

**Transferring Ownership and Management of BLM Public Land Parcels
along the Snake River Corridor in Teton County, Wyoming
To Non-Federal Governmental Entities**

A Strategic Analysis on How to Proceed

Prepared for:

Teton County Board of County Commissioners

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Exhibits

- Exhibit 1** Interviews conducted by Western Land Group
- Exhibit 2** Maps of the BLM Parcels from the 2008 Snake River Corridor Management/Ownership Transfer Plan

Introduction

The Teton County Board of County Commissioners (BCC) has decided to take a lead role to effectuate ownership transfers of the remaining federally owned public land parcels managed by the U.S. Bureau of Land Management (BLM) along the Snake River Corridor to non-federal governmental entities. Such transfers are identified in the BLM's 2004 Record of Decision and Approved Resource Management Plan for the Snake River Planning Area. The transfers of these parcels will ensure they remain in public ownership and available for recreation, public access, open space, and wildlife habitat in perpetuity.

The BCC has engaged Western Land Group, Inc. (WLG) to make recommendations on the appropriate path(s) forward for each of the remaining fourteen BLM parcels and, on behalf of Teton County, execute all process-related steps necessary to complete the recommended action(s) and achieve the desired outcome(s). This report is the culmination of the first phase of this project that included: 1) a strategic review and analysis of past work to transfer ownership of the BLM parcels to non-federal ownership through review of pertinent documents; 2) preliminary property research in BLM's land records; and 3) interviews with the five county commissioners, the five entities who – along with Teton County – are parties to a Memorandum of Understanding providing for cooperative management of the Snake River Corridor; community interest groups and individuals; and neighboring landowners.

A common theme expressed in the interviews was the importance of protecting public access to public lands along the Snake River and the corridor's intrinsic value to the Teton County community. WLG found there is strong support for proceeding with a coordinated effort to transfer ownership of the BLM parcels to non-federal governmental entities as described in BLM's 2004 Approved Resource Management Plan for the Snake River Area. Many of the individuals we interviewed expressed a sense of urgency to complete the transfers and are concerned that the opportunity may pass to secure public access to these lands and protect their wildlife habitat and recreational values in perpetuity.

We believe successful resolution of the issues outlined in this report by the BCC and the Teton County community is achievable; in fact, we believe much of the groundwork has already occurred.

This report is divided into three sections. Section I provides background information on the federally owned public land parcels managed by the U.S. Bureau of Land Management (BLM), Pinedale Field Office located along a 21-mile stretch of the Snake River corridor through Jackson Hole in Teton County, Wyoming that is outside of the administrative boundaries of Grand Teton National Park and the Teton National Forest.¹ This section includes summaries of BLM's 2004 Snake River Area Resource Management Plan, the 2008 Snake River Corridor Management/Ownership Transfer Plan, and other relevant planning and management documents.

¹ The BLM parcels discussed in this report also include a parcel located in the Gros Ventre River corridor approximately 1.25 miles above the confluence with the Snake River. References to the "BLM Parcels" in the report include the parcels along the Snake River and Gros Ventre river corridors.

Section II provides parcel-specific information on the land status, resource values and management emphasis for each BLM Parcel, as well as ownership transfers that have occurred since 1999.

Section III provides Western Land Group's analysis and recommendations to the Board of County Commissioners on how to proceed with ownership transfers of the BLM Parcels.

I. Background Information on the BLM Parcels

A. Origin of the Federally owned public lands and interests in lands managed by the BLM along the Snake River Corridor²

The original surveys of the Jackson Hole area conducted in the late 1800s ended at “meander lines” established near the then-banks of the very wide, braided channel of the Snake River. At some points, this channel was a mile or more wide. these “omitted lands” (omitted from the official U.S. survey) remained in public ownership as the Jackson Hole valley was settled. As levee construction proceeded in the 1950s, the lands began to be separated from the active channel of the Snake River. In the 1970s and 1980s, after drawn-out litigation in Federal District Court, many of the “omitted” parcels were titled to the adjacent private landowners, resulting in the scattered nature of the parcels that remain in public ownership today.

For most of the parcels in which title was quieted to private landowners, recreation easements on the river channel were granted to the United States. Some of these easements include access to the riverbank levees. For the most part the public cannot use the uplands on private lands encumbered by the recreational easements; the easements generally only apply to lands in the Snake River channel that lie between the levees. The broader easements allow the public access to the levees, but never to lands upland of the levees. Later recreation easements granted were more restrictive and precluded public access to the levees. These easements do not actually enhance access to the river but allow activities on the river that are generally not allowed on navigable waters crossing private lands in Wyoming. For instance, on the Snake River through the planning area, recreationists can anchor boats, wade, hike, picnic, and fish on the river as it crosses private lands.

B. 2004 BLM Resource Management Plan for the Snake River Area

In 1999, the BLM Pinedale Field Office initiated the process to develop a Resource Management Plan (RMP) for the Snake River area in order to provide a comprehensive and environmentally adequate framework for managing and allocating uses on the scattered BLM lands – mostly along the Snake River – and federally owned mineral estate in the planning area.³ The general planning area for the Snake River RMP is the Jackson Hole area, bounded on the east, south, and west by the Bridger-Teton National Forest boundary, and on the north by the Grand Teton National Park (GTNP) boundary. This area was not included in the 1988 RMP for the Pinedale Field Office because ownership of the BLM Parcels was still in litigation at that time.

² Information in this subsection was taken from Chapter 1 of BLM’s 2003 Final Environmental Impact Statement for the Snake River Resource Management Plan.

³ Public Land Order 7143 was issued by the BLM on June 1, 1995. This order was a withdrawal of public lands and Federal minerals for the Snake River riparian lands from mineral or surface entry for a period of ten years. The purpose of the withdrawal was to protect and preserve highly significant recreation, scenic, riparian, and wildlife resources until land use planning for the area could be completed.

After completing draft and final Environmental Impact Statements and a proposed management plan, which included input from the public, the BLM issued its Record of Decision approving the Snake River RMP (ROD/Approved RMP) in April 2004. Key planning issues addressed in the ROD/Approved RMP were: cooperative management of the BLM Parcels to maintain open space and public access; providing recreational opportunities while protecting important natural resources; the mining of sand and gravel for maintaining the levees and road construction; and land ownership adjustments.

The primary land ownership adjustment issue to decide in the RMP was whether ownership of the BLM Parcels should be retained in Federal ownership. The parcels' small size, irregular shape, and scattered nature as well as their distance from the BLM Pinedale Field Office, make them difficult and costly for the BLM to manage. In addition, BLM had received many requests and expressions of interest from adjacent private landowners in purchasing the parcels.

The lands and realty management objectives in the ROD/Approved RMP are to retain existing public access to the BLM Parcels and to provide for continuing public access and use of the parcels, with actual ownership and/or management of the parcels by other Federal agencies or non-federal governmental entities. The ROD/Approved RMP states land ownership adjustments to transfer ownership of the BLM Parcels to other Federal agencies or non-federal governmental entities will be considered, with the appropriate method of conveyance to be determined based on the agency making the acquisition proposal and the proposed use of the parcel.

Conveyances of the BLM Parcels will require that the transferred lands be retained in governmental ownership, and that public access, open space, wildlife habitat, and recreation values will be maintained. Any sale, exchange, or transfer of public land will include, where appropriate, the use of conservation easements to prohibit development and preserve scenic values, wildlife habitat, and open space. Situations involving trespass on public land will be resolved, so the lands can be transferred unencumbered to other agencies or entities. The appropriate method for resolving any trespass will be determined on a case by case basis, after analysis of the specific situation.

Appendix 5 of the ROD/Approved RMP includes a table with the descriptions of 25 public land parcels in the Snake River planning area. Descriptions for five of the parcels indicate they were no longer administered by BLM and/or no longer available for transfer at the time the ROD/Approved RMP was released. Table 1 lists these five parcels.

Table 1: Parcels shown in Appendix 5 of the 2004 ROD/Approved RMP that are no longer federally owned land administered by the BLM

Parcel No.	Parcel Location	Status of Parcel
1	T42N R116W Sec 9 & 10	The parcel became part of Grand Teton National Park in the ownership litigation.
2	T42N R116W Sec 16	The parcel became part of Grand Teton National Park in the ownership litigation.
5	T42N R116W Sec 20	The parcel has eroded away.

Parcel No.	Parcel Location	Status of Parcel
25	T40N R116W Sec 34	The Wyoming Game and Fish Department acquired the parcel via a R&PP patent in 2001. It is now part of the South Park Elk Feedground.
27	T40N R116W Sec 27	The parcel is not on the river. Teton County's trash transfer station site is located on the parcel. Teton County acquired the parcel via a R&PP patent in 2001.

C. 2013 Amendment to the BLM Resource Management Plan for the Snake River Area

The 2004 ROD/Approved RMP was amended in 2013 to authorize direct land sales requested by neighboring landowners that involved all of Parcel 11 and small lots within Parcels 23 and 26. TSR Limited submitted a request in 2012 to acquire Parcel 11 (1.06 acres), a narrow 37-foot by 1,248-foot parcel that received no public use. Sewell Partners submitted a request in 2004 to acquire 0.82 acres of Parcel 23 and Evans Land & Cattle Company submitted a request in 2009 to acquire 0.13 acres of Parcel 26. The purposes of these requests were to resolve unintentional occupancy trespasses so that the remainder of these parcels could be transferred to a public governmental entity at a later date.

Although the intent of the 2004 ROD/Approved RMP is to dispose of all the BLM Parcels from Federal ownership, it did not specifically designate Parcel 11 and the two lots within Parcels 23 and 26 for sale to a non-governmental party, either by name or by legal description, as required by the FLPMA. Therefore the 2013 RMP amendment had to be processed and approved prior to the direct land sales occurring. U.S. Government patents consummating these direct sales were issued in 2014.

According to Acting BLM Pinedale Field Manager Doug Linn, there are no pending proposals or actions that would require a plan amendment to the 2004 ROD/Approved RMP.⁴

D. 2008 Snake River Corridor Management/Ownership Transfer Plan

A Task Force consisting of representatives from the BLM Pinedale Field Office, Snake River Fund, Bridger-Teton National Forest, Teton County Government, Wyoming Game and Fish Commission, and Jackson Hole Land Trust was established in fall 2004 to begin discussions on how to implement the 2004 ROD/Approved RMP for the Snake River area. These governmental agencies and non-profit organizations were interested in developing a cooperative, seamless management model for the Snake River corridor as well as a plan of action on how transfer of the BLM Parcels would occur.

⁴ Personal communication, June 26, 2020.

The Task Force, with funding from the Snake River Fund, Teton County Government and various foundations, engaged ERO Resources Corporation in 2006 to coordinate a planning process that would provide information and tools to initiate the transfer of BLM parcels to other entities, and a framework for the long-term management of these parcels as an interconnected network of public lands along the Snake River. As a first step toward eventual ownership and management recommendations, the Task Force developed a Preliminary Parcel Analysis Report that provided a detailed summary of the parcels including resource values, management issues, and existing uses. Public input and comments on the Preliminary Parcel Analysis Report was sought through a number of avenues, including stakeholder group meetings, individual landowner meetings, a public open house, and a comment period to submit written comments.

The Task Force used this input to finalize recommendations for each BLM Parcel and develop the Snake River Corridor Management/Ownership Transfer Plan. The final plan was approved and signed in November 2008 by Teton County, Wyoming; the Jackson Hole Land Trust; Wyoming Game and Fish Department; the Bureau of Land Management; the Bridger-Teton National Forest; and the Snake River Fund. In order to continue its cooperative work, entities entered into Memorandum of Understanding providing for the cooperative management of the Snake River Corridor in December 2008.

The 2008 Snake River Corridor Management/Ownership Transfer Plan (the “2008 Management/Transfer Plan”) established recommendations on the management emphasis, resource management, and future ownership of seventeen non-contiguous BLM Parcels along the Snake River Corridor.⁵ The parcel summary table from the 2008 Management/Transfer Plan is shown in Figure 1.

⁵ Parcels 9/10, 15/15, and 17/18 were each grouped together as a single parcel resulting in the 20 BLM Parcels identified in Appendix 5 of the BLM’s 2004 ROD/Approved RMP being described as 17 parcels in the 2008 Management/Transfer Plan.

