CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Kemph Land Banking Tract #2
Proposed Implementation Date:	Fall 2010
Proponent:	Kemph Land and Livestock Company (Grazing Lessee)
Location:	Sale #630: Section 36, Township 4 North, Range 33 East (640 acres)
County:	Yellowstone County

I. TYPE AND PURPOSE OF ACTION

Offer for sale at public auction, a non-isolated 640-acre parcel of State Land that is currently held in Trust for the benefit of Common Schools. Revenue generated from the sale of this parcel would be deposited into a special account to be used to purchase replacement lands meeting acquisition criteria related to legal access, productivity, income generation and potential for multiple use. The new parcel would then be held in Trust for the benefit of Common Schools. This proposed sale is being initiated through the Land Banking program (Montana Code Annotated 77-2-361 through 77-2-367). The purpose of this program is to allow the Department of Natural Resources and Conservation to dispose primarily of parcels that are isolated and produce low income relative to similarly classified tracts and to allow the Department to purchase land with legal public access that can support multiple uses and would provide a rate of return equal to or greater than the parcels that were sold. Additionally, this program allows for the Trust land portfolio to be diversified, by disposing of grazing parcels that make up a majority of the Trust land holdings and acquire other types of land, such as croplands.

As noted above, the subject property has legal public access, albeit somewhat limited. The right-of-way for Highway 47 abuts the far southeast corner of this section, as shown on Attachment C. This access currently permits non-motorized access to the Trust land for recreation. If vehicular access were desired by DNRC or a future landowner, an approach permit would need to be applied for and approved by the Montana Department of Transportation.

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 soliciting comments and explaining the proposed sale was sent to the lessee, property owners adjoining the state parcels, and other interested parties on 2 July 2010 requesting that comments be submitted on the proposal by 3 August 2010. A complete list of individuals and interested parties contacted is included on Attachment D of this EA. In addition, on 19 July 2010 separate letters were sent to the Northern Cheyenne Tribe and Crow Nation seeking their comments on the proposed sale.

A legal notice was published in the Billings Gazette on 30 July 2010 requesting that comments be submitted on the proposal by 30 August 2010.

The Southern Land Office received one comment regarding the proposed sale. A summary of the comments received is listed below:

- A comment was received from Monte Mason, DNRC Trust Land Minerals Management Bureau Chief regarding minerals on the section. Mr. Mason noted that he generally prefers not splitting the mineral and surface estates, however, this section is not currently under a mineral lease and has not been leased for minerals since the 1980s and the section is not located in an active oil and gas field.

The DNRC Southern Land Office also contacted the Montana Department of Transportation in order to confirm that the right-of-way for State Highway 47 does adjoin the subject Trust land, as well as to ascertain what type of access is currently allowed and could be permitted in the future.

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

An approach permit would be required to be obtained from the Montana Department of Transportation if vehicular access were desired from State Highway 47.

3. ALTERNATIVES CONSIDERED:

Proposed Alternative: Offer 640 acres of State Trust Land for sale at public auction and subject to statutes addressing the sale of Trust Land found in M.C.A. 77-2-301 et seq. Proceeds from the sale would be deposited in the Land Banking Fund to be used in conjunction with proceeds from other sales for the purchase of other Trust Land, easements, or improvements for the beneficiaries of the respective trusts, in this case Common Schools.

No Action Alternative: Defer inclusion of this tract in the Land Banking Program that will permit the State to maintain ownership of this tract and continue the grazing lease.

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.

The subject property mainly contains clay loam soils that provide moderate grazing production and also contains some rock outcropping areas. The soils in this parcel are generally not classified as suitable for dryland or irrigated agriculture. No impact is expected since the current grazing use is expected to continue.

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 no wells registered on this section nor is there any stockwater development on the parcel. There are two unnamed intermittent creeks that traverse the parcel from west to east and ultimately flow into the Bighorn River. The existing grazing use is expected to continue; therefore no adverse impacts to water quality, quantity or distribution are anticipated.

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. The existing grazing use is expected to continue.

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.

The vegetation on this tract is typical of land in the surrounding area and could be effected by various land management activities including livestock grazing, development, wildlife management or agricultural use. A search of the Montana Natural Heritage Program database indicated two sensitive plants in the area: persistent-sepal Yellow-cress and bush morning-glory.

Persistent-sepal Yellow-cress is listed as a species of concern. According to the Montana Field Guide the plant *"…inhabits sparsely vegetated, moist sandy to muddy banks of streams, stock ponds and man-made reservoirs near the high water line. Topographic features and water levels appear to be more important than geologic substrates in determining where this species grows…"* The subject property does not contain the habitat characteristics preferred by this plant, but it is located within approximately one mile west of the Bighorn River that does contain the preferred habitat.

