

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Forest Service Reciprocal Easement Agreement & Forest Service Old Ranger Trail Easement
Proposed Implementation Date:	Fall of 2023
Proponent:	United States Forest Service and MT DNRC Trust Land Management Division
Location:	<ul style="list-style-type: none">LOTS 1-7 INC._SE4NW4_S2NE4_SE4_E2SW4 of Section 6, Township 7 South, Range 19 East (MSU Morrill) ±614.54LOTS 1_2_3_4_E2SW2_E2 of Section 7, Township 7 South, Range 19 East (Pine Hills School) ±613.52 acresALL of Section 8, Township 7 South, Range 19 East (MSU Morrill) ±640 acresNW4_NW4NE4_S2NE4_S2 of Section 9, Township 7 South, Range 19 East (Pine Hills School) ±600 acresALL of Section 10, Township 7 South, Range 19 East (MSU Morrill) ±640 acres
County:	Carbon County

I. TYPE AND PURPOSE OF ACTION

Montana Department of Natural Resources and Conservation (DNRC), Trust Land Management Division (TLMD) and the United States Forest Service (USFS) are proposing to enter into a reciprocal easement agreement that would benefit the State by gaining motorized all lawful access to a block of State Trust land commonly referred to as the Palisades block, as shown in Exhibit 'A', Sheet 1. Currently, the DNRC only has a temporary motorized access agreement through a private landowner north/northeast of Section 3, Township 7 South, Range 19 East to the Palisades block. The private landowner originally signed a temporary road use agreement with the State of Montana that expired as of 31 October 2021. The landowner agreed to sign an extension allowing state temporary access while the State of Montana and United States Forest Service finalized the reciprocal access agreement but will not grant permanent legal access to the State. In addition, the DNRC has motorized access thru the USFS generally along the proposed easement route on a case-by-case basis with approval from the Beartooth District Ranger. There is also non-motorized access to the Palisades block from the USFS lands to the west, which has legal access from Upper Red Lodge Creek Road.

The State of Montana will be granted legal motorized right-of-way on designated Forest Roads 2141 and 21415 through Sections 1, 2, 11, and 12 of Township 7 South, Range 18 East through Forest Service lands. A portion of Forest Road 2141 crosses through private land that the USFS will reconvey their easement to the State of Montana. This road system will connect to the Palisades block of State Trust land. The State of Montana will grant legal right-of-way to the USFS on Sections 7, 8, 9, and 10 of Township 7 South, Range 19 East. There is an established roadbed across the Palisades block with constructed crossings across the drainages. Roughly 0.25 miles of new roadway will be constructed at some point in the future on Section 7 to connect the existing Palisades road system with the USFS road system.

In addition to the State acquiring access to the Palisades block, the State of Montana will be granted legal motorized right-of-way in three separate areas on other National Forests to make the easement exchange provide each party with equal road miles. These road segments are not analyzed in this document since they are grants to the State from the USFS. These roads currently exist. No new construction is planned on them and prior actions have been previously analyzed by the USFS. The additional granted rights-of-way are as follows:

- Kootenai National Forest – Warland: Sections 25 and 35 of Township 32 North, Range 29 West on USFS designated Roads 566, 7738, and 7738A (See Exhibit 'A', Sheet 2).
- Lolo National Forest – Lolo: Section 1 of Township 25 North, Range 28 West on USFS designated road 4422 (See Exhibit 'A', Sheet 3).
- Kootenai National Forest – Meadow Ridge: Section 30 of Township 28 North, Range 27 West on USFS designated road 2345 (See Exhibit 'A', Sheet 4)

The United States Forest Service is also seeking a 20' wide right-of-way to construct a non-motorized trail named The Old Ranger Trail. The proposed trail easement will be a separate grant and is not included in the easement exchange for motorized access. The trail alignment generally follows a historic trail that was previously used by the Forest Service to connect Upper Red Lodge Creek with Nichols Creek. The trail is surveyed and proposed to run through Sections 6, 7, 8, 9 and 10 of Township 7 South, Range 19 East, as shown in 'Exhibit B.' The trail system would encumber ±20.562 acres on State Land. The ingress and egress points on the State-owned land will connect into USFS lands. The USFS has been working on building and establishing a new trail to connect the Red Lodge Creek portion of Forest Lands to an existing trail system near Red Lodge and a large portion will need to cross State Lands. The Forest Service plans to construct and maintain the trailway as a public trail. The trail easement cost will be paid for by Red Lodge Mountain (RLM) and this was part of the prior Land Exchange Agreement between RLM and the USFS that allowed RLM to trade lands so that their base area is on private land and not leased USFS land. A portion of the trail will overlap with the established roadway the State will be granting to the USFS.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

The DNRC Southern Land Office (SLO) put out a public scoping notice in the Billings Gazette paper on 20th and 27th of February 2022, and in the Carbon County News on 24th of February 2022, and March 3rd, 2022 seeking comment from interested parties regarding this easement exchange. The comment period ran from February 16th, 2022, through March 25th, 2022. In addition to the published legal ads, letters were sent to landowners in a one-mile radius of the proposed easement exchange area.

The DNRC Southern Land Office (SLO) sent out an additional public scoping notice to adjacent residents on August 22, 2022, in the form of a letter. The letter was sent to notify residents of changes to the project, which included removing a small segment of proposed road in the NE¼ of Section 1 of Forest Service Land and to include the east portion of the loop road.

Public comments and responses are in 'Appendix A' of this document.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

- The United States Forest Service – the other participating governmental agency.
- Montana Fish, Wildlife, and Parks (FWP) - Comments were received about suggestions of management of the Palisades Block.

No other government permits are needed.

3. ALTERNATIVES CONSIDERED:

Proposed Action Alternative: Issue the reciprocal easement agreement for motorized access across state lands on Sections 7, 8, 9, and 10 in T7S-R19E to the United States Forest Service and, in exchange, the State of Montana will be granted legal motorized access across Sections 1, 2, 11, and 12 in T7S-R18E across USFS authorized lands.

In addition to the reciprocal access agreement, issue a right-of-way to the USFS for the Old Ranger Trail on Sections 6, 7, 8, 9, and 10 in T7S-R19E to allow the USFS to construct and maintain a public non-motorized trailway system.

No Action Alternative: Deny the reciprocal easement agreement for motorized access across state lands on Sections 7, 8, 9, and 10 in T7S-R19E to the United States Forest Service. The State of Montana would then not

be granted legal motorized access across Sections 1, 2, 11, and 12 in T7S-R18E across USFS authorized lands and would not secure permanent legal motorized access.

In addition to denying the reciprocal access agreement, deny the right-of-way to the USFS for the Old Ranger Trail on Sections 6, 7, 8, 9, and 10 in T2S-R19E to allow the USFS to construct and maintain a public non-motorized trailway system.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" If no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

The structural geology within the landscape surrounding the project area is a result uplifting, tilting and depressing large crustal blocks of Precambrian crystalline rocks known today as the Beartooth Mountains. Local thrust and tear faulting in the Red Lodge area along the northern and northeastern portions of this uplifted block is evident adjacent to the project area through striking imbrications of Paleozoic sedimentary rocks along this thrust margin in the form of outcropping limestone palisades and hogbacks. Parent materials within the project area consist of Paleocene and younger formations consisting of conglomerates, sandstones and surficial glacial deposits of Archean metamorphic rocks. These surficial deposits vary in thickness for 10 to 30 feet and are a result of various glacial and erosion processes transporting bedrock material relatively short distances from the uplifted crustal blocks to low angle slopes along the mountain front. Weathering processes acting on these transported metamorphic materials has contributed to the clay loam soil texture observed throughout the majority of the project area.

The forest soils within the Palisades block project area have many similarities with local variations in aspect, slope position, and depth to bedrock creating slight differences in physical properties that limit forest management activities. In general, soil depth is typically less 40 than inches before encountering impervious bedrock. Soils generally have a clay loam surface texture but grade to a sandier clay loam along ridges and convex features. Deep soils with elevated clay contents, particularly on north aspects, typically remain moist well into summer months. Due to the fine texture of these soils, pore spaces are small and matrix water is bound tightly by capillary forces resulting in moderate infiltration capacities and drainage attributes. Main riparian soils adjacent to stream networks are poorly drained and have low bearing strengths.

Most of the proposed roadway across State Trust Land for the reciprocal access agreement are established roadbeds that were built to BMP standards during a timber harvest project completed in 2016. This includes grading and culverts over ditch/stream crossings. Approximately 0.25 miles of road will need to be constructed in Section 7 in order to connect to USFS designated road 21415 to the Palisades block road system. When construction for this portion commences, BMPs will be followed.

The proposed USFS Old Ranger Trail route will be entirely new construction except in areas where it already exists or where it follows the existing road system. The proposed route has been surveyed and will follow natural slopes and the construction practices will follow the same standards as all public trails. The USFS is applying for a 20' wide easement for the trail in order to construct and maintain the trail. The actual trail path will encompass a smaller area within their right-of-way. There is potential for minimal soil compaction as the trail is utilized by the public. The USFS will design the trail to standards that will have minimal impacts.

