

**Montana Department of
Natural Resources and Conservation**



**Real Estate Management Programmatic
Plan**

Final Environmental Impact Statement

RECORD OF DECISION

July 18, 2005

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Final Real Estate Management Programmatic Environmental Impact Statement

Record of Decision

I. INTRODUCTION

The Trust Land Management Division (TLMD) of the Montana Department of Natural Resources and Conservation (DNRC) engaged in an environmental impact statement process to compare and disclose impacts of alternative management guidelines for real estate activities on state Trust lands. The Draft Environmental Impact Statement (DEIS) was released on June 21, 2004 and the Final Environmental Impact Statement (FEIS) was released on November 19, 2004. The selected alternative is the **Real Estate Management Plan (Plan)** for the TLMD. The Plan will provide the TLMD with consistent policy, direction, and guidance in the selection and management of real estate activities (residential, commercial, industrial and conservation) on state Trust lands.

II. THE SCOPE OF THE PLAN

The Plan covers those activities related to the leasing, exchanging, or selling of Trust lands for residential, commercial, industrial, and conservation purposes. Leases, sale and exchanges associated with traditional land management activities i.e. grazing, agricultural, timber and mineral management, are outside the scope of this plan.

All lands that are sold or exchanged will be monitored for a period of five years after the date of sale. If those properties receive subdivision approval through the local regulatory processes, or have an easement placed on them during the five year period, those acres will be accounted for and reported as described in the V. E of the monitoring section.

This Record of Decision (ROD) is a summary description of the Plan as presented in the FEIS. The DEIS and FEIS provide the detailed environmental analysis of the decision.

III. THE DECISION TO BE MADE

The Real Estate Management Bureau (REMB) of the TLMD selects and manages residential, commercial, industrial and conservation uses on state Trust lands and secondary uses on lands classified for timber, agriculture and grazing. Additionally, the REMB manages programs and

processes for the issuance and acquisition of easements, the exchange of Trust lands for private and federal lands, and the sales and purchases of Trust lands.

The selected alternative (**Plan**) and associated Final Environmental Impact Statement (FEIS, aka EIS) is a performance-based guide for selecting and identifying future real estate opportunities (projects) on state Trust lands. The **Plan** is programmatic; it does not address site-specific issues, make specific land use allocations, or identify specific targets for achieving certain developed or conservation uses. Instead, it provides goals, objectives, and evaluation tools for real estate management on Trust lands. The Plan also supplies a decision-making framework for selecting and implementing real estate activities on Trust lands.

IV. AUTHORITY FOR THE DECISION

I, as the Director of DNRC, have decision-making authority for the Real Estate Management Programmatic Plan. All state school Trust lands are under the direction and control of the State Board of Land Commissioners which includes the Governor, Superintendent of Public Instruction, State Auditor, Secretary of State, and Attorney General (Article X, Section 4, 1972 Montana Constitution). I will ask the Land Board to approve implementation of the Real Estate Management Plan.

V. DECISION

I have selected Alternative D as the guiding management philosophy of the REMB, and Alternative D will function as the Real Estate Management Plan (Plan) for TLMD. Alternative D achieves the objectives of the EIS (see Section VI.A) and embodies three general goals: (1) sharing in expected community growth; (2) planning proactively; and (3) increasing revenue for Trust beneficiaries. Urban growth areas will be the primary focus of Plan implementation. Public input and local community involvement will be critical for the success of the Plan. An implementation strategy will achieve the goals of Alternative D and implementation success will be measured with a monitoring and accounting program.

A. Goal: Share in Expected Community Growth

A primary goal of the Alternative D is to capture a market share of the acres on state trust lands that will be developed to accommodate the population growth of Montana through 2025. Based on the economic and demographic analysis in the Plan, the acreage share of Trust Lands that might be developed for residential, industrial, or commercial purposes is shown in Tables 1 and Tables 2 of Section V.E. The acreages are identified by land office region. The acreages that might be appropriate for conservation opportunities are shown in Table 4.

The degree that state trust lands will participate in the growing markets will be dependent, in part, on the vigor of the real estate market, community and beneficiary input, the position of Trust lands in those growing markets, staffing and funding, and the suitability (physical and biological) of Trust lands.

The growth acreage tables will be used as guidelines in helping to define progress towards achieving the selected philosophy of “sharing in expected community growth”. Only those parcels selected by the Real Estate Identification Team (REIT) will be real estate projects and considered as acres imminent for development (see related discussion in Section V.D, Section Filter). The acres that are either sold, leased, exchanged, or have an easement will be monitored and recorded in accordance with the monitoring section.

Relationship to Community Growth

The objective is to utilize the market and solicit community and beneficiary input in a given land office region, regardless of whether those resulting numbers may be high or low to the acreage estimates identified by alternative. For monitoring purposes, the growth acreage tables will be guidelines in helping to define progress towards achieving the selected management philosophy of the Plan. When the “cap” of 30,000 acres has been developed, the plan will be reevaluated. This is discussed further in the “Market/Demographic” narrative (Table 3, Section V.D) of this Record of Decision (ROD).

Location Criteria

Projects will be located on sites with high suitability rankings as identified through a performance-based filtration system (funnel filter, Exhibit A). The scale, type, and density of uses will generally be linked to two location descriptors as described below:

- **Urban Growth Areas** - Urban Growth Areas are defined as trust lands located in an incorporated city or within 4.5 miles of the boundaries of an incorporated city, or within an unincorporated jurisdiction with developed public infrastructure or within 1 mile of such an unincorporated jurisdiction. Development within “Urban Growth Areas” will include retail and office commercial opportunities, industrial, and urban density residential as well as some types of neighborhood commercial developments. Conservation opportunities may also be utilized in Urban Growth Areas.
- **Rural** – Rural areas are defined as those areas outside of the Urban Growth parameter as described above. Development in rural areas will include commercial resorts, development for public purposes such as sewer or water, natural resource based development, and conservation opportunities. Other unique development opportunities may be considered when the intended uses (1) are in close proximity to a community or (2) provide infill opportunities, or (3) will not lead or promote leapfrog development, or (4) are or can be located within a sewer or water utility service area, (5) add value to the existing uses, or (6)

demonstrate economic viability, and conform to the goals of the plan and to the development standards identified herein. Up to 5% of each of the five year growth estimates (see Table 1 and Table 2 of Section V E) may be developed or sold during each five year period in rural areas. Additionally, conservation opportunities may be utilized in rural areas.

Measurement of Success

Success towards achieving this goal will be measured by tracking the number of acres developed or “conserved” by land office region and comparing those numbers with the guideline acreage estimates and with the cap acreages for residential, commercial, and industrial development. A detailed description of the monitoring plan and accounting system is presented in Section V.E.

B. Goal: Plan Proactively

Another important goal of the Real Estate Plan is to plan proactively by soliciting strong involvement from local communities, improving land values of Trust lands, setting design standards for development, and following local land use regulations. DNRC will enhance Trust land entitlements by achieving some level of local land use authorization such as zoning or subdivision review. DNRC will coordinate development and open space opportunities with local communities and other interested parties. This coordination will be attained through a project identification and selection process. A community and beneficiary scoping process will be the initial step in identification and selection of projects. DNRC personnel familiar with the local land base will coordinate with local communities and land use regulatory review processes.

General Development Standards

The REMB will consider the position of Trust lands in a community to help identify and prioritize project opportunities. As opportunities emerge within a land office area, project selection will be based, in part, on the two location criteria outlined below, with Urban the highest priority and Rural the lowest. In most situations involving land improvements necessary to serve a particular development, all associated costs will be the responsibility of the developer. Development objectives, as defined by the development standards identified below, will be sought through either the land entitlement process, RFP process, or by joint venture. All projects will be subject to local, state, and federal regulations.

- Urban Growth -- On properties located within “Urban Growth Areas”, the proposed project will be expected to tie into existing public infrastructure and be designed to public standards, including alignment to adjoining public and streets. Urban densities will be expected. Whenever feasible and in the appropriate location, DNRC will seek to develop mixed use commercial, industrial, and residential developments and design these developments as neighborhood centers rather than strip developments. Projects in “Urban Growth Areas” may not promote or result in leapfrog development but, instead, be

contiguous to or part of an existing or proposed development plan, including joint venture opportunities with adjoining lands.

- Rural -- In rural locations, unique development opportunities will only be considered if they will not promote or result in leapfrog or strip commercial development and are limited to the criteria listed under the “location criteria” above. Whenever possible, DNRC will promote conservation opportunities to protect conservation values and seek to maintain traditional uses and revenues of the land. Open space should continue to be managed by DNRC for its historical use. Joint ventures with developers can also be used to promote clustering and open space objectives.

Local Land Use Regulatory Processes

DNRC will comply with local regulatory processes that are reflected in local growth policies and associated land use regulations as projects are implemented. The adoption processes associated with growth policies and other land use regulations provide opportunities for considerable public involvement and participation in identifying community values. In some situations, lands administered by DNRC may have all the necessary land entitlements to secure highest and best use opportunities and should be a reflection of community and beneficiary agreement on how those lands should be managed. In other situations, lands may have few entitlements and may be considered as “raw,” with little certainty as to the development outcome of those lands if sold. Other lands may have opportunities for uses not anticipated by local land use regulations. Additionally, DNRC will utilize an initial community and beneficiary scoping process to gain public input regarding development opportunities for Trust Lands adjacent or close to their communities.

