

**Joint Decision Notice
and
Finding of No Significant Impact
Alberton Gorge Land Exchange**

USDA – Forest Service
Northern Region

Montana Fish, Wildlife & Parks

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Joint Decision Summary

This Joint Decision Notice documents the decision of the Forest Service (Northern Region Director of Recreation, Minerals, Lands, Wilderness and Heritage) and Montana Fish, Wildlife and Parks (Director) to select and implement Alternative B to accomplish the Alberton Gorge Land Exchange. Implementation of Alternative B, as more fully described in the Alberton Gorge Land Exchange Environmental Assessment (EA) issued December 15, 2003, will achieve the public goals of conserving the natural and recreational values of the Alberton Gorge River Corridor along the Clark Fork River, and consolidating ownership to improve agency management capability for various public lands in western Montana.

This decision will initiate a series of land transactions as described below and illustrated in Figure 1 on the next page, through which properties of equal value are exchanged among the Forest Service (FS), Montana Fish, Wildlife and Parks (FWP), Five Valleys Land Trust and NorthWestern Energy (NorthWestern). Five Valleys Land Trust (FVLT), a Missoula-based, nonprofit organization, assumed the position of River Network in December 2003 to help facilitate the Alberton Gorge Land Exchange. In this capacity, FVLT agreed to fulfill commitments made by River Network by purchasing NorthWestern properties within the Alberton Gorge River Corridor prior to conveyance to FWP.

Please refer to **Appendix A** for locations and maps of the subject tracts. **Appendix B** lists the legal descriptions, outstanding rights and reservations for each tract, as well as other conditions, agreements and understandings by which the participating parties are complying.

Due to need to repair the Park Lake Dam to mutually agreed standards prior to FS acceptance of the tract, the proposed land exchange would be completed in two (2) phases.

Phase 1

- FVLT will convey the Alberton River Corridor (excluding the Middle Osprey tract) consisting of 305 acres to FWP. FVLT will convey the Middle Osprey tract consisting of 15.4 acres to the FS.
- FWP will convey Tizer Lake, Natural Bridge, and Frank Lake tracts consisting of 272.7 to the FS. FWP will convey Region 5 Old Headquarters consisting of 2.7 acres to FVLT.
- FS will convey Lower Tarkio Section 34, Tarkio Section 35 and Hebgen Cabin tracts consisting of 566.6 acres to FVLT.

Phase 2

The purpose of Phase 2 is to allow time for FWP to repair the Park Lake Dam to mutually agreed standards prior to FS acceptance. FWP intends to begin construction in Fall 2004.

To allow time for construction, negotiation, and to avoid postponing the other components of the exchange, the following tracts are proposed for exchange at a later date.

- FWP will convey Park Lake tract consisting of 95.88 acres to the FS.
- FS will convey the Middle Osprey tract consisting of 15.4 acres to FWP.

If Phase 2 is not completed for reasons unforeseen, the FS and FWP will arrange cooperative management agreements for the respective sites.

FIGURE 1. Diagram of the Alberton Gorge Land Exchange

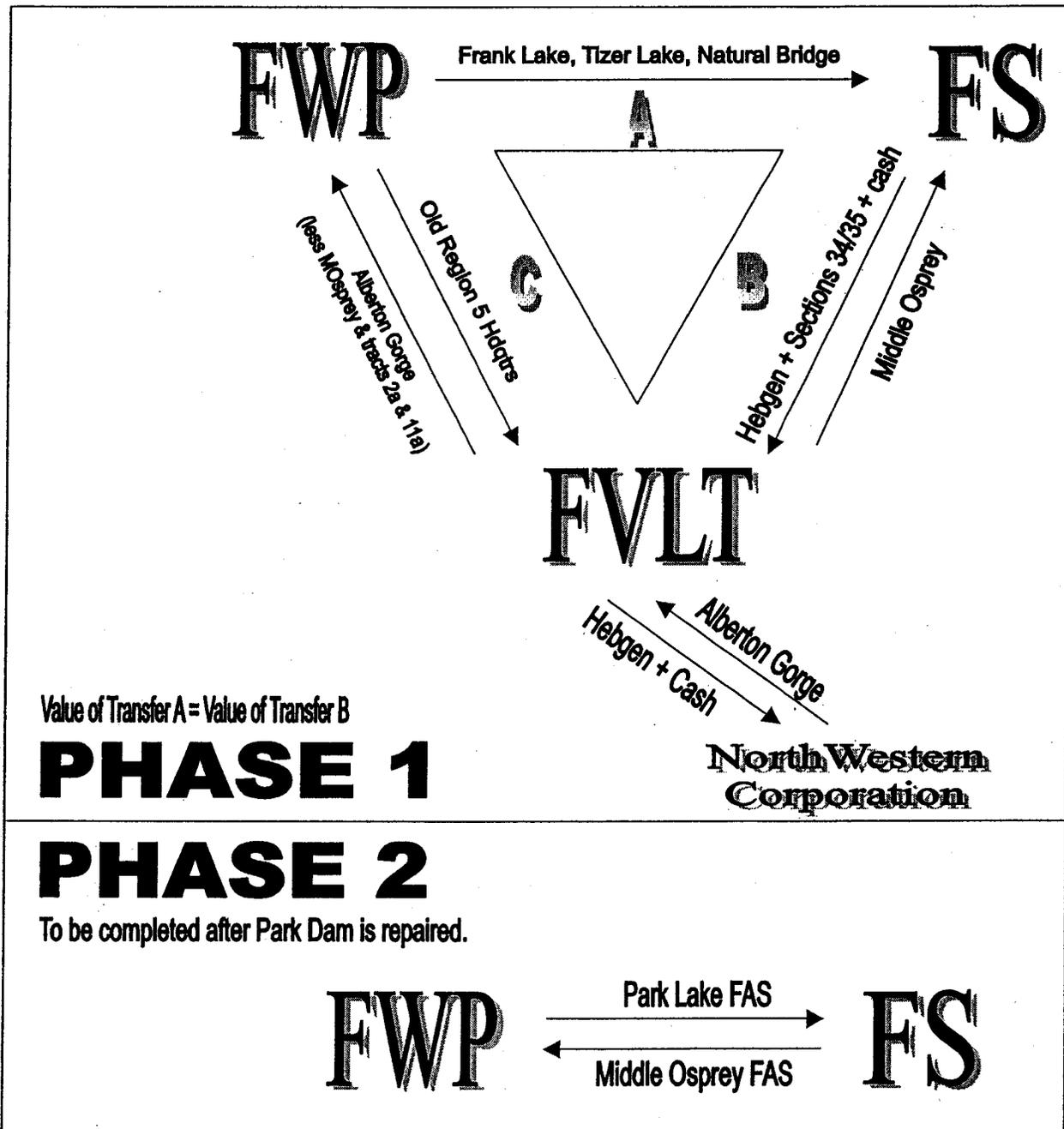


TABLE 1. Table of Proposed Land Exchange Tracts, Current and Future Ownership, Acreage and Appraised Values (including Phase 2 action)

Tract	Owner	Transfer to:	Approximate# Acres
Frank Lake FAS	FWP	FS (Kootenai NF)	90.40
Natural Bridge SP	FWP	FS (Gallatin NF)	40.00
Park Lake FAS	FWP	FS (Helena NF) (Phase 2)	95.88
Tizer Lakes FAS	FWP	FS (Helena NF)	142.29
Total FS Acquisition			(rounded) 368.6
Alberton Gorge (1998 value)	NorthWestern Energy	FVLT buys with cash, transfers to FWP (-) parcels 2a & 11a	305
Cash Equalization	FVLT	FWP for parcels 2a & 11a	
Cash Equalization	FVLT	FWP for balance over appraised value of Region 5 Old Hdqtr	
Total FWP Acquisition			305
Region 5 Old Hdqtr	FWP	FVLT sells to buy Gorge	2.66
Lower Tarkio	FS	FVLT sells to buy Gorge	* 34.40
Tarkio Section 35 S½	FS	FVLT sells to buy Gorge	* 320
Tarkio Section 35 N½	FS	FVLT sells to buy Gorge	* 210
Hebgen Cabin	FS	FVLT, then transfer to NorthWestern Energy for Gorge	* 2.2
Cash Equalization	FS	FVLT to buy Gorge	*
Alberton Gorge parcels 2a & 11a (1998 value)	NorthWestern Energy	FVLT retains for future DNRC exchange	19.5
Total FVLT Acquisition			(rounded) 588.8

* Total value of the FS tracts plus cash equalization equals the total land value FS will acquire from FWP.

Note: Tracts within the Alberton Gorge have not been surveyed, therefore acreage may vary slightly. Acreage shown is based on the 1998 appraisal data for individual tracts.

FVLT will purchase the Alberton Gorge River Corridor from NorthWestern and, through the land exchange, will exchange this land for Tarkio sections 34 and 35. FVLT has in turn proposed a follow-up land exchange to transfer the Tarkio lands to the Montana Department of Natural Resources and Conservation (please refer to the *Future Management of Exchanged Lands* section below for more detail regarding future management of the Tarkio tracts).

FVLT will transfer the Alberton Gorge River Corridor to FWP to be managed under the state parks and fishing access site programs. FWP will transfer Frank Lake, Natural Bridge, Park Lake, and Tizer Lakes to the FS to become part of the National Forest System and managed under the auspices of the corresponding National Forests and related management areas. The FS will transfer Tarkio Sections 35, Lower Tarkio Section 34, and Hebgen Cabin tract to FVLT. FVLT will subsequently convey the Hebgen Cabin tract to NorthWestern as partial payment for the Alberton Gorge River Corridor, and convey the remaining tracts to recover costs in acquiring the Gorge.

The Alberton Gorge River Corridor is about thirty miles northwest of Missoula and includes a seven-mile long corridor on either side of the Clark Fork River. The Alberton Gorge River Corridor was initially appraised on July 10, 1998 (date of valuation) with a market value of \$1,216,000, and FVLT and FWP have agreed to accept this figure as the value on which the Alberton Gorge Land Exchange will be based. The Alberton Gorge appraisal was completed by Anne Renaud-Wilkinson, Montana Certified General Appraiser.

The land exchange transactions in both Phase 1 and Phase 2 involving the public agencies have been developed as value-for-value exchanges, based on current appraisals of each set of properties.

The appraisals of the FS tracts (Tarkio sections 34 and 35, Hebgen Cabin site), the FWP tracts (Frank Lake, Natural Bridge, Park Lake, Tizer Lake) and Middle Osprey tract have a date of valuation of May 23, 2003. The appraisals were completed in accordance with the Uniform Standards for Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) by FS Montana Certified General Real Estate Appraiser and Qualified Review Appraiser Lee Murray, and reviewed and approved by FS Regional Review Appraiser John P. Hickey on September 30, 2003. The FS tracts are valued at \$1,097,000. The FWP tracts are valued at \$1,112,000. The Middle Osprey tract is valued at \$165,000. Based on the current configuration of Phase 1 as described above, the FS will need to make a cash equalization payment of \$15,000 to FVLT. This is in accordance with the Code of Federal Regulation (CFR), 36 CFR 254.12. Phase II is equal in value and no cash equalization is required. (FS File Code 5410/5430 memo dated 5/17/2004 outlining Alberton Gorge Land Exchange Balance and contributory values).

FWP will convey FWP Region 5 Old Headquarters directly to FVLT to gain the balance of land value in the Alberton Gorge River Corridor (\$104,000). This tract was appraised by Steve Repac, Montana Certified General Appraiser, in May 2004. The appraised value of the FWP Region 5 Old Headquarters is greater than the value needed to balance the exchange; therefore, FVLT will contribute the excess toward the purchase of additional storage space for the current Region 5 Headquarters.

The exchange will be completed in accordance with the General Exchange Act of 1922, as amended, the Boundary Extension Act of January 30, 1929, the Federal Land Management and Policy Act of 1976, as amended, the Federal Land Exchange Facilitation Act of August, 1988, and Montana Codes Annotated Sections 23-1-110, 23-2-101 to -103, 87-1-201 and -209, 87-1-605, and 8-7-701. We are the responsible officials representing the FS and FWP for this project. The scope of our decision is limited to the actions described in the EA and this Decision and Finding of No Significant Impact. This decision is site-specific.

Future Management of Exchanged Lands

The intended use of lands transferred between the participating parties will remain similar to existing uses and coincide with respective Forest Plans.

The **Frank Lake** tract will be incorporated into the Kootenai National Forest Plan and managed according to direction in the Forest Plan for Management Area (MA) 21 with the goals of maintaining special interest areas for their important fauna, recreational and cultural attributes which are of public interest and require special management. Frank Lake is located in Lincoln County about five miles directly south of Eureka.

The **Natural Bridge** tract will be incorporated into the Gallatin National Forest, which has been managing the site for FWP for the last ten years or more. The site has been included in the Gallatin NF recreation plans to improve the existing facilities to meet Americans with Disabilities Act accessibility standards and possibly improve interpretive displays. The site will continue as a day-use facility to be managed under a combination of MA 1, the designation assigned to small developed recreation sites, and MA 5, consistent with surrounding areas designated as travel corridors with high recreational use (Cifala, 2004). Natural Bridge is located 25 miles south of Big Timber in Sweet Grass County.

The **Tizer Lake** tract will be incorporated into the Helena National Forest and managed and monitored contiguously with the surrounding forest and the Elkhorn Wildlife Management Unit under a combination of MA E-2 and MA E-3. MA-2 goals include maintaining mountain goat and summer elk habitat by providing security from human conflicts through yearlong restrictions on all motorized vehicles. MA E-3 emphasizes elk calving and summer range with motorized dispersed recreation limited to specific roads (Cole, 2004). Tizer Lake is located in Jefferson County twelve miles east of Jefferson City.

The **Park Lake** tract will be transferred to the FS in Phase 2 of the land exchange, after FWP completes mutually acceptable repairs to the Park Lake dam. The tract will be integrated into the Helena National Forest Plan and fall under MA R-2 which includes campgrounds and picnic areas throughout the Helena National Forest. Parts of this tract may also be incorporated into one or all of three other management areas that are adjacent to the tract: MA L-1 defines management practices with an emphasis on grazing allotments in sparsely forested areas; MA T-1 and MA T-4 refer to management of timber harvest (Cole, 2004). Improvements recommended in their Capital Investment Program 1999-2003 included dispersed recreation, such as new parking areas away from the lake shoreline, a lake-side trail accessible to persons with disabilities, a toilet, picnic tables and fire rings. Over night camping will be directed away from the lakeshore to the existing FS campground. Park Lake is located twelve miles west of Clancy in Jefferson County.

FWP will incorporate the **Alberton Gorge River Corridor** into the state park and fishing access site programs. FWP has identified three sites that will provide public

parking, latrine, and trail access to the Clark Fork River for anglers and will be maintained through the Region 2 fishing access site program.

Federal Aid in Sport Fish Restoration fund (Wallop-Breaux) accountability will be transferred from the Park Lake and Tizer Lakes sites to the new fishing access sites, and will be contingent upon U.S. Fish and Wildlife Service approval, who administers these funds.

The remainder of the corridor (about 244 acres) will be part of the state parks program, including a site known as Ralph's Takeout. Ralph's Takeout will be encumbered with federal Land and Water Conservation Funds (LWCF) to transfer the Federal Aid encumbrance from the Frank Lake tract, which was purchased with LWCF. The transfer is contingent upon approval by the National Park Service who administers these funds.

FVLT has proposed a follow-up land exchange to transfer **Tarkio sections 34 and 35** lands to the Montana Department of Natural Resources and Conservation (DNRC). DNRC has received agency approval to pursue the exchange and has begun the public scoping process. If this proposed follow-up FVLT-DNRC land exchange is completed, FVLT would receive several DNRC properties in Mineral County and would subsequently sell these properties to private sector buyers. DNRC would receive the Tarkio lands, which are adjacent to other DNRC lands currently managed for timber production.

If the FVLT-DNRC land exchange cannot be completed, FVLT has stated their intent is to sell the Tarkio tracts privately, subject to deed restrictions limiting future use of the north portion of Section 35 (the land north of Interstate 90) to timber management and the south portion to no more than six residential lots. (Refer to letter dated June 6, 2003 from River Network to FWP in the Project File.) The Tarkio tracts are located in Mineral County, about one-half mile south of the Tarkio exit on Interstate 90.

The **Hebgen Cabin** tract will transfer through FVLT to NorthWestern, as partial payment for acquisition of the Alberton Gorge River Corridor. NorthWestern owns the cabins and will continue historical, non-commercial use. The company will donate a conservation easement to a third party, or the deed to FVLT will include a restrictive covenant which will run with the land, for the purposes of prohibiting subdivision, commercial use, protect wildlife habitat and to maintain the historical footprint of the tract. The Hebgen tract is located about 22 miles northwest of West Yellowstone in Gallatin County.

