

CONSERVATION FINANCE FEASIBILITY STUDY :: SEPTEMBER 2014

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# WHITEFISH, MONTANA



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THE TRUST *for* PUBLIC LAND  
LAND FOR PEOPLE

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## INTRODUCTION

The Trust for Public Land (TPL) is a national nonprofit organization dedicated to conserving land for people to enjoy as parks, gardens, and natural areas. Since 1972, TPL has conserved more than 2.4 million acres of land nationwide. In Montana, TPL has helped protect more than 539,100 acres.

To help state agencies and local governments acquire land, TPL assists communities in identifying and securing public financing. TPL's Conservation Finance program offers technical assistance to elected officials, public agencies and community groups to design, pass and implement public funding measures that reflect popular priorities. Overall, voter support of local conservation finance measures in Montana has been mixed. Roughly 71 percent of measures (10 of 14) on the ballot between 1994 and 2012 have been approved.<sup>1</sup>

In June 2013, the Trust for Public Land and the F.H. Stoltze Land and Lumber Company developed a plan to protect more than 3,000 acres of working forest lands in the Haskill Basin near the City of Whitefish. Stoltze gave The Trust for Public Land the right to purchase a conservation easement, which would allow the continued use of the Haskill Basin property for sustainable forest management and recreation, while prohibiting all future residential, industrial and commercial development. Important to the city's economy, wildlife and the recreating public, these lands are also the source of more than 75 percent of the city's drinking water supply. The easement would ultimately be conveyed to Montana Fish, Wildlife and Parks for long-term monitoring and enforcement.

There are a number of potential funding options that can be “knit together” to protect the Haskill Basin. State, federal, local, and private sources all have a role to play in achieving this conservation objective. The purpose of this study is to research the most viable local public funding options available to the City of Whitefish. Given the substantial investment of time and resources required for a successful conservation finance initiative to voters, preliminary research is essential to determine the feasibility of such an effort.

This brief report provides an examination of the options for generating and dedicating local revenue for conservation including the revenue raising capacity and costs of those financing tools.<sup>2</sup> As most options require voter approval the report also contains a summary of the pathways to the ballot and recent election history in the city. This research provides a stand-alone, fact-based reference document that can be used to evaluate all available financing mechanisms from an objective vantage point.

Next steps should include narrowing funding options to those that best match political and fiscal realities in the city and testing voter attitudes toward a specific set of funding proposals. The Trust for Public Land recommends conducting a public opinion survey that tests ballot language, tax tolerance, and program priorities of voters in Whitefish.

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<sup>1</sup> The Trust for Public Land, LandVote database.

<sup>2</sup> The contents of the report are based on the best available information at the time of research and drafting (Summer 2014), with much of the data compiled from Internet resources and direct communication with local, state and federal government agencies.

## EXECUTIVE SUMMARY

At the request of the City of Whitefish, the Trust for Public Land has undertaken a feasibility analysis to explore public funding options in the City of Whitefish to protect the Haskill Basin. In order to understand what would be an appropriate funding source or sources, this report first briefly delves into the city's background, including its fiscal status and priorities. Next, the report analyzes possible alternatives for funding a conservation land acquisition and management program, including their legal authority and revenue raising capacity. Finally, since most revenue options require approval by voters, this report provides pertinent election information, such as voter turnout history and election results for local finance measures.

In Montana, local government funding for land conservation has primarily taken the form of budget appropriations, property taxes, general obligation bonds backed by property taxes, parkland dedication through the development review process, and less frequently, impact fees. This study focuses on the options that present the best opportunities for financing in Whitefish, which are as follows:

1. Bonding. The city has ample debt capacity to issue a general obligation bond for conservation purposes and levy property taxes to pay the debt service. The bond proposal must be submitted to the city voters at a general city election, at a special election that is conducted in conjunction with a regular or primary election, or by mail ballot. **A \$3 million bond would add approximately \$200,000 to the city's annual debt service and would cost the typical homeowner an average of \$38 per year over the life of the bond (20 years).** Bond proceeds are limited to capital projects and may not be used for operations and maintenance purposes. The City Council must adopt a resolution and submit the question of a bond issue to the city voters.
2. Resort Tax. The City of Whitefish could increase the resort tax on the retail sale of lodging, restaurant and prepared food, alcoholic beverages, ski resort goods and services, and defined luxury items. **Increasing the tax to 3 percent would generate an additional \$1 million annually.** The city also could issue revenue bonds backed by a commitment of resort tax revenues. **With revenue of \$1 million a year, the city could issue just under \$10 million in debt payable over 20 years.** While the current resort tax does not expire for many years, the city could go to the voters to ask for a tax increase and/or reallocation of funds at any election.
3. Water Rates. The city could consider increasing water rates as a way to generate funds to support the purchase of a conservation easement to protect land and water in the Haskill Basin. A 5 percent increase in rates would generate approximately \$124,000 per year; **a 10 percent increase would produce roughly \$249,000 annually.** Revenues from a 10 percent increase in water rates could support a revenue bond of up to roughly \$3 million. Water rates are set by city ordinance or resolution.
4. Property Tax. The City of Whitefish may impose a new mill levy by submitting the question to electors at a regular, primary, or special election. **A 10-mill property tax levy would generate approximately \$228,000 annually at a cost**

**of \$43 per year to the average homeowner in the city.** A mill levy must be approved by a majority of city voters.

**Next steps should include narrowing funding options to those that match the needs of the city to protect the Haskill Basin and testing voter attitudes toward a specific set of funding proposals.** TPL recommends conducting a public opinion survey that tests ballot language, tax tolerance, and program priorities of voters in Whitefish.

## BACKGROUND

### Overview

Whitefish, Montana is located in the northwest portion of the state in Flathead County. The city is situated at the south end of Whitefish Lake with views of the Whitefish Mountain Range to the north, Glacier National Park to the east as well as mountain views to the west and south. Glacier National Park is located 25 miles east of Whitefish. Additionally, the city is closely situated to the Flathead National Forest and state forest lands both providing outdoor recreation activity.

Abundant lakes and streams are present in Whitefish area. The watershed that surrounds and drains into Whitefish Lake comprises approximately 151 square miles (97,000 acres) of mostly U.S. Forest Service, State Forest lands, and privately owned forestland. Whitefish Lake itself covers approximately 5 square miles (3,299 acres). The Haskill Basin property, owned by the F. H. Stoltze Land and Lumber Company, is just outside of the city boundaries and occupies roughly 28 percent of the entire watershed.

The City of Whitefish gets more than 75 percent of its municipal water supply from the Haskill Basin property, diverting water from intakes that it maintains, but does not own, on Second and Third Creeks and piping it down to a reservoir and treatment plant just north of downtown. Development of Stoltze's Haskill Basin property would dramatically increase the potential for sedimentation and septic leachates ending up in the city's water supply and thus forcing the city to incur higher treatment costs. At present, these costs are very low because the water being drawn from Haskill Creek is exceptionally clean.

