

DNRC-Trust Land Management Division

CHECKLIST ENVIRONMENTAL ASSESSMENT

<b>Project Name:</b>	Boutilier ROW Easement (private driveway)	<b>RECEIVED</b> SEP 10 2004 LEGISLATIVE ENVIRONMENTAL POLICY OFFICE
<b>Proposed Implementation Date:</b>	August 2004	
<b>Proponent:</b>	Douglas Boutilier on the behalf of his daughter and son-in-law	
<b>Location:</b>	S 27 T.10N. R.4W.	
<b>County:</b>	Lewis and Clark	

**I. TYPE AND PURPOSE OF ACTION**

Douglas Boutilier wishes to obtain an easement for a private driveway across State land in S27 T10N R4W. The proposed easement would be from Lombardy drive and proceed South along the State boundary then West along the North boundary of the State tract to the proposed new residence. Following comments at the April 19, 2004, Land Board meeting, DNRC was directed to consider additional alternatives and present them to the Board for preliminary approval at the May 17, 2004, meeting.

**II. PROJECT DEVELOPMENT**

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

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

Comments were sought from Co. planning, adjacent owners, the proponent, and Morrison-Maierle Inc. The adjacent landowners contacted by mail (Sept. 2003) included: Donald and Elaine Hurd, Gregory and Stefani Gosslee, Louis and Kathleen Yankoff, Donald and Gina Tweden, Danny and Sharon Mercado, Myron St. John, Kenneth Hill, Wayne and Christy Weikart, Ralph and Dorothy Johnson, Walter and Kathleen Goodman, Roxanne Hiesterman, Bobb and Charline Lawrence, Ralph and Linda Gardner, Thomas and Edith Dundas, Keith and Myrtle Robinson, Neal Hurni, and Edward and Patricia Mills.

Doug Boutilier presented public comment to the Land Board at the April 19, 2004, meeting. A revised proposal was then prepared and sent to the parties listed on the attached mailing list, **Attachment B**. Copies of the scoping notice are also attached.

DNRC staff also met personally with the following persons: Duane Harp, District Ranger and Kurt Cuneo, Helena National Forest; Andy Bowen, Prickly Pear Land Trust; Randy Lilje, Helena Parks Department.

A meeting to discuss recreational access implications of the new alternative was held on May 21, 2004, with DNRC, USFS, City Parks, and the Prickly Pear Land Trust in attendance.

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

For the current proposal, which is only the private driveway easement, no other agencies have jurisdiction. The LeGrande trail component of alternative 3a), because it would ultimately connect to a trail on the USFS lands, would require their joint analysis and approval.

**3. ALTERNATIVES CONSIDERED:**

The State would only have jurisdiction on State Land. Alternative 1 is included as a possible outcome of alternative 4.

- 1) Access to the proposed residence entirely on the Boutilier property from Highway 12.
- 2) Access as proposed, entering the state land on the existing easement, thence following a centerline which parallels the state property line south and west, to reach the subject property.
- 3) Access across the State Tract to the East of the proposed route.

- 3a) Following the April 19, 2004 Land Board Meeting, DNRC was directed to carryout more conversations with Mr. Boutillier, to resolve some of the contentious issues that resulted in the previous decision to recommend of his request. This resulting alternative includes the following actions.
- Construct 2996.64 feet of private driveway, with a 30 foot easement width, along a route which would potentially compliment future development options upon the trust land.
  - Establish a fenced, but otherwise undeveloped, parking area off Lombardy Drive, to facilitate general recreational access to the trust lands.
  - Provide funding for the eventual purchase and construction of a public trail easement connecting an access point on LeGrande Cannon with trails on USFS lands south of the trust land.
- 4) Not issuing an easement. (See Alternative 1)

### III. IMPACTS ON THE PHYSICAL ENVIRONMENT

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

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

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

Soils in this area are relatively coarse and subject to washing if adequate drainage is not provided for.