FVLT will sell the **FWP Region 5 Old Headquarters** to a private party to recover costs incurred to purchase the Alberton Gorge. This tract is in the Billings Heights, on Lake Elmo Drive, Yellowstone County.

Project Background

The Alberton Gorge Land Exchange represents a public-private partnership to conserve the fish, wildlife and recreational values of a seven-mile segment of the Clark Fork River located near the town of Alberton, about thirty miles northwest of Missoula. In November 1998, River Network (now FVLT) entered into a purchase agreement with the Montana Power Company (MPC - NorthWestern's predecessor) to buy about 320 acres in the Alberton Gorge. River Network, Montana Fish, Wildlife & Parks, the Forest Service, and MPC formed an interdisciplinary team made-up of representatives from these organizations to develop a land exchange proposal that will ultimately bring the Alberton Gorge property into ownership of FWP. Work on a draft environmental assessment was initiated in late 1998 to present the public with information on the proposed land exchange and its potential environmental effects.

In June 2000, scoping for the proposed action was initiated and public comment solicited through publication of a draft EA in compliance with the Montana Environmental Policy Act and the National Environmental Policy Act. Public meetings were held in six towns near the subject tracts in July 2000.

Through this public and internal scoping process, the interdisciplinary team identified issues, made slight modifications to the proposed action, and developed additional alternatives to the proposed action. The proposed action and alternatives were analyzed and the environmental effects disclosed in the Alberton Gorge Land Exchange EA issued on December 15, 2003. The EA was made available to the public for 30 days for review and comment. Since the initiation of this proposed land exchange, NorthWestern became MPC successor in interest, and River Network assigned its responsibilities to Five Valleys Land Trust in December 2003. The decision described in this Decision Notice was made following a thorough review of the EA, the alternatives and their consequences, and the public comments received.

Purpose and Need

The purpose for the proposed land exchange is to:

- 1) facilitate the conveyance of the Alberton Gorge River Corridor into public ownership to preserve the natural values of the Corridor;
- 2) improve, increase and perpetuate fishing access along the Clark Fork River;
- 3) consolidate land ownership in areas of western and central Montana, thereby allowing both the Forest Service and Montana Fish, Wildlife and Parks to improve administration and improved efficiency of land management activities, including: fish and wildlife management, public outdoor recreational use, campground maintenance, boundary management, access, and noxious weed management.

Proposed Action

The proposed land exchange between the state agency FWP, the federal agency FS, and the nonprofit organization FVLT, is as follows:

Phase 1

- FLVT will convey the Alberton River Corridor (excluding the Middle Osprey tract) consisting of 305 acres to FWP. FLVT will convey the Middle Osprey tract consisting of 15.4 acres to the FS.
- FWP will convey Tizer Lake, Natural Bridge, and Frank Lake tracts consisting of 272.7 to the FS. FWP will convey Region 5 Old Headquarters consisting of 2.66 acres to FVLT.
- FS will conveyed Lower Tarkio Section 34, Tarkio Section 35 and Hebgen Cabin tracts consisting of 566.6 acres to FVLT.

Phase 2

The purpose of Phase 2 is to allow time for FWP to repair the Park Lake Dam to mutually agreed standards prior to FS acceptance. FWP intends to begin construction in Fall 2004. To allow time for construction, negotiation, and to avoid postponing the other components of the exchange, the following tracts are proposed for exchange at a later date.

- FWP will convey Park Lake tract consisting of 95.88 acres to the FS
- FS will convey the Middle Osprey tract consisting of 15.4 acres to FWP.

If Phase 2 is not completed for reasons unforeseen, the FS and FWP will arrange cooperative management agreements for the respective sites.

Appendix A includes maps of the subject tracts. **Appendix B** lists the legal descriptions, outstanding rights and reservations for each tract, and other conditions, agreements and understandings.

The FS will receive Middle Osprey Fishing Access Site (FAS) in Phase 1 and hold it for direct exchange of Park Lake in Phase 2. Phase 2 can be independent of Phase 1, because the tracts are similar in market values, fishery values, and federal aid values to accommodate FWP and FS equal exchange requirements. If Phase 2 is not completed for reasons unforeseen, FWP and the FS will look at other options to achieve the original goals of FS ownership of Park Lake and FWP ownership of Middle Osprey FAS as part of the Alberton Gorge River Corridor, or the parties will arrange cooperative management agreements for the respective sites.

The value of the lands transferred from FWP to the FS will be equal to the value of lands plus cash equalization transferred from FS to FVLT (transfers A and B in Figure 1, above). FVLT will transfer a portion of the Alberton Gorge River Corridor to FWP equal to the land value that FWP transfers to the FS. Furthermore, FWP will also transfer the FWP Old

Region 5 Headquarters to FVLT to provide equal value for land FWP acquires in the Alberton Gorge River Corridor (transfer C in Figure 1). Each agency will receive value in land and/or cash equal to the value the agency conveyed.

The FS and FWP will transfer the designated tracts to increase management efficiency and transfer isolated properties which can be more effectively managed by the agency owning the adjacent lands. The public will benefit from these trades through the consistent management of larger consolidated areas.

Scope of Decision

While environmental effects may have been disclosed for past, present or reasonably foreseeable actions, the scope of this decision is limited to whether the proposed land exchange described above will be completed.

The responsible officials for this Decision are the Forest Service Northern Region Director of Recreation, Minerals, Lands, Wilderness and Heritage, whose authority is delegated by the Regional Forester and the Montana Fish, Wildlife and Parks Director.

Public Involvement

The public has been involved in determining the future of the **Alberton Gorge River Corridor** for over seven years through involvement in a number of public meetings, hearings and comment submissions on agency proposals. FWP, FS, River Network, FVLT and DNRC have met with Mineral County Commissioners numerous times to discuss actions and alternatives regarding the future of the Alberton Gorge. There was written notification to the respective County Commissioners, and the Montana congressional delegation. The Montana congressional delegation offered their unanimous support for the land exchange as proposed in a letter dated July 6, 1998. The Mineral County Commissioners stated their support for the Alberton Gorge Land Exchange and the proposed future exchange of Tarkio tracts between FVLT and DNRC in the letter dated May 29, 2002.

Both FWP and the FS have identified available properties and have previously attempted to exchange lands (**Natural Bridge, Park Lake and Tizer Lakes**) between the agencies, but contributory values could not be equalized. Public comment was solicited during these previous processes.

The public was notified of the addition of **Hebgen Cabin** tract to the Alberton Gorge Land Exchange in October/November 2001 via notice in the newspapers listed below. No comments specifically regarding this tract were received.

Scoping and Draft EA Public Notices

The public was notified in June-July 2000 in the following manners to allow for thirty (30) days for public comment were provided after the second published legal notice to solicit comments on the draft EA as per MCA 23-1-110 requirements and to accommodate the Montana Environmental Policy Act (MEPA), which occurred from June 25 – July 31, 2000. Fifteen (15) days following the publication of the fourth set of legal notices (July 16) were provided for the National Environmental Policy Act (NEPA) scoping. U.S. Fish and Wildlife Service Federal Aid requires 30 days for public comment following the publication of the initial public notice; this comment period was also provided during the given period.

The following notifications also served as notices for the scoping process under the Forest Service regulations 36 Code of Federal Regulations 254.8 and NEPA requirements to allow for public input and consideration of issues to be addressed in the EA.

- Four-consecutive weeks, legal notice publication in these newspapers ran June through July of 2000: Tobacco Valley News (Eureka), Western News (Libby), Daily Inter Lake (Kalispell), Mineral Independent (Superior), Missoulian, Helena Independent Record, Great Falls Tribune, Bozeman Daily Chronicle, Big Timber Pioneer, Billings Gazette;
- One legal notice on Montana's electronic bulletin board;
- One statewide press release;
- Portions of the EA available on the FWP website: <http://www.fwp.state.mt.us>

Copies of the draft EA were mailed directly to neighboring land owners of many of the proposed exchange tracts to notify them of the proposed action.

Copies of the draft EA were also available for the public to review at the following locations:

FWP Regional offices in Kalispell, Missoula, Bozeman, Billings, and the Headquarters in Helena;

FS Region 1 Office in Missoula; Supervisor's Offices in Libby, Bozeman, Helena, Missoula; FS District Offices in Superior, Ninemile and Big Timber.

Public involvement was also initiated through the mailing of 382 scoping letters on July 6, 2000 to individuals who have expressed interest in land exchanges or any activity that occurs on these National Forests: Lolo, Helena, Gallatin and Kootenai, informing them that the draft EA was available for review. Seventy-five copies of the draft EA were mailed to interested parties, including Mineral County Commissioners and legislators in Mineral and Missoula Counties. Thirty-one postcards were mailed to other individuals informing them of the proposed land exchange and availability of the draft EA, and the comment closing date. Approximately 50 copies of the draft EA were mailed or electronically sent to agency personnel for review, including the FWP Commission, Regional Supervisors, DNRC, MPC, and participating FS Ranger District Offices.

A second publication was run in the legal section of the same newspapers listed above for four consecutive weeks in October through November 2001. This notice informed the public that the Hebgen Cabin tract and the North ½ of Tarkio Section 35 were also being considered as part of the proposed land exchange. Persons having objections to the proposed exchange were instructed to file claims with the FS Director, Missoula within 15 days of the last publication of this notice.

Public Meetings July 2000

Public meetings at the following places and times were held to enable the public to address any questions about the proposed action. An agency staff member presented slides of the proposed tracts and explained the proposed exchange prior to receiving questions from the public at each meeting. The number of people who attended the meetings is in parentheses following the town name: Superior (40), Helena (1), Missoula (26), Fortine (12), Billings (1), Big Timber (7). Persons having questions about this proposed land exchange contacted the FS or FWP agency representative by phone, fax or email.

Public Response to Scoping/Draft EA issued June 2000

Sixty-nine comments were received in response to the initial public comment solicitation. After considering these comments, the interdisciplinary team met with Mineral County several times in an effort to resolve concerns. As a result, FVLT and DNRC are pursuing a future land exchange to place the Tarkio tracts under state (DNRC) ownership.

Public Comment on Alberton Gorge Land Exchange EA issued December 15, 2003

The interdisciplinary team reviewed and responded to the scoping and comments to the initial EA, which were included in the Alberton Gorge Land Exchange EA issued December 15, 2003. A legal notice was published one time in each of the ten newspapers listed above to notify the public that the EA was available and a related comment period identified. The EA was posted on the FWP web page, and FWP issued a statewide press release.

The EA was sent out in electronic format (cd) to 39 parties; an additional 38 parties received hard copies, and over 400 parties received postcards dated December 19, 2003 notifying them of the available EA and comment period. All those who recorded comments to the draft EA and those parties who wish to be notified of actions occurring on FWP or FS lands were notified of the updated EA. Copies were also sent to nine FS offices and 5 FWP offices for the public to review.

The comment period was open from December 15, 2003 through January 27, 2004, allowing for thirty (30) days after the last legal notice was published in the ten statewide newspapers.

A summary of the comments and interdisciplinary team's response to the comments is included in **Appendix C** to this Decision Notice.

Issues

Thirteen general resource areas of physical and human environments were considered for each tract in the EA. The twenty-three public comments listed below were received during scoping and in response to the draft EA. Review of these comments revealed issues that needed more attention within the thirteen physical and human resource issues or further consideration of other alternatives. The interdisciplinary team (representing FWP, FS, contractors, MPC at the time, and River Network at the time) compiled the resulting action, alternatives and researched the potential impacts which were included in the EA issued on December 15, 2003.

Additional comments were received during the public comment period presented in December 2003 to January 2004, and no new issues were identified.

The general resource areas considered for each tract in the EA are listed below.

Physical Environment

Land Resources

Air

Water and Flood Plains

Vegetation, Wetlands, Prime & Unique Farmlands

Fish & Wildlife

Human Environment

Noise & Electrical Effects

Land Use

Risk & Health Hazards

Community Impact

Taxes

Public Services, Utilities

Aesthetics & Recreation

Cultural & Historical Resources

Mitigation or other Control Measures

Alternatives Not Considered in Detail

Nine alternatives were considered, but not analyzed in detail for the proposed land exchange for reasons discussed below. Several alternatives were considered as a result of public comment and issues raised during scoping.

(Note that FVLT has replaced references to River Network.)

- 1) **Direct Purchase of the Alberton Gorge River Corridor by FWP.** *FWP would purchase the Alberton Gorge directly from NorthWestern Energy for the appraised value.* This alternative is not feasible, because FWP does not have this amount of acquisition funds available for lands from the appropriate funding sources. The result of not directly acquiring the Gorge would be that FWP and the FS would continue managing their respective properties identified for disposal.

- 2) **Phased Acquisition of the Alberton Gorge River Corridor tracts.** *The tracts within the Gorge could be acquired in a series of exchanges over time. Each sequence must have equal values to exchange. An Exchange Agreement could be signed and executed by all parties to lock in the tract values. This would be a very lengthy process with many more details. NorthWestern Energy does not want to hold the Alberton Gorge River Corridor lands for an indefinite period.*
- 3) **Partial Acquisition of the Alberton Gorge River Corridor.** *FWP could acquire only certain tracts within the Gorge. This does not meet the desired goals of the project, which is to preserve the corridor in an undeveloped state.*
- 4) **Direct Purchase of the Alberton Gorge River Corridor by FVLT then Sell to Private Entities with Restrictive Covenants.** *FVLT could purchase the Gorge outright from NorthWestern Energy and recover costs through the sale of specific parcels. A development setback provision from the river could be included in a conservation easement or through County participation in planning and zoning restrictions placed on the tracts by FVLT at the time of resale. Access sites to the river could be conveyed to FWP.*

The goals of FVLT, NorthWestern Energy and FWP are to conserve fish and wildlife habitat along the Clark Fork River corridor and to protect the recreational experience for floaters and anglers on the Alberton Gorge. A resale of portions of the Gorge for residential development would not achieve these goals.

FWP is becoming more aware of the public's increasing desire to have access to entire river corridors, such as on the Smith River and other efforts in the Northwest, which do not simply provide pinpoint accesses to a river. This is another reason that the exchange process has continued as proposed.

- 5) **Identify Other Disposal Tracts for Use in the Exchange.** *The proposal could involve different tracts to exchange. Other tracts were considered for exchange, including a federal tract in Mineral County, and a state tract in Carbon County. The federal tract was committed to a different land transaction prior to consideration in this proposal. The state tract had encroachment issues and other exchange issues that did not lend itself to inclusion in this proposal. There are limited disposal properties available and a limited number that would be desirable to the other parties involved in the exchange. The tracts to be conveyed to the FS have been identified for many years (except Frank Lake) as disposal sites by FWP. All FWP tracts are identified for acquisition by the FS.*
- 6) **FS Places Restrictive Covenants on Tarkio Section 35.** *The FS could put restrictive covenants on Tarkio Section 35 when conveying to a private party. This alternative was not considered necessary after reviewing the impacts and no significant net loss of wetlands, floodplains, wildlife, minerals, timber, recreation opportunity and aesthetics or other resources. In addition, FVLT has agreed to place restrictive covenants in the deed, should the organization need to sell the Tarkio lands to recover costs of purchasing the Alberton Gorge. According to a June 6, 2003 letter by River Network (and adopted by FVLT), future development*

on the north portion of the section would be limited to timber harvest only and future development on the south portion would be six or fewer home sites.