DNRC will follow the criteria established under the existing statutes and local regulations when initiating a neighborhood planning process, zoning, annexation and subdivision as required in 77-1-202 and 77-2-310, MCA.

Outlined below are a few examples of existing statutes that identify processes for involving the general public in the land use decision-making process. Other examples of applicable land use regulations, such as the “Sanitations in Subdivision Act” and “Floodplain and Floodway Management,” are further discussed in Chapter 5 of the FEIS.

- **Growth Policies and Neighborhood Plans (76-1-601, MCA and Local Resolutions)**
DNRC may from time to time seek to amend a community’s growth policy or prepare a neighborhood plan. A neighborhood planning process is a useful tool for amending community growth policies since it typically incorporates active citizen involvement processes. DNRC has completed neighborhood plans for properties in Kalispell and near Whitefish. In Kalispell, DNRC held over 27 public meetings in the development of a neighborhood plan on state trust land adjacent to the City of Kalispell. The Whitefish neighborhood plan was completed with the assistance of a Whitefish Community Advisory Committee. This plan is in the process of being adopted by the City of Whitefish and Flathead County-Commissioners.

DNRC will initiate neighborhood planning efforts to amend growth policies whenever deemed appropriate by the affected local community. If trust lands are located in “Urban Growth Areas”, as identified above, and are identified for possible future development, DNRC will use the local planning and regulatory processes to help coordinate planning (including extension of roads and utilities) and to provide review and approval processes. A proactive neighborhood planning process will be used to optimize income per acre in order to realize the greatest return while also seeking to minimize the number of acres that DNRC will sell or develop. This will be accomplished through a variety of tools that may include maximizing development density in some locations through clustering, transfer of development rights, designation of natural areas, or use of easements. Existing statutes identify the elements of a growth policy and the related adoption process.

After adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to [76-1-601](#) MCA must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:

- authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities
- authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities
- adoption of zoning ordinances or resolutions.

The adoption process includes a minimum of one public hearing held by the planning board. Final adoption is by the city, county or both and in many instances the governing body also holds a public hearing. In instances where DNRC is proposing an amendment to a growth policy, at least one public meeting will be sponsored by DNRC to identify neighborhood issues prior to application to the local jurisdiction.

- **Zoning (76-2-201, 76-2-301 MCA, and Local Regulations and Ordinances)**
DNRC from time to time may want to create a zoning district or amend an existing zoning classification. In instances where DNRC has the option, most new zoning classifications will be created under Part 2 zoning although under some situations, zoning districts will be created under Part 1 zoning regulations (76-2-101, MCA).

In most situations, zoning must be made in accordance with the growth policy or a master plan, as provided for in [76-2-201\(2\)](#) MCA; and be designed to:

- (i) lessen congestion in the streets;
- (ii) secure safety from fire, panic, and other dangers;
- (iii) promote public health and general welfare;
- (iv) provide adequate light and air;
- (v) prevent the overcrowding of land;
- (vi) avoid undue concentration of population; and

(vii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The adoption process for creating or amending zoning districts is extensive as described in sections 76-2-205 and 76-2-303, MCA. Public notice and public hearing procedures are central to the adoption/amendment processes.

- **Annexation** (Title 7, Chapter 2, Parts 43, 44, 45, 46, 47 MCA, and Local Ordinances and Resolutions)
DNRC may annex lands into the jurisdictional limits of a city from time to time. The type of annexation procedure varies by circumstance as identified in the applicable statutes. In most situations, annexation is subject to an approved extension of services plan. Also required is “initial” zoning. A public notice and hearing process follows each respective annexation process. Lands annexed into a city will be expected to connect to city water and sewer facilities as the property is developed.
- **Subdivision and Platting** (Title 76, Chapter 3, MCA, and Local Regulations)
DNRC will follow local subdivision regulations whenever it is necessary to create a parcel of land. This will include creating lots for lease or sale.

Montana code (MCA) requires the governing body of every county, city, or town to adopt and provide for the enforcement and administration of subdivisions. Subdivision review is a two-part process, review of a preliminary plat and a final plat, which is recorded. There is also an abbreviated process for review of minor subdivisions. Major subdivisions are subject to a public hearing, with published notice and notice to adjoining property owners. Subdivision review is an efficient tool for identifying land use issues, assessing community impacts, and mitigating impacts of development.

The statutes specify minimum content requirements for subdivision regulations, which include:

- provisions for an environmental assessment (exempt under limited circumstances, such as first minor subdivision)
- procedures for the submission and review of subdivision plats
- the form and content of preliminary plats and documents to accompany the final plats
- identification of areas unsuitable for subdivision due to natural or human-caused hazards
- prohibition of subdivisions for building purposes for areas within the 100-year floodway
- standards for the design and arrangement of lots, streets and roads, grading and drainage, water supply, sewage, and solid waste disposal that meet regulations adopted by the department of environmental quality, and the location and installation of utilities
- procedures for review of preliminary plats by affected public utilities and agencies of local, state, and federal government having a “substantial interest” in a proposed subdivision

- procedures for the administration of park and open-space dedication requirements
- provisions for the establishment and recording of ditch easements.
- **Montana Environmental Policy Act** (Title 75, Parts 1-3), MCA and 36.2 subchapter 5, ARM)
Prior to the issuance of a lease, sale, land exchange, or easement, DNRC will prepare a MEPA analysis of the proposed project. MEPA review will tie whenever practical to local review so as to avoid redundancy of process. Local review in most instances involving subdivision review and conformance to local zoning regulations provides a built-in impact assessment and mitigation process as applicable to new development. Alternative D should minimize environmental risk through careful project selection and identification of desired development standards.

Agency Coordination

Proactive planning requires information exchange between state and federal agencies, local governments, and various interested parties. When DNRC becomes involved with a real estate project, the agency will coordinate and communicate among other agencies and interested parties as outlined below:

- Local Community – Each regional/unit office of DNRC will solicit local community and beneficiary input in identifying potential project lands. DNRC will incorporate community and beneficiary comments into the development of potential projects.
- TLMD – Each regional/unit office will involve a mix of program personnel in helping to refine the determination of potential project lands following the local community and beneficiary scoping process. This will take into consideration affects on such program activities as grazing, agriculture, and forestry, including the Forest Land Management Plan and the pending Habitat Conservation Plan.
- Local Governments – Local governments have a primary role involved in reviewing and approving most DNRC projects. DNRC will also notify local governments early in the project selection phase to determine whether the jurisdiction might have interest in DNRC initiating local neighborhood or other growth policy planning processes or securing conservation opportunities on project lands.
- State and Federal Agencies – All projects located within the proposed DNRC Habitat Conservation Lands will have internal review plus notification to the USFWS, who will be offered an opportunity to pursue conservation strategies on lands with important wildlife habitat values. Routine notice of project proposals will also be made to potentially affected federal and state agencies, such as the Montana Department of Fish, Wildlife & Parks (FW&Ps), Forest Service or BLM. State and federal coordination may result in achieving conservation through leasing or sale of development rights and reduction in fire fuels that may positively impact rural development opportunities on Trust lands.
- Conservation Agencies and Other Interest Groups – Direct mailings will be made to interest groups upon identification [by DNRC] of project proposals. All project lists will also be

posted on the DNRC web site. The purpose of this notification is to determine whether any conservation organization or other groups or individual might be interested in pursuing the purchase of conservation rights on lands identified for project potential. Local communities will be encouraged to work with local jurisdictions and conservation agencies on lands that communities determine have conservation potential.

Measurement of Success

Success towards achieving this goal will be measured by tracking the number, location, and type of projects on Trust lands reviewed by local regulatory processes. In addition, a community survey can be used on a periodic basis to assess the success of planning relationships between DNRC, local governments, and interested parties. A detailed description of the monitoring plan and accounting system is presented in Section V.E.

C. Goal: Increase Revenue for Trust Beneficiaries

The goal of increasing revenue to the Trusts can be achieved through active participation in the market, forming partnerships with local communities and other agencies, Trust beneficiaries, and planning proactively. Value can be added to property through a variety of strategies as generally outlined below.

Land Use Selection

DNRC will balance the real estate portfolio with uses associated with each of the land use categories. The primary focus for revenue enhancement will be to actively participate in project opportunities within Urban Growth Areas. The focus on Urban Growth Areas will help ensure that the development on trust lands only takes place when specific properties are most “ripe” for development in order to optimize the greatest amount of revenue per acre.

DNRC will seek to maximize the intensity and density of development per acre in order to realize the greatest return while also seeking to minimize the number of acres that DNRC will sell or develop. One strategy to accomplish this objective is through a proactive neighborhood planning process whereby raw land is improved with entitlements including consideration of TDR strategies that would allow increased density of uses in exchange for conservation lands elsewhere. Projects will be prioritized on a statewide basis.

