

**Environmental Analysis**

For the

**Forrey Creek Easement Exchange**

Prepared By

Kalispell Unit, Northwestern Land Office

Montana Department of Natural Resources and Conservation

June 2010

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## CHECKLIST ENVIRONMENTAL ASSESSMENT

<b>Project Name:</b>	Forrey Creek Easement Exchange
<b>Proposed Implementation Date:</b>	Summer 2010
<b>Proponent:</b>	Kalispell; Northwestern Land Office: Montana DNRC
<b>Location:</b>	Rollins, Montana
<b>County:</b>	Lake

### I. TYPE AND PURPOSE OF ACTION

The Department of Natural Resources and Conservation (DNRC) is considering a road and utility easement request to cross State Trust Land approximately 6 air miles south of Lakeside, in Section 8, Township 25 North, Range 20 West. The specific request is for an easement exchange whereby the state would grant an easement 60 feet wide, for all lawful purposes including buried utilities. In exchange the proponent, New Mountain Heights II, would grant DNRC 60 foot wide all lawful purposes, including buried utilities, with rights for the public across Sections 5 and 6 in Township 25 North, Range 20 West. Approximately 9,600 feet of road would be constructed with about 3000 feet following an existing road. The proposed road would be constructed to meet Lake County Road standards. A net revenue of approximately \$20,000 would be paid to the State of Montana if the easement exchange is implemented. Future maintenance costs will be allocated on the basis of respective uses.

### II. PROJECT DEVELOPMENT

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

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

Scoping notices were sent to adjacent landowners and interested parties in December 2009 for an initial 30-day comment period. The scoping notice was also posted on the DNRC website. A public hearing was held on February 22, 2010 in Lakeside Montana. A second public hearing is scheduled for ~~June 29~~ July 7, 2010 in Rollins Montana. Legal ads were published in the Daily Interlake in December of 2009.

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

None

#### 3. ALTERNATIVES CONSIDERED:

Action Alternative – to acquire and exchange easements  
Non- Action – to not acquire and not to exchange easements

### III. IMPACTS ON THE PHYSICAL ENVIRONMENT

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

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

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

Soils in the project area were mapped in the *Soil Survey of Lake County Area, Montana* and were reviewed using the Natural Resources Conservation Service's Web Soil Survey (<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>).

Soils are listed as gravelly silt loams on slopes up to 30% although small areas of steeper slopes are present in the project area. The erosion hazard for the soils that would be affected as part of the Action Alternative is considered low to moderate. Currently, approximately five acres of ground has been removed from timber production for native surface road access within the approximate 460 acre parcel. No unique or fragile soils were identified during office or field review.

*Direct, Indirect and Cumulative Effects of the No Action Alternative*

No additional direct, indirect or cumulative effects would result from this alternative beyond the existing condition and natural changes.

*Direct, Indirect and Cumulative Effects of the Action Alternative*

Under the action alternative a road easement covering approximately 19 acres would be conveyed to the proponent of the project. In the easement area, approximately 9,600 linear feet of road would be constructed although approximately 3,000 linear feet would be sited on the existing road. An estimated 17 acres of land would be removed from production due to this project—the cumulative amount of land removed from production within the 460-acre parcel would be approximately 22 acres.

The proposed road would be paved with asphalt [at the time of construction/reconstruction](#), which would reduce the potential erosion from the road surface, although the infiltration of precipitation would be greatly reduced. Runoff and road drainage would be ditched and dispersed using corrugated metal pipes (CMPs). All applicable Best Management Practices would be required to minimize the erosion in ditches and at CMP outlets.

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

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

No surface water resources are present near the proposed road. Because of the lack of surface water in the project area, the risk of affecting water quality would be very low and immeasurable.

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**6. AIR QUALITY:**

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

No impact to Class 1 Airshed would occur as a result of implementing the Action Alternative.

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

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

***Direct, Indirect, and Cumulative Effects of the No-Action Alternative***

No appreciable changes in vegetative cover, quantity, and quality would occur in the project area.

***Direct, Indirect, and Cumulative Effects of the Action Alternative***

The proposed road goes through 4 stands as identified in DNRC's stand level inventory (SLI). These 4 stands contain western larch/Douglas-fir (WL/DF) cover types. Approximately 19 acres is contained in the right-of-way for the proposed road. About 3000 feet of the proposed road location follows an existing single lane, native surface road. Direct effects of the proposed road would take an additional 17 acres out of timber production and reduce the Kalispell Unit's acreage in WL/DF cover types. This acreage would also reduce the Kalispell Unit's

timber base but due to the relatively small acreage in comparison to our total forested acreage, the proposed easement exchange would have minimal effects on the Kalispell Unit's ability to meet mandated timber targets. Minimal direct, indirect, or cumulative effects to vegetation would be anticipated due to implementation of the action alternative.

If the action alternative is selected, motorized public use would be allowed through State ownership in sec. 8. This could increase the likelihood of noxious weed infestations. The area currently has noxious weed infestations along existing roads. The proposed new road would only follow 3000 feet of existing road. The presence of 6600 feet of new road construction could increase the direct, indirect and cumulative effects of noxious weed infestations in the project area. Control of noxious weeds will be included as part of the maintenance obligations if the action alternative is selected. All parties to the easement will share in road maintenance costs including control and eradication of noxious weed infestations.

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

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

### ***Direct, Indirect, and Cumulative Effects of the No-Action Alternative***

No appreciable changes in existing habitats would occur in the project area.

