CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Stone Temple Land Banking Nominations – 2009 review
Proposed Implementation Date:	December 2010
Proponent:	This tract was nominated by the lessee, the Stone Temple Ranch, and is brought forward now by DNRC.
Location:	Sale # 562; section 16, T9N, R7E; 640 acres
County:	Meagher County
Trust:	Common School Grant

I. TYPE AND PURPOSE OF ACTION

Offer for Sale at Public Auction, up to 640 acres of state land currently held in trust for the benefit of the Common School Trust. Revenue from the sale would be deposited in a special account, with monies from other sales around the State, to purchase replacement lands meeting acquisition criteria related to legal access, productivity, potential income and proximity to existing state ownership which would then be held in trust for the benefit of the same Trust. The proposed sale is part of a program called Land Banking authorized by the 2003 Legislature, and updated by the 2007 Legislature. The purpose of the program is for the Department of Natural Resources and Conservation to overall, diversify uses of land holdings of the various Trusts, improve the sustained rate of return to the Trusts, improve access to state trust land and consolidate ownership.

II. PROJECT DEVELOPMENT

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

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

- A letter was distributed in September 2004 to all state surface lessees informing them of the Land Banking Program and requesting nominations be submitted by lessees between October 1, 2004 and January 31, 2005. *(These tracts were nominated at that time and are now being considered as part of an ongoing process of Land banking sales.)*
- Legal notices were published in the Great Falls Tribune and the Helena IR (12/28 & 31/2008), the Meagher Co. News (1/1 & 8/2009) and in the Whitehall Ledger (12/31/2008 & 1/7/2009).
- Direct mailings were made to lessees, adjacent land owners, County Commissioners, State Legislators (from the involved Districts and who were associated with the legislation), and a host of organizations and individuals who had expressed previous interest in this process. A full listing of contacts is attached as Appendix B.
- Follow-up contacts were made by phone, mail, or email with parties requesting additional information. These are also included in Attachment B.
- The tracts were also posted on the DNRC web page at, http://dnrc/mt.gov//TLMSPublic/LandBanking/LBTest.aspx
- DNRC twice met with the City of White Sulphur Springs, at their Council meetings, to discuss the proposed sale and how the sale may affect their water supply facilities.

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

No other governmental agencies have jurisdiction over this proposal.

3. ALTERNATIVES CONSIDERED:

Alternative A (No Action) – Under this alternative, the State retains the entire existing land ownership pattern and would not sell the tracts included in this proposal.
Alternative B (the Proposed action) – Under this alternative, the Department would request and recommend approval by the Land Board to sell the proposed tract encompassing a total area of 640 acres. If approved by the Board, the sale would be at public auction, subject to the requirements found in Title 77, Chapter 2, Part 3 of the Montana Codes Annotated. The income from the sale would be pooled with other land sale receipts from across the State to fund the purchase of other state land, easements, or improvements for the beneficiaries of the respective trusts. *(The State would then review available lands for sale which would generally have access and an increased potential for income. A separate public scoping and review would be conducted when a potentially suitable parcel was found. It is not possible for this analysis to make any direct parcel to parcel comparisons.)*

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

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

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

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

A variety of soil types are found across these tracts. The proposal does not involve any on the ground disturbance, so there are no soil effect differences between the alternatives. The State does own, and would retain ownership of, all mineral rights. The purchaser of the surface does not acquire the legal right to place restrictions on development of the mineral estate.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

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

There are only ephemeral drainages, springs and small intermittent stream segments on the lands proposed for sale.

The City of White Sulphur Springs water supply line crosses the tract and their potable water treatment facility is located on this tract (both on lands covered by an easement). The Stone Temple Ranch has entered into a Memorandum of Understanding with the City of White Sulphur Springs which would ensure, if the parcel should be purchased by the Stone Temple Ranch, that the City would have available options in place to expand or modify their water facility infrastructure.

Existing water rights of record are shown below.

legal	Water right no.	holder	purpose	source	Priority date
NENENE sec. 16, T9N, R7E	41J 215612-00	DNRC	Irrigation 70 ac.	Pinchout Creek	6/30/1973 *Late claim*

There does not seem to be any claim of water right by the lessee to cover the current use under pivot in the NE part of the state tract. After final adjudication in this basin, the lessee may not be allowed to continue irrigating the state land under this pivot. This would greatly reduce the agricultural income potential from this tract.

If sold, the water rights held by the state would be transferred to the purchaser, though this late claim may be extinguished by adjudication.

6. AIR QUALITY:

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

The proposal does not include any on-the-ground activities, or changes to activities. No effects to air quality would occur.

