



Montana Fish, Wildlife & Parks

1400 South 19th Avenue
Bozeman, MT 59718

September 7, 2006

To: Governor's Office, Mike Volesky, State Capitol, Room 204, P.O. Box 200801, Helena, MT 59620-0801
Environmental Quality Council, State Capitol, Room 106, P.O. Box 201704, Helena, MT 59620-1704
Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901
Dept. of Natural Resources & Conservation, P.O. Box 201601, Helena, MT 59620-1601
Montana Fish, Wildlife & Parks:

Director's Office	Parks Division	Lands Section	FWP Commissioners
Fisheries Division	Legal Unit	Wildlife Division	Design & Construction

MT Historical Society, State Historic Preservation Office, P.O. Box 201202, Helena, MT 59620-1202

MT State Library, 1515 E. Sixth Ave., P.O. Box 201800, Helena, MT 59620

James Jensen, Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624

Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624

George Ochenski, P.O. Box 689, Helena, MT 59624

Jerry DiMarco, P.O. Box 1571, Bozeman, MT 59771

Bob Raney, 212 South 6th, Livingston, MT 59047

Glenn Hockett, Gallatin Wildlife Association, 745 Doane Road, Bozeman, MT 59715

Headwaters Fly Fishers, PO Box 10428, Bozeman, MT 59719-0428

Anaconda Sportsman Club, #2 Cherry, Anaconda, MT 59711

Skyline Sportsman Association, PO Box 173, Butte, MT 59701

Prickly Pear Sportsman Association, 21 S Hills Road, Clancy, MT 59634

Jefferson Valley Sportsman Association, Don Drake, PO Box 255, Whitehall, MT 59759

Bill Holdorf, 2610 State Street, Butte, MT 59701

Meg Smith, PO Box 82, Divide, MT 59727

George Grant Chapter TU, PO Box 563, Butte, MT 59703

Lewis and Clark Chapter TU, PO Box 432, Twin Bridges, MT 59754

Madison-Gallatin Chapter TU, PO Box 52, Bozeman, MT 59715

Tom Sathers, Headwaters Fish & Game Association, PO Box 1941, Bozeman, MT 59771-1941

Pioneer Technical Services, Inc., Roger Gordon, PO Box 3445, Butte, MT 59702

Water & Environmental Technologies, Joshua Vincent, 1485 Continental Drive, Butte, MT 59701

State Land Coalition, Jack Atcheson Pres., 3210 Ottawa Street, Butte, MT 59701

Big Hole River Foundation, PO Box 3894, Butte, MT 59701

Steve Egeline, District Ranger, USDA Forest Service, 1820 Meadowlark Lane, Butte, MT 59701

Montana Tech Fly Fishing Club, Montana Tech, 1300 West Park Street, Butte, MT 59754

Montana Wildlife Federation, P.O. Box 1175, Helena, MT 59624

Wayne Hurst, P.O. Box 728, Libby, MT 59923

Ladies and Gentlemen:

The enclosed Decision Notice has been prepared for the German Gulch trail. This project has been proposed by the George Grant Chapter of Trout Unlimited and will be funded through the Natural Resource Damage Program. The trail is classified as primitive and will follow existing roads and trails along the German Gulch corridor in an effort to provide improved recreational access to the stream and surrounding area. The proposed project lies within the Fleecer Wildlife Management Area and will abide with the big game management practices and restrictions. Two written comments and one verbal comment were received during the 25-day comment period ending August 25, 2006.

This Decision Notice and EA is available for review in Helena at FWP's Headquarters, the State Library, and the Environmental Quality Council. It also may be obtained from FWP at the address provided below, or viewed on FWP's Internet website: <http://www.fwp.mt.gov>.

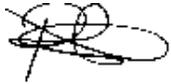
Fish, Wildlife & Parks has decided to proceed with the proposed project, with no major changes to the Draft EA.

Questions regarding this Decision Notice should be mailed to:

Montana Fish, Wildlife & Parks
c/o German Gulch EA
1820 Meadow Lark Lane
Butte, MT 59701

Or e-mailed to: gbiere@mt.gov

Sincerely,

A handwritten signature in black ink, appearing to be 'P. J. Flowers', written over a horizontal line.