Bush morning-glory is listed as a species of concern, but the Montana Field Guide contains very little information on this plant and the preferred habitat. There was an observation southeast of the property, near the Bighorn River. The Field Guide does not contain enough information regarding preferred habitat to be able to anticipate if the Bush morning-glory would be found on the subject property.

The existing grazing use is expected to continue. Therefore, no direct or cumulative effects are anticipated.

---

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.

This parcel of Trust Land is used by a variety of wildlife species typical of undeveloped land throughout Yellowstone County. Wildlife populations can be affected by land use activities associated with livestock grazing, residential development or agricultural practices. A variety of wildlife species including white-tailed and mule deer, antelope, elk, turkey, pheasant and numerous non-game birds use the tract during various times of the year.

---

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 proposed project area search of the Montana Natural Heritage Program database did not identify any vertebrate animals listed as a species of concern or threatened species on the tract or in the immediate area. The existing land use is expected to continue; therefore, no significant impacts are anticipated.

---

10. HISTORICAL AND ARCHAEOLOGICAL SITES:
Identify and determine effects to historical, archaeological or paleontological resources.

The presence or absence of antiquities is presently unknown. A Class III level inventory and subsequent evaluation of cultural and paleontological resources will be carried out if preliminary approval of the parcel nomination by the Board of Land Commissioners is received. Based on the results of the Class III inventory/evaluation the DNRC will, in consultation with the Montana State Historic Preservation Officer, assess direct and cumulative impacts.

---

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.

No Impact. The existing grazing use is expected to continue.

---

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 Impact. The existing grazing use is expected to continue.

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.

This tract is a part of a group of four sections, 2,560 acres, in Yellowstone County that are under concurrent analysis to be sold. There are no other known state or federal actions in the vicinity and no known future actions proposed by the state that would have cumulative impacts with this proposal.

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.

The implementation of the proposed action is not expected to have a significant adverse impact on human health and safety.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:
Identify how the project would add to or alter these activities.

No Impact. The existing grazing use is expected to continue.

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 Impact. The existing use is expected to continue.

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.

This tract is currently tax-exempt and the sale of this property to a non-exempt entity would add it to the county tax base, thus marginally increasing tax revenue to Yellowstone County.

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 Impact. The existing use is expected to continue.

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.

Implementing the proposed action would not conflict with the 2008 Yellowstone County/City of Billings Growth Policy. In addition, the property is not presently zoned by Yellowstone County.

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.

This parcel does have legal public access via a jog in the right-of-way for State Highway 47. A scoping notice was sent to Montana Fish, Wildlife and Parks regarding this proposed sale and no comments were received. There are other recreational opportunities available along the Bighorn River, which is approximately 1.5 miles east of the subject property and the Yellowstone River that is approximately 5 miles north. Implementation of the proposed action would eliminate one legally-accessible parcel, but overall is not expected to have a significant impact on access to and quality of recreational and wilderness activities.

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 Impact. The existing grazing use is expected to continue.

22. SOCIAL STRUCTURES AND MORES:
Identify potential disruption of native or traditional lifestyles or communities.

The implementation of the proposed action is not expected to have a significant impact on social structures and mores.

23. CULTURAL UNIQUENESS AND DIVERSITY:
How would the action affect any unique quality of the area?

Implementation of the proposed action is not expected to have a significant impact on cultural uniqueness and diversity.

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.

This 640-acre parcel currently has a grazing lease for 138 Animal Unit Months on 590 acres of suitable land (0.233 acres/AUM) at the minimum lease rate that is currently $6.12/AUM. The total income generated from the tract was $845.15 or approximately $1.32/acre in 2010. The average annual net income from this tract for the past 3 years, less a $0.25/acre management cost, has been $762.02 or $1.19/acre. Based on the DNRC Annual Report for Fiscal Year 2009, the average net income for the 4.3 million acres of grazing land was $1.51/acre with an average productivity of 0.22275 acres/AUM. Therefore, this tract is below average in productivity and producing below average revenue per acre.

An appraisal of the property value has not been completed to date. Under DNRC rules, the appraisal would be conducted after preliminary approval to proceed is granted by the Board of Land Commissioners and the Department is conducting more detailed evaluations in order to make a final determination on whether to offer the tract for sale. The revenue generated from the sale of this tract is intended to 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, which would provide greater management opportunities and income. Assuming an appraised value of $400/acre, the current annual return on the asset value for this tract is 0.33%.