Alt. 1) Would have more disturbance than all alts, (but all on private land), due to steeper sideslopes, (30-40%), steep grade of the initial portion of new construction and the existing driveway. Adequate drainage would be difficult to maintain because of the extreme grade. It should be noted the existing driveway makes up the largest portion of the steep grades in this alternative. (The state can not select Alternative 1, but Alternative 1 is the potential result of the No Action Alternative, i.e. Alternative 4.)

Alt. 2) would require a longer length of new construction than alt 1 but would be located on gentle sideslopes and a reasonable grade. Adequate drainage would mitigate any impacts.

Alt. 3) would require a slightly longer length than alt. 2 and slightly steeper side slopes. Adequate drainage would mitigate any impacts.

Alternative 3a) may be considered a revision to Alternative 3. DNRC staff reviewed the tract, to consider potential residential development options and terrain. A route slightly different than the original alternative 3 is now proposed. The new proposal should provide for a road grade of approximately 4%, pitches to 6% and improved opportunities for road drainage control to prevent erosion. Alternative 3a also includes the development of a small parking area off Lombardy Drive, to facilitate public general recreational access, and funding for a trail easement connecting to LeGrande Cannon.

As described above, these soils are highly erosive and future road uses should be considered when design mitigations are planned. Surface run off has the potential to be channeled by road systems, increasing erosion. All draw crossings by roads on this tract should include the installation of 18" diameter corrugated metal pipe culverts. To minimize the potential for repeated site disturbance, culvert lengths should allow for a potential future 24 foot driving surface, culvert placed on existing grade, with 2:1 fill slopes, and rock armored inlets and outlets. Disturbed sites should be seeded with a minimum of 20 pounds per acre of pure live certified weed free seed mix including a combination of native and introduced grass species, to be approved by DNRC prior to application. The road surface drainage plan should include a suitable combination of insloped and ditched; and crowned/tumpike with double ditch cross sections, to ensure that run off is not channeled on the road surface. Maintenance standards should include grading at sufficient intervals to maintain road drainage. Gravel surfacing is not immediately required, but may be specified by the DNRC if neglected maintenance results in repeated rill and gully erosion of the driving surface.

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

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

No impacts are anticipated with any/all alts. There is an existing well on the trust land north of the existing corral area. The route surveyed for alternative 3a) would pass by more than 30 feet to the west of this well head. The road drainage plan must ensure that no road surface drainage is directed toward the well head.

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**6. AIR QUALITY:**

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

A minimal amount of dust could be anticipated during construction in all action alts. On-going road use would cause some dust from passing vehicles, similar to the dust volumes created by existing road uses on other area roads.

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

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

Disturbance could be mitigated in all alts. by seeding to reduce weed potential. No rare plants or types were observed. Noxious weeds, including Spotted Knapweed, Dalmation Toadflax, and Whitetop, are already present on this tract. Mr. Boutilier, as current surface grazing lessee, is responsible through the terms of his lease agreement for the management and control of these and other weeds. If a driveway easement is approved, the standard weed clauses should be modified to require the easement holder to enter into a weed management plan with the Lewis and Clark County Weed District, prior to final easement document execution. The weed plan must be approved by DNRC prior to Weed District approval, and should include annual chemical control actions on the right-of-way and the Lombardy parking area, during any year when weeds are present.

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

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

Elk and deer use the general area, no significant impact is expected in this residential area.

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

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

No impacts are expected. None identified in the project area.

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**10. HISTORICAL AND ARCHAEOLOGICAL SITES:**

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

No sites are listed and none were observed on site visit. Standard easement language would require the easement holder to protect any historical, archaeological or paleontological resources which might be discovered during construction or subsequent use of the easement.

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**11. AESTHETICS:**

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

Alt.1) The majority of this alt. would be on a prominent hillside visible from the Highway 12 corridor and residential areas to the north.