Figure 1: Parcel Summary Table – Snake River Corridor Management/Ownership Transfer Plan, November 2008

Parcel Analysis

PARCEL SUMMARY TABLE

Parcel	Acres	Management Emphasis	Ownership	Resource Management
3	12	Habitat conservation, public use, and Snake River camp pilot program	Bridger-Teton National Forest with a Reversionary Clause	<ul style="list-style-type: none"> ▪ River camp monitoring ▪ Signage ▪ Noxious weeds ▪ Habitat management ▪ Incompatible uses
4	5	Public river access	Teton County with a Reversionary Clause	<ul style="list-style-type: none"> ▪ Monitoring
6	25	Habitat conservation, public use, and Snake River camp pilot program	Bridger-Teton National Forest with a Reversionary Clause	<ul style="list-style-type: none"> ▪ River camp monitoring ▪ Signage ▪ Noxious weeds ▪ Habitat management ▪ Encroachment/ Incompatible use ▪ Public use
7	78	Habitat conservation, public use, and Snake River camp pilot program	Bridger-Teton National Forest with a Reversionary Clause	<ul style="list-style-type: none"> ▪ River camp monitoring ▪ Signage ▪ Noxious weeds ▪ Habitat management ▪ Encroachment ▪ Public use
8	41	Habitat management	Wyoming Game and Fish Commission with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Dump cleanup ▪ Noxious weeds ▪ Habitat management ▪ Grazing ▪ Fencing and vehicle access ▪ Signage ▪ Public access ▪ Incompatible uses
9/10	320	Public use and habitat management	Teton County with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Public use facilities ▪ Signage ▪ Grazing ▪ Habitat conservation ▪ Gravel mining area ▪ Noxious weeds ▪ Master/Management planning
11	<1	Short-term monitoring	Disposal to adjacent private landowner	<ul style="list-style-type: none"> ▪ Monitoring
12	6	Habitat monitoring	Teton County with language allowing transfer to private property	<ul style="list-style-type: none"> ▪ Monitoring

Figure 1 (continued)

Snake River Corridor Management/Ownership Transfer Plan

Parcel	Acres	Management Emphasis	Ownership	Resource Management
13	11	Public use and habitat management	Teton County with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Signage ▪ Camping ▪ Noxious weeds ▪ Habitat management ▪ Master/Management planning
14	5	Habitat buffer	Teton County with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Monitoring
15/16	72	Habitat conservation	Wyoming Game and Fish Commission with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Monitoring
17/18	44	Habitat conservation	Wyoming Game and Fish Commission with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Monitoring ▪ Signage
19	144	Habitat conservation	Wyoming Game and Fish Commission with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Monitoring ▪ Signage
21	61	Habitat conservation	Wyoming Game and Fish Commission with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Monitoring
23	89	Public use and habitat management	Wyoming Game and Fish Commission with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Public access ▪ Signage ▪ Noxious weeds ▪ Habitat management ▪ Grazing ▪ Maintenance and law enforcement
24	2	Limited monitoring	Bureau of Land Management	<ul style="list-style-type: none"> ▪ Periodic monitoring
26	23	Public recreation area and Snake River management	Teton County with a Reversionary Clause and Conservation Easement	<ul style="list-style-type: none"> ▪ Monitoring ▪ Signage

II. Current Status of the BLM Parcels

A. Changes in land ownership status for the BLM Parcels since 2008

Only one of the seventeen BLM parcels analyzed in the 2008 Management/Transfer Plan is no longer federally owned property. As described in Section I.C. of this report, the landowner surrounding Parcel 11 submitted a request to BLM in 2012 to acquire this parcel via direct sale. Although the 2008 Management/Transfer Plan's ownership recommendation for Parcel 11 is, "disposal to adjacent private landowner," the 2004 ROD/Approved RMP did not specifically address conveyance to private ownership as a transfer option for Parcel 11. Consequently, the BLM initiated and approved an amendment to the 2004 ROD/Approved RMP in 2013 that specifically identified that Parcel 11 could be transferred to private ownership and conveyed the parcel to the landowner via United States Patent in 2014.

B. Modifications to ownership transfer recommendations in the 2008 Management/Transfer Plan

Several of the parcel-specific ownership recommendations in the 2008 Management/Transfer Plan regarding which entity the BLM Parcels would be transferred to are no longer practical. The recommendations to transfer Parcels 3, 5, and 7 to the Bridger-Teton National Forest were determined to not be feasible, as these parcels lie outside the National Forest boundary and would be difficult for the Forest Service to manage. The 2008 Management/Transfer Plan recommended that ownership of Parcels 8, 15/16, 17/18, 19, 21, and 23 should be transferred to the Wyoming Game and Fish Department (WGFD); however the Wyoming Game and Fish Commission later decided there were higher priorities for the WGFD than acquiring and managing these parcels. In 2017 the Wyoming Game and Fish Commission changed its previous position on Parcel 21 and expressed its support for WGFD to accept ownership of this parcel. Teton County has expressed interest in potentially acquiring the BLM Parcels originally identified for transfer to the Bridger-Teton National Forest and WGFD in the 2008 Management/Transfer Plan.

In summary, current thinking on transfer of the sixteen identified BLM Parcels to non-federal entities is that ownership of fourteen BLM Parcels could be transferred to Teton County (Parcels 3, 4, 6, 7, 8, 9/10, 13, 14, 15/16, 17/18, 19, 23, 24, and 26), ownership of Parcel 21 could be transferred to the Wyoming Game and Fish Department, and ownership of Parcel 12, which is recommended to be transferred to Teton County with language allowing transfer to the adjacent private landowner in the 2008 Management/Transfer Plan, could be transferred directly to the adjacent private landowner.

C. Status of efforts to transfer ownership of specific BLM Parcels

Teton County has undertaken several actions to advance the transfer of specific BLM Parcels to non-federal ownership. A summary of these actions, identified as part of WLG's research and analysis on the BLM parcel transfer project, is provided below.

BLM Parcel 9/10

Teton County and the Walton Ranch have had extensive negotiations regarding management of Parcel 9/10 after ownership of the parcel is transferred to Teton County, including future grazing on Parcel 9/10 by Walton Ranch, specific uses that would be allowed/prohibited and allowable improvements. Negotiations were put on hold in 2018 while Teton County Parks and Recreation Department undertook a master planning process for the parcel that included multiple public open houses. The master plan process stalled with no decisions made on future management.

Walton Ranch's attorney submitted a letter to the BCC in October 2019 that outlines Walton Ranch's proposal for Parcel 9/10 and has requested a meeting with the BCC to discuss the proposal.

BLM Parcel 13

In 2013, Teton County, in collaboration with partners identified in the 2008 Management/Transfer Plan, developed a site master plan for the Wilson boat ramp located on Parcel 13. The following year Teton County applied for and obtained authorization from the BLM to develop and manage improvements associated with the boat ramp facility. The authorization, in the form of a right-of-way, expires at the end of 2043. In 2017 the County's Parks and Recreation Department received approval to develop plans to improve public safety and pedestrian/vehicular circulation on the parcel as the public and outfitters stage and access the boat ramp. Proposed improvements include development of a one-way circulation road to access the ramp area, relocation and replacement of public restrooms, and add public gathering areas. The first phase of construction for these improvements is anticipated to be completed in fall 2021.

At its October 15, 2019 meeting, the BCC approved authorizing the submittal of an application to the BLM to acquire a Recreation and Public Purposes lease for Parcel 13. A lease, rather than a R&PP patent, was applied for as the planned capital improvements need to be completed before the County is eligible to obtain a patent.

BLM Parcel 14

The resolution approved by the BCC at its October 15, 2019 meeting also authorized the submittal of an application to obtain Parcel 14 through a Recreation and Public Purposes purchase. The County has requested that BLM convey a patent rather than a R&PP lease on Parcel 14 as the County has completed construction of recreation improvements on this parcel.

BLM Parcel 21

The Wyoming Game and Fish Department is interested in acquiring Parcel 21 to manage and protect the parcel's bald eagle nesting habitat, crucial big game winter range, and a movement corridor for elk. The Lockhart Ranch borders the northern and southern boundaries of Parcel 21 and also holds the BLM grazing lease on the parcel. Kelly Lockhart told WLG that he supports

the transfer of Parcel 21 to the WGFD, although his preference is for Parcel 21 to remain with BLM.

The BCC submitted a letter to Senator John Barrasso dated November 26, 2018 expressing support of the Game and Fish Commission's request for Congressional action to transfer Parcel 21 from the BLM to the WGFF. WLG confirmed with WGFD officials that the Commission's position on the transfer has not changed.

BLM Parcels 23 and 24

During the summer of 2017 Teton County, Sewell Partners, and the Jackson Hole Land Trust entered into negotiations regarding the transfer of BLM Parcels 23A, 23B, and 24 to Teton County, and a subsequent exchange of land between the County and Sewell that would result in a 4,000-foot long public park along the bank of the Snake River and consolidation of property into more logical land boundaries for both the County and Sewell.

The negotiations concluded in a draft Memorandum of Understanding (MOU) among the parties that the BCC considered at its September 5, 2017 meeting. The MOU describes the terms of the subsequent exchange of land between the County and Sewell after the BLM transfers Parcels 23A, 23B, and 24 to Teton County. The MOU states the County will convey and transfer to Sewell Parcels 23B and 24 along with those portions of Parcel 23A located west of Fall Creek Road. Sewell, in exchange for the lands the County conveys, will convey and transfer to the County property owned by Sewell located east of Fall Creek Road that is contiguous with the western and southern boundaries of Parcel 23A. Following the exchange of land, the County will place a conservation easement on Parcel 23A and the lands transferred to the County by Sewell. The conservation easement will require that these lands be managed as a public park for the purpose of allowing certain recreational uses and improvements that are consistent with the preservation of the property's wildlife and habitat values. Jackson Hole Land Trust will hold the conservation easement.

The BCC approved entering into the MOU as well as approved a resolution requesting Congressional action regarding transfer of Parcels 23A, 23B, and 24 to Teton County and the exchange contemplated in the MOU. JHLT, Sewell, and the Snake River Fund concurrently signed the resolution agreeing and affirming to the resolution's content.

BLM Parcel 26

The resolution approved by the BCC at its October 15, 2019 meeting also authorized the submittal of an application to the BLM to obtain Parcel 26 through a Recreation and Public Purposes purchase. The County has requested that BLM convey a patent rather than a R&PP lease on Parcel 26 as the County has completed construction of recreation improvements on this parcel.

D. Encumbrances affecting the BLM Parcels

WLG examined Federal lands records including Master Title Plats, BLM's Rangeland Administration System, and BLM's Legacy Rehost System (called LR2000) which contains information on BLM land and mineral use authorizations for oil, gas, and geothermal leasing, rights-of-way, coal and other mineral development, land and mineral title, mining claims, withdrawals, and classifications.

Mineral Estate

The entire subsurface mineral estate underlying BLM Parcels 7, 8, 9/10, 12, 13, 14, 15/16, 17/18, 19, 21, and 24 as well as the upland portions of BLM Parcels 23 and 26 is federally owned. None of the mineral estate underlying BLM Parcels 4 and 6 as well as the river channel portions of BLM Parcels 23 and 26 is federally owned. The only federally owned minerals underlying BLM Parcel 3 are oil and gas. There are no active unpatented mining claims and no active oil and gas leases on the BLM Parcels.

Grazing Leases

There are four active grazing leases that include all of Parcels 9/10, 15/16, 21, and 23. Table 2 provides information on these leases.

Table 2: Active Grazing Leases on BLM Parcels along Snake River Corridor

Location	Allotment No.	Allotment Name	Allotment Holder	Permitted AUMs	Acres
Parcel 9/10	WY12210	Walton Ranch	4W, LLC	62	320
Parcel 15/16	WY12215	Porter Est SR No 2115	Leeks Canyon Ranch, LLC	165	72
Parcel 21	WY12214	Porter Est SR No 3	Leeks Canyon Ranch, LLC	33	61
Parcel 23	WY12224	Snake River Lease	Sewell Partners/ Snake River Ranch	40	124

Withdrawals

WLG found only one potentially problematic withdrawal in BLM's land records that may need to be addressed before Parcels 23B, 24, and 26 can be transferred out of Federal ownership. These parcels are encumbered by Power Site Classification No. 286, a withdrawal of over 12,000 acres of land along the Snake River, primarily south of Jackson Hole on National Forest System lands. This withdrawal, created by Secretarial Order issued on July 16, 1934, may need to be partially revoked before a transfer in ownership can occur, a process that involves of the BLM National Director's Office and the Assistant Secretary for Lands and Minerals in the Department of Interior.

III. The Art of the Possible – Moving Forward with BLM Parcel Transfers

A. Community sentiment toward the Snake River Corridor and the BLM Parcels

During May and June 2020 WLG conducted telephone interviews with over 20 individuals to gather input on the current and future management of the BLM Parcels as well as issues associated with the transfer of these parcels out of Federal ownership. Exhibit 1 contains a list of who was interviewed.

WLG heard again and again that the local community sees the Snake River Corridor through Jackson Hole as a special place, greatly appreciated for the recreational opportunities and experiences it provides (floating and fishing along the river, experiencing nature and wildlife) and its intrinsic value as critical habitat and migration corridors for a variety of wildlife species. The Snake River through Jackson Hole is fundamental to the community's sense of place.

There is a high level of support for refocusing efforts to get the BLM Parcels transferred out of Federal ownership to non-federal governmental entities. Ensuring the BLM Parcels remain in public ownership and available for the public to access in perpetuity remains a top priority. There are concerns that the natural resource values, open space character, and recreational opportunities the BLM Parcels provide are at risk if the parcels are not transferred to non-federal governmental entities.

One management issue came up repeatedly in the interviews WLG conducted: if, how, and where to allow camping along the river. Strong opinions were voiced both in favor of and opposed to allowing overnight camping at designated sites on specific BLM Parcels. River camping was one of the key issues identified in the public and stakeholder meetings conducted as part of the planning process to develop the 2008 Snake River Corridor Management/Ownership Transfer Plan. The plan recommended a five-year pilot program beginning in 2011 to evaluate the feasibility of managed overnight camping at designated sites along the river. Parcels 3, 6, and 7 were identified as the best locations to initiate the pilot program due, in part, to the Bridger-Teton National Forest being identified as the most appropriate long-term ownership entity for these parcels in the plan, and because the Forest Service's multiple-use mandates are well-suited to effectively manage a balance between natural resource conservation and compatible public use. The implementation schedule for the plan called for the pilot program to run from 2011 through 2015; however, a pilot program has never occurred.

A sense of urgency exists that now is the time to make ownership transfers of the BLM Parcels happen. Agreements between non-federal governmental entities, adjacent landowners, and the Jackson Hole Land Trust on how to transfer specific parcels are in place and ready to be acted upon. Interest has also been expressed to pursue congressional legislation to direct the transfer of the BLM Parcels.

B. Using the right “tool” in the toolbox to successfully transfer ownership of the BLM Parcels

There are three ways BLM can administratively transfer ownership of BLM lands to a non-federal governmental entity:

Sale

Lands identified in Resource Management Plans as suitable for disposal can be sold at a price at not less than their fair market value. Competitive bidding procedures are typically used; however, BLM can give preference to local governments and adjoining landowners by offering the land through a modified competitive bidding process or through direct sale.⁶

Exchange

BLM and a non-federal party can exchange lands where the fair market value of federal lands being conveyed to non-federal ownership is equal to the fair market value of the non-federal lands being acquired by the Federal Government, and doing the exchange is in the public interest.⁷

Recreation and Public Purposes (R&PP) Sale

State and local governments and non-profit corporations can submit an application to acquire BLM-managed Federal land for recreation or other public purposes. Before the lands can be sold it must be shown to the satisfaction of the BLM that the land is to be used for an established or definitely proposed project and that the land involved is not more than is reasonably necessary for the proposed use. R&PP patents contain a clause that title reverts back to the Federal government if the lands are used for a different purpose than the recreation/public purpose identified at the time of conveyance, or if any portion of the lands are conveyed to another party. A benefit of acquiring Federal land through a R&PP patent is that the purchase price is set at a nominal per-acre amount.⁸

As discussed in Section I.B. of this report, the lands and realty management objectives in the 2004 ROD/Approved RMP for the Snake River planning area are to provide for continued public access and use of the parcels, with actual ownership and/or management of the parcels by other public agencies or entities. Management actions described in the 2004 ROD/Approved RMP associated with the transfer of BLM lands to other public agencies or entities include:

“(p)ublic access will be reserved under the terms of parcel disposal (transfer) (e.g., patent, deed, withdrawal, lease, cooperative management agreement)” and

⁶ BLM’s authority to sell land is described in Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713).