EA Checklist Prepared By:	**Name:** Jeff Bollman, AICP	**Date:** 31 August 2010
	Title: Area Planner, Southern Land Office	

V. FINDING

25. ALTERNATIVE SELECTED:

The proposed alternative has been selected and it is recommended that the property receive preliminary approval for sale and continue with the Land Banking process.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

The Southern Land Office has evaluated the comment received and studied the potential environmental effects as described in this document and have determined that no significant environmental effects would result from the proposed land sale of this 640-acre tract. The tract does not have any unique characteristics, critical habitat or environmental conditions indicating it should necessarily remain under management by the Department of Natural Resources and Conservation. There are no indications the tract would produce substantially greater revenue to the Trust in the near future. The parcel is somewhat unique among those sold within the SLO in that it does have limited legal public access from State Highway 47. However, the Land Banking statutes do permit a limited amount of land to be sold that has access. In addition, the funds generated from the sale would be used to purchase land that does have access.

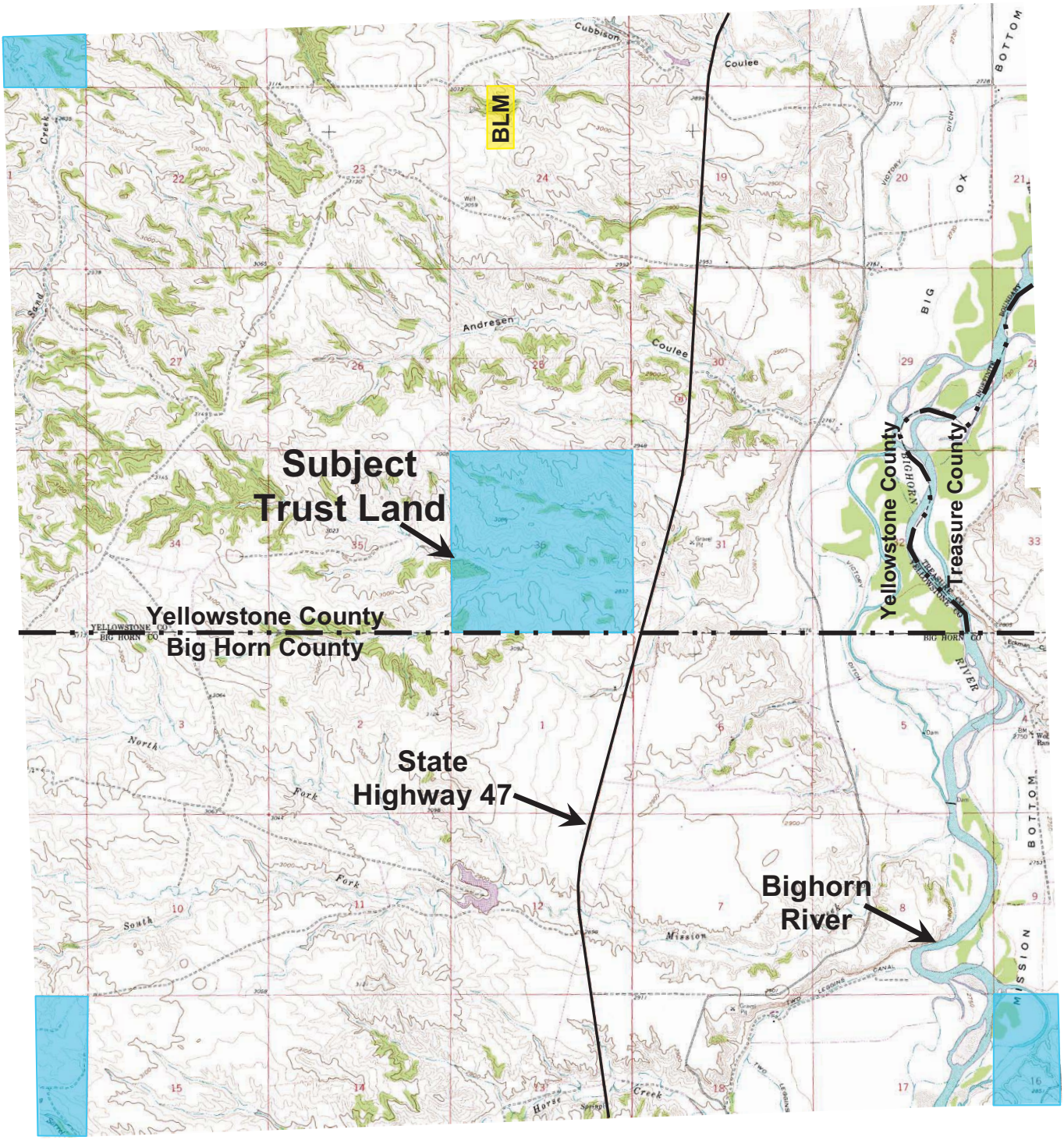
The transfer of ownership of this 640-acre tract is not expected to result in any significant effects on the human or natural environment.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

