

***PRELIMINARY APPROVAL FOR ACQUISITION OF LANDS WITH
PROCEEDS FROM THE AWARD OF COMPENSATORY DAMAGES IN
PPL MONTANA, LLC v. STATE OF MONTANA***

On March 30, 2010, the Montana Supreme Court affirmed the First Judicial District Court's determination that navigable riverbeds in the State of Montana are held in trust under the Montana Constitution as part of the public land trust established by Article X, Section 11, in PPL Montana, LLC v. State of Montana, 2010 MT64. The Supreme Court further affirmed the award of compensatory damages in the amount of \$40,956,180.00, plus 10% interest from the date of the decision and stated that the use of public land trust lands for power generation subjected PPL to the payment of rents to the trust under the Hydroelectric Resources Act, M.C.A. §77-4-201. State lands in the public land trust are administered under the general authority, direction, and control of the Board of Land Commissioners as trustee to provide for the long-term financial support of education. M.C.A. §77-1-202(1)(b).

The Court determined an award of compensatory damages was appropriate against PPL Montana based on claims of trespass, negligence and unjust enrichment from the use of the public land trust riverbeds and found that it is within the general authority of the Board of Land Commissioners, as trustee, to administer the public land trust. The Board of Land Commissioners must undertake a determination of the best use of the compensatory damages award to make the trust whole and to provide for the long-term financial support of education under M.C.A §77-1-202(1)(b). In making its determination of the best use of the award of damages, the Board exercises its fiduciary duty to both current and future beneficiaries of the public land trust under the Montana Constitution as well as its statutory duty to provide for the long-term financial support of education.

The Department has reviewed the constitutional issues and prepared the following resolution for the consideration of the Board of Land Commissioners:

**RESOLUTION OF THE MONTANA BOARD OF LAND COMMISSIONERS FOR
DISPOSITION OF AWARD OF COMPENSATORY DAMAGES IN *PPL
MONTANA, LLC v. STATE OF MONTANA AND PRELIMINARY APPROVAL
FOR ACQUISITION OF LANDS TO BE HELD IN TRUST*
May 17, 2010**

WHEREAS, on March 30, 2010, the Montana Supreme Court in *PPL Montana, LLC v. State of Montana*, 2010 MT 64 affirmed the Montana First Judicial District Court, Lewis and Clark County's decision that the use of navigable riverbed lands for power generation subjected PPL to the payment of rents under Montana's hydroelectric resources laws and held that the navigable riverbeds are part of the state's public land trust under Article X, Section 11 of the Montana Constitution; and

WHEREAS, the Supreme Court affirmed the judgment entered for the State of Montana against PPL Montana of compensatory damages in the amount of \$40,956,180.00 with post-judgment interest at the rate of 10% annually; and

WHEREAS, the Supreme Court made no determination of how the award of compensatory damages from PPL must be used, but directed that it is within the broad authority of the Board of Land Commissioners, as trustee, to administer the public land trust for the long term support of education; and

WHEREAS, in December 2008, the previous Board of Land Commissioners directed that the compensatory damages judgment when paid to the State should be deposited in the Common School Trust land bank fund established in § 77-2-362, MCA, and

WHEREAS, the Board of Land Commissioners must direct the disbursal of the award of damages for the benefit of the broad goals of the public land trust and account for the damages awarded to the trust; and

WHEREAS, the Supreme Court's award of compensatory damages to make the trust whole for PPL's wrongful occupation of the navigable riverbeds is neither a permanent disposition of public trust lands nor the payment of rent; and

WHEREAS, consistent with the Montana Constitution, Montana statutes, and Montana case law, including *Montanans for Responsible Use of School Trust v. Darkenwald*, 2005 Mont. 190, the Land Board must manage the public land trust for the support of education generally and to benefit both current and future beneficiaries of the trust; and

WHEREAS, the 2009 Legislature of the State of Montana has enacted a bill directing the payment of future navigable river lease rents under the Hydroelectric Resources Act into the facility and technology account after January 2012, M.C.A. §20-9-516;

NOW, THEREFORE, by resolution this date, the Board of Land Commissioners hereby:

1. Determines that it is in the best interest of the current and future beneficiaries of the public land trust, consistent with §77-1-202, MCA, to secure the compensatory damages to the State of Montana in *PPL Montana, LLC v. State of Montana* in a manner that will compensate the public land trust for past damages to lands managed for the benefit of education so that the award of damages will continue to generate revenue both now and into the future for the benefit of the common schools.
2. The Board further determines that it is in the best interest of beneficiaries to enhance and preserve the principal of the public land trust to provide long-term support for education by using all such damage awards and interest to acquire additional lands to be held in trust with all revenue from the management of acquired lands directed to the school facilities account under M.C.A. §20-9-516.
3. Directs that when the judgment in the litigation is paid by PPL Montana, the entire amount of the compensatory damages, including all post-judgment interest, be deposited in a State Special Revenue Fund under M.C.A. §17-2-102(1)(b)(1), with instructions to invest the fund with the State Board of Investments and retain all earnings from the investment. The principal and all interest earned on the investment of the fund is to be available consistent with M.C.A. §17-8-101, for the restricted purpose of the acquisition of lands to be held in trust for the common schools beneficiaries by the Board of Land Commissioners. This special revenue fund is secured for the public land trust managed by the Board from non-state, non-federal money, from the judgment entered by law in PPL Montana v. State, 2010 MT 64.
4. Directs the disbursement of compensatory damages from the special revenue trust account will be made only upon final approval of the Board of Land Commissioners for the acquisition of additional lands to be held in trust for the support of education for common schools.
5. Expressly directs the Department to undertake the necessary steps to purchase parcels of land that may be acquired with the proceeds of the award of compensatory damage, including appraisal and further due diligence. The Board reserves the right for final approval of any acquisition.