Development that leads to excessive sedimentation and contamination could also force the city to stop diverting water from Haskill Creek altogether. This would compel the city to pump all of its water out of Whitefish Lake, which has a much higher turbidity level and suspended sediment load. The cost of doing so would be high, with the city estimating that the increased treatment and pumping costs would add almost \$1 million to its annual operating budget.

The proposed conservation easement on this property would allow the continued use of the Haskill Basin for sustainable forest management, while prohibiting all future residential, industrial, and commercial development. The terms of the easement allow for the property to remain accessible to the public for hunting, fishing, hiking, mountain biking, cross country skiing, horseback riding, and other outdoor recreational activities.

If the proposed easement fails, the Haskill Basin could be sold for development. High-end development in and around the adjacent Whitefish Mountain Resort remains strong. Immediately next door, the 820-acre, 316-lot Iron Horse subdivision continues to see new construction of residences and vacation homes. Much of the Haskill Basin is a mirror-image of the land that was subdivided for the Iron Horse community, making it a desirable property for development.

### Population and Housing

According to U.S. Census data, the population of Whitefish grew by 26 percent from 2000 to 2010. This compared to a 22 percent growth rate for Flathead County and 9.1 percent for the State of Montana. Due to the economic downturn that began in 2008, it is projected that the rate of

growth for the next decade for the county will be slightly lower and average about 1.8 percent a year. Based on an annual average rate of growth of 1.8 percent per year, the population for both the city and the surrounding planning area is projected to be around 15,121 people by the year 2030. The 2010 population of Whitefish was 6,357.

Whitefish has a higher proportion of renters compared to the rest of the state. In 2010, 48 percent of housing units were renter occupied compared to 32 percent renter occupancy rate for the rest of the state. Whitefish also has a significant number of seasonal/recreational housing. According to the 2010 Census, there were 773 seasonal units in the city. This comprised about 19 percent of all housing units. Total housing units are estimated at 4,068.

## Economy

Whitefish’s economy is largely tourism based. Building, retail and many seasonal endeavors lead the local economy along with railway and logging industries. Whitefish Mountain Resort is a destination ski area located within minutes of the downtown.

According to the U.S. Census – American Community Survey, the median household income in Whitefish in 2011 was \$41,940 compared to \$45,324 for the State of Montana and \$45,588 for Flathead County. Median income in Whitefish is likely to be lower than the county due to the high number of rental units located within the city limits that are providing housing for service workers. The median household income for Whitefish is higher than the other incorporated cities in the county.

## Governance

The City of Whitefish is governed by a mayor and six council members elected in a non-partisan vote of the city electorate every two years. Council members serve four-year overlapping terms. The current council members and the expiration of their terms of office are listed in the chart to the right. Elections for city government are held in November of odd years. Three seats were on the November 2013 ballot.<sup>3</sup> Andy Feury, Pamela Barberis, and Jennifer Frandsen began their terms in January 2014.

Whitefish Mayor and City Council	
Name	Term Expires
John Muhlfeld, Mayor	Jan. 2016
John Anderson	Jan. 2016
Pam Barberis	Jan. 2017
Andy Feury	Jan. 2017
Jan Frandsen	Jan. 2017
Richard Hildner	Jan. 2016
Frank Sw eeeney	Jan. 2016

## Fiscal Status<sup>4</sup>

As the focus of this report is the feasibility of dedicating additional public funds for land conservation it is important to consider the fiscal status of the city and potential future demand for public funding for other priorities. The Whitefish City Council unanimously approved the city’s \$36.3 million budget (including transfers) at their August 19 meeting. The fiscal year 2014 budget includes a slight reduction in the tax rate, pay raises for city workers, and funding to hire a few new employees. The budget includes a property tax mill levy of 119.8, which is a slight decrease from

<sup>3</sup> <http://cityofwhitefish.org/mayor-and-city-council/contact-mayor-and-council.php>

<sup>4</sup> City of Whitefish FY 2014 Final Budget; 2012 Audit Report.

last year's levy of 120.4 mills. The year-end cash balance for the fiscal year is projected to be 11.5 percent of expenditures, compared to 10 percent in FY 2013. The increase translates to a cash balance of \$1.06 million in property tax supported funds.

Total revenues for all funds are budgeted at \$25,658,543 which is \$511,433 or 2.03 percent higher than the FY13 budget. Most of these increases are from additional property tax revenue because of a higher mill value, higher Fire and Ambulance revenues (mostly from new debt), higher Resort Tax revenues, higher Tax Increment Revenues, and higher Water and Wastewater system revenues from the possibility of \$1,704,000 of State Revolving Fund loans to finance projects.

Total General Fund Revenues are projected at \$3,288,323 in FY14 which is a \$141,294 or a 4.49 percent increase from last year. Property tax revenues are 1.69 percent higher because of a higher valuation. Planning and Zoning fees are expected to increase by \$52,300. Transfers into the General Fund are \$95,425 higher than last year because of higher Resort Tax revenues.

A rate increase in water and wastewater usage charges in October 2013 and changes to billing procedures and other fees during the same time will result in increased revenues for the Water, Sewer, and Garbage Funds<sup>5</sup>. In addition, in November 2012 the city restructured most of its water and sewer debt to a lower rate, saving the city over \$720,000 over the next 17 years and reducing the net operating revenue requirement (coverage) in these funds.

The tax increment fund, a special revenue fund that was established in 1987 is used to account for urban renewal activities within the boundaries of the Whitefish Tax Increment District. In accordance with state law tax increment districts must be terminated 15 years after their creation or at a later date necessary to pay all bond obligations for which the tax increment was pledged. Based upon the bond obligations, termination of the district is projected to be July 2021.

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<sup>5</sup> Water and sewer increased 5.7%; garbage rates increased 3%. Source: personal conversation with City Mgt. Chuck Stearns, 11/21/13.

# CITY FINANCING OPTIONS

## Choosing a Funding Strategy

Generally, there are three primary types of revenue sources available to local governments to pay for parks and land conservation: discretionary annual spending, creation of dedicated funding streams, and debt financing. The financing options utilized by a community will depend on a variety of factors such as taxing capacity, budgetary resources, voter preferences, and political will.

Significant, dedicated funding generally comes from broad-based taxes and/or the issuance of bonded indebtedness, which often require the approval of voters. In TPL's experience, local governments that create funding via the legislative process provide substantially less funding than those that create funding through ballot measures. As elected officials go through the process of making critical budgetary decisions, funding for land conservation often lags behind other public purposes, and frequently less than what voters would support. It is understandably often difficult to raise taxes without an indisputable public mandate for the intended purpose.

The power of conservation finance ballot measures is they provide a tangible means to implement a local government's vision. With their own funding, local governments are better positioned to secure scarce funding from state or federal governments or private philanthropic partners. Having a predictable funding source empowers the city or county to establish long-term conservation priorities that protect the most valuable resources, are geographically distributed, and otherwise meet important community goals and values.

