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2 **Final Environmental Impact Statement**
3 **for the**
4 **Montana Department of Natural Resources and Conservation**
5 **Forested Trust Lands Habitat Conservation Plan**

6 Lead Agencies

7 U.S. Department of the Interior, U.S. Fish and Wildlife Service

8 and

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18 **Abstract**

19 The Montana Department of Natural Resources and Conservation (DNRC) has applied for an
20 incidental take permit (Permit) authorizing the take of terrestrial and aquatic species under
21 Section 10 of the Endangered Species Act, relative to forest management activities on forested state
22 trust lands. In compliance with both the National Environmental Policy Act and Montana
23 Environmental Policy Act, this Final Environmental Impact Statement (Final EIS) has been
24 prepared to evaluate the environmental effects of the proposed action and three alternatives. The
25 no-action alternative is evaluated based on potential effects of not issuing a Permit and continuing
26 under the state's current forest management program. This Final EIS also evaluates three action
27 alternatives, which represent conservation strategies for the Habitat Conservation Plan (HCP)
28 species. The three action alternatives represent varying levels of conservation commitments and
29 management flexibility under which the USFWS would potentially issue a Permit for incidental
30 take. The Draft EIS was published in June 2009 and made available for review at
31 <http://dnrc.mt.gov/HCP>. Following a 90-day public comment period on the Draft EIS, the USFWS
32 and DNRC reviewed and responded to comments in writing and modified the EIS and proposed
33 HCP as appropriate. These changes are summarized in the Preface included as part of this Final
34 EIS. Public comments on the Draft EIS and responses to those comments are provided in
35 Appendix G. This Final EIS is being published for additional public review. DNRC will then
36 prepare a Record of Decision formally documenting the conservation strategies it will implement
37 for covered species, while the USFWS will prepare a Record of Decision formally documenting its
38 decision on whether to issue a Permit.

1 Preface

2 Introduction

3 In June 2009, the United States Fish and Wildlife Service (USFWS) and Montana Department of
4 Natural Resources and Conservation (DNRC) published their Draft Forested Trust Lands Habitat
5 Conservation Plan (HCP) Environmental Impact Statement (EIS). This Draft EIS/HCP was
6 distributed to more than 100 agencies, tribal governments, organizations, businesses, and
7 individuals. An electronic copy of the Draft EIS/HCP was also made available on the project
8 website (<http://dnrc.mt.gov/HCP/>).

9 The 90-day Draft EIS/HCP review period began June 26, 2009, and was extended to
10 October 9, 2009. Nearly 170 unique comment letters and emails were received, containing over
11 700 individual comments. Of the unique letters, two were form letters submitted by multiple
12 individuals. Appendix G of this Final EIS summarizes the letters and comments received, and it
13 provides responses to substantive comments.

14 After review of the comments received on the Draft EIS/HCP, the USFWS and DNRC have
15 prepared this Final EIS/HCP, which includes modifications to the Draft EIS/HCP and responses to
16 public comments on the Draft EIS/HCP. Modifications to the EIS/HCP include (1) substantive
17 modifications made to the proposed HCP (preferred alternative), as well as any associated
18 modifications to the EIS analysis, and (2) minor editorial modifications to the EIS/HCP.

19 In the Final EIS/HCP, substantive modifications from the Draft EIS/HCP are shown as **gray-shaded**
20 **text** (for new text) and ~~striketrough~~ (for deleted text). However, some of the modifications to the
21 HCP commitments (described below) resulted in changes to the EIS/HCP that are global in nature.
22 The following changes are not shown in grayshade/strikethrough:

- 23 1. EIS and HCP
 - 24 a. changes from Tier 1 to Class 1 streams and lakes (for Alternatives 1 and 2) and to
25 Class 1 streams supporting HCP fish species (for Alternatives 3 and 4)
 - 26 b. changes from Tier 2 to Class 1 streams and lakes supporting non-HCP fish species
 - 27 c. changes from Tier 3 to Class 2 and 3 streams and lakes
- 28 2. EIS Alternative 2 and HCP – changes in the no-harvest buffer width from 25 to 50 feet
- 29 3. EIS and HCP – changes in numbering of the lynx habitat commitments (LY-HB)
- 30 4. EIS and HCP – changes in numbering of the riparian timber harvest commitments
31 (AQ-RM)
- 32 5. EIS and HCP – changes in the riparian management zone (RMZ) width from one site
33 potential tree height (SPTH) to one 100-year site index tree height

1 6. EIS and HCP – changes to the maximum height of a 100-year site index tree from 100
2 to 120 feet.

