AGENDA

Montana Sage Grouse Oversight Team (MSGOT)

May 14, 2019: 1:15 – 2:30 p.m.

DNRC Headquarters, Montana Room
1539 11th Ave., Helena

1:15: Call to Order, John Tubbs, MSGOT Chair and DNRC Director

- Introductions

1:20 – 2:20: Mud Spring Wind Project: Project Area Boundary Delineation and Mitigation

- Introduction: Carolyn Sime Program Manager
- Presentation: Project Sponsors
- Public Comment
- MSGOT Discussion and Potential Executive Action

2:20 – 2:30: Public Comment on Other Matters

NOTE: Agenda item times are approximate. Actual times may vary by up to one hour. Attendees who may need services or special accommodations should contact Carolyn Sime (406-444-0554 or csime2@mt.gov) at least 5 working days before the meeting.

MONTANA SAGE GROUSE OVERSIGHT TEAM AGENDA ITEM BRIEF SHEET
MAY 14, 2019

AGENDA ITEM: MUD SPRINGS WIND PROJECT: PROJECT AREA BOUNDARY DELINEATION AND MITIGATION

ACTION NEEDED: DETERMINE: (1) WHAT, IF ANY, PORTION OF THE PROJECT AREA PRE-DATES EXECUTIVE ORDER 12-2015 AND WOULD BE "GRANDFATHERED"; (2) CONSIDER VOLUNTARY MITIGATION OFFERED BY THE PROJECT SPONSORS FOR THE GRANDFATHERED AREA; AND (3) CONSIDER A FUTURE APPROACH TO MITIGATION FOR IMPACTS IN THE REMAINING FINAL PROJECT AREA THAT IS NOT GRANDFATHERED.

INTRODUCTION

The May 14, 2019 MSOGT meeting follows up on the April 25, 2019 meeting, during which MSGOT heard a presentation from the Project Sponsors of a proposed wind facility in Carbon County. The parties before MSGOT are Innogy and PacificCorp. The project itself is known as Mud Springs Wind Energy Project (Project).

MSGOT is being asked to make three determinations through potential executive action. The Project Sponsors have identified these determinations as important to staying on their desired timelines. Clarity around these points is sought as the Project Sponsors are endeavoring to have the Project fully commercially operational by the end of 2020.

Uncertainty remains as to the final project boundary (i.e. the outer limits within which the Project would be implemented). Additionally, the final project layout and siting of all associated infrastructure has not been finalized (i.e. placement or locations of turbines, roads, transmission substations, buried electrical collection lines, 1 or more interconnection substation, one or more collector substations, met towners, and new 230 kV transmission lines).

A Technical Note has been prepared by the Program that provides additional detail for each of the three aspects of MSGOT's deliberations. Meeting materials include relevant documents assembled by Program and two documents contributed by the Project Sponsors.

In particular, the Project Sponsors seek: (1) MSGOT's decision regarding the grandfathered area and (2) MSGOT's approval of their offered mitigation commitments. If MSGOT approves of the Mitigation Commitments (i.e. mitigation plan), the Project Sponsors and any future assignee would be obligated to adhere to conditions set forth in the mitigation document for the grandfathered area, all turbines would have to be built within the Project Area map in Appendix 1 of the Plan (although other infrastructure apparently could be built outside the boundary shown in the map in Appendix 1), and the Project would not exceed 240 megawatts.

Lastly, the Project Sponsors will coordinate with MSGOT regarding any project infrastructure that is planned outside the Grandfathered area. MSGOT and the Project Sponsors have the opportunity to discuss how mitigation would be approached for impacts within the project area boundary that MSGOT does not consider grandfathered.

DECISION REGARDING THE GRANDFATHERED PROJECT AREA

MSGOT is being asked to determine what portion, if any, of the project area would be grandfathered, and therefore exempt from Montana's Conservation Strategy embodied by Executive Orders 12-2015 and 21-2015 and the Montana Greater Sage-Grouse Stewardship Act, as amended by Senate Bill 299.

[Continued]

Senate Bill 299 was signed into law on May 2, 2019 and governs the decision. The Project Sponsors offer three different boundaries for MSGOT's consideration, along with a justification for each.

DECISION REGARDING VOLUNTARY MITIGATION COMMITMENTS OFFERED FOR THE GRANDFATHERED AREA

MSGOT is being asked to consider and approve the Mud Springs Wind Project Sage-Grouse Mitigation Commitments document (May 3, 2019). Portions of the document address voluntary mitigation for the portion of the project area which MSGOT determines is grandfathered. Two specific minimization measures are offered, along with a voluntary $320,000 contribution to the Stewardship Account.

Additional statements are offered by the Project Sponsors as to how they would like the $320,000 allocated between the grandfathered portion of the project area and any impacts attributed to project infrastructure that might be sited outside the grandfathered portion of the project area.

FUTURE APPROACH TO MITIGATION FOR IMPACTS IN THE REMAINING FINAL PROJECT AREA

The final Project layout may not be known until summer or early fall, 2019. If any Project infrastructure is built outside of the project boundary MSGOT determines to be grandfathered, the Project Sponsors state that those parts of the Project would be subject to the May 3, 2019 Mitigation Commitments document and future discussions and impact fees, as determined by MSGOT at a later date.

Clarity around the $320,000 contribution to the Stewardship Account as to impacts within and outside the grandfathered area, respectively, would assist the Project Sponsors and MSGOT with respect to future discussions. Likewise, MSGOT can discuss whether and how final decisions on the project layout that lessen impacts, as compared to other options that could have selected, would be recognized.

PROGRAM RECOMMENDATION

The Montana Sage Grouse Program recommends that MSGOT:

1. decide what portion of the Project area is considered grandfathered for purposes of implementing the Sage Grouse Stewardship Act, as amended May 2, 2019;
2. decide whether to approve the Project Sponsor's Mitigation Commitments Document as submitted; and
3. consider a future approach to mitigation for impacts in the remaining final project area that is not grandfathered.

Mud Springs Wind Project
Delineation of Grandfathered Project Area

Prepared by:
Sunrise Wind Holdings, LLC
1251 Waterfront Place, 3rd Floor
Pittsburgh, PA 15222

May 3, 2019

Grandfathered Status

Development of the Mud Springs Wind Project (Project) began in 2008 with the signing of the first land agreements followed by the installation of the first wind monitoring equipment in 2009. The Project obtained a Conditional Use Permit (CUP) from Carbon County and received coverage under the General Permit for Storm Water Discharges Associated with Construction Activity (MPDES General Permit) from the State of Montana in 2014. Significant work was done to secure, notarize, and record wind and transmission lease agreements in 2014 and 2015, prior to the issuance of Executive Order (EO) 12-2015 on September 8, 2015. A letter from the Montana Sage Grouse Habitat Conservation Program (SGHCP) Manager received by the Project in January 2016 confirmed the Project had "Grandfathered" status, meaning it is not subject to the requirements of EO 12-2105 and EO 21-2015. The Project received a revised SWPPP permit from the Montana Department of Environmental Quality in 2017 that included lands within the Project area that were not included in the original 2014 SWPPP permit.

EO 12-2015 provides that land uses that existed before EO 12-2015 was adopted, including those authorized by existing permits, may continue within a defined project boundary, even if they conflict with the Conservation Strategy established under that Executive Order. The Executive Order provides several examples of ways that project boundaries may be defined, including local land use submittals (subdivision plat), federal land development plans (federal oil and gas unit, drilling and spacing unit), and resource development plans (mine plan). ¶ 23 of EO 10-2014, as amended by EO 12-2015. Thus, project boundaries for an existing or permitted use that were defined before September 8, 2015 are effectively Grandfathered by EO 12-2015. While not yet signed into law, the recently enacted SB 299 adds additional examples of rights-of-way and easement corridors, both of which are defined by real estate instruments.

The Project has been in discussions with the State of Montana in 2019 to determine the precise Project boundary that will be considered Grandfathered by the Montana Sage Grouse Oversight Team (MSGOT). On May 1, 2019, The State of Montana communicated to the Project their intention to use the Project map included in the 2014 SWPPP permit to define the boundary of the Project's Grandfathered area. The Project agrees the area within the 2014 SWPPP map should be included in the Grandfathered area, as that map identifies the boundaries of a pre-2015 site area subject to the construction general permit for stormwater discharges. However, EO 12-2015 (and SB 299) also recognizes project boundaries that are identified in real estate instruments. Accordingly, the Project also believes that the Project's current real estate boundaries should be considered part of the Grandfathered Area. The Project requests MSGOT consider all three of the following potential boundaries prior to determining the Grandfathered area of the Project.

- Grandfathered Project Boundary 1 – Use a combination of the area within the 2014 SWPPP Project map and all wind Project land lease easements that were signed, notarized, and recorded prior to September 8, 2015, the effective date of EO 12-2015. Shown in Figure 1.
- Grandfathered Project Boundary 2 – Use a combination of the area within the 2014 SWPPP Project map and additional land areas within the 2017 SWPPP project map that was approved by the Montana Department of Environmental Quality. Shown in Figure 2.
- Grandfathered Project Boundary 3 – Use the area within the 2014 SWPPP Project map. Shown in Figure 3.

Justification for Grandfathered Project Boundary 1

The Project secured 21 wind project land easements and land purchase option agreements between January 2014 and September 7, 2015. The Project developer went through the diligence to have notarized memorandums of wind energy land agreements recorded in Carbon County, MT in 2014 and 2015. Senate Bill 299 was recently passed in the Montana Legislature and includes the following parameters for existing land uses and activities in Section 1. (1)

"Existing land uses and activities are recognized and respected, and those uses and activities, including those authorized by permit but not yet conducted, that existed as of September 8, 2015, may not be managed under the stipulations of a sage grouse conservation strategy adopted by the governor through executive order or a policy, rule, or regulation adopted by the oversight team. Those existing land uses and activities may continue within an existing defined project boundary even if they exceed the stipulations of those documents."

Section 1. (2) of Senate Bill 299 states, "For the purposes of this section, the term: (a) 'defined project boundary' includes but is not limited to a right-of-way, easement corridor, recognized oil and gas unit, drilling and spacing unit, mine plan, and subdivision plat:"

The Project proposes the wind and transmission easement agreements signed prior to September 8, 2015 are a right-of-way and/or an easement corridor as defined in Section 1. (2) of Senate Bill 299. The Project also proposes the wind activities that took place prior to September 8, 2015 should be recognized and respected by MSGOT and included within the Grandfathered project area. The wind and transmission agreements signed and recorded prior to September 8, 2015 and shown in Figure 1 are included in Appendix 1.

The Project requests MSGOT use a combination of the area within the 2014 SWPPP Project map and the additional area comprised by all wind Project land agreements that were signed, notarized and recorded prior to September 8, 2015 that are outside of the 2014 SWPPP map boundary to create the Grandfathered Project area.

Justification for Grandfathered Project Boundary 2

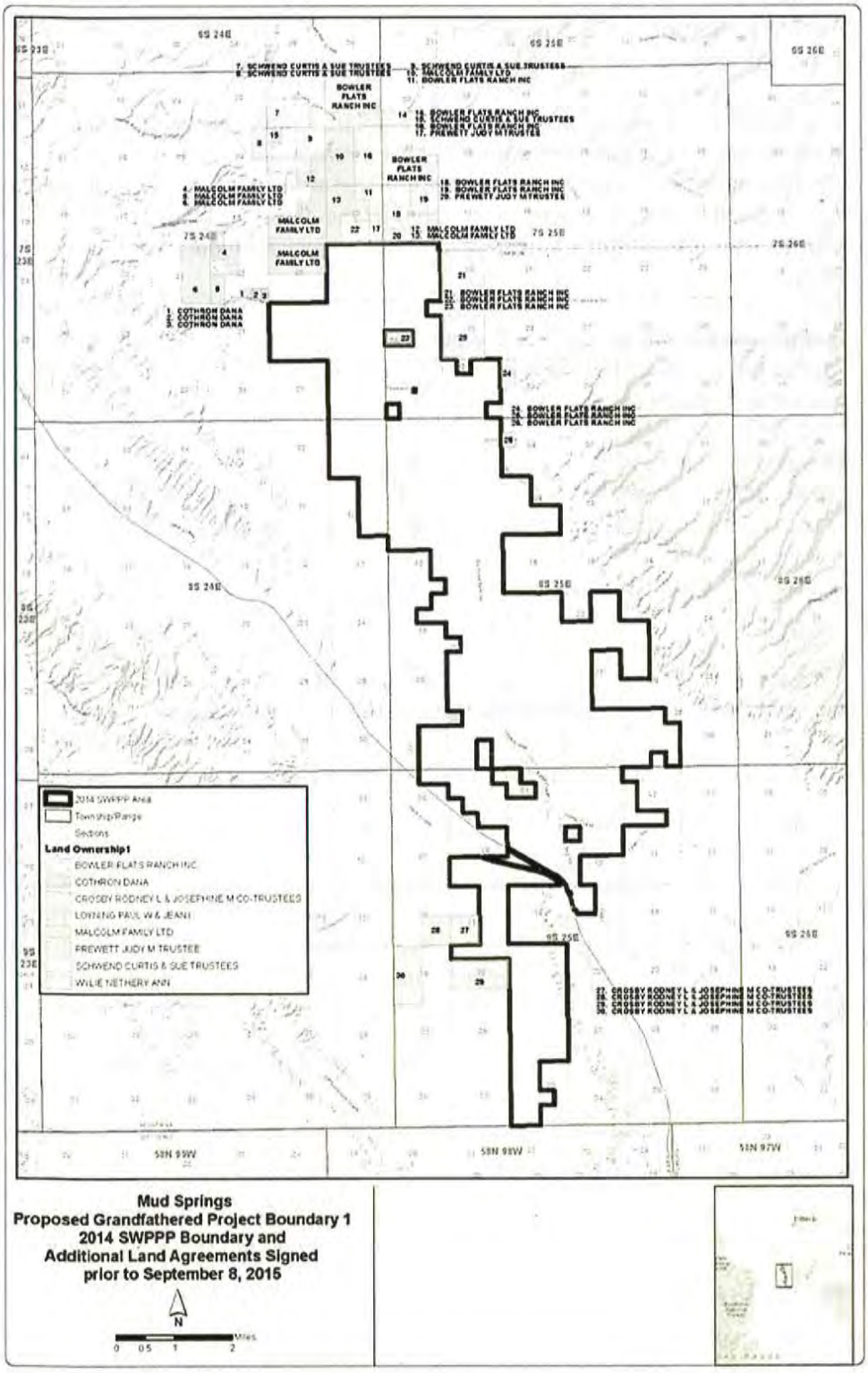
The Project initially received coverage under the General Permit for Storm Water Discharges Associated with Construction Activity (MPDES General Permit) from the State of Montana in 2014. The Project then revised SWPPP permit for the State of Montana in 2017 that included lands within the Project area that were not included in the original 2014 SWPPP permit. The State of Montana approved the 2017 amendments to the General Permit, and the permit is currently in effect and valid until 2022.

Executive Orders 12-2105 and 21-2015 came into place after the issuance of the original SWPPP, therefore, the Project was grandfathered from the Executive Orders as indicated by the 2016 letter from the SGHCP Manager. Due to the fact that the Project was permitted prior to EO 12-2105 and EO 21-2015 and subsequent amendment 2017 was approved by state with a coordination letter from the SGHCP Manager on November 1st, 2017, both boundaries of the project should be considered the Grandfathered Project Area.

Justification for Grandfathered Project Boundary 3

The State of Montana has proposed using the area within the 2014 SWPPP map as the Grandfathered area for the Project.

Figure 1


2014 SWPPP Area
Township/Range
Sections
Land Ownership1
BOWLER FLATS RANCH INC
COTHRON DANA
CROSBY RODNEY L & JOSEPHINE M CO-TRUSTEES
LOYNING PAUL W & JEAN I
MALCOLM FAMILY LTD
PREWETT JUDY M TRUSTEE
SCHWEND CURTIS & SUE TRUSTEES
WILIE NETHERY ANN
Mud Springs
Proposed Grandfathered Project Boundary 1
2014 SWPPP Boundary and
Additional Land Agreements Signed
prior to September 8, 2015
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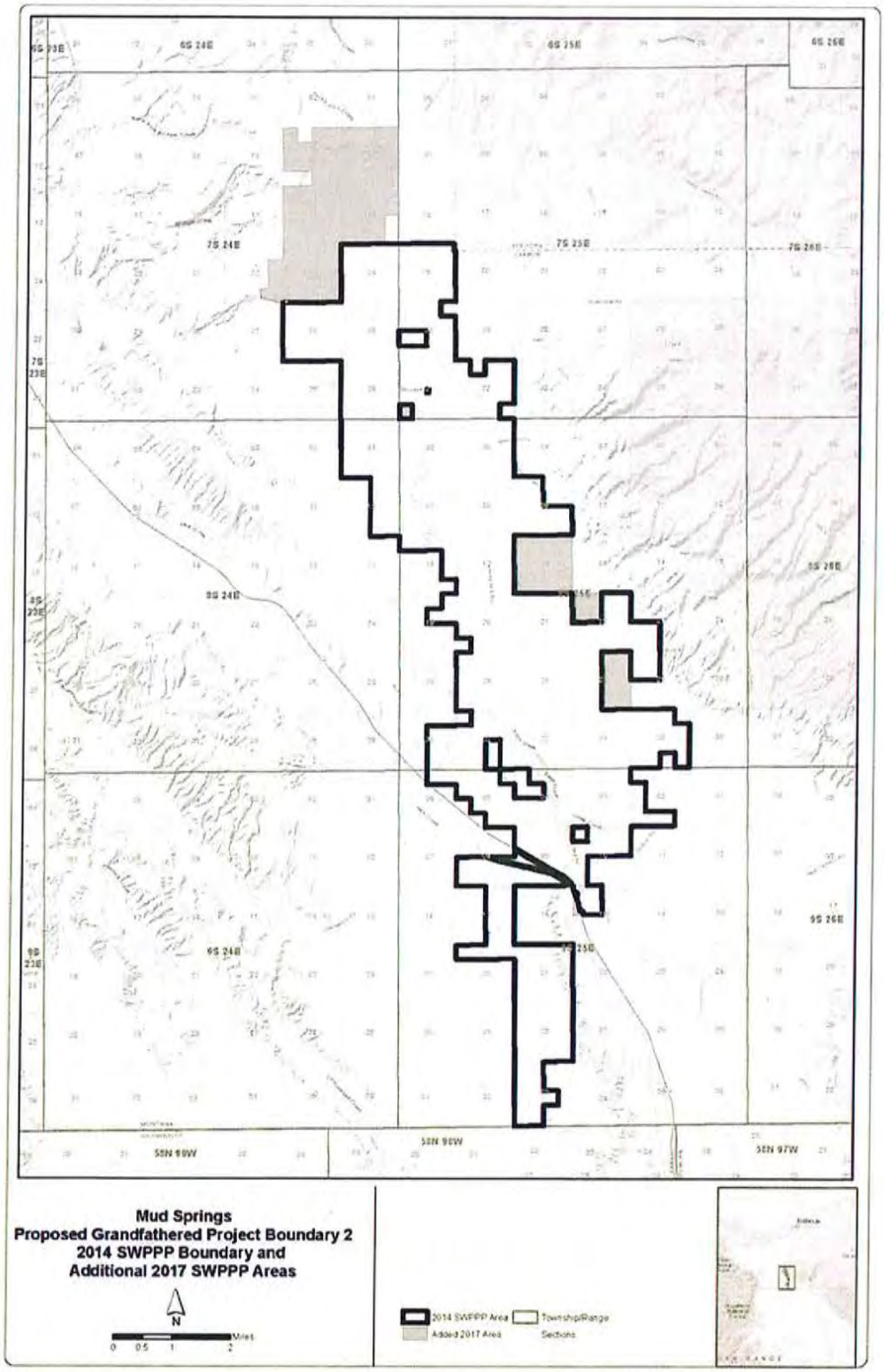
0 0.5 1 2
Miles

Figure 2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55N 98W
55N 97W
Mud Springs
Proposed Grandfathered Project Boundary 2
2014 SWPPP Boundary and
Additional 2017 SWPPP Areas
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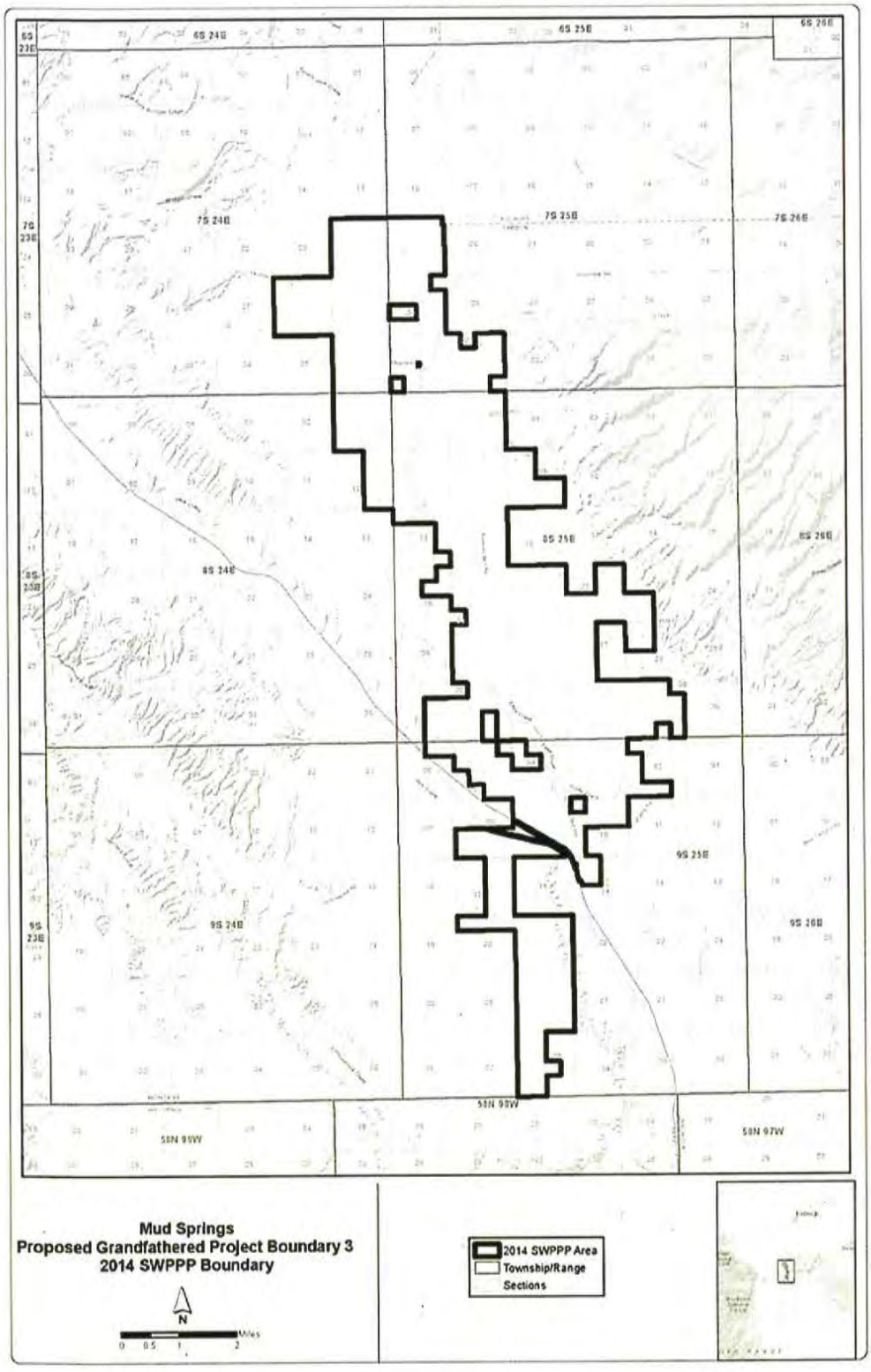
2014 SWPPP Area
Added 2017 Area
Township/Range
Sections

Figure 3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58N 97W
Mud Springs
Proposed Grandfathered Project Boundary 3
2014 SWPPP Boundary
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2014 SWPPP Area
Township/Range
Sections

Appendix 1

Recorded Wind and Transmission Agreements

State of Montana)
County of Carbon) ss

This instrument file # 356682 was filed in my office on 17 day of Jan 2014 at 12:05 O'clock PM m.
Marcia Tanigman
County Clerk-Recorder
by
Fee $ 35.00

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Mud Springs Wind Project LLC
6724 Hesper Road
Billings, Montana 59106
Atten: Mr. John S. Husar

356682

(Space above this line for Recorder's use only)

MEMORANDUM OF WIND ENERGY LAND EASEMENT

THIS MEMORANDUM OF WIND ENERGY LAND EASEMENT is made and entered into as of January 14, 2014 , by and between Bowler Flats Ranch, Inc. ("Owners") and Mud Springs Wind Project, LLC, a Montana Limited Liability Company ("Developer").

WHEREAS:

A. On the date hereof, the parties have entered into a WindRanch Easement Agreement (the "Agreement") which by its terms grants to Developer a windranch easement and further grants to Developer easements for wind energy development and related rights, transmission line and facilities, wind and weather monitoring and access across certain land which is more particularly described in Exhibit A attached hereto in incorporated by this reference (the "Property").

B. The term of the Agreement commences on the date hereof and continues for a period commencing upon achieving commercial operation by Developer or its successors or assigns on the Property or any portion thereof after the initial testing period and ending Forty (40) years thereafter (unless earlier terminated), unless the Agreement is sooner terminated in accordance with terms of the Agreement. Developer will file a certificate noting the date upon which commercial operation commenced.

C. The parties desire to enter into this Memorandum of WindRanch Easement Agreement which is to be recorded in order that third parties may have notice of the interest of Developer in the Property and of the existence of the Agreement and of certain easements and rights granted to Developer in the Property as part of the Agreement.

NOW, THEREFORE, in consideration of rents and covenants in the Agreement to be paid and performed by Developer, Grantor hereby grants to Developer those certain easement on, over, under and across the property on the terms and conditions set forth in the Agreement. All terms, conditions, provisions and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Wind Energy Land Agreement as of the date set forth above.

Developer:
Mud Springs Wind Project, LLC
A Montana Limited Liability Co.

By: _____
John S. Husar
Managing Member

ABSTRACT OF GRANT OF EASEMENT AND EASEMENT AGREEMENT

THIS MEMORANDUM, is made and entered into this 14 day of January, 2014, by and between **BOWLER FLATS RANCH, INC.**, of P.O. Box 231, Bridger, Montana, 59014, as Grantor, and **MUD SPRINGS WIND PROJECT, L.L.C.**, of 6724 Hesper Road, Billings, Montana, 59106, as Grantee, as an Abstract of a Grant of Easement and Easement Agreement as follows:

WITNESSETH:

That Grantor has, on the 14th day of January, 2014, entered into a written Grant of Easement and Easement Agreement upon the real property described on the attached Exhibit A-1.

