

CHAPTER 2

ALTERNATIVES AND ISSUES

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Alternatives

The proposed land exchange poses two alternatives: no action or to implement the exchange as outlined in the Description of the Proposed Exchange section, above.

The impacts of the No Action Alternative are discussed below, because the state and federal properties would undergo no changes if they remained under current ownership. The Alberton Gorge, which if sold by NorthWestern Energy on the private market, would undergo considerable changes to the present conditions. These impacts are discussed in the No Action Alternative, below. The No Action Alternative is used as a baseline for comparison to the Preferred Alternative B (Alberton Gorge Land Exchange). The specific evaluation under each tract section in this document addresses impacts that would likely occur if the Preferred Alternative B is completed as proposed.

The current proposal has little latitude to vary due to the number of parties and tracts involved, the need for River Network to recover funding, the time constraints by NorthWestern Energy, federal aid restrictions for replacement properties, and local concerns regarding impacts to exchanged lands. These components must remain very similar to what is proposed in order for the Gorge to be conserved and the exchange to succeed.

Many alternatives were considered in an effort to conserve the natural character of the Alberton Gorge River Corridor. These are discussed under Alternative C below, however, they have not been considered in detail in this analysis because they have been considered unfeasible for several reasons: the need for River Network to recover funding, time constraints by NorthWestern Energy, lack of agency funds allotted for land acquisition, and proposals not meeting the primary goal.

ALTERNATIVE A - No Action

Under the No Action Alternative, the exchange would not occur. This alternative would allow all properties to remain under current ownership with no changes occurring to the federal and state tracts. The Alberton Gorge tract has the potential for considerable changes if NorthWestern Energy decides to sell to private developers. More specifics are discussed under each tract section, below.

Alberton Gorge River Corridor

If the land exchange does not proceed, NorthWestern Energy or its successor in interest, may sell the Alberton Gorge River Corridor to private developers or individuals. This would likely result in residential sites along the Gorge area, according to the county planner and the “highest and best use” identified in the *Alberton Gorge Appraisal* (Anne Renaud-Wilkinson, Certified General Appraiser, AR Appraisal and Consulting), Date of Valuation July 10, 1998; updated July 13, 2000; updated March 22, 2002. The appraisal indicates that the tracts include marketable timber which could be harvested in a one-time cut or selectively harvested over a period of years. The property consists of 22 separate legal tracts, half of which have suitable legal and physical access for private residential development. The remaining tracts have few feasible uses without access, but have potential if assembled with adjacent properties. County Planner, Wayne Marchwick, (personal communication with Sue Dalbey, June 23, 2000) indicated that there is no county zoning in this portion of Mineral County that would restrict the type of development occurring on the property if privately owned. If the individual tracts were proposed to be subdivided, zoning or development restrictions must be approved by the County Planning Board. Sanitary systems would require the county’s review and be subject to state law. Marchwick indicated that land values and taxes may remain similar under private or public ownership; however, if tracts are residentially developed, additional tax revenue could be collected for values such as scenic views and the type and size of structures placed on the tract. He also acknowledged that county costs for services provided may be higher than tax revenue received, based on studies done in another county.

Residential development is considered the most likely use of the Alberton Gorge River Corridor tracts, as suggested by the appraisal noted above. Potential impacts due to this type of development include the following:

Physical Environment

- disruption, displacement, erosion, compaction and over-covering of soils;
- temporary dust emissions from construction that reduce air quality;
- temporary surface water quality degradation from effects of construction along river banks;
- decrease in vegetation and potential for increased weed establishment;
- decrease in wildlife habitat and potential impacts to fisheries habitat;
- displacement of non-game wildlife and song birds;

Human Environment

- temporary additional noise along the Gorge area from residential development;
- fragmenting an existing large, linear, natural recreation area;
- increase in the density and distribution of the population along the Gorge;
- increase in governmental services for fire and police protection, schools, public parks facilities, road maintenance, water supply, septic systems, and solid waste disposal;
- increase in local tax base and an increase in use for this revenue;
- expansion of utilities;
- loss of the potential to gain public access to the river;
- decrease the current aesthetic values and scenic vistas, solitude for those endeavoring in outdoor recreation, such as bank and float fishing, floating the river, wildlife watching, walking;
- risk of losing cultural or historical resources.

Lower Tarkio Tract and Tarkio Section 35 Tract

Under the “No Action Alternative,” the Lower Tarkio Tract and Tarkio Section 35 Tract would continue to be listed as disposal properties within the Lolo Forest Plan. Wildlife habitat, hunting and recreational access would remain in the current conditions and open to the public. The Lolo FS plan identifies only thinning of timber to occur on this property, therefore payments in lieu of taxes (PILT) income to the county would not increase significantly from future FS activity on these tracts. Future possibilities for these tracts may include use in another land exchange, after which this land could be subject to residential subdivision and development. The Department of Natural Resources and Conservation (DNRC), the managing agency for state school trust lands, has also indicated interest in acquiring Tarkio Section 35 from the FS, which borders DNRC-owned Sections 2 and 36.

Frank Lake

Frank Lake would continue as a minimally maintained fishing access site under FWP ownership.

FWP Old R-5 Headquarters

The FWP Old R-5 Headquarters would continue to be identified as a disposal property within FWP. It receives minimal maintenance and is used as a storage area for the current Region 5 office. Future funds would continue to be allocated to pay for taxes and assessments on this urban tract and considered excess FWP landownership.

Natural Bridge State Park, Park Lake FAS, and Tizer Lakes FAS Tracts

The Natural Bridge, Park, and Tizer Tracts would continue to be identified as disposal sites and considered for future land exchanges with the FS to consolidate recreational management operations. They will not be managed pro-actively by FWP due to the lack of personnel and funding to support these remote sites. Recreation and environmental management conflicts will continue at Park Lake. Public confusion of property ownership and law enforcement jurisdiction concerns will continue at these sites.

Hebgen Cabin

The tract is in the process of being removed from the FERC boundary associated with the Missouri-Madison Hydroelectric Project, after which NorthWestern Energy would need to request a special use permit from the FS to allow use of the company-owned cabins until the land exchange is completed. This request may be denied.

PREFERRED ALTERNATIVE B - Proposed Exchange

Alternative B proposes a land exchange between the state agency FWP, the federal agency FS, and the nonprofit organization River Network, as follows:

- FWP will acquire approximately 305 in the Alberton Gorge River Corridor, including approximately 7 miles of frontage on the Clark Fork River. FWP will transfer to the FS four sites – Natural Bridge, Park Lake, Tizer Lake and Frank Lake – totaling approximately 367 acres, and FWP will transfer to River Network the former Region 5 Old Headquarters office location in Billings.
- FS will acquire the four sites from FWP, and will transfer to River Network approximately 550 acres at Tarkio and the Hebgen Cabin tract.
- River Network will purchase the Alberton Gorge from NorthWestern Energy. River Network will sell the FS lands at Tarkio (voluntarily placing restrictive covenants on these lands to protect wildlife) and the FWP Region 5 Headquarters to recover costs in buying the Alberton Gorge. The Hebgen Cabin tract will be transferred to NorthWestern Energy as partial payment for the Alberton Gorge. River Network will transfer approximately 305 in the Alberton Gorge River Corridor to FWP. River Network will retain about 17 acres in the Alberton Gorge for use in a potential future exchange with DNRC.

This action is explained more thoroughly in the Description of the Proposed Exchange and *Table 1*, above. Impacts to the individual tracts are discussed under each corresponding section following the Introduction.