### ***Direct, Indirect, and Cumulative Effects of the Action Alternative***

The proposed clearing and road construction would reduce habitats across approximately 17 acres of reasonably open stands. Habitats for species that rely on forested conditions would see a negligible reduction in available habitats. Additionally, with the increased access, reductions in snags and coarse woody debris are possible, reducing habitats for those species that rely on those resources. This additional access could increase general disturbance to the species using the project area. Overall, negligible direct, indirect, or cumulative effects would be anticipated to general wildlife species.

The project area includes white-tailed deer and mule deer winter range, but does not include elk or moose winter range. Winter range attributes on approximately 17 acres would be removed and the effectiveness of much of these winter ranges on the state parcel would be reduced with the increased access and disturbance. Use of the area by big game during the non-winter period is likely. Proposed road construction and associated access could alter non-winter habitats on approximately 17 acres, while increasing human disturbance levels on the 460-acre project area and an additional 800 acres of DNRC ownership that would be accessible using non-motorized methods by the general public following the proposed road construction. Reductions in big game security habitats would be anticipated with the increased human access, both using the open road and the subsequent non-motorized human access. Overall negligible direct, indirect, and cumulative effects would be anticipated to big game species.

Due to the lack of surface water in the project area, no aquatic habitat would be affected.

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

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

### ***Direct, Indirect, and Cumulative Effects of the No-Action Alternative***

No appreciable changes in existing habitats would occur in the project area.

### ***Direct, Indirect, and Cumulative Effects of the Action Alternative***

The project area is approximately 9 miles outside of the North Continental Divide Ecosystem and separated from the recovery zone by Flathead Lake. Recently, a grizzly bear has been documented approximately 10 miles west of the project area. Little or no use of the project area by grizzly bears would be expected. Thus no direct, indirect, or cumulative effect to grizzly bears would be anticipated. The project area occurs between 3,040-3,640 feet, which is largely outside of the elevation range where lynx are commonly found in Montana.

Limited lynx habitats were identified in the project area, including approximately 46 acres of mature foraging and another 16 acres of forested travel/other habitats, but these habitats are in portions of the state parcel not being altered with the proposed road construction. Given the existing conditions and the habitats present, lynx use of the project area is rather unlikely. Negligible effects to Canada lynx would be anticipated with the proposed activities. Overall, negligible direct, indirect, or cumulative effects would be anticipated to the threatened or endangered species.

Proposed activities would reduce potential flammulated owl, fisher, and pileated woodpecker habitats in a small portion of the state parcel. The reduction of approximately 17 acres of potential flammulated owl and pileated woodpecker nesting and foraging habitats would not appreciably alter the ability of the state parcel to support these species. Reductions of similar acreages of upland fisher habitats would also not alter the use of the project area by fisher. In general, a slight reduction in snags, and coarse woody debris would be possible with legal and illegal firewood gathering, which could reduce available habitats for fisher and pileated woodpeckers. Forested stands in the state section outside of the proposed activities, as well as those in some of the surrounding landscape could still provide pileated woodpecker, flammulated owl, and fisher habitats. Overall negligible direct, indirect, or cumulative effects would be anticipated to pileated woodpeckers, flammulated owls, and fisher. Habitats for other sensitive species are either not present and or would not be affected with the proposed activities.

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## **10. HISTORICAL AND ARCHAEOLOGICAL SITES:**

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

No historic or archaeological sites have been located or identified in this area.

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## **11. AESTHETICS:**

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

### ***Direct, Indirect, and Cumulative Effects of the No-Action Alternative***

No appreciable changes in visuals would occur in the project area.

### ***Direct, Indirect, and Cumulative Effects of the Action Alternative***

A portion of the proposed road location would be visible from State Highway 93. The proposed location also passes near (within 100 feet) of several private residencies. During the initial scoping and public hearing, some adjacent landowners expressed concern that the road would diminish their privacy, solitude, and enjoyment of their property. While aesthetics are difficult to quantify, the direct affects to aesthetics would include approximately 9600 [feet](#) of road construction/re-construction that would be open to the public for motorized use. Some adjacent landowners would be able to see portions of the proposed road and experience an increase in noise due to traffic on the road. Indirect effects could include an increase of trash and disturbance to road side vegetation along the proposed road. This could further diminish the aesthetic appeal of the area from its current condition. Implementation of the action alternative would have some direct effects on aesthetics. There is also a potential the action alternative would have some indirect and cumulative effects on aesthetics, especially to adjacent landowners.

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

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

No changes to demands on limited environmental resources would occur as a result of implementing the No-Action or Action Alternatives.

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

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

No other environmental documents are pertinent to the area.

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IV. IMPACTS ON THE HUMAN POPULATION
<ul style="list-style-type: none"><li>• <i>RESOURCES</i> potentially impacted are listed on the form, followed by common issues that would be considered.</li><li>• Explain <i>POTENTIAL IMPACTS AND MITIGATIONS</i> following each resource heading.</li><li>• Enter "NONE" if no impacts are identified or the resource is not present.</li></ul>

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**14. HUMAN HEALTH AND SAFETY:**

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

***Direct, Indirect, and Cumulative Effects of the No-Action Alternative***

No changes in human health and safety.

***Direct, Indirect, and Cumulative Effects of the Action Alternative***

Concerns were expressed during the initial scoping that the proposed action could increase trespass onto private property as well as increase the potential for criminal activity and vandalism to adjacent homes and property. The proposed action would allow for motorized public access through State ownership in section 8. The direct effects would be an increase in public traffic adjacent to some nearby residences. There is a potential that cumulative effects could increase if the action alternative is implemented. No indirect or cumulative effects are anticipated.

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

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

No change to the existing conditions is expected if the Action Alternative is selected.

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

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

No change to existing conditions is expected if the Action Alternative is selected.

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

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

No change to existing conditions is expected if the Action Alternative is selected.

