

BOARD OF LAND COMMISSIONERS MEETING: AGENDA
October 16, 2023, 9:00 a.m.
Supreme Court Chambers, Mazurek Justice Building
Helena, MT

ACTION ITEMS

- 1023-1 Timber Sale: Soup or Cilly APPROVED 4-0**
Benefits: Common Schools
Location: Lake County
- 1023-2 Cabin and Home Sites: Set Minimum Bid for Sale APPROVED 4-0**
Benefits: Montana Tech
Location: Flathead County
- 1023-3 Cabin and Home Sites: Final Approval for Sale APPROVED 3-1**
A. Blaine County **Commissioner Downing Opposed**
Benefits: Common Schools
B. Chouteau County
Benefits: Common Schools
- 1023-4 Land Use License APPROVED 4-0**
Benefits: Public Land Trust Navigable Waters
Location: Park County
- 1023-5 Easements APPROVED 4-0**
Benefits: Common Schools, Public Land Trust Navigable Waters
Location: Flathead, and Lewis and Clark County
- 1023-6 Approval to Proceed with Amending the Cabin and Home Site Land Banking Rules**
Benefits: Public Buildings, Common Schools, Deaf & Blind School, Montana State University, Montana Tech, MSU Morrill, Pine Hills, Um Western and the Veterans Home APPROVED 4-0
Location: Statewide
- 1023-7 Request for Approval to Finalize Rulemaking APPROVED 4-0**
Benefits: N/A
Location: Statewide
- 1023-8 Informational Item: Trust Lands Post Fire Season Briefing**
Benefits: N/A
Location: Statewide

PUBLIC COMMENT

1023-1

TIMBER SALE

Soup or Cilly

**Land Board Agenda Item
October 16, 2023**

1023-1 Timber Sale: Soup or Cilly

**Location: Lake County
Sections 14, 15, 21, and 22 T24N, R17W**

Trust Beneficiaries: Common Schools

Trust Revenue: \$114,716 (estimated, minimum bid)

Item Summary

Location: The Soup or Cilly Timber Sale is located approximately 7 air miles southeast of Swan Lake, Montana.

Size and Scope: The sale includes 5 harvest units (*310 acres*) of cable and tractor logging.

Volume: The estimated harvest volume is 11,712 tons (*1.924 MMBF*) of sawlogs.

Estimated Return: The minimum bid is \$9.79 per ton, which would generate approximately \$114,716 for the Common School Trust and approximately \$51,184 in Forest Improvement fees.

Prescription: This sale would utilize a seed tree, commercial thin, and overstory removal harvest prescription designed to reduce insect and disease issues and to promote forest health.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 0.9 miles of new permanent road construction and 13.1 miles of road maintenance.

Access: Access to the sale is obtained through Soup Creek Road from Highway 93 to the Cilly Creek Road area.

Public Comments: Twenty-nine public comments were received in response to the Lost Napa Environmental Impact Statement (EIS). All public concerns were taken into consideration during project development and are addressed in the Final EIS document.

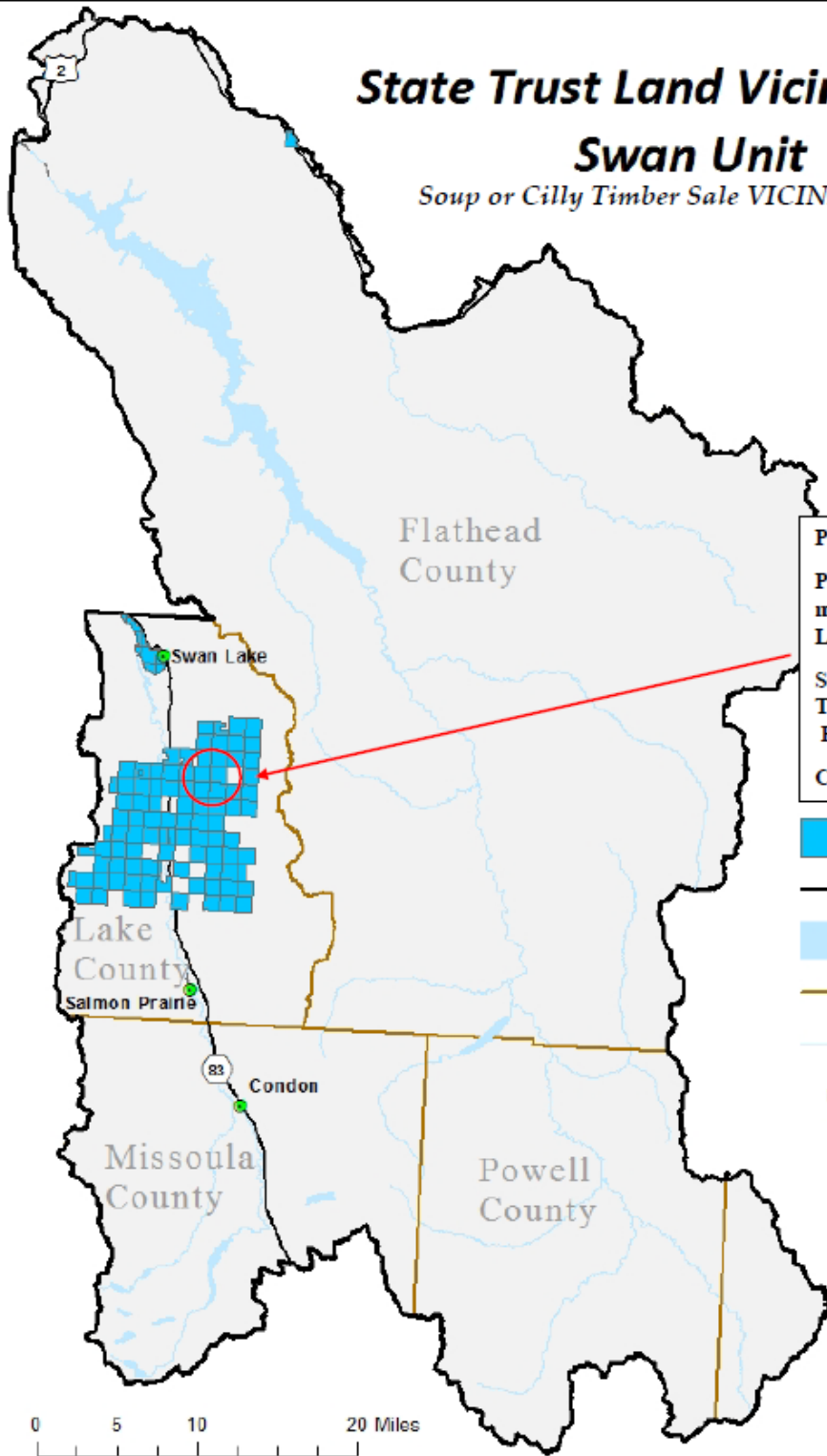
DNRC Recommendation

The DNRC recommends the Land Board direct DNRC to sell the Soup or Cilly Timber Sale.

