

## CHECKLIST ENVIRONMENTAL ASSESSMENT

<b>Project Name:</b>	Beartooth Land Holdings Land Banking Tract
<b>Proposed Implementation Date:</b>	Early to Mid-2006
<b>Proponent:</b>	Beartooth Land Holdings, LLC (Grazing Lessee)
<b>Location:</b>	Sale #201: An unplatted portion described as the E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 8 South, Range 20 East that contains 295 acres
<b>County:</b>	Carbon County

### I. TYPE AND PURPOSE OF ACTION

Offer for sale at public auction, 295 acres of State Land that is currently held in Trust for the benefit of Common Schools. Revenue generated from the sale of this parcel will be deposited into a special account to be used to purchase replacement lands meeting acquisition criteria related to legal access, productivity, potential income generation and potential for multiple use. The new parcel would then be held in Trust for the benefit of Common Schools. This proposed sale is being initiated through the Land Banking program (Montana Code Annotated 77-2-361 through 77-2-367) that was approved by the Legislature in 2003. The purpose of this program is to allow the Department of Natural Resources and Conservation to dispose primarily of parcels that are isolated and produce low income relative to similarly classified tracts and to allow the Department to purchase land with legal public access that can support multiple uses and will provide a rate of return equal to or greater than the parcels that were sold. Additionally, this program allows for the Trust land portfolio to be diversified, by disposing of grazing parcels that make up a majority of the Trust land holdings and acquire other types of land, such as croplands.

### II. PROJECT DEVELOPMENT

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

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

A notification was sent to all surface lessees in September 2004 informing them of the Land Banking program and requesting that lessees speak with their Area or Unit offices regarding their leased parcel and how well it fit the program criteria for sale. The lessees had from October 2004 to 31 January 2005 to submit completed nomination forms.

A letter soliciting comments and generally explaining the land banking sale process was sent on 25 February 2005 to interested parties requesting that comments be submitted on the proposal by 28 March 2005. These interested parties included the following: members of the Land Banking Negotiated Rulemaking Committee; Carbon County Board of County Commissioners; Billings Rod & Gun Club; US Fish and Wildlife Service; Billings office of the MT Department of Fish, Wildlife and Parks; Carbon County Farm Service Agency; Billings office of the US Bureau of Land Management; Beartooth Ranger District of the Custer National Forest; Bill Palmer; Tom Madden; and John Gibson. A complete list of individuals contacted is included in Attachment C of this EA.

A legal notice was published in the Carbon County News on 3 and 10 March 2005 requesting that comments be submitted on the proposal by 28 March 2005.

A legal notice was published in the Billings Gazette on 27 February 2005 and 6 March 2005 requesting that comments be submitted on the proposal by 28 March 2005.

Jeff Bollman, Southern Land Office Area Planner, met with Greg McCann, Carbon County Planner, regarding the proposed sale and solicited his input and comments on 11 March 2005.

A letter soliciting comments and explaining the proposed sale was sent to property owners adjoining the state parcel on 25 February 2005 and requesting that comments be submitted on the proposal by 28 March 2005. Letters or emails were received from nine-(9) different persons or agencies in response to the request for comments. In addition, the Southern Land Office received five-(5) phone calls regarding the scoping letter. A summary of the comments received is listed below:

