

DEPARTMENT OF STATE LANDS

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STAN STEPHENS, GOVERNOR

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STATE OF MONTANA

(406) 444-2074

ENVIRONMENTAL QUALITY COUNCIL

ELEVENTH AVENUE
HELENA, MONTANA 59620

Finding of No Significant Impact
Department of State Lands - Broken O Ranch Land Exchange

In August of 1988, Mr. William E. Moore proposed a land exchange between the Department of State Lands and the Broken O Ranch. On October 25, 1991, the Department released a draft Environmental Assessment (EA) which had been prepared for this exchange. Public comments were accepted on the draft EA through November 25, 1991. Enclosed is the final Environmental Assessment which has been updated to reflect and address the comments which were received.

I have decided to accept Alternative C as the Department of State Lands preferred alternative. In this alternative, the Department will exchange 6,648.50 acres of grazing lands for 1,160.55 acres of agricultural lands. Mr. Moore had requested to include an additional 25.95 acre tract in this alternative. Since the Department would be left with a small 14 acre adjoining parcel, I have decided not to include this tract in this exchange.

At this time, I intend to present my recommendation to the Board of Land Commissioners at their February 24, 1992 meeting. The Board will have the final decision of either accepting my recommendation or choosing a different alternative.

If you plan on attending this Land Board meeting, please contact either Kevin Chappell or Marylee Norris at the Department to verify that this item has been included in the Board's February agenda.


Dennis D. Casey
Commissioner of State Lands

2-5-92
Date

FINAL
ENVIRONMENTAL ASSESSMENT

BROKEN O RANCH LAND EXCHANGE
Lewis and Clark, Teton
and Pondera Counties,
Montana

Compiled By: Montana Department of State Lands
Land Administration Division

February 5, 1992

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Forward

The draft version of this environmental assessment (EA) was originally released October 25, 1991. Comments were accepted on the draft through November 25, 1991. This final EA has been updated to address the comments which were received and to clarify any unclear language.

Chapter one: Introduction

In August of 1988, the Department of State Lands was approached by representatives of the Broken O Ranch (owned and operated by Mr. William E. Moore) about an exchange for the state school trust lands located within and adjacent to the boundaries of the Broken O Ranch. The department reviewed the initial proposal and eliminated several proposed state school tracts because of legal restrictions, different lessees and obvious detriment to the school trusts¹.

Mr. Moore was also instructed to find lands suitable for acquisition by the school trusts. Mr. Moore was advised that the lands proposed for acquisition must be of equal or greater value than the trust lands proposed for disposal and must be beneficial for long term trust revenues and the benefit of the people of Montana. Mr. Moore located and acquired options to buy on three parcels of land which he felt met these criteria.

A preliminary proposal (appendix "B") was presented to the Land Board at the September 19, 1989 meeting. This proposal only included state lands currently leased by the Broken O Ranch². The Land Board granted preliminary approval to the proposed exchange at that time.

The department proceeded with the review of the exchange by requesting that appraisals be performed on both the state and deeded lands proposed for exchange. Mr. Moore contracted with an appraiser to accomplish the needed appraisals.

Letters were sent to the county commissioners of each of the effected counties and the Fish, Wildlife and Parks regional office soliciting comments in regard to the exchange.

The department began field, environmental and economic reviews of the proposed exchange.

The initial comments and reviews revealed five concerns with the proposed exchange that the department felt the Land Board should be apprised of before the department continued its review. These concerns were presented to the Land Board at the October 18, 1990 board meeting (appendix "C"). The department sought guidance from the board as to how to proceed in light of the con-

¹The Department's guidelines for land exchanges are contained in Appendix "A".

²All state leases considered in this exchange are in the name of Kelly-Moore Paint Company which is also owned by Mr. William E. Moore.

cerns. The board instructed the department to continue with the necessary reviews.

The department proceeded with the field and economic reviews. Mr. Moore contracted with an archaeological consultant, Ethos Consultants, to perform the necessary cultural/historical reviews. Minor errors in some of the legal descriptions and acreage were discovered and corrected. The correct acreages are 10,154.45 acres of school trust land to be exchanged for 2,699.94 acres of deeded lands. Correct legal descriptions and acreages are detailed in Table 1-1 and Table 1-2.

Table 1-1

State Lands Proposed for Exchange

Township 19 North Range 4 West
Lewis and Clark County

Section 4	Lots 1,2,3,4, S $\frac{1}{2}$ N $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$	342.20 acres
Section 6	Lot 1, S $\frac{1}{2}$ SE $\frac{1}{4}$	115.28 acres
Section 8	NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ less 1.95 acres, SE $\frac{1}{4}$	358.05 acres
Section 12	S $\frac{1}{2}$	320.00 acres
Section 14	N $\frac{1}{2}$ N $\frac{1}{2}$	160.00 acres
Section 18	E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$, Lots 1,2,3,4	601.95 acres
Section 19	Lots 1,2, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$	303.12 acres

Township 19 North Range 5 West
Lewis and Clark County

Section 3	Lots 1,2, S $\frac{1}{2}$ NE $\frac{1}{4}$	129.73 acres
Section 16	All	640.00 acres

Township 20 North Range 4 West
Lewis and Clark County

Section 16	All	640.00 acres
Section 24	SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$	200.00 acres
Section 26	N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$	240.00 acres
Section 30	SE $\frac{1}{4}$	160.00 acres
Section 32	SW $\frac{1}{4}$	160.00 acres

Township 20 North Range 5 West
Lewis and Clark County

Section 11	NE $\frac{1}{4}$ SE $\frac{1}{4}$ North of Highway	25.95 acres
Section 13	W $\frac{1}{2}$ NW $\frac{1}{4}$	80.00 acres

Table 1-1 (continued)

Township 20 North Range 5 West
Lewis and Clark County

Section 14	N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$	160.00 acres
Section 15	E $\frac{1}{2}$ NE $\frac{1}{4}$ less 1.83 acres, SW $\frac{1}{4}$ NE $\frac{1}{4}$	118.17 acres
Section 16	All	640.00 acres
Section 20	All	640.00 acres
Section 22	NE $\frac{1}{4}$	160.00 acres
Section 23	W $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$	120.00 acres
Section 28	W $\frac{1}{2}$, SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$	600.00 acres
Section 29	All	640.00 acres
Section 33	All	640.00 acres

Township 20 North Range 6 West
Lewis and Clark County

Section 12	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00 acres
Section 13	E $\frac{1}{2}$, SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$	560.00 acres
Section 14	S $\frac{1}{2}$ SE $\frac{1}{4}$	80.00 acres
Section 24	N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$	280.00 acres

Township 21 North Range 4 West
Teton County

Section 36	N $\frac{1}{2}$	320.00 acres
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Township 21 North Range 5 West
Teton County

Section 34	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00 acres
Section 36	All	640.00 acres

TOTAL STATE LANDS 10,154.45 ACRES

Table 1-2

Broken "O" Ranch Lands Proposed for Exchange

PONDERA UNIT
Pondera County

Township 28 North Range 1 East

Section 29	SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$	320.00 acres
Section 30	E $\frac{1}{2}$ E $\frac{1}{2}$	<u>160.00 acres</u>
	Unit Total	480.00 acres

COLLINS UNIT**
Teton County

Township 25 North Range 1 West

Section 5	Lots 2,3 & 4	116.83 acres
Section 6	Lot 1	39.07 acres

Township 26 North Range 1 West

Section 31	Portion of E $\frac{1}{2}$ SE $\frac{1}{4}$	21.74 acres
Section 32	All less a tract containing 70.2 acres	498.61 acres
Section 33	W $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$	446.70 acres
Section 34	SW $\frac{1}{4}$ NW $\frac{1}{4}$	<u>37.60 acres</u>
	Unit Total	1160.55 acres

CHOTEAU UNIT**
Teton County

Township 21 North Range 5 West

Section 6	Lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$	119.87 acres
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Township 22 North Range 5 West

Section 29	S $\frac{1}{2}$	313.23 acres
Section 30	Lots 3 & 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$	313.68 acres
Section 31	NE $\frac{1}{4}$	160.00 acres
Section 32	NW $\frac{1}{4}$ less a tract containing 14.1 acres	<u>152.61 acres</u>
	Unit Total	1059.39 acres

TOTAL BROKEN "O" RANCH LANDS 2,699.94 ACRES

** Note: All acreages are according to Teton County property Appraisal and assessment records. Acreages for railroad, highway and road rights-of-way have already been deducted.

The archaeological and field reviews were completed by late March of 1991. The department proceeded to compile all of the information acquired to date and to schedule and advertise for public hearings to obtain public comments on the proposed exchange.

Public hearings were held in Augusta, Choteau and Conrad on May 20, 21 and 22 respectively. The deadline for written public comments was set for June 14 and later extended to June 21 because of extensive public concern with the proposed exchange.

The department reviewed all of the information accumulated to date, including the public comments, and then began to compile the draft environmental assessment required on proposed exchanges of state lands.

The department's review and the public comments identified the following issues:

- 1) SOILS/LAND USE/CLASSIFICATION:
 - The current tracts of state land are mostly grazing lands, but may possess the potential for agricultural production. There is a concern that this potential has been overlooked in the appraisals to date. Additionally, the ranch may substantially change the use of the state parcels and thereby alter the current ecosystems.
 - There is also a concern that the historical records regarding agricultural production on both the state and deeded tracts may not be an accurate projection of the true potential of the tracts.
 - Previous management of the state tracts may give the impression of poorer production than would be true under good management. Conversely, the production history on the deeded tracts may actually be inflated because of combining with acres not proposed for exchange.
- 2) WATER: The Broken O Ranch currently controls substantial water rights in this area and changes in the use of this water may have detrimental affects on other water users.
- 3) WILDLIFE AND WILDLIFE HABITAT: The current tracts of state land contain more diverse wildlife and habitat than the offered deeded tracts. Consequently, the number of species and greater numbers of wildlife exist on the current state tracts than on the deeded tracts proposed for acquisition.
- 4) SOCIOECONOMIC:
 - There is a concern that this exchange sets a precedent for the net loss of acres to the trusts and the

state. The number of acres for disposal should be closer to the number of acres acquired. Continuing to exchange for higher valued lands will lead to an erosion of the state land base.

- The revenues generated from respective lands should not be the major factor in determining the benefits of an exchange. The benefit to the people of the state as a whole should weigh heavily in a decision of this sort.

- Long term revenue projections given to the department may be questionable or unreliable.

- The state should not be trading lands that are currently blocked up.

- 5) **TAX BASE:** The proposed exchange would result in a net loss in tax base for Teton and Pondera Counties. Lewis and Clark County would experience a net gain in tax base. The current state lands exchanged to the Broken O Ranch would become taxable acreage. The deeded lands proposed for acquisition by the state would become tax exempt.
- 6) **CULTURAL RESOURCES:** There are several cultural properties on the state lands proposed for exchange. There is a concern that these sites may be lost under deeded ownership by changes in land management and vandalism.
- 7) **MINERALS POTENTIAL:** The proposed exchange does not include the exchange of any mineral rights. The resulting split estates may lead to management difficulties.
- 8) **RECREATIONAL ACCESS:**
 - The proposed exchange may result in the loss of state lands available for recreational use by the public. With the passage of HB 778, many of the proposed state lands to be exchanged would be open to public recreation in some form.
 - The acres proposed for acquisition by the state are mostly agricultural, possess little opportunity for recreational use, and may be categorically closed under the new recreational access rules.
 - Once the state lands are exchanged, the ranch may exclude access to the public for all purposes.
- 9) **APPRAISED VALUES:**
 - The current appraisals in the files, performed in 1989, are outdated due to changes in the farming/-ranching economy.
 - The current appraisals did not properly account for wildlife values, recreational values and public use values.