The agreement has been entered into for the purpose of wind access, wind monitoring, wind energy conversion, and the collection of and transmission of electric power over the property.

Pursuant to M.C.A. § 70-21-101 (1997), Grantee will provide a complete copy of the Agreement upon request without charge.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

GRANTOR:
Bowler Flats Ranch, Inc.

By: _____
Jeffrey T. Murray, President

GRANTEE:
Mud Springs Wind Project L.L.C.

By: _____
John S. Husar, Grantee/Developer

STATE OF MONTANA)
:ss.
County of Big Horn)

On this 14th day of January, 2014, before me, the undersigned, a Notary Public in and for said state, personally appeared Jeffrey T. Murray and John S. Husar, each known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first hereinabove written.

JAMES E TORSKE
NOTARY PUBLIC for the
State of Montana
Residing at Hardin, Montana
My Commission Expires
November 01, 2014

(Notarial Seal)

_____

Bowler Flats Ranch, Inc - Mud Springs Wind Project L.L.C
Grant of Easement and Easement Agreement
Exhibit A-1 Legal Description of the Property
Exhibit A-2 Legal Description of Easement Area

ATTACHED LEGAL DESCRIPTION

CARBON COUNTY, MONTANA

Township 7 South, Range 25 East, M.P.M., Carbon County, Montana

Section 18: Lots 1 and 4, W1/2NE1/4

Township 7 South, Range 24 East, M.P.M., Carbon County, Montana

Section 1: Lots 1, 2, 3, 4, 5, 6, 7, SW1/4NE1/4, S1/2NW1/4, N1/2SW1/4, SE1/4SW1/4, W1/2SE1/4
Section 12: Lots 1, 2, 3, 4, W1/2E1/2
Section 13: Lots 1, 2, S1/2NW1/4SE1/4, SW1/4SE1/4, E1/2SW1/4, NW1/4NE1/4
Section 24: Lots 1, 2, W1/2NE1/4, NW1/4
Section 25: Lots 1, 2, W1/2NE1/4, W1/2, W1/2SE1/4 and Lots 3 & 4
Section 26: E1/2, SW1/4, NW1/4

Township 7 South, Range 25 East, M.P.M., Carbon County, Montana

Section 6: Lot 9, SE1/4SW1/4, SW1/4SE1/4
Section 7: Lots 2, 3, 5, 6, 7, 8, W1/2E1/2, E1/2W1/2
Section 18: Lots 2, 3, 5, 6, 8, E1/2NW1/4, NE1/4SW1/4, W1/2SE1/4
Section 19: Lots 1, 2, 3, 4, 5, 6, W1/2NE1/4, E1/2NW1/4, E1/2SW1/4, SE1/4
Section 20: Lots 2, 3, 4, SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4
Section 29: SW1/4NE1/4, SE1/4SW1/4, W1/2SE1/4, S1/2NW1/4, N1/2SW1/4, SW1/4SW1/4
Section 30: Lots 1, 2, 3, 4, NW1/4NE1/4, E1/2NW1/4, SE1/4SW1/4, SW1/4 NE1/4, S1/2SE1/4, NW1/4SE1/4, SE1/4NE1/4, NE1/4 SE1/4, NE1/4SW1/4
Section 31: NE1/4, SE1/4SW1/4, E1/2NW1/4, W1/2SE1/4, NE1/4SE1/4, SE1/4SE1/4, excepting from the NW1/4SE1/4 that portion described as follows:
Beginning at the NW corner of the NW1/4SE1/4 of said section, thence South 264 feets; thence East 165 feet; thence North 264 feet; thence West 165 feet to the point of beginning.
Section 32: W1/2NW1/4, SE1/4NW1/4, NE1/4, NE1/4SE1/4, N1/2SW1/4, NW1/4SE1/4, S1/2SW1/4, SW1/4SE1/4
Section 33: W1/2NW1/4

Township 8 South, Range 24 East, M.P.M., Carbon County, Montana

Section 1: Lots 1, 2, 3, 4, S1/2N1/2, S1/2
Section 12: E1/2

cont.

LEGAL DESCRIPTION cont.

Township 8 South, Range 25 East, M.P.M., Carbon County Montana

Section 4: SW1/4NW1/4
Section 5: Lot 4, S1/2N1/2, S1/2
Section 6: Lots 1, 2, 3, 4, 5, 6, 7, S1/2NE1/4, SE1/4NW1/4, E1/2 SW1/4, SE1/4
Section 7: Lots 1, 2, 3, 4, E1/2NE1/4, NW1/4NE1/4, E1/2NW1/4, E1/2SW1/4, SE1/4, SW1/4NE1/4
Section 8: N1/2, SW1/4, NW1/4SE1/4
Section 9: NW1/4
Section 18: Lot 1, N1/2NE1/4, NE1/4NW1/4

EXHIBIT C

State of Montana } ss
County of Carbon

This instrument File # 358776 was filed in my office this 18 day of Aug 2014 at 11:35 o'clock a m.
Marcia Henigman
County Clerk-Recorder
by Christine L. Stovall, Dpty
Fee $21.00 pd

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Mud Springs Wind Project, LLC
6724 Hesper Road
Billings, Montana 59106
Atten: Mr. John S. Husar

358776

(Space above this line for Recorder's use only)

MEMORANDUM OF WIND ENERGY LAND AGREEMENT

THIS MEMORANDUM OF WIND ENERGY LAND AGREEMENT is made and entered into as of ~~January~~ July 2, 2014 by and between Dana Cothron ("Owner") and Mud Springs Wind Project, a Montana Limited Liability Company ("Developer").

WHEREAS:

A. On the date hereof, the parties have entered into a WindRanch Easement Agreement (the "Agreement") which by its terms grants to Developer a windranch easement and further grants to Developer easements for wind energy development and related rights, transmission line and facilities, wind and weather monitoring and access across certain land which is more particularly described in Exhibit A attached hereto in incorporated by this reference (the "Property").

B. The term of the Agreement commences on the date hereof and continues for a period commencing upon achieving commercial operation by Developer or its successors or assigns on the Property or any portion thereof after the initial testing period and ending Forty (40) years thereafter (unless earlier terminated), unless the Agreement is sooner terminated in accordance with terms of the Agreement. Developer will file a certificate noting the date upon which commercial operation commenced.

C. The parties desire to enter into this Memorandum of WindRanch Easement Agreement which is to be recorded in order that third parties may have notice of the interest of Developer in the Property and of the existence of the Agreement and of certain easements and rights granted to Developer in the Property as part of the Agreement.

NOW, THEREFORE, in consideration of rents and covenants in the Agreement to be paid and performed by Developer, Owner hereby grants to Developer those certain easement on, over, under and across the property on the terms and conditions set forth in the Agreement. All terms, conditions, provisions and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Wind-Ranch Easement Agreement as of the date set forth above.

Owners:
Dana Cothron

Developer:
Mud Springs Wind Project, LLC
A Montana Limited Liability Co.

By: Dana Cothron
Dana Cothron

By: John S. Husar
John S. Husar
Managing Member

Brad Stewart

BRAD STEWART NOTARIAL SEAL STATE OF MONTANA

BRAD STEWART
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
February 10, 2017

EXHIBIT "A"
Property Description

Township 7 South Range 24 East P.M.M. Carbon County, Montana.

Section 22

TR 1 COS 2085. TR 1 COS 2085. TR: 2 COS 2158

Return to:
Dana Cothron
P O Box 703
Bridger, MT 59014

State of Montana } SS
County of Carbon }

This Instrument file # 347083 was filed in my office on 26 day of AUG 2011 at 1:51 O'clock P m.
Marcia Henigman
County Clerk-Recorder
by Linda Morgan, Dpty
Fee $ 7.00 pd

347083

WARRANTY DEED

FOR A VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned,

Nancy Malnaa of
~~P O Box _____~~ 1115 Dorothy Lane
~~Bridger, MT 59014~~ Billings MT 59105

Grantor, hereby grants unto

Dana Cothron of
P O Box 703,
Bridger, MT 59014

Grantee, real property in Carbon County, Montana, described as follows:

Tract 1 (Family Transfer Tract) and Tract 2 (Family Transfer Tract) of CERTIFICATE OF SURVEY NO. 2085 FT, Carbon County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 311564.

AND

Tract 1 (Family Transfer Tract) of CERTIFICATE OF SURVEY NO. 2158 FT, Carbon County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 321733.

} correct legal

TO HAVE AND TO HOLD unto the Grantee, the survivors thereof, and to his heirs and assigns, forever, SUBJECT TO THE FOLLOWING:

(a) Reservations and exceptions in patents from the United States of America or the State of Montana.
(b) Visible easements, easements of record, and rights of way.
(c) All building, use, sanitary and environmental restrictions.
(d) Taxes and assessments for the year 2011, and subsequent years.

EXCEPT with reference to the items referred to in paragraphs (a) to (d) inclusive, the Warranty Deed is given with the usual covenants expressed in Montana Code Ann. Section 30-11-110.

DATED this 8th day of August, 2011.

Nancy Malnaa
Nancy Malnaa

STATE OF Montana)
) ss:
County of Yellowstone)

On this 8th day of August, 2011, before me, the undersigned, a Notary Public for the State of Montana, personally appeared NANCY MALNAA, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

(SEAL) SHERINA K. EISSLER NOTARIAL SEAL STATE OF MONTANA

Sherina K Eissler
Printed Name: Sherina K. Eissler
Notary Public for the State of Montana
Residing at Billings, MT
My Commission Expires: 8-31, 2011

EXHIBIT C

State of Montana } SS
County of Carbon }

This instrument file # 357513 was filed in my office on 11 day of April 2014 at 10:30 O'clock A.m.
Marcella Benigman
County Clerk-Recorder
by [signature]
Fee $ 28.00

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Mud Springs Wind Project, LLC
6724 Hesper Road
Billings, Montana 59106
Atten: Mr. John S. Husar

357513
357513

(Space above this line for Recorder's use only)

MEMORANDUM OF WIND ENERGY LAND AGREEMENT

THIS MEMORANDUM OF WIND ENERGY LAND AGREEMENT is made and entered into as of January 31, 2014 by and between Rodney L. and Josephine L. Crosby, ("Owners") and Mud Springs Wind Project, a Montana Limited Liability Company ("Developer").

WHEREAS:

A. On the date hereof, the parties have entered into a WindRanch Easement Agreement (the "Agreement") which by its terms grants to Developer a windranch easement and further grants to Developer easements for wind energy development and related rights, transmission line and facilities, wind and weather monitoring and access across certain land which is more particularly described in Exhibit A attached hereto in incorporated by this reference (the "Property").

B. The term of the Agreement commences on the date hereof and continues for a period commencing upon achieving commercial operation by Developer or its successors or assigns on the Property or any portion thereof after the initial testing period and ending Forty (40) years thereafter (unless earlier terminated), unless the Agreement is sooner terminated in accordance with terms of the Agreement. Developer will file a certificate noting the date upon which commercial operation commenced.

C. The parties desire to enter into this Memorandum of WindRanch Easement Agreement which is to be recorded in order that third parties may have notice of the interest of Developer in the Property and of the existence of the Agreement and of certain easements and rights granted to Developer in the Property as part of the Agreement.

NOW, THEREFORE, in consideration of rents and covenants in the Agreement to be paid and performed by Developer, Owner hereby grants to Developer those certain easement on, over, under and across the property on the terms and conditions set forth in the Agreement. All terms, conditions, provisions and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Wind-Ranch Easement Agreement as of the date set forth above.

Owners:
Rodney L. Crosby
Josephine M. Crosby

Developer:
Mud Springs Wind Project, LLC
A Montana Limited Liability Co.

By: Rodney L Crosby
Rodney L. Crosby

By: John S. Husar
John S. Husar
Managing Member

By: Josephine M. Crosby
Josephine M. Crosby

LORI PETERSON
COUNTY OF BIG HORN
STATE OF WYOMING
6-16-16
Lori Peterson

EXHIBIT "A"
Property Description

2672 Deeded Acres more or less, located in Carbon County, Montana and being more particularly described as Sections:

Township 8 South, Range 25 East. P.M.M. Carbon County. Montana.

Section 21: NW 4, 160 Acres.
Section 22: SW 4, 160 Acres.
Section 23: SW 4, 160 Acres.
Section 26: NW 4, 160 Acres.
Section 27: SW4NW4, 40 Acres.
Section 28: N2NE4, SE4NE 4, N2NW 4, SW4NW 4. 240 Acres.
Section 29: NE4NE4. 40 Acres.

Township 9 South, Range 25 East P.M.M. Carbon County. Montana

Section 9: PT E2SW4, PT W2SE4, South of HWY LESS ROW
Section 9: PT E2SW4, PT W2SE4, South of HWY LESS ROW
Section 17: SW 4, 160 Acres.
Section 18: SE 4, 160 Acres.
Section 19: E2NW4, E2SW4, Lots 1,2,3,4. 312 Acres.
Section 20: S2NE4, S2NW4, N2SW4, N2SE4. 320 Acres
Section 21: All.
Section 28: N2SE4, N2SW4. 160 Acres.

All Purpose Acknowledgement

State of Wyoming

County of Big Horn

On January 31st, 2014 (date), before me, Lori Peterson (notary),

personally appeared, Rodney & Josephine Crosby (signers),

personally known to me

-- OR --

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Lori Peterson

(notary signature)

My Commission Expires: 6-16-16

NOTARY PUBLIC
LORI PETERSON
COUNTY OF BIG HORN
STATE OF WYOMING
6-16-16

OPTIONAL INFORMATION:

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

(Check One)

Individual__

Corporation Officer__

_____
title(s)

Partner(s)__

Attorney-In-Fact__

Trustee(s)__

Guardian/Conservator__

Other: _____

_____

_____

EXHIBIT C

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Mud Springs Wind Project, LLC
1251 Waterfront Place
Pittsburg, PA 15222
Atten: Mr. Chris Shears

State of Montana } SS
County of Carbon }

This instrument filed in my office on 9 day of April 2015
at 12:08 O'clock P m
Marcia Harrington
County Clerk/Recorder
By Marcia Harrington
Fee $ 28.00

361013

(Space above this line for Recorder's use only)

MEMORANDUM OF WIND ENERGY LAND AGREEMENT

THIS MEMORANDUM OF WIND ENERGY LAND AGREEMENT is made and entered into as of December 31, 2014 by and between Malcolm Family Limited Partnership. ("Owner") and Mud Springs Wind Project. a Montana Limited Liability Company ("Developer").

WHEREAS:

A. On the date hereof, the parties have entered into a WindRanch Easement Agreement (the "Agreement") which by its terms grants to Developer a windranch easement and further grants to Developer easements for wind energy development and related rights, transmission line and facilities. wind and weather monitoring and access across certain land which is more particularly described in Exhibit A attached hereto in incorporated by this reference (the "Property").

B. The term of the Agreement commences on the date hereof and continues for a period commencing upon achieving commercial operation by Developer or its successors or assigns on the Property or any portion thereof after the initial testing period and ending Forty (40) years thereafter (unless earlier terminated). unless the Agreement is sooner terminated in accordance with terms of the Agreement. Developer will file a certificate noting the date upon which commercial operation commenced.

C. The parties desire to enter into this Memorandum of WindRanch Easement Agreement which is to be recorded in order that third parties may have notice of the interest of Developer in the Property and of the existence of the Agreement and of certain easements and rights granted to Developer in the Property as part of the Agreement.

NOW, THEREFORE, in consideration of rents and covenants in the Agreement to be paid and performed by Developer, Owner hereby grants to Developer those certain easement on, over, under and across the property on the terms and conditions set forth in the Agreement. All terms, conditions, provisions and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Wind-Ranch Easement Agreement as of the date set forth above.

Owner:
Malcolm Family Limited Partnership

Developer:
Mud Springs Wind Project, LLC

Malcolm Family Limited Partnership

By: Robert Bruce Malcolm GP
Malcolm Family Limited Partnership

By: _____
Chris Shears

ACKNOWLEDGMENT

State of Montana, County of Park

On March 3 2015 personally appeared before me Robert Bruce Malcolm

✓ whom I know personally

✓ whose identity I verified on the basis of MT. DL

___ whose identity I verified on the oath or affirmation of _____, a credible witness, to be the signer of the above and he/she acknowledged that he/she signed it

Charlene R. Murphy
Notary Public
My commission expires
April 20, 2016

State of Montana County of Park

CHARLENE R. MURPHY NOTARIAL SEAL STATE OF MONTANA

CHARLENE R. MURPHY
NOTARY PUBLIC for the
State of Montana
Residing at Emigrant, Montana
My Commission Expires
April 20, 2016

COMMONWEALTH OF PENNSYLVANIA)
)
) SS:
COUNTY OF ALLEGHENY)

On the 16th day of March, 2015, before me, the undersigned, personally appeared CHRIS SHEARS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Bonnie H. Miller, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Oct. 21, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Notary Public
My Commission Expires:

EXHIBIT "A"
Property Description

2,081.956 Deeded Acres more or less, located in Carbon County, Montana and being more particularly described as:

Township 7 South, Range 24 East. P.M.M. Carbon County, Montana.

Section 11:	NE 4 SE 4, S 2 SE 4.	120 acres.
Section 12:	W 2	320 acres.
Section 13:	NW 4, W 2 SW 4, SW 4 NE 4, N 2 NW 4 SE 4.	300 acres
Section 14:	NE 4 NE 4, S 2 NE 4, SW 4, SE 4.	480 acres.
Section 15:	SW 4 SW 4.	40 acres.
Section 21:	E 2.	301.956 acres.
Section 22:	W 2 SW 4.	80 acres.
Section 22:	N 2 NW 4, SE 4 NW 4.	120 acres.
Section 23:	N 2.	320 acres.

EXHIBIT C

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Mud Springs Wind Project, LLC
6724 Hesper Road
Billings, Montana 59106
Atten: Mr. John S. Husar

State of Montana } ss
County of Carbon }

This instrument file # 358537 was filed in my office on 24 day of July 2014 at 9:27 O'clock A m.
Marcia Menigman
County Clerk/Recorder
by [signature]
Fee $ 21.00

358537

(Space above this line for Recorder's use only)

MEMORANDUM OF WIND ENERGY LAND AGREEMENT

THIS MEMORANDUM OF WIND ENERGY LAND AGREEMENT is made and entered into as of ~~January~~ July 14, 2014 by and between Judy Prewett, ("Owners") and Mud Springs Wind Project, a Montana Limited Liability Company ("Developer").

WHEREAS:

A. On the date hereof, the parties have entered into a WindRanch Easement Agreement (the "Agreement") which by its terms grants to Developer a windranch easement and further grants to Developer easements for wind energy development and related rights, transmission line and facilities, wind and weather monitoring and access across certain land which is more particularly described in Exhibit A attached hereto in incorporated by this reference (the "Property").

B. The term of the Agreement commences on the date hereof and continues for a period commencing upon achieving commercial operation by Developer or its successors or assigns on the Property or any portion thereof after the initial testing period and ending Forty (40) years thereafter (unless earlier terminated), unless the Agreement is sooner terminated in accordance with terms of the Agreement. Developer will file a certificate noting the date upon which commercial operation commenced.

C. The parties desire to enter into this Memorandum of WindRanch Easement Agreement which is to be recorded in order that third parties may have notice of the interest of Developer in the Property and of the existence of the Agreement and of certain easements and rights granted to Developer in the Property as part of the Agreement.

NOW, THEREFORE, in consideration of rents and covenants in the Agreement to be paid and performed by Developer, Owner hereby grants to Developer those certain easement on, over, under and across the property on the terms and conditions set forth in the Agreement. All terms, conditions, provisions and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Wind-Ranch Easement Agreement as of the date set forth above.

Owner:
Judy Prewett

Developer:
Mud Springs Wind Project, LLC
A Montana Limited Liability Co.

By: Judy M Prewett
Judy Prewett

By:
John S. Husar
Managing Member

By
Desiree Tobby

BRAD STEWART NOTARIAL SEAL STATE OF MONTANA

BRAD STEWART
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
February 10, 2017

Brad Stewart

EXHIBIT A
PROPERTY DESCRIPTION

Township 7 Range 24 East

Section 13

Gov Lots 3, 4. 73.870 Acres

Township 7 South Range 25 East

Section 18: SE 4 SW 4, and Gov Lot 7. 77 Acres.

RECORDING REQUESTED BY,
AND AFTER RECORDING,
RETURN TO

HORSE THIEF WIND PROJECT, LLC
1251 WATERFRONT PLACE, 3RD FLOOR
PITTSBURGH, PA 15222
ATTN: REAL ESTATE

State of Montana } SS
County of Carbon }

This instrument file # 361739 was filed in my office on 19 day of June 2015 at 11:20 O'clock a m.
Marcia Henigman
County Clerk-Recorder
by Christine L Stovall Dpty
Fee $ 42.00 pd

361739

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

MEMORANDUM OF WIND ENERGY LEASE OPTION, GROUND LEASE AND EASEMENT AGREEMENT

This **MEMORANDUM OF WIND ENERGY LEASE OPTION, GROUND LEASE AND EASEMENT AGREEMENT** (this "**Memorandum**") is dated April 14, 2015, by and between **Sue Schwend** having an address of 377 West Bench Road, Roberts, MT 59070 ("**Landowner**"), and **HORSE THIEF WIND PROJECT LLC**, a Delaware limited liability company, having an address of 1251 Waterfront Place, 3rd Floor, Pittsburgh PA 15222 ("**Lessee**"), in light of the following facts and circumstances:

Landowner and Lessee entered into a certain Wind Energy Lease Option, Ground Lease and Easement Agreement, effective as of April 27, 2015, of even date herewith (the "**Lease Agreement**"), pursuant to which Landowner has leased to Lessee the real property of Landowner (the "**Property**") located in Carbon County, State of Montana as more particularly described on Exhibit A attached hereto and which Lease Agreement and said Exhibit A are hereby incorporated herein as if fully set forth in this Memorandum. Landowner and Lessee have executed and acknowledged this Memorandum for the purpose of providing constructive notice of the Lease Agreement. Capitalized terms not otherwise defined in this Memorandum shall have the meanings provided in the Lease Agreement. In the event of any conflict or inconsistency between the provisions of this Memorandum and the provisions of the Lease Agreement, the provisions of the Lease Agreement shall control. Nothing in this Memorandum shall be deemed to amend, modify, change, alter, amplify, limit, interpret or supersede any provision of the Lease Agreement or otherwise limit or expand the rights and obligations of the parties under the Lease Agreement and the Lease Agreement shall control over this Memorandum in all events.

NOW THEREFORE, Landowner and Lessee hereby agree as follows:

1. Lease of Property; Uses and Easements. Landowner leases the Property to Lessee on the terms, covenants and conditions stated in the Lease Agreement. The lease created by the Lease Agreement is solely and exclusively for wind energy purposes, as defined in the Lease Agreement, and Lessee shall have the exclusive right to use the Property for wind energy purposes, together with certain related access uses and/or easement rights and other rights related to the Property as more fully described in the Lease Agreement. Reference is hereby made to the Lease Agreement for a complete description of the respective rights and obligations of the parties regarding the Property and the covenants, conditions, restrictions, uses and easements affecting the Property pursuant to the Lease Agreement.

2. Term. Lessee's rights under the Lease Agreement shall commence on _____ and shall continue for the Lease Term. The term "**Lease Term**" means that period commencing on the date set forth in this Section 2 and continuing for twenty-five (25) years after such date.

During the Lease Term, Lessee may, by notice to Landowner no later than thirty (30) days prior to the expiration of the Lease Term, elect to extend this Lease for an additional ten (10) year period commencing upon the expiration of the Lease Term (the "First Renewal Lease Term"). Similarly, Lessee may by notice to Landowner no later than thirty (30) days prior to the expiration of the First Renewal Lease Term, elect to extend this Lease for a six (6) year period commencing upon the expiration of the First Renewal Lease Term (the "Second Renewal Lease Term"). The length of the Lease Term shall not exceed 49 years from the Effective Date of the Lease Agreement.

Lessee may terminate this Lease at any time and for any reason by giving Landowner at least ninety (90) days prior written notice. If termination occurs under this provision, Lessee shall pay Landowner all sums due and owing to the date of termination.

3. Ownership. Landowner shall have no ownership or other interest in any Windpower Facilities installed on the Property, and Lessee may remove any or all Windpower Facilities at any time.

4. No Interference. Among other things, the Lease Agreement provides that Landowner's activities and any grant of rights Landowner makes to any person or entity, whether located on the Property or elsewhere, shall not, currently or in the future, impede or interfere with: (i) the siting, permitting, construction, installation, maintenance, operation, replacement, or removal of Windpower Facilities, whether located on the Property or elsewhere; (ii) the flow of wind, wind speed or wind direction over the Property; (iii) access over the Property to Windpower Facilities, whether located on the Property or elsewhere; (iv) any Development Activities; or (v) the undertaking of any other activities of Lessee permitted under the Lease Agreement. In no event during the term of the Lease Agreement shall Landowner construct, build or locate or allow others to construct, build or locate any wind energy conversion system, wind turbine or similar project on the Property.

5. Set Back Requirements. Lessee's Windpower Facilities may be closer to Landowner's residential structure(s), commercial structure(s) or property line(s) than allowed by the Regulations set forth in the local Zoning, Building, Subdivision or Land Development regulations and/or governmental approvals ("Setback Restrictions"). Additionally, Lessee's Windpower Facilities may exceed the noise limitations that may be imposed by any local Zoning, Building, Subdivision or Land Development laws, regulations and/or governmental approvals ("Noise Limitations"). Landowner for him/her self and their heirs, administrators, executors, successors and assigns does hereby waive those Setback Restrictions and Noise Limitations as to Owner's structures and agrees to waive and release any and all claims, damages, and/or losses which they may have now or which they may have in the future against the Lessee, its affiliates, successors and assigns, resulting from higher noise levels, visual impacts, or flickering reflections and/or shadows which may arise as a result of the location of the Windpower Facilities within the established Setback Restrictions or Noise Limitations for each existing residential or commercial structure on Landowner's Property described in the Exhibits hereto.

6. Oil and Gas Leasing. Landowner may allow natural gas or coal or oil or mineral exploration on the Premises so long as all activities remain over five hundred feet (500') feet from the Project Improvements unless mutually agreed upon by Lessee and Landowner in writing. To the extent Landowner has entered into any Oil and Gas Leases or will enter into any Oil and Gas Leases related to the Premises, or if Landowner has entered into any other leases, licenses, permits, easements, etc which grant third parties access to the Premises for the purpose of exploring for or extracting oil, gas, coal, or any other minerals or similar substances, Landowner shall require, prior to any drilling, exploring, extracting, or similar activities, its lessee/permittee under any such leases, licenses, permits, easements, etc to enter into a Mutual Use Agreement and Partial Release of Surface/sub-surface Right with Lessee.

7. Successors and Assigns. The Lease Agreement and any easement or rights granted Lessee therein shall burden the Property and shall run with the land. The Lease Agreement shall inure to the benefit of and be binding upon Landowner and Lessee and, to the extent provided in any assignment or other transfer under the Lease Agreement, any Assignee or Tenant, and their respective heirs, transferees, successors and assigns, and all persons claiming under them.