- ❑ A phone call was received on 28 February 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner Chris Benton of Red Lodge, MT. Mr. Benton expressed concern regarding the potential sale of the State land and the potential subsequent development of the tract. Mr. Benton stated that the State land serves as elk and sage grouse habitat. Mr. Benton was also concerned with the visual impact that subsequent development of the parcel would have and that new development could obstruct views from his property.
- ❑ A phone call was received on 1 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner Mark Patrick of Tulsa, OK. Mr. Patrick expressed an interest in staying informed on the status of the sale and that he might be interested in purchasing the parcel. Mr. Patrick also noted that there is a fracture in the bedrock bench that has aspen trees growing in it and that it seeps water down to his property.
- ❑ A phone call was received on 1 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner Wally Zook of Absarokee, MT. Mr. Zook had questions about the timeline and type of sale process and noted that he would send further written comments regarding the proposed action.
- ❑ An email was received on 5 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner David Lehnher of Billings, MT. Mr. Lehnher described the State land as an "...environmentally sensitive area..." and stated that he did not feel that the land should be sold without restrictions on its subsequent use. Mr. Lehnher noted that the State land is near the Custer National Forest and "...could possibly be classified as wilderness in the future." Mr. Lehnher questioned the wisdom of selling the State land when it could possibly be exchanged for USFS land and expressed his opposition to the sale.
- ❑ A phone call was received on 17 March 2005 by Sharon Moore, Southern Land Office Area Manager, from adjoining land owner Linda Dutcher of Carbondale, IL. Ms. Dutcher expressed concern that the sale of this tract by the State would create access or an easement. Ms. Moore noted to Ms. Dutcher that the State land does not currently have legal access.
- ❑ A letter was received on 16 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner Becky Hollingsworth of Atlanta, GA. Ms. Hollingsworth expressed her strong opposition to the proposed action due to a number of factors. The first was that she owned land adjoining the State land and stated that one of the reasons this land was purchased was that it adjoined "protected land". The second was that the sale of this land would "...greatly undermine the beauty of this area and substantially reduce the value of the property within eyeshot of what will obviously be some sort of development."
- ❑ A letter was received on 25 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from Russell and Linda Dutcher of Carbondale, IL who own property in the general area around the State land. Mr. & Mrs. Dutcher expressed their opposition to the sale of the land by the State. They commented on the access issues in the area, the wildlife and the potential fire danger in the area.
- ❑ A letter was received on 25 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner Wally Zook of Absarokee, MT. Mr. Zook stated that if he were the successful purchaser of the property that he would utilize it as a conservation property "...for the continued use of the natural wildlife and for local and non-local people to enjoy." Mr. Zook noted that this would allow for the use of the property by elk, moose, bear, coyote and several varieties of birds. Finally, Mr. Zook noted that his preference would be for the State to reconsider the sale of the parcel and to retain ownership. A subsequent letter from Mr. Zook was received on 3 August 2005 in which Mr. Zook expressed his support of the State proceeding forward with the sale of the property.
- ❑ Numerous phone calls and email messages were received by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner and State land grazing lessee Bob and Rita Olson of Eden Prairie, MN. The Olsons nominated this parcel for sale through land banking and the communications received were regarding the status of the parcel in the process and confirmation of their desire to move the parcel forward through the sale process.

- ❑ A letter was received on 28 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owners Chris and Cathy Benton of Red Lodge, MT. Mr. & Mrs. Benton expressed their opposition to the sale of the State land due to the fact that the land is utilized as habitat for elk, as well as sage grouse, coyote, white tail and mule deer and that there have been recent sightings in the area of black bear, moose and mountain lion and that golden and bald eagles fly over the property. There was also a comment that the property is near Highway 212, which leads to the Beartooth Highway and the northeast gate of Yellowstone National Park. The Benton's also enclosed pictures of a herd of elk on the State land and a moose and calf on adjacent private land.
- ❑ A letter was received on 28 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from William L. Neibauer of Red Lodge, MT who owns property in the general area around the State land. Mr. Neibauer expressed that he would like to see the land retained in State ownership.
- ❑ A letter was received on 28 March 2005 by Jeff Bollman, Southern Land Office Area Planner, from adjoining land owner Larry Black of Nashville, TN. Mr. Black expressed his desire for the State to retain ownership of the parcel. He also noted that there have been sightings in the area of elk, mule and white tail deer, moose, wild turkeys, bear and evidence of mountain lions. Mr. Black was also concerned that the sale of the parcel could allow further development in the area and that this would negatively impact the scenic entrance to the Beartooth Highway. An additional letter was received by Jeff Bollman in which Mr. Black gave support to the sale of the land if there were conditions attached to the land that would not permit any development of the property and the adjacent property owners were allowed to continue to use the property.
- ❑ A letter was received on 23 May 2005 by Sharon Moore, Southern Land Office Area Manager, from Harvey Nyberg, MT Fish, Wildlife and Parks Regional Supervisor. This letter expressed a number of concerns regarding wildlife usage on the parcel and in the general area. A copy of this letter can be found in Attachment D of this document.

A 30 day comment period will be conducted after the completion of this Checklist EA to allow responders to the initial public comment letter to review the findings of this document.

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

None

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## 3. ALTERNATIVES CONSIDERED:

**Proposed Alternative:** Offer 295 acres of State Land for sale at public auction and subject to statutes addressing the Sale of State Land found in M.C.A. 77-2-301 et seq. Proceeds from the sale would be deposited in the Land Bank Fund to be used in conjunction with proceeds from other sales for the purchase of other State Land, easements, or improvements for the beneficiaries of the respective trusts, in this case Common Schools. If a sale is consummated, the State would not be able to control the type of future development or activities that could occur on the surface estate. However, per M.C.A. 77-2-304 the State would retain the subsurface mineral rights.