The FS and FWP are motivated to transfer the designated tracts to increase management efficiency and transfer isolated properties which can be more effectively managed by the agency owning the adjacent lands. The public will benefit from these trades through the consistent management of larger consolidated areas. Please refer to the list of public benefits acknowledged above.

Considerable support from River Network, the Missoula Whitewater Association, commercial outfitters, anglers, and regional individuals and groups suggest that the conveyance of the Alberton Gorge River Corridor into public ownership is a worthwhile venture in the public's interest. The total acreage of publicly owned land will decrease (primarily in Mineral County, slightly in Yellowstone County) as a result of this exchange. Four state tracts will remain open to public access after transfer to the FS.

Though, NorthWestern filed for relief under Chapter 11 of the United States Bankruptcy Code, the company is desirous of moving forward to a closing of the proposed transactions as per a letter to River Network dated December 8, 2003. Due to the

connected nature of all parcels in this exchange, the exchange would be difficult to improvise and conclude in a timely manner if any major components are altered. The preferred action must be pursued as a whole to achieve an equally valued exchange; the exchange would not likely succeed if individual parts of Phase 1 are significantly altered or removed altogether.

ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED STUDY

These alternatives have been considered during the process of consummating the details of this exchange; however, due to the complicated and connected actions in this exchange, these alternatives were dismissed as unfeasible given the available funding, exchange tracts available within each agency, protection of the resources required, and the timely manner in which a transaction with NorthWestern Energy needs to be completed.

- 1) **Direct Purchase of the Alberton Gorge River Corridor by FWP.** *FWP would purchase the Alberton Gorge directly from NorthWestern Energy for the appraised value. This alternative is not feasible, because FWP does not have this amount of acquisition funds available for lands from the appropriate funding sources. The result of not directly acquiring the Gorge would be that FWP and the FS would continue managing their respective properties identified for disposal.*
- 2) **Phased Acquisition of the Alberton Gorge River Corridor tracts.** *The tracts within the Gorge could be acquired in a series of exchanges over time. Each sequence must have equal values to exchange. An Exchange Agreement could be signed and executed by all parties to lock in the tract values. This would be a very lengthy process with many more details. NorthWestern Energy does not want to hold the Alberton Gorge River Corridor lands for an indefinite period.*
- 3) **Partial Acquisition of the Alberton Gorge River Corridor.** *FWP could acquire only certain tracts within the Gorge. This does not meet the desired goals of the project, which is to preserve the corridor in an undeveloped state.*
- 4) **Direct Purchase of the Alberton Gorge River Corridor by River Network then Sell to Private Entities with Restrictive Covenants.** *River Network could purchase the Gorge outright from NorthWestern Energy and recover costs through the sale of specific parcels. A development setback provision from the river could be included in a conservation easement or through County participation in planning and zoning restrictions placed on the tracts by River Network at the time of resale. Access sites to the river could be conveyed to FWP.*

The goals of River Network, NorthWestern Energy and FWP are to conserve fish and wildlife habitat along the Clark Fork River corridor and to protect the recreational experience for floaters and anglers on the Alberton Gorge. A resale of portions of the Gorge for residential development would not achieve these goals.

FWP is becoming more aware of the public's increasing desire to have access to entire river corridors, such as on the Smith River and other efforts in the

- Northwest, which do not simply provide pinpoint accesses to a river. This is another reason that the exchange process has continued as proposed.
- 5) **Identify Other Disposal Tracts for Use in the Exchange.** *The proposal could involve different tracts to exchange.* Other tracts were considered for exchange, including a federal tract in Mineral County, and a state tract in Carbon County. The federal tract was committed to a different land transaction prior to consideration in this proposal. The state tract had encroachment issues and other exchange issues that did not lend itself to inclusion in this proposal. There are limited disposal properties available and a limited number that would be desirable to the other parties involved in the exchange. The tracts to be conveyed to the FS have been identified for many years (except Frank Lake) as disposal sites by FWP. All FWP tracts are identified for acquisition by the FS.
 - 6) **FS Places Restrictive Covenants on Tarkio Section 35.** *The FS could put restrictive covenants on Tarkio Section 35 when conveying to a private party.* This alternative was not considered necessary after reviewing the impacts and no significant net loss of wetlands, floodplains, wildlife, minerals, timber, recreation opportunity and aesthetics or other resources. In addition, River Network has agreed to place restrictive covenants in the deed, should the organization need to sell the Tarkio lands to recover costs of purchasing the Alberton Gorge. According to a June 6, 2003 letter by River Network, future development on the north portion of the section would be limited to timber harvest only and future development on the south portion would be six or fewer homesites.
 - 7) **Direct Sales of State Tracts.** *The state disposal properties (Frank Lake, Natural Bridge, Park Lake, Tizer Lake) could be sold on the open market to the highest bidder.* FWP is mandated to replace federal funds, recreation and fishery value used when acquiring Natural Bridge, Park Lake and Tizer Lake. This alternative would not provide reimbursement of Federal Aid (Wallop-Breaux and Land and Water Conservation Fund) funds. This option could also be detrimental to wildlife, fisheries, and recreational values associated with these tracts depending on the intended land use by the land buyers. There would be no assurances of recovering the funds from sale for use in acquiring the Alberton Gorge River Corridor.
 - 8) **FS Purchase FWP Tracts using Land and Water Conservation Funding.** *The FS is allotted Land and Water Conservation Funds (LWCF) annually to purchase lands in Region 1.* Other tracts in the Region would have a higher priority for purchase using these funds than the FWP tracts proposed in this exchange. Due to the limited amount of LWCF funding, it would be very difficult to purchase these tracts due to the competition for these funds.
 - 9) **Complete the Alberton Gorge Land Exchange as Proposed, and then proceed with a subsequent land exchange between River Network and DNRC.** *This alternative continues to be considered, but is beyond the scope of this environmental assessment. DNRC has expressed strong interest in acquiring Lower Tarkio and Tarkio Section 35, which River Network would receive through the Alberton Gorge Land Exchange. These tracts adjoin DNRC school trust lands in Sections 2 and 36, and their acquisition by DNRC would significantly improve the agency's ability to access and manage timber resources over a contiguous*

and productive parcel of land. In anticipation of acquiring the Tarkio sections, River Network has submitted a Land Exchange Application, which is now being reviewed by DNRC. The application proposes that River Network transfer to DNRC the acreage it acquires at Lower Tarkio and Tarkio Section 35 in exchange for which River Network would receive several tracts of DNRC land in Mineral County. River Network would sell these lands to recover costs of purchasing Alberton Gorge.

The proposed DNRC Exchange as described above is a separate transaction from the Alberton Gorge Land Exchange analyzed in this environmental assessment. The DNRC Exchange will be processed under the auspices of the DNRC and will be subject to approval of the State Land Board. This process, now in its early stages, will involve an environmental review and public participation process under the Montana Environmental Policy Act (MEPA), as well as property appraisals, cultural inventories and other specific reports on the properties that will be involved in that land exchange. Because the DNRC Exchange is not yet approved by the State Land Board, this Environmental Assessment of the Alberton Gorge Land Exchange addresses the potential environmental impacts of private development of Lower Tarkio and Tarkio Section 35, rather than assuming that these Tarkio sections will be transferred to DNRC. To help ensure the success of the DNRC Exchange, River Network, DNRC and Mineral County planners have met several times to identify developable tracts that coincide with county planning objectives and DNRC land disposal criteria. The DNRC Exchange would meet two important objectives: a) keeping the Tarkio lands in ownership of a public agency, as desired by area residents; and b) transferring developable (DNRC)state-owned land in Mineral County into the private sector, an outcome desired by many county residents and public officials to increase local tax base.

