

U.S. Department of the Interior Bureau of Land Management

**Environmental Assessment
State of Montana In-Lieu Selection
DOI-BLM-MT-0000-2016-0001-EA
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**U.S. Department of the Interior
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Chapter 1 - Purpose and Need

Introduction

The Bureau of Land Management (BLM) is required to convey federal land to the State in order to fulfill a legal obligation, dating back to Montana statehood (The Enabling Act of 1889). In December 2015, the State of Montana (State) filed a selection application that included 16,055.74 acres of land located in Chouteau, Custer, Fallon, Hill, Prairie, Richland, and Yellowstone counties.

The parcels contained in the State's application could be combined in a multitude of ways to satisfy the full entitlement of \$4.1 million. This environmental assessment (EA) addresses a portion of the lands included in the State's application. The parcels not included in this EA are currently under review and are being deferred to allow for additional analysis and consultation efforts necessary to determine the suitability of those parcels for conveyance.

This EA discloses the potential environmental consequences that would result from conveyance of a total of 2,126.11 federal acres that provide \$1,824,980 of the \$4.1 million obligation owed to the State. These parcels include the Miles City Administrative Site (6.11 acres) and lands in the Lonesome Lake area (2,120 acres). These lands are located within the BLM Miles City Field Office (MCFO) and the Havre Field Office (Havre FO), respectively.

Background

The Enabling Act of 1889, under which Washington, North Dakota, South Dakota, and Montana were admitted to the Union, states, "That upon admission of each of said states into the Union, sections numbered sixteen and thirty-six in every township of said proposed states ... are hereby granted to said states for the support of common schools....". Over time, most of the obligation due Montana has been satisfied, including the conveyance of substantial acreage in lieu of Sections 16 and 36 where prior appropriation prevented conveyance to the State. The most recent in lieu selections in Montana were approved in 1984, and again in 1990, leaving a balance of 1,184.16 acres still subject to in lieu selection. At that time, the State determined they would defer additional applications to complete the selection due to staffing and resource constraints.

In the spring and summer of 2015, the State and the BLM reviewed the 1,184.16 acres known as "base land" and agreed to freeze the remaining entitlement while a selection application was developed by the State. Based on a comparable sales approach, the obligation to the State was determined to be \$4,104,727. This is consistent with a Supreme Court ruling under *Andrus v. Utah*, 446 U.S. 500 (1980) that provides selections in lieu of base land can be based on "roughly equivalent value" rather than a tract-by-tract match. The same methodology was used to value the selected lands.

The State submitted their selection application to BLM in December 2015, which required publication of a proposed classification notice in the *Federal Register* and initiated BLM evaluations and studies on the lands included in their application. Included in the State's

application was an expression of interest for withdrawn lands administered by the Bureau of Reclamation in the Lonesome Lake area.

In October 2016, the proposed classification notice was published in the *Federal Register* announcing consideration of the lands included in the State's December 2015 application. In January 2017, the withdrawals on the land in the Lonesome Lake area were revoked by publication of Public Land Order (PLO) 7860 in the *Federal Register*, thereby returning these lands to the jurisdiction of the BLM for potential use and consideration in the State selection process.

Satisfaction of in lieu selection rights and disposal of parcels for that purpose are considered to serve the national interest in the context of Section 102(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The proposed action would partially satisfy this federal obligation to the State. The remaining lands in the State's application have unresolved issues and further consultation requirements to determine suitability, and do not lend themselves to timeframes related to expiration of the Proposed Classification on December 2, 2017.

Purpose and Need for the Proposed Action

BLM is responsible for satisfying the federal obligation to the State by conveying an amount of land roughly equivalent in value (\$4,104,727.00) to the value of the base lands lost to the State. BLM needs to respond to the selection application filed by the State of Montana to determine what lands included in the application are suitable for conveyance to work toward fulfilling the obligation.

Decision to be Made

The BLM must determine if the lands included within the proposed action are suitable for conveyance to assist in meeting the obligation to the State.

If any of the lands are found suitable for conveyance, then the decision identifying the parcels to be conveyed must be published in the *Federal Register*. That decision, called an initial classification, would become final 30 days after publication, subject to requests for administrative review by the Secretary of the Interior. The *Federal Register* notice would also extend the Proposed Classification for the remaining lands contained in the State's application, which are currently under review, but not included in this EA. These remaining lands selected by the State will be analyzed in a future EA.

Upon final classification, BLM would convey title to the lands via a document called a "clear list" specifying the legal description and associated encumbrances. BLM would not issue the clear list until after the 2-year grazing notifications on the relevant parcels either expire or are waived, the relevant permittees/leases have been compensated for any improvements, and the current right-of-way holders have been given an opportunity to convert their grants, as provided for by BLM land disposal policy.

Conformance with BLM Land Use Plan(s)

The lands included in the proposed action analyzed in this EA are managed under the decisions contained in the 2015 Rocky Mountain Region Record of Decision (ROD)(BLM 2015a), the

HiLine Approved Resource Management Plan (ARMP)(BLM 2015b), and the Miles City ARMP (BLM 2015c). The HiLine ARMP and associated Final Environmental Impact Statement (FEIS) is the governing land use plan for the Havre Field Office. The Miles City ARMP and associated FEIS, is the governing land use plan for the MCFO. The Havre FO lands analyzed in this EA are also subject to the Final EA and associated Decision Record for the Lonesome Lake Plan Amendment to the West HiLine Resource Management Plan (BLM 1996, 1997) which was adopted by the HiLine ARMP.

The parcels analyzed in this EA lie within Category 2 land tenure allocations in these plans, which allow for conveyance out of federal ownership in certain circumstances, including selection by the State, subject to additional environmental review to determine if they are suitable for conveyance. As a result, they were included in the Proposed Classification notice published in the *Federal Register* on October 17, 2016.

This EA is tiered to the information and analysis contained in the aforementioned plans.

Relationship to Relevant Statutes, Regulations, or Other Plans, Policy, and Guidance

The State of Montana selection application was filed pursuant to Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), Sec. 102(a) of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701, 1712), and Sec. 7 of the Taylor Grazing Act of 1934 (43 U.S.C. 315f). The authority to transfer “in lieu” lands to the State is found in Sections 2275 and 2276 of the Revised Statutes and is guided by regulations found at 43 CFR 2621. Satisfaction of the State’s entitlement and disposal of parcels for that purpose are considered to serve the national interest in the context of Section 102(a)(1) of the FLPMA. Undertaking the proposed action would partially satisfy this obligation.

In accordance with Sec. 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, a Level 1 Hazardous Materials Survey was completed on all parcels. No hazardous substances and no petroleum products or their derivatives are known to have been released or disposed of on any of the parcels analyzed in this EA.

Cultural resource inventories and investigations were conducted on the parcels analyzed in this EA in accordance with Section 106 responsibilities under the National Historic Preservation Act (NHPA) and in consultation with the State Historic Preservation Office (SHPO) and with tribal entities. No cultural resources were identified by these investigations. Tribal coordination and consultation was also conducted on the parcels analyzed in this EA as outlined in Chapter 4.

No formal consultation is required under Section 7 of the Endangered Species Act of 1973, as amended, because there is no impact to threatened or endangered species as a result of the proposed action or alternatives.