Patrick J. Flowers
Region Three Supervisor

Attachment

GERMAN GULCH TRAIL DECISION NOTICE

Proposal

An Environmental Assessment (EA) has been prepared for the German Gulch trail. This trail has been proposed by the George Grant Chapter of Trout Unlimited as part of the German Gulch Watershed Restoration Project and will be funded through the Natural Resource Damage Program. The trail is classified as primitive and will follow existing roads and trails along the German Gulch corridor in an effort to provide improved recreational access to the stream and surrounding area. The proposed project lies within the Fleecer Wildlife Management Area and will abide with big game management practices and restrictions.

The trail location begins near the confluence of German Gulch and Silver Bow Creek near the bridge on Finlen Road and extends upstream along German Gulch to the junction with Norton Creek road. The trail location follows the German Gulch corridor in T3N, R10W, Sections 12, 13, 14, 23 and 26.

Environmental Policy Act Process

In compliance with requirements of the Montana Environmental Policy Act (MEPA) an environmental assessment was completed by Fish, Wildlife & Parks (FWP) for the proposed project and was released for public comment on August 1, 2006.

Public comment for the project was taken through August 25, 2006. The Environmental Assessment was mailed to 40 individuals and groups on the FWP MEPA mailing list. A legal notice announcing the availability of the EA was published in the *Montana Standard* on August 6, 2006. This document was also available on the FWP's Internet web site (www.fwp.mt.gov).

There are several minor modifications to the Draft Environmental Assessment based on internal comment, and no modifications based on public comment. The modified version of the EA and this Decision Notice together serve as the final document for this proposal.

Summary of Public Comment

Two comments were received from local sportsmen groups and both were in support of the project. No comments against the German Gulch trail were received.

Written Comment #1. "The Anaconda Sportsmen club is in favor of the German Gulch Trail, which is proposed by the George Grant Chapter of Trout Unlimited. This trail is good because it will go along with the Green Way Trail, which is a good project." *Lorry Thomas, President, Anaconda Sportsmen Association*

Verbal Comment #2. "Skyline Sportsmen Club is in favor of the proposed trail." *Tom Bugni, President, Butte Skyline Sportsmen Association*

Decision

Based on the analysis in the EA, applicable laws, regulations and policies, and the above public comment the department determined that this action would not have a significant effect on the natural or human environment. Therefore, I conclude that the Environmental Assessment is the appropriate level of analysis, and that an Environmental Impact Statement is not required. It is my decision to proceed with the German Gulch trail project as has been proposed. The modified version of the EA and this Decision Notice together serve as the final document for this proposal.

Patrick J. Flowers
Regional Supervisor
Bozeman, MT

September 7, 2006

Montana Fish, Wildlife & Parks

1420 E 6th Ave, PO Box 200701, Helena MT 59620-0701
(406) 444-2452

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: **German Gulch Trail**

Application Date: **August 1, 2006**

Name, Address and Phone Number: **Fish, Wildlife & Parks, 1820 Meadowlark Lane, Butte, MT 59701**

Project Location: **T3N, R10 W, Sec 12, 13, 14, 23 and 26 (German Gulch Drainage)**

Description of Project:

The George Grant Chapter of Trout Unlimited has received a grant from the Natural Resource Damage Program to improve fish and wildlife habitat and recreational access in the lower five miles of German Gulch. Trout Unlimited is proposing to develop a primitive trail along the German Gulch corridor to provide improved recreational access to the stream and surrounding area. This proposed trail is one improvement project and will accommodate foot and horse traffic and will also serve to control illegal motorized access to the corridor. Trout Unlimited would be responsible for all future maintenance and upkeep of the proposed trail. The suggested trail route will utilize existing roads and trails where possible causing minimal disturbance to the stream corridor. The trail location would begin near the confluence of German Gulch and Silver Bow Creek near the bridge on Finlen Road and would extend upstream along German Gulch to the junction with Norton Creek road. A footbridge across German Gulch will need to be constructed in one area where the trail crosses the stream. This trail lies within the Fleecer Mountain Wildlife Management Area and would be closed December 2 - May 15. This coincides with the Fleecer Wildlife Management Area closure to protect big game winter range.