State Trust Land Vicinity Map

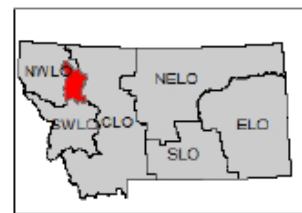
Swan Unit

Soup or Cilly Timber Sale VICINITY MAP



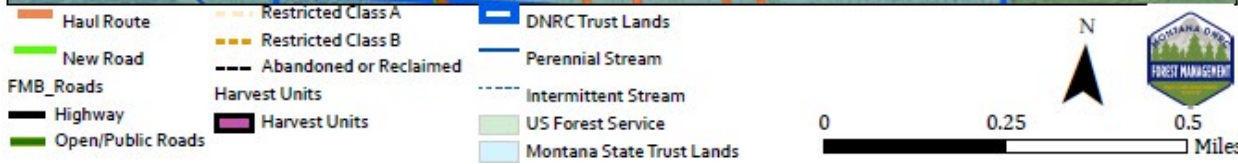
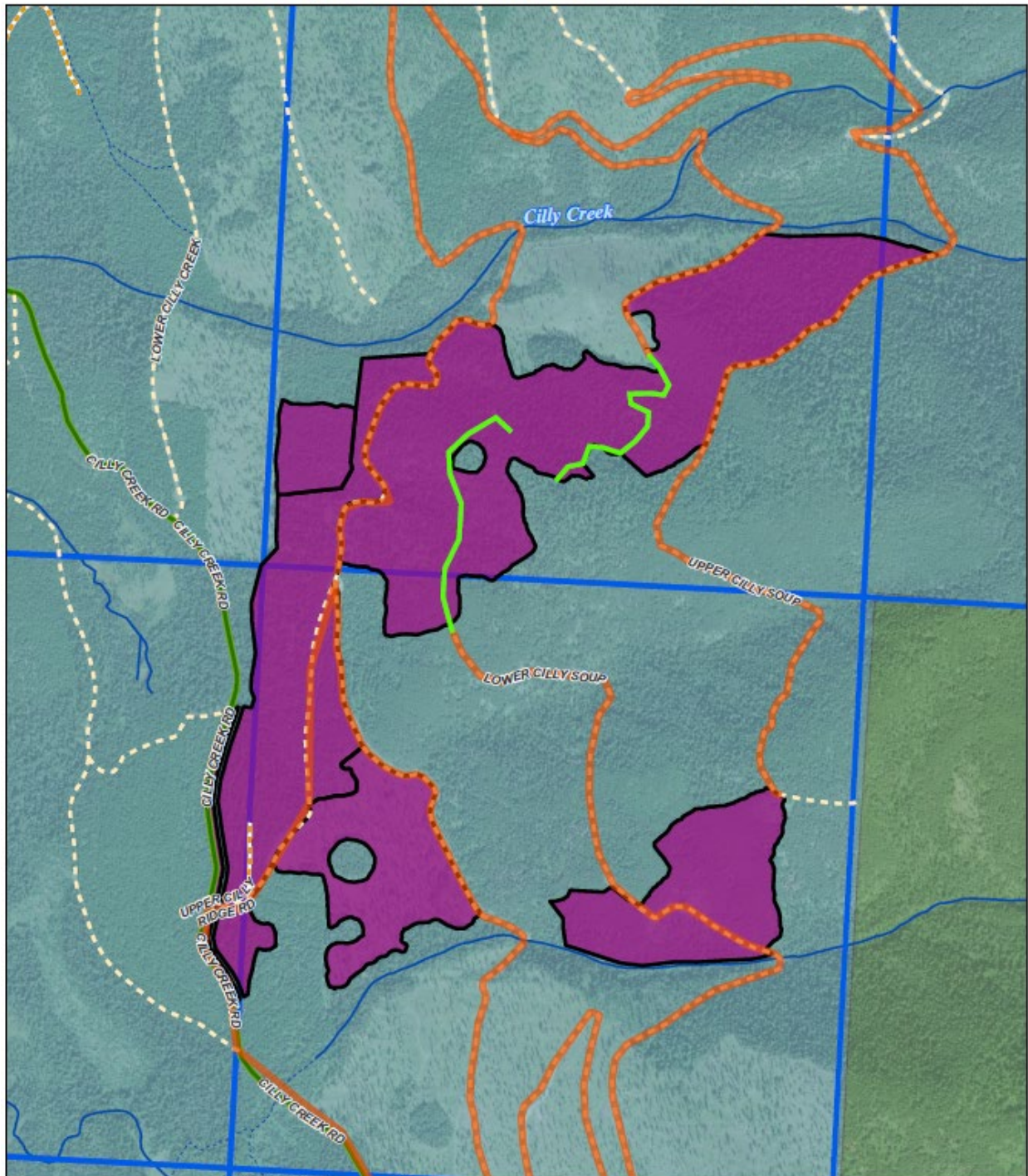
Project Name: Soup or Cilly
Project Location: approx. 10 miles southeast of Swan Lake, MT
Sections: 14, 15, 21, and 22
Township: 24N
Range: 17W
County: Lake

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

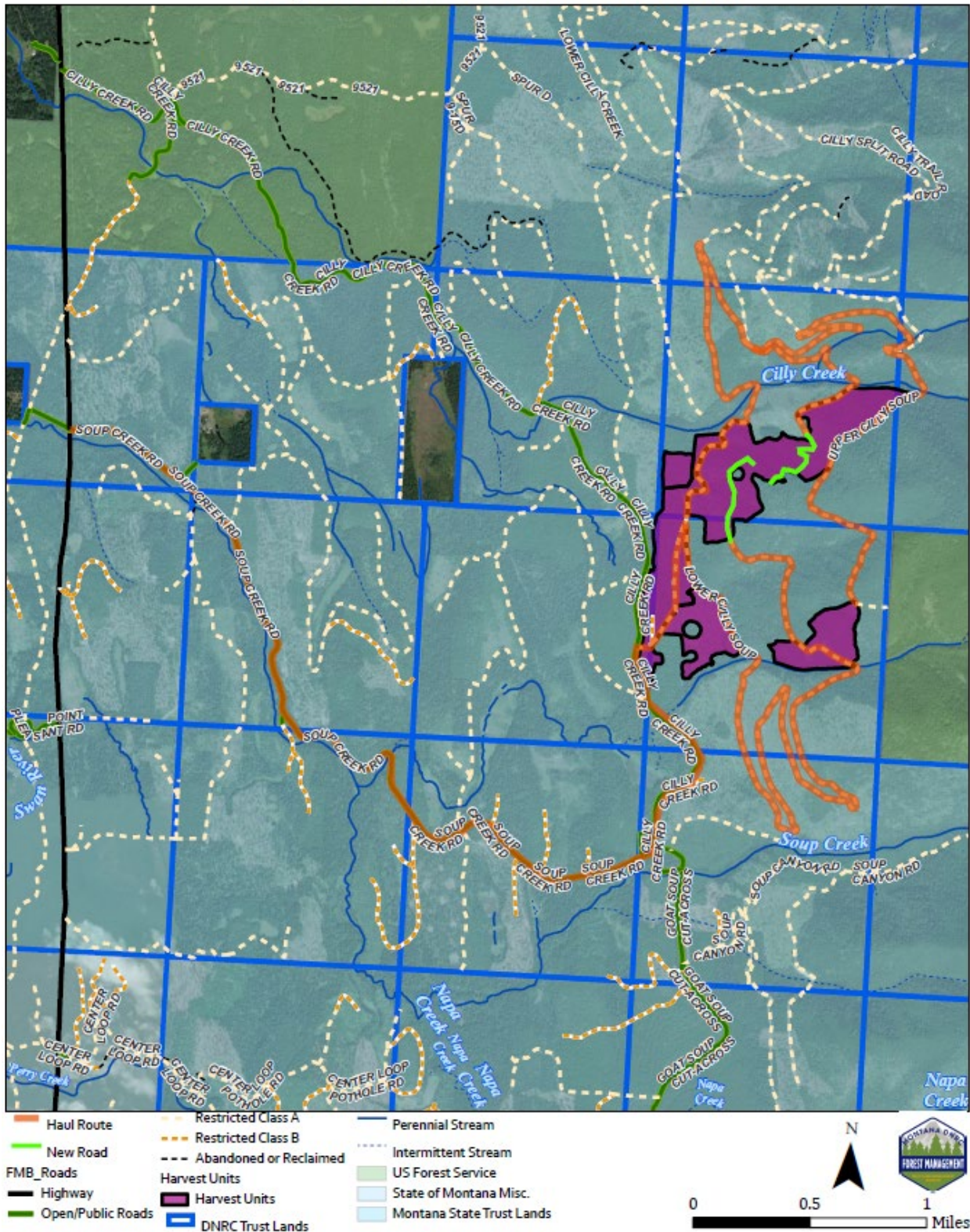


Produced by Montana Department of Natural Resources and Conservation 11/1/2019
Datum: NAD 1983 StatePlane

Soup or Cilly Timber Sale Harvest Units



Soup or Cilly Timber Sale Haul Route



1023-2

CABIN AND HOME SITES:

Set Minimum Bid for Sale

**Land Board Agenda Item
October 16, 2023**

1023-2 Cabin and Home Sites: Set Minimum Bid for Sale

Location: Flathead County

Trust Benefits: Montana Tech

Trust Revenue: \$540,000

The Department of Natural Resources and Conservation (DNRC) is requesting to set minimum bid for 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.