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**18. DEMAND FOR GOVERNMENT SERVICES:**

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

No increases in demand for government services would result from implementation of the Action Alternative.

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

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

On June 17, 1996, the Land Board approved the SFLMP. The SFLMP provides the philosophy adopted by DNRC through programmatic review (DNRC, 1996). The DNRC will manage the lands in this project according to this philosophy, which states:

*Our premise is that the best way to produce long-term income for the trust is to manage intensively for healthy and biological diverse forests. Our understanding is that a diverse forest is a stable forest that will produce the most reliable and highest long-term revenue stream...In the foreseeable future, timber management will continue to be our primary source of revenue and our primary tool for achieving biodiversity objectives.*

On March 13, 2003, the DNRC adopted Rules (Administrative Rules of Montana [ARM] 36.11.401 through 450). These Rules provide DNRC personnel with consistent policy, direction, and guidance for the management of forested trust lands. Together, the SFLMP and Rules define the programmatic framework for this project.

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

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

Implementation of the Action Alternative could lead to increased/improved recreational access on state land.

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**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.*

No change to existing conditions would occur as a result of implementing the Action Alternative.

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**22. SOCIAL STRUCTURES AND MORES:**

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

No change to existing conditions would occur as a result of implementing the Action Alternative.

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**23. CULTURAL UNIQUENESS AND DIVERSITY:**

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

No change to existing conditions would occur as a result of implementing the Action Alternative.

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**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.*

<b>EA Checklist Prepared By:</b>	<b>Name:</b> <b>Pete Seigmund</b> <b>Title:</b> <b>Forester</b>	<b>Date:</b> 06/21/2010
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**V. FINDING**

25. ALTERNATIVE SELECTED:

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS

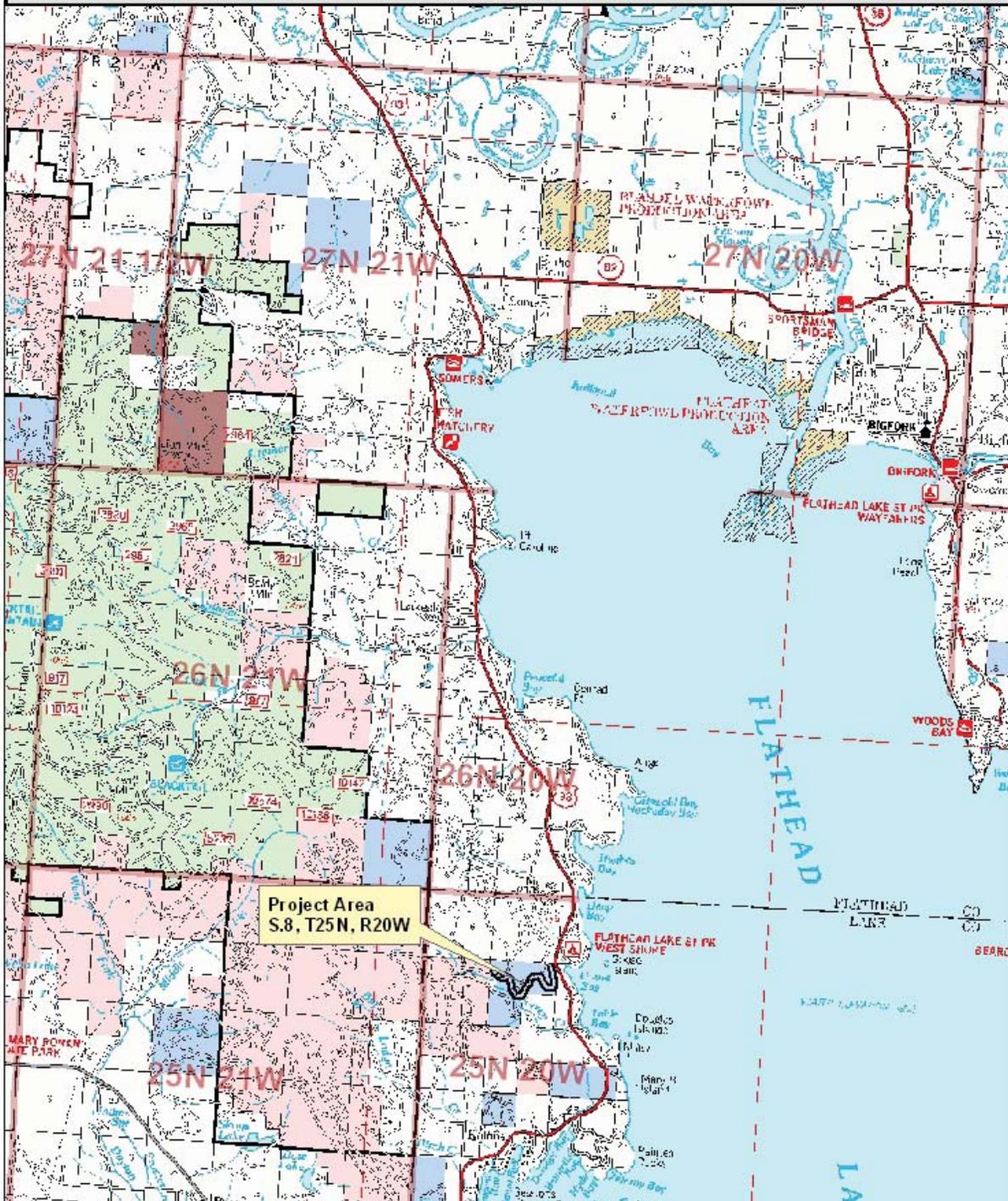
More Detailed EA

No Further Analysis

<b>EA Checklist Approved By:</b>	<b>Name:</b> Greg Poncin
	<b>Title:</b> Kalispell Unit Manager
<b>Signature:</b>	<b>Date:</b>

