

## CHECKLIST ENVIRONMENTAL ASSESSMENT

<b>Project Name:</b>	Erb Land Banking Nomination – 2012 review
<b>Proposed Implementation Date:</b>	2012
<b>Proponent:</b>	This tract was nominated by the co-lessees, Erb Farms LLC, & Rufenacht Land & Cattle
<b>Location:</b>	Sale # 687, W ½ section 16, T2N, R1W, 320 acres
<b>County:</b>	Jefferson County
<b>Trust:</b>	Common School Trust

### I. TYPE AND PURPOSE OF ACTION

Offer for Sale at Public Auction, 320 acres of state land currently held in trust for the benefit of Common Schools. Revenue from the sale would be deposited in a special account, with monies from other sales around the State, to purchase replacement lands meeting acquisition criteria related to legal access, productivity, potential income and proximity to existing state ownership which would then be held in trust for the benefit of the same Trust. The proposed sale is part of a program called Land Banking authorized by the 2003 Legislature, and updated by the 2007 and 2009 Legislatures. The purpose of the program is for the Department of Natural Resources and Conservation to overall, diversify uses of land holdings of the various Trusts, improve the sustained rate of return to the Trusts, improve access to state trust land and consolidate ownership.

The State acquired the full section 16 in 1889, and then previously sold the E ½ on 4/5/1913 (retaining the coal and Oil & Gas rights on the E ½). Current State ownership is the 320 acres in the W ½ 16, T2N, R1W, MPM.

### II. PROJECT DEVELOPMENT

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

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

- Legal notices were published in the Bozeman and Butte newspapers on various dates in July and August 2012.
- Direct mailings were made to lessees, adjacent land owners, County Commissioners, State Legislators (from the involved Districts and who were associated with the legislation), and a host of organizations and individuals who had expressed previous interest in this process. A full listing of contacts is attached as Appendix B.
- The tracts were also posted on the DNRC web page at, <http://dnrc/mt.gov/TLMSPublic/LandBanking/LBTest.aspx>

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

No other governmental agencies have jurisdiction over this proposal.

#### 3. ALTERNATIVES CONSIDERED:

Alternative A (No Action) – Under this alternative, the State would retain the entire existing land ownership pattern and would not sell the tract included in this proposal.

Alternative B (the Proposed action) – Under this alternative, the Department would request and recommend approval by the Land Board to sell the nominated tract, encompassing a total area of 320 acres. If approved by the Board, the sale would be at public auction, subject to the requirements found in Title 77, Chapter 2, Part 3 of the Montana Codes Annotated. The income from the sale would be pooled with other land sale receipts from across the State to fund the purchase of other state land, easements, or improvements for the beneficiaries of the respective trusts. *(The State would then review available lands for sale which would generally have access and an increased potential for income. A separate public scoping and review would be conducted when a potentially suitable parcel was found. It is not possible for this analysis to make any direct parcel to parcel comparisons.)*

### III. IMPACTS ON THE PHYSICAL ENVIRONMENT

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

#### 4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

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

A variety of soil types are found across the tract. The proposal does not involve any on the ground disturbance, so there are no soil effect differences between the alternatives. The State does own, and would retain ownership of, all mineral rights. The purchaser of the surface does not acquire the legal right to place restrictions on development of the mineral estate.

#### 5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

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

There are no surface water resources on this tract. The gulch bottom is subject to intermittent storm runoff. The proposal does not include any changes which would affect water quality.

#### 6. AIR QUALITY:

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

The proposal does not include any on-the-ground activities, or changes to activities. No effects to air quality would occur.

#### 7. VEGETATION COVER, QUANTITY AND QUALITY:

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

Vegetation may be affected by numerous land management activities including livestock grazing, development, wildlife management or agricultural use. It is unknown what land use activities may be associated with a change in ownership; however the vegetation on this tract is typical of land throughout the vicinity and there are no known rare, unique cover types or vegetation on the tract. Range conditions are currently rated good, with 72 AUM on the tract (0.225 AUM/ac.).

The proposal does not include any on-the-ground activities, or changes to activities and therefore we do not expect direct or cumulative effects would occur to vegetation as a result of the proposal.

#### 8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

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

These lands provide habitat typical of surrounding lands for a variety of species common to this area, Mule Deer, Whitetail Deer, Antelope, upland game birds, raptors, coyote, fox, badger, songbirds, etc.