⁷ BLM’s authority to exchange land is described in Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

⁸ BLM’s authority to sell land for recreation and public purposes is described in the Recreation and Public Purposes Act of 1926, as amended (43 U.S.C. 869).

“any sale, exchange, or transfer of public land will include, where appropriate, the use of conservation easements to prohibit development and preserve scenic values, wildlife habitat, and open space.”

These management plan provisions, as well as the likelihood fair market value of the BLM Parcels would be too high for non-federal governmental entities to afford, make transfer of the BLM Parcels by sale or exchange unfeasible.

Transfer of the BLM Parcels through a Recreation and Public Purposes patent for all but three of the parcels is unfeasible as well.⁹ The R&PP sale authority can only be used to acquire lands with developed recreational and/or other public facilities; undeveloped open lands do not fit with the provisions of the R&PP Act. Lands conveyed by a R&PP patent cannot be used for commercial activities or other private uses, nor can conservation easements be conveyed on these lands due to the reversionary clause in R&PP patents.

WLG believes carefully crafted Congressional legislation directing the Secretary of Interior to convey the BLM Parcels to non-federal governmental entities is the only feasible means of transferring ownership of the BLM Parcels in a way that conforms with the provisions in the 2004 ROD/Approved RMP for perpetual public access to the to the BLM parcels and to preserve the scenic, wildlife habitat, and open space values on the BLM Parcels in perpetuity through the use of conservation easements.

C. Suggested sideboards to guide discussions on a comprehensive strategy for transfer of the BLM Parcels

Several individuals interviewed by WLG provided their thoughts on how bring the Jackson Hole community together to create – and reach consensus on – a comprehensive strategy to transfer ownership of the BLM Parcels to the appropriate non-federal governmental entity. Ideas expressed about sideboards to follow in the development of a comprehensive strategy include:

- Achieve a corridor-wide balance between passive conservation and active recreation.
- Follow land use recommendations from the 2008 Snake River Corridor Management/Ownership Transfer Plan that have already be vetted with the public and agreed to by the entities comprising the Snake River Task Force (Teton County, Snake River Fund, Bridger-Teton National Forest, BLM, Wyoming Game and Fish Commission, and Jackson Hole Land Trust).
- Find a balance between broader public interests/concerns and neighboring landowner interests/concerns on key recreation management issues, in particular river camping.
- No single interest group should have the upper hand.

⁹ The Pinedale Field Office is currently processing R&PP applications submitted by Teton County for Parcels 13, 14, and 26. Teton County has constructed recreational facilities that provide public access for floating on the Snake River on Parcels 13 and 26, and has built a segment of the Hwy 22 paved pathway across the length of Parcel 14 that connects with the Snake River Pathway Bridge built in 2015. These parcels could also be included in legislation directing the transfer of other BLM Parcels.

D. Key elements to create a successful legislative strategy

There are numerous examples going back decades of the U.S. Congress enacting legislation that authorizes and directs the BLM and the U.S. Forest Service to convey public lands to local governments through sale, exchange, and direct transfer to address unique situations. Legislated Federal land transfers typically require public hearings that attract scrutiny on a national level. Proposed legislation should consider the pertinent Federal land and resource management plans, have broad support from the local community, and clearly show that the proposal is in the public interest. It should be as specific as possible on how the transferred lands will be managed in the future.

Potential sponsors of proposed legislation should be consulted early in the process in order to explain the purpose and need for legislation and to solicit Member and senior staff input. WLG understands Teton County received a favorable response when Senator John Barrasso's Office was approached in 2017 to discuss legislation to transfer ownership of Parcels 9/10, 21, 23, and 24.

Local stakeholders as well as their statewide and national affiliates should be consulted and engaged early in the process, with the goal of resolving all issues associated with the proposed transfers prior to introduction of legislation in the U.S. Congress. Furthermore, with support of the local Wildlife Federation chapter in hand, the Wyoming Wildlife Federation may reach out to the National Wildlife Federation. The local Trout Unlimited chapter can and often will seek the support of their state, and national organizations. Such national groups can significantly influence the Federal legislative process. Support from the Game and Fish Commission and the Governor can be important in Washington as well.

E. Next steps to develop and implement a legislative strategy to transfer ownership of the BLM Parcels

WLG recommends the BCC identify and prioritize which BLM Parcels the County is interested in acquiring through a legislative transfer. The next step will be to contact Senator Barrasso's office to discuss what the County wants to accomplish and receive input on how to move forward with developing a proposal that can lead proposed legislation. WLG can then use this information to prepare a work plan that identifies the specific tasks that need to occur to create a proposal, with recommendations on how to complete these tasks, and a timeline.

Exhibit 1

Interviews Conducted by Western Land Group May-June 2020

Teton County Commissioners:

Mark Barron
Greg Epstein
Natalia Marker
Mark Newcomb
Luther Propst

Snake River Task Force:

Bridger-Teton National Forest – Mary Moore, Jackson District Ranger
Bureau of Land Management – Doug Linn, Acting Pinedale Field Manager
Jackson Hole Land Trust – Liz Long, Interim Co-Director
Snake River Fund – Jared Baecker, Executive Director
Wyoming Game and Fish – Sean Bibbey, Lands Branch Chief; Rob Gipson, Regional Fisheries Supervisor

Neighboring Landowners:

Lockhart Ranch – Kelly Lockhart
Snake River Ranch/Sewell Partners – Amberley Goodchild Baker, Attorney
Walton Ranch/4W LLC – Liz Brimmer, Consultant; Stefan Fodor, Attorney

Community Organizations/Individuals:

Conservation Fund – Dan Schlager, Wyoming State Director
Friends of Pathways – Katherine Dawson, Executive Director; Jack Koeler, Program Director
Jackson Hole Conservation Alliance – Skye Shell, Executive Director; Brooke Sausser, Community Planning Manager
Trust for Public Land – Chris Deming, Senior Project Manager
Len Carlman – Wyoming lawyer, river rat

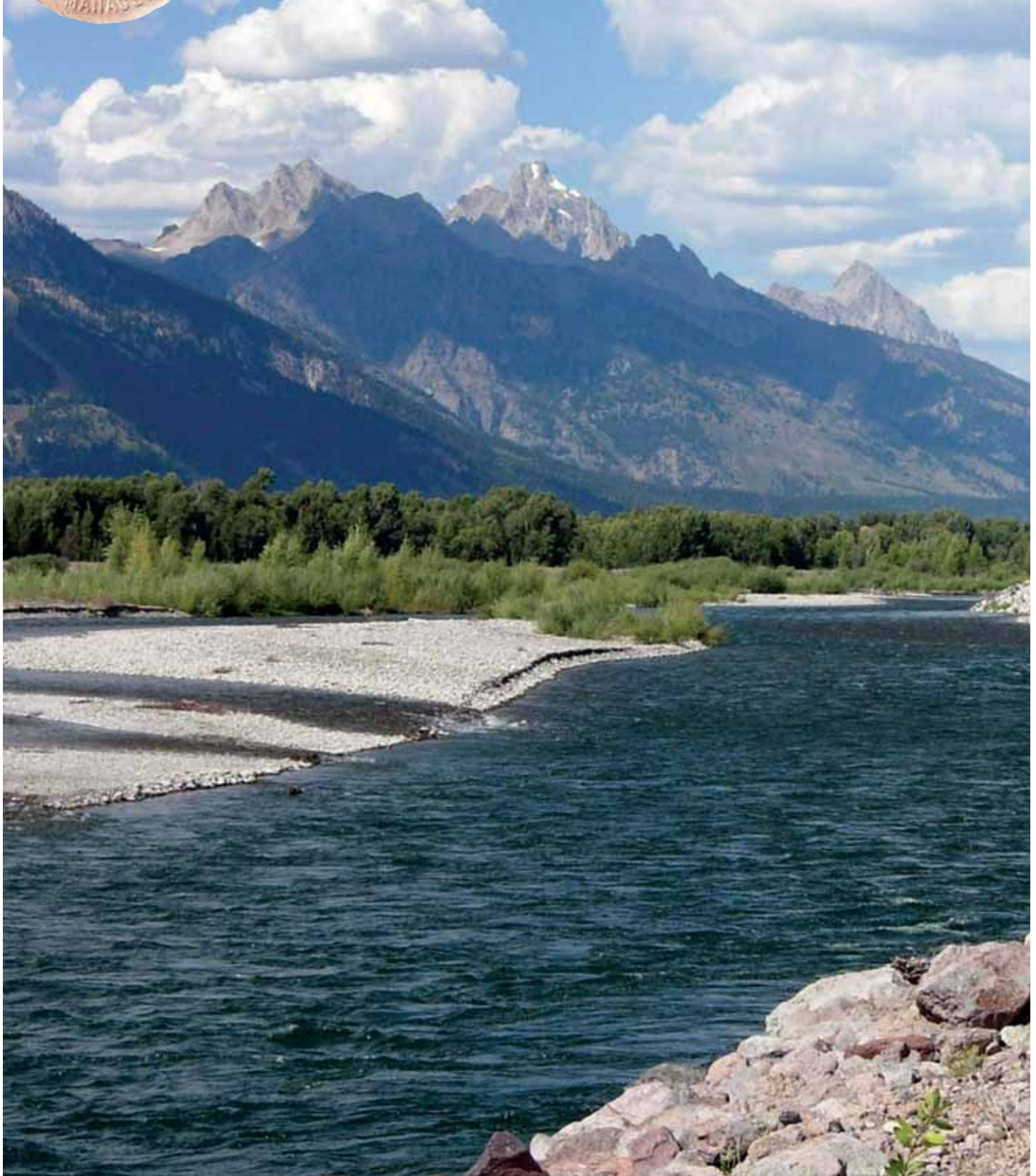
Exhibit 2

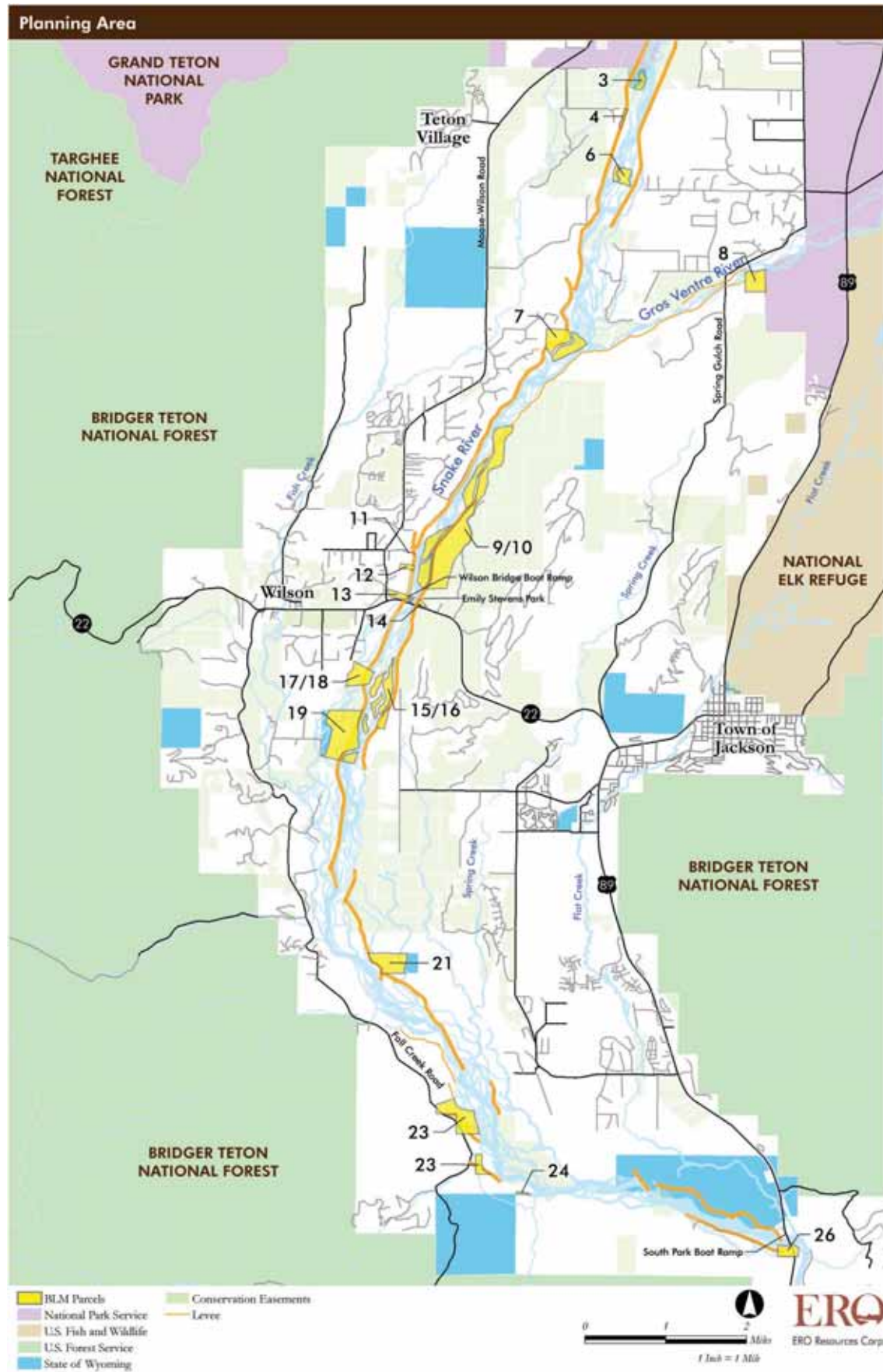
Maps of the BLM Parcels from the 2008 Snake River Corridor Management/Ownership Transfer Plan