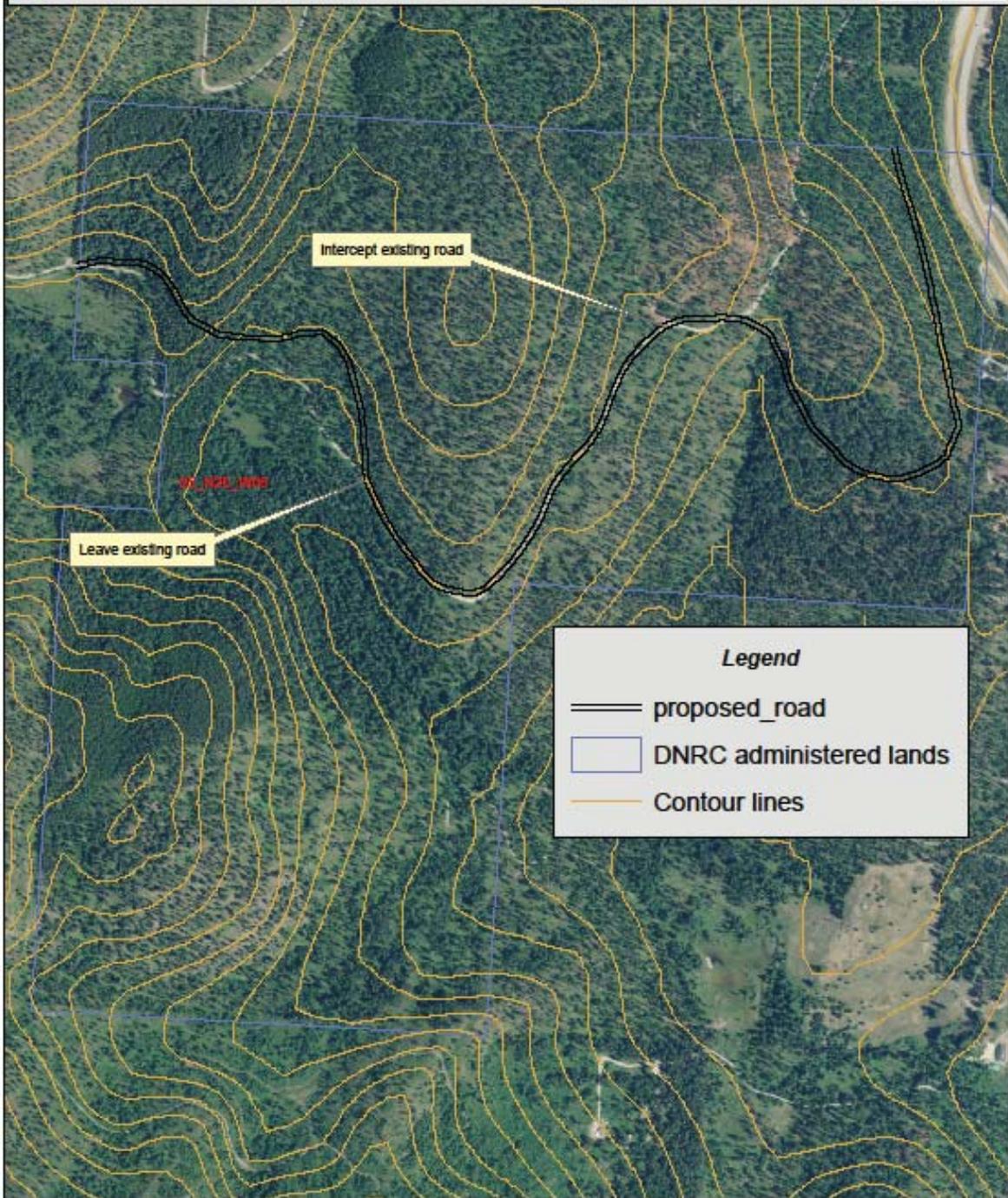
**Forrey Creek Easement Exchange  
Vicinity Map  
s. 8, T25N, R20W**

Attachment A



**Forrey Creek Easement Exchange  
Project Map  
s. 8, T25N, R20W**

Attachment A



## Attachment II – Public Comments on Initial Proposal

#1

February 10, 2010

Mr. Greg Poncin  
Department of Natural Resources and Conservation  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT 59901  
Subject: Proposed Forrey Creek Easement - Comments

Ref: Your Letter Dated January 4, 2010 (as amended)

Dear Mr. Poncin:

Thank you for the opportunity to comment on the Proposed Forrey Creek Easement Exchange. Our property adjoins the Southern boundary of the DNRC land parcel in which the proposed easement is to be located. I am writing on behalf of the five owners of the property: Julie Fischer, Dan Fischer, Bonnie Schaefer, Valerie Fischer, and myself, William Fischer. We do not want to stand in the way of the Project that is connected to this easement. At the same time we do not want to see an open public road. Having owned our property when there was a previous open road, we experienced numerous trespass violations and property damage, including bullet holes into buildings and vehicles and bullets flying over the house, and a horse stolen and shot. We would kindly request that all other avenues of access be looked into before proceeding with this option. To the best of my recollection state does not require public access to state lands, rather the requirement is that any use of state lands provides income to the State for the school system. Unless every other option for access through private lands is denied we would oppose this proposal. If this option is approved, we would request a route that is stays as far to the north and west as is possible.

Sincerely,  
William Fischer

### #2 (was unable to open attached letter sent via e-mail)

Dear Mr. Poncin,

Attached is a letter we have sent to you about the Forrey Creek proposed easement. We were told that comments needed to be to you by February 10th so we are also sending the letter attached to this email to make sure you receive our comments in time.