7. VEGETATION COVER, QUANTITY AND QUALITY:

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

Vegetation may be affected by numerous land management activities including livestock grazing, development, wildlife management or agricultural use. It is unknown what land use activities may be associated with a change in ownership; however the vegetation on this tract is typical of land throughout the vicinity and there are no known rare, unique cover types or vegetation on the tract. Range conditions are currently rated good. There is sage brush cover on portions of the tract. The proposal does not include any on-the-ground activities, or changes to activities and therefore we do not expect direct or cumulative effects would occur to vegetation as a result of the proposal.

The Stone Temple Ranch has indicated that the property, if they purchase it, would be enrolled into their adjacent Conservation Easement, with the following language. (See letter dated 11/16/2009, Attachment C.)

> ***Agricultural Activities****. To conduct farming, ranching, and other agricultural activities, including raising and managing livestock and planting, raising, and harvesting agricultural crops. Farming activities on the Property shall be limited to areas where such activities have been historically practiced. However, rangeland restoration is permitted so long as native species are used and the soil surface is not disturbed by plowing or cultivation other than by no tillage methods which do not expose the soil surface or sub-surface to the effects of wind and water erosion.*

This tract currently has

- ~70 acres alfalfa under pivot irrigation
- ~2 acres with city water infrastructure
- And two range sites
    1. ~509 acres, 20% Bluebunch Wheatgrass, 11% sagebrush, with the remainder other increasers, and
    2. ~59 acres, 24% Bluebunch Wheatgrass, 1% sagebrush, with the remainder other increasers. *(per 2004 lease evaluation records)*

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

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

These lands provide habitat typical of surrounding lands for a variety of species common to this area, Elk, Mule Deer, Whitetail Deer, upland game birds, raptors, coyote, fox, badger, songbirds, etc. The proposal does not include any land use change which would yield changes or effects to the wildlife habitat.

FWP made the following comments regarding sale #562 in their response letter dated 1/23/2009.

> *"There is currently no legal public access to this section, as there is a recreational closure on the section in part because the water treatment facility for White Sulphur Springs is located on the property. Approximately a quarter of the section is currently in hay production (pivot) and the remainder is native big sagebrush/grassland habitat. The section provides yearlong habitat for antelope and white-tailed deer and is especially important in the winter because of the presence of big sagebrush. The section is also potential sage grouse habitat. Stone Temple Ranch made an inquiry within the last couple years about plowing up the native rangeland and putting in a pivot for hay production, so it's highly likely that the native sagebrush habitat would be lost if the parcel is sold. The loss of the native sagebrush habitat in this area could have a negative impact on area wildlife. As a result, MFWP recommends that DNRC not sell this parcel."*

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

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

A review of Natural Heritage data through NRIS was conducted, as well as tract specific requests for concerns being made to MT FWP. The following species may be present given the existing habitat.

Greater Sage-Grouse - Sage Grouse is the largest of Montana's grouse. Sagebrush is the preferred habitat (FWP). They use 6 to 18 inch high sagebrush covered benches in June to July; move to alfalfa fields or greasewood bottoms when forbs on the benches dry out; and move back to sagebrush in late August to early September (Peterson 1969). Sage Grouse are a species of concern in Montana. Sage Grouse may have potential habitat in this area. Some mapped habitat exists here or near here, though none of these lands are mapped as critical core areas on the maps released this winter. The Department of Fish, Wildlife & Parks (FWP) is concerned that the sagebrush cover on this tract might be converted to tame pasture or additional agricultural land, if the tract is sold, and requested that the parcel not be sold for this reason. The lessee did make a lease improvement request of this nature a few years ago. (That request was to convert ~320 acres of native range to tame pasture by burning, dry land cropping for two years, and then seeding to grass. DNRC dismissed this request due to the time and level of analysis needed to address whether there would be significant effects to sage grouse habitat.) The lessee has indicated in November 2009 that they would enroll the tract into their adjacent conservation easement and limit agricultural practices to the historic areas where those practices occurred, and would limit range renovation to no till practices with native grasses. The proposed land banking sale does not include any on-the-ground management changes so no direct, indirect or cumulative effects are expected.

Sage Sparrow – The Sage Sparrow is a smallish bird with a gray-brown head, white eye ring, a white lore spot or eyebrow, and a broad white whisker stripe above a dark whisker stripe. Their summer range includes much of SW Montana, including the area of this proposal. The Sage Sparrow is listed as a species of concern. Sage Sparrow utilizes sagebrush areas and other dry brush areas for their habitat. The proposed land banking sale does not include any on-the-ground management changes so no direct, indirect or cumulative effects are expected.

Gray Wolf – Wolves are wide ranging predators able to utilize many types of habitat. The USFWS has delisted wolves, placing them under the management of the Montana FWP. The first hunting season for wolves has recently been completed (Nov. 2009) Given the wide ranging nature of this species, the limited scope of this proposal, and the fact that the proposal does not include any known on-the-ground land management changes, no direct, indirect or cumulative effects are expected. In addition, the proposal area is adjacent to a subdivision and close to the town of White Sulphur Springs and may be undesirable habitat for wolves.

