

# MONTANA FISH WILDLIFE & PARKS

## MEPA/NEPA CHECKLIST

### PART I. PROPOSED ACTION DESCRIPTION

1. Type of Proposed State Action:

Acquisition of land, 501 Pemberton Lane, for administrative use which would support FWP and Region 5 operations. Installation of sidewalks, lighting, and security fencing at the site. Additionally, development and installation of a sidewalk along Lake Elmo Drive at the FWP Region 5 Administrative office at 2300 Lake Elmo Drive and within the driveway a loading and unloading zone and lighting to improve access and safety for the public when they access Lake Elmo State Park from the administrative office.

2. Agency Authority for the Proposed Action:

- 87-1-209 MCA, FWP authority to acquire land by purchase, lease, agreement, gift, or easement.
- Parks and Access Improvements Section 23-1-110, MCA; ARM 12.8.602 requires FWP to consider the wishes of the public, the capacity of the site for development, environmental impacts, long-range maintenance, protection of natural features and impacts on tourism as these elements relate to development or improvement to state parks 23-1-126 MCA Good Neighbor Policy, SHPO, 23-2-101 MCA Land and Water Conservation Fund

3. Name of Project: 501 Pemberton Lane Acquisition and FWP Region 5 Administration Area Sidewalks.

4. Name, Address and Phone Number of Project Sponsor (if other than the agency):

Montana Fish, Wildlife, and Parks  
2300 Lake Elmo Drive  
Billings, MT 59105

5. If Applicable:

Estimated Construction/Commencement Date: May 2022

Estimated Completion Date: May 2023 for lot purchase, November 2025 or earlier for improvements.

Current Status of Project Design (% complete): 10%

6. Location Affected by Proposed Action (county, range and township)

For purchase and improvements: 501 Pemberton Lane is in Yellowstone County, within Billings City limits, in the Billings Heights next to Lake Elmo State Park, Billings Trap Club, residential development, agricultural land, and FWP Region 5 offices. The legal description is Bergquist Subdivision, S15, T01 N, R26 E, BLOCK 1, Lot 1, 2.443 AC (2000) with a parcel id of 03103315116010000.

For improvements: 2300 Lake Elmo Drive is in Yellowstone County within Billings City Limits and is within the administrative lot for FWP Region 5 office and provides access to Lake Elmo State Park it is in S15, T01 N, R26 E, C.O.S. 1561, Parcel 2B, with a parcel id of 0310331521501600.

7. Project Size:

The Pemberton lot is 2.442 acres of land that is part of the Bergquist Subdivision created in 2006. The area is defined as urban vacant and is zoned as Corridor Mixed Use 1 and is open space. It was, in recent history, an irrigated field prior to subdivision. An irrigation ditch bisects the property. It isn't in a floodplain, doesn't have wetlands and is no longer classified as agricultural land.

The improvements at the Lake Elmo R5 Headquarters would occupy less than 0.13 acres.

8. Map/site plan: Below are five maps which provide a reference to the location from a state-wide perspective (Figure 1), Billings's area perspective (Figure 2), proximity to Lake Elmo State Park and the Region 5 Administrative space (Figure 3), an aerial image of the proposed site for purchase (Figure 4), and area considered for sidewalks, loading/unloading zone at FWP R5 HQ's (Figure 5). This EA has been prepared to acquire the 501 Pemberton Lane lot and to complete the required sidewalk and lighting as part of the subdivision requirements and install a security fence for basic use of the site. Additionally, this EA is to consider improvement at FWP Region 5 Headquarters with installation of a sidewalk along Lake Elmo Drive and create a loading and unloading zone within the driveway area of the FWP office. Figure 6 displays conceptual plans for both areas considered in this EA. Plans for developments within the Pemberton Land Lot beyond use as parking may require a separate EA. Planning for existing FWP Administrative space at 2300 Lake Elmo Drive will be influenced by the decision to purchase the Pemberton Lane lot.