Please let us know if you need anything else. Thank you for your attention and consideration.

Nancy and Mike Anderson

### #3

Dear Mr. Poncin -

We have already submitted our comments on the proposed Forrey Creek Easement Exchange in a letter to your office dated January 29th.

In the letter we suggested an alternate route for the easement be considered. We have since been informed that Mr. Ed Hanson, the road engineer acting on behalf of the developer, and presumably the DNRC as well, has flagged two possible alternate routes.

We request that your office give serious consideration to these potential alternatives.

We are looking forward to attending the Public Hearing February 22nd and to meeting you at that time.

Sincerely  
William and Lone Savage

### #4

Robert S. Rosso, PE

January 15, 2010

Mr. Greg Poncin  
DNRC  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT 59901

Dear Greg:

Public access and egress using the road that intersects with US 93 across from the West Shore State Park has a history that ranges from friendly and neighborly to, you better duck and run when you go through the gate at the State Lands property line. If the proposed easement exchange will result in consistent, friendly public access without costing the State an unfair portion of the construction and maintenance expenses I can support it.

From the map, one can see the portion of the road through the State Land is 8 to 10 times as long as the short connection road to US 93 through the New Mountain Heights property. It is also important to note that New Mountain Heights has much to gain through this exchange because it will allow them to profit from sizeable real estate development. For these reasons I think it is very important the exchange agreement is biased in favor of the State and include the following:

1. All immediate road construction including, but not limited to, livestock control, passing or parking areas, and erosion control must be approved by the DNRC and paid for by New Mountain Heights and other current private property owners that will use the road.
2. Because road use from the very first will be mostly the result of that required for private property development and private property access for future owners, all maintenance costs, including that required for year-around emergency access, must be paid for by New Mountain Heights or other private property owners that will use the road.
3. Future road improvements including any required by Lake County as a condition of subdivision development by New Mountain Heights or required by Lake County or Montana State Department of Environmental Quality to control dust, erosion, storm water runoff, or other issues that affect air or water quality must be approved by DNRC and paid for by New Mountain Heights or other private property owners that will use the road.

Finally, financial consideration paid by New Mountain Heights to the State of Montana to balance the unequal level of benefit to both parties in the exchange must be significant. If the benefit to the State and the citizens is not significant I can live with the status quo.

I am looking forward to learning the details of the proposed easement exchange agreement and having a chance to comment on it further at that time in this public process. I hope it will benefit the citizens of Montana by providing consistent, friendly access to our State Lands and revenue to support our public schools. I also hope it will benefit New Mountain Heights and future private property owners by providing predictable, save access and by promoting controlled, healthy development and growth in the local community.

Respectfully,

Robert S. (Steve) Rosso, PE

**#5**

February 6, 2010

Mr. Greg Poncin  
Department of Natural Resources and Conservation  
655 Timberwolf Parkway, Suite 2

Via e-mail

Subject: Proposed Forrey Creek Easement - Comments

Ref: Your Letter Dated January 4, 2010 (as amended)

Dear Mr. Poncin:

Thank you for the opportunity to comment on the Proposed Forrey Creek Easement Exchange. Our property adjoins the eastern boundary of the DNRC land parcel in which the proposed easement is to be located. The legal description of our property is:  
Those portions Of Lots 23 and 24 of SUBDIVISION LINDERMAN ESTATE ADDITION TWO lying west of New U.S. Highway No. 93, located in Government Lot 1 of Section 9, Township 25 North, Range 20 West, P.M.M., Lake County, Montana, further described as follows:  
Commencing at the southwest corner of Lot 24 of said SUBDIVISION LINDERMAN ESTATE ADDITION TWO, said corner being the true point of beginning of the tract of land herein described; thence N. 00°02'00" E. along the west boundaries of said Lots 24 and 23 a distance of 662.99 feet to a point on the southwesterly right-of-way of New U.S. Highway No. 93; thence S. 23°14'32" E. along said southwesterly right-of-way 710.10 feet; thence continuing along said southwesterly right-of-way S. 30°27'26" E. 14.54 feet to the northeast corner of Tract A-I as shown and described on Certificate of Survey No. 4293, records of Lake County; thence N. 89°35'58" W. along the north boundary of said Tract A-I a distance of 287.98 feet to the point of beginning.  
Further identified as being Parcel "A" on Certificate of Survey No. 4629, on file in the office of the Clerk and Recorder of Lake County, Montana.

The proposed easement parallels the boundaries of our property and is approximately 100' or so from our garage. Any road constructed on the currently proposed easement route would be directly visible from our house and property as well, and our home would be visible from a road following the proposed route. When we purchased our property, the privacy and solitude it offered was of great importance to us, and that remains the case today. If a public access road were to be constructed on the easement as presently proposed, the solitude and privacy we currently enjoy would be significantly diminished and certainly would greatly lower our property values and affect our way of life here. In addition to the obvious disruption that would be caused by a road that's almost in our backyard, we have a concern for the dust and noise that will occur. Our well is directly down slope from the proposed easement and our water supply could be affected by traffic. Since the proposed public road is so close to our home and the visibility into our windows would be possible, we would have to seclude ourselves and thus be deprived of both light and view from that entire side of our home. We are also greatly concerned about possible trespass and especially the risk of increased criminal activity. The currently proposed easement location is apparently designed without any consideration for the residents and blindly follows a contour line on a map.

We object to the easement route as presently proposed. It is our understanding that an alternative route has been deemed feasible by Edward Hanson, the applicants road consultant, which would entirely eliminate the problems previously stated and would essentially allow the objectives of the applicant and DNRC without such serious affects to our property and us.