Under the proposed alternative, neither the roadway, nor the trail, will not any have significant impact upon the geological and soil quality, stability, and moisture regimes of the area.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Numerous surface water rights exist within and downstream of the project area for domestic use, irrigation, livestock watering, lawn and garden, and fish and wildlife. There are also numerous active and inactive irrigation ditches that divert and/or deliver surface flows from or to most of the larger main stem streams within the proposed project area. None of the streams located within the proposed project water resource analysis areas are listed as water quality limited water bodies in the State of Montana 2020 303(d) list (DEQ 2020). However, the main stem of West Red Lodge Creek downstream of the confluence of the Burnt Fork Creek to the confluence with East Red Lodge Creek has been included on the 2020 303(d) list. Most of the major streams in the project area such as Burnt Fork, Hogan Creek, Thiel Creek, Harney Creek, are Class 1 streams. All of these streams and many of their tributaries support fish or have flow for more than 6 months each year and contribute surface flow to another stream or other body of water.

The proposed roadway easement across State Trust Land utilizes an existing road that has had culverts previously installed across all the stream crossings and were built under BMP standards during a timber harvest project completed in 2016. When the road is to be utilized, the culverts will be inspected and ensure they meet standards for haul truck traffic. Approximately 0.25 miles of road will need to be constructed in Section 7 in order to connect to USFS designated road 21415. This portion in section 7 will not cross any water body or ditch crossing.

The proposed USFS Old Ranger Trail route will be entirely new construction except in areas where it already exists or where it follows the existing road system. The proposed route has been surveyed and will follow natural slopes and the construction practices will follow the same standards as all public trails. The USFS will install crossings for recreational traffic at all the Class 1 streams and evaluate and install crossings and any intermittent stream crossings.

The proposed alternative will not have any significant impact to water quality or water quantity in the area.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

Reconstruction and construction of the roadway would create localized dust and air particulate on the roadways during the construction period. Additional future, localized impacts could result in the form of log hauling through the road system during forest management projects and to a lesser extent during administrative use. In the near term, the roadway will be used for administrative purposes and public will not drive on the State Lands roadways.

The construction and maintenance of the proposed Old Ranger Trail will produce similar dust particulate in localized areas during the building phase. The trail system is a non-motorized recreation trail only and no long-term impact in air quality will arise on the State Trust lands.

The proposed action will not significantly increase vehicular traffic volume and emissions. No significant adverse impacts to air quality are expected by implementing the proposed action.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

State ownership is in the central portion of the Palisades Landscape and contains a mix of forested and non-forested vegetation types. The land classification is considered a mix of Rocky Mountain Lodgepole Pine Forest (24%), Aspen Forest and Woodland (19%), Big Sagebrush Steppe (14%) and Rocky Mountain Montana Douglas-fire Forest and woodland. The remainder portion is a combination of montane meadows, foothill and valley grasslands, and riparian areas.

Most of the proposed roadway across State Trust Land for the reciprocal access agreement are established roadbeds that were built to BMP standards during a timber harvest project completed in 2016 that has disturbed the vegetation within the road system. Approximately 0.25 miles of road will need to be constructed in Section 7 in order to connect to USFS designated road 21415 to the existing Palisades road system.

The proposed USFS Old Ranger Trail route will be entirely new construction except in areas where it already exists or where it follows the existing road system. The proposed route has been surveyed and will follow natural slopes and the construction practices will follow the same standards as all public trails. The USFS is applying for a 20' wide easement for the trail in order to construct and maintain the trail. The actual trail path will encompass a smaller area within their right-of-way. There is potential for vegetative disturbance in the right-of-way, but as this is a recreational trail, the USFS will try to limit disturbance to a minimum and a portion of the trail will be located along the existing roadway. The USFS will be responsible for monitoring and spraying noxious and invasive weeds within the trail corridor.

No significant long-term adverse impacts to vegetative cover, quantity or quality are expected as a result of implementing the proposed alternative.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

A variety of big game (moose, grizzly bear, black bear, elk, antelope, and deer), small mammals, raptors, songbirds and turkeys may traverse the subject sections.

Most of the proposed roadway across State Trust Lands for the reciprocal access agreement are established roadbeds that were built to BMP standards during a timber harvest project completed in 2016 that has disturbed the vegetation within the road system. Approximately 0.25 miles of road will need to be constructed in Section 7 in order to connect to USFS designated road 21415 to the existing Palisades road system. The roadbeds will need to be graded and brought back to standard before the road system can be utilized. Since the area has previously been disturbed, there should be minimal impact to the terrestrial and aquatic life.

The Class I streams support fish and other amphibious aquatic life. Existing culverts are at all road stream crossings and fully allow aquatic life passage. The proponent will install pathways over these streams systems when the Old Ranger Trail is constructed.

No significant or long-term adverse impacts to terrestrial, avian and aquatic life and habitats are expected to occur as a result of implementing the proposed alternative, but it is noted that there are two terrestrial species documented in the area that are federally classified as threatened – the Canada Lynx and grizzly bear. Due to the presence of Lynx and Grizzly Bear, specific mitigation measures have been proposed to lessen any potential impacts on these species. All Forest Management Administrative Rules regarding spring restrictions would be incorporated into the easement terms to restrict commercial activities from April 1st through June 15th annually.

Additionally, it is recommended that the trail and roads proposed by the proponent follow the recommendation by the Montana Fish, Wildlife, and Parks in restricting and *“excluding dog use on the proposed Old Ranger Trail and roads from December 1 through June 15 to reduce conflicts and provide for moose winter range and spring calving areas. Further, this restriction would aid in preventing conflicts with grizzly bears during the active spring and early summer periods. We recommend that non-administrative motorized access not be allowed in the near term, consistent with road density guidelines for habitat used frequently by grizzly bears and elk.”* Recreational use would be limited to walk-in only. If motorized access were proposed to be expanded beyond administrative

use, then that action would require review of potential impacts to species listed above or any new listings that may impact expanded motorized use at that time.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

A search of the Montana Natural Heritage Program database indicated the following species of concern in the proposed sections:

- **Long-eared Myotis** (*Myotis evotis*), **Hoary Bat** (*Lasiurus cinereus*), **Grizzly Bear** (*Ursus arctos*), **Little Brown Myotis** (*Myotis lucifugus*), **Wolverine** (*Gulo gulo*), **Spotted Bat** (*Euderma maculatum*), **Canada Lynx** (*Lynx canadensis*),
- **Northern Goshawk** (*Accipiter gentilis*), **Clark's Nutcracker** (*Nucifraga columbiana*), **Evening Grosbeak** (*Coccothraustes vespertinus*), **Great Gray Owl** (*Strix nebulosa*), **Golden Eagle** (*Aquila chrysaetos*), **Great Blue Heron** (*Ardea herodias*), **Sagebrush Sparrow** (*Artemisiospiza nevadensis*)

Along with the species listed, Bat Roosts (Non-cave) have been discovered in the area. There are also potential species of concern that potentially have habitats or being observed in the surrounding area.

Due to the nature of the proposed alternative and mitigation measures proposed, there not expected to have a significant long-term effect on any of the species identified on or around these parcels. The only new surface disturbance will be with the construction of a 0.25-mile road and a new trail system developed through the parcels.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

The following cultural and paleontological surveys have been previously performed:

Section 6-T7S-R19E: 2013 – Project # 2013-5-2 Site# 24CB2138 – Historic Road/Trail

Section 7-T7S-R19E: 2013 – Project # 2013-5-2 Site# 24CB2138 – Historic Road/Trail
2013 – Project # 2013-5-2 Site# 24CB2327 – Irrigation System
2013 – Project # 2013-5-2 Site# 24CB2328 – Irrigation System
2013 – Project # 2013-5-2 Site# 24CB2329 – Irrigation System

Section 8-T7S-R19E: 2013 – Project # 2013-5-2 Site# 24CB2138 – Historic Road/Trail
2013 – Project # 2013-5-2 Site# 24CB2324 – Historic White Site
2013 – Project # 2013-5-2 Site# 24CB2327 – Irrigation System
2013 – Project # 2013-5-2 Site# 24CB2328 – Irrigation System
2013 – Project # 2013-5-2 Site# 24CB2329 – Irrigation System

Section 9-T7S-R19E: 2013 – Project # 2013-5-2 Site# 24CB2138 – Historic Road/Trail
2013 – Project # 2013-5-2 Site# 24CB2323 – Historic Homestead/Farmstead
2013 – Project # 2013-5-2 Site# 24CB2325 – Irrigation System

Section 10-T7S-R19E: 2013 – Project # 2013-5-2 Site# 24CB2138 – Historic Road/Trail
2013 – Project # 2013-5-2 Site# 24CB2322 – Historic Homestead/Farmstead
2013 – Project # 2013-5-2 Site# 24CB2326 – Irrigation System

The road system crosses the historic irrigation systems, but culverts have previously been installed. The proponent will install foot bridges and/or culverts along the proposed Old Ranger Trail as needed.

A Class I (literature review) level review was conducted by the DNRC staff archaeologist for the area of potential effect (APE). This entailed inspection of project maps, DNRC's sites/site leads database, land use records, General Land Office Survey Plats, and control cards. The Class I search revealed that no cultural or

paleontological resources have been identified in the APE, and the majority has been inventoried to Class III standards. No additional archaeological investigative work will be conducted in response to this proposed reciprocal access project.