The proposal does not include any activities which would alter any habitat, so no effects are expected in any alternative.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

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

The kinds and quantities of cultural and paleontologic resources on the parcels nominated for Land Banking are currently unknown, although none have been identified during field reviews to date. If the Land Board approves continued review of this tract, a full inventory would be completed prior to and the mandates of the Montana State Antiquities Act would be complied with.

11. AESTHETICS:

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

The tracts are visible, or partially so, from other adjacent lands, from an adjacent subdivision and from public roadways. The state land does not provide any unique scenic qualities not also provided on adjacent private

lands. The proposal does not include any on-the-ground activities, so there would be no change to the aesthetics in either alternative.

---

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:
Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

There are 5,162,365 acres of Trust land surface ownership in Montana *(TLMS power search, 2/22/2009).* Approximately 4,677,265 acres are in the Common School Trust, statewide. There are approximately 90,881 acres of Trust Land in Meagher County. This proposal includes 640 acres.

There are additional tracts of state land currently under consideration for sale through the Land Banking Program on a statewide basis. Each of these tracts is at a different stage in their review process, and is being examined under separate analysis. The authorizing legislation has placed a cap on the total land banking sales of 100,000 acres statewide. To date, sold lands total 36,237 acres and purchased lands total 31,488 acres. This is the only tract currently under review for land banking sale on the Helena Unit (though initial proposals for 4 other tracts may be made early in 2010).

The potential transfer of ownership would not have any impact or demands on environmental resources of land water, air or energy.

---

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

Grazing Lease Range evaluations have been conducted on this tract and are in the Department files.

This parcel has been reviewed and approved for a full recreational use closure. The concern at the time it was proposed, and when the parcel closure was last reviewed, is the domestic water supply for the City of White Sulphur Springs. The Stone Temple Ranch has indicated that if they purchase the property, they would continue to prohibit public use on the tract, to protect the City water facilities.

Adjacent lands on the North, East, South, and south half of the West side, are owned by the Stone Temple Ranch and are covered by a Conservation Easement held by the Montana Land Reliance. The nominating lessee has indicated the tract would be rolled into their Conservation easement if purchased.

The Helena Unit recently evaluated 20 parcels for sale totaling 8152.34 acres.

- 4 were withdrawn due to available recreational use access.
- 10 were withdrawn by the lessees prior to or following land value appraisal.
- 1 was withdrawn due to archaeological findings during the on-site review.
- 1 was declined by the Land Board due to potential for increased land value in the future.
- 2 were withdrawn by the nominating lessee after prior to scheduling the auction.

There are 2 tracts remaining, totaling 200 acres which are scheduled to go to public oral auction in January 2010.

IV. IMPACTS ON THE HUMAN POPULATION

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

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

No impacts to human health and safety would occur as a result of the proposal.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

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

The following leases, licenses or easements exist upon these proposed land banking lands.

County	Legal	Acres	Uses
Meagher	section 16, T9N, R7E	640	Ag and Grazing, L-7220
Meagher	section 16, T9N, R7E	4.869	WSS water treatment D-10981
Meagher	section 16, T9N, R7E	5.957	WSS water pipeline D-02901
Meagher	section 16, T9N, R7E	0.721	Utility easement D-08651
Meagher	section 16, T9N, R7E	0.65	Phone line easement D-08680

This proposal does not include any specific changes to these activities, except that DNRC would no longer be leasing/licensing these activities.

No direct or cumulative impacts are anticipated as a result of the proposal.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

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

The proposal would have no affect on quantity and distribution of employment.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

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

As State Trust lands, these properties are tax exempt. If the parcel in this proposal is sold, and use continues unchanged, Meagher County would receive additional property tax revenues as shown below. *(Estimated tax revenues were provided by the Meagher Co. Appraisal/Assessment Office.)*

Legal	Est. tax revenue
section 16, T9N, R7E	$180.90

18. DEMAND FOR GOVERNMENT SERVICES:

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

No traffic changes would be anticipated. Wild land fire protection is currently provided for these Trust lands through the County Co-operative Fire Agreement with Meagher County. If sold, these lands would continue to receive fire protection from the County.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

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

There are no zoning or other agency management plans affecting these lands.

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

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

State Trust lands which are legally accessible to the recreationist are available for general recreational use with the purchase of a General Recreational Use License. However, this tract was reviewed and approved for a full recreational use closure. Currently, no recreational uses are allowed on the tract. The main concern driving this decision when it was first made and when the closure was reviewed, is the security of the City of White Sulphur Springs water supply. Under normal circumstances, through agreement with FWP, activities associated with hunting, fishing, and trapping are allowed on legally accessible state lands through the purchase of the Conservation license. Other types of recreational use require either a “State Land Recreational Use License”, or a “Special Recreational Use License”, depending upon the type of use.