**No Action Alternative:** Defer inclusion of this tract in the Land Banking Program that will permit the State to maintain ownership of this tract at this time and continue the grazing lease.

### ALTERNATIVES CONSIDERED BUT DISMISSED:

**Conservation Lease:** DNRC discussed converting the existing grazing lease to a conservation lease with the surrounding property owners, including the grazing lessee. The lessee and surrounding property owners determined that it would be cost prohibitive to pursue a conservation lease because of a rent estimate of at least \$35,000/year, depending on the results of an appraisal of the value of the rights that would be leased via the conservation lease.

**Conservation Easement or Sale of Development Rights:** A concern that was expressed multiple times in the public scoping process was the uncertainty regarding the type of future development of the property that might be undertaken by a new owner of the property. Additionally, comments were received expressing the desire for

DNRC to place a conservation easement on the parcel or sell the development rights prior to the land banking sale. M.C.A. 77-2-101 contains very strict criteria on State Trust land that is eligible for conservation easements and the subject parcel does not meet any of those criteria. In 2005, the Legislature considered Senate Bill 97 that would have essentially given the Land Board the ability to sell certain development rights from State Trust land. SB 97 was not approved by the Legislature; however, if DNRC had the ability to first sell off the development rights to this parcel, prior to auction, the proposed action would probably have been better received by the neighboring property owners because it would have limited the types of uses that would have been permitted on the property.

### 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.*

No impacts to geology and soil quality, stability and moisture would occur as a result of implementing the proposed alternative. If development were proposed on the parcel, then local and state regulations governing it could be used to mitigate the adverse affects of the proposed development.

#### 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 is a developed spring located on the property. In addition, there is an unnamed tributary of Rock Creek that traverses the property. The proposed transfer of ownership of this parcel is not expected to have any direct or cumulative effects on water quality, quantity or distribution. If the property were developed after ownership is transferred, the property would need to follow local and State regulations if they developed a new water source or proposed an action that may affect water resources.

#### 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.*

No impacts to air quality would occur as a result of implementing the proposed alternative.

#### 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.*

The vegetation on this tract is typical of land in the surrounding area and could be affected by various land management activities including livestock grazing, development or wildlife management. The parcel does have some timber on its approximate east one-half, but it is not merchantable, due to size and location down a steep draw, per preliminary review comments from Bob Dillon, Southern Land Office Forester. A search of the Montana Natural Heritage Program database indicates there is one plant species, the Beautiful Fleabane that is listed as being watched in the area, but it is not listed as sensitive. It is not currently known if the Beautiful Fleabane is located on this section. The existing grazing use is expected to continue and therefore, no significant direct or cumulative effects are anticipated.

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

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

A Wildlife Habitat Assessment of this parcel was prepared by Ross Baty, Wildlife Biologist with the DNRC Forest Management Bureau, and found that the proposed alternative would not have a significant effect on wildlife or birds. A copy of the Assessment can be found in Attachment E of this document.

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

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

A search of the Montana Natural Heritage Program database identified three species listed as endangered, threatened or sensitive species or species of concern. This list included the preble's shrew, lynx and sage-grouse. In addition, 12 other endangered, threatened or sensitive species or other species of concern were analyzed based on public scoping and/or DNRC knowledge of wildlife in the surrounding area.

A Wildlife Habitat Assessment of this parcel was prepared by Ross Baty, Wildlife Biologist with the DNRC Forest Management Bureau. This assessment found that the proposed alternative would not have a significant effect on wildlife or birds identified as endangered, threatened or sensitive or other species of concern. A copy of the Assessment can be found in Attachment E of this document.

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**10. HISTORICAL AND ARCHAEOLOGICAL SITES:**

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

The presence or absence of antiquities is presently unknown. A Class III level inventory and subsequent evaluation of cultural and paleontologic resources will be carried out if preliminary approval of the parcel nomination by the Board of Land Commissioners is received. Based on the results of the Class III inventory/evaluation the DNRC will, in consultation with the Montana State Historic Preservation Officer, assess direct and cumulative impacts.

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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.*

There are no prominent topographic features on the State land. Adjacent land to the north, south and west contains low-density residential development. Portions of the State land are visible from Highway 212, but the parcel does not provide any unique scenic qualities that are not also available on other adjoining lands. However, the State land does serve as open space for the surrounding private properties. No direct or cumulative impact to aesthetics is anticipated as a result of the proposed 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.*

No impacts to environmental resources of land, water, air or energy would occur as a result of implementing the proposed alternative.