Public Comment Period for (Current) Environmental Assessment

Thirty (30) days will be provided for public comment on the current EA after publication of a public notice in each of the following newspapers:

- ❑ Tobacco Valley News (Eureka),
- ❑ Western News (Libby),
- ❑ Daily Inter Lake (Kalispell),
- ❑ Mineral Independent (St. Regis),
- ❑ Missoulian,
- ❑ Helena Independent Record,
- ❑ Great Falls Tribune,
- ❑ Bozeman Daily Chronicle,
- ❑ Big Timber Pioneer,
- ❑ Billings Gazette.

In addition, the following notices will be issued:

- ❑ one public notice and the EA available on the FWP web page:
http://fwp.state.mt.us.
- ❑ one statewide press release.

Landowners adjacent to the parcels, people who commented on the Draft EA, people who have been closely involved in the exchange, and people/organizations who wish to be notified of the availability of the current EA and public comment period will be mailed postcards or complete EAs. In an effort to reduce printing costs, the EA will also be distributed on compact disc.

Copies of the EA will also be available for the public to review at the following locations:
FWP Regional offices in Kalispell, Missoula, Bozeman, Billings, and the Headquarters in Helena;
FS Region 1 Office in Missoula; Supervisor's Offices in Libby, Bozeman, Helena, Missoula; FS District Offices in Superior, Ninemile and Big Timber.

Written comments can be sent to one of the following addresses (postmarked) **before 5:00 p.m. on January 27, 2004**

| | | |
|-------------------------------------|----|----------------------------------|
| USDA Forest Service-Northern Region | OR | Montana Fish, Wildlife & Parks |
| Alberton Gorge Land Exchange | | Alberton Gorge Land Exchange |
| Federal Building, 200 E. Broadway | | 1420 East 6 th Avenue |
| P.O. Box 7669 | | P.O. Box 200701 |
| Missoula, MT 59807 | | Helena, MT 59620-0701 |

Attn. Ron Erickson, Lands
Phone: (406) 329-3623
FAX (406) 329-3132
Email: rmerickson@fs.fed.us

Attn. Darlene Edge, Lands
Phone: (406) 444-4042
FAX (406) 444-3032
Email: dedge@state.mt.us

People wanting to review specialist reports, appraisals, or other information regarding the exchange can also contact the above people to request documents.

NEPA Scoping - MEPA Draft EA

Public Notice

The public was notified in June-July 2000 in the following manners to allow for comment on the Draft Environmental Assessment (EA) as required under MEPA and MCA 23-1-110 (House Bill 495). The following notifications also serve as notices for the scoping process under NEPA requirements to allow for public input and consideration of issues to be addressed in the EA.

- Four-consecutive weeks, legal notice publication in these newspapers ran June through July of 2000:
 - Tobacco Valley News (Eureka),
 - Western News (Libby),
 - Daily Inter Lake (Kalispell),
 - Mineral Independent (Superior),
 - Missoulian,
 - Helena Independent Record,
 - Great Falls Tribune,
 - Bozeman Daily Chronicle,
 - Big Timber Pioneer,
 - Billings Gazette.
- one legal notice on Montana's electronic bulletin board;
- one statewide press release;
- portions of the EA available on the FWP website:
<http://www.fwp.state.mt.us/index.html>.

Copies of the Draft EA were mailed directly to many of the proposed exchange tract neighboring land owners to notify them of the proposed exchange. Copies of the Draft EA were also available for the public to review at the following locations:

FWP Regional offices in Kalispell, Missoula, Bozeman, Billings, and the Headquarters in Helena;

FS Region 1 Office in Missoula; Supervisor's Offices in Libby, Bozeman, Helena, Missoula; FS District Offices in Superior, Ninemile and Big Timber.

Public involvement was also initiated through the mailing of 382 scoping letters on July 6, 2000 to individuals who have expressed interest in land exchanges or any activity that occurs on these National Forests: Lolo, Helena, Gallatin and Kootenai. This letter informed the party of the properties being considered in the exchange and that the Draft EA was available for review. Seventy-five copies of the Draft EA were mailed to interested parties, including Mineral County Commissioners and legislators in Mineral and Missoula Counties. Thirty-one postcards were mailed to other individuals informing them of the proposed land exchange and availability of the Draft EA, and the comment closing date. Approximately 50 copies of the Draft EA were mailed or electronically sent to agency personnel for review, including the FWP Commission, Regional Supervisors, DNRC, MPC, and participating FS Ranger District Offices.

A second publication was run in the legal section of the same newspapers listed above for four consecutive weeks in October through November 2001. This notice informed the public that the Hebgen Cabin tract and the North ½ of Tarkio Section 35 were also being considered for potential conveyance by the FS to River Network. Persons having objections to the proposed exchange were instructed to file claims with the FS Director, Missoula within 15 days of the last publication of this notice.

Public Meetings July 2000

Public meetings at the following places and times were held to enable the public to address any questions about the proposed action. An agency staff member presented slides of the proposed tracts and explained the proposed exchange prior to receiving questions from the public at each meeting. The number of people who attended the meetings is in parentheses following the town name.

SUPERIOR (40)

Thursday, July 6, 2000
7-9 pm
Mineral County Building
300 River Road

HELENA (1)

Tuesday, July 11, 2000
7-9 pm
Helena NF Supervisors Office
2880 Skyway Dr.

MISSOULA (26)

Wednesday, July 12, 2000
7-9 pm
Double Tree Motel
Edgewater Meeting Room
100 Madison

FORTINE (12)

Thursday, July 13, 2000
7-9 pm
Fortine Ranger District Office
Murphy Lake Ranger Station

BILLINGS (1)

Tuesday, July 25, 2000
7-9 pm
FWP Reg. 5 Headquarters
2300 Lake Elmo Dr.

BIG TIMBER (7)

Wednesday, July 26, 2000
7-9 pm
Big Timber Ranger District Office
U.S. Highway 10 East

Persons having questions about this proposed land exchange contacted the FS or FWP agency representative below.

United States Department of Agriculture
Forest Service, Region 1
Lisa Subcasky, Realty Specialist
Federal Building
P.O. Box 7669
Missoula, MT
Phone: (406) 329-3126
Email: lsubcasky@fs.fed.us

OR

Montana Fish, Wildlife and Parks
Darlene Edge, Field Services Division
P.O. Box 200701
Helena, Montana 59620-0701
Phone: (406) 444-4042
FAX: (406) 444-3023
Email: dedge@state.mt.us

(Ron Erickson has now replaced this FS representative)

Public Comment Period for Draft EA

Thirty (30) days for public comment were provided after the second published legal notice to solicit comments on the Draft EA as per MCA 23-1-110 requirements and to accommodate the MEPA, which occurred from June 25 – July 31, 2000. Fifteen (15) days following the publication of the fourth set of legal notices (July 16) were provided for NEPA scoping. U.S. Fish and Wildlife Service Federal Aid requires 30 days for

public comment following the publication of the initial public notice; this comment period was also provided during the given period.

Additional Public Involvement for Each Tract

The public has been involved in the future of the **Alberton Gorge River Corridor** for over seven years. Local clubs, such as the Missoula Whitewater Association, and river conservation organizations such as River Network, have publicly shown their support for this section becoming a public, “un-developable” corridor at least since 1996. The April 1999 annual meeting for the Whitewater Association included over 50 people who were interested in the future of the Gorge. Members of the Association have taken active roles in helping with title searches, and helping to prioritize key lands within the exchange. Commercial guides have attended club meetings (above) and many outfitters support the land exchange.

River Network has shown their support by paying a \$50,000 option payment to MPC in November 1998, and again in April 2000, which provided time to explore opportunities of procuring the Gorge into public ownership; and secondly, they are assuming responsibility for selling certain properties to provide funds allowing the purchase of the Gorge.