3 Additionally, for updated numerical tables in the EIS and HCP, only new numbers are shown.
4 Deleted numbers are not shown to preserve the format and readability of the updated tables.

5 Minor editorial modifications from the Draft EIS/HCP are not identified. These modifications
6 include editorial corrections and clarifications in the EIS/HCP that did not alter the context or
7 content of the HCP commitments or EIS analysis.

8 **Summary of Substantive Modifications to the EIS/HCP**

9 Substantive modifications to the proposed HCP (preferred alternative), as well as any associated
10 modifications to the EIS, were made based on (1) public comments on the Draft EIS/HCP; (2)
11 discussions with Canada lynx researcher John Squires (U.S. Forest Service), whose ongoing
12 research was deemed relevant to finalizing the EIS/HCP; (3) recent legal rulings and litigation; (4)
13 clarification of information presented in the Draft EIS; and (5) recent guidance from the Council on
14 Environmental Quality (CEQ) at the federal level and suggestions from the USFWS regarding how
15 to address climate change in federal National Environmental Policy Act (NEPA) documents.
16 Substantive modifications are those where new information is provided or new or different
17 conclusions are reached. These modifications are summarized in this section.

18 **Changes to the Proposed HCP (Preferred Alternative)**

19 **GRIZZLY BEAR CONSERVATION STRATEGY**

20 Draft HCP Section 2.1.1 (Grizzly Bear Conservation Strategy) was revised to include two new
21 commitments addressing helicopter use for forest management activities (GB-PR8 and GB-CY5).

22 **1. GB-PR8.** DNRC added this program-wide commitment to limit low-altitude helicopter use
23 and flight paths over known seasonally important areas in grizzly bear recovery zones or
24 non-recovery occupied habitat (NROH), scattered parcels in rest in recovery zones, grizzly
25 bear subzones in rest in recovery zones, and/or federally designated security core areas in
26 recovery zones.

27 **Reason for the change:** Like other motorized activities, helicopter use can affect bears. To
28 address this gap in the HCP commitments, DNRC added a new commitment to minimize
29 and potentially avoid effects of helicopter use on bears.

30 **2. GB-CY5.** DNRC added this Cabinet-Yaak Ecosystem (CYE) commitment to avoid effects
31 on bears from low-altitude helicopter use by avoiding use in and flight paths over scattered
32 parcels in rest or federally designated security core areas.

33 **Reason for the change:** Like other motorized activities, helicopter use can affect bears. To
34 address this gap in the HCP commitments and avoid the potential for incidental take in the
35 CYE, DNRC added a new commitment to avoid effects from helicopter use on bears in the
36 CYE.

1 **LYNX CONSERVATION STRATEGY**

2 Several changes were made to Draft HCP Section 2.1.2 (Lynx Conservation Strategy). These
3 changes were made based on comments from Montana Fish, Wildlife and Parks (MFWP), which
4 were received during the public comment period and raised concerns about (1) the exclusion of big
5 game winter range from consideration as suitable lynx habitat and (2) recent findings by local
6 research biologist Dr. John Squires on lynx use of foraging habitats.

- 7 1. **LY-HB1.** DNRC changed the lynx habitat mapping protocols to include areas classified as
8 big game winter range. This change added 58,000 acres to the amount of potential lynx
9 habitat where HCP commitments would apply.

10 **Reason for the change:** This change came about as a result of comments from MFWP and
11 discussions between DNRC and the USFWS about the assumptions behind the mapping
12 protocol. The original mapping protocol excluded big game winter range areas because
13 densities of competing predators (e.g., mountain lions and coyotes) were deemed likely high
14 in these areas such that the area would be poorly suited for appreciable use by lynx.
15 However, upon further review, the USFWS and DNRC determined there was little evidence
16 in the literature substantiating competition between coyotes and lynx. Recent research also
17 indicates that the two species' winter food habits are highly segregated on HCP project area
18 lands (Kolbe et al. 2007). Mountain lions are the lynx's primary natural predator, but this
19 predation almost always occurs during the snow-free months when ungulates (and their
20 predators) are dispersed on their summer ranges (Squires, personal communication, as cited
21 in MFWP's comment letter on the Draft EIS/HCP dated October 7, 2009).