Scoping

Public scoping for this project was initiated through the publication of a *Federal Register* Notice on October 17, 2016. The 60-day scoping period was also announced through local newspapers/press releases, on the BLM Montana State Office website, and posted online in the

NEPA ePlanning website. The State also posted the required legal notices in the Billings Gazette, Miles City Star, and the Havre Daily News.

The BLM and the State held three public open house meetings to share information about the project with the public. The meetings were held in Miles City, Billings and Havre, Montana (refer to Chapter 4 for additional information on public involvement).

The BLM conducted early outreach with tribes across Montana, North, and South Dakota between February and June 2016. In October 2016, formal scoping notices were sent to 48 tribal officials and entities in Montana, North and South Dakota, and Wyoming, informing them of the project proposal and inviting them to submit issues and concerns for BLM to consider in the environmental analysis. Early conversations with the tribes revolved around how cultural inventories would be conducted and future involvement in the project.

These efforts, along with interdisciplinary review by BLM resource specialists, assisted with identification of issues to be carried forward in this analysis.

Identification of Issues

The BLM focuses its analysis on “issues that are truly significant to the action in question, rather than amassing needless detail” (40 CFR 1500.1(b)). The issues considered in this EA have a relationship with the proposed action and are within the scope of analysis.

Based on a review of issues identified through scoping and through interdisciplinary review by BLM resources specialists, the resources/issues carried forward in this EA that could be impacted to a level requiring further analysis are summarized below.

- Wildlife and associated habitat (including General Habitat Management Areas for Greater Sage-grouse): What would be the impacts to wildlife populations and habitats if the selected lands were conveyed?
- Livestock Grazing: What would be the effect on livestock grazing operations if the selected lands were conveyed?
- Uses other than Livestock Grazing: What would be the effect on current authorized uses if the selected lands were conveyed?
- Socioeconomics: What would be the effect on the socioeconomics of the area if the selected lands were conveyed?

Issues Considered but Eliminated from Further Analysis

Based on a review of scoping comments and additional review of information and data by resource specialists and the interdisciplinary team, certain resources are not present or would not be impacted to a degree to require detailed analysis. Appendix A, Resources/Issues Considered but Dismissed, provides the rationale for specific resources.

The BLM also determined the following issues raised by the public during scoping and during tribal visits will not receive further consideration based on the following reasons:

Close Public Land to Livestock Grazing

Making public land unavailable for livestock grazing is not considered further. Review of this issue is outside the scope of the proposed action to satisfy the debt owed to the State of Montana under the Enabling Act of 1889. Land use allocations and the availability of lands for livestock grazing is addressed during higher level land use planning.

Review BLM's Grazing Management Program

BLM's management of livestock grazing is also outside the scope of the proposed action and is not considered further. This proposed action focuses on which lands selected by the State are suitable for conveyance to satisfy the debt owed under the Enabling Act, and does not review BLM's grazing management program.

Manage BLM lands to benefit trees, wildlife and nature

This proposed action will fulfill a legal obligation established through Congressional action as a requirement upon granting statehood to Montana in 1889. The FLPMA, as amended, did not repeal these statutes, and recognized the continuing obligation inherent in the various enabling statutes admitting western states into the union. Therefore, comments regarding general management of BLM lands, and management established under FLPMA, have been eliminated from further analysis.

Transfer Land to the Tribes

Transfer of the selected land to Tribal entities, rather than to the State of Montana, does not meet the purpose and need for this proposal and does not satisfy the Enabling Act, therefore, will not be analyzed in detail. The proposed action to fulfill a long-standing obligation is directed by Congress.

Chapter 2 - Description of Alternatives

Introduction

The parcels included in the State's application could be combined in a multitude of ways to satisfy the full entitlement of \$4.1 million. This EA analyzes two alternatives: a No Action alternative (Alternative A) and the Proposed Action (Alternative B). The Proposed Action includes a portion of the parcels identified by the State in their December 2, 2015 application.

Upon completion of on-going evaluation and analysis on the remainder of the federal lands included in the State's application (13,929.63 acres), a separate EA will be prepared and issued for public comment at a later date.

Alternatives Considered but Eliminated from Detailed Analysis

No alternatives have been eliminated at this time. The remaining lands in the State's application will be analyzed in a separate EA after additional review and consultation is completed.

Alternative A – No Action

Under the No Action alternative, the portion of the State's selection application related to the Administrative Site in Custer County and the Lonesome Lake lands in Chouteau and Hill Counties would be denied and the lands would remain in federal ownership. Upon expiration of the Proposed Classification on December 2, 2017, the lands would no longer be proposed for use in satisfying the in lieu obligation and would continue to be managed for multiple-use as guided by current land use plans. The Lonesome Lake parcels would remain segregated from location and entry under the Mining Law as specified in the withdrawal revocation finalized by PLO 7860 unless opened by publication of an opening order in accordance with applicable law.

The obligation of the United States to convey lands to the State in lieu of unavailable base lands would not be satisfied, even in part. The full obligation of \$4,104,727 would remain and would have to be addressed in the future.

Alternative B – Proposed Action

Under Alternative B, the BLM proposes to convey 2,126.11 acres of federal lands roughly equivalent to \$1,824,980 to partially fulfill the obligation to the State of Montana outlined in the Enabling Act of 1889. The lands being considered in this EA were identified in the December 2, 2015 application submitted by the State of Montana and are described as follows:

Principal Meridian, Montana

T. 29 N., R. 11 E.,

sec. 21, N1/2NE1/4 and N1/2NW1/4;

sec. 22, NW1/4NW1/4.

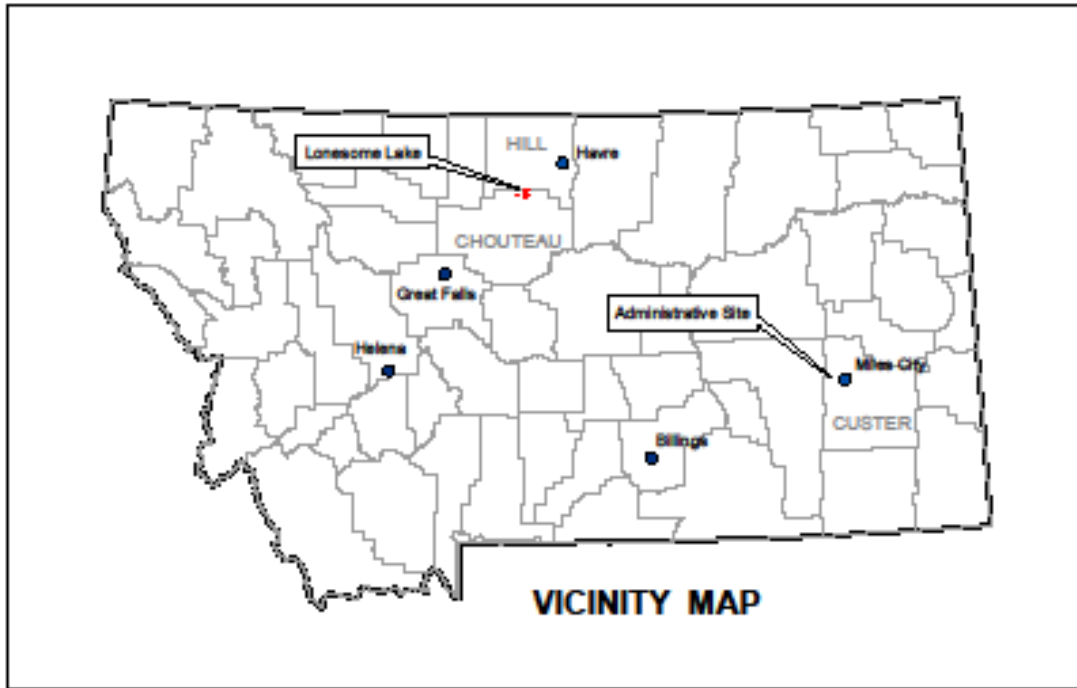
T. 29 N., R. 12 E.,

sec. 9, W1/2 and SE1/4;

sec. 21, N1/2, SW1/4, N1/2SE1/4, and SW1/4SE1/4;

sec. 22;
sec. 28, W1/2;
sec. 29, E1/2NE1/4 and E1/2SE1/4.
T. 30 N., R. 12 E.,
sec. 35, SE1/4.
T. 7 N., R. 47 E.,
sec. 4; Tracts DD and FF.