A July 6, 1998, a letter signed by the Montana Congressional delegation offers unanimous support for the project. The Lolo National Forest and Regional Office have received numerous letters in support of public ownership of the Alberton Gorge.

Mineral County Commissioners publicly opposed the potential sale of **Tarkio Section 35** tract to private entities for residential development and/or timber management (letter dated June 13, 2000; public meeting July 6, 2000 in Superior).

FWP and the FS sponsored a public meeting in Superior, Montana on Thursday, July 6, 2000 as part of the Draft EA public comment and scoping period for the purpose of hearing public comments regarding the Alberton Gorge Land Exchange. Forty people attended this meeting to hear a summary of the project, view slides of the tracts involved across the state and offer comments to the project. Many of the attendees opposed the development of Tarkio Section 35; some expressed support for FWP acquiring Alberton Gorge; few commented regarding the other tracts in the exchange.

The public dissension regarding private development of Tarkio Section 35 spurred the participating agencies to explore other avenues for River Network to acquire funding to purchase the Gorge that would also resolve local concerns regarding Mineral County tax revenue, private development, wildlife habitat and public access. Since that time, River Network, DNRC and Mineral County officials have been working toward a future land trade that would transfer Lower Tarkio and Tarkio Section 35 from River Network to DNRC. Thus, this block of land could ultimately return to public ownership.

Mineral County Board of Commissioners (letter dated May 23, 2002 to FWP Regional Supervisor-Missoula Mack Long) and 60 Tarkio area residents (through documented

contact by Wm. J. Wheeler in letter dated March 25, 2002 to FWP Regional Supervisor-Missoula Mack Long) have expressed their support of this future exchange, which indirectly supports the Alberton Gorge Land Exchange. This future exchange must be independently evaluated by DNRC, but all parties are working diligently toward this end.

The **Lower Tarkio tract** did not receive a significant number of comments specific to this tract, and as currently proposed, will primarily provide access to the southern portion of Tarkio Section 35 instead of enlarging the FWP Tarkio FAS as originally proposed.

Public involvement at the **Region 5 Old Headquarters** prior to the June 2000 EA was limited to discussions between FWP and Billings City Administrators regarding the proposal of a Law Enforcement Branch Office for the Billings Heights Task Force at this site. Local funding was not available to legally purchase the property by the police force; hence, the proposal was dismissed. The Billings public meeting on July 25, 2000 was attended by one person.

The **Natural Bridge, Park Lake and Tizer Lakes** tracts were proposed for transfer to the FS in prior land trades with unsuccessful results (to equalize the past exchanges). A public meeting was held at the Big Timber Ranger District office in 1989 or 1990, according to Gallatin NF Resource Assistant, Frank Cifala, to address a similarly proposed exchange (Little Lost Creek Land Exchange). Cifala recalls approximately two people attending the meeting (personal communication with Sue Dalbey, June 8, 2000). The Natural Bridge tract was removed from the exchange for equalization purposes. Public input opportunities were provided in the past exchange proposals, but little input regarding the current exchange was received until the release of the Draft EA and a public hearing was held in Big Timber, July 26, 2000.

River Network and FWP discussed the potential exchange with the previous Frank Lake land owner. Little other public input was received regarding **Frank Lake** in the current land exchange until the release of the Draft EA and the public hearing in Fortine, July 13, 2000.

The public was provided the opportunity to comment on the **Hebgen Cabin** tract to be transferred to MPC under the September 2000 FERC relicensing of the Missouri-Madison Hydroelectric Project #2188. The public was notified of the addition of this tract to the Alberton Gorge Land Exchange in October/November 2001 via notice in the newspapers listed above. No comments specifically regarding this tract were received.

Public Comments to NEPA Scoping - MEPA Draft EA and Responses

Written comments were sent to Montana Fish, Wildlife & Parks at the above address and other comments were recorded at the public meetings listed above.

Forty-five comments supported the Alberton Gorge Exchange as proposed, citing the public benefit of preserving the Gorge for fisheries and wildlife habitat, public recreation, aesthetics, and tourism resources.

Ten comments opposed the Alberton Gorge Land Exchange as proposed.

Seven comments specifically supported the preservation of the Alberton Gorge, but opposed the development of Tarkio Section 35.

Seven comments did not clearly state the writer's support or opposition to the project, and were considered neutral.

Below is a summary of questions or public comments generally opposed to the exchange and agency responses.

Comments regarding the entire exchange.

1. Comment: Exchange will benefit rafters and floaters, not anglers.

Response: All recreational river users of the Alberton Gorge, including floaters and anglers, will benefit by the assurance that they will continue to enjoy a high-quality recreational experience in an undeveloped landscape. Anglers will also benefit by increased walk-in access and by conservation of the Clark Fork's fish habitat. Species of special concern in this drainage include cutthroat and bull trout. This is a difficult river to float, with challenging Class III and Class IV rapids; therefore, it is important to provide walk-in access. The development of three new fishing access sites within the Gorge will primarily benefit bank anglers by providing direct access to good fish habitat and the ability to walk up and down seven miles of stream on public ground. It is the intent to provide adequate off-road parking and latrines at these sites. Primitive trails will be provided to the river's edge, but will limit the boating access due to the distance (approximately 500') to the river and the narrow, forested trails. Anglers will be able to legally access the river and adjoining banks from nearly any place along the old Highway 10 between Cyr Bridge and Triple Bridges. The increased angling is not expected to significantly impact the fisheries in this reach of the Clark Fork River.

The exchange of the other tracts in the proposed action will continue to afford angler access, since these sites will remain open to the public and FWP will continue managing the fisheries in cooperation with the FS.

2. Comment: The consolidation of state and federal lands can occur some other way (without involving the Gorge).

Response: This may be true, however, other exchanges have been attempted, unsuccessfully, for over 10 years with some of these parcels (Park Lake, Natural Bridge, Tizer Lakes). To exchange properties is a complicated process due to few numbers of disposal properties available, varying monetary and resource values, limits on useable tracts depending on funding encumbrances.

3. Comment: Include in the EA how to preserve other small parcels along the corridor that are now privately owned by Plum Creek and others, in the future, maybe through conservation easements.

Response: Preserving other small parcels has been considered during the discussions of this exchange. These properties are beyond the scope of this already complicated and detailed exchange EA. Acquiring certain tracts with valuable access or habitat will be considered if future opportunities arise.

4. Comment: Will the appraisals be available to the public and when?

Response: The appraisals will be made available to the public at the time of the publication of this EA and in accordance with the Freedom of Information Act guidelines. Contact Ron Erickson, Lands Office, U.S. Forest Service, Federal Building, 200 E. Broadway, PO Box 7669, Missoula, MT 59807, or phone 406-329-3623, or Darlene Edge, Lands Office, Fish, Wildlife & Parks, 1420 East 6th Ave., PO Box 200701, Helena, MT 59620-0701, or call 406-444-4042

5. Comment: Is the land appraised as development property or timber values?

Response: The appraiser considers all uses that are physically possible, legally permissible and would provide the highest return on a given parcel. Each tract in the exchange was assigned a fair market value based on their individual “highest and best use,” which may differ among tracts and may include a combination of residential use and timber harvest potentials. Each parcel was also appraised by comparing it with area sales that had similar highest and best uses.

The highest and best use is defined as the reasonable, probable and legal use of a property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria used to determine the highest and best use are: legal permissibility, physical possibility, financial feasibility, and maximum profitability.