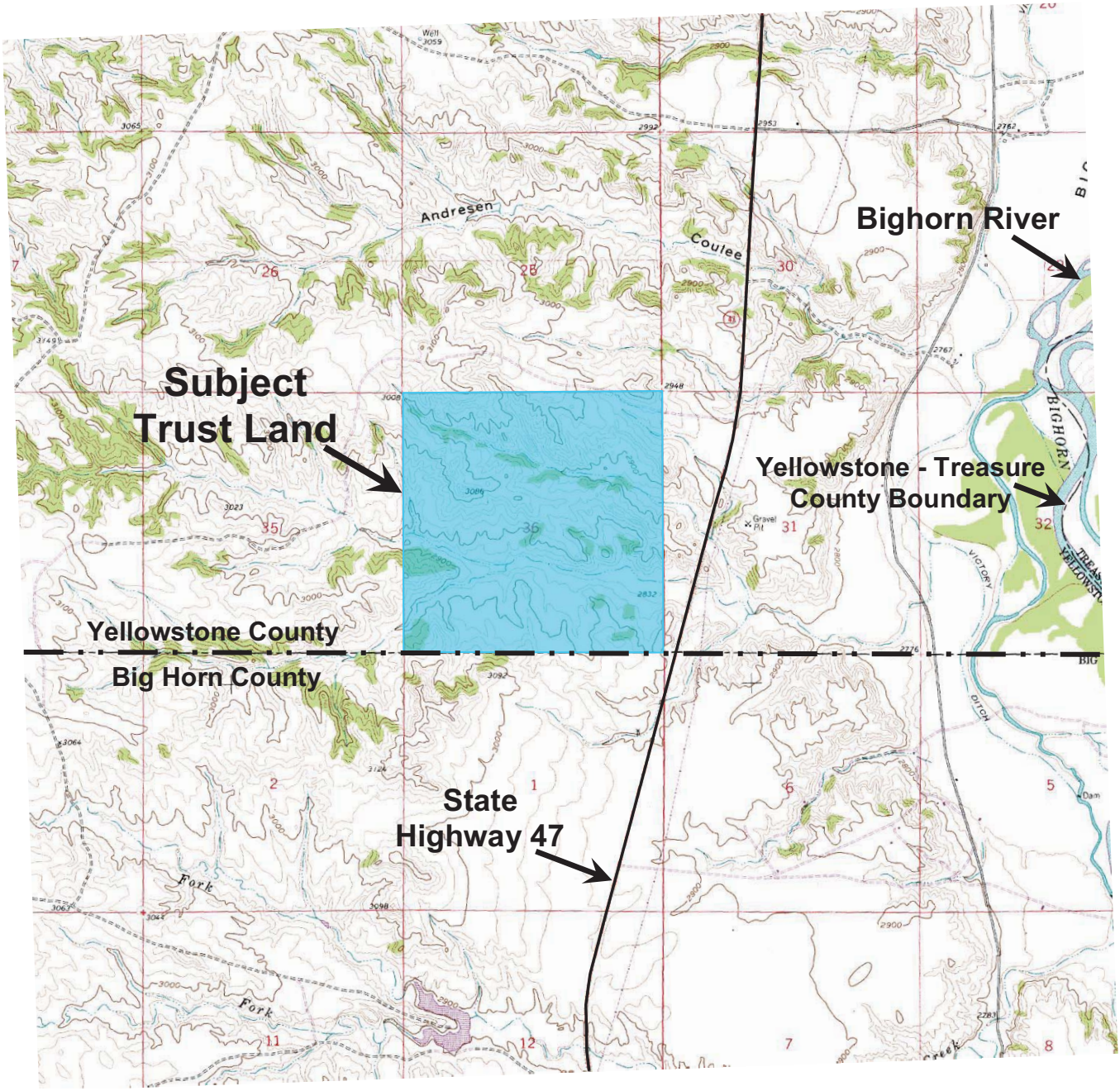
[ ] EIS [ ] More Detailed EA [X] No Further Analysis

EA Checklist Approved By:	**Name:**	Richard A. Moore
	Title:	Area Manager, Southern Land Office
Signature: /s/ Richard A. Moore		**Date**: 8/31/10