In general, there a 4 methods of gaining legal access for recreational purposes.

1. Access via a public road or easement for public access.
2. Access via a recreationally navigable river.
3. Access via other adjacent public lands, when there is a legal access to those lands.
4. Access via permission of an adjoining landowner.

The state land is surrounded by private land and consequently the only potential access for recreational use is via permission of an adjoining landowner. However, the lands in this proposal are also closed to all recreational use under the DNRC rules for recreational use on state lands. DNRC received comment from one of the adjacent land owners in the subdivision objecting to the recreational use closure. The Stone Temple Ranch has indicated that if they purchase the tract, they would continue with a recreational use closure, so the proposal includes no change.

It is anticipated, and a program objective, the replacement lands purchased with the land banking funds be accessible to the public

As of the end of January 2009, 97.6% of the 28,871 acres sold through this program have been inaccessible and 100% of the 31,283 acres purchased have public access. There is however no guarantee that lands which would benefit the Trust would be available for purchase by the DNRC in this area, or even in this County.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

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

The proposal does not include any changes to housing or developments. No effects are anticipated.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

There are no native, unique or traditional lifestyles or communities in the vicinity that would be impacted by the proposal.

23. CULTURAL UNIQUENESS AND DIVERSITY:

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

The State Trust lands in this proposal are currently managed for grazing and agricultural uses either separately or as parts of larger pastures or fields of mixed state and private land. The State lands are generally indistinguishable from the adjacent private lands, with no unique quality.

The potential sale of the state land would not directly or cumulatively impact cultural uniqueness or diversity. It is unknown what management activities would take place on the land if ownership was transferred.

---

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

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

An appraisal of the property value has not been completed to date. The nominating lessee has committed to paying a minimum of $1500 per acre or appraised value, whichever is greater, therefore a value of $1500/acre is used for evaluation purposes. Under DNRC rules, an appraisal would be conducted if preliminary approval to proceed is granted by the Board of Land Commissioners. If approved for sale, the revenue generated would be combined with other revenue in the Land Banking Account to purchase replacement property for the benefit of the Trust. It is anticipated the replacement property would have legal access and be adjacent to other Trust lands which would provide greater management opportunities and income. If replacement property was not purchased prior to the expiration of the statute, the revenue would be deposited into the permanent trust for investment.

Land Value and Income Per Acre

Legal	land value/acre	5 Year Average income 2005-2009	Income per acre whole tract average
16, T9N, R7E	$960,000. *The lessee agrees to pay minimum of $1500/ac.*	$1182 on 167 AUM *(0.26 AUM/ac.)* & $5291 on hay land Total = $6473	$10.11/ac. overall *$1.85/ac grazing & aftermath* *$75.59/ac. irrigated hay*

The statewide stocking rate for grazing land on 4.3 million acres averages 0.26 AUMs per acre or a total of 1.11 million AUMs (2006 DNRC Annual Report). 2008 statewide grazing land net revenue was $7.238 million on 4.078 million grazing acres for an average income of $1.77 per acre (2008 DNRC return on asset value report). 2008 state wide agricultural land net revenue was $11.751 million on 572,919 acres for an average income of $20.51 per acre (2008 DNRC return on asset value report). Combined agricultural and grazing income in 2008 on 4.65 million acres averaged of $4.08 per acre (which more than anything else, represents the ratio of 7.11 acres of grazing land for each 1 acre of agricultural land, statewide).

The land in this section is above average income per acre for both the grazing use and the agricultural use. (See above table)

Another method to compare the productivity of a tract is to consider the return on the asset value. The "Report on Return on Asset Value by Trust and Land Office for State Trust Lands, Fiscal Year 2008" describes a formula for this calculation. This formula calculates the net revenue (gross income less expenses), and the asset value change (current year land value less previous year land value), adds these together, and divides by the previous year land value, to provide a percentage annual return on the asset. *(See page 10 of the report for this formula.)* For the comparison of asset value return on revenue, only the net revenue side of the equation is used. The statewide average annual rate of return from revenue only, by source, for 2008 are as follows.[1]

2008 Statewide Averages

Source	Net Revenue/Assets
Agriculture	3.3%
Grazing	0.3%

Using the minimum purchase price as land values as noted above, the actual 5 year average income by tract, and an average expenditures for grazing and agricultural management of 7.5% of income, the comparable net revenue rate of return on the assets for these tracts are as follows. A weighted average of the above statewide values, to compare to this tract, would be 0.63%