Other groups or agencies contacted or which may have overlapping jurisdiction:

Beaverhead Deerlodge National Forest
Department of Environmental Quality

PART 2. ENVIRONMENTAL REVIEW

Table 1. Potential impact on physical environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Unique, endangered, fragile, or limited environmental resources				X		
2. Terrestrial or aquatic life and/or habitats			X		Yes	1:2
3. Introduction of new species into an area			X		Yes	1:3
4. Vegetation cover, quantity, and quality			X		Yes	1:4
5. Water quality, quantity, and distribution (surface or groundwater)			X		Yes	1:5
6. Existing water right or reservation				X		
7. Geology and soil quality, stability and moisture			X		Yes	1:7
8. Air quality or objectional odors				X		
9. Historical and archaeological sites			X		Yes	1:8
10. Demands on environmental resources of land, water, air & energy			X		Yes	1:9
11. Aesthetics			X		Yes	1:10

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided.)

Comment 1:2. The proposed trail would most likely create a minor increase in fishing pressure but not by a significant amount that would reduce or impact the native species recovery program for westslope cutthroat trout. Likewise, the proposed trail may create a minor increase in hunting pressure of big game and upland game bird species. Elk, mule deer and moose may be temporarily displaced while the trail is being constructed. The trail will prohibit illegal motorized use of this property, providing more security for wildlife. The trail will be closed December 2 –May 15 to protect big game on the winter range.

Comment 1:3. There is the potential that noxious weeds will be brought into the area by people and horses. Knapweed and leafy spurge are already well established in the area and are being managed. Control of the weeds that are already established in the area will result in improved habitat for deer and elk.

Comment 1:4. Construction and continual use of the trail will displace vegetation on the trail surface in some areas. Minimal amounts of mountain alder, willow, dogwood, douglass fir, and lodge-pole pine will need to be removed in some areas to meet trail width requirements. The proposed trail will have a tread width of approximately 24 inches, and would be cleared of protruding vegetation 24 to 36 inches on either side of the centerline. To accommodate horseback riders, vegetation would be cleared to a height of approximately 10 feet. Tree roots, rocks, and other obstacles would be removed, however, trail segments that currently have grass cover would be left undisturbed unless there is a need to install erosion control features. The trail is classified as primitive, and every possible effort will be made to minimize vegetation disturbance.

Comment 1:5. Water quality will be affected briefly during the construction of a footbridge, with a potential temporary increase of silt into the stream. The resulting bridge will have a clear span that does not constrict the channel or create erosion, will not disturb immediate stream banks, and the removal of streamside vegetation will be minimized to the extent needed to install bridge supports. Allowing horses to cross the creek at a ford placed in an area of the stream that is stable with gravel or cobble banks will cause minimal stream bank disturbance.

Comment 1:7. Trail construction will be designed with the installation of erosion control features. The trail route has been laid out in a manner that circumvents steep or erodible areas and avoids close contact with the stream bank wherever possible.

Comment 1:8. The State Historical Preservation Office has documented historical or cultural sites in the area and more archaeological testing may need to occur before the significance of these sites can be determined. The Historical Society feels that as long as the new trail follows existing disturbed areas there is a low likelihood that cultural properties will be impacted, however, Fish, Wildlife and Parks is still waiting for final clarification.

Comment 1:9. The proposed foot trail may generate increased interest in hiking, hunting, fishing and other forms of non-motorized outdoor recreation along German Gulch. This increase in use in this area may have a minimal impact on land and water resources.

Comment 1:10. The proposed trail and associated foot bridge across German Gulch has been designed to fit in with the surrounding landscape and therefore should have minimal impacts to the aesthetics of the area. The trail will follow existing roads and trails where possible, and where new trail needs to be constructed it will be done to primitive standards. The footbridge will be constructed of logs and planks according to engineer standards and is expected to fit into the surrounding landscape.

Table 2. Potential impacts on human environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Social structures and cultural diversity				X		
2. Changes in existing public benefits provided by wildlife populations and/or habitat			X			2:2
3. Local and state tax base and tax revenue				X		
4. Agricultural production				X		
5. Human health				X		
6. Quantity and distribution of community and personal income				X		
7. Access to and quality of recreational activities			X			2:7
8. Locally adopted environmental plans & goals (ordinances)				X		
9. Distribution and density of population and housing				X		
10. Demands for government services				X		
11. Industrial and/or commercial activity				X		

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided as comments.)