- The appraisals did not always reflect the current or highest and best use. Irrigated lands were valued as dryland.
- The state tracts may have been undervalued, while the deeded tracts may have been overvalued.

CHAPTER TWO: THE ALTERNATIVES

This chapter contains descriptions of each alternative and summarizes the environmental consequences of each.

Table 2 contains a summary of impacts under each alternative.

Alternative A: No Action

Under the no-action alternative, the proposed land exchange between the Broken O Ranch and the State of Montana would be denied and no exchange of lands would take place. Current management of the state lands through agricultural and grazing leasing would continue. The Broken O Ranch would either manage the deeded lands proposed for exchange or dispose of those lands as they deem fit.

No further action would be necessary by the department under this alternative.

This alternative would manage the state lands with an emphasis on the existing uses and future recreational uses. The additional revenues anticipated from the exchange would not be realized by the school trusts.

Future exchanges addressing the reasons for the denial could be reviewed by the department.

Alternative B: Entire Exchange

Under this alternative the entire exchange as proposed would be approved. The state would transfer deed to 10,154.45 acres of school trust lands listed in Table 1-1 in exchange for 2,699.94 acres of deeded lands listed in Table 1-2. No mineral rights will be exchanged.

The management of the current state land would become the responsibility of the Broken O Ranch and they may change the use of said lands.

Alternative C: Modified Exchange

Under this alternative, portions of the original proposed exchange would be approved and other portions would be denied. The state would exchange the 6,648.50 grazing acres listed in Table 3-1 and retain all state parcels containing agricultural lands. The state would acquire the 1,160.55 agricultural acres listed in Table 3-2. No mineral rights will be exchanged.

TABLE 2.
SUMMARY OF ENVIRONMENTAL CONSEQUENCES

SOILS/LAND USE/CLASSIFICATION		
A	B	C
Potential for an additional 385 acres of cropland under department guidelines.	The Broken O Ranch could change management of up to 4,001 acres of acquired state land from grazing to agricultural. No change on land acquired by the state.	The Broken O Ranch could change management of up to 2,783 acres of acquired state land from grazing to agricultural. No change on land acquired by the state.
WATER		
A	B	C
Water use changes may occur. New water rights would require application and approval.	The Broken O Ranch's existing water rights unchanged. New water rights would have to be applied for and approved.	The Broken O Ranch's existing water rights unchanged. New water rights would have to be applied for and approved.
WILDLIFE AND WILDLIFE HABITAT		
A	B	C
No change expected.	No change expected. Any future management changes on lands acquired by the Broken O Ranch could affect wildlife and habitat.	No change expected. Any future management changes on lands acquired by the Broken O Ranch could affect wildlife and habitat.
SOCIOECONOMIC		
A	B	C
No change in acres of state ownership. Estimated potential income to the state is \$43,335.	State acreage reduced 7,454.51 acres, some currently consolidated. Estimated income to the state is \$37,127.	State acreage reduced 5,847.95 acres. Consolidated lands are retained. Estimated income to the state is \$53,415.

**TABLE 2.
SUMMARY OF ENVIRONMENTAL CONSEQUENCES**

TAX BASE		
A	B	C
No change expected.	Teton County tax base reduced \$20,744 in taxable value and \$4,900 in taxes. Possible slight increase in equalization payments. Pondera County tax base reduced \$7,115 in taxable value and \$1,900 in taxes. Lewis & Clark County could gain approximately \$2,000 in taxes.	Teton County tax base reduced \$12,043 in taxable value and \$3,700 in taxes. Possible slight increase in equalization payments. Lewis and Clark County would see an increase in taxes. However, it would be less than under alternative B. No change for Pondera County.
CULTURAL RESOURCES		
A	B	C
Cultural resources would be protected under state law.	Sites acquired by the Broken O Ranch potentially eligible for listing on National Register of Historic Places would be protected by covenant with mitigation performed before any disturbance.	Sites acquired by the Broken O Ranch potentially eligible for listing on National Register of Historic Places would be protected by covenant with mitigation performed before any disturbance.
MINERAL POTENTIAL		
A	B	C
No change expected.	No change in minerals ownership. Split estate on 10,154.45 acres.	No change in minerals ownership. Split estate on 6,648 acres.

TABLE 2.
SUMMARY OF ENVIRONMENTAL CONSEQUENCES

RECREATIONAL ACCESS		
A	B	C
<p>Legally accessible state land would be available for public recreation. Legal access to 4,814.1 acres. Lands with growing crops present may be closed.</p>	<p>State would dispose of 4814.1 acres with legal access and acquire 2,100.07 acres with legal access. Lands acquired by the state may have lower recreational value. Lands with growing crops present may be closed.</p>	<p>State would dispose of 1308.15 acres with legal access and acquire 1,160.55 acres with legal access. Lands acquired by the state may have lower recreational value. Lands with growing crops present may be closed.</p>
APPRAISED VALUES		
A	B	C
<p>No reappraisal needed.</p>	<p>July 1989 appraisal: state: \$1,073,444 Broken O \$1,121,000 New appraisal will be completed.</p>	<p>July 1989 appraisal: state: \$456,032 Broken O \$540,000 New appraisal will be completed.</p>

Table 3-1

Alternative "C"
State Lands Proposed for Exchange

Township 19 North Range 4 West
Lewis and Clark County

Section 4	Lots 1,2,3,4, S $\frac{1}{2}$ N $\frac{1}{2}$, NW $\frac{1}{2}$ SE $\frac{1}{4}$	342.20 acres
Section 6	Lot 1, S $\frac{1}{2}$ SE $\frac{1}{4}$	115.28 acres
Section 8	NW $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ less 1.95 acres, SE $\frac{1}{4}$	358.05 acres
Section 12	S $\frac{1}{2}$	320.00 acres
Section 14	N $\frac{1}{2}$ N $\frac{1}{2}$	160.00 acres
Section 18	E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$, Lots 1,2,3,4	601.95 acres
Section 19	Lots 1,2, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$	303.12 acres

Township 19 North Range 5 West
Lewis and Clark County

Section 3	Lots 1,2, S $\frac{1}{2}$ NE $\frac{1}{4}$	129.73 acres
Section 16	All	640.00 acres

Township 20 North Range 4 West
Lewis and Clark County

Section 16	All	640.00 acres
Section 24	SE $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$	200.00 acres
Section 26	N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$	240.00 acres
Section 30	SE $\frac{1}{4}$	160.00 acres
Section 32	SW $\frac{1}{4}$	160.00 acres

Township 20 North Range 5 West
Lewis and Clark County

Section 13	W $\frac{1}{2}$ NW $\frac{1}{4}$	80.00 acres
Section 14	N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$	160.00 acres
Section 15	E $\frac{1}{2}$ NE $\frac{1}{4}$ less 1.83 acres, SW $\frac{1}{4}$ NE $\frac{1}{4}$	118.17 acres
Section 16	All	640.00 acres
Section 22	NE $\frac{1}{4}$	160.00 acres
Section 23	W $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$	120.00 acres

Township 21 North Range 4 West
Teton County

Section 36	N $\frac{1}{2}$	320.00 acres
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Township 21 North Range 5 West
Teton County

Section 34	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00 acres
Section 36	All	640.00 acres

TOTAL STATE LANDS 6,648.50 ACRES

Table 3-2

Alternative "C"
Broken "O" Ranch Lands Proposed for Exchange

COLLINS UNIT**
Teton County

Township 25 North Range 1 West

Section 5	Lots 2,3 & 4	116.83 acres
Section 6	Lot 1	39.07 acres

Township 26 North Range 1 West

Section 31	Portion of E $\frac{1}{2}$ SE $\frac{1}{4}$	21.74 acres
Section 32	All less a tract containing 70.2 acres	498.61 acres
Section 33	W $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$	446.70 acres
Section 34	SW $\frac{1}{4}$ NW $\frac{1}{4}$	37.60 acres

TOTAL BROKEN "O" RANCH LANDS 1,160.55 ACRES

** Note: All acreages are according to Teton County property Appraisal and assessment records. Acreages for railroad, highway and road rights-of-way have already been deducted.

Chapter Three: Affected Environment

This chapter describes the existing condition of the environmental components that would be affected by the actions described in Chapter 1. The discussion will focus on present management, use, and resource concerns of the lands involved in the exchange. The affected environment described in this chapter includes all tracts considered for exchange.

SOILS/LAND USE/CLASSIFICATION

Of the state tracts offered for exchange, 8,572.25 acres are classified as grazing and 1582.20 acres are classified agriculture. Of the agricultural lands, 484 acres are irrigated, and 1,098.2 are non-irrigated. Table 4-1 outlines the current classification of the state lands by legal description.

Approximately 385 acres of state lands currently classified as grazing would meet the department's criteria for conversion to farmland. Only soils rated in a Soil Capability Class of III or better by the Soil Conservation Service (SCS) are allowed to be broken. Currently, a moratorium of new breakings on state lands is in effect. This moratorium was initiated in October 1990.

The state tracts also include approximately 3,616 acres of Class IV and Class III/Class IV complexes. The Soil Conservation Service rate Class IV soils as suitable for cultivation but that they have severe limitations that restrict the choice of plants, require very careful management, or both. Soils rated at Class V or higher are generally not suited for cultivation according to SCS guidelines.

The tracts offered for exchange by the Broken O Ranch include 2592.75 acres of non-irrigated farmland, 39.65 acres of grazing and 67.54 acres of unsuitable lands. Unsuitable lands include rights-of-way, rock outcrops, standing water or any other lands which are unusable for grazing or agricultural purposes. Table 4-2 outlines the current classification for these lands.

Soils information from the SCS gives estimated yields for the various soil types when cultivated. The table below shows average yields which might be expected for the cultivated lands being considered for exchange.

<u>UNIT</u>	<u>Wheat (bu/acre)</u>	<u>Barley (bu/acre)</u>
Pondera	42	46
Collins	31	43
Choteau	29	40
State (dryland)	24	33
State (irrigated)	50	65

Estimated yields were only available for approximately 78.5% of the cultivated lands listed above. The actual yields for these lands will be influenced by the soils not included in these estimates and by the level of management and farming practices used.

WATER

Currently, four irrigation water rights have been filed on the state tracts considered for exchange. The water right number and the legal description they are appurtenant to are as follows:

<u>Water Right Number</u>	<u>Legal Description</u>
41K-W-187161-00	T21N R5W Section 34
41K-W-110666-00	T20N R5W Section 11
41K-W-187157-00	T21N R5W Section 36
41K-W-049322-00	T20N R6W Sections 13 & 24

This water is used to irrigate agricultural lands on both state and deeded lands. Currently, 484 acres of state land are being irrigated. However, these water rights claim irrigation for approximately 780 acres of state land. Sources of water for livestock are also found on several of the state tracts.

In 1977, the department invested \$55,880 of resource development money to complete an erosion control project and develop irrigation systems in T20N R5W Sections 29 and 30 (Section 30 is not included in this exchange proposal). In 1990, the final installment was made to repay the state for project expenditures. Currently, the acres which were a part of this project are not being irrigated.

WILDLIFE AND WILDLIFE HABITAT

The state tracts being considered for exchange offer habitat for both upland game and big games species. Whitetail deer and antelope are common in the area, while mule deer may occasionally be found. Upland birds which are common include hungarian partridge, sharptail grouse and pheasants. The coulee bottoms and riparian areas which are rangeland are considered important habitat for both upland birds and whitetail deer.