Nationwide, a range of public financing options has been utilized by local jurisdictions to fund parks and open space, including general obligation bonds, the local sales tax, and the property tax. Less frequently used mechanisms have included special assessment districts, real estate transfer taxes, impact fees, and income taxes. The ability of local governments to establish dedicated funding sources depends upon state enabling authority. In Montana, local government funding options for land conservation have primarily taken the form of budget appropriations, property taxes, general obligation bonds backed by property taxes, parkland dedication through the development review process, and less frequently, impact fees. Many communities also have had success in leveraging local sources with funds from some federal conservation programs. Overall, voter support of local conservation measures in Montana has been fairly strong. Roughly 71 percent of measures (10 of 14) on the ballot between 1994 and 2012 have been approved. Most recently, in November 2012, voters in the City of Bozeman approved a \$15 million bond for parks and trails with 73 percent approval.<sup>6</sup> A summary of local conservation finance measures is provided in Appendix A.

Some of the specific finance options available in Whitefish for the purchase of an easement on the Haskill Basin are described on the following pages. The options are further summarized in Appendix B. The authority for the city to purchase land or easements "anywhere in the state" for land conservation and open space is provided in state law by the Open-Space Land and Voluntary Conservation Easement Act.<sup>7</sup>

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<sup>6</sup> Trust for Public Land, LandVote database.

<sup>7</sup> MCA §76-6-103; 76-6-106.

## Bonds

To raise funds for capital improvements, such as land acquisition or building construction, counties and municipalities in Montana may issue bonds.<sup>8</sup> There are two main types of bonds: general obligation (“GO”) bonds, which are guaranteed by the local taxing authority, and revenue bonds that are paid by project-generated revenue or a dedicated revenue stream such as a particular tax or fee. Generally, bond proceeds are limited to capital projects and may not be used for operations and maintenance purposes.<sup>9</sup>

Whitefish carries debt from revenue bonds and loans from the State Revolving Fund (SRF) for infrastructure. The SRFs are covered in greater detail in Appendix C. A special revenue fund that was established in 1987 is used to account for urban renewal activities within the boundaries of the Whitefish Tax Increment District. The city has bonded against this revenue stream, most recently for the construction of the Emergency Services Center. In 2009, the city received an A- and stable rating on this bond issue from Standard and Poor’s rating agency. The city has no G.O. bonds.<sup>10</sup>

## General Obligation Bonds

Montana state law limits general obligation bonded debt for general purposes to 2.5 percent of the total market value (TMV) of property, or roughly \$29 million in Whitefish. G.O. bonds are limited to a term of 20 years.<sup>11</sup>

### Issuing GO bonds for land conservation

The table to the right illustrates the estimated annual debt service, required property tax rate per \$1,000 of assessed valuation, and annual household cost of various general obligation bond issue amounts for open space and water protection purposes. **For example, a \$3 million bond would add roughly \$200,000 to the city’s annual debt service and would cost the typical homeowner an average of \$38 per year over the life of the bond (20 years).**

Bond Financing Costs for Whitefish			
20-year Bond Issues at 3% Interest Rate			
2015 Taxable Value for Open Space Bonds = \$22,873,171			
Bond Issue Size	Annual Debt Svce	Mill Levy Increase	Cost/ Year/ Avg. House*
\$1,025,000	\$68,896	3.01	\$13
\$2,025,000	\$136,112	5.95	\$26
\$3,025,000	\$203,328	8.89	\$38
\$5,025,000	\$337,759	14.77	\$64
\$10,025,000	\$673,837	29.46	\$127

\*Median home assessed value = \$175,000; taxable value = \$4,323  
Sources: FY15 Adopted Budget, p13 & City Mgr AV estimate.

TPL’s bond cost calculations provide an estimate of debt service, tax increase, and cost to the average homeowner in the community of potential bond issuances for parks and land conservation. Assumptions include the following: the entire debt amount is issued in the first year and payments are equal until maturity; 20-year maturity; and 3 percent interest rate. Property tax estimates assume that the city would raise property taxes to pay the debt service on bonds, however other revenue streams may be used. The cost per household represents the average annual impact of increased property taxes levied to pay the debt service. The estimates do not take

<sup>8</sup> E.g., §36.89.040.

<sup>9</sup> Federal IRS rules governing the issuance of tax-exempt bonds limit the use of proceeds to capital purposes such that only a small fraction of bond funds may be used for maintenance or operations of facilities. State and local laws may further limit the use of bond proceeds.

<sup>10</sup> City of Whitefish 2014 Budget.

<sup>11</sup> MCA §7-7-4202 and §7-7-4205

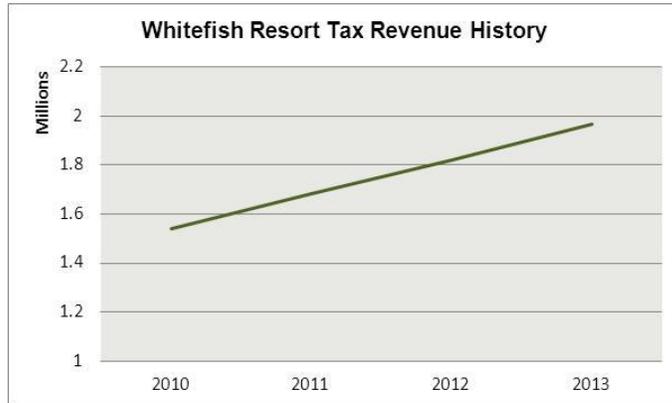
into account growth in the tax base due to new construction and annexation over the life of the bonds. The jurisdiction’s officials, financial advisors, bond counsel and underwriters would establish the actual terms of any bond.

### Process for implementation

The City Council must adopt a resolution and provide that the question be submitted to the city voters at the next general city election, at a special election that is conducted in conjunction with a regular or primary election, or by mail ballot. A *mail* ballot may not be conducted if another regularly scheduled or special election in the political subdivision is taking place at the polls on the same day).<sup>12</sup> The resolution must state the purpose, the amount of bonds, and the number of years to maturity. Notice of the proposed election shall also be published, as required by state statute.<sup>13</sup> Approval or rejection of the bond proposition is made by a majority of the votes cast on the issue.<sup>14</sup>

### Resort Tax<sup>15</sup>

Due to the impacts from tourism, the City of Whitefish is authorized under Montana Code Annotated to collect a resort tax on sales at motels, bars and restaurants, and retail establishments. Whitefish’s resort tax is a 2 percent tax on the retail sale of lodging, restaurant and prepared food, alcoholic beverages, ski resort goods and services, and defined luxury items. The resort tax was first collected in FY 1995/1996.