Figure 1. Vicinity Map



Detailed maps can be found in Appendix C, Maps. Chapter 3 contains additional discussion on the land included in this EA.

Implementation of this alternative would reduce the remaining obligation to the State to \$2,279,747 and allow for extension of the proposed classification in order to continue on-going reviews and consultation on the remaining lands in the State's selection application.

The State intends to retain lands conveyed to them for long-term management and to generate revenue for the school trust. The State would recognize valid existing rights and generally continue to manage the lands in a manner similar to how they have been managed historically.

Any lands conveyed to the State would be taken subject to encumbrances of record at the time of conveyance (see Chapter 3, Existing Land Uses other than Grazing).

Affected grazing permittees will receive reasonable compensation from the BLM for the adjusted value of their interest in authorized permanent cooperative range improvements in accordance with 43 CFR 4120.3-6. All grazing improvements on the conveyed parcels will become property of the State who will retain ownership of the improvements in accordance with their policies regarding land acquisitions (personal communication, Kevin Chappell, Department of Natural Resources and Conservation (DNRC) Bureau Chief, March 2016).

The State would offer the holders of BLM grazing permits, licenses, or leases the first right to lease lands that are conveyed to the State via the in lieu selection.

Future management actions conducted by the State on the conveyed lands, such as changing the land use of a parcel, would be subject to State regulations and the Montana Environmental Policy Act (MEPA).

Chapter 3 - Affected Environment and Environmental Consequences

Introduction

This chapter describes the current condition and resources that are present, or potentially present, which may be affected by the proposed action (see *Issues* identified in Chapter 1), and the anticipated environmental consequences that would result from the range of alternatives. The description of the existing environment forms the baseline for comparison of the effects of the alternatives under consideration. Table 1 (below) lists the lands considered in this EA.

Table 1. Selected Lands by Area and County.

Area	County	Land Description	Acres	Value ¹
Administrative Site	Custer	T. 7 N., R. 47 E., sec. 4; Tracts DD and FF.	6.11	\$109,980
Lonesome Lake	Chouteau	T. 29 N., R. 11 E., sec. 21, N1/2NE1/4 and N1/2NW1/4; sec. 22, NW1/4NW1/4. T. 29 N., R. 12 E., sec. 9, W1/2 and SE1/4; sec. 21, N1/2, SW1/4, N1/2SE1/4, and SW1/4SE1/4; sec. 22; sec. 28, W1/2; sec. 29, E1/2NE1/4 and E1/2SE1/4.	1,960.00	\$1,715,000
	Hill	T. 30 N., R. 12 E., sec. 35, SE1/4.	160.00	
Totals:			2,126.11	\$1,824,980

¹ Parcel valuations were derived jointly by the State and BLM using a comparable sales methodology and concurred on for use in this project by agreement dated November 28, 2016.

Analysis Assumptions and Guidelines

The federal action of conveying lands to the state does not result in surface disturbing activities or direct impacts to most resources. Potential indirect effects associated with conveyance result from future management actions of the State (see analysis assumptions below) and any differing management policies.

The MEPA requires State agencies to prepare a written environmental review that is available to the public. This review may be a simple checklist environmental assessment (checklist EA), a

more comprehensive EA, or a more detailed environmental impact statement (EIS). MEPA requires that the level of analysis (checklist EA, EA, or EIS) and the degree of public involvement increase, depending on the significance of the potential or identified environmental impacts. This process provides opportunities for public comment that could modify future proposed activities.

Analysis of the parcels in this EA was conducted by BLM resource specialists who relied on professional knowledge of the areas involved, review of current databases, file information, inventories, and site visits. The following analysis assumptions guide the impact analysis for this action.

- Management of the lands by the State would be subject to applicable State and federal laws (see Appendix B, Applicable State and Federal Laws).
- Existing land uses, including current livestock grazing and agricultural crop production, would be maintained.

These analysis assumptions were not applied to Alternative A (the No Action alternative) because the parcels would not be conveyed to the State.

General Setting

The analysis area lies in the Northern Great Plains, which is known for its diverse vegetation types, soil types, and topography. Existing influences on local distribution of vegetative communities include soils, topography, and surface disturbance, availability of water, management boundary fence lines, and influence of human activities for over a century. Some of these activities include infrastructure developments (roads, powerlines, pipelines, etc.), chemical applications for weed control, and livestock grazing.

The Administrative Site parcel is atypical of most public land administered by the MCFO, lying on the west side of the town of Miles City in Custer County, adjacent to developed lands housing government offices, fairground facilities, and other infrastructure.

The Lonesome Lake parcels in Chouteau and Hill Counties are also atypical of most public land administered by the Havre FO. These lands are located approximately 10 miles northwest of the community of Big Sandy. The majority of the land is cultivated crop land authorized under agricultural leases that were managed by BLM under a Memorandum of Understanding with the Bureau of Reclamation during the time these lands were withdrawn for the purposes of the Milk River Project. This withdrawal has been revoked (PLO 7860) and the lands are under BLM jurisdiction.

Livestock Grazing

Of the 2,126.11 acres being analyzed for conveyance to the State in this EA, 320 acres are located within two grazing allotments and leased for grazing under Section 15 of the Taylor Grazing Act. There are approximately 7,453 total federal acres within the two allotments, and 320 of those acres have been selected by the State in their application. Grazing allotment information, including federal acres, Animal Unit Months (AUMs), both active and suspended, are illustrated in Table 2. The 96 AUMs included in the selected lands comprise approximately

7 percent of the active AUMs and 6 percent of total AUMs in the allotments. One AUM is equivalent to the amount of forage necessary for the sustenance of one cow or its equivalent for a period of one month.

Table 2. Lonesome Lake Selected Land Grazing Allotment Information

Allotment Number	County	Federal Acres In Allotment	Selected Land Acres	Allotment Active AUMs	Selected Land Active AUMs	Allotment Suspended AUMs	Parcel Suspended AUMs
06448	Chouteau	5,325	160	1,200	64	306	0
06451	Chouteau	2,128	160	406	32	0	0

Impacts from Alternative A

Under Alternative A, livestock grazing on the 320 acres currently leased for grazing would continue under BLM administration and under BLM grazing regulations. There would be no change in management or reduction in grazing for the lessees. Stocking levels, lease management, renewal processes and grazing fees would remain unchanged and continue under current regulations and procedures.

