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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY

LAUREL CARED, Plaintiff, vs. STATE OF MONTANA, Defendant.	Cause No.: DV-56-2026-0000855-DK Judge: Hon. Ed Zink **DEFENDANT'S BRIEF IN SUPPORT OF MOTION TO DISSOLVE PRELIMINARY INJUNCTION**

The Montana Board of Investments and Department of Public Health and Human Services (collectively Agencies), appearing on behalf of and pursuant to authority delegated by the State of Montana, submit this Brief in Support of Motion to Dissolve Preliminary Injunction.

Introduction

The District Court issued an Order remanding the Final Environmental Assessment addressing the State of Montana's proposed Forensic Mental Health Facility to the Montana Board of Investments and Department of Public Health and Human Services and requiring: (1) additional investigation and explanation, and revisions to the Final Environmental Assessment, as to all water supply issues; and (2) additional reasonable opportunity, consistent with the Montana Environmental Policy Act, for the public to participate in the State's decision-making process. *See* Order Granting in Part Preliminary Injunction 23, *et seq*. (Doc. 35) (Preliminary Injunction Order).

In response, the Board of Investments and Department of Public Health and Human Services expeditiously but diligently: (1) investigated all Environmental Assessment sections, and related information, addressing water supply issues (*see e.g.* MT4908-4958; 3979-3980[1]); (2) consulted with professional engineers concerning water supply issues, who also provided further technical analysis on water supply issues (*see e.g.* MT4902-4905); (3) consulted with the Montana Department of Environmental Quality, the regulator of public water supply systems, and the Department of Natural Resources and Conservation, the regulator of water rights, concerning water supply issues (*see e.g*. MT4930-4932; 4953; 3980); (4) reviewed the City of Laurel annexation moratorium process for information material to water supply issues (*see e.g.* MT4932-4934; 3979); (5) revised the Final Environmental Assessment sections addressing water supply issues to provide additional explanation and technical analysis of water supply issues (*see* **Exhibit A**[2] (MT4908-4958)); (6) expanded upon the applicable Finding and Conclusion in the revised Final

[1] "MT[---]" citations refer to MT[---] numbered documents filed with the Court in various notices of filing of record. Leading zeros are removed.

[2] **Exhibit A** is the Revised Final Environmental Assessment: Red Line, which identifies changes to the Environmental Assessment made upon remand. This Revised Final Environmental Assessment: Red Line was provided as Exhibit J to the revised Final Environmental Assessment made available to the public for review and comment on August 31, 2026. It is also included in the Certified Record at MT4908-4958.

Environmental Assessment (MT4955-4956); (7) posted (August 31, 2026) the revised Final Environmental Assessment, including Appendices, to the hb5.mt.gov website for public review and comment (*see* MT3982); (8) provided public notice (September 1, 4, 8, 11, and 15, 2026) of a public comment period (September 1 - September 8, 2026 (extended to September 15, 2026)) and a public hearing (September 8, 2026, 1:00-3:00 p.m., in Billings, Montana) on the revised Final Environmental Assessment and Forensic Mental Health Facility (*see* MT3678-3681; 5779-5782; 6539-6542); (9) received and reviewed written public comment; (10) attended and considered comments made at the public hearing; (11) further evaluated water supply, and other, issues based on applicable public comment (*see e.g.* MT6231-6232); (12) further considered the Proposed Action, Findings and Conclusions, and Agency Determination (*see e.g.* MT6231-6232); and (13) issued a Final Environmental Assessment confirming the Agency Determination (MT5930-6233).

Having conducted additional investigation, provided additional explanation, and made revisions to the Environmental Assessment, and having provided the public reasonable opportunity to participate in the decision-making process, the Montana Board of Investments and Department of Public Health and Human Services respectfully request the Preliminary Injunction be expeditiously dissolved and acts in furtherance of the construction of the Forensic Mental Health Facility, acutely and urgently needed to provide mental health care, be allowed to continue.