Attachment A – Area Map



Attachment B – Property Map



Attachment C – Aerial Photo with Parcel Boundaries from Cadastral Mapping

Attachment D – List of Persons Notified in Kemph Land & Livestock Land Banking Tract Scoping Process

Anne Hedges
Montana Environmental Information Center
PO BOX 1184
HELENA, MT 59624

NANCY SCHLEPP
MT FARM BUREAU FEDERATION
502 SOUTH 19th, SUITE 4
BOZEMAN, MT 59715

Ray Marxer
Matador Cattle Co.
9500 Blacktail Road
Dillon, MT 59725

Bill Orsello or Stan Frasier
MONTANA WILDLIFE FEDERATION
PO BOX 1175
HELENA, MT 59624

Jeanne Holmgren, Chief
Real Estate Management Bureau
MT DNRC TLMD
P.O. Box 201601
Helena, MT 59620-1601

Rosi Keller
University of Montana
32 Campus Drive
Missoula, MT 59812-0001

Bob Vogel
Montana School Boards Association
863 Great Northern Blvd
Helena, MT 59601

Leslie Taylor
MSU Bozeman
P.O. Box 172440
Bozeman, MT 59717

Denise Juneau, Superintendent
Montana Office of Public Instruction
PO Box 202501
Helena, Montana 59620-2501

ELLEN SIMPSON
MONTANA WOOD PRODUCTS
PO BOX 1149
HELENA, MT 59624

JANET ELLIS
MONTANA AUDUBON
PO BOX 595
HELENA, MT 59624

US Fish and Wildlife Service
2900 - 4TH AVENUE NORTH, ROOM 301
Billings, MT 59101-1266

Harold Blattie
Montana Association of Counties
2715 Skyway Drive
Helena, MT 59601

JACK ATCHESON, SR.
3210 OTTAWA
BUTTE, MT 59701

Gary Hammond
Regional Supervisor
Fish Wildlife and Parks
2300 Lake Elmo Drive
Billings, MT 59105

Daniel Berube
27 Cedar Lake Drive
Butte, MT 59701

Tom Madden
RE/MAX of Billings
1250 – 15th Street West
Billings, MT 59102

John Gibson
3028 Avenue E
Billings, MT 59102

Monte Mason, Chief
Minerals Management Bureau
MT DNRC TLMD
P.O. Box 201601
Helena, MT 59620-1601

Hugh Zackheim
MT Fish Wildlife and Parks
PO Box 200701
Helena, MT 59620-0701

Ray Mulé
Wildlife Program Manager
Fish Wildlife and Parks
2300 Lake Elmo Drive
Billings, MT 59105

Sonya Germann
MEPA Coordinator
MT DNRC TLMD
2705 Spurgin Road
Missoula, MT 59804

Will Wood
Assessment Program Manager
MT DNRC FAMB
2705 Spurgin Road
Missoula, MT 59804

Yellowstone County
Board of County Commissioners
PO Box 35000
Billings, MT 59107

Mike O'Herron
Planning Section Supervisor
MT DNRC TLMD
2705 Spurgin Road
Missoula, MT 59804

Tom Ellerhoff
MT Dept of Environmental Quality
PO Box 200901
Helena, MT 59620-0901

Shane Mintz
MT Dept of Transportation
PO Box 200101
Helena, MT 59620-0101

Leroy Spang, President
Northern Cheyenne Tribe
PO Box 128
Lame Deer, MT 59043

Cedric Black Eagle, Chairman
Crow Nation
PO Box 159
Crow Agency, MT 59022

Glenn Marx, Executive Director
Montana Assoc of Land Trusts
PO Box 675
Whitehall, MT 59759

Bureau of Land Management
Billings Field Office
5001 Southgate Drive
Billings, MT 59101

Craig Sharpe, Executive Director
Montana Wildlife Federation
PO Box 1175
Helena, MT 59624

Larry Copenhaver, Local Issues Conservation Director
Montana Wildlife Federation
PO Box 1175
Helena, MT 59624

A.J. Micheletti
Yellowstone Co.
Superintendent of Schools
P.O. Box 35022
Billings, MT 59107

Representative Duane Ankney
PO Box 2138
Colstrip, MT 59323-2138

Senator Taylor Brown
775 Squaw Creek Road
Huntley, MT 59037

Kemph Family Trust
PO Box 125
Custer, MT 59024-0125

Robert & Lynn Lowe
PO Box 53
Custer, MT 59024-0053

Kemph Land & Livestock Co.
3896 Old Yellowstone Trail North
Livingston, MT 59047

Kemph Land & Livestock
PO Box 44
Custer, MT 59024-0044