The proposed project will have *No Effect* to *Antiquities* as defined under the Montana State Antiquities Act. Formal reports of findings are available through the DNRC and the Montana State Historic Preservation Officer.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

The proposed action would allow for motorized access to utilize an existing roadbed, with 0.25 miles of the road system needing to be constructed to connect the USFS road system to the Palisades road system. The use of the road could be expanded at some point in the future, but the Custer Gallatin Travel Management Plan currently limits the use on the FS lands to administrative purposes. The easements being granted by the State and USFS would both grant motorized access for all lawful purposes. Currently, the road on the USFS has become unmaintained and rugged/overgrown in places. The road is currently visible for most of the length and the proposed alternative will not greatly change the aesthetical view of the area.

The proposed USFS Old Ranger Trail route will be entirely new construction except in areas where it already exists or where it follows the existing road system. The proposed route has been surveyed and will follow natural slopes and the construction practices will follow the same standards as all public trails. The trail will be an established and maintained trail. The non-motorized trail will allow recreationists the ability to view landscapes that are currently remote and hard to reach.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

By granting the reciprocal access exchange with the USFS, the State and USFS will have permanent legal motorized all lawful purpose access to remote areas of their respective ownership. There is potential for future timber resource management in these areas. No significant adverse impacts to environmental resources of land, water, air or energy are expected to occur as a result of implementing the proposed alternative.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

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

There is potential for future timber harvests on the Palisades block of State-owned land, notably in Section 7 – T7S-R91E, known as Hogan Ridge Timber Sale. The proposed alternative would grant the state a legal, permanent motorized all lawful purpose access to the Palisades block of State Trust land. The State currently has a temporary motorized access agreement with a private landowner. In addition, there is walk in access from the adjoining USFS lands to the west of the Trust lands.

IV. IMPACTS ON THE HUMAN POPULATION
<ul style="list-style-type: none">RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.Enter "NONE" if no impacts are identified or the resource is not present.

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

By having an established recreational trail through these sections, more recreationists will be utilizing the trail system. Additionally, bringing the roadbed up to a passable standard will allow an established roadway to more easily accommodate fire mitigation/suppression actions. No significant adverse impacts to human health and safety would occur as a result of implementing the proposed alternative.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

The location of the easement does not traverse any crop lands. All the sections involved in the reciprocal easement are leased for grazing. No significant adverse impacts to industrial, commercial and agricultural activities and production would occur as a result of implementing the proposed alternative.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

The proposed action will have no significant impact on the quantity and distribution of employment.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

The proposed action will have no adverse impact on tax revenue.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

The implementation of the proposed alternative will not generate any additional demands on governmental services. The USFS will add the new trail to their system for maintenance.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

The USFS is currently working on forest management and fire mitigation in the Greater Red Lodge Area (GRLA). The proposed alternative will grant them a permanent legal motorized access to the more remote areas of lands in the GRLA area. Implementation of the proposed alternative will not conflict with any locally adopted plans. Any further development of the State or USFS land would require additional review.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

By implementing the proposed action, a trail system will be built and maintained by the USFS. The creation of an established trail will allow recreational users a delineated path to utilize and access State Trust Land. The trail will allow recreationists the ability to view landscapes that are currently remote and hard to reach.

The road system will be for administrative use at the time of granting the easement. The public can still walk in via the road route but will not have motorized use of the roads. The use of the roads could be expanded at some point in the future, but the Custer Gallatin Travel Management Plan currently limits the use on the FS Road 21415 to administrative purposes.

The overall impact of proposed action will have a positive effect on recreational use of the State Trust Land.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

The proposed action will grant reciprocal motorized access easement and a non-motorized trail easement. The trail system will be created to allow recreational users a defined path through the State Trust Land and connect to a larger trail network. There are no current plans that would alter the density and distribution of population and housing.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

There are no native, unique or traditional lifestyles or communities in the vicinity that would be impacted by the proposed alternative.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

The proposed alternative will not have a significant adverse impact on cultural uniqueness or diversity.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

The State Trust Lands would benefit by getting legal, permanent motorized all lawful purpose access to the Palisades block of State Trust land. Currently the state's only access is through a temporary road use agreement with a private landowner. If the landowner chooses to not renew the agreement, the State would not have legal motorized access to the Palisades block.

The Old Ranger Trail would connect a new trail system to the Red Lodge Mountain trail systems, allowing for greater connectivity through the area for recreational users to enjoy. The MSU-Morrill and Pine Hills School Trusts will be compensated after appraisal completion.

EA Checklist Prepared By:	Name: Joe Holzwarth	Date: 29 November 2022
	Title: Area Planner, Southern Land Office	

V. FINDING

25. ALTERNATIVE SELECTED:

Issue the reciprocal easement agreement for motorized access across State Trust lands on Sections 7, 8, 9, and 10 in T7S-R19E to the United States Forest Service and, in exchange, the State of Montana will be granted legal motorized access across Sections 1, 2, 11, and 12 in T7S-R18E across USFS authorized lands.

In conjunction with the reciprocal access agreement, issue the right-of-way to the USFS for the Old Ranger Trail on Sections 6, 7, 8, 9, and 10 in T7S-R19E to allow the USFS to construct and maintain public non-motorized trailway system.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

The potential for significant adverse impacts to the Trust lands listed above are minimal due to the nature of the proposed action which entails granting reciprocal motorized access easements on an existing an existing roadbed, with 0.25 miles of new road needed to be constructed on the State Trust Land. Additionally, a new trail system will be constructed on the State Land, allowing for recreationalists to utilize the State Trust Lands more easily and along designated trail systems, as well as providing for connections to existing USFS trails. The proposed alternative would provide for increased recreational access opportunities to the public, while allowing the State to gain all lawful purpose motorized access. The easement exchange with the Forest Service will provide the State with permanent motorized access and allow for more flexibility in the future management of the Palisades block of Trust lands.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:☐

EIS

☐

More Detailed EA

☒

No Further Analysis


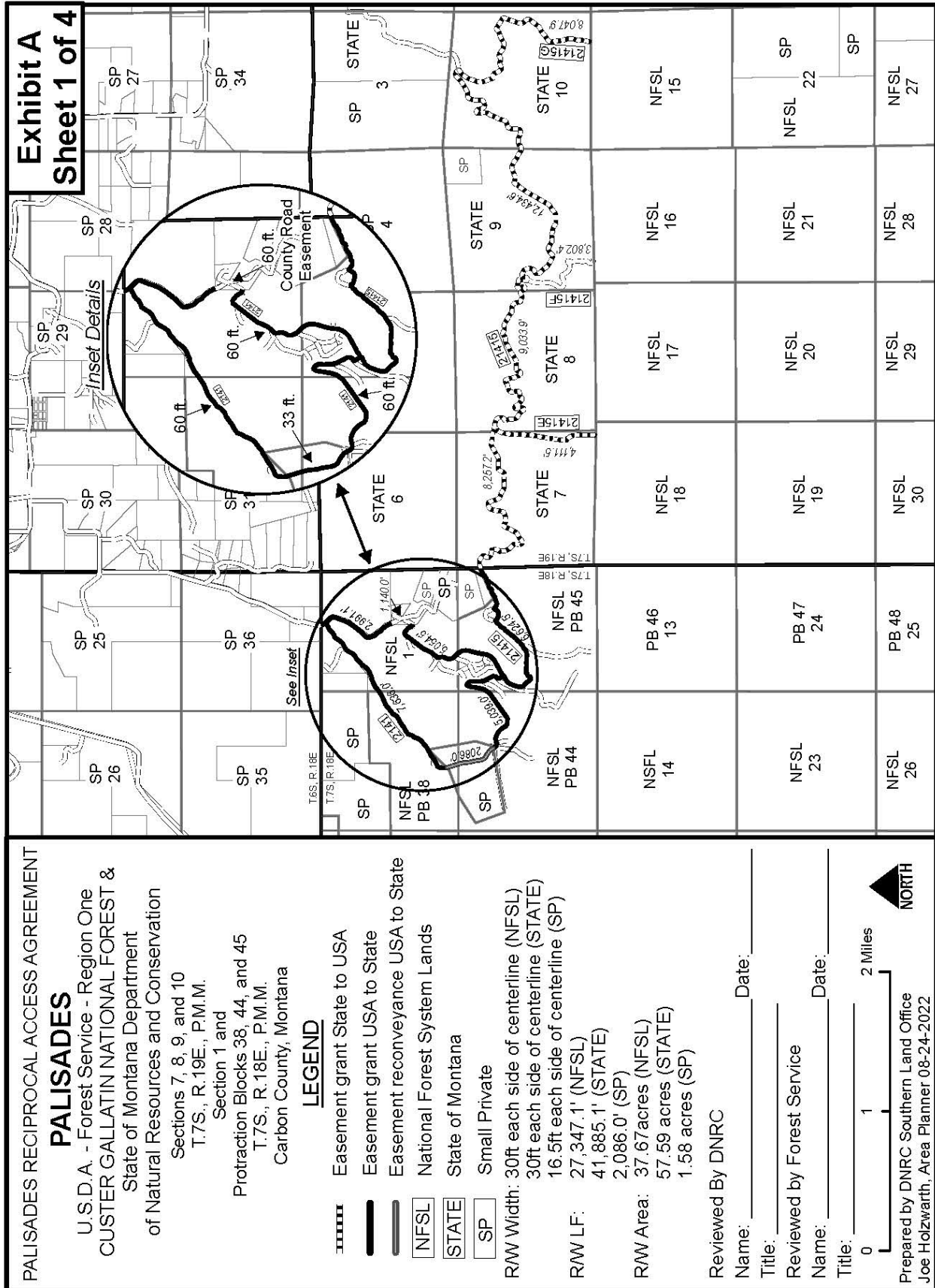
EA Checklist Approved By:	Name: Jeff Bollman, AICP
	Title: Area Manager, Southern Land Office
Signature: 	Date: 28 November 2022