I. The Montana Board of Investments and Department of Public Health and Human Services have complied with the Court's Preliminary Injunction Order.

The Preliminary Injunction Order required the Agencies to:

(1) Conduct "additional investigation and explanation as to all water supply issues, including infrastructure capacity and water availability to service the proposed [Forensic Mental Health Facility]"; and

(2) "[E]nsure that a revised final environmental assessment is completed and the public is provided a reasonable opportunity to participate in the State's decision-making process, consistent with MEPA's public comment provisions."

Preliminary Injunction Order 23. The Agencies believe they have complied with these requirements.

A. The Agencies conducted additional investigation and provided additional explanation as to all water supply issues and incorporated that additional investigation and explanation into a revised Final Environmental Assessment.

To further investigate water supply issues, the Montana Board of Investments and Department of Public Health and Human Services reviewed all Environmental Assessment sections, and relating information, addressing water supply issues (*see e.g.* MT4908-4958; 3979-3980). The Agencies consulted professional engineers concerning water supply issues, who also provided further technical analysis on water supply issues (*see e.g.* MT4927; 4931-4932; 4902-4905). That professional engineering analysis, addressing capacity, pressure, and infrastructure, concluded that:

> Based on the above information, and in consideration of the current estimated demand the [F]acility would place on the existing system, Cushing Terrell believes that the City of Laurel water system currently has both intake and post-treatment capacity to serve the domestic and fire flow requirements of the project (MT4905).

Similarly, as reflected in the revised Final Environmental Assessment:

> The engineers have on multiple occasions confirmed that adequate water and sewer capacity exists for the [F]acility, and that adequate capacity exists whether evaluated against the [F]acility's actual use as designed or against a theoretical facility's uses.
> …
> Even assuming the increased water usage from calculations based on a theoretical facility's use, capacity is more than adequate, and the [F]acility presents no material impact to the City's water capacity.
> …
> This orders of magnitude more than sufficient capacity would be delivered by newly constructed infrastructure, approved by the City of Laurel and that anticipates new users, and the [F]acility would tap this infrastructure with successively smaller connections sized to address peak instantaneous [F]acility demand. The City of Laurel water system has capacity to serve the domestic and fire flow requirements of the proposed [F]acility.

> …
> With respect to water pressure, physical test data collected upstream and downstream of the [F]acility site indicates that the system maintains residual pressures above the required minimums during fire flow events.
> …
> Water and sewer capacity and water pressure are sufficient to service the [F]orensic [M]ental [H]ealth [F]acility, and the [F]acility would not materially impact water and sewer capacity or water pressure (MT4931-4932).

The Agencies consulted with the Montana Department of Environmental Quality (DEQ), the regulator of public water supply systems (*see* MT4930-4931; 4953). The Agencies ensured they were making water supply decisions on the most current information, and that the City of Laurel had not provided information, including any notification of an emergency, to DEQ that would change water supply decisions (*see* MT 4930-4931). The Agencies consulted with the Department of Natural Resources and Conservation (DNRC), the regulator of water rights, who provided information on the City of Laurel's water rights, including with respect to water supply and availability (*see* MT4931-4932; 4953; 3980). That information demonstrated:

> Based on DNRC's recently completed 10-year review of existing water reservations, including the City of Laurel's reservations, the City has a net surplus water capacity available of 2,854.6 acre-feet (930,175,406 gallons) per year or a net surplus water capacity available of approximately 2,548,426 gallons per day. The current water intake has an estimated capacity of 20 million gallons per day. Assuming the max projected usage of a 64-bed theoretical facility's maximum usage of 8,960 gallons per day, a theoretical facility would still only represent 0.0448% of the total intake capacity of the system (as designed, the 64-bed [F]acility would only represent 0.013% of the total intake capacity of the system) (MT4931-4932).