Comment 2:2. Public benefits provided by wildlife populations and or habitat will be increased as it will provide foot, and horse access to the German Gulch corridor and the newly acquired 1,745-acre Duhome property from May 16 –December 1.

Comment 2:7. Trail construction will enhance access and recreational opportunities to the German Gulch corridor and adjacent Fish, Wildlife & Parks lands. Recreational activities could include fishing, hiking, hunting, horseback riding, and wildlife viewing opportunities.

Does the proposed action involve potential risks or adverse effects, which are uncertain but extremely harmful if they were to occur?

No potential risks or adverse effects will be brought about as a result of this proposed action.

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant?

The immediate negative effects on the environment focus on the construction activity itself i.e., increased traffic, noise, use of chainsaws, and potential temporary increase in sediment run-off due to bridge work in the vicinity of the stream. Trail construction and maintenance as a whole should have a positive impact to the area, the major benefits being increased public access, recreational opportunities, and the protection of the resource by helping to control illegal motorized access. The above minor impacts can be mitigated; no cumulatively significant impacts are foreseen.

Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action when alternatives are reasonably available and prudent to consider. Include a discussion of how the alternatives would be implemented:

No Action Alternative: Do not construct a trail and its associated barriers that will help to control illegal off-road travel. Currently, an old bridge and the lack of barriers allows for unchecked illegal off-road travel.

Alternative Routes: Other locations for segments of the trail are possible. However, they would make less use of existing trails and roads and would place the trail a greater distance from the stream, increasing land disturbance and construction costs.

Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

A 124 Permit for the footbridge and ford across German Gulch is in progress and Trout Unlimited will follow stipulations of that permit.

The George Grant Chapter of Trout Unlimited is in the process of purchasing the Layton property (this property lies in T3N, R10W, Section 23, 26) with NRD funding. The intent of this acquisition is to transfer title ownership to Fish, Wildlife and Parks to manage this property in conjunction with the Fleecer Wildlife Management Area. The proposed trail will pass

through the Layton property in the south section of 23 and the north section of 26. This property is commonly known as the Thomas Ford Placer and is located within Lot No. 39 in Mining Survey No. 76.

Individuals or groups contributing to, or commenting on, this EA:

Pioneer Technical Services, Inc.
George Grant Chapter of Trout Unlimited
Beaverhead Deerlodge National Forest

EA prepared by: Gina Biere, Conservation Technician

Date Completed: August 1, 2006

Email address for comments: gbiere@mt.gov

Mail comments to: Fish, Wildlife & Parks
1820 Meadowlark Lane
Butte, MT 59701

Comments due by: August 25, 2006

APPENDIX A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

(LIST ANY MITIGATION OR STIPULATIONS REQUIRED, OR NOTE "NONE")

The George Grant Chapter of Trout Unlimited is purchasing the Layton property, commonly known as the Thomas Ford Place, with NRD funding. This property lies in T3N, R10W, Section 23 and 26, Lot No. 39 in Mining Survey No. 76. The intent of this acquisition is to transfer title ownership to Fish, Wildlife & Parks to manage in conjunction with the Fleecer Wildlife Management Area.

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES

NO

X_____

1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?

- | | | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2. Does the action result in either a permanent or indefinite physical occupation of private property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Does the action deprive the owner of all economically viable uses of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. Does the action deny a fundamental attribute of ownership? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO , skip questions 5a and 5b and continue with question 6.] |
| <input type="checkbox"/> | <input type="checkbox"/> | 5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests? |
| <input type="checkbox"/> | <input type="checkbox"/> | 5b. Is the government requirement roughly proportional to the impact of the proposed use of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Does the action have a severe impact on the value of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO , do not answer questions 7a-7c.] |
| <input type="checkbox"/> | <input type="checkbox"/> | 7a. Is the impact of government action direct, peculiar, and significant? |
| <input type="checkbox"/> | <input type="checkbox"/> | 7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded? |
| <input type="checkbox"/> | <input type="checkbox"/> | 7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question? |