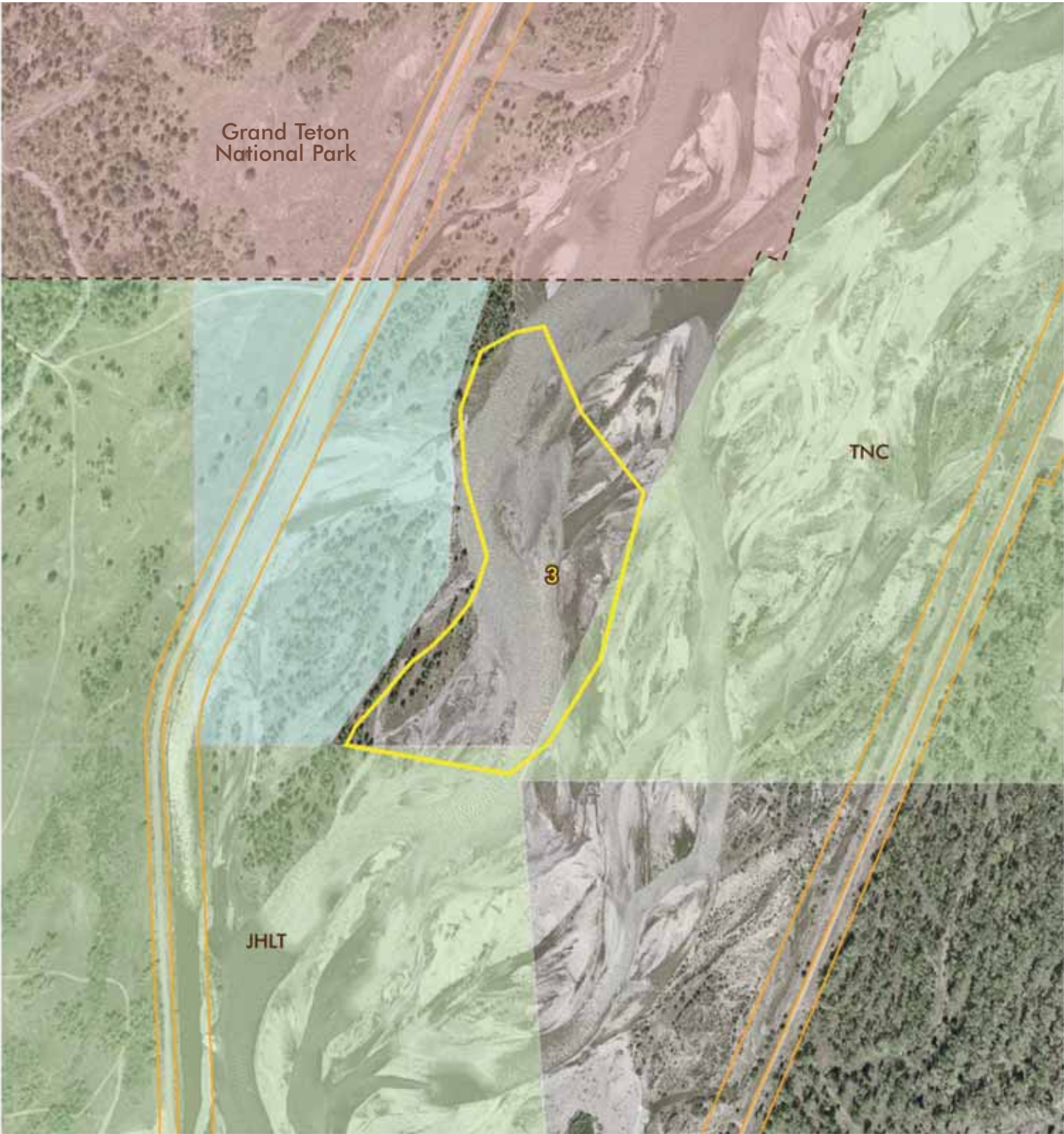
SNAKE RIVER CORRIDOR MANAGEMENT/OWNERSHIP TRANSFER PLAN


NOVEMBER 2008








PARCEL 3





 BLM Parcels


 State of Wyoming


 Conservation Easements


 JHLT Jackson Hole Land Trust


 TCSPT Teton County Scenic Preserve Trust


 TNC The Nature Conservancy


 Levee Easement


 Dump Site


 Gravel Mining Area


 Fence

 Road

 Trail




0 200 400 Feet
1 Inch = 400 Feet
Imagery: 2005


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PARCEL 4

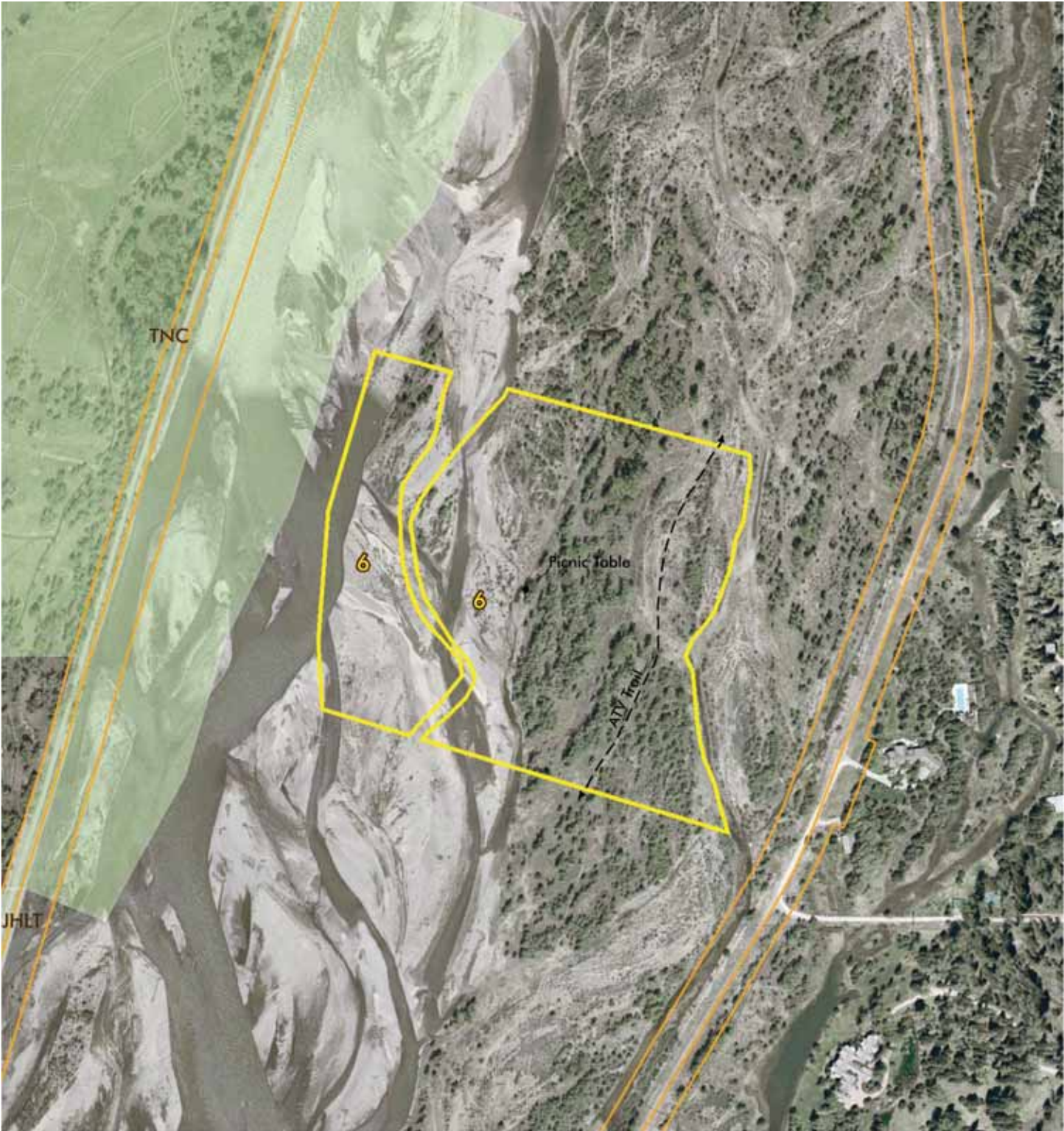


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|---|--------------------|-------|
| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| <small>JHLT Jackson Hole Land Trust</small> | | |
| <small>TCSPT Teton County Scenic Preserve Trust</small> | | |
| <small>TNC The Nature Conservancy</small> | | |

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Feet
1 Inch = 400 Feet
Imagery: 2005

ERO Resources Corp.

PARCEL 6



BLM Parcels

State of Wyoming

Conservation Easements

JHLT Jackson Hole Land Trust

TCSPT Teton County Scenic Preserve Trust

TNC The Nature Conservancy

Levee Easement

Dump Site

Gravel Mining Area

Fence

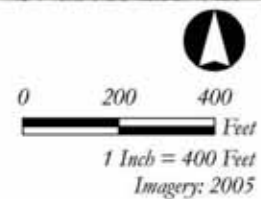
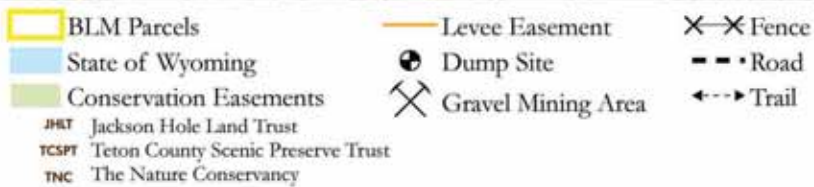
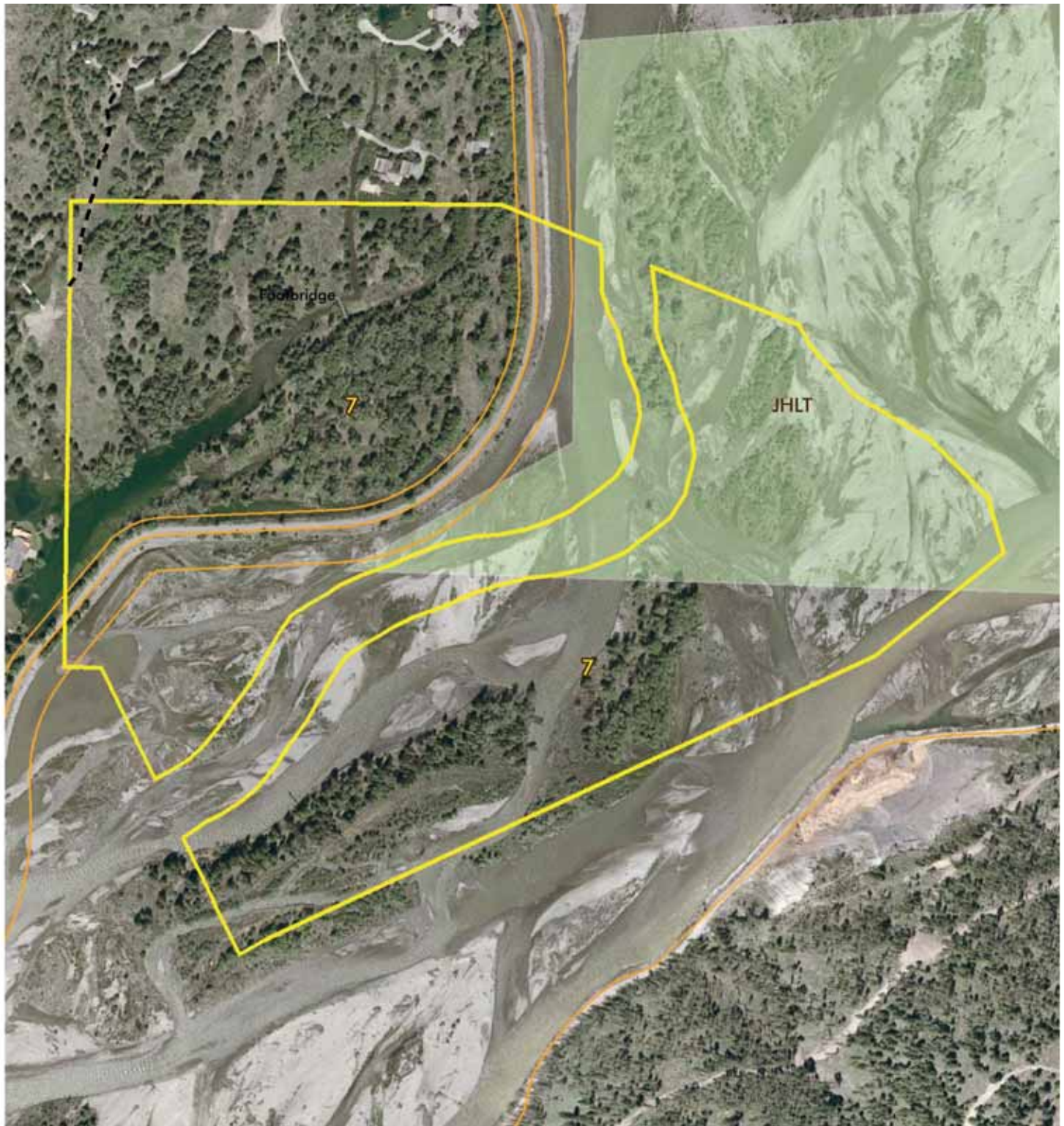
Road