- 22 2. **LY-HB2.** DNRC removed the commitment to retain a minimum of two natural or
23 manmade piles of woody debris per square mile as potential lynx den sites. As a result of
24 this change, Draft HCP commitments LY-HB3 through LY-HB7 were renumbered as
25 LY-HB2 through LY-HB6 in the Final HCP. Also, Draft HCP commitment LY-HB2
26 item (2) regarding retention of blowdown salvage was incorporated into the commitment to
27 maintain coarse woody debris (CWD) (Final HCP commitment LY-HB2).

28 **Reason for the change:** In prior communications and at a December 22, 2009, meeting
29 with the HCP planning team, Dr. Squires indicated that the Draft HCP commitment
30 LY-HB2 – Den Site Attributes, to retain 2 slash piles per square mile as potential future den
31 sites would likely provide little in the way of meeting habitat needs for lynx because the
32 availability of den site structures at the landscape scale are not particularly limited in
33 abundance or limiting for lynx. Rather, DNRC will monitor timber sales to ensure that the
34 application of the CWD commitments do in fact provide sufficient den sites for lynx.
35 DNRC anticipates the commitments related to CWD would ensure that the raw materials
36 needed for lynx den sites would be available on HCP project area lands within lynx habitat.
37 By implementing Final HCP commitment LY-HB2 for CWD and retention of blowdown
38 salvage, as well as the Administrative Rules of Montana (ARMs) 36.11.411 for snags and
39 snag recruits, DNRC would continue to provide assurances that woody structure needed by
40 lynx at broad scales would not become limiting in the future. DNRC anticipates these
41 commitments would result in the retention of two future den sites per square mile as

1 discussed in Draft HCP commitment LY-HB2 such that this commitment is no longer
2 necessary.

- 3 3. **LY-LM3.** DNRC changed the foraging habitat commitment to maintain 20 percent winter
4 foraging habitat within lynx management areas (LMAs) instead of 20 percent of winter and
5 summer foraging habitat in any combination within LMAs. Additionally, DNRC added a
6 pre-commercial thinning requirement. Within pre-commercial thinning projects that target
7 saplings in lynx habitat in LMAs, DNRC will be required to identify and retain unthinned
8 20 percent of each thinning project area.

9 **Reason for the change:** Between development of the Draft and Final HCPs, DNRC and
10 the USFWS identified two potential gaps in the current lynx strategy related to pre-
11 commercial thinning and lynx habitat use in summer. Based on additional information
12 provided by Squires (2009, personal communication), both agencies were concerned that
13 DNRC's young foraging and winter foraging habitat definitions in the Draft HCP would not
14 adequately capture the structural stand conditions lynx prefer to use in summer.

15 Also, Squires (2009, personal communication) re-iterated (based on Griffin 2004) that pre-
16 commercial thinning is detrimental to snowshoe hares, and depending on where it happens
17 on the landscape, it can affect lynx. Therefore, DNRC added the commitment described
18 above. By ensuring that 20 percent of sapling stands would be retained until they reach the
19 DNRC sawtimber size class, both potential gaps would be addressed. This commitment
20 would provide greater assurances that dense sapling stands important for hares, and slightly
21 more mature summer habitat used by lynx (provided over time as dense sapling stands age
22 and grow), would be prevalent on HCP project area lands within landscapes known to be
23 important for lynx (i.e., LMAs). Considering a range of likely growth estimates and sapling
24 sizes at the time of thinning within retention patches, the retained portions would likely
25 provide dense habitat conditions favorable for hares and lynx for about 10 to 30 years
26 beyond the time the remainder of the stand was pre-commercially thinned (assuming an
27 average radial growth range of 0.125 to 0.375 inch per year). This commitment would also
28 promote a diversity of dense patches and thinned patches, which is consistent with the
29 philosophy of the State Forest Land Management Plan (SFLMP) and with natural
30 disturbance patterns. Under this approach, DNRC has developed a summer habitat
31 definition using improved parameters from Squires et al. (2010 in press) for the purpose of
32 tracking and reporting lynx habitat under the HCP.