Except for the economic downturn in the years 2009 and 2010, the collections have steadily increased. Collections in the most recent fiscal year of 2012/2013 rebounded and represented the highest amount of collections to date amounting to \$1,966,426 in resort tax revenue.

At the November 2004 city election, voters supported an extension of the resort tax until January 2025 with 76 percent approval. Whitefish voters allocated the use of the resort tax as follows:

- A. Property tax reduction for taxpayers residing in the city (25 percent);
- B. Provision for the repair and improvement of existing streets, storm sewers, all underground utilities, sidewalks, curbs and gutters (65 percent);
- C. Bicycle paths and other park capital improvements (5 percent)<sup>16</sup>;
- D. Cost of administering the resort tax (5 percent) per year.

Currently, resort taxes are levied by 8 jurisdictions in the state. The maximum levy is 3 percent. With a 2 percent levy, Whitefish is the only community to levy the tax at less than the maximum.

<sup>12</sup> Citizens may petition for a bond issue to be placed on the ballot. The petition must be signed by not less than 20 percent of electors.

<sup>13</sup> §7-7-4227; 13-9-104.

<sup>14</sup> §7-7-4235.

<sup>15</sup> FY 2014 Final Budget; Whitefish Parks & Recreation Master Plan draft May 2013.

<sup>16</sup> The resort tax must be spent on park development and cannot be used for maintenance.

Montana Resort Tax Communities and Areas					
Communities*			Resort Areas**		
Name	Tax Rate	Year Enacted	Name	Tax Rate	Year Enacted
Whitefish	2%	1996	St. Regis	3%	1993
Red Lodge	3%	1998	Big Sky	3%	1992
Virginia City	3%	1991	Cooke City	3%	2006
West Yellowstone	3%	1986	Craig	3%	2011

\* A community is an incorporated city or town with a population less than 5,500.  
 \*\* A Resort Area is an unincorporated area with a population less than 2,500.  
 Source: MT DOR.

### Using the resort tax for land conservation

Whitefish could consider an increase of the resort tax to the maximum allowable levy of 3 percent. **Increasing the tax from 2 percent to 3 percent would generate nearly \$1 million a year.** The local electorate must decide on the rate, the duration of the tax, the effective date, and how the revenue is to be allocated. While the current 2 percent levy does not expire for many years, the city could go to the voters for reallocation of existing funds. The city could also consider going to voter to ask for a tax increase and reallocation of funds at any election by resolution of the city council.<sup>17</sup>

In addition, the city could potentially issue revenue bonds backed by a commitment of resort tax revenues.<sup>18</sup> With revenue of \$1 million a year, the city could issue just under \$10 million in debt payable over 20 years at 5 percent interest,<sup>19</sup> as depicted in the table to the right. Annual resort tax revenue pledged for the payment of bonds must equal at least 125 percent of the average anticipated principal and interest payments due.<sup>20</sup> Resort tax revenues have not been bonded by the city to date.

Revenue Bond Debt Service Estimates			
Total Debt Issue	Interest Rate	Term/ Years	Annual Debt Service
\$3,000,000	5.0%	10	\$388,514
\$3,000,000	5.0%	20	\$240,728
\$5,000,000	5.0%	10	\$647,523
\$5,000,000	5.0%	20	\$401,213
\$10,000,000	5.0%	10	\$1,295,046
\$10,000,000	5.0%	20	\$802,426

West Yellowstone has a history of issuing general obligation bonds and using resort tax revenues to pay a portion of the debt service. The Big Sky resort area intends to issue bonds using enabling authority granted in April 2013 by the Montana Legislature. Senate Bill 209 granted bonding authority to Montana Resort Area Districts, Big Sky and St. Regis; a provision previously available only to Resort Tax Communities.

<sup>17</sup> The City of Whitefish is a qualified resort community irrespective of population changes within its boundaries (e.g. current population exceeds 5,500) and retains all of the taxing authority granted by law. 53 Opinion Attorney General No. 1 (2009) and personal communication to city manager John Phelps from Assistant Attorney General Jennifer Anders, March 29, 2010.

<sup>18</sup> Montana Code Annotated §7-6-1506. Bonds must be authorized by the board. Bonds do not constitute debt for purposes of any statutory debt limitation, provided that in the resolution authorizing the issuance of the bonds, the municipality determines that the resort tax revenue or other sources of facilities revenue, if any, pledged to the payment of the bonds will be sufficient in each year to pay the principal and interest on the bonds when due.

<sup>19</sup> Revenue bonds typically carry a higher interest rate than general obligation bonds.

<sup>20</sup> Montana Code Annotated, §7-6-1506.

## Water Rates

The City of Whitefish gets more than 75 percent of its municipal water supply from the Haskill Basin property, diverting water from intakes that it maintains, but does not own, on Second and Third Creeks and piping it down to a reservoir and treatment plant just north of downtown. Development of Stoltze’s Haskill Basin property would dramatically increase the potential for sedimentation and septic leachates ending up in the city’s water supply and thus forcing the city to incur higher treatment costs. At present, these costs are very low because the water being drawn from Haskill Creek is exceptionally clean.

Development that leads to excessive sedimentation and contamination could also force the city to stop diverting water from Haskill Creek altogether. This would compel the city to pump all of its water out of Whitefish Lake, which has a much higher turbidity level and suspended sediment load. The cost of doing so would be enormous, with the city estimating that the increased treatment and pumping costs would add almost \$1 million to its annual operating budget.

The city could consider increasing water rates to generate funds to pay for a conservation easement to protect land and water in the Basin. According to City Manager Chuck Stearns, current water rates generated \$2,486,936 in FY 2013. A 5 percent increase in rates would generate approximately \$124,000 per year; **a 10 percent increase would produce roughly \$249,000.** Revenues from a 10 percent increase in water rates could potentially support a revenue bond of up to roughly \$3 million. This estimate assumes that the city could get a State Revolving Fund loan with a favorable interest rate of 2.5 percent.. The potential for this project to qualify for Montana SRF loans, including principal forgiveness, is explored further in Appendix C.