Alt. 2) Would be located on a small ridge with the terminal end on gentler slopes the only part visible from the highway corridor. It would be highly visible to the adjacent owner (Hurd) to the west. The driveway location on the fence line being immediately in front of this parties home, passing across their view out toward the Helena Valley. Impacts could be mitigated by requiring planting of a veg. Screen (shrubs) in the immediate area of the residence.

Alt 3), and 3a) position the driveway below the ridge crest, out of the line of sight from the front of the Hurd residence, but more visible from the rear side of residences along Lombardy Drive.

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

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

The general area is primarily residential. The State tract is currently leased for grazing, but has high potential for development or use as open space, (if development rights are sold to compensate the trust).

The original alternative 3 was discouraged in recognition of this future potential.

Alternative 2 attempted to incorporate guidelines from the DNRC Driveway Policy, which resulted in the route location along the property line. However, it was recognized that this route could also be adverse to future management options.

Alternative 3a is one alternative which may favor future development options for the Trust land. Even though at present, no proposal for development on the State tract exists. The LeGrande trail component of alternate 3a) incorporates long term goals of the Prickly Pear Land Trust to link a trail loop from trails in the Mount Helena City Park to trails on the Helena National Forest. A specific trail location and easement plan can not be suitably analyzed in the short timeframes requested by the proponent and the Board. Specific review of this component involves multiple agencies and organizations, probably with a joint MEPA/NEPA document and decision, since the resulting trail location would include Federal lands. One potential outcome of this future planning effort might be the purchase of a public trail easement across the trust land, with said easement to be transferred to, held, and maintained by the USFS, with the trail constructed to provide for safe use by the public, and environmental protections. While a trail access point can be accommodated at the LeGrande side of the section, the terrain and approach sight distances make the development of a parking area at this location difficult, expensive, and potentially hazardous. Therefore, alternative 3a) does not include a parking area at the proposed LeGrande trail head. If alternative 3a) is selected, the proponent should be required to provide funding for the easement and the trail construction. A 15 foot wide easement of 6485 feet in length (as approximated on the attached map), at a land value of \$2470 would come to \$5515.82. Trail construction estimates run approximately \$5000 total, for a combined estimated cost of \$10515.82.

There may be buried power lines along Lombardy Drive in the vicinity of the proposed driveway construction. The proponent would be required to have these located prior to construction, and pay for any required relocation.

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

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

The State is leasing the tract for grazing. The current leasee is the proponent.

The Department is currently preparing an EIS for its programmatic activities directed by the Real Estate Management Bureau (REMB). This EIS will examine procedures for real estate management and development.

These activities, though they occur on a small fraction of trust lands, have the potential to generate substantial income to the Trusts.

The Department is also currently drafting Administrative Rules, for the implementation of the Land Banking Program §77-2-361 through 367 MCA. This program, approved by the Legislature in 2003 provides a critical tool to facilitate the sale and purchase of trust lands. Both of these processes are on a timeline for final decision by the Land Board late in 2004.

The Department acquired an easement from the previous owner of Lot 11-A as shown on Attachment A-1 from the end of Lombardy Drive to the State property line, as part of a survey dispute and boundary agreement negotiated in September 1998. The survey associated with the agreement indicates the centerline of the easement enters the state ownership at point "97" on the plat. The logical and preferred point for the driveway easement to enter the state tract is a short distance east of this location, passing through a flat area north of the fence which has evolved into a small parking area. Dennis Lay, surveyor has investigated the status of the ownership between the revised state property line and Lombardy Drive, and stated that the state has access across this point.

#### IV. IMPACTS ON THE HUMAN POPULATION

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

#### 14. HUMAN HEALTH AND SAFETY:

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

No significant risks are posed by the project. All small level of risk could be associated with Alt. 1 under certain weather conditions coupled with the existing long extreme grades off highway 12.

