

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 14, 1979

The forty-second meeting of the State Administration Committee was called to order by Chairman Pete Story on the above date in Room 442 of the State Capitol at 10:00 A.M.

ROLL CALL: All members of the Committee were present, with Sen. Roskie arriving late to the meeting.

CONSIDERATION OF HOUSE BILL No. 686: The Chairman called on Rep. Richard Manning, House District 35, Great Falls, to present his testimony as sponsor of the Bill.

Rep. Manning advised this was a housekeeping bill from the Department of Business Regulation regarding earmarked funds from the sale of store licenses being credited to the general fund. Rep. Manning read his testimony, copy of which is attached to these minutes, which included a graph showing the income from the collection of the money from sale of store licenses, the amount spent for actual expenditures from this account and the balance remaining which was accumulating each year, with a projected balance at the year 1981 of nearly \$250,000 if it was allowed to continue.

There being no other proponents, no opponents, the hearing was opened for questions from the Committee.

Sen. Hafferman questioned that if this was the license the store had to pay to operate, why was not the license fee cut down if they didn't need the money to operate the function. Rep. Manning didn't know why they had managed the way they did to create this accumulation of money, unless it was a typical state policy.

Sen. Rasmussen inquired if the money would all go into the general fund, to which Rep. Manning replied that it would all go directly into the general fund and they would have to ask for an appropriation to cover the cost of operating the program.

There being no further questions, the hearing on House Bill No. 686 was closed.

CONSIDERATION OF HOUSE BILL No. 596: The Chairman called on Rep. Jerry Metcalf, House District 31, Helena, as sponsor of the Bill, to present his testimony.

Rep. Metcalf advised this was introduced at the request of the County Clerk and Recorders and deals with signatures on petitions. It asks for clarification of how to determine if they may be counted. The clerks are required to match these petition signatures with voter registration card lists to verify if they are valid. However, they ran into a real problem when, according to one district judge's ruling, the signature must be made substantially in the same manner as the signature on the registration card in order to qualify, but another judge ruled that it must be exactly the same in order to

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qualify. To clarify this predicament for the Clerks, the Bill needs to be passed.

The Chairman called for proponents.

John Bell, representing the Montana Association of Clerks and Recorder supporting the Bill, advised that a judge in Flathead County gave the first decision that minor irregularities on the petition or card does not invalidate such signature on the petition. Under Judge Meloy, he ruled that the signature should be exactly the same which caused the petition to fail which was being promoted by the Taxpayers and Tavernowners. Back in 1977, the law was amended to read "substantially" the same, but no one put in a proper definition of "substantially". They supported the Bill to have the issue clarified once and for all.

No opponents appearing, the hearing was opened for questions from the Committee.

Sen. Tom Rasmussen moved that House Bill No. 596 BE CONCURRED IN; motion carried by unanimous vote of the Committee members present at that time, with Sen. Roskie being absent. Sen. Rasmussen will sponsor the bill on the floor.

CONSIDERATION OF HOUSE BILL No. 746: The Chairman called on Rep. Aubyn Curtiss, House District 20, Fortine, to present her testimony as sponsor of the Bill.

Rep. Curtiss presented her testimony and submitted a copy in writing which is attached to these minutes for greater detail. Testimony pertained to eminent domain forcing landowners to sell to make way for public work projects, with the State Fish and Game Commission requiring additional condemnation so that they could acquire land for their purposes. A large map was displayed on the wall showing ownership in the northwestern part of the state which Rep. Curtiss cited the ownership breakdown. She also handed out packets of material, copy of which is attached hereto, containing letters from the Army Corps of Engineers, maps and an article pertaining to the Fish and Game requesting the Army Corps of Engineers to buy 9,000 acres of game range land before it continued work on the Libby Dam project, in addition to 3,000 already purchased for this purpose. Her purpose in introducing this Bill would be to restrict the condemnation of private land at the whim of state agencies.

There being no proponents to the Bill and no opponents, the hearing was opened for questions from the Committee.

Sen. Jergeson inquired if condemnation in another area were sought, if it would be acceptable, to which Rep. Curtiss replied that public condemnation of any private land is something that is not desirable unless the particular project is an absolute necessity. She added that she had additional material available pertaining to acquisition procedures, etc.

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Sen. Bill Hafferman moved that House Bill No. 746 BE CONCURRED IN; motion carried by unanimous vote of the Committee members present with Sen. Roskie being absent at this time. Sen. Hafferman will carry this Bill on the floor.

DISPOSITION OF HOUSE BILL No. 686: There was a short discussion on the fiscal impact of this Bill and why the fees weren't reduced.

Sen. Bill Hafferman then moved that House Bill No. 686 BE CONCURRED IN; motion carried by unanimous vote of the Committee members present, with Sen. Roskie being absent at this time. Sen. Hafferman will carry this Bill on the floor also.

DISPOSITION OF HOUSE BILL No. 12: Discussion on the Bill creating a state pool of attorneys was held.

Sen. Pat Ryan moved that House Bill No. 12 BE CONCURRED IN.

Sen. Brown commented that the state agencies presently having attorneys could keep them, but in the future, they would be required to go to the state attorneys.

Sen. Story felt the state agencies should go to the attorney general's office first, and then if he couldn't help, they could go to outside sources. He added that, with respect to the Governor's attorneys, that there was a provision in the Bill like a safety valve where the governor could outvote the attorney general 2 to 1 on the review board.

Sen. Jergeson referred to page 4, line 19, which sets up the legal services review board.

Sen. Story felt it would not force a state agency to accept an attorney who would blow a case, and explained the situation in Helena where a number of attorneys are receiving a great deal of money on retainers but only work parttime.

Sen. Roskie arrived at the meeting and was advised of the proceedings.

Discussion continued on the merits of the review board as provided for under the Bill and the power of the executive branch in controlling state legal services.

Upon roll call vote, the be concurred in motion passed by a majority vote, with Senators Brown and Jergeson abstaining to vote until after the motion carried, and then changed their vote to "no". Sen. Ryan will sponsor the bill on the floor.

FURTHER CONSIDERATION OF HOUSE BILL No. 77: Sen. Jergeson stated his opinion as to why a statement of intent should accompany this Bill. He then moved that a Statement of Intent for House Bill No. 77 be prepared and presented to the Committee for further consideration. Motion passed by majority vote, with Sen. Ryan voting "no".

Sen. Jergeson then moved that House Bill No. 77 WITH STATEMENT OF INTENT ATTACHED, BE CONCURRED IN.

Sen. Ryan objected that these people are still prisoners and as such

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are under the care of the state and should be taken care of by the state if they are still under incarceration. He stated because of the lack of facilities, a judge will sometimes sentence a person to a place other than the prison.

Sen. Jergeson inquired if it could be amended to specify that rates would be based on ability to pay and that it could not be over the actual cost of room and board.

Sen. Ryan questioned what could be done if a person refused to pay under this Bill - they were already in jail.

Sen. Jergeson then commented perhaps even though the concept of the Bill was good, it was unworkable.

Further discussion centered on the fact that these people were prisoners, the amount intended to save the state was only \$7 and the ability to make money during incarceration of these people.

Sen. Jergeson felt that the Bill in its present form was unworkable and perhaps should be amended to take care of these problems.

Sen. Brown felt a motion to pass consideration to allow more time to consider it would be in order.

Sen. Jergeson then withdrew his motion.

Chairman Story stated he would put this into a subcommittee to study the matter and report back in two days, with Sen. Ryan and Sen. Brown being appointed to this.

DISPOSITION OF HOUSE BILL No. 23: Sen. Story explained this would give the Veterinary Board the right to set its own fees and examination fee commensurate with the cost of the examination.

Sen. Bill Hafferman moved that House Bill No. 23 BE CONCURRED IN; motion carried by unanimous vote of the Committee members present, with Sen. Roskie being absent at this time. Sen. Hafferman will carry the Bill on the floor.

DISPOSITION OF HOUSE BILL No. 141: Chairman Story explained this Bill pertained to create a new Class D contractor and raised the contractor license fees.

Sen. Rasmussen moved that on page 1, line 25, the Bill be amended to strike the \$400 increase for a Class A license and put it back to \$300. Motion carried by unanimous vote.

Sen. Ryan questioned disposition of the money collected; Sen. Story stated it went to the general fund, and that the Bill pertained to those contractors bidding on government projects.

Sen. Roskie read from Section 15-50-204 regarding the necessity of the license before a contractor could get any state or government construction project.

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Sen. Rasmussen moved that House Bill No. 141, AS AMENDED, BE CONCURRED IN; motion carried by majority vote, with Sen. Ryan voting "no". Amendment is as appears on attached copy of Standing Committee Report, to which reference is hereby made. Sen. Rasmussen will carry the bill on the floor.

DISPOSITION OF HOUSE BILL No. 350: Sen. Rasmussen questioned if legislators were not meeting the constitutional requirements of fair campaigns.

Sen. Story commented that he felt they were.

Referring to the amendments proposed by Rep. Vincent when he presented the bill, Sen. Jergeson moved that these amendments be adopted. Motion passed without opposition.

Sen. Greg Jergeson then moved that House Bill No. 350, AS AMENDED, BE CONCURRED IN. He stated this is the way he conducted his campaign and that everyone else should do likewise.

Sen. Brown felt the example cited between Baucus and Williams tended to focus the attention of the public away from the real issues.

Sen. Ryan felt the only redeeming factor was that it would give the Commissioner of Campaign Practices another task to do.

Sen. Roskie thought it would provide another means to stir up the public on an emotional level and evade the real issues.

Upon roll call vote, the motion of Sen. Jergeson carried by a majority vote, with Senators Story, Roskie and Brown voting "no". Amendments are as appears on the attached copy of the Standing Committee Report on HB 350, to which reference is hereby made. Carrying this Bill on the floor will be Sen. Jergeson.

FURTHER CONSIDERATION ON HOUSE BILLS 484 AND 853, pertaining to public financing of campaigns.

Sen. Brown moved that House Bill No. 853 BE CONCURRED IN AS AMENDED, however, in going over the amendments proposed by Phil Tawney, he stated he had a problem with them.

Sen. Story stated they should take more time to consider these Bills, and Sen. Brown withdrew his motion.

FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION No. 19: Sen. Hafferman moved that this Resolution BE CONCURRED IN and commented that if they want to pay for their own study, they should be allowed to do that.

Sen. Roskie reminded that there was supposed to be some amendments submitted.

Chairman Story appointed Sen. Roskie as a subcommittee of one to investigate the amendments proposed by Rep. Teague.

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FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION No. 3, on the balanced federal budget and constitutional convention issue.

Sen. Jergeson stated he had sent for some material from California where they had just addressed this same issue which should be here in the next few days.

Chairman Story agreed to allow this additional time for consideration of this matter.

DISPOSITION OF HOUSE BILL No. 531: There was a question on the banks opposing this Bill, which the Committee decided they had not.

Sen. Jergeson then moved that House Bill No. 531 BE CONCURRED IN; motion passed without opposition. Sen. Jergeson will carry the Bill on the floor.

DISPOSITION OF HOUSE BILL No. 567: Some discussion was held on amending the Bill to allow 6-year terms for Senators, and if, as it was a constitutional issue the Bill had to be reported out of the Committee to get in on third reading, or if this could be done on an adverse committee report.

Sen. Jergeson suggested sending the Bill out without recommendation.