Municipal governments operating a water or sewer system have the authority to establish and collect rates by ordinance or resolution. The City of Whitefish increased water and wastewater usage charges in October 2012. No further increases to the rates are anticipated for FY 2014. In addition, the city may issue bonds in an amount above that generally authorized (2.5 percent of total market value) for water and sewer purposes. Bonds backed by the full faith and credit of the city require approval of voters, but revenue bonds supported by rates or fees may be issued by resolution of the city council.<sup>21</sup>

Revenue Bond Debt Service Estimates			
Total Debt Issue	Interest Rate	Term/ Years	Annual Debt Service
\$1,000,000	2.5%	20	\$64,147
\$2,000,000	2.5%	20	\$128,294
\$3,000,000	2.5%	20	\$192,441
\$3,750,000	2.5%	20	\$240,552

Finally, the city is authorized to procure appropriate water rights and the necessary real property or easements to make an adequate water supply available and may use revenues from consumers for this purpose.<sup>22</sup>

## Property Taxes

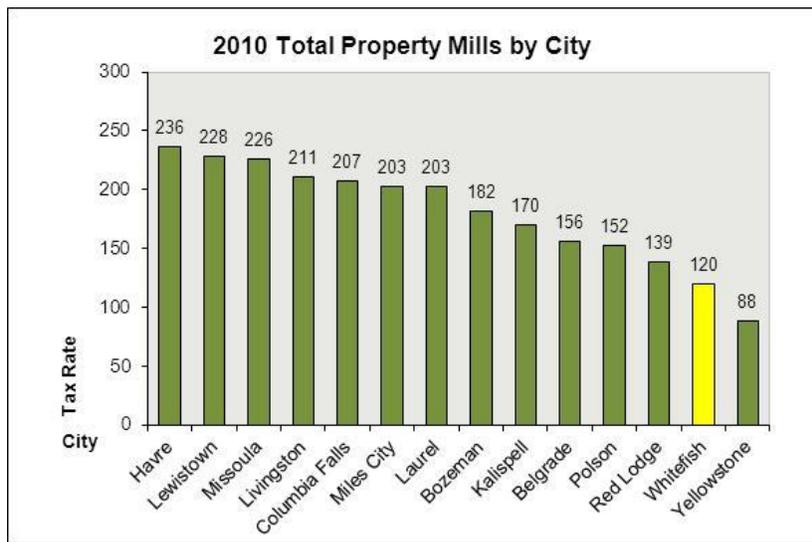
The property tax is one of the largest tax revenue sources for many local jurisdictions, including Whitefish. In Montana, property taxes are levied by the state, local governments, schools, and special districts. Local taxing entities may impose a new mill levy by conducting an election at a

<sup>21</sup> MCA, §7-13-4304.

<sup>22</sup> MCA, §7-13-4405; 7-13-4406.

regular, primary or special election.<sup>23</sup> Property tax levies may be imposed in mills and tenths and hundredths of mills,<sup>24</sup> and a mill is equal to \$1 per \$1,000 of assessed value. The Whitefish budget for fiscal year 2014 imposes a mill levy of 119.8 mills per \$1,000 of assessed value.<sup>25</sup>

The chart below shows that the Whitefish city levy is fairly low in relation to comparable communities in the state. Whitefish has historically had very low property tax mill levy rates because of the Resort Tax rebate for property tax reductions, high property valuations, and maintenance district assessments. West Yellowstone and Red Lodge also utilize Resort Taxes as an alternative or supplement to property taxes.



### Using the property tax for land conservation

The chart below provides the estimated revenue and costs of additional mill levies that could be implemented for land conservation in the City of Whitefish. **For example, a 10-mill property tax levy would generate approximately \$228,000 annually at a cost of \$43 per year to the average homeowner in the city.**

Estimated Revenue & Costs of Property Tax Increase					
Mill Levy Increase	Value of One Mill	Annual Revenue	Cost / Avg. House*	Cost / \$100K House	Cost / \$200K House
5.00	\$22,873	\$114,365	\$22	\$7	\$13
10.00	\$22,873	\$228,730	\$43	\$13	\$26
20.00	\$22,873	\$457,460	\$86	\$26	\$52
25.00	\$22,873	\$571,825	\$108	\$33	\$65

*Median home assessed value = \$175,000; taxable value = \$4,323*  
*Sources: FY15 City Budget, & City Manager.*

<sup>23</sup> §15-10-425 (containing mill levy election requirements).

<sup>24</sup> §15-10-201.

<sup>25</sup> City of Whitefish 2014 Adopted Budget.

Whitefish may impose a new mill levy by submitting the question to electors. Such an election may be held in conjunction with a regular or primary election or may be a special election. The governing body must pass a resolution, amend its self-governing charter, or receive a petition indicating intent to impose a levy on the approval of a majority of the qualified electors voting in the election.

The resolution or petition must include:

- the specific purpose for which the additional money will be used; and
- the specific amount to be raised and the approximate number of mill imposed; or
- the specific number of mills required; and the approximate amount to be raised;
- whether the levy is permanent or the durational limit on the levy.

The form of the ballot must reflect the content of the resolution or charter amendment and must include a statement of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.<sup>26</sup>

If a majority of electors approve the additional mill levy, the governing body is authorized to impose the levy in the amount specified in the resolution.

## Water Quality District

Finally, Whitefish could explore the feasibility of creating a local water quality district. The Montana Local Water Quality District Act authorizes counties to establish districts to protect, preserve, and improve the quality of surface water and groundwater. Funding comes from an annual fee on all property using water or producing waste. Businesses using larger volumes are assessed a higher fee which cannot exceed 50 times the residential fee. The Local Water Quality District Act was passed by the Montana State Legislature in 1991.<sup>27</sup> The unique aspects of a LWQD include its ability to cover a municipality (if the municipality concurs with the establishment of the district), its ability to enforce the Montana Water Quality Act in coordination with the Montana Department of Environmental Quality, and the oversight functions that the Montana Board of Environmental Review has on the district's water quality program.

The goal of a LWQD is to protect, preserve, and improve the quality of surface water and groundwater within the district. Lewis and Clark County set up the first LWQD for the Helena Valley watershed in 1992. A year later, Missoula County set up a LWQD covering the Missoula Valley Sole Source Aquifer. Butte/Silver Bow established a LWQD in 1995. Gallatin County formed a LWQD covering the Gallatin Valley at Bozeman. Flathead, Lake, and Ravalli counties also have explored the possibility of district formation.

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<sup>26</sup> MCA §15-10-425

<sup>27</sup> MCA, §7-13-4502.

### Process for implementation<sup>28</sup>

The County Commissioners may initiate the creation of a district by holding a public meeting, passing a resolution of intention, and providing an opportunity for owners of fee-assessed units to protest. If the owners of more than 20 percent of the units in the proposed district protest the creation of the district and the fees proposed to be charged, the commissioners are barred from further proceedings on the matter unless they submit the issue to a referendum of the registered voters who reside within the proposed district.

Like other county districts LWQD's have a board of directors and funding from user fees collected annually with county taxes and fees. Districts are authorized to acquire land necessary to implement their water quality programs.

The near-term advantage of creating a water quality district lies in encompassing a larger population base (i.e. tax base) to support the cost of protecting the Haskill Basin. Further research is needed to propose the boundaries of the district, the number of potential fee-assessed units to be included in the district, and to estimate the fees. Potential drawbacks to this approach include the tension between the city, Flathead County, and residents of the “doughnut” – the two-mile planning area around the city that would likely be included in a LWQD. Ongoing debate over jurisdiction over the doughnut has been the focus of considerable controversy and litigation.