- 7) **Direct Sales of State Tracts.** *The state disposal properties (Frank Lake, Natural Bridge, Park Lake, Tizer Lake) could be sold on the open market to the highest bidder.* FWP is mandated to replace federal funds, recreation and fishery value used when acquiring Natural Bridge, Park Lake and Tizer Lake. This alternative would not provide reimbursement of Federal Aid (Wallop-Breaux and Land and Water Conservation Fund) funds. This option could also be detrimental to wildlife, fisheries, and recreational values associated with these tracts depending on the intended land use by the land buyers. There would be no assurances of recovering the funds from sale for use in acquiring the Alberton Gorge River Corridor.
- 8) **FS Purchase FWP Tracts using Land and Water Conservation Funding.** *The FS is allotted Land and Water Conservation Funds (LWCF) annually to purchase lands in Region 1.* Other tracts in the Region would have a higher priority for purchase using these funds than the FWP tracts proposed in this exchange. Due to the limited amount of LWCF funding, it would be very unlikely to purchase these tracts due to the competition for these funds.
- 9) **Complete the Alberton Gorge Land Exchange as Proposed, and then proceed with a subsequent land exchange between FVLT and DNRC.** *This alternative continues to be considered, but is beyond the scope of this environmental assessment. DNRC has expressed strong interest in acquiring Lower Tarkio and Tarkio Section 35, which FVLT would receive through the Alberton Gorge Land Exchange. These tracts adjoin DNRC school trust lands in Sections 2 and 36, and their acquisition by DNRC would significantly improve the agency's ability to access and manage timber resources over a contiguous and productive parcel of land. In anticipation of acquiring the Tarkio sections, FVLT has submitted a Land Exchange Application, which is now being reviewed by DNRC. The application proposes that FVLT transfer to DNRC the acreage it acquires at Lower Tarkio and Tarkio Section 35 in exchange for which FVLT would receive several tracts of DNRC land in Mineral County. FVLT would sell these lands to recover costs of purchasing Alberton Gorge.*

The proposed DNRC Exchange as described above is a separate transaction from the Alberton Gorge Land Exchange analyzed in this environmental assessment. The DNRC Exchange will be processed under the auspices of the DNRC and will be subject to approval of the State Land Board. This process, now in its early stages, will involve an environmental review and public participation process under the Montana Environmental Policy Act (MEPA), as well as property appraisals, cultural inventories and other specific reports on the properties that will be involved in that land exchange. Because the DNRC Exchange is not yet approved by the State Land Board, this Environmental Assessment of the Alberton Gorge Land Exchange addresses the potential environmental effects of private development of Lower Tarkio and Tarkio Section 35, rather than assuming that these Tarkio sections will be transferred to DNRC. To help ensure the success of the DNRC Exchange, River Network and subsequently FVLT, DNRC

and Mineral County planners have met several times to identify developable tracts that coincide with county planning objectives and DNRC land disposal criteria. The DNRC Exchange would meet two important objectives: a) keeping the Tarkio lands in ownership of a public agency, as desired by area residents; and b) transferring developable (DNRC)state-owned land in Mineral County into the private sector, an outcome desired by many county residents and public officials to increase local tax base.

Alternatives Considered in Detail

For the two alternatives considered in detail, Alternative A – No Action, and Alternative B – Proposed Exchange, the primary factors considered in making this decision were how well each alternative met the purpose and need for the proposal, and how each responded to the issues raised in scoping. Refer to the following Table 1 – Summary of Anticipated Effects to Each Alternative for summary of environmental consequences.

Alternative A – No Action would allow all properties to remain under current ownership with no changes occurring to the federal and state tracts. The Alberton Gorge River Corridor has the potential for considerable changes, as NorthWestern Energy would likely sell to private developers.

This alternative would not allow the federal and state agencies to consolidate ownership of seven tracts; the agencies would have to research other options to achieve the desired land consolidations and resulting efficiencies in management.

The Alberton Gorge River Corridor would not likely be conserved for public angling and recreational use. Public recreational and angler access to the Clark Fork River would very likely decrease when the corridor lands become privately owned; often, private lands are closed to the public to access adjacent rivers or public lands. NorthWestern historically allowed public access to the Clark Fork River, though lands were not signed to promote this use. Recreation and boating would continue to occur on the river from the established access points, regardless of the Gorge ownership.

Water quality could be impacted significantly depending on private development occurring on lots adjacent to the river. The perception of solitude could decrease to a large degree if homes are developed on the banks of the river.

The No Action alternative would not change the expenses incurred by Mineral County from recreational users of the Alberton Gorge River Corridor area, road maintenance, Search and Rescue costs, fishing and hunting law enforcement. It is possible that the County could pass restrictions to control the location, amount and type of development along the Alberton Gorge River Corridor to limit impacts to water quality, solitude, wildlife and fish habitat, air quality, and potential effluent entering the river.

Tarkio Section 35 would remain under FS ownership and management for some time in the future, but may be included in a future land exchange proposal.

Alternative B, the Proposed Land Exchange will complete the Proposed Action as also described above. In Phase 1, the Alberton Gorge River Corridor will come under FWP ownership; Frank Lake, Natural Bridge, and Tizer Lakes will become part of the National Forest System, and the FS will acquire the Middle Osprey tract within the Alberton Gorge; FVLT will assume ownership of the Tarkio Section 35 and Lower Tarkio Section 34, Hebgen Cabin tract (subsequently conveyed to NorthWestern Energy), and the FWP Old Region 5 Headquarters.

In Phase 2, FWP will convey Park Lake to the FS in exchange for the Middle Osprey tract within the Alberton Gorge.

This alternative allows consolidation of tracts identified for many years by each agency for transfer. Angler and water-related recreational opportunities will increase with better management of sites transferred to the FS and FWP. The sites assumed by the FS will continue with similar recreational use and improved management and maintenance.

The Alberton Gorge River Corridor will be owned by FWP, allowing more effective management of fish and wildlife habitat, water quality, recreation activities, development and access along the corridor. Because of the increased FWP land ownership in Mineral County, the annual payments in lieu of taxes (PILT) will increase from the current no payment to approximately \$11,874, under MCA 87-01-603, to help with services that the county provides related to recreational use.

FVLT is actively pursuing a future land trade with DNRC that could increase Mineral county tax income from the sale of (DNRC) parcels within the county. Or, Tarkio Section 35 and Lower Tarkio Section 34 will be privately owned, but developed in a restricted manner to limit effects to wildlife habitat, timber erosion, air and water quality.

Environmental Consequences

TABLE 1. Summary of Anticipated Effects of Each Alternative

Resources	Alternative A - No Action	Alternative B - Exchange
Mineral Potential	The mineral estates of the federal and non-federal tracts would not be exchanged. Mineral development potential on FWP parcels and Hebgen tract would remain low due to recreational use. Sand and gravel resources on Tarkio tracts identified as having good quantity and quality, but subject to Federal approval.	The mineral estates would be exchanged. The United States would reserve all the geothermal resources under the Hebgen Cabin tract. The mineral potential of the federal and non-federal tracts is similar. There is very little development potential on either of the federal and non-federal tracts except the Tarkio tracts. The potential for sand and gravel development on Tarkio tracts is low, however, due to higher land values for timber and residential development.
Access	FS would continue to maintain 2.1 miles on FS lands and an additional four-tenths miles mile under easement from FWP. FWP would manage 1.9 miles of road at Frank Lake and Tizer Lake tracts.	FS will have net loss of two-tenths mile over the roads currently maintained via easement. FWP will have a net loss of six-tenths mile. FVLT will gain 2.1 miles of road in the Tarkio and Hebgen tracts.
Wetlands & Floodplains	Floodplains border the river along the Clark Fork River in Alberton Gorge, and though NorthWestern would sell to private entities, development in the estimated 160 acres of floodplains would be subject to state laws and permitting. Jurisdictional wetlands would continue to be protected under FWP ownership at Park Lake and Tizer Lake tracts, and floodplains protected at Frank Lake.	Floodplains along the Alberton Gorge would be subject to state laws and permitting. The three FASs would include trails from the parking area to the river; therefore, pedestrian use is expected to increase along the shorelines, but no structures are planned that would effect the floodplain. The FS would realize a net increase of approximately 55 acres of wetlands at Park Lake and Tizer Lake tracts. Due to their ownership of surrounding lands, area-encompassing management would likely benefit the wetland ecology. Floodplain acquired at Frank Lake consisting of 7.5 acres would continue to be protected.
Old Growth & Timber	No timber would be transferred; therefore no net loss of timber would result to the FS.	FVLT would not receive floodplains or wetlands. The Hebgen Cabin tract has a small amount of timber that is considered old growth recruitment, but is not currently managed for old growth. This old-growth, however, would be protected in conservation easement or deed restriction. Any old growth timber occurring on FWP parcels would be protected under FS ownership and relative forest plans. Approximately 3,863 thousand board feet (net) would be transferred out of FS ownership. Due to the high percentage of publicly owned and timbered land in the area with greatest loss (Tarkio tracts), this is not considered a significant impact to the National Forest System or wildlife habitat. Given the restrictions FVLT will place on the tract if sold, and or future ownership by DNRC, the timber values here

Resources	Alternative A - No Action	Alternative B - Exchange
Fish & Wildlife	<p>Wildlife habitat on the Tarkio tracts would remain intact.</p> <p>The Alberton Gorge would likely incur residential development in the future, eliminating potential linkage on either side of the river for wildlife movement and habitat. Fish and wildlife habitat could be lost or degraded by erosion and loss of habitat; therefore, potentially impacting bull trout and westslope cutthroat in the Clark Fork River. Permanent human residential use would preclude use of the area by many wildlife species, particularly in the winter when current human visitation is low.</p>	<p>will not change significantly.</p> <p>Timber values at the FWP tracts would remain the same under FS ownership.</p> <p>The benefit of the FS-acquired timber is the ability to manage these areas in ways that coincide with adjoining area timber management practices.</p> <p>Threatened, endangered, or sensitive wildlife or plant populations or their habitats would not be adversely affected. The biological evaluation for wildlife indicated that the FS and FWP lands contain valuable wildlife habitat, but the proposed exchange will have no effect on the gray wolf, bald eagle or Canada lynx. The transfer of Tarkio Section 35 to private ownership will reduce potential linkage zones for wide-ranging wildlife; however, this effect will be mitigated by acquisition of the Alberton Gorge River Corridor to further link zones on each side of the river. The potential future exchange resulting in DNRC owning the Tarkio tracts, or FVLT placing development restrictions on this tract, will also mitigate effects to linking zones. For sensitive species, the land exchange will not contribute to a trend toward Federal listing or cause a loss of population viability.</p> <p>Wildlife habitat on the Tarkio tracts would be impacted by 20-acre subdivision and residential development allowed in Montana. Elk and deer are the prime users of the Tarkio tracts. If developed into 20-acre tracts, the exchange would be expected to cause a small, but measurable reduction in population size at the elk herd scale. Crop depredation would likely increase. Gray wolves and bald eagles pass through the area. The tract may serve as part of a north-south linkage zone for grizzly bears, but acquisition of the Alberton Gorge will help mitigate these effects.</p> <p>To mitigate wildlife effects of transferring the Tarkio tracts out of FS ownership, FVLT is actively pursuing a future land exchange to put the Tarkio tracts in DNRC ownership, as are two adjacent sections to the south and east. The FS has also received approval to pursue future transfer of remaining acreage in Section 35 to DNRC.</p> <p>If the future DNRC exchange fails, FVLT would mitigate potential wildlife effects by voluntarily placing deed restrictions on the tract. The area north of the interstate will be limited to timber</p>

Resources	Alternative A - No Action	Alternative B - Exchange
<p>management; south of the interstate would be sold for four-six residential lots using layout/design input from FWP wildlife biologists.</p> <p>Wildlife will not be affected by the transfer of the Hebgren Cabin tract to private ownership due to projected recreational use of the tract being similar to historical use of tract.</p> <p>Wildlife will benefit from the transfer of the FWP lands to the FS to be managed in accordance with respective Forest Plans. Wildlife will also benefit from the addition of the Alberton Gorge corridor into FWP management. The new fishing access sites within the Alberton Gorge are small in size and will localize public use. This corridor will connect blocks of public and corporate lands on either side of the river to allow better linking for migrating animals. Water quality and use can be better managed under FWP ownership.</p>	<p>Implementing the exchange would increase or relocate the private population of the Tarkio area corresponding to four to six residential lots. (Or, if the future DNRC exchange succeeds, private development could be avoided in the Tarkio tracts and transferred to tracts elsewhere in Mineral County with local officials' approval.) Social structure of the neighboring small communities may change with resulting differences of new resident viewpoints. Demand of public services may increase similar to the No Action alternative which considered possible residential development in the Alberton Gorge.</p>	<p>Mineral County will receive a total of about \$11,874 in PILT from FWP after acquiring the Alberton Gorge. The added acreage owned by FWP in this county will require PILT on the other properties in the county, as well (MCA 87-01-603). This cost will primarily be borne by the FWP Fishing Access Site program funded by fishing license fees.</p> <p>In addition, Mineral County will receive taxes assessed to the FS lands transferred to FVLT. Assessments to private entities, in addition to assessments made to future improvements made to these lots, will likely be much higher than the PILT and 25% fund payments</p>
<p>Community Impact and Public Services</p>	<p>Visitation in the Alberton Gorge will continue to be high due to its recreational popularity. Certain public services and costs will continue, whether or not the Alberton Gorge is privately owned.</p> <p>Private development of the Alberton Gorge would increase or relocate the private residential population of the area to a small degree - about half of the 22 lots identified in the Alberton Gorge appraisal have suitable legal and physical access for private residential development. Social structure of the neighboring small communities and cultural viewpoints may differ if non-traditional private entities develop residences or commercial ventures in the area. As a result of residential or commercial development, an increase in public services would be needed for fire and police protection, schools, road maintenance, utility expansions, water and septic monitoring and solid waste disposal.</p>	<p>Mineral County received a total of about \$1,087 in tax related payments regarding the subject tracts (1998 and 1999 figures):</p> <ul style="list-style-type: none"> - roughly \$700 from NorthWestern Energy on the Alberton Gorge tract(s); - \$376 from the FS from PILT payments and the 25% Fund on the Tarkio tracts; - \$10.98 from FWP for fire protection at Tarkio; - no PILT is required on other FWP sites in the county due to the current lack of FWP land ownership within the county as per MCA 87-01-603.
<p>Impacts</p>		

Resources	Alternative A - No Action	Alternative B - Exchange
Aesthetics & Recreation	<p>Historically, MPC (now NorthWestern) has allowed public access to the Alberton Gorge for decades. Private development of lots within the Alberton Gorge would decrease the aesthetic values and eliminate recreational access to a 7-mile stretch of lands adjacent to the river for nearly 30,000 visitors each year. River-user/landowner conflicts would become problematic.</p>	<p>Mineral County received in the past.</p> <p>Other counties affected by the exchange will receive slightly higher payments from the FS than realized from FWP.</p> <p>FWP acquisition of the Alberton Gorge would ensure continued, and in some cases increased, aesthetic and recreational benefits of this undeveloped corridor. Nearly 30,000 people from local towns, the state, the Northwest and foreign countries use the corridor, and visitation continues to increase. Additional fishing access sites will disperse recreation among users and throughout the Alberton Gorge. FWP ownership allows more flexibility in solving potential problems regarding crowding, commercial use and resource management through planning and monitoring and implementing strategies.</p> <p>Transfer of the Tarkio tracts to FVLT would result in a loss of public recreational access if developed into four-six residential lots. Natural aesthetics would be reduced slightly by roads, tree removal, structures built and livestock related to residences.</p> <p>Historic public access and aesthetic values will be retained in the transfer of four FWP tracts to the FS.</p>
Cultural & Historical Resources	<p>There is potential that cultural resources remain in the Alberton Gorge, which would not be protected by state or federal law if sold to private entities. (Only the sites proposed to undergo construction for new fishing access sites were surveyed for cultural or historic resources, of which none would be impacted.)</p>	<p>The Tarkio tracts were surveyed and do contain cultural or historic sites, for which the Lolo NF consulted with SHPO to mitigate the loss of this section of Old Highway 10. In addition, the Old Milwaukee railroad was considered ineligible for listing due to its lack of integrity and representation in other sections of the railroad.</p> <p>The historic Hebgen Cabin tract will continue to be protected as a contributing part of the Hebgen Dam Recreation Camp (24GA848) under a continuity of use agreement held by a qualified receiver within a conservation easement or deed restriction.</p>

Public Comments and Response

Comments from scoping and draft EA (June 2000) and the EA issued in December 15, 2003 were collected by FWP and FS and put in respective project files as they were received. The comments were cross referenced for duplicates, then compiled by the consultant. The comments were analyzed and the interdisciplinary team responded to the comments in identification of issues, alternatives and environmental effects of the alternatives.

During the comment period for the December 2003 EA, 28 responses were received. The questions and concerns brought forward by the respondents were addressed in the EA, or are beyond the scope of the EA because they are dependent upon a future land exchange between FVLT and DNRC. A summary of comments along with agencies' responses are included in **Appendix C** of this Decision Notice. All comments are available for review in the project file at the FS Northern Region Office in Missoula or the FWP Headquarters Lands office in Helena.

The Selected Alternative

The selected alternative is Alternative B – Proposed Land Exchange, described above as the proposed action. FVLT will purchase the Alberton Gorge River Corridor from NorthWestern Corporation. FVLT will transfer the Alberton Gorge to FWP to be managed under the state parks and fishing access site programs.

FWP will transfer Frank Lake, Natural Bridge, Park Lake, and Tizer Lakes to become part of the National Forest System and managed in accordance with the corresponding National Forest Plans and related management areas.