While we recognize that the State Trust Land is not ours and the roadway could be placed wherever the DNRC decides, we would hope that the needs of the residents would be the primary goal of any decision. We clearly understand the current policy of the State of Montana is to improve public access to state lands where possible, and certainly have no objection to that policy. However the location of that roadway could be done to accomplish the goals and policy considerations but still not ruin the enjoyment of our property and the disruption to our lives.

The applicant has told us that they also do not wish to create any disruption to us and we realize the enormous benefit they will derive from your granting this easement in order to allow them to develop their private property. We also recognize that there will be substantial burdens to the DNRC for firefighting and other issues once this development occurs. We would hope that the objectives of providing this public access are worth the burdens that will be borne by both the DNRC and all the neighbors. Historically, when public access to this Trust section was available, there was a disproportionate use by hunters and other recreationists due to the extensive wildlife and the proximity to Kalispell. We believe that a mere reference that this easement exchange meets the states goals would be seriously understating both the benefits to the applicant and the effect on the DNRC; the state treasury and most of all, the adjoining property owners. We hope your office will give serious consideration to our concerns and suggestions, and a solution can be arrived at which will be acceptable to all parties concerned.

Sincerely,

Martin Miller and Juanita Landau

**#6**

Dear Mr. Poncin,

Re: Proposed Easement Exchange, Forrey Creek (Section 8, T25N, R20W).

Mr. Dan Schipper is the longtime owner of Tract #1 in Section 5 (Timberlake Ranches). Timberlake Ranches has been a rural residential development governed by established covenants since 1977.

The current road passes right by his home, and other interests currently have access rights over that road. The new proposed road would pass on the other side of his home, so that he will be surrounded by public traffic.

Since he is very dramatically and directly impacted by this proposal, he should have been the first party consulted and then presented with a comprehensive plan, not just pieces of what is necessary.

I intend to provide a separate response, but I do fully support his concerns. So do most of my neighbors.

Bob Lavin

Tract 7A Timberlake Ranches

**#7**

January 6, 2010

Greg Poncin

DNRC Kalispell Unit

655 Timberwolf Parkway, Suite 2

Kalispell, MT 59901

Mr. Poncin,

Please accept the following comments in favor of the proposed Forrey Creek Easement Exchange project.

We feel it is responsible land management policy to look for cooperative opportunities involving multiple partners that allow for well designed, coordinated, multiple use access plans.

It appears that the proposal outline will resolve long standing access issues for private lands, School Trust lands and as a bonus will provide access to the general public.

We encourage you to proceed with the analysis of the project and hope to be kept informed of your progress.

Sincerely,

Paul R. McKenzie C.F.

Lands & Resource Manager



# F. H. STOLTZE LAND & LUMBER COMPANY

*Lumber Manufacturers*

Box 1429 • Columbia Falls, Montana 59912  
Phone (406) 892-7000 • FAX (406) 892-1612  
E mail info@stoltzelumber.com  
www.stoltzelumber.com

Established in 1912  
Affiliations:

February 22, 2010

Greg Poncin  
Department of Natural Resources  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT. 59901



Charter Member

**RE: Comments on Forrey Creek Easement Exchange**

Greg:

Stoltze is in favor of this exchange. We just want to say that though the investment group is the applicant for the exchange, we are still the owner of record of Section 6 and we would need to review, approve, and sign all documents. All documents should state clearly that when the land transfers ownership then the easements would transfer with the property to the new owners.

Flathead Valley



Please call us if you have any questions and thank you for the opportunity to comment.

Sincerely,

*Chris Damrow*  
Chris Damrow  
Forester



Member Since 1960

**TO SUBMIT WRITTEN COMMENTS**  
Forrey Creek Easement Exchange  
Flathead County, Montana  
February 22, 2010

As a convenience to the public, DNRC will accept written comments during this hearing. Comments can be written on this sheet, if desired. Please print your name and address below, and hand it to the Hearings Officer. Comments must be turned in by the end of the public hearing session on February 22, 2010.

Name: Mike Wilson

Address: PO Box 645 Lakeside MT 59922

E-mail: mike@timberlakelandworks.com

Comments: Property owner in Timberlake Ranches Subdivision just to the north of the existing Timberlake Ranches entrance. I support the easement exchange because it will help to reduce traffic (potential) through the existing timberlake subdivision - It will also improve public access to public land in the area. Currently public access is very limited and there is a great deal of land that could be used by the public for recreation within the appropriate guidelines/regulations (ie non-motorized etc)

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\_\_\_\_\_



490 North Meridian Road  
Kalispell, MT 59901  
(406) 752-5501  
Fax: (406) 257-0349  
Ref: JV02-10  
January 13, 2010

Greg Poncin  
Department of Natural Resources and Conservation  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT 59901

Re: Proposed Easement Exchange, Forrey Creek

Dear Greg,

I have received your scoping letter concerning the proposed easement exchange in Forrey Creek and offer the following comments. The purpose of the exchange is to provide access to proposed housing developments on properties above the DNRC land. It would trade approximately two miles of access easement across public land for approximately ½ mile of access easement in two separate small lengths across private land.

It states in the scoping document that as part of the exchange the DNRC will get "...improved legal access to state land in the SW ¼ of Section 18, ... and Section 36". After our telephone conversation of today I am uncertain of the legal status of the DNRC's access across Plum Creek land in Sections 1, 12, 7, and 18. Does the DNRC hold a legal access that is recorded on the plat across these sections? If not, then once they are sold for development the DNRC will not have that access. If the DNRC already has some type of legal access, is "improved" legal access necessary?