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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.*

This 295-acre tract is part of an initial proposed sale of State land not to exceed 20,000 acres within the state and under concurrent analysis. There are no known state or federal actions in the vicinity and no known future actions proposed by the state that would have cumulative impacts with this proposal.

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

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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 implementing the proposed alternative.

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

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

It is unknown if a change in use would occur if the tract was transferred to another owner. Any future change in land use would be subject to review under local and state regulations intended to address impacts to local industrial, commercial and agricultural activities. No direct or cumulative impacts are anticipated as a result of the proposed alternative.

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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 proposed alternative would have no effect on the 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.*

This tract is currently tax-exempt and the sale of this tract to a non-exempt entity would add it to the Carbon County tax base, thus marginally increasing tax revenue to the County.

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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*

The proposed alternative would have no effect on the demand for government services.

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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.*

The subject property is not currently zoned. Depending on the use proposed, some uses of this property could be subject to conformance with the Carbon County Growth Policy and the Carbon County Subdivision Regulations.

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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.*

This tract of State land does not provide access to any recreational or wilderness areas in the vicinity. Additionally, the State land does not currently have legal access, so recreational opportunities are very limited for the general public and generally confined to abutting property owners. Recreational use of the parcel is light and is primarily limited to hunting and illegal snowmobiling. The access road to this parcel is controlled by private property owners and is closed to the general public. DNRC utilizes this access road for limited resource management activities.

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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 sale of this tract would not require additional housing or impact population changes. It is unknown what land uses would occur under new ownership. Any future proposal to develop the property and increase housing would be subject to review under applicable state and local land use regulations.

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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 proposed alternative.

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**23. CULTURAL UNIQUENESS AND DIVERSITY:**

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

The 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.*

This 295-acre parcel currently has a grazing lease for 75 Animal Unit Months (.254 acres/AUM) at a rate of \$5.91/AUM. The total income generated from the tract was \$443.25 or approximately \$1.50/acre in 2004. The average annual income for the past 5 years has been \$395.70 or \$1.34/acre. Based on the DNRC Annual Report for Fiscal Year 2004, the average income for the 4.3 million acres of grazing land was \$1.28/acre with an average productivity of .25 acres/AUM. Therefore, this tract slightly above average in productivity and producing revenue per acre that is also slightly above average.

An appraisal of the property value has not been completed to date. Under DNRC rules, the appraisal would be conducted after preliminary approval to proceed is granted by the Board of Land Commissioners and the Department is conducting more detailed evaluations in order to make a final determination on whether to offer the tract for sale. The revenue generated from the sale of this tract is intended to be combined with other revenue in the Land Banking Account to purchase replacement property for the benefit of the Common School Trust. It is anticipated the replacement property would have legal access, which would provide greater management opportunities and income. Assuming an appraised value of \$4,000/acre, the current annual return on the asset value for this tract is 0.038%.

<b>EA Checklist Prepared By:</b>	<b>Name:</b> Jeff Bollman, AICP	<b>Date:</b> 12 January 2006
	<b>Title:</b> Area Planner, Southern Land Office	

<b>V. FINDING</b>
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**25. ALTERNATIVE SELECTED:**

The proposed alternative has been selected and it is recommended that the tract receive preliminary approval for sale and continue with the Land Banking process.

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**26. SIGNIFICANCE OF POTENTIAL IMPACTS:**

The Southern Land Office has evaluated the comments received and studied the potential environmental effects as described in this document and have determined that no significant environmental effects would result from the proposed land sale of this 295-acre tract. The tract does not have any unique characteristics, critical habitat or environmental conditions indicating it should necessarily remain under management by the Department of Natural Resources and Conservation. There are no indications the tract would produce substantially greater revenue to the Trust in the near future. However, the tract does have potential for future appreciation in value, based on surrounding land prices, but DNRC does not have the ability to capture that value due to the lack of legal access.

The transfer of ownership of this 295-acre tract will not result in any significant effects to the human or natural environment.

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**27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:**

☐ EIS
         
 ☐ More Detailed EA
         
 ☒ No Further Analysis

<b>EA Checklist Approved By:</b>	<b>Name:</b> Sharon Moore
	<b>Title:</b> Area Manager, Southern Land Office
<b>Signature:</b>	<b>Date:</b>

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**PUBLIC COMMENTS RECEIVED IN FEBRUARY 2006 ON ENVIRONMENTAL ASSESSMENT:**

**Comment: David Lehnherr, adjoining landowner**

*The EA did not adequately address the issue of local landowners.*

Response: The proposed action is the sale of the subject 295-acre tract. The Board of Land Commissioners has the authority to acquire or sell State Trust lands in compliance with applicable State statute. If the proposed action is implemented, then the new owner(s) would have to comply with the regulations of Carbon County and the State of Montana. Section 3 of this document also discussed Alternatives Considered but Dismissed and lists the reasons why these alternatives were dismissed.