Exhibit A, Sheet 1 – Custer Gallatin Forest – Palisades



PALISADES RECIPROCAL ACCESS AGREEMENT

WARLAND
U.S.D.A. - Forest Service - Region One
KOOTENAI NATIONAL FOREST &
State of Montana Department
of Natural Resources and Conservation
Sections 25 and 35
T.32N., R.29W., P.M.M.
Lincoln County, Montana

LEGEND

- Easement grant USA to State
- NFSL National Forest System Lands
- STATE State of Montana
- SP Small Private

RW Width: 30ft each side of centerline (NFSL)
RW LF: 3,764.7' (NFSL)
RW Area: 5.18 acres (NFSL)

Reviewed By DNRC
Name: _____ Date: _____
Title: _____

Reviewed by Forest Service
Name: _____ Date: _____
Title: _____

0 0.25 0.5 Miles

Prepared by DNRC Southern Land Office
Joe Holzwarth, Area Planner 08-24-2022

Exhibit A
Sheet 2 of 4

The map displays a grid of sections 22 through 36. Key features include:
- **Lake Koocanusa**: Located in the upper right portion of the map.
- **MT State Hwy 37**: A road running horizontally across the middle of the map.
- **Watland Creek Rd**: A road running vertically on the left side of the map.
- **Survey Points**: Labeled with numbers like 568, 597.6, 890.8', 7738, 7738A, 7808.4.
- **Land Ownership**: Indicated by labels NFSL (National Forest System Lands), STATE (State of Montana), and SP (Small Private).
- **Topography**: Shown with contour lines and elevation markers.

Exhibit A. Sheet 3 - Lolo National Forest - Lolo

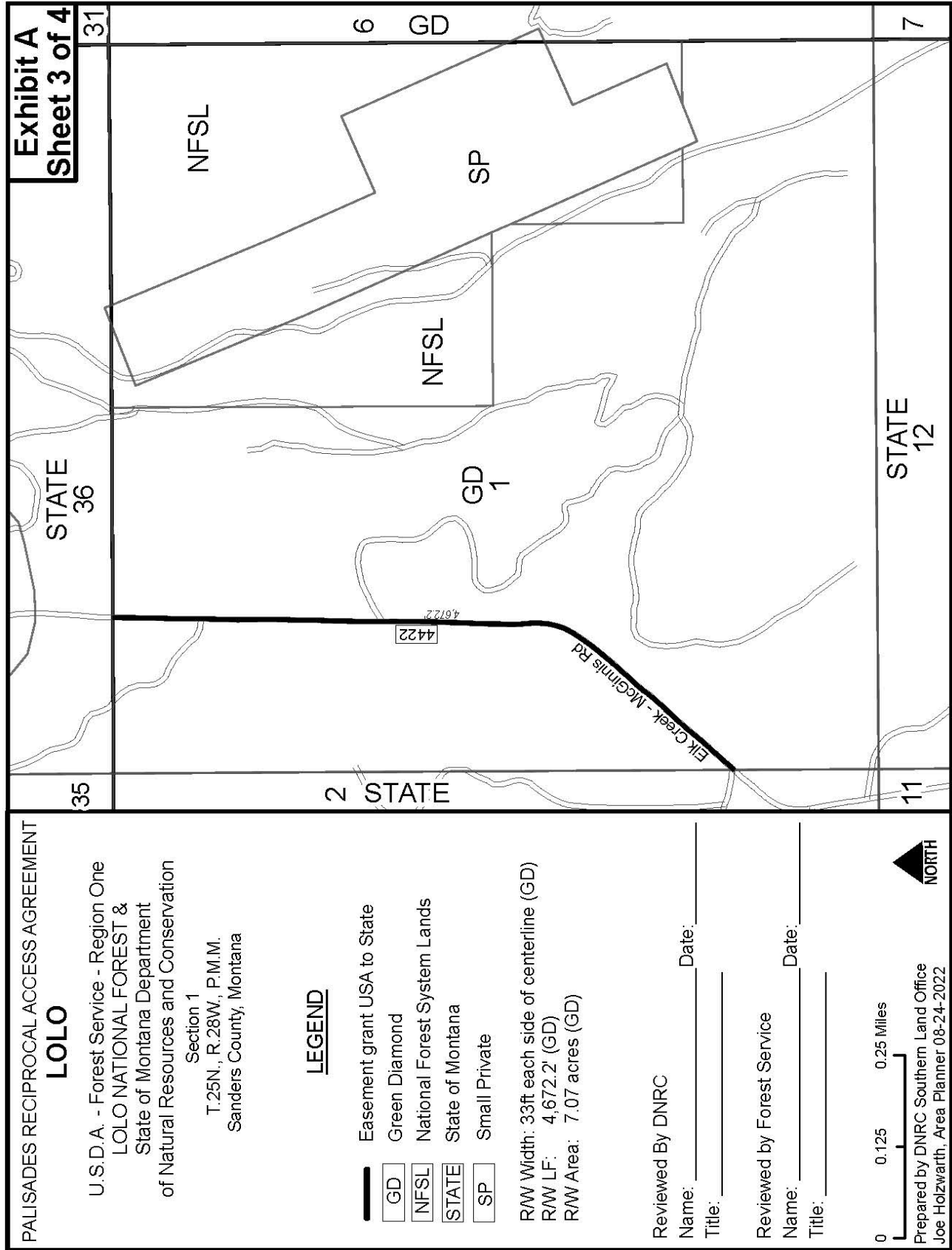


Exhibit A. Sheet 4 – Kootenai National Forest – Meadow Ridge

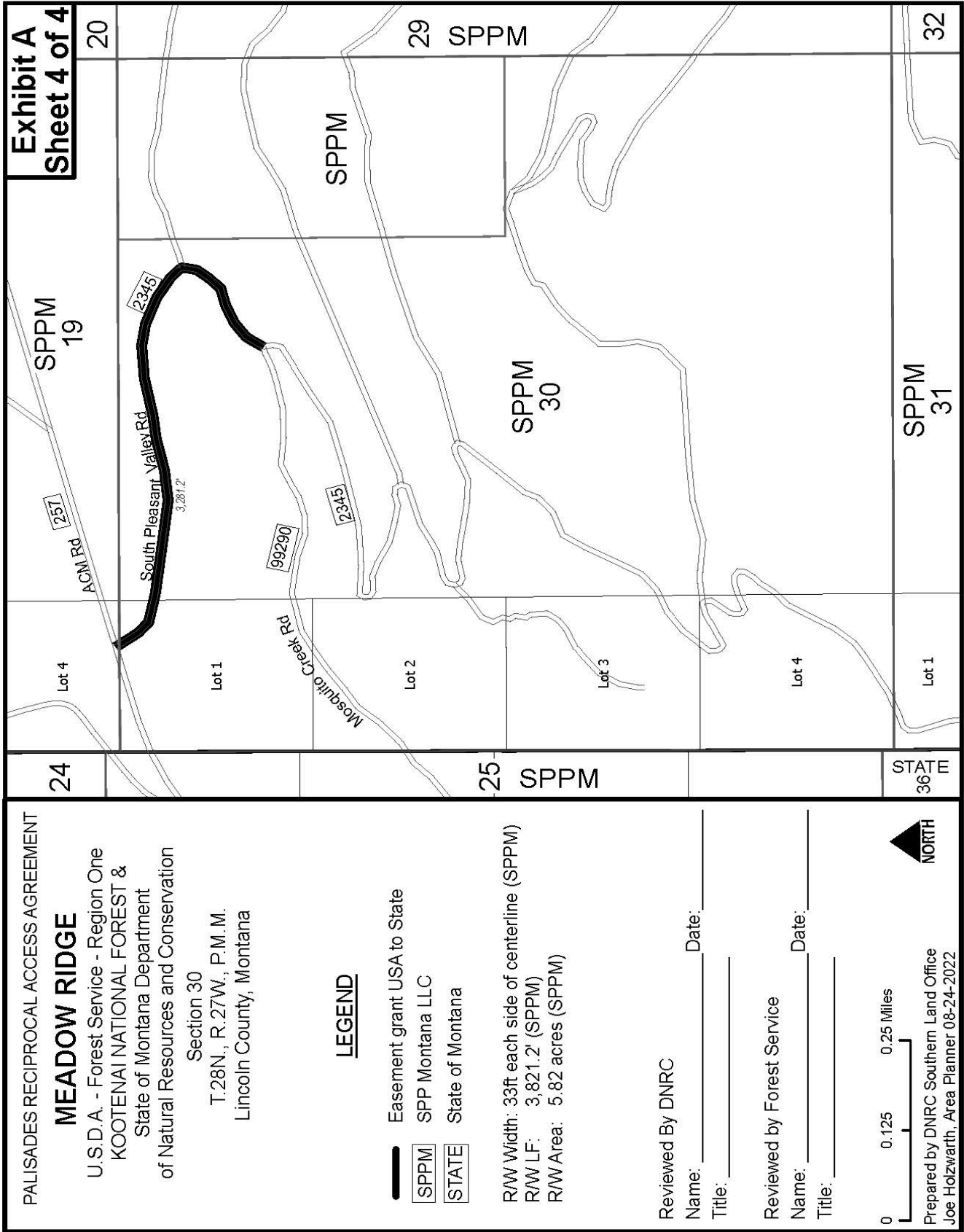


Exhibit B
Right-of-Way
Ranger Trail No. 107

Mark Aughtman RLS 12821 DATE 11-14-17

APPENDIX A – Public Scoping Comments and Response

COMMENT:

From: Jeannine Edwards <jeannine.edwards@gmail.com>

Sent: Saturday, March 5, 2022 12:58 PM

To: Holzwarth, Joe <jholzwarth@mt.gov>

Subject: [EXTERNAL] Review--Carbon Co. Sections 6,7,8,9,10

Hello Joe,

We received your letter of notice pertaining to an environmental review in Carbon County on state trust lands that border our land. We have a home at 55 Barlow Creek Spur, Red Lodge. We would like these comments entered **for the record** as it pertains to this matter.