Lands to be Evaluated for Potential Purchase:

Lincoln Phase 2, Lewis & Clark County: Approximately 930 acres

The Lincoln Phase 2 proposal is to acquire three parcels of TNC land adjacent to and within the Lincoln State Forest. The purchase would result in approximately 930 acres of former industrial timberland coming into state ownership. The addition of the TNC land would increase the size of the Lincoln State Forest, north of Lincoln, to 6,770 acres of forested land dedicated to the support of common schools and public buildings. This valuable timberland resource and wildlife habitat will provide continued recreational opportunities within a few miles of Lincoln, Montana.

Miller Creek, Missoula County: Approximately 8,400 acres

The Miller Creek proposal is to acquire TNC lands in the Sapphire Mountain Range lying between Pattee Canyon and Woodchuck Canyon, east of Lolo, Montana and all within Missoula County. This purchase would result in approximately 8,400 acres of former industrial timberlands coming into State ownership. The addition of the Miller Creek lands to existing trust lands in the Sapphires would result in block of 14,200 acres of forested land dedicated to support of common schools and public buildings. This valuable timberland resource and wildlife habitat will provide vast recreational opportunities within a few miles of Missoula, Montana.

Potomac Phase 2, Missoula County: Approximately 25,900 acres

The Potomac Phase 2 proposal is to acquire the remaining TNC lands in the Garnet Mountain Range lying between Highway 200 and Interstate 90, all within Missoula County. This purchase would result in approximately 25,900 acres of former industrial timberlands coming into State ownership. The addition of Phase 1 and Phase 2 lands to existing trust lands in the Garnets would result in block of 69,650 acres of forested land dedicated to support of common schools. This valuable timberland resource and wildlife habitat will provide vast recreational opportunities within a few miles of Missoula, Montana.

North Swan, Lake County: Approximately 18,940 acres

The North Swan proposal is to acquire parcels of TNC land adjacent to and within the Swan River State Forest, approximately 12 miles south of Swan Lake along the east and west sides of MT Highway 83. The purchase would result in approximately 18,940 acres of former industrial timberland coming into state ownership. The property provides valuable habitat for native fish and wildlife. The habitat and recreational values of the lands to be acquired will be protected by a conservation easement held by MT FWP, which will allow for forest management and timber harvest. The timber productivity of the lands is estimated as high to very high for Western Montana.

Lincoln Phase 2

Lewis And Clark County

Background: In 2003, The Nature Conservancy (TNC) negotiated a land purchase agreement with Plum Creek Timber Company (PCTC) to purchase approximately 88,000 acres of forest land in the Blackfoot River Valley. With the support of the local communities and cooperation of the Blackfoot Challenge, TNC purchased the lands between 2004 and 2007. The Blackfoot Challenge, through a process of working with TNC, government agencies, local communities and private land owners, made recommendations to TNC on a proposed future ownership of the property. This became known as the Blackfoot Community Project. To date, TNC has sold land to the United States Forest Service, the Bureau of Land Management, United States Fish and Wildlife Service, Montana Fish, Wildlife and Parks, Montana Department of Natural Resources and Conservation (DNRC), Confederated Salish and Kootenai Tribes (CS&KT) and to several local ranch families. In December 2006, DNRC purchased approximately 1,042 acres northwest of Lincoln, Montana and in 2010, DNRC completed a land exchange with CS&KT for 514 acres north of Lincoln that had been purchased from TNC.



Lincoln Phase 2 Acquisition Proposal: The Lincoln Phase 2 proposal is to acquire three parcels of TNC land adjacent to and within the Lincoln State Forest. The purchase would result in approximately 930 acres of former industrial timberland coming into state ownership. The addition of the TNC land would increase the size of the Lincoln State Forest, north of Lincoln, to 6,770 acres of forested land dedicated to the support of common schools. This valuable timberland resource and wildlife habitat will provide continued recreational opportunities within a few miles of Lincoln, Montana. The following information is provided as a part of the public out-reach portion of this proposal:

Location: The lands proposed for acquisition as Lincoln Phase 2 are all located within Lewis and Clark County and within 3 miles north and east of Lincoln, Montana.

Acreage: Approximately 930 acres

Grazing: This land is primarily forested and is capable of providing grazing for domestic livestock. It is anticipated that the opportunity for grazing would be analyzed for these lands.

Stock Water: Stock water is available from many small streams on the property.

Fencing: Fencing is currently marginal and would have to be improved by future grazing licensees before use.

Crop Land: N/A

Irrigation: N/A

Timber: The entire property is former timber industry lands and is primarily forested. All of the property has been logged at various times since the mid 1900s resulting in stands of various age classes composed of ponderosa pine, douglas fir, lodgepole pine, engelmann spruce and other mixed conifers and hardwoods. Existing merchantable timber is found mainly in streamside management zones and as scattered over story in previously harvested stands. Most non-merchantable stands are adequately stocked with pre-commercial thinning having been accomplished on many of the older age class stands. Many of the older age class stands will be approaching merchantable size



Lincoln Phase 2

Lewis And Clark County

with the next 20 – 30 years. The productivity of the land is estimated to be average to above average for Western Montana and should grow at a rate of 100 - 125 board feet per acre per year. The slope of the terrain is variable with more than 90 percent tractor ground.

Improvements: The property is fully roaded to accommodate all future forest and grazing management needs.

Minerals: N/A

Precipitation: 15 – 20 inch range

County Taxes: Estimated \$930



These lands provide habitat for big game animals and area streams have bull trout and cutthroat populations. These lands have traditionally been available for public recreation and use during the hunting season. Snowmobile, winter recreation is an important part of the local economy. These lands have snowmobile trails and provide access to trails on adjoining Forest Service lands.

Acquisition of the lands will block-up existing State parcels. This consolidation will provide for increased efficiency in the management of the State lands and protect the public's continued recreational opportunities.