8. Multiple Counterparts. This Memorandum may be executed by different parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall constitute one and the same instrument.

9. Governing Law. This Memorandum and the Lease Agreement shall be governed by and interpreted in accordance with the laws of the State of New York.

[Signatures on following page]

IN WITNESS WHEREOF. Landowner and Lessee have executed and signed this Lease or have caused this Lease to be executed and signed.

LANDOWNER(S)

By: Sue Schwend, Trustee
Name: Sue Schwend
Date: 4-14-15

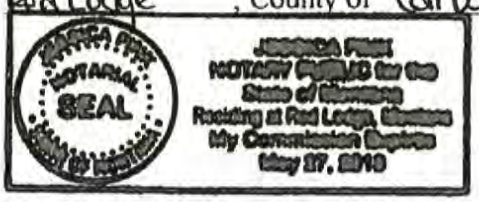
HORSE THIEF WIND PROJECT LLC

By:
Name: Chris Shears
Title: Chief Development Officer
Date: 4/27/15

ACKNOWLEDGMENTS

STATE OF MONTANA)
: SS
COUNTY OF Carbon)

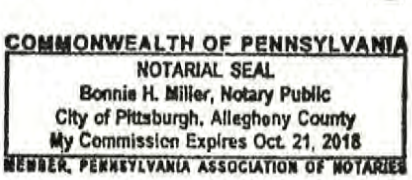
On the 14th day of April, 2015, before me, the undersigned, personally appeared **SUE SCHWEND**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the Town of Red Lodge, County of Carbon, State of ~~New York~~. Montana



Jessica Fink
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
)ss.:
COUNTY OF ALLEGHENY)

On the 27th day of April, 2015, before me, the undersigned, personally appeared **Chris Shears**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the Town of Pittsburgh, County of Allegheny, State of Pennsylvania.



Notary Public

EXHIBIT A
PROPERTY DESCRIPTION

The Property situate in Carbon County, Montana, more particularly described as follows:

Tax Lot Geo-Code: 10-0360-02-3-01-01-0000
Township and Range: Section 02, T7S, R24E, SW4, SW4SE2,
Acreage: 200 ac.

Tax Lot Geo-Code: 10-0360-11-1-01-01-0000
Township and Range: Section 11, T7S, R24E, NE4, NW4SE4, N2SW4, NW4NW4
Acreage: 400 ac.

Tax Lot Geo-Code: 10-0360-10-1-01-01-0000
Township and Range: Section 10, T7S, R24E, E2NE4
Acreage: 80 ac.

Mud Springs Wind Project
Sage-Grouse Mitigation Commitments

Prepared by:
Sunrise Wind Holdings, LLC
1251 Waterfront Place, 3rd Floor
Pittsburgh, PA 15222

May 3, 2019

1.0 Introduction and Project Description

1.1 Introduction

Sunrise Wind Holdings, LLC, and any of its affiliates, successors and assigns (collectively, "Sunrise"), is considering construction of the Mud Springs Wind Energy Project ("Project") in Carbon County, Montana. If the voluntary Mud Springs Wind Project Greater Sage-Grouse Mitigation Plan ("Plan") contained within this document is approved by the Montana Sage-Grouse Oversight Team ("MSGOT"), then the Plan will be tied to the Project and the commitments within the Plan will become the responsibility of Sunrise, including any future successors or assigns. In addition, this Plan would encompass the entirety of sage grouse coordination for the portions of the Project that are built within the Grandfathered area approved by MSGOT.

1.2 Project Ownership

The Mud Springs Wind Project is owned by Sunrise and has an approved Conditional Use Permit ("CUP") and Stormwater Pollution Prevention Plan ("SWPPP") to build a 240 MW wind facility with 69 wind turbine generators ("WTG") in the Project area. Sunrise is currently in negotiations to potentially sell the Project to an Assignee, which could occur in May 2019. The Assignee is proposing to build a wind facility with a maximum nameplate rating of 240 MW using up to 120 WTG. The Assignee is currently working to obtain project equipment, construction contracts, and state, county, and federal permits that would allow for the Project to be fully commercially operational by year end 2020. If approved, the Project, Sunrise, the Assignee, and/or any future assignees would be bound by the conditions in this voluntary mitigation plan.

1.3 Grandfathered Status

The Project has Grandfathered status which allows a wind facility to be designed and constructed within the Grandfathered area in sage grouse core area. MSGOT is scheduled to make a determination regarding the Grandfathered area of the Project during a hearing on May 14, 2019. All Project infrastructure built within the Grandfathered area is not required to comply with EO 12-2015, but the Project voluntarily commits to comply with the conditions in this mitigation plan for areas within the Grandfathered area and outside of the Grandfathered area. If any Project infrastructure is built outside of the Grandfathered area, those parts of the Project will be subject to this mitigation plan and future discussions and impact fees related to impacts outside the Grandfathered area as determined by MSGOT.

1.4 Project Area Map

The Project commits to build all infrastructure related to the Project within the bound of the Mud Springs Project Area map (Appendix 1). Some of the land within the Project Area map could be outside of the Grandfathered area and subject to future mitigation coordination with MSGOT.

1.5 Project Definition

The Project is defined by the following:

1. The Project will be built within the area defined in the Project Area Map attached in Appendix 1.
2. The Project will have a maximum nameplate capacity of 240 MW.

3. The Project will include a maximum of 120 WTGs.

1.6 Project Commitments

The Project voluntarily makes the following commitments:

1. All Project infrastructure built within the State of Montana will be within the area identified in the Project Area Map in Appendix 1.
2. All WTGs will be built outside of the no surface occupancy (NSO) areas within 0.6 miles of Confirmed Sage Grouse Leks, as defined in Appendix 2.
3. Vegetation removal for construction within two miles of a Confirmed lek in Appendix 2 will only occur between July 16 and March 14. Vegetation removal during construction will be prohibited during breeding, nesting, and early brood rearing seasons of March 15 to July 15 as described in the Montana Mitigation System Policy Guidance Document.
4. The Project will voluntarily commit to providing funding of $320,000 to mitigate sage grouse impacts within the Project area that are inside and outside of the Grandfathered area. If any Project infrastructure built outside of the Grandfathered area is subject to mitigation fees, the voluntary payment shall be used to pay the mitigation fees up to $320,000. If mitigation fees for infrastructure built outside the Grandfathered area are higher than $320,000, the Project would make an additional payment to cover those fees.
5. The Project will have a maximum of 120 WTGs.
6. The hub heights of the Project's wind turbines will be between 79 and 110 meters high, with a high probability the hub heights will be between 79 meters and 91 meters high.
7. The blade length of the Project's wind turbines will be between 50 meters and 70 meters and the blade diameter of the Project's wind turbines will be between 100 meters and 140 meters.
8. The Project will provide notice of layout changes to the SGHCP during development and construction and will provide a map and shape files of the final as-built Project layout after the commercial operation date.
9. The Project will monitor any of the Confirmed Sage Grouse Leks within two miles of any new WTGs or transmission lines constructed for the Project for 6 years after the Project's commercial operation date, provided the Project is granted access to the lek by the landowner or via its Project leased area.

Satisfaction of the voluntary Project commitments listed above will complete the mitigation requirements for all parts of the Project built within the Grandfathered area. The Project will have the sole right to determine the Project layout within the Grandfathered area, provided the conditions above are satisfied.

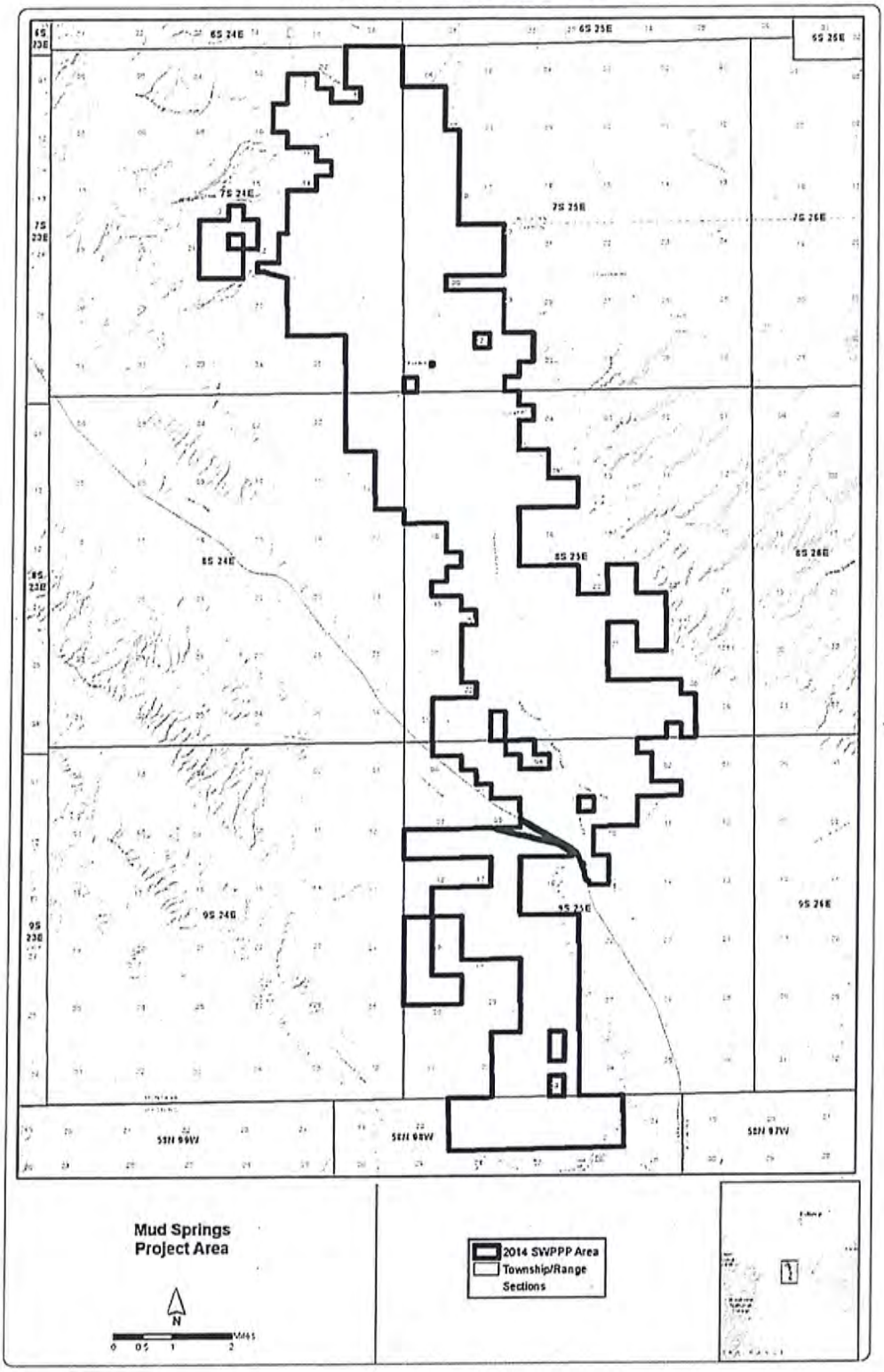
1.7 Assignee Efforts

If this Plan is approved by MSGOT, the Assignee commits to taking commercially reasonable efforts to meet the following goals:

1. Move the interconnection point from Wyoming to Montana, thereby eliminating approximately 10 miles of new 230 kV transmission line within sensitive sage grouse areas. Furthermore, if the Assignee is able to relocate the planned point of interconnection to a location within the area of WTGs, then the net reduction in impact to sage grouse habitat this allows would be considered in discussions with MSGOT as an offset for mitigation that might be due for any of the Project that might be sited outside the Grandfathered area.
2. Locate the interconnection substation and the collector substation as close as economically feasible to minimize the length of new transmission line.
3. Construct all new Project infrastructure outside of Confirmed sage grouse lek NSO areas.
4. Attempt to lease State of Montana Trust lands that are included in the Grandfathered area.

If this Plan is approved by the MSGOT, Sunrise and any future assignees would be obligated to adhere to the following conditions and would have sole authority to set the project layout within the Grandfathered area without any additional MSGOT oversight, provided the layout adheres to the following conditions: setback of 0.6 miles between wind turbines and any of the confirmed leks listed in Appendix 4 of this Plan, complete vegetation removal for construction between July 16 and March 14 within 2 miles of any of the confirmed leks listed in Appendix 2 of this Plan, build all wind turbines within the Project Area Map in Appendix 1 of this Plan, and maintain the 240 MW maximum size limit of the Project. The Project will coordinate with MSGOT regarding any Project infrastructure that is planned outside of the Grandfathered area and will provide notice of the final Project layout design to MSGOT.

Appendix 1 – Project Area Map



Appendix 2 – Confirmed Sage Grouse Leks

Confirmed Sage Grouse Leks is a defined term within this Plan that is set to mean all leks located at the specified longitude and latitude coordinates. The Bowler 2 lek was unknown at the time the layout was prepared for Option 1 and does not apply as a Confirmed Sage Grouse Lek for that Option. The Confirmed Sage Grouse Leks near the Project area are:

Bowler: Located at Latitude 45.22411 and Longitude -108.720526
The Bowler lek was first counted in 1996-1997. The high male count of the lek has varied from an estimate of 4 to 35 males, with a total of 24 males when it was last surveyed by FWP in 2018.

Bowler 2: Located at Latitude 45.2219 and Longitude -108.734
The Bowler 2 lek was unknown during the layout phase of Option 1, but was known during the layout phase of Option 2 and setbacks were applied accordingly for Option 2.

Black Butte 3: Located at Latitude 45.17665 and Longitude -108.75962

Black Butte 2: Located at Latitude 45.16388 and Longitude -108.75455

Black Butte: Located at Latitude 45.151 and Longitude -108.748
The Black Butte Lek was first counted in 2003-2004. The high male count of the lek has varied from an estimate of 3 to 36 males, with a total of 27 males when it was last surveyed by FWP in 2018.

Sage Creek 1: Located at Latitude 45.12318 and Longitude -108.69403
The Sage Creek 1 Lek was first counted in 1996-1997. The high male count of the lek has varied from an estimate of 17 to 54 males, with a total of 26 males when it was last surveyed by FWP in 2018.

Warren North 1: Located at Latitude 45.07953 and Longitude -108.68829
The Warren North 1 Lek was first counted in 2015-2016. The high male count of the lek has varied from an estimate of 1 to 3 males, with a total of 3 males when it was last surveyed by FWP in 2018.

Weatherman Draw: Located at Latitude 45.0721 and Longitude -108.737
The Weatherman Draw Lek was first counted in 1998-1999. The high male count of the lek has varied from an estimate of 1 to 34 males, with a total of 14 males when it was last surveyed by FWP in 2018.

Weatherman 2: Located at Latitude 45.0664 and Longitude -108.694
The Weatherman 2 Lek was first counted in 1999-2000. The high male count of the lek has varied from an estimate of 1 to 8 males, with zero males counted when it was last surveyed by FWP in 2018.

Warren West 1&2: Located at Latitude 45.04844 and Longitude -108.69563
The Warren West 1 & 2 Lek was first counted in 1977-1978. The high male count of the lek has varied from an estimate of 1 to 84 males, with a total of 32 males when it was last surveyed by FWP in 2018.

Warren West 5: Located at Latitude 45.03775 and Longitude -108.71256
The Warren West 5 Lek was first counted in 2003-2004. The high male count of the lek has varied from an estimate of 3 to 43 males, with a total of 6 males when it was last surveyed by FWP in 2018.

Warren West 3: Located at Latitude 45.0191 and Longitude -108.714
The Warren West 3 Lek was first counted in 1978-1979. The high male count of the lek has varied from an estimate of 18 to113 males, with a total of 73 males when it was last surveyed by FWP in 2018.

Warren West 4: Located at Latitude 45.0035 and Longitude -108.657

TECHNICAL NOTE: MUD SPRING WIND PROJECT

PROJECT AREA DELINEATION AND MITIGATION

Prepared by the Montana Sage Grouse Habitat Conservation Program

MSGOT Meeting: May 14, 2019

Introduction

The May 14 MSOGT meeting follows up on the April 25, 2019 meeting during which MSGOT heard a presentation by the sponsors of a proposed wind project in Carbon County known as Mud Springs Wind Energy Project (Project). The Project is owned by Sunrise Wind Holdings, LLC (Sunrise). The parties before MSGOT on behalf of the Project are Innogy and PacificCorp.

The Project is expected to encompass a maximum of 120 wind turbines for a total maximum capacity of 240 megawatts. Additional infrastructure would include new roads, buried electrical distribution lines, substations, and a new 230 kV transmission line. The length of the new 230kV transmission line varies by different project layouts. The new 230kV transmission line is expected to be non-nest-facilitating. Up to three meteorological towers may be constructed, but their location/s are not yet known.

Presently, up to four different project layouts are being considered by the Project Sponsors, and all have been discussed with the Program. A final project layout may not be known until summer or early, 2019. Each layout option is different. The key differences relate to the number of turbines and the length and location of the new 230kV, substation locations, and the tie-in points to an existing 230 kV transmission line. Some options would pose greater impacts to sage grouse in the local area, and some would pose fewer impacts.

The general area supports a minimum of eight leks confirmed as active by Montana Fish, Wildlife & Parks in 2018/2019, with up to 13 identified as confirmed leks for purposes of this Project. Some leks contain well above average numbers of breeding males, and connectivity with the Wyoming sage grouse population is strongly suspected. In addition to breeding habitat, this general area also provides nesting, early brood-rearing and wintering habitat through a combination of native range lands and irrigated alfalfa.

MSGOT's decisions regarding the Project would apply to Sunrise, and any of its affiliates, successors, and assigns. Sunrise/Innogy is currently negotiating a potential sale of the Project to PacificCorp.

Several different permits and authorizations are relevant to this Project. Those that are already in hand will require renewal or amendments to reflect the final project boundary and project layout:

- Carbon County: conditional use permit
- State of Montana: storm water discharge associated with construction from Montana Dept. of Environmental Quality; utility encroachment from Montana Dept. of Transportation; electrical from Mont. Dept. of Labor and Industry.
- U.S. Fish and Wildlife Service: eagle conservation plan and incidental take permit.

The following information summarizes key information in the Project record and information provided by the Project Sponsors for the May 14th meeting that is relevant to the state:

- summary of the Timeline and Key State Documents pertaining to the Project;
- decision regarding the grandfathered area;
- decision regarding voluntary mitigation offered for impacts within the grandfathered area; and
- future approach to mitigation for impacts in the remaining final project area.

MSGOT's threshold decision regarding the grandfathered area will inform its consideration of the voluntary mitigation commitments offered by the Project Sponsors to offset impacts within the grandfathered area and potentially outside the area MSGOT determines to be grandfathered. Lastly, MSGOT will have an opportunity to discuss a future approach to mitigation for impacts in the remaining final project area outside the grandfathered portion.

Summary of the Timeline and Key State Documents Pertaining to the Project

Development of this wind project has been ongoing since 2008 and by different parties. The following timeline summarize key milestones relevant to the Sponsors, State of Montana and MSGOT's decisions. Documents listed below that are not included in the meeting materials have already been provided to MSGOT and are readily available on the Program website (e.g. Executive Orders, Greater Sage Grouse Stewardship Act) at www.sagegrouse.mt.gov.

2008: Montana Sage Grouse Core Areas first delineated as part of a Western Governors' Association initiative to proactively identify important species and habitats. Maps created during this period are modified slightly and eventually adopted through Executive Orders 10-2014, 12-2015, and 21-2015 as Montana's Core Areas, General Habitat, and Connectivity Areas.

April 4, 2014: Mud Springs Wind Project, LLC files a Notice of Intent (NOI), Storm Water Discharge Associated with Construction Activity with Montana Dept. of Environmental Quality. This NOI contains a project area boundary and a project layout.

September 9, 2014: Executive Order 10-2014 signed by Governor Bullock. This document sets forth the earliest framework for Montana's Sage Grouse Conservation Strategy.

May 7, 2015: Montana Greater Sage Grouse Stewardship Act signed by Governor Bullock. This statute created MSGOT and codified important provisions of Montana's Conservation Strategy.

September 9, 2015: Executive Order 12-2015 is signed by Governor Bullock. This document updated Executive Order 10-2014 to recognize provisions of the Stewardship Act and amended a few provisions of the original executive order.

December 31, 2015: Executive Order 21-2015 is signed by Governor Bullock. This document, entitled Executive Order 12/2015 *Erratum*, corrected the map of designated habitat to which Montana's Strategy applies.

January, 2016: Montana Sage Grouse Habitat Conservation Program sent a letter to EverPower Wind Holdings (an earlier Project owner). This letter stated because the project is not required to obtain any additional permits or other authorizations from the State of Montana (since a storm water permit was obtained from DEQ in 2014), the Project is not subject to the requirements of Executive Orders 12-2015 and 21-2015. However, the letter also stated that should the project be expanded or modified from the scope and details addressed in the original permit/s, consultation with the Sage Grouse Habitat Conservation Program may be required in the future.

April 16, 2016: Montana Department of Transportation approves a utility encroachment permit for installation of a transmission line to cross Highway 310 at mile post 5.3.

November 1, 2017: Montana Sage Grouse Habitat Consultation Program completed a consultation letter for Sunrise Wind Holdings LLC so that Sunrise could renew the 2014 storm water discharge permit. The letter noted the ongoing collaboration to develop a voluntary mitigation plan even through Executive Order 12-2015 requirements were not mandatory because of prior state authorizations. The letter also noted that the Program had provided comments on a draft mitigation plan but that the parties were expected to finalize and agree upon a mitigation plan prior to construction in 2018, meaning the mitigation plan had not yet been finalized and approved by MSGOT (which the parties had already agreed they would seek).

November 14, 2017: Sunrise Wind Holdings, LLC files a Notice of Intent (NOI), Storm Water Discharge Associated with Construction Activity with Montana Dept. of Environmental Quality. This NOI contains a project area boundary and a project layout. This is the current permitted boundary and project layout. DEQ has informed the Program that should the project boundary and layout change from the 2017 representations, the storm water permit will need to be revised and would entail renewed consultation with the Program. This information was shared with the Project Sponsors.

February 27, 2019: The Montana Sage Grouse Habitat Conservation Program are contacted by the Project sponsors (representatives from Innogy and PacificCorp) to reinitiate efforts to review the Project and finalize the mitigation plan.

May 2, 2019: Governor Bullock signed Senate Bill 299, amending the Montana Sage Grouse Stewardship Act first passed in 2015. The bill was effective upon passage and approval and constitutes the present law guiding MSGOT's decisions. The language provided in [new] **Section 1 Existing land uses and activities exempt** is the portion relevant to MSGOT's decisions. This section seeks to clarify that existing land uses and activities that are authorized by permit but not yet conducted as of September 8, 2015, are not subject to Montana's Conservation Strategy. Those existing uses and activities may continue within an existing defined project boundary even if stipulations are exceeded but permitting agencies shall apply seasonal use restrictions, as necessary for discretionary activities at existing land use sites.

Maps: The Sage Grouse Program has created three maps based on information obtained from the DEQ 2014 storm water permit (2014 boundary) and data shared with the Program by the Project Sponsors as of April 29, 2019 (project boundary and project layout). These maps also illustrate the no-surface-occupancy 0.6 mile buffer around leks determined by FWP as active in 2018/2019.

- EverPower DEQ 2014 storm water permit boundary compared to the project boundary proposed by PacificCorp on April 29, 2019.

- EverPower DEQ 2014 storm water permit project boundary and project layout compared to the project boundary proposed by PacificCorp on April 29, 2019.

- PacificCorp's project boundary and project layout proposed on April 29, 2019 compared to the 2014 DEQ storm water permit project boundary.

- 2017 DEQ storm water permit project boundary compared to the project boundary proposed by Pacific Corp on April 29, 2019.

Decision Regarding the Grandfathered Area

MSGOT is being asked to determine what portion, if any, of the project area would be grandfathered, and therefore exempt from Montana's Conservation Strategy embodied by Executive Orders 12-2015 and 21-2015 and the Montana Greater Sage-Grouse Stewardship Act, as amended in 2019.

The project sponsors request MSGOT consider three potential boundaries of the project area (i.e. the outer most extent) for purposes of determining what, if any, portion would be considered grandfathered because a defined project boundary existed for an existing activity "authorized by permit but not yet conducted" as of September 8, 2015 (the date Executive Order 12-2015 took effect).[1]

Summary of the Project Sponsor's document Mud Springs Wind Project Delineation of Grandfathered Project Area, May 3, 2019

The Project sponsors provided the document Mud Springs Wind Project Delineation of Grandfathered Project Area, May 3, 2019, for MSGOT's consideration. Project sponsors identified three potential boundaries:

1. **Grandfathered Project Boundary 1**: the 2014 DEQ storm water permitted area + all easements with private landowners recorded in Carbon County by September 8, 2015;
2. **Grandfathered Project Boundary 2**: the 2014 DEQ storm water permitted area + the 2017 DEQ storm water permitted area; or
3. **Grandfathered Project Boundary 3**: the 2014 DEQ storm water permitted area only.

Project Sponsors state that, at a minimum, the grandfathered area should include the area delineated in the 2014 DEQ storm water discharge permitted area at a minimum (Boundary 3).

Alternatively, the Sponsors assert that the project boundary of the grandfathered area should also include areas identified in separate real estate instruments it executed with private landowners *after* the 2014 DEQ storm water permit was issued, but *before* the effective date of Executive Order 12-2015 (Boundary 1).

Alternatively, the Sponsors suggest that the project boundary of the grandfathered area should consist of the areas delineated in the 2014 *and* the 2017 DEQ storm water permit areas combined [Boundary 2]. Additional lands had been included in the 2017 DEQ permit, but some other lands appear to have been removed.

The disposition of project boundary and potential project layout with respect to State Trust Lands is presently unclear. At a minimum, the Project Sponsors have indicated a willingness to take commercially reasonable efforts to meet a goal to attempt leasing State Trust Lands that are included within the area MSGOT determines is grandfathered.

The Project Sponsor's stated preference is that MSGOT use a combination of the area within the 2014 storm water permit map and the additional area comprised by all land agreements that were signed, notarized and recorded prior to September 8, 2015 even if those lands are outside of the 2014 permit boundary (Boundary 1). Sponsors believe these real estate transactions fall within the scope of the Stewardship Act, as amended by Senate Bill 299.

[1] Montana Sage Grouse Stewardship Act, as amended by Senate Bill 299.

The Project Sponsors believe Boundary 2 could also be justified as the grandfathered area because the 2014 storm water permit was renewed in 2017 [with changed boundaries from 2014] and the Program's 2017 consultation letter noting a mitigation plan was still being developed was included with the materials submitted to DEQ.