Traffic increases, and safety concerns, from the installation of one single family residence, with driveway access to Lombardy Drive, would not be noticeable. Establishment of a public parking area has the potential to increase vehicle traffic on Lombardy Drive more than the one single home use. There are no estimates available to indicate the amount of vehicle traffic which could arise. By not developing the parking area, except for defining it's boundaries with fencing, and not constructing or signing a specific trail from the parking area, it is anticipated that recreational use increases via Lombardy would be minimal.

Lombardy Drive appears to have a full 60 foot easement width, however the maintained driving surface only barely provides for two-way traffic. Traffic increases from this specific proposal should be minimal, with no increased risk.

An advantage of a developed trail off the LeGrande side is that recreational users would not be routed down to and along the edge of Highway 12 west, as would be the end use result of a trail constructed from the Lombardy access point.

While not directly related to the current proposal, the location, alignment and construction specifications for the proposed route in alternative 3a should consider safety and access for a future residential development. If alternative 3a is selected, the construction, if not immediately up to these standards, must be compatible with minimal additional investment by the department.

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

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

A minor reduction of grass production would occur on the traveled way in the action alts, (less than 1AUM).

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

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

None

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

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

None, it is anticipated that the proponent's daughter and son-in-law would eventually build a home either here or elsewhere regardless of this decision, yielding no net effect.

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**18. DEMAND FOR GOVERNMENT SERVICES:**

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

Alt 1) would slightly increase traffic to Highway 12 but impacts would not be significant since it only serves one additional residence. Some impacts to emergency response and service providers could be experienced at times due to the existing extreme road grades in this alternative.

Alt. 2&3 would slightly increase traffic to Lombardy Dr. but impacts would be minimal since they would only serve one additional residence. Scoping indicates a concern of local residents that the use of the easement could be expanded beyond one residence. This could be mitigated by easement language linking use to a single residence on the subject property.

As of May 2004, the plat to officially create the "gift tract" in the corner of the current Doug Boutilier ownership has not been filed with the Lewis & Clark Clerk and Recorder. The easement should clearly state that access is provided only to the described tract once established and it be strictly limited to provide access to one single family dwelling. Any proposed expansion of the easement to additional lots on the current Boutilier ownership would require additional public review and analysis.

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

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

The county indicates no zoning in affect in this area and none anticipated in the near future.

The grazing lessee has entered into a supplemental lease agreement to address the existing weed problem.

The DNRC has a private driveway policy (June 19, 1995).

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

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

The State tract is legally accessible and would remain so under all alts.

The State land is accessible for recreational use via an easement connecting to Lombardy Drive, and contact with the LeGrande Cannon right-of-way. Administrative Rules governing the recreational use of trust lands already would allow licensed recreationists to park within 50 feet of the access point. In this instance, the access point currently available is the gate on Lombardy Drive on the north property line of the State land. Members of the public who possess either a recreational use license, or who are hunting, fishing or trapping and have a current Conservation License, may legally recreate on State trust lands. There will be no change to this situation under Alternatives 1-4. Alternative 3a would develop a parking area, on Trust land, in the vicinity of the existing gate. The area will not be further developed and is not expected to increase recreational use of the tract..

There are existing hiking trail networks on the adjacent USFS land, and on the nearby Mount Helena City Park. Long term recreational goals in this area include expansion of this trail system, including adding a loop trail through the state land. A component of alternative 3a) is the establishment of a fund, to be paid by the proponent, for the eventual purchase of an trail easement and construction of the trail. On such an easement, the recreational users would not need the State Land Recreational Use License or Conservation License that

general recreational users of trust land must possess. When compared to a public trail option from the Lombardy side, the trail loop from LeGrande better meets the long term goals of the recreational community, would have no adverse affect on future trust land development options in the NW portion of the tract, and would not create any safety issues as would happen if hikers had to go down LeGrande, west on Highway 12, and up Lombardy to reach a trail head there. For reasons noted above, the DNRC is not able to make a final determination on this trail at this time.