Sale No.	Acres	Legal Description	Nominator	Trust
2054	1.231±	Lot 31, Rogers Lake, COS 18526 T27N-R23W, Section 30	DNRC	Montana Tech

Background:

Preliminary Land Board approval was granted in December of 2022 (Approved 4-1) for this site to be included as part of the 2022-2023 Cabin and Home Site Sales Program.

Cultural/Paleontological Resources:

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

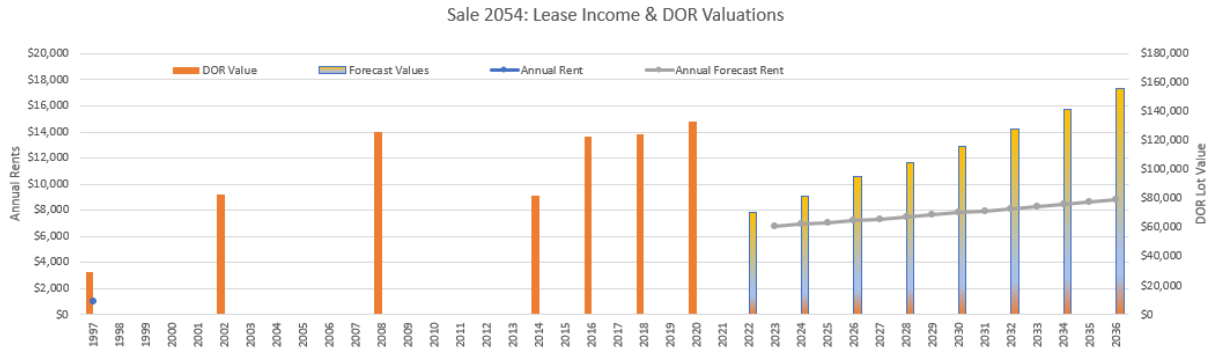
Access/Recreational Use:

As part of the cabin 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 this sale will go towards purchasing new lands that will have dedicated public access and recreational opportunities.

Economic Analysis:

Short term – The average rate of return on the sale parcel is 0%. The parcel will continue to receive this return if it remains unleased and in state ownership. Even if the cabin site lot were leased, the forecast income rate would likely not keep up with the property value appreciation, as shown in Figure 1 below.

Figure 1: Sale 2054 - Review of Past Income & Values; Forecast Income & Values



Forecast assumptions:

1. the average annual appreciation rate of the future DOR lot value used here is 4.71%, based on the FHFA House Price Index for Montana, 2000 - 2020.
2. lease contract terms provide for a 2% annual rent increase on the current contract template, starting from a base rent of 5% of the most recent DOR valuation.

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

Appraised Values of Land and Improvements:

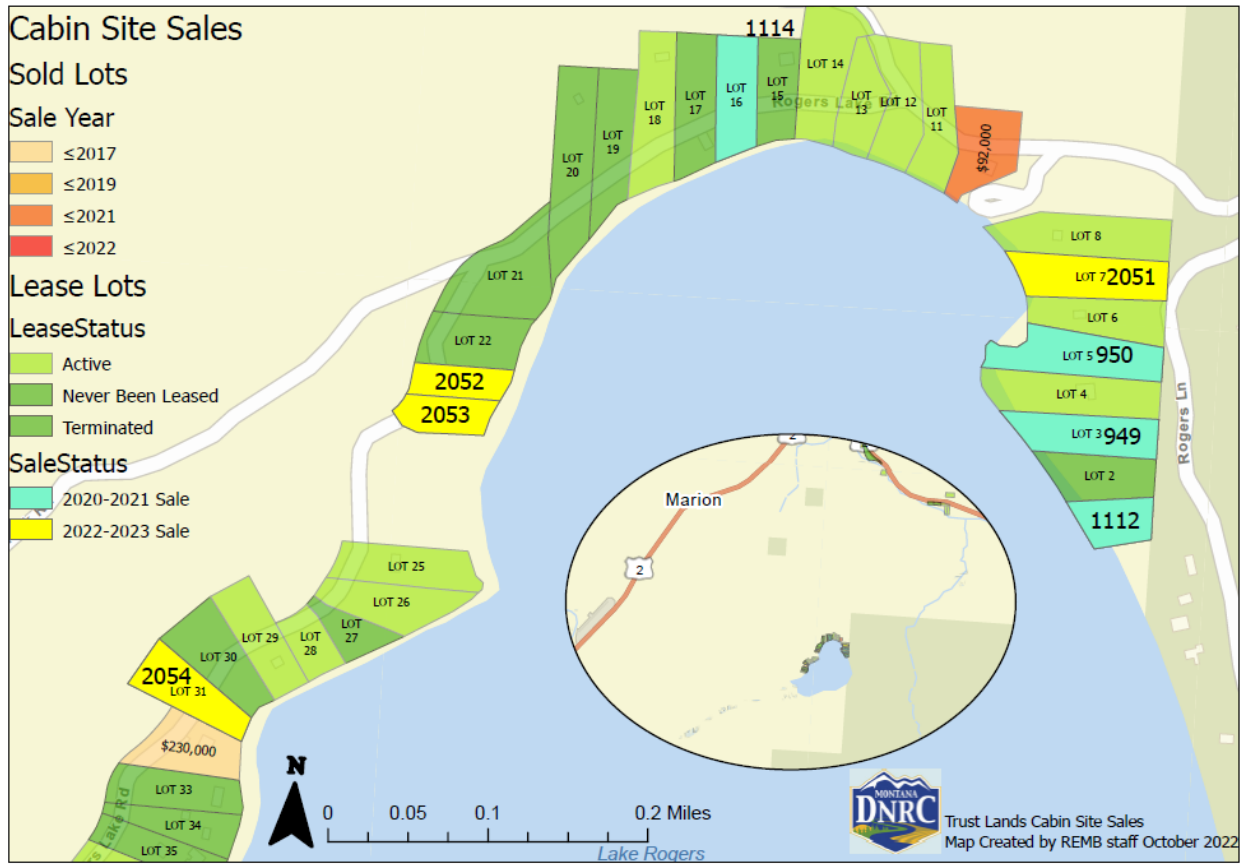
The appraisal was prepared by Montana General Certified Appraiser Elliott M. Clark, MAI of Clark Real Estate Appraisal of Seeley Lake, Montana.

Sale No.	Appraised Land Value	Appraised Improvements Value
2054	\$540,000	N/A

DNRC Recommendation

The DNRC recommends that the Land Board set the minimum bid for this cabin site at the appraised land value shown above.

Sale 2054 Rogers Lake Flathead County



1023-3

CABIN AND HOME SITES:

Final Approval for Sale

- A. Blaine County
- B. Chouteau County

**Land Board Agenda Item
October 16, 2023**

1023-3A Cabin and Home Sites: Final Approval for Sale

Location: Blaine County

Trust Benefits: Common Schools

Trust Revenue: \$12,000

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

Sale No.	Acres	Legal Description	Nominator	Trust
1156	4.8±	TRACT 1 OF COS 370137 T33N-R19E, Section 36	Mary Lou & Bruce Butcher	Common Schools

Background:

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

Cultural/Paleontological Resources:

A Class I level of cultural resource inventory was conducted for the proposed sale. Home sites typically contain numerous structures and the ground surfaces within most home sites have been disturbed over the course of many years of occupation and development. The sale 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 average rate of return on this sale parcel is 5.426%. The parcel will continue to receive this return if it remains in state ownership. The income rate of return will likely grow smaller, as average annual value appreciation is greater than the annual rent increase.