Big Game Species (Mule Deer, Whitetail Deer, Antelope) – Any of these big game species may occupy these land banking tracts, and likewise all of the surrounding private lands. In some cases use may be more prevalent in one season or the other, or may occur generally throughout the year. The proposed land banking sale does not include any on-the-ground management changes so no direct, indirect or cumulative effects are expected to big game species.

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

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

A review of Natural Heritage data through NRIS was conducted, as well as tract specific requests for concerns being made to MT FWP. (FWP did not reply to this scoping process.)

NRIS search indicated nearby occurrences of several sensitive bird species.

- Bobolink
- Brewer's Sparrow
- Burrowing Owl
- Clark's Nutcracker
- Ferruginous Hawk
- Long-billed Curlew
- Pinyon Jay
- Sage Thrasher &
- Veery

The proposal under review involves an ownership change, with no on-the-ground actions proposed.

No direct, indirect or cumulative effects are expected to any of these species of concern.

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#### **10. HISTORICAL AND ARCHAEOLOGICAL SITES:**

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

The kinds and quantities of cultural and paleontologic resources on the parcels nominated for Land Banking are currently unknown on most tracts. DNRC records indicate the occurrence of petrified wood on this tract.

If the parcel receives an initial approval to proceed by the Land Board, then a full on-the-ground archaeological evaluation is made, at the proponent's expense. If significant sites are observed, DNRC, per agreement with SHPO, would withdraw the tract from further consideration.

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#### **11. AESTHETICS:**

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

The tract is visible, or partially so, from other adjacent lands, as well as from Interstate Highway 90. The tract is about ¼ mile north of the I-90 exit #267. The state land does not provide any unique scenic qualities not also provided on adjacent private lands. The proposal does not include any on-the-ground activities, so there would be no change to the aesthetics in either alternative.

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

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

There are 5,184,615 acres of Trust land surface ownership in Montana (TLMS power search, 8/30/2012). Approximately 4,621,283 acres are in the Common School Trust, statewide. There are approximately 32,155 acres of Trust Land in Jefferson County (~3.03% of the county), including this proposal (26,046 of these acres in the Common School Trust). This proposal includes 320 acres of Common School Trust. If this proposed sale is approved by the Land Board and actually sold, the acreage of Trust land in Jefferson County would decrease to 31,835.84 ac., or ~3.00% of the County.

There are additional tracts of state land currently under consideration for sale (and purchase) through the Land Banking Program on a statewide basis. Each of these tracts is at a different stage in their review process, and is being examined under separate analysis. The authorizing legislation has placed a cap on the total land banking sales of 250,000 acres statewide. As of the beginning of January 2012, sold lands total 50,747 acres (94.5% were isolated) and purchased lands total 48,084 acres (all accessible). This represents a net decrease part way through the program of 2663 acres, though there is continual ongoing review for the purchase of replacement properties.

The potential transfer of ownership would not have any impact or demands on environmental resources of land water, air or energy.

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**13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:**

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

Grazing Lease Range evaluations have been conducted on the tract and are in the Department files.

There are no other Land Banking proposals under review at this time in the Helena Unit.

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**IV. IMPACTS ON THE HUMAN POPULATION**

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

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**14. HUMAN HEALTH AND SAFETY:**

*Identify any health and safety risks posed by the project.*

No impacts to human health and safety would occur as a result of the proposal.

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**15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:**

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

The following leases exist upon this proposed land banking tract.

County	Legal	Acres	Uses
Jefferson	W ½ sec. 16, T2N, R1W	320	72 AUM of grazing (L-2478)

This proposal does not include any specific changes to these activities, except that DNRC would no longer be leasing the grazing.

No direct or cumulative impacts are anticipated as a result of the proposal.

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**16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:**

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

The proposal would have no affect on quantity and distribution of employment.

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**17. LOCAL AND STATE TAX BASE AND TAX REVENUES:**

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

As State Trust lands, these properties are tax exempt. If the parcel in this proposal is sold, and use as grazing land continues unchanged, Jefferson County would receive additional property tax revenues as shown below. *(Estimated tax revenues were provided by the Jefferson Co. Appraisal Office on 8/31/2012.)*

Legal	Est. tax revenue
W ½ sec. 16, T2N, R1W (geo code 51110316201010000)	\$200.00

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**18. DEMAND FOR GOVERNMENT SERVICES:**

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

No traffic changes would be anticipated. In fact, there are no roads on the tract.