The Agencies reviewed the City of Laurel annexation and moratorium processes for information material to water supply issues (*see e.g.* MT4932-4934; 3979). Although the City appears to be contemplating a new review of its water and sewer infrastructure subsequent to the 2023 KLJ Preliminary Engineering Report (MT6235-6329, *et seq*.), no evidence was discovered or presented suggesting that water and sewer capacity, pressure, or infrastructure would not be

adequate or available to the Facility, or that the Facility would have any material extra-Facility impact on water or sewer capacity, pressure, or infrastructure (*see e.g.* MT 3979; 6231-6232). Rather, City of Laurel *actions*, such as approving a Conditional Use Permit for Love's Travel Stops & Country Stores for a 24-unit recreational vehicle parking area that would be serviced by the same water and sewer main as the proposed Forensic Mental Health Facility and discussion of a new 10-year agreement with the CHS Refinery, which includes a new requirement for a minimum water purchase, suggest the opposite—that water capacity, pressure, and infrastructure are adequate and not issues (MT4934-4935). The City's moratorium on annexation applications, however, if applied to the Forensic Mental Health Facility, may require the State to pursue alternative, less mutually beneficial and more costly options for acquiring the water necessary, and available, for the Forensic Mental Health Facility (MT4935).

To further explain water supply issues, the Agencies revised and expanded the Environmental Assessment sections addressing water supply issues (*see* **Exhibit A** (MT4908-4958)), and also included additional technical information on water supply issues (*see e.g.* MT3979-3980). The Agencies clarified *actual* projected water use, confirming that the Forensic Mental Health Facility, *based on engineering design*, will use approximately 2,000 gallons per day at 32 beds and approximately 2,600 gallons per day at 64 beds (MT 4926-4927). To err on the side of conservatism in projecting water use, however, the Agencies also calculated projected water use for *theoretically* comparable facilities using DEQ Circular 4, which water usages ranged from approximately 4,000 gallons per day, for an approximately 32 bed facility, to 8,960 gallons per day, for an approximately 64 bed facility (MT 4926-4927; 4931). Sufficient water capacity exists to satisfy *either* the Forensic Mental Health Facility *as designed*, which is designed to use less water, or a *conservatively estimated theoretical facility* (MT4931-4932). As explained:

> Assuming the max projected usage of a 64-bed theoretical facility's maximum usage of 8,960 gallons per day, a theoretical facility would still only represent 0.0448% of the total intake capacity of the system (as designed, the 64-bed [F]acility would only represent 0.013% of the total intake capacity of the system) (MT4932).

This is "orders of magnitude more than sufficient capacity" for the Facility (MT4932). And it would be delivered by "newly constructed infrastructure, approved by the City of Laurel and that anticipates new users," including as recently demonstrated with the City's approved Conditional Use Permit for the Love's recreational vehicle parking area and recognition of the area in which the Facility would be located as a "growth area" to which the City could, in its interests, provide water and sewer services (MT4930; 4932; 4934).

The Agencies clarified and expanded the water and sewer capacity and water pressure sections of the Environmental Assessment (MT4929-4935). The Agencies confirmed that the "City of Laurel's water and sewer systems, including water and sewer infrastructure available to the proposed [F]acility, have sufficient capacity to serve the proposed [F]acility" (MT4929). The City of Laurel's Resolution R25-39, which approved the Late Comers and Development Agreement between Love's Travel Stops & Country Stores, Inc. and the City of Laurel (MT3651-3652; 43-127), "demonstrates: (1) that the [C]ity's water and sewer systems can accommodate the proposed [F]acility; and (2) that new users of the water and sewer infrastructure were anticipated to tap into this water and sewer infrastructure" (MT4930). As reflected in the Late Comers Agreement, water and sewer mains were constructed to the area of the proposed Forensic Mental Health Facility, and these improvements, which could be inspected and were approved by the City of Laurel, "were constructed in accordance with the standards established by the City of Laurel, and in compliance with all rules and regulations of the Public Works Department" (MT4930).