33 **Aquatic Conservation Strategies**

34 Several changes were made to Draft HCP Section 2.2 (Aquatic Conservation Strategies).

- 35 1. **AQ-RM1.** In the Final HCP, this commitment in the riparian timber harvest conservation
36 strategy applies to all Class 1 streams and lakes, rather than just HCP fish-bearing streams.
37 This extends the RMZ commitment developed in the HCP to non-HCP fish-bearing streams
38 and perennial streams connected to all fish-bearing streams. As originally proposed, the
39 commitments for non-HCP fish-bearing Class 1 streams (Draft HCP commitment
40 AQ-RM2) would have been the same as under the current ARMs for Forest Management.
41 Additionally, DNRC extended the no-harvest buffer within the HCP RMZ from 25 to

1 50 feet. As a result of including all Class 1 streams and lakes in commitment AQ-RM1,
2 commitment AQ-RM2 was removed, and commitment AQ-RM3 was re-numbered to
3 AQ-RM2 in the Final HCP.

4 **Reason for the change:** Expanding the commitment to all Class 1 streams simplifies the
5 application of the overall RMZ strategy for DNRC’s field practitioners and eliminates the
6 need for a new classification system (what was referred to as the “tier” system in the Draft
7 HCP). Extending coverage to all Class 1 streams encompasses perennial streams that
8 discharge to HCP fish-bearing streams. Enhancing streamside shade and opportunities for
9 large woody debris (LWD) recruitment in upstream tributaries would help maintain the
10 temperature and LWD regimes of the HCP fish-bearing streams into which these streams
11 discharge. Extending the no-harvest buffer helps ensure minimization of long-term risks to
12 critical riparian functions (shade, LWD, channel form and function, temperature) and
13 increases the certainty that these functions would be provided comprehensively when
14 considering the environmental variation that exists in riparian areas in the HCP project area.
15 In doing so, DNRC anticipates it will meet with more certainty the Endangered Species Act
16 (ESA) Section 10 standard of “minimizing and mitigating the impacts of take to the
17 maximum extent practicable.” While the science is not yet clear how a no-harvest buffer
18 would make a difference in terms of climate change, doubling the width of the no-harvest
19 buffer is also a proactive approach to help insulate streams in harvest units against potential
20 effects of climate change.

- 21 2. **AQ-SD2 item (6).** DNRC changed this commitment to restrict or reclaim, rather than
22 restrict or abandon, roads that are non-essential to near-term future management needs.

23 **Reason for the change:** This change was made to better address potential long-term future
24 management needs of such roads because abandoned roads retain drainage structures that
25 may become maintenance issues in the future. When roads are reclaimed, all drainage
26 structures are removed, thereby avoiding future maintenance needs.

- 27 3. **AQ-SD2 item (9).** For addressing roads with shared ownership, DNRC expanded this
28 commitment to include road segments with a moderate risk of sediment delivery, rather than
29 just road segments with a high risk of sediment delivery.

30 **Reason for the change:** This change was made to establish consistency in DNRC actions
31 where they own the road (commitment AQ-SD2 item (8)), versus where they are
32 cooperators (commitment AQ-SD2 item (9)).

33 **Commitment Allowances**

34 In response to comments on the Draft EIS/HCP, the USFWS and DNRC reviewed the allowances
35 included in several of the conservation strategy commitments. In the Final EIS, these commitments
36 were clarified to identify instances when a commitment simply cannot be met due to
37 impracticability versus instances where DNRC may elect to not implement a commitment through
38 an allowance. In a few cases, DNRC may simply not be able to implement a commitment through
39 no fault of its own. Those commitments that include instances of impracticability require disclosure
40 in DNRC Montana Environmental Policy Act (MEPA) documentation and 5-year summaries

1 reported to the USFWS. In the Final HCP, all allowances now include a limit on their use (see Final
2 HCP Chapter 2, Conservation Strategies) and/or require annual reporting to the USFWS so that both
3 agencies can avert any chances that an allowance may be exceeded (see Final HCP Chapter 4,
4 Monitoring and Adaptive Management).