- **Residential** – Income from lands with residential values will be realized primarily through land sales. Land entitlements can be enhanced through joint ventures and partnering with developers by bringing added value to properties through such means as subdivision, extension of infrastructure, and vertical construction. Whenever possible, land sales will be accomplished through the land banking process (77-2-Part 3, MCA). Some leasing of land for residential uses may be pursued in urban locations and in high value amenity locations.

- **Commercial** – Commercial leasing opportunities will be pursued primarily in Urban Growth Areas. Rural opportunities will primarily be accomplished via Planned Unit Development (PUD) agreements or other similar zoning applications.
- **Industrial** – Industrial opportunities will be prioritized in identified growth areas where adequate infrastructure is available to serve the intended uses. Public requests for industrial uses on Trust Lands, such as sewage treatment facilities, will be evaluated on a case-by-case basis. Some industrial uses may be sited at locations convenient to the resource base and not be necessarily dependent on growth indices, such as wood product mills, generation plants, and wind farms.
- **Conservation** – Conservation opportunities will largely be achieved through a collaborative effort involving DNRC, local communities, local governments, and conservation agencies. These conservation opportunities may include: conservation leases, conservation licenses, easements for public parks and conservation (77-2-101, MCA), natural area designation (76-12-103, MCA) and land exchanges/land banking, and through open space or park land designations achieved through subdivision review of residential properties. To help discern potential interest in conservation objectives, DNRC will actively solicit input from communities and other interest groups. Additionally, the annual project list developed by the REIT team (Exhibit B) will be posted on the DNRC web site and be forwarded to the affected cities, counties, United States Fish & Wildlife Service (USFWS), and various conservation entities. If these entities or other individuals or organizations indicate an interest in utilizing conservation opportunities on a project property, the development proposal will be delayed pending completion of an application process to secure the conservation rights to all or a portion of the property.

The REMB will also consider conservation opportunities through a marketing effort that will target Trust Lands with conservation potential, including, but not limited to, those lands in the vicinity of land with existing conservation designations. These will include federally designated areas such as National Parks and Monuments, Wilderness Areas, Wild and Scenic Rivers, Wildlife and Game Refuges, other designated conservation areas, and Public/Private Conservation Easements. The REMB will also target for conservation opportunities those lands in Urban Growth Areas that local communities or Neighborhood Plans designate for conservation or open space. The percentage of conservation uses on Trust Lands will correspond to the percentage share that Trust Lands have of the entire land base (see Table 4).

Lands that are sold or exchanged will be monitored for a period of five years after the date of sale. If those properties have been placed under a conservation easement during the five year period, those acres will be accounted for and reported as described in the V E of the monitoring section.

Administration

In order to implement the Plan and increase revenue, DNRC needs to maintain and improve staff expertise in the areas of real estate management, land use planning, real estate appraisal, marketing,

engineering, conservation strategies, community facilitation, and finance. In addition to the Department staff appraiser, the REMB has recently added staff with expertise in land use planning to most of the regional offices. In the future, adequate funding and staffing is necessary to achieve the desired land use improvements and corresponding increases in revenue for the Trust.

- Staffing and Staffing Expertise – The level at which Alternative D could be implemented to achieve the predicted rates of return, revenues, and acreages will depend on the level of staffing and associated budget. Current staff levels may limit the number of projects, the degree of participation by DNRC in joint venture opportunities, and the type and complexity of entitlements brought to projects. In addition to the current staffing, expertise in the areas of marketing, engineering, and finance will be particularly important. Three additional employees over the existing staffing may be necessary. The Bureau will emphasize shared expertise and establish teams of project planning and development personnel that could be assigned based on statewide priorities. Whenever possible, staffing needs will be achieved through reassignment of vacant FTEs (Full Time Equivalent Employees).
- Funding – Alternative D will require the allocation of additional financial resources to the REMB. Additional funding may be necessary for increased staffing and project support, including costs to improve land entitlements. Additional funding sources may be sought to achieve program objectives through a development improvement fund (revolving) using initial seed money of \$500,000 to start the fund plus a share of lease, license, easement, and sale revenue on an annual basis to perpetuate the fund. The study by Jackson (Appendix D, FEIS) clearly demonstrated that improved land entitlements/improvements increase rates of return to the Trusts. At this time, it is contemplated that up to \$500,000 per year will be sought to improve land entitlements.
- Statutory Authority – Legislation may be necessary to authorize a special development revolving fund and any other special funding requests. A specific grant of authority in the law pertaining to selling development rights or conservation easements will also be advantageous to achieve conservation objectives.

Financial Considerations

Revenue to the Trusts and other financial relationships associated with development of Trust lands under Alternative D is primarily from land sales and commercial, industrial, residential, and conservation opportunities. As a measurement of successful plan implementation, DNRC must demonstrate increased annual rates of return from 2.76 to 6.35% and annual revenues from 3.8 to 7.8 million dollars, as identified in the economic analysis of the EIS.

- Revenue to Trust – Revenue sources will be from commercial leases, industrial leases, residential leases, conservation leases, licenses, and easements, and land sales. Alternative D will attempt to achieve revenue from improving land entitlements whenever feasible. The REMB will identify specific properties for project consideration as described in the funnel process (Exhibit A) and project selection process (Exhibit B). The funnel process (see

heading “Project Selection”) will require the DNRC to consider development standards for specific properties and, in most situations; this will include community involvement to establish land use entitlements (use, density, performance standards, infrastructure extension, etc). Lands identified for project opportunities will, in most situations, be sold or leased with identified development standards. Other strategic objectives of the DNRC, such as land portfolio diversification through land banking, will likely require the disposition of raw lands due to the time limitations of that program.

- Asset Management – DNRC will consider real estate opportunities on Trust lands located in favorable markets based on a “filter determination” that Trust lands are suitable for alternative uses. All program interests of the TLMD will be considered when identifying project parcels. Management will emphasize development of those properties and uses that will provide the greatest return relative to any investment required. The key emphasis of asset management will be “proactive”; all project opportunities will be identified through the funnel filter approach and then be selected through the project selection process.

Project Management Roles

The REMB will play a proactive role in identifying and implementing project opportunities. Key emphasis under Alternative D will be to solicit community involvement and beneficiary input, and achieve desired development standards. Revenue objectives may be accomplished by sale, lease, easement, or exchange by using such tools as “joint ventures” and RFPs for specific properties as project opportunities are identified through the funnel filter process. The joint venture process will allow DNRC to stay involved as an equity partner in a development project, allowing greater control in achieving desired development standards.

- The Real Estate Management Bureau – The REMB will actively manage and promote residential, conservation, industrial, and commercial uses on Trust Lands. The REMB will prioritize project opportunities as described by the funnel and project selection processes. DNRC will seek to improve land entitlements and stay connected to project opportunities to the extent possible through the RFP, leasing, and joint venture processes. Land exchanges and land sales will be used to better position property in growing markets and to obtain existing developed properties with established or potential revenue streams.
- The Developer – The REMB will work closely with potential developers to establish project feasibility in the market place. Partnership agreements with private entities will be pursued, as appropriate, in preparing market studies, developing infrastructure and in preparing sites for construction. The Bureau may also explore the option of acquiring existing buildings. DNRC could then enter into an agreement with a project manager to expand, rehabilitate, and/or manage these properties. Joint ventures will be pursued with developers to bring added value to raw land prior to sale or disposition.

- City/County Governments/Local Communities/Beneficiaries – DNRC staff will solicit input from communities and beneficiaries while working closely with local jurisdictions in land planning and infrastructure development. REMB will work cooperatively with local governments to provide infrastructure and services to Trust properties as resources and opportunities permit. REMB will also work cooperatively with local communities and local government on achieving conservation opportunities. Other avenues of cooperation may include coordinating land use objectives related to affordable housing and redevelopment.

Marketing

Marketing is a proactive strategy intended to increase the awareness of development or conservation opportunities and complement competitive bidding processes to increase income to the Trusts.

- Advertising – The REMB will engage in a very active marketing component. In addition to print and electronic advertising strategies, marketing strategies might include an interactive web page to respond to inquiries and the preparation of packets and brochures with information on available lands and leases. The REMB might also consider working with a professional marketing firm in advertising its properties through brochures, video presentations and various computer and Internet strategies.
- Real Estate Affiliations – The REMB will work closely with local, state and national real estate and related development and conservation organizations. Affiliations with these professional groups will be key in promoting state Trust Land properties. Bureau staff will be active members of local organizations and attend regional and national real estate conferences and meetings in order to promote its programs and offerings.

RFP Process

The REMB will be proactive in real estate opportunities by employing the RFP process to help identify the highest and best use of property, provide a competitive approach for competing interests, defining market value, and identifying development standards. Prior to issuance of an RFP, however, work may be done to improve land entitlements through a number of mechanisms including, but not limited to:

- improving access;
- neighborhood planning;
- amendment to growth policies;
- seeking appropriate zoning designations;
- arranging for and installing necessary infrastructure;
- adding amenities and enhancements; or
- identifying potential public and private partners.