No threatened or endangered species are known to inhabit the state lands proposed for exchange.

The lands offered by the Broken O Ranch are mostly cropland, and tend to offer less cover or habitat than does rangeland. Similar wildlife species may be found in this area, however wildlife use of these tracts is probably limited.

The Broken O Ranch currently has a block management plan for hunting whitetail deer along the Sun River. However, it does not

include any state lands which are part of this exchange. Also, in the past, antelope hunting has been allowed in areas south of the Sun River.

Table 4-1
Current Land Use
State Lands Proposed for Exchange

<u>Legal</u>		|----- Grazing -----|		|----- Farmland -----|	
		<u>Acres</u>	<u>AUM's</u>	<u>Irrigated</u>	<u>Dryland</u>
T19N R4W	S4	342.2 Ac	104 AUM		
	S6	115.28 Ac	32 AUM		
	S8	358.05 Ac	74 AUM		
	S12	320 Ac	86 AUM		
	S14	160 Ac	46 AUM		
	S18	601.95 Ac	98 AUM		
	S19	303.12 Ac	52 AUM		
T19N R5W	S3	129.73 Ac	76 AUM		
	S16	640 Ac	207 AUM		
T20N R4W	S16	640 Ac	121 AUM ³		
	S24	200 Ac	62 AUM		
	S26	240 Ac	63 AUM		
	S30	160 Ac	43 AUM		
	S32	160 Ac	41 AUM		
T20N R5W	S11	15.95 Ac	4 AUM	.....10	
	S13	80 Ac	17 AUM		
	S14	160 Ac	41 AUM		
	S15	118.17 Ac	18 AUM		
	S16	640 Ac	118 AUM		
	S20	60.9 Ac	17 AUM ³	.....	579.1 ⁴
	S22	160 Ac	35 AUM		
	S23	120 Ac	27 AUM		
	S28	600 Ac	157 AUM		
	S29	372.9 Ac	82 AUM	.....	267.1
	S33	640 Ac	158 AUM		
T20N R6W	S12	40 Ac	12 AUM		
	S13	125 Ac	94 AUM	.... 289	146
	S14	65 Ac	24 AUM	.....	15
	S24	4 Ac	28 AUM ⁵	... 185	91
T21N R4W	S36	320 Ac	80 AUM		
T21N R5W	S34	40 Ac	18 AUM		
	S36	640 Ac	185 AUM		
<hr/>					
TOTALS		8572.25 Ac	2220 AUM	484 Ac	1098.2 Ac

³Competitive Bid - Grazing rental \$13.00/AUM + minimum

³Competitive Bid - Grazing rental \$14.00/AUM + minimum

⁴Competitive Bid - 40.1% cropshare

⁵Includes AUM's for cropland grazing aftermath

Table 4-2

Current Land Use
Broken "O" Ranch Lands Proposed for Exchange

<u>Legal</u>		<u>Grazing</u>	<u>Farmland</u>		<u>Unsuitable</u>
			<u>Irrigated</u>	<u>Dryland</u>	
T28N R1E	S29	.....	316	.....	4
	S30	.....	160		
T25N R1W	S5	.....	116.83		
	S6	.....	39.07		
T26N R1W	S31	.....	21.74		
	S32	.....	498.61		
	S33	.....	427.9	...	18.8
	S34	.....	37.6		
T21N R5W	S6	4.07	115.8		
T22N R5W	S29	.....	276.8	...	36.43
	S30	20.18	293.5		
	S31	15.4	144.6		
	S32	.....	144.3	...	8.31
=====					
TOTALS		39.65 Ac	2592.75 Ac		67.54 Ac

SOCIOECONOMIC

In 1989, the Broken O Ranch paid approximately \$10,445 in grazing rental and \$32,620 in agricultural rental on the state lands being considered for exchange. In 1990, the grazing rental was \$10,515 and the rental on the agricultural lands \$16,170. In 1991 the grazing rental was \$11,325. The 1991 agricultural rentals was \$34,633.79.

For the lands the Broken O Ranch has offered for exchange, the Collins Unit has an Agricultural Stabilization and Conservation Service (ASCS) effective yield of 42 bushels/acre for wheat and 46 bushels/acre on barley. Deficiency payments are paid on the ASCS effective yields for program crops. This unit will have approximately 450 acres of wheat base and 210 acres of barley base. The base acres are used to determine what portions of the actual planted acres are eligible for deficiency payments. Under the current Federal Farm Program, deficiency payments are only paid on 70% of the wheat base acres and 77.5% of the barley base acres. Crop acreage bases also dictate the number of acres which can be planted for that commodity.

The Pondera Unit has an ASCS effective yield of 41 bushels/acre for wheat and 46 bushels/acre for barley. The unit will have approximately 190 acres of wheat base and 99 acres of barley base.

The Choteau Unit has an ASCS effective yield of 37 bushels/acre for wheat and 43 bushels/acre for barley. However, this farm has been reconstituted four times since 1983. This procedure is often used to improve deficiency payments by combining a farm with high yields with a farm which has a much lower yield. The farms are then separated again to prove yields on the higher producing lands. Records from the Teton County ASCS office indicate that in the five year period prior to 1983, this unit had average wheat yields of 29.6 bushels/acre and 31 bushels/acre on barley. The unit will have approximately 556 acres of wheat base and 273 acres of barley base.

TAX BASE

Lands which are administered by the Department of State Lands are exempt from property taxation. Equalization payments are made to those counties in which state trust lands comprise 6% or more of the total county acreage. The 1991 equalization payment to Teton County was \$6511.00. No payments were made to Pondera or Lewis and Clark counties.

The lands offered for exchange by the Broken O Ranch represent a taxable value of \$20,744 in Teton County and \$7,115 in Pondera County. Taxes paid in 1989 to Teton County were \$4883.74 and \$1875.80 to Pondera County.

CULTURAL RESOURCES

In October and November of 1990, Ethos Consultants conducted a modified class III cultural resource inventory of the state lands being considered for exchange. A Class III inventory uses surface and exposed profile indications to identify and record cultural properties. In the survey, a more extensive inventory was conducted along drainage systems and prominent land forms such as hills and ridges. Level and relatively featureless areas away from prominent physiographic features received less emphasis in examination.

Twenty-eight cultural properties were partially or wholly recorded within the proposed exchange tracts listed under Table 1-1. Ten of these sites are potentially eligible for listing in the National Register of Historic Places. Documented sites included stone circles, cairns, campsites and bison kill sites. Historical sites included an abandoned railroad grade, well and irrigation ditch.

No cultural inventory has been completed for the lands the state would acquire.

MINERAL POTENTIAL

The state holds and will retain all mineral rights for those state lands being considered for exchange. Currently, there are no active mineral leases or licenses on these lands.

These lands are considered to have a low potential for all minerals except oil and gas. There is a more favorable but unproven potential for oil or gas which would be associated with the overthrust belt. Additionally, sand and gravel may be found in fluvial terraces or alluvial deposits throughout this region.

The mineral rights and potential for development on the Broken O Ranch lands are unknown.

RECREATIONAL ACCESS

During 1991, the Montana legislature enacted HB 778. Beginning in March 1992, this bill allows for recreational use on state lands which have legal access. The department is currently in the process of preparing administrative rules to implement this legislation. Final review and adoption of these rules will be made by the Board of Land Commissioners.

Currently, 4,814.10 acres of state land being considered for exchange are legally accessible. This access is by state or county road, or from adjacent state lands with public access. Table 5-1 lists those state lands with legal access.

Of the 2,699.94 acres of land offered for exchange by the Broken O Ranch, 2,100.07 acres are currently legally accessible. Table 5-2 identifies those tracts with public access.

Not all lands which are legally accessible may be available for year long recreational use. Under provisions of HB 778, lands with growing crops present may be closed.

Table 5-1

State Lands with Public Access

Township 19 North Range 4 West
Lewis and Clark County

Section 4	Lots 1,2,3,4, S½N½, NW¼SE¼	342.20 acres
Section 8	S½NE¼, E½SW¼ less 1.95 acres, SE¼	318.05 acres
Section 14	N½N½	160.00 acres

Table 5-1 (continued)

Township 19 North Range 5 West
Lewis and Clark County

Section 3 Lots 1,2, S½NE½ 129.73 acres

Township 20 North Range 5 West
Lewis and Clark County

Section 11 NE½SE½ North of Highway 25.95 acres
 Section 15 E½NE½ less 1.83 acres, SW½NE½ 118.17 acres
 Section 20 All 640.00 acres
 Section 22 NE½ 160.00 acres
 Section 23 W½NW½ 80.00 acres
 Section 28 W½, SE½, W½NE½, SE½NE½ 600.00 acres
 Section 29 All 640.00 acres
 Section 33* All 640.00 acres

Township 20 North Range 6 West
Lewis and Clark County

Section 12 SE½SE½ 40.00 acres
 Section 13 E½, SW½, E½NW½ 560.00 acres
 Section 14** S½SE½ 80.00 acres
 Section 24 N½NE½, SW½NE½, NW½ 280.00 acres

TOTAL STATE LANDS WITH PUBLIC ACCESS 4,814.10 ACRES

* Access is from an adjacent tract of state land in T20N R5W Section 34.
 ** Access is from an adjacent tract of state land in T20N R6W Section 13.

Table 5-2

Broken "O" Ranch Lands with Public Access

COLLINS UNIT**
Teton County

Township 25 North Range 1 West

Section 5 Lots 2,3 & 4 116.83 acres
 Section 6 Lot 1 39.07 acres

Table 5-2 (continued)

Township 26 North Range 1 West

Section 31	Portion of E $\frac{1}{2}$ SE $\frac{1}{4}$	21.74 acres
Section 32	All less a tract containing 70.2 acres	498.61 acres
Section 33	W $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$	446.70 acres
Section 34*	SW $\frac{1}{4}$ NW $\frac{1}{4}$	37.60 acres

CHOTEAU UNIT**

Teton County

Township 22 North Range 5 West

Section 29	S $\frac{1}{2}$	313.23 acres
Section 30	Lots 3 & 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$	313.68 acres
Section 31	NE $\frac{1}{4}$	160.00 acres
Section 32	NW $\frac{1}{4}$ less a tract containing 14.1 acres	152.61 acres

PONDERA UNIT

Pondera County

No Public Access in this Unit

TOTAL BROKEN "O" RANCH LANDS WITH PUBLIC ACCESS 2,100.07 ACRES

* Access is from the adjacent tract in Section 33.

** Note: All acreages are according to Teton County property Appraisal and assessment records. Acreages for railroad, highway and road rights-of-way have already been deducted.

APPRAISED VALUES⁶

On July 20, 1989, Norman C. Wheeler submitted an appraisal of the state lands being considered for exchange. The appraisal indicates a value as of July 1989 of \$1,073,444. Table 6-1 summarizes the appraised values.

Also on July 20, 1989, Mr. Wheeler submitted an appraisal of lands offered by the Broken O Ranch for exchange. These lands included both the Collins and Choteau units which are currently

⁶Mr. Wheeler has submitted updated appraisals for the final Environmental Assessment. Discussions concerning the updated appraisals can be found beginning on page 50.

owned by Robert E. Stephens, Jr. The Broken O Ranch obtained an option to purchase these lands and offer them for exchange to the state. The appraisal indicated a total value of these two units as \$960,000. However, the appraisal included 160 acres in the Choteau Unit which Mr. Stephens did not have complete title to. This tract was dropped and the appraisal was subsequently adjusted to a total value of \$905,000. In September 1989, the Pondera Unit was added as lands offered by the Broken O Ranch for exchange. Mr. Wheeler submitted an appraisal which indicated the value of these lands as of July 1989, was \$216,000. This brought the total appraised value of the lands offered for exchange to \$1,121,000. Table 6-2 summarizes the appraisal of the Broken O Ranch lands.