Wildland fire protection is currently provided for these Trust lands by Jefferson County, through the State-County Co-op fire agreement. Fire protection would continue to be by Jefferson County, if the lands are sold.

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**19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:**

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

There are no zoning or other agency management plans affecting these lands.

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

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

State Trust lands which are legally accessible to the recreationist are available for general recreational use with the purchase of a General Recreational Use License. Through agreement with FWP, activities associated with hunting, fishing, and trapping are allowed on legally accessible state lands through the purchase of the Conservation license. Other types of recreational use require either a "State Land Recreational Use License", or a "Special Recreational Use License", depending upon the type of use.

In general, there are 4 methods of gaining legal access for recreational purposes.

1. Access via a public road or easement for public access.
2. Access via a recreationally navigable river.
3. Access via other adjacent public lands, when there is a legal access to those lands.
4. Access via permission of an adjoining landowner.

The lands in the W1/2 section 16, T2N, R1W are land locked by private lands. (The east and south sides by one of the co-lessees, the west and north sides each by other land owners.) There are no known conservation easements or other programs providing general recreational access to this parcel. Access for recreational uses requires some private landowner permission in these cases.

If the lands are sold, access for recreational purposes would only be conducted with permission of the new landowner. It is anticipated, and a program objective, that the replacement lands purchased with land banking funds be accessible to the public.

As of the end of December 2011, 94.5% of the acres sold through this program have been inaccessible and 100% of the acres purchased have public access. There is however no guarantee that lands which would benefit the Trust would be available for purchase by the DNRC in this area, or even in this County.

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**21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:**

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

The proposal does not include any changes to housing or developments. No effects are anticipated.

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**22. SOCIAL STRUCTURES AND MORES:**

*Identify potential disruption of native or traditional lifestyles or communities.*

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

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**23. CULTURAL UNIQUENESS AND DIVERSITY:**

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

The State Trust lands in this proposal are currently managed for grazing uses as part of a larger pasture of mixed state and private land. The State lands are generally indistinguishable from the adjacent private lands, with no unique quality.

The potential sale of the state land would not directly or cumulatively impact cultural uniqueness or diversity. It is unknown what management activities would take place on the land if ownership was transferred.

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**24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:**

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

An appraisal of the property value has not been completed to date. **The following estimations are based upon the Department fee schedule estimates of land values, by County and land type.** Under DNRC rules, an appraisal would be conducted if preliminary approval to proceed is granted by the Board of Land Commissioners. If approved for sale, the revenue generated would be combined with other revenue in the Land Banking Account to purchase replacement property for the benefit of the Trust. It is anticipated the replacement property would have legal access and be adjacent to other Trust lands which would provide greater management opportunities and income. If replacement property was not purchased prior to the expiration of the statute, the revenue would be deposited into the permanent trust for investment.

**Fee Schedule Land Value and Income Per Acre**

<b>Fee Schedule land value/acre</b>	<b>Leased use</b>	<b>2012 income</b>	<b>Income per acre whole tract average</b>
\$580/ ac. on 320 ac (\$185,600)	Grazing lease	\$448.56 on 72 AUM (0.225 AUM/ac.)	\$1.40/ac.

2011 statewide grazing land net revenue was \$6.625 million on 4.65 million acres, for an average income of \$1.42 per acre (2012 DNRC Annual Report).

The land in this proposal has a grazing income of \$1.40/ac., which is just slightly below the statewide average.

<b>EA Checklist Prepared By:</b>	<b>Name:</b> D.J.Bakken <b>Title:</b> Helena Unit Manager	<b>Date:</b> 9/7/2012
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## V. FINDING, Erb Land Banking Proposal

### 25. ALTERNATIVE SELECTED:

I have selected I have selected the Proposed Alternative B, recommend the tract receive preliminary approval for sale and continue with the Land Banking process.

### 26. SIGNIFICANCE OF POTENTIAL IMPACTS:

I have evaluated the comments received and potential environment affects and have determined significant environmental effects would not result from the proposed land sale. This 320 acre parcel does not have any unique characteristics, critical habitat or environmental conditions indicating the tract should necessarily remain under management by the Department of Natural Resources and Conservation. There are no indications the land would produce substantially greater revenue or have substantially greater value to the trust in the near future.