Regarding the proposed MOTORIZED access.....we are 100% against this. Increased motor vehicle use on these lands would create a tremendous increase in risk of fire. These lands are dry as a bone due to the long-standing drought conditions. The bushes, grasses and sage are brown and crispy in summer. THIS IS A CATASTROPHE WAITING TO HAPPEN. We all know how the Robertson Draw Fire started last year. Why on earth would we want to open these sections of land up to increased fire risk?? Because of the on-going drought conditions and extremely hot, dry summers, adding any kind of vehicle traffic to this area is an incredibly irresponsible move. For the same reason there could also be liability issues here.

We are also against adding motorized vehicle access because of the impact opening up these areas would have on critical wildlife habitat and migration areas. Soon there will be no untouched spaces left! People come to Montana for the scenic beauty and wildlife, 2 huge tourist draws. The pristine beauty and wildlife must be protected from encroachment at all costs.

Lastly, we spent top dollar (our life savings) buying our Red Lodge home BECAUSE of its stunning views and location adjacent to state lands. How would increasing vehicular traffic (and the noise that comes with 4-wheelers, UTV's, snow-machines etc) across the state land affect our home value? Not to mention our quality of life when wanting to enjoy the serenity of the great outdoors.

We are not opposed to the Old Ranger Trail as this appears to non-motorized. We welcome any additional information you can provide.

Thank you for your time and we look forward to hearing back from you on this matter.

Sincerely,

Jeannine and Glenn Spencer

RESPONSE: It is State Trust Land policy to not allow the public motorized access across or on State Trust Land, unless the road is a designated open road. The State is seeking full legal access to ensure access the Palisades block. Initially, the road will be designated as administrative access for both the Forest Service and the DNRC. The DNRC does not have the resources to manage an open road system in the Palisades block, however, gaining all lawful purpose access allows the DNRC flexibility in managing these lands and fulfilling our fiduciary responsibility to the Pine Hills and MSU Morrill Trusts.

COMMENT:

March 14, 2022

Joe Holzwarth, Area Planner

DNRC Southern Land Office

1371 Rimtop Drive

Billings, MT 59105

Mr. Holzwarth:

Thank you for the opportunity to comment on the Montana Department of Natural Resources and Conservation (DNRC) proposal to collaborate with the U.S. Forest Service (USFS) on a reciprocal easement exchange in Carbon County, Montana.

Montana Fish, Wildlife & Parks (FWP) appreciates the opportunity to comment as a part of the scoping process for completion of the MEPA analysis. We are available to discuss in more detail our thoughts and considerations.

Specifically, we offer comments on a proposed easement to DNRC in Sections 1, 2, 11 and 12 in Township 7 South, Range 18 East in exchange for a road easement to the USFS across state Section 7, 8, 9, and 10 of Township 7 South, Range 19 East. In addition, we offer comments on an easement to develop a trail system named the Old Ranger Trail across Sections 6, 7, 8, 9, and 10 of Township 7 South, Range 19 East. We do have some concerns for the area's fisheries regarding road improvements.

Sections 6, 7, 8, 9, and 10 of Township 7 South, Range 19 East provide critical winter range and spring calving grounds for moose along the Beartooth Front. The Palisades Trail near Red Lodge provides access to habitat consistent with the forementioned DNRC sections. A current restriction excludes dog use on the Palisades Trail from December 1 through June 15 each winter and spring.

We recommend excluding dog use on the proposed Old Ranger Trail and DNRC roads from December 1 through June 15 to reduce conflicts and provide for moose winter range and spring calving areas. Further, this restriction would aid in preventing conflicts with grizzly bears during the active spring and early summer periods.

We recommend that non-administrative motorized access not be allowed, consistent with road density guidelines for habitat used frequently by grizzly bears and elk. Recreational use should be limited to walk-in only, consistent with similar DNRC properties.

Cole Creek flows through DNRC Sections 11 and 12, Township 7 South, Range 19 East, which has potential for Yellowstone cutthroat trout. The roads currently in the area are primitive at best. If they are planned for improvement to allow motorized all-lawful purpose traffic, we ask that aquatic passage is ensured, and BMPs for crossing types and sizes are applied for the benefit of connectivity to seven other streams that flow through the state lands leading to the project area.

FWP looks forward to assisting with informational needs for the environmental impact analysis that results from this scoping process.

Thank-you for reaching during your scoping process.

Sincerely,

Mike Ruggles, FWP Region 5 supervisor

2300 Lake Elmo Dr.

Billings, MT 59105

mikeruggles@mt.gov

cc: Deb O'Neill, FWP Directors Office, Helena; Matt Ladd, FWP Region 5 Wildlife Manager; Shannon Blackburn FWP Region 5 Acting Fisheries Manager; Bob Gibson, FWP Region 5 Information Officer; Randy Hutzenbiler, FWP Region 5 Warden Captain; Tom Aldrich, FWP Region 5, Recreation Manager

RESPONSE: It is State Trust Land policy to not allow the public motorized access across or on State Trust Land unless the road is designated as an Open Road in the future. If there were a proposal to open the roads on the State Trust Land to public motorized use, then that proposal would need to consider the impacts to wildlife, including Grizzly Bears. The State is seeking all lawful purpose legal access to ensure we can access the Palisades block. Initially, the road will be designated as administrative access for both the Forest Service and the DNRC. The public will be able to utilize this block of State Trust Land as walk-in access only at this time. All stream crossings for the existing road and the trail will not hinder any waterway and crossings will be built to BMP standards. We are recommending the Forest Service restrict dog use on the Old Ranger Trail from December 1 through June 15.

COMMENT:

From: BRTA Admin <beartoothtrails@gmail.com>

Sent: Saturday, March 19, 2022 3:32 PM

To: Holzwarth, Joe <jholzwarth@mt.gov>

Subject: [EXTERNAL] Comments Re: MEPA Analysis in Carbon County

Hi Joe:

Thank you for providing the opportunity for Beartooth Recreational Trails Association (BRTA) to comment on the environmental review on the Trust lands located in Carbon County for the proposed reciprocal easement exchange and trail easement in collaboration with the USFS.

We are in support of the easement exchange in order to acquire motorized all-lawful legal access to the block of trust lands and the trail easement as applied for by the USFS to develop the trail system, Old Ranger Trail.

There is great regional demand for high-quality non-motorized trails. This project would help meet that demand. It is BRTA's mission to promote non-motorized trails in Red Lodge and along the Beartooth Front. We work with the Forest Service, the City of Red Lodge, Carbon County, private land-owners and other organizations to help create and maintain trails.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Jennifer Drinkwalter

President, BRTA

Beartooth Recreational Trails Association

RESPONSE: It is State Trust Land policy to not allow the public motorized access across or on State Trust Land unless the road is a designated open road. The State is seeking full legal access to ensure we can access the Palisades block. Initially, the road will be designated as administrative access for both the Forest Service and the DNRC. The public will be able to utilize this block of StateTrust Land as walk-in access only at this time. The Old Ranger Trail easement will allow the public to traverse a large portion of the Palisades block to access other portions of the palisades and Greater Red Lodge Area environments via trailheads.

COMMENT:

From: Henry & Barbara Dykema <hbdykema@gmail.com>

Sent: Wednesday, March 23, 2022 4:19 PM

To: Holzwarth, Joe <jholzwarth@mt.gov>

Subject: [EXTERNAL] Reciprocal easement

Hello Mr. Holzwarth:

I have attached my comment letter regarding the reciprocal easement the DNRC is proposing with the Forest Service. I have also pasted it below. Thank you.

Henry Dykema

Henry Dykema
67 Vernetti Rd
Red Lodge, MT 59068

March 11, 2022

Mr. Joe Holzwarth
Area Planner
DNRC Southern Land Office
1371 Rimtop Drive
Billings, MT 59105

Dear Mr. Holzwarth:

Thank you for the opportunity to participate in the public scoping of the proposed reciprocal easement between the MT DNRC and the US Forest Service as outlined in your February 17 letter. I live on property in sections 1 & 12 of T7S-R18E. I have several questions and concerns regarding this proposal that I hope the DNRC will address during the MEPA process.