For immediate public benefit, a fenced parking area should be established in the property corner where the proposed driveway easement enters state land. Under alternative 3a), this parking area would occupy approximately ½ acre of trust land, and include a gate to contain the lessee's livestock, as well as a pedestrian "Y" fence pass (-----< -----).

If a driveway easement is approved, the proponent should be required to provide funding to the Prickly Pear Land trust, to be held by that organization until such time as the LeGrande trail option can be suitably analyzed.

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

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

None

**22. SOCIAL STRUCTURES AND MORES:**

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

None

**23. CULTURAL UNIQUENESS AND DIVERSITY:**

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

Many of the responding landowners along Lombardy Drive are concerned that the additional traffic will adversely affect the quiet nature of their dead end road. As a private driveway, even with a fenced parking area for recreational users, the impacts are expected to be minor.

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

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

Alts 1&4 would not provide any return to the trust.

Alt 2 would provide income to the trust. Income would be based on an appraisal but for comparison purposes if a \$5000/A figure were used \$6000 would be generated. At 4% one could expect annual income of \$240 or \$200/A. compared to current income of \$5.63/A.

The route in Alternative 3a is approximately 2996.64' in length, for a 30' driveway easement width, 2.064 acres of Trust land would be involved, for approximately \$10320.00 at a \$5,000.00/acre value. The ultimate benefit or cost of Alternative 3a depends on the road location and design relative to future management options. Following additional review and a favorable decision, the trust would also stand to gain the easement value for a trail easement connecting to the LeGrande side of the tract.

Alt3 would provide income to the trust. The slightly longer route would have a higher dollar figure but per acre income would be the same as alt 2.

<b>Original EA Checklist Prepared By:</b>	<b>Name:</b> Robert Vlahovich	<b>Date:</b> Jan. 5, 2004
	<b>Title:</b> Special Uses Coord.	

<b>Revised EA Checklist Prepared By:</b>	<b>Name:</b> D.J. Bakken and Gavin Anderson	<b>Date:</b> June 4, 2004
	<b>Title:</b> Helena Unit Manager and CLO Special uses Coordinator	

**V. FINDING**

**25. ALTERNATIVE SELECTED:**

**26. SIGNIFICANCE OF POTENTIAL IMPACTS:**

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

EIS                     
 More Detailed EA                     
 No Further Analysis

<b>EA Checklist Approved By:</b>	<b>Name:</b>
	<b>Title:</b>
<b>Signature:</b>	<b>Date:</b>

**Finding**  
**Amended Environmental Assessment for Boutilier R/W Easement Application**  
**June 4, 2004**

I have reviewed the Amended Environmental Assessment (EA), original EA and public comments relating to the easement application submitted by Douglas Boutilier for the purpose of constructing and maintaining a 14 foot private driveway on State Land located in Section 27, T10N-R4W to access one single family dwelling and associated outbuildings he proposes to construct on his private ownership adjacent to the state land. I have also conducted a field review of the proposed access route and met with representatives of the Prickly Pear Land Trust, U.S. Forest Service and City of Helena to discuss issues associated with access across the state land to the adjacent Forest Service ownership to the south and the Mount Helena Trail system. The purpose of my review was to determine if significant impacts are likely to occur as a result of the amended proposed private driveway, provide a recommendation to the Board of Land Commissioners for approval or denial of the proposed easement and establish a mechanism to potentially enhance public access across the state land to the Mount Helena Trail system.

**Background:**

Douglas Boutilier wishes to give approximately 2 acres of his current 77 acre ownership to his daughter as a homesite for her and her husband to construct their primary residence. The location of the proposed homesite is directly adjacent to the west section line of the state land. There currently is no road access to the proposed homesite. Mr. Boutilier evaluated potential access routes across his ownership and adjacent private land and concluded the most appropriate route would be to construct the access road across the state land from the public access provided by Lombardy Drive on the state's north boundary line. Consequently he worked with DNRC personnel and submitted an easement application during the fall of 2003 under the Land Board Policy for Private Driveways. The proposal submitted was to construct the private driveway along the west boundary of the state ownership to the proposed homesite as directed by the private driveway policy.