Impacts from Alternative B

Under Alternative B, livestock grazing on the 320 acres currently leased for grazing would continue and be managed by the State under State regulations rather than BLM regulations. The BLM grazing leases would be terminated but not before the end of the 2-years' prior notification period as provided for in 43 CFR 4110.4-2. The State would offer existing lessees the first opportunity to acquire a State permit for grazing.

The BLM is required to compensate lessees for the adjusted value of their interest in permanent range improvements constructed by the lessee. The lessee may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

Changes in grazing fees and receipts are addressed in the socioeconomics section.

Wildlife and Associated Habitats

Administrative Site

The 6.11 acres in the Administrative Site lacks intact wildlife habitat due to its urban interface and prior uses for infrastructure and fire suppression staging.

Lonesome Lake

The Lonesome Lake lands being considered for conveyance to the State lie in the vicinity of the much larger 17,800 acre Lonesome Lake prairie wetland complex. However, most of the selected lands have been previously cultivated (1800 acres) and none lie adjacent to Lonesome Lake, though it would be expected that migrating birds would use these lands given their

proximity to the lake and surrounding complex. There are 320 acres of native shortgrass prairie on Lonesome Lake lands in the proposed action.

The broader Lonesome Lake area is a unique prairie wetland complex, consisting of a shallow lakebed and several smaller potholes, all formed by retreating glaciers. The lakebed is surrounded by native short-grass prairie and is important feeding, nesting and brood rearing habitat for migratory waterfowl and shorebirds. The shallow nature of the lake allows it to slowly draw down during the summer, often drying completely by fall, to be filled again by spring runoff. The wet and dry cycle allows aquatic vegetation to rejuvenate and provide food for wildlife, including aquatic insects which, in turn, provide important food source for wetland birds and other wildlife. During the wet springs, this area supports a high concentration of migration shorebirds.

Lonesome Lake is surrounded by native shortgrass prairie and farmed tracts. The grasslands support a large number of nesting species of concern; including Ferruginous hawks, Long-billed curlews, Sprague's pipits, Baird's sparrows, Brewer's sparrows, Chestnut-collared longspurs, McCown's longspurs and Grasshopper sparrows.

Additional wildlife in the area is typical of that on shortgrass prairies of northcentral Montana. The area has moderate habitat value of big game, upland game birds and many nongame species. Pronghorn are the most prominent big game species. There is inadequate winter range to sustain big game, but both mule deer and white-tailed deer use the area seasonally.

Uplands game birds in the area included sharp-tailed grouse, Hungarian partridge and ring-necked pheasant. Their numbers fluctuate annually depending on environmental conditions.

Neotropical birds breed or migrate through Montana and spend their winter elsewhere, usually in Mexico or South America. There are 143 species of neotropical migratory birds in Montana. Ninety of these species breed or migrate through the Lonesome Lake area (Skaar 1996).

Impacts from Alternative A

Continued management of the Administrative Site would maintain the status quo. The BLM would continue to work with the State under an agreement allowing for staging during fire suppression efforts.

Continued management of the Lonesome Lake lands by the BLM would provide the opportunity to convert the parcels in the Lonesome Lake area to native habitats after expiration of the existing agricultural leases in December 2017 in accordance with management direction provided in the Lonesome Lake Management Plan (BLM 1997), and carried forward by the HiLine ARMP. Restoration of native vegetation would result in long-term benefits to wildlife utilizing the Lonesome Lake area.

Impacts from Alternative B

No direct or indirect impacts to wildlife, including special status species, would be expected from conveyance of any of the parcels given the current absence of intact, native habitat on these parcels.

Management would continue as under past management scenarios. The majority of the lands in the Lonesome Lake area would continue to be leased for agricultural use. The opportunity to restore these lands to more native habitats for wildlife would be foregone on approximately 10% of the broader Lonesome Lake complex.

Existing Land Uses other than Grazing

Land use authorizations, other than livestock grazing, on the land being analyzed for conveyance to the State in this EA are agricultural leases and rights-of-way. There are six agricultural leases that authorized dryland farming on 1,800 acres, two powerline rights-of-way, one water pipeline right-of-way and one administrative site right-of-way. These uses are detailed in Table 3.

There are no active mining claims or mineral permits or leases on the land being analyzed for conveyance to the State in this EA.

Table 3. Existing Land Uses Other than Grazing.

Authorization Number	County	Type of Authorization	Length or Area of Authorization	Expiration Date of Authorization	Holder of Authorization
MTM-56958	Custer	Administrative Site	6.11 acres	Perpetual	BLM
MTM-87912	Hill	Agricultural Lease	160.00 acres	12/31/2017	Lazy TZ Farms, Inc.
MTM-87913	Chouteau	Agricultural Lease	320.00 acres	12/31/2017	Bart Bitz Farms, Inc.
MTM-87916	Chouteau	Agricultural Lease	320.00 acres	12/31/2017	Geyer Farms
MTM-87917	Chouteau	Agricultural Lease	40.00 acres	12/31/2017	Kallan Bahnmler
MTM-87918	Chouteau	Agricultural Lease	480.00 acres	12/31/2017	Nimmick Farms
MTM-87919	Chouteau	Agricultural Lease	480.00 acres	12/31/2017	Round Acres, Inc.
MTM-91401	Custer	Powerline R/W	65 feet	12/31/2031	MDU Resource Group, Inc.
MTM-93467	Chouteau	Water Pipeline R/W	5,280 feet	07/01/2024	Loma Sewer and Water
MTM-108329	Chouteau	Powerline R/W	4,820 feet	12/31/2045	Northwestern Corporation

Impacts from Alternative A

Under Alternative A, Chouteau and Hill County lands would be managed in accordance with the Lonesome Lake Area Management Plan provisions carried forward in the HiLine ARMP. These plans provide direction that farming would be phased out over the long term and parcels restored to native prairie (BLM 1997). Based on this direction, the agricultural leases, which expire December 31, 2017, would not be renewed and efforts to convert these parcels to more native vegetation would be implemented.

The two rights-of-way would continue under BLM administration and be managed under BLM right-of-way regulations. There would be no change in management of the rights-of-way. Rental rates would continue to be calculated according to BLM regulations and renewals and applications for new authorizations would be processed by the BLM.

As outlined in PLO 7860, the lands in Hill and Chouteau Counties would remain segregated from location and entry under the Mining Law unless opened by publication of an opening order in accordance with applicable law.

Custer County lands would be managed in accordance with the Miles City ARMP. Rights-of-way would continue under BLM administration and under BLM right-of-way regulations. There would be no change in management of the rights-of-way. Rental rates would continue to be calculated according to BLM regulations and renewals and applications for new authorizations would be processed by the BLM. The administrative site right-of-way would remain in place.

Impacts from Alternative B

Under Alternative B, right-of-way holders would be notified of the proposal to convey to the State the land encumbered by the right-of-way. Upon conveyance, the State would succeed to the interest of the United States and administer the rights-of-way. Prior to conveyance, the holder would have the opportunity to exercise the following options in relation to their grant:

- a. Maintain the right-of-way under its current terms and conditions, including expiration date (status quo). The conveyance would be issued "subject to" the right-of-way, and the State would succeed to the interest of the United States, including administration of the right-of-way and the ability to collect future rent. Following expiration, renewal would be addressed by the State through their processes.
- b. Submit an application to the BLM to amend the right-of-way, or portion thereof, to a term of perpetuity. The conveyance would be issued "subject to" the amended right-of-way and the State would succeed to the interest of the United States. Cost recovery fees to process the application would be required to amend the right-of-way.
- c. Submit an application to the BLM to amend the right-of-way, or portion thereof, to a perpetual easement. The conveyance would be issued "subject to" the easement and the State would succeed to the interest of the United States. Cost recovery fees to process the application would be required to amend the right-of-way.
- d. Negotiate an easement with the State that would become effective at the time of conveyance.