[1] Report on Return on Asset Value by Trust and Land Office for State Trust Lands, Fiscal Year 2008, pg 14.

tract	acres	Est. Value/Acre	Land value	Total income	Average Management Cost	Net Revenue/Asset Value
16, T9N, R7E	640	$1500	$960,000	$6473	$485.47	0.86%

There is a degree of uncertainty regarding future income potential on this tract. The lessee does not appear to have a valid water right with a point of use including the NE corner of the State tract, and the State has only a late claim water right for here. Following adjudication of the water rights in this basin, the lessee may no longer be allowed to irrigate this state land. Without irrigation, production and the value of the State crop share would drop to dry land levels. Income per acre under this scenario may drop to ~$4.90/ac. overall for the tract. This may still be slightly above average per acre, but a drop of this amount would drop revenue to asset down to approximately 0.2% which would then be below average.

EA Checklist Prepared By:	**Name:** D.J.Bakken	**Date:** 11/16/2009
	Title: Helena Unit Manager	

V. FINDING

25. ALTERNATIVE SELECTED:

I have selected I have selected the Proposed Alternative B, recommend the tract receive preliminary approval for sale and continue with the Land Banking process.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

I have evaluated the comments received and potential environment affects and have determined significant environmental effects are not likely to occur as a result of the selected action.

This parcel does not have any unique characteristics, critical habitat or environmental conditions indicating the tract should necessarily remain under management by the Department of Natural Resources and Conservation. The nominating lessee has worked diligently with the White Sulphur Springs City Council to reach an agreement to the satisfaction of the City which would enable future expansion of the water treatment facilities located within an easement area if this parcel were sold. The Memorandum of Understanding signed by the White Sulphur City Council and the Stone Temple Ranch would be included as a condition of sale for the purchase of the state land.

The tract is surrounded by private lands which control access to the state land and if sold are likely to be managed in a manner consistent with surrounding lands. Stone Temple Ranch has placed their surrounding lands under a Conservation Easement with the Montana Land Reliance and has indicated they intend to place the state lands if purchased under a similar conservation easement which would be included as a deed restriction for all prospective purchasers at the time of sale. The Conservation Easement limits agricultural practices to those areas where they have historically occurred and limits range renovations to no till practices with native grasses.

The Montana Department of Fish, Wildlife and Parks had recommended the state land be retained in state ownership due to the presence of sage brush on the parcel and the potential for sage grouse habitat. While a portion of the state land is mapped as potential sage grouse habitat due to the presence of sage brush, there is no core areas or critical habitats for sage grouse identified. The conservation easement to be placed on the state land upon sale, would provide place limits on range renovation practices and address some of the concerns related to potential sage grouse habitat.

This parcel does currently provide above average income/acre to the Common School Trust due to the 70 acres