Sen. Pat Ryan moved that House Bill No. 567 BE NOT CONCURRED IN; motion failed, with Sen. Story abstaining and only Senators Ryan and Hafferman voting "yes". Sen. Ryan then withdrew his motion to allow further consideration.

Sen. Jergeson moved that House Bill No. 567 be sent to the full Senate WITHOUT RECOMMENDATION; motion carried by majority vote, with Sen. Story voting "no". The report on the floor will be carried by Sen. Story.

DISPOSITION OF HOUSE BILL No. 76: Sen. Rasmussen moved that House Bill No. 76 BE NOT CONCURRED IN, adding that he felt this would allow the state to get further and further into the printing business.

Sen. Hafferman felt it was a good bill and would save the state money.

Sen. Rasmussen commented that things are going fine now under the present system and he did not see a need to change things.

Sen. Roskie understood they were in violation of the law at present in doing their own printing.

Sen. Rasmussen felt putting this on the books would open the door to a department of the state being created for printing and that it would take a lot of work from the private sector.

Upon roll call vote, the motion of Sen. Rasmussen carried by majority, with Senators Roskie, Jergeson and Hafferman voting "no". Sen. Story will carry the report to the floor on this Bill.

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FURTHER CONSIDERATION OF HOUSE BILL No. 463: Discussion held pertained to the type of printed material covered by this Bill.

Sen. Jergeson felt there should be some criteria developed as to what was reasonable expenditures for printing and those reviewed by the Finance Committee.

Sen. Story expressed his thoughts on the issue that it would create a taxpayer awareness of what is spent by the state agencies on printing.

Sen. Rasmussen didn't think it should pertain to the Montana Historical magazine or the Montana Outdoors magazine as he felt these were different than a department coming out with a public relations report and Sen. Roskie agreed that the Bill should be amended.

As the time was getting short, the Chairman stated this Bill would be taken up another time.

FURTHER CONSIDERATION OF HOUSE BILL No. 456: Sen. Roskie advised he had a file of amendments which the Committee should look at as the Bill was referred back to the Committee from the floor regarding these.

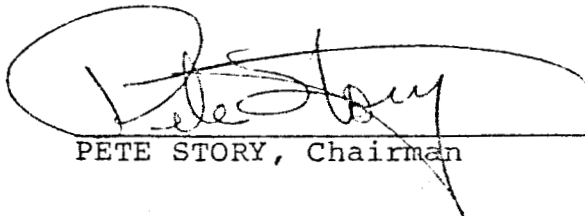
The Chairman also referred these for consideration another day.

FURTHER CONSIDERATION OF HOUSE BILL No. 847: Sen. Brown commented he remembered there was some problem with the legislative committee structure as proposed by Rep. Fabrega.

Chairman Story also stated this would be handled at a later time.

ADJOURNMENT:

There being no further business, the Chairman adjourned the meeting at the hour of 11:30 A.M.



PETE STORY, Chairman

Date March 14, 1979

ROLL CALL

STATE ADMINISTRATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator George F. Roskie, V. Chmn.	(1st)		
Senator Bob Brown	✓		
Senator A. T. (Tom) Rasmussen	✓		
Senator Patrick L. Ryan	✓		
Senator Greg Jergeson	✓		
Senator William F. Hafferman	✓		

Each Day Attach to Minutes.

DATE

March 14, 1979

COMMITTEE ON

State Administration

Re: HB 596, 686 + 746

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
John Bell	Clerks & Recorders	H.596	X	
Anthony Curtis	Dist 20	HB 746		
Richard Manning	Dist 35	HB-686		Carrying
Neal Whitney				
Paul Bausch				
Ann George				
Cheryl Hill				
Debbie Hoogen				
Angie Karpis				
Kandy Spring				
Kirsten Kerbin				
Karin Huelbe				
Lynda DeBru				
Walter Crane				
Michael West				
Kelby Spawon				

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 14-79 House Bill No. 77 Time _____

On a thank statement of intent

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	✓	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen		
Senator Patrick L. Ryan		✓
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Greg Jergeson moved that a Statement of Intent
be attached to House Bill No. 77; motion carried by
majority vote, with Sen. Ryan voting "no".

Statement of Intent will be prepared and presented to the Committee.

(include enough information on motion--put with yellow copy of committee report.)

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 11, 1964 Bill No. 746 Time 10:00 AM

*(Motion carried by
Unanimous)*

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	(absent)	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Bill Hafferman moved that House Bill No. 746

BE CONCURRED IN: motion carried by unanimous vote of
the Committee members present, with Sen. Roskie being absent.

Sen. Hafferman will carry the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14 1979

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 746

Curtiss (Hafferman)

Respectfully report as follows: That House Bill No. 746,

Third Reading Bill,

DO PASS BE CONCURRED IN

OK

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 11, 1979 House Bill No. 187 Time _____

*(to be recorded in
copy)*

NAME	YES	NO
Senator Pete Story, Chairman	<input checked="" type="checkbox"/>	
Senator George F. Roskie, V. Chairman	<input checked="" type="checkbox"/>	
Senator Bob Brown	<input checked="" type="checkbox"/>	
Senator A. T. (Tom) Rasmussen	<input checked="" type="checkbox"/>	
Senator Patrick L. Ryan	<input checked="" type="checkbox"/>	
Senator Greg Jergeson	<input checked="" type="checkbox"/>	
Senator William F. Hafferman	<input checked="" type="checkbox"/>	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Bill Hafferman moved that House Bill No. 686

BE CONCURRED IN; motion carried by unanimous vote of the
Committee members present, with Sen. Roskie being absent.

Sen. Hafferman will carry the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

..... March 14 19 79

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 696

R. Manning (Hafferman)

Respectfully report as follows: That House Bill No. 686

Third Reading Bill,

~~DO PASS~~ BE CONCURRED IN

Ali.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 10-79 Albany Bill No. 596 Time _____

*Bill concurred in
3/10/79*

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	(absent)	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Tom Rasmussen moved that House Bill No. 596
BE CONCURRED IN; motion carried by unanimous vote of the
Committee members present, with Sen. Roskie being absent.
Sen. Rasmussen will carry the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

..... March 14 19 79

MR. President

We, your committee on State Administration

having had under consideration House ... Bill No. 596

Metcalf (Rasmussen)

Respectfully report as follows: That House ... Bill No. 596,

Third Reading Bill,

EXYASS: BE CONCURRED IN

BA.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Mar 14-73 House Bill No. 531 Time _____

*(2) Be concurred in
(2) Jergeson*

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	✓	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Greg Jergeson moved that House Bill No. 531

BE CONCURRED IN: motion carried unanimously.

Sen. Jergeson will carry the Bill in the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

.....March 14..... 19 79.....

MR.President.....

We, your committee on.....State Administration.....

having had under considerationHouse..... Bill No. 531.....

Sales (Jergeson)

Respectfully report as follows: That.....House..... Bill No. 531.....

Third Reading Bill,

~~UNPASSES~~

BE CONCURRED IN

PA

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date 1/16/68 11-79 Hawaii Bill No. 141 Time _____

67 members

Bill 141 amended
6/10/68

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	✓	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan		✓
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Sen. Tom Rasmussem moved that House Bill No. 141 be amended on Page 1, line 25, by striking the "\$400" and reinserting the "\$300"; motion carried without opposition.

Sen. Rasmussen then moved that House Bill No. 141 AS AMENDED, BE CONCURRED IN; motion carried by majority vote, with Senator Ryan voting "no".

Sen. Rasmussen will carry the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14 19 79

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 141,

Nordtvedt (Rasmussen)

Respectfully report as follows: That House Bill No. 141,

Third Reading Bill, be amended as follows:

1. Page 1, line 25

Following: "\$399"

Strike: "\$400"

Insert: "\$300"

~~XXXXXXXX~~

And, as so amended, BE CONCURRED IN

Pa.

Pete Story, Chairman.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Mar 14 Bill No. 76 Time _____

*(5) DO NOT PASS
(1) DEBATE*

NAME	YES	NO
Senator Pete Story, Chairman	<input checked="" type="checkbox"/>	
Senator George F. Roskie, V. Chairman		<input checked="" type="checkbox"/>
Senator Bob Brown	<input checked="" type="checkbox"/>	
Senator A. T. (Tom) Rasmussen	<input checked="" type="checkbox"/>	
Senator Patrick L. Ryan	<input checked="" type="checkbox"/>	
Senator Greg Jergeson		<input checked="" type="checkbox"/>
Senator William F. Hafferman		<input checked="" type="checkbox"/>

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Rasmussen moved that HOUSE BILL No. 76 BE NOT
CONCURRED IN; motion carried by majority vote, with
Senators Roskie, Jergeson and Hafferman voting "no".
Senator Story will carry the Bill in the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14 1979

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 76

Ramirez (Story)

Respectfully report as follows: That House Bill No. 76

Third Reading Bill,

~~NO PASS~~ BE NOT CONCURRED IN

PA

Pete Story, Chairman.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 27 1964 Bill No. 23 Time 10:00 AM

*Bill Hafferman
G. Coffey*

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	(absent)	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Bill Hafferman moved that House Bill No. 23
BE CONCURRED IN; motion carried by unanimous vote of
the Committee members present, with Sen. Roskie being absent.
Sen. Hafferman will carry the Bill on the floor.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14 1979

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 23

Robbins (Hafferman)

Respectfully report as follows: That House Bill No. 23,

Third Reading Bill,

~~DO PASS~~ BE CONCURRED IN

Pl-

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date May 14 19 House Bill No. 12 Time _____

A. D. Brown
9:00 AM

NAME	YES	NO
Senator Pete Story, Chairman	<i>✓</i>	
Senator George F. Roskie, V. Chairman	<i>✓</i>	
Senator Bob Brown	<i>present</i>	<i>(A)</i>
Senator A. T. (Tom) Rasmussen		<i>✓</i>
Senator Patrick L. Ryan	<i>✓</i>	
Senator Greg Jergeson	<i>present</i>	<i>(A)</i>
Senator William F. Hafferman	<i>✓</i>	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Pat Ryan moved that House Bill No. 12 BE

CONCURRED IN: motion carried by majority vote, with

Senators Brown and Jergeson abstaining and Sen. Rasmussen

voting "no". After the Bill passed, Senators Brown & Jergeson changed their vote to "no". Sen. Ryan will carry the Bill on the (include enough information on motion--put with yellow copy of committee report.) floor.

plus Lenzink
& Pat Ryan's opinion

STANDING COMMITTEE REPORT

.....March 14..... 1979.....

MR.President.....

We, your committee on.....State Administration.....

having had under consideration.....House.. Bill No. 12.....

Scully (Ryan)

Respectfully report as follows: That.....House.. Bill No. 12,.....

Third Reading Bill,

~~BY PASS~~

BE CONCURRD IN

Pl.