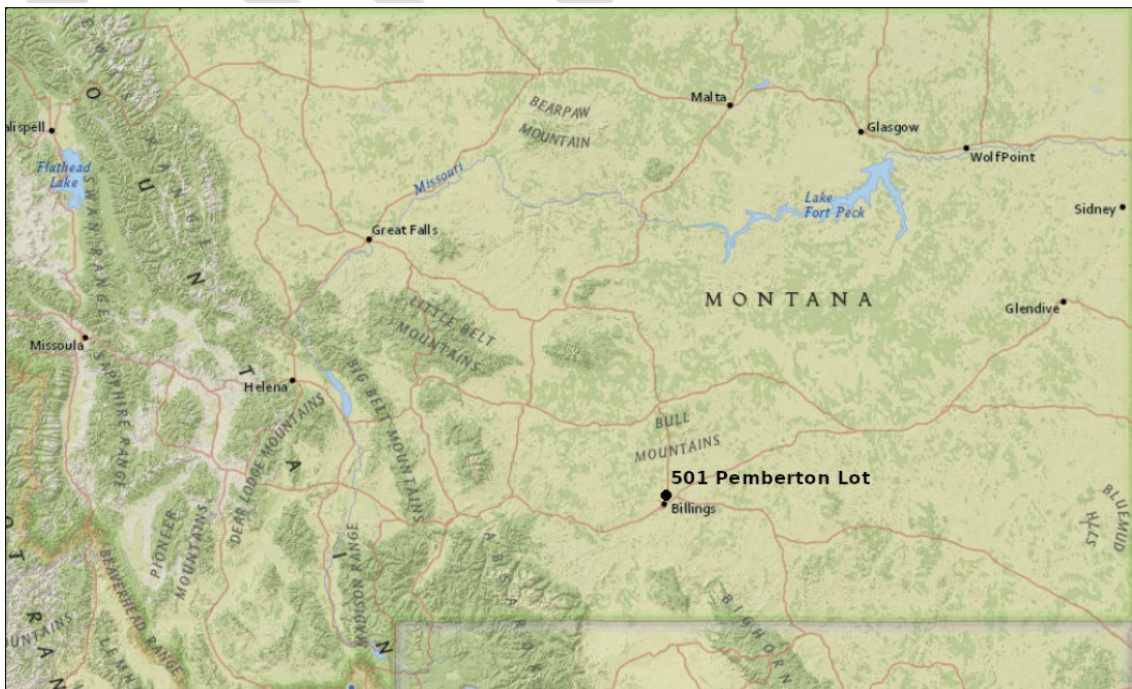


Figure 1. Statewide location of site in Billings Montana



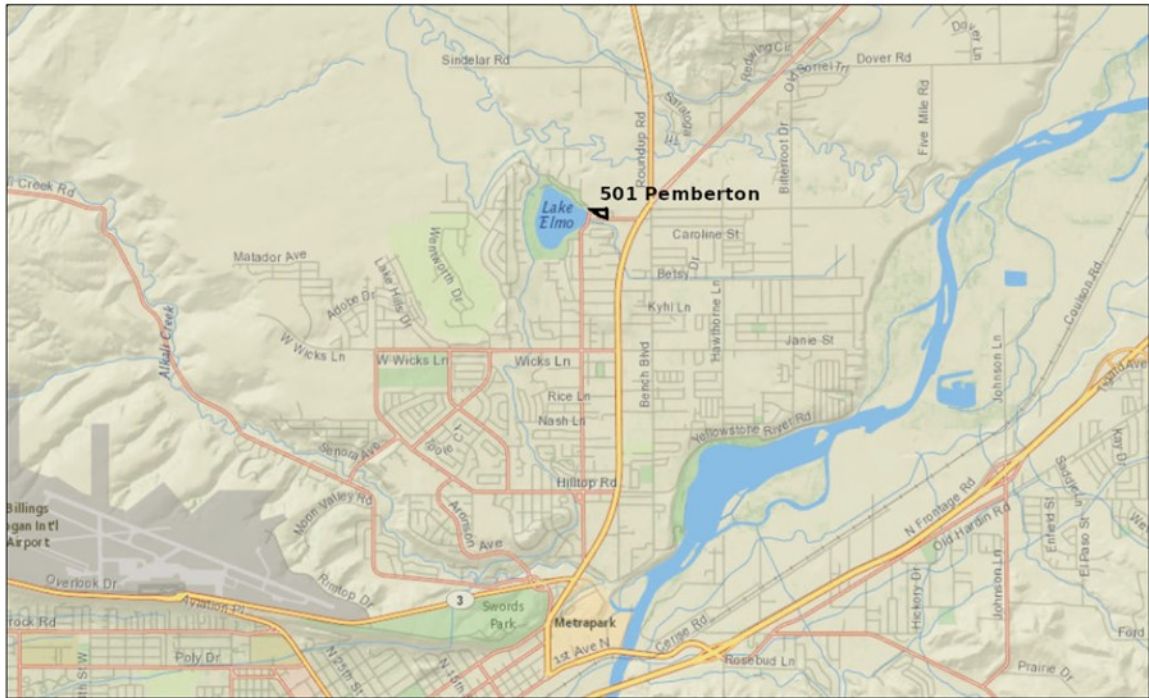


Figure 2. Location Billings Heights, Billings Montana FWP



Figure 3. Site location near Lake Elmo State Park and the FWP Region 5 office.





Figure 4. Lot aerial image current condition.



Figure 5. 2300 Lake Elmo Drive, FWP Region 5 area proposed for sidewalks.