It was explained that a "water and sewer 'main'…is any line providing water or sewer to multiple service connections and is designed to specifications providing adequate capacity to those service connections" (MT4930). New users, such as the Forensic Mental Health Facility, would tap into the water and sewer infrastructure and reimburse Love's for portions of its costs in extending the water and sewer infrastructure to the area (MT4930; 45-46). As recognized by the City of Laurel Planning Board and Zoning Commission, this area is a "growth area," "the [C]ity can provide services to the property both existing and proposed if extension of water, sewer," and that the "extension of services…is in the best interest of both the City of Laurel and the property owners" (MT4930; 121-123; 125 (*see also* MT6282 (referring to the area as "Annexation priorities" "identified due to their proximity to road access and City facilities")). The City of Laurel, moreover, certified to DEQ, in its submission of the Telgian Engineering and Consulting Building/Fire Code Research and Water Analysis, that the water line built by Love's and that runs adjacent to the Facility's proposed location meets water capacity and pressure standards (MT4930), and further Telgian supply and flow testing confirmed that water capacity and pressure of the public water supply system on the line that would be used by the Facility met all regulatory specifications (MT4930-4931).

The City of Laurel, moreover, has a net surplus water capacity available of approximately 2,548,426 gallons per day. The City's current water intake has an estimated capacity of 20 million gallons per day. "Assuming the max projected usage of a 64-bed theoretical facility's maximum usage of 8,960 gallons per day, a theoretical facility would still only represent 0.0448% of the total intake capacity of the system (as designed, the 64-bed [F]acility would only represent 0.013% of the total intake capacity of the system)" (MT4931-4932). "This orders of magnitude more than sufficient capacity would be delivered by newly constructed infrastructure, approved by the City

of Laurel and that anticipates new users, and the [F]acility would tap this infrastructure with successively smaller connections sized to address peak instantaneous [F]acility demand" (MT4932).

Water pressure is also sufficient to service the Forensic Mental Health Facility (*see e.g.* MT4927; 4930-4931; 4932). With respect to water pressure, "physical test data collected upstream and downstream of the [F]acility site indicates that the system maintains residual pressures above the required minimums for fire flow events," and residual pressures in the area are approximately double that required during fire flow events (MT4932). Where water pressure issues may arise, those are typically a function of private, or intra-facility lines (addressed, with respect to the Facility, by a domestic pump), and not because of any material pressure insufficiency in the mains (MT4927; 4932).

Water and sewer services, moreover, are available to the Facility (*see e.g.* MT4932-4935). The State has various options to ensure that adequate public services, including water and sewer, can be provided to the Forensic Mental Health Facility, which is acutely needed to provide forensic mental health care (MT4932-4935). These options include:

(1) City of Laurel agrees to provide water and sewer services to the [F]acility without annexing the property into the City, which the City is doing with other customers;
(2) Consent to annexation if the City desires it; Provide mitigation funding to the City of Laurel for conservation measures or infrastructure upgrades in the amount of the [F]acility's expected use as a condition of connection and/or annexation;
(3) Provide mitigation funding to the City of Laurel for conservation measures or infrastructure upgrades in the amount of the [F]acility's expected use as a condition of connection and/or annexation;
(4) Purchase and decommission properties in the City that consume water in the amounts of the [F]acility's expected use to offset actual capacity constraints;
(5) Compel the City to comply with the provisions of 7-13-4346, MCA, which requires the City provide services to the [F]acility via the Rossmoor Subdivision (the location of the proposed [F]acility), given that the boundary of

the subdivision is within 501 to 1,000 feet of a component of the municipal system;
(6) Seek judicial relief and enforcement of the Love's Late-Comer Agreement as a benefited third party wherein the City of Laurel has already agreed to provide water supply to the Rossmoor Subdivision and to reimburse Love's for the cost of the installation of the main line along Highway 10;
(7) Challenge the validity of the annexation moratorium; or
(8) Seek judicial relief and exercise the State's rights under Title 70, Chapter 30, eminent domain, to procure adequate water through either the existing public water supply or by seeking reallocation of the approximately 2,855-acre feet of unused water rights of the City (MT4933).