**Comment: David Lehnherr, adjoining landowner**

*The EA did not adequately address the issue of future use.*

Response: DNRC does not have the ability to determine what a future owner may do with the land once it is sold or whether a change in use will even occur. If a future landowner proposed to develop the property, it would be governed by the regulations of Carbon County and the State of Montana. Section 3 of this document also discussed Alternatives Considered but Dismissed and lists the reasons why these alternatives were dismissed.

**Comment: David Lehnherr, adjoining landowner**

*The EA did not adequately address the issue of wildlife impacts.*

Response: A Wildlife Habitat Assessment was conducted on the property by Ross Baty, a Wildlife Biologist with the DNRC Forest Management Bureau. This assessment found that the proposed alternative would not have a significant effect on wildlife or birds identified as endangered, threatened or sensitive or other species of concern. A copy of this Assessment can be found in Attachment E of this document.

**Comment: David Lehnherr, adjoining landowner**

*The proposed sale should be deferred until the issues related to wildlife impacts, future use and local landowners are adequately addressed.*

Response: As noted above, the issues related to wildlife impacts, future use and local landowners have been addressed in this document. Ultimately, the Board of Land Commissioners will make the determination of whether it is in the best interest of the Trust to sell this parcel.

**Comment: Grant Barnard, Red Lodge**

*Consider leaving this land as state land and work to develop minimum impact recreation there and in conjunction with neighboring USFS land (hiking, biking, horse trails, etc).*

Response: As illustrated on Attachment A (Area Map) of this document, the subject parcel does not adjoin any Federal lands, the closest being a Bureau of Land Management property that is ¼-mile away. The closest USFS land is one mile to the west or south. Additionally, this property does not have legal access, for either DNRC or the public, so its current recreation value is only to those who own adjacent lands or get permission to access from adjoining owners. The Board of Land Commissioners will have the final determination of whether to offer this land for sale or to retain it in State ownership.

**Comment: Grant Barnard, Red Lodge**

*I do not recommend that a high bidder receive this land because it would inevitably end up developed for luxury housing in an area that is difficult to access and would therefore add to the financial burden of Carbon County (road maintenance, emergency services, etc.), as well as increasing the tax rate of surrounding property owners in the county.*

Response: If Trust land is sold through the Land Banking process, DNRC is required by MCA 77-2-363 to sell the property through an auction process to the highest bidder. There is no way for DNRC to determine what the successful purchaser may choose to do or not to do with the property. However, any new owner would be subject to the rules and regulations of Carbon County and the State of Montana. For example, if development were proposed that required subdivision review, the proposed development would have to be approved by the Carbon County Board of County Commissioners and they would assess the subdivisions compliance with the Carbon County subdivision regulations. The property does not have legal access; therefore substantial development on the property is unlikely unless legal access could be acquired from two different routes to comply with existing Carbon County regulations.

As to the tax burden, it is impossible to determine the impact of a development until such time as the type of development is known. At this point, it cannot even be positively determined that development will occur if the property is sold to a private entity. At the present time, Carbon County does not receive any tax revenue from the parcel because of its ownership by the State of Montana. If the property is sold, Carbon County would see a minor increase in taxes paid since this property would no longer be tax exempt.

**Comment: Grant Barnard, Red Lodge**

*Consider selling the parcel with restrictions attached, such as only one single family home allowed on the property.*

Response: As Trustee for the Common Schools Trust beneficiary, it would not be prudent for the Board of Land Commissioners to restrict development on the parcel without being reimbursed for the value lost by the placement of the restrictions. In Section 3 of this document, under Alternatives Considered but Dismissed, there is discussion of selling the development rights to the property. The opportunity to sell some or all of the residential rights to the parcel is not currently authorized by statute.

**Comment: Vern Sundberg, Bridger**

*The Land Board should not sell any Trust lands because land is a finite resource and they are not making it anymore.*

Response: The purpose of the Land Banking program is to allow DNRC to dispose of a limited amount of Trust lands, not to exceed 100,000 acres throughout the life of the program, and use the proceeds from the sales to acquire property to replace that which was sold. The new property will be legally accessible lands that facilitate multiple uses by the general public and that will generate a rate of return to the Trust Beneficiary that is equal to or greater than the lands sold.