Legal Descriptions

Township 14 North, Range 8 West P.M.M. Lewis and Clark County

Section 5: Lots 1-4, S2N2	323.00 acres
Section 15: N2, N2SW4 north of Hwy 200 and NW4SE4 north of Hwy 200 less 2 acres	384.74 acres

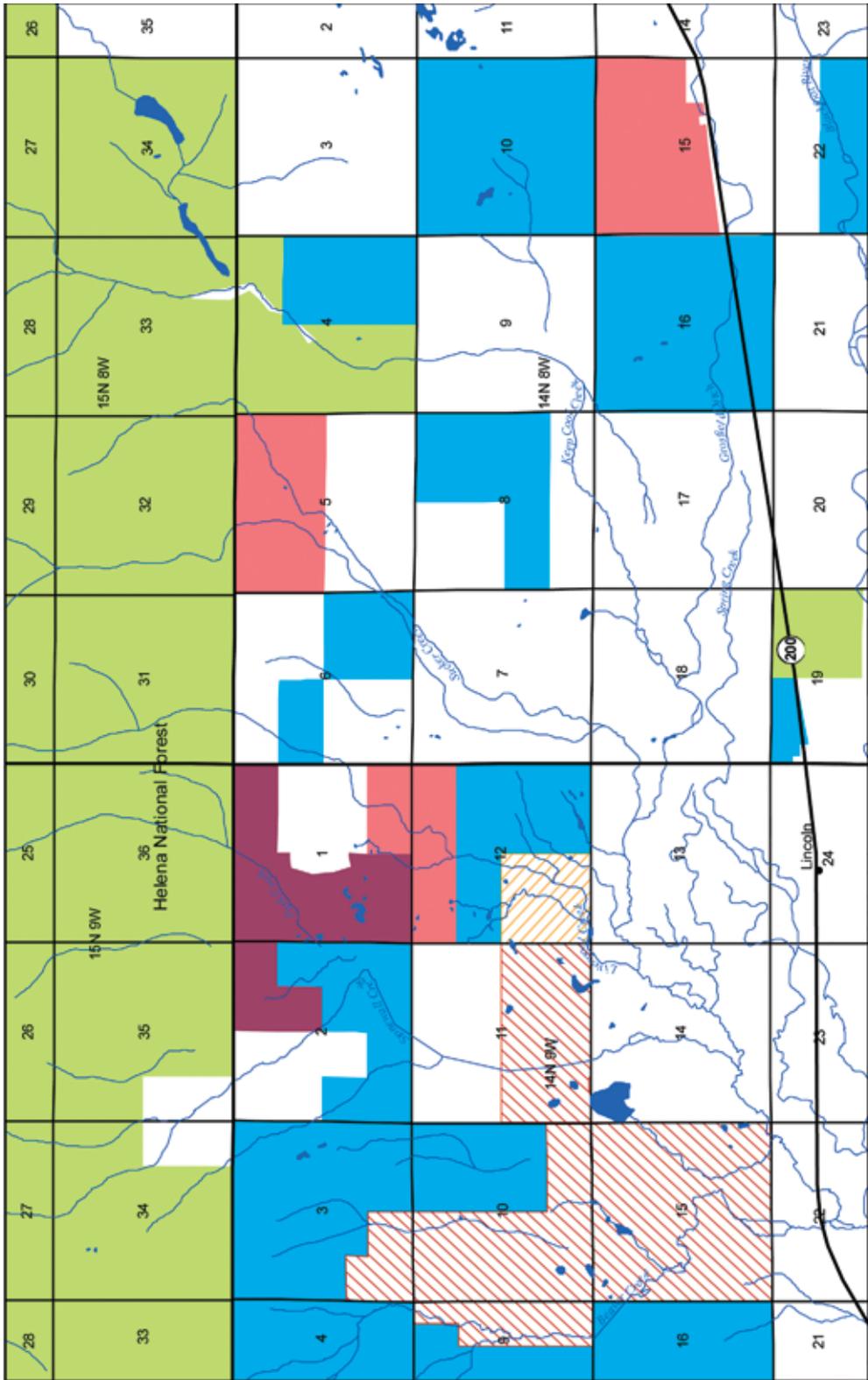
Township 14 North, Range 9 West P.M.M. Lewis and Clark County

Section 1: E2SW4SE4 and SE4SE4	60.00 acres
Section 12: N2N2	160.00 acres
Total	927.74 acres

Lincoln Phase 2

Lewis And Clark County

TNC Proposed Sale to DNRC



Forest Management Bureau
 Technical Services Section
 April 2010
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- Legend**
- TNC Land Banking to DNRC
 - USDA Forest Service
 - CS&K Tribes Exchanged with DNRC
 - USDI Bureau of Land Management
 - Five Valleys Land Trust Easement
 - MT State Trust Land
 - US Fish & Wildlife Service Easement
 - Private Land or Other Owner



Miller Creek

Missoula County

Background: In 2008, The Nature Conservancy (TNC) negotiated a land purchase agreement with the Plum Creek Timber Company (PCTC) to purchase approximately 310,000 acres of forest land in Western Montana. The objective of this purchase was to manage the lands as working forests and to allow the continued use for public recreation. In December of 2008, TNC purchased approximately 129,000 acres and in February of 2009 purchased approximately 112,000 acres. The remaining acres will be purchased by TNC in December 2010. In March 2010, TNC transferred 112,000 acres to the United States Forest Service. TNC is currently working with the State of Montana on the future disposition of remaining lands.



Miller Creek Acquisition Proposal: The Miller Creek proposal is to acquire TNC lands in the Sapphire Mountain Range lying between Pattee Canyon and Woodchuck Canyon, east of Lolo, Montana and all within Missoula County. This purchase would result in approximately 8,400 acres of former industrial timberlands coming into State ownership. The addition of the Miller Creek lands to existing trust lands in the Sapphires would result in block of 14,200 acres of forested land dedicated to support of common schools and public buildings. This valuable timberland resource and wildlife habitat will provide vast recreational opportunities within a few miles of Missoula, Montana. The following information is provided as part of the public out-reach portion of this proposal:

Location: The lands proposed for acquisition as Miller Creek are all located within Missoula County primarily lying on the Bitterroot River side of the Sapphire Range and within 15 miles south of Missoula. (See Map)

Acreage: Approximately 8,400 acres

Grazing: This property is both forested and open grass land and is capable of providing grazing for domestic livestock. It is anticipated that the opportunity for grazing would be analyzed for these lands.