It should be made clear to the public that "legal" access is not "public" access. Legal access grants the DNRC access for resource management, but it does not provide public access. Also, there is no discussion in your scoping letter of any public benefit, monetary, access, or otherwise, of the proposed exchange. Indeed, the benefits of the exchange are to developers who propose to subdivide properties above the DNRC land. In the long run these subdivisions will most likely deny public access onto or across their property.

Moreover, such housing development will have permanent negative impacts on wildlife. Deer, elk, moose, bear, mountain lion, wolf, and a host of other game and nongame species use all of the area being discussed here – Sections 1, 6, 7, 8, 12, 18, and 36. Most of it is also big game winter range.

Please feel free to contact me if you have any questions.

Sincerely,

  
John Vore  
Wildlife Biologist

#11

February 5, 2010

To: Mr. Greg Poncin  
Department of Natural Resources and Conservation  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT 59901  
Subject: Proposed Forrey Creek Easement - Comments  
Ref: Your Letter Dated January 4, 2010  
Dear Mr. Poncin:

We appreciate the opportunity to comment on the Proposed Forrey Creek Easement Exchange. Our property adjoins the eastern boundary of the DNRC land where the proposed easement is to be located. We are located next to William and Lone Savage. The property is currently occupied by tenants who enjoy and value the peaceful, natural surroundings. We will eventually occupy the property ourselves. The northwestern corner of our property is near the currently proposed path of the easement as it swings towards the west, after first coming from the north and its junction with Highway 93. Our property value, as well as the peaceful enjoyment of and views from the property, will be greatly lessened if the easement and road are located where currently proposed. Therefore, we object to the easement route as presently proposed, and request that an alternate route be established. Specifically, we request that the application be modified in accordance with the objections raised in our letter.

Any road constructed on the currently proposed easement route would be quite visible from our house and property, and our home and the homes of our immediate neighbors would be visible from a road following the proposed route. When we purchased our property, the most important aspect of our purchase was the serenity, privacy, and solitude it offered -- particularly by having all nature views. We especially looked for a property where the views would be all nature views out the windows since these views offer such a peaceful respite. If a public access road were to be constructed on the easement as presently proposed, we

believe that the solitude and privacy and nature currently enjoyed would be significantly lessened and therefore that our property value would also be significantly reduced as these factors are the main selling points of the property.

We are also very concerned about the proximity of hunters should the proposed route be implemented, not only for our loss of peace and privacy, but also for the well being of our three horses who will be located on the property. Other concerns include the extra dust and pollution that would be created by road activity near to homes, and potential criminal activity and trespass.

It is our understanding that two different workable switchback routes have been proposed and provided to the DNRC that would allow the road to go in but would route it away from our homes.

We urge you to please modify the proposed route in one of the two ways that have been presented to the DNRC so we can preserve our property values, peaceful surroundings, and privacy.

Thank you for your attention and consideration.

Very truly yours,



Michael and Nancy Anderson  
home.nancy@gmail.com

Dreg Porcin  
Department of Natural Resources & Conservation  
655 Timberwolf Parkway, Suite 2  
Haltersell, Mt. 59901

1-18-10  
2225 Dillon Road  
Columbia Falls, Mt.  
59912.

Dear Mr. Porcin:

Please consider the following comments concerning the proposed Easement Exchange, Forey Creek.

- (1) This easement will give much better access to State lands than the existing easement in two ways.
  - (a) The existing easement has several steep grades and the road is narrow in several places. The new location will be a much safer road and will not have as much erosion to the surface of the road.
  - (b) The existing easement was original built to service a development and remaining timberlands in sections 5 and 6. Use of this road by the public under today's standards were not planned for.
- (2) Via this new easement public access to section 36 would be improved. Access to this section would not create conflicts with the existing landowners in the area.
- (3) This new access would provide greater opportunities to access other private timberlands in the area as long as those owners are agreeable.

this is a good proposal for both the State, the public, and the private landowner. Thank you for considering my comments.

Sincerely Yours,  
Ronald Buntensie

#13

Lakeside, Montana  
January 29, 2010

To: Mr. Greg Poncin  
Department of Natural Resources and Conservation  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT 59901



Subject: Proposed Forrey Creek Easement - Comments

Ref: Your Letter Dated January 4, 2010

Dear Mr. Poncin:

Thank you for the opportunity to comment on the Proposed Forrey Creek Easement Exchange. Our property adjoins the eastern boundary of the DNRC land parcel in which the proposed easement is to be located. The legal description of our property is Tract E Lot 2 Section 9 Township 25 North Range 20 West. The northwestern corner of our property is near where the currently proposed path of the easement swings towards the west, after first coming from the north and its junction with Highway 93.

The proposed easement parallels the boundaries of two residential properties immediately to our north and is only a few hundred feet from those properties. Any road constructed on the currently proposed easement route would be quite visible from our house and property as well, and our home as well as the homes of our immediate neighbors to the south would be visible from a road following the presently proposed route. When we purchased our property, the privacy and solitude it offered was of great importance to us, and that remains the case today. If a public access road were to be constructed on the easement as presently proposed, we believe that the solitude and privacy we currently enjoy would be significantly diminished. Our neighbors to the north will be affected the most, but our neighbors to the south will feel the effects as well. We object to the easement route as presently proposed, and request that an alternate route be established.

The currently proposed route has been flagged, so it has been possible for us to do a walk through and look into possible alternate routes. It is obvious that from a strictly topographical perspective, the proposed route makes sense. However this route does not take into account the interests of the residents of the properties adjoining the eastern boundary of the DNRC land.