ROLL CALL VOTE RECORD

2

SENATE COMMITTEE STATE ADMINISTRATION

Date March 14, -29 House Bill No. 567 Time _____

*(2) carried without recommendation.
@ voting*

NAME	YES	NO
Senator Pete Story, Chairman		✓
Senator George F. Roskie, V. Chairman	✓	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Jergeson moved that House Bill No. 567
be sent out of Committee WITHOUT RECOMMENDATION; motion
carried by majority vote, with Sen. Story voting "no".
Sen. Story will carry the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

ROLL CALL VOTE RECORD

①

SENATE COMMITTEE STATE ADMINISTRATION

Date March 21-78 Roll 1 Bill No. 567 Time _____
(Bill concurred also failed)

NAME	YES	NO
Senator Pete Story, Chairman	<i>abstain</i>	
Senator George F. Roskie, V. Chairman		<i>✓</i>
Senator Bob Brown		<i>✓</i>
Senator A. T. (Tom) Rasmussen		<i>✓</i>
Senator Patrick L. Ryan	<i>✓</i>	
Senator Greg Jergeson		<i>✓</i>
Senator William F. Hafferman	<i>✓</i>	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Pat Ryan moved that House Bill No. 567 BE
CONCURRED IN; motion failed with Sen. Story abstaining and
Senators Roskie, Brown, Rasmussen and Jergeson voting "no".
Senator Ryan then withdrew his motion.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14 19 79

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 567

Magone (Story)

Respectfully report as follows: That House Bill No. 567,

Third Reading Bill,

DUPASS WITHOUT RECOMMENDATION

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Mar 14-79 House Bill No. 330 Time _____

*(2) No votes recorded
(2) carry*

NAME	YES	NO
Senator Pete Story, Chairman		<input checked="" type="checkbox"/>
Senator George F. Roskie, V. Chairman		<input checked="" type="checkbox"/>
Senator Bob Brown		<input checked="" type="checkbox"/>
Senator A. T. (Tom) Rasmussen	<input checked="" type="checkbox"/>	
Senator Patrick L. Ryan	<input checked="" type="checkbox"/>	
Senator Greg Jergeson	<input checked="" type="checkbox"/>	
Senator William F. Hafferman	<input checked="" type="checkbox"/>	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: _____

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 13 19 79

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 350

Vincent (Jergeson)

Respectfully report as follows: That House Bill No. 350,

third reading bill, be amended as follows:

1. Page 1, line 20.

Following: "I"

Strike: "shall"

Insert: "will"

2. Page 1, line 25.

Following: "I"

Strike: "shall"

Insert: "will"

3. Page 2, line 3.

Following: "I"

Strike: "shall condemn"

Insert: "will conduct my campaign without"

DOWASSK

(Continued)

4. Page 2, line 5.

Following: "on"

Strike: "any candidate on"

Insert: "my opposition"

5. Page 2, line 7.

Following: "I"

Strike: "shall condemn the use of"

Insert: "will not use"

6. Page 2, line 9.

Following: "Facts"

Strike: "regarding any candidate, as well as the use of"

Insert: ", nor will I use"

7. Page 2, line 10.

Following: "accusations"

Strike: "against any candidate"

8. Page 2, line 12.

Following: "as to"

Strike: "his"

Insert: "the"

Following: "patriotism"

Insert: "of my opposition"

9. Page 2, line 13.

Following: "I"

Strike: "shall condemn"

Insert: "will not make"

10. Page 2, line 15.

Following: "I"

Strike: "shall condemn"

Insert: "will not undertake or condone"

11. Page 2, line 19.

Following: line 18

Strike: "I shall"

Insert: "Insofar as is possible, I will"

12. Page 2, line 22.

Following: "condemn"

Insert: "have pledged not to use or condone"

And, as so amended,

BE CONCURRED IN



STATE OF MONTANA
Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59601
406/449-2986

JOHN D. LaFAVER
LEGISLATIVE FISCAL ANALYST

February 20, 1979

TO: Representative Dick Manning
FROM: Bob Robinson, Associate Fiscal Analyst *BR*
SUBJECT: Elimination of Earmarked Portion of Store License Tax and
Transferring Balance to the General Fund.

The food distributors earmarked revenue account is projected to have a balance of nearly \$250,000 at the end of fiscal 1981 if the currently recommended appropriation is approved and revenues continue at a conservative trend. In each of the years of the 1980-81 biennium, revenues into this account will exceed expenditures by at least \$35,000.

This revenue source obviously generates more money than is necessary to provide administration of the unfair trade practices act. The state would be better served if it could use this money rather than have it accumulate in an earmarked account.

An additional benefit of de-earmarking this revenue and appropriating general fund to support the unfair trade practices regulations is that the staff could also take on consumer protection responsibilities without violating the intent for use of the earmarked revenue. They are currently unable to do this even when unfair trade practice responsibilities do not demand full-time attention.

The following table shows the actual revenue collections into this account and projections from 1974 through 1981 fiscal years. Expenditures are also shown along with the growth in the earmarked account balance.

Food Distributors Earmarked Revenue Account
(02200)

<u>Fiscal Year</u>	<u>Revenue</u>	<u>Expenditure</u>	<u>Balance</u>
1974	\$58,594	\$35,449	\$ 30,044
1975	64,430	40,082	54,338
1976	65,688	37,492	81,088
1977	66,455	38,495	109,048
1978	74,220	26,762	151,636
-----PROJECTED-----			
1979	72,745	46,289	177,092
1980	73,180	38,141	212,131
1981	74,643	38,392	248,382

RJR:s1

*Consumer Protection
Unfair Trade Practices*

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

FOR THE RECORD, I AM DISTRICT 20 REPRESENTATIVE, AUBYN CURTISS.

THE EXERCISE OF EMINENT DOMAIN HAS FORCED MANY LANDOWNERS - OVER THE YEARS - TO GIVE UP THEIR HOMES, SOME CAPITALIZING ON SITUATIONS AT THE TAXPAYERS' EXPENSE, BUT MANY OTHERS SACRIFICING FAMILY HOMESTEADS, WATER RIGHTS AND LANDS PURCHASED BY SWEAT AND BLOOD - LAND WHICH TO THEM WAS BEYOND PRICE.

IN MOST CASES THE RIGHT OF EMINENT DOMAIN HAS BEEN EXERCISED TO EXPEDITE PUBLIC WORKS PROJECTS FOR THE BENEFIT OF ALL. HOUSE BILL 746 IS INTENDED TO ADDRESS ANOTHER ASPECT OF THE APPLICATION OF THIS POWER WHICH MANY FORESEE COULD SET A PRECEDENT WHICH WOULD POSE A DANGEROUS THREAT TO LANDOWNERS EVERYWHERE.

THE ENABLING LEGISLATION WHICH PROVIDED FOR THE LIBBY DAM PROJECT IN NORTHWESTERN MONTANA AUTHORIZED THE CORPS OF ENGINEERS TO ACQUIRE NOT MORE THAN 12,000 ACRES OF LAND AND EXPEND NO MORE THAN \$2 MILLION TO MITIGATE GAME RANGE LOSS DUE TO THE DAM, RESERVOIR, AND RAILROAD RELOCATION CONNECTED WITH THE PROJECT. THE CORPS HAS COMPLIED, BUT WITH THE \$2 MILLION APPROPRIATED FOR THE PURPOSE, HAS ACQUIRED ONLY ABOUT 3,000 OF 13,000 ACRES MENTIONED AS THE MAXIMUM IN THE AUTHORIZATION.

IN A POLICY PAPER PUBLISHED IN OCTOBER, 1973, THE CORPS STATED ITS POSITION: ALTERNATIVES WERE:

- A. FUND A BIOLOGICAL EVALUATION OF WILDLIFE HABITATE IMPROVEMENT MEASURES CARRIED OUT ON 7,169 ACRES ADJACENT TO LAKE KOOCANUSA;
- B. ACQUIRE WILDLIFE LANDS IN FEE UP TO LIMIT OF THE FUNDING CONSTRAINT OF \$2 MILLION;

CURTISS

- C. SUPPORT THE STATE IF THEY WISH TO ACQUIRE UP TO 12,000 ACRES TO MITIGATE WILDLIFE LOSSES FOR THE ENTIRE LIBBY PROJECT.

THIS INDICATES TO SOME THAT THE CORPS WOULD CONSIDER ITS RESPONSIBILITY DISCHARGED UNDER THE ACT IF THE STATE OF MONTANA CONCURRED.

ON THE OTHER HAND, WE HAVE THE FISH AND GAME COMMISSION, ON DECEMBER 18TH, DEMANDING THAT THE CORPS BUY FOR THEM THE ADDITIONAL 9,000 ACRES.

LINCOLN COUNTY RESIDENTS HAVE RESISTED LAND BUYS FOR MITIGATION PURPOSES SINCE 1974 AND FOR SEVERAL REASONS:

1. ABOUT 75% OF THE COUNTY IS STATE AND FEDERALLY OWNED - ANOTHER 12½% IS CORPORATELY OWNED. ABOUT 25,000 ACRES OF RIVER AND CREEK BOTTOM LAND WAS TAKEN TO ACCOMMODATE THE DAM IMPOUNDMENT OF WATER, AND THE RAILROAD RELOCATION.

2. PEOPLE FEAR THAT FURTHER ACQUISITION OF LAND BY AGENCIES WILL FURTHER ERODE A VERY LIMITED TAX BASE.

3. THE NUMBER 1 CHOICE OF LANDS SELECTED BY THE MONTANA FISH AND GAME COMMISSION AS ACCEPTABLE FOR ALLEGED GAME RANGE LOSS INCLUDE A PORTION OF THE ONLY IRRIGATION DISTRICT IN THE COUNTY.

4. LANDOWNERS HAVE DOUBTED SINCE AWARENESS OF THE AUTHORIZATION THAT THE \$2 MILLION COULD PURCHASE ANY 12,000 ACRES.

5. THE NUMBER OF ANIMALS FOR WHICH RANGE MITIGATION IS BEING SOUGHT IS TOTALLY UNREALISTIC - THE CONCEPT OF 1800 MILES DEER, 1450 WHITETAIL DEER, 300

CURTISS

ELK, 300 MOOSE, AND 170 BIGHORN SHEEP DWELLING IN A LESS THAN MILE WIDE STRIP 50 MILES LONG IS MIND-BOGGLING, EVEN WHEN ADDING TO THAT A 45 MILE LONG RAILWAY RIGHT-OF-WAY.

6. RESIDENTS SEE NO REASON FOR FURTHER LAND ACQUISITION WHEN THE RESERVOIR IS SURROUNDED BY STATE AND FOREST SERVICE LAND ON WHICH THE ANIMALS REMAINING HAVE ADJUSTED THEMSELVES AFTER MOVING A BIT FURTHER UP THE SLOPES.
7. UNDERNEATH LIES THE APPREHENSION THAT SHOULD NOT ENOUGH LAND BE ACQUIRED WITH THE FUNDS AVAILABLE, THE CORPS OF ENGINEERS WILL RESORT TO ACQUISITION BY CONDEMNATION.

NOW WE GET TO THE UNCERTAINTIES CAUSED BY CONFLICTING ANSWERS FROM THE AGENCIES INVOLVED WHICH INDICATE THE NECESSITY FOR PASSAGE OF THIS STATUTE:

THE FISH AND GAME COMMISSION HAS SAID THAT THEY WILL NOT ACCEPT LAND WHICH HAS BEEN CONDEMNED BY ANOTHER AGENCY FOR THIS PURPOSE!

THE SPOKESMEN FOR THE CORPS OF ENGINEERS HAVE TOLD LANDOWNERS THAT IF THE CORPS CANNOT ACQUIRE ENOUGH LAND FROM WILLING SELLERS IN THE AREAS DESIGNATED BY OUR FISH AND GAME COMMISSION AS ACCEPTABLE FOR MITIGATION PURPOSES, THEY HAVE NO ALTERNATIVE, BUT CONDEMNATION, AS THEY HAVE A MANDATE FROM CONGRESS.