Stock Water: Stock water is available from many small streams on the property.

Fencing: Fencing for management of the grazing use occurs adjacent to private lands. Fencing would be the responsibility of future grazing licensees.

Crop Land: N/A

Irrigation: N/A

Timber: The entire property is former timber industry lands and is primarily forested with some natural grass lands on south and west aspects. Most of the property has been logged at various times since the early 1900's resulting in stands of various age classes composed of ponderosa pine, douglas fir, western larch, lodgepole pine, engelmann spruce and other mixed conifers and hardwoods. Existing merchantable timber is found mainly in streamside management zones and as scattered over story in previously harvested stands. Most non-merchantable stands are adequately stocked with pre-commercial thinning having been accomplished on many of the older age class stands. Many of the older age class stands will be approaching merchantable size with the next 20 – 30 years. The productivity of the land is estimated



Miller Creek

Missoula County

to be average for Western Montana and should grow at a rate of 80 – 100 board feet per acre per year. The slope of the terrain is variable with more than 50 percent tractor ground and less than 50 percent being line ground.

Improvements: The property is fully roaded to accommodate all future forest and grazing management needs.

Minerals: N/A

Precipitation: 10 – 20 inch range

County Taxes: Estimated \$11,508

The Sapphire Mountain Range lying between Bonner, Missoula and Lolo has a long history of public recreational use for hunting, fishing, hiking, horseback riding and snowmobiling that was allowed by former industrial forest land owners and currently by TNC. Access to the property is from Pattee Canyon, Miller Creek and Woodchuck Canyon roads.

The property provides habitat for deer, elk, black bear, mountain lion, occasional wolves, turkey, grouse and many non-game species. Streams that flow into Bitterroot River drainage, provide habitat for native fish and fishing opportunities for the public.



Legal Descriptions

Township 11 North, Range 19 West, P.M.M. Missoula County

Section 1: Lots 1-4	171.36 acres
Section 2: SW4NW4, W2SW4 and SE4SW4	160.00 acres
Section 3: Lots 1-4, S2N2 and S2	645.80 acres
Section 11: All	640.00 acres
Section 12: SE4, S2SW4, NW4SW4, SW4NW4 and N2NW4	400.00 acres
Section 13: All	640.00 acres
Section 14: E2	320.00 acres
Section 23: N2 and SE4	480.00 acres
Section 26: NE4 and E2W2	320.00 acres
Section 35: N2 and NW4SW4	360.00 acres

Township 12 North, Range 19 West, P.M.M. Missoula County

Section 13: All	640.00 acres
Section 14: SE4SW4 and S2SE4	120.00 acres
Section 15: SE4NE4, SW4NW4 and S2	400.00 acres
Section 22: N2SE4	80.00 acres
Section 23: N2, N2SW4 and SE4	560.00 acres
Section 24: SW4SW4	40.00 acres
Section 25: N2, N2SE4 and SW4	560.00 acres
Section 26: NE4NE4, N2NW4SE4NE4, SE4NW4SE4NE4, E2E2SW4SE4NE4 and E2SE4NE4	70.00 acres
Section 27: All	640.00 acres
Section 33: NE4, S2NW4 and S2	560.00 acres
Section 35: All except E2SE4SE4	620.00 acres

Total Acres: 8,427.16 acres

Potomac Valley Phase 2

Missoula County

Background: In 2008, The Nature Conservancy (TNC) negotiated a land purchase agreement with the Plum Creek Timber Company (PCTC) to purchase approximately 310,000 acres of forest land in Western Montana. The objective of this purchase was to manage the lands as working forests and to allow the continued use for public recreation. In December of 2008, TNC purchased approximately 129,000 acres and in February of 2009 purchased approximately 112,000 acres. The remaining acres will be purchased by TNC in December 2010. In March 2010, TNC transferred 112,000 acres to the United States Forest Service. TNC is currently working with the State of Montana on the future disposition of remaining lands.

Potomac Acquisition Proposal: On October 19th, 2009, the State Board of Land Commissioners gave preliminary approval to the Montana Department of Natural Resources and Conservation (DNRC) to purchase former PCTC lands from TNC as authorized by House Bill 674. DNRC is currently working to acquire approximately 32,200 acres from TNC for \$20,900,000. DNRC intends to request final approval of this proposal at the July 2010 meeting of the State Board of Land Commissioners. This purchase would become the Potomac Phase 1 acquisition.

Potomac Phase 2 Acquisition Proposal: The Potomac Phase 2 proposal is to acquire the remaining TNC lands in the Garnet Mountain Range lying between Highway 200 and Interstate 90, all within Missoula County. This purchase would result in approximately 25,900 acres of former industrial timberlands coming into State ownership. The addition of Phase 1 and Phase 2 lands to existing trust lands in the Garnets would result in block of 69,650 acres of forested land dedicated to support of common schools. This valuable timberland resource and wildlife habitat will provide vast recreational opportunities within a few miles of Missoula, Montana. The following information is provided as part of the public outreach portion of this proposal:

Location: The lands proposed for acquisition as Potomac Phase 2 are all located within Missoula County primarily lying on the Clark Fork River side of the Garnet Range and within 25 miles east of Missoula. (See Map)

Acreage: Approximately 25,900 acres

Grazing: A portion of this property is included within the Bonita-Clinton-Potomac Grazing Association (BCP) lease and provides for approximately 350 AUMs of grazing between June and September annually. It is anticipated that a state grazing license would be issued to the Association for these lands.