FVLT will obtain Tarkio Section 35 tract and Lower Tarkio Section 34 tract, Hebgen Cabin tract, and the FWP Old Region 5 Headquarters. FVLT will subsequently convey the Hebgen Cabin tract to NorthWestern Energy as partial payment for the the Alberton Gorge River Corridor, and convey the remaining tracts to recover costs in acquiring the Alberton Gorge, with the primary intent to complete a future and separate land exchange that places the Tarkio tracts in DNRC ownership. If the intended future exchange with DNRC fails and FVLT must sell the Tarkio tracts to private entities to recover costs incurred when purchasing the Alberton Gorge, FVLT voluntarily agrees to restrict development of the parcel to minimize effects to the area wildlife as per the following:

“...insert restrictions in the deed that will restrict the use of the parcel north of the highway [Interstate 90] to timber management. For the portion of the property on the south side of the highway, we would probably need to carve out a small number of residential lots (probably between four and six) in order to get the value out of the property. We

pledge to consult with your [FWP] biologists to assure that the lots are situated in such a way as to minimize disturbance to wildlife.”

In Phase 1, the 15.39-acre parcel within the Alberton Gorge River Corridor known as Middle Osprey FAS will be transferred to the FS. FWP will retain Park Lake (95.88 acres) until the dam is improved to mutually acceptable standards, which FWP is pursuing, now. After dam restoration, Phase 2 of the exchange will be implemented, in which the two agencies will exchange these two parcels determined by appraisal to be equal in value.

It is understood that FWP must obtain approval from the State of Montana Land Board, and the State of Montana Fish, Wildlife and Parks Commission. Approvals from these two state agencies will be contingent upon approvals to complete this exchange from the United States Fish and Wildlife Service, who holds authority over lands encumbered with Sport Fish and Restoration Funds (Park Lake and Tizer Lake), and the National Park Service, who holds authority over lands encumbered with Land and Water Conservation Funds (Frank Lake). If approval is not obtained from each of these agencies, FWP may withdraw from the exchange.

The FS is subject to the appeals process, congressional oversight, and any regulatory agencies' approvals.

Appendix B lists the legal descriptions of each tract, water rights to be transferred, and outstanding rights and reservations that may accompany each tract, and other conditions, agreements, and understandings.

Determination of Public Interest

As required in 36 CFR 254.3(b), it has been determined that the public interest is well served through completing the Alberton Gorge Land Exchange as described in Alternative B.

State Tracts

Conveyance of the FWP tracts to the FS will provide several important public benefits:

- FS will acquire three in-holdings (Natural Bridge, Park Lake, Tizer Lake) within Forest Service boundaries;
- FS will have consolidated management of two recreation facilities (Natural Bridge & Park Lake) eliminating public confusion and law enforcement jurisdiction concerns;
- FS will be able to expand the recreational facility at Park Lake, emphasizing protection of the lakeshore and improving accessibility to the lake;
- FS will be able to improve the recreational facilities at the Natural Bridge;
- FS will consolidate ownership of the Elkhorn Wildlife Management Unit (Tizer Lake);

- FS will acquire habitat valuable for threatened and endangered or federally sensitive species (Frank Lake, Natural Bridge, Park Lake, Tizer Lakes);
- FS will continue to provide public access for angling and recreational opportunities.

Conveyance of the FWP Old Region 5 Headquarters to FVLT will also provide important public benefits:

- Eliminates maintenance and fees paid on a property which no longer serves the primary function for which it was purchased;
- Allows for future productive use of urban tract land in Billings.

Federal Tracts

Conveyance of the Federal lands to FVLT will accomplish several important public benefits:

- Eliminates the FS management of an isolated parcel and the administration and maintenance of a road to access these parcels (Lower Tarkio and Tarkio Section 35);
- Increases the acreage of private land in Mineral County tax base.

The federal lands to be conveyed are isolated from other large bodies of National Forest System lands by several miles to the north, east and south, and the interstate highway, railroad track and river to the west; therefore, the exchange meets established guidelines for managing and conveying isolated federal lands. FVLT plans to incorporate the land into adjacent DNRC lands through a proposed future and separate exchange, or sell portions of the Tarkio tracts for timber and residential development with restrictions on the deed as to the size and location of the development. These mitigation factors to limit development on the Tarkio tracts were a result of input from the public and Mineral County, and support from agency wildlife biologists and DNRC.

Private Tracts

Conveyance of the NorthWestern Energy tract to FVLT, then into public ownership, will accomplish these important public benefits:

- Improves public fishing access for anglers along the Clark Fork River;
- Preserves the natural values of the 7-mile Alberton Gorge River Corridor, including fish and wildlife habitat and scenic values.
- Consolidates public ownership and management along the Alberton Gorge River Corridor for public use.

In conclusion, the public benefits and resource values resulting from the proposed land exchange described in Alternative B will be equal to or exceed the public benefits and resource values served by those federal lands conveyed to FWP and FVLT. The intended use of the conveyed federal land will not substantially conflict with established management objectives of other adjacent federal lands.

Decision Criteria

The criteria for making this decision were the issues identified in scoping/draft EA dated June 2000 and addressed in the environmental analysis, consideration of how well each alternative met the purpose and need for action, and a review of the public comment on the Alberton Gorge Land Exchange EA issued on December 15, 2003.

Rationale for the Decision

This decision is based on Alberton Gorge Land Exchange EA issued on December 15, 2003, and a review of public comment. The alternatives described in the EA were reviewed, and how they would meet the purpose and need and respond to the issues for this analysis. The environmental consequences were deemed to have no effects, positive effects or minor effects on the physical and human environment, for which most effects can be mitigated. The alternatives not given detailed study in the EA were also reviewed, which helped decide that the interdisciplinary team had considered a thorough and complete range of alternatives.

All public comment was reviewed. There were no new issues or concerns raised; all points brought forth were considered in the EA or were beyond the scope of this EA. Area tribes were notified about the exchange and provided comment, which was considered. The discussion in the EA concerning taxes and public services, including costs to the agencies was reviewed, which allowed us to consider administrative costs of concluding the proposed land exchange. The land appraisal reports were also reviewed to understand the land values and how they were determined.

Alternative B, the proposed land exchange, was chosen because it best meets the purpose and need for action. FWP acquisition of the Alberton Gorge River Corridor will consolidate land ownership to improve management of public use while conserving the natural and recreational values of this unique resource. FS acquisition of the four state tracts will consolidate ownership in these areas so that current activities and public use in the area can continue and/or be improved, resources will be protected, and that future uses are compatible with management and uses of surrounding National Forest System lands.

Transfer of the federal lands to FVLT will maintain a private land base in Mineral County to generate revenue, as opposed to additional state or federal land ownership. The benefit of acquiring wildlife habitat and connectivity on either side of the Clark Fork River in the Alberton Gorge River Corridor offsets the potential loss in wildlife habitat in the Tarkio tracts. Moreover, any adverse wildlife habitat impacts at Tarkio will be mitigated with development restrictions placed on the Tarkio tracts, or the potential future exchange to DNRC.

We have determined that due to road densities on adjacent national forest system lands and private lands there are no unroaded resource values identified in the area.

If it were considered alone, conveying the Tarkio tracts, FWP Region 5 Old Headquarters and the Hebgen Cabin tracts into private ownership may not be a desirable action. However, when the overall benefits for the land exchange were considered, and the immediate and future benefits to the FS, FWP and the public that will be gained, transfer of the respective properties outweigh the effects of conveying the identified tracts into private ownership.

Alternative A – No Action would have very likely resulted in future residential subdivision development along the Alberton Gorge River Corridor. Such development would have long-term negative impacts on habitat, resources, public access and agency ability to manage the resources for the benefit of the public. The Tarkio tracts would remain in their present state, providing limited wildlife habitat and dispersed public recreation. The Tarkio tracts would inevitably be identified for disposal or exchange in the future due to their disconnection from other National Forest System lands. The FWP Region 5 Old Headquarters would continue to be a maintenance expense for FWP, rather than a contributing resource to the area economy. The Hebgen Cabin tract has been removed from the original Federal Energy Regulatory Commission boundary related to the Hebgen Dam and power company operations. The FS and NorthWestern would engage in negotiations with or without the proposed exchange to determine the future of the tract.

Other Alternatives

Other, more direct alternatives to disposing or acquiring the subject tracts were considered early in the process (Alternatives 1, 4, 7 and 8), but were not feasible due to the lack of funds for direct purchase available to either agency or the non-profit, FVLT (River Network). The agencies have limited funds for land acquisition, and on a nationwide, statewide and regional basis, direct purchase of these individual sites would be highly unlikely to occur, as the tracts would not compete adequately for available funds. Additionally, a direct purchase approach would exacerbate local concerns about further reducing the limited private land tax base in Mineral County.

Phased or partial acquisition of the Alberton Gorge River Corridor was also considered to reduce costs (Alternatives 2 and 3), but the purpose of the project would be compromised; i.e. the Alberton Gorge River Corridor would not be wholly managed for the public, nor would the other state tracts come under better management, nor would FS inholdings be eliminated. Other federal disposal tracts that might be more desirable to Mineral County were considered for the exchange (Alternative 5), but tracts that met federal disposal guidelines were already committed to ongoing exchanges.

The FS did consider placing restrictive covenants on the Tarkio tracts (Alternative 6); however, such action was not found to be necessary to comply with legal, regulatory requirements, executive orders, policy, or to meet Forest Plan management objectives. In addition, FVLT is actively pursuing a future exchange which would place these tracts

under DNRC ownership (Alternative 9) and resource oriented management, rather than immediate residential development. These efforts by FVLT will retain much of the existing wildlife habitat and potentially retain public recreational use on part of the Tarkio tracts. If this proposed exchange fails, FVLT would voluntarily place restrictions on the Tarkio tracts deed to limit the impacts to the resources if developed for residential use. The participating organizations have worked diligently with the public and the county to complete the exchange in a manner that benefits all parties.

In addition, the FS has received appropriated funding in 2004 to process a proposed land exchange with DNRC for acreage remaining in the north half of Section 35 which is not transferred in the Alberton Gorge Land Exchange.

FVLT and NorthWestern Energy have committed to conclude the Alberton Gorge Land Exchange. We believe that this opportunity may pass if not expeditiously pursued. The current option that FVLT holds to purchase the Alberton Gorge River Corridor from NorthWestern Energy expires July 1, 2004. In addition, while a September 2003 bankruptcy declaration by NorthWestern Energy complicates the logistics of the transaction, the parties are working to obtain appropriate authorization that will allow the sale of the Alberton Gorge property and the rest of the land exchange to proceed. If the sale and land exchange does not occur now, it is likely that this opportunity will be foregone.

Consistency with Other Laws, Regulation or Policy

To the best of our knowledge, this decision is in compliance with all applicable laws, regulations and policies for both federal and state agencies.

This decision is consistent with the goals, objectives and standards listed in the associated forest plans and FWP land management plans, as described for the management areas specific to the lands being exchanged.

The Biological Evaluations for threatened, endangered, and sensitive species were reviewed and it was found that habitat requirements for these species will be protected, or potential adverse impacts will be mitigated by the proposed action. Plan standards will apply to the state tracts when they become part of the National Forest System. FWP has a Section 9 permit in place regarding incidental removal associated with fishing and fishing regulations, and a Section 6 permit which covers other activities such as sampling and restoration projects on the Clark Fork River as it pertains to bull trout. Angling associated with the acquisition of the Alberton Gorge River Corridor and the three new fishing access sites will fall under these permits. It is illegal for anglers to intentionally fish for bull trout. The FWP Commission adopted a catch-and-release regulation for west-slope cutthroat trout in this section of the Clark Fork River (2004 Montana Fishing Regulations). Based on analysis, the land exchange will have no effect on wildlife and fish species and their habitats; consequently, consultation with the US Fish and Wildlife Service is not required.

Within the EA, documentation concerning floodplains and wetlands was in compliance with Executive Orders 11988 and 11990 (see EA page 188-189). The land exchange will bring about an estimated net gain of 55 acres of jurisdictional wetlands and 7.5 acres of 100-year floodplain into FS ownership; 160 acres of 100-year floodplain acquired by FWP; zero wetlands or floodplains acquired by FVLT.

The project was reviewed for compliance with the Environmental Justice Executive Order. Based on the EA (pp. 191-193), this decision will not adversely affect human health or minority and low-income populations. There has been ample opportunity for participation in the analysis process, as documented in the public involvement records in the Project File, and the implementation of this project will not subject anyone to discrimination because of his or her race, color, or national origin.

Any cultural sites occurring on lands transferred to the FS from FWP will be afforded continued protection pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA 16 U.S.C. 470 (f)) as federal property, which meet or exceed Montana cultural site protection requirements. Thus, no impacts will be incurred to lands transferring to the FS. The Alberton Gorge River Corridor will be afforded similar protection under FWP ownership. The Lolo NF consulted with SHPO regarding mitigation for the transfer of Old Highway 10 on the Tarkio Section 35 tract into private ownership. The Lolo NF also communicated with SHPO that due to a lack of integrity, the significant physical features of the Tarkio Segment of the Chicago, Milwaukee, St. Paul, and Pacific railroad are not eligible for the National Registrar of Historic Places and are already exemplified in the St. Regis-Avery Segment. NorthWestern Energy has voluntarily agreed to maintain the historic buildings (Hebgen Cabin) according to a "Continuity of Use" agreement held by a qualified receiver and developed with consultation from SHPO, or under a restrictive covenant in the deed, in an effort to protect the improvements which contribute to the historic property 24GA428, Hebgen Hydroelectric Camp. With this agreement adopted into a conservation easement, it will ensure that the historic property will continue to be managed in the same way as under FS ownership, thus no adverse effect (36 CFR800.9 c (2))

Finding of No Significant Impact

In reviewing the analysis within the EA, the Biological Assessments and Evaluations, and Administrative Record, it was determined that the implementation of the proposed action described in Alternative B will result in no significant impact. The provision for 40 CFR 1508.27(b) was reviewed in terms of project context and intensity relationships in determining project significance, and it is our decision that an Environmental Impact Statement (EIS) is not necessary and will not be prepared for this project. The rationale for not preparing an EIS includes the following.

Context

Although there are tracts being exchanged throughout the western 2/3 of the state, the actions at one site are not connected to the other sites, other than through gross market value to equalize the exchange values. The implications are for the areas immediately surrounding the individual tracts. The actions occurring at Frank Lake, for example will not influence actions at the FWP Region 5 Old Headquarters. An effort has been made to maintain a balance of public versus private land ownership values within Mineral County, but this does not influence actions proposed at other tracts in the state.

Intensity

- 1. Consideration of both beneficial and adverse impacts.** This decision will meet the purpose and need, and the desired condition for each of the issues and comments identified in Chapter 2 of the EA, as well as meet the intent of the Goals and Objectives outlined in the respective Forest Plans. Beneficial and adverse impacts of this decision are addressed in Chapter 3 and 4 of the EA. No significant impacts were identified.
- 2. Consideration of the effects on public health and safety.** This decision will have no significant impact or unacceptable effect on public health or safety. More effective management will result in better maintenance and upgrades of certain sites (Natural Bridge and Park Lake, Alberton Gorge) resulting in facilities that are more accessible, cleaner, and safer for public use. During scoping, comments were received concerning increased costs to provide public services in Mineral County, including roads maintenance and search and rescue efforts. The exchange will result in much higher payments in lieu of taxes from FWP resulting in additional Mineral County income, and FWP will continue to supply staff and equipment to aid in search and rescue efforts. In addition, land equal in market value to the Alberton Gorge River Corridor will remain under private ownership, to replace the lost tax revenue (approximately \$700 in 1998) paid by NorthWestern Energy. All sites were investigated for the presence of hazardous materials and were not found or were below standard state levels (Park Lake).
- 3. Consideration of unique characteristics of the area such as proximity to historic or cultural resources, park lands, prime or unique farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** The tracts to be exchanged are not ecologically critical areas, considered prime or unique farmlands, or designated as Wild and Scenic Rivers. There are no park lands, as the state park designation of Natural Bridge was removed by FWP several years ago and was incorrectly listed as such in the EA. No wetlands will be transferred to private or FWP ownership; the FS will acquire 55 acres of wetlands and 7.5 acres of floodplains; FWP will acquire about 160 acres of floodplain.

The lands were examined for sensitive plants and none were found. The biological evaluation for wildlife indicated that the FS and FWP lands contain valuable wildlife habitat, but the proposed exchange will have no effect on the gray wolf, bald eagle or Canada lynx. The transfer of Tarkio Section 35 to private ownership will reduce

potential linkage zones for wide-ranging wildlife; however, this effect will be mitigated by acquisition of the Alberton Gorge River Corridor to further link zones on each side of the river. The potential future exchange resulting in DNRC owning the Tarkio tract, or FVLT placing development restrictions on this tract, will also mitigate effects to linking zones. For sensitive species, the land exchange will not contribute to a trend toward Federal listing or cause a loss of population viability.