Possible MSGOT Considerations

MSGOT's determination of what, if any portion of the project is grandfathered within the meaning of the amendments to the Stewardship Act by Senate Bill 299 can be informed by careful study of the documents contained within the meeting materials: relevant state documents and those provided by Project Sponsors.

Based on its determination of what project boundary delineates the portion of the Project, MSGOT is next poised to make a decision regarding the voluntary mitigation being offered for impacts within the MSGOT-delineated grandfathered area.

Decision Regarding Voluntary Mitigation Offered for Impacts Within the Grandfathered Area

MSGOT is being asked to consider and approve the Mud Springs Wind Project Sage-Grouse Mitigation Commitments (May 3, 2019) document as the entirety of sage grouse coordination for the portions of the Project that are built within the grandfathered area approved by MSGOT.

MSGOT has limited, if any, ability to affect the actual project layout within the project boundary it determines is grandfathered pursuant to the language of Senate Bill 299. However, MSGOT can discuss the voluntary mitigation that is being offered for the grandfathered area.

Summary of the Project Sponsor's Mitigation Commitments Document, May 3, 2019

The Project Sponsors are offering voluntary mitigation commitments that would be tied to the Project, as outlined in the Plan drafted by Sunrise (dated May 3, 2019) and provided to MSGOT.

If any Project infrastructure is built outside of the project boundary MSGOT determines to be grandfathered, those parts of the Project would be subject to the mitigation commitments document and future discussions and impact fees, as determined by MSGOT at a later date.

Within the grandfathered area determined by MSGOT, the Project Sponsors would voluntarily commit to minimization measures enumerated in Section 1.6 (Project Commitments) on page 2 of the Mitigation Commitments document. Primarily, they are:

- All turbines would be located outside the no surface occupancy areas within 0.6 miles of confirmed leks [listed in Appendix 2 of the Mitigation Commitments document].
- No vegetation would be removed during construction within two miles of confirmed leks between March 14 and July 16.

Additionally, Sponsors state they will make a contribution of $320,000 to the Sage Grouse Stewardship Account to offset impacts within the Project are that are inside and outside of the grandfathered area.

If any Project infrastructure built outside the grandfathered area determined by MSGOT is subject to mitigation fees, the voluntary contribution shall be used to pay the mitigation fees up to $320,000. If mitigation fees for infrastructure built outside the grandfathered area are higher than $320,000, the Project would make an additional payment to cover those fees.

Project Sponsors also offer to monitor confirmed leks within two miles of any new turbines or transmission lines for six (6) years after the commercial operation date provided access is granted by the private landowner.

Possible MSGOT Considerations

MSGOT may wish to discuss some additional voluntary minimization measures that were offered previously and discussed with the Program recently, but were not included in the Project Sponsor's Mitigation Commitments document. The following minimization measures do not directly touch the Sponsor's decisions regarding project boundary or layout within the delineated grandfathered boundary, but rather address site management during and after construction:

- reclamation of construction areas;
- noxious weed control during construction and the operational life of the Project;
- speed limits to decrease potential for vehicle-wildlife collisions;
- marking new or repaired fences required for construction / operation of the Project near leks;
- solid waste and other management practices to eliminate or avoid providing predator subsidies.

MSGOT may wish to clarify the Project Sponsor's views regarding how the $320,000 contribution would be applied to the project boundary area MSGOT determines is grandfathered *vis a vis* the remaining area contained within the final project boundary.

MSGOT may wish to require the Project Sponsors to coordinate monitoring efforts on an annual basis with Montana Fish, Wildlife & Parks to assure efficiency, eliminate duplicated efforts, and minimize disturbance to the extent possible.

Future Approach to Mitigation for Impacts in the Remaining Final Project Area

Lastly, the Project Sponsors and MSGOT have the opportunity to discuss how mitigation would be approached for impacts within the remaining project boundary that MSGOT does not consider grandfathered.

At the present time, it is the Program's understanding that while four different project layouts have been discussed and several different project boundaries have been advanced and discussed, Appendix 1 of the Mitigation Commitments document is suggested as the final project boundary (outer limit within which all project infrastructure would be built).

However, the final project layout may not be known for several months. Until that time, it is not possible to predict what of the Project infrastructure would be located within the MSGOT-grandfathered area and what Project infrastructure would be located outside the grandfathered area. Until that time, a final Habitat Quantification Tool result is not available.

Summary of the Project Sponsor's Mitigation Commitments Document Relative to the Remaining Project Area

The Project Sponsors commit to building all infrastructure within the project area boundary shown in the map within Appendix 1.

If any Project infrastructure is built outside of the project boundary MSGOT determines to be grandfathered, those parts of the Project would be subject to the Mitigation Commitments Document and future discussions and impact fees, as determined by MSGOT at a later date.

The Sponsors state they will make a contribution of $320,000 to the Sage Grouse Stewardship Account to offset impacts within the Project are that are inside and outside of the grandfathered area.

If any Project infrastructure built outside the grandfathered area determined by MSGOT is subject to mitigation fees, the voluntary contribution shall be used to pay the mitigation fees up to $320,000. If mitigation fees for infrastructure built outside the grandfathered area are higher than $320,000, the Project would make an additional payment to cover those fees.

The Project Sponsors offer to coordinate with MSGOT regarding any infrastructure that is planned outside the area MSGOT determines as grandfathered and will provide notice of the final Project layout. Further, the Project Sponsors offer to provide notice of layout changes to the Program during development and construction and will provide a map and shape files (GIS data) of the final-as-built project layout after the commercial operation date.

The Mitigation Commitments Document Section 1.7 (page 2) states a commitment that the assignee (i.e. PacificCorp) will take commercially reasonable efforts to meet four goals:

1. change the project layout that would result in the elimination of about 10 miles of 230kV transmission line and the possibility of relocating the interconnection point within the turbine area. The Project Sponsors request that there is a net reduction in the compensatory mitigation that might be assessed for portions of the project sited outside the grandfathered area.
2. locate the interconnection substation and the collector substation as close as economically feasible to minimize the length of new transmission line.
3. construct all new infrastructure outside confirmed let NSOs.
4. attempt to lease State Trust Lands that are included in the grandfathered area.

Possible MSGOT Considerations

MSGOT may wish to seek clarification as to whether the Project boundary outlined in Appendix 1 of the Mitigation Commitments Document might change in the future from what is shown in the Appendix 1 map.

MSGOT may wish to clarify the Project Sponsor's views regarding how the $320,000 contribution would apply to the impacts with the grandfathered area compared to impacts attributed to infrastructure located outside the grandfathered area.

If the assignee (PacificCorp) successfully meets the first two stated goals in Section 1.7 (above), impacts to sage grouse populations and habitat will be reduced from what may occur under other layout options discussed. But impacts will not be fully eliminated, and residual impacts would

remain. MSGOT may wish to consider ways of accounting for lesser impacts if either the first, the second, or both are achieved.

MSGOT may wish to affirm with Project Sponsors ongoing communication with both MSGOT and the Program as to minimization measures and compensatory mitigation for the portion of the project layout that falls outside the area MSGOT delineates as grandfathered. The Mitigation Commitment Document seems to suggest affirmative commitments that within the final project boundary shown in Appendix 1 (grandfathered and non-grandfathered areas) that no turbines would be located within confirmed lek NSOs, and vegetation removal would occur between July 16 and March 14 within two miles of confirmed leks, additional minimization measures (e.g. seasonal use restrictions pursuant to Senate Bill299 amendments to the Stewardship Act) could be discussed for other Project infrastructure or site management activities during and after construction.

Lastly, MSGOT may wish to affirm with the Project Sponsors when and how future discussions will occur relative to the final project boundary, the final project layout, and mitigation will be determined for Project infrastructure sited outside the area MSGOT determines is grandfathered.

ICIS
JJP 4/4/14

AGENCY USE ONLY				
PERMIT NO.: MTR105482	Date Rec'd.: 4/4/14	Amount Rec'd.: $7,500.00	Check No.: 68749	Rec'd By: DD

Montana Department of
ENVIRONMENTAL QUALITY
WATER PROTECTION BUREAU

FORM
NOI
2012

Notice of Intent (NOI)
Storm Water Discharge Associated With Construction Activity MTR100000

The NOI form is to be completed by the owner or operator of construction activity eligible for coverage under the Department's *General Permit for Storm Water Discharges Associated with Construction Activities*. You must print or type legibly; forms that are not legible or are not complete or are unsigned will be returned. You must maintain a copy of the completed NOI form for your records.

RECEIVED
APR 04 2014
DEQ/WPB
PERMITTING & COMPLIANCE DIV.

Section A - NOI Status *(Check one)*:

- [x] New — No prior NOI submitted for this site.
- [ ] Resubmitted — Permit Number: MTR10 _ _ _ _
- [ ] Renewal — Permit Number: MTR10 _ _ _ _
- [ ] Modification — Permit Number: MTR10 _ _ _ _ (Discuss Modification in Section I)

Section B – Facility or Site Information *(See instruction sheet)*:

Site Name: Mud Springs Wind Project, LLC

Site physical address, mailing address at location, or directions to the site:
To access site take Highway 310 21.5 miles southeast from Bridger Montana to Quarry Road

Township/Range/Section *(optional)*:

Nearest City or Town: Warren Zip Code: 59014 County: Carbon

Latitude: 45.06 Longitude: -108.66

Is this facility or site located on Indian Lands? [ ] Yes [x] No

Section C – Applicant (Owner/Operator) Information:

Owner or Operator Name (Organization Formal Name): Mud Springs Wind Project, LLC

Mailing Address: 6724 Hesper Road

City, State, and Zip Code: Billings, MT 59106

Phone Number: 406-860-3830 Email: johnhusar@hughes.net

Is the entity listed above the construction project owner? [x] Yes [ ] No

Status of Applicant *(Check one)*: [ ] Federal [ ] State [x] Private [ ] Public [ ] Other (specify)

Section D – Existing or Pending Permits, Certifications, or Approvals: ☑ None

☐ MPDES _____ ☐ RCRA _____

☐ PSD (Air Emissions) _____ ☐ Other _____

☐ 404 Permit (dredge & fill) _____ ☐ Other _____

Section E - Standard Industrial Classification (SIC) Codes:

Select at least one SIC code which best reflects the type of construction work.

A. Primary	B. Second
1542 - General Contractors - Nonresidential Buildings, Other than Ii	
C. Third	**D. Fourth**

Section F – SWPPP Administrator

Primary:

Name and Title or Position Title Ryan Davis-Environmental Project Manager

Mailing Address 3521 Gabel Road

City, State, and Zip Code Billings, MT 59102

Phone 406-259-9933 Alternate Phone 406-672-3059

Email ryan.davis@eciblgs.com

Secondary:

Name and Title or Position Title _____

Mailing Address _____

City, State, and Zip Code _____

Phone Alternate Phone

Email _____

Section G – Receiving Surface Water(s):

Storm Water Outfall/Discharge Locations: For each outfall, list latitude and longitude in the decimal degrees format (00.0000; -000.0000) and the name of the receiving waters. **This section must not be left blank and N/A is not acceptable.**

Outfall Number	Latitude	Longitude	Receiving Surface Waters
001	45.08	-108.67	Sage Creek
002	45.07	-108.66	Piney Creek
003	45.10	-108.70	Jack Creek
004			
005			

Map: Attach a USGS topographic quadrangle map extending one mile beyond the property boundaries of the site or activity identified in Section B depicting the facility or activity boundaries, major drainage patterns, and the receiving surface waters stated above.

Section H – Describe the Construction Activity or Project

Please describe the Construction Activity or Project

An 240 megawatt wind farm with access roads, turbine construction and collection system will be constructed . The electricity collected by the turbines will feed into a collection substation. A generation interconnection will extend for 9 miles south of the collection substation to intertie to a interconnection substation in Wyoming.

Project Construction will include:
1. Road installation
2. Turbine pad grading and installation
3. Foundation installation
4. Vertical construction
5. Generation Interconnection Installation
6. Collection System and Substation Installation

Please provide a summary of Best Management Practices (BMPs) in the SWPPP

Using the Erosion and Sediment Control Best Management Practices Handbook from the Montana Department of Transportation (5/2004) the follow practices will be used:

Straw waddles, Fiber Rolls, Erosion Control Matting, Drainage Swale, Scheduling, Soil Binder, Outlet protection, Seeding, Vegetated Buffer, Silt Fence, vehicle tracking, contaminated soil management, Material delivery and storage, Wind Erosion Control

Total site area (acres) 21,554
Area of Construction Related Disturbance (acres) 1551
Estimated Project Start Date 5/2014 Estimated Project Completion Date 12/2015
Estimated Project Final Stabilization Date 6/2016
Does the project discharge to listed impaired waterbody? Yes ☐ No ☑
Does the project discharge to a regulated Small Municipal Separate Storm Sewer System (MS4)? Yes ☐ No ☑
If yes, please select the receiving regulated Small MS4
If yes, will the SWPPP be submitted to the regulated Small MS4? Yes ☐ No ☑

Section I – Supplemental Information ***(For Permit Modification Only – leave blank except for modification)***

Section J – Fee:

☑ **NEW PROJECTS:**

Indicate the acreage of construction related disturbance indicated in Section H of this NOI form. The fee for new projects includes the application and the annual fee for the calendar year in which the permit authorization is effective.

☐	1-5 acres	$ 900.00
☐	>5-10 acres	$1,000.00
☐	>10-25 acres	$1,200.00
☐	>25-100 acres	$2,000.00
☑	>100 acres	$3,500.00

☐ **RESUBMITTAL** — **$ 500.00**

☐ **RENEWAL** — **$ Amount specified in Rule** *(only required if > four years since date the permit authorization is effective)*

☐ **MODIFICATION** — **$ 500.00** *(minor modification, only if < six months from date the permit authorization is effective)*

Section K - CERTIFICATION

Authorized Signatories: This form must be completed, signed, and certified as follows:

- For a corporation, by a principal officer of at least the level of vice president;
- For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- For a municipality, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

All Applicants Must Complete the Following Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information; including the possibility of fine and imprisonment for knowing violations. [75-5-633, MCA]

A. Name (Type or Print)	
John Husar	
B. Title (Type or Print)	**C. Phone No.**
Mud Springs Wind Project Owner	406-860-3830
D. Signature John S. Husar	**E. Date Signed** 3/28/2014

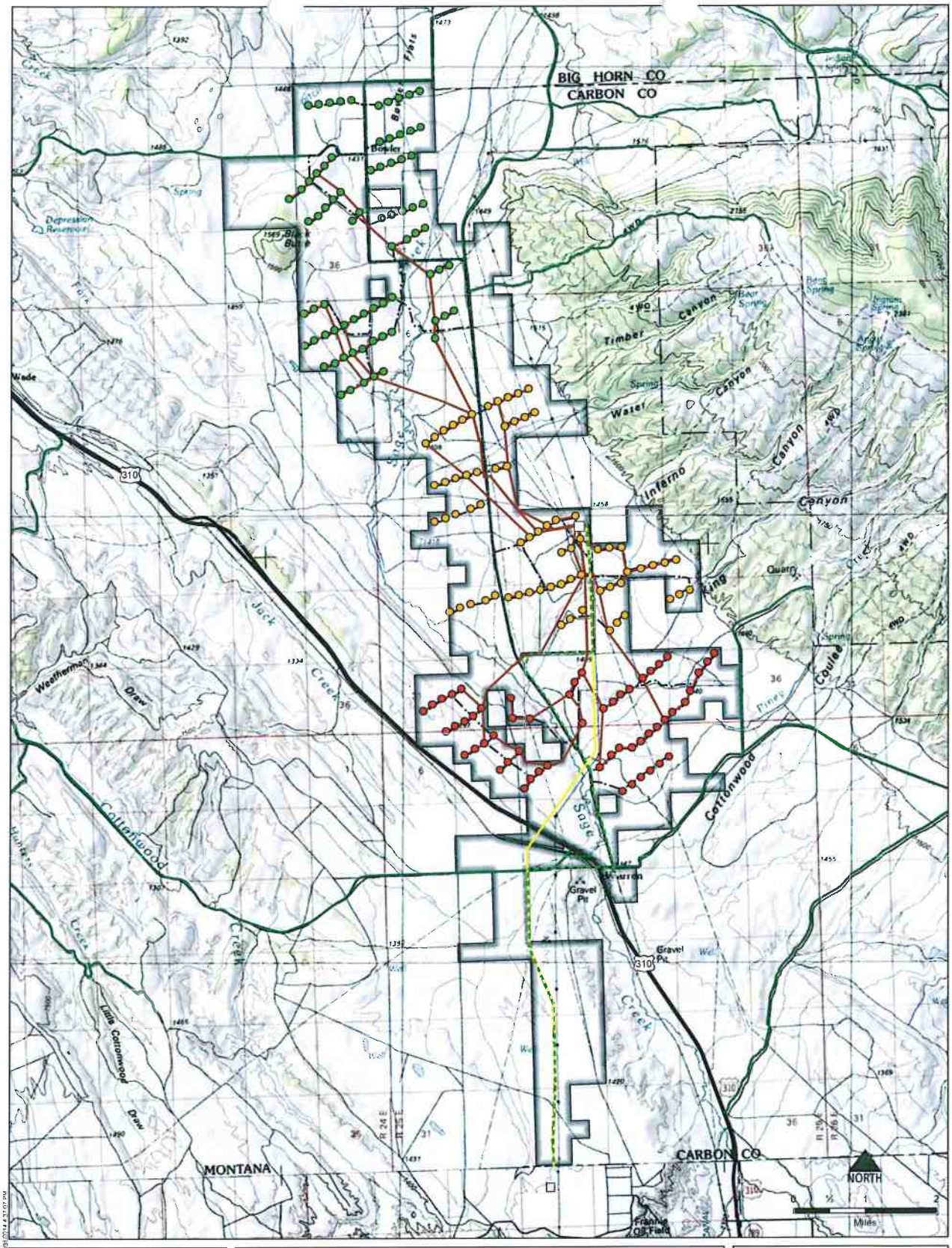
The Department will not process this form until all of the requested information is supplied, and the appropriate fees are paid. Return this form and the applicable fee to:

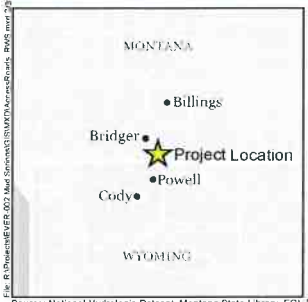
Department of Environmental Quality
Water Protection Bureau
PO Box 200901
Helena, MT 59620-0901
(406) 444-3080

RECEIVED

APR 0 4 2014

DEQ/WPB
PERMITTING & COMPLIANCE DIV.





Proposed Transmission
Proposed Transmission Alternate
Phase 1 Turbine
Phase 2 Turbine
Phase 3 Turbine
Feeders
County Road
Highway
Project Area

Mud Springs
Wind Development
SWPPP Maps
Project Overview

everpower

ECI ELECTRICAL CONSULTANTS, INC

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MONTANA SAGE GROUSE
HABITAT CONSERVATION PROGRAM

STEVE BULLOCK, GOVERNOR

1625 ELEVENTH AVENUE

STATE OF MONTANA

PHONE: (406) 444-0554
FAX: (406) 444-6721

PO BOX 201601
HELENA, MONTANA 59620-1601

Mike Speerschneider
Chief Permitting & Public Policy Officer
EverPower Wind Holdings
1251 Waterfront Place, 3rd Floor
Pittsburgh, PA 15222

Jan, 2016

Dear Mr. Speerschneider:

Based on our present understanding of the Mud Springs Wind Project, as represented by the development proponents, we believe that the project is not required to obtain any additional permits or other authorizations from the State of Montana. Accordingly, it is not subject to the requirements of Executive Orders 12-2015 and 21-2015, which set forth Montana's Sage Grouse Conservation Strategy.

Should the project be expanded or modified from the scope and details addressed in the original permit/s, consultation with the Sage Grouse Habitat Conservation Program may be required in the future.

Montana has recognized that Montana's best interests are served by proactively addressing the threats to sage grouse by implementing its Conservation Strategy to preclude a need for listing the sage grouse under the federal Endangered Species Act in the future. For this project, Montana encourages voluntary measures be undertaken to avoid and minimize impacts to sage grouse and sage grouse habitats, along with other restoration and mitigation efforts to reduce impacts over the life of the project. Project developers have shown a willingness to commit to mitigation that will compensate for their possible impacts to sage grouse, and we look forward to working with them.

Sincerely,

Carolyn Sime
Montana Sage Grouse Habitat Conservation Program Manager

MONTANA MDT DEPARTMENT OF TRANSPORTATION

Montana Department of Transportation

Billings District Office
424 Morey Street
PO Box 20437
Billings MT 59104-0437

Michael T. Tooley, Director
Steve Bullock, Governor

April 15, 2016

Aura Lindstrand
Electrical Consultants Inc.
3521 Gabel Rd
Billings, MT 59102

Subject: Notice of Utility Occupancy and Location Agreement
C-004 (Hwy 310) MP 5.3
Transmission line

Enclosed is one (1) approved copy of Notice of Utility Encroachment Permit Agreement for installation of a transmission line to cross C-004 (Hwy 310) at MP 5.3 in Carbon County, MT.

You may proceed with the installation of your facilities on Highway right-of-way system provided you adhere to the adopted policy of Regulations Governing Occupancy of State Highway System Right-of-Way by Utility Facilities.

The approval is granted with the understanding the installation is made according to the enclosed plans. If the installation is not as per the approved plan, the Encroachment Permit will be considered void. If revisions are necessary during construction, they may be made with prior written approval of this office.

Please see attached form with MDT Encroachment Permit Conditions.

The crew present on the project needs to have a copy of this permit with them to present if necessary.

48 hours prior to beginning work, contact Daran Shafer at 662-3637. Upon completion of the work and subsequent cleanup, please complete the enclosed inspection form and return it to Daran Shafer at the following address:

Daran Shafer
PO Box 49
Bridger, MT 59014

Randy Roth
Maintenance Chief- Billings District

MDT-MAI-007 07/14

Page 1 of 3

Montana Department of Transportation
Encroachment Application

2701 Prospect Avenue
PO Box 5895
Helena, MT 59604-5895
Phone: (406) 444-7220
Fax (406) 444-7684
TTY: (406) 444-7696
www.mdt.mt.gov

To be filled in by Department of Transportation Personnel Print Form

Agreement Number:	Project Number:	Project Name:	ID Number:	County:

Maintenance Section:	Corridor:	Sign Route:	Milepost:	Roadbed:

Montana Department of Transportation | Title: Maint. Chief | Signature: Rolll Rth | Date: 4-15-16

Subject to the terms and conditions shown on Page 2 hereof; this permit is hereby approved and granted. The "Permittee" agrees to the terms of this permit.

APPLICANT (PROPERTY OWNER)

NATURE OF PERMIT APPLICATION:

(Give sufficient detail to permit thorough understanding and submit blueprints or sketches in triplicate.)

*If work involves Environmental-Related cleanup or monitoring, also complete Section 7.

Township	Section	Range	/	Corridor	Sign Route	Mile Post
9S	9	25E	/	C-004	HBwy 310	5.3

Name: Everpower (ECI Consultant)

Phone\Fax Number: 406-259-9933

Address: 3521 Gabel Rd

E-mail: ryan.davis@eciblgs.com

City: Billings **State**: MT **Zip Code**: 59102

If a Corporation, give State of Incorporation and names of President and Secretary

Highway survey stations, milepost, distances to centerline, and distance from right-of-way line near which installations or structures will be installed:

For how long a period is the permit desired?: permanently

Are there environmental actions involving hazardous waste sites? (Superfund, Spills, Underground Storage Tanks, Old Mines, etc.) If Yes you will need to fill out additional environment questions.

- ○ Yes (Complete Page 3)
- ◉ No

An environmental checklist must be filled out, signed and attached in order for this application to be considered complete.

Link to Environmental Checklist

ECI | Title: Environmental Services Manager | Signature | Date: 4/15/2016

Company or Corporation

Montana Department of Transportation
Encroachment Application

2701 Prospect Avenue
PO Box 5895
Helena, MT 59604-5895
Phone: (406) 444-7220
Fax (406) 444-7684
TTY: (406) 444-7696
www.mdt.mt.gov

(INSTRUCTIONS CONCERNING USE OF THIS FORM)

Applicant will complete this form along with plans, sketches and an environmental checklist and send to the appropriate District Maintenance Chief for review and approval.

If the proposed installation will result in significant, permanent or long term impacts to the transportation network in terms of substantial increase traffic volumes, weight or delays to traffic on state roadways, such as major mines greater than five acres, a railroad at -grade crossing, railroad under or overpass, or strip mines, or if the proposed action has permanent impacts to other forms of transportation (rail, transit, or air movement), the encroachment permit must be submitted to the transportation planning division for review prior to issuance of this permit.

Subject to the following terms and conditions, the permit applied for upon the reverse side hereof, is hereby granted:

1. TERM. This permit shall be in full force and effect from the date hereof until revoked as herein provided.
2. REVOCATION. This permit may be revoked by State upon giving 45 days notice to Permittee by ordinary mail, sent to the address shown herein. However, the State may revoke this permit without notice if Permittee violates any of its conditions or terms.
3. COMMENCEMENT OF WORK. No work shall be commenced until Permittee notifies the Maintenance Chief shown in application the date the Permittee proposes to commence work.
4. CHANGES IN HIGHWAY. If State highway changes necessitate changes in structures or installations installed under this permit, Permittee will make necessary changes without expense to State.
5. STATE SAVED HARMLESS FROM CLAIMS. As a consideration of being issued this permit, the Permittee, its successors or assigns, agrees to protect the State and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case any suit or action is brought against the State and arising out of, or by reason of, any of the above causes, the Permittee, its successors or assigns, will, upon notice to them of the commencement of such action, defend the same at its sole cost and expense and satisfy any judgment which may be rendered against the State in any such suit or action.
6. PROTECTION OF TRAFFIC. The Permittee shall protect the work area with traffic control devices that comply with the Manual of Uniform Traffic Control Devices. The Permittee may be required to submit a traffic control plan to the Maintenance Chief for approval prior to starting work. During work, the Maintenance Chief or designee may require the Permittee to use additional traffic control devices to protect traffic or the work area. No road closure shall occur without prior approval from the District Engineer.
7. HIGHWAY AND DRAINAGE. If the work done under this permit interferes in any way with the drainage of the State highway affected. Permittee shall, at the Permittee's expense, make such provisions as the State may direct to remedy the interference.
8. RUBBISH AND DEBRIS. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the State.
9. INSPECTION. The installation authorized by this permit shall be in compliance with the attached plan and the conditions of this permit. The Permittee may be required to remove or revise the installation, at sole expense of Permittee, if the installation does not conform with the requirements of this permit or the attached plan.
10. STATE'S RIGHT NOT TO BE INTERFERED WITH. All changes, reconstruction or relocation shall be done by Permittee so as to cause the least interference with any of the State's work, and the State shall not be liable for any damage to the Permittee by reason of any such work by the State, its agents, contractors or representatives, or by the exercise of any rights by the State upon the highways by the installations or structures placed under this permit.
11. REMOVAL OF INSTALLATIONS OR STRUCTURES. Unless waived by the State, upon termination of this permit, the Permittee shall remove the installations or structures installed under this permit at no cost to the State and restore the premises to the prior existing condition, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
12. MAINTENANCE AT EXPENSE OF PERMITTEE. Permittee shall maintain, at its sole expense, the installations and structures for which this permit is granted, in a condition satisfactory to the State.
13. STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS. In accepting this permit, the Permittee agrees that any damage or injury done to said installations or structures by a contractor working for the State, or by any State employee engaged in construction, alteration, repair, maintenance or improvement of the State highway, shall be at the sole expense of the Permittee.
14. STATE TO BE REIMBURSED FOR REPAIRING ROADWAY. Upon being billed, therefore, Permittee agrees to promptly reimburse State for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this permit.
15. The Permittee shall not discharge or cause discharge of any hazardous or solid waste by the installation or operation of the facility of a State Right-of-Way.
16. The Permittee will control noxious weeds within the disturbed installation area for two (2) years.
17. In accordance with Mont. Code Ann. § 76-3-403(2), Permittee shall, at Permittee's expense, employ the services of a Montana Licensed Professional Land Surveyor to re-establish all existing survey monuments disturbed by work contemplated under this permit.
18. The use of explosives is prohibited for the installation.
19. Any condition of this permit shall not be waived without written approval of the appropriate District Administrator.