Stock Water: Stock water is available from many small stream and ponds on the property.

Fencing: Fencing for management of the grazing use occurs adjacent to private lands and around riparian areas and springs. Fencing is the responsibility of the BCP.

Crop Land: N/A

Irrigation: N/A

Timber: The entire property is former timber industry lands and is primarily forested with some open slopes on south and west aspects. Most of the property has been logged at various times since the early 1900's resulting in stands of



Potomac Valley Phase 2

Missoula County

various age classes composed of ponderosa pine, douglas fir, western larch, lodgepole pine, engelmann spruce and other mixed conifers and hardwoods. Existing merchantable timber is found mainly in streamside management zones and as scattered over story in previously harvested stands. Most non-merchantable stands are adequately stocked with pre-commercial thinning having been accomplished on many of the older age class stands. Many of the older age class stands will be approaching merchantable size with the next 20 – 30 years. The productivity of the land is estimated to be average for Western Montana and should grow at a rate of 80 – 100 board feet per acre per year. The slope of the terrain is variable with less than 50 percent tractor ground and more than 50 percent being line ground with some helicopter logging as well.



Improvements: The property is fully roaded to accommodate all future forest and grazing management needs.

Minerals: N/A

Precipitation: 10 – 20 inch range

County Taxes: Estimated \$35,000

The Garnet Mountain Range lying between Bonner, Clinton and Potomac has a long history of public recreational use for hunting, fishing, hiking, horseback riding and snowmobiling that was allowed by former industrial forest land owners and currently by TNC. Access to the property is from Highway 200 on the north and from Interstate 90 frontage roads on the south.

The property provides habitat for deer, elk, bighorn sheep, black and grizzly bear, mountain lion, lynx, occasional wolves, turkey, grouse and many non-game species. Streams that flow into either the Clark Fork or Blackfoot rivers, provide habitat for native fish and fishing opportunities for the public.

Legal Description

**Township 11 North, Range 16 West, P.M.M.
Missoula, County**

Section 1: Lots 1, 3 & 4, SE4NE4, S2NW4 and S2	534.71 acres
Section 2: Lots 1-3 and SE4NW4	135.08 acres
Section 3: Lots 1-4, S2N2 and S2	608.36 acres
Section 5: Lots 1-4, S2N2 and S2	614.40 acres
Section 6: Lots 4 & 5	34.06 acres

**Township 11 North, Range 17 West, P.M.M.
Missoula, County**

Section 1: Lots 1-14, W2SE4 and SW4	745.69 acres
Section 2: Lots 1 & 2	54.22 acres (+ 6.93 acres ?)

**Township 12 North, Range 15 West, P.M.M.
Missoula, County**

Section 30: NE4	160.00 acres
Section 31: Lots 1-4, E2W2 and E2	698.96 acres
Section 32: S2NE4, NW4 and NW4SW4	280.00 acres
Section 33: All	640.00 acres

**Township 12 North, Range 16 West, P.M.M.
Missoula, County**

Section 7: Lots 1-4, E2W2 and E2	550.40 acres
Section 17: E2	320.00 acres
Section 21: All	640.00 acres
Section 25: NE4 and S2SE4	240.00 acres
Section 25: NW4 and N2SW4 except portion, book 364, page 1499	228.74 acres

Potomac Valley Phase 2 Missoula County

Section 26: SW4 and W2SE4	240.00 acres
Section 27: N2, N2SE4 and SE4SE4	440.00 acres
Section 28: N2SE4	80.00 acres
Section 29: All	640.00 acres
Section 30: Lots 2-4, SE4NW4, E2SW4 and SE4	335.74 acres
Section 31: Lots 1-4, E2W2 and E2	554.36 acres
Section 32: NE4, S2SW4 and SW4SE4	280.00 acres
Section 33: All except book 226, page 161 and book 465, page 2174	639.66 acres
Section 34: NE4 and N2NW4	240.00 acres
Section 35: N2 and SE4	480.00 acres

Township 12 North, Range 17 West, P.M.M. Missoula, County

Section 1: Lots 1, 2, 5, 6 & 7, SW4NE4, W2SE4 and SE4SW4	373.94 acres
Section 1: Lots 3 & 4, S2NW4, N2SW4 and SW4SW4	292.36 acres
Section 3: Lots 1-4, S2N2, N2SW4 and SW4SW4	465.60 acres
Section 4: Lots 1-3, SE4NW4 and SW4NE4	218.93 acres
Section 4: Lots 4 & 5	84.73 acres
Section 5: Lots 1-4 and S2N2	268.20 acres
Section 6: Lots 1-16	591.41 acres
Section 7: Lots 1 & 2 and W2NE4 except book 43, Page 99; book 37, page 218 and book 226, page 492	183.09 acres
Section 9: Lots 1-7, E2NW4, NE4SW4, N2SE4 and NE4	565.34 acres
Section 10: Lots 1-4 and N2S2	246.28 acres
Section 11: Lots 1-7, E2NW4, NE4SW4, N2SE4 and NE4	637.03 acres
Section 14: Lots 1-7, E2NW4, NE4SW4, N2SE4 and NE4	566.42 acres
Section 15: Lots 1-8 and E2	686.56 acres
Section 23: N2	320.00 acres
Section 25: Lots 2-4, SW4NE4, S2NW4, SW4 and W2SE4	479.63 acres
Section 26: Lots 5 & 6	81.64 acres
Section 35: Lots 1-8 and SE4SW4 except book 43, page 99; book 126, page 635 and book 75, page 410	373.79 acres

Township 12 North, Range 18 West, P.M.M. Missoula, County

Section 1: Lots 5-9	250.76 acres
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Township 13 North, Range 17 West, P.M.M. Missoula, County