The administrative site right-of-way held by the BLM (MTM-56958) would be terminated and the parcel conveyed without a reservation for this right-of-way.

The BLM would handle the rights-of-way according to option “a” above unless requested differently by the holder.

The conveyance to the State would also be issued subject to a reservation of a right-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945) and the reservation of a right-of-way to maintain a storm water drainage system on the Administrative Site parcel.

Agricultural leases would remain in effect until their expiration on December 31, 2017. Following expiration of the leases and conveyance of the land, continued use for agricultural purposes would be addressed by the State through their processes.

Any new requests for lands uses would be addressed by the State through their processes.

Socioeconomics

Of the lands being analyzed for conveyance to the State, 320 acres are currently leased for grazing under Section 15 of the Taylor Grazing Act at a total stocking rate of 96 AUMs. In 2016 the grazing fee was \$2.11/AUM and the leases generated \$202.56 in revenue. Following the issuance of PLO 7860 whereby jurisdiction of the lands reverted to the BLM, 50% of grazing revenues would be returned to the State and 50% deposited in the BLM’s range improvement fund. The State revenues would then be distributed further under the provisions of §17-3-22, MCA, with 50% to the relevant county general fund and 50% to the State general fund for elementary BASE funding of school districts in that county.

Land use authorizations, other than livestock grazing, on the lands in Chouteau and Hill Counties include six agricultural leases, one powerline right-of-way, and one water pipeline right-of-way. These authorizations generated \$35,180 in revenues.

Land use authorizations, other than livestock grazing, on the land in Custer County include one powerline right-of-way and one administrative site right-of-way. No revenue has been generated for these uses as both authorizations are exempt from rental payments under current right-of-way regulations.

Payment In Lieu of Taxes (PILT) is a program which compensates state and county governments for federal lands which cannot be assessed a property tax by the counties in which those lands are located. Payments are computed utilizing two different formulas based on county population, county acreage and other federal payments received. The PILT payments discussed here are based on payments for the year 2016. Approximate 2016 payments for the lands being analyzed for conveyance to the State in Chouteau County (1,960 acres) totaled \$4,606 (\$2.35/acre), for the land in Hill County (160 acres) totaled \$365 (\$2.28/acre), and for the land in Custer County (6.11 ac.) totaled \$16 (\$2.56/acre).

Impacts from Alternative A

Grazing receipts would continue to be distributed in accordance with federal law and BLM regulations for Section 15 leases that allocate 50% of the receipts to the State and 50% to the BLM’s range improvement fund. Based on the 2017 grazing fee of

\$1.87/AUM, \$89.76 would be distributed to the State and \$89.76 would be deposited in the BLM range improvement fund.

Right-of-way rental fees would be deposited into the U.S. General Treasury as provided for under the FLPMA.

There would be no agricultural lease rental receipts since the leases would not be renewed in accordance with the HiLine ARMP.

Counties would continue to receive PILT payments as they have in the past.

Impacts from Alternative B

Livestock grazing would continue and be managed by the State under State regulations rather than BLM regulations. The base rate charged per AUM by the State is calculated annually using a formula set in state law (§77-6-507(2), MCA). That formula takes the average price per pound of beef cattle in Montana for the previous year, times a multiplier established by the State Land Board. The rate for 2017 is \$14.01/AUM. Using 2017 rates, the overall change for grazing would increase by \$1,165.44 under State grazing rates (from \$179.52 under BLM grazing rates to a new total of \$1,344.96).

Agricultural leases would continue and be managed by the State under State regulations rather than BLM regulations. Rental for State agricultural leases are generally based on a 25% crop share basis rather than a fixed-rate rent per acre basis established under BLM regulations. Lease rental based on a crop share basis are more responsive to variations in seasonal growing and market conditions than fixed-rate rentals. The overall change in lease rental is expected to be minimal.

County payments under the PILT program would be reduced as follows:

<u>County</u>	<u>Reduced PILT Payment</u>
Chouteau County	\$4,606.00
Custer County	\$ 16.00
Hill County	\$ 365.00

Federal PILT payment reductions to these counties may be offset with the annual State "Entitlement Share Payments" determined by State Department of Revenue formulas. During the period 2012 – 2016, Chouteau County received an average \$162,000, Custer County received an average \$9,863, and Hill County received an average \$78,000 from State entitlement share payments. In addition, state grazing leases will generate significant annual revenue to the state school trust fund.

Future rental receipts for right-of-way MTM 108329 would be paid to the State unless the holder requests conversion of the grant to a perpetual grant or easement and makes a lump-sum payment for the grant/easement as allowed by BLM policy.

Future rental receipts for rights-of-way MTM 91401 and MTM 93467, following renewal, would be paid to the State unless the holder requests conversion of the grant to a perpetual grant or easement as allowed by BLM policy.

Cumulative Impacts

Cumulative impacts are those resulting when added to other past, present, or reasonable foreseeable actions. The appropriate geographic area for considering the cumulative impacts related to this conveyance action is the county level since the effects are mainly related to social and economic factors rather than resource issues.

Past and present uses include grazing, agriculture, and fire support staging. Reasonably foreseeable future actions could include:

- Conveyance of additional BLM lands to meet the remaining entitlement of \$2,279,747 owed to the State.
- Continued grazing authorizations issued by the State.
- Continued agricultural leasing issued by the State.
- Continued administration of right-of-way authorizations by the State.

Cumulative Impacts of the Proposed Action (Alternative B)

The Proposed Action would result in few direct or indirect impacts, thereby resulting in few or limited cumulative impacts primarily due to the fact that management of the lands, should they be conveyed to the State, would continue as it has in the past.

Leasing of the conveyed lands by the State in the Lonesome Lake area for grazing uses would decrease revenues that have distributed to the BLM range improvement fund. The cumulative impact would be negligible given the low number of AUMs, and thus receipts (\$89.76), related to the grazing authorizations on the BLM parcels located in Chouteau County. Potential future conveyance of additional Custer County lands (1,944.93 acres) included in the State's selection December 2015 application could further decrease these payments to the local county budget that result from federal distributions to the State generated from federal grazing fees as provided for in MCA 17-3-222.

Removal of the 6.11 acres in Custer County and 2120 acres in Chouteau County from PILT calculations could decrease local county budgets, but would be negligible. Potential future conveyance of additional Custer County lands (1,944.93 acres) included in the State's selection December 2015 application could further decrease local county budgets should the additional lands be conveyed to the State.

No additional federal lands in Chouteau County would be conveyed to satisfy the in lieu entitlement, therefore no cumulative impacts are anticipated.

Chapter 4 - Consultation and Coordination

Introduction

Project information regarding the State's application was made available to the public on the BLM Montana/Dakotas website in December 2015. All project information moved to BLM's ePlanning website at <http://bit.ly/2dqd7rR> on October 17, 2016 when scoping was initiated. The EA will be posted to the ePlanning link for public review on April 19, 2017.