With respect to annexation, "annexation is *not* necessary for the [F]acility to obtain public services. Rather, it is an option to potentially arrive at a situation mutually benefiting both the City of Laurel and the [F]orensic [M]ental [H]ealth [F]acility" (MT4933 (emphasis added)). "Securing public services through a mutually beneficial relationship with the City of Laurel, by which annexation into the City is one means, is the preferred option for securing water and sewer" for the Facility, but, "should this option not be viable, [the Department of Public Health and Human Services and Board of Investments] will progress to other options until water and sewer services are secured for a [F]acility critical to addressing the State's acute need for forensic mental health care" (MT4935). "None of these options of securing water and sewer have any material impact on the environment. Capacity and pressure are sufficient, and are not materially impacted, regardless of the means of securing water and sewer services" (MT4933).

Water and sewer capacity, pressure, and infrastructure are sufficient, adequate, and available to service the Forensic Mental Health Facility. The Facility would not result in extra-Facility capacity or pressure impacts (MT4932). Multiple options exist to secure water and sewer services (MT4933). As expanded upon by the Department of Public Health and Human Services in its Findings and Conclusions:

17. [The Department of Public Health and Human Services] finds that water, wastewater, transportation, and other public service infrastructure, including

> emergency services, have sufficient capacity to support the Proposed Action. Expanding upon this finding, water and sewer capacity and infrastructure is sufficient and is available, water pressure is sufficient, and multiple options exist to secure water and sewer public services for the Proposed Action. Water and sewer capacity and water pressure is more than sufficient whether evaluated using the [F]acility's actual projected water use based on [F]acility design, or whether evaluated against the more conservative use numbers projected for a theoretical facility. No extra-[F]acility impacts to water or sewer capacity or water pressure are anticipated from the Proposed Action (MT4955-4956).

The Montana Board of Investments and Department of Public Health and Human Services conducted additional investigation and provided additional explanation as to all water supply issues and incorporated that additional investigation and explanation into a revised Final Environmental Assessment.

B. The Agencies made the revised Final Environmental Assessment available for public review, a public comment period and public hearing was provided for and occurred, and public comments were considered, including as the Agencies reevaluated Findings, Conclusions, and the Agency Determination.

The revised Final Environmental Assessment, incorporating the additional water supply issue explanations and information, was made available to the public for its review and comment on August 31, 2026 (MT3982). Notice of the availability of the revised Final Environmental Assessment for public review, the public comment period, and the public hearing was provided on September 1, 2026, and again on September 4, 8, 11, and 15, 2026 (MT3678-3681; 5779-5782; 6539-6542). The public comment period went from September 1, 2026, to September 8, 2026 (extended to September 15, 2026[3]), and the public hearing was held on September 8, 2026, from 1:00 to 3:00 p.m. in Billings, Montana (MT3678-3681; 5779-5782).

[3] On September 1, 2026, the day notice was first published, Plaintiff requested the comment period be extended 30 days and that the public hearing be rescheduled. The Board of Investments, Department of Public Health and Human Services, and Plaintiff agreed to an extension of the public comment period to September 15, 2026, and revised notices were published reflecting this extended comment period.

Public comments were received, including from Plaintiff, and were considered by the Board of Investments and Department of Public Health and Human Services in real time and subsequent to the comment period closure. As they have throughout the Forensic Mental Health Facility environmental assessment process, applicable comments resulted in reevaluations of the environmental analysis, including as to water supply, and other, issues raised in applicable comments. And the Findings and Conclusions and Agency Determination were also reevaluated considering applicable comments (*see* MT6231-6232).