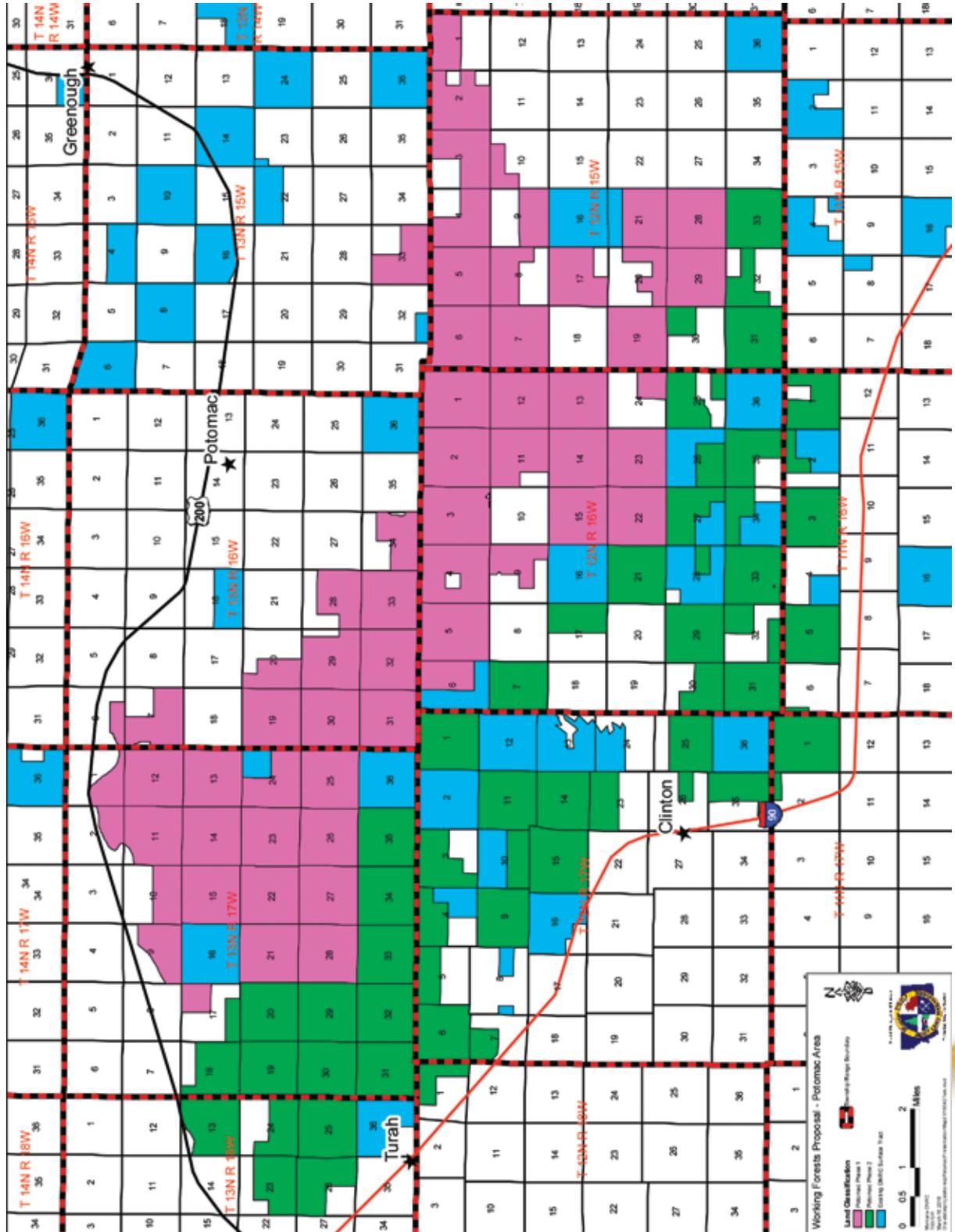
Section 17: S2SW4 and SW4SE4	120.00 acres
Section 18: Lots 4-7, SE4NW4, S2NE4, E2SW4 and SE4	482.36 acres
Section 19: Lots 1-7, SE4NW4, S2NE4, SE4 and E2SW4	597.71 acres
Section 20: Lots 1-4, S2N2 and S2	629.28 acres
Section 29: All	640.00 acres
Section 30: Lots 1-4, E2W2 and E2	608.40 acres
Section 31: Lots 1-7, E2NW4, NE4SW4, N2SE4 and NE4	623.66 acres
Section 32: Lots 1-4, N2SW4 and W2NW4	320.23 acres
Section 32: NE4, N2SE4 and E2NW4	320.00 acres
Section 33: All	640.00 acres
Section 34: All	640.00 acres
Section 35: Lots 1-7, S2NW4, SW4NE4, W2SE4 and SW4	639.55 acres

Township 13 North, Range 18 West, P.M.M. Missoula, County

Section 13: All except book 28, page 299	634.77 acres
Section 14:	??
Section 23: Lots 1-4, N2S2, SE4NW4, and S2NE4	427.27 acres
Section 24: S2 and SW4NW4	360.00 acres
Section 25: Lots 1-7, E2NW4, NE4SW4, N2SE4 and NE4	653.76 acres
Section 26: N2 and SE4	480.00 acres

Total **25,924.01 acres**

Potomac Valley Phase 2 Missoula County



North Swan

Lake County

Background: In 2008, The Nature Conservancy (TNC) negotiated a land purchase agreement with the Plum Creek Timber Company (PCTC) to purchase approximately 310,000 acres of forest land in Western Montana. TNC's objective is to manage the lands as working forests and to allow the continued use for public recreation. In December of 2008, TNC purchased approximately 129,000 acres and in February of 2009 purchased approximately 112,000 acres. TNC anticipates purchasing the final 69,000 acres in December, 2010. TNC is currently working with the State of Montana and the United States Forest Service (USFS) on future disposition of these lands.