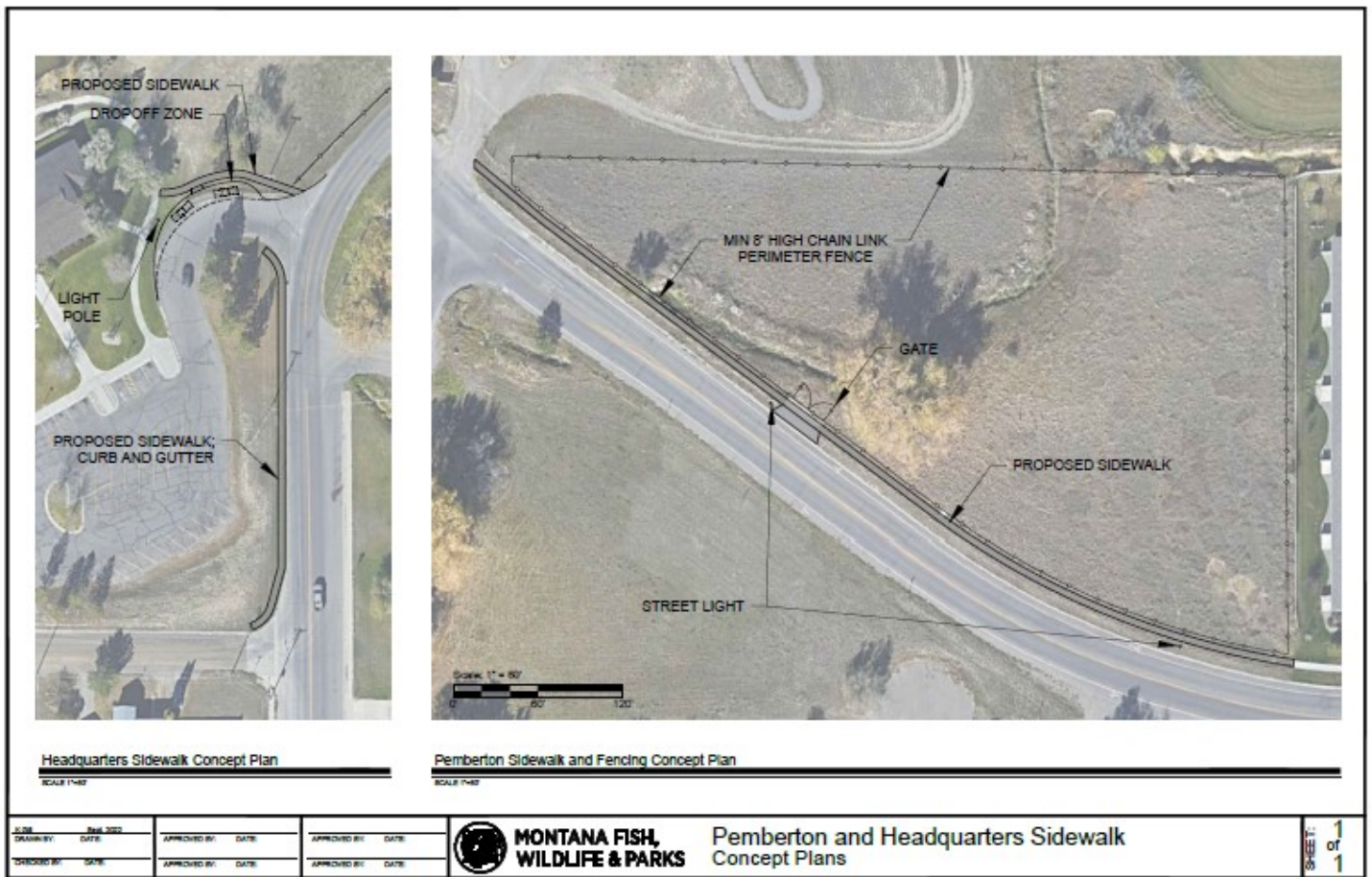


Figure 6. Concept plans for Headquarter sidewalk and unloading and loading parking area, and Pemberton sidewalk, lighting, and security fence.

9. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction.

(a) Permits: Any future improvements on this proposed land would be required to meet all local, state and federal regulations for zoning and to obtain any necessary permits. City and County permits would be required for some actions that may include fencing, lot development, and building of structures which may include shop, residential or office space. Future environmental assessments would address development plans. Title of the Pemberton property requires development of sidewalks and street lighting. The R5 office sidewalk development and the Pemberton Title requirements will require city and county review and permitting. Development of a perimeter security fence at the Pemberton property may require a permit.

(b) Funding: The costs to FWP for the purchase are limited to project planning, due diligence, and public outreach efforts in conjunction with MEPA requirements. FWP paid earnest money of \$3,000. Other costs include cultural resources and contaminant studies and will pay appropriate closing costs and associated fees. FWP paid for an appraisal and has been providing staff for project planning. The land appraisal resulted in a value of \$290,000 which will be used to complete the transaction if the preferred proposed alternative is accepted after considering public comment. Development costs to include a security fence, sidewalk and lights is estimated near \$177,000.



Agency Name: Montana Fish Wildlife and Parks  
 Funding Amount:  
 Appraised value..... \$290,000  
 Earnest money.....(\$3,000)  
 appraisal cost.....\$4,000  
 Hazmat Survey cost....\$1,230.25  
 Total.....\$292,230.25

Base Bid <b>Pemberton Property</b>					Engineer's Estimate
Item #	Bid Item	Quantity	Unit	Unit Cost	Total Cost
1	Mobilization/Demobilization/BMP	1	LPSM	\$ 2,400.00	\$ 2,400.00
2	Gravel	64	CY	\$ 30.00	\$ 1,908.87
3	Concrete	3,432	SF	\$ 8.00	\$ 27,456.00
4	8' high Chainlink Fence (entre property)*	1,553	LF	\$ 55.00	\$ 85,415.00
5	Chain link double swing gate with locking mechanism	1	LPSM	\$ 1,920.00	\$ 1,920.00
6	Street Light	2	EACH	\$ 14,500.00	\$ 29,000.00
7	Site Prep/Clean Up	1	LPSM	\$ 3,000.00	\$ 3,000.00
<b>TOTAL ESTIMATED BASE BID</b>					<b>\$ 151,097.67</b>
<b>Miscellaneous Items</b>					
1	FWP Supplied Signs	1	EACH	\$ 25.00	\$ 25.00
2	Ditch Realignment	Lump Sum			\$ 3,000.00
3	15% Contingency				\$ 22,664.65
<b>TOTAL ESTIMATED MISCELLANEOUS ITEMS COST</b>					<b>\$ 25,689.65</b>
<b>TOTAL ESTIMATED PROJECT COST- Pemberton Property</b>					<b>\$ 176,787.32</b>

Approximate total Pemberton with purchase and development: \$470,000.00

Headquarters sidewalk and parking area improvement project budget is estimated at approximately \$43,000.

Total Estimated Combined Project Costs \$513,000

Base Bid <b>Headquarters Sidewalk and Dropoff</b>					Engineer's Estimate
Item #	Bid Item	Quantity	Unit	Unit Cost	Total Cost
1	Mobilization/Demobilization/BMP	1	LPSM	\$ 1,200.00	\$ 1,200.00
2	Gravel sub base for Concrete	38	CY	\$ 30.00	\$ 1,088.89
3	Concrete	1,924	SF	\$ 8.00	\$ 15,392.00
5	Gravel sub base for Ashpalt	7	CY	\$ 30.00	\$ 222.22
4	Additional asphalt for dropoff zone	400	SF	\$ 8.00	\$ 3,200.00
6	Light Pole	1	EACH	\$ 14,500.00	\$ 14,500.00
7	Site Prep/Clean Up	1	LPSM	\$ 1,500.00	\$ 1,500.00
8	Wooden Fence Removal	80	LF	\$ 0.74	\$ 59.20
<b>TOTAL ESTIMATED BASE BID</b>					<b>\$ 37,142.31</b>
<b>Miscellaneous Items</b>					
1	15% Contingency				\$ 5,571.35
<b>TOTAL ESTIMATED MISCELLANEOUS ITEMS COST</b>					<b>\$ 5,571.35</b>
<b>TOTAL ESTIMATED PROJECT COST- Headquarters Sidewalk and Dropoff</b>					<b>\$ 42,713.66</b>

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Yellowstone County  
City of Billings  
Montana Natural Heritage Species of Concern Reports  
USFWS Wetland Mapping  
Montana State Historic Preservation Office

10. Narrative summary of the proposed action or project including the benefits and purpose of the proposed action:

This EA is for consideration to purchase the property and for minimum development to include sidewalks, street lighting, and security fencing. Another EA may be filed for future development beyond using the area for storage of equipment and materials. This could include space designed for field courses for Hunter and Bowhunter Education classes. Parking and possible indoor shop or administrative facility with potential housing or temporary housing for seasonal staff and RV pads and hookups.