With respect to water supply issues, the Agencies again sought professional engineering analysis of applicable comments, including the City of Laurel's comment (MT5839-5858, *et seq*.; 5178-5200, *et seq*). Although those comments raised issues as to systemic functioning of the City of Laurel's water supply system, no information was presented suggesting that water and sewer capacity, pressure, or infrastructure would not be adequate or available to the Forensic Mental Health Facility. As further determined by the professional engineers:

> Cushing Terrell has reviewed the "City of Laurel Formal Comment, Objection, and Request for Withdrawal and Further Environmental Review" (CoL Letter). Contained therein are several comments regarding the August 31, 2026, Cushing Terrell Memo "RE: City of Laurel Water System Capacity." The estimates detailed in that memo were based on publicly available historic data. It remains our position that the estimates as prepared are a satisfactory proof of concept and no models or data have been provided by the City that would cause a revision to those estimates.

(MT6234; *see also* MT4902-4905 (August 31, 2026, Cushing Terrell Memo "RE: City of Laurel Water System Capacity)).

The Montana Board of Investments and Department of Public Health and Human Services completed a revised Final Environmental Assessment incorporating additional investigation and explanation as to all water supply issues; made the revised Final Environmental Assessment available to the public for review and comment; noticed and held a public comment period and a

public hearing on the revised Final Environmental Assessment and Forensic Mental Health Facility; and considered and had applicable public comments influence the environmental analysis, Findings and Conclusions, and Agency Determination. The Agencies provided the public a reasonable opportunity to participate in the State's decision-making process, consistent with the Montana Environmental Policy Act's public comment provisions. *See* Preliminary Injunction Order 18, 23; Mont. Admin. R. 17.4.610(1)-(4); 17.4.610(6).

Conclusion

The Montana Board of Investments and Department of Public Health and Human Services believe they have complied with the Court's Preliminary Injunction Order. The Board of Investments and Department of Public Health and Human Services have further investigated, explained, and clarified the Forensic Mental Health Facility's water demand, the sufficiency and adequacy of water and sewer capacity and infrastructure, the sufficiency of water pressure, and the options for the Facility to secure available water and sewer services. The Agencies have provided the public a reasonable opportunity to participate in the State's decision-making process, including a comment period and hearing on the revised Final Environmental Assessment and Forensic Mental Health Facility, and have considered applicable public comments in reevaluating the environmental analysis, Findings and Conclusions, and Agency Determination.

The Court's "intention" was for preliminary injunctive relief to "be as short-lived as reasonably possible," and to be "a temporary pause on construction of the Facility." Preliminary Injunction Order 22. "It is certain that the State will suffer some amount of economic harm should construction of the Facility be temporarily paused," and the "local economy will also be impacted negatively in some way." *Id*. at 21. The "need for increased mental health services for the underserved population areas in central and eastern Montana is acute and urgent." *Id*. at 20.

The Board of Investments and Department of Public Health and Human Services have moved expeditiously, but diligently, to reevaluate water supply issues, to further involve the public in Facility decision-making, and to reconsider the Agency Determination based on applicable public comment and the revised Final Environmental Assessment. *See id*. at 22.

The Montana Board of Investments and Department of Public Health and Human Services respectfully request the Court expeditiously dissolve the Preliminary Injunction and allow acts in furtherance of the construction of the Forensic Mental Health Facility to continue.

Dated this 18th day of September 2026.

CROWLEY FLECK PLLP

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 35, I disclose that I used Microsoft Word's Copilot feature to edit this brief for spelling, grammar, and typographical errors. I certify that every citation to law and the record has been verified as accurate.

DATED this 18th day of September 2026

CROWLEY FLECK PLLP

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CERTIFICATE OF SERVICE

I, the undersigned representative for the law firm of Crowley Fleck PLLP, hereby certify that on this 18th day of September 2026, I electronically filed the foregoing document to the Clerk of the Court which will send notification to all Registrants below.