20. OTHER CONDIDTIONS AND/OR REMARKS:

21. ☐ See attached addendum

MDT Occupancy Permit Conditions

- We request you adhere to the Minimum Signing Standards adopted by the Department of Transportation. **Please turn in a traffic control plan if traffic will be impacted in any way on the highway.**

- The project may have the potential to impact wetlands or other aquatic resources in this area. If any aquatic resources, such as streams, wetlands, canals, irrigation ditches, springs, etc. will be impacted as a result of this project, the appropriate water quality permits must be obtained from state, federal, tribal and/or local agencies.

- The applicant is solely responsible for any environmental impacts incurred as a result of this project and is solely responsible for obtaining any necessary environmental permit, notifications, and/or any other necessary environmental clearances.

- Any damage done to MDT facilities or adjacent to landowners as a result of the applicant's design or construction is the sole responsibility of the applicant and MDT will not be liable for damages.

- The applicant will be responsible for the development and implementation of adequate remedial measures.

- The permit, along with all conditions and restrictions for the communication line will be transferred to any subsequent parties operating and/or owning the communication line. It is the responsibility of the applicant or their successor to notify MDT of any ownership changes within two weeks of the change.

- If highway right-of-way is under permit or easement, it is your responsibility to secure permission of the property owner.

- The applicant agrees that any work performed before MDT review and approval that requires permitting is subject to removal by the applicant at their sole expense if MDT design standards and/or guidelines are not met.

- The applicant must obtain approvals from downstream landowners if their proposed actions impact downstream properties (easements, etc.) and provide documentation of appropriate coordination with affected landowners.

- MDT design reviews are meant to insure compatibility with existing facilities and design standards and guidelines. The applicant is responsible for all survey and plan errors and/or omissions that impact the constructability or intended design function of the project.

MDT-ENV-006 11/13

Montana Department of Transportation
Environmental Checklist

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
Phone: (406) 444-7228
Fax (406) 444-7245
TTY: (406) 444-7696
www.mdt.mt.gov

Control Number/ UPN	Project Identification Number	Name/ Location Description	Route/Corridor	Federal Funds Involved?

(↑ For MDT Use Only ↑)

Date: Apr 15, 2016

Choose type of Environmental Checklist: Encroachment/Occupancy (including Utility)

Location

Highway or Route:	Milepost(s):
HWY 310	5.34

Physical Address:	City:
N/A	Warren

Legal Description:	County:
N/A	Carbon

Township:	Range:	Section(s):
9S	25E	9

Applicant Information:

Name:	Title
Ryan Davis	Project Manager

Company/Utility:
ECI (consultant for Everpower)

Mailing Address:	Phone:
3521 Gabel Road	4062599933

City:	State:	Zip:	Business Phone:
Billings	MT	59102	4062599933

MDT Environmental Checklist Help Guide

(Click button or go to www.mdt.mt.gov/other/environmental/external/forms/ENVIRONMENTAL-CHECKLIST-HELPSHEET.PDF)

Impact Questions
Actions that qualify for Categorical Exclusion under MEPA and/or NEPA (See ARM 18.2.261 and 23 CFR 771.117)
(See ARM 18.2.261 and 23 CFR 771.117)

Comment, Explanation, and/or Information Source (Attach supporting information, as necessary.)

1	Will the proposed action impact any known historical or archaeological site(s)?	○ Yes	◉ No	
2	Will the proposed action impact any publicly owned parkland(s), recreation area(s), wildlife or waterfowl refuge(s)?	○ Yes	◉ No	
3	Will the proposed action impact prime farmlands? (If yes, attach a completed Farmland Conversion Impact Rating Ad-1006.)	○ Yes	◉ No	
4	a. Will the proposed action have an impact on the human environment that may result from relocations of persons or businesses, changes in traffic patterns, changes in grade, or other types of changes?	○ Yes	◉ No	
	b. Has the proposed action received any preliminary or final approval from the local land use authority?	◉ Yes	○ No	
5	For the proposed action, is there documented controversy on environmental grounds? (For example, has the applicant received a letter of petition from an environmental organization?)	○ Yes	◉ No	
6	Will the proposed action require work in, across or adjacent to a listed or proposed Wild or Scenic River?	○ Yes	◉ No	
7	Will the proposed action require work in a Class I Air Shed or nonattainment area?	○ Yes	◉ No	
8	Will the proposed action impact air quality or increase noise, even temporarily?	○ Yes	◉ No	
9	a. Is the proposed project a MS4 Area? (Billings, Bozeman, Butte, Helena, Great Falls, Kalispell, and Missoula)	○ Yes	◉ No	
	b. Will the proposed action have potential to affect water quality, wetlands, streams or other water bodies? If YES, an environment-related permit or authorization may be required.	○ Yes	◉ No	
10	Are solid or hazardous wastes or petroleum products likely to be encountered? (For example, project occurs in or adjacent to Superfund sites, known spill areas, understorage tanks, or abandoned mines.)	○ Yes	◉ No	
11	a. Are there any listed or candidate threatened or endangered species, or critical habitat in the vicinity of the proposed action?	○ Yes	◉ No	
	b. Will the proposed action adversely affect listed or candidate threatened or endangered species, or adversely modify critical habitat?	○ Yes	◉ No	
12	Will the proposed action require an environmental-related permit or authorization? If the answer is "yes," please list the specific permits or authorizations.	○ Yes	◉ No	
13	a. Is the proposed action on or within approximately 1 mile of an Indian Reservation?	○ Yes	◉ No	
	b. If "Yes", will a Tribal Water Permit be required?	○ Yes	○ No	◉ N/A
14	Will the proposed action result in increased traffic volumes, increased wait or delays on state highways, or have adverse impacts on other forms of transportation (rail, transit or air movements)?	○ Yes	◉ No	
15	Is the proposed action part of a project that may require other governmental permits, licenses or easements? If "Yes", describe the full extent of the project and any other permits, licenses or easements that may be necessary for the applicant to acquire.	○ Yes	◉ No	

Montana Department of Transportation Environmental Checklist

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
Phone: (406) 444-7228
Fax (406) 444-7245
TTY: (406) 444-7696
www.mdt.mt.gov

16	Attach a brief description of the work to be performed, including any subsurface work.	☒ Description Attached
17	Attach representative photos of the site(s) where the proposed action would be implemented. Photos are to include any structures, streams, irrigation canals, and/or potential wetlands in the project area.	☐ Photos Attached
18	Attach map(s) showing the location(s) of the proposed action(s); Section, Township, Range; highway or route number and approximate route post(s).	☒ Maps Attached

Checklist preparer:	Title:		Date
Ryan Davis	Project Manager	Signature	Apr 15, 2016

Reviewed for completeness by:

MDT District Representative	Title: DUES	Date: 4-15-16

Checklist Approved by:

Environmental Services Bureau (When any of the items 1 through 15 are checked "Yes")	Title: B. Ann DEES	Date: 4-15-2016
Transportation Planning (When any of the items 14 or 15 are checked "Yes")	Title	Date

Checklist Conditions and Required Approvals

A. The applicant is not authorized to proceed with the proposed work until the checklist has been reviewed and approved, as necessary, and any requested conditions of approval have been incorporated.

B. Complete the checklist items 1 through 15, indicating "Yes" or "No" for each item. Include comments, explanations, information sources, and a description of the magnitude/importance of potential impacts in the right hand column. Attach additional and supporting information as needed. Ensure that information required for items 16, 17, and 18, is attached. The checklist preparer, by signing, certifies the accuracy of the information provided.

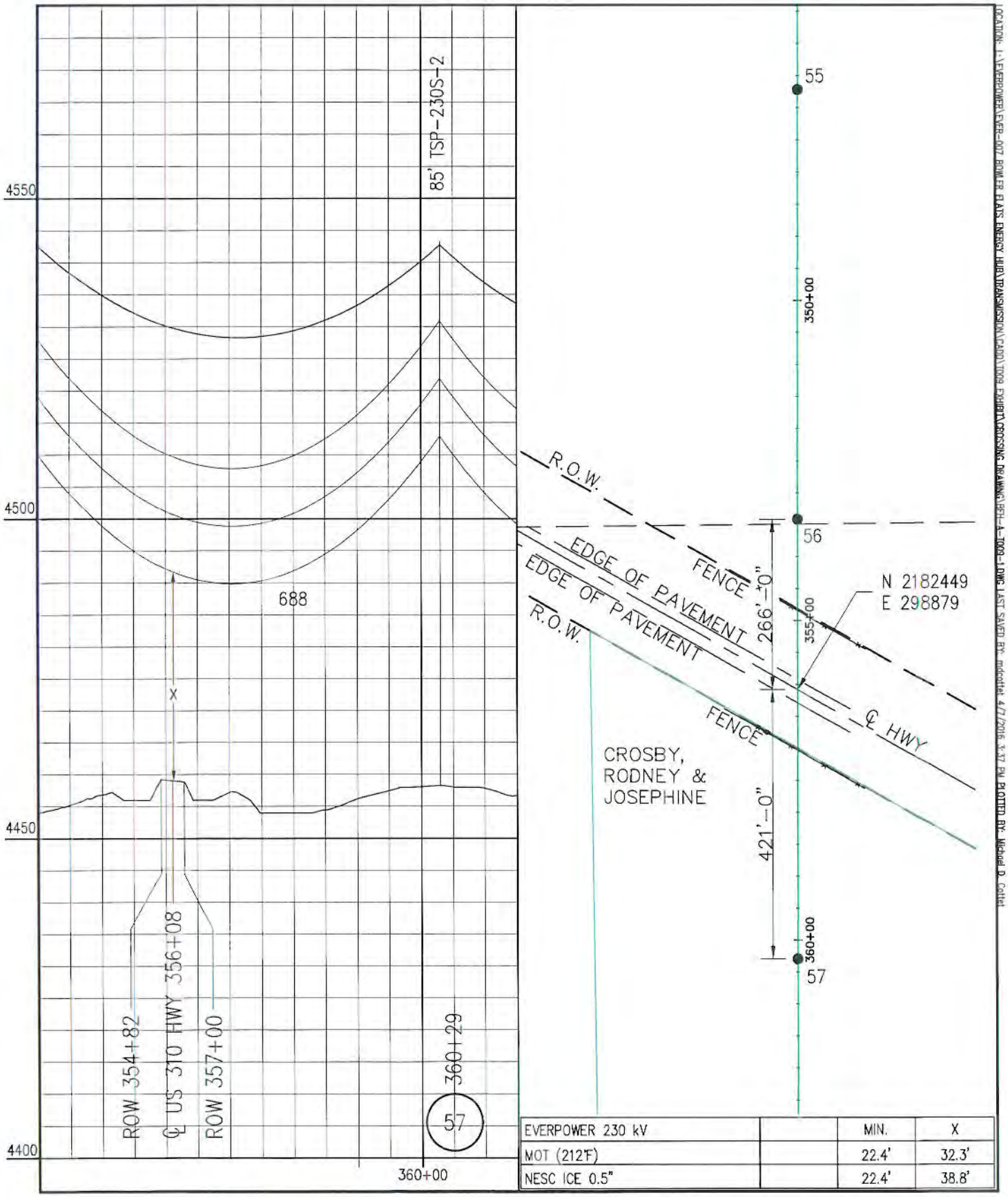
C. If "Yes" is indicated on any of the items, the Applicant must explain the impacts as applicable. Appropriate mitigation measures that will be taken to avoid, minimize, and/or mitigate adverse impacts must also be described. **Any proposed mitigation measures will become a condition of approval.** Use attachments if necessary. If the applicant checks "No" and the District concludes there may in fact be potential impacts, the Environmental Checklist must be forwarded to Environmental Services Bureau for review and approval.

D. If "Yes" is indicated in item 11 a. (threatened or endangered species), the Applicant should provide information naming the particular species and the expected location, distribution and habitat use in the proposed action area, i.e. within the immediate area of the proposed action; or, in the general area on occasion (seasonally passes through) but does not nest, den or occupy the area for more than a few days.

E. If the applicant checks "Yes" for any item, the approach permit, occupancy agreement or permit, along with the checklist and supporting information, including the Applicant's mitigation proposal, documentation, evaluation and/or permits must be submitted to MDT Environmental Services Bureau. Electronic format is preferred.

F. When the applicant checks "Yes" to any item, the Applicant cannot be authorized to proceed with the proposed work until the MDT Environmental Services Bureau and/or Transportation Planning, as appropriate, reviews the information and signs the checklist.

G. Applicant must obtain all necessary permits or authorizations from other entities with jurisdiction prior to beginning the proposed action or activity. The Applicant is solely responsible for any environmental impacts incurred as a result of the project; obtaining any necessary environmental permits, notifications, and/or clearances; and ensuring compliance with environmental laws and regulations.



EVERPOWER 230 kV		MIN.	X
MOT (212°F)		22.4'	32.3'
NESC ICE 0.5"		22.4'	38.8'

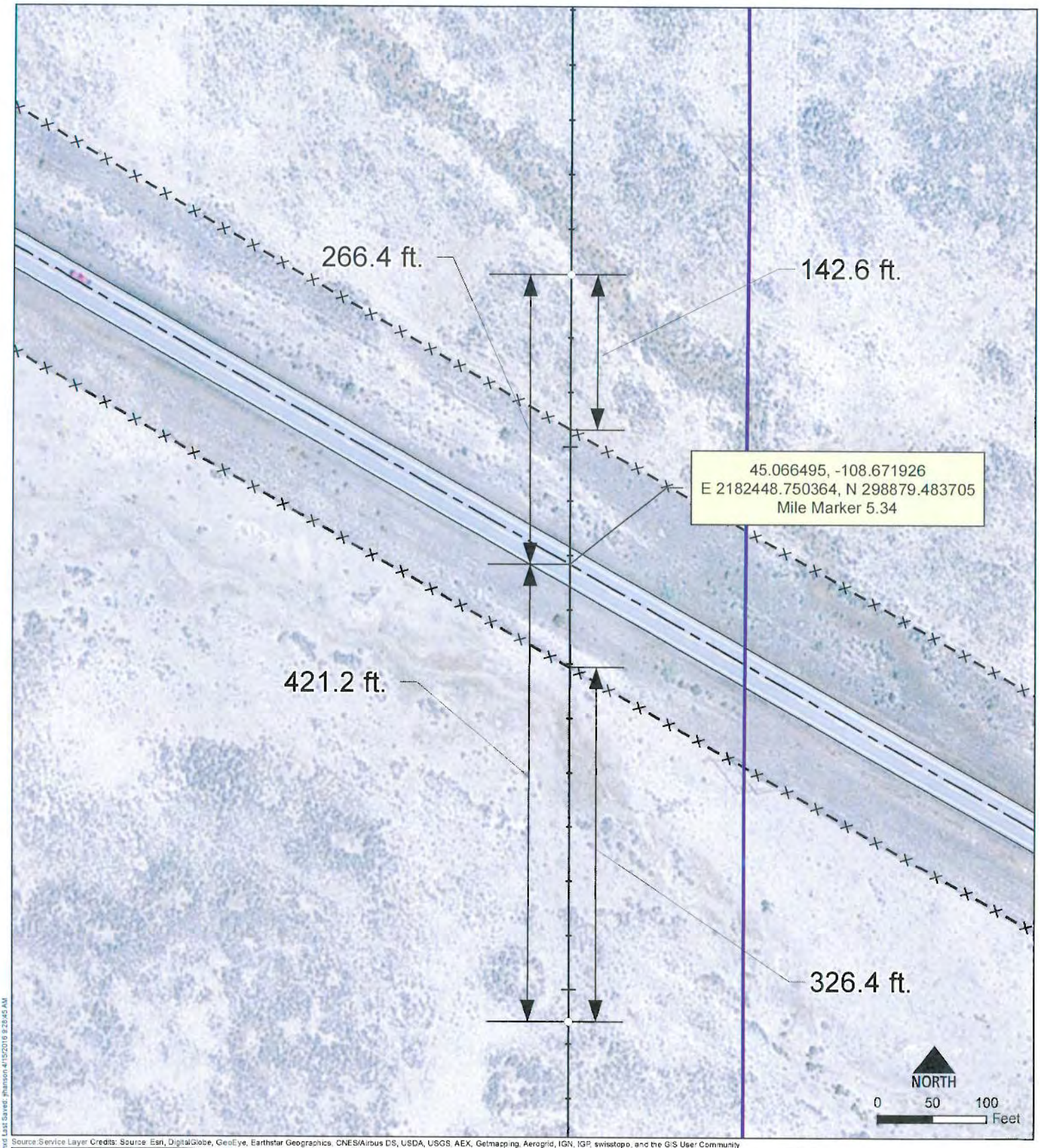
ELECTRICAL CONSULTANTS, INC.

everpower

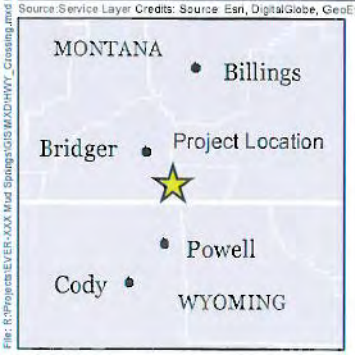
ENGINEERING RECORD		DATE
DRAWN	M. COTTET	03/31/16
DESIGNED	M. HEIKENS	03/31/16
CHECKED		
APPROVED		
DWG SCALE: AS NOTED	PLT SCALE: 1:1	

BOWLER FLATS ENERGY HUB 230 kV TRANSMISSION LINE
US 310 HWY CROSSING
STATION 356+08

DWG NAME: BFH-A-T009-1 REVISION NO : A



Source: Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



- Structure
- Transmission Line Centerline
- Fence Line
- Highway 310 Centerline
- Edge of Pavement
- Existing 230 kV Transmission Line

Mud Springs Energy Hub
Highway 310 Crossing

everpower

ECI
ELECTRICAL CONSULTANTS, INC.

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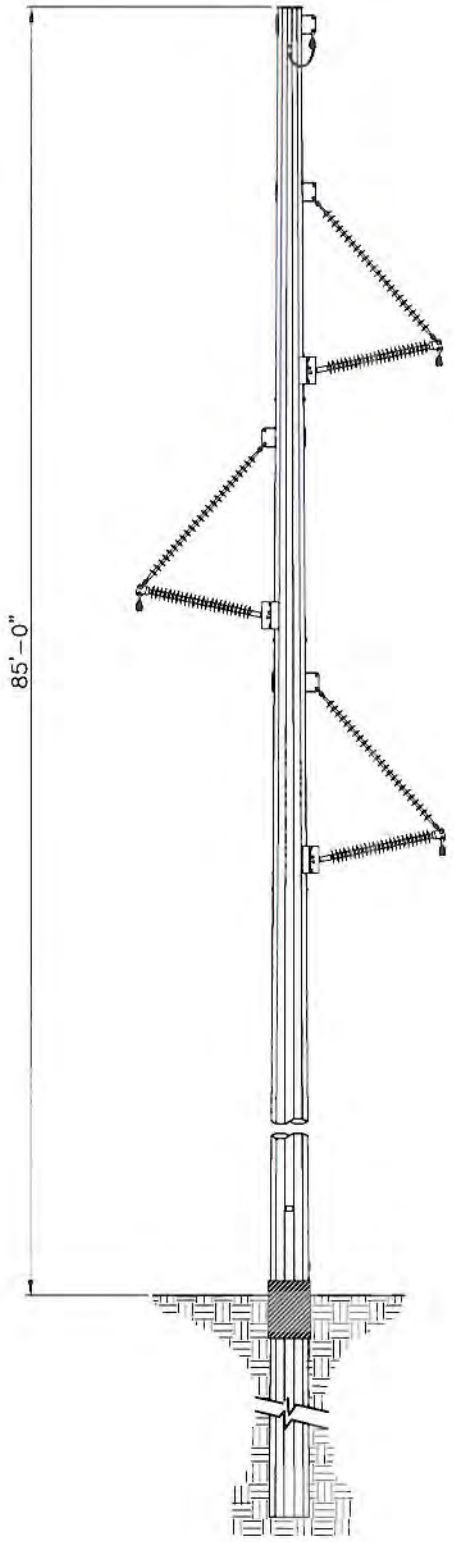

ELECTRICAL CONSULTANTS, INC.

everpower

ENGINEERING RECORD		DATE
DRAWN	M. SCHAAF	04/158/16
DESIGNED	M. HEIKENS	04/15/16
CHECKED		
APPROVED		
DWG SCALE: AS NOTED	PLT SCALE: 1:1	

BOWLER FLATS ENERGY HUB 230 kV TRANSMISSION LINE

BRACED POST ASSEMBLY EXHIBIT

TSP-230S

DWG NAME: BFH-A-T009-3 | REVISION NO : A

"Engineering with Distinction"

ELECTRICAL CONSULTANTS, INC.

BILLINGS OFFICE: 3521 GABEL ROAD, BILLINGS, MONTANA 59102 • PHONE: 406-259-9933 • FAX: 406-259-3441

April 15, 2016

Montana Department of Transportation
Attn: Tammy Saldivar
424 Morey Street
Billings, MT 59104-0437

RE: Utility Occupancy and Location Agreement & MDT Environmental Checklist

Dear Ms. Saldivar:

Enclosed is a Utility Occupancy and Location Agreement for a 230 kV transmission line crossing located on Highway 310, approximately 21 miles southeast of Bridger, Montana. This transmission line will service the Bowler Flats Energy Hub substation located in Park County, Wyoming directly south of the T-line crossing.

Should you have any questions or require additional information, please contact me at 406-259-9933 or by email at aura.lindstrand@eciblgs.com.

Sincerely,

Aura Lindstrand
Environmental Project Supervisor

Enclosure: MDT Utility Occupancy and Location Agreement
MDT Environmental Checklist
MDT Bowler Flats Energy Hub Transmission Line Crossing Detail
Transmission Line Location Map – HWY 310 Crossing

MONTANA SAGE GROUSE
HABITAT CONSERVATION PROGRAM

STEVE BULLOCK, GOVERNOR

1539 ELEVENTH AVENUE

STATE OF MONTANA

PHONE: (406) 444-0554
FAX: (406) 444-6721

PO BOX 201601
HELENA, MONTANA 59620-1601

November 1, 2017

Mr. Seth Wilmore
Sunrise Wind Holdings, LLC
1251 Waterfront Place, 3rd Floor
Pittsburgh, PA 15222

Dear Mr. Wilmore,

This letter is to acknowledge our ongoing dialogue and collaboration with respect to the Mud Springs Wind Project proposed in Carbon County. By letter in January of 2016, I notified you that the Project would not be subject to the requirements of Executive Orders 12-2015 and 21-2015 because it was not required to obtain any new, additional permits or other authorizations from the State of Montana. This is still the case.

However, since that time, the State of Montana has undertaken the process necessary to renew storm water discharge permit coverage for all current permit holders under the Federal Clean Water Act for the upcoming period 2018-2022 (the new 5-year permit term). The current permit expires on December 31, 2017. The Montana Department of Environmental Quality (DEQ) is authorized to administer the National Pollutant Discharge Elimination System and Montana statutes pertaining to discharges due to construction activity and other sources.

DEQ has notified holders of permits for the period 2013-2017 that permits must be reissued for the period 2018-2022 so that discharge authorizations can be renewed. Accordingly, Sunrise Wind Holdings LLC (Sunrise) must take the steps necessary to obtain continuing coverage, including submitting an application to DEQ with evidence of consultation with the Sage Grouse Habitat Conservation Program (Program). This letter also serves that purpose.

I appreciate the ongoing collaboration between Sunrise and the Program to develop a voluntary Mitigation Plan even though the requirements of Executive Order 12-2015 are not mandatory in this case because of the prior state authorizations. Most recently, the Program provided comments on a draft mitigation plan. We look forward to working with you to finalize the Mitigation Plan prior to the commencement of construction (expected sometime in 2018).

Lastly, this letter serves as my recommendation that DEQ renew Sunrise's the storm water discharge authorization for the Mud Springs Project for the period 2018 – 2022. As we discussed, I would also note that a reasonable stipulation DEQ may consider including in the permit would be to require that Sunrise and the Program finalize the Mitigation Plan prior to the initiation of construction and that Sunrise implement the final Plan we agree to.

Thanks again for working with the Program and your commitment to taking the steps necessary to ensure Montana's Sage Grouse Conservation Strategy is successful. Please don't hesitate to refer DEQ representatives to Therese Hartman or myself should any questions arise.

Sincerely,

Carolyn Sime
Montana Sage Grouse Habitat Conservation Program Manager

AGENCY USE ONLY				
PERMIT NO.:	Date Rec'd.:	Amount Rec'd.:	Check No.:	Rec'd By:
MTR105482	11.14.17	$3500	1122	JR

ENTERED
NOV 27 2017
DT

DEQ
Montana Department of Environmental Quality
WATER PROTECTION BUREAU

RECEIVED
NOV 14 2017
DEQ WATER QUALITY DIVISION

FORM
NOI-SWC

Notice of Intent (NOI) Storm Water Discharge Associated With Construction Activity MTR100000

The NOI form is to be completed by the owner or operator of construction activity eligible for coverage under the Department's *General Permit for Storm Water Discharges Associated with Construction Activities*. Please read the attached instructions before completing this form. You must print or type legibly; forms that are not legible or are not complete or are unsigned will be returned. You must maintain a copy of the completed NOI form for your records.