This lot provides an opportunity to meet many of the needs in a location which is very close to existing FWP infrastructure including Lake Elmo State Park, FWP Regional office and shop. This property's proximity will limit staff time and logistic costs associated with other potential FWP admin properties in the region.

During development of this project public requests have been received to install a sidewalk along Lake Elmo Drive for area residents and visitors that walk to Lake Elmo Park and the Regional Office. This would increase safety for pedestrians access the recently improved trail at Lake Elmo State Park. The public used areas disturbed by construction for the Lake Elmo project as a loading and unloading area, resulting in damage to the lawn irrigation system. Designing an area for loading and unloading would improve safety within the driveway area to the FWP Regional Office and reduce damage to existing infrastructure. A street light adjacent to the driveway is desired to increase visibility in the area for pedestrians and public using the proposed loading and unloading zone.

Alternatives:

- A. Purchase property at 501 Pemberton Lane and finalize plans for the development of sidewalks and lighting at both sites, security fencing at Pemberton Lane property, and the loading/unloading zone at the Regional office for recreationalists utilizing Lake Elmo State Park.
- B. Do not purchase 501 Pemberton Lane and develop the sidewalk, lighting, and security fence but move forward with improvements at FWP R5 Headquarters to include sidewalk, lighting, and a loading/unloading zone for recreationalists utilizing Lake Elmo State Park.
- C. No action Alternative. This would result in not purchasing the property or developing the described projects.

11. List of agencies consulted during preparation of the EA:

FWP  
Yellowstone County  
City of Billings  
Natural Heritage Species of Concern Information  
FEMA Flood Mapping

## PART II. ENVIRONMENTAL REVIEW

1. Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

### A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Soil instability or changes in geologic substructure?			X			
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?			X			
c. **Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

1a. If purchased future development would convert grass to parking lot, storage areas, and potentially several small residential buildings. The irrigation ditch may have crossings established, be converted to buried pipe, or moved to maximize use of the property.

1b. The land has not been used for agriculture for many years. Images suggest the land was retired from agriculture around 2006, when it was subdivided. Removal of grass to develop would result in compaction of soils and require drainage of the lot.

2. <u>AIR</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Emission of air pollutants or deterioration of ambient air quality? (also see 13 (c))			X			
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ***For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a)		X				
f. Other:						

\* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

\*\* Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

\*\*\* Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

\*\*\*\* Include a discussion about the issue in the EA narrative and include documentation if it will be useful

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Air Resources (Attach additional pages of narrative if needed):**

2a. There would be temporary dust and exhaust from equipment at the site during construction of facilities. No impact from the purchase of the property.



3. <u>WATER</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. *Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		x				
b. Changes in drainage patterns or the rate and amount of surface runoff?			x			
c. Alteration of the course or magnitude of floodwater or other flows?		x				
d. Changes in the amount of surface water in any water body or creation of a new water body?		x				
e. Exposure of people or property to water related hazards such as flooding?		x				
f. Changes in the quality of groundwater?		x				
g. Changes in the quantity of groundwater?		x				
h. Increase in risk of contamination of surface or groundwater?	x					
i. Effects on any existing water right or reservation?			x			
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		x				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		x				
l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c)		x				
m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a)		x				
n. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):**

3b. Once developed the site would need to establish a runoff plan as part of the project.

3i. There is an existing irrigation ditch that bisects the property. To maximize the use of the property this ditch may be modified. Modifications would provide for water to be delivered down ditch to meet other water rights. FWP may use the ditch water to irrigate any areas that would benefit from watering.

4. <u>VEGETATION</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			x			
b. Alteration of a plant community?			x			
c. Adverse effects on any unique, rare, threatened, or endangered species?		x				
d. Reduction in acreage or productivity of any agricultural land?		x				
e. Establishment or spread of noxious weeds?	x					

f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?	x				
g. Other:					

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

4a. Currently there are a few cottonwood trees and small brush with the lot dominated by grass. The land isn't in agricultural use. FWP would likely remove some brush and trees once developed. Consideration to plant other vegetation such as trees, brush, and grass will be given in future planning.

4b. The existing plant community consisting mostly of grass would be converted to developed parking and structures with some areas developed into vegetative areas as part of the planning process.

4e. FWP vehicles travel across the region and state. It is possible weeds could be moved to the site from vehicles. A weed management program would be in place for the site.

4f. *Gratiola ebracteata* Bractless Hedge-hyssop exhibits a moderate fidelity to a narrow range of ecological tolerance, typifies a stable or near climax community, and does not tolerate disturbance. This reported occurrence is a historic account in the township T1N 26E. It is unlikely this plant exists on this lot as it is associated with drying mud around ponds and streams in foothills and the plains. This lot has been modified with the ditch and otherwise is on a dry hill. There are no wetlands identified by the USFWS Wetlands Inventory on this lot Appendix 1.

** 5. <u>FISH/WILDLIFE</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?		x				
b. Changes in the diversity or abundance of game animals or bird species?		x				
c. Changes in the diversity or abundance of nongame species?	x					
d. Introduction of new species into an area?		x				
e. Creation of a barrier to the migration or movement of animals?		x				
f. Adverse effects on any unique, rare, threatened, or endangered species?		x				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		x				
h. ****For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f)		x				
i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d)		x				
j. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

5c. A small cluster of mature cottonwood trees may support some individual nongame animals such as bats. The remaining habitat is homogenous and doesn't support quality nongame habitat.