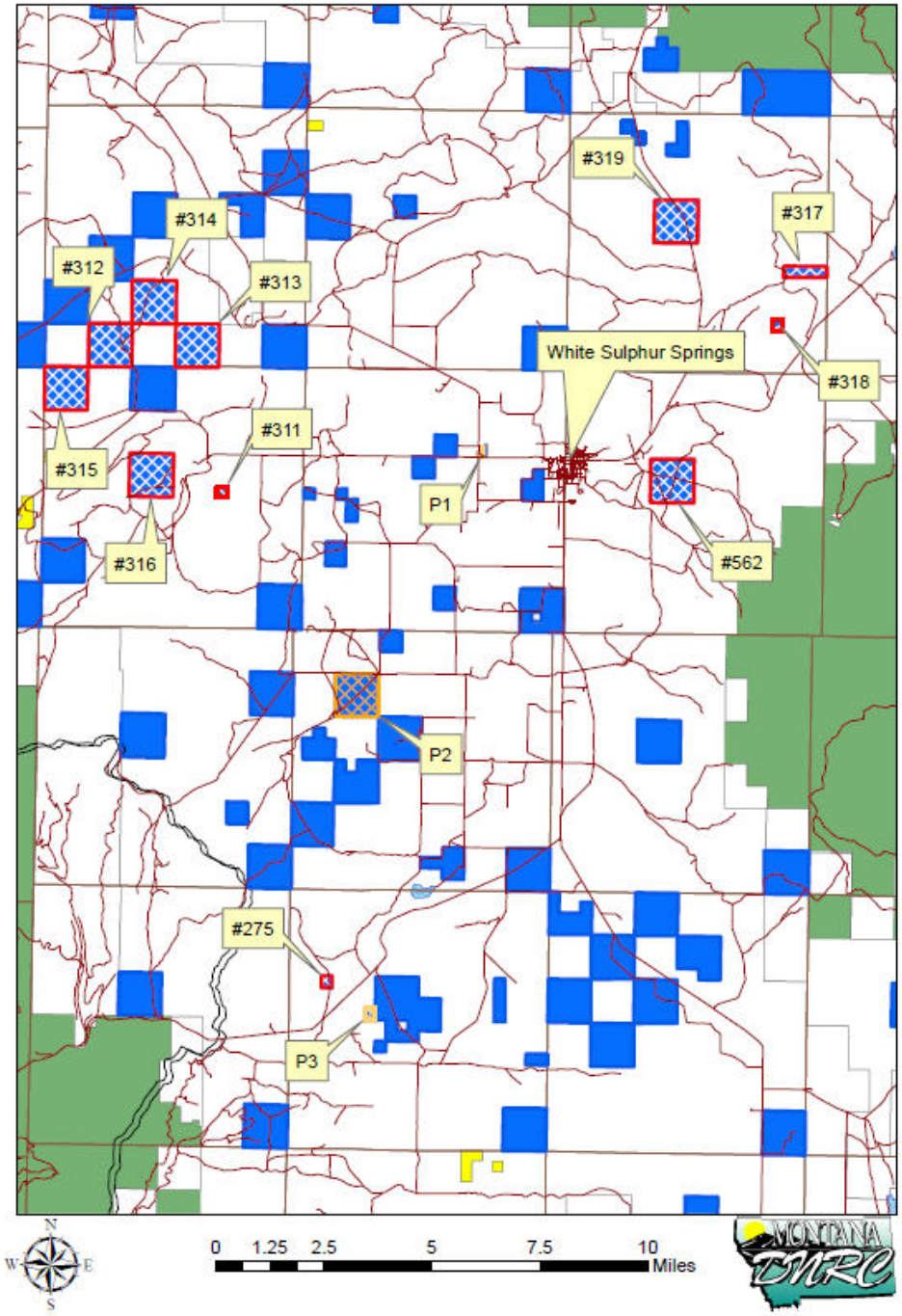
currently under center pivot irrigation. However, there are no water rights associated with this parcel and the Smith River Drainage is currently under water rights adjudication. The 70 acres of irrigation is also part of a center pivot originating on and irrigating the adjacent private land. Use of the center pivot to irrigate the state portion is up to the discretion of the lessee. Therefore the current income cannot be projected in the future with any certainty. The nominating lessee has agreed to pay a minimum of $1500/acre for the land which would place the income/asset value below the state wide average.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

[ ] EIS	[ ] More Detailed EA	[X] No Further Analysis

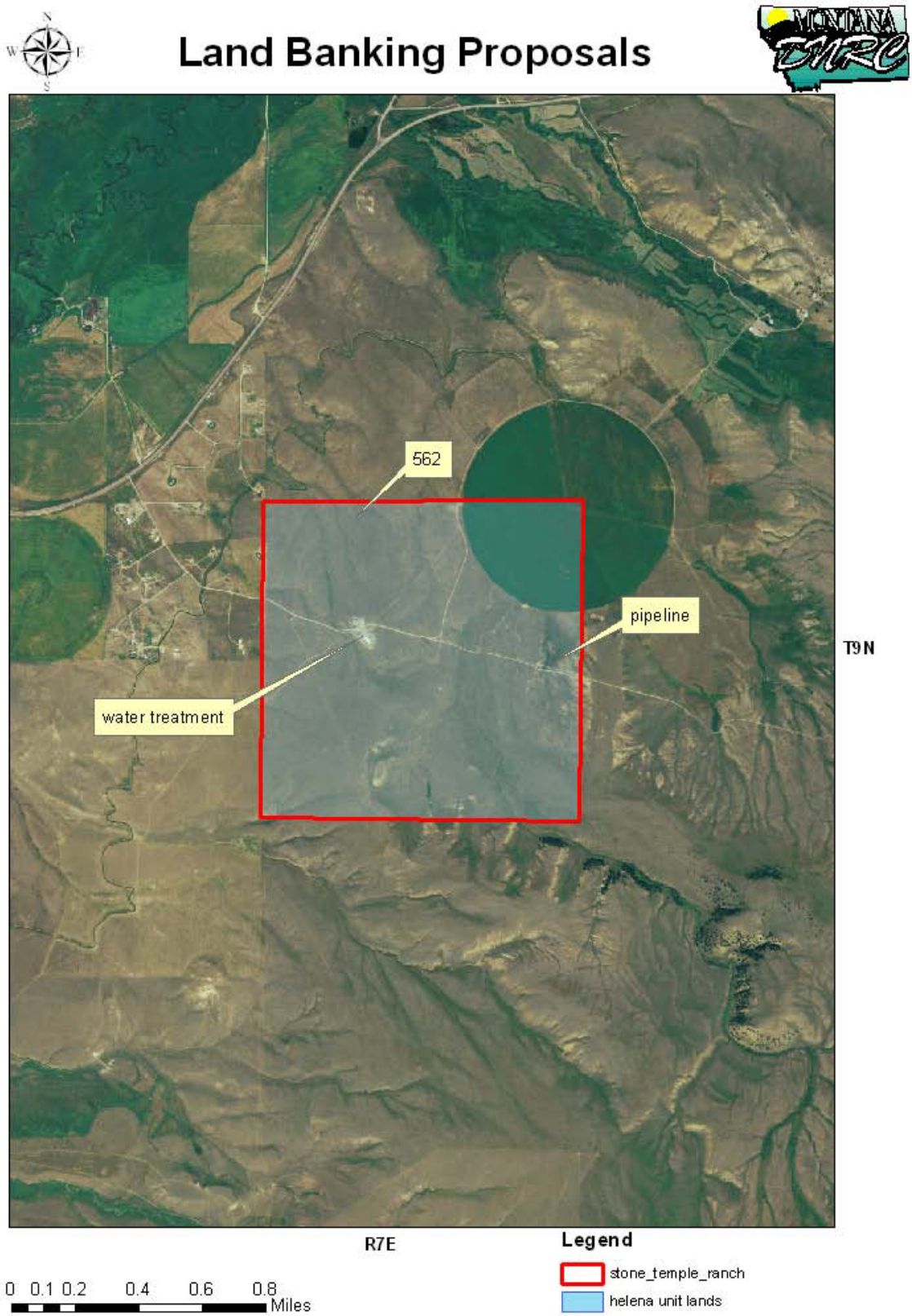
EA Checklist Approved By:	**Name:** Garry Williams **Title:** Area Manager, Central Land Office	
Signature:		**Date**: 12/29/2009