The RFP process will include not only traditional legal notices but targeted solicitations as well.

Measurement of Success

Success towards achieving this goal of increasing revenue for Trust beneficiaries will be measured by calculating revenue income and rates of return. This will be evaluated in relationship to actual personnel and project funding accomplishments and with measurements of participation in the local market. A detailed description of the monitoring plan and accounting system is presented in Section V.E.

D. Implementation of the Plan

Personnel in the TLMD land offices will work in coordination with the REMB to implement the plan. Key elements of plan implementation center around soliciting public and beneficiary input and implementing the funnel filter process that identifies project lands and the selection process. The REMB will provide statewide consistency in community/beneficiary input, as well as project selection and implementation. The basic components of implementation, as outlined below, are followed by a more detailed description of the funnel and project selection processes:

- Field personnel (unit and land office levels) will hold a community meeting to invite members of the public and trust beneficiaries regarding trust land project opportunities.
- Field personnel (unit and land office levels) will utilize community and beneficiary input while evaluating project potential on specific land parcels using the funnel filter process that considers land suitability based on measurements of the physical environment, transitional factors, broad market indices, site analyses, regulatory considerations, and other factors;
- Field personnel will identify project opportunities with supporting information on an annual basis to the state-wide Real Estate Identification Team (REIT);
- Projects selected under this Plan will be required to recognize other activities that are ongoing or existing at the time of this decision document, such as existing leases, licenses, subdivision plats, and Section 36 and Whitefish Neighborhood Plans;
- REIT (Section V.D, Selection Filter) will establish a one year project list plus other near term project possibilities based upon various factors such as project complexity, community support, costs, timing, staffing, financial return, market analysis, relationship to development standards, and other factors;
- DNRC will provide the Land Board with the annual project list and post the list on the Department's web site following each REIT (Section V.D, Selection Filter) meeting and provide a "window of opportunity" for outside interests (local governments, lessees/licensees, interest groups) to secure conservation strategies on project lands;
- Selected projects will be reviewed and approved by local jurisdictions as applicable to the type of project;

- Projects with local approval will be subject to further analysis under MEPA; and projects will be implemented as per project approval and related standards.

Project Selection & Prioritization

Project selection and prioritization is accomplished through the funnel filter process (Exhibit A) and through a project identification process (Exhibit B). The first 3 filters (programmatic filters) of the funnel filter process attempt to create a subset of lands (by descriptive terms) to help regional field personnel to focus on those lands that may have some opportunity for developed uses. The programmatic filters lead through a series of four additional site selection filters. These subsequent filters continue to narrow the choice of lands that may be suitable for development opportunities. The funnel is designed to minimize environmental risk by (1) eliminating lands from general consideration based upon physical and biological constraints and by (2) adhering to all local, state and federal regulations to minimize and mitigate potential environmental, economic, and social impacts. The funnel filter process, which includes the project selection process, is more fully described in Section 2.3.1.7 of the FEIS. The screening process of the funnel system is designed to identify lands that might be suitable for some type of developed use and is not particularly applicable for identifying conservation opportunities. However, the process can indirectly identify sensitive lands that may be suitable for conservation strategies and the Plan provides another mechanism for prioritizing conservation opportunities (refer to Section V.C, Conservation).

The narrative description of the funnel filter process as described in the FEIS is augmented for clarification purposes by the description below. Modifications to the funnel process include initiating the project selection process further up into the funnel (Physical Suitability Filter), providing for initial community and beneficiary input, and adding development standards to help define distinct land use objectives for project level properties. A description of each filter follows.

- **Physical Environment Filter**

This is a broad level filter intended to define the types of land that might not be generally suitable for developed uses. The application of this filter will result in the identification of a subset of lands that generally exclude from consideration:

- residential and commercial uses on slopes >25%
- residential and commercial projects that would be located in floodplains or wetlands
- most commercial or residential projects that would be located in grizzly bear recovery areas (adhere to HCP)
- most commercial or residential projects that would encroach within critical habitat for bull trout (adhere to HCP)

- **Transitional Filter**

This filter is intended to provide some indication of the general suitability of Trust lands for developed uses. This filter is based on such variables as proximity to airports, new development, roads, and as further explained in Appendix C of the FEIS. The application of

this filter will result in the identification of a subset of lands that have good proximity relationships to one or more of the following:

- community services including roads and infrastructure
- major shopping centers
- hospital
- airport
- residential parcels
- commercial parcel
- residential structures built in the last 5 years
- perennial stream
- state or county road

Trust Lands situated in Urban Growth Areas will receive priority consideration.

- **Market/Demographic Filter**

The demographic filter is a broad-based description of the population and economic changes that may occur in Montana through the year 2005. It further defines the philosophy as to how Trust lands might share in the projected development of land (acres) to accommodate the predicted growth estimates by land office region. The growth estimates are based on population and economic projections as described in Appendix D of the FEIS. An assumption is that development on Trust lands will occur on some subset of the identified transition lands.

The FEIS identified projected growth share on Trust lands by region and by time period. The growth estimates are **not targets** that must be achieved but are useful as guidelines for monitoring. Under alternative D, the projected growth estimates for developed uses on Trust lands will be guided by the goals and objectives of the Plan and not solely on achieving a particular acreage target. As previously suggested, the outcome for trying to implement the philosophy of Alternative D could result in a range of outcomes from A-C, depending on such uncertainties as funding, staffing, and market conditions. Notwithstanding the above caveats, Alternative D is limited under a development cap that will trigger reevaluation of the Plan. The identified limits are within the range of the DEIS alternatives and attempt to provide some flexibility for reacting to changing market conditions that may occur over the next 21 years. These caps could also be linked to interim time period assessments (see monitoring section) to determine whether in-course corrections may be necessary before year 2025. An amendment to the plan would be required in the event that the development caps were met prior to 2025. Please refer to Section V.E, Table 3 for a listing of the development cap acreages.

Those elements of the funnel filter process following the Market/Demographic filter are parcel specific evaluations, as opposed to programmatic. All properties under consideration must meet the goals, objective and general development standards of Alternative D.

Land and Unit office staff will utilize the following filters in developing the report that will be presented to the REIT team for project selection.

- **Physical Suitability Filter**

The general purpose of this filter is to guide the land and unit office staff in performing site evaluations (involving all program personnel) for the purpose of identifying specific parcels of land that might be suitable for development opportunities. Prior to any detailed site evaluation, the DNRC unit and land office staff will schedule a public meeting to involve the public, local official and trust beneficiaries to discuss development opportunities in land office regions. DNRC staff will incorporate suggestions and recommendations in their identification and evaluation of proposed projects. As part of each site assessment, reports will be generated that evaluate the market, physical, and biological characteristics of the land parcel. This will be accomplished by completing coarse filter analyses related to site and market conditions.

Perform Coarse Filter Evaluation (Site Conditions)

- Determine general water availability and water rights
- Assess suitability of existing or potential access
- Describe biological features and any unique or sensitive features
- Evaluate environmental relationships that might affect property
- Identify land use regulations applicable to property
- Identify any encumbrances on land relative to existing easements, SIDs, etc
- Identify proximity relationships of infrastructure (electricity, telephone, public roads, water sources, sewage treatment potential)
- Describe topography
- Determine if any influence by floodplains or wetlands
- Assess presence of any hazardous geologic conditions
- Perform preliminary cultural survey

Perform Coarse Market Analysis

- Local economy
 - Document recent population growth
 - Identify projected population growth
 - Document recent income growth
 - Identify projected income growth
- Local Real Estate Market
 - Document housing permit trends
 - Identify median home price trends
 - Document listings vs sales

- Identify average days on market
- Document trend in number of commercial permits
- Interview local realtors and financial consultants

- **Regulation Filter**

After specific property is identified as having potential for development through the Physical Suitability Filter, the area field staff will complete a regulatory analysis. This will include an assessment of how various local, state, and federal regulations plus other plans, such as the State Forest Land Management Plan, Whitefish Plan, Section 36 Plan, and DNRC Habitat Conservation Plan might affect a particular parcel.

A regulatory assessment will include:

- identification of all existing land use entitlements, and
- those entitlements that might be desired to achieve the best use for the property and best return to the applicable Trust.

The regulatory assessment will be accomplished in consultation with the local land use regulatory office. Specific land parcels that are or could be regulatory compatible and have potential to promote the desired development standards will move to the next filter of the funnel process.

- **Site Selection Report**

Each unit/area office will be responsible for completing a submittal report to the Real Estate Identification Team (REIT). Key elements of the report will include the following:

- Relationship of project to the primary Goals
 - Share in expected community growth
 - Plan proactively
 - Increase revenue to trust beneficiaries
- Results of filter evaluations
 - Initial community and beneficiary input process
 - Concept proposals with local land use regulators
 - Coarse filter market analysis
 - Coarse filter site analysis
- Concept description of potential project
 - Proposed land use
 - Proposed land use density
 - Existing entitlements
 - Proposed entitlements
 - Required infrastructure improvements

- Land use approval process (consult with local planning jurisdiction)
- Intermediate entitlement processes that may be necessary leading to a potential income generating project
- Project timelines linked to key tasks
- Potential Rates of Return (ROR)
- An estimate of the necessary budget and timelines that would be associated with the project.
- Relationship/coordination of project to other trust land management programs.