Trail

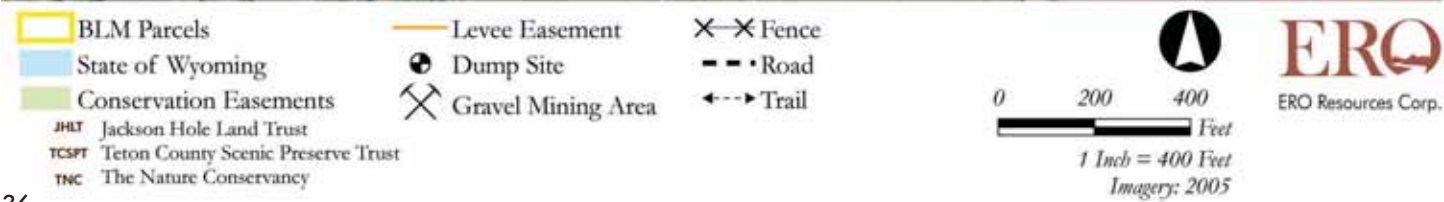
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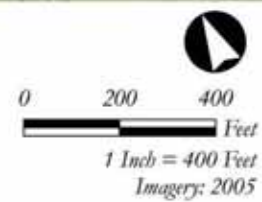
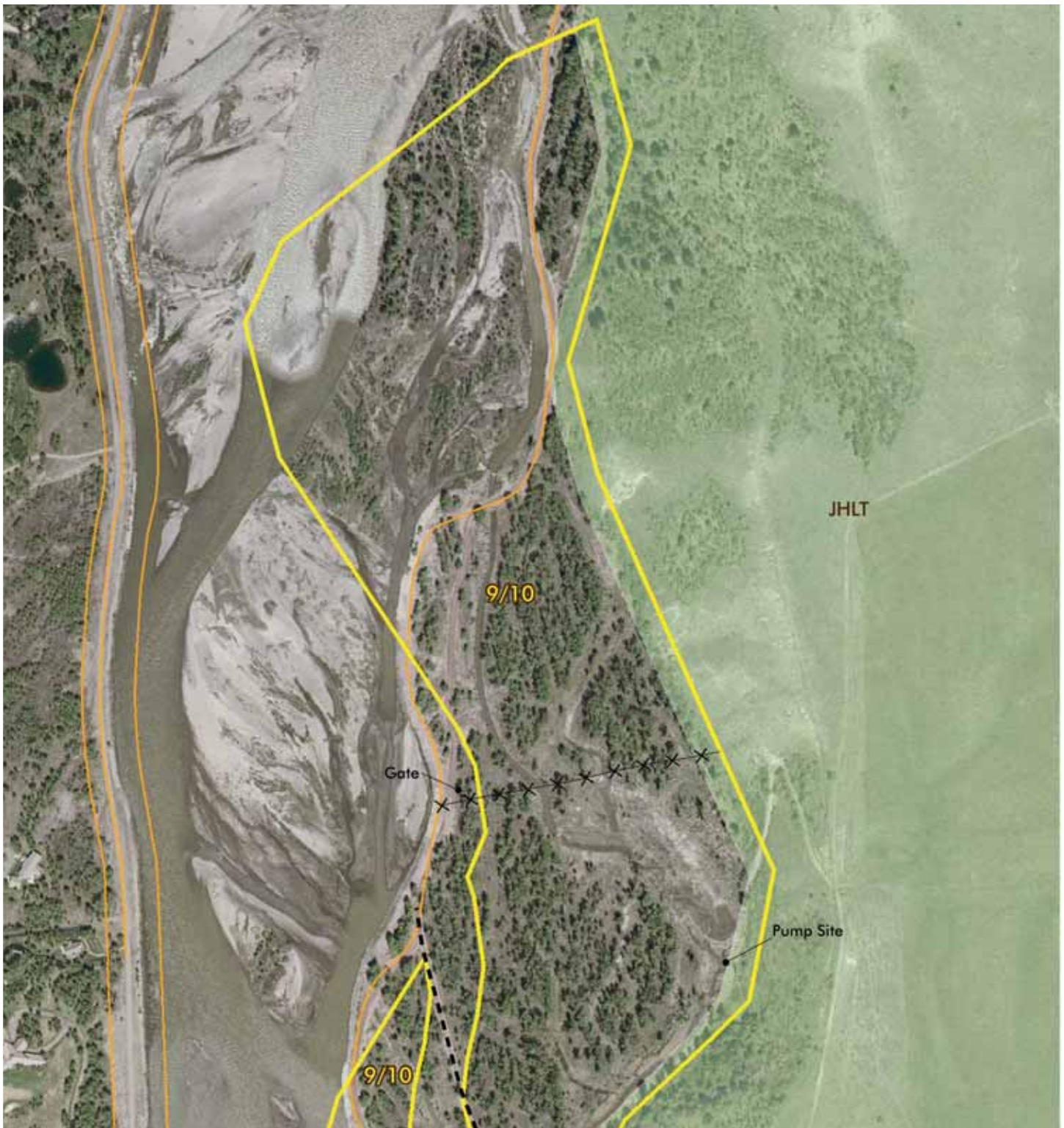
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PARCEL 8



PARCEL 9/10A



PARCEL 9/10B

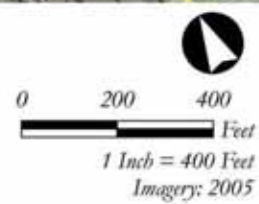
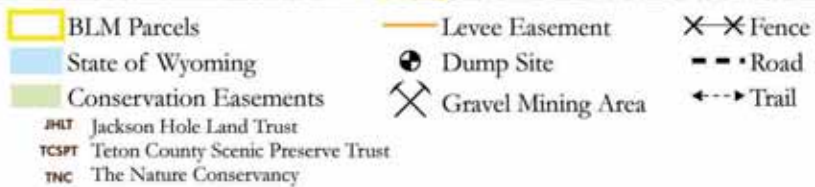
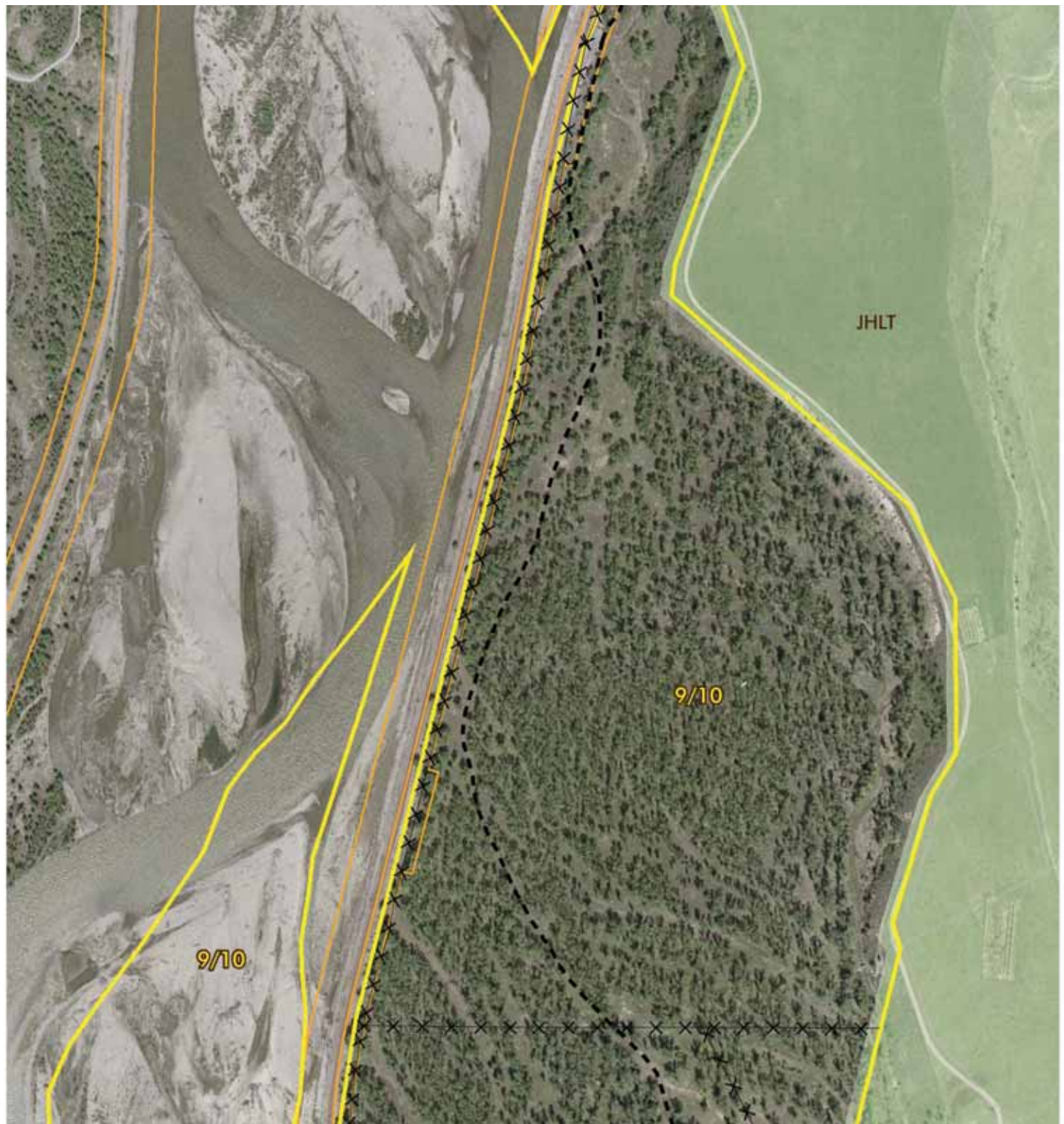


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|---|--------------------|-------|
| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |

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Feet
1 Inch = 400 Feet
Imagery: 2005

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PARCEL 9/10C



PARCEL 9/10D

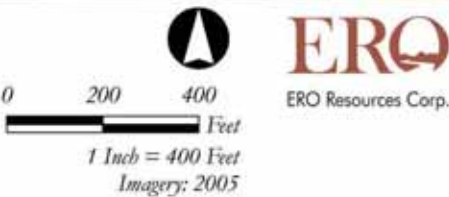
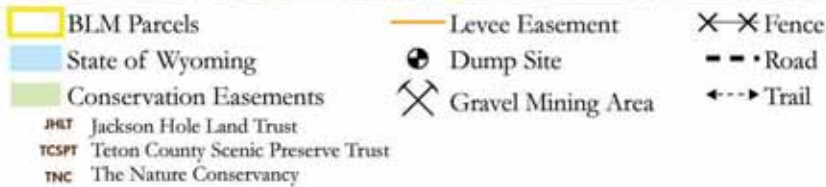


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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |

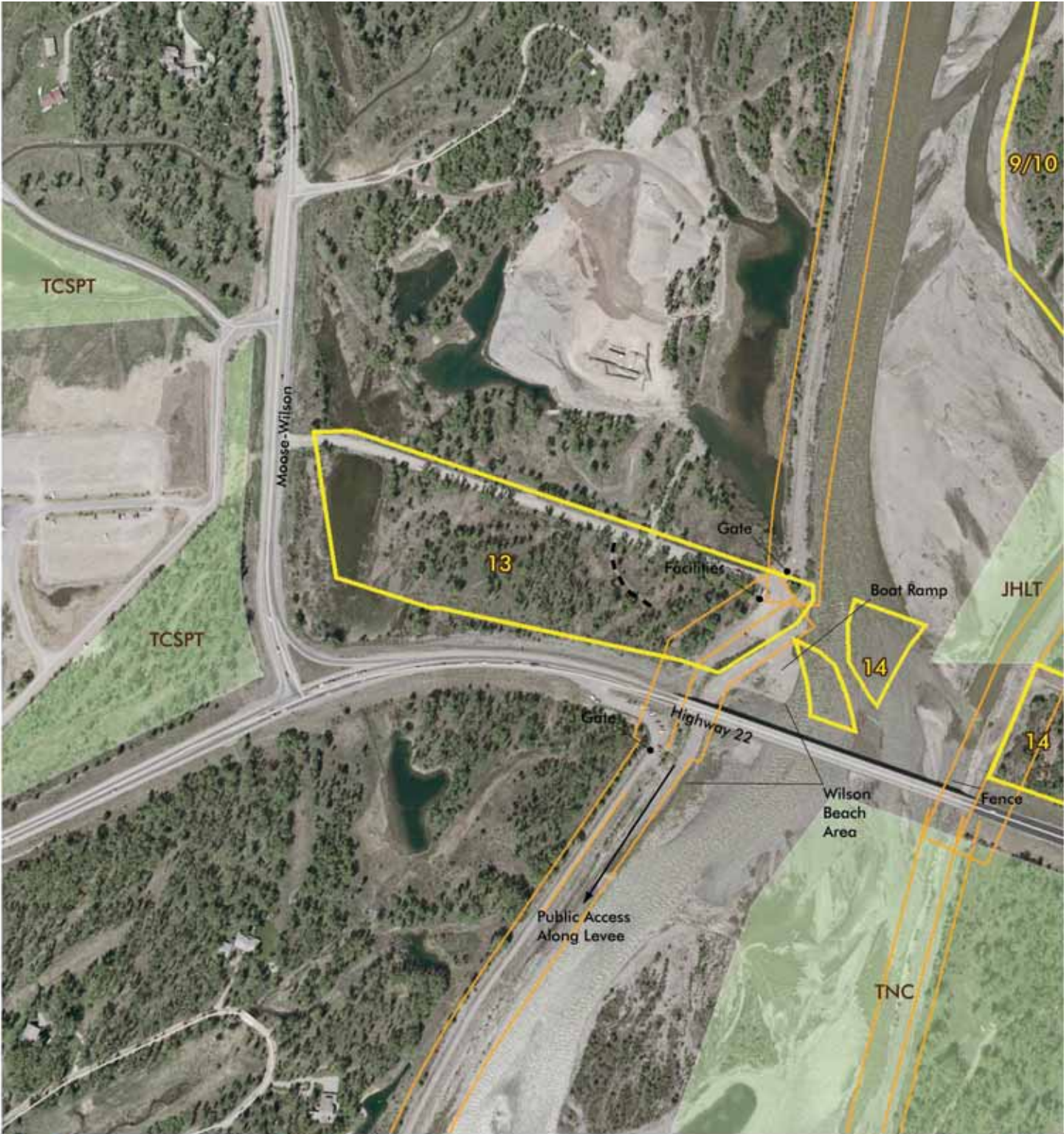
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Imagery: 2005

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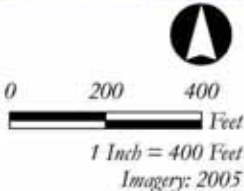
PARCEL 12