Section A - NOI Status *(Check one)*:

- ○ New — No prior NOI submitted for this site.
- ◉ Renewal — Permit Number: MTR10 5 4 8 2
- ○ Modification — Permit Number: MTR10 _ _ _ _ (Discuss Modification in Section I)
- ○ Resubmittal/Administrative Processing — Permit Number: MTR10 _ _ _ _

Section B – Facility or Site Information

Site Name: Sunrise Wind Holdings, LLC

Site physical address, mailing address at location, or directions to the site:
To access site take HWY 312 21.5 miles southeast from Bridger, Montana to Quarry Road

Township/Range/Section *(optional)*:

Nearest City or Town: Bridger, MT Zip Code: 59014 County: Carbon

Latitude: 45.06 Longitude: -108.66

Is this facility or site located within a recognized Indian Reservation? ○ Yes ◉ No If yes permit must be obtained through US EPA

Section C – Applicant (Owner/Operator) Information: ◉ Owner ○ Operator ○ Both

Owner or Operator Name (Organization Formal Name): Sunrise Wind Holdings, LLC

Mailing Address: 1251 Waterfront Place

City, State, and Zip Code: Pittsburgh, PA 15222

Phone Number: (412) 253-9419 Email: SWilmore@everpower.com

Status of Applicant *(Check one)* ○ Federal ○ State ◉ Private ○ Public ○ Other (specify) _____

Section D – Existing or Pending Permits, Certifications, or Approvals:

☑ None ☐ MPDES _____ ☐ RCRA _____

☐ 404 Permit (dredge & fill) _____ ☐ Other _____

Local Sediment and Erosion Control Requirements:

1. Is the construction project located within a regulated Municipal Separate Storm Sewer System (MS4)?
   ○ Yes, Complete item 2. ◉ No
2. The applicant must contact the MS4 to verify if additional local sediment and erosion controls are required:

Name of MS4: _____

MS4 Contact Name: _____ Contact Date: _____

Submit the SWPPP to the MS4 if required. Any additional MS4 requirements must be incorporated into the SWPPP.

Sage Grouse Habitat:

Visit the Montana Sage Grouse Habitat Conservation Program (Program) website to determine if the construction project is located in designated sage grouse habitat (core, general, and/or connectivity).

◉ Yes, Submit application to the Program and attach resulting consultation letter.

○ No, Project is not located in a designated habitat.

Section E - Standard Industrial Classification (SIC) Codes:

Select at least one SIC code which best reflects the type of construction work.

A. Primary	B. Second
1542 - General Contractors - Nonresidential Buildings, Othe	
C. Third	**D. Fourth**

Section F – SWPPP Preparer and Administrator

SWPPP Preparer:

Name Amy Fellenz Position Title Project Supervisor

Mailing Address 3521 Gabel Road

City, State, and Zip Code Billings, MT 59102

Phone (406)259-9933 Alternate Phone (406)869-4768

Company Name Electrical Consultants, Inc. Email amy.fellenz@eciblgs.com

Training Course Altitude Training BMP 101 & 201 Date Completed 10/5/2016

SWPPP Administrator: ☑ **Same as above**

Name _____ Position Title _____

Mailing Address _____

City, State, and Zip Code _____

Phone _____ Alternate Phone _____

Company Name _____ Email _____

Training Course _____ Date Completed _____

Secondary SWPPP Administrator:

Name Ryan Davis Position Title Environmental Project Manager

Mailing Address 3521 Gabel Road

City, State, and Zip Code Billings, MT 59102

Phone (406) 259-9933 Alternate Phone (406) 869-2154

Company Name Electrical Consultants, Inc Email ryan.davis@eciblgs.com

Training Course Altitude BMP 201R Date Completed 03/25/2016

For additional SWPPP Administrators, please complete and submit Attachment A – Delegation of Authority

Section G – Receiving Surface Water(s):

Storm Water Outfall/Discharge Locations: For each outfall, list latitude and longitude in the decimal degrees format (00.0000; -000.0000) and the name of the receiving waters. **This section must not be left blank and N/A is not acceptable** (see instructions for details)

Outfall Number	Latitude	Longitude	Receiving Surface Waters
001	45.09722400	-108.67878000	Sage Creek
002	45.08331400	-108.66569300	Sage Creek
003	45.09204200	-108.67120300	Sage Creek
004	45.09457200	-108.67627500	Sage Creek
005	45.10030500	-108.68292600	Sage Creek
006	45.07469500	-108.66287000	Piney Creek
007			
008			
009			
010			

Waterbodies with Impairments (see instructions):

Are any of the above waterbodies listed as impaired for potential pollutants from your construction activities. (see instructions for accessing the Clean Water Act Information Center)

○ Yes (continue with next question) ◉ No

If yes, have you updated the SWPPP to include BMPs that target and reduce discharges of the identified pollutants causing impairment of the waterbodies and any TMDL requirements?

○ Yes ○ No

Section H – Briefly Describe the Nature of the Construction Activity or Project

An 240 megawatt wind farm with access roads, turbine construction and collection system will be constructed . The electricity collected by the turbines will feed into a collection substation. A generation interconnection will extend for 12 miles south of the collection substation to intertie to an interconnection substation in Wyoming.

Please provide a summary of Best Management Practices (BMPs) in the SWPPP

Erosion Control BMPs: Surface roughening, preservation of existing vegetation, minimizing ground disturbance, mulch, tackifiers, temporary seeding, erosion control blankets, culverts, and outlet protection.

Sediment Control BMPs: Silt fence, straw wattles, vegetative buffers, compost socks, vehicle tracking control pad, stabilized vehicle entrance, stabilized parking area, and stabilized construction roadway.

Administrative control BMPs: Concrete and Liquid Waste Washouts, worker toilets, construction fencing, dust control, stabilized staging area, material storage and stockpile area, spill prevention and response procedures, scheduling and material delivery and storage.

Total site area (acres) 15559
Area of Construction Related Disturbance (acres) 285
Estimated Project Start Date 06/01/2014 Estimated Project Completion Date 11/01/2019
Estimated Project Final Stabilization Date 11/01/2020

Section I – Supplemental Information ***(For Permit Modification Only – leave blank except for modification)***

Section J – Fee:

◯ **NEW PROJECTS:**

Indicate the acreage of construction related disturbance indicated in Section H of this NOI form. The fee for new projects includes the application and the annual fee for the calendar year in which the permit authorization is effective.

◯	1-5 acres	$ 900.00
◯	>5-10 acres	$1,000.00
◯	>10-25 acres	$1,200.00
◯	>25-100 acres	$2,000.00
◯	>100 acres	$3,500.00

◉ **RENEWAL** **$ Amount specified in Rule** *(fee provided in renewal notice)*

◯ **MODIFICATION** **$ 500.00** *(minor modification, only if less than six months from date the permit authorization is effective)*

◯ **RESUBMITTAL / ADMINISTRATIVE PROCESSING** **$ 500.00**

Section K - Attachments:

Map: ☑
Attach a USGS topographic quadrangle map extending one mile beyond the property boundaries of the site or activity identified in Section B depicting the facility or activity boundaries, major drainage patterns, and the receiving surface waters stated above.

SWPPP and Site Map: ◉ Attached ◯ Renewal (updated SWPPP and site map attached)

Section L - Certification

Authorized Signatories: This form must be completed, signed, and certified as follows:

- For a corporation, by a principal officer of at least the level of vice president;
- For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- For a municipality, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

All Applicants Must Complete the Following Certification:

ENTERED
NOV 17 2017
DT

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information; including the possibility of fine and imprisonment for knowing violations.

A. Name (Type or Print)	
Masashiro Ogiso	
B. Title (Type or Print)	**C. Phone No.**
Chief Development Officer	(412) 913-9767
D. Signature	**E. Date Signed**
	11/6/17

The Department will not process this form until all of the requested information is supplied, and the appropriate fees are paid. Return this form and the applicable fee to:

Department of Environmental Quality
Water Protection Bureau
PO Box 200901
Helena, MT 59620-0901
(406) 444-3080

RECEIVED
NOV 17 2017
DEQ WATER QUALITY DIVISION

Section L - Certification

Authorized Signatories: This form must be completed, signed, and certified as follows:

- For a corporation, by a principal officer of at least the level of vice president;
- For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- For a municipality, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

All Applicants Must Complete the Following Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information; including the possibility of fine and imprisonment for knowing violations.

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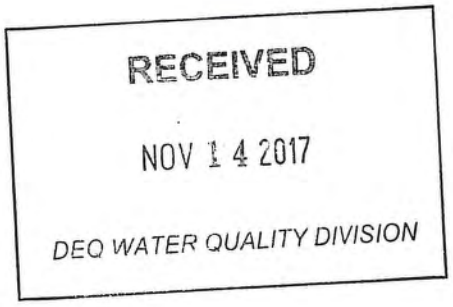
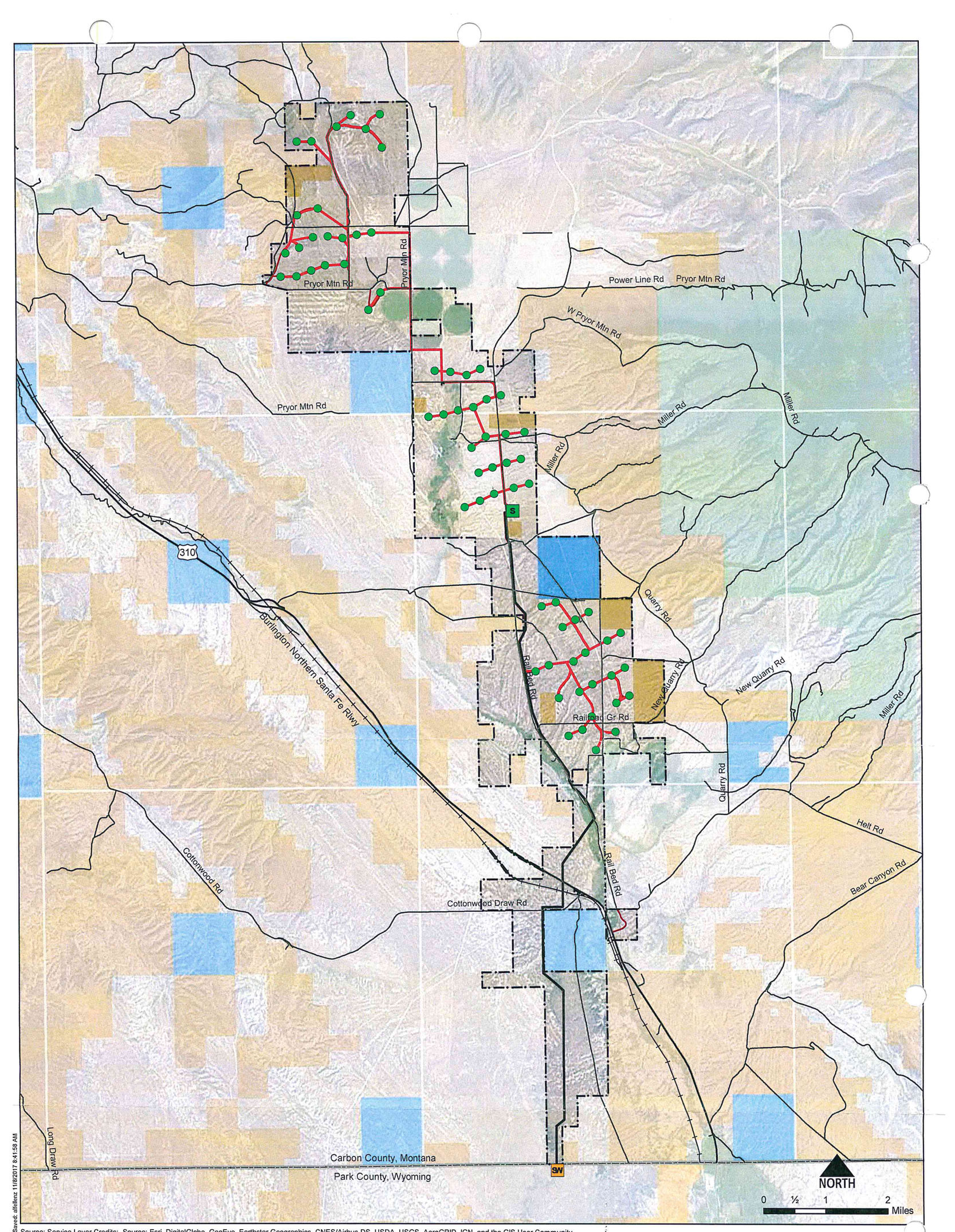
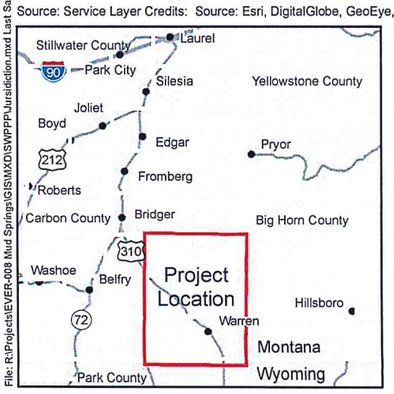




Source: Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



- Wind Turbine
- Project Substation
- Project Switchyard
- US Highway 310
- Proposed Transmission Line
- BNSF Railway
- Proposed Feeder Path
- New Access Road Construction
- State Line
- Project Boundary
- US Bureau of Land Management
- State Land
- US Forest Service

Sunrise Wind Holdings, LLC
Wind Energy Project
Project Overview

everpower™

"Engineering with Distinction"
EGI ELECTRICAL CONSULTANTS, INC.

File: R:\Projects\EVER-008 Mud Springs\GIS\MXD\SWPPP\Jurisdiction.mxd Last Saved: alellenz 11/8/2017 8:41:58 AM

"Engineering with Distinction"

ELECTRICAL CONSULTANTS, INC.

BILLINGS OFFICE: 3521 GABEL ROAD, BILLINGS, MONTANA 59102 • PHONE: 406-259-9933 • FAX: 406-259-3441

November 8, 2017

MTDEQ
Water Protection Bureau
PO Box 200901
Helena MT 59620-0901

Re: Renewal SWPPP

To Whom It May Concern:

Please find the enclosed Stormwater Pollution Prevention Plan (SWPPP) renewal for Mud Springs Wind accompanied by the renewal fee. Enclosed with this renewal SWPPP is a recent letter from the Montana Sage Grouse Habitat Conservation Program providing evidence of consultation.

Should there be any further questions or comments, please feel free to contact Amy Watrud at 406-869-4768 or by e-mail at amy.watrud@eciblgs.com

Sincerely,

Amy L Watrud

Amy Watrud

Enclosures: SWPPP, Payment

OFFICE LOCATIONS NATIONWIDE

- *BILLINGS, MONTANA – (406) 259-9933*
- *PORTLAND, OREGON – (503) 747-2235*
- *DENVER, COLORADO – (720) 536-8261*
- *SALT LAKE CITY, UTAH – (801) 292-9954*
- *SAN DIEGO, CALIFORNIA – (619) 398-9370*
- *TULSA, OKLAHOMA – (918) 296-7911*
- *MADISON, WISCONSIN – (608) 240-9933*
- *MANKATO, MINNESOTA – (507) 388-9933*
- *CRANFORD, NEW JERSEY – (908) 967-6363*
- *PHOENIX, ARIZONA – (602) 997-9933*
- *TUCSON, ARIZONA – (520) 219-9933*
- *ORLANDO, FLORIDA – (407) 960-1796*

Note: This bill amends the Montana Sage Grouse Stewardship Act. It has an immediate effective date and was signed by Governor Bullock on May 2, 2019.

AN ACT GENERALLY REVISING LAWS RELATED TO SAGE GROUSE CONSERVATION; EXEMPTING CERTAIN LAND USES AND ACTIVITIES FROM REGULATION; REVISING MONTANA SAGE GROUSE OVERSIGHT TEAM AUTHORITY; REVISING REPORTING REQUIREMENTS; REVISING COMPENSATORY MITIGATION REQUIREMENTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-22-105, 76-22-111, AND 76-22-118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Existing land uses and activities exempt. (1) Existing land uses and activities are recognized and respected, and those uses and activities, including those authorized by permit but not yet conducted, that existed as of September 8, 2015, may not be managed under the stipulations of a sage grouse conservation strategy adopted by the governor through executive order or a policy, rule, or regulation adopted by the oversight team. Those existing land uses and activities may continue within an existing defined project boundary even if they exceed the stipulations of those documents. However, permitting agencies shall apply seasonal use restrictions, as necessary, for discretionary activities at existing land use sites.

(2) For the purposes of this section, the term:

(a) "defined project boundary" includes but is not limited to a right-of-way, easement corridor, recognized oil and gas unit, drilling and spacing unit, mine plan, and subdivision plat; and

(b) "existing land uses and activities" means those uses and activities that require a permit or other authorization from a state agency to be conducted and includes but is not limited to railroads, oil and gas, mining, agriculture, processing facilities, power lines, telecommunications facilities, including wire and fiber optic cable, housing, and operations and maintenance activities of existing energy systems that occur within a defined project boundary.

Section 2. Compensatory mitigation reduction or waiver. (1) The oversight team shall consider on a case-by-case basis requests for a reduction in or waiver of compensatory mitigation based upon an assessment

including but not limited to the following:

(a) a project that is located at least six-tenths of a mile from the center of an active lek but for which it is economically infeasible to be located more than 2 miles from the center of an active lek;

(b) the economic benefit to the local community and the project developer;

(c) whether the project is undertaken and completed outside of the sage grouse mating season; or

(d) whether the project involves one-time construction and does not require ongoing disturbance once completed, except for occasional routine maintenance of existing facilities.

(2) The oversight team shall provide a summary of the reasons why a reduction in or waiver of compensatory mitigation is approved or denied.

Section 3. Operations and maintenance exempt. (1) Permitting and authorizing agencies and the oversight team shall cooperate to designate as exempt from the habitat quantification tool certain operations and maintenance activities that require a permit or other authorization from a state agency.

(2) Operations and maintenance activities that are exempt from the habitat quantification tool pursuant to subsection (1) may still be subject to stipulations of a sage grouse conservation strategy adopted by the governor through executive order or a policy, rule, or regulation adopted by the oversight team.

Section 4. Section 76-22-105, MCA, is amended to read:

"76-22-105. Montana sage grouse oversight team -- duties -- powers. (1) The oversight team shall:

(a) cooperate with organizations to maintain, enhance, restore, expand, and benefit sage grouse habitat and populations;

(b) identify and map core areas, connectivity areas, and general habitat, subject to the approval of the governor;

(c) evaluate grant applications. As part of its evaluation, the oversight team shall solicit and consider the views of interested and affected persons and entities, including local, state, tribal, and federal governmental agencies, and boards, commissions, and other political subdivisions of the state;

(d) subject to the provisions of 76-22-109, select grant applications to receive funding from the sage grouse stewardship account. The oversight team has the discretion to determine the amount of each grant in accordance with the provisions of this part and may attach conditions of use to the grant.

(e) review and decide whether to approve proposals for the transfer to or acceptance by the state of a fee simple interest in real property. The oversight team shall recommend an approved proposal to the board of land commissioners for a final determination. Prior to making a recommendation, the oversight team shall publish a notice in a newspaper of general circulation in the county in which the real property is located and provide an opportunity for public comment.

(f) review and decide whether to accept offers, from any source, in the form of grants, gifts, transfers, bequests, or donations of money, personal property, or an interest in real property other than a fee simple interest; and

(g) review and act upon compensatory mitigation plans proposed under 76-22-111 with a goal of no net loss of habitat and a net gain preferred. If ~~the~~ a plan includes a financial contribution to the sage grouse stewardship account established in 76-22-109, the oversight team shall, using the habitat quantification tool, determine how to secure enough credits with the financial contribution to offset the debits of the project.

(h) semiannually review the number of requests made by project developers for review of proposed projects for compensatory mitigation requirements. This semiannual review must include information on:

(i) how much time elapsed between the date the initial request was received and the date a proposed compensatory mitigation plan was referred to the oversight team for consideration;

(ii) how many projects did or did not proceed after the initial request; and

(iii) if a project did not proceed or a proposed compensatory mitigation plan was not referred to the oversight team, the reason why it did not proceed or was not referred.

(i) work with stakeholders to streamline the compensatory mitigation review process, including calculation of reduced mitigation costs for low-impact projects such as trenchless excavation; and

(j) monitor long-term staffing needs to effectively implement this part, as well as the costs and benefits of doing so.

(2) If a habitat exchange is authorized in Montana by the United States fish and wildlife service, the oversight team may transfer credits it is tracking pursuant to ~~76-22-104(3)~~ 76-22-104(3) to the habitat exchange, provided that:

(a) the habitat exchange uses the habitat quantification tool to quantify and calculate the value of credits available for purchase; and

(b) if the United States fish and wildlife service revokes authorization of the habitat exchange, the

balance of the credits held by the exchange that were transferred to it by the oversight team are transferred back to the oversight team or to another habitat exchange authorized by the United States fish and wildlife service.

(3) The oversight team shall retroactively calculate and make available credits for leases and conservation easements purchased with funds disbursed pursuant to this part after May 7, 2015, but prior to the adoption of rules under 76-22-104.

(4) The oversight team shall seek a depredation order from the United States fish and wildlife service under the Migratory Bird Treaty Act of 1918, as necessary, to control common raven (Corvus corax) or black-billed magpie (Pica hudsonia) to reduce depredation on sage grouse populations and their nests."

Section 5. Section 76-22-111, MCA, is amended to read:

"76-22-111. Compensatory mitigation -- findings. (1) The legislature finds that allowing a project developer to provide compensatory mitigation for the debits of a project is consistent with the purpose of incentivizing voluntary conservation measures for sage grouse habitat and populations. The project developer may provide compensatory mitigation by:

(a) using the habitat quantification tool to calculate the debits attributable to the project; and

(b) under a mitigation plan approved by the oversight team, offsetting those debits in whole or in part by:

(i) purchasing an equal number of credits from a habitat exchange authorized by the United States fish and wildlife service or from the available credits tracked by the oversight team pursuant to 76-22-104. Payments received for credits tracked by the oversight team must be deposited in the sage grouse stewardship account established in 76-22-109.

(ii) if sufficient conservation credits are unavailable for purchase, making a financial contribution to the sage grouse stewardship account established in 76-22-109 that is equal to the average cost of the credits that would otherwise be required;

(iii) providing funds to establish a habitat exchange or finance a conservation project for the purpose of creating credits to offset debits. However, the funds may not be used to subsidize mitigation by or decrease the mitigation obligations of any party involved in the project.

(iv) undertaking other mitigation options identified and approved by the oversight team, including but not limited to sage grouse habitat enhancement, participation in a conservation bank, or funding stand-alone mitigation actions.

~~(2)~~(2) All mitigation undertaken pursuant to this section must be taken in consideration of applicable United States fish and wildlife service sage grouse policies, state law, and any rules adopted pursuant to this part.

~~(3)~~(3) A mitigation action taken under this section must be conducted within general habitat, core areas, or connectivity areas.

(4) A project developer may submit alternative locations for a project to compare the compensatory mitigation requirements of each and choose which alternative to develop based upon that information."

Section 6. Section 76-22-118, MCA, is amended to read:

"76-22-118. Reporting. (1) The oversight team shall report to the governor regularly and provide an annual report to the governor, the environmental quality council, the board of land commissioners, and the county commissions in the counties where projects were funded pursuant to this part. The annual report must include information on activities undertaken pursuant to this part, including but not limited to:

~~(1)~~(a) any appropriation, grant, gift, transfer, bequest, or donation received, including interest in real property;

~~(2)~~(b) each grant awarded and the details of each grant's status and results; and

~~(3)~~(c) any compensatory mitigation activities.

(2) The oversight team shall report to the environmental quality council the findings of its review of staffing needs to effectively implement this part, as well as the costs and benefits of doing so, conducted pursuant to 76-22-105(1)(j)."

Section 7. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 76, chapter 22, part 1, and the provisions of Title 76, chapter 22, part 1, apply to [sections 1 and 2].

Section 8. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

SB 0299, originated in the Senate.

_____

President of the Senate

Signed this _____ day

of _____, 2019.

_____

Secretary of the Senate

_____

Speaker of the House

Signed this _____ day

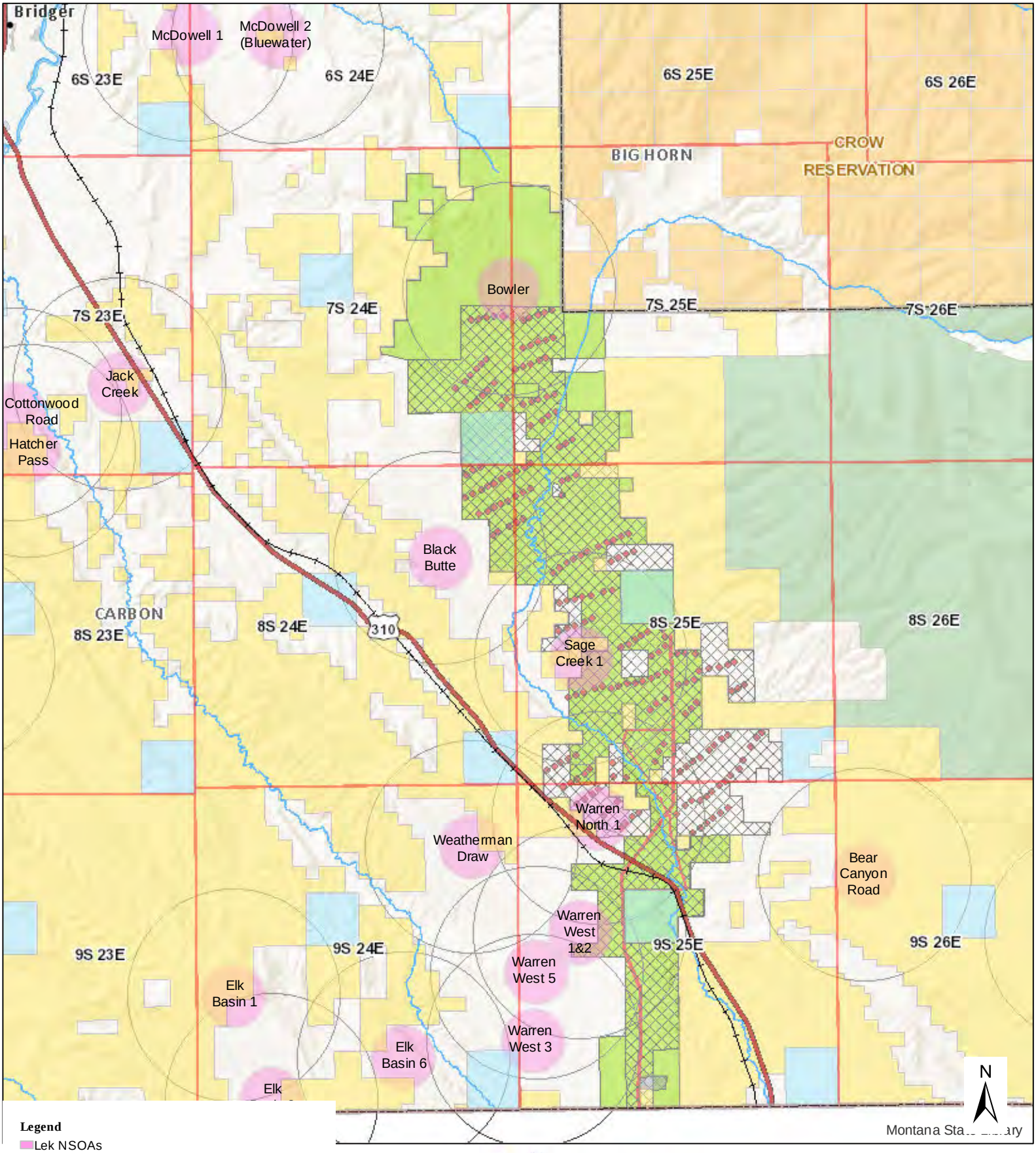
of _____, 2019.