1. The map that was included with your letter is inaccurate and misleading as it does not label any routes or roads and it indicates that the Forest Service road that would provide access to State section 7 is a developed "existing" road. I have included a photo of what much of this route currently looks like. An easement on much of this route would be tantamount to new road construction which would have grave impacts on a multitude of wildlife species including; grizzly bears, wolves, lynx, mountain lions, bobcats, wolverines, martens, moose, elk, goshawks, great gray owls, and other important species known to use and inhabit this area. I would expect that the impacts associated with this easement and road development would be thoroughly evaluated for each affected species.

2. The easement proposal lists sections of FS road 2141 and 21411 as the preferred route to access DNRC sections. How do these roadways connect to any state section?

3. The Montana DNRC defines the objective for a "reciprocal easement" as: "Reciprocal access agreements are the method established by §77-1-617, MCA whereby the Department can acquire access to isolated state trust land by exchanging an equal right on trust land. The tract(s) the state is acquiring access to must be "isolated" in either a legal sense (i.e. there is no legal access to the state land) or there are portions of the tract that have substantial physical restrictions that prevent access. A state tract may have legal access and be burdened by reciprocity as long as one or more state tracts obtain access through the reciprocal agreement. Rights do not have to be equal if the trust beneficiary burdened by reciprocity is compensated." There is currently access to these sections either from the county road in section 36 or at least four existing roads in sections 31 and 32. The State sections in question are not "isolated".

4. The section of "proposed New Construction" crosses the east fork of west Red Lodge Creek, a creek known to have an existing pure strain of Yellowstone Cutthroat trout. How will this impact be addressed?

5. The MT DNRC is proposing an easement to "acquire motorized all-lawful legal access". Much of the FS routes included in the proposal are limited to "administrative use only". Will the proposed easement be limited to the road use definitions in the 2008 Beartooth Ranger District's Travel Management Plan?

6. Will the MEPA process include the evaluation of all the environmental impacts associated with this proposed easement or will it be limited only to the small section proposed for "New Construction"? The impacts of road development in this fragile zone between high elevation mountains and populated plains needs to be fully evaluated with extensive public involvement. this proposed road would be highly impactful on the resiliency of this currently relatively undisturbed ecosystem that provides critical habitat to grizzly bears, lynx, bobcat,

mountain lions, wolverine, marten, wolves, moose, elk, deer, goshawks, great gray owls, Yellowstone cutthroat trout, and orchids. All impacts associated with road development need to be evaluated.

Montana DNRC as well as the Forest Service need to thoroughly review all the foreseeable impacts associated with this proposal not just from the view of simple access but from the reality of road development in an ecosystem that currently does not have extensive roadways. The area proposed for this easement is being misrepresented as an area with existing roads. The only developed road in this area is the FS loop road 2141 which is not identified on the included map and is closed seasonally. All other indicated roads will need to be fully constructed and this development should be subject to the most stringent environmental review.

Thank you again for the opportunity to comment and thank you for your consideration.

Sincerely,
Henry Dykema

RESPONSE:

1. The road through the Forest Service Section 12 into State Section 7 is designated as Forest Service Road 21415. There is an existing roadbed that has become overgrown due to lack of use and maintenance. Once the road crosses into State Section 7, a new 0.25 mile road will need to be constructed in order to connect to the existing roadbed in Section 7. This environmental assessment documentation takes into account all potential environmental impacts including animal habitat and threatened species in the region. Please refer to the 'Impacts on the Physical Environment' section, pages 5 and 6, for the wildlife analysis.
2. The proposed routes that the State would receive follows Forest Service designated road 2141 and branches off to Forest Service designated road 21415, which runs to the boundary between Forest Service Section 12 and State Trust Land Section 7. Once the road crosses into State Section 7, a new 0.25 road will need to be constructed in order to connect to the existing roadbed in Section 7.
3. Although there are existing two-tracks into this block of State-owned land, the State has never secured a full, permanent legal motorized access to these lands. The only current legal access to the block of State Trust Land land is through a Temporary Road Use Permit (TRUP) through a private landowner. This is the only legal motorized access to the block of State-owned land. If the landowner were to choose to not renew the temporary road use, the State would not have motorized access to manage these Trust lands. The Reciprocal Access Agreement will grant the State a permanent legal motorized access to these sections of Trust land.
4. This route was designed to grant the State legal motorized access to State-owned lands in Section 36 of Township 6 South, Range 18 East. This portion has since been removed from this Reciprocal Access Agreement and will be added to a package in the future after the Forest Service has time to complete their formal environmental review. If, and when, this road is granted, construction would need to occur that would meet BMP standards. The West Red Lodge Creek is a Class 1 stream and a route would be designed to not inhibit the flow of the stream and aquatic life.
5. The access road to the State Trust Land would follow the 2008 Beartooth Ranger District Travel Plan. The main purpose of this Reciprocal Access Agreement is to grant the State a permanent, legal motorized access to manage the Palisades block. If the Forest Service travel management plan changes, the State will follow our policy and not allow public motorized access to this block of land, unless the State goes through the process to designate it as an open road.
6. The MEPA process analyzes all environmental impacts for the entire road and proposed trail that cross Sections 6, 7, 8, 9 and 10 of Township 7 South, Range 19 East. Public scoping notice was sent out to get public input from area residents in the vicinity of the agreement area. That on the ground knowledge is extremely important to our environmental assessment. The MEPA process also takes in account all impacts on all environmental angles, from impacted species of concern, threatened species, vegetative species, as well as water, soil, and geological impacts that could occur from the granting of the easement. Please refer to the 'Impacts on the Physical Environment' section of this EA, pages 3-7.

The DNRC will examine all impacts that could occur with granting a Reciprocal Access Agreement. It is correct that the main developed road is the 2141 loop. There are old roadbeds that the Forest Service

has designated in their road system, which includes FS Road 21415 that will run through FS Section 12 to the boundary of State Trust Land Section 7. Once the road enters the State Trust Lands, a 0.25-mile portion of new road will need to be constructed in order to connect this road to the existing road system. The road will follow the 21415-naming convention for continuity. The Environmental Assessment will evaluate the environmental impact of the roadway. Any future projects planned on these sections will go through a separate environmental assessment pertaining to the activity at such times.

COMMENT:

From: Cynthia Donohoe <cindydonohoe424@gmail.com>

Sent: Friday, March 25, 2022 3:50 AM

To: Holzwarth, Joe <jholzwarth@mt.gov>

Subject: [EXTERNAL] Environmental Review Carbon Cty

Please see attached document for comments regarding this project.

March 19, 2022

To: Joe Holzwarth, Area Planner

Re: Comment- Environmental review, Carbon County Sections 6,7,8,9 and 10 of Township 7 South Range 19 East.

We run Cattle for Pierce Investments on the Forest Service so we have a few concerns:

- 1- Why all of a sudden are you allowing motorized access? There are currently locked gates in place that we cannot get the codes to open them for fixing fence or getting cattle back that have got out. We also understand that currently motorized vehicles are ticketed for driving on the State parcel.
- 2- With more roads comes more gates, there is always an issue of gates being left open, how do you address that?
- 3- New roads mean less grass, the lease is already having to reduce time and/or numbers to allow for drought conditions and this would put more restrictions on us and other users.
- 4- The potential for fires increases dramatically with motorized use.

We realize these are mostly Forest Service concerns but these access trails will directly affect our business.

Sincerely,

Jess and Cindy Donohoe
102 Upper Red Lodge Creek Rd
Red Lodge, MT 59068
406/446-2486

RESPONSE:

1. It is State Trust Land policy to not allow the public motorized access across or on State Trust Land unless the road has been designated as an Open Road. At this time, the State is seeking all lawful motorized access but does not intend to open the road to the public. As noted, an open road creates additional management concerns that would need to be addressed if the road were to be opened to public motorized use at some point in the future.
2. The State currently plans on using the existing roadbed as most of the roadbed exists on the State Trust lands. As gates already exist at fence crossings, no additional gates will need to be installed.
3. The only impacted grass areas will be where the existing roadbed lies that has been disturbed in the past. The additional 0.25-mile section of new road will have a minimal impact on the vegetation.
4. Creating a legal and permanent motorized access with a potentially developed road would give crews an additional point of access to reach remote areas for wildland firefighting. As previously stated, we do not anticipate any near-term changes to road use that would allow the general public to access these sections utilizing motorized vehicles.

COMMENT:

From: Terry Dokken <nekkod@msn.com>
Sent: Wednesday, March 23, 2022 3:49 PM
To: Holzwarth, Joe <jholzwarth@mt.gov>
Cc: anne black <aebblack001@msn.com>
Subject: [EXTERNAL] DNRC Easement Exchange MEPA Scoping Comments

Joe,

Attached are our comments (220318 Comments DNRC) on the Proposed Easement Exchange with the Custer Gallatin National Forest. I have also attached two DNRC documents (Pallisades TS and RW RecipExchangeProcedure REDUCED) referenced in our comments for your information. I

If you have any questions, feel free to contact me via email or phone.

Terry Dokken
406 531 9180

March 18, 2022
Joe Holzwarth, Area Planner
DNRC Southern Land Office
1371 Rimtop Drive
Billings, MT 59105
jholzwarth@mt.gov
Subject: Comments on Proposed MT DNRC Reciprocal Road and Trail Easement Exchange with USFS in Carbon County. MT

Thank you for giving us the opportunity to comment on this reciprocal road and trail easement exchange during the scoping phase of the MEPA analysis. We own property on road 2141 and are interested in activities

that may impact our property and use and enjoyment of both USFS and DNRC lands. I am sure we will have more questions and comments later when more information becomes available.