ON JUNE 9, 1978, THEN SENATOR PAUL HATFIELD WROTE ME, "BARRING UNEXPECTED DEVELOPMENTS, THE LAND ACQUISITION PROGRAM WILL END WITH EXPENDITURE OF THE \$2 MILLION, EVEN THOUGH THE ACREAGE ACQUIRED WILL FALL FAR SHORT OF THE UPPER LIMIT OF 12,000 ACRES SET

CURTISS

BY CONGRESS. THE CORPS IS NOT EXPECTED TO PRESS FOR A GREATER ROLE IN THE LAND ACQUISITION BUSINESS. IF THERE IS PRESSURE FOR CONGRESS TO APPROPRIATE MORE MONEY FOR WILDLIFE MITIGATION, IT WOULD PROBABLY HAVE TO COME FROM THE STATE OF MONTANA."

MR. CHAIRMAN, COMMITTEE MEMBERS, THAT PRESSURE SEEMS TO BE EVIDENCED BY THE POSITION TAKEN BY FISH AND GAME IN ASKING FOR THE ADDITIONAL 9,000 ACRES. IF YOU FEEL COMPLACENT BECAUSE THE PROBLEM BELONGS TO US IN LINCOLN COUNTY, LET ME SHOW YOU THE AREAS IDENTIFIED BY THE FISH AND GAME COMMISSION WHICH IT WILL ACCEPT AS SUITABLE - SOME AS CLOSE AS CHOTEAU, 300 MILES AWAY FROM THE SUPPOSEDLY IMPACTED AREA.

AND IF YOU BELIEVE THAT LANDOWNERS HAVE NO GROUNDS FOR APPREHENSION, LET ME READ TO YOU EXCERPTS FROM CORPS PERSONNEL CORRESPONDENCE AND LET YOU FORM YOUR OWN CONCLUSIONS. THE LANGUAGE DOES NOT SOUND AS IF IT APPLIED TO HAPPY WILLING SELLERS.

NOTE: SEE YELLOW PORTIONS OF PACKETS.

ALSO I HAVE WITH ME COPIES OF THE MEMO OF UNDERSTANDING DESCRIBING THE RESPONSIBILITIES OF EACH AGENCY INVOLVED IN THE MITIGATION PROCESS, AS WELL AS CLIPPINGS FROM NEWSPAPERS. AND I WOULD LIKE TO DRAW YOUR ATTENTION TO THE MAP. I WILL TRY TO ANSWER ANY QUESTIONS.

* * * * *

VERY SIMPLY STATED - WE HAVE THREE AGENCIES INVOLVED:
THE ARMY CORPS OF ENGINEERS - FOR THE U. S. GOVERNMENT
U.S. DEPARTMENT OF INTERIOR - U.S. FISH AND WILDLIFE

THE CORPS OF ENGINEERS WOULD LIKE TO BELIEVE THAT ITS RESPONSIBILITY HAS BEEN FULFILLED UNDER PUBLIC LAW 251 WITH THE ACQUISITION OF 3,000 PLUS ACRES AND THE EXPENDITURE OF THE APPROPRIATED \$2 MILLION.

THE MONTANA FISH AND GAME DEPARTMENT OR COMMISSION IS PUBLICLY ASKING THE ARMY CORPS OF ENGINEERS TO HAND THEM 9,000 MORE ACRES OF WHAT IS NOW PRIVATE LAND.

THE CORPS, WHERE LIES THE RESPONSIBILITY OUTLINED CLEARLY IN THE MEMO OF UNDERSTANDING BETWEEN THE AGENCIES IS SAYING:

"NO UNWANTED DISPLACEMENT."

"HOPE THAT NO ONE BE INCONVENIENCED"

"IF WE CANNOT GET ENOUGH FROM WILLING SELLERS, WE HAVE NO ALTERNATIVE BUT TO INITIATE CONDEMNATION PROCEEDINGS."

COLONEL JOHN POTEAT STATED AT A NOVEMBER, 1977 MEETING IN EUREKA, "IF WE HAD A LETTER FROM THE FISH AND GAME TOMORROW SAYING THEY WOULD ACCEPT NO LAND WHICH HAD BEEN CONDEMNED FOR THE PURPOSE, WE WOULD HAVE NOWHERE TO GO."

IT SEEMS OBVIOUS THAT THE SOLUTION TO ALLEVIATING THE ANXIETY AND APPREHENSION PLAGUING LANDOWNERS LIES WITHIN STATE JURISDICTION. IF OUR OWN FISH AND GAME COMMISSION OR DEPARTMENT IS CLAMORING FOR MORE PRIVATE LAND WITH WHICH TO MITIGATE ALLEGED LOSS OF GAME RANGE, THEN IT IS IMPERATIVE THAT THIS 46TH LEGISLATURE ABORT ITS ATTEMPTS TO FURTHER ERODE OUR TAX BASE IN THIS PARTICULAR MANNER.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THANK YOU FOR YOUR CONSIDERATION OF THIS PROBLEM AND I RECOMMEND THAT YOU GIVE THIS A "DO PASS."

PAGE SIX

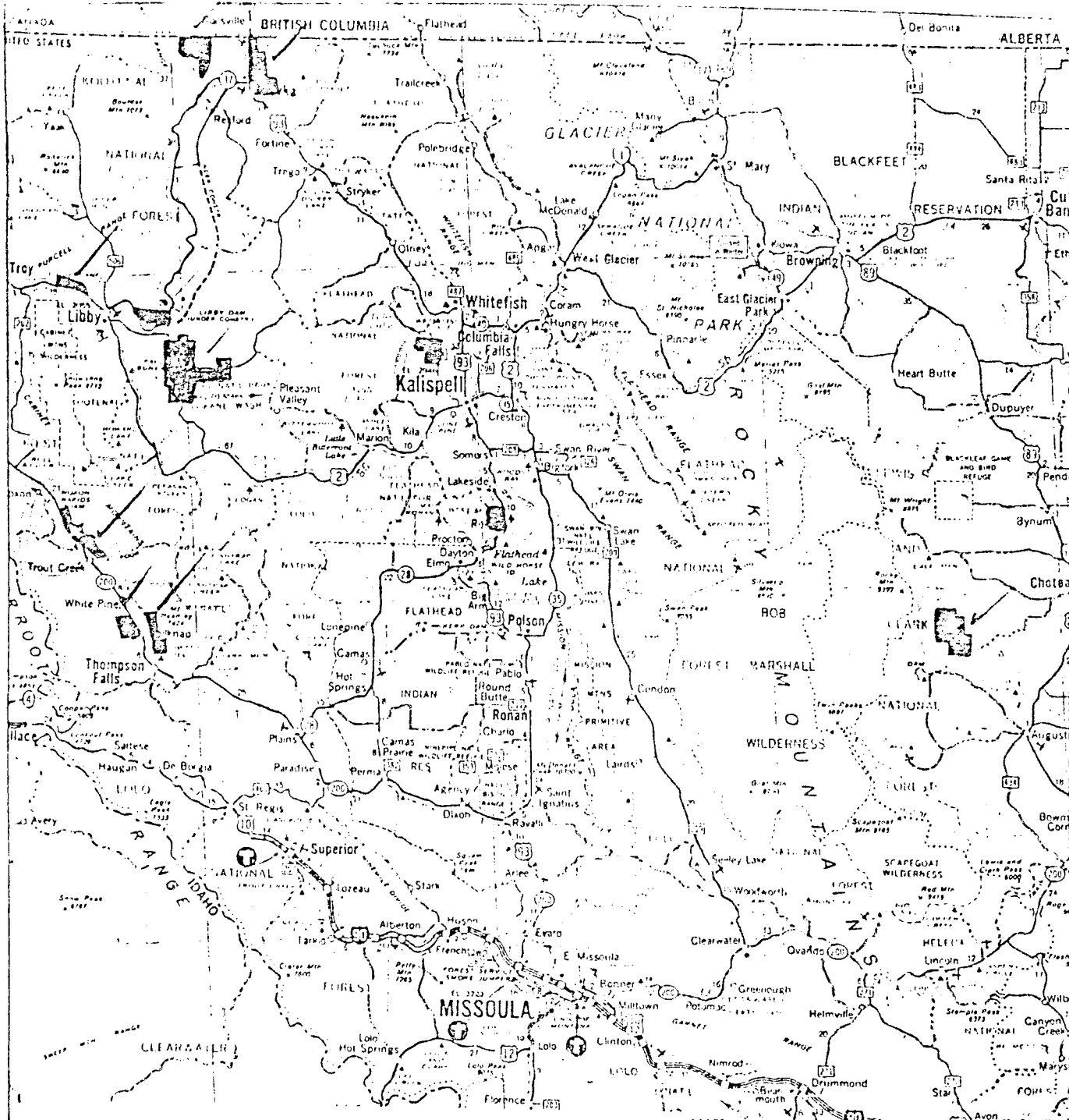
CURTISS

WE HAVE A RESOLUTION FROM THE COMMISSION BUT POLICY COULD CHANGE WITH A SINGLE MEMBER. THIS RESOLUTION WAS ADOPTED AFTER PRESENTING A REQUEST SIGNED BY 37 LEGISLATORS IN NOVEMBER OF 1977. I CAN'T HELP BUT QUESTION THE EFFICIENCY OF SUCH A RESOLUTION WHEN I SEE THIS SAME STATE AGENCY DEMANDING MORE LAND FOR ALLEGED LOSSES AND REFUSING TO MANAGE THE THOUSAND OF ACRES NOW AT ITS DISPOSAL.

LIBBY DAM
WILDLIFE REPLACEMENT PROGRAM

Area Maps of Suitable Wildlife Replacement
Habitat as Designated By The State of
Montana Fish and Game Department

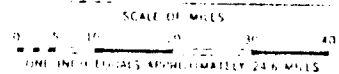
SEATTLE DISTRICT CORPS OF ENGINEERS
Post Office Box C-3755
Seattle, Washington 98124