5h. Twenty-three animal species of concern have been identified in township 1N Range 26 E and are listed in Appendix 1. This parcel doesn't support those species. This lot is not in the Sage Grouse EO area and is adjacent to parcels listed as general habitat (north).

**B. HUMAN ENVIRONMENT**

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Increases in existing noise levels?			x			

b. Exposure of people to serve or nuisance noise levels?		x				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		x				
d. Interference with radio or television reception and operation?		x				
e. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

6a. Any construction may temporarily increase noise levels. This area is next to a trap club and an arterial road, it is not anticipated future noise would increase as part of potential developments.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		x				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		x				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		x				
d. Adverse effects on or relocation of residences?			x			
e. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

7d. This lot is adjacent to a developed subdivision of homes. Future construction would strive to limit conflicts of use between FWP work and residents of the homes. Installation of lighting and sidewalks would improve safety for the public.

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?	x				x	
b. Affect an existing emergency response or emergency evacuation plan or create a need for a new plan?			x			
c. Creation of any human health hazard or potential hazard?		x				
d. ***For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		x				
e. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

8a. The purchase of the property will not increase risk. Future development as storage may include fuels, herbicide, pesticides and other residential and property management chemicals. Potential risks can be mitigated by developing proper storage and handling protocols and would be part of the planning process for future development.

8b. Adding new structures would increase need for emergency response to be aware of any new facilities once developed.

8c. Installation of sidewalks and lighting would increase public safety in this area.



9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?	x					
b. Alteration of the social structure of a community?		x				
c. Alteration of the level or distribution of employment or community or personal income?			x			
d. Changes in industrial or commercial activity?		x				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?			x			
f. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

- 9a. This area can be developed for residential and commercial uses that include potential development by FWP. It is unknown how this property could affect distribution of housing or human populations in the future.
- 9c. Developing this site may allow FWP to hire difficult to fill seasonal positions if we can provide housing or RV hook-ups for those seasonal employees.
- 9e. An approach to the property exists. Development and use would increase traffic entering and leaving the lot in the future. This use is anticipated to be like the traffic into and out of the office at Lake Elmo and is part of the current zoning plans. Development of sidewalks and street lighting would improve traffic and pedestrian safety.

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:			x			
b. Will the proposed action have an effect upon the local or state tax base and revenues?			x			
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?			x			
d. Will the proposed action result in increased used of any energy source?			x			
e. **Define projected revenue sources						
f. **Define projected maintenance costs.			x			
g. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

- 10a. The purchase of the lot would not have an effect. Future development may include connection to city water and sewer, require a dumpster to be on site, and would add a structure that at times may require emergency response similar to other storage or office spaces.
- 10b. FWP pays taxes on property at the same rate as private individuals. Development would increase the value of the lot which may increase the tax payments to the city and county.
- 10c. Utilities would be required for future development if the are is developed into something more than outdoor storage. No change as part of the purchase. Increased costs for street lighting would be incurred.

10d. There will be a need to fence and develop parking space as part of this project if purchased. This would slightly increase use of energy for equipment during construction.

10f. Weed management and mowing would be required for this area, inspection of the fence and any repairs.

<b>** 11. AESTHETICS/RECREATION</b>	<b>IMPACT *</b>				<b>Can Impact Be Mitigated *</b>	<b>Comment Index</b>
	<b>Unknown *</b>	<b>None</b>	<b>Minor *</b>	<b>Potentially Significant</b>		
<b>Will the proposed action result in:</b>						
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?			X			
b. Alteration of the aesthetic character of a community or neighborhood?			X			
c. **Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report)		X				
d. ***For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c)		X				
e. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

11a. Some may find development of this open space changes the view. FWP development would strive to develop this site to reduce conflicts for space. A private lot across the street is a storage lot, there is a trap club on another site, open space, a subdivision with homes on another.

11b. While there would not be a change in use of the area based on other similar lot developments it would be a change of this lot when developed. The installation of sidewalks would connect existing sidewalks.

<b>12. CULTURAL/HISTORICAL RESOURCES</b>	<b>IMPACT *</b>				<b>Can Impact Be Mitigated *</b>	<b>Comment Index</b>
	<b>Unknown *</b>	<b>None</b>	<b>Minor *</b>	<b>Potentially Significant</b>		
<b>Will the proposed action result in:</b>						
a. **Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?	X					
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a)	X					
e. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):**

12a. The purchase of the lot would not alter the site fencing and development the sidewalk and lighting would alter the site. A SHPO review is underway. Future developments will require a separate EA and review. There are no known prehistoric or paleontological objects for this lot. There is a functioning irrigation ditch on the site.

12d. The purchase of the site will not affect historic or cultural resources. Future development to be covered in additional EA's would alter the land and require a full review for the site.

### C. SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u>  Will the proposed action, considered as a whole:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		x				
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		x				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		x				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		x				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		x				
f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e)	x					
g. ****For P-R/D-J, list any federal or state permits required.		x				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):**

13c. It is unlikely this project will create organized opposition however it is unknown.

13g. This project requires FWP Commission approval. It is under the threshold for the MT Land Board requirements.

### PART II. ENVIRONMENTAL REVIEW, CONTINUED

2. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:

1. Preferred Alternative. FWP purchases the 2.442-acre property and develops permitter security fencing and the required sidewalk and lighting. This site in the short term would be used for storage of trailers, vehicles, and larger equipment. Future use may include outdoor storage, building development for administrative use, storage, housing units which might include RV full hookups, and/or field course areas. This site is near existing FWP infrastructure in Region 5 including the administrative buildings and Lake Elmo State Park. This property's close location to FWP's present site makes this an ideal location for convenience and size to allow for effective expansion. It would provide a centralized area for staff, equipment, and public programs. This alternative would include development of a sidewalk along Lake Elmo Drive, a loading/unloading parking area and lighting within the Region 5 HQ's existing lot.
2. Alternative to move forward with improvements at FWP R5 HQs to include sidewalk, lighting, and a loading/unloading zone for recreationalists utilizing Lake Elmo State Park. Do not purchase 501 Pemberton Lane, develop require sidewalk and lighting, or install perimeter fencing. Under this alternative, FWP Region 5 would revisit the need for additional space and



consider alternatives which may be proposed during the EA comment period or developed internally.