Table 6-1

Appraised Values
State Lands Proposed for Exchange

Township 19 North Range 4 West
Lewis and Clark County

Section 4	342 ac grazing @ \$80/ac	\$ 27,360
Section 6	115 ac grazing @ \$64/ac	\$ 7,360
Section 8	318 ac grazing @ \$80/ac	\$ 25,440
	40 ac grazing @ \$64/ac	\$ 2,560
Section 12	320 ac grazing @ \$80/ac	\$ 25,600
Section 14	160 ac grazing @ \$80/ac	\$ 12,800
Section 18	602 ac grazing @ \$64/ac	\$ 38,528
Section 19	303 ac grazing @ \$64/ac	\$ 19,392

Township 19 North Range 5 West
Lewis and Clark County

Section 3	130 ac grazing @ \$80/ac	\$ 10,400
Section 16	640 ac grazing @ \$64/ac	\$ 40,960

Township 20 North Range 4 West
Lewis and Clark County

Section 16	640 ac grazing @ \$80/ac	\$ 51,200
Section 24	200 ac grazing @ \$64/ac	\$ 12,800
Section 26	240 ac grazing @ \$64/ac	\$ 15,360
Section 30	160 ac grazing @ \$64/ac	\$ 10,240
Section 32	160 ac grazing @ \$64/ac	\$ 10,240

Township 20 North Range 5 West
Lewis and Clark County

Section 11	26 ac grazing @ \$80/ac	\$ 2,080
Section 13	80 ac grazing @ \$64/ac	\$ 5,120
Section 14	160 ac grazing @ \$64/ac	\$ 10,240
Section 15	118 ac grazing @ \$64/ac	\$ 7,552
Section 16	640 ac grazing @ \$64/ac	\$ 40,960
Section 20	547 ⁷ ac cropland @ \$300/ac	\$164,100
	93 ac grazing @ \$0/ac	\$ -0-

⁷The cropland acreages are inconsistent with the actual acres which were determined during field reviews (See Table 4-1). However, these are the acres Mr. Wheeler used in his original appraisal. Corrected acres have been provided for the final appraisal.

Table 6-1 (continued)

Township 20 North Range 5 West
Lewis and Clark County

Section 22	160 ac grazing @ \$64/ac	\$ 10,240
Section 23	120 ac grazing @ \$64/ac	\$ 7,680
Section 28	600 ac grazing @ \$80/ac	\$ 48,000
Section 29	282 ⁸ ac cropland @ \$300/ac	\$ 84,600
	358 ac grazing @ \$64/ac	\$ 22,912
Section 33	640 ac grazing @ \$80/ac	\$ 51,200

Township 20 North Range 6 West
Lewis and Clark County

Section 12	40 ac grazing @ \$0/ac	\$ -0-
Section 13	518 ⁹ ac cropland @ \$300/ac	\$155,400
	42 ac grazing @ \$0/ac	\$ -0-
Section 14	80 ac grazing @ \$64/ac	\$ 5,120
Section 24	280 ¹⁰ ac cropland @ \$300/ac	\$ 84,000

Township 21 North Range 4 West
Teton County

Section 36	320 ac grazing @ \$64/ac	\$ 20,480
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Township 21 North Range 5 West
Teton County

Section 34	40 ac grazing @ \$64/ac	\$ 2,560
Section 36	640 ac grazing @ \$64/ac	\$ 40,960

TOTAL APPRAISED VALUE \$1,073,444

⁸See footnote #7

⁹See footnote #7

¹⁰See footnote #7

Table 6-2

**Appraised Values
Broken "O" Ranch Lands Proposed for Exchange**

PONDERA UNIT
Pondera County

480 ac cropland @ \$450/ac \$216,000

COLLINS UNIT
Teton County

1136 ac cropland @ \$475/ac(rounded) \$540,000
24 ac sod & waste @ \$0/ac \$ -0-

CHOTEAU UNIT
Teton County

972.5 ac cropland @ \$375/ac(rounded) \$365,000
73.5 ac sod & waste @ \$0/ac \$ -0-

=====

TOTAL APPRAISED VALUE \$1,121,000

Chapter Four: Environmental Consequences

This chapter forms the basis for comparison between alternatives and discusses the environmental consequences of implementing the alternatives.

ALTERNATIVE A: No Action

Under the no action alternative, the proposed land exchange between the Broken O Ranch and the State of Montana would be denied. No further action would be required by the department.

SOILS/LAND USE/CLASSIFICATION

Current management of the state lands through agricultural and grazing leases would continue. An additional 385 acres of rangeland could be broken under department guidelines if the moratorium on new breaking is lifted. The Broken O Ranch would either manage the deeded lands proposed for exchange as they deemed fit or dispose of them.

WATER

Changes in water use patterns and distribution may occur regardless of exchange, but no changes would be related to the exchange proposal.

WILDLIFE AND WILDLIFE HABITAT

Under department guidelines, only an additional 385 acres of rangeland could be broken. Habitat diversity and critical habitat should be maintained.

SOCIOECONOMIC

There is a potential increase in income to the state if any of the 385 acres of rangeland are converted to cropland.

Under this alternative, certain exchange criteria would be met while others would not. The scattered state tracts would continue to be more difficult to manage. Additionally, the state would not acquire consolidated blocks of agricultural acreage with higher income potential. The state would retain the blocks of irrigated and dryland agricultural acreage.

TAX BASE

Teton and Pondera counties would maintain current taxable valuations and taxes. Lewis and Clark County would not see an increase in taxable value or taxes. Equalization payments would remain at approximately the same level.

CULTURAL

Cultural resources would have protection under the Antiquities Act and department guidelines.

MINERAL POTENTIAL

Minerals on the state lands would be available for development. Compensation to the surface lessee for any damage to their leasehold interest would be required.

RECREATIONAL ACCESS

Recreational access would be allowed on state lands under the rules which will be adopted by the Board of Land Commissioners. Access to 4,814.1 acres would be possible. However, some acreages with growing crops could be closed.

APPRAISED VALUES

No additional appraisals would be necessary since the exchange as proposed would not be considered.

ALTERNATIVE B: Entire Exchange

Under alternative B, the entire exchange of surface ownership would be completed. The state would transfer 10,154.45 acres to the Broken O Ranch in exchange for 2,699.94 acres in Teton and Pondera counties. There would be no exchange of sub-surface ownerships.

SOILS/LAND USE/CLASSIFICATION

Under this alternative, the Broken O Ranch would manage the lands received from the state in accordance with their own ranch management plan. If the Broken O Ranch continues to participate in the Federal Farm Program, any conversion of grazing land to cropland would require a review by the Soil Conservation Service. This change in use would be incorporated into the ranch's conser-

vation plan of operation. The conservation plan is developed to prevent excessive soil erosion from wind and water and is based on the operators intended farming practices and the types of soil present. There are approximately 4,001 acres of Class III and Class IV soils which currently are grazing lands and which may be suitable for breaking and use for agricultural production.

The lands received by the state would be advertised for competitive bid. The high bidder would be allowed to farm the lands which are currently classified agriculture under the terms of the department's leases. (See appendix "D" for a copy of the department's Lease Agreement) The majority of these lands are currently classified agriculture and there are no anticipated changes in use.

WATER

Under this alternative, the Broken O Ranch could use existing water rights on the lands acquired from the state. Any change in the use of water rights or new appropriation of water will require a permit issued by the Department of Natural Resources and Conservation. Additionally, storage water rights from Nilan Reservoir could be utilized on some state tracts. The storage water rights from Nilan Reservoir are controlled by the Broken O Ranch.

Of the lands the state would receive, the only water developments are a stockwater well in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29 T22N R5W and a stockwater reservoir in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6 T21N R5W. The water rights for these two developments would be transferred to the State of Montana.

WILDLIFE AND WILDLIFE HABITAT

There are no anticipated impacts to wildlife as a direct result of this exchange. Concerns raised regarding wildlife habitat are related to potential changes in land use.

Those lands currently under cultivation are unlikely to change in use. Conversion to grazing land would increase rangeland wildlife habitat in the area.

The state grazing lands proposed for exchange are included in large pastures of deeded land. A change in land use (to cultivated agriculture) of the state lands alone would have minimal effects on the existing wildlife populations. Important wildlife habitats in riparian areas and coulee bottoms are unlikely to be broken in any case due to soil limitations, rough terrain and conservation plan restrictions.

SOCIOECONOMIC

Under this alternative, the state land base would be reduced 7,454.51 acres. This includes the disposal of some state lands which are currently consolidated.

Using the average estimated production by soil type, a comparison of potential income from the cropland acres included under this alternative can be made. This estimate is presented with the following assumptions:

- 1) The dryland agricultural acres are farmed on a crop/fallow basis, with $\frac{1}{2}$ the acres in production each year. The irrigated acres are all farmed each year.
- 2) The acres planted each year are $\frac{1}{2}$ in wheat and $\frac{1}{2}$ in barley.
- 3) The current 1991 target prices for wheat and barley are used for price paid per bushel.
- 4) The state's share is $\frac{1}{4}$ crop.

Estimated Income from Cropland

PONDERA UNIT 476 agricultural acres
119 ac wheat X 42 bu/ac X \$4.00/bu X $\frac{1}{4}$ crop = \$4,998
119 ac barley X 46 bu/ac X \$2.36/bu X $\frac{1}{4}$ crop = \$3,230
TOTAL \$8,228

COLLINS UNIT 1141.75 agricultural acres
285 ac wheat X 31 bu/ac X \$4.00/bu X $\frac{1}{4}$ crop = \$8,835
285 ac barley X 43 bu/ac X \$2.36/bu X $\frac{1}{4}$ crop = \$7,230
TOTAL \$16,065

CHOTEAU UNIT 975 agricultural acres
244 ac wheat X 29 bu/ac X \$4.00/bu X $\frac{1}{4}$ crop = \$7,076
244 ac barley X 40 bu/ac X \$2.36/bu X $\frac{1}{4}$ crop = \$5,758
TOTAL \$12,834

Estimated potential income from cropland proposed
for state acquisition under Alternative B \$37,127

STATE LANDS (dryland) 1098.2 acres
275 ac wheat X 24 bu/ac X \$4.00/bu X $\frac{1}{4}$ crop = \$6,600
275 ac barley X 33 bu/ac X \$2.36/bu X $\frac{1}{4}$ crop = \$5,354
TOTAL \$11,954

STATE LANDS (irrigated) 484 acres
242 ac wheat X 50 bu/ac X \$4.00/bu X $\frac{1}{4}$ crop = \$12,100
242 ac barley X 65 bu/ac X \$2.36/bu X $\frac{1}{4}$ crop = \$9,281
TOTAL \$21,381

Estimated potential income from cropland proposed for
Broken O Ranch acquisition under Alternative B \$33,335

These figures are shown for comparison purposes only. The actual income will be influenced by numerous other variables including Federal Farm Program compliance, market conditions and management.

Under this alternative, the estimated income potential of the lands the state would dispose of is as follows:

Grazing Revenue (1991 actual)	\$11,325
Agriculture Revenue (Estimated from above)	<u>\$33,335</u>
Total	\$44,660

This would be in exchange for lands which are estimated to generate \$37,127 in agricultural revenue.