Tribes, Individuals, Organizations, or Agencies Consulted

The BLM consulted with the following persons and groups on this proposal.

- Montana Department of Natural Resources and Conservation
- Chouteau County Commissioners
- Custer County Commissioners
- Hill County Commissioners
- Montana State Historic Preservation Office
- Blackfeet Tribe
- Chippewa Cree Tribe
- Salish and Kootenai Tribe
- Crow Tribe
- Fort Belknap Tribe
- Fort Peck Tribe
- Northern Cheyenne Tribe

Consultation was not required with the U.S. Fish and Wildlife Service given conveyance of any of the lands would not result in an adverse effect to threatened or endangered species, and none of the parcels contain designated critical habitat.

Summary of Public Participation

This section summarizes the process used to involve individuals, organizations, government agencies, tribal governments, as well as authorization holders in the project area between the time the application was filed (December 2015) and release of this EA (April 2017). Project information was posted on the BLM's Montana/Dakota's public website, including maps depicting the lands included in the State's application, along with background information. The BLM provided official two-year notification of the potential conveyance of lands to grazing allotment permittees in accordance with 43 CFR § 4110.4-2. Notices of the proposal were also sent to other holders of rights-of-way and agricultural leases.

Early outreach was conducted with tribes throughout Montana and the Dakotas during introductory visits made by the Montana/Dakotas State Office Tribal Coordinator from February through June 2016.

A 60-day scoping period began upon publication of the Proposed Classification Notice in the *Federal Register* on October 17, 2016. Legal notices were published in the Billings Gazette, Havre Daily News, and Miles City Star and news releases were distributed statewide to notify the public of upcoming meetings. The Proposed Classification Notice was mailed to 237 individuals, agencies and other entities. This mailing list included all grazing permittees/lessees, other authorization holders, 21 different tribes (48 members of tribal governments or Historic Preservation Officers) adjacent landowners, Resource Advisory Council members, conservation organizations, delegations at the state and national levels, and other interested parties.

Three public open houses were held in November 2016 at each of the 3 field offices managing lands included in the State's application (Miles City, Billings, and Havre). Both the BLM and the State staff and management were present at the open houses to address questions and provide background information. As a result, a total of 11 written submissions from 9 commenters were received during the scoping period.

Timely and substantive comments on this EA will be considered before a final decision is made and published in the *Federal Register* as outlined in Chapter 1. All information for this project can be found on BLM's ePlanning website at <http://bit.ly/2dqd7rR>.

List of Preparers

The following BLM personnel participated in the interdisciplinary team process and/or contributed to the preparation of the EA.

Jim Ledger	Realty Specialist, State Office
Renee Johnson	Project Manager/Renewable Energy Lead, State Office
Cyndi Eide	Realty Specialist, State Office
Fiona Petersen	Wildlife Biologist, Miles City
Craig Miller	Wildlife Biologist, Havre
Doug Melton	Archaeologist, Miles City
Josh Chase	Archaeologist, Havre
Reyer Rens	Rangeland Management Specialist, Miles City
Ben Hileman	Rangeland Management Specialist, Havre
Todd Yeager	Field Manager, Miles City
Stanley Jaynes	Field Manager, Havre
Kim Prill	Branch Chief, State Office

References Cited

- BLM 1996 Final Environmental Assessment and Resource Management Plan Amendment for the Lonesome Lake Management Area. BLM Havre Resource Area, October 1996.
- BLM 1997 Decision Record for the Lonesome Lake Plan Amendment to the West HiLine Resource Management Plan. July 1997.
- BLM 2015a Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region, Including the Greater Sage-Grouse Sub-Regions of Lewistown, North Dakota, Northwest Colorado, and Wyoming, and the Approved Resource Management Plans for Billings, Buffalo, Cody, HiLine, Miles City, Pompeys Pillar National Monument, South Dakota, and Worland. September 2015.
- BLM 2015b HiLine Approved Resource Management Plan. Attachment 8 from the Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region, Including the Greater Sage-Grouse Sub-Regions of Lewistown, North Dakota, Northwest Colorado, and Wyoming, and the Approved Resource Management Plans for Billings, Buffalo, Cody, HiLine, Miles City, Pompeys Pillar National Monument, South Dakota, and Worland. September 2015.
- BLM 2015c Miles City Field Office Approved Resource Management Plan. Attachment 9 from the Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region, Including the Greater Sage-Grouse Sub-Regions of Lewistown, North Dakota, Northwest Colorado, and Wyoming, and the Approved Resource Management Plans for Billings, Buffalo, Cody, HiLine, Miles City, Pompeys Pillar National Monument, South Dakota, and Worland. September 2015.
- Skaar 1996 Montana Bird Distribution Committee. "PD Skaar's Montana bird distribution." *Montana Natural Heritage Program Spec. Publ 3* (1996).

Appendix A. Resources/Issues Considered but Dismissed.

NP = Not present in the area impacted by the proposed or alternative actions

NI = Present, but not affected to a degree that detailed analysis is required

PI = Present with potential for relevant impact that that needs to be analyzed in detail in the EA

Determination	Element	Rationale for Determination to Dismiss
NI	Air Quality	Administrative transfer is non-surface disturbing and would have no impact on air quality. Existing uses on the selected parcels is not expected to change.
NP	Areas of Critical Environmental Concern	None of the selected parcels are within an ACEC.
NP	BLM Natural Areas	None of the selected parcels contain a BLM Natural Area.
NP	Cultural Resources	Field inventory and special investigations conducted on the parcels included in the Proposed Action did not result in identification of any historic properties as defined by the National Historic Preservation Act, as amended (16 U.S.C. 470). The project has been reviewed by SHPO as documented by letter received March 2, 2016 (Lonesome Lake) and March 16, 2017 (Administrative Site). Consultation with tribal representatives on these lands resulted in no identified concerns that would impede conveyance of these lands to the State.
NI	Greenhouse Gas Emissions	Administrative transfer is non-surface disturbing and would have no impact on greenhouse gas emissions. Existing uses on the selected parcels is not expected to change.
NP	Environmental Justice	Less than 50% of potential affected parties are part of a minority population and the minority population in the project area is not greater than the minority population outside the project area.
NP	Farmlands, Prime or Unique	None of the analyzed parcels contain prime or unique farmlands as defined under the Surface Mining Control and Reclamation Act of 1977 . Existing uses on the selected parcels is not expected to change.
NP	Fisheries	None of the selected parcels contain fish habitat.
NP	Floodplains	None of the analyzed parcels contain any FEMA mapped floodplains.
NI	Fuels/Fire Management	Administrative transfer is non-surface disturbing and would have no impact on fuels/fire management. Existing management on the selected parcels is not expected to change.
NP	Geology / Mineral Resources / Energy Production	The selected parcels contain no oil and gas, geothermal, or other leases issued under the authority of the Mineral Leasing Act of 1920 (30 U.S.C 181 <u>et seq.</u>). No mining claims are recorded with the BLM on these lands, nor was any evidence of mining activity found on the ground. Existing uses on the selected parcels are not expected to change.
NI	Hydrologic Conditions	Administrative transfer is non-surface disturbing and would have no impact on hydrologic conditions. Existing uses on the selected parcels is not expected to change.
PI	Lands / Access	See EA for analysis.