5 **Transition Lands Strategy**

6 In the Final HCP, DNRC updated the discussion of lands that may be considered for addition to the
7 HCP project area and revised the limits on the amount of lands that may be removed from the HCP
8 project area (HCP Chapter 3, Transition Lands Strategy). When this strategy was originally
9 developed in 2005, DNRC did not anticipate (1) the potential acquisition of large amounts of former
10 Plum Creek Timber Company lands, and, as a result, (2) the expectation that DNRC would dispose
11 of a commensurate amount of lands, some of which could be in the HCP project area (see Draft
12 HCP Chapter 3, Transition Lands Strategy). In general, the Montana State Legislature, the Montana
13 Board of Land Commissioners, and the public support DNRC's buying, selling, and exchanging of
14 state trust lands to configure the land base for increased public access and management efficiency.
15 However, there is an expectation that DNRC will generally maintain a consistent amount of state-
16 owned lands over time. This means that some sale of lands must occur to balance out the potential
17 large acquisitions. Therefore, DNRC may need additional flexibility to sell of some parcels
18 currently included in the HCP project area. To address this need in the Final HCP, the cap on the
19 removal of lands outside grizzly bear recovery zones, NROH in the CYE, LMAs, and bull trout core
20 areas has been modified so that it can be increased from 10 percent to 15 percent if, and only if,
21 DNRC adds 15,000 acres or more to the HCP project area.

22 **Monitoring and Adaptive Management**

23 The following changes were made to Draft HCP Chapter 4 (Monitoring and Adaptive
24 Management).

- 25 1. **Table 4-2, Summary of Grizzly Bear HCP Implementation Monitoring, and Table 4-4,**
26 **Summary of Lynx HCP Implementation Monitoring:** These tables were revised to
27 clarify the role of both parties when management responses are required.

28 **Reasons for the change:** For the most part, the changes require the collaborative
29 development of corrective actions. When the appropriate corrective action is known, the
30 specific measures were included in the table. Both agencies feel these changes better clarify
31 roles and expectations in the monitoring process.

- 32 2. **Section 4.6.1, Riparian Timber Harvest Monitoring and Adaptive Management,**
33 **subsection Temperature Monitoring Approach:** The stream temperature monitoring
34 approach was revised in the Final HCP to ensure protection of native fish species from
35 increased stream temperatures by including criteria for determining the maximum increases
36 attributable to harvest. These changes include a new table (Table 4-8) that summarizes the
37 tiered exceedance criteria for non-temperature-sensitive stream reaches.

38 **Reason for the change:** These changes were made based on comments received on the
39 Draft HCP and through subsequent conversations between DNRC and the Montana

1 Department of Environmental Quality (MDEQ). These changes ensure compliance with
2 MDEQ standards and ensure that no degradation of aquatic habitat conditions would occur.

3 **HCP Implementation**

4 The following changes were made to Draft HCP Chapter 8 (HCP Implementation).

- 5 1. The HCP implementation costs have been updated in Section 8.1.1 (Estimated Costs of the
6 HCP) to reflect the changes between the Draft and Final HCP.
- 7 2. Section 8.1.3 (How DNRC Will Fund the HCP) has been updated to
 - 8 a. Reflect the recent legislative approval of increased funding for HCP implementation
 - 9 b. Describe potential funding sources for implementation costs associated with changed
10 circumstances
 - 11 c. Clarify how projects in progress at the time of Permit issuance would be handled by
12 DNRC.
- 13 3. Table 8.2 has been revised to reflect the changes in HCP commitments and numbering.

14 **Changes to the EIS**

15 **Alternatives Considered but Eliminated from Detailed Analysis**

16 In the Final EIS, the discussion of alternatives considered but eliminated from detailed analysis
17 (Section 3.5) was revised to include a discussion of a no-take strategy as an alternative that provides
18 a different approach to ESA compliance. Additionally, in response to comments on the Draft EIS,
19 the USFWS and DNRC considered but eliminated from detailed analysis an alternative that would
20 require less road building. This discussion was added as a new section (Section 3.5.5, Alternatives
21 Considered between the Draft EIS and Final EIS) to the Final EIS.

22 **Climate Change**

23 Several modifications were made in the Final EIS to address concerns raised in public comments
24 about climate change and to ensure consistency with federal NEPA guidance on considering climate
25 change for federal projects and in NEPA documents. These modifications include the following.