3. No Action. Under this alternative, the lot at 501 Pemberton Lane near Lake Elmo and FWP Region 5 offices would not be purchased. Development of sidewalks and lighting would not be completed at either site. The loading/unloading zone would not be developed at the HQ's parking area. Crowding in the existing storage area would continue. Under this action, review of existing spaces would be forthcoming to resolve space issues facing Region 5. Developments to improve public access along Lake Elmo Drive would be reconsidered with FWP relying on comments received during the EA public comment process to determine publicly acceptable options.

3. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

(This section provides an analysis of impacts to private property by proposed restrictions or stipulations in this EA as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in this EA is conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (EQC, 1996). A completed checklist designed to assist state agencies in identifying and evaluating proposed agency actions, such as imposed stipulations, that may result in the taking or damaging of private property, is included in Appendix A.)

This is a purchase proposal from a willing seller with this and future development to follow federal, state, and local ordinances and requirements.

### **PART III. NARRATIVE EVALUATION AND COMMENT**

The proposed action to acquire 2.442 acres next to the FWP Regional Headquarters in Billings should have no negative cumulative effects as it is in an existing developed area. This action does offer a positive effect by creating more space for equipment, material storage, potential housing or temporary housing for seasonal staff, potential for office or public meeting space, and may provide an area for a field course for Hunter and Bowhunter Education students. It will improve pedestrian and employee safety.

The "No Action Alternative" would not provide FWP with needed space and would leave Region 5 searching for alternatives that may require more travel and/or rental costs for storage and administrative uses. Not developing lighting, sidewalks, and the loading and unloading zone continues the issue of safe access and the desire by the public to have an area near the office to off-load and load recreational equipment near the office and the newly developed hand launch ramp.

The Pemberton lot is zoned as CMU1 by the county. The CMU1 district in the county is intended for use only where City of Billings' public services, including but not limited to water and sewer services or a county water and sewer district is available. This district is intended to accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. Commercial uses in the CMU1 district may be somewhat larger in scale and more flexible than the neighborhood mixed-use district, including more auto-oriented uses such as gas stations. While ground stories along streets are intended for commercial uses, the upper stories could accommodate residential and/or office uses. Any necessary changes to zoning would require review by the city and county boards.

## **PART IV. EA CONCLUSION SECTION**

1. Based on the significance criteria evaluated in this EA, is an EIS required (YES/NO)? If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

No. Impacts to the physical environment are small in scale due to the small size of property and the fact that it is located within the city limits of Billings and situated next to existing office buildings and state park. A hazmat site assessment was completed with no findings.

2. Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

The public will be notified in the following manners to comment on this current EA, the proposed action, and alternatives:

- Two public notices in each of these papers: Billings Gazette and Helena Independent.
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.

Notification of this environmental assessment will be distributed to the neighboring landowners and parties and entities on the Region 5 EA email Distribution list to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited impacts, many of which can be mitigated.

3. Duration of comment period.

The public comment period will extend for at least (30) thirty days. The EA will be distributed starting October 7<sup>th</sup>, 2022. Written comments will be accepted until noon November 7<sup>th</sup>, 2022, and can be mailed or emailed to the addresses below:

Montana FWP Region 5  
Attn: 501 Pemberton Lane Acquisition Comments  
2300 Lake Elmo Drive.  
Billings MT. 59105-3998

Comments can be emailed to [fwpregion5pc@mt.gov](mailto:fwpregion5pc@mt.gov) Please use subject line, "**Pemberton Lane Acquisition**".

4. Name, title, address, and phone number of the person(s) responsible for preparing the EA:

Mike Ruggles, Regional Supervisor, Montana Fish Wildlife and Parks, 2300 Lake Elmo Drive, Billings, MT 59105, 406-247-2951, [mikeruggles@mt.gov](mailto:mikeruggles@mt.gov)

# APPENDIX A

## PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

**(LIST ANY MITIGATION OR STIPALTIONS REQUIRED, OR NOTE "NONE")**

None

### DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

		<b>YES</b>	1.	Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
		<b>NO</b>	2.	Does the action result in either a permanent or indefinite physical occupation of private property?
		<b>NO</b>	3.	Does the action deprive the owner of all economically viable uses of the property?
		<b>NO</b>	4.	Does the action deny a fundamental attribute of ownership?
		<b>NO</b>	5.	Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is <b>NO</b> , skip questions 5a and 5b and continue with question 6.]
			5a.	Is there a reasonable, specific connection between the government requirement and legitimate state interests?
			5b.	Is the government requirement roughly proportional to the impact of the proposed use of the property?
		<b>NO</b>	6.	Does the action have a severe impact on the value of the property?
		<b>NO</b>	7.	Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is <b>NO</b> , do not answer questions 7a-7c.]
		<b>NO</b>	7a.	Is the impact of government action direct, peculiar, and significant?
		<b>NO</b>	7b.	Has government action resulted in the property becoming practically