Under this alternative, certain exchange criteria are met, while others are not. The scattered state tracts which are harder to manage would be disposed of and the state would acquire agricultural lands which are blocked and offer a higher income to the trust. The state would dispose of some lands which are currently blocked. Some of these are classified agriculture and offer a stable, increased income to the trust.

TAX BASE

Teton County would experience a reduction of approximately \$20,744 in taxable value and \$4,900 in taxes under this alternative. This represents .137% of the taxable value and .081% of the taxes levied for the county. Pondera County would see a reduction of approximately \$7,115 in taxable value and \$1,900 in taxes. This is .049% of their taxable value and .038% of the taxes levied.

In 1991, Teton County received \$6,511 in equalization payments from the department. Although this may increase slightly because of the additional state lands in the county, it will not offset the loss in taxes.

Since state lands comprise less than 6% of the land base in Pondera County, the county does not receive equalization payments. The addition of the lands under this alternative will not be sufficient to increase them to more than 6%, so no payments would be anticipated.

While the taxable values of state lands are not available, Lewis and Clark County expects an increase of approximately \$2,000 each year in taxes under this alternative. They do not currently receive equalization payments.

CULTURAL RESOURCES

The Broken O Ranch has tentatively agreed to protective covenants on those sites potentially eligible for the National Register of Historic Places. Consultation between the department and the State Historic Preservation Office will determine which sites are potentially eligible. The protective covenants will ensure that eligibility is resolved and mitigation occurs before any disturbance.

No cultural survey was completed for the lands offered by the Broken O Ranch. Since the majority of these lands are under cultivation, any surface evidence of sites has been disturbed. Intact sites may be present below the cultivation zone. Before any changes of use on these lands, the department would go through the cultural review process.

MINERAL POTENTIAL

This exchange does not involve the transfer of any mineral rights. By splitting these estates, there may be future management problems should there be mineral exploration or development. This might include problems with ingress and egress, surface disturbance, and possible litigation, which might lead to increased permitting complexity and development costs.

RECREATIONAL ACCESS

Effective March 1, 1992, HB 778 allows for recreational use of state trust lands which are legally accessible. Under this alternative, the state would exchange 4,814.10 acres which have public access. This includes 1,582.2 acres of classified agriculture and 3,231.9 acres of grazing land. The state would receive 2,100.07 acres with legal access which are predominately agricultural lands with some grazing land interspersed. This results in a net loss for the state of 2,714.03 acres with legal access.

HB 778 also allows for categorical closure of certain types of lands, including those with growing crops present. Under these circumstances, the recreational potential for the lands the state would receive are diminished. Since these lands are farmed on a crop/fallow basis, in any given year approximately $\frac{1}{2}$ of them might be closed during the growing season. Also, agricultural lands tend to offer less potential for hunting than do range-lands. No areas with fishing potential have been identified.

APPRAISED VALUES¹¹

The appraisal of the state lands indicated a value of \$1,073,444. The value of the Broken O Ranch lands was placed at \$1,121,000. Since the appraisals were completed in July of 1989, new appraisals will be completed for all lands to reflect current market values. There is a concern that with the enactment of the 1990 Federal Farm Program, the values of cropland have declined. Additionally, the appraised value of the Choteau Unit may be enhanced by increased average production yields through four separate farm reconstitutions since 1983. Further analysis is needed to evaluate the effect of the reconstitution on the appraised value.

Site specific discrepancies in the appraisal of state lands indicate a need for reevaluation of some state parcels under this proposal. Rangeland values on state tracts are assigned rates of \$64 and \$80 per acre in an apparently inconsistent manner. There is no direct correlation between rangeland value assigned and grazing capacity expressed in AUM's per acre.

In some instances, the description and use identified in the appraisal for a particular state tract did not coincide with the use that was found on the site. This is partially due to the fact that on some state tracts, practices other than what is indicated on the lease are being employed. Some tracts used for agricultural purposes were appraised as grazing lands and some tracts with irrigated cropland were appraised as dryland agricultural. The following state tracts are possibly undervalued and would need an additional appraisal or evaluation under this alternative.

T19N, R4W - Sections 4, 14
T19N, R5W - Section 3
T20N, R4W - Sections 24, 30, 32
T20N, R5W - Sections 11, 20, 22, 28, 29, 33
T20N, R6W - Sections 12, 13, 24
T21N, R5W - Section 36

If the values of the tracts offered by the Broken O Ranch have declined to less than those of the state lands, the exchange proposal would need to be modified.

¹¹Mr. Wheeler has submitted updated appraisals for the final Environmental Assessment. Discussions concerning the updated appraisals can be found beginning on page 57.

ALTERNATIVE C: Modified Exchange

Under this alternative, only the surface ownership outlined in Tables 3-1 and 3-2 would be exchanged. The state would transfer 6,648.50 acres to the Broken O Ranch in exchange for 1160.55 acres of cropland in Teton County.

SOILS/LAND USE/CLASSIFICATION

Any lands that the Broken O Ranch receives in this exchange would be managed as the ranch feels most appropriate. The ranch may change any of the current land uses including converting rangeland to cropland. Under this alternative, there are approximately 2783 acres of Class III and Class IV soils which might be suitable for conversion to cropland. However, this action would require review by the Soil Conservation Service (SCS). Any requirements identified by the SCS would be incorporated into the ranch's conservation plan which is developed by the SCS to prohibit excessive soil erosion from wind and water.

Those lands received by the state would be advertised for competitive bid. The high bidder would be allowed to farm the lands which are currently cropland under the terms of the Department's leases. (See appendix "D" for a copy of the department's Lease Agreement) No change in management of these lands is anticipated.

WATER

Under this alternative, the Broken O Ranch could use existing water rights on the lands acquired from the state. Any change in the use of water rights or new appropriation of water will require a permit issued by the Department of Natural Resources and Conservation. Development of irrigation on the state lands would probably be impractical because of the absence of water conveyance facilities and topography.

On the lands the state would receive, there are no developed water rights.

WILDLIFE AND WILDLIFE HABITAT

There are no anticipated impacts to wildlife as a direct result of this exchange. Concerns raised regarding wildlife habitat are related to potential changes in land use.

The state grazing lands proposed for exchange are included in large pastures of deeded land. A change in land use (to cultivated agriculture) of the state lands alone would have minimal effects on the existing wildlife populations. Important wildlife habitats in riparian areas and coulee bottoms are unlikely to be broken in any case due to soil limitations, rough terrain and conservation plan restrictions.

SOCIOECONOMIC

Under this alternative, the state's land base would be reduced by 5,487.95 acres. The lands the state would exchange to the Broken O Ranch currently generate approximately \$6,500 in annual grazing rental. A summary of the estimated potential income to the state under this alternative is as follows:

Grazing Revenue (Retained lands)	\$ 4,825
Agricultural Revenue (Retained lands) ...	\$33,335
Agricultural Revenue (Acquired lands) ...	<u>\$16,065</u>
TOTAL	\$54,225

This alternative would most closely fit the department's criteria for land exchanges. The more scattered tracts which are more difficult to manage are disposed of, while those lands which are consolidated are retained. Additionally, the acquired lands offer a stable and higher income to the trust.

TAX BASE

Teton County would experience a reduction of approximately \$12,043 in taxable value and approximately \$3,700 in taxes under this alternative. This represents .079% of the taxable value and .061% of the taxes levied in the county in 1990.

In 1991, Teton County received \$6,511 in equalization payments from the department. This may increase slightly because of the additional state lands in the county, however, it will not offset the loss in property taxes.

Lewis and Clark County will see an increase in taxable valuation and taxes. However, it will be less than seen under alternative B.

CULTURAL RESOURCES

The Broken O Ranch has tentatively agreed to protective covenants on those sites which are potentially eligible for the National Register of Historic Places. Under this alternative,

approximately ten sites are potentially eligible for the National Register. The pertinent information from the other identified sites has been recorded. Because of these actions, the anticipated impacts are minimal.

No cultural survey was completed for the lands offered by the Broken O Ranch. Prior to any changes to use on these lands, the department will require a cultural review be completed.

MINERAL POTENTIAL

This exchange does not involve the transfer of any mineral rights. By splitting these estates, there may be future management problems should there be mineral exploration or development on any of the exchanged lands.

RECREATIONAL ACCESS

Under the provisions of HB 778, state trust lands with legal access will be open to recreational use beginning in 1992. Under this alternative, the state would be exchanging 1,308.15 acres which have legal access. These lands are predominantly rangeland. The state would receive 1,160.55 acres with legal access which are mostly cropland. This results in the state having a net loss of 147.6 acres of lands with legal access.

HB 778 also allows for categorical closure of certain types of lands, including those with growing crops present. Under these circumstances, the recreational potential for the lands the state would receive is diminished. Since these lands are farmed on a crop/fallow basis, in any given year approximately $\frac{1}{2}$ of them might be closed during the growing season. Also agricultural lands tend to offer less of a potential for hunting and fishing resources than do rangelands.

APPRAISED VALUES¹²

Prior to completing any exchange, new appraisals will be completed. In the original appraisal of July 1989, the value of the state lands under this alternative was \$456,032. The value of the Broken O Ranch lands was placed at \$540,000.

There is a concern that with the passage of the 1990 Federal Farm Program, the values of agricultural land have declined.

¹²Mr. Wheeler has submitted updated appraisals for the final Environmental Assessment. Discussions concerning the updated appraisals can be found beginning on page 50.

This is based on the decline in target prices set for the various commodities and the reduction of the payment acres. If the values of the tracts offered by the Broken O Ranch have declined to less than that of the state lands, the exchange proposal would require modification. The Broken O Ranch would either need to offer additional lands to make up the difference, or certain state lands would need to be withdrawn from consideration for exchange.

There is also concern that the appraised values of some state lands under this proposal are low. Soil classification of some tracts indicates greater productivity than allowed for in the appraisal. The following state tracts should be reevaluated under this proposal.

T19N, R4W - Section 4, 14
T19N, R5W - Section 3
T20N, R4W - Section 24, 30, 32
T20N, R5W - Section 22
T21N, R5W - Section 36

Findings and Conclusion

Based on the analysis and review involved in preparing this Environmental Assessment, the Department of State Lands does not anticipate significant impacts as the result of implementing any alternative which was evaluated in this document. Therefore, an Environmental Impact Statement will not be prepared.

APPENDIX "A"

Department of State Lands Exchange Guidelines

State-owned trust land ownership patterns in Montana are generally fragmented, the result of land grants from the federal government at the time of statehood through the Enabling Act. In addition, numerous other land adjustment actions since then involving National Forests, National Parks, and other federal and private lands have further influenced the ownership patterns of state trust lands.

The ability of the State of Montana to effectively fulfill its management goal of increased income to support education has been limited by the scattered ownership of the 5,225,670 acres of state-owned trust lands. While periodic and limited land ownership adjustments with private land owners and other governmental agencies have occurred in the past, an inclusive and consistent set of land exchange guidelines are needed for the future considerations of longer term, and larger scale beneficial exchange proposals.

At its December, 1982 meeting, the State Board of Land Commissioners (Board) adopted general land exchange procedures, including goals and objectives. These exchange guidelines are designed to expand upon and supplement those procedures to assure that future land exchanges will be developed, evaluated, and finalized in a systematic and beneficial manner.

State statutes concerning the ability of the State Board of Land Commissioners to dispose of trust lands, including exchanges, are contained in Title 77, Chapter 1, Part 2, MCA.