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Exhibit A

State of Montana Revised Final Environmental Assessment: **Red Line** (MT4908-4958)

(This was Exhibit J to the revised State of Montana Final Environmental Assessment released to the public for review and comment on August 31, 2026)

August 31, 2026

STATE OF MONTANA
DRAFT FINAL ENVIRONMENTAL ASSESSMENT
Proposed 32-Bed Forensic Mental Health Facility

Location: Yellowstone County, MT, Old U.S. Highway 10 Site – West of the City of Laurel

Lead Agency: Montana Department of Public Health and Human Services

Cooperating Agency: Montana Board of Investments

Statutory Authority: Montana Environmental Policy Act (MEPA), Title 75, Chapter 1, MCA, HB 5 (2025); Montana House Bill 5

Date of Final Assessment: ~~June 12, 2026~~ Aug. 31, 2026

DEPARTMENT OF
PUBLIC HEALTH &
HUMAN SERVICES

MT004908

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EXECUTIVE SUMMARY

This Environmental Assessment (EA) has been prepared by the Montana Department of Public Health and Human Services (DPHHS) in cooperation with the Montana Board of Investments (BOI) pursuant to the Montana Environmental Policy Act (MEPA), Montana Code Annotated (MCA) Title 75, Chapter 1, and the Administrative Rules of Montana (ARM), 17.4.601 et seq.

The EA evaluates the environmental, social, public health, and economic consequences of the Proposed Action—the construction and operation of a 32-bed (potentially expanding to 64-bed) forensic mental health facility on an approximately 114-acre property in Yellowstone County west of Laurel, Montana, selected after evaluation of alternative sites — against the No Action Alternative of not proceeding with the facility. DPHHS has assessed the Proposed Action by identifying the Proposed Action, its need, and the affected environment, and evaluating the direct, secondary, and cumulative impacts to relevant environmental resources, and by considering the site-specific characteristics of the project area, applicable regulatory requirements, and the effectiveness of mitigation measures in reducing any impacts.

Based on the analysis presented herein, DPHHS finds that the Proposed Action would result in positive impacts to the Montana human environment, including material improvements to public health, constitutional due process, regional economic vitality, geographic equity in the provision of and access to health services, and public safety — while causing no significant adverse impacts to the physical, or other components of the human, environment. The Proposed Action would result in no material alteration to land, air, water or biological resources, and any alteration would be of limited geographic extent or duration or could be mitigated below any material alteration. Wetlands and aquatic features identified on the parcel would be avoided or subject to additional permitting and review. The facility would connect to existing municipal water and wastewater infrastructure with confirmed capacity, and stormwater, dust, and erosion impacts would be addressed through standard permitting and best management practices.

No material growth-inducing or growth-inhibiting aspects, including cumulative impacts, are anticipated to occur. The Proposed Action is a compatible land use and consistent with applicable growth policy goals of greater economic opportunity. The evaluation of alternative sites has demonstrated that the selected site reasonably satisfies, and exceeds, the State's operational, infrastructure, and workforce criteria relative to other locations considered. While local community opposition, reflected in public comment, was expressed to the forensic mental health facility's location, it did not demonstrate any change to the site's satisfaction, and exceedance, of the site selection criteria.

No particularly unique, fragile, or important environmental resource or value was identified, though the Proposed Action would increase the availability of, and alleviate

the lack of capacity for, forensic psychiatric evaluation and restoration services, which is a critical need. The Proposed Action contemplates the full buildout of the facility, and would not set precedent for, or commit the Department to, any future actions with significant impacts. The Proposed Action does not conflict with local, State, or federal laws, requirements, or formal plans.

The No Action Alternative is found to perpetuate and intensify existing adverse impacts to Montana's behavioral health system, its forensic patients, and its county detention infrastructure. While the No Action Alternative would avoid the minor environmental issues associated with, in particular, the facility's construction, any variation in effects are minimal and of short duration.

AGENCY DETERMINATION

The Department of Public Health and Human Services approves and selects as the appropriate alternative the Proposed Action, subject to the mitigation measures and conditions identified in this Environmental Assessment. The Proposed Action meets the purpose and need, satisfies and exceeds the site selection criteria, has minimal physical environmental impacts, and has positive human environmental impacts. The Proposed Action does not result in any significant impacts to the environment, including to the physical or human environment. The Department of Public Health and Human Services determines that preparation of an Environmental Impact Statement is not required.