4. **Consideration of the degree of controversy associated with the effects.** Based on public comment and interdisciplinary analysis of the proposed action and alternatives, the effects on the human environment are not likely to be highly controversial. Scoping identified concerns by the public and Mineral County which have been addressed by the participating organizations and with significant input from the county officials. FVLT and DNRC are now in the scoping process regarding a proposed land exchange that would keep the Tarkio tracts under public (DNRC) ownership and enable development of other lands in the county to address tax base concerns. As a secondary measure of addressing public concerns if the DNRC exchange fails, FVLT has agreed to place restrictions on development in Tarkio Section 35 that would address area residents concerns about wildlife habitat and aesthetics related to development. The majority of public comments supported the proposed land exchange.
5. **Consideration of the uncertainty of the effects, or unique or unknown risks.** The effect of the proposed action will be similar to the effect of other land exchanges that have been completed. There are no extraordinary circumstances in this action that will make the effects highly uncertain or involve unique or unknown risks. The comments on the EA did not reveal any new issues that were not considered in the EA.
6. **Consideration of whether the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** The implementation of this decision is not precedent setting, and does not represent a precedent for any future decision. Any other proposal for the subject areas will be subject to full NEPA and MEPA disclosure.
7. **Consideration of cumulative impacts.** A cumulative effects analysis was conducted for this proposal. There are no known significant cumulative effects between this project and other known projects implemented or planned in areas separated from the affected area of this project.
8. **Consideration of the degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historical resources.** The Forest Archeologists and FWP Cultural Coordinator completed cultural resource surveys on the FS lands and consulted with SHPO regarding transfer and mitigation of existing or potentially important cultural or historical resources, as described in the Consistency with Other

Laws, Regulation or Policy section above. A portion of the Old Highway 10 and the old Milwaukee Railroad will be transferred from the FS to FVLT, but actions mitigating these effects have been implemented as per SHPO recommendation. The cabins on the Hebgen Cabin tract contribute to the Hebgen Dam Recreation Camp, 24GA848, but will be protected under NorthWestern Energy ownership through a conservation easement held by a qualified receiver, or a restrictive covenant in the deed, thus no adverse effect.

9. **Consideration of adverse effects on endangered or threatened species or their critical habitat, as determined under the Endangered Species Act of 1973.** As noted in #3 above, threatened, endangered, or sensitive wildlife or plant populations within the project area will not be adversely affected by this decision. There is potential for loss of grizzly bear linkage zone when Tarkio Section 35 is under private ownership, but effects will be mitigated with FWP acquisition of the Alberton Gorge seven-mile river corridor, existing blocks of state and corporate lands adjacent to this tract, and the future possible trade of the Tarkio tracts to DNRC or restrictions placed on the land if development.

10. **Consideration of Federal, State, or local law or requirements imposed for the protection of the environment.** As discussed elsewhere in this decision, this land exchange is in compliance with all applicable laws, regulations, and policies, and will not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment. The proposed action is in compliance with the respective Forest Plans, Endangered Species Act, and Executive Orders for protecting wetlands and environmental justice.

Review and Appeal Opportunities

This decision is subject to appeal pursuant to 36 CFR 215.14. A written Appeal must be submitted within 45 days following publication (or July 8, 2004) of the notice of this decision in the Missoulian, Great Falls Tribune and the Billings Gazette. Intended date of publication is May 23, 2004. In addition, the decision will be publicized in the Tobacco Valley News (Eureka), Western News (Libby), Daily Inter Lake (Kalispell), Mineral Independent (St. Regis), Helena Independent Record, Bozeman Daily Chronicle, and the Big Timber Pioneer.

Send Appeals to:

Chief, USDA Forest Service,
Attn: Appeals Deciding Officer
Appeals Section, Stop 1143
1400 Independence Ave., SW
Washington, D.C. 20250-1143

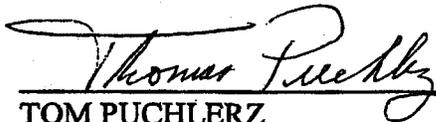
It is the appellant's responsibility to provide sufficient written evidence and rationale to show why my decision should be remanded or reversed. An appeal submitted to the Appeal Deciding Officer becomes a part of the appeal record. An appeal must meet the content requirements of 36 CFR 215.14 including the following components:

- State that the document is an appeal filed pursuant to 36 CFR part 215;
- List the name and address of the appellant and, if possible, a telephone number;
- Identify the decision document by title and subject, date of the decision, and name and title of the Responsible Official;
- Identify the specific change(s) in the decision that the appellant seeks or portion of the decision to which the appellant objects;

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal period. If an appeal is received, implementation may not occur for the 15 days following the date of appeal disposition.

Detailed records of the environmental analysis are available for public review at the FS Northern Region Office, Federal Bldg., 200 E. Broadway, PO Box 7669, Missoula, MT 59807, or at the FWP Headquarters, Lands Office, 1420 East 6th Ave, Helena, MT 59620-0701. For additional information concerning this decision or the appeal procedure, contact the Interdisciplinary Team Co-Leaders: Ron Erickson, USDA Forest Service, Northern Region, 200 E. Broadway, P.O. Box 7669, Missoula, MT 59807, or call 406-329-3623, or Darlene Edge, FWP, PO Box 200701, Helena, MT 59620-0701, or call 406-444-4042.

Signatures and Date



TOM PUCHLERZ

Director of Recreation, Minerals, Lands, Wilderness and Heritage
Northern Region
USDA, Forest Service

5-21-04
Date

JEFF HAGENER

Director
Montana Department of Fish, Wildlife and Parks

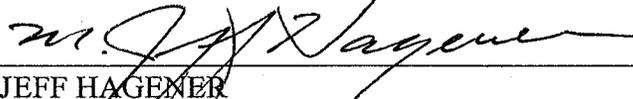
Date

Signatures and Date

TOM PUCHLERZ

Director of Recreation, Minerals, Lands, Wilderness and Heritage
Northern Region
USDA, Forest Service

Date



JEFF HAGENER

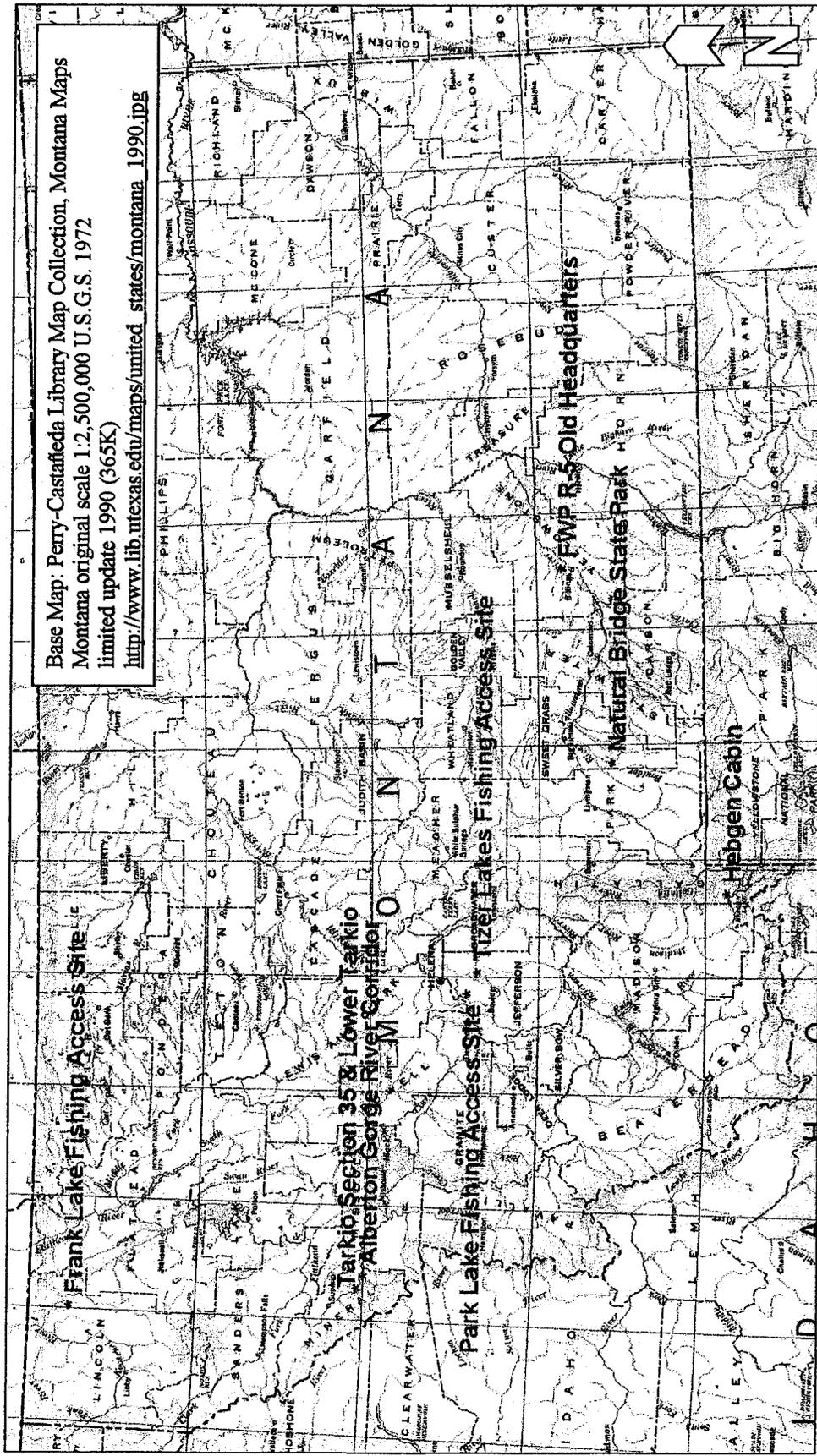
Director
Montana Department of Fish, Wildlife and Parks

5/21/04
Date

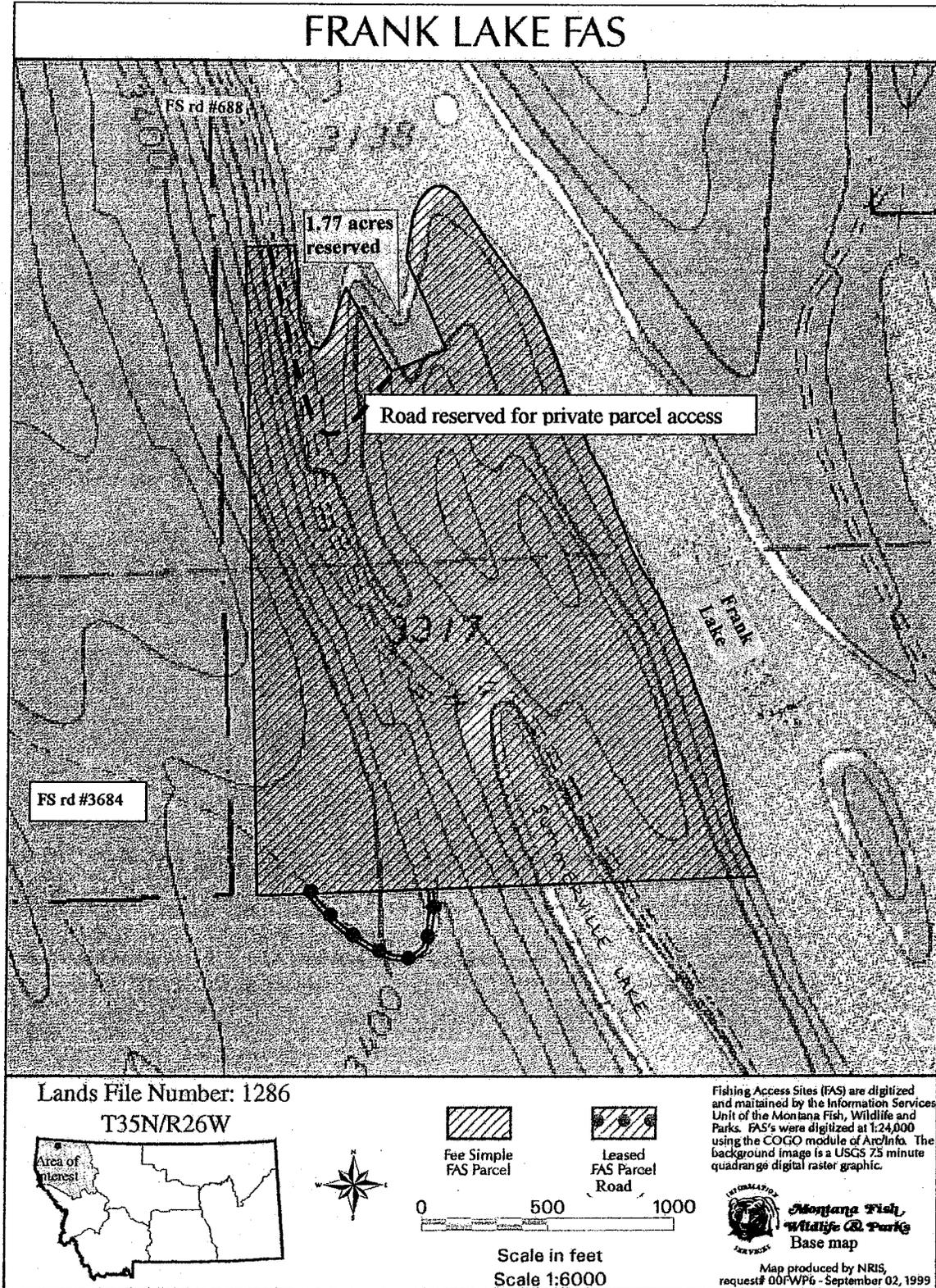
Appendix A

Maps of the Alberton Gorge Land Exchange

MAP 1: Alberton Gorge Land Exchange Tract Location Map

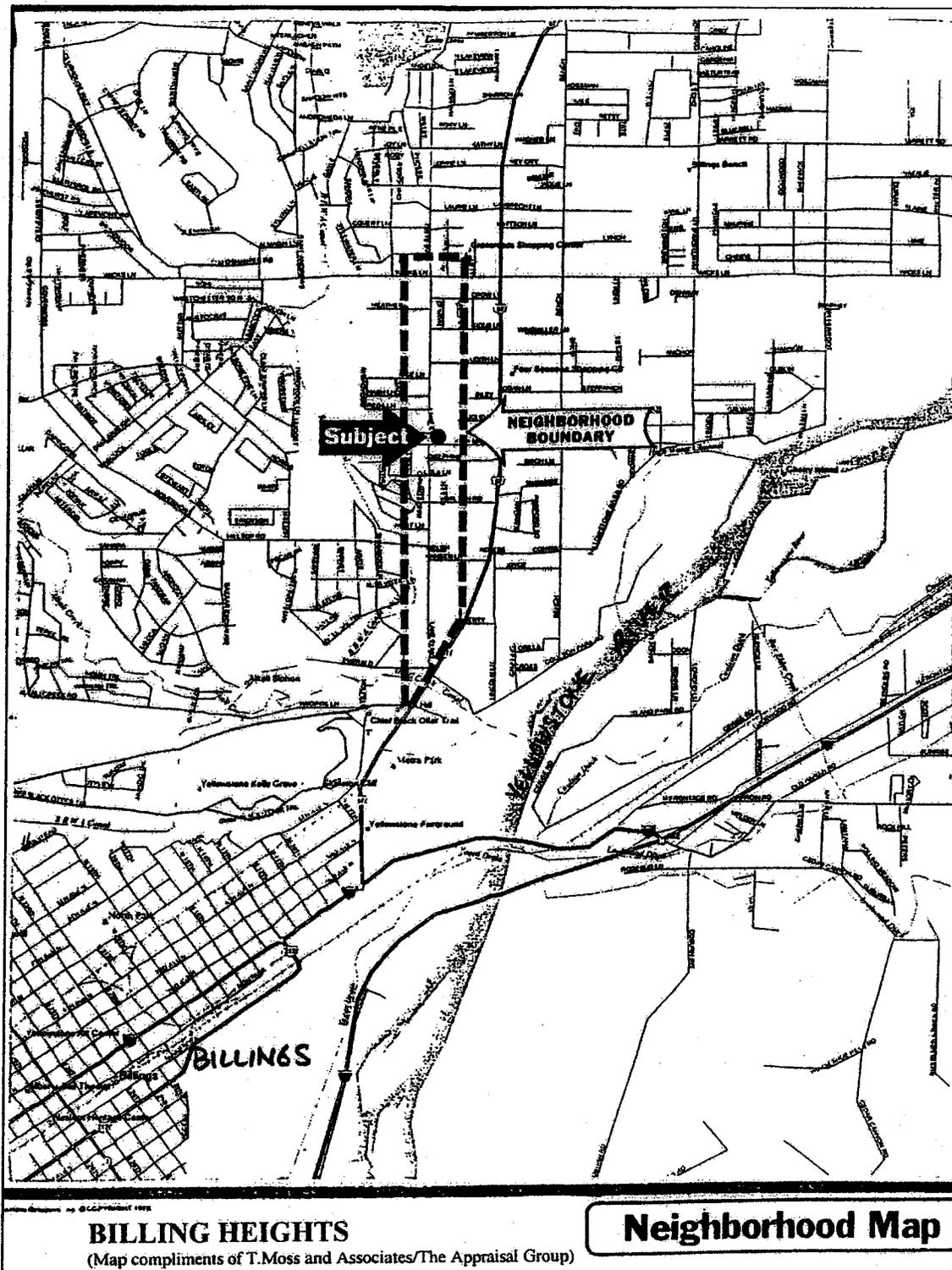


MAP 3: Frank Lake Fishing Access Site to be conveyed from FWP to the FS.