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

Appraised Values of Land and Improvements:

The appraisal was prepared by Montana General Certified Appraiser Ernest F. Goettlich V of Northern Acres Appraisal Services, LLC in Havre.

Sale No.	Minimum Bid for the Land	Maximum Value of Compensation for Improvements	Final Sale Price
1156	\$12,000	\$228,000	\$12,000

Sale Price

The home site sold at public auction on September 21, 2023. There was one qualified bidder for the sale. The site sold for the final sale price listed above.

DNRC Recommendation

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

Blaine County Sale #1156

Cabin Site Sales

SoldLots_local

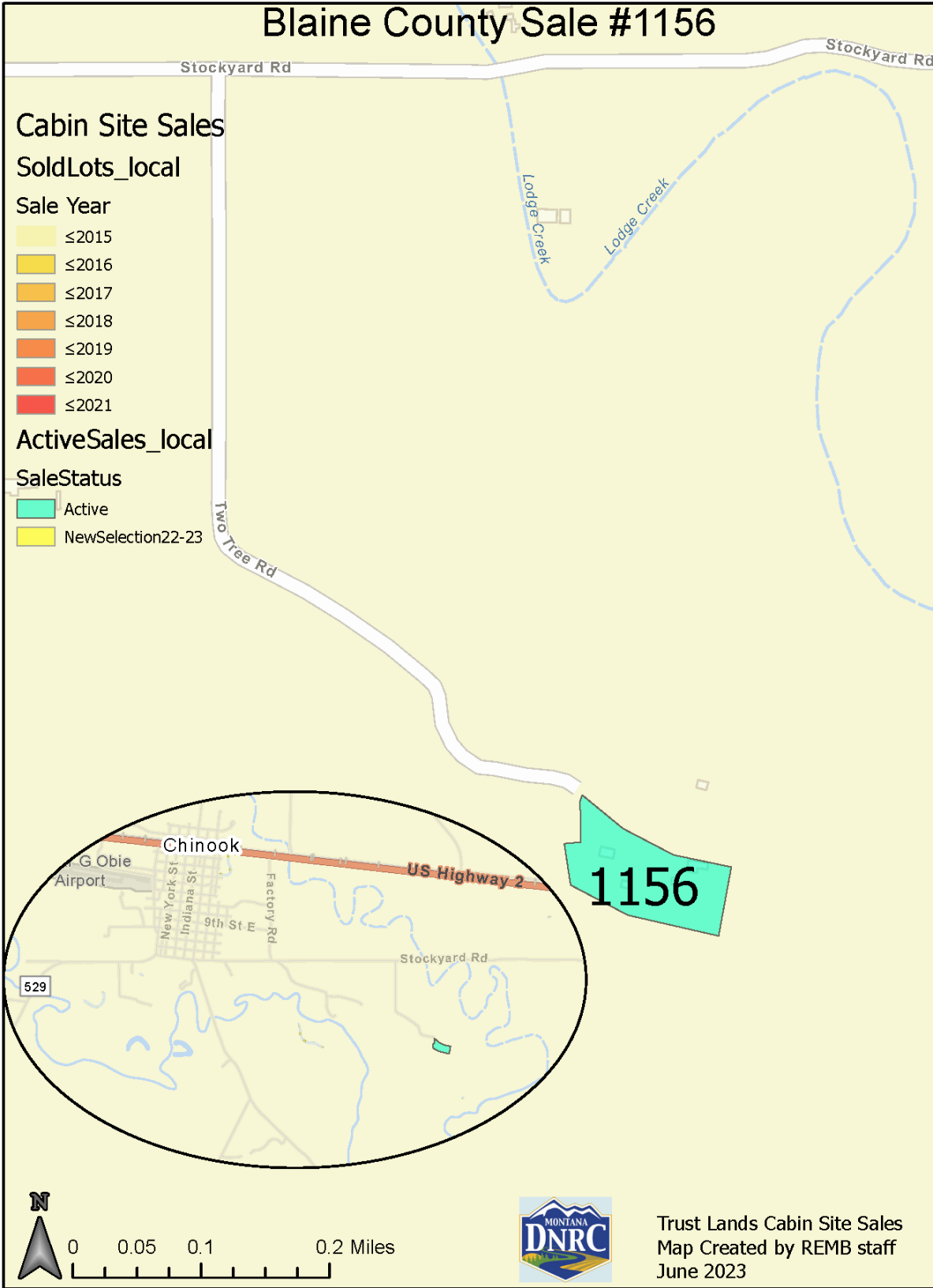
Sale Year

- ≤2015
- ≤2016
- ≤2017
- ≤2018
- ≤2019
- ≤2020
- ≤2021

ActiveSales_local

SaleStatus

- Active
- NewSelection22-23



**Land Board Agenda Item
October 16, 2023**

1023-3B Cabin and Home Sites: Final Approval for Sale

Location: Chouteau County

Trust Benefits: Common Schools

Trust Revenue: \$50,000

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

Sale No.	Acres	Legal Description	Nominator	Trust
1158	10.42±	Tract 1, CHOUTEAU COUNTY COS 220A T24N-R7E, Section 28	Olson Farms, Inc.	Common Schools

Background:

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

Cultural/Paleontological Resources:

A Class I level of cultural resource inventory was conducted for the proposed sale. Home sites typically contain numerous structures and the ground surfaces within most home sites have been disturbed over the course of many years of occupation and development. The sale 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 average rate of return on this sale parcel is 2.625%. The parcel will continue to receive this return if it remains in state ownership. The income rate of return will likely grow smaller, as average annual value appreciation is greater than the annual rent increase.

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

Appraised Values of Land and Improvements:

The appraisal was prepared by Montana General Certified Appraiser Ernest F. Goettlich V of Northern Acres Appraisal Services, LLC in Havre. The sale proponent appealed the values determined by the appraiser and requested a hearing regarding the appraised land value and the value of improvements. The administrative hearing was held on January 18, 2023. As part of the evidence submitted for the hearing, the petitioners submitted a second appraisal, which was prepared according to the same scope of work. This second appraisal was prepared by Montana General Certified Appraisers J. Scott Crosby and Valerie Crosby of Crosby Analytics, LLC in Cowley, Wyoming.

In July of 2023, the Land Board set the minimum bid for the land and the maximum value of compensation for improvements at the values recommended by Administrative Law Judge Martin Balukas, shown below.

Sale No.	Minimum Bid for the Land	Maximum Value of Compensation for Improvements	Final Sale Price
1158	\$50,000	\$354,000	\$50,000

Sale Price

The home site sold at public auction on September 21, 2023. There was one qualified bidder for the sale. The site sold for the final sale price listed above.