DNRC Staff at the Central Land Office (CLO) evaluated the easement proposal, contacted adjacent landowners and appropriate interested members of the public and completed an Environmental Assessment for the proposed easement on February 17, 2004. The "Finding" of the environmental assessment concluded significant impacts would not occur as a result of implementing the proposal. However, CLO staff recommended the easement not be granted at the present time because the proposed road location would not provide a benefit to the School Trust and CLO staff believed a suitable access road could be constructed entirely on Mr. Boutilier's property from the existing private driveway to his primary residence. CLO staff believed alternate locations for a road could potentially enhance the Trust asset but sufficient planning had not been conducted at the present time to make the determination and since an access route could be constructed across Mr. Boutilier's ownership if he chooses, the location of an access route across state land which would serve both the interest of the Trust and provide access to the homesite could be made at a later date.

During the Public Comment period of the March Land Board Meeting (April 19, 2004), Mr. Boutilier spoke to the issue of his easement proposal, denied access to the proposed homesite from his existing private driveway was possible and offered to assist the Department in developing public access opportunities to the state land and beyond as an additional benefit to the Trust. He requested an opportunity to work with Department staff to further develop his proposal and asked the easement proposal be brought before the Board in May. Recognizing an opportunity to develop a mutually beneficial agreement, Department staff was directed to revisit the easement proposal.

CLO staff revised the proposal, worked with the Prickly Pear Land Trust, USFS and City of Helena on access issues and solicited additional public comment. The effort resulted in a revised proposal as follows:

Douglas Boutilier has submitted an easement application to construct and maintain a private driveway departing from Lombardy Drive traversing the interior portion of the state land as indicated in Attachment A-1 of the EA. The easement would be 30 feet wide and 2,996.64 feet long encompassing 2.07 acres.

The easement will be specific for the purpose of accessing one single family home and associated outbuildings and cannot be expanded without authorization by the Board of Land Commissioners.

The easement would be assigned to Sara and Cliff Wakefield upon transfer of the 2 acre homesite he intends to gift to his daughter.

Mr. Boutilier has agreed to pay the sum of \$10,350 as fair market value of the easement.

Mr. Boutilier would relocate the existing fence to provide an area for parking clearly on state land but outside the livestock containment fence for members of the public wishing to use the state land for non-motorized recreational purposes. The parking site will not be developed but simply will provide an area to pull off and park outside of the Lombardy Drive public right-of-way. The relocated fence will include a walk through gate to facilitate public use.

Mr Boutilier would construct the road, not to exceed 14 feet in width, at his expense to standards and specifications identified by CLO staff. The road shall at a minimum include appropriate culverts and drainage, to prevent soil erosion.

Mr. Boutilier would donate funds or other suitable financial arrangements to the Prickly Pear Land Trust for the future purchase of an easement from DNRC and construct a hiking trail on State Land from the LeGrande Cannon Road to the USFS ownership south of the state land as approximately shown in Attachment A-2 of the EA. Once a specific location is identified, the easement application would be submitted in the name of the Helena National Forest who would be responsible for maintenance. The easement application would be evaluated and submitted to the Board of Land Commissioners for their consideration under standard procedures. The estimated value of the easement to the Trust is approximately \$5500 (based on an estimated 15 foot wide easement, 6,485 feet in length and \$2470 per acre land value) and cost of construction is \$5000.

#### **Issues associated with the proposal:**

Following is a summary of the issues associated with the proposal resulting from comments received and CLO'S response to the issue:

**Issue—Land Board Policy on Private Driveways:** The proposed easement does not conform to the evaluation criteria included in the Private Driveway Policy adopted by the Board of Land Commissioners on June 19, 1995. In particular the issue of whether Mr. Boutilier can construct a road to access the homesite across his ownership from the existing private driveway to his residence.