GOALS AND OBJECTIVES

The overall goal of land exchanges is a state trust land ownership pattern which balances multiple resource values while bringing about a benefit to the trusts and increased income to support education in Montana. No individual land exchange will achieve all resource objectives listed in this document, but the cumulative effect of land exchanges should result in improved multiple use management and income producing opportunities. These ownership adjustments will achieve greater management efficiency and optimum accomplishments for all resource interests.

The Department's recommendations and the board's exchange decisions will be made only after thorough analysis and study of land use potential, and will be consistent with the following long-term objectives adopted by the board in December, 1982:

- . Consolidation of state land, where appropriate, to increase revenue and decrease administrative costs.
- . Divest state of land which has restricted income producing potential because of location, such as state land in wilderness areas, wild and scenic areas or in inaccessible areas.
- . Divest state of land which is difficult to manage because of isolation, access or conflicts with adjacent uses.
- . Acquire land which has high potential for revenue production such as multiple-use potential, commercial potential and development potential.

LAND PATTERN REVIEW AND EXCHANGE CRITERIA

Three types of exchange criteria are used (retention, disposal, and acquisition) as guidance in categorizing trust lands and in making decisions concerning specific land pattern adjustment actions.

The criteria will be applied on an interdisciplinary basis. This requires consideration of all trust values, but since all values are not normally represented on every tract of land, trade-offs between trust values will usually be necessary when making decisions on specific land adjustment actions. Such trade-offs will be based on a hierarchy of values defined below:

1. Requirements of applicable laws, executive orders, regulations, and board policy will be followed.
2. Exchange priority will be determined by the area directly affected and the significance of the trust values.
3. A higher level of significance will be assigned to resource values if they are affected over an area larger than the specific tract being considered for land adjustment action.
4. Trust value losses which cannot be mitigated will be assigned a higher level of significance than those which can be mitigated.
5. A higher level of significance will be assigned to trust values which are associated with solving chronic management problems.

A. Retention Criteria

These are lands which will generally not be considered in the development of exchange proposals. They will remain in state ownership and continue to be managed by the department. The department is interested primarily in exploring exchange proposals which have the potential to improve manageability and income potential of existing state-owned areas with important trust values. Although the underlying management mandate is long-term state ownership, adjustments involving exchanges of lands may occur when the trust interest is better served, including:

1. Location of significant economic importance to the trust, including but not limited to:
 - a. Tracts with significantly producing or potential mineral resources, including oil or gas;
 - b. Tracts with significant existing or potential trust values regarding cropland, rangeland, timberland or other beneficial development-related opportunities.
2. Location where management is cost-effective and trust values continue to benefit the State of Montana.
3. Location where future exchange proposals will lead to further consolidation and improvement of land patterns and management efficiency.
4. Location which the board considers suitable for permanent state ownership.
5. State-owned lands that contribute significantly to the stability of the trust income.

6. Location which provides suitable access and contains development or other trust-related values which, when considered together, warrant their retention.

B. Disposal Criteria

These are lands identified for potential removal from trust ownership through exchange with federal, state, county or local public entities, as well as proposals by private individuals. Disposal decisions will be made in the trust interest based upon the following criteria:

1. Land specifically identified through land exchange evaluation reports.
2. Lands of limited trust value.
3. Widely scattered tracts which are difficult for the department to manage beyond minimal custodial administration, and which have no significant trust values.
4. Lands with high non-trust values best suited for management by other state, federal, or local government, private organization or individual.
5. Lands where disposal would aid in aggregating or repositioning other state-owned lands or trust values to facilitate accomplishment of trust objectives.
6. Lands with long-term significant use or development-related environmental conflicts, if lands to be acquired in exchange are free of such conflicts.

C. Acquisition Criteria

These criteria are used to evaluate proposals which would result in the acquisition of lands through exchange. They help to assure that any board decision to acquire a tract of land provides significant trust benefits.

1. General Criteria for Acquisition through Exchange. All exchange proposals will be evaluated to determine if the acquired lands will:
 - a. Facilitate improved access to state-owned lands retained for long-term trust use.
 - b. Be primarily focused in location of existing state-land ownership.
 - c. Facilitate department trust management priorities.
 - d. Stabilize or enhance trust income opportunities or values.
 - e. Meet long-term land management goals as opposed to short-term.
 - f. Be of sufficient size to improve use of adjoining state-owned lands or, if isolated, large enough to allow the identified potential land use.
 - g. Allow more diverse use, more intensive use, or a change in uses to better fulfill the department's trust-related management mandates.
 - h. Enhance the opportunity for new or emerging land uses or trust values.
 - i. Secure for the trust significant multiple-use, commercial, or development-related land interests.

APPENDIX "B"

September 19, 1989 Agenda Item and Land Board Minutes

Agenda Item

BROKEN-O RANCH LAND EXCHANGE PROPOSAL

During the fall of 1988 Department staff met with Mr. Joe Kraft, a real estate broker and owner of Holiday Realty in Great Falls, Montana. Mr. Kraft's interest was to accomplish a land exchange on behalf of Mr. William E. Moore who had recently purchased the Hamilton Ranch and other properties between Augusta and Simms. These purchases have resulted in the Broken O Ranch which covers approximately 133 square miles or 85,000 acres. Within this extensive ownership, there are 11,300 acres of state school trust lands. In February 1989, Mr. Kraft submitted an exchange proposal on behalf of the Broken O Ranch.

In this proposal the State of Montana would obtain consolidated dryland crop acreage which has legal access and demonstrated high yielding small grain production. Three separate farm units are being offered to the state. The total acreage of these farm units proposed for state acquisition amounts to 2931.59 acres.

The state land that Mr. Moore would like to acquire consists of medium quality native rangelands and dryland agriculture. The total school trust acreage involved in this exchange has been reduced from the originally proposed 11,300 acres to 10,275 acres. This reduction was due to the elimination of tracts bordering on the Sun River (a navigable river) and tracts currently leased by persons other than Mr. Moore. All of the tracts now proposed for exchange are currently leased to the Broken O Ranch. The majority of the state land in the exchange proposal lies within Lewis and Clark County, with a small portion lying in Teton County. The state tracts being considered for disposal are listed in attachment "D" by legal description and are delineated in blue on attachment "E".

Mr. Moore has contracted for market value appraisals to be conducted on all lands being considered in the exchange proposal. The appraisals have been completed on all of the state lands and most of the deeded lands. The state lands have been appraised at \$1,066,632. The Collins and Chouteau units have a combined value of \$904,312. The Pondera Unit, which has not yet been appraised, is expected to be valued at approximately \$225,000. The total value of those lands proposed for acquisition by the state is approximately \$1,129,312. The finalized exchange proposal, if preliminary Board approval is obtained, will contain some adjustments in acreage to bring the values as close as possible.

INCOME COMPARISONS

The state's share of production from the subject state land is an estimated 2,283 AUMs and 7,154 bushels of wheat. This estimate of wheat production assumes that the state land is producing the equivalent of the ten-year average for Lewis and Clark County (based on Montana Agricultural Statistics data) and that each acre of agricultural land is summer fallowed every other year. Assuming a rental rate of \$3.89 per AUM and a price of \$4.00 per bushel of wheat, this state land has an annual trust income potential of approximately \$37,500. Of the total estimated income, \$9,000 is attributed to grazing rentals and \$28,500 is attributed to agricultural rentals.

The state's share of production from the land being offered for state acquisition is approximately 14,275 bushels of wheat. This estimate is based on the yields of 45 and 37 bushels per acre for Tract I and Tract II respectively, with each acre being fallowed every other year. Assuming a price of \$4.00 per bushel, this land has the potential to produce approximately \$57,000 for the trust.

The above income comparison shows that the "trust" will obtain a fifty two percent increase in annual income.

Items of concern that Department staff will be studying carefully if this exchange is granted preliminary approval are:

1. The potential tax losses to Teton and Pondera Counties;
2. The amount of agricultural acres proposed for disposal by the state (the department may determine that it is not in the state's best interest to exchange these agricultural acres for similar acres elsewhere);
3. The potential for future recreational or other currently unrecognized income from the state lands proposed for exchange;
4. The possible significant archaeological sites which may exist on the state lands;
5. The existence of and potential value of minerals on the state lands.
6. The difference between the acreage exchanged and acreage acquired.

The benefits of an exchange of this magnitude stand out quite clearly. Revenue projections show a substantial increase in revenue to the school trust and access would become less of a problem due to the consolidated parcels which would be acquired. Administration and management of three blocks as proposed would be easier and more cost effective than the current administration and management of twenty separate parcels. The Commissioner therefore requests that preliminary approval be granted to this exchange. If approved, department staff will begin the environmental review process, contact County Commissioners, conduct public hearings, and finalize the appraisals. Final approval of this exchange will rest with the Board of Land Commissioners.

Land Board Minutes
989-5 BROKEN-O LAND EXCHANGE PROPOSAL

Commissioner Casey explained to the board that in February 1989, Mr. Joe Kraft, a real estate broker and owner of Holiday Realty in Great Falls, submitted an exchange proposal on behalf of Mr. William Moore who had purchased the Hamilton Ranch and other properties between Augusta and Simms. In this proposal the State of Montana would obtain consolidated dryland crop acreage which has legal access and demonstrated high yielding small grain production. The total acreage proposed for state acquisition amounts to 2931.59 acres.

The total school trust acreage involved in the exchange is 10,275 acres. The appraisals have been completed on all of the state lands and most of the deeded lands. The state lands have appraised at \$1,066,632. The total value of those lands proposed for acquisition by the state is approximately \$1,129,312. The finalized exchange proposal, if preliminary board approval is obtained, will contain some adjustments in acreage to bring the values as close as possible.

The state land has an annual trust income potential of approximately \$37,500. Of the total estimated income, \$9,000 is attributed to grazing rentals and \$28,500 is attributed to agricultural rentals. The land to be acquired has the potential to produce approximately \$57,000 for the trust. The above income comparison shows that the "trust" could obtain a fifty two percent increase in annual income.

The benefits of an exchange of this magnitude stand out quite clearly. Revenue projections show a substantial increase in revenue to the school trust and access would be less of a problem due to the consolidated parcels which would be acquired. Administration and management of three blocks as proposed would be easier and more cost effective than the current administration and management of twenty separate parcels.

Ms. Keenan asked that a progress report on this land exchange be brought to the Board for its review.

Mr. Racicot moved the Board give preliminary approval to the Broken-O Land Exchange to begin the environmental review process, contact county commissioners, conduct public hearings, and finalize the appraisals. Final approval of this exchange will be brought back to the board. Seconded Mr. Cooney. Unanimous.

APPENDIX "C"

October 18, 1990 Agenda Item and Land Board Minutes

Agenda Item

BROKEN - O LAND EXCHANGE UPDATE

At the September 19, 1989, meeting, the Board granted preliminary approval to the exchange of 11,300 acres of school trust land (primarily grazing lands) to Mr. William E. Moore (Broken - O Ranch owner) in return for 2931.59 acres of deeded agricultural lands. The proposed exchange was to the advantage of the school trust in annual revenues to the state.

During negotiations on this exchange, a question arose as to whether it is legal to exchange trust lands with an acreage discrepancy as large as proposed in this exchange. The Department's legal staff has determined that the exchange would be legal.

Immediately after the opinion was received, the DSL proceeded with its review by requesting comments from the affected county officials. The Department received comments from Teton and Pondera Counties opposing the exchange because the loss of taxable revenues that would occur with the proposed exchange. Pondera County reported that it would stand to lose \$1,875.80 and Teton reported its loss would be \$4,883.74. Lewis and Clark County is not opposed to the exchange and would expect an increase of approximately \$2,000. Mr. Moore has stated that he has implemented several improvements to his ranch properties in Teton and Lewis and Clark Counties that should at least partially offset the loss in tax revenues resulting from school trust acquisitions. Teton County will also receive an increase in equalization payments as a result of this exchange. Mr. Moore or his representative will attend the Board meeting to respond to questions by the Board. The Teton, Pondera and Lewis and Clark County Commissioners have also been invited to attend.