DNRC Recommendation

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

Chouteau County Sale #1158

Cabin Site Sales

SoldLots_local

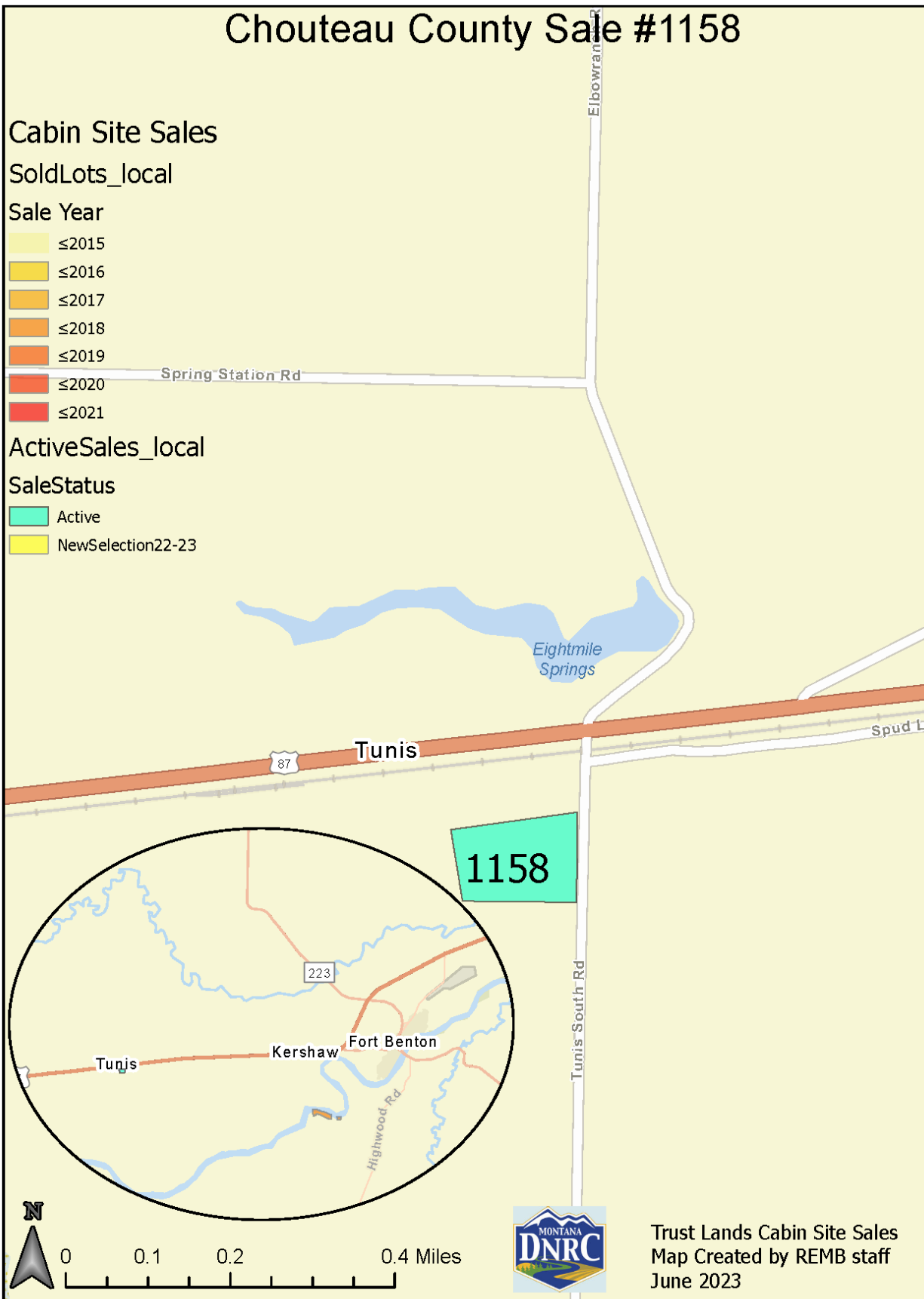
Sale Year

- ≤2015
- ≤2016
- ≤2017
- ≤2018
- ≤2019
- ≤2020
- ≤2021

ActiveSales_local

SaleStatus

- Active
- NewSelection22-23



Trust Lands Cabin Site Sales
Map Created by REMB staff
June 2023

1023-4

LAND USE LICENSE

**Land Board Agenda Item
October 16, 2023**

1023-4 Land Use License

Location: Yellowstone River, Park County

Trust Benefits: Public Land Trust – Navigable Waterways

Trust Revenue: \$150.00

Applicant:	Carter Boehm 1880 Howard Ave. Suite 305 Vienna, VA 22182-2611
License No.:	LUL 307-2400008
Purpose:	Place riprap along the banks of the Yellowstone River for erosion control.
Acreage:	0.5
Compensation:	\$150.00
Legal Description:	Sec. 24 T2S R9E
Trust Beneficiary:	Public Land Trust – Navigable Waterways

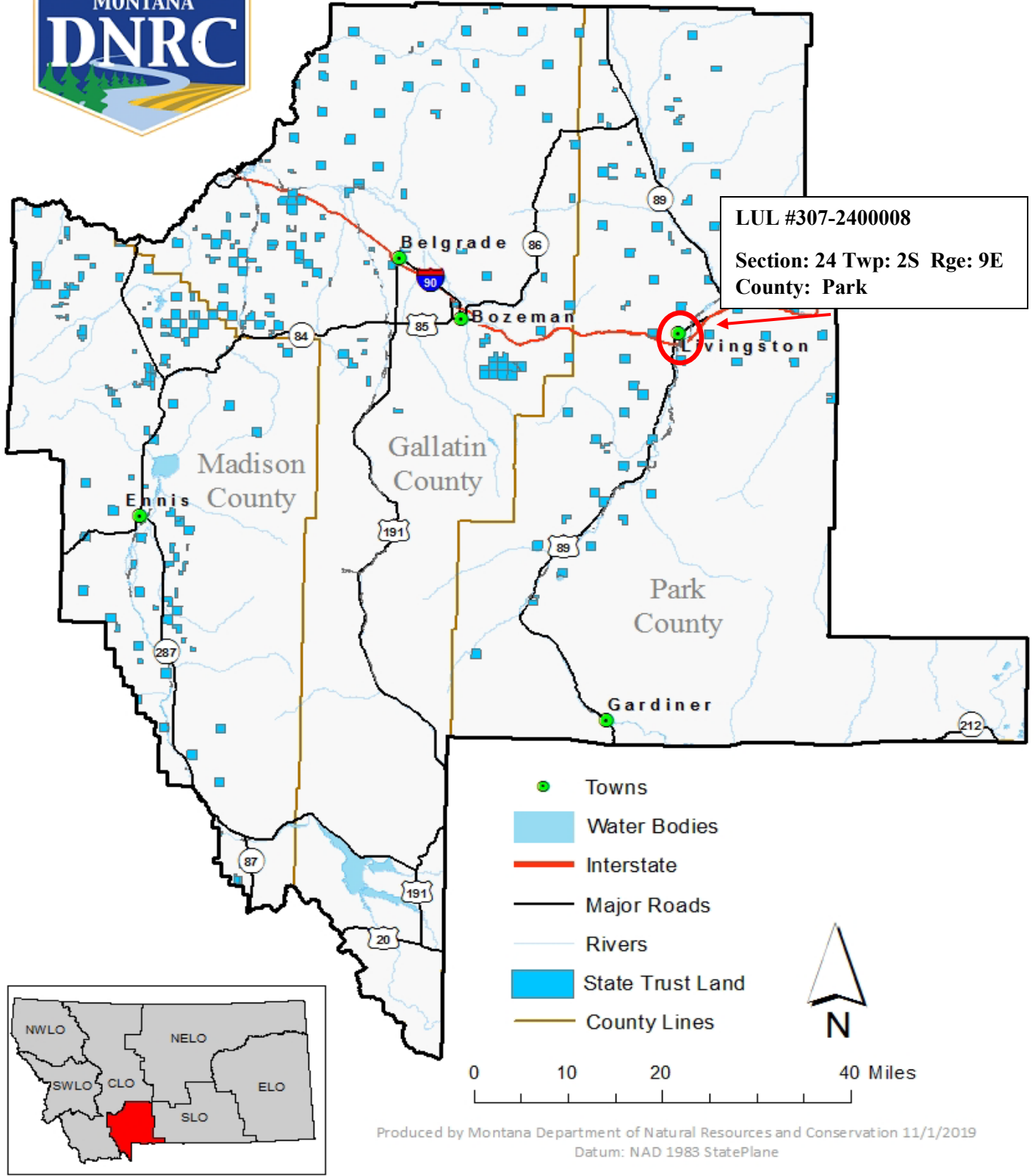
Item Summary

The landowner will place riprap for erosion control along the banks and within the low water mark of the Yellowstone River. Heavy machinery may be operated below the low water mark of the project area. 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 Carter Boehm.