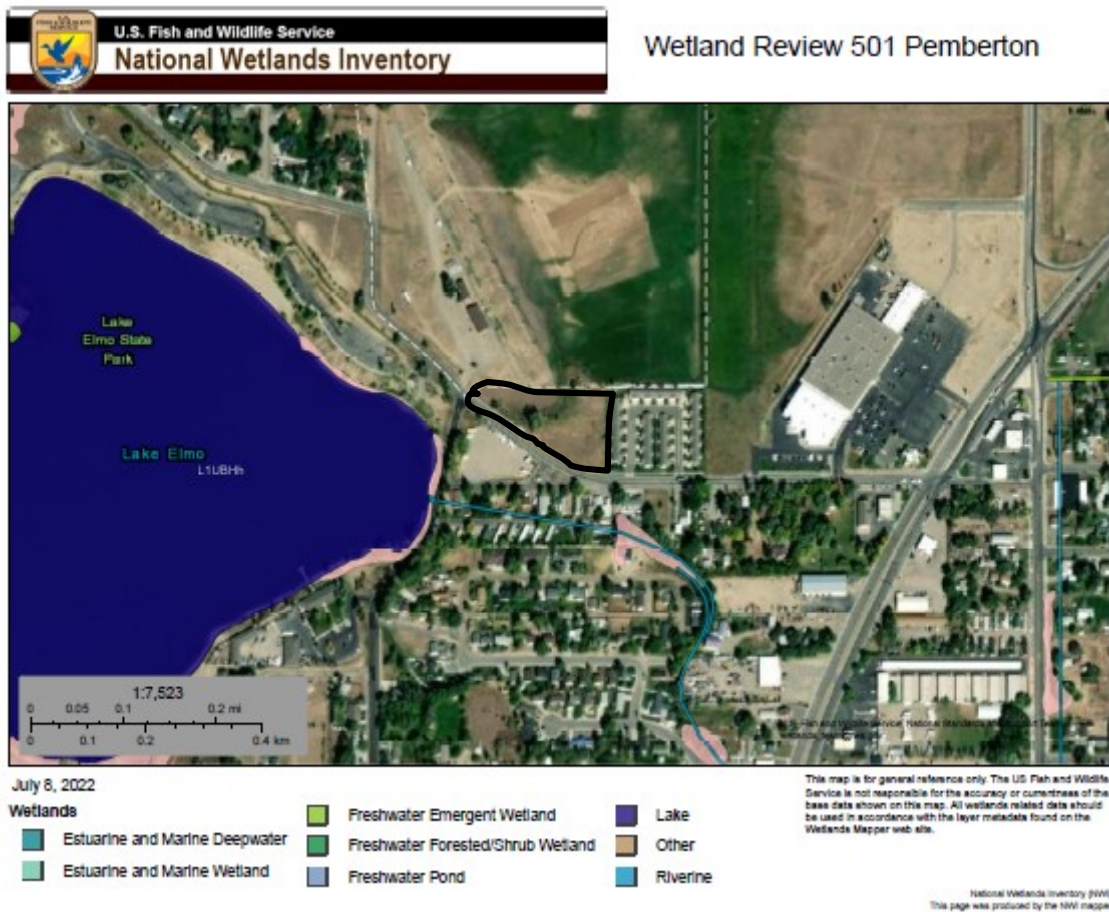
				inaccessible, waterlogged, or flooded?
		<b>NO</b>	7c.	Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

There is no taking of property rights as the project includes a willing seller.

Appendix 1. Wetland Inventory Map.



No wetlands identified in the National Survey for the Pemberton or Administration Projects.

**Appendix 2. Animal Species of Concern Codes and Species List for Township 1 North 26 East.**

## Montana Species Ranking Codes (GRank, SRank)

Montana employs a standardized ranking system to denote **global** (range-wide) and **state** status (NatureServe 2006). Species are assigned numeric ranks ranging from 1 (highest risk, greatest concern) to 5 (demonstrably secure), reflecting the relative degree of risk to the species' viability, based upon available information.

A number of factors are considered in assigning ranks — the number, size and quality of known occurrences or populations, distribution, trends (if known), intrinsic vulnerability, habitat specificity, and definable threats. The process of assigning state ranks for each taxon relies heavily on the number of occurrences and Species Occurrence (OE) ranks, which is a ranking system of the quality (usually A through D) of each known occurrence based on factors such as size (# of individuals) and habitat quality. The remaining factors noted above are also incorporated into the ranking process when they are known. The "State Rank Reason" field in the [Montana Field Guide](#) provides additional information on the reasons for a particular species' rank.

Rank		Definition
<b>G1</b>	<b>S1</b>	At high risk because of <b>extremely limited</b> and/or <b>rapidly declining</b> population numbers, range and/or habitat, making it highly vulnerable to global extinction or extirpation in the state.
<b>G2</b>	<b>S2</b>	At risk because of <b>very limited</b> and/or <b>potentially declining</b> population numbers, range and/or habitat, making it vulnerable to global extinction or extirpation in the state.
<b>G3</b>	<b>S3</b>	Potentially at risk because of <b>limited</b> and/or <b>declining</b> numbers, range and/or habitat, even though it may be abundant in some areas.
<b>G4</b>	<b>S4</b>	Apparently secure, though it may be quite rare in parts of its range, and/or suspected to be declining.
<b>G5</b>	<b>S5</b>	Common, widespread, and abundant (although it may be rare in parts of its range). Not vulnerable in most of its range.
<b>GX</b>	<b>SX</b>	Presumed Extinct or Extirpated - Species is believed to be extinct throughout its range or extirpated in Montana. Not located despite intensive searches of historical sites and other appropriate habitat, and small likelihood that it will ever be rediscovered.
<b>GH</b>	<b>SH</b>	Historical, known only from records usually 40 or more years old; may be rediscovered.
<b>GNR</b>	<b>SNR</b>	Not Ranked as of yet.
<b>GU</b>	<b>SU</b>	Unrankable - Species currently unrankable due to lack of information or due to substantially conflicting information about status or trends.
<b>GNA</b>	<b>SNA</b>	A conservation status rank is not applicable because the species or ecosystem is not a suitable target for conservation activities as a result of being: 1) not confidently present in the state; 2) non-native or introduced; 3) a long distance migrant with accidental or irregular stopovers; or 4) a hybrid without conservation value.