The grazing lease is slightly below the statewide average productivity and income for state leased land. The annual grazing lease income for the parcel was \$448.56 in 2011. Minimum AUM rates are in a 5 year phase-in which may yield a minimum AUM rate of \$10.19/AUM in 2016 (assuming cattle price factors in the formula remain steady). This may result in an annual income of \$733.68 in 2016. However, since these are across the board rate increases to all grazing leases, the tract would likely remain just slightly below average for income per acre. Access to this parcel is determined by the surrounding private land owners and if sold is likely to be managed in a manner consistent with surrounding lands.

### 27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

☐ EIS

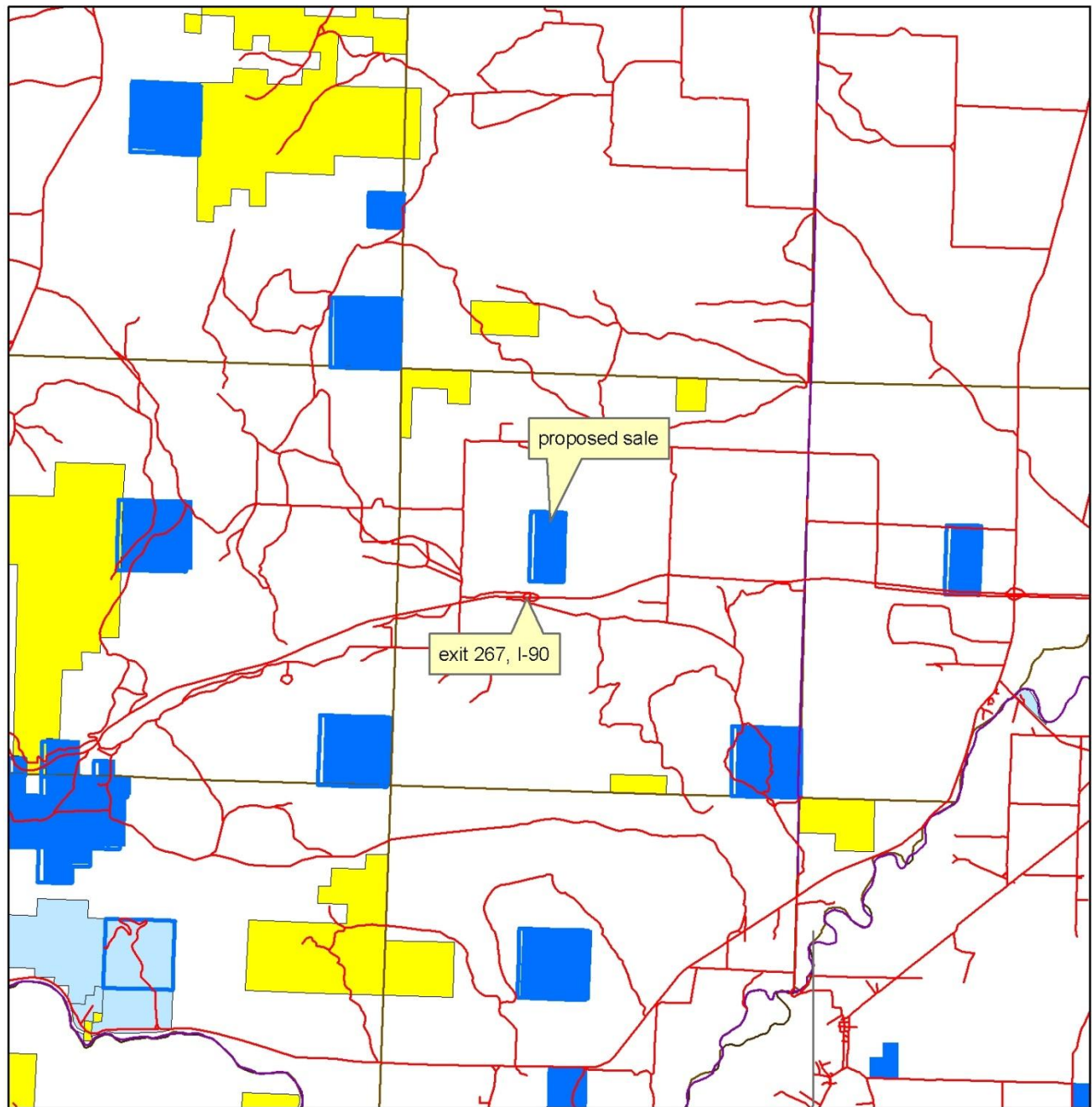
☐ More Detailed EA

☒ No Further Analysis

<b>EA Checklist Approved By:</b>	<b>Name:</b> Garry Williams
	<b>Title:</b> Area Manager, Central Land Office
<b>Signature:</b> 	<b>Date:</b> 9/12/2012