CLO staff met with engineers and surveyors from Morrison Maierle to evaluate potential routes to the homesite from the existing driveway. Two routes were evaluated, one would traverse the slope below Mr. Boutilier's home and would require a retaining wall to maintain the fill slope on his property. The second route would go above the existing house and require standard cut and fill construction. Upon close examination, CLO staff determined neither route was feasible. The lower route is technically possible but would excavate his existing septic system and drain field requiring a new septic location, design and approval. The second route would require an exceptionally steep road grade and could require relocation of an existing well and pump. The current drive way is very steep (25%). The new driveway would have to be steeper (27% minimum or possibly 29% to bypass the well) and is compounded by sharp corners and situated on a north facing slope.

**Issue—Access for Recreational Users of State Land:** Comments were received questioning the need to develop a parking area for users of state land indicating Lombardy drive was wide enough to provide parking sites.

DNRC staff evaluated the interior parking site proposed by Mr. Boutilier and determined it would not be in the Trusts best interest to develop a site in the middle of the tract and encourage additional traffic into the state land. Current recreational use rules allow non-motorized recreational use and allow parking within 50 feet of a customary access point. The current gate is a customary access point. By realigning the fence, the area where parking is allowed under the Departments Recreational Use Rules will be defined and there will be no need for recreational vehicles to enter further into the tract. In addition, Lombardy drive is a narrow two lane road and comments were received regarding concern over increased traffic on the narrow road, so there are some who believe parking along the road would be hazardous. Someone has placed no parking signs along the road at the gate location to discourage parking there. Relocating the fence will simply allow for an area on state land to pull off and park. There are no plans to develop the site or expand use.

CLO staff also met with representatives of the Prickly Pear Land Trust to discuss the access/parking issue. They would prefer to encourage use on the east side of the tract where use of the state land could tie in with the existing LeGrande Cannon/Mt Helena Trail system. Parking is an issue on the east side but the state land does not have suitable terrain for parking. The proposal to develop a trail from LeGrande would allow use of the trail system without having to drive and park somewhere by developing a loop back into town.

**Issue—Enhancement of Trust Asset:** Some who commented believe the road constructed for the proposed easement would not be an asset to the Trust or would be better located along the section line as originally proposed.

DNRC Planning Staff helped design the current proposal and evaluated several options for a potential road location. The current proposal is located on very gentle terrain and designed to minimize erosion and long term impacts. The terrain in the vicinity of the proposed road is potentially suitable for development if such pursuits are considered in the future and the road location would consequently be an asset. The route originally proposed along the section line was steeper, did not consider terrain and would be more difficult to maintain adequate drainage to prevent erosion. Additionally, it would have paralleled an existing driveway a few feet away and of been little additional utility to the Trust in the future.

#### **Selection of Alternative:**

I have selected Alternative 3a...to propose an easement be issued and an access road be constructed in the interior portion of the state land as indicated on Attachment A-2 of the amended EA. The proposal includes relocating the fence to provide an area for parking off Lombardy drive and on the state land and provides a funding mechanism for the development of a hiking trail on the east side of the tract. The trail proposal will be considered and evaluated under a separate EA later this year when specific design and location has been determined.

#### **Significance of Impacts:**

I have concluded that significant impacts would not occur as a result of implementing the selected alternative. The proposed road would be located on very gentle terrain and is designed with appropriate grade (4%) and situated where standard appropriate drainage features would prevent erosion allow effective maintenance. There are no unique features or habitat for threatened or endangered species in the vicinity. The proposed road would be limited to use by one single family dwelling and consequently would not create increased traffic or social concerns. There are no water resources on the tract that would be affected

by the proposed activity. The road is located where there is potential for enhanced trust assets in the future while minimizing the impact to adjacent land owners.

Signed



Garry Williams  
Area Manager  
Central land Office

6/4/04