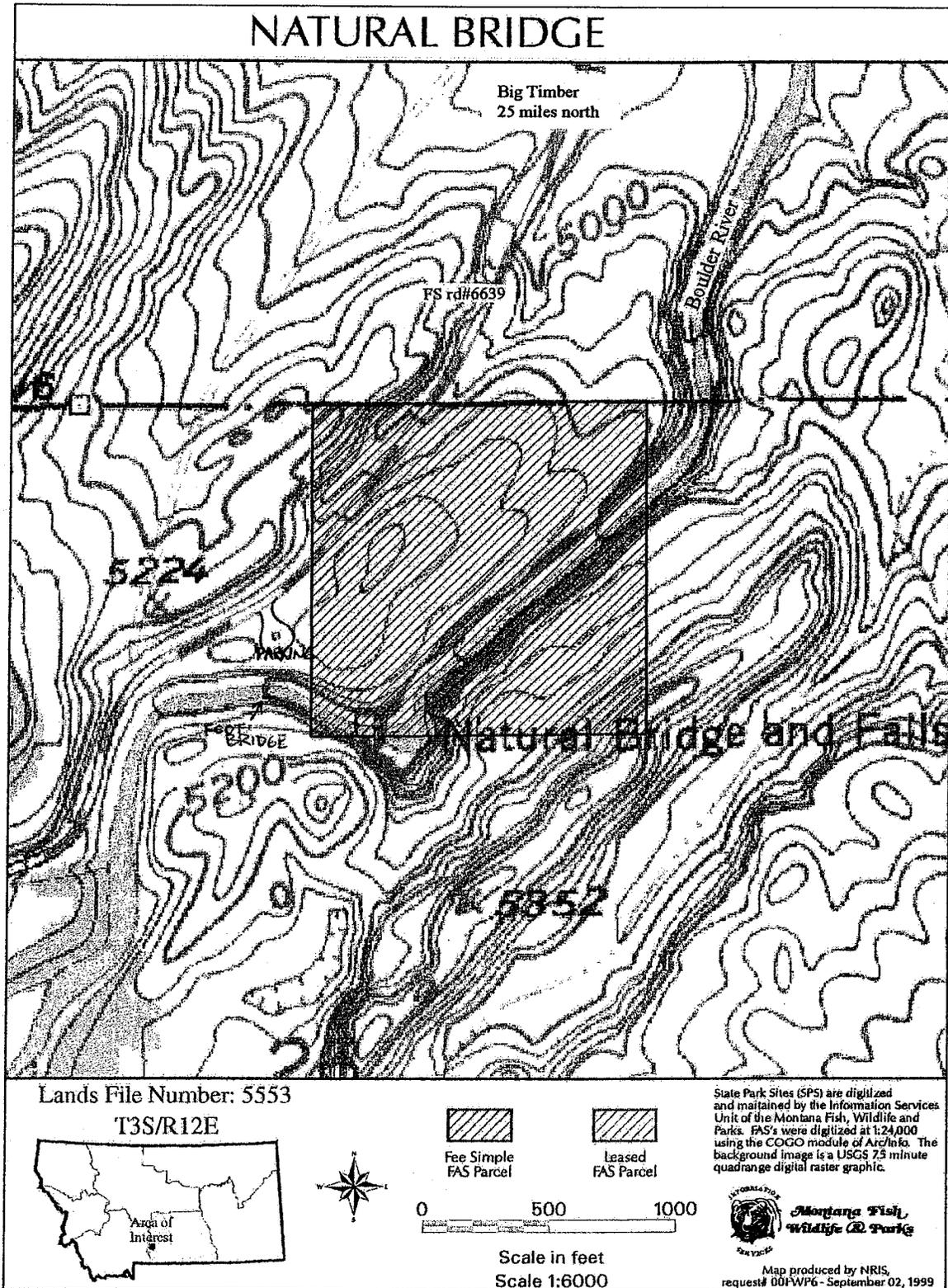


Note: Kootenai NF Surveyor, Roger Green calculated the acreage shown in Certificate of Survey #133878 to arrive at a total of 90.40 acres, and this acreage was used to determine the appraised value.

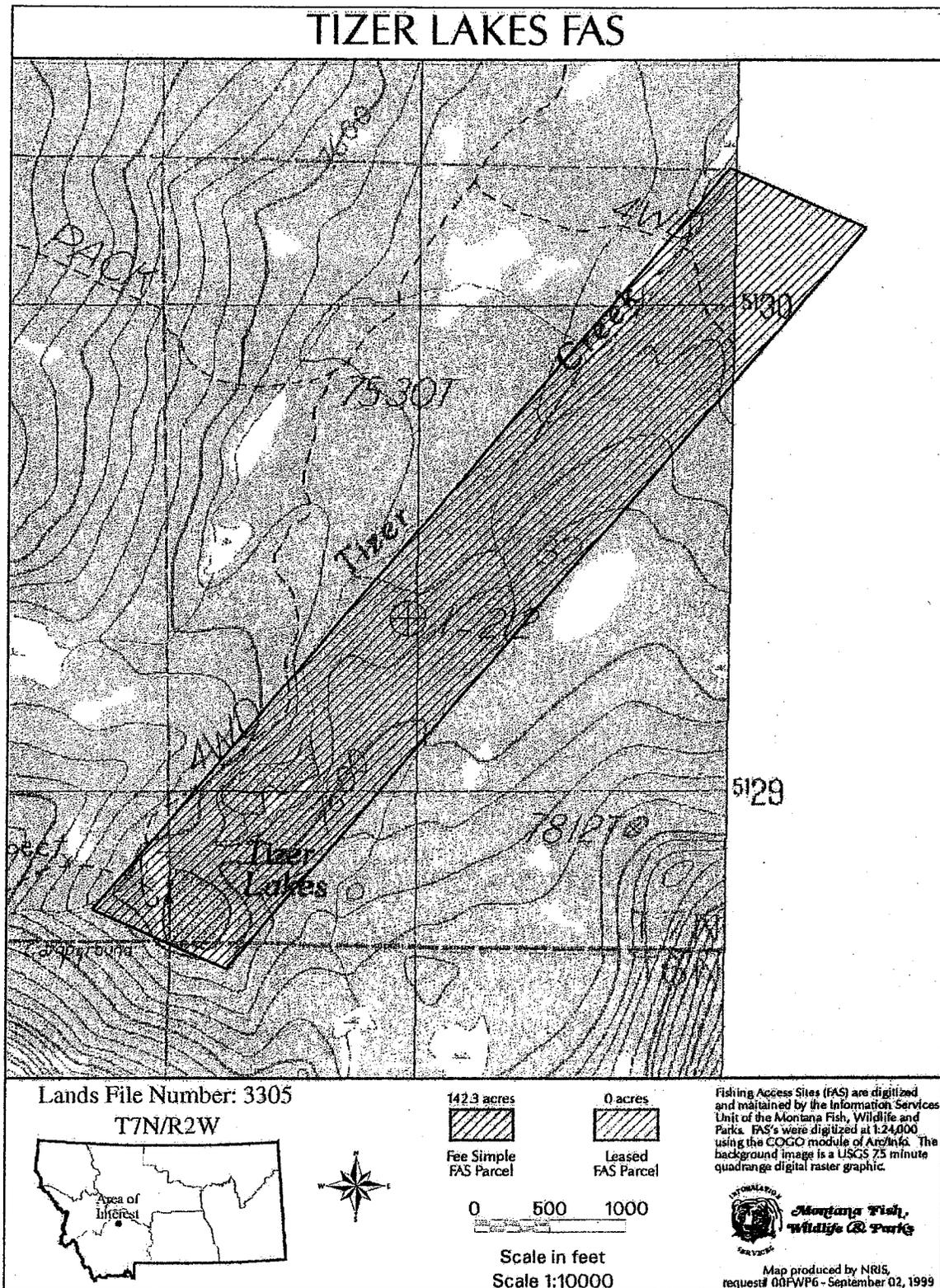
MAP 4: Location of FWP Region 5 Old Headquarters in Billings Heights to be conveyed from FWP to Five Valleys Land Trust; 2.7 acres.



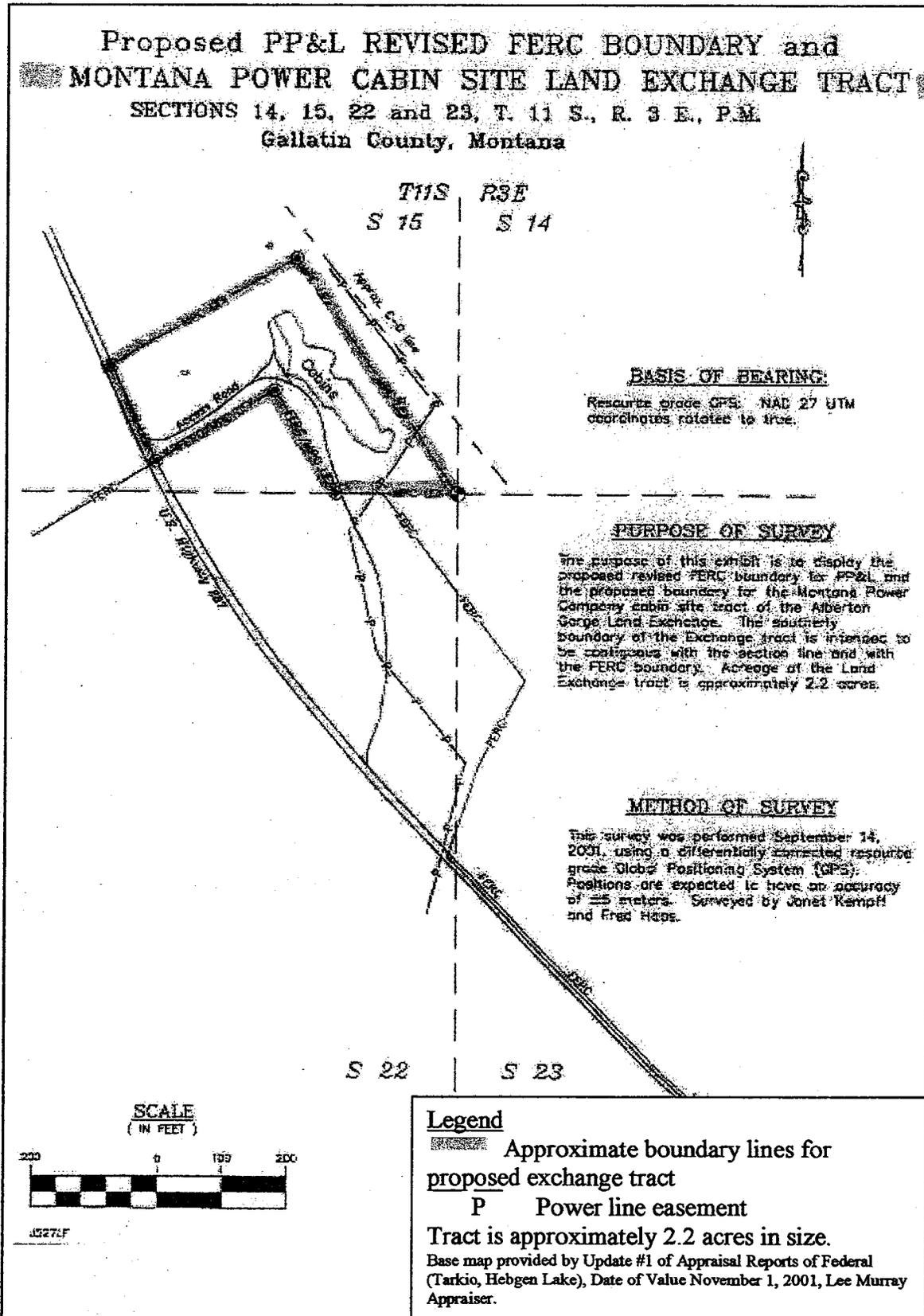
MAP 5: Natural Bridge recreation area to be conveyed from FWP to the FS; 40 acres.



MAP 7: Tizer Lake Fishing Access Site to be conveyed from FWP to the FS; 142.29 acres.



MAP 8: Hebgen Cabin tract to be conveyed from the FS to Five Valleys Land Trust and subsequently to NorthWestern; 2.2 acres.



Appendix B

Legal Descriptions, Outstanding Rights and Reservations

**Property, including mineral interests, that MONTANA DEPARTMENT OF FISH,
WILDLIFE & PARKS will convey to the FOREST SERVICE (United States)**

FRANK LAKE

T. 35 N., R. 26 W., Principal Meridian, Montana (Frank Lake)

- sec. 7, lot 8, excepting therefrom a tract of land situated, lying and being in the SW $\frac{1}{4}$ of sec. 7,
T. 35 N., R. 26 W., P.M.M., Lincoln County, Montana, more particularly described as
follows: Commencing at the S $\frac{1}{4}$ corner of sec. 7 which is a found BLM brass cap;
thence N. 28°28'20" W., 989.25 feet to a set iron pin which is the true point of beginning of
the tract of land herein described:
thence S. 69°05'13" W., 236.24 feet to a set iron pin;
thence N. 26°50'48" W., 390.04 feet to a point which is on the high water mark of Frank
Lake;
thence continuing along said high water mark of Frank Lake the following courses and
distances; N. 17° 08'52" E., 60.05 feet to a point;
thence N. 85°16'01" E., 43.03 feet to a point;
thence S. 29°15'45" E., 82.75 feet to a point;
thence S. 36°04'33" E., 56.17 feet to a point;
thence S. 63°22'17" E., 64.63 feet to a point;
thence N. 86°18'32" E., 38.01 feet to a point;
thence N. 34°08'09" E., 60.50 feet to a point;
thence N. 26°41'26" E., 38.07 feet to a point;
thence N. 01°33'34" E., 19.74 feet to a point;
thence leaving said high water mark S. 22°05'42" E., 306.85 feet to the place of beginning
and containing 1.779 acres of land, more or less.
- sec. 18, lot 2, and NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing 90.40 acres, Lincoln County, Fortine Ranger District, Kootenai National Forest.

Outstanding Rights

1. The rights of the United States and third parties recited in the patent from the United States dated November 26, 1920, and recorded January 12, 1921, in Book 33, page 209, records of Lincoln County, Montana.
2. An easement for ingress and egress in favor of Karen Bond as reserved in deed dated April 11, 1980, and recorded August 7, 1980, in Book 67, page 280, records of Lincoln County, Montana.
3. An easement agreement by and between Montana Department of Fish, Wildlife, & Parks; Raymond V. Starling and Peggy M. Starling; and Robert D. Starling and Peggy L. Starling, dated January 21, 1994, and recorded February 24, 1994, in Book 197, page 286, records of Lincoln County, Montana.

NATURAL BRIDGE

T. 3 S., R. 12 E., Principal Meridian, Montana (Natural Bridge)
sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Containing 40.00 acres, Sweet Grass County, Big Timber Ranger District, Gallatin National Forest.

Outstanding Rights

1. The rights of the United States and third parties recited in the patent from the United States dated December 24, 1903, and recorded September 30, 1904, in Book 2 D, page 558, records of Sweet Grass County, Montana.
2. An easement for Boulder Road No. 212 in favor of the United States of America dated June 13, 1967, and recorded August 8, 1967, in Book 53 D, page 291, records of Sweet Grass County, Montana.

PARK LAKE

T. 8 N., R. 5 W., Principal Meridian, Montana (Park Lake)*
MS 752, Park Ditch Placer, lying within sections 13, 22, 23 and 24.

Containing 95.88 acres, Jefferson County, Helena Ranger District, Helena National Forest.

*This parcel will be transferred in Phase 2 after the high hazard dam is restored to a mutually agreed standard.