- **Selection Filter**

The purpose of this filter is to identify a list of projects to be implemented by the REMB based upon project proposals submitted by area offices. A Real Estate Identification Team (REIT) will evaluate the projects, giving consideration to the land and area office reports described above.

- Project Proposals --The REIT team will meet annually and more frequently as needed to evaluate project proposals by area offices. REIT would consider projects based upon statewide considerations related to agency goals, staffing and funding needs, financial return, market demand, location criteria, and relationship to general development standards.
- The REIT project selection process would include a REIT advisory committee comprised of area and/or unit managers and all planning or land use staff.
- The REIT responsible for making final decisions on land use projects would be comprised of one representative from each land office region plus three members of the Bureau (Bureau Chief, Bureau Planner, Property Management Supervisor)
- The REMB will assist area office personnel in the preliminary preparation of project lists leading up to the REIT meeting.

Project selection will be based upon the following criteria:

- Conformance to the goals and objectives
- Priority location, urban projects will receive priority
- General development standards
- Financial Rates of Return
- Additional evaluation criteria related to:
 - Market Demand
 - Personnel needs
 - Upstart costs
 - Project complexity
 - Timeline

The types of project proposals will vary considerably. There may be a number of non-revenue “projects”, such as zoning and subdivision processes, that are intended to bring

added value to specific parcels of land. Not all projects will create an immediate revenue stream but would serve to improve land values for future opportunities. Land transaction tools that define the final outcome of projects include the issuance of easements, licenses, and leases and disposition of land through land banking, land sales, and land exchanges.

Examples of projects include:

- Processes related to improving land entitlements
- Capital expenditures related to improving land entitlements
- Developing land for commercial, residential, industrial, or conservation uses
- Joint venturing or partnering with a third party to bring added value to property
- Marketing efforts to improve lease or lot sales
- Consulting work for specialized expertise
- Contracting work to assist in ongoing management obligations
- Payment of ongoing SID or similar financial obligations
- Public involvement processes associated with regulatory processes or specific land actions

The resulting project list(s) will also include area projects that will have priority importance but not necessarily require additional funding or staffing needs. Some allowances to amend the project list(s) could also be made for unforeseen project opportunities that might result between REIT meetings. Projects will be added or removed from the project list(s) through the same evaluation process linked to the annual or periodic REIT meetings.

DNRC will provide a summary report of the projects selected by the REIT Team to the Board of Land Commissioners. Concurrent notice of the list will be posted on the DNRC web site and sent to all affected lessees/licensees, local city and county jurisdictions, and interest groups. The notice is primarily for information purposes but will also trigger a 60 day response process to solicit interest in pursuing conservation strategies in lieu of a development proposal. Any organization or other entity interested in pursuing a conservation strategy in lieu of a listed project will be offered a 60 day timeframe immediately following listing of the projects to notify DNRC of the said intent. The notice of conservation intent will be followed by a 45 day period to make application for the conservation strategy. The application will need to demonstrate the commitment and ability of the applicant to complete the conservation transaction in a timely fashion. The original project proposal will proceed if no interest is indicated or application made to secure the conservation rights for the project is not consummated.

- **Project Filter**

Once a property is identified as a proposed project through the REIT process, the following may occur:

- The project will be submitted as an application (as applicable) to the local regulatory review processes for review and approval.
- In some situations, DNRC will be the applicant to secure the highest level of land entitlements or when a land division, in particular, is necessary to create lease lots.
- A developer may be the applicant in some cases as a tool to pass costs onto the developer.
- Zoning and/or neighborhood planning, if applicable, will help define the appropriate use, scale, and density of development and subdivision review will require adherence to local design standards. Projects denied through the local regulatory process will not proceed.

Land Use Authorizations

There are a variety of tools to assist in implementing an approved project. Any of the following approaches may be utilized:

- Leases – The REMB will actively pursue additional commercial and industrial leases in areas where market conditions warrant this type of development. Leases will also be considered for high value residential properties with scenic and recreational amenities. In urban areas, the REMB will consider single family, multi-family, pre-fabricated, affordable housing, and manufactured home residential leases. Long-term leases that will permit mortgage loans on certain residential properties might be considered to achieve a mix of lease and fee simple lots. The RFP process will be used to help achieve desired development standards and to select the most qualified lessee for the identified project. Projects achieved through long-term leasing will be completed in accordance with surface management rules and statute (77-1 Part 2, MCA, 77-1-Part 9, MCA). Any commercial or industrial lease that will generate annual revenue in excess of \$50,000 will be subject to approval by the Board of Land Commissioners.
- Licenses – The REMB will emphasize long-term licenses with a high rate of return over short-term leases. “Walk in” requests for individual short-term licenses will generally be discouraged.
- Easements – The REMB will continue to respond to requests for easements on state lands for both private and public purposes per Land Board policy. Easement values will be calculated based on the full market value of the property as determined by appraisal. The Board of Land Commissioners will accomplish the sale of conservation easements or partial ownership rights through an application process that includes an appraisal, MEPA compliance, and approval.

Land Transactions

Permanent disposition of Trust property is appropriate under certain circumstances. Unlike the traditional sales process, the land banking and exchange processes offer opportunities to replace certain Trust lands with other lands that have greater value to the Trusts.

Land Banking – Land banking is a tool that can be used to achieve a variety of real estate and portfolio objectives. In addition to using land banking as a tool to sell isolated rural tracts for the purpose of improving public access and consolidating Trust Land, the REMB will use Land Banking, if legally authorized, to acquire existing properties with high revenue streams and to provide increased public access to Trust Lands. The Bureau will also use Land Banking (with proper legislative authorization) to acquire properties that increase revenue to the Trust beneficiaries. Land banking will apply whenever practical to the sale of land or the sale of lots created through joint venture partnerships. In the near term, higher value lands located in the western part of the state may be sold (with or without entitlements) to help achieve strategic objectives to increase the agricultural land base of Trust lands. In limited circumstances, land sales may occur without zoning entitlements as necessary to fulfill objectives related to land banking or in situations where improved land entitlements may not be in the interests of local regulatory jurisdictions. Lands sold or purchased through land banking that are not identified as real estate projects by the REIT will be monitored for a five year period immediately following the date of sale. If those properties have received subdivision approval through the local regulatory processes, or have been placed under a conservation easement during the five year period, those acres will be accounted for and reported as described in Section V E of the monitoring section.

- Land Banking rules and Montana Statutes (77-2-Part 3, MCA) will serve as the process template for land sales.

Land Exchanges – The REMB will consider those land exchanges that will result in the acquisition of both undeveloped land and land with improvements that provide an existing income stream. Land exchanges will continue to occur outside the initiative of the REMB to achieve other objectives of the TLMD. Lands exchanged that are not identified as real estate projects by the REIT will be monitored for a five year period immediately following the date of sale. If those properties have received subdivision approval through the local regulatory processes, or have been placed under a conservation easement during the five year period, those acres will be accounted for and reported as described in Section V E of the monitoring section.

- The Land Exchange policy of the Land Board, which includes a two step review by the Land Board, and Montana statutes (77-2-Part 2, MCA) will serve as the process template for all land exchange projects.
- Land Sales– Land sales (other than land banking) may be considered for lands that have achieved some level of improved land entitlements that bring added value to the property. Land entitlements may be achieved by the actions of DNRC or in cooperation with a partner. Under the latter situation, DNRC, for example, could serve as an equity partner in a project wherein DNRC will hold the land costs and a developer partner will be responsible

for all the improvement costs leading to the approval of a platted subdivision. The improved property will be sold and the Trusts will receive full compensation for the original land value plus a share of the added value of the land achieved through the subdivision process. Lands sold that are not identified as real estate projects by the REIT will be monitored for a five year period immediately following the date of sale. If those properties have received subdivision approval through the local regulatory processes during the five year period, those acres will be accounted for and reported as described in Section V E of the monitoring section. Land sales in most circumstances will not include lands zoned for commercial or industrial uses. Land sales outside the land banking process will be completed in accordance to surface management rules and statute (77-2-Part 3, MCA).

The Department will continue the existing residential leasing program and will not be inclined to sell existing residential lease lots.

E. Management of the Plan

The Plan establishes a series of steps including initial public and beneficiary input, a detailed project identification and selection process, and reliance on local regulations for project review and approval. Limitations are placed on project proposals by considering the type, number, and locations of potential projects and how those projects relate to available staff and budget. Many circumstances may affect implementation of the plan, including changing market conditions, land board policy, failure to achieve staffing or funding objectives, and others.