State Trust Land Vicinity Map Bozeman Unit





VICINITY MAP
NTS

1023-5

EASEMENTS

**Land Board Agenda Item
October 16, 2023**

1023-5 Easements

Location: Flathead, Lewis and Clark Counties

Trust Benefits: Common Schools, Public Land Trust – Navigable Waters

Trust Revenue: Common Schools = \$ 660.00
Public Land Trust Navigable Waters = \$1,600.00

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Craig Michels and Kimberley K. Michels	Private Access Road and Buried Natural Gas Pipeline	Permanent	24-25
Craig Michels and Kimberley K. Michels Family Trust	Private Access Road	Permanent	26-27
MT Dept of Transportation	Highway Bridge	Permanent	28-29

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Craig Michels and Kimberley K. Michels
855 Greenridge Drive
Kalispell, MT 59901

Application No.: 19594
R/W Purpose: a private access road to a single-family residence and associated outbuildings, including a buried 1 1/4" natural gas pipeline

Lessee Agreement: N/A (Historic - Unleased)
Acreage: 0.02
Compensation: \$380.00
Legal Description: tract of land in the NE4SW4, Sec. 16, Twp. 28N, Rge. 21W, Flathead County
Trust Beneficiary: Common Schools

Item Summary

Craig Michels and Kimberley K. Michels are requesting a historic easement to legitimize a small corner crossing encroachment that was discovered upon survey of the State Land. The private driveway accesses multiple subdivision lots owned by the Michels and the Michels Family Trust. This application is for the private access road and buried natural gas pipeline to Craig and Kimberley Michels' primary residence, described below. The succeeding application is for access to three adjacent subdivision lots owned in fee title by the Michels Family Trust, one of which has an existing residence/barn structure located upon it, with other farm buildings located on the remaining two lots. Because the primary residence includes a gas pipeline and the adjacent lots are held in fee title by the family trust, two separate applications for access were necessary.

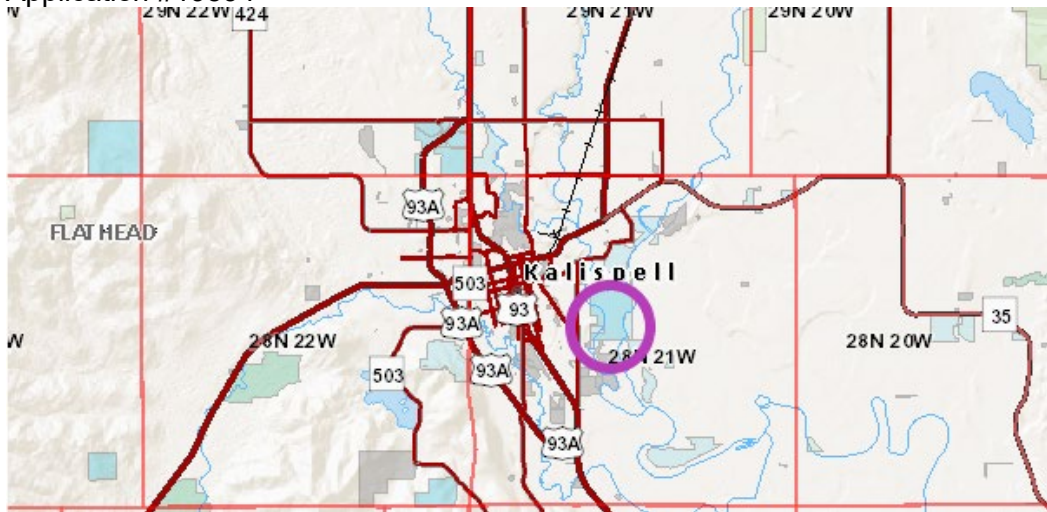
Craig Michels and Kimberley K. Michels private land to be accessed is described as follows:

- N2SW4NE4SW4 & N2S2SW4NE4SW4, Section 16, Township 28 North, Range 21 West

DNRC Recommendation

The DNRC recommends approval of the application Craig Michels and Kimberley K. Michels.

Application #19594



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Craig Michels and Kimberley K. Michels Family Trust
855 Greenridge Drive
Kalispell, MT 59901

Application No.: 19595
R/W Purpose: a private access road to a single-family residence and associated outbuildings

Lessee Agreement: N/A (Historic - Unleased)
Acreage: 0.02
Compensation: \$280.00
Legal Description: tract of land in the NE4SW4, Sec. 16, Twp. 28N, Rge. 21W, Flathead County

Trust Beneficiary: Common Schools

Item Summary

Description of circumstance provided in preceeding agenda item.

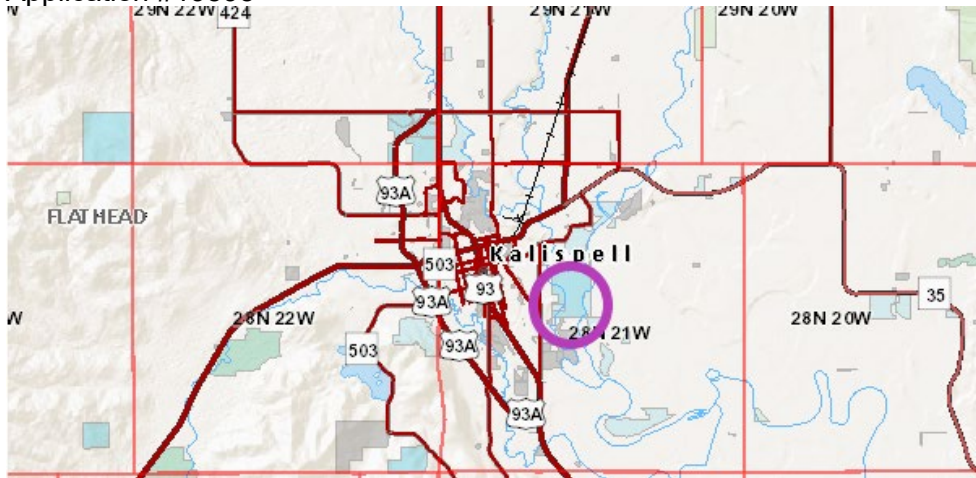
Craig Michels and Kimberley K. Michels Family Trust private land to be accessed is described as follows:

- Lots 3, 4, & 5 of Treasure Subdivision located in Section 16, Township 28 North, Range 21 West

DNRC Recommendation

The DNRC recommends approval of the application of Craig Michels and Kimberley K. Michels Family Trust.