White Sulphur Springs Area



Sales P1, 311, 312, 313, 314, 315, 316, 319, and P2 have been pulled from further consideration since this map was produced in the spring of 2009.

Attachment A-2—Stone Temple Parcel # 562



Attachment B

Land Banking Contacts
2009 Helena Unit Proposals

Person	Organization	Person	Organization
Commissioners	Meagher Co. Commissioners	Commissioners	Jefferson Co. Commissioners
Commissioners	Lewis & Clark Co. Commissioners		
Scott Mendenhall	HD 77	Dave Lewis	SD 42
Harry Klock	HD 83	Terry Murphy	SD 39
Mike Miller	HD 84	Rick Ripley	SD 9
Russell Bean	HD 17		
Marvin & Verna Steinbach		Rocky Harbor - Dearborn Ranch	
Ed Fryer Manager-Castle Mountain Ranch		Hubert Plymale	
John Goodrich Checkerboard Cattle Company		Catlin Ranch, LP	
PMB Investments, LLC		David and Christine Raschke	
Carol Hatfield-USFS		Holliday Land & Livestock Company	
Bill Galt -Galt Ranch		Attn: Ken Wilsin, III Stone Temple Ranch, LLC	
Brian Bodell		Harley R. Harris Luxan & Murfitt Office	
Brian Bodell		Doug Salsbury – Tomahawk Ranch	
Loney Family Trust		Errol Galt – 71 Ranch	
Robert Zoellner, Sr.		Doug and Zita Caltrider	
Chris and Nora Hohenlohe –Oxbow Ranch		John and Shannon Barrett	
Ken and Dayna L. Ogle		Ronald Jackson	
Theda and Jerry Churchill		Lanita & Randal Wheeler	
Pamela Grace Johnson		Frederick Buckingham	
Howard Dixon		Richard and Ardith Lester	
Jeff and Virginia Kinnick		Robert Rantala	
James and Roxana McClelland		Charles Reed	
David and Laura Ellington		Tom Watson	
Nancy O'Neill		Edwin Bodell	
Darrel and Jacqueline Zillmer		McGuires' South Fork LLC	