# Erb Land Banking Proposal

W 1/2 sec. 16, T2N, R1W



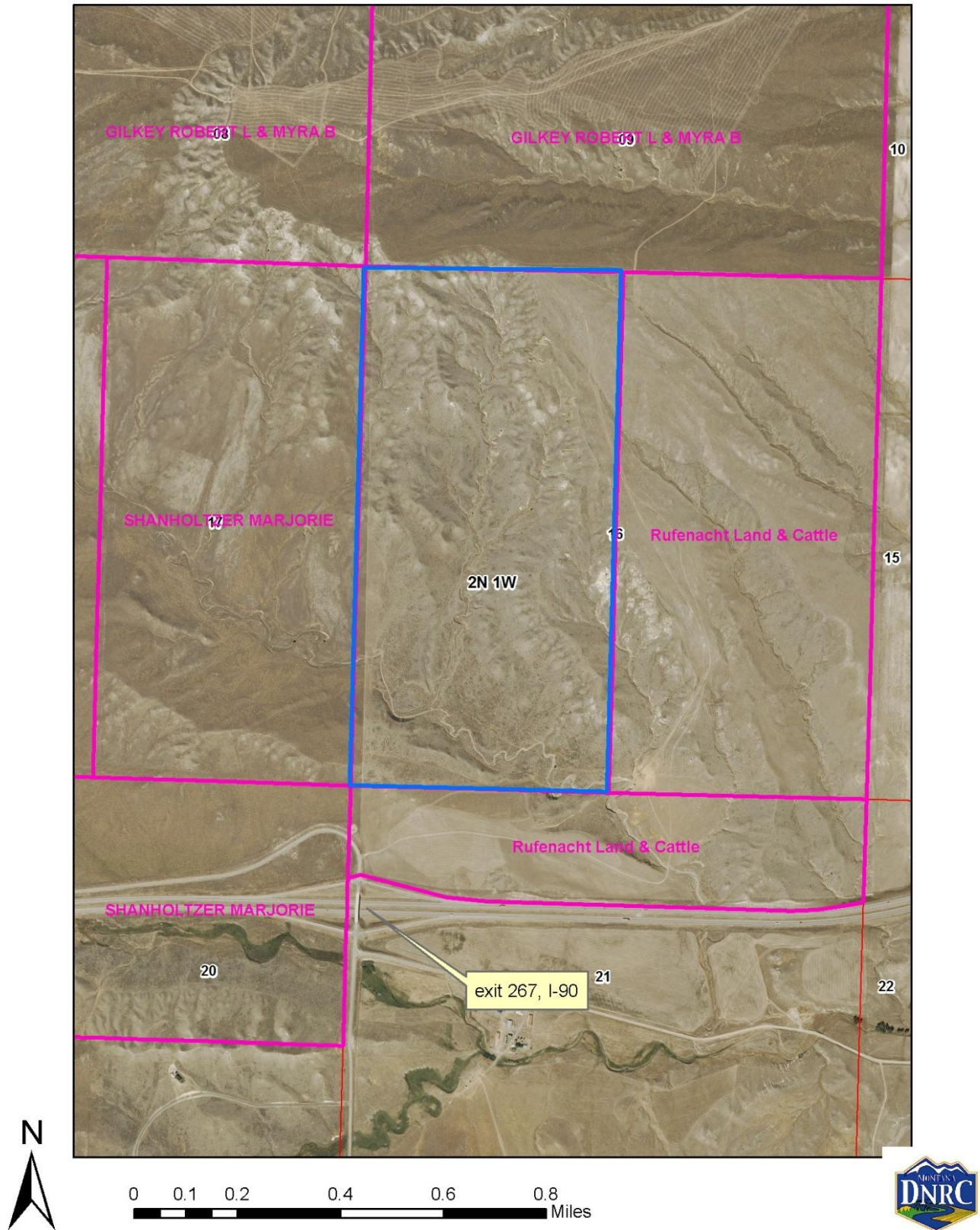
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# Erb Land Banking Proposal