## ELECTION ANALYSIS

Whitefish holds a general city election on the first Tuesday following the first Monday in November in odd-numbered years (statewide and county general elections are held in even-numbered years). In addition, the city council may call a special city election that is conducted in conjunction with a regular or primary election, or by mail ballot (a mail ballot may not be conducted if a regularly scheduled or special election when another election in the political subdivision is taking place at the polls on the same day).

The dates for 2014 (general) and 2015 elections are listed in the chart to the right. Ballot issues must be certified 75 days prior to the election. The deadline for certifying a measure to the November 2015 election is August 20th. Absentee ballots and voter information must be mailed no later than October 5, 2015

NEXT REGULAR ELECTIONS OCCUR AS FOLLOWS:		
General Election	First Tuesday after the first Monday in November.	4-Nov-14
School Election	First Tuesday after the first Monday in May.	5-May-15
Rural Fire District Elections	First Tuesday after the first Monday in May.	5-May-15
Municipal Primary	Tuesday follow ing the second Monday in September.	15-Sep-15
General Election	First Tuesday after the first Monday in November.	3-Nov-15

<sup>28</sup> MCA 7-13-4502 – 4523.

## Voter Registration and Turnout

As of November 2013, the City of Whitefish had 4,903 registered voters. If the city wants to consider pursuing a ballot measure to establish funding for land conservation, it is important to examine the potential turnout. The table to the right shows voter turnout for the past few city elections.

Whitefish Voter Turnout			
Date	Regist. Voters	Ballots Cast	% Turnout
Nov-13	4,903	1,353	28%
Nov-11	4,402	2,318	53%
Nov-09	4,714	1,981	42%
Aug-08	3,403	1,640	48%

## Election Results

A review of local election news coverage of the past few years indicates that there have been few recent major city finance propositions before voters. However, the local school districts have put several funding measures on the ballot, all of which were approved by voters. A city open space measure in 2007 failed at the ballot. The county-wide open space bond measure in 2008 was rejected by voters, but the measure did receive 54 percent of the vote in the 7 precincts encompassing the City of Whitefish. Results are summarized in the chart below.

Whitefish Public Spending Election Results (selected examples since 2007)				
Date	Measure	Description	Results	%Yes
Mar-12	Bond	High School (\$14M)	Pass	65%
May-11	Levy	High School	Pass	61%
May-11	Levy	Elementary Schools	Pass	61%
Nov-08	Bond	Flathead County Open Space Bond (\$10M)	Fail	44%
		<i>Whitefish precincts result for county bond</i>	<i>Pass</i>	<i>54%</i>
Nov-08	Levy	Whitefish Fire & Ambulance Levy (24 mills)	Pass	62%
Nov-07	Bond	Whitefish Bond to purchase land for city beach (\$3.2M)	Fail	43%

## CONCLUSIONS

There are a number of potential funding options that can be “knit together” to protect the Haskill Basin. State, federal, local, and private sources all have a role to play in achieving this conservation objective. Next steps should include narrowing funding options to those that best match political and fiscal realities in the City of Whitefish and testing voter attitudes toward a specific set of funding proposals. The Trust for Public Land recommends conducting a public opinion survey that tests ballot language, tax tolerance, and conservation priorities of voters in Whitefish.

## APPENDICES

## Appendix A

### Local Conservation Finance Ballot Measures

Local Conservation Finance Ballot Measures - 1994 to 2012					
Jurisdiction Name	Date	Description	Funds		
			Approved	Status	% Yes
Bozeman	Nov-12	Bond for parks, trails and natural areas	\$15,000,000	Pass	73%
Cascade County	Nov-08	Bond to purchase 233 acres on air force base		Fail	37%
Flathead County	Nov-08	Bond for the protection of natural areas including watersheds, farmland, open space, and wildlife habitat		Fail	44%
Lewis & Clark County	Nov-08	Bond for the preservation of open space and farmland	\$10,000,000	Pass	51%
Whitefish	Oct-07	Bond to expand a beachfront and park		Fail	43%
Missoula County	Nov-06	Bond for the preservation of open space	\$10,000,000	Pass	71%
Ravalli County	Nov-06	Bond to purchase farmland and open space	\$10,000,000	Pass	58%
Gallatin County	Nov-04	Bond for open space	\$10,000,000	Pass	63%
Great Falls	Nov-03	Bond for soccer fields	\$2,500,000	Pass	51%
Gallatin County	Nov-00	Bond issue to purchase land and conservation easements	\$10,000,000	Pass	59%
Helena	Nov-96	Open Space Bond, Bond for Parks, Recreation, Open Space, Trails	\$5,000,000	Pass	51%
Missoula	Nov-95	Bond issue for open space acquisition	\$5,000,000	Pass	66%
Missoula County	Nov-94	Bond to establish an open space acquisition fund		Fail	40%
Missoula County	Jun-94	Bond to establish an open space acquisition fund		Pass*	55%
			\$77,500,000		