SENATE BILL NO. 299

INTRODUCED BY M. LANG, B. HAMLETT, F. MOORE, R. OSMUNDSON, T. RICHMOND, S. SALES, R. SHAW, J. WELBORN, K. WHITE

AN ACT GENERALLY REVISING LAWS RELATED TO SAGE GROUSE CONSERVATION; EXEMPTING CERTAIN LAND USES AND ACTIVITIES FROM REGULATION; REVISING MONTANA SAGE GROUSE OVERSIGHT TEAM AUTHORITY; REVISING REPORTING REQUIREMENTS; REVISING COMPENSATORY MITIGATION REQUIREMENTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-22-105, 76-22-111, AND 76-22-118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Mud Springs Wind Project
EverPower 2014 DEQ SWPPP Project Layout and Boundary
Pacific Corp 4/29/2019 Project Boundary



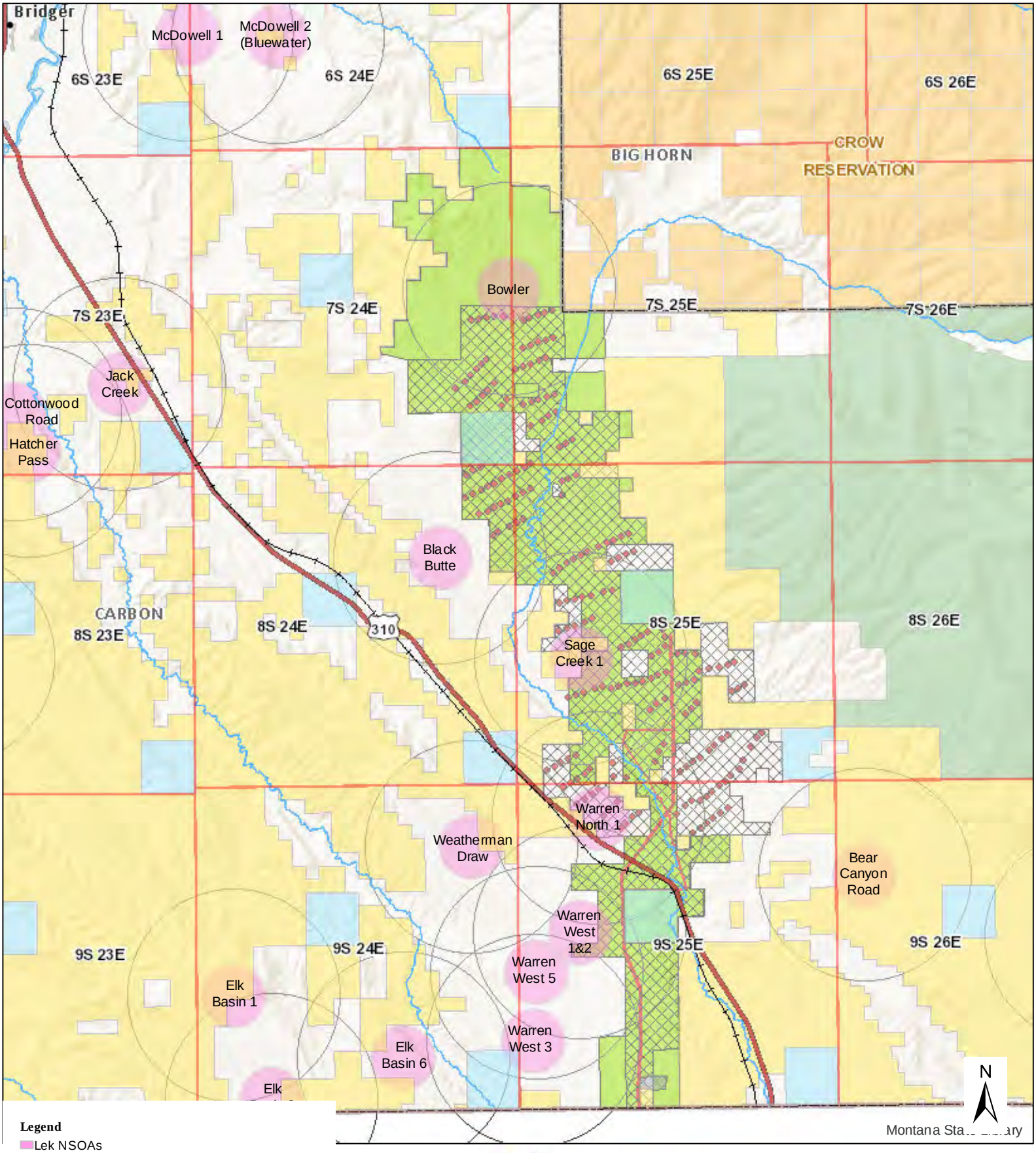
Legend

- Lek NSOAs
- Lek Two Mile Buffer
- EverPower 2014_SWPPP_Project Boundary
- 4-29-2019 Pacific Corporation Project_Boundary

MONTANA SAGE GROUSE Habitat Conservation Program

0 1 2 4 Miles

Mud Springs Wind Project
EverPower 2014 DEQ SWPPP Project Layout and Boundary
Pacific Corp 4/29/2019 Project Boundary



Legend

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MONTANA SAGE GROUSE Habitat Conservation Program

0 1 2 4 Miles

Mud Springs Wind Project
Pacific Corp 4/29/2019 Project Layout and Boundary
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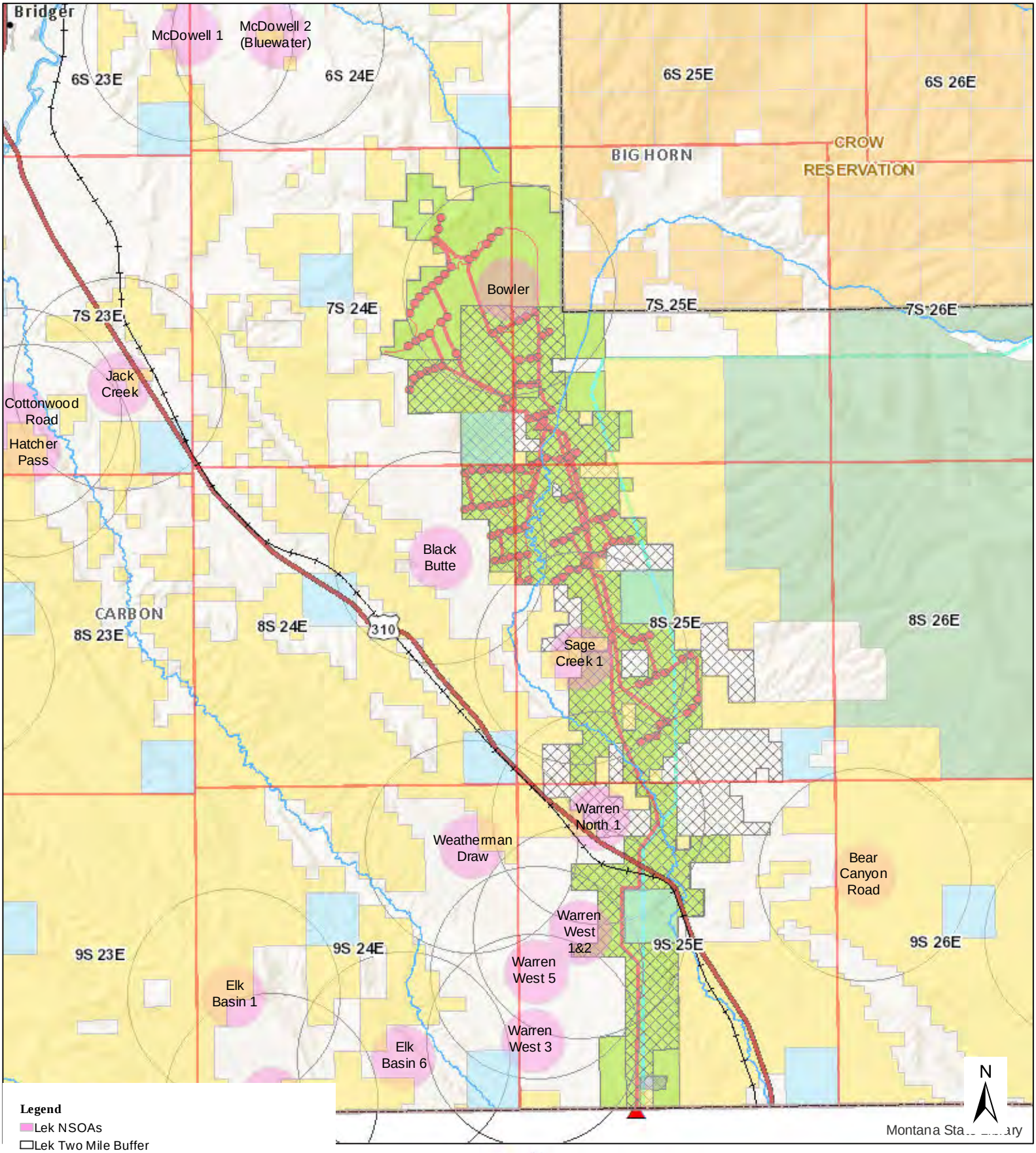
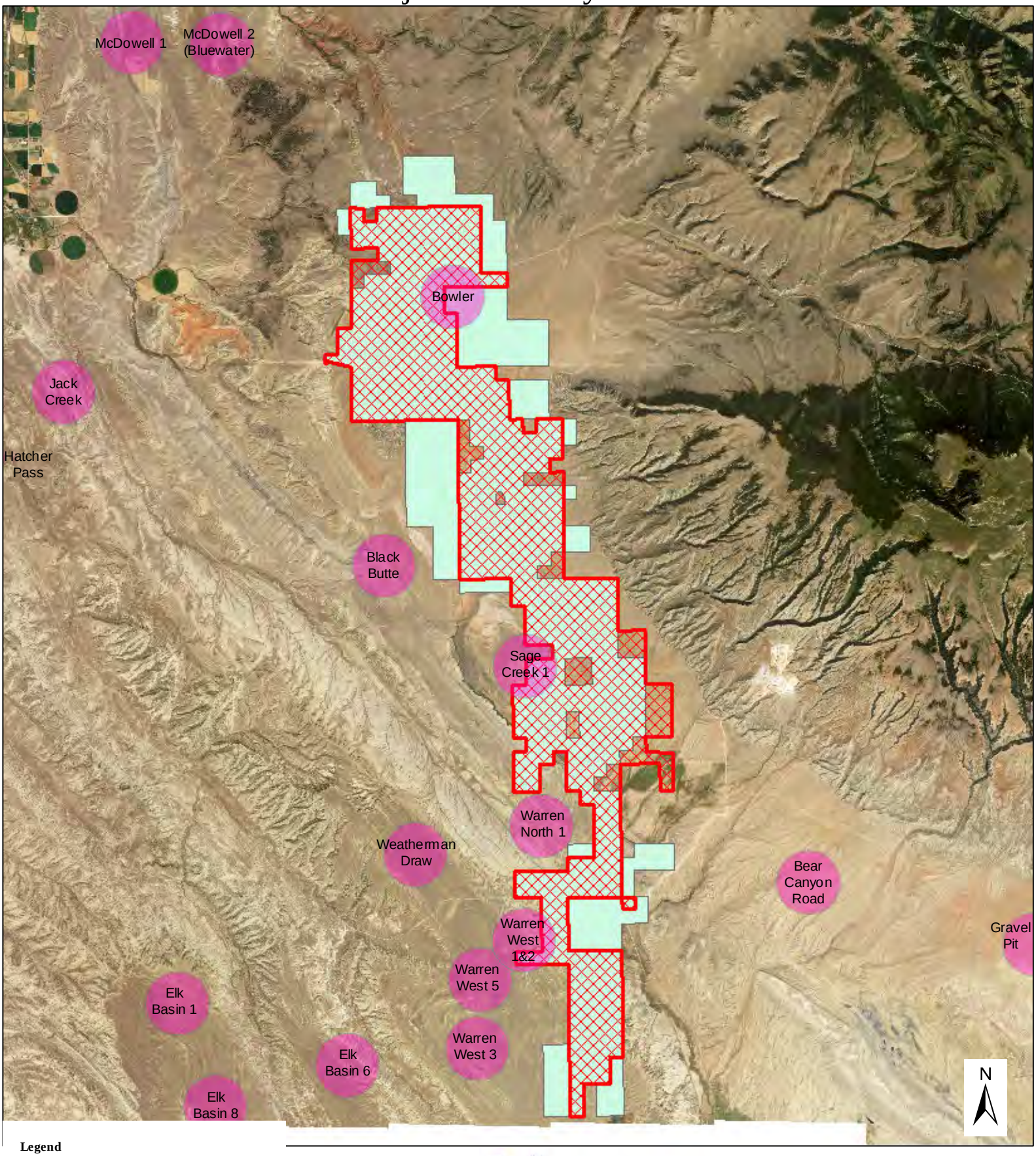


Mud Springs Wind Project
2017 SWPP Boundary
New Project Boundary 4-29-2019

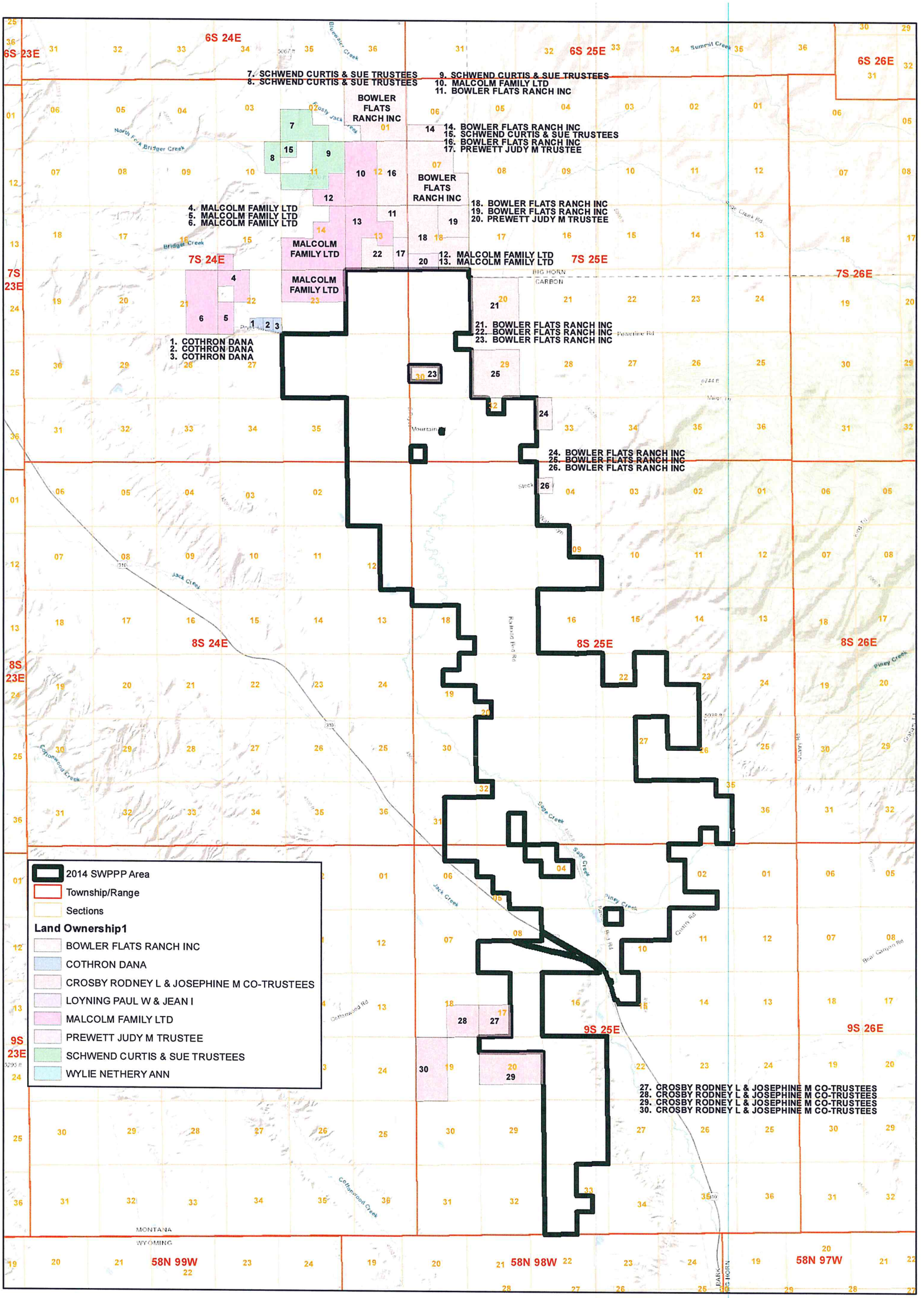


Legend

- LekNSOAs
- Sunrise 2017 Project Area_NOI
- 2019 Project_Boundary_final 4-29-2019

MONTANA SAGE GROUSE Habitat Conservation Program

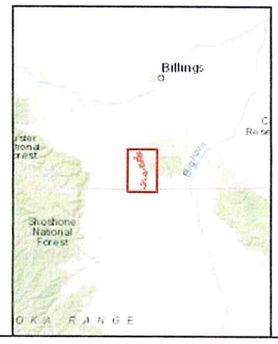
0 1 2 4 Miles

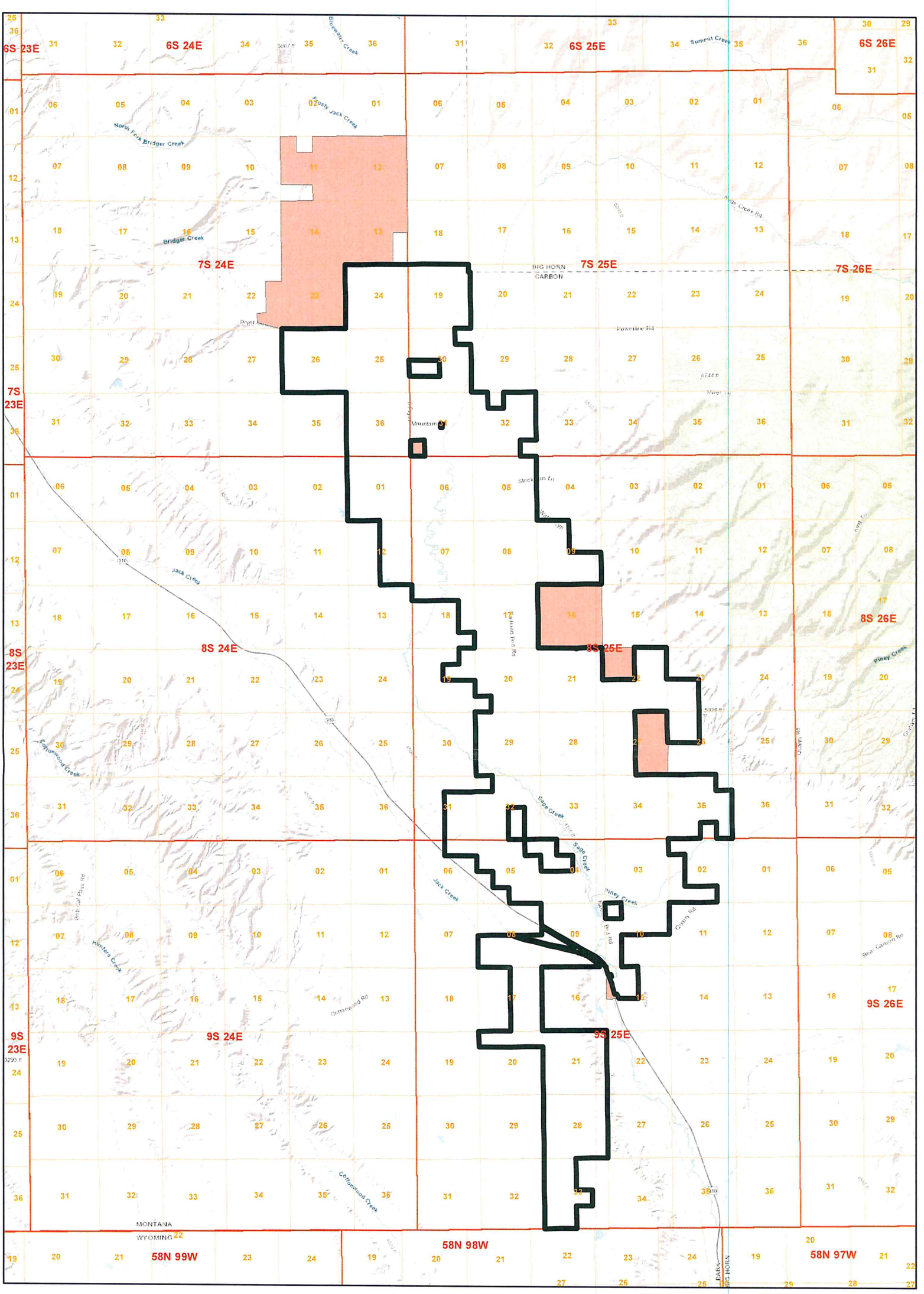


Mud Springs
Proposed Grandfathered Project Boundary 1
2014 SWPPP Boundary and
Additional Land Agreements Signed
prior to September 8, 2015

N

0 0.5 1 2 Miles



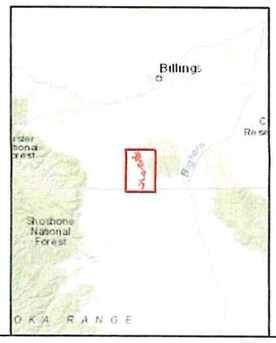


Mud Springs
Proposed Grandfathered Project Boundary 2
2014 SWPPP Boundary and
Additional 2017 SWPPP Areas

N

0 0.5 1 2 Miles

2014 SWPPP Area
Added 2017 Area
Township/Range
Sections



WYO-BEN, INC.

May 13, 2019

Montana Sage Grouse Oversight Team
1539 11th Avenue
Helena, MT 59620
Attn: Carolyn Sime

RE: Proposed Mud Springs Wind Ranch Project

Montana Sage Grouse Oversight Team,

Wyo-Ben, Inc. (WBI) appreciates the opportunity to comment on the Mud Springs Wind Ranch Project in Carbon County submitted by Sunrise Wind Holdings, LLC (Sunrise) and associated successors and assignees (PacifiCorp and Innogy).

WBI is a family owned bentonite mining and manufacturing company based in Billings that has been operating in the Big Horn Basin of Montana and Wyoming for the past 68 years. Bentonite is an important industrial mineral which has thousands of applications including environmental sealants for landfills and sewage lagoons, treatment products for removing contaminants from industrial waste water, molds for metal casting, cosmetics and drilling muds for fiber optic line construction. WBI has been mining in southern Carbon County, south east of Warren, MT since 1998. Much of this mining has taken place on mining claims which it leases from third parties. By US law the owners of these mining claims, which were located in 1982, have an inherent property right, second only to the paramount right of the US government. In 2014, WBI began mining operations on private lands north of Warren, MT. WBI has additional private leases, leases of third-party mining claims and mining claims which it owns extending from Warren, MT to east of Bridger, MT all of which predate January 24, 2014. All of these properties lie within the currently defined Carbon County Core Sage Grouse Area. WBI intends to develop these properties in a sequential fashion using established concurrent reclamation practices. We are concerned that the proposed wind project will permanently adversely impact our ability to mine on these properties by increasing the HQT calculated mitigation costs to uneconomic levels and thereby jeopardize the property rights of WBI and our lessors.

Current published scientific data suggests that wind energy development is a problematic issue in Sage Grouse habitat, especially in core areas. We appreciate that the State of Montana policy experts,

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MSGOT, and various advisory councils have worked arduously to develop strategies that effectively protect Sage Grouse habitat while allowing wind development and other activities. Some of the impacts of the wind development are unknown, however, there is well established science suggesting that wind energy development can cause significant declines of Sage Grouse populations. In recognition of this, Executive Order 10-2014, as amended by EO 12-2015, specifically stipulates that "Wind energy development is excluded from sage grouse core areas." unless the project proponent (Sunrise) can demonstrate "...using the best available science that the development will not cause a decline in sage grouse populations." Sunrise has not yet provided any information to demonstrate the Mud Springs project's impact on the Carbon County Sage Grouse population, either for its original proposal or for its proposed expansion.

The Carbon County Core Area was established to protect the Sage Grouse population that exists south of Bridger between the Beartooth and Pryor Mountains. The population crosses into Wyoming west of Frannie, Wyoming and is linked to Wyoming's Elk Basin East Core Area. Bentonite mining by WBI and others has occurred in Carbon County for approximately 40 years. Most of the mining activity has been concentrated in the southeastern portion of the Carbon County Core Sage Grouse Area. Future bentonite mining is projected to continue north towards Bridger in the foreseeable future. When mining does occur, it will impact some Sage Grouse habitat and may influence these populations. Recognizing Sage Grouse would be a long-term challenge for our industry, WBI co-sponsored a collaring study to better understand the Carbon County Sage Grouse population's annual habitat-use patterns. Pratt and Beck (2019) recently began to publish some of the findings of this research. The information presented here is derived from their data and summaries. The objective of our study was to identify priority areas for this population occurring near bentonite deposits and to better understand seasonal needs in order to develop plans to minimize and mitigate our future impacts. From 2013-2015 female Sage Grouse were captured in vicinity of area leks and fitted with collars. In total, 56 female birds were marked and collared (46 VHF and 10 GPS) and tracked over time. We believe the information from our study can help provide additional context for MSGOT deliberations.

The data from Pratt and Beck suggests important seasonal habitat will be directly impacted by the proposed wind development project. Nesting, summer season and winter season usage data from Pratt and Beck has been overlain on the Mud Springs Project Option 1 map, provided by the Sunrise to MSGOT on April 24, 2019, to illustrate this impact (Figures 1 - 3). Figures 4 – 6 illustrate Sage Grouse collaring location density data, which was summarized and calculated using the kernel density tool in ArcGIS (ESRI, Redlands, CA), that has been overlain on the 50 dB Preliminary Sound Modeling Results map submitted to Carbon County as part of Sunrise's April 5, 2019 application for a Conditional Use Development Permit. These Figures show that important seasonal habitat and nesting areas would be directly impacted by the proposed wind development. According to the study data, significant portions of the breeding and summer season use areas for the population would be directly impacted. Although not presented in the figures, the study data also shows that some Sage Grouse annually migrate between an area lying east of the proposed project southwest into Wyoming's Elk Basin East Core area. As a result, the project may create a barrier that prevents these migrations from occurring causing fragmentation of the population. The location of the proposed project facilities, their potential for 24 hour per day, year-round operation and the resulting increase in human activity in the area will impact the Carbon County Core Area Sage Grouse population's seasonal needs for nesting hens, fledgling development and summer range. These issues should be factored into MSGOT's deliberations.

