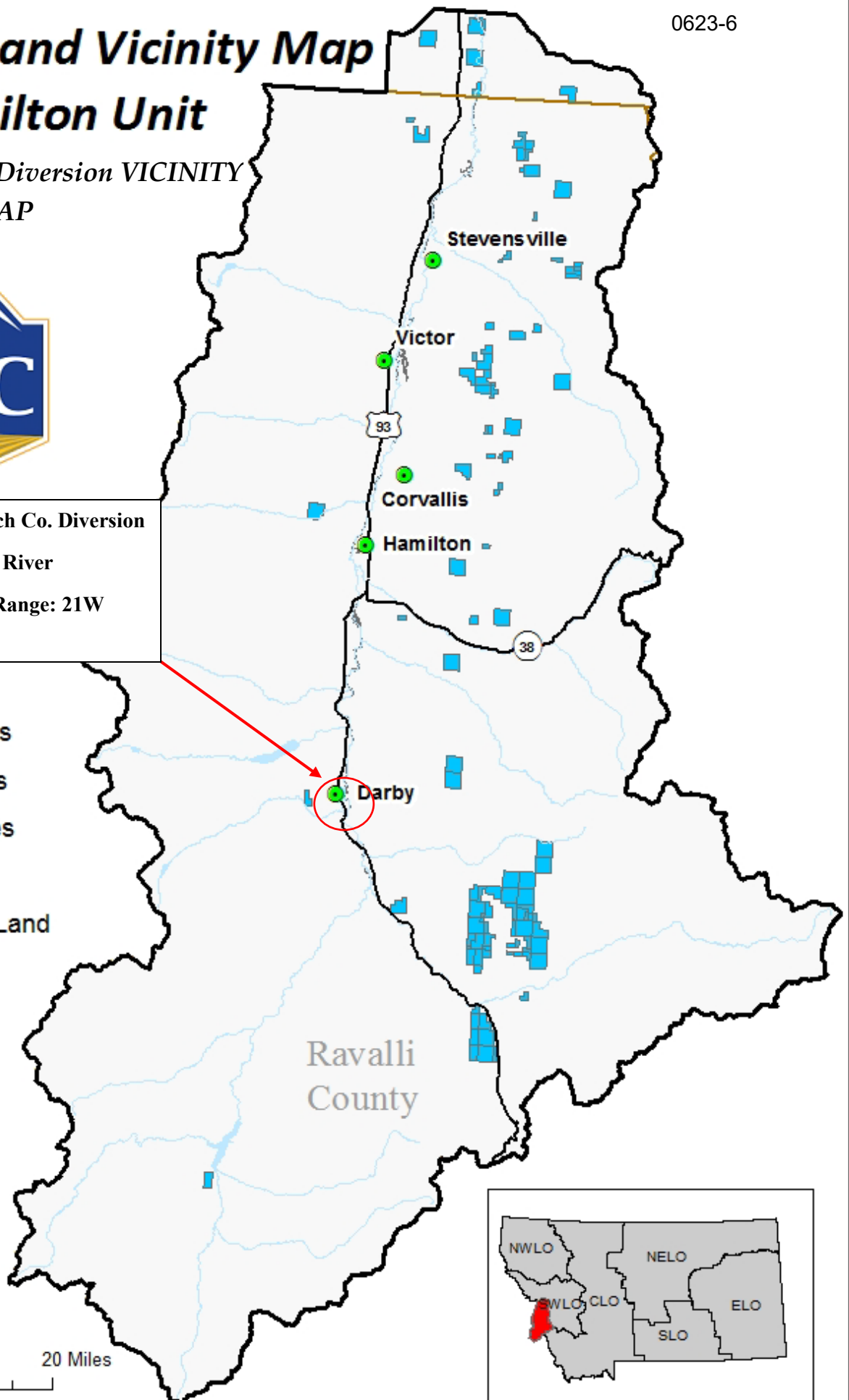
**Project Name:** Overturf Ditch Co. Diversion

**Project Location:** Bitterroot River

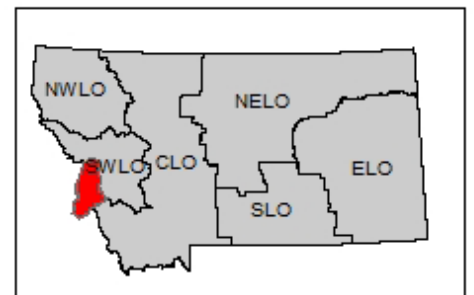
**Section:** 14 **Township:** 3N **Range:** 21W