We find the second sentence in paragraph 2 of your letter a bit puzzling. It states: "Currently, the DNRC does not have permanent motorized all-lawful purpose legal access to this block of Trust land." Based on the map provided by the DNRC with the 2013 Palisades Timber Sale shown below, there are currently two permanent roads to the Block. An additional network of new permanent roads was built within the Block as part of that project.

The successful bidder used these roads as haul roads to log the entire block. Thus, demonstrating the DNRC has complete access to all sections of their block, and therefore no need for additional access from FS 2141. Moreover, the USFS map below shows three additional access roads

The requested reciprocal agreement does not meet the qualifying criteria as defined in the State of Montana DNRC's own policy for reciprocal access agreements, posted on-line, which reads on Page 2, under IV. Principles and Application of Reciprocal Access Agreements and Easement Exchange.

"Reciprocal access Agreements are the method established by 577-1-617, MCA whereby the Department can acquire access to isolated state trust land ... The tract(s) the state is acquiring access to must 'isolated' in either a legal sense (ie, there is no legal access to the state land) or there are portions of the tract that have substantial physical restrictions." (emphasis original; p 2 Reciprocal Access and Easement Exchange Policy, Effective Sept 18, 2006, revised August 2006; accessed on-line at dnrc.mt.gov 3/09/2022).

As show above and below the block is not isolated; in fact, there is access to every section within the Block. The State, including wildland fire operations, even before the new permanent roads had multiple ways to access the property. Prior to the Palisades Timber Sale roads accessed Sections 3, 5, 6, 7, 8, 9, 10, 11 and 12 in Township 7 South, Range 19 East and section 7 in Township 7 South, Range 18 East from FS Road 2141.

The Custer-Gallatin Map (below), shows five roads accessing the state block:

1. Sections 5 & 8,
2. Sections 3 & 10,
3. Section 11,
4. Sections 11 and 12, and
5. Township 7 South, Range 20 East Section 7

The public already has multiple ways to access this DNRC property for range and recreational use. Grazing allottees are able to use any of the access roads listed, and the public already has non-motorized walk in access year-round from State owned lands that cross the main Upper Red Lodge Creek Road which is a fully maintained County road; specifically SE¼ of Section 36 T6S R18E. The DNRC has added signs for this on the road and where the drainage trail crosses into S 6 T7S R19E in the last several years. Note that although the State parcels connect across a section corner, this is a) acceptable, b) is along a natural and intuitive valley stream which has been used historically for access, and c) does not require the public to step on or over private land. If and when that becomes an issue, they can always step onto USFS lands instead. In addition to these points, the public also has walk-in access across USFS lands on nearly the entirety of the Block's western and southern sides.

The USFS 2141 road actually traverses private property on both sides of 'the loop', meaning there is no way to use 2141 as DNRC is requesting without traversing private property! On the west side of the loop, the USFS does hold an access easement. The east side of the loop traverses two segments of private property: both the Dykema's and ours. Carbon County currently holds an easement across these segments, though they have not done any maintenance on this section (with the possible exception of weed control occasionally, mostly it is USFS crews doing that), and we intend to ask them to vacate the easement because the initial purpose (subdivision of our combined properties) is no longer possible (conservation easement on Dykema's and only 1 drain field on ours). There are serious sedimentation issues caused by the USFS road above our portion of the road already, so additional traffic is of concern.

On Dec 12, 2007 DNRC sent a letter to the Custer National Forest requesting the Forest Service change their Travel Management Plan to allow 2141B 'to be open to highways vehicle only-yearlong', stating purposes of active management, wildland firefighting, and recreation access. In the Feb 17, 2022 letter initiating the MEPA scoping, DNRC is requesting "permanent motorized all lawful purpose legal access". There are, at least, two issues with this:

- 1) USFS Travel Management Plan designates the 'new' section 21418 as 'administrative use only', which precludes providing motorized recreational access.

2) FS Road 2141 road is NOT open year-round; the west side is gated at the bridge during spring break up. We can't remember if this is only for erosion issues or for wildlife security ... we seem to recall it was both.

Additionally, this new road will transect wildlife corridors moving up and down slope from the Beartooth Wilderness Area. This is an important wildlife area and numerous and recent articles indicate that motorized access, in particular, disrupts and displaces wildlife. The area is home to elk, moose, deer, grizzly and black bears, wolverines, lynx, marmots, pine martin, snowshoe hare, mountain lions, great grey owls and goshawks, among more common species. Lynx are of particular concern since their home range can require 35 square miles of undisturbed forest. This area is designated as Block Management, a designation specifically to provide for wildlife habitat and public enjoyment of such. The result of this proposal would be to diminish this valuable resource.

Finally, the map that was included with this notice is inadequate and misleading. It does not show the permanent roads to and within the block. It does not show FS road 2141 as a loop road and that FS road 2141 crosses state land in Section 36 Township 6 South, Range 18 East.

As to the trail easement requested by the USFS, we are fully supportive of a non-motorized trail across this block of state lands.



Terry Dokken, Anne Black
Co-Trustees of the Dokken Black LLC 3285 Ravenwood Ln.
Missoula, MT 59803
nekkod@msn.com

RESPONSE: Although there are existing primitive roads into this block of State Trust land, the State has never secured a full, permanent legal motorized access to these lands. The only current legal motorized access is through a Temporary Road Use Permit (TRUP) through a private landowner. If the landowner were to choose to not renew the temporary agreement, the State would not have motorized access to manage these Trust lands. The Reciprocal Access Agreement will grant the State a permanent legal access to these sections. As such, we are following §77-1-617, MCA as we do not have legal access to these lands. None of the routes shown in the exhibit are legal rights-of-way held by the State. A legally established access would give wildland firefighting operations an additional point of access to reach remote areas for firefighting. As previously stated, we do not anticipate allowing public to access these sections utilizing motorized vehicles in the near term.

USFS designated road 2141 crosses private lands that the Forest Service can reconvey to the State in this agreement.

The road traversing the State Trust Land is on an existing roadbed and approximately 0.25 miles will need to be constructed in order to connect into USFS designated road 21415. As mentioned above, the road will not initially be opened to public, even though we will be seeking all lawful access. The intent is to allow the State a permanent legal motorized access to manage these lands for the Trust beneficiaries. Any future projects planned on these sections will go through a separate environmental assessment pertaining to the activity at such times.

This environmental assessment document takes into account all impacts on all environmental resources, from impacted species of concern, threatened species, vegetative species, as well as water, soil, and geological impacts that could occur from the granting of the easement. Please refer to the 'Impacts on the Physical Environment' section of this EA, pages 3-7, for more information.

COMMENT:

From: Susette Avent <justtrailrun@gmail.com>

Sent: Thursday, February 24, 2022 3:31 PM

To: Holzwarth, Joe <jholzwarth@mt.gov>

Subject: [EXTERNAL] Carbon Country Environmental Review

On behalf of myself and my husband, Jim Avent, we would like to show our support in favor of the proposed trail easements.

Thank you,
Susette Avent

RESPONSE: Thank you for your comment.

COMMENT:

Richard Thayer
844 Lewis Ave
Billings, MT 59101

February 22, 2022

Area Planner, Joe Holzwarth
DNRC Southern Land Office
1371 Rimtop Drive
Billings, MT 59105

Dear Mr. Holzwarth

I am replying to your letter dated February 17, 2022, inviting comments to the road and trail plan for parcels of State land south of Luther, MT. I am writing to inform you of the existence of several irrigation ditches impacted by your trail proposal. These ditches and their associated water rights are recorded with Montana DNRC as 43D 114754-00, 43D 14937-00, 43D 29380-00, 43D 197754 and 43D 40283-00. There are numerous owners for these water rights, a list of their names and addresses appear below.

I can see on the map the proposed trail will cross several of these ditches. I have provided a copy of Montana Code 70-17-112 which states interference with canal or ditch easements are prohibited without written consent of the ditch owner.

I also request any information regarding provisions made by the DNRC for spraying of weeds in the areas disturbed by roads and trail building. This area is already infested with imported noxious weeds from previous logging activities.

It is my desire the DNRC address these issues in order to protect the integrity of my water right, not infringe on my ditch right of way without written permission and prevent the spread of noxious weeds.

I appreciate your time and attention to this matter.

Sincerely,



Richard L Thayer

RESPONSE: When construction begins on the trail, the USFS will build the trail to BMP standards. These standards include installing crossings across all streams and ditches so as not to impede any natural flow of water. As such, there will be no interference to the ditches, nor the ditch uses. Additionally, the State easement process includes language to enforce weed mitigation to ensure noxious and invasive species of weeds do not develop in the right-of-way corridor and spread to surrounding lands.

COMMENT:

September 12, 2022

Joe Holzwarth, Area Planner
DNRC Southern Land Office
1371 Rimtop Drive
Billings, MT 59105
Jholzwarth@mt.gov

Subject: Comments on Updated and Modified Proposed MT DNRC Reciprocal Road and Trail Easement Exchange with USFS in Carbon County, MT

Thank you for giving us the opportunity to comment on this updated and modified reciprocal road and trail easement exchange during the scoping phase of the planned MEPA analysis. As pointed out in our March 18, 2022 letter we own property on road 2141 and are interested in activities that may impact our property.