*\*Results were nullified due to insufficient voter turnout.*

## Appendix B

### Local Revenue Options Summary

Revenue Option	Description and Generating Potential	Implementation Process	Comments																
<b>G.O. Bonds</b>	<table border="1"> <thead> <tr> <th><i>Bond Issue</i></th> <th><i>Debt Service</i></th> <th><i>Mills Req'd</i></th> <th><i>Avg House</i></th> </tr> </thead> <tbody> <tr> <td>\$3 million</td> <td>\$203,328</td> <td>8.89</td> <td>\$38</td> </tr> <tr> <td>\$10 million</td> <td>\$673,837</td> <td>29.46</td> <td>\$127</td> </tr> </tbody> </table> <p>The debt service figures for the proposed bond issue above are based upon a general obligation bond issued for 20 years at 3 percent interest. This rate is only used for illustration. City officials, its financial advisors, bond counsel and underwriters would establish the actual terms of any bond issue.</p>	<i>Bond Issue</i>	<i>Debt Service</i>	<i>Mills Req'd</i>	<i>Avg House</i>	\$3 million	\$203,328	8.89	\$38	\$10 million	\$673,837	29.46	\$127	<p>The city has ample debt capacity to issue bonds for the purchase of a conservation easement.</p> <p>Voter approval is required.</p>	<p>The city has no outstanding general obligation debt.</p> <p>Bonds raise substantial amounts of money, enabling the city to make important acquisitions now while land is available. Costs would be spread out over a long time horizon, and therefore costs borne by both current and future beneficiaries.</p> <p>Bond proceeds may not be used to fund ongoing expenses.</p>				
<i>Bond Issue</i>	<i>Debt Service</i>	<i>Mills Req'd</i>	<i>Avg House</i>																
\$3 million	\$203,328	8.89	\$38																
\$10 million	\$673,837	29.46	\$127																
<b>Resort Tax</b>	<p>The city could increase the existing 2 percent resort tax to the maximum 3 percent rate. This increase would generate roughly \$1 million annually. The revenue stream could be bonded.</p> <table border="1"> <thead> <tr> <th><i>Bond Issue</i></th> <th><i>Debt Service</i></th> <th><i>Years</i></th> <th><i>Interest rate</i></th> </tr> </thead> <tbody> <tr> <td>\$5 million</td> <td>\$401,213</td> <td>20</td> <td>5%</td> </tr> <tr> <td>\$10 million</td> <td>\$802,426</td> <td>20</td> <td>5%</td> </tr> </tbody> </table> <p>The debt service figures for the proposed bond issue above are based upon a revenue bond issued for 20 years at 5 percent interest. This rate is only used for illustration. City officials, its financial advisors, bond counsel and underwriters would establish the actual terms of any bond issue.</p>	<i>Bond Issue</i>	<i>Debt Service</i>	<i>Years</i>	<i>Interest rate</i>	\$5 million	\$401,213	20	5%	\$10 million	\$802,426	20	5%	<p>The city council must refer the question of raising the resort tax and how it would be allocated to the voters.</p>	<p>The current resort tax expires in 2025.</p> <p>The tax generates significant revenues.</p> <p>Whitefish is the only resort community/area to levy the tax at a rate below the authorized maximum.</p> <p>Revenue bonds usually carry a slightly higher interest rate than general obligation bonds.</p>				
<i>Bond Issue</i>	<i>Debt Service</i>	<i>Years</i>	<i>Interest rate</i>																
\$5 million	\$401,213	20	5%																
\$10 million	\$802,426	20	5%																
<b>Water Rates</b>	<p>City water rates could be increased to support a revenue bond and/or a State Revolving Fund loan. A 10 percent increase in rates, for example, would generate \$249,000 annually.</p> <table border="1"> <thead> <tr> <th colspan="4"><i>SRF</i></th> </tr> <tr> <th><i>Bond Issue</i></th> <th><i>Debt Service</i></th> <th><i>Years</i></th> <th><i>Interest rate</i></th> </tr> </thead> <tbody> <tr> <td>\$3 million</td> <td>\$192,441</td> <td>20</td> <td>2.5%</td> </tr> <tr> <td>\$3.75 million</td> <td>\$240,552</td> <td>20</td> <td>2.5%</td> </tr> </tbody> </table>	<i>SRF</i>				<i>Bond Issue</i>	<i>Debt Service</i>	<i>Years</i>	<i>Interest rate</i>	\$3 million	\$192,441	20	2.5%	\$3.75 million	\$240,552	20	2.5%	<p>The city council establishes rates by ordinance or resolution.</p>	<p>There is a clear nexus between the revenue source (water users) and the purpose (protecting the water source.)</p> <p>Rates are set administratively, voter approval is not required.</p> <p>Rates were recently increased in 2012.</p>
<i>SRF</i>																			
<i>Bond Issue</i>	<i>Debt Service</i>	<i>Years</i>	<i>Interest rate</i>																
\$3 million	\$192,441	20	2.5%																
\$3.75 million	\$240,552	20	2.5%																
<b>Property Tax</b>	<p>Whitefish could impose a property tax to raise revenue for land conservation.</p> <table border="1"> <thead> <tr> <th><i>Mills</i></th> <th><i>Revenue Raised per Year</i></th> <th><i>Annual Cost for Avg Homeowner</i></th> </tr> </thead> <tbody> <tr> <td>10</td> <td>\$228,730</td> <td>\$43</td> </tr> <tr> <td>20</td> <td>\$457,460</td> <td>\$86</td> </tr> </tbody> </table>	<i>Mills</i>	<i>Revenue Raised per Year</i>	<i>Annual Cost for Avg Homeowner</i>	10	\$228,730	\$43	20	\$457,460	\$86	<p>A mill levy must be approved by a majority of voters in the city at an election.</p>	<p>A property tax would create a dedicated funding source.</p> <p>Funds will accumulate over time.</p> <p>Whitefish's property taxes are very low compared to other cities in the state due to resort tax revenues.</p>							
<i>Mills</i>	<i>Revenue Raised per Year</i>	<i>Annual Cost for Avg Homeowner</i>																	
10	\$228,730	\$43																	
20	\$457,460	\$86																	

## Appendix C

### Montana State Revolving Funds Summary

The Montana State Revolving Fund programs provide financing for a variety of water quality related projects in the form of at or below market interest rate loans. Generally these funds are used to finance all or a portion of a project’s cost or to buy or refinance debt obligations, but these loans can also serve as matching funds for a variety of grant programs.

The Water Pollution Control (WPCSRF) and the Drinking Water State Revolving Fund (DWSRF) programs are jointly administered by the Montana Department of Environmental Quality (DEQ) and the Department of Natural Resources and Conservation (DNRC). The DEQ ensures that application requirements are met and sets project priorities, and the DNRC ensures loan security and issues general obligation bonds in order to match Montana’s federal capitalization grant by at least 20%.<sup>29</sup>

#### Water Pollution Control State Revolving Fund

The WPCSRF program funds water pollution prevention and treatment projects in order to meet the Clean Water Act Requirements and protect public health, the environment, and water quality. Montana’s program is intended to “provide low interest loans for the planning, design, and construction of water pollution control projects.” The WPCSRF program in Montana is unique in that it allows private persons (individuals, corporations, partnerships or other non-governmental legal entities) to apply for loans as well.<sup>30</sup>

Since May 2013, \$52 million in Montana were loaned for non-point source pollution control implementation projects. These include projects that address urban stormwater or construction runoff, or protect ground water or riparian areas. The DEQ has primarily financed municipal grey-infrastructure projects, and these non-point source projects have not historically included land conservation related activities. However, the department does seem open to this and willing to lend money for these purposes.<sup>31</sup>

WPCSRF <sup>32</sup> Loan Details			
Capitalization Grant Amount, SFY 2014*	Funds Available to Loan (most current)	Loan Interest Rate (most current)	Current Maximum Loan Period
\$6.85 million	\$42.08 million	2.5% (includes a 0.25% loan loss reserve surcharge and a 0.75% administrative surcharge)	20 years (30 for disadvantaged community)
* The State matches at least 20% of the Federal Capitalization Grant and adds this to the SRFs. Montana can also transfer up to 33% between the WPCSRF and the DWSRF.			

<sup>29</sup> Montana State Revolving Fund Programs. [www.deq.mt.gov/wqinfo/srf/default.mcp](http://www.deq.mt.gov/wqinfo/srf/default.mcp).

<sup>30</sup> Water Pollution Control State Revolving Fund. [www.deq.mt.gov/wqinfo/srf/WPCSRF/default.mcp](http://www.deq.mt.gov/wqinfo/srf/WPCSRF/default.mcp).

<sup>31</sup> Paul Lavigne. Section Supervisor, Water Pollution Control Revolving Fund. Personal Communication. Oct. 9, 2013.

<sup>32</sup> Water Pollution Control State Revolving Fund Intended Use Plan and Project Priority List – DRAFT - State Fiscal Year 2015. <file:///C:/Users/BiancaS/Downloads/SFY15DraftIUP.pdf>.