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

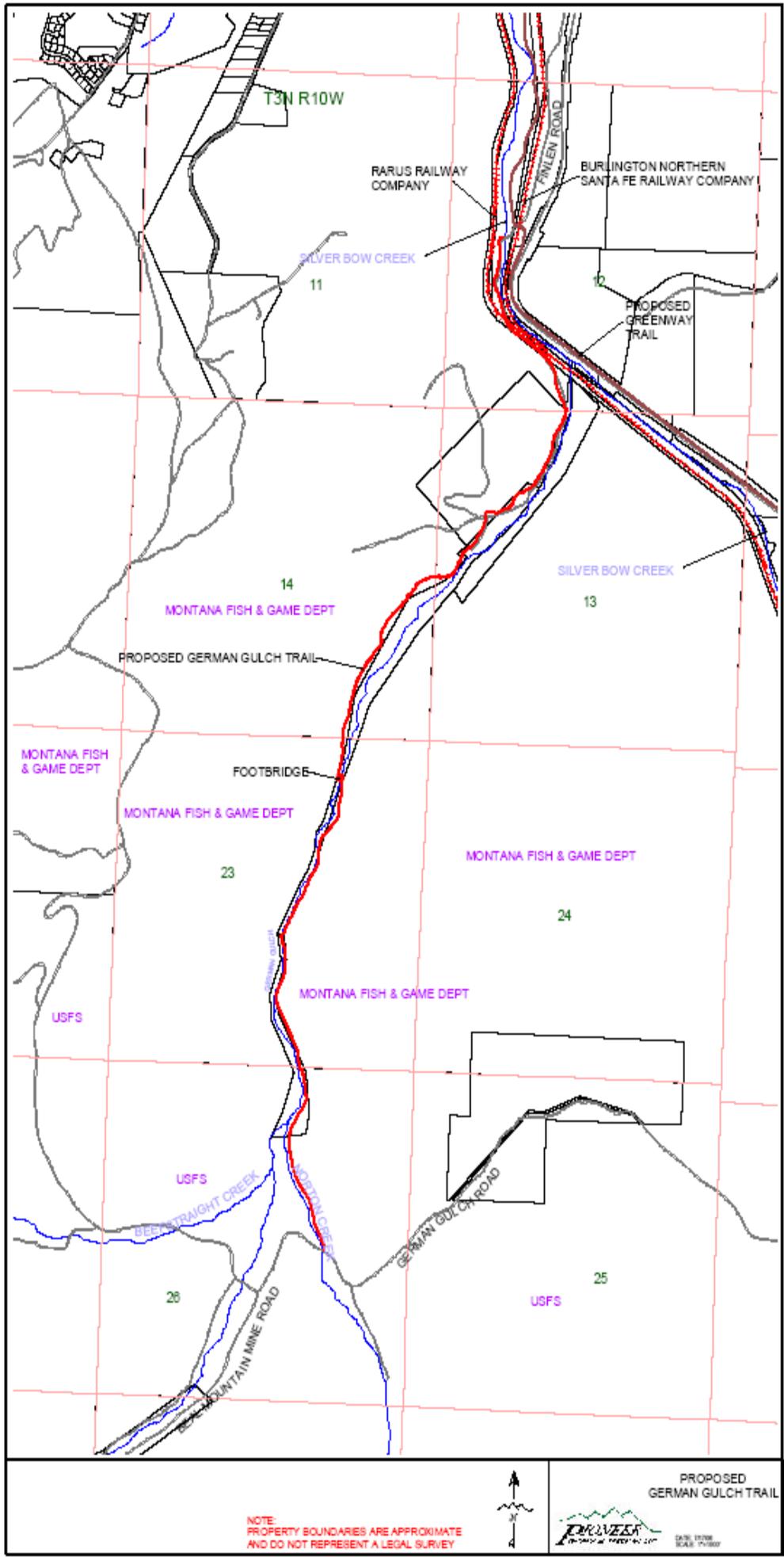


Figure 1. Proposed German Gulch Trail. The southern end of the proposed German Gulch Trail extends onto USFS property in Section 26. The Forest Service will analyze this portion of the trail separately.