Water Rights

Water Right Number 41I-W1249-08-00 Montana State Department of Fish, Wildlife and Parks located in NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ section 13, T. 8 N., R. 5 W., to be transferred to the United States. (Park Lake)

Water Right Number 41I-W1908-64-00 Montana State Department of Fish, Wildlife and Parks located in W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ section 13, T. 8 N., R. 5 W., to be transferred to the United States. (Park Lake)

Outstanding Rights

1. The rights of the United States and third parties recited in the patent from the United States dated September 5, 1916, and recorded November 21, 1930, in Book _____, page _____, records of Jefferson County, Montana.
2. An easement for Park Lake Road No. 4009 in favor of the United States of America dated May 8, 1964, and recorded June 3, 1964, in Book 88 of Deeds, page 323, records of Jefferson County, Montana.
3. An easement for Frohner Mine Road No. 1878 in favor of the United States of America dated March 26, 1968, and recorded April 22, 1968, in Book 94 of Deeds, page 321, records of Jefferson County, Montana.
4. An easement for a fence in favor of the United States of America dated November 22, 1965, and recorded July 29, 1970, in Book 98 of Deeds, page 238, records of Jefferson County, Montana.

TIZER LAKE

Tps. 6 & 7 N., R. 2 W., Principal Meridian, Montana (Tizer Lake)
MS 2828, Woodland Park Placer
(sec. 5, T. 6 N., R. 2 W., and secs. 31 & 32, T. 7 N., R. 2 W.)

Containing 142.29 acres, Jefferson County, Helena Ranger District, Helena National Forest.

Water Rights

Water Right Number 41I-W-190865-00 Montana State Department of Fish, Wildlife and Parks W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ section 32, T. 7 N., R. 2 W., to be transferred to the United States.

Water Right Number 41I-W-190866-00 Montana State Department of Fish, Wildlife and Parks N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ section 32, T. 7 N., R. 2 W., to be transferred to the United States.

Outstanding Rights

1. The rights of the United States and third parties recited in the patent from the United States dated April 9, 1892, and recorded August 19, 1892, in Vol. 204, page 133, records of Jefferson, Montana.

All together containing 368.57 acres.

Property, including mineral rights, that the FOREST SERVICE will exchange to FIVE VALLEYS LAND TRUST

LOWER TARKIO (SECTION 34)

Parcels of land, being located in the SE $\frac{1}{4}$ (lot 5) of section 34, T. 15 N., R. 25 W., P.M., and being further described as Portion 'A' and Portion 'B' on Certificate of Survey No. 376, records of Mineral County, Montana; and

A parcel of land in the SE $\frac{1}{4}$ (lots 5 and 8) of section 34, T. 15 N., R. 25 W., P.M., and being further described as Tract 'A' on Certificate of Survey No. 373, records of Mineral County, Montana; and

All that portion of Chicago, Milwaukee, St. Paul and Pacific Railroad Company's 100-foot wide right-of-way and extra width right-of-way in E $\frac{1}{2}$ NE $\frac{1}{4}$ (lot 4 and NE $\frac{1}{4}$ NE $\frac{1}{4}$), section 34, T. 15 N., R. 25 W., P.M., being further described on Certificate of Survey No. 339, records of Mineral County;

EXCEPTING and EXCLUDING that parcel conveyed to the United States of America, Department of Energy, Bonneville Power Administration by deed date August 28, 1981, recorded November 30, 1981, Drawer 1 of Deeds on Card No. 3233-3233A, AND that parcel conveyed to Joseph A. Petersen and Rose L. Petersen by deed dated April 2, 1990, recorded April 3, 1990, in Drawer 2 of Deeds on Card No. 6303 and being further described as Portion A on Certificate of Survey No. 367, all in records of Mineral County, Montana.

The areas described aggregate 34.4 acres, more or less.

Reservations

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

Outstanding Rights:

1. A Federal Land Policy and Management Act Forest Road Easement dated January 5, 1995, issued to State of Montana, FW&P, for Tarkio River Access Road #7736 across the E $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ in COS No. 339, COS No. 376 and COS No. 373, section 34, T. 15 N., R. 25 W.
2. A 40-foot wide roadway easement within NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said section 34, granted to James W. Adams in document dated July 29, 1987, and recorded September 1, 1987, in Drawer 1 MRE records, Card No. 2815-2815A and depicted as "public road by use" on Certificate of Survey No. 339, all in the records of Mineral County, Montana.
3. A 50-foot wide non-exclusive easement over and across the Old Milwaukee Railroad right-of-way for ingress, egress and utilities of said section 34, granted to Lamar Roberts in deed dated June 12, 1989, and recorded June 13, 1989, in Drawer 2 of Deeds, Card No. 6046, records of Mineral County, Montana.
4. A 60-foot wide road right-of-way easement within NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said section 34, granted to Champion International Corporation in document dated April 15, 1991, and recorded April 17, 1991, in Drawer 2 MRE records, Card No. 3374, records of Mineral County, Montana.
5. A right-of-way in favor of Robert L. Yates for ingress and egress along the abandoned Milwaukee Railroad right-of-way, on and over Tarkio River Access Road No. 18171, in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and lots 4, 5 and 8 of said section 34, said easement being 66 feet in width depicted in part on Tract 'A' of Certificate of Survey No. 373, as reserved in deed dated June 20, 1991, and recorded June 20, 1991, in Drawer 2 of Deeds, Card No. 6764-6764B, records of Mineral County, Montana.
6. An easement to The Montana Power Company to erect, maintain, operate, repair and replace electric transmission line over lots 4, 5, 8 and NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said section 34, granted in document dated July 15, 1974, and recorded August 1, 1974, in Drawer 1 MRE records, Card No. 1203-1203X, records of Mineral County, Montana.
7. An easement to The Montana Power Company to operate, maintain, repair and replace electric transmission line together with maintenance of related improvements and equipment along the Chicago, Milwaukee, St. Paul & Pacific Railroad right-of-way within lots 4, 5, 8 and NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said section 34, dated July 15, 1974, and recorded December 2, 1981, in Drawer 1 MRE record, Card No. 1728-1728K, and modified by Agreement dated August 12, 1982, and recorded September 2, 1982, in Drawer 1 MRE records, Card No. 1858-1858E, all in the records of Mineral County, Montana.
8. A 10-foot by 83-foot underground power easement and a private access and utility easement within lot 5 of said section 34, reserved to Lamar Roberts in deed dated December 5, 1990, and recorded December 5, 1990, in Drawer 2 of Deeds, Card No. 6550 and depicted on Portion "B" of Certificate of Survey No. 376, records of Mineral County, Montana.
9. A 10-foot wide easement within lots 5 and 8 of said section 34 for underground power purposes granted to Lamar Roberts in deed dated December 5, 1990, and recorded December 6, 1990, in Drawer 2 MRE records, Card No. 3323 and depicted on Tract A of Certificate of Survey No 373, records of Mineral County, Montana.
10. Restrictive covenant pertaining to land within lot 5 of said section 34 as follows: "...to become part of a parcel that does not have sanitary restrictions imposed provided that no dwelling or structure requiring water or sewage be erected on the additional acquired parcel...", disclosed on Certificate of Survey No. 376, records of Mineral County, Montana.

11. Covenants, conditions and restrictions pertaining to land within lot 5 of said section 34, contained in deed dated December 5, 1990, recorded December 5, 1990, in Drawer 2 of Deeds, Card No. 6550, records of Mineral County, Montana, as follows: (1) An area within Portion 'B' on Certificate of Survey No. 376, shall not be developed or logged except for insect and/or disease control and (2) Portion 'A' and Portion 'B' on Certificate of Survey No. 376 may not be described separately in any subsequent transfer of ownership.
12. Minerals of any nature whatsoever, including but not limited to coal, iron, natural gas and oil, except sand and gravel, which may be in or upon said described lands with the sole, exclusive and perpetual right to explore and dispose of said minerals as reserved by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company in deed dated July 26, 1982, and recorded April 12, 1983, in Drawer 1 of Deeds, Card No. 3679, records of Mineral County, Montana.
13. A right-of-way for utility purposes along Tarkio River Access Road No. 18171 of said section 34, within reserved 66 foot road right-of-way in favor of Robert L. Yates as disclosed in Deed dated June 20, 1991, and recorded June 20, 1991, in Drawer 2 of Deeds, Card 6764-6764B, records of Mineral County, Montana.

Other Encumbrances

1. A Special Use Permit dated November 15, 1994, issued to Clark Fork Telecommunications for a buried fiber optic telephone line, lots 4, 5, 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 34, T. 15 N., R. 25 W.

Five Valleys will issue an easement or permit to this company for the same purpose.

TARKIO SECTION 35

T. 15 N., R. 25 W., Principal Meridian, Montana (Tarkio)

sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$.

Together with a Federal Land Policy and Management Act private road authorization over and across the existing Ronck Road No. 18014 in the NW $\frac{1}{4}$.

Containing 530 acres, more or less in Mineral County, Ninemile Ranger District, Lolo National Forest.

Reservations

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).
2. The following language will appear in patent or deed for the Ronck Road No. 18014. The referenced exhibits will be prepared by the Forest Service.

"An exclusive perpetual easement, including all right, title, and interest for an existing road and all appurtenances thereto, over, upon, or under the land so granted, as shown approximately on attached Exhibit _____, consisting of _____ sheet(s), and more particularly identified and described herein, together with such reasonable rights of temporary use of lands immediately adjacent to the following right-of-way as may be necessary for the maintenance and/or repair of the road.

Said easement shall be sixty-six (66) feet in width, being thirty-three (33) feet on each side of the centerline of said roads as they exist and are actually located on the ground, with such additional width as might be required for the adequate protection of cuts and fills. The intent

of this reservation is to reserve the road, for the entire length of the road, across and through the property described and as listed below.

Ronck Road No. 18014 – NW¼ and S½NE¼, sec. 35, T. 15 N., R. 25 W., P.M.M.

IT IS AGREED that the grantee and its successors and assigns shall have the right to use the existing road described above for all purposes deemed necessary or desirable in connection with the protection, administration, management, and utilization of grantee's lands or resources, subject, however, to traffic control regulations as provided in 36 CFR 261.12 and the bearing of road maintenance costs proportionate to use as provided in 36 CFR 212.5(d), attached as Exhibits _____ and _____, respectively, consisting of 1 sheet each.

PROVIDED, that if the Regional Forester determines that the road, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Regional Forester to the grantee, or its successors or assigns in interest."

Outstanding Rights

1. A United States Department of Transportation easement issued to Montana Department of Highways on January 24, 1974 for Interstate 90 as it affects the SW¼NW¼, NE¼SW¼, N½SE¼ section 35.
2. Easement granted to Chicago, Milwaukee & St. Paul Railroad on June 16, 1916, for erection and maintenance of an electric transmission system and recorded in Book 2 of Deeds, page 9, records of Mineral County, Montana.
3. Easement granted to Mountain States Telephone and Telegraph on March 17, 1923, and recorded in Book 1 of Misc. Real Estate Records, page 306, records of Mineral County, Montana.
4. A road easement issued to Mineral County on August 9, 1915, and recorded in Book 2 of Deeds, page 6, records of Mineral County, Montana.
5. A road easement issued to Mineral County on May 8, 1925, and recorded in Book 6 of Deeds, page 272, records of Mineral County, Montana.

Other Encumbrances

1. A Special Use Permit dated July 14, 1995, issued to Clark Fork Telecommunications for a telephone line network, S½ section 35, T. 15 N., R. 25 W.
2. A Special Use Permit dated November 25, 1985, issued to Missoula Electric Cooperative for a 44Kv transmission line, W½SW¼, NE¼SW¼, N½SE¼, W½NW¼, SE¼NW¼ section 35, T. 15 N., R. 25 W.

Five Valleys Land Trust will issue a lease or permit to these companies for the same purpose.

HEBGEN

T. 11 S., R. 3 E., Principal Meridian, Montana (Hebgen)
sec. 15, lot 7.

Together with a Federal Land Policy and Management Act private road authorization from U.S. Highway 287 to tract over and across existing road.

Containing 2.20 acres, Gallatin County, West Yellowstone Ranger District, Gallatin National Forest.

Reservations

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).
2. All the geothermal steam and associated geothermal resources in the lands so patented, and to the United States, or persons authorized by the United States, the right to prospect for, mine and remove such resources, upon compliance with the conditions and subject to the provisions and limitations of the Act of December 24, 1970 (84 Stat. 1566; 30 U.S.C. 1024).

Outstanding Rights

1. A right-of-way for Highway 287 granted, created, or established by or for the use of the public and by or under local, State, or Federal laws or decisions, or otherwise.

Other Encumbrances

1. A Special Use Permit to Montana Power Company for an existing powerline.

Five Valleys will subsequently convey this parcel to Northwestern Corporation, successor in interest to Montana Power Company. This permit will be terminated upon completion of the exchange.

2. There currently exists a power site reserve withdrawal #184 which needs to be revoked prior to conveyance of tract. The Forest Service will work with the Bureau of Land Management (BLM) and/or the Federal Energy Regulatory Commission (FERC) to revoke the withdrawal.

All together containing 566.60 acres

Property, including mineral interests, that MONTANA DEPARTMENT OF FISH, WILDLIFE & PARKS will convey to FIVE VALLEYS LAND TRUST

FWP REGION 5 OLD HEADQUARTERS

T. 1 N., R. 26 E., Principal Meridian, Montana (FWP Old Headquarters)
section 22, NW $\frac{1}{4}$, SE $\frac{1}{4}$, Tract 1 Certificate of Survey No. 979
Containing 3.17 acres, Yellowstone County.

Property, including mineral interests, that FIVE VALLEYS LAND TRUST will purchase, then convey to MONTANA DEPARTMENT OF FISH, WILDLIFE & PARKS

ALBERTON GORGE

T. 15 N., R. 25 W., Principal Meridian, Montana (Alberton Gorge)
section 36: a portion of Govt. lots 1, 2, and 3 ^
Old Milwaukee r.o.w. in the east half of section 36

T. 15 N., R. 24 W., Principal Meridian, Montana
section 31: Portions of Govt. Lots 3, 4, 5, 6, 7, 8, 9 and 10 SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ ^

Old Milwaukee r.o.w. in the west half of section 31
section 32: Portions of Govt. Lots 5, 6 and 7
section 33: Portions of Govt. Lots 1, 2, 3, and 4 +
Old Milwaukee r.o.w. in section 33
section 34: Portions of Govt. Lots 1, 2, 3, 4, 5, 6, 7, and 8 ** +
Old Milwaukee r.o.w. in section 34
section 35: Portions of Govt. Lots 2, 3, 4 and 5 +
Old Milwaukee r.o.w. in section 35
section 36: Portions of Govt. Lots 1, 2, 3, 4 and 5 **

^ Portions of Lots 1, 2 & 3 and the Old Milwaukee r.o.w. in sec. 36 R. 25 W.; and Lots 3, 4, 5, 6, 7 & 8 and the Old Milwaukee r.o.w. in sec. 31 R. 24 W. will be encumbered by Land and Water Conservation Funds.

** Portions of the six Lots identified will be retained by FVLT to use as conveyance to DNRC in a future land exchange.

+Portions of secs. 35 Lots 3, 4, 5; sec. 34 Lot 4; sec 33 Lots 3 & 4, all in R. 24 W. will be encumbered by Sport Fish Restoration Funds (Wallop-Breaux).

Middle Osprey

Note that Govt Lot 4 in section 34 in T. 15 N., R. 24 W. and a portion of the Old Milwaukee r.o.w. in section 34 (15.39 acres total) will be transferred to the FS in Phase I, then to Fish, Wildlife and Parks in Phase II.

Containing 305 acres, more or less, Mineral County.

Property, including mineral interests, that FIVE VALLEYS LAND TRUST will purchase, then convey to the FOREST SERVICE (Phase I)

MIDDLE OSPREY OF THE ALBERTON GORGE

T. 15 N., R. 24 W., Principal Meridian, Montana (Middle Osprey)
sec. 34, lot 4 and old railroad right-of-way.

Containing in total 15.39 acres.

Outstanding Rights

The outstanding rights will be determined upon review of the updated Title Commitment.

OTHER CONDITIONS, AGREEMENTS, AND UNDERSTANDINGS

The following additional conditions, agreements, and understandings have been negotiated and agreed upon by the Non-Federal Parties and the Forest Service. The parties hereby agree these conditions shall be a collateral part of the overall exchange.

Hebgen Tract

1. Five Valleys will insure that NorthWestern Energy pays the cost of completing, reviewing, and approving the Hebgen tract survey to Bureau of Land Management (BLM) standards prior to conveyance of this tract to Five Valleys and subsequently to NorthWestern Energy. The survey has been initiated in coordination with NorthWestern Energy, successor in interest to the Montana Power Company.