The State parcels were determined to have highest and best uses as follows: Frank Lake parcel - recreation residence(s), Natural Bridge parcel - rural homesite/recreation residence, Park Lake parcel - recreation, and Tizer Lakes parcel – recreation; FWP Old Headquarters parcel – subdivide into parcels that correspond to the existing use parcels. The FS parcels Lower Tarkio and Tarkio 35, were found to have a highest and best use of rural homesite(s) or recreation residence(s), with an interim use for timber production. The highest and best use

of the Hebgen Cabin tract was also identified as rural homesite(s) or recreation residence(s).

The Alberton Gorge appraisal identified eleven of twenty-two parcels (using existing survey boundaries) as having few if any feasible uses due to some physical or legal constraints such as topography, lack of access. The highest and best use determined for these parcels was to assemble them with neighboring tracts for future boundary re-survey or for future speculation. The highest and best use for the remaining tracts within the Gorge subject was for residential development. According to the appraisal report, the subject does have marketable timber that could be harvested in a one time cut or selectively harvested over a period of years.

6. Comment: Were the cumulative impacts considered, including the impacts due to increased recreation, increased fishing on fish population, increased boaters' impact on water quality and solitude?

Response: These items are considered in more detail in the EA, though no significant cumulative effects are anticipated. The public access opportunities will only slightly change at Park Lake, Natural Bridge, Tizer Lakes and Frank Lake, since these sites will remain under public ownership. Visitation at these sites may increase slightly because of national trends or minor improvements to existing facilities.

Recreation is not expected to increase greatly in the Gorge due to the limit on commercial outfitter permits, though some increases will occur due to the public ownership, and added fishing access. According to the area FWP Fisheries Biologist, angler pressure will not have a significant impact on the fisheries population in the proposed exchange area. Non-motorized watercraft and the use of the river by commercial guides helps limit the impacts to water quality in a river receiving as much use as the Clark Fork. Guides tend to police their clients and other users to maintain the resource and ensure a repeated, high quality experience beneficial to many user types. If the exchange is completed, FWP will be better able to respond to issues that may arise in regard to sanitation or water quality issues. Fifty percent of the respondents to the 1998 Recreation Survey conducted by FWP indicated that they encountered the "right" amount of people on the river. Thirty percent answered "hardly any". Eighty-eight percent of the people disagreed or strongly disagreed that the number of people they encountered had a negative effect on their experience. This indicates that increased number of boaters may slightly impact the solitude in the Gorge. If the Gorge is developed with homes overlooking the river, however, solitude and scenic views would also be affected.

Comments regarding Tarkio Section 35.

- 7. Comment: It is a lack of stewardship of National Forest Lands to exchange Tarkio Section 35; FS should not sell any land; prime timbered FS land should not be developed.**

Response: It is FS policy (Forest Service Handbook 5430.3 Policies) to complete land-for-land exchanges to consolidate National Forest System and non-Federal land patterns, or to make other adjustments in landownership clearly in the public interest and consistent with land management planning objectives.

The purpose is not to convey lands out of federal ownership, but to consider the land exchange based on overall public benefit. Benefits of this exchange include: preserving the Alberton Gorge; providing additional angler access; FS acquiring non-federal land that will help in the consolidation of ownership. Please refer to the Public Benefits of the Proposed Exchange section of this chapter for a more detailed list of benefits.

- 8. Comment: Find a different tract to trade than Tarkio Section 35; do not finance the exchange by selling public lands for private development.**

Response: When local opposition to the sale/development of Tarkio Section 35 arose, the agencies looked at other FS properties in Mineral County to use in the Exchange, but others that met the disposal criteria in the Forest Plans were identified for use in other land transactions.

River Network, the organization that will receive lands in Sections 34 and 35 at the conclusion of the Alberton Gorge Land Exchange, and FWP are responding to concerns about potential private development of this property. Instead of selling Sections 34/35 privately, River Network has submitted a land exchange application for the purpose of transferring this land to DNRC, which currently owns and manages timber land to the south and east. Under this proposed exchange River Network would receive other DNRC lands in Mineral County. These lands would be sold to the private sector, as considered desirable by Mineral County for purposes of economic development and to help offset the loss of potentially developable land in the county that will result from the Alberton Gorge conservation project. This future land exchange is beyond the scope of this Environmental Assessment, but if River Network's exchange application receives preliminary approval by DNRC, the specific properties and potential environmental impacts will be evaluated through a public review process under the auspices of DNRC.

- 9. Comment: Tarkio Section 35 and the Alberton Gorge corridor are not of equal values to exchange; trading riverfront land for non-river front land is not an equal trade; timber values differ from home site properties along the river and the type of development they will attract.**

Response: The regulations governing land exchanges with FWP and the FS and private landowners do not require the parcels be equal in all respects. The fair market values (FMV) determined by an appraisal and based on each tract's

individual “highest and best use” is the determining factor for an equal exchange. The price per acre may differ on each tract, but the exchange will balance monetarily. The combined total FMV of the state tracts will equal the FMV of federal lands in Sections 34 and 35 and the Hebgen Cabin tract. The number of acres in Tarkio Section 35 that the FS transfers depends on the FMV under the “highest and best use” determined in the appraisals. Cash can also be added by either agency (up to 25% of the total value of the federal property included in the exchange) to help equalize the exchange or perhaps reduce the number of acres that the FS transfers.

10. Comments: Wildlife will be displaced if Tarkio Section 35 is developed; area is prime elk habitat year-round; elk cross Interstate 90 regularly to access water to the south; developing Tarkio Section 35 is self-defeating, since development will be close to the river, and push game away from the area, thus further impacting area ranchers.

Response: Wildlife habitat and overall herd protection is a primary concern of both the FS and FWP. Local wildlife biologists do not anticipate significant decreases in elk and deer herd size from the potential development in Tarkio Section 35. Elk will be displaced to the north, and crop depredation will likely increase north of Interstate 90. Public recreation, including hunting and trapping, will be greatly diminished in Tarkio Section 35, and more resources may be required by FWP to manage nuisance wildlife in the area.

Because Tarkio Section 35 and the adjacent DNRC sections currently provide the largest block of public lands in this area that are continuous across I-90, transfer of Tarkio Section 35 to private ownership could reduce the potential for a functioning linkage zone for large, wide-ranging species. Though more restricted, wildlife movement will continue to the river through DNRC-owned Sections 2 and 36. Those two sections will connect with lands along the subject Alberton Gorge to be owned by FWP, if the exchange is completed. This possible (and likely) impact to a potential linkage zone is being considered, as are the benefits to wildlife that will occur in other areas of the proposed exchange.

Wildlife habitat (fisheries, game and non-game wildlife) protection will be gained through public ownership of Alberton Gorge. Elk, deer, bear and moose are known to use the Gorge corridor, as well as incidental use by gray wolves, osprey, bald eagles and peregrine falcons. Fisheries habitat protection is especially important, since the endangered bull trout and Montana species of special concern westslope cutthroat trout inhabit the Clark Fork River. Wildlife habitat protection will also benefit with the exchange of four other tracts by combining agency management and inclusion into surrounding FS travel plans, wildlife and recreation management. The agencies must make decisions based on the overall benefits to the public and environment.

The public concern raised, however, about the potential development of this tract has instigated the pursuit of a future exchange between River Network and

DNRC, which would place Tarkio Section 35 under DNRC ownership for contiguous management with adjacent sections 2 and 36.

11. Comment: Will restrictions limit who River Network can sell to or will these just be verbal commitments; will there be any development covenants?