REAL ESTATE FOR WILDLIFE REPLACEMENT LANDS

LIBBY DAM AND LAKE KOOCANUSA

LIBBY, MONTANA



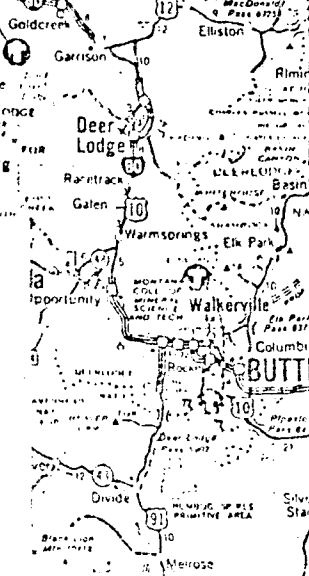
HIGHWAY MARKERS

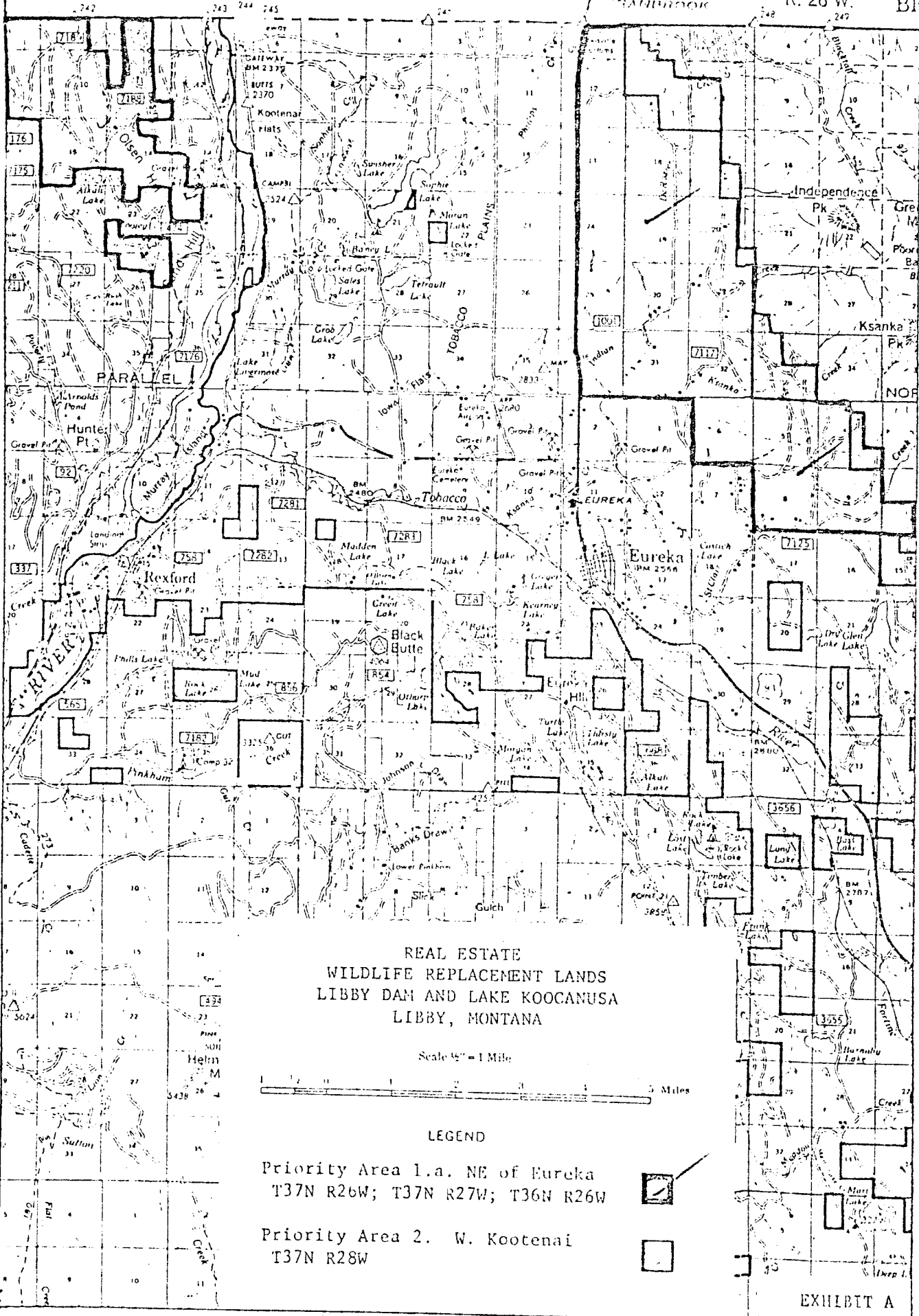
INTERSTATE UNITED STATES STATE AND PROVISIONAL STATE SECONDARY

ROAD CLASSIFICATIONS

UNIMPAVED ACCESS ROADS (Use and Entry at Discretion)
 STATE DIVIDED HIGHWAYS
 PRINCIPAL THROUGH HIGHWAYS
 OTHER THROUGH HIGHWAYS
 CONNECTING HIGHWAYS
 LOCAL ROADS (Use and Entry at Discretion)

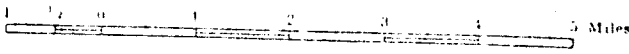
Site	Location	Site	Location
1		5	
2		6	
3		7	
4			