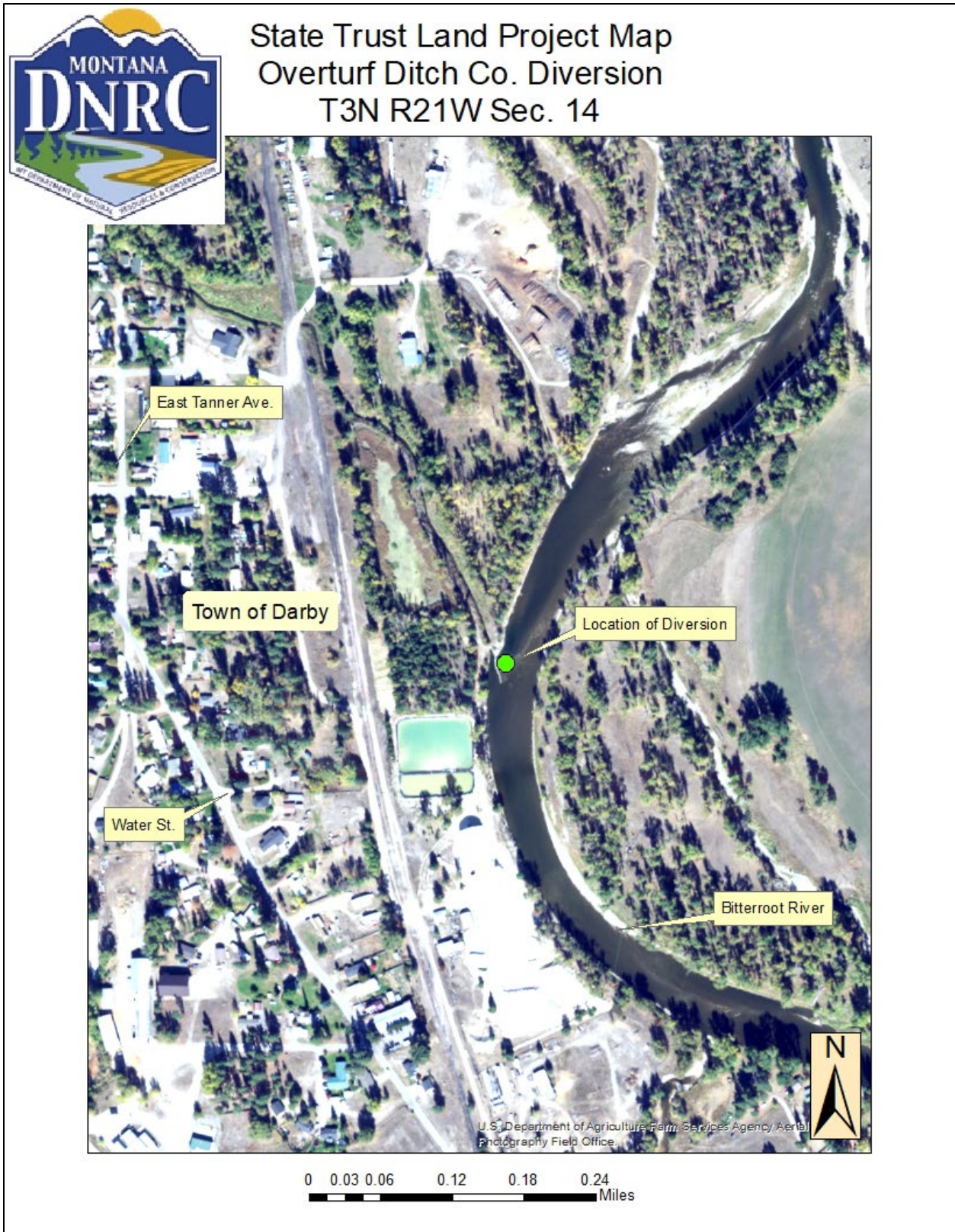
**County:** Ravalli

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



0 5 10 20 Miles







# 0623-7

DNRC AND LAND COMMISSIONERS  
DEFENDANTS ON MISSOURI RIVER  
OWNERSHIP LITIGATION



**Land Board Agenda Item  
June 19, 2023**

**0623-7 DNRC and Board of Land Commissioners Defendants on Missouri River Ownership Litigation**

**Location:** Roosevelt County

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

**Loss in Trust Revenue:** Potentially Paid Royalties, Bonus, Costs, Fees, Future Royalties

**Item Summary**

Ownership of DNRC Trust Lands is being contested along nine sections of the Missouri River southeast of Culbertson. River Oxbow, LLC, Trapper Creek Land LLC, Grass Rock Hills LLC, and Garth Harmon ("Harmons") filed Verified Complaint to Quiet Title and for Mesne Profits of Real Property on December 13, 2021, in Montana's Fifteenth Judicial District Court, Roosevelt County. The lawsuit names both DNRC and the Montana Board of Land Commissioners. Harmons did not serve the complaint. DNRC Trust Land and Legal staff attempted to work with the Harmon family and their counsel to resolve ownership claims involving mineral and surface estate, but for unknown reasons negotiations failed.

Harmons filed an Amended Verified Complaint for Declaratory Judgement, to Quiet Title and for Mesne Profits of Real Property on April 26, 2023. Both DNRC and the Office of the Attorney General acknowledged service of the Amended Complaint on June 2, 2023, and May 23, 2023, respectively. The Office of the Attorney General has formally recused itself from representing the Land Board in this matter but has not yet explicitly given DNRC authority to do so. DNRC legal counsel has historically represented the Land Board in litigation contesting State ownership in and around navigable water ways. The deadline for DNRC and the Land Board to respond to Harmons Amended Complaint is July 7, 2023.

**DNRC Recommendation**

The DNRC recommends the Land Board approval for DNRC legal counsel to represent the Land Board in the above referenced matter, file an Answer to Harmons' Complaint on behalf of the Land Board and take all other actions reasonably necessary to defend the State's ownership of the lands in question, including filing potential counterclaims.