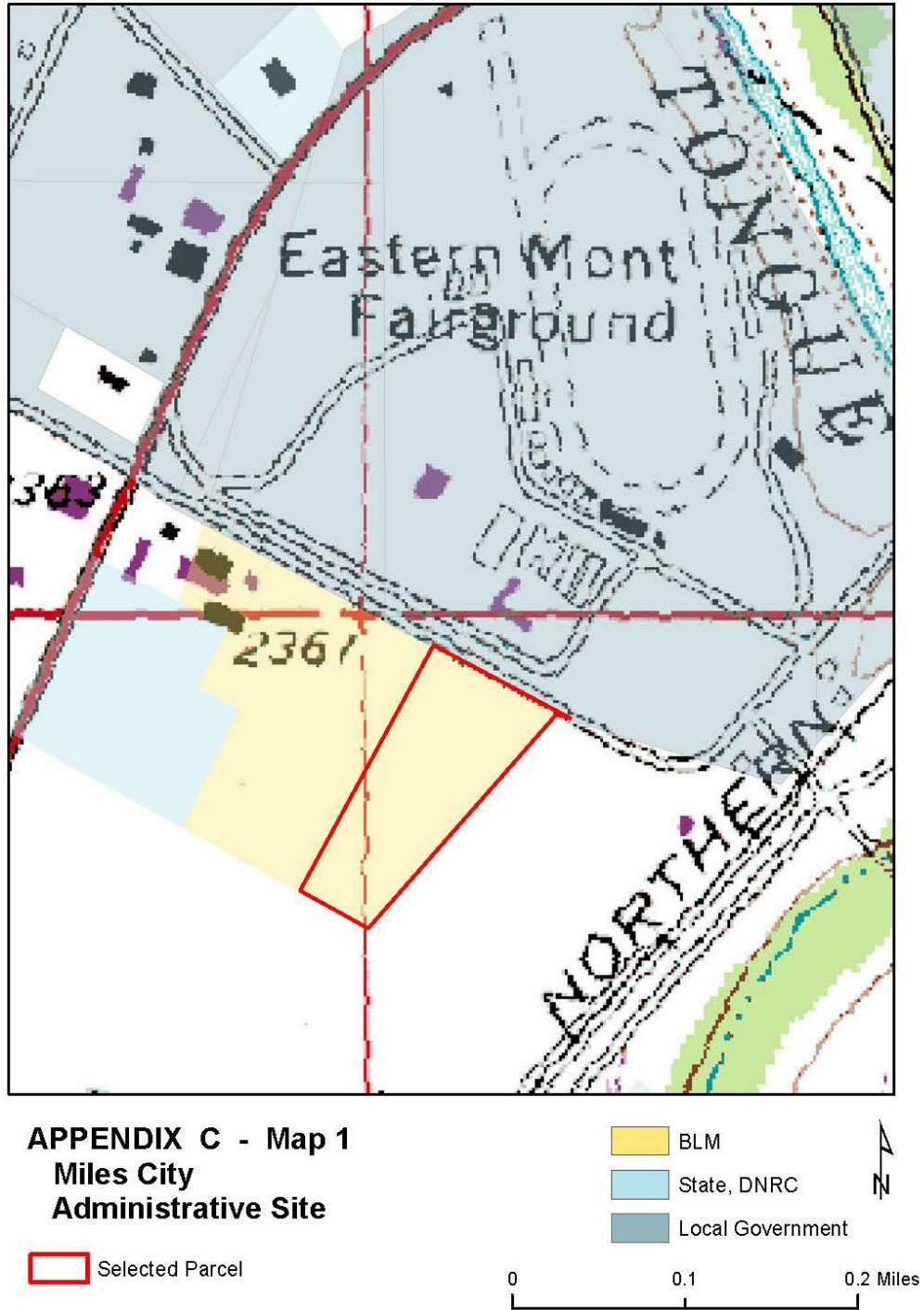
Determination	Element	Rationale for Determination to Dismiss
PI	Livestock Grazing	See EA for analysis.
PI	Migratory Birds	See EA for analysis (Wildlife section).
NP	Native American Religious Concerns	Consultation with tribal representatives to comply with the American Indian Religious Freedom Act (42 USC 1996) and other law on these lands resulted in no identified concerns that would impede conveyance of these lands to the State.
NP	Paleontology	The selected lands do not lie in a Potential Fossil Yield Classification (PFYC) that is likely to yield fossils,
NI	Recreation	Only dispersed recreation occurs on the selected parcels. Administrative transfer is non-surface disturbing and would have no impact on recreation resources. Existing uses on the selected parcels are not anticipated to change.
PI	Socio-Economics	See EA for analysis.
NI	Soils	Administrative transfer is non-surface disturbing and would have no impact on soils. Existing uses on the selected parcels will not change.
PI	Sensitive Animal Species	See EA for analysis (Wildlife section).
NP	T&E, or Candidate Species, Plants and Animals	None of the selected parcels contain listed designated habitats under the ESA, or evidence of use/occurrence of listed plant or animal species.
NI	Vegetation	Administrative transfer is non-surface disturbing and would have no impact on overall vegetative conditions. Existing uses on the selected parcels are not expected to change.
NI	Visual Resources	Administrative transfer is non-surface disturbing and would have no impact on visual resources. Existing uses on the selected parcels are not expected to change.
NP	Wastes, Hazardous or Solid	None of the selected parcels contain any recognized environmental conditions (RECs), hazardous wastes, or solid wastes.
NI	Water Resources / Quality	There are no known water rights on the selected parcels. Administrative transfer is non-surface disturbing and would have no impact on water resources/quality. Existing uses on the selected parcels will not change.
NI	Wetlands / Riparian Zones	Administrative transfer is non-surface disturbing and would have no impact on wetlands or riparian areas. Existing uses on the selected parcels will not change.
NP	Wild & Scenic Rivers	None of the selected parcels are within or adjacent to a designated Wild and Scenic River.
NP	Wilderness/WSAs/ Areas with Wilderness Characteristics	None of the selected parcels are within or adjacent to a wilderness, wilderness study area, or any areas with wilderness characteristics.
PI	Wildlife, except for T&E listed and candidate species	See EA for analysis.
NP	Wild Horses & Burros	None of the selected parcels are within or adjacent to a wild horse herd management area (HMA).