Larry Sickerson		Alex Sandru	
Paul Amos		No name given - Rancher by Silver Star, MT	
Justin Powell		Mark Hamlen	
Ron Alles – L&C Co.		Andy Celander	
LaMonte Schnur		Don DeGroft	
Jean Briggs		Shannon Guse	
City of WSS			
Mary Sexton	DNRC Director	Tom Hughes	DNRC Hydrologist
Joe Lamson	DNRC Deputy Director	Pat Rennie	DNRC Archaeologist
Tom Schultz	DNRC TLMD	Sonya Germann	DNRC FM-Planner
Kevin Chappell	DNRC Ag./Grz. Mngt.	Hugh Zacheim	DFWP
Monty Mason	DNRC Mineral Mngt.	Pat Flowers	R-3 DFWP – Regional Supervisor
Shawn Thomas	DNRC Forest Mngt.	Kurt Alt	FWP – Wildlife Manager
Jeanne Holmgren	DNRC Real Estate Mngt.	Gary Bertellotti	R-4 DFWP – Regional Supervisor
John Grimm	DNRC Land Banking Supervisor	Graham Taylor	FWP – Wildlife Manager
Shane Mintz	DOT	Tom Ellerhoff	DEQ
Ann Hedges	Montana Environmental Information Center	Bob Vogel	Montana School Boards Association
Bill Orsello	Montana Wildlife Federation	Daniel Berube	
Stan Frasier	Montana Wildlife Federation	Ellen Engstedt	Montana Wood Products
Larry Copenhaver	Montana Wildlife Federation	Harold Blattie	Montana Association of Counties
Craig Sharpe	Montana Wildlife Federation	Janet Ellis	Montana Audubon Society
Nancy Schlepp	Montana Farm Bureau Federation	Glenn Marx, Executive Director	Montana Association of Land Trust (MALT)
Ray Marxer	Matador Cattle Company	Leslie Taylor	MSU Bozeman MSU Morrill (ACI)
Caroline Sime	The Wildlife Society, Montana Chapter	Linda McCulloch &	Common School Trust (CS)
Jack Atcheson, Sr.		Steve Gettel, Superintendent	School for the Deaf & Blind (DB)
Tribal Historic Preservation Office	Confederated Salish & Kootenai Tribe	Mike Ferriter, Director	State Industrial School (SRS)

Attachment C

LUXAN & MURFITT

PROFESSIONAL LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW

MONTANA CLUB BUILDING • 24 W. SIXTH AVE.
P.O. BOX 1144 • HELENA, MONTANA 59624

(406) 442-7450
FAX (406) 442-7361

NOV 1 6 2009

PAMELA D. BUCY
GARY L. DAVIS
HARLEY R. HARRIS
ERIN F. MacLEAN
PATRICK E. MELBY
CANDACE C. PAYNE
DALE E. REAGOR
MONICA J. TRANEL

WALTER S. MURFITT (1930-2002)
H.J. LUXAN (1918-1984)

VIOLA J. ZINDELL, CLA, PARALEGAL
LISA A. THOMPSON, CLA, PARALEGAL

November 12, 2009

D.J. Bakken
Helena Unit Manager
Montana Department of Natural
Resources and Conservation
8001 North Montana
Helena,. MT 59602

RE: Stone Temple Ranch Land Banking Nomination, Sec. 16, T. 9 N., R. 7 E. PMM

Dear DJ:

I'm writing to follow up on our call of a week ago. At that time I informed you that the Stone Temple Ranch had reached agreement with the City of White Sulphur Springs in respect to the nomination and anticipated purchase of the above-referenced parcel of School Trust land ["Parcel"] through the Land Banking program. Enclosed for your records is a copy of the Memorandum of Understanding ["MOU"] between Stone Temple and the City. In particular, you will note that in paragraph 10 the MOU recites that:

> the City agrees this MOU shall be deemed its communication to the State Land Board regarding its support for the sale of [the Parcel] under the Land Banking program, and that Stone Temple may submit a copy of this MOU to the State land Board as evidence thereof.

Accordingly, we believe this issue has been satisfactorily addressed, per DNRC's request.

In addition to the above, and as I understand it, because of certain comments provided by DFWP, DNRC is asking for clarification from the Stone Temple Ranch with respect to its activities on the Parcel if a sale is consummated.

As I indicated, Stone Temple Ranch has a conservation easement over the bulk of its property which preserves traditional agricultural activities and uses, which prohibits subdivision and similar development that could possibly impact wildlife habitat of concern to DFWP. On acquisition, Stone Temple would also intend to place a conservation easement on the Parcel. Specifically, Stone Temple would intend that the conservation easement placed on the Parcel would include the following provision:

> **Agricultural Activities.** To conduct farming, ranching, and other agricultural activities, including raising and managing livestock and planting, raising, and harvesting agricultural crops. Farming activities on the Property shall be limited to areas where such activities have been historically practiced. However, rangeland restoration is permitted so long as native species are used and the soil surface is not disturbed by plowing or cultivation other than by no tillage methods which do not expose the soil surface or sub-surface soil to the effects of wind and water erosion.

We believe that this provision should adequately address DFWP's concerns and in particular should be sufficient to enable DNRC to make a determination of "No Significant Impact" in your MEPA review of this nomination. Please advise if this is not the case or you have further questions or concerns. Also please advise me on what schedule we may anticipate in connection with the Land Banking sale of the Parcel.

Sincerely,

HARLEY R. HARRIS

For Luxan & Murfitt, PLLP

c: Kendrick Wilson
Wally Bailey
Rock Ringling