The Department of Fish, Wildlife and Parks has indicated that, in general, it has few concerns with the exchange. However, it does feel that the proposed exchange would be a net loss in wildlife habitat and recreational opportunity for State Lands. DFWP also recommended that those sections of state land currently blocked together not be disposed of.

Mr. Moore and the Department have discussed and agreed that no mineral rights will be transferred with the exchange. The State will retain all mineral rights, including sand and gravel, on the current trust lands and the current owners of the deeded lands will retain their mineral rights. Mr. Moore has requested assurance from the state that it will implement all reasonable measures to mitigate the damage to the surface owner from mineral development. The Department has determined that the state reclamation laws will give Mr. Moore the protection he deserves.

In order to complete this land exchange review and provide a recommendation to the Land Board the DSL must complete the environmental review, which will include field reviews and public hearings. The general field reviews and public hearings will be time consuming for the Department. Detailed archaeological surveys are required and will be impossible for the Department to complete in a timely fashion. Mr. Moore has agreed to contract the archaeological surveys, if the exchange stands a good chance of final Land Board approval. The contracting of these archaeological surveys represents a large expense with little value to Mr. Moore should the exchange not be approved. Mr. Moore has been informed of the concerns expressed by the counties and the DFWP. The Department has informed Mr. Moore that these concerns have been factors in terminating other exchange proposals in the past. Therefore, the Department and Mr. Moore agreed to bring these concerns before the Board at this time to determine the Board's wishes. Mr. Moore understands that any determination

made by the Board at this time does not constitute final approval of the exchange. Approval of the Board to continue the exchange indicates that the Board believes that the concerns expressed at this time may be mitigated or overridden by the benefit to the school trust and the state as a whole.

The Commissioner is requesting guidance from the Board on whether the Broken - O Land Exchange should be pursued further in light of the concerns expressed at the current time.

Land Board Minutes
1090-1 BROKEN-O LAND EXCHANGE UPDATE

At the September 19, 1989 Land Board meeting the Board granted preliminary approval to the exchange of 11,300 acres of school trust land (primarily grazing lands) to Mr. William E. Moore (Broken - O Ranch owner) in return for 2931.59 acres of deeded agricultural lands. The proposed exchange was to the advantage of the school trust in annual revenues to the state.

The DSL received comments in opposition to the exchange from Teton and Pondera Counties due to the loss of taxable revenues that would occur with the proposed exchange. Pondera County reported that it would stand to lose \$1,875.80 and Teton County reported its loss would be \$4,883.74. Lewis and Clark County is not opposed to the exchange and would expect an increase of approximately \$2,000. Mr. Moore has stated that he has implemented several improvements to his ranch properties in Teton and Lewis and Clark Counties that should at least partially offset the loss in tax revenues resulting from school trust acquisitions. Teton County would also receive an increase in equalization payments as a result of the exchange. The Department of Fish, Wildlife and Parks felt the proposed exchange would be a net loss in wildlife habitat and recreational opportunity for state lands. It also recommended that those sections of state land currently blocked together not be disposed of.

The state would retain all mineral rights, including sand and gravel, on the current trust lands and the current owners of the deeded lands would retain their mineral rights.

In order to complete this land exchange review and provide a recommendation to the Land Board, the Department must complete the environmental review, which would include field reviews and public hearings. The general field reviews and public hearings would be time consuming for the Department. Detailed archaeological surveys are required and would be impossible for the Department to complete in a timely fashion. Mr. Moore has agreed to contract the archaeological surveys, if the exchange stands a good chance of final land board approval. The contracting of these archaeological surveys represents a large expense with little value to Mr. Moore should the exchange not be approved. Mr. Moore has been informed of the concerns expressed by the counties and DFWP. The Department as informed Mr. Moore that these concerns have been factors in terminating other exchange proposals in the past. Therefore, the Department and Mr. Moore agreed to bring these concerns before the Board at this time to determine the Board's wishes. Mr. Moore understands that any determination made by the Board at this time does not constitute final approval of the exchange. Approval of the Board to continue the exchange indicated that the Board believes that the concerns expressed at this time may be mitigated or may be over-riden by the benefit to the school trusts and the state as a whole.

The Commissioner stated that he is requesting guidance from the Board on whether the Broken-O Land Exchange should be pursued further in light of the concerns expressed at the current time.

Mr. Racicot asked what was the advantage of the exchange to the trust?

Commissioner Casey stated that revenue to the trust would increase substantially.

Governor Stephens asked what was the Department's recommendation?

Mr. Casey stated that to continue with the exchange would be in best interest of State. Teton County would lose nearly \$5,00, off the tax roles and that can't be taken lightly. However, Mr. Moore has made some improvements that will benefit Teton County. Mr. Casey stated that Mr. Moore is present and, if there are obstacles and the exchange can't continue, Mr. Moore would like to know.

Mr. Racicot stated that he is inclined to do the best we can to enhance school trust income.

Mr. Cooney moved Board approval of continuing with the exchange process. Seconded Ms. Keenan. Unanimous.

APPENDIX "D"

DS-434
Amended 11/26/88

AGREEMENT NO. _____

LEASE OF STATE LANDS

This lease is entered into by the State of Montana, as lessor, and the person herein named, as the lessee.

Date this lease takes effect:

Name of Lessee: _____

Address or Box No.: _____

City/State/Zip: _____

Land Located in _____ County.

DESCRIPTION	Sec.	Twp.	Rge.	Acres

Total number of leased acres, _____ more or less belonging to _____ Grant.

Grazing Acres: _____ Agricultural Acres: _____ Unsuitable Acres: _____

Terms of Grazing Use and Rental Rate:

Terms of Agricultural Use and Rental Rate:

Purpose for which the land is leased:

Term of lease: _____ Date of expiration: _____

THIS LEASE HAS A CARRYING CAPACITY OF _____ ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.

The State of Montana, in consideration of the payment of rentals as specified in this lease and the mutual agreements contained in this lease hereby leases the above-described lands to the lessee(s) named above.

The lessee(s) in consideration of the lease of the above-described lands and the mutual agreements contained in this lease hereby agrees to pay the rentals as specified in

the lease and to perform all the conditions as specified in this lease, the applicable rules and the applicable statutes.

The parties to this lease mutually agree to the following terms and conditions:

1. ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.

2. ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.

3. CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.

4. SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.

(a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN XLOSSOF THE PREFERENCE RIGHT

(b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED.

(The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)

5. REPORTS--Lessee is required to submit reports as requested by the Commissioner, including seeding and production reports. Failure to submit such reports may result in cancellation of the lease.

6. CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year Other crops, including hay, are to be disposed of at the going market price unless otherwise directed If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the department of such grazing may be cause for cancellation of the lease.

7. FEDERAL FARM PROGRAM COMPLIANCE--If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payments or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license, he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon

a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.

8. IMPROVEMENTS--The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an improvement permit by the Department. A report of proposed improvements, containing such information as the Commissioner may request concerning the cost of the improvements, their suitability for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Commissioner before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.

9. LIENS ON BUILDINGS AND CROPS--The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.

10. COMPENSATION FOR IMPROVEMENTS--(a) If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements as of the time the new lessee takes possession thereof. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents (\$2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Commissioner of State Lands who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Commissioner shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.

(b) If the former lessee does not remove the improvements on the land or beg i n arbitration procedures within sixty (60) days from the date of the expiration or termination of his lease, then all improvements shall become the property of the state unless the Commissioner for good cause shown shall grant the additional time for the removal thereof.

(c) Before a lease is issued for land which has formerly been under lease, the new lessee shall show to the satisfaction of the Commissioner that he has paid the former lessee the value of the improvements as agreed upon by them or as fixed and determined by the arbitrators as herein provided or that he has offered to pay the value of such improvements as so fixed and determined or that the former lessee elects to remove the improvements.

(d) Summer following (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.

11. ASSIGNMENT OF LEASE--If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the blanks provided for that purpose by the Commissioner, but no such assignment shall be binding on the state unless the assignment is filed with the Commissioner, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a

properly executed assignment which must be approved by the Commissioner prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.

12. RENEWAL LEASE--If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Commissioner be entitled to have this lease renewed at any time within thirty(30) days prior to its expiration for an additional period of not exceeding ten years, and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.

13. CANCELLATION OF LEASE BY THE STATE--The Commissioner shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Commissioner makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-21 1, MCA.

14. LANDS MAY BE SOLD--The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.

15. RESERVATION--The state reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include but are no limited to the following:

(a) MINERAL AND TIMBER RESERVATION--All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.

(b) ADDITIONAL RESERVATIONS--The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and powerlines now constructed, or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing

gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.

16. NOXIOUS WEEDS AND PESTS--The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-6-114 MCA, which provides as follows. "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

17. FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land.

18. UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States, such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.

19. SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peaceably yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.

20. INCREASED RENTAL--If the Montana Legislature raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Commissioner in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Commissioner should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Commissioner's determination, and to decrease livestock numbers accordingly.

21. INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties, fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.

22. LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.

23. MULTIPLE-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease.

24. LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.

25. SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Commissioner of State Lands, Pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the said Board of Land Commissioners this _____ day of _____, 19

LESSEE SIGNATURE

ADDRESS OR BOX NO.

CITY STATE ZIP CODE

COMMISSIONER OF STATE LANDS

by: _____

PUBLIC COMMENTS

Public comments were accepted on the Draft Environmental Assessment from October 25, 1991, through November 25, 1991. Additionally, a public hearing was held at the Simms High School on November 18, 1991, to accept oral comments.

22 written comments were received and 21 oral comments presented at the public hearing in Simms. Of those comments, 35 supported no exchange or Alternative A, 3 supported Alternative C, and 5 made only general comments, not supporting any specific alternative. There were no comments in support of Alternative B. Mr. Moore has subsequently withdrawn his original proposal (Alternative B), and wishes only to pursue Alternative C with the addition of one parcel.

All comments were reviewed and considered. Comments requiring responses were those that:

1. Related to the appraised values of both the state and Broken O Ranch lands.
2. Identified water and water rights issues.
3. Indicated concerns regarding a reduction of acreage base to the state.
4. Involved recreational access issues.
5. Identified legal access problems to the Pondera Unit and the loss of taxable valuation in Pondera County.
6. Involved income to the school trusts.
7. Questioned the cost to the state to administer exchanges.
8. Recommended reasonable new alternatives.

The following is a brief summary of these issues and responses to the questions raised. Since Mr. Moore has withdrawn Alternative B from consideration, the responses will be specific to those lands included in Alternative C.

1. Appraised Values

Several individuals expressed concern regarding the appraisals for this exchange. These appraisal issues pertained to:

- The values assigned the Broken O cropland versus those set on the state's cropland.
- The value of the grazing land being too low.
- The values for wildlife, recreation and irrigated cropland not being considered.
- The values for the state grazing land being based on their potential for conversion to cropland.

Discussion:

An updated appraisal has been completed by N. Clark Wheeler & Associates for the lands included under Alternative C and for the additional tract that Mr. Moore requested to be included.