Response: The FS has determined not to place restrictions on the land that it will transfer to River Network, so River Network or subsequent owners will have the ability to use or develop the land as allowed by state law and county regulations. As noted in the response to Comment #10, above, impacts to the resources are considered minimal and biological assessments have not illustrated the need for restrictive covenants being placed on Lower Tarkio and Tarkio Section 35. In response to public comments, River Network has submitted an application to trade the land it will acquire in Lower Tarkio and Tarkio Section 35 tracts to DNRC (see response to Comment #8, above). That land exchange is still in the early stages of evaluation; consequently, this Environmental Assessment analyzes the potential for land development in Sections 34 and 35 as consistent with existing laws and regulations. River Network, however, has also voluntarily agreed to place restrictive covenants on the lands should it become necessary to sell these to a private entity. The area north of the interstate would be restricted to timber management and the south area limited to the development of probably 4-6 homesites.

12. Comment: If Tarkio Section 35 goes to DNRC, will logging or development restrictions be placed on the tract?

Response: The potential management of Sections 35 and 34 by DNRC is beyond the scope of this EA. If the proposed Alberton Gorge Exchange is implemented, and when negotiations between DNRC and River Network are completed, DNRC will issue an EA addressing a future land exchange of Sections 35 and 34 for other DNRC parcels in Mineral County. The Mineral County Commission has been involved in these discussions and the public will be asked to comment on this future proposed exchange.

13. Comment: Concerned with impacts to [Tarkio Section 35 in regard to]:

- a. air quality from occupancy and road dust,**
- b. increased run-off and erosion,**
- c. increased effluent levels in the Clark Fork River from septic systems,**
- d. domestic water demand on limited water supply,**
- e. destruction of critical elk habitat and displacement of calving elk.**

Response: Please refer to the EA, Tarkio Section 35.

Comments regarding Mineral County.

14. Comment: The Exchange offers no economic value to Mineral County.

Response: Mineral County Commissioners and several citizens at the Superior Public Hearing (July 6, 2000) expressed concern about possibly adding more public land in a county that already is comprised of a majority of public land. They also stated their desire for residential development to add to the county tax base and stimulate the local economy. The proposed exchange is responsive to these concerns, because it will decrease the number of acres of public land in the county (over 500 public acres conveyed to private ownership in the Lower Tarkio tract and Tarkio Section 35 compared to approximately 320 private acres conveyed to public ownership in the Alberton Gorge). The increased acreage owned by private entities other than NorthWestern Energy will provide an opportunity for land development that may increase the tax base.

In addition, if FWP acquires the Alberton Gorge, estimated payments in lieu of taxes to Mineral County would total \$6,828 for this corridor (1999 tax rates). An additional \$5,296 would be paid on other fishing access sites within Mineral County, which currently are exempt from payments as per Title 87-1-603 MCA, which states that if FWP owns less than 100 acres of taxable land in the county, that acreage is exempt from payments in lieu of taxes (PILT). This land exchange would place FWP land ownership in Mineral County over 100 acres, requiring payment on all FASs, or about \$11,874. Montana Power Company paid approximately \$700 in 1998 taxes on the approximately 320 acres in the Alberton Gorge Exchange. The proposed exchange will provide Mineral County with an estimated net gain of \$11,174 in payments in lieu of taxes on the Gorge and other lands owned by FWP.

The FS paid approximately \$357 in-lieu of taxes on Tarkio Section 35 in 1999, including 25% of the income from the sale of timber in the county. FS payments to Mineral County for the 34-acre Lower Tarkio tract was estimated at \$19. Placement of these tracts into private ownership could reduce future payment of the 25% income from the sale of timber; however, private timber harvest would result in the payment of taxes on any gain to the private owner.

The per-acre non-qualifying agricultural land tax rate in Mineral County is \$7.35/acre (1999). If approximately 530 acres of Tarkio Section 35 and 34 are placed under private ownership and taxed at this rate, the county would receive \$3,895 in payments - a net increase from current public ownership taxation of \$3,538. Developed features would be assessed in addition to this figure.

Any private property developed in Mineral County, whether in the Alberton Gorge, Tarkio Section 35 or other properties, will likely increase county costs to administer permits, control fire, maintain access roads, and public safety. Incoming tax base will cover some of these costs, though this base may not sufficiently fund the added subdivision expenses incurred by the county (as per county planner).

15. Comment: County would (does not want to) incur expenses of added visitation to Gorge area, such as: bridge replacement, public safety, parking, fishing & hunting violations; fees should be charged to commercial outfitters for using the Gorge, to supplement the County Public Safety Budget and Search and Rescue Services and to subsidize costs for added responsibilities encountered with added use.

Response: The county road/bridge maintenance, public safety and parking issues would continue if the “no action” alternative is chosen and/or the Alberton Gorge is developed for private residents. Subdivisions may require increased costs to the county for year-round maintenance, permits, and inspections. which would not be required if the corridor is primarily used for recreation with seasonally high visitation.

As discussed above, FWP will pay an approximately \$11,874 in lieu of taxes to Mineral County if Alberton Gorge is acquired, a net increase to the county of about \$11,174 for the Gorge tract alone. These funds could supplement the County Public Safety Budget and help relieve some of the costs incurred by the County Search and Rescue Services sometimes called upon by river users. FWP currently charges a commercial user-fee equal to three percent of all registered fishing and whitewater outfitters unadjusted gross income for use of Cyr Bridge FAS as a put-in site, and Tarkio as a take-out. FWP does not have authority to provide direct payments of fees from commercial operators to the county; however, these funds will go directly back to managing the sites within the Gorge. The 2000 Recreational Use Survey conducted by FWP estimated that 25% of the overall recreational use is commercial floating use, compared to 45% in 1998. Approximately 10% of the visitor days in 2000 were by anglers, who also help maintain sites and fund PILTs through the purchase of their fishing licenses. (A copy of the 2000 Recreational Use of the Alberton Gorge survey can be obtained from FWP Region 2 State Parks Manager, 3201 Spurgin Road, Missoula, MT 59804)

If FWP owns the corridor, department staff will continue to patrol the area to assist local law enforcement with potential safety problems encountered with added visitation and game harvest, as well as monitor the new and existing fishing access sites (FAS). With three added access points along the Gorge, parking problems at the existing FASs may be alleviated by dispersing bank fishing, picnicking, wildlife watching, and walking to these lower use sites.

Since the Draft EA in June 2000 and after this comment was received, FWP has improved the Cyr and Tarkio Fishing Access Sites to aid in traffic movement and parking in these high use areas.

16. Comment: Mineral County has no input to the process.

Response: A public hearing was held in Superior (on July 6, 2000 with 40 people attending), as it was in every community near an exchange parcel (Helena, July 11, 2000; Missoula, July 12, 2000; Fortine, July 13, 2000; Billings, July 25, 2000; Big Timber, July 26, 2000). The Draft EA was mailed directly to the County Commissioners, neighbors, and interested parties to solicit comments for both the NEPA scoping process and the MEPA comment period. Comments could be submitted via written form, telephone, or e-mail. Each agency is committed to cooperating with all involved parties to reach an agreement most beneficial to the public and the environment. Representatives from the land exchange team (FWP, FS, and River Network and Northwestern Energy) have had several meetings with the Mineral County Commissioners and residents near Tarkio Section 35 since opposition to the potential development of Tarkio Section 35 surfaced in 2000. In addition, DNRC and River Network have met with county representatives in an effort to follow up with a future exchange that would put Tarkio Section 35 into DNRC ownership.

This EA will be made available to all those submitting comments and who attended the public meetings. A 30-day public comment period will be provided. Please refer to the previous sections Public Involvement, and NEPA Scoping - MEPA Draft EA for more details of public input to date.