WBI is a strong advocate for responsible multiple use activities on both public and private lands. We are concerned, however, with the potential for the proposed Mud Springs project to adversely affect not just the Sage Grouse population in this area, but other economic interests as well. It is not clear, however, how much impact the planned development will have on the core area population, which could vary considerably depending on the size, number, and configuration of the wind turbines used, as well as the

final transmission route. Therefore, we recommend that the necessary time be taken to allow for development of a more informed mitigation plan based upon the known seasonal needs of the Carbon County Sage Grouse population and final project design before final action is taken on this expansion proposal.

Sunrise has proposed that additional lands, that were not part of the original Storm Water Permit design, be added and grandfathered under the original permit. We believe that this is inappropriate, particularly since no determination has been made about the potential of the Mud Springs project to cause a decline in the Carbon County Sage Grouse population, and that it would set a precedent for future projects coming before MSGOT. Since the additional lands were not part of the originally permitted area they should be considered as a separate action and be reviewed per the Mitigation Policy that MSGOT has approved.

WBI is aware that Sunrise was authorized for a portion of this project area in 2014 and we understand the challenge this legacy issue presents for MSGOT. We also know that the economics of other projects within the Core Area, such as mining, will be negatively impacted because the scope of the proposed project will significantly alter HQT calculations and increase mitigation cost for all future development. While we understand that this adds another layer of complexity to MSGOT's decision equation we believe that MSGOT should consider the implications of the HQT calculations for other projects in this Core Area before a final decision is made for this proposal. Given the dynamics of this core area we suggest that this may be a good opportunity to initiate a discussion on a Special Management Area designation that would include the foreseeable impacts from various industries in this Core Area. WBI would welcome the opportunity to work cooperatively with MSGOT and other interests on a path forward for this challenging issue.

We are grateful for your thoughtful consideration of our comments and your stewardship of our natural resources.

Sincerely,

Richard F Brown

Richard Brown
Vice President, Resources
Wyo-Ben, Inc.

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Literature References

AC Pratt, JL Beck. 2019. Greater sage-grouse response to bentonite mining. The Journal of Wildlife Management. https://doi.org/10.1002/jwmg.21644

Figures

Figure 1 Density of breeding locations (n = 348: darker color equals higher density) and nests (n=71) for greater sage grouse captured 2013-2015 overlain on Mud Springs Project 2019 Option 1 map

Figure 2 Density of summer season locations (n = 388: darker color equals higher density) for greater sage grouse captured 2013-2015 overlain on Mud Springs Project 2019 Option 1 map

Figure 3 Density of winter season locations (n = 352: darker color equals higher density) for greater sage grouse captured 2013-2015 overlain on Mud Springs Project 2019 Option 1 map

Figure 4 Density of breeding locations (n = 348: darker color equals higher density) and nests (n=71) for greater sage grouse captured 2013-2015 overlain on Mud Springs Project sound modeling map

Figure 5 Density of summer season locations (n = 388: darker color equals higher density) for greater sage grouse captured 2013-2015 overlain on Mud Springs Project sound modeling map

Figure 6 Density of winter season locations (n = 352: darker color equals higher density) for greater sage grouse captured 2013-2015 overlain on Mud Springs Project sound modeling map

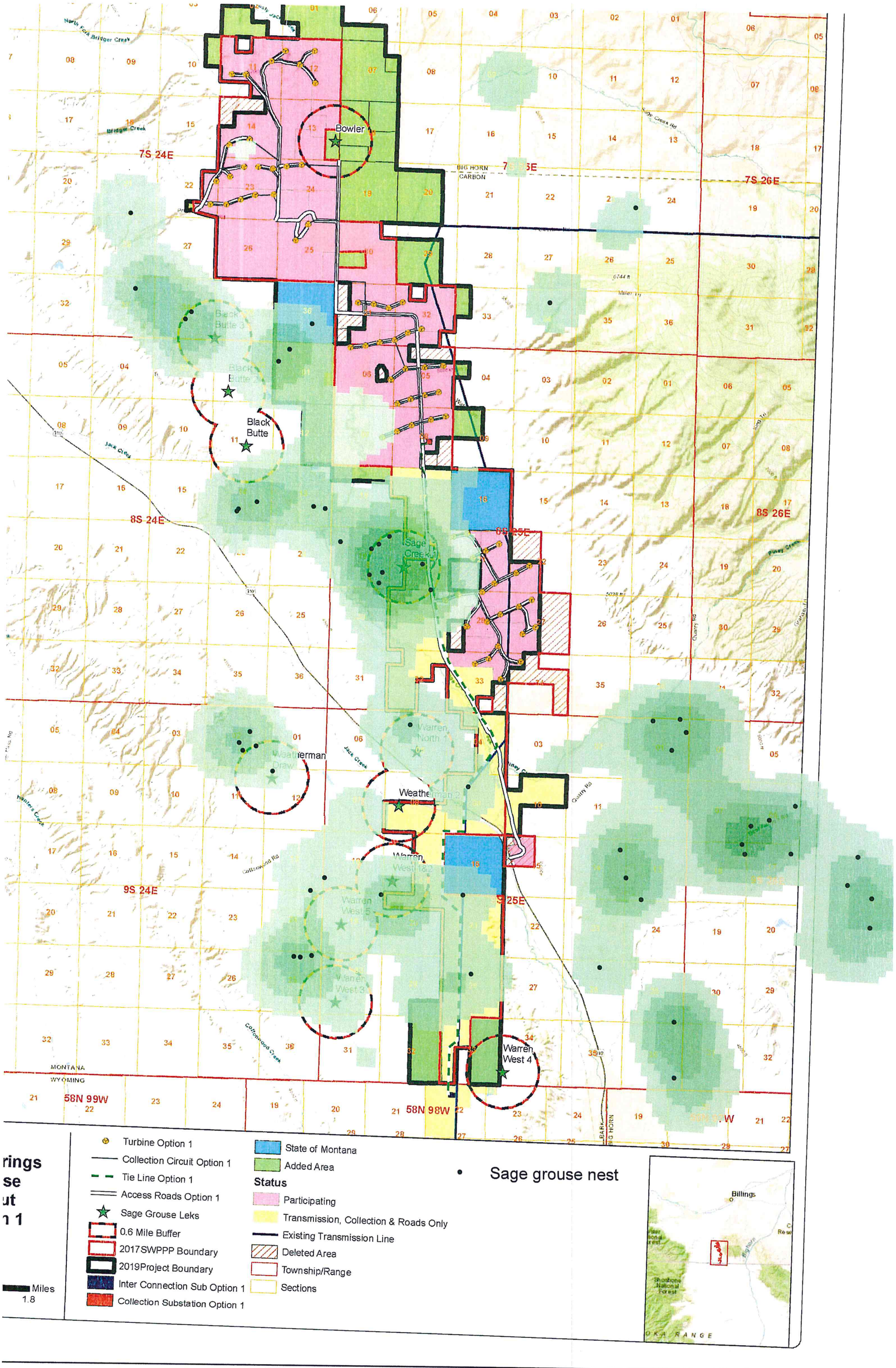


Figure 1. Density of breeding locations (n = 348: darker color equals higher density) and nests (n=71) for greater sage grouse captured 2013-2015

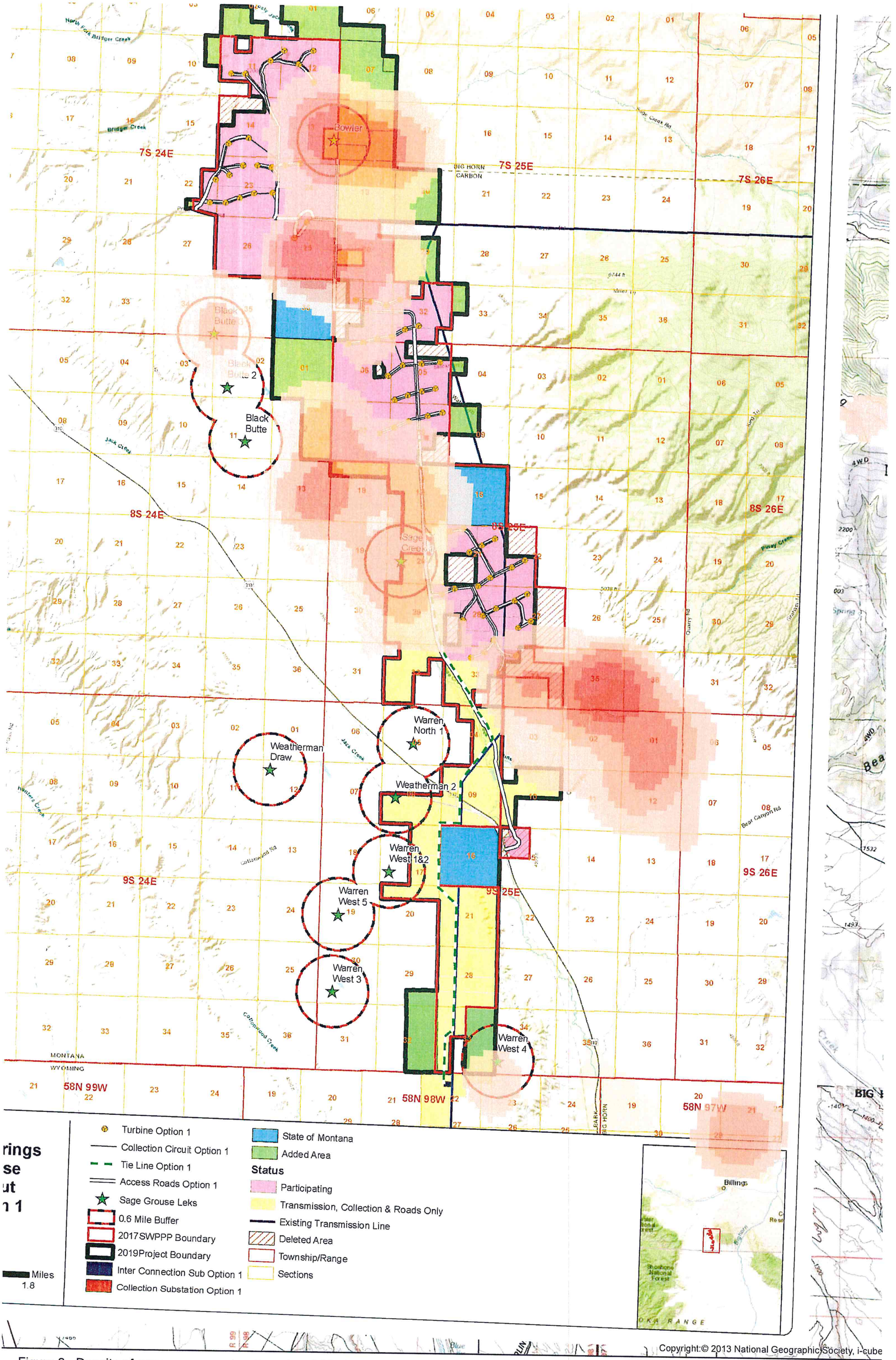


Figure 2. Density of summer season locations (n = 388: darker color equals higher density) for greater sage grouse captured 2013-2015

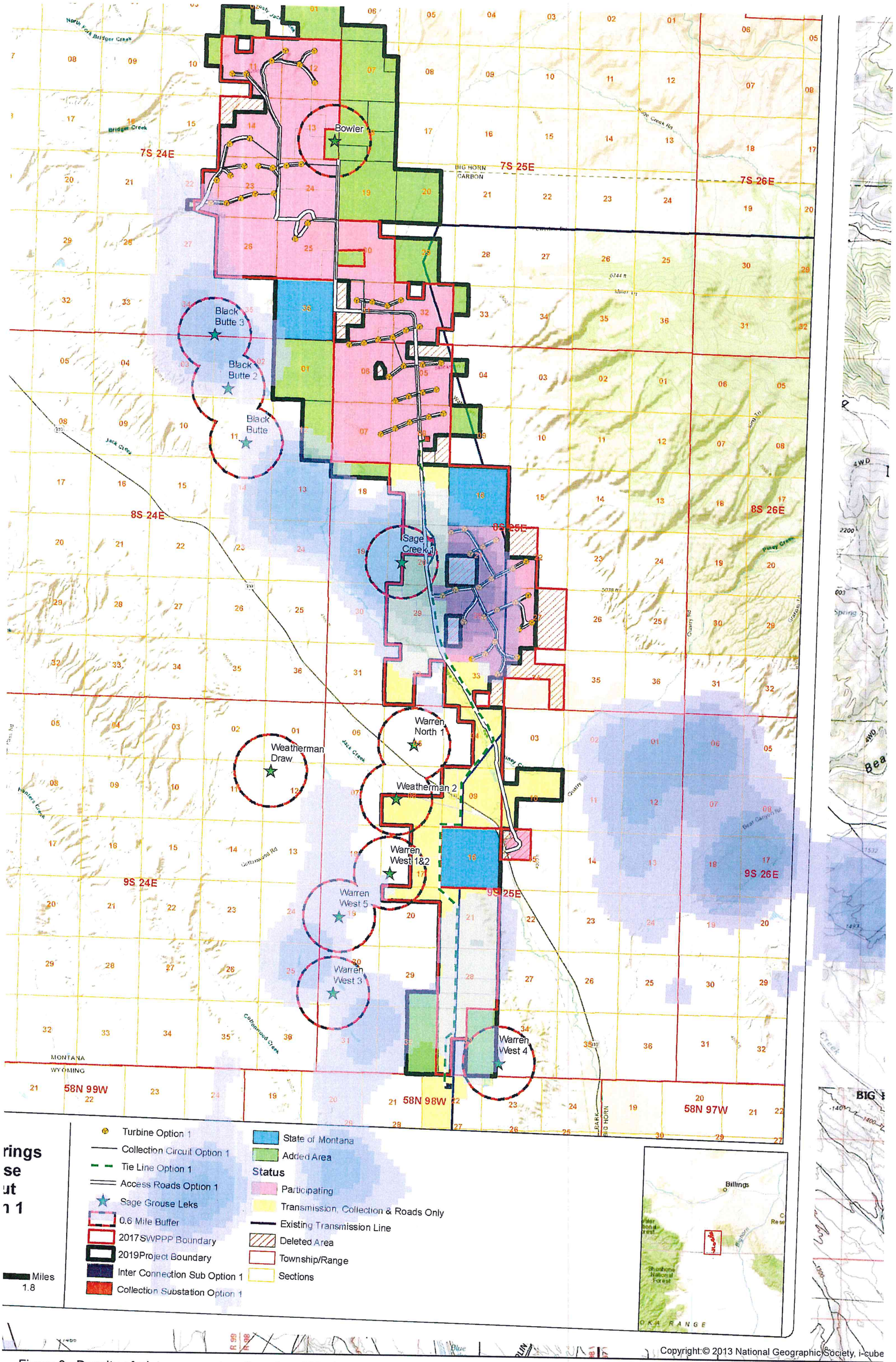
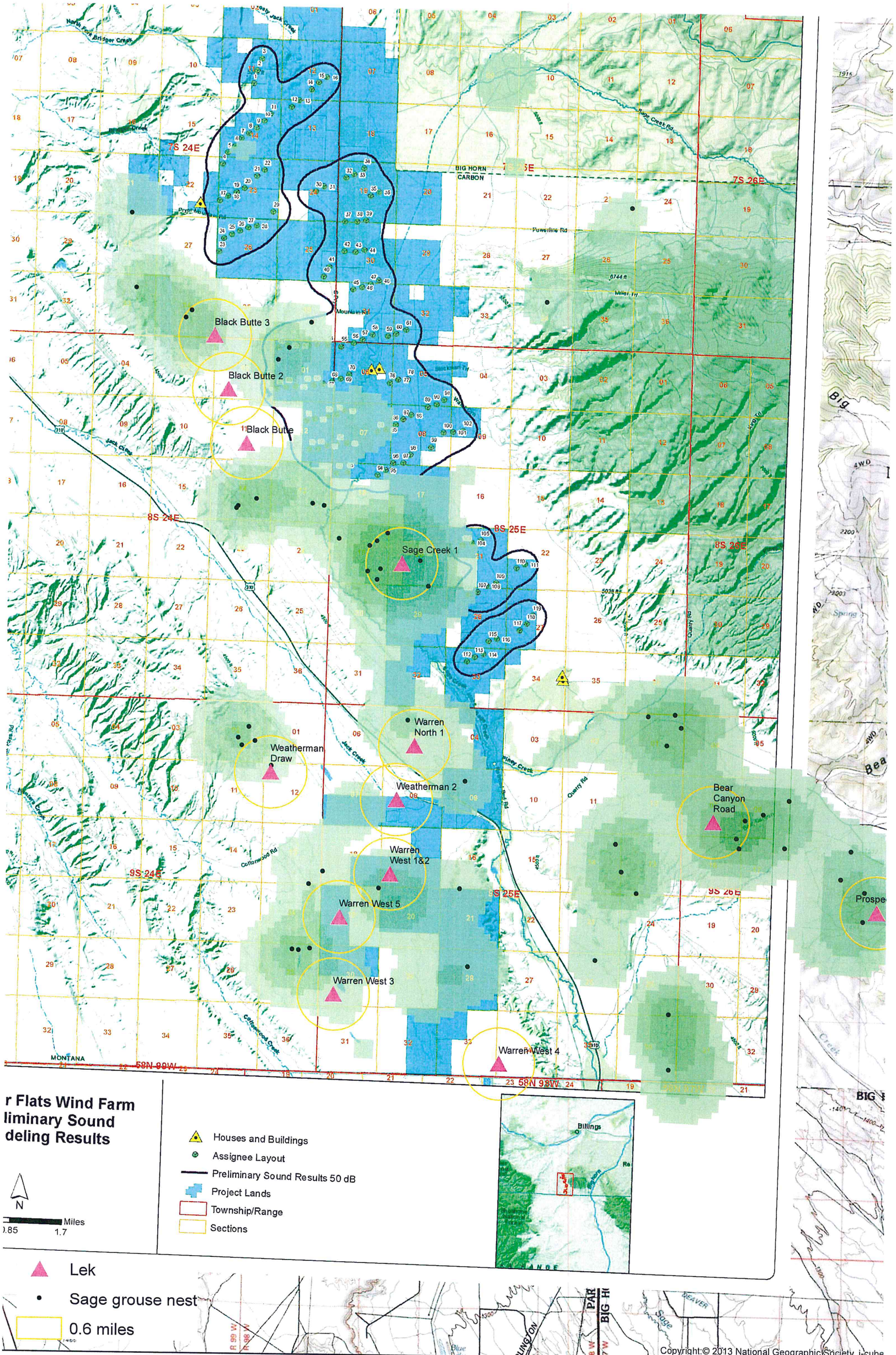


Figure 3. Density of winter season locations (n = 352: darker color equals higher density) for greater sage grouse captured 2013-2015



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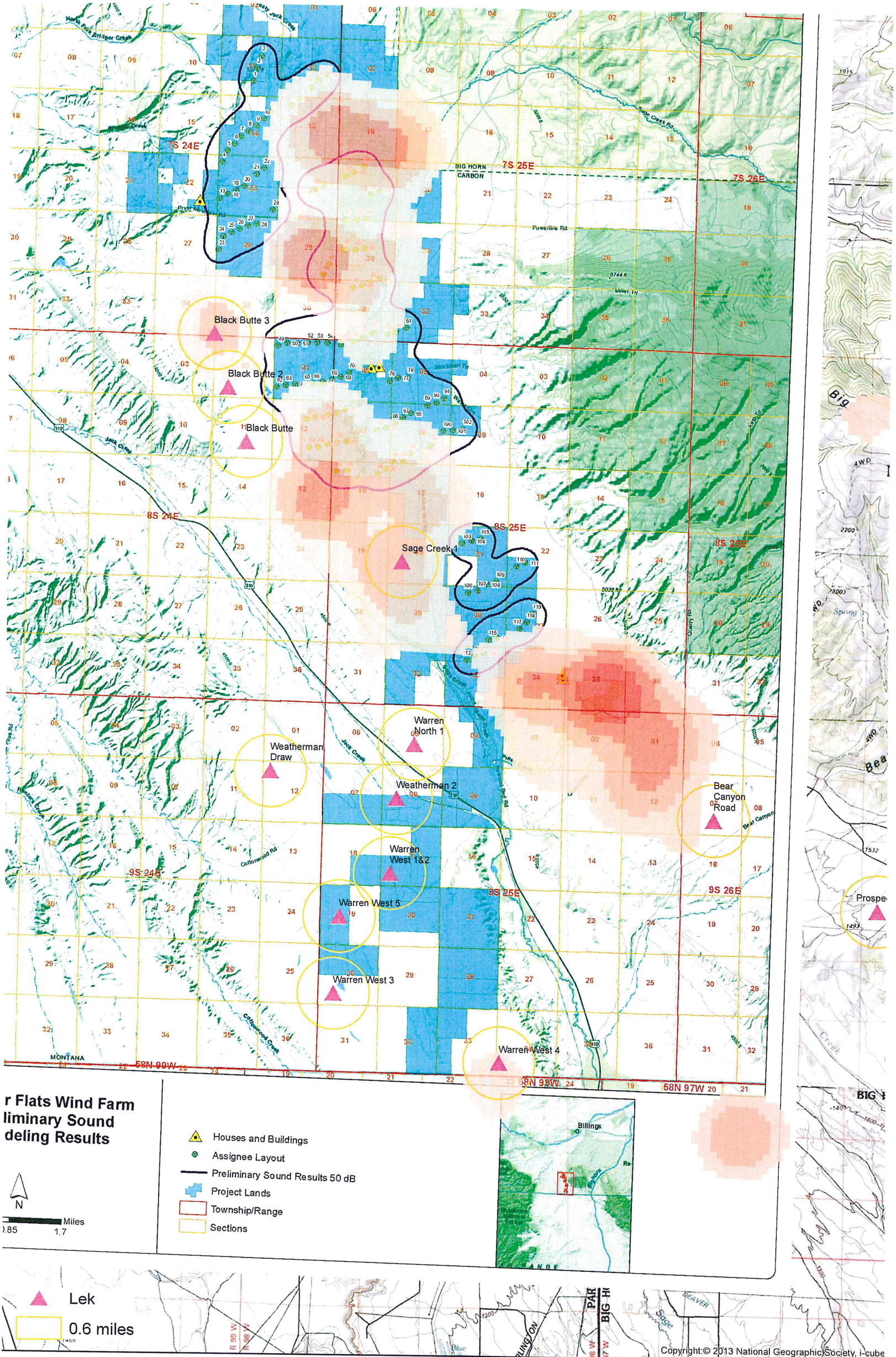

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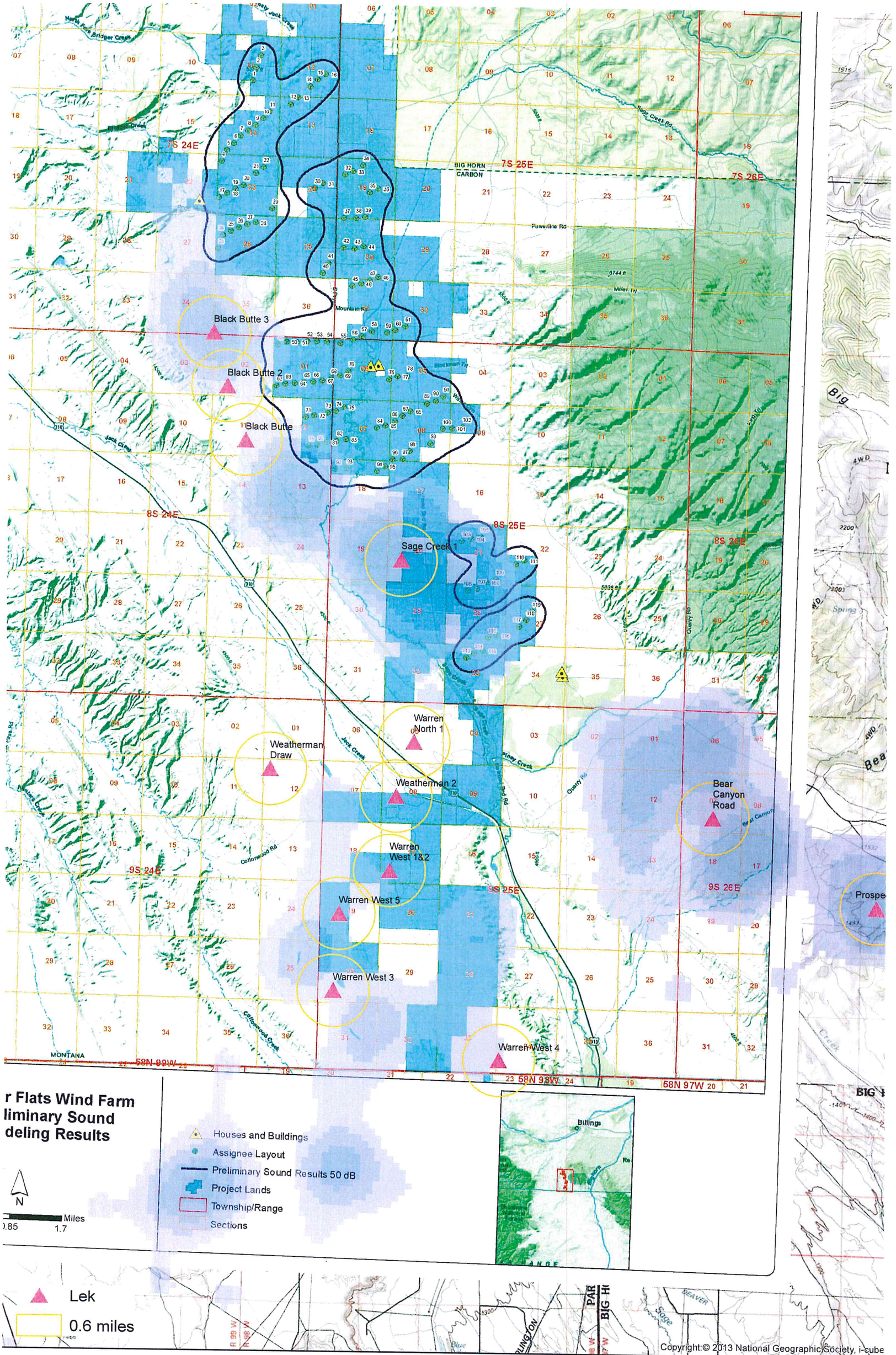

Figure 6. Density of winter season locations (n = 352: darker color equals higher density) for greater sage grouse captured 2013-2015