REAL ESTATE
 WILDLIFE REPLACEMENT LANDS
 LIBBY DAM AND LAKE KOOCANUSA
 LIBBY, MONTANA

Scale 1/2" = 1 Mile



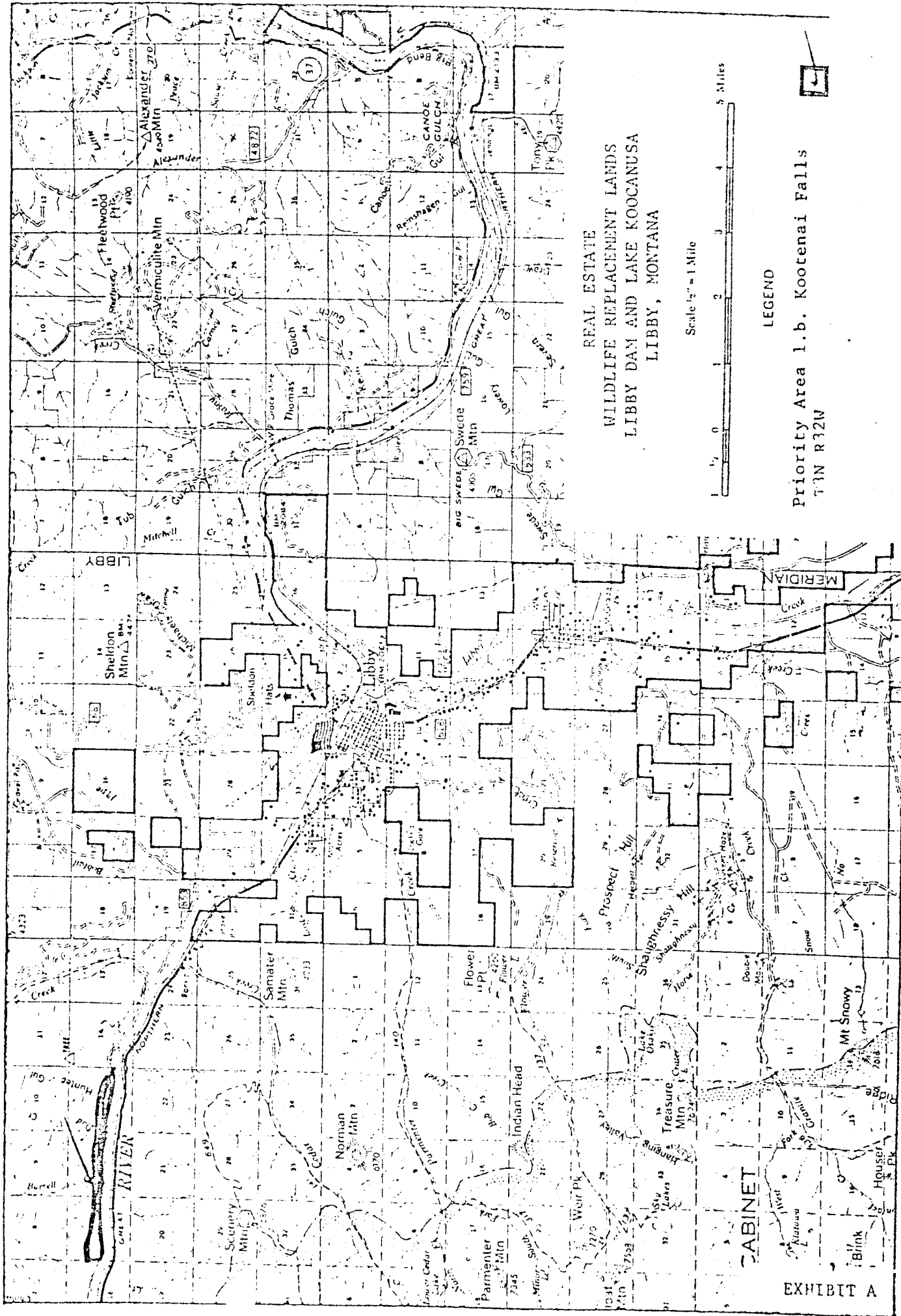
LEGEND

Priority Area 1. a. NE of Eureka
 T37N R26W; T37N R27W; T36N R26W

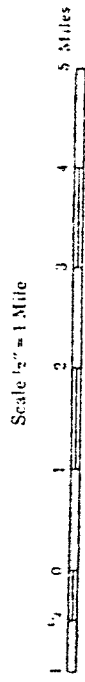


Priority Area 2. W. Kootenai
 T37N R28W





REAL ESTATE
 WILDLIFE REPLACEMENT LANDS
 LIBBY DAM AND LAKE KOOCANUSA
 LIBBY, MONTANA



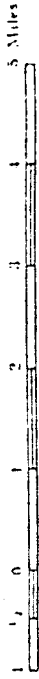
LEGEND

Priority Area 1.b. Kootenai Falls
 T1N R32W

CABINET

REAL ESTATE
 WILDLIFE REPLACEMENT LANDS
 LIBBY DAM AND LAKE KOOCANUSA
 LIBBY, MONTANA

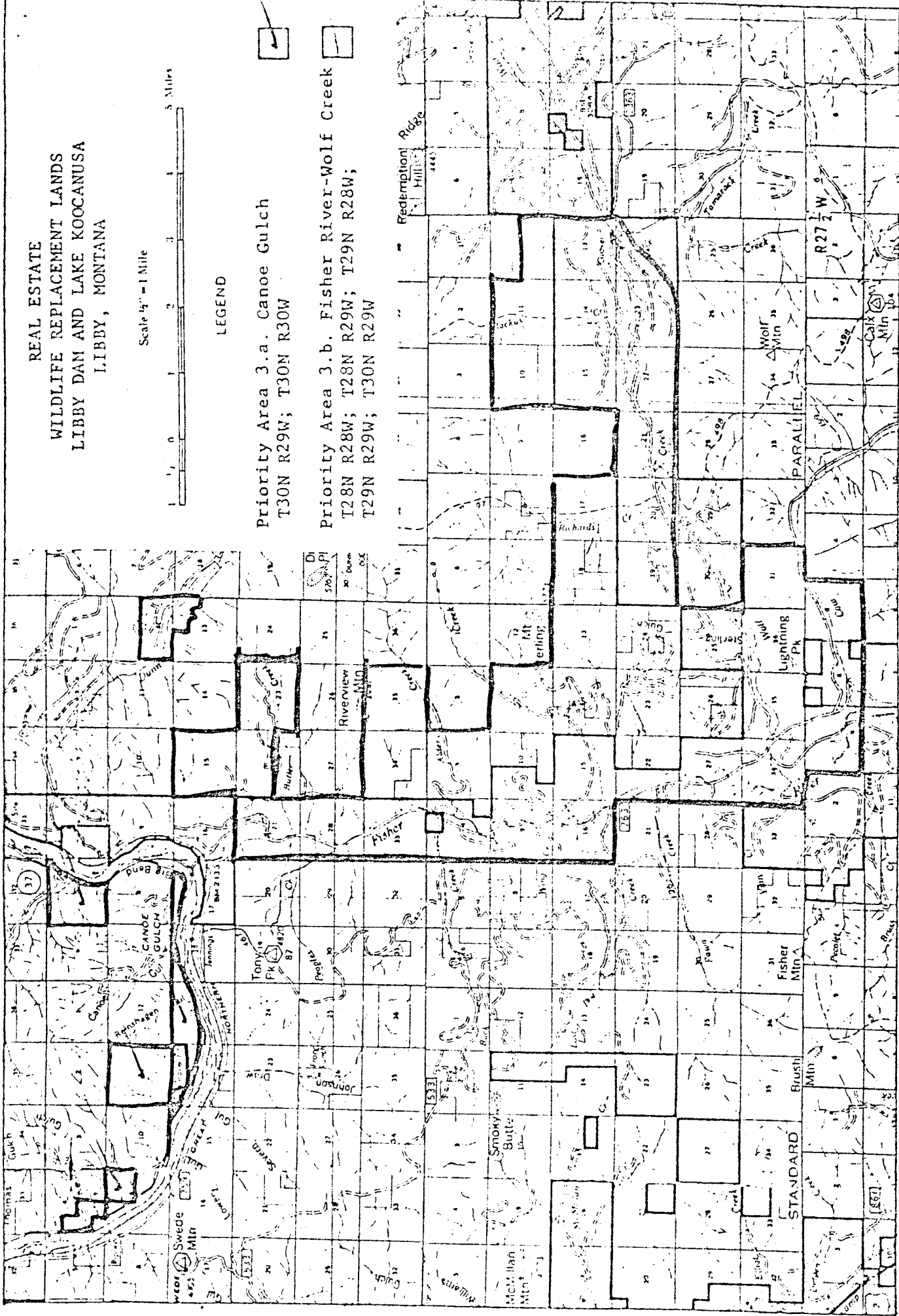
Scale 1/4" = 1 Mile

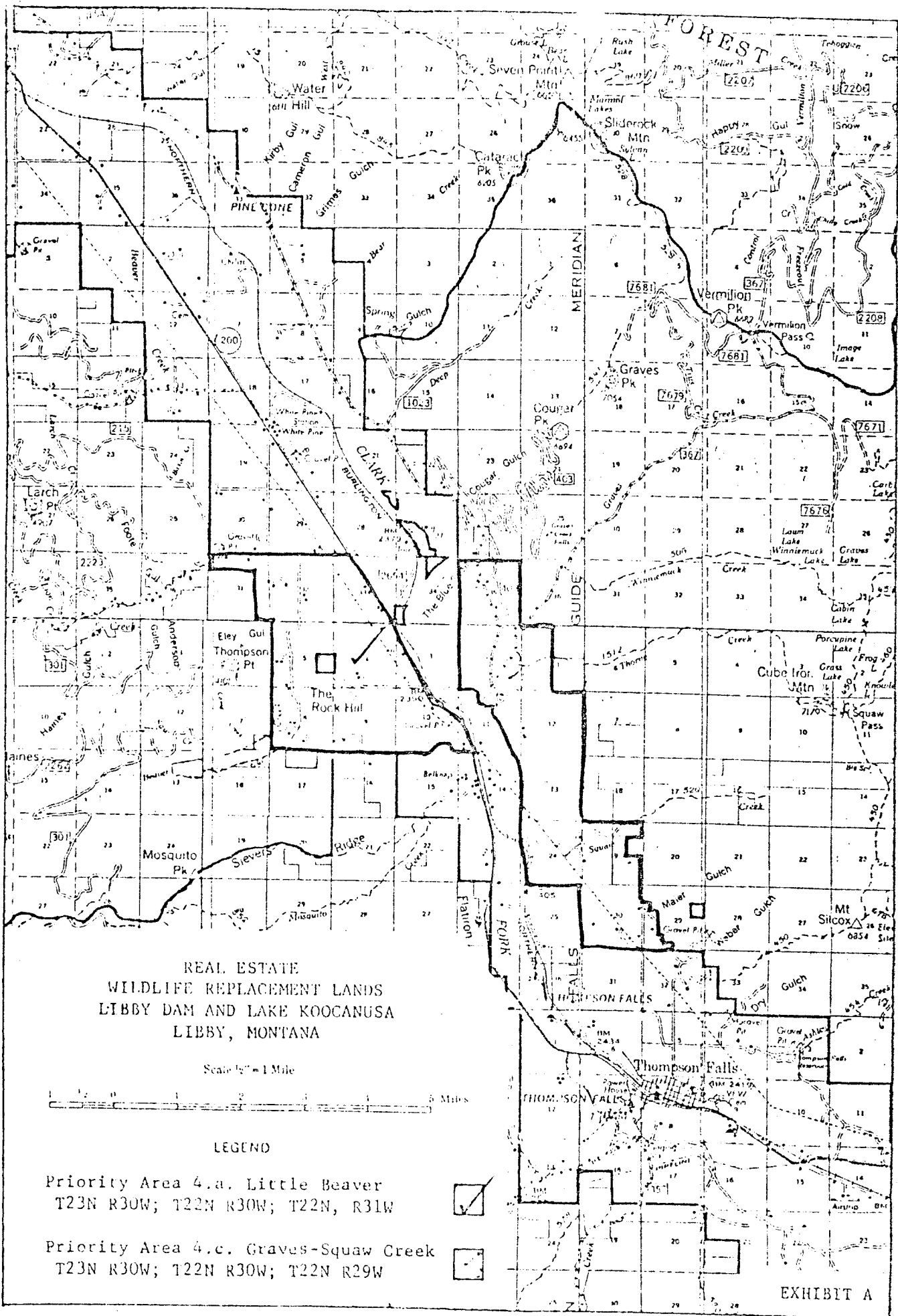


LEGEND

Priority Area 3.a. Canoe Gulch
 T30N R29W; T30N R30W

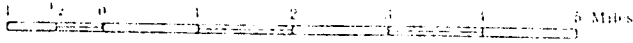
Priority Area 3.b. Fisher River-Wolf Creek
 T28N R28W; T28N R29W; T29N R28W;
 T29N R29W; T30N R29W





REAL ESTATE
WILDLIFE REPLACEMENT LANDS
LIBBY DAM AND LAKE KOOCANUSA
LIBBY, MONTANA

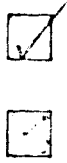
Scale 1" = 1 Mile



LEGEND

Priority Area 4.a. Little Beaver
T23N R30W; T22N R30W; T22N, R31W

Priority Area 4.c. Graves-Squaw Creek
T23N R30W; T22N R30W; T22N R29W



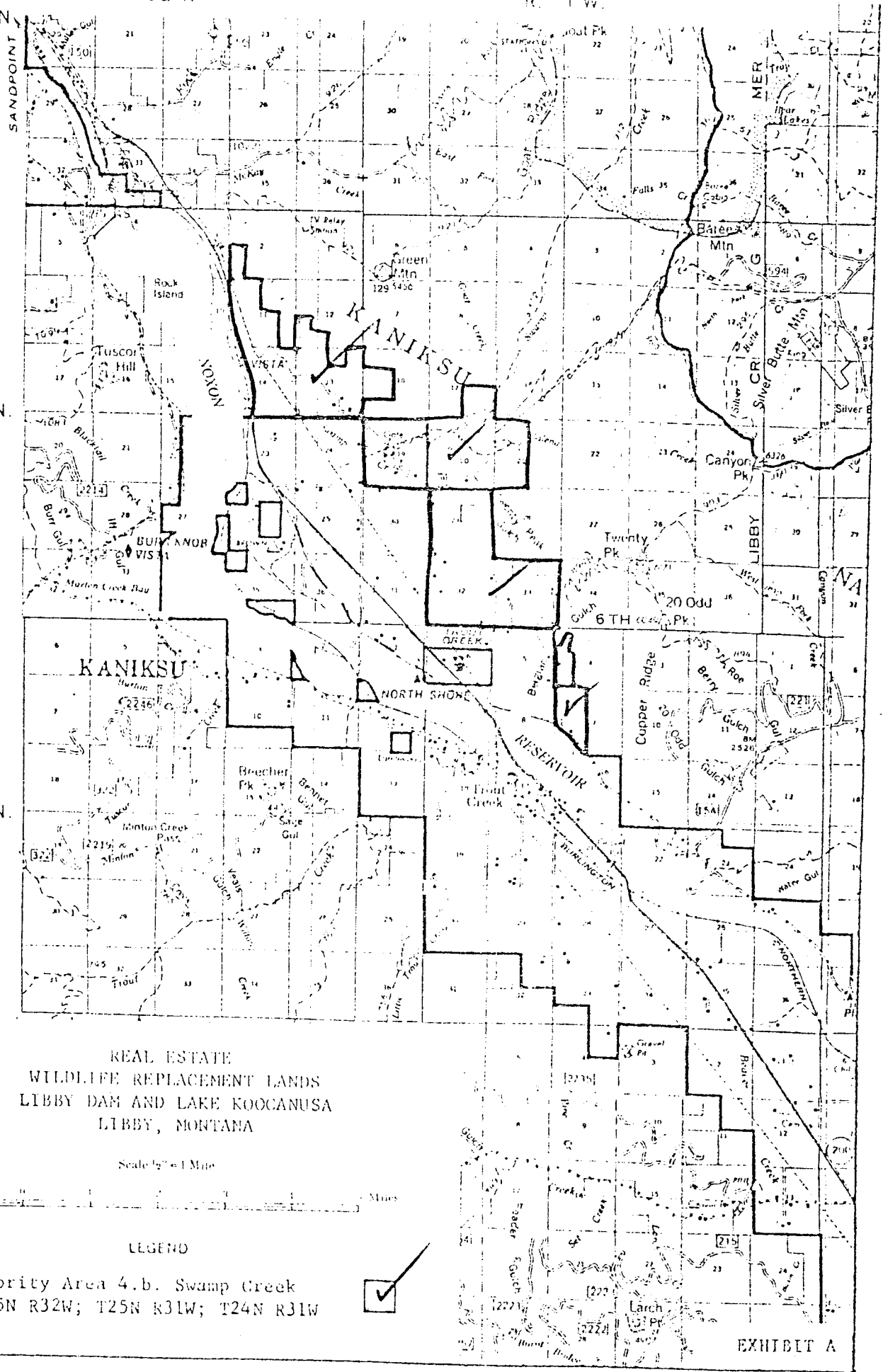
R. 32 W.

R. 31 W.

T. 26 N.

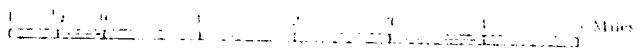
T. 25 N.