PARCEL 13

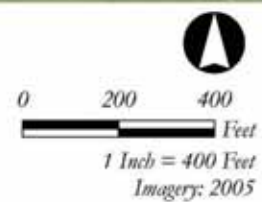
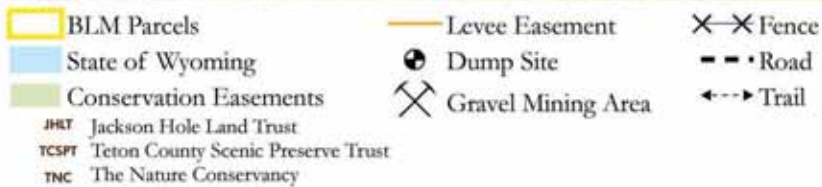
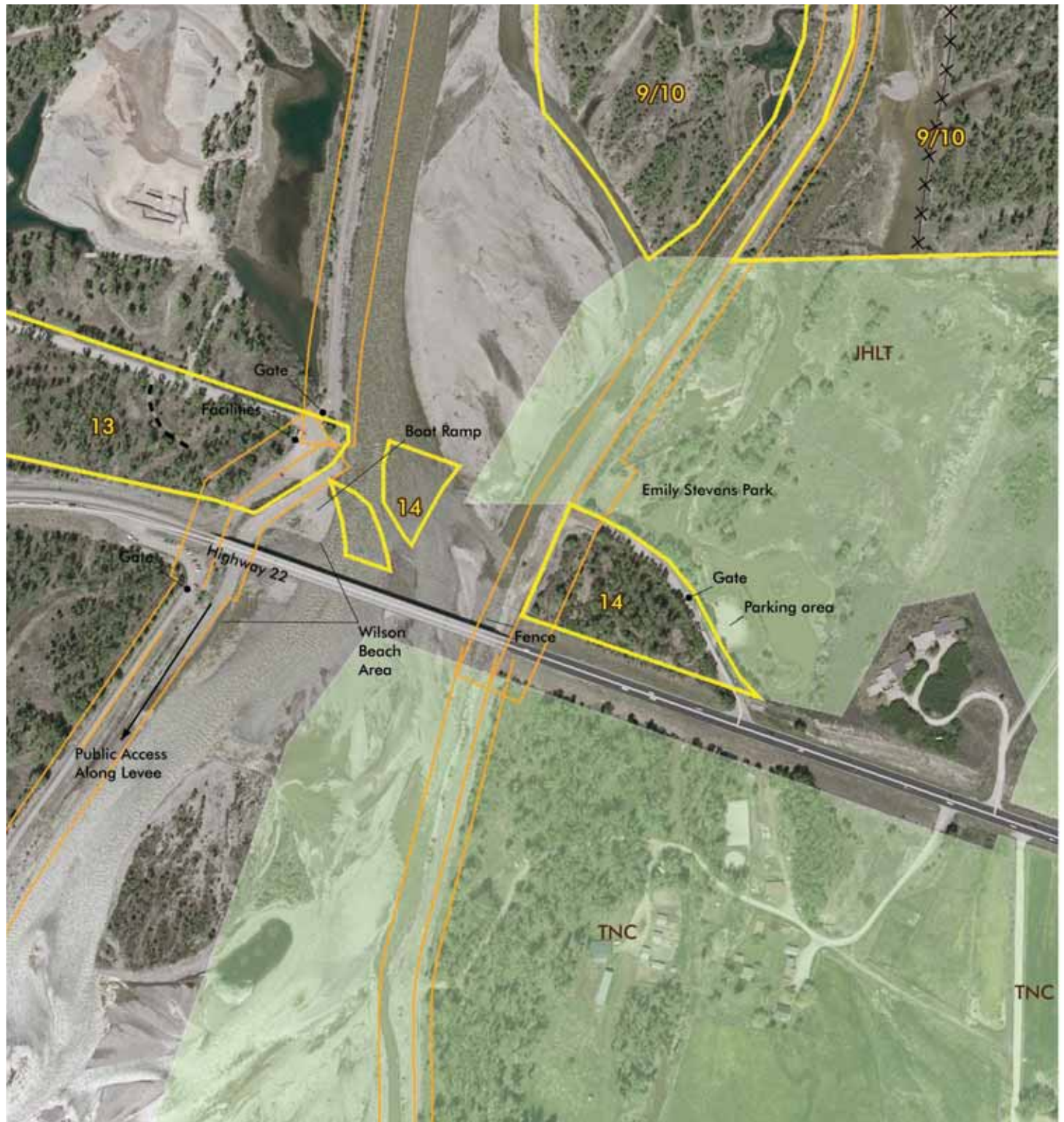


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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |

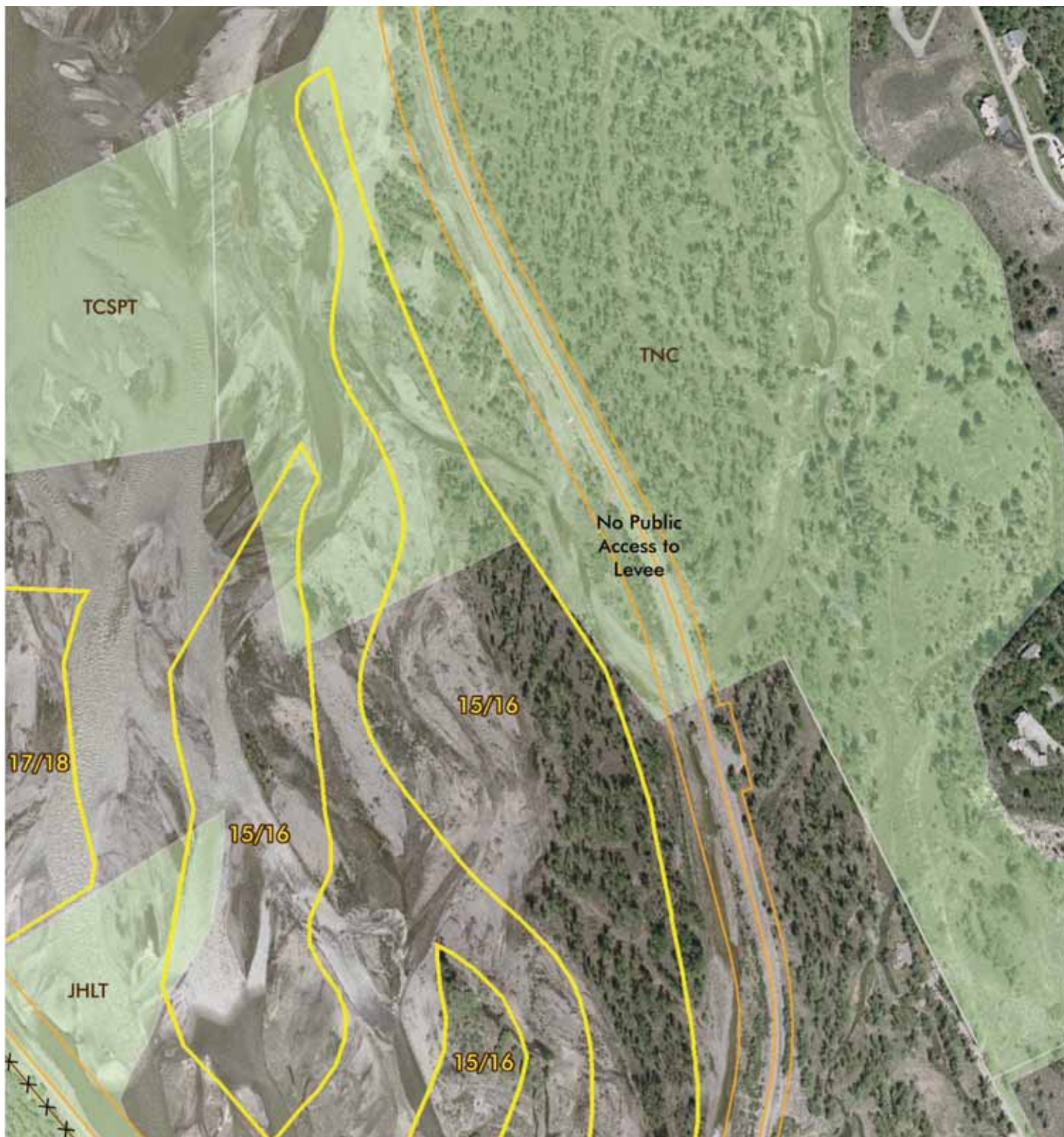


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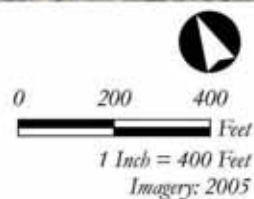
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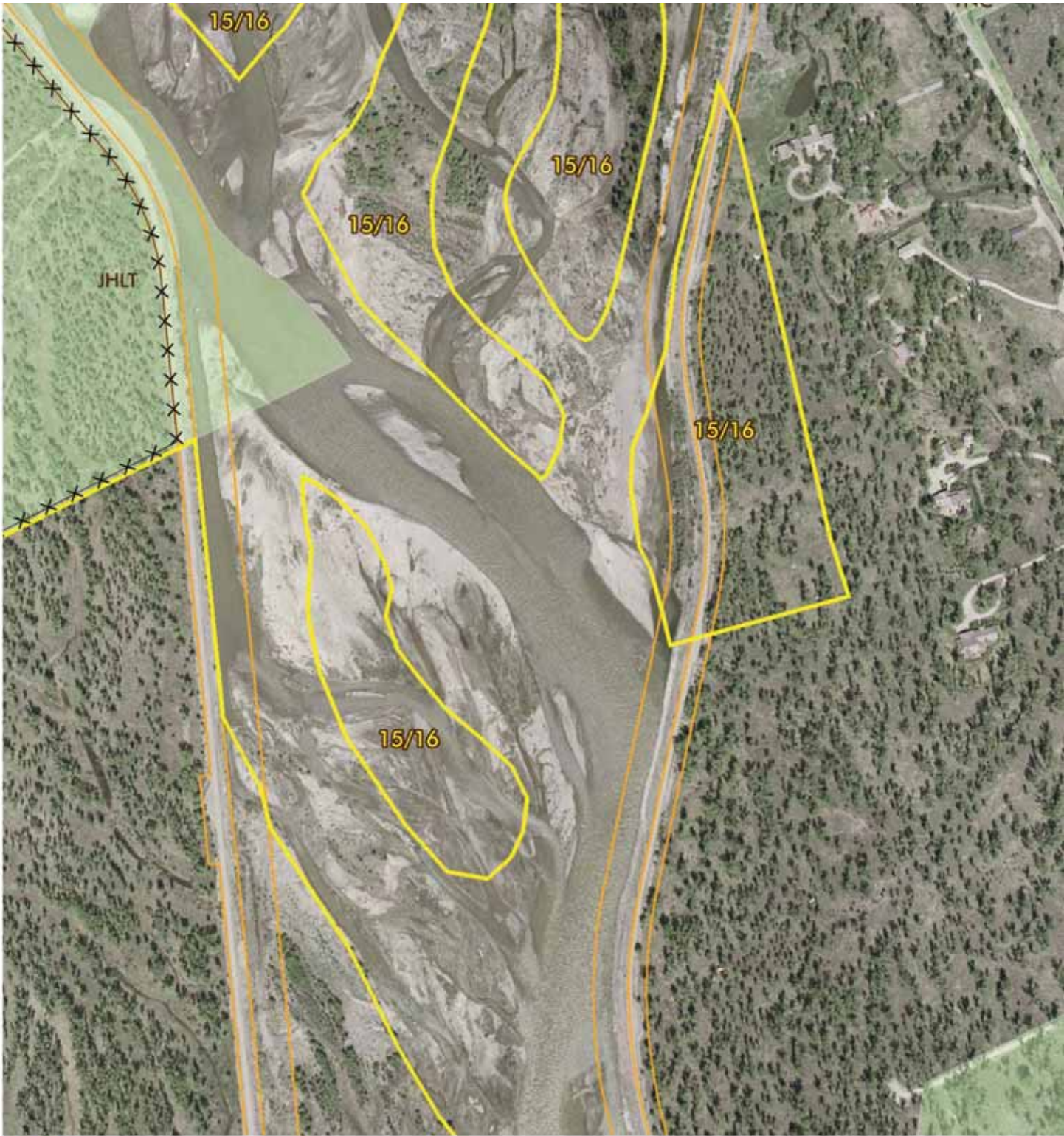
PARCEL 15/16A



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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |



PARCEL 15/16B

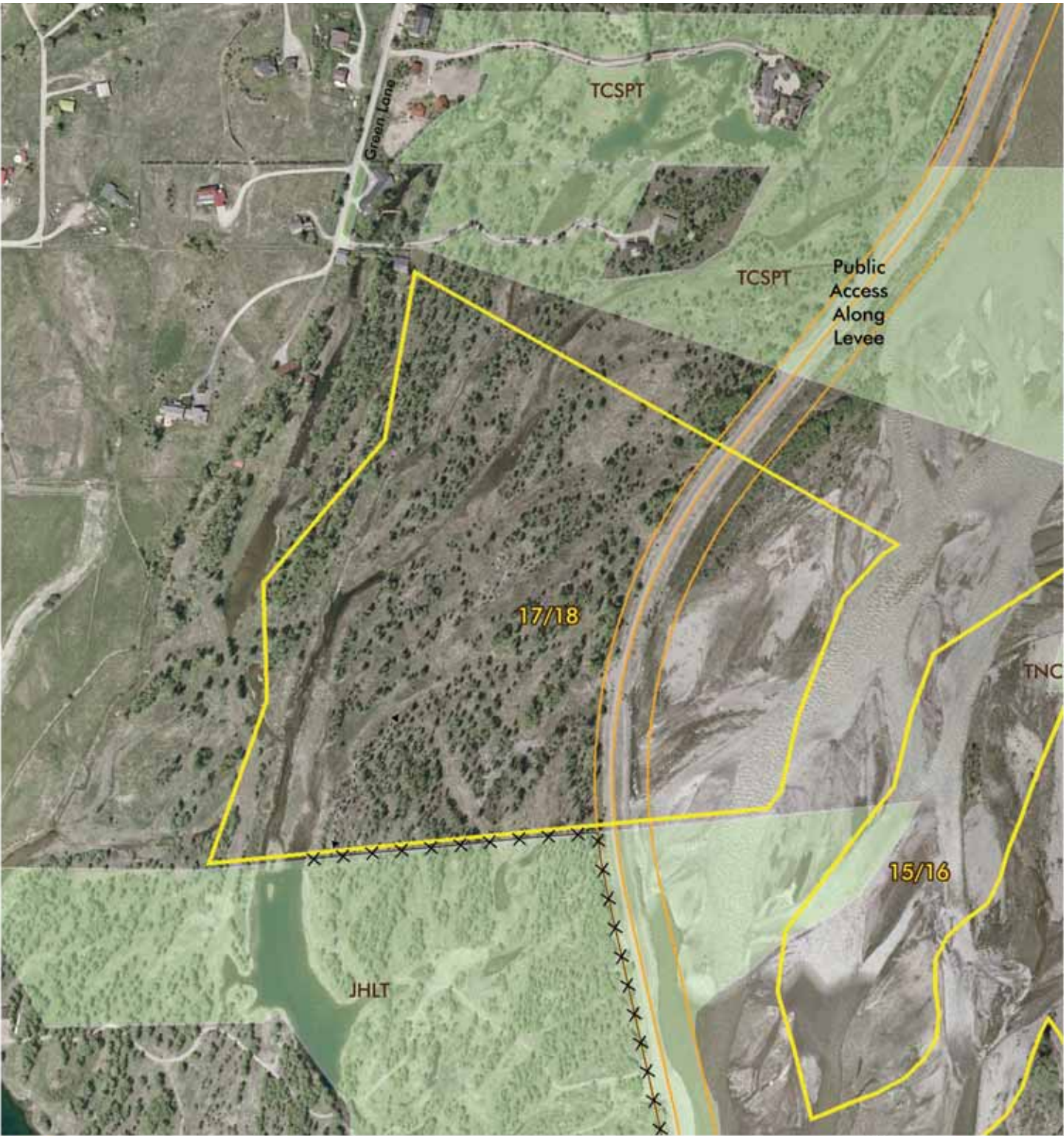


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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |

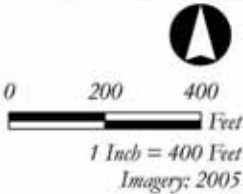
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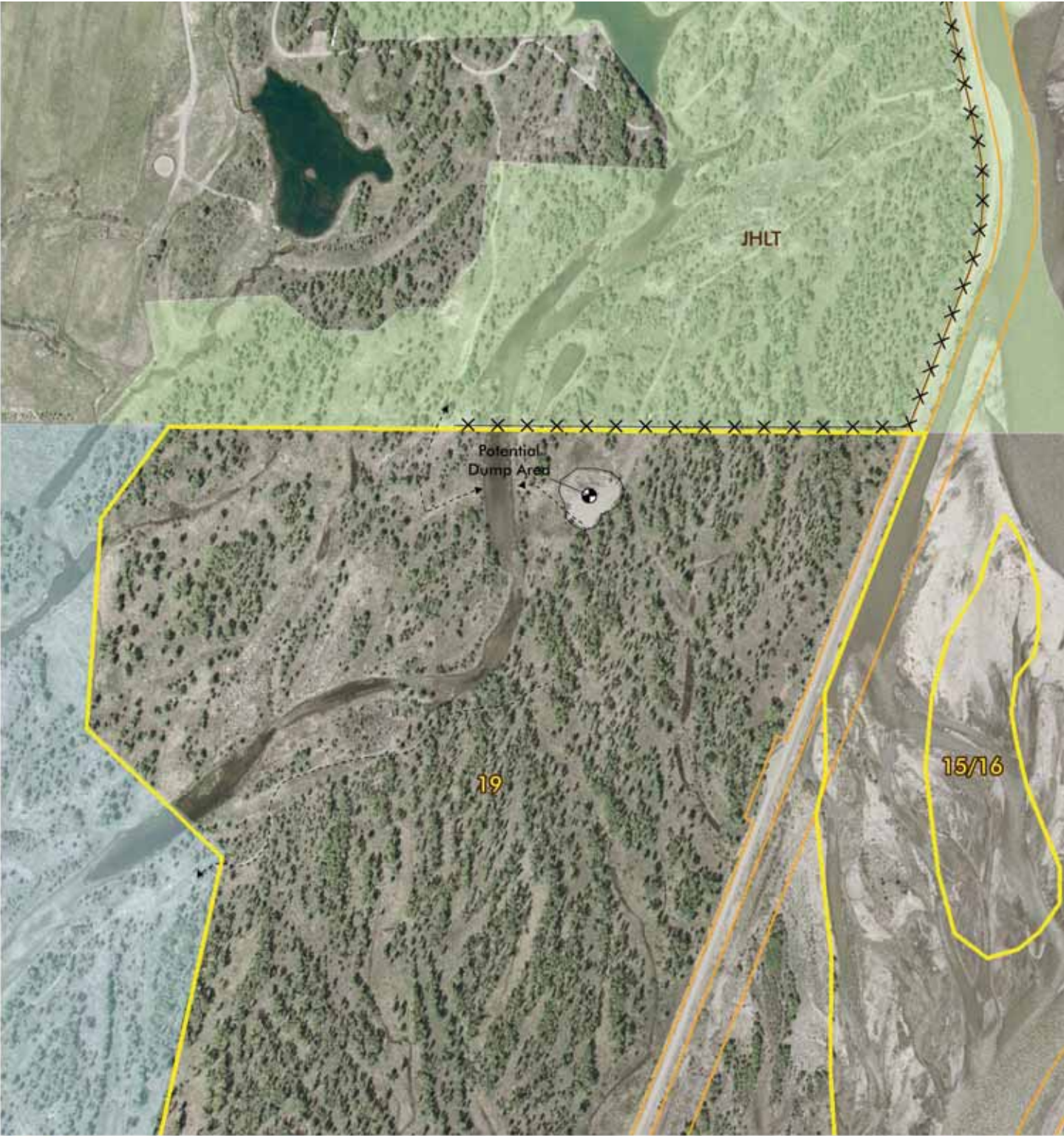
PARCEL 17/18



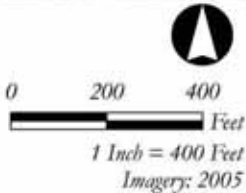
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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |



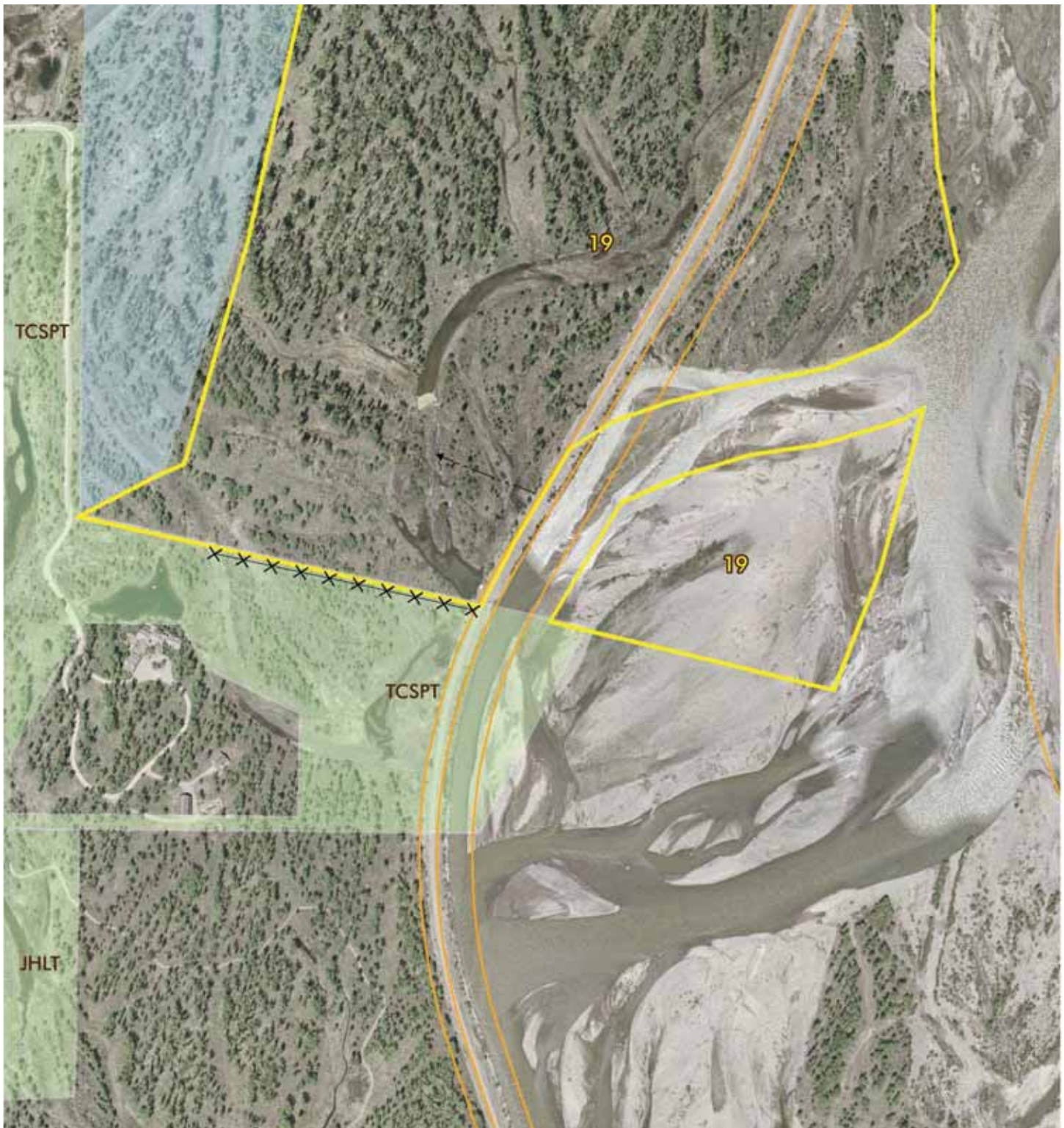
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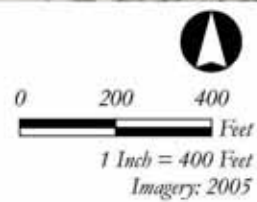
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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |



PARCEL 19B

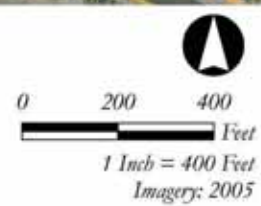
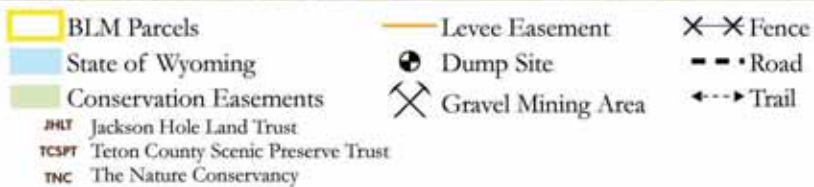
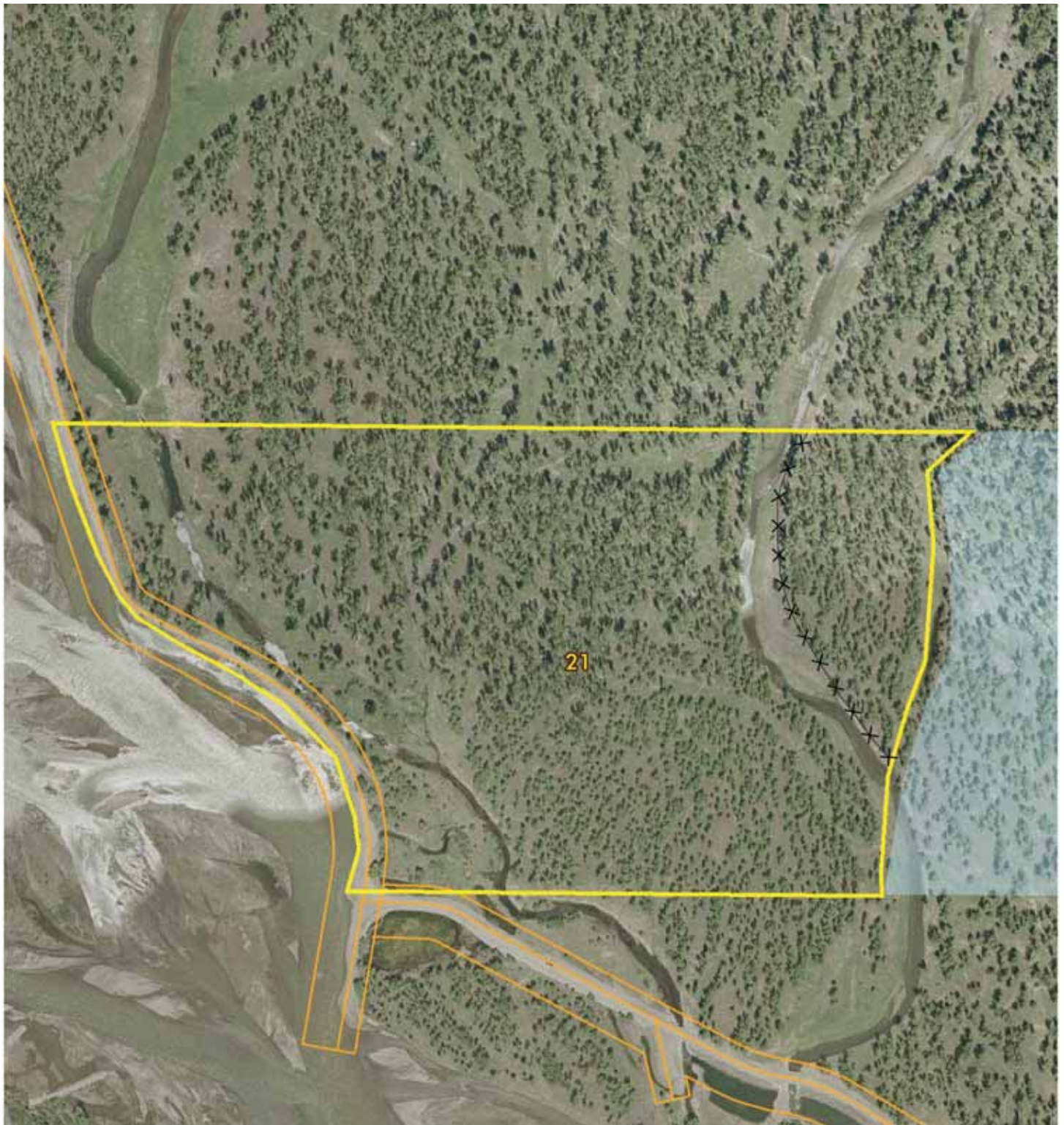