The parties agree that a BLM Patent Decision Letter and/or patent request letter will be held in escrow until survey plat or Certificate of Survey is completed in accordance with BLM standards and approved by BLM.

2. Five Valleys will insure, at closing, that NorthWestern Energy will voluntarily place a conservation easement on the Hebgen tract. The conservation easement will include but not be limited to prohibiting subdivision, commercial use, protect wildlife habitat and maintain the historical footprint of the tract. Further, the conservation easement will include provisions to coordinate with the Montana State Historic Preservation Office in the protection and maintenance of the site in consideration of the historic Hebgen Dam Recreation Camp 24GA848. Five Valleys agrees to provide the easement and the name of qualified 501(c)(3) easement holder to the Forest Service for review and approval prior to closing. This easement will be filed with the Clerk and Recorder of Gallatin County, Montana. If a qualified 501(c)(3) easement holder cannot be found, the United States agrees to convey the said tract with restricted covenants reflecting the above purpose in the patent.

Tarkio Tracts

It is understood that Five Valleys has proposed a follow-up land exchange to transfer Tarkio sections 34 and 35 to the Montana Department of Natural Resources and Conservation (DNRC). It is further understood that DNRC has received agency approval to pursue the exchange. If the land exchange is not completed and Five Valleys must sell Section 35, Five Valleys voluntarily agrees to sell the tract subject to deed restrictions limiting future use of the north portion of said section (land north of Interstate 90) to forest management and the south portion (land south of Interstate 90) to no more than 6 residential lots. Five Valleys will work with Mineral County in developing these restrictive covenants.

Park Lake

It is understood that DFWP and the Forest Service will continue to coordinate in the investigation, and development of specifications to repair Park Lake Dam. It is understood that the Forest Service must approve repair of dam prior to acceptance of the Park Lake tract as per Agreement to Initiate dated August 7, 2000. Further, if the Forest Service does not accept the dam, and Phase II is not completed, DFWP and Forest Service will look at other options to achieve the original goals of Forest Service ownership of Park Lake and DFWP ownership of Middle Osprey tract. It may be determined that the DFWP and Forest Service may reciprocate cooperative management agreements for the respective sites.

Appendix C

Summary of Public Comments and Agency Responses to Alberton Gorge Land Exchange Environmental Assessment dated December 15, 2003

Summary of Public Comments and Agency Responses to Alberton Gorge Land Exchange Environmental Assessment dated December 15, 2003

Written comments were sent to the FS Northern Region Office or FWP Headquarters, Lands Office at the respective addresses or by email and placed in the respective project file upon receipt.

Twenty-eight written responses were received.

Twenty-three people supported the Alberton Gorge Exchange as proposed (four individuals signed one letter), citing the public benefit of preserving the Gorge for fisheries and wildlife habitat, public recreation, aesthetics and tourism resources, better long-term management, and to prevent commercial and residential development.

One comment opposed the Alberton Gorge Land Exchange as proposed.

Eight responses indicated support for the Alberton Gorge Land Exchange if DNRC would acquire Tarkio Section 35 through a future FVLT/DNRC exchange.

In addition, a concerned Mineral County resident circulated a petition to area residents and submitted the results/petition in March of 2002. Fifty-nine Tarkio area citizens supported the Alberton Gorge Land Exchange if DNRC would acquire the Tarkio Section 35 through the proposed future FVLT/DNRC exchange. Fourteen people did not indicate their preference to the exchange; none opposed the exchange if it included the future DNRC acquisition of Tarkio Section 35.

Below is a summary of questions or public comments generally opposed to the exchange and agency responses.

Comments regarding the Alberton Gorge tract

- 1. The EA does not take into account the effect of the added river use to Mineral County's services, such as Search and Rescue and public safety, road and bridge maintenance. The EA does not correctly correlate the amount of added tax revenue Mineral County gets with development, compared with the costs.**

Response: Pages 63-67 of the Alberton Gorge Land Exchange EA discuss these issues. Public acquisition of the Alberton Gorge corridor is not expected cause a great number of additional floaters. Public access for floating is already well established at sites owned and managed by FWP. In recent years, floating use of the Gorge has increased and this trend is expected to continue, whether or not FWP acquires the Alberton Gorge corridor.

The exchange participants recognize the costs incurred by counties and the added burden to those counties with a large percentage of public lands. Mineral County does receive support from FWP staff and equipment for Search and Rescue efforts. The PILT funds that the county will receive as a result of FWP acquiring additional acreage in the county

will boost the agency's PILT from zero to \$11,874 (1999 estimates). In addition, there will be no net loss of private land holdings within Mineral County; the privately held Alberton Gorge corridor will be replaced with the Tarkio tracts (or ultimately other tracts within Mineral County) having equal market value and which will be conveyed to private owners. If developed, it is probable that the privately owned tracts will generate more tax revenue than the Alberton Gorge when owned by NorthWestern Energy (approximately \$700 paid in taxes in 1998).

Due to the variability in lot sizes, private and commercial development on lots, added subjective amenities such as views and aesthetics, the specific values for tax income generated by private ownership of the Alberton Gorge or the Tarkio tracts were not computed in the EA. Payments made by current owners were given along with general comparisons to give the public a perspective of costs.

2. FWP should re-engage the public in discussions regarding development of the new fishing access sites in the Alberton Gorge. These sites should be minimally developed.

Response: Due to the time elapsed during the exchange process, FWP Region 2 Parks Division will engage the public in discussions a second time regarding the development potential at three new fishing access sites. This will likely occur through the MEPA process.

3. Commercial operators using the new fishing access sites should report their use and pay fees much as they do at the other Alberton Gorge sites.

Response: The new fishing access sites will be within the Alberton Gorge boundaries and incorporated into the fee policy defined in 1998; therefore, no new outfitters will be allowed to use the new FASs for commercial purposes. The new fishing access sites will fall under the same management guidelines as the existing sites with applicable commercial use fees. The new fishing access sites are not expected to attract high amounts of commercial use, however, due to the small parking areas, and more difficult access to the river at these sites.

4. Degradation that comes with development (toilets, FASs, short roads) and publicity will certainly increase.

Response: FWP recognizes the impacts of increased visitation. The intent of improving the fishing access sites is to concentrate public use in planned areas, designed and actively managed to withstand high visitation, thus protecting surrounding resources. Again, the associated impacts were discussed in the EA, but will be revisited prior to the FAS development.

5. Importance needs to be attached to increasing motorboat use in the area.

Response: FWP monitors use on the Clark Fork River regularly, as regulations are in place prohibiting motorboats between Cyr Bridge and the mouth of Fish Creek. If violations are observed, the public should contact their local game warden or the FWP Region 2 office in Missoula; telephone 406-542-5500.

6. I am strongly in favor of FWP limiting the number of floaters.

Response: This issue is beyond the scope of this EA and Decision Notice. Current FWP policy limits the number of commercial outfitters floating the Alberton Gorge, but there are no limits to the number of clients an outfitter can take down the river, or the number of noncommercial trips.

7. Private citizens ought to have access privileges ahead of commercial interests in the Alberton Gorge.

Response: There is no limit to the number or frequency that private citizens can float the Alberton Gorge, nor are private floaters charged a fee. Private citizens and commercial users are allowed use of the public access points on a first-come-first-serve basis.

Comments regarding the Tarkio tracts

8. Comment: We can only support the proposed exchange if DNRC receives Tarkio Section 35 and lands selected by the Mineral County Group and DNRC go to FVLT to sell to private entities.

Response: The participating parties in the Alberton Gorge Land Exchange strongly support the proposed future exchange between FVLT and DNRC and are moving forward in this process. DNRC, however, will be the agency to evaluate the application and ultimately make a recommendation to the State Land Board for action. Agency land exchange requirements, landowner interests, financial considerations and varying agency review processes do not permit coordinating the timing of these complex land exchanges. The EA recognizes the potential benefits of the DNRC exchange, but the decision on the Alberton Gorge Land Exchange (as analyzed in the EA) must be evaluated on its own merits and proceed independently of the prospect of a future DNRC exchange.

9. We recommend that FWP dedicate some resources to help FVLT find a land deal for the Tarkio tracts that best protects the conservation, recreational and scenic values of these tracts. A private conservation buyer for the Tarkio tracts could be found who would convey an easement to FWP or private land trust to ensure conservation of the scenic and natural values.

Response: FWP staff has worked closely with FVLT and Mineral County to resolve these concerns about the future of the Tarkio tracts. Several meetings have occurred between these parties and members of the public. FWP is willing to help in other ways if appropriate and feasible. A private conservation buyer was considered early in the transaction planning, but a suitable candidate has not been found. FVLT is currently working to transfer this land into DNRC ownership.

10. We are not supportive of DNRC owning Tarkio tracts unless that agency conveys an easement that ensures timber activities will put wildlife and scenic values first and the agency agrees not to sell or lease any of the tracts for residential or commercial purposes.

Response: This is beyond the scope of this EA or Decision. DNRC would be the decision-maker regarding an easement on the Tarkio tracts.

11. There is a contradiction in the EA regarding the presence of cultural and historic resources on the Lower Tarkio tract (Table 4, page 181 vs. text on page 68).

Response: It is assumed that the commenter meant to refer to text on page 82, which does refer to the Lower Tarkio tract; page 68 refers to Alberton Gorge. Noting this discrepancy, the text does identify the existence of the Tarkio Segment of the Chicago, Milwaukee, St. Paul, and Pacific railroad located within the Lower Tarkio tract, which was not considered eligible to the National Registrar of Historic Places. Table 4 is a reflection of impacts as a result of the exchange. Because of the lack of integrity of this section of the tract and after the Lolo NF consulted with the SHPO and implemented mitigation actions, the impacts to cultural and historic resources on the Lower Tarkio tract was considered negligible.

The commenter references text on page 68 of the EA and the terminology used: "potential cultural and historic sites will not be recorded or preserved" if Alberton Gorge is developed by a private party. Because only the three small areas proposed for FAS development within the Alberton Gorge corridor were surveyed for cultural or historic resources (with negative results), there is a possibility that cultural resources occur on other parcels within the corridor and have yet to be discovered. These resources would also be protected under FWP ownership and the provisions of the State Antiquities Act.

The commenter expresses concern regarding other historically important sites along the river, though not within in the exchange parcels, which are accessible to recreationists whose numbers might increase as a result of the land exchange. FWP will consider effects to these types of related resources when managing and planning for use in the Alberton Gorge corridor.

12. What is the meaning of "incidental use" of the area by bald eagles (page 30)?

Response: Bald eagle use of the Tarkio tracts is minor and secondary to their primary nesting area. Eagles pass over the Tarkio tracts, but these tracts have limited shoreline access and do not provide active nesting habitat.

13. Public land (Tarkio tracts) should not be given away, allowing 5,110,000 board feet of merchantable timber to be harvested by a buyer, and displacing the local elk population; and removing access to this section to hunters of which many cannot make long hikes.

Response: The EA discusses these issues in Chapter 1 and Chapter 3: Tarkio Section 35 (page 84-101). The Tarkio tracts are being exchanged for lands with equal market value. The merchantable timber on the Tarkio tracts was considered in the appraisal to determine the market value. FS and FWP biologists agree that if the tract is developed into 20-acre parcels, the elk population will be displaced; however, large population declines will not likely occur. It is because of the local concern for habitat and associated wildlife that FVLT has agreed to restrict the part of the tract north of Interstate 90 to timber management and the area south of the interstate restricted to four to six residential lots, should it be necessary to sell the Tarkio tracts. Losing hunter access is an impact

that has been recognized. This isolated tract of FS land is a small percentage of the public land available for hunting in Mineral County.

14. Availability of water is questionable.

Response: Well logs were reviewed during preparation of the EA and water sources discussed with the past Mineral County Planner. Mr. Marchwick suggested that access to water may be difficult and well depths of 400-500 feet may be necessary in the north half of Tarkio Section 35 due to potential bed rock formations. South of Interstate 90, Mr. Marchwick reviewed well logs in the vicinity and indicated that water well depth and quantity should not be a problem; wells he considered ranged from 78 feet deep at 30 gallons/minute in Section 34, to 340 feet deep at 10 gallons/minute in Section 23. The developer would be required to show proof of adequate water quality and quantity to the county and state when requesting a new subdivision.

Other Comments

15. How can I contact River Network (Five Valleys Land Trust)?

Response: Due to financial reasons, River Network has assigned its interest in the exchange to Five Valleys Land Trust (FVLT), which has agreed to fulfill the commitments made by River Network. FVLT is represented by Greg Tollefson and can be reached at: PO Box 8953, Missoula, MT 59807; 406-549-0755.

(River Network can be reached at 520 SW 6th Avenue, #1130, Portland, Oregon 97204, or by calling 503-241-3506.)

16. Do not allow further development of the Natural Bridge tract which would encourage increased public use, such as would be associated with making the site available for overnight camping, etc.

Response: Upon acquisition, the Gallatin NF has plans for a maintenance project to improve facilities to enhance only the existing activities at this site. Improvements would replace the existing trail to meet the Americans with Disabilities Act and replace aged interpretive panels. Camping opportunities are not planned for the site.

The following are summaries of public comment received during scoping and in response to the draft EA in June 2000 and, as such, were considered during the analysis process. Responses to these comments can be read in the Alberton Gorge Land Exchange EA, December 15, 2003.

Comments regarding the entire exchange.

1. Exchange will benefit rafters and floaters, not anglers.
2. The consolidation of state and federal lands can occur some other way (without involving the Gorge).
3. Include in the EA how to preserve other small parcels along the corridor that are now privately owned by Plum Creek and others, in the future, maybe through conservation easements.
4. Will the appraisals be available to the public and when?
5. Is the land appraised as development property or timber values?
6. Were the cumulative impacts considered, including the impacts due to increased recreation, increased fishing on fish population, increased boaters' impact on water quality and solitude?

Comments regarding Tarkio Section 35.

7. It is a lack of stewardship of National Forest Lands to exchange Tarkio Section 35; FS should not sell any land; prime timbered FS land should not be developed.
8. Find a different tract to trade than Tarkio Section 35; do not finance the exchange by selling public lands for private development.
9. Tarkio Section 35 and the Alberton Gorge River Corridor are not of equal values to exchange; trading riverfront land for non-river front land is not an equal trade; timber values differ from home site properties along the river and the type of development they will attract.
10. Wildlife will be displaced if Tarkio Section 35 is developed; area is prime elk habitat year-round; elk cross Interstate 90 regularly to access water to the south; developing Tarkio Section 35 is self-defeating, since development will be close to the river, and push game away from the area, thus further impacting area ranchers.
11. Will restrictions limit who can purchase the Tarkio tracts, or will these just be verbal commitments; will there be any development covenants?
12. If Tarkio Section 35 goes to DNRC, will logging or development restrictions be placed on the tract?
13. Concerned with impacts to [Tarkio Section 35 in regard to]:
 - a. air quality from occupancy and road dust,
 - b. increased run-off and erosion,
 - c. increased effluent levels in the Clark Fork River from septic systems,
 - d. domestic water demand on limited water supply,
 - e. destruction of critical elk habitat and displacement of calving elk.

Comments regarding Mineral County.

14. The Exchange offers no economic value to Mineral County.
15. County would (does not want to) incur expenses of added visitation to Gorge area, such as: bridge replacement, public safety, parking, fishing & hunting violations; fees should be charged to commercial outfitters for using the Gorge, to supplement the County Public Safety Budget and Search and Rescue Services and to subsidize costs for added responsibilities encountered with added use.
16. Mineral County has no input to the process.
17. Public Hearings in Missoula "pumped up" the number of comments from kayakers, and white water companies in Missoula.
18. FWP should assume ownership of public roads from Fish Creek Exit including Cyr Bridge, to I-90; residents up Sawmill Gulch have difficulty driving through traffic congestion at Cyr Bridge.
19. Alberton Gorge can be preserved without this exchange if River Network (FVLT) buys it from MPC (North Western); Mineral County would help with planning (covenants?) before selling tracts to private entities to limit development in view of river, yet recover some costs; some tracts along Gorge could be given to FWP to give access. This would provide a tax base for the County.
20. Should have had the same effort, ingenuity and money spent trying to maintain the pristine nature of the Gorge without putting it into public ownership.
21. FWP estimate of 30,000 users in the Gorge is inflated.

Comments regarding Natural Bridge.

22. Transfer of Natural Bridge to the FS will mean development of campgrounds; campground development at Natural Bridge will impact wildlife and increase potential for public accidents in the canyon; the site may be degraded into a logging or mining access road.
23. a) Natural Bridge belongs to the people of Montana and was paid for with their money; do not swap with FS;
b) Opposed to the overall exchange process pursued to achieve the exchange as it is a way to circumvent the laws prohibiting the sale of properties by governmental entities.