- 26 1. A new resource section (Section 4.1, Climate) was added to the Final EIS. The affected
27 environment portion of this section includes the description of climate presented in Draft
28 EIS Section 4.1 (Introduction), as well as a discussion of what climate change is; why it is
29 happening; what is known (or not known) about the types of and direction and magnitude of
30 trends globally, regionally, and locally; and responses to climate change at the global,
31 national, state, and local levels. The environmental consequences discussion provides an
32 analysis of the potential contribution to the production of greenhouse gases from road
33 building and timber harvest projected under each alternative.

- 1 2. For each resource area (Section 4.2, Forest Vegetation, through Section 4.13,
2 Socioeconomics), effects of and trends in climate change on that resource are discussed in
3 the affected environment section. In the environmental consequences section, climate trends
4 are factored into the analysis of potential effects of the alternatives.
- 5 3. Much of the text discussing climate change in Draft EIS Section 4.9.6 (Effects of the
6 Changed Circumstances Process) and the section discussing climate change in Draft EIS
7 Chapter 5 (Cumulative Effects) were deleted.

8 **Annual Sustainable Yield**

9 The annual sustainable yield for the proposed HCP (Alternative 2) was recalculated due to (1)
10 changes to the lynx conservation strategy commitments (described above) and (2) a wider
11 no-harvest buffer applied to more streams in the riparian timber harvest conservation strategy. The
12 re-calculated annual sustainable yield is presented in the Final EIS, and the analyses of resource
13 effects based on this yield were revised accordingly.

14 **Affected Environment and Environmental Consequences**

15 In addition to the resource-specific changes mentioned above for climate change, the analysis of
16 effects for each resource in Final EIS Chapter 4 (Affected Environment and Environmental
17 Consequences) was revised to reflect the changes made to the proposed HCP (Alternative 2). For
18 bull trout and gray wolf, recent legal developments were also included. Specific changes made in
19 Final EIS Sections 4.8 (Fish and Fish Habitat) and 4.9 (Wildlife and Wildlife Habitat) are discussed
20 below.

21 **Fish and Fish Habitat**

22 The analysis of potential effects on aquatic resources in Final EIS Section 4.8 (Fish and Fish
23 Habitat) was revised to capture the expected effects on and benefits to riparian functions from
24 changes to the riparian timber harvest conservation strategy (described above).

25 The discussion of bull trout critical habitat in Final EIS Section 4.8 (Fish and Fish Habitat) was
26 updated to reflect the revised designation proposed by the USFWS and issued for public comment
27 in January 2010 (75 Federal Register 2270-2431). Table 4.8-17 was revised to show miles of bull
28 trout critical habitat based on this revised designation.

29 **Wildlife and Wildlife Habitat**

30 The analysis of potential effects on grizzly bears was revised in Final EIS Section 4.9.3 (Grizzly
31 Bears) to capture the expected effects on and benefits to bears from the addition of HCP
32 commitments GB-PR8 and GB-CY5, which address low-altitude helicopter use for forest
33 management activities.

34 The analysis of potential effects on lynx was revised in Final EIS Section 4.9.4 (Canada Lynx) to
35 capture the expected effects on and benefits to lynx from modifications to the lynx denning and
36 foraging habitat commitments (described above). Tables 4.9-18 through 4.9-21 were also updated
37 to reflect the additional acres that would be subject to the lynx commitments and changes to lynx

1 habitat categories (i.e., young forage is now summer forage). Additionally, a map of lynx critical
2 habitat was added to the Final EIS (Figure D-20 in Appendix D, EIS Figures), and Draft EIS
3 Figures D-20 through D-22 were renumbered in the Final EIS to Figures D-21 through D-23.

4 The analysis of effects of the transition lands strategy on both terrestrial and aquatic HCP species
5 (Final EIS Section 4.9.5) was revised to include more detailed information regarding potential near-
6 term land acquisitions by DNRC and how HCP species occurring on those lands may be affected by
7 HCP implementation if the lands are added to the HCP project area.

8 Final EIS Section 4.9.7 (Other Wildlife Species) was updated to reflect more current information
9 regarding population status and legal harvest in Montana, as well as the August 2010 decision by
10 the U.S. District Court that set aside the USFWS' May 2009 de-listing of the gray wolf in Montana
11 and Idaho.

12