T. 24 N.



REAL ESTATE
 WILDLIFE REPLACEMENT LANDS
 LIBBY DAM AND LAKE KOOCANUSA
 LIBBY, MONTANA

Scale 1" = 1 Mile

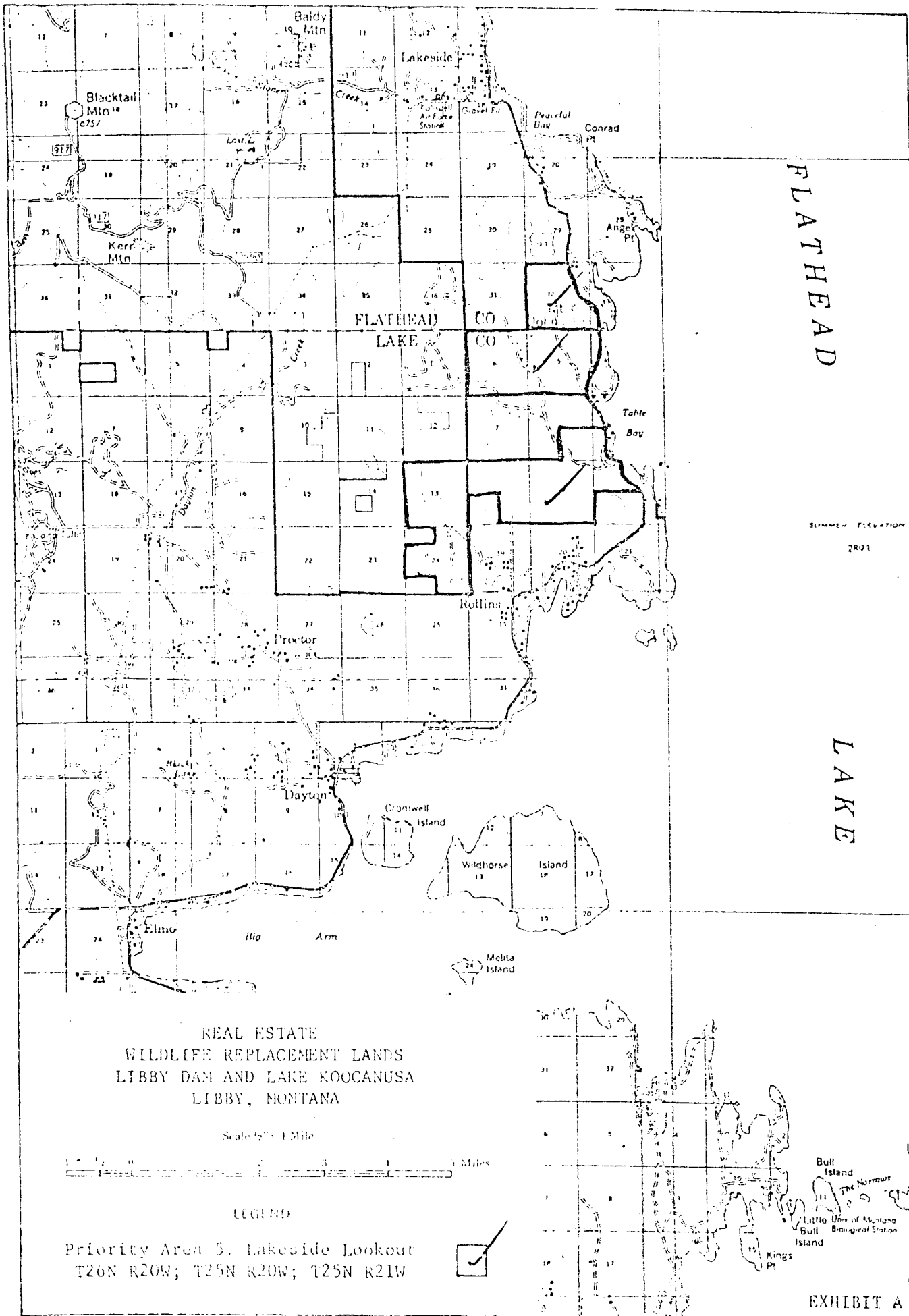


LEGEND

Priority Area 4.b. Swamp Creek
 T25N R32W; T25N R31W; T24N R31W



EXHIBIT A



FLATHEAD

SUMMER ELEVATION
2001

LAKE

REAL ESTATE
WILDLIFE REPLACEMENT LANDS
LIBBY DAM AND LAKE KOOCANUSA
LIBBY, MONTANA

Scale 1/4" = 1 Mile



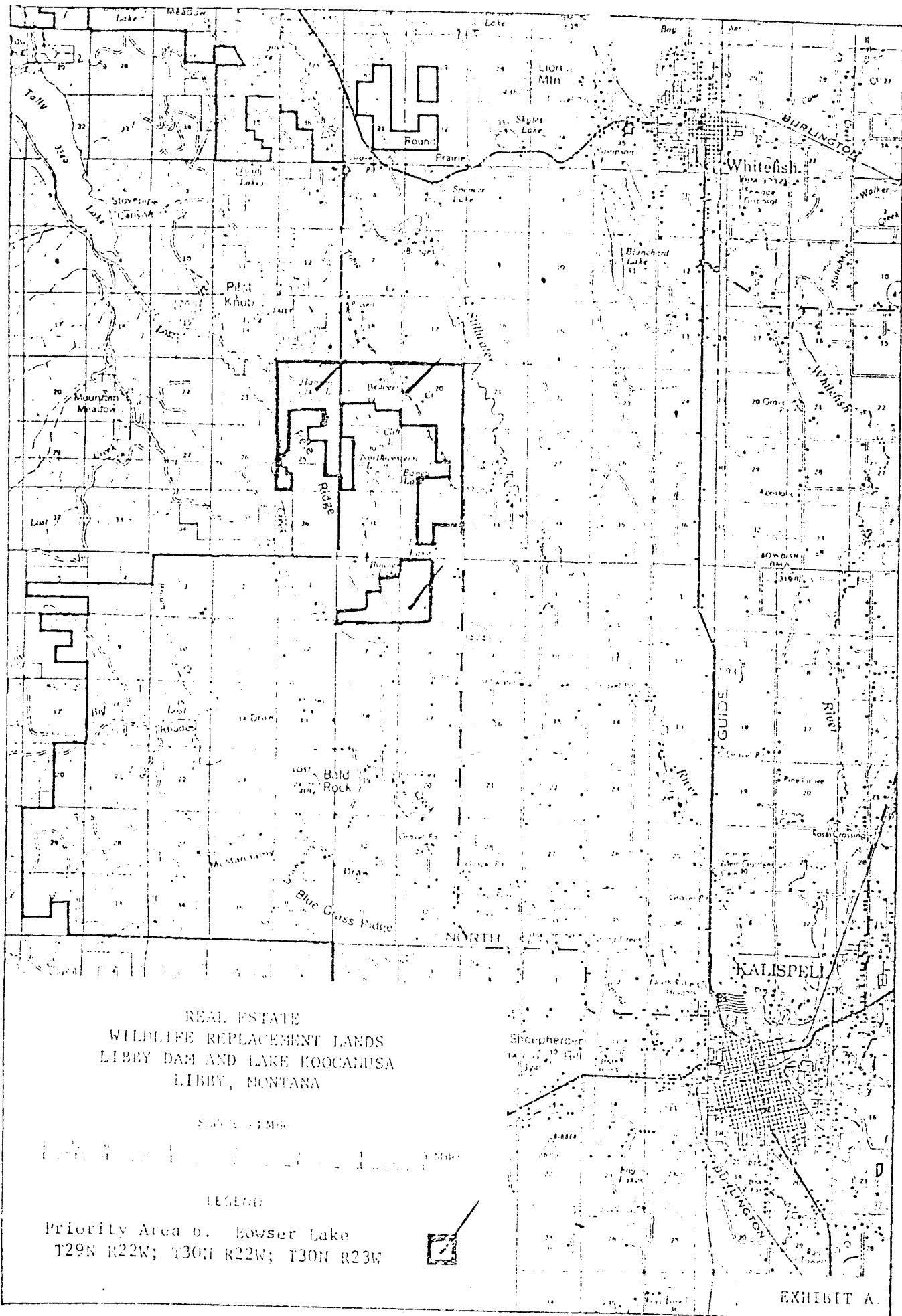
LEGEND

Priority Area 5, Lakeside Lookout
T26N R20W; T25N R20W; T25N R21W



Bull Island
The Narrows
Little Owl of Montana
Bull Biological Station
Kings Pt

EXHIBIT A



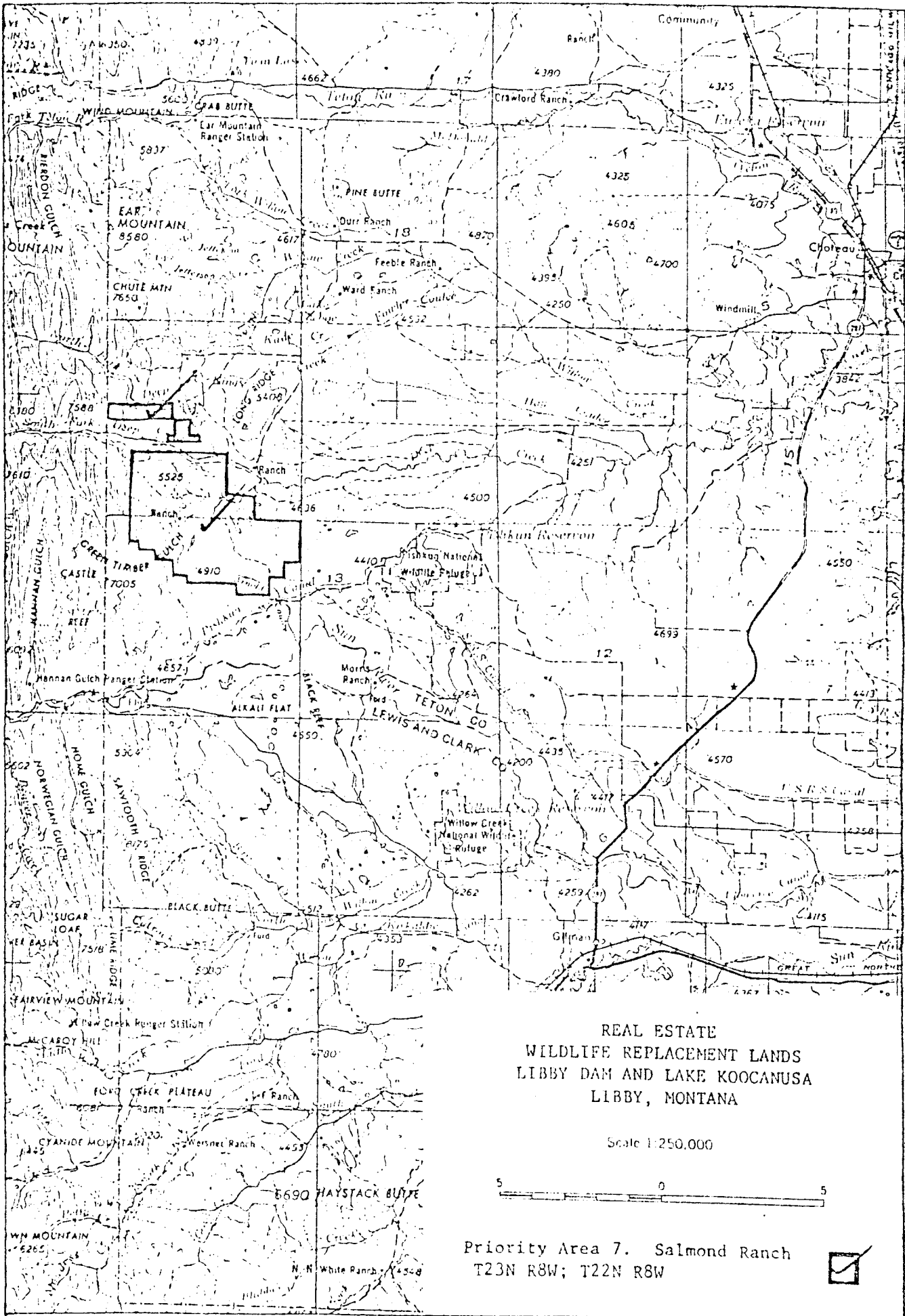
REAL ESTATE
 WILDLIFE REPLACEMENT LANDS
 LIBBY DAM AND LAKE KOOCANUSA
 LIBBY, MONTANA

SCALE 1:62,500

LEGEND

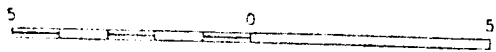
Priority Area 6. Eowser Lake
 T29N R22W; T30N R22W; T30N R23W





REAL ESTATE
 WILDLIFE REPLACEMENT LANDS
 LIBBY DAM AND LAKE KOOCANUSA
 LIBBY, MONTANA

Scale 1:250,000



Priority Area 7. Salmond Ranch
 T23N R8W; T22N R8W





DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314

REPLY TO
ATTENTION OF:

DAEN-REA-P

21 June 1974

Ms. Aubyn A. Curtiss
Chairman, Lincoln County Republican
Central Committee
Box 102
Fortine, Montana 59918

Dear Ms. Curtiss:

This is in further reply to your letter of 14 May 1974 to President Nixon concerning the acquisition of lands by the Army Corps of Engineers for the State of Montana to replace the Wildlife Winter Range which was lost due to the construction of Libby Dam and Lake Koochanusa.