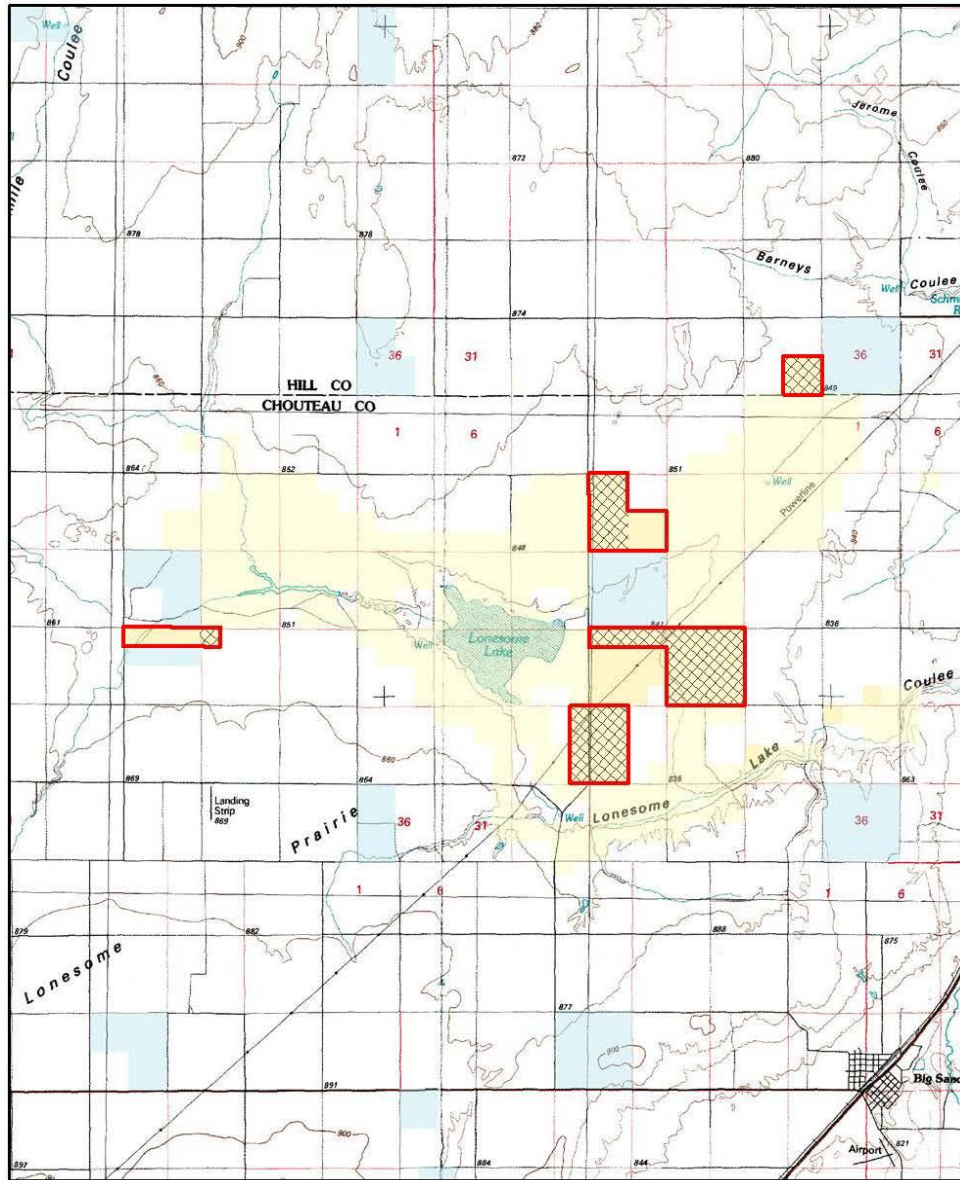
Appendix B. Applicable State and Federal Law.

Issue	Law or Regulation MCA = Montana Code Annotated ARM = Administrative Rules of Montana	Description of Requirement
Environmental Review	Montana Environmental Policy Act (MEPA), MCA 75-1-10 ARM 26.2.628 to 663	Requires the state agency involved in the action to, in part, take into consideration the impacts that the proposed action will have on important historic, cultural, and natural resources and, whenever possible, make efforts to preserve those properties. MEPA is not restricted to state lands and requires consideration regardless of land ownership status.
Water	Federal Clean Water Act (CWA)	In 1974, the U.S. Environmental Protection Agency, which oversees the implementation of the CWA, delegated to Montana the authority to enact provisions of the CWA. The Montana Water Quality Act (MCA 75-5-101 et seq.) is the state's primary legislation for fulfilling its responsibilities under the CWA. While the EPA maintains ultimate authority to administer the CWA, it has granted MDEQ, Water Protection Bureau, the primary responsibility for implementing the act in Montana. For projects on trust lands, DNRC works in conjunction with MDEQ, MFWP, and EPA to ensure compliance with the regulations.
Water	Montana Water Pollution Control Act, MCA 75-5-101 et seq.	State's primary legislation for fulfilling its responsibilities under the CWA. MDEQ, Water Protection Bureau, the primary responsibility for implementing the act. For projects on trust lands, DNRC works in conjunction with local agencies, MDEQ, MFWP, and EPA to ensure compliance with the regulations governing waterbodies.
Water	Montana Pesticides Act, MCA 80-8-101	This law provides for the administration of the Federal Fungicide and Rodenticide Act through the MT Dept. of Ag. It is designed to reduce water pollution caused by intrusion of pesticides into surface water and groundwater, and to reduce harm to plant and animal life caused by the misuse of pesticides.
Stream Protection	Montana Stream Protection Act, MCA 87-5-501 through 507, 87-5-509.	MFWP administers the Montana Stream Protection Act (124 permits) for activities that disturb the bed or bank of a stream. ARM 36.11.423 requires an assessment of cumulative watershed effects on projects involving substantial vegetation removal or ground disturbance to ensure the protection of beneficial uses and identify opportunities to mitigate adverse effects.
Special Status Species	Endangered Species Act (16 USC 1531 et seq.)	Protect and recover threatened and endangered plant and animal species.
Migratory Birds	Migratory Bird Treaty Act and Executive Order 13186.	Prohibits illegal hunting, capture, possession, or sale of migratory birds, for the protection of migratory birds.

Issue	Law or Regulation MCA = Montana Code Annotated ARM = Administrative Rules of Montana	Description of Requirement
Wildlife	Montana Nongame and Endangered Species Conservation Act (MCA 87-5-101)	Provides remedies for the protection of the environmental life support system from degradation and provides remedies to prevent depletion and degradation of natural resources.
Wildlife	Bald Eagle and Golden Eagle Protection Act (16 USC 668-668d)	Prohibits take of bald or golden eagles.
Cultural Resources	Montana State Antiquities Act (MSAA) (MCA 22-3-401 et seq.) with administrative procedures in ARMs 36.2.801 through 813	Defines the duties and responsibilities of the State Historic Preservation Office (SHPO). Mandates that state agencies, in consultation with the SHPO, develop procedures to be followed for identification of NRHP-eligible cultural (heritage) properties and paleontological (fossilized plant and animal remains which are rare and critical to scientific research) resources when the agency intends to authorize an undertaking on state-owned land.
Cultural Resources	Montana Human Remains and Burial Site Protection Act (MCA 22-3-801 et seq.)	Provides for the protection of human remains and all associated grave goods accidentally discovered from unmarked, or marked but unprotected burial sites.
Noxious Weeds	Montana Noxious Weeds Control Act – (MCA 7-22-2101) (MCA 7-22-2151)	Requires DNRC to enter into a written cooperative agreement with district weed boards throughout the state. The agreement must specify mutual responsibilities for noxious weed management on state-owned lands.
Noxious Weeds	Noxious Weeds - ARM 36.25.132	DNRC requires lessees or licensees of state trust land to keep the land free of noxious weeds in compliance with MCA 7-22-21.
Air Quality	Clean Air Act of Montana (75-2-101 to 429)	Purpose is to achieve and maintain levels of air quality that will protect human health and safety and, prevent injury to plant and animal life and property,

Appendix C. Maps.





APPENDIX C - Map 2 Lonesome Lake Area

- Selected Parcel
- Agricultural Lease

- BLM
- State, DNRC
- BOR

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