Application #19595



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Montana Department of Transportation
P O Box 201001
Helena, MT 59620-1001

Application No.: 19596
R/W Purpose: highway bridge construction and maintenance, including
occupancy by utilities as defined in §69-4-101, MCA

Lessee Agreement: N/A (Navigable River)
Acreage: 0.34
Compensation: \$1,600.00
Legal Description: tract of land across the Blackfoot River in NW4NE4, Sec. 28,
Twp. 14N, Rge. 9W, Lewis & Clark County
Trust Beneficiary: Public Land Trust – Navigable Waters

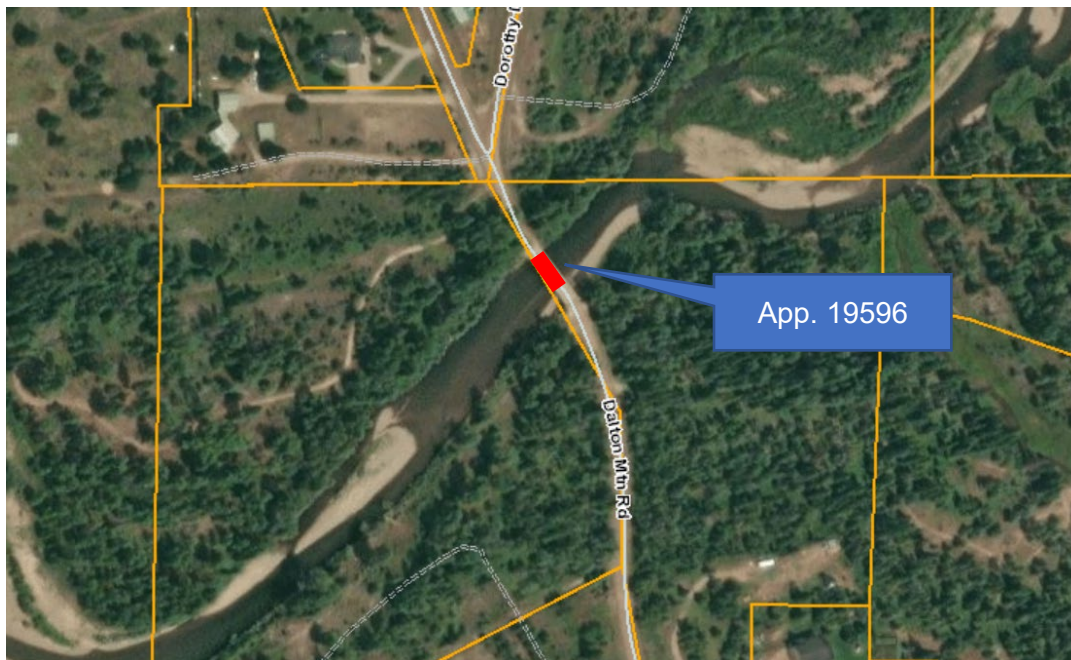
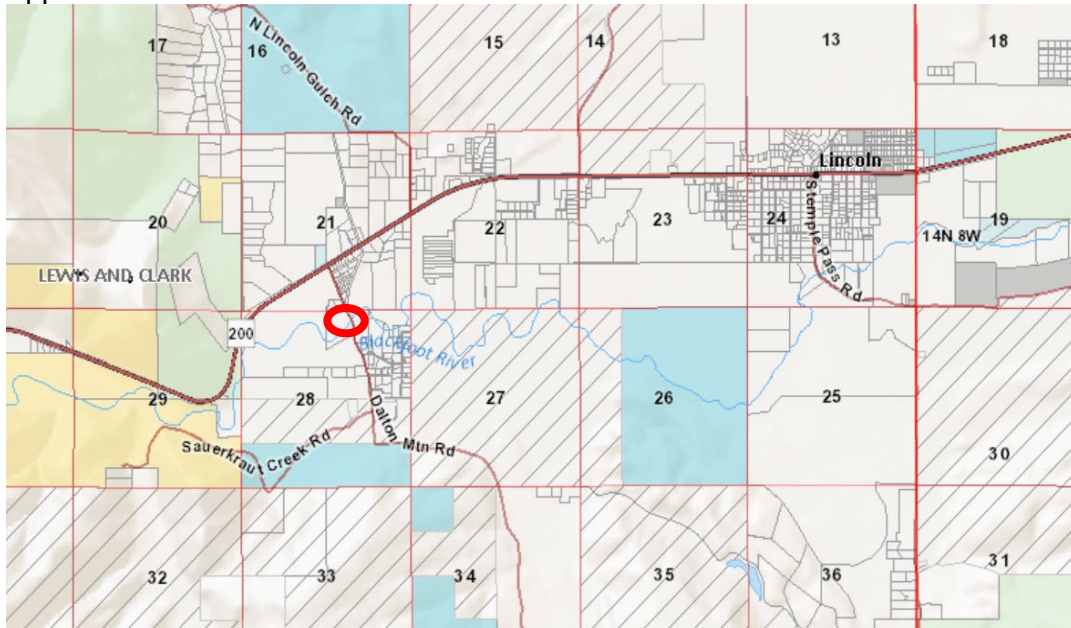
Item Summary

The Department of Transportation is requesting an easement to replace the existing bridge over the Blackfoot River on Dalton Mountain Road. The bridge has been deemed structurally deficient and has been restricted in load size due to its current condition. The proposal is to replace the bridge in its entirety for added vehicular capacity and reconstruction of existing approaches.

DNRC Recommendation

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

Application #19596



1023-6

APPROVAL TO PROCEED WITH AMENDING
THE CABIN AND HOME SITE LAND BANKING
RULES

**Land Board Agenda Item
October 16, 2023**

1023-6 Authority to Proceed with Rulemaking to Amend the Cabin and Home Site Land Banking Rules

Location:	State of Montana
Trust Benefits:	Public Buildings, Common Schools, Deaf & Blind School, Montana State University, Montana Tech, MSU Morrill, Pine Hills, MSU Eastern/UM Western, and Veterans Home
Trust Revenue:	Unknown

Item Summary

The Department of Natural Resources and Conservation (DNRC) Real Estate Management Bureau requests Land Board approval to continue the process of amending Cabin and Home Site Land Banking rules ARM 36.25.701 through ARM 36.25.708 to provide consistency with changes to MCA 77-2-363 associated with legislation enacted during the 2023 legislative session.

The authority to initiate this process was granted at the August 2023 Land Board meeting. If approved, the rule change proposal notice will be filed with the Secretary of State's Office. There will be a 30-day comment period and a public hearing. After the notice and hearing, the DNRC would seek final Land Board approval for adoption of the rule change.

DNRC Recommendation

The DNRC recommends Land Board approval of this request to continue the rulemaking process for amendment of administrative rules regarding Cabin and Home Site Land Banking.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 36.25.701, 36.25.702,) PROPOSED AMENDMENT
36.25.705, 36.25.706 and 36.25.707)
pertaining to state land leasing)

TO: All Concerned Persons

1. On December 6, 2023, at 10:00 a.m., the Department of Natural Resources and Conservation will hold a public hearing in the Montana Room, First Floor, located at 1539 Eleventh Avenue, Helena, MT, and via Zoom, to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting: [https://mt-gov.zoom.us/j/89662056237?pwd=TIQyc05tZXFkYzIYUTk5M2s5dIMxZz09](https://mt-gov.zoom.us/j/89662056237?pwd=TIQyc05tZXFkYzIYUTk5M2s5dIMxZz09;); Meeting ID: 896 6205 6237, Password: 870481; or
- b. Dial by Telephone: +1 646 558 8656; Meeting ID: 896 6205 6237, Password: 870481; Find your local number: <https://mt-gov.zoom.us/u/kdmQ1jS6Kg>

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require accommodation, contact the department no later than 5:00 p.m. on November 24, 2023, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, MT 59620-1601, 406-444-6615, or e-mail DNRCOAH@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

36.25.701 DEFINITIONS As used in this subchapter, the following definitions apply, except where the context clearly indicates otherwise:

(1) through (7) remain the same.

(8) "Improvement Owner" means a person with legal title to the improvements built upon or located on the cabin or home site, who is a current or former lessee, or their successor.

(8) through (11) remain the same but are renumbered (9) through (12).

AUTH: 77-1-204, 77-2-308, 77-2-328, 77-2-362, MCA

IMP: 77-2-328, 77-2-362, 77-2-363, MCA

REASON: The intent of the cabin and home site sales program, when enacted by SB 369 in the 2013 legislative session, was to provide a way for current and former lessees, including those who owned improvements on cabin or home sites with cancelled leases, to have the opportunity to participate in the cabin and home site sales program. The addition of a definition for “improvement owner” helps to clarify the intent that those current or former lessees with the legal title to the improvements on lease lots are those owners that can nominate the lots for sale.