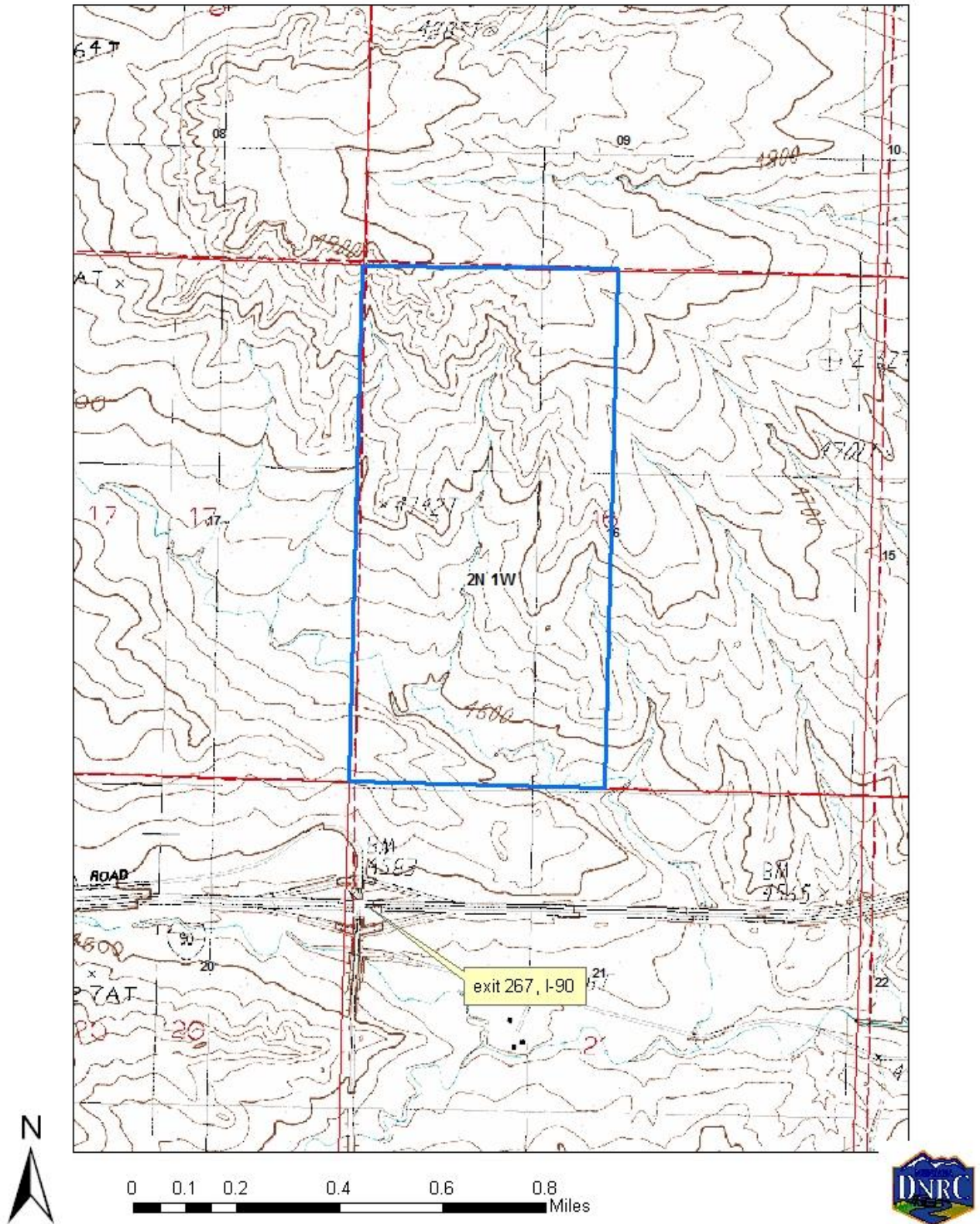
W 1/2 sec. 16, T2N, R1W





# Erb Land Banking Proposal

W 1/2 sec. 16, T2N, R1W



## **Attachment B Land Banking Contacts**

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