In this new appraisal, the value of the state grazing lands has been determined to be \$80 per acre. This gives a total value for the 6,649 rangeland acres (rounded) in Alternative C of \$531,920 (there are no state cropland acres included in this alternative). This is an increase of \$75,888 over the original appraised value of \$456,032. The increase is primarily due to the fact that Mr. Wheeler determined that the discount which had originally been applied to some of the state land for accessibility and physical characteristics was in fact, not applicable.

The Collins Unit contains 1,136 acres of cropland. The new appraisal set a value of \$470 per acre for a total Unit value of \$534,000 (rounded). This is a decrease of \$6,000 from the original appraised value of \$540,000.

The question of consideration for values such as wildlife and recreation were also posed to Mr. Wheeler for response. Mr. Wheeler offered the following explanation in accounting for these values:

"As discussed in our highest and best use analysis of the appraised properties, they are in an agricultural area with no alternative use potential exhibited. Inherent in this use are recreational or wildlife features typical of the lands and their location."

"The comparable sales used to establish value are selected due to their comparable use and location, and they to possess these inherent uses; thus, they are reflective of whatever value recreational or wildlife use may contribute."

"The subject market area does not reflect any sales affected by special wildlife resources or use, and the market participants are motivated and prices are controlled by agricultural use. I have received no data to suggest any of the appraised lands possess any unique wildlife features that would suggest any special consideration."

"When wildlife resources are apparent in a market, it is reflected by the sales' per-acre sale values and not addressed separately."

The issue of valuing the state lands based on their potential of being converted to cropland was also discussed with Mr. Wheeler.

In his appraisal of the state lands, Mr. Wheeler included a number of comparable sales where Mr. Moore had purchased other grazing lands. These rangelands would possess similar potential for conversion to cropland. However, the prices paid by Mr. Moore were not substantially different than those paid by other parties for rangeland. As such, Mr. Wheeler felt that the market did not reflect an increased value for rangeland based on its potential conversion to cropland.

2. Water Issues

The issue was raised regarding the potential for new irrigation by the Broken O Ranch on lands which might be acquired from the state. Another comment recommended that the exchange be delayed until the adjudication of the Sun River Basin is complete.

Discussion:

The Broken O Ranch may be able to move its Nilan Reservoir water to State lands acquired under Alternative C with permission from the Nilan Board of Directors. Irrigation of acquired State lands would be restricted to areas where conveyance ditches exist for Nilan Reservoir water.

The Broken O Ranch can apply for permits through the Department of Natural Resources and Conservation to appropriate surface water and ground water or to change the place of use of an existing water right. A surface water permit probably would not be issued because Montana Power has claimed all excess water in the Sun River drainage with a prior water right for hydroelectric power generation. The Montana Power water rights are being adjudicated at this time. A groundwater permit could be obtained if this water is not tributary to surface water. A permit to change the place of use of an existing water right could be granted if it can be shown that this right will cause no adverse impact to the operation of other water rights.

Most of the State tracts that the Broken O Ranch would acquire under Alternative C are not susceptible to economical irrigation nor do these tracts have systems available to deliver surface water.

Because the irrigated State tracts are not offered under alternative C, with the exception of the 40 acre tract in Section 34 T21N R5W, there should be minimal or no impacts to other "historical water rights" being adjudicated through the Montana Water Court.

3. Acreage Reduction

Several of those individuals providing comments on the Environmental Assessment expressed concern that the land exchange represents a net reduction in state acreage. Under Alternative C, the total acreage the state will acquire is substantially less than the total acreage the state will dispose of. There is concern that this sets an undesirable precedent and that continuation of this policy would eventually lead to significantly less trust ownership statewide. Increasing land values and the recent interest in recreational opportunities on state lands emphasizes the importance of maintaining a broad base of state owned lands. There is concern, therefore, the exchange is not in the best interests of the state.

Discussion:

The acreages proposed for exchange under alternative C is as follows:

Alternative C: Modified Exchange

State will dispose of:	6,648.50 acres
State will acquire:	<u>1,160.55 acres</u>
Net reduction:	5,487.95 acres

Under Alternative C the state would dispose of 5.73 acres for every acre acquired.

The acreage "imbalance" in the exchange alternatives represents the differences in appraised values, existing uses and potential income between the state and private lands proposed for exchange. The lands the state would acquire are generally higher valued, more productive agricultural lands that are consolidated. The lands the state would dispose of are generally lower valued, scattered grazing tracts. Consequently there are more state acres that would be disposed of than acquired. Alternative C has a ratio of 5.73 acres disposed per 1 acre acquired because the state land included in this proposal is primarily scattered grazing with no legal access and the property the state would acquire is the most productive of those proposed.

The authority to exchange state land for private land is found in 77-2-203 MCA as follows:

"77-2-203. Exchange for private land. (1). The board is authorized to exchange state land for private land provided that the private land is of equal or greater value, as determined by the board after appraisal by a qualified land appraiser, than the state land and as closely as possible equal in area. The contents of the appraisal

must be made available to any person, who makes a written request to the board. The board shall place priority on exchanges which result in consolidation of state lands into more compact bodies. This section does not apply to exchanges undertaken under 76-12-107". (Natural Areas)

The emphasis for exchange is to acquire lands that have equal or greater value, with greater income potential. In addition, this exchange consolidates state ownership. It is not reasonable to assume that all proposed land exchanges will have equal acreages. Certainly when highly productive lands are exchanged for less productive lands there will be a discrepancy in acreage.

There have been previous land exchanges approved by the Land Board that included acreage discrepancies. The land board approved an exchange in 1988 that transferred 480 acres of state grazing land for approximately 140 acres of agricultural land. Conversely the board is currently considering an exchange that would involve 56.4 acres of state land for 320 acres of federally owned lands. This current exchange proposal, if approved, therefore will not set a precedent.

The state land acreage included in these alternatives represents a small percentage of the total 5,163,872 acres of land ownership. The percent reduction of state land proposed in Alternative C is 0.11%.

4. Recreational Access

A number of the comments submitted were concerned about the loss of state land available for recreational use.

Discussion

As outlined in the Environmental Assessment, under Alternative C, the state would exchange 1,308.15 acres which are legally accessible and 5,487.95 acres which do not have legal access, and receive 1,160.55 acres all of which have legal access. This results in a net loss to the state of 147.6 acres with legal access. Additionally, the potential for recreational use of the lands the state would receive are diminished because they are predominately cropland.

Although the state would be disposing of some lands with legal access, many of them are the smaller, isolated tracts which meet other department criteria for exchanges.

5. Access to the Pondera Unit and loss of taxable value to Pondera County

There were concerns about the state acquiring lands which did not have public access. Also if this unit were to become state owned, there would be a loss of taxable value to Pondera County.

Discussion

Since Alternative B has been withdrawn from consideration, the Pondera Unit will not be acquired by the state.

6. Income to the Trust

Some of the comments received raised the issue of income to the trust. Some felt that grazing lands offered a more stable income over cropland. Others felt that income to the trust and not recreational access, should be the major consideration in exchanges.

Discussion

One of the primary goals set by the Board of Land Commissioners for land exchanges, is to increase revenue to support education in Montana. Under Alternative C, the lands which the state would exchange to the Broken O Ranch generate approximately \$6,500 in annual grazing rental. The lands the state would acquire are estimated to generate \$16,065 yearly from agricultural production. If these agricultural lands were leased at higher than the minimum crop share of 25%, then this income could be expected to be higher.

Rentals received by the state for both cropland and grazing leases are subject to the yearly fluctuations of agricultural commodities. The grazing rental the Department sets each year is based on the price of beef cattle in Montana for the previous year. Since most agricultural lease are on a crop share basis, the yearly rental received is influenced by state, national and international events which affect crop prices, the yearly climatic trends, and the provisions of the Federal Farm Program.

Even though grazing rentals might be considered more stable than those from agricultural lands, the potential revenues are so much greater from cropland that even with reduced commodity prices or impacts from weather occurrences, the long term revenue expectation from cropland are still greater than those from grazing lands.

7. Cost to Administer Exchanges

Several comments questioned whether the state should be spending money on exchanges. There also was a concern that if this

exchange was approved, there would be a flood of exchange proposals submitted to the Department.

Discussion

As stated earlier, the authority for land exchanges is provided for in 77-2-203, MCA, with the discretion to consider land exchanges held by the Board of Land Commissioners. The proposal for this exchange was submitted to the Department in February, 1989, and subsequently presented to the Land Board at its September, 1989 meeting. At that time, preliminary approval was given to proceed with necessary reviews.

Since land exchanges are not a statutorily mandated program, the Department does not have a staff to specifically process exchanges. The reviews and analysis involved in exchanges are completed by various department employees as time is available to do so. As such, the time necessary to complete an exchange is generally long, especially on larger or controversial exchanges.

Even if the Department sees an increase in exchange proposals, they will continue to be reviewed and processed on an as time allows basis. However, any future budget reductions may cause the Department to reassess whether exchanges proposals should even be considered. For any future exchanges, the department will continue to require that the appraisals and cultural review be paid for by the party proposing the exchange. The other associated costs are considered to be included in the normal operating costs of the Department.

8. New Alternatives

Mr. Moore has withdrawn his original exchange proposal (Alternative B), and has requested that the Department consider Alternative C with the addition of 25.95 acres north of the highway in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 20 North, Range 5 West. This tract contains 10 acres of irrigated hayland and 15.95 acres of grazing.

Discussion

The addition of this tract to Alternative C does not greatly influence the nine issues which were discussed in this environmental analysis. The following is a summary of environmental consequences which would be expected by adding this tract to Alternative C.

Soils/Land Use/Classification: The soils for this tract consist of 8 acres of Class IIIe/VIIIs complexes and 17.95 acres of

Class VIw. They do not meet the Department's criteria for conversion to cropland.

Water: There is an existing water right for this tract and approximately 10 acres are either irrigated or sub-irrigated. Any change in the use of water rights or new appropriation of water will require a permit issued by the Department of Natural Resources and Conservation.

Wildlife and Wildlife Habitat: As stated in the Environmental Assessment, there are no anticipated impacts to wildlife as a direct result of this exchange. Concerns raised regarding wildlife habitat are related to potential changes in land use.

Socioeconomic: Adding this tract to Alternative C would result in a reduction to the state of an additional 25.95 acres for a total loss of 5,513.9 acres of land base. This tract generated approximately \$300 in revenue in 1991.

Including this tract in Alternative C meets certain Department criteria for exchanges and conflicts with others. While this is a smaller isolated tract, by disposing of it, the state would be left with a 14.05 acre tract south of the highway. Also, the irrigated hayland acres in this tract offer a higher income to the trust.

Tax Base: Lewis and Clark County would see a slightly larger increase in taxable value if this tract was included in Alternative C.

Cultural Resources: Protective covenants will be placed on any cultural sites which might be found on this tract and which are potentially eligible for the National Register of Historic Places.

Minerals Potential: This exchange does not involve the transfer of any mineral rights. By splitting these estates, there may be future problems should there be mineral exploration or development on any of the exchanged lands. Including this tract, increases the number of acres of split estate.

Recreational Access: Since this tract has legal access, by including it in Alternative C, the state would be exchanging a total of 1,334.1 acres with legal access. Since the state would receive 1,160.55 acres with legal access, there would be a net loss of 173.55 acres with public access.

Appraised Values: The updated appraisal submitted by Clark Wheeler appraised this land at \$80 per acre, for a total tract value of \$2,080. The updated appraisal set a value for the state lands included in Alternative C at \$531,920. The Collins Unit value was determined to have decreased to \$534,000. Therefore, if this tract was included in Alternative C, the state would be disposing of lands valued at \$534,000 in exchange for lands valued at

\$534,000.