36.25.702 TRANSACTION COSTS FOR CABIN SITE OR HOME SITE SALES (1) through (2) remain the same.

(3) Except as provided hereinabove, processing costs as described in ARM 36.25.701(9),(11), shall be paid by the nominator or the purchaser, respectively.

AUTH: 77-2-362, MCA

IMP: 77-2-362, MCA

REASON: The proposed amendment is necessary to correct an inaccurate reference to ARM 36.25.701(9). The correct reference is ARM 36.25.701(11).

36.25.705 PROCEDURES FOR NOMINATING AND EVALUATING CABIN SITE AND HOME SITES FOR SALE PURSUANT TO LAND BANKING

(1) and (2) remain the same.

(3) The board, the department, the current lessee of, or the improvement owner of the improvements resting upon a cabin site or home site, may nominate that cabin site or home site for sale:

(a) through (e) remain the same.

(4) Sale of cabin sites and home sites are exempt from Montana Environmental Policy Act (MEPA) review under 77-2-363(6)(b),(7), MCA.

(5) through (13) remain the same.

(14) If the board has preliminarily approved a proposed sale, the department shall contract with a Montana-licensed certified general appraiser to appraise the cabin site or home site, including improvements under consideration for sale in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP); ~~as adopted by reference by the state Board of Real Estate Appraisers in ARM 24.207.402.~~ The department will review or contract the review of the appraisal conducted by the contract appraiser.

(15) remains the same.

(16) The department shall give the lessee or improvement owner notice and opportunity for an informal administrative hearing before the department to contest those valuations. The department shall review the arguments and evidence received at the hearing to make a recommendation of the values of the land and the cabin site or home site improvements to the board.

(a) The lessee or improvements owner must file notice of appeal of value with the department within ten days of the department's notification to the lessee or improvements owner of the department's initial valuation of the land and the improvements. Within ten days after receipt of any notice of appeal the department shall notify the lessee or improvements owner of the time and place of the hearing

before the director of the department, or the director's designee. Any such hearing shall be informal without adherence to strict rules of evidence as provided in 2-4-604, MCA. A hearing examiner may be appointed to conduct the hearing. The lessee or ~~owner~~ of improvements owner shall present evidence and arguments it wishes the department to consider in recommending values of land and improvements to the board.

(17) through (22) remain the same.

AUTH: 77-1-204, 77-2-308, 77-2-362, MCA

IMP: 77-2-328, 77-2-362, 77-2-363, 77-2-364, 77-2-366, MCA

REASON: The proposed amendment is necessary to correct an inaccurate reference to 77-2-363(6)(b). The correct reference is 77-2-363(7), MCA. Reference to ARM 24.207.402 is being removed as it was repealed in 2012. Updates were made to provide consistency with all references to improvement owner, as defined in 36.25.701(8).

36.25.706 TERMINATION OF LESSEE-INITIATED CABIN SITE OR HOME SITE SALE AFTER DEPOSIT AND PROCESSING COSTS PAID BY LESSEE

(1) If the current lessee of the cabin site or home site has initiated the sale, as authorized by 77-2-361 through 77-2-367, MCA, and submitted processing costs with the department, the lessee may, subject to subsection (2), cancel the sale by sending written notice to the department by certified mail of the current lessee's intent to cancel the sale. ~~The lessee shall send written notice by certified mail to the department, postmarked no later than ten days before the date of the auction.~~

(2) To be valid a notice of cancellation sent pursuant to subsection (1) must be received by the department:

(a) at least 10 days before the date of the auction; and

(b) before any other person has registered for the auction by submitting a bid bond consistent with 77-2-363(2)(a), MCA, and executing a purchase agreement with the department. In the event that a sale cancellation request is received by the department on the same day that the department receives a bid bond and executed purchase agreement from another bidder, the cancellation is not valid.

~~(2)~~(3) If the lessee cancels the sale the lessee shall pay all costs incurred by the department in preparing the sale, including but not limited to:

(a) any costs for required environmental review if not exempt under 75-1-201, 77-1-121, or 77-2-363~~(6)(b)~~,(7), MCA;

(b) through (e) remain the same.

~~(3)~~(4) The processing costs and bid deposit, as required in ARM 36.25.705(13) and 36.25.708~~7~~4 that are paid by the lessee must be applied toward costs incurred by the department for the canceled sale.

(4) remains the same but is renumbered (5).

AUTH: 77-1-204, 77-2-308, 77-2-328, MCA

IMP: 77-2-328, 77-2-363, MCA

REASON: The proposed amendment is necessary to add language to address the changes made in the 2023 Legislative Session in SB49. Specifically, that the lessee may cancel the sale up to ten days prior to auction, unless another person has registered for the auction. In addition, updating the requirement for “giving notice” to be the date of “receiving” the written notice, rather than a “postmark” date will assist the department in processing sales and eliminating ambiguity caused by waiting for mail delivery, with potential delays in notice. Corrections are also requested for incorrect references to 77-2-363(6)(b), MCA and ARM 36.25.708(4). The correct references should be 77-2-363(7), MCA and ARM 36.25.707(4).

36.25.707 PROCEDURE FOR CONDUCTING CABIN SITE AND HOME SITE SALES (1) through (3) remain the same.

(4) A person wishing to bid upon a nominated cabin site or home site offered for sale at auction shall submit a bid deposit and execute a purchase agreement with the department. The bid deposit and purchase agreement must be ~~postmarked~~ received by the department no later than 20 days before the date of the auction.

(5) through (10) remain the same.

AUTH: 77-1-204, 77-2-308, 77-2-362, MCA

IMP: 77-2-328, 77-2-363, MCA

REASON: The proposed amendment is necessary for changing the deadline for a bid deposit and purchase agreement to be “received” by the department, rather than being “postmarked” no later than 20 days prior to the auction. This will assist the department in processing sales and will eliminate the ambiguity caused by waiting for mail delivery, with potential delays. In addition, the change more accurately reflects the requirements of 77-2-363(2)(a), MCA, which specifies that the person bidding to purchase state land shall deposit a bid bond 20 days prior to the day of the auction.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted in writing to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, MT 59620-1601, or e-mail at DNRCOAH@mt.gov and must be received no later than 5:00 p.m. on December 6, 2023.

5. Martin Balukas, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or

delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on September 26, 2023.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Luke Casey
Luke Casey
Rule Reviewer

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

Certified to the Secretary of State October 24, 2023.

DRAFT

1023-7

REQUEST FOR APPROVAL TO FINALIZE
RULEMAKING

**Land Board Agenda Item
October 16, 2023**

1023-7 Request for Approval to Finalize Rulemaking

Location: State of Montana

Trust Benefits: Public Land Trust – Navigable Waterways

Trust Revenue: N/A

Item Summary

The Real Estate Management Bureau is seeking Land Board approval to move forward in finalizing the Rulemaking process of amending ARM 36.25.1102(3), which would allow DNRC to issue land use licenses on non-adjudicated navigable waterways without requiring Land Board approval. The Department held a public hearing on September 7th and there were no public comments received.

If approved, the adoption notice will be filed with the Secretary of State's Office, published, and should become effective October 21st.

DNRC Recommendation

The DNRC recommends the Land Board approve filing the proposed amendment to Administrative Rule 36.25.1102(3) with the Secretary of State's Office.

1023-8

INFORMATIONAL ITEM:

Trust Lands Post Fire Season Briefing

**Land Board Agenda Item
October 16, 2023**

1023-8 Informational Item: Trust Lands Post Fire Season Briefing

Location: Statewide

Trust Benefits: N/A

Trust Revenue: N/A

Item Summary

Postfire season briefing on Trust Lands burned and potential salvage opportunities.

This far in calendar year 2023, approximately 4,700 acres of trust lands have been burned of which approximately 2,100 acres are classified forest land. The majority of classified forest acres occurred within the perimeters of the Niarada and River Road East fires.