We believe alternative routes might be feasible that would mitigate our concerns, and

request that the following suggested alternatives be looked into by the appropriate parties. The alternates we propose would involve either (1) rerouting of the road in the vicinity of the north boundary of DNRC land, such that the easement will run along the north and west sides of the ridge, rather than along the east and south sides of the ridge as is presently the case, or (2) put in place a switchback for the purpose of gaining sufficient elevation to allow the roadway to cross over to the west side of the ridge line and beyond the view of our neighbors and ourselves. We are aware that the allowable grade for a new roadway places some limitations on what is possible, but it appears that with a switchback, the road could follow a route we would have no objection to, while at the same time complying with rules or regulations regarding maximum allowable grade. We request that action be taken to determine if either of these suggestions would be feasible.

Regarding opening public access to the DNRC parcel, we are aware the current policy of the State of Montana is to improve public access to state lands where possible, and certainly have no objection to that policy. We do have a concern however, in that easy public access to the DNRC land adjoining our property will almost certainly increase the amount of hunting in the immediate area. It is our understanding that shooting is prohibited on DNRC lands within 1/4 mile of any residential area. If a roadway is constructed, we would like to see appropriate signs posted, alerting hunters that there are private residences in the vicinity, and indicating the general area in which shooting is not allowed.

We hope your office will give serious consideration to our concerns and suggestions, and a solution can be arrived at which will be acceptable to all parties concerned.

Sincerely,

William and Lone Savage

39863 Highway 93  
PO Box 697  
Lakeside, Montana 59922-0697

Tel: (406) 844 0992  
e-mail: william168@centurytel.net

#14

February 22, 2010

Mr. Greg Poncin  
Department of Natural Resources and Conservation  
655 Timberwolf Parkway, Suite 2  
Kalispell, MT 59901

Subject: Proposed Forrey Creek Easement

Dear Mr. Poncin,

I appreciate the opportunity presented to have a public hearing in Lake County regarding the above easement exchange proposal.

I have reviewed the RECIPROCAL ACCESS AND EASEMENT EXCHANGE POLICY and all its appendixes. Although there is no mention of the order of events concerning this particular issue, it seems that having a public hearing without having the formal application materials to comment on, is putting the cart before the horse. The Application Contents and its required ten listed items, along with its addressing the seven criteria referred to in the Land Board Exchange Policy, would be critical to the public's understanding and review of this proposal.

There are numerous items of interest that would be contained in such an application, including, but not limited to the fact that the easement to be granted the State is owned by a different entity than the owner of the option upon which property the road users association is supposed to be formed. I can clearly see various scenarios where the financial failure of the proposed development would put payment for the proposed roadway maintenance in jeopardy and, since the proposed roadway is adjoining my property, the possible implications for erosion or pollution that could occur. There are many issues regarding the benefits to the applicant that only a formal proposal can address and details as to the "—ownership to which they are acquiring access" would be of interest since (based on verbal discussion) the proposed roadway doesn't exit the Trust Land upon any property under option. I'm doing mental gymnastics in trying to clarify all these issues and

the only way to properly approach this is to have the formal application presented for public review.

I'm respectfully requesting that the sequence of proceeding with the public portion of this proposal be structured so that an application, which complies with the RECIPROCAL ACCESS AND EASEMENT EXCHANGE POLICY and all its appendixes, be made available for review prior to any further public hearings. It is my understanding that only the public's formal comments made at such a public hearing will be transmitted to the State Land Board and it is therefore critical that the information to be gleaned from the formal application be available prior to making such comments. If this is not the DNRC's policy, please let me know that.

Very truly yours,



Martin Miller  
P.O. Box 383  
18185 U.S. Hwy. 93  
Lakeside, MT. 59922

Tele. 406-844-3113  
e-mail [backacre@centurytel.net](mailto:backacre@centurytel.net)

#15

**Poncin, Greg**

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**From:** Jenny Leineke [mailto:jleineke@yahoo.com]  
**Sent:** Sunday, January 10, 2010 12:49 PM  
**To:** Poncin, Greg  
**Subject:** Forrey creek easement

I am opposed on this easement exchange,for a few reasons.More access would destroy the resources that have already been butchered.

1

#16

**Poncin, Greg**

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**From:** phil@philsauer.com  
**Sent:** Monday, January 04, 2010 12:55 PM  
**To:** Poncin, Greg  
**Subject:** Forrey Easement

Montana DNRC  
Greg Poncin

We live just south of the State Park and I frequent the Forrey basin often. In regards to the Forrey Creek Easement: I believe that is a great idea. There is some nice recreational land in section 8 and I think the public should have access. I am also hoping Plumb Creek will cooperated by allowing motorized access to the main road as they have always done. Many of the branch roads are non-motorized and that is OK.

Yes I think that is a good proposal.

Phil Sauer, 406-871-0319, [phil@philsauer.com](mailto:phil@philsauer.com)

## **Attachment III Preparers and Consultants**

### **Preparers:**

**Pete Seigmund**, MT DNRC, Kalispell Unit, Forester

**Marc Vessar**, MT DNRC, Northwestern Land Office, Kalispell, Montana-Area  
Hydrologist, soils specialist

**Garrett Schairer**, MT DNRC, Northwestern Land Office, Kalispell, Montana-Area Wildlife Biologist

### **Consultants Individuals Consulted**

**Greg Poncin**, Unit Manager, MT DNRC, Kalispell Unit, Kalispell, Montana

**Norm Kuennen**, Senior Right-of-Way Specialist, MT DNRC, Northwestern Land Office, Kalispell,  
Montana

**Marc Vessar**, Hydrologist / Soils Specialist, MT DNRC, Northwestern Land Office, Kalispell,  
Montana

**Garrett Schairer**, Wildlife Biologist, MT DNRC, Northwestern Land Office, Kalispell, Montana