Monitoring Program

A monitoring program will follow the term of the Plan including consideration of the growth acreage estimates on Trust Lands (Table 1 and Table 2). The monitoring program will provide an ongoing evaluation of how the selected Plan is being implemented in relationship to key growth indices used in the FEIS. This will be primarily accomplished by comparing actual community growth (population and economy) in a land office region to actual growth and activities (leases, licenses, sales, easements, exchanges) on Trust lands. Growth is a trend measurement so monitoring checks will be at five- year intervals. The original assumptions of the Plan will be monitored to detect effects of unforeseen changes in the physical, social, political, or economic conditions. The Plan attempts to look almost 21 years into the future and unanticipated circumstances can be expected that cannot be reasonably anticipated at this time.

Land Office Region	Growth Estimates (acres) by Time Period				
	2003-2010	2011-2015	2016-2020	2021-2025	Total
NWLO	1077 – 1795	702 – 1170	718 – 1196	747 – 1245	3244-5406
SWLO	600 – 1000	414 – 690	428 – 714	444 – 740	1886-3144
CLO	219 – 365	424 – 706	446 – 743	467 – 776	1556-2590
NELO	(12) – (20)	5 – 8	6 – 10	8 – 14	7-12
SLO	131 - 218	88 – 146	92 - 153	96 – 160	407-677
ELO	(11) – (18)	2 – 4	6 - 10	4 - 6	1-2
Total	2004-3340	1635-2724	1696-2826	1766-2165	7101-11055

Land Office Region	Growth Estimates (acres) by Time Period				
	2002-2010	2011-2015	2016-2020	2021-2025	Total
NWLO	254 – 423	168 – 280	185 – 309	205 – 342	812-1354
SWLO	221 – 368	146 - 244	164 – 274	183 – 305	714-1191
CLO	303 – 505	190 – 317	215 – 358	238 – 397	946-1577
NELO	70 – 117	55 – 92	60 – 100	66 – 110	251-419
SLO	104 – 174	69 – 115	77 – 129	86 – 144	336-562
ELO	26 - 43	11 - 18	12 - 21	14 - 23	63-105
Total	978-1630	639-1066	713-1191	792-1321	3122-5208

It is expected that the actual development acreages on Trust Lands may lag behind or temporarily exceed the estimated acreages identified in Tables 1 and 2. If developed acreages exceed those identified in Table 3 over the life of the plan, additional development on Trust Lands would be delayed pending reevaluation of the Plan.

Land Office Region	Growth Estimates (acres)	
	Residential	Commercial/Industrial
NWLO	10,816	1,354
SWLO	6,290	1,191
CLO	5,177	1,577
NELO	23	419
SLO	1,400	562
ELO	8	105
Totals	23,714	5,208

Table 4 identifies the number of acres per land office area that could be considered for conservation over the life of the Real Estate Management Plan. The acreages presented are only an estimate and do not intend to suggest a limit or cap to the acres that could be placed in conservation use, nor will conservation opportunities be limited to a half-mile radius of existing conservation-type lands. The purchasing of development or conservation rights is not in fact a utilization of those development rights, and therefore, those acres will not be calculated in the assessment of growth (residential, commercial, industrial development acres).

Table 4. Potential Conservation Acreage Under Alternative D

Land Office	Trust Acres within 0.5 miles of Conservation Lands	Percentage of Land Base	Acres times Percentage (Acres)*
NWLO	38,501.9	3.5%	1,348
SWLO	26,223.7	3.1%	813
CLO	130,830.8	5.5%	7,196
NELO	101,302.7	7%	7,091
SLO	12,319.2	3.7%	456
ELO	20,947.3	6.2%	1,299
Total	330,125.6		18,203

*Column represents total conservation acres through the year 2025

The activities of the REMB will be included in the DNRC Annual Report and Return on Asset Reports. However, trend information required to demonstrate relationships of the Real Estate Management Program to the Real Estate Plan will occur at 5 year intervals. These monitoring reports will include summary information as listed below:

Addressing Goal A

- Actual population and economic growth in land office regions and the state using the same methodology used in the EIS.
- Comparison of growth on Trust lands (commercial, conservation, industrial, residential) to the projections of Plan by Land office and state regions.
- Acres of lands purchased by land use type.
- Acres of land sales, leases, easements, exchanges, and associated entitlements added.
- Lands removed or added to an HCP.
- Number of acres of lands reclassified to “other” (77-1-401-403, MCA) by location and original land classification with description of major affected natural and physical features of the project area.
- Acres by location criteria.

Addressing Goal B

- Location and types of projects on Trust lands reviewed by local regulatory processes (zoning, subdivision, annexation, extension of services, building permits, growth policy including neighborhood plans).
- Number and type of conservation opportunities utilized on Trust lands.
- Number and type of DNRC processes (e.g. growth policies, zoning, subdivision, neighborhood plans, etc.) that involved the public.
- Results from planning relationship survey with communities, beneficiaries, and local governments.
- Summary of the implementation of General Development standards.

Addressing Goal C

- Revenue return to the Trusts from residential, commercial, industrial, and conservation uses by transaction category (lease, license, easement, sale) as per process described by the Jackson study (FEIS, Appendix D).
- REMB staff (numbers & type) and program funding.

The monitoring reports to the TLMD and Board of Land Commissioners will be made at the five-year intervals as identified above. The reports will serve as a basis to test conformity to the assumptions of the selected plan and to identify processes to modify the plan as appropriate and necessary to make mid-course adjustments.

The REMB plan needs to be dynamic in that this is a land use plan and implementation is affected by outside market forces, local, and state regulations and internally by legislation, Land Board policies, and funding. Identification and implementation of projects is typically a multi-year process. Land use projects could occur gradually, in spurts, or a combination of both. Years of trend information are necessary to fully assess the effectiveness of the assumptions. Most local communities in Montana have a twenty-year horizon for growth policies with interim updates as needed. The REMB plan should be allowed to mature over a period of years to avoid premature adjustments before accurate and sufficient trend data can be compiled and properly assessed. More immediate reasons to amend the Plan could include the following:

- Acreage caps have been repeatedly exceeded.
- Required legislative remedies to achieve the selected management philosophy are not accomplished or other legislation is enacted contrary to the selected plan.
- Certain critical elements of the plan are either not supported or implemented by the Board of Land Commissioners.
- The Trust Land Management Division Administrator judges that the original assumptions supporting the Plan no longer apply.

Changes or additions that do not conflict with the overall management goals and objectives of the Plan will not require programmatic review. This could include short-term fluctuations (five-year average) in project implementation (acres of new development or conservation lands), staffing changes, or funding allocations.

The Real Estate Management Bureau Chief could change the management of the plan (i.e. modification to the implementation and or filter processes without changing the Plan) if the proposed change(s) did not violate the fundamental intent as reflected in the Plan and EIS. The Department does not intend to initially request additional FTE or budget. This is to allow the Department to gain experience in implementing the Plan and to determine if additional personnel and budget are needed to fully implement the plan.

Accounting

DNRC will account for designated acres of projects completed under the Plan as described below. The acreages will count towards the “caps” identified in Table 4.

Conservation lands are achieved by:

- Conservation lease or license
- Securing of development rights through lease, license or permanent disposition
- Conservation easement
- Easement issued for public purposes and uses
- Open space or common area achieved through clustering or other regulatory processes generally associated with zoning or subdivision requirements
- Areas leased to DFW&Ps or other public agencies where the permitted uses generally restrict the ability to develop residential, commercial, or industrial uses
- Land designated as “Natural Area” per 76-12-104, MCA
- Sale of land for conservation use
- Purchased property or property received in exchange that is already dedicated or deed restricted for conservation purposes.
- Sale of land that has been placed under a conservation easement 5 years from the date of sale.

Residential lands are recognized whenever a land use density greater than one unit per 25 acres is achieved through one or more of the following situations:

- That portion of Trust lands leased for residential use other than those residential-type uses classified by the Montana Department of Revenue as “commercial”. Common areas and or open space associated with development that exceeds statutory requirements will be counted as achieving the goals toward conservation.
- Trust lands sold “raw” (few entitlements/no zoning) under land sales and or land banking that result in residential development at a density of one unit per 25 acres or denser within 5 years after sale.

- Trust lands sold with entitlements that permit a density of at least 1 unit per 25 acres. Those acres dedicated as open space and or common areas as a result of improved entitlements will be counted as achieving the goals toward conservation.
- Trust lands exchanged to accomplish the objectives of a project under the Real Estate Management Plan where the exchanged Trust land is identified in the local growth policy and or local zoning for residential uses.
- Purchased property or property received in exchange that is already developed and operating for residential uses.

Commercial or industrial lands are recognized whenever one or more of the following situations applies to a particular property:

- That portion of Trust lands leased for commercial or industrial uses or residential uses classified by the DOR as “commercial”. Common areas and or open space associated with development that exceeds statutory requirements will be counted as achieving the goals toward conservation.
- Trust lands sold at commercial/industrial values for commercial/industrial uses with no diminished property rights.
- Trust lands sold with entitlements that will authorize commercial or industrial uses. Those acres dedicated as open space and or common areas as a result of improved entitlements will be counted as achieving the goals toward conservation.
- Trust lands exchanged to accomplish the objectives of a project under the Real Estate Management Plan where the exchanged Trust land is identified in the local growth policy and or local zoning for commercial or industrial purposes.
- Purchased property or property received in exchange that is already developed and operating for commercial or industrial uses

Rural tract lands (density of less than 1 dwelling unit per 25 acres), public easements, parks, schools, public facilities such as recreation fields (or similar uses), and wind mills, are not included in the rural residential or commercial/industrial forecast models. The associated land areas will be tracked for monitoring purposes but will have no direct relationship, from an accounting perspective, to the modeled acreage estimates.