### Qualifiers

**Q Questionable** taxonomy that may reduce conservation priority-Distinctiveness of this entity as a taxon at the current level is questionable; resolution of this uncertainty may result in change from a species to a subspecies or hybrid, or inclusion of this taxon in another taxon, with the resulting taxon having a lower-priority (numerically higher) conservation status rank. Appended to the global rank, *e.g.* G3Q

**? Inexact Numeric Rank** - Denotes uncertainty; inexactness.

**B Breeding** - Rank refers to the breeding population of the species in Montana. Appended to the state rank, *e.g.* S2B, S5N = *At risk during breeding season, but common in the winter*

**N Nonbreeding** - Rank refers to the non-breeding population of the species in Montana. Appended to the state rank, e.g. *S5B,S2N* = *Common during breeding season, but at risk in the winter*

**M Migratory** - Species occurs in Montana only during migration.

**Sub-rank**

**T#** Rank of a subspecies or variety. Appended to the global rank of the full species, e.g. *G4T3* where the G-rank reflects the global status of the entire species and the T-rank reflects the global status of just the subspecies.

Class	Scientific Name	Common Name	Global Rank	State Rank	Habitat Type
Mammals (Mammalia)	<i>Cynomys ludovicianus</i>	Black-tailed Prairie Dog	G4	S3	Grasslands
Mammals (Mammalia)	<i>Euderma maculatum</i>	Spotted Bat	G4	S3	Cliffs with rock crevices
Mammals (Mammalia)	<i>Lasiurus cinereus</i>	Hoary Bat	G3G4	S3	Riparian and forest
Mammals (Mammalia)	<i>Myotis evotis</i>	Long-eared Myotis	G5	S3	Forest
Mammals (Mammalia)	<i>Myotis lucifugus</i>	Little Brown Myotis	G3G4	S3	Generalist
Birds (Aves)	<i>Anthus spragueii</i>	Sprague's Pipit	G3G4	S3B	Grasslands
Birds (Aves)	<i>Ardea herodias</i>	Great Blue Heron	G5	S3	Riparian forest
Birds (Aves)	<i>Athene cunicularia</i>	Burrowing Owl	G4	S3B	Grasslands
Birds (Aves)	<i>Catharus fuscescens</i>	Veery	G5	S3B	Riparian forest
Birds (Aves)	<i>Centrocercus urophasianus</i>	Greater Sage-Grouse	G3G4	S2	Sagebrush
Birds (Aves)	<i>Coccyzus americanus</i>	Yellow-billed Cuckoo	G5	S3B	Prairie riparian forest
Birds (Aves)	<i>Coccyzus erythrophthalmus</i>	Black-billed Cuckoo	G5	S3B	Riparian forest
Birds (Aves)	<i>Falco peregrinus</i>	Peregrine Falcon	G4	S3	Cliffs / canyons
Birds (Aves)	<i>Gymnorhinus cyanocephalus</i>	Pinyon Jay	G3	S3	Open conifer forest
Birds (Aves)	<i>Lanius ludovicianus</i>	Loggerhead Shrike	G4	S3B	Shrubland
Birds (Aves)	<i>Spizella breweri</i>	Brewer's Sparrow	G5	S3B	Sagebrush
Reptiles (Reptilia)	<i>Apalone spinifera</i>	Spiny Softshell	G5	S3	Prairie rivers and larger streams
Reptiles (Reptilia)	<i>Chelydra serpentina</i>	Snapping Turtle	G5	S3	Prairie rivers and streams
Reptiles (Reptilia)	<i>Heterodon nasicus</i>	Plains Hog-nosed Snake	G5	S2	Friable (crumbly) soils
Reptiles (Reptilia)	<i>Lampropeltis gentilis</i>	Western Milksnake	G5	S2	Rock outcrops
Reptiles (Reptilia)	<i>Phrynosoma hernandesi</i>	Greater Short-horned Lizard	G5	S3	Sandy / gravelly soils
Fish (Actinopterygii)	<i>Oncorhynchus clarkii bouvieri</i>	Yellowstone Cutthroat Trout	G5T4	S2	Mountain streams, rivers, lakes
Fish (Actinopterygii)	<i>Sander canadensis</i>	Sauger	G5	S2	Large prairie rivers



## Appendix 3.

### Staldine, Jon

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**From:** Murdo, Damon  
**Sent:** Wednesday, July 13, 2022 3:02 PM  
**To:** Staldine, Jon  
**Subject:** RE: FWP Region 5 Pemberton Acquisition  
**Attachments:** Reports.pdf; Sites.pdf; 2022071302.pdf

July 13, 2022

Jon Staldine  
FWP  
1522 9<sup>th</sup> Ave  
Helena MT 59601



RE: FWP REGION 5 PEMBERTON LOT 1 ACQUISITION. SHPO Project #: 2022071302

Dear Mr. Staldine:

I have conducted a file search for the above-cited project located in Section 15, T1N R26E. According to our records there have been a few previously recorded sites within the designated search locales. None of these sites are within the proposed acquisition area. In addition to the sites there have been a few previously conducted cultural resource inventories done in the areas. I've attached a list of these sites and reports. If you would like any further information regarding these sites or reports, you may contact me at the number listed below.

It is SHPO's position that any structure over fifty years of age is considered historic and is potentially eligible for listing on the National Register of Historic Places. If any structures are to be altered and are over fifty years old, we would recommend that they be recorded, and a determination of their eligibility be made prior to any disturbance taking place.

As long as there will be no disturbance or alteration to structures over fifty years of age, we feel that there is a low likelihood cultural properties will be impacted. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should structures need to be altered or if cultural materials are inadvertently discovered during this project, we would ask that our office be contacted, and the site investigated.

If you have any further questions or comments, you may contact me at (406) 444-7767 or by e-mail at [dmurdo@mt.gov](mailto:dmurdo@mt.gov). I have attached an invoice for the file search. Thank you for consulting with us.

Sincerely,

Damon Murdo  
Cultural Records Manager  
State Historic Preservation Office

File: FWP/GENERAL/2022