Also, in 2007, Montana Fish Wildlife and Parks (FWP) acquired 1,760 acres from PCTC in the vicinity of Squeezer Creek within the Swan River State Forest. FWP is also currently working with the State of Montana on future disposition of these lands.

North Swan Acquisition Proposal: This proposal is to purchase former PCTC lands within the Swan River State Forest. DNRC is currently analyzing approximately 18,940 acres of PCTC (future TNC) and FWP (former PCTC) lands within the Swan River State Forest. If purchased, these lands will be held in trust for the support of Common Schools and future revenues generated from these lands will be distributed to the school facility account. The objective of this purchase is to generate long-term income for the beneficiary, continue sustainable forest management, and recreational use. The following information is provided as part of the public out-reach portion of this analysis.

Location: The analysis area is located in Lake County within the Swan River State Forest, approximately 12 miles south of Swan Lake along the east and west sides of MT Highway 83 (see Vicinity Map).

Acreage: Approximately 18,940 acres

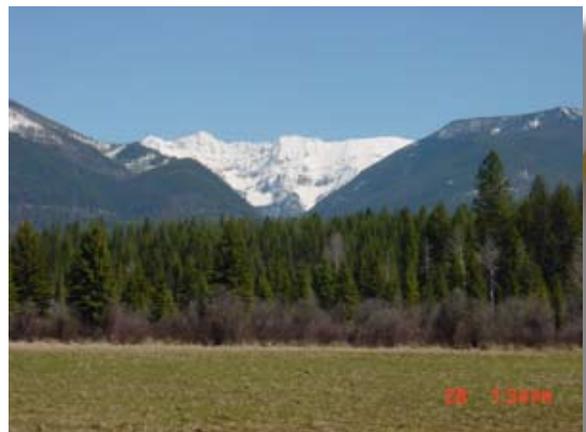
Grazing: N/A

Crop Land: N/A

Water: Swan River flows through portions of the land. There are numerous streams and wetlands throughout the analysis area. The waters on these lands provide important native fisheries habitat.

Irrigation: N/A

Timber: The entire property is former timber industry lands and is primarily forested. Most of the property has been logged at various times since the early 1900's resulting in stands of various age classes composed of ponderosa pine, western larch, douglas-fir, western white pine, lodgepole pine, engelmann spruce, grand fir, cedar, and other mixed conifers and hardwoods. Existing merchantable timber is found mainly in streamside management zones and as scattered over story in previously harvested stands. Most non-merchantable stands are fully stocked; many of the older age-class stands have been precommercially thinned. Many of the older age-class stands will be approaching merchantable size within the next 20 to 30 years. The productivity of the lands is estimated as high to very high for Western Montana and should grow at a rate of 220 to 290 board feet per acre per year. The slope



North Swan

Lake County

of the terrain is variable with approximately 60 percent tractor ground, 30 percent line ground, and 10 percent requiring helicopter logging due to high water tables or steep slopes.

Minerals: The property has some opportunity for small scale gravel and decorative rock extraction.

Fencing: N/A

Improvements: The property is fully roaded to accommodate most future forest management needs.

County Taxes: Approximately \$25,000

Precipitation: Ranges from 20 inches in the valley bottom to 70 inches near the ridge tops.

Recreational Use and Access: The property has a long history of public recreational use for hunting, fishing, hiking, cross country skiing, snow shoeing, and snowmobiling that was allowed by former industrial forest land owners and currently by TNC. Access to the property is good from a forest road network that connects to MT Highway 83, which transverses the property.

Wildlife: The property provides habitat for deer, elk, black and grizzly bear, mountain lion, lynx, wolves, turkey, grouse, and many non-game species. The many streams that flow into Swan River provide habitat for native fish.