VI. RATIONALE FOR THE DECISION

I find that Alternative D reflects goals that provide a systematic and thoughtful approach to the identification, selection, and management of real estate activities on state Trust lands while assuring community, interest group, and beneficiary involvement. This alternative promotes a strong association with local communities, beneficiaries, and the regulatory processes of local jurisdictions. This alternative also enhances project certainty and revenue generation through solicitation of community and beneficiary input, utilization of conservation opportunities, improvement of land entitlements and defining of development standards. Alternative D provides the necessary flexibility to gauge community sentiment, and react to changing market conditions while providing assessment

of activities through a monitoring program that includes a mandatory reevaluation of the Plan if development caps are exceeded.

A. Relationship to the EIS Objectives and to the EIS Process

The EIS process was initiated with clear objectives as outlined in Section 1.4 of the FEIS.

- Generate increased revenue for Trust beneficiaries greater than current levels
- Comply with the Montana Environmental Policy Act (MEPA) requirements for developing a programmatic plan, DNRC's administrative procedures regarding MEPA (ARM 36.2 et. Seq.) and the Montana Antiquities Act (MCA 22-3-424), in their most current form
- Provide a more effective and efficient decision-making framework for real estate management that includes a strategic vision and philosophy for future management.
- Simplify the project level evaluation process
- Protect the long-term viability of Trust Land for uses other than agriculture, grazing and timber.
- Provide an opportunity for public involvement in decisions affecting residential, commercial, industrial and conservation uses
- Develop ways to work more closely with local communities and local government processes and policies.

All of the alternatives were molded to achieve the stated objectives while considering the identified public issues. The issues identified in the initial proposal formed the basis for identifying the five alternatives in the DEIS. The subsequent public comment process associated with the release of the DEIS identified other issues or needs for clarification that Alternative D seems to adequately address. These include comments related to the importance of achieving land entitlements and identifying development standards. It is my conclusion that Alternative D provides a balance of concepts identified by the five alternatives of the DEIS while providing improved clarity on how projects will be identified (listed) and implemented.

B. Relationship to the Other Alternatives

Alternative D attempts to capture the outcome expectations of Alternative C with the staff and monetary resources of Alternative B. It was shown in the economic analysis that income and rates of return to the Trusts will increase with improved land entitlements. However, improvements to the raw land, either through land use regulations (zoning, subdivision, etc) or physical improvements (access, infrastructure, etc), are linked to adequate and specialized staffing and to money that will be necessary to achieve the desired land entitlements. Alternative D has a strong philosophy to improve land entitlements whenever possible. This will be the philosophy whether or not Alternative D achieves the additional funding or staffing needs. For this reason, the outcome of projects, as

measured in acres of development or conservation, may float somewhere between those expected for Alternative A and Alternative C. However, the objective of Alternative D to pursue some level of land entitlements regardless of staffing and funding limitations should still accomplish increased income (over the current situation) through improved certainty of land use options and the added value brought to the property through the entitlements.

C. Relationship to the TLMD

The TLMD is responsible for managing all the state Trust lands for the benefit of the beneficiaries. This is accomplished through programs that generate revenue primarily from (1) leasing land for mineral (including oil, gas and coal) extraction and (2) leasing ground for grazing or agriculture, (3) management of timber, (4) real estate activities relating to the leasing and sale of lands for residential, commercial, industrial, or conservation uses. The latter category of income generating uses is the smallest component of the surface Trust land portfolio but achieves the highest per acre return to the Trusts. Alternative D will provide the necessary guidance and impetus to improve the position of real estate uses in the broader Trust land portfolio. This will be accomplished in consideration of all TLMD programs through development of initial project lists at the land office level involving all program interests and disciplines.

D. Relationship to Constitution and Statutory Authority

The Trust lands were created by the Enabling Act of 1889 “for the support of common schools.” Article X of the Constitution of Montana establishes a public school fund with “proceeds from the school lands which have been or may hereafter be granted by the United States.” Article X, Section 4, also establishes the Board of Land Commissioners to “direct, control, lease, exchange, and sell school lands ...” Pursuant to 77-1-301, MCA, DNRC manages the surface and mineral resources for the benefit of the common schools and other endowed institutions in the State of Montana, within six administrative land offices, under the direction of the State Board of Land Commissioners. The Department’s obligation for management and administration of Trust Land is to obtain the greatest benefit for the beneficiaries. The greatest monetary return must be weighed against the long-term productivity of the land to ensure continued future returns to the Trusts.

I find that Alternative D provides a responsible approach to securing increased revenue to the Trusts consistent with the purposes of the Enabling Act, Constitution, and Montana statutes and with other environmental and regulatory laws related to uses of land. In addition to the revenue objectives for the Trusts, Alternative D provides an excellent framework for identifying community and beneficiary values during the regulatory review process, including consideration of the natural environment and historical uses of the property.

VII. OTHER ALTERNATIVES CONSIDERED

The DEIS presented five alternative approaches to real estate management, developed in response to and driven by the issues, including a no-action alternative. A sixth alternative was added in the FEIS to consider certain comments received during the 60 day comment period. The ensuing narrative is intended to provide a summary description of each alternative philosophy. The reader is encouraged to read the entire descriptions included in Chapter 2 of the FEIS.

Under all the alternatives:

- Trust Lands will share (in varying proportions) in the future growth of commercial, industrial, and residential land uses within the six land office regions of the state.
- The suitability of Trust Lands for developed and conservation uses will be determined using a systematic funnel filter which identifies a subset of land that might be suitable for development.
- The REMB will utilize an ID Team (REIT) approach (Exhibit B) to select and prioritize project opportunities on a state-wide basis.
- All land use proposals on Trust Lands will be subject to local land use regulatory processes.
- Conservation strategies will not be limited by any alternative.

Evaluation measures for each alternative primarily pertain to acres of new developed or conservation uses and how those uses on Trust Lands will affect the natural and social environment and the revenue return to the beneficiaries. The acreage estimates of new developed uses or conservation lands are not goals or targets. The levels (acres) of development provide a measurement for monitoring the progress of the REMB in achieving the desired share of the anticipated growth within a land office region.

The Real Estate Management Program alternatives described in the EIS depict varying levels of participation by DNRC in the growth market in Montana. For purposes of the analysis, it is assumed that the growth will occur with or without DNRC sharing in a portion of the market through the program approaches outlined in the EIS.

The following two tables (Tables 5, 6) represent the total anticipated growth of residential and commercial/industrial uses (measured in acres) on *all* lands within the geographical boundaries of each DNRC land office region.

Table 5. Growth Estimates for Residential Acreages on all Land Ownerships

Land Office Region	Growth Estimates (acres) by Time Period				
	2003-2010	2011-2015	2016-2020	2021-2025	Totals
NWLO	10,776 – 17,960	7,016 – 11,694	7,181 – 11,968	7,474 – 12,456	32,446-54,078
SWLO	8,575 – 14,291	5,918 – 9,863	6,122 – 10,203	6,344 – 10,574	26,959-44,931
CLO	2,739 – 4,565	5,293 – 8,821	5,570 – 9,283	5,818 – 9,696	19,420-32,365
NELO	(225) – (135)	46 - 76	67 - 111	96 – 160	(16) - 212
SLO	3,270 – 5,450	2,197 – 3,661	2,289 – 3,815	2,405 – 4,008	10,161-16,934
ELO	(213) – (128)	31 - 51	72 - 120	49 - 81	(61) - 124
Grand Total	24,922 – 42,003	20,501 – 34,166	21,301 – 35,400	22,186 – 36,975	88,909-148,644

Table 6. Growth Estimates for Commercial/Industrial Acreages on all Land Ownerships

Land Office Region	Growth Estimates (acres) by Time Period				
	2002-2010	2011-2015	2016-2020	2021-2025	Totals
NWLO	2,540 – 4,234	1,678 – 2,796	1,854 – 3,090	2,051 – 3,418	8,123-13,538
SWLO	3,157 – 5,261	2,090 – 3,483	2,344 – 3,906	2,615 – 4,358	10,206-17,008
CLO	3,784 – 6,306	2,379 – 3,965	2,685 – 4,475	2,977 – 4,961	11,825-19,707
NELO	777 – 1,295	615 – 1,025	668 – 1,114	736 – 1,226	2,796-4,660
SLO	2,606 – 4,344	1,725 – 2,875	1,935 – 3,225	2,159 – 3,598	8,425-14,042
ELO	320 - 533	132 - 220	155 - 258	170 - 283	777-1,294
Grand Total	13,184 – 21,973	8,619 – 14,364	9,641 – 16,068	10,708 – 17,844	42,152-70,249

A. Alternative A – The Current Program

Under this alternative, REMB will move the existing real estate program forward into the future in a fashion that remains cognizant of current market conditions. New projects will be identified and prioritized primarily based upon outside inquiries and/or proposals from DNRC personnel with land planning expertise. Under this alternative, it is expected that Trust Lands will realize less, on a proportional basis, than a fair share of the regional market growth. Estimated residential, commercial, and industrial growth under Alternative A assumes Trust Lands share 2-5% of the new anticipated growth, depending on location.