17. Comment: Public Hearings in Missoula “pumped up” the number of comments from kayakers, and white water companies in Missoula.

Response: It is the responsibility of FWP and the other agencies to conduct public meetings in the communities that would be directly involved with any project, especially one of such statewide significance. It is important that all issues are considered to determine the best decision in a project of any size. Missoula County was included in the public hearings due to the large number of Gorge users based out of this area who are also entitled to its use for recreational and angling purposes. Residents of either county were not restricted in their attendance of any or all meetings.

18. Comment: FWP should assume ownership of public roads from Fish Creek Exit including Cyr Bridge, to I-90; residents up Sawmill Gulch have difficulty driving through traffic congestion at Cyr Bridge.

Response: Though maintaining roads is not FWP’s primary mission, the agency is committed to looking for other funding sources to help maintain the roads and bridges in this popular recreation area. Since the time of this comment, FWP did enlarge and improve parking at the Cyr Bridge FAS. This construction provides parking for approximately 22 buses and 30 standard vehicles. Traffic will not be impeded since parking on the county road will be eliminated. In addition, the Tarkio FAS was modified in Spring 2001 to increase parking and improve traffic flow.

Recreational use of the Gorge, and therefore the use of these public roads, will continue even if the exchange does not occur. If Alberton Gorge is privately developed, many of these bridge and road problems would continue with additional costs associated with subdivision development and maintenance.

19. Comment: Alberton Gorge can be preserved without this exchange if River Network buys it from MPC; Mineral County would help with planning (covenants?) before selling tracts to private entities to limit development in view of river, yet recover some costs; some tracts along Gorge could be given to FWP to give access. This would provide a tax base for the County.

Response: Allowing private development of the Gorge, even with the county as party to some restrictions, does not address the concern for conserving the Gorge for fish and wildlife habitat. If isolated parcels are conveyed to FWP, this scenario does provide some additional river access for anglers. Due to the high numbers of floating recreationists, however, private landowners along the corridor would likely complain about trespass and litter.

River Network is a private nonprofit organization participating in the Alberton Gorge land exchange to conserve the river corridor along this recreationally important section of the Clark Fork River.

20. Comment: Should have had the same effort, ingenuity and money spent trying to maintain the pristine nature of the Gorge without putting it into public ownership.

Response: NorthWestern Energy's alternative has been to sell the Alberton Gorge River Corridor property for development purposes. River Network's option to acquire the property from NorthWestern Energy has prevented the disposal of the property by NorthWestern Energy for any other purpose.

The FS, FWP, and River Network believe that public ownership by FWP offers the best method to insure that the Clark Fork River corridor along Alberton Gorge retains its undeveloped character and is permanently managed for fish and wildlife habitat conservation and public recreation.

21. Comment: FWP estimate of 30,000 users in the Gorge is inflated.

Response: This estimate was based on recreational use surveys in the Alberton Gorge (19-mile section from St. John FAS to Forest Grove FAS) conducted by FWP, and confirmed in the most recent survey by summer intern Katie Kneeshaw in 2000. Overall recreational use during the study period (54 days) was estimated at 23,890 visitor days +/- 3,532 (one visitor day is the equivalent of one person using the river for any part of one day). This recreation season was cut very short when the Governor closed 10 million acres of forestland and public waters August 11, 2000 because of extreme fire danger. Most recreation seasons would begin about June 15 and continue through the end of August (75 days). If a simple average of 442 visitors/day is calculated from the 2000 survey results, a full 75-

day season overall recreation use would total approximately 33,181 visitor days. This survey is not considered a baseline set of data for the Alberton Gorge; however, it does indicate that the estimate of 30,000 visitors is a credible estimate. A copy of this survey can be obtained from FWP Region 2 State Parks Manager, 3201 Spurgin Road, Missoula, MT 59804.

Comments regarding Natural Bridge

22. Comment: Transfer of Natural Bridge to the FS will mean development of campgrounds; campground development at Natural Bridge will impact wildlife and increase potential for public accidents in the canyon; the site may be degraded into a logging or mining access road.

Response: The Gallatin National Forest has no plans to develop a campground at the site or change basic management goals. The FS may consider redesigning and improving the trail system to meet the Americans with Disabilities Act standards and provide better visitor safety. FS ownership of the Natural Bridge tract will provide continued protection of wildlife and habitat, improve visitor safety, cultural heritage and natural resources, and access to surrounding public lands. The site is already included in the Gallatin Forest Plan to maintain in its current state.

23. Comment: a) Natural Bridge belongs to the people of Montana and was paid for with their money; do not swap with FS;

Comment: b) Opposed to the overall exchange process pursued to achieve the exchange as it is a way to circumvent the laws prohibiting the sale of properties by governmental entities.

Response: The FS has managed this site without assistance from FWP for many years. The proposed exchange will not exclude Montanans from the use of Natural Bridge, since it will continue under public ownership open for public use and continued recreational opportunities. Montana statute allows the Department of Fish, Wildlife & Parks to dispose or transfer lands it owns (MCA 87-1-209). It specifically states that the Department may convey its lands for full market value to other governmental entities. Federal law also allows for land exchanges. The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) allows for and addresses the exchange of federal lands, as well as the other authorities listed below.

Exchanges afford acquisition in place of State or Federal appropriation for purchase for conservation purposes, such as this opportunity to acquire Alberton Gorge, while keeping Natural Bridge and other FWP properties in public ownership through transfer to the FS. This exchange also helps the FS and FWP meet lands consolidation goals.

Authority

Land exchanges are warranted by:

- General Exchange Act of March 20, 1922;
- Boundary Extension Act of January 30, 1929;
- Federal Aid in Sport Fish Restoration Act of 1950, as amended (Wallop-Breaux);
- Land and Water Conservation Fund Act of 1965 (LWCF);
- Federal Land Policy and Management Act of 1976;
- Sections 23-1, 87-1-201 and 209, and 87-1- 605, Montana Codes Annotated (MCA);
- Federal Land Exchange Facilitations Act of 1988.

Listing of Other Local, State, or Federal Agency that has Overlapping or Additional Jurisdiction

| <u>Agency Name</u> | <u>Type of Responsibility</u> |
|-----------------------------------|---|
| U.S. Fish & Wildlife Service | Approve exchange of lands purchased with federal aid funds (Wallop-Breaux) |
| National Park Service | Approve exchange of lands purchased with Land & Water Conservation Funds |
| Montana State Land Board | Approve exchange of State Lands |
| Fish, Wildlife & Parks Commission | Approve exchange of State FWP Lands |
| Mineral County | weed permit (FAS development) sanitation permit (FAS latrine installation) potential subdivision review property value assessments (taxes) |

Explanation of U.S. Forest Service Review and Approval Under the National Environmental Policy Act (NEPA)

The NEPA review for FS actions includes a scoping period, during which public notices were published once for four consecutive weeks in applicable newspapers. Fifteen (15) days comment period is provided after this last publication. The Draft EA was issued at this time to explain and discuss potential impacts of the proposal. Comments received during this time were incorporated into the current Environmental Assessment. Public notice is given when this document is available for comment and a 30 day comment period is provided after notice publication. If no significant impacts are determined, then an Environmental Impact Statement will not be prepared, and an EA will be considered an adequate level of analysis. Upon completion of the comment period, the FS Director of Lands will sign a Decision Notice, and if applicable, a Finding of No Significant Impact. Public notice will be published regarding the Decision after which a 45-day appeals period will be provided. The FS allows 45 days for the Chief to respond to any appeals and resolve any disputes.