North Swan

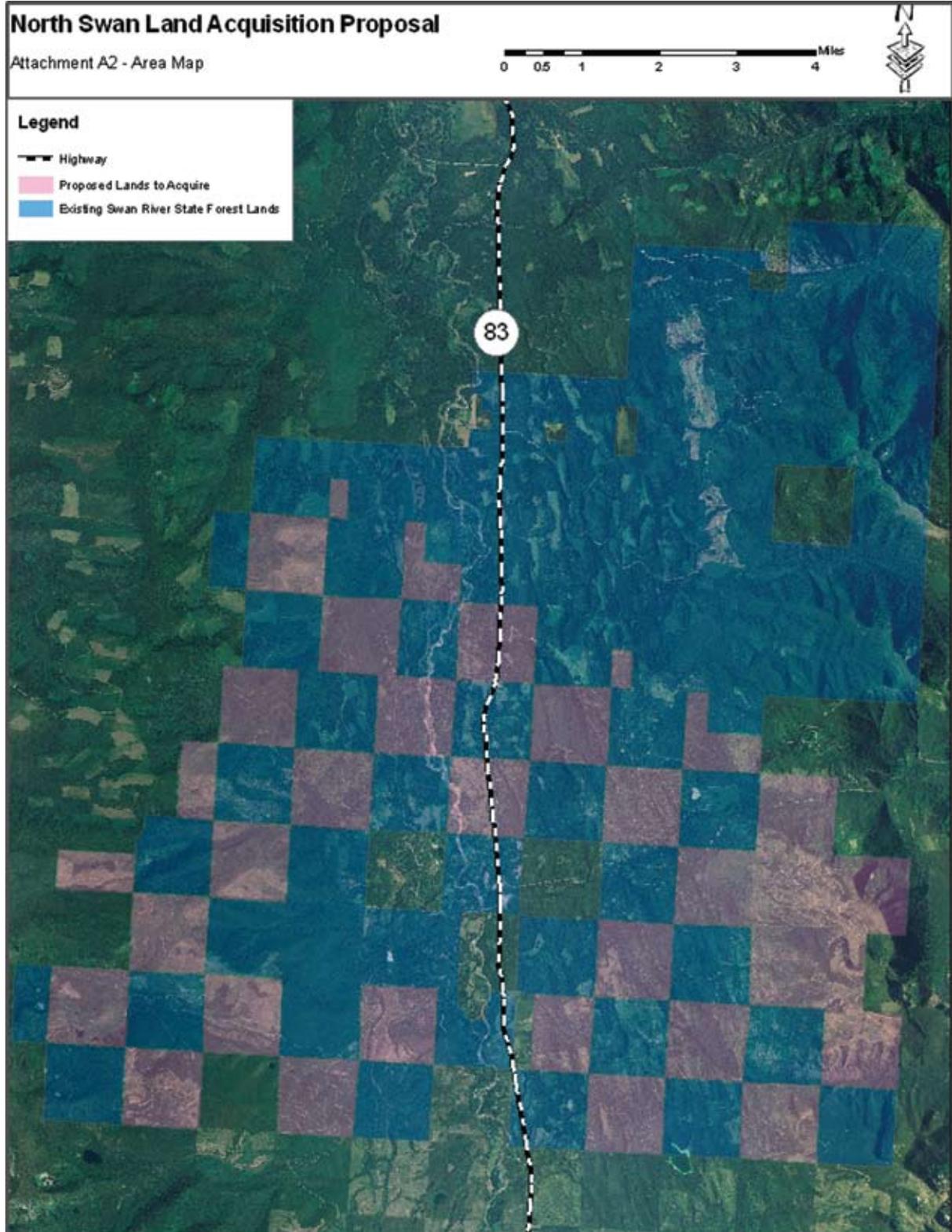
Lake County

Legal Description

Township 24 North, Range 17 West, P.M.M. Lake County	Acres
Section 31: All	637
Section 33: W2SW4	80
Township 24 North, Range 18 West, P.M.M. Lake County	
Section 23: W2SW4	80
Section 25: SW4, W2NW4, Lots 3 and 4	322
Section 27: All	640
Section 35: All	638
Township 23 North, Range 17 West, P.M.M. Lake County	
Section 3: S2, W2NW4	401
Section 5: All	642
Section 7: All	638
Section 9: All	639
Section 11: All	640
Section 13: All	638
Section 14: All	640
Section 15: All	641
Section 21: All	639
Section 23: All	639
Section 24: W2	319
Section 25: All	639
Section 27: All	640
Section 29: E2, E2W2	480
Section 33: All	640
Section 35: All	639
Township 23 North, Range 18 West, P.M.M. Lake County	
Section 1: All	639
Section 3: All	639
Section 9: E2	318
Section 11: All	637
Section 15: All	637
Section 17: S2	321
Section 21: All	641
Section 25: All	639
Section 27: All	640
Section 29: All	642
Section 33: All	638
Section 35: All	638
Total Acres	18,940

North Swan

Lake County



PPL Settlement

FAQs

What are Compensatory Damages? (\$41M and interest of about \$8M)

According to the Supreme Court decision, they are damages for PPL's trespass, negligence and unjust enrichment for unlawful use of the navigable riverbeds. They are what will make the Trust (Public Land Trust) "whole".

Why can't the damages money be put in the General Fund?

That would be an unlawful diversion of Trust assets. The Trustees (Land Board) have the fiduciary responsibility to manage Trust assets for short-term and long-term benefits of education in Montana.

Why weren't the damages money put in the guarantee account for base aid to schools?

That would be of benefit solely for present beneficiaries while ignoring long-term beneficiaries. Under MonTrust II, the Land Board has the responsibility and discretion to weigh the benefits to both current and future beneficiaries

Why did the Land Board direct the funds to land acquisition?

The acquisition of forested lands enhances present State public land trust holdings. The management of forested lands will produce annual revenue for schools from timber harvest, grazing, licenses, and leasing. Additionally, lands in Montana have appreciated an average of 4% per year expanding the value of the principal of the Trust significantly.

Why does the Land Board have responsibility to manage Trust assets?

The Supreme Court decision designated the beds of navigable rivers to be part of the Public Land Trust. Article 10 Sec. 11 of the Constitution gives the Board broad authority to manage Public Land Trust assets for the long term benefit of education.

Under what circumstances can the Board expend the compensatory damages?

Because the award of compensatory damages is to make the trust whole, the Board may not divert the damages for any other use than to make the trust whole and provide for the long-term support of education for current and future beneficiaries of the trust.

May these compensatory damages be deposited into the general fund as a fine or penalty under Section 77-1-117 MCA?

No, 77-1-117 provides that all fines and penalties for trespass upon school trust lands are to be deposited into the general fund; however, no penalties were sought in the litigation and no punitive damages were awarded against PPL. Compensatory damages are not penalties but an award by the court to make the trust whole.

Has the legislature provided direction to expend this damage award for the principal of the trust?

Yes, 77-1-116 MCA provides guidance when trespass upon state lands held in trust occurs--the Board is authorized and empowered to seize any property unlawfully taken [here the riverbed use] dispose of it and all moneys generated from the property [here the compensatory award] and “make it part of the permanent fund to which such lands may belong.”

How did the Land Board decide to expend compensatory damages?

The Land Board resolution states that the expenditure of the damages will be made consistent with the limitations placed upon expenditures under Section 17-8-101 MCA in compliance with Article VIII, section 14 of the Montana Constitution.

Is any expenditure exempt from appropriation in Montana?

Yes, money from non-state, non-federal sources that is restricted by law or trust agreement has been determined by the legislature to be exempt from appropriation.

Is the compensatory damage award from a non-federal source?

PPL Montana is the sole source of the compensatory damages—no federal source is at issue.

Is the compensatory damage award from a non-state source?

Compensatory damages will come directly from PPL Montana--no state source money is to be used to compensate the trust. The payment is further subject to fiduciary management by the Land Board as part of the public land trust.

Are future rents subject to appropriation by the legislature?

The legislature has directed future rental payments under the Montana Hydroelectric Resources Act to the school facilities account under 77-4-208 MCA beginning in 2012.