The Fish and Wildlife Coordination Act of 1958, Public Law 85-624, provides that measures should be taken for the prevention of loss of, or damage to wildlife by projects such as Libby Dam. This imposed a responsibility on the Corps of Engineers, in coordination with the U. S. Bureau of Sport Fisheries and Wildlife and the State of Montana, to take action to mitigate the loss of wildlife resources because of the project. The Water Resources Development Act of 1974, Public Law 93-251, authorizes the Secretary of the Army, acting through the Chief of Engineers, to acquire not more than 12,000 acres of land at a cost not to exceed \$2,000,000 for the prevention of wildlife grazing losses caused by the Libby project. The land so acquired will be conveyed without cost to the State of Montana for that purpose only, with right of reverter in the event that it ceases to be used for such purpose.

The District Engineer, U. S. Army Engineer District, Seattle, Washington, is presently working with the State of Montana to identify the lands to be acquired. When this is accomplished, probably within the next two months, the District Engineer and the Montana State Department of Fish and Game will hold public meetings in the areas affected. Following that, the plan of acquisition proposed by the District Engineer will be submitted to this office for review and approval.

21 June 1974

Ms. Aubyn A. Curtiss

With reference to your suggestion that presently owned Federal lands be used for this purpose, such use was considered but the land suitable for this purpose is already being used by wildlife. It is the view of the Montana State Department of Fish and Game that the only way to prevent wildlife losses due to the project is to replace the lands lost because of flooding and railroad relocation, and we concur in that opinion.

Title 26, Section 133, 1947 Montana Codes Revised, provides for in-lieu tax payments for Wildlife Mitigation Lands in Montana. I am informed that the Chairman of the Montana State Fish and Game Commission stated in public meetings held in Kalispell and Libby on 30 and 31 May 1974, respectively, that such payments would be made by the State for wildlife lands conveyed to the State pursuant to the authorization in Public Law 93-251.

In addition to the payment of just compensation in accordance with the traditional concepts of fair market value, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, provides for payments to eligible landowners and their tenants which include reimbursement for actual moving expenses and losses resulting from moving, or an alternative payment in lieu of actual expenses which amounts to approximately \$500 for a home and from \$2,500 to \$10,000 for a business or farm operation, depending upon the average business or farm income. The law also provides for relocation advisory assistance to owners and tenants, and a replacement housing payment to enable a displaced person to be relocated in a decent, safe, and sanitary home at least comparable to his former home. This payment can amount to a maximum of \$4,000 for tenants and \$15,000 for homeowners, and includes reimbursement for any increased costs incurred in financing the replacement dwelling.

We recognize that in the development of a major public works of improvement, whether they are reservoirs, highways, or other facilities requiring considerable land, many persons will be inconvenienced. It is not possible to develop such works of improvement to provide needed and justified benefits to the public without also producing some adverse effects on those persons whose properties are acquired. I assure you that every effort has been and will continue to be made to keep these effects at a minimum in the land acquisition programs of the Corps of Engineers and to see that just compensation is paid for the interests acquired.

W. C. Hays
Major General
United States Army

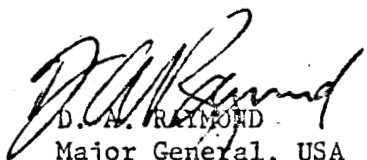
1.5

DAEN-REA-P
Ms. Aubyn A. Curtiss

21 June 1974

I trust the foregoing information will be helpful to you.

Sincerely,



D. A. REYMOND
Major General, USA
Deputy Chief of Engineers

D. A. Raymond



DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
1519 ALASKAN WAY SOUTH
SEATTLE, WASHINGTON 98134

NPSRE

6 June 1974

Ms. Aubyn A. Curtiss
Box 102
Fortine, MT 59918

Dear Ms. Curtiss:

During your conversation with me and Mr. Walsh at Kalispell you asked for a summary of the actions which have led to our project for the acquisition of lands for wildlife range. You also gave me a "Memo to the Army Corps of Engineers" on the subject of the hearing at Kalispell. This letter is intended to answer both your verbal request and the questions in the memo.

The sequence and substance of laws leading to the present situation follow, copies are inclosed except for the first.

Flood Control Act of 17 May 1950 authorized the Libby Dam Project.

The Fish and Wildlife Coordination Act of 1958 provided that measures should be taken for prevention of loss or damage to wildlife by projects like Libby Dam.

The Water Resources and Development Act of 1974 authorized the acquisition of not more than 12,000 acres at a cost not to exceed \$2,000,000 for the prevention of wildlife grazing losses.

These laws have led the Corps to its present position of primary responsibility for prevention of wildlife losses due to the Libby Dam Project with a mandate to coordinate the project with the State of Montana and the Bureau of Sports Fisheries and Wildlife.

In your memo you suggest that presently owned Federal lands could be used to solve the problem of providing new winter range. The answer is that we and the State feel that all suitable lands are already being used for this purpose and that to comply with our responsibility we need private lands.

4 Copies

NPSRE

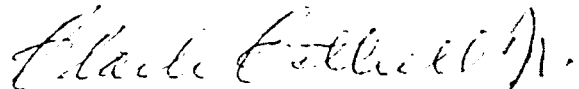
6 June 1974

Ms. Aubyn A. Curtiss

Your comments about the location of the hearing should not apply to us. The State Fish and Game Commission arranged for both meetings and invited us to attend. The Corps will hold its own public meeting in the area affected by our proposed acquisition plan when the plan is developed but before it goes forward for approval by higher authority.

You heard the Commission's resolution on willing sellers, considering the amount of land over a wide area the State Fish and Game think would serve the purpose, I believe there is reason for hope that there will be little or no unwanted displacement of landowners. We in the Corps would much prefer such an outcome.

Sincerely,



2 Incl
As stated

CLARK COTTRELL, JR.
Chief, Real Estate Division

ARNO M. KENNEDY, MASS.
H. BAYH, IND.
FRY C. BYRD, W. VA.
JES ALCORN, S. DAK.
JES B. ALLEN, ALA.
PHIL R. BIDENT, JR., DEL.
W. C. CULVER, IOWA
ARNO M. METZENBAUM, OHIO
JES DE LOACH, ARIZ.
L. HATFIELD, MONT.

STROM THURMOND, S.C.
CHARLES MCC. MATHIAS, JR., MD.
WILLIAM L. SCOTT, VA.
PAUL LAXALT, NEV.
OPPRIN G. HATCH, UTAH
MALCOLM WALLOP, WYO.

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

FRANCIS C. ROSENBERGER
CHIEF COUNSEL AND STAFF DIRECTOR

June 9, 1978

Honorable Aubyn Curtiss
Box 102
Fortine, Montana 59918

Dear Representative Curtiss:

Thanks for your telephone inquiry about Libby Dam land acquisition policies of the Corps of Engineers.

Research reveals that the Congress in Public Law 93-251 (enacted on March 7, 1974) limited Corps authority to acquire lands for wildlife mitigation to \$2 million and 12,000 acres.

The \$2 million has been appropriated. The Corps spent \$7,000 in Fiscal 1977. It has roughly \$1 million to spend in the current Fiscal Year, of which \$811,000 has already been dispensed for land acquisition (1,357 acres) and \$40,000 for administrative costs.

The Corps has programmed the remaining \$1 million for expenditure in Fiscal 1979. In all, it expects the \$2 million to purchase about 3,700 acres.

I am informed that all lands purchased thus far were from willing sellers. Furthermore, the agency expects to acquire the remainder of the 3,700 acres without resorting to condemnation.

Barring unexpected developments, the land acquisition program will end with expenditure of the \$2 million, even though the acreage acquired will fall far short of the upper limit of 12,000 set by Congress. The Corps is not expected to press for a greater role in the land acquisition business. If there is pressure for Congress to appropriate more money for wildlife mitigation, it would probably have to come from the State of Montana.

I hope this information will be helpful to you. I am also enclosing, as promised by my staff, copies of my letters to the Corps of Engineers, the Secretary of the Interior and the Governor of Montana on fluctuation levels on the Kootenai River.

Honorable Aubyn Curtiss
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Please let me know if I can be of further assistance.

Very truly yours,

Paul Hatfield
Paul Hatfield, U.S.S.

Enclosures

agencies have interpreted the legislation to mean mitigation only for the main dam, which is based on their reassessment since 1972.

The large acreage of land currently in Federal and State ownership has caused intense opposition - especially in Lincoln County - to further Government acquisition of privately owned lands whether by condemnation or from willing sellers. The Corps is committed along with the State to acquire from willing sellers, and condemnation procedures are not planned.

Conclusions. The Corps concurs with Montana that present funding constraints do not adequately mitigate the wildlife losses, nor will acquisition of 12,000 acres fully compensate wildlife losses. However, in view of the general negative attitude of Montanans regarding acquisition of private lands, the Corps of Engineers has been hesitant to support acquisition of lands beyond the 12,000 acres already authorized by Congress for mitigating wildlife losses.

Accordingly, the policy of the Corps regarding wildlife mitigation is as follows:

- a. Fund a biological evaluation of wildlife habitat improvement measures carried out on 7,169 acres adjacent to Lake Koocanusa.
- b. Acquire wildlife lands in fee up to limit of the funding constraint of \$2 million.
- c. Support the State if they wish to acquire up to 12,000 acres to mitigate wildlife losses for the entire Libby Project.

Fish and Game requests dam expansion regulations

HELENA (AP) — The state Fish and Game Department wants the Army Corps of Engineers to buy 9,000 acres of game range land for the state before continuing with the expansion of Libby Dam.

The department also wants the Corps to assure a minimum stream flow in the Kootenai River after the reregulating dam, about 10 miles downstream from the main dam, is completed.

The requests were made at a meeting Monday involving representatives of the department, the Corps and the state Department of Natural Resources and Conservation.

After the main dam was authorized in the 1950s, the Corps agreed to buy 12,000

acres for game range to replace land lost to the state in its construction. The Corps bought only 3,000 acres before federal funds ran out.

Work on the reregulating dam was halted in September by order of U.S. District Judge W.A. Murray of Butte in a suit filed by the Libby Rod and Gun Club, the Montana Wildlife Federation and the Montana Wilderness Association. The Corps has appealed the ruling to the 9th U.S. Circuit Court of Appeals.

Murray said he could find no evidence that Congress ever authorized construction of the reregulating dam and that there are deficiencies in the environmental impact statement for it.