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|--|---|---|
| BLM Parcels | Levee Easement | X-X Fence |
| State of Wyoming | + Dump Site | Road |
| Conservation Easements | X Gravel Mining Area | <---> Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |

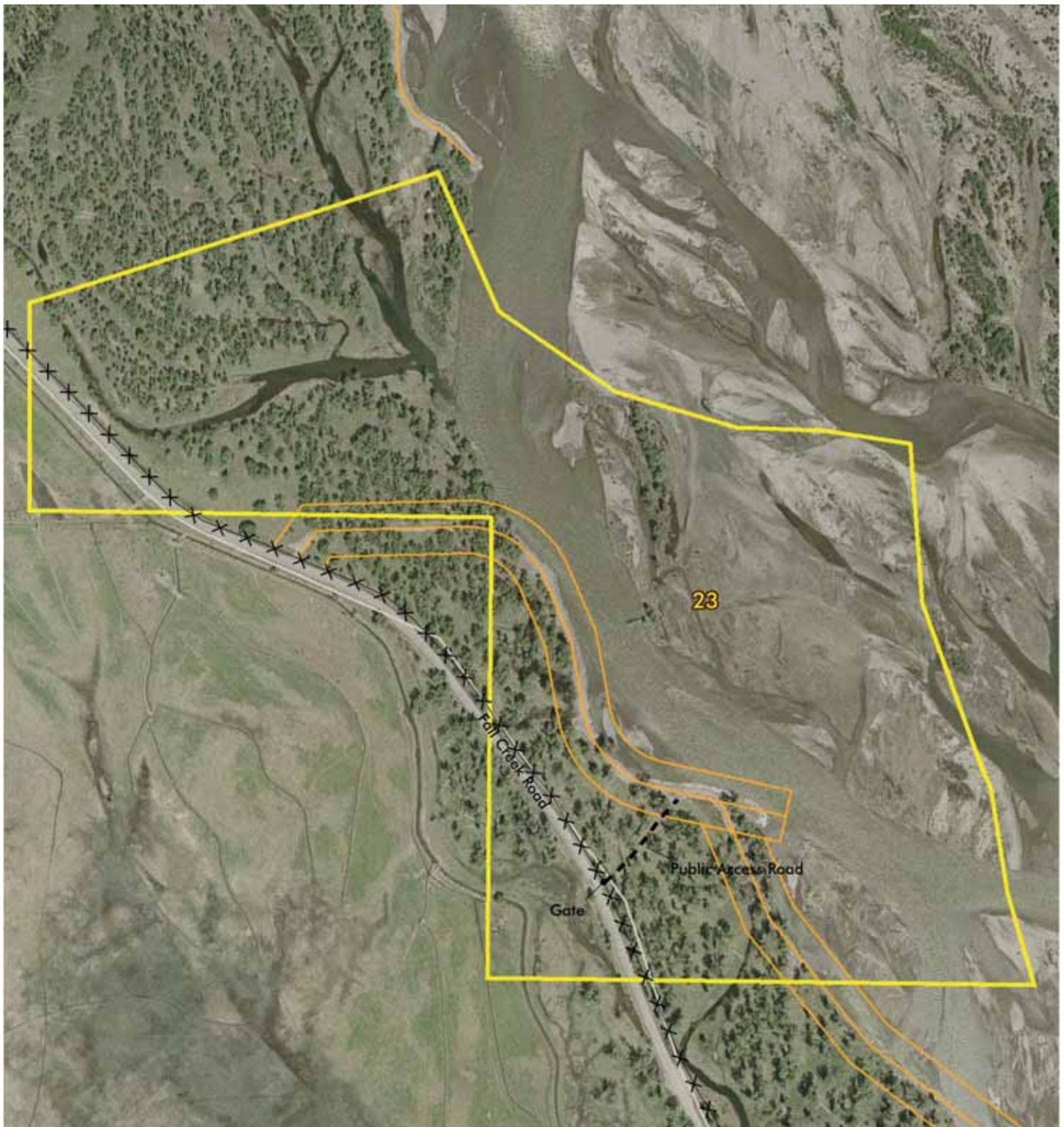


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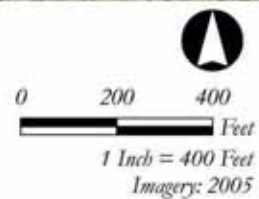
PARCEL 21



PARCEL 23A

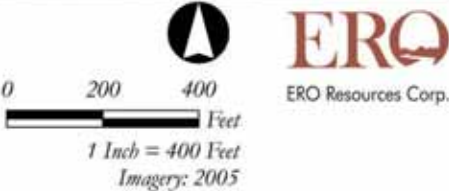
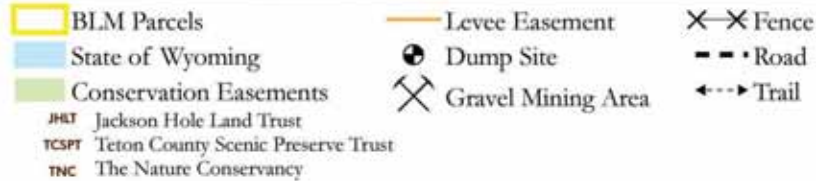
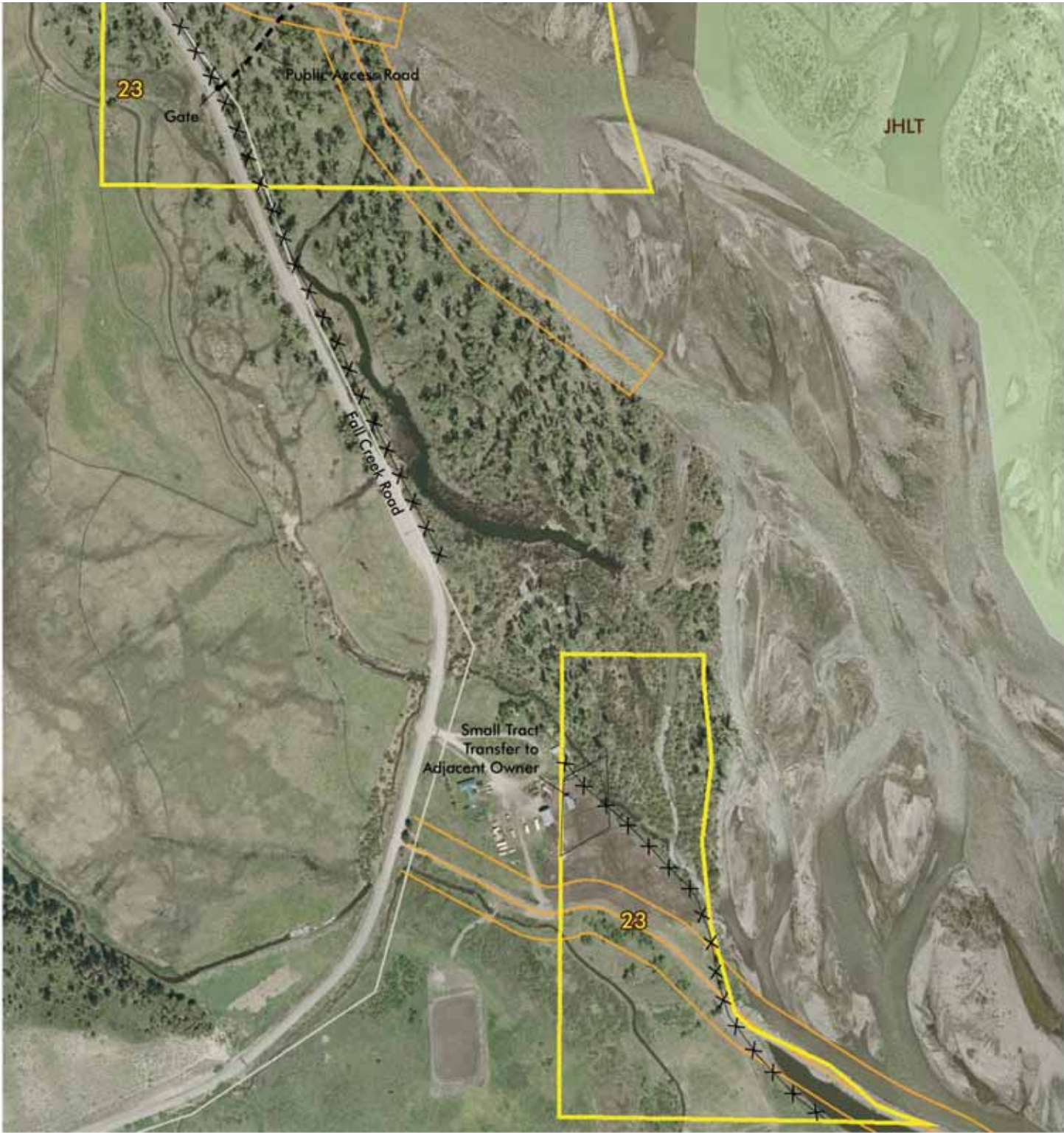


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| BLM Parcels | Levee Easement | X X Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | X X Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |



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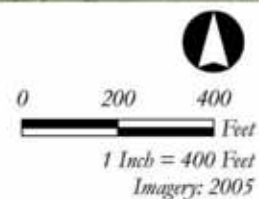
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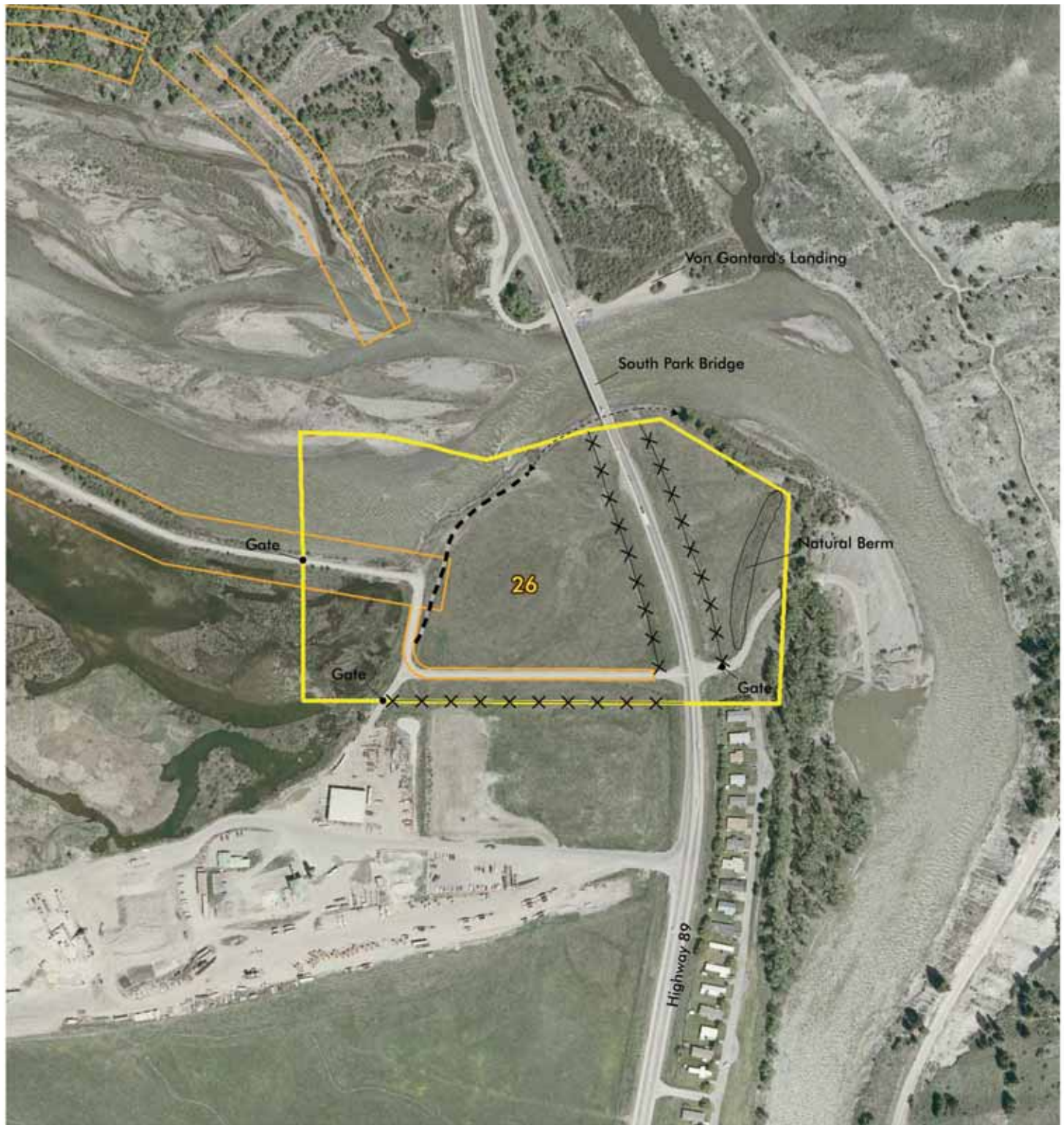
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| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |



PARCEL 26



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|--|---|--|
| BLM Parcels | Levee Easement | Fence |
| State of Wyoming | Dump Site | Road |
| Conservation Easements | Gravel Mining Area | Trail |
| JHLT Jackson Hole Land Trust | | |
| TCSPT Teton County Scenic Preserve Trust | | |
| TNC The Nature Conservancy | | |