Explanation of U.S. Fish and Wildlife Service, Federal Aid, Review and Approval Under the National Environmental Policy Act (NEPA)

FWP used Federal Aid in Sport Fish Restoration (Wallop-Breaux) funds to purchase two tracts (Park Lake Fishing Access Site and Tizer Lakes Fishing Access Site) proposed for transfer to the FS. FWP is required to replace these tracts with lands having equal or greater fisheries and fair market values. Three individual parcels within the Alberton Gorge River Corridor are proposed to serve as replacement value for Park Lake and Tizer Lakes tracts. These tracts will be identified with FWP signs and minimally developed into fishing access sites (Upper Osprey, Middle Osprey and Lower Osprey Fishing Access Sites). Please refer to the Alberton Gorge Tract A section in this document for more details.

The U.S. Fish and Wildlife Service (USFWS), Federal Aid Staff in Region 6, Denver, is the decision-making authority regarding the exchange of these lands encumbered with Wallop-Breaux funds. USFWS review and approval of the proposed action under NEPA is required.

The USFWS must determine that:

1. there is no significant impact on the environment. In this case, the USFWS must prepare a Finding of No Significant Impact and publish a notice in a local newspaper allowing for public comment. The notice will also address wetlands that are present on the Park Lake and Tizer Lakes tracts, detail measures to protect them, and allow a 15-day public comment period. Finally, the USFWS must accept the Environmental Assessment (EA); or
2. determine that the EA is not acceptable because there is a significant impact on the environment. In this case, an Environmental Impact Statement would be required instead of the EA.

In addition to complying with NEPA in order to accomplish the proposed exchange, FWP will prepare for the USFWS review and approval a request to amend the Application for Federal Assistance F-22-L, under which Park Lake and Tizer Lakes tracts were originally purchased. This amendment will be the final compliance step through the USFWS to comply with the Federal Aid program requirements.

Explanation of National Park Service, Land and Water Conservation Fund Review and Approval Under the National Environmental Policy Act (NEPA)

The Land and Water Conservation Fund (LWCF) Act of 1965 encumbers properties acquired or developed with LWCF funds. Such properties must be kept open to the public and maintained for outdoor recreation in perpetuity. Requests from the project sponsor for permission to convert LWCF assisted properties in whole or in part must be submitted by the State Liaison Officer to the National Park Service Regional Director in

writing. NPS will consider conversion requests if the following prerequisites have been met.

1. All practical alternatives to the conversion have been evaluated and rejected on a sound basis.
2. The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by a State approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not directly enhance its outdoor recreation utility.
3. The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. Dependent upon the situation and the discretion of the Regional Director, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same political jurisdiction as the converted property. NPS will consider State requests to change the project sponsor when it is determined that different political jurisdiction can better carry out the objectives of the original project agreement.

FWP originally used Land and Water Conservation Funds (LWCF) to purchase Natural Bridge State Park proposed to be traded to the FS. Under LWCF guidelines, it is necessary to find replacement property with equal fair market value as established by a State-approved appraisal (prepared in accordance with uniform Federal appraisal standards) and equal recreational usefulness. A parcel in the Alberton Gorge, known as Ralph's Takeout, currently receives high visitation for primitive camping and access to water recreation activities and is proposed as the replacement tract.

The National Park Service (NPS) is the administrative agency that oversees the LWCF program and will make the final decision regarding the proposed exchange of Natural Bridge for the identified parcel within the Alberton Gorge River Corridor believed to have equal or higher recreational values. FWP will submit this EA document, appraisals and other supporting documents for the "conversion-of-use" to the NPS for review and approval.

Environmental Justice, Executive Order 12898

When evaluating the use of federal Sport Fish Restoration funds, it is necessary to ensure that an action does not discriminate against certain groups. Lee Bastian, FWP Region 2 Parks Manager, confirmed to Sue Dalbey, June 20, 2000, that the proposed project does not have disproportionately high and adverse human health or environmental effects on low income populations, minority populations or Indian tribes. Access to land and the state's waters for fishing and recreation is an important part of most Montanan's lives. The proposed land exchange maintains public access to those lands that FWP is trading to the FS. In addition, the acquisition of Alberton Gorge will provide additional public access to a seven-mile reach of the middle Clark Fork River.

Explanation of Montana Fish, Wildlife & Parks Review and Approval Under the Montana Environmental Policy Act (MEPA)

The Draft EA provides a comment period of thirty days, after which FWP will make a final decision based on its consideration of the comments received and the analysis of the EA. The Draft EA was rewritten because certain aspects of the original proposed action changed, including the restrictions placed on land acquired by River Network and the addition of the Hebgen Cabin tract. The Fish, Wildlife & Parks Director, Jeff Hagener, will issue a decision notice based on the current EA. The Decision will also be subject to approval by the Fish, Wildlife and Parks Commission. The Decision Notice will be written, published and distributed to the same people who received the EA or commented on the EA.

Explanation of Montana Code Annotated 23-1-110

Section 23-1-110 MCA (House Bill 495) requires evaluation of improvements or development projects that would change park or fishing access site features or use patterns as defined in ARM 12.8.602.

Though the current use of the Alberton Gorge will remain fisheries and recreationally related, the designation of three specific Fishing Access Sites within the Alberton Gorge, and the minor development of these sites will cause MCA 23-1-110 to be initiated due to the items noted in the *Table 2*, below. The FWP Region 5 Old Headquarters will likely see a change in use pattern if sold by River Network; however, as an administrative site, this tract would be exempt from MCA 23-1-110, which only addresses fishing access sites and state parks. The proposed project will not significantly change the existing features or use pattern of the fishing access sites or park tracts being transferred to FS. The Tarkio tract that FWP is receiving from the FS will remain under similar use for fishing access and recreational use. The Tarkio Section 35, Lower Tarkio, and Hebgen Cabin tracts do not fall under the jurisdiction of MCA 23-1-110, since they are currently owned by the FS and will not come under FWP ownership.

Table 2, below, briefly lists the developments addressed under MCA 23-1-110 as related to the primitive development of three new fishing access sites within the Alberton Gorge River Corridor. Please refer to **Appendix 1** for a more thorough consideration of MCA 23-1-110 issues.

TABLE 2. MCA 23-1-110 Checklist for Fishing Access Sites (and State Parks)

| 12.8.602 (ARM) (1) | Reason for Qualifying |
|--|-----------------------|
| (a) New roads/trails over undisturbed land | Yes |
| (b) New buildings | No (latrines exempt) |
| (c) Excavation over 20 cubic yards | Yes |
| (d) New parking lots over undisturbed land | Yes |
| (e) Shoreline alterations | No |
| (f) Construction into water bodies | No |
| (g) Construction w/impacts on cultural artifacts | No |
| (h) New underground utilities | No |
| (i) Campground expansion | No |
| (j) Change existing features | Yes |

Why an EA is the Appropriate Level of Analysis for Proposed Action

A Draft EA is sometimes prepared to determine if significant impacts will occur, thus requiring an Environmental Impact Statement. An interdisciplinary team from the FWP, FS, River Network and private consultant, along with the input and expertise of many specialists from within each agency wrote the Draft EA. The Draft EA, published in June 2000, did not identify any significant impacts. The Draft EA notified the public and allowed for public input in several ways: public hearings, e-mail, telephone, and written communication.

Comments from the public were considered in the preparation of the current EA to identify alternatives and potential impacts.

Tarkio Section 35 is the most controversial tract, because it could potentially undergo the most changes if transferred from the FS to River Network. Yet, the Draft Environmental Assessment and the current assessment did not find significant impacts to either the human or physical environment due to the proposed development in Tarkio Section 35 or from the exchange of other parcels in the proposed action. An EIS, therefore, has been considered unnecessary by the interdisciplinary team.