**WPCSRF Subsidies and Incentives:**

States must use at least 20% and not more than 30% of the federal appropriation to provide additional subsidization (principal forgiveness, negative interest rate loans, or grants). In Montana, the WPCSRF plans to use \$559,386 in SFY 2015 (the maximum allowed) for principle forgiveness, with a maximum of \$200,000 or 25% per loan. This will be distributed to long-term projects in disadvantaged communities (based upon user rates and median household income, MHI).

At least 10 percent of the grant must be used for projects that meet the EPA criteria for “green project,” which can include green infrastructure and fee simple land acquisition or easements. In Montana specifically, at least \$685,300 will be spent on green projects in SFY 2015.

**WPCSRF Application:**

To apply, the eligible applicant first requests that their project is added to the Project Priority List (PPL) and Intended Use Plan (IUP) by filling out a form available on the DEQ website. The PPL and IUP are updated annually, and applicants can begin the process in June each year. After the project listing-request is received, the DEQ ranks the project based upon water quality or public health benefits. The approved loans are offered on a “first come basis” until the funds are all distributed. While both programs have the legal ability to fund land protection projects, they have different requirements and ranking criteria that are used to choose projects (discussed next).

For a successful application, water quality needs to be the project’s primary purpose (the EPA has established a lot of flexibility as to what water quality protection includes), and loan security needs to be clearly established.<sup>33</sup> As this property is located immediately next to the Whitefish Mountain Resort and the Iron Horse golf course community, and is considered extremely vulnerable to future development, protecting the land could address runoff issues and protect water quality. Furthermore, as the property being considered in this case is the source of 75% of the city’s municipal water supply, protecting this land protects the drinking water quality for this city.

**A note about the Drinking Water State Revolving Fund:** The DWSRF seeks to help water suppliers achieve and maintain compliance with federal and state drinking water standards and to protect Montana’s drinking water. While in some states land conservation related activities are eligible as a form of source water protection,<sup>34</sup> DWSRF funds in Montana have not been used to fund land conservation projects or purchase land. These types of activities are only allowed if the land is needed to locate a component of another eligible project (such as wastewater treatment plant or pipes).<sup>35,36</sup>

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<sup>33</sup> Ibid.

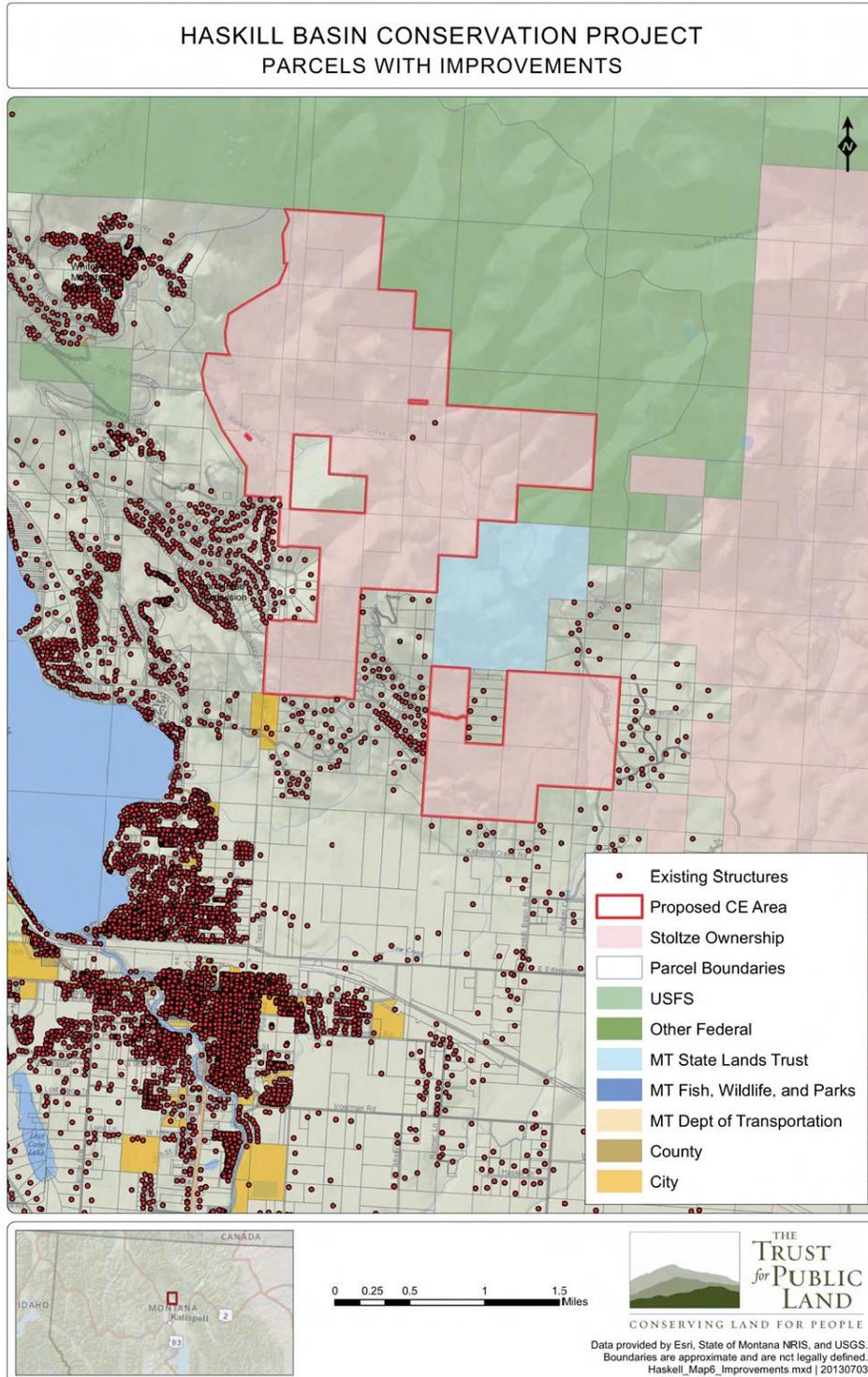
<sup>34</sup> *In addition to Source Water Protection, these projects can also often qualify as an EPA Green Project, the guidelines for which allow for fee simple purchase of land or easements on land that has a direct benefit to water quality, such as riparian protection.*

<sup>35</sup> Montana DWSRF Intended Use Plans, 2000-2013. Available at: [www.deq.mt.gov/wqinfo/srf/DWSRF/IUP-ppl/pastiluppl.mcp](http://www.deq.mt.gov/wqinfo/srf/DWSRF/IUP-ppl/pastiluppl.mcp).

<sup>36</sup> Mark Smith. Section Supervisor, Montana Drinking Water Revolving Fund. Personal Communication. Oct. 9, 2013.

# Appendix D

## Project Map



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