The August 22, 2022 DNRC letter corrects some errors and expands the scope of the original proposal. It does not invalidate or address our comments in our March 18, 2022 letter.

The main comments in our March 18 letter are:

1. This parcel of state trust is does not qualify for a Reciprocal Access Agreement as established by S77-1-617, MCA. This tract of State land is not isolated. The State has permanent legal access where Upper Red Lodge Creek Road, which is a fully maintained County road, crosses this parcel of state land in the SE¼ of Section 36 T65 R18E. Plus, the State can use temporary road use permits again as they did for the 2015 Palisades Timber Sale Project.
2. This area where the State wants to add new access and new roads is prime Grizzly Bear and Lynx habitat. Roads and access equate to increased human encounters, which is most often detrimental to the wildlife we are trying protect.
3. Road 21415 exists only on USFS computers. It was a trail until the last iteration of latest USFS Travel Management Plan. To call 21415 an "established roadbed" is a stretch. It is barely a cow trail as shown in the recent photo below.



Thank you for the updated map. It more clearly shows how this road will cut across wildlife up/down slope corridors increasing the impact on wildlife. One addition you might include in the map would be to show the 0.29 miles of new road that would be constructed on State land.

Finally, there appears to be a typo in the last sentence of the third paragraph of the August 22 letter. It appears that it should read 8.05 miles not 6.83 miles.

Terry Dokken, Anne Black

Co-Trustees of the Dokken Black LLC 3285 Ravenwood Ln.

Missoula, MT 59803

nekkod@msn.com

RESPONSE:

1. Although there are existing primitive roads into this block of State Trust land, the State has never secured a full, permanent legal motorized access to these lands. The only current legal motorized access to this block of State Trust land is through a Temporary Road Use Permit (TRUP) through a private landowner. If the landowner were to choose to not renew the temporary agreement, the State would not have motorized access to manage these lands for the Trust Beneficiaries. If approved, the Reciprocal Access Agreement will grant the State permanent legal motorized access to these sections. As such, we are following the rules laid out in §77-1-617, MCA as we do not have permanent legal access to these lands. None of the routes shown in the exhibit are legal rights-of-way held by the State.
2. The State has evaluated the potential concerns with Grizzly Bear and Canadian Lynx habitat in this EA, pages 5-6. Biologists for the DNRC and the FWP have assessed the impacts and the State will be prohibiting commercial motorized access in accordance with Forest Management Administrative Rules. Motorized public access would be prohibited year-round. Additionally, the DNRC is recommending the Forest Service restrict dog use on the Old Ranger Trail from December 1 through June 15 to reduce wildlife conflicts.
3. Road 21415 on the Forest Service Lands is documented as an administrative road in the Custer Gallatin Travel Management Plan. There is an existing roadbed along the route, but due to lack of use, it has become overgrown. The USFS has performed a NEPA analysis on this portion of

the road and before the road is used, the existing roadbed will be brought up to BMP standards. Roads on the State Trust lands on Sections 7, 8, 9, and 10 of Section 7 South, Range 19 East were previously used for a Timber Sale in 2016. They have not been commercially utilized since then, but the roadbed and stream crossings are still in place and meet BMP's. The analysis in this EA examines the impacts of these roads in the exchange and prior to the use of these roads again, the existing roadbed will be brought up to BMP standards as warranted. Roughly 0.25 miles of new road would be constructed in Section 7 to connect the State Trust land road system to the Forest Service road system.

Thank you for noticing the error. The final map will be updated and reflect the changes.

COMMENT:

Mr. Joe Holzwarth
Area Planner
DNRC Southern Land Office
1371 Rimtop Drive
Billings, MT 59105

Dear Mr. Holzwarth:

Thank you for the opportunity to participate in the public scoping of the proposed reciprocal easement between the MT DNRC and the US Forest Service as outlined in your August 22nd letter. I live on property in sections 1 & 12 of T7S-R18E. I have several questions and concerns regarding this proposal that I hope the DNRC will address during the MEPA process.

1. The map that was included with your letter is inaccurate and misleading as it does not label any routes or roads and it indicates that the Forest Service road that would provide access to State section 7 is a developed "existing" road. I have included a photo of what much of this route currently looks like. An easement on much of this route would be tantamount to new road construction which would have grave impacts on a multitude of wildlife species including; grizzly bears, wolves, lynx, mountain lions, bobcats, wolverines, martens, moose, elk, goshawks, great gray owls, and other important species known to use and inhabit this area. I would expect that the impacts associated with this easement and road development would be thoroughly evaluated for each affected species.

2. The easement proposal now lists sections of FS road 2141 and 21415 as the preferred route to access DNRC sections. 21415 is listed as an Administration use only road. If the USFS grants an easement to the MT DNRC it must stipulate this use limitation.

3. The Montana DNRC defines the objective for a "reciprocal easement" as:
"Reciprocal access agreements are the method established by §77-1-617, MCA whereby the Department can acquire access to isolated state trust land by exchanging an equal right on trust land. The tract(s) the state is acquiring access to must be "isolated" in either a legal sense (i.e. there is no legal access to the state land) or there are portions of the tract that have substantial physical restrictions that prevent access. A state tract may have legal access and be burdened by reciprocity as long as one or more state tracts obtain access through the reciprocal agreement. Rights do not have to be equal if the trust beneficiary burdened by reciprocity is compensated."
There is currently access to these sections either from the county road in section 36 through current State owned sections, or at least four existing roads in sections 31 and 32. The State sections in question are not "isolated".

4. The section of "proposed New Construction" crosses the east fork of west Red Lodge Creek, a creek known to have an existing pure strain of Yellowstone Cutthroat trout. How will this impact be addressed?

5. The MT DNRC is proposing an easement to "acquire motorized all-lawful legal access". Much of the FS routes included in the proposal are limited to "administrative use only". Will the proposed easement be limited to the road use definitions in the 2008 Beartooth Ranger District's Travel Management Plan?

6. Will the MEPA process include the evaluation of all the environmental impacts associated with this proposed easement or will it be limited only to the small section proposed for "New Construction"? The impacts of road development in this fragile zone between high elevation mountains and populated plains needs to be fully evaluated with extensive public involvement. this proposed road would be highly impactful on the resiliency of this currently relatively undisturbed ecosystem that provides critical habitat to grizzly bears, lynx, bobcat, mountain lions, wolverine, marten, wolves, moose, elk, deer, goshawks, great gray owls, Yellowstone cutthroat trout, and orchids. All impacts associated with road development need to be evaluated.

Montana DNRC as well as the Forest Service need to thoroughly review all the foreseeable impacts associated with this proposal not just from the view of simple access but from the reality of road development in an ecosystem that currently does not have extensive roadways. The area proposed for this easement is being misrepresented as an area with existing roads. The only developed road in this area is the FS loop road 2141 which is not identified on the included map and is closed seasonally. All other indicated roads will need to be fully constructed and this development should be subject to the most stringent environmental review.

Thank you again for the opportunity to comment and thank you for your consideration.

Sincerely,



Henry Dykema

RESPONSE:

1. Road 21415 on the Forest Service Lands is documented as an administrative road in the Custer Gallatin Travel Management Plan. There is an existing roadbed along the route, but due to lack of use it has become overgrown. The USFS has performed a NEPA analysis on this portion of the road and before the road is used, the existing roadbed will be brought up to BMP standards. The State has evaluated the potential impacts of this project on wildlife habitat, which can be found on pages 5-6 of this EA.
2. Routes 2141 and 21415 are listed as administrative access in the Forest Service Travel Management Plan. The State and the USFS are proposing to reciprocate all lawful purpose access. The DNRC would follow the current Travel Management Plan and would utilize these roads for administrative and commercial forest management use only. In the future, if the Travel Management Plan changes the road status, the DNRC would evaluate road use changes on State Trust lands.
3. Although there are existing primitive roads into this block of State-owned land, the State has never secured full, permanent legal motorized access to these lands. The only current legal motorized access to the block of State Trust land is through a Temporary Road Use Permit (TRUP) through a private landowner. If the landowner were to choose to not renew the temporary agreement, the State would not have motorized access to manage these lands for the Trust Beneficiaries. If approved, the Reciprocal Access Agreement will grant the State permanent legal motorized access to these sections. As such, we are following the rules laid out in §77-1-617, MCA as we do not have permanent legal access to these lands. None of the routes shown in the exhibit are legal rights-of-way held by the State.
4. The proposed new construction over the West Red Lodge Creek was dropped and removed from this exhibit.
5. Upon granting of easements, the State will acquire all-lawful legal motorized access to this block of Trust land. However, the USFS and State agree that at this time the road will be used for strictly for administrative and commercial forest management use. If either party wants to increase access on these roads in the future, then both parties will work jointly, with public participation, to decide if that is the best course of action.
6. This MEPA analysis takes into account the impacts of both the proposed new construction and existing road systems. The State has evaluated the potential impacts of this project to Grizzly

Bear and Canada Lynx habitat, as well as impacts to habitat of other species of concern on pages 5-6 of this EA. Biologists for the DNRC and the FWP have assessed the impacts and the State will be prohibiting commercial motorized access from April 1st thru June 15th annually. Motorized public access will be prohibited year-round. Additionally, the DNRC is recommending the Forest Service restrict dog use on the Old Ranger Trail in accordance with Forest Management Administrative Rules to reduce wildlife conflicts.