Under Alternative A, the current program, the REMB considers conservation opportunities as a priority on a percentage of those Trust Lands lying adjacent to existing conservation type lands. These will include federally designated areas such as National Parks and Monuments, Wilderness Areas, Wild and Scenic Rivers; Wildlife and Game Refuges and Public/Private Conservation Easements (hereinafter referred to as conservation type lands).

Staffing and staffing expertise will remain unchanged. There may be some limited sharing of personnel among Land Offices where certain expertise may be brought to a specific project on an as needed basis.

The projected rate of return on equity for Alternative A will be approximately 2.76%.

B. Alternative B – Diversified Portfolio

Alternative B seeks to secure a broad based portfolio of income producing properties. This will be accomplished through proactive strategies intended to keep pace with regional market growth and by capturing opportunities identified by others. The REMB will make use of a funnel filtration process and assume a more active role [as compared to Alternative A] in creating new revenue opportunities for the Trusts. This will include the identification of lands suitable for development and the active pursuit of the entitlements that will help position the lands in the market place. In addition, more staff resources will be directed towards selecting and ranking projects for more specific project level review.

The range of projected annual growth of “residential” and “commercial/industrial” on Trust Lands represent a direct proportion of shared growth based upon the proportion of Trust Lands to other land ownerships (minus “federal” and “water”) within a specific land office region

Under Alternative B, the REMB will consider conservation opportunities a priority on a percentage of those Trust Lands lying within one half mile of land with existing conservation type lands. Conservation use will generally be achieved through the sale or lease of development rights on lands with residential values.

Alternative B will require the allocation of additional financial resources to the REMB. Additional funding will be necessary for increased staffing and project support, including costs to improve land entitlements. Additional funding sources may be sought to achieve program objectives through a development improvement fund (revolving) and a percentage share of lease and sale revenue.

The projected rate of return on equity for Alternative B will be approximately 4.66% - 5.13%, with the latter value reflecting the added benefit of improved land entitlements.

C. Alternative B-1 – Diversified Portfolio – Conservation Priority

Alternative B-1 incorporates all of the elements of Alternative B with the exception of Conservation uses on Trust Lands. As under Alternative B, the REMB will consider conservation opportunities a priority on a percentage of those Trust Lands lying within one half mile of lands with existing conservation authorizations. Conservation use will generally be achieved through the sale of development rights on lands with residential values. Half of the estimated residential development on Trust Lands anticipated under Alternative B will be set aside for additional conservation opportunities.

D. Alternative C – Focused Portfolio

Under this alternative, the REMB will actively evaluate the Trust Land revenue opportunities on a continual basis to determine a full range of project opportunities. The REMB will react quickly to market opportunities and attempt to realize a higher proportion of the anticipated growth in regional markets. Projects that return the highest net revenue to the Trusts will be given higher priority under this alternative.

The projected range of annual growth of “residential” and “commercial/industrial” on Trust Lands under Alternative C will range between 8 and 20% of the anticipated growth of those sectors. These percentages assume that Trust Lands will experience a higher proportion (on a per acre ratio with other lands) of residential, commercial, and industrial uses.

Under Alternative C, the Bureau will consider conservation opportunities as a high priority on a percentage of those Trust Lands that lie within one mile of lands with existing conservation authorizations. Conservation use will generally be achieved through the sale or lease of development rights on lands with residential values.

Alternative C will require a more specialized staff. While the Bureau will still try to share expertise among Land Offices, the level of activity will require a larger staff over all. As under Alternative B, expertise will be needed in planning, real estate, appraisal, marketing and finance. It is estimated that four additional staff will be required as compared to Alternative A.

The projected rate of return on equity for Alternative C will be approximately 5.48% - 6.35%, with the latter value reflecting the added benefit of improved land entitlements.

E. Alternative C1 – Focused Portfolio – Conservation Priority

Alternative C-1 incorporates all of the elements of Alternative C with the exception of Conservation uses on Trust Lands. As under Alternative C, the REMB will consider conservation opportunities a priority on a percentage of those Trust Lands lying within one mile of lands with existing conservation authorizations. Conservation use will generally be achieved through the sale of development rights on lands with residential values. Half of the estimated residential development on Trust Lands anticipated under Alternative C will be set aside for additional conservation opportunities.

VIII. ALTERNATIVES – COMPARISONS AND TRADE-OFFS

The main difference between the alternatives is the relative degree to which the REMB will participate in and benefit from the expected growth of the residential, commercial, and industrial sectors of the Montana economy. Differences among alternatives relate to the philosophical approaches (emphasis) to land management in responding to community growth. As noted in the

EIS evaluation of alternatives, DNRC will not be creating new growth but, instead, will be capturing a proportion of growth that is already expected to occur in the next 21 years. The intent of all alternatives is to consider market conditions and then, as deemed appropriate, identify lands that may be suitable for growth in the context of local values as determined through locally adopted growth policies, zoning, and other land use regulations. The funnel filter process creates a systematic and dependable process for identifying parcel-specific properties that, if developed, will have minimum risk to the environment and fulfill a demand in the market place. The main tradeoffs between the alternatives include:

- **Level of staffing and expertise available** – A greater level of staffing will enable the REMB to engage in more real estate activities and therefore realize a higher benefit to the Trusts.
- **Amounts of revenue generated on behalf of the Trust Land beneficiaries** – The amount of revenue will vary by alternative, with Alternative A – the Current Program generating the least and Alternative C – Focused Portfolio and Alternative D – Focused Entitlements generating the most. Increased initial investments in personnel and land entitlements result in a greater return on investment.
- **The extent to which various real estate tools are employed** – Alternatives B, B-1, C, C-1 and D will require greater employment of real estate tools including both land transactions and authorizations.
- **The amount of money directed to the improvement of entitlements** – Expenditures made to improve entitlements will increase under Alternatives B, B-1, C, C-1, and D and will result in a higher return on investment. (Entitlements are land use authorizations such as those provided through local zoning ordinances and physical improvements that facilitate growth such as roads and sewer systems.)
- **Impacts to the environment** – Each alternative is designed to minimize environmental risk but alternative D places more emphasis on certain key habitat components plus places more emphasis on a market analysis to verify need or demand for a particular use.

IX. AREAS OF CONTROVERSY AND CONCLUSIONS

Section 1.5.3 of the FEIS identifies some of the key issues considered in developing the initial five alternatives plus those additional issues identified during the DEIS comment period that helped define the new alternative, Alternative D. The manner in which these comments were addressed in the EIS is summarized in Section 2.10 and Appendix A of the FEIS. The selected alternative, in particular, addresses each of the substantive issues as outlined below.

Alternative D will:

- Increase revenue associated with real estate uses on Trust Lands.
- Solicit involvement from local communities and beneficiaries on potential projects on Trust Lands.

- Promote goals and objectives to be used in identifying and selecting real estate and conservation opportunities.
- Provide a systematic process to identify a subset of lands on a project level basis that will be suitable for various types of real estate or conservation activities.
- Provides a direct linkage to the land use decision-making processes of local government jurisdictions; ensuring consideration of local values, issues, and development standards in the project approval processes.
- Utilize the local review process to identify and mitigate environmental, social, and fiscal impacts of new development and to augment the local review process with MEPA as appropriate to ensure full disclosure of potential project impacts.
- Provide limited use of Categorical Exclusions (see Chapter 5), increase participation in the local land use regulatory processes, and defer land use exemptions on state lands otherwise permitted by state law.
- Provide guidance in achieving desired development standards for land uses on Trust lands through such tools as Requests for Proposals (RFPs), joint ventures, terms of lease agreements, and land entitlements achieved through local regulatory review processes.
- Provide a systematic process that generally eliminates certain categories of lands from most development options due to environmental constraints and then provides additional filters on a parcel by parcel basis to determine the general suitability of certain lands for development potential followed by a project selection and project approval process that considers more specific impacts to the man-made and natural environment. These steps of land evaluation and project approval ensure consideration of impacts related to fish, wildlife, vegetation, air, water, soil, aesthetics, cultural resources, community values, and local services and infrastructure.
- Establish linkage to other programs of the TLMD, such as the State Forest Land Management Plan and the Habitat Conservation Plan.
- Seek enhanced conservation opportunities through processes related to conservation leasing, licensing, easements, and natural area designation.

X. Project Record

The Project File containing additional information used in the preparation of the EIS is located and available for public review at the Department of Natural Resources and Conservation, Real Estate Management Bureau, 1625 Eleventh Ave, Helena, MT 59620.

XI. Signature of Deciding Official:

Mary Sexton
Director, Department of Natural Resources and Conservation
July 18, 2005