1. PURPOSE AND NEED

1.1 STATUTORY AUTHORITY AND PROJECT BACKGROUND

In the 2025 legislative session, the Montana Legislature passed House Bill 5 (HB 5), a long-range building program bill that transferred $26.5 million to the BOI for the construction of a behavioral health facility. Governor Greg Gianforte signed HB 5 into law on June 19, 2025. The statute required DPHHS and BOI to jointly develop a plan for the facility's type and location, subject to approval by the Director of the Office of Budget and Program Planning (OBPP).

Pursuant to HB 5, DPHHS and BOI developed a joint plan. On Nov. 28, 2025, following OBPP approval of the joint plan and analysis of alternative sites, DPHHS Director Charlie Brereton announced that a location in Yellowstone County near Laurel had been selected as the proposed facility site. BOI subsequently executed a buy-sell agreement for a 114-acre parcel located west of Laurel along Old U.S. Highway 10, between 8th Avenue and Golf Course Road. The parcel and facility would be owned by BOI as a State investment asset, with DPHHS serving as operator under a lease arrangement consistent with each agency's statutory mission.

1.2 PURPOSE

The primary purpose of this project is to construct and operate a state-of-the-art, 32-bed (potentially expanding to 64-bed) forensic mental health facility in Montana to address the acute shortage of forensic mental health capacity. The facility will serve individuals involved in the criminal justice system who require mental health evaluation or inpatient restoration of competency to stand trial, as authorized under MCA Titles 46 and 53. The facility is designed with modular scalability so that beds may be converted to civil commitment use if future demand warrants.

1.3 NEED

Montana's forensic mental health system is operating under severe and worsening strain. The following data points, drawn from DPHHS's October 2025 forensic demand analysis, document the need for immediate action:

- **Forensic court orders have surged 77% since FY 2022**, with Guilty but Mentally Ill (GBMI) orders alone increasing by 650% over that same period. There were 156 forensic court orders in FY 2025.

- **The forensic waitlist at the forensic mental health facility in Galen reached 128 individuals** at the close of FY 2025 — a patient population being housed in county jails while awaiting treatment, often without adequate psychiatric care. **As of June 5, 2026, there are 87 patients on the forensic wait list.**

- **Since FY 2022, the Galen facility has maintained a waitlist consistently exceeding 70 patients**, creating a systemic bottleneck affecting county courts, jails, local mental health systems, and defendants' constitutional rights.

- **Montana currently operates 21.57 State psychiatric beds per 100,000 residents**, at the lower end of the national benchmark range of 20–40 beds per 100,000 population.

- The only forensic facility in the State — the forensic mental health facility in Galen (53 beds) — is located in **western Montana**, requiring eastern and central Montana counties to transport defendants hundreds of miles for evaluations and restoration.

- Nationally, forensic waitlists grew from 883 individuals in 2019 to approximately 2,400 by 2024, and **11 states added more than 1,300 forensic beds** between 2022 and 2024 in direct response.

- In FY 2024 and FY 2025 combined, at least **24 known court orders were dismissed** due to speedy trial violations directly attributable to forensic bed shortages — each representing a lost treatment opportunity and a constitutional risk to the State, as well as a failure of the justice system.

- The total behavioral health investment during the 2025 session — approximately **$124 million in State funds** plus up to $40 million in federal funds — reflects the Legislature's recognition of a behavioral health crisis requiring comprehensive infrastructure solutions.

2. PROJECT DESCRIPTION

2.1 PROPOSED ACTION

DPHHS, as the Lead Agency and future facility operator, proposes, in cooperation with BOI (property owner), to construct a 32-bed (potentially expanding to 64-bed) forensic mental health facility on approximately 14 acres of an 114-acre parcel located in Yellowstone County, west of Laurel, along Old U.S. Highway 10, at Section 8, Township 2 South, Range 24 East (Facility or FMHF). The project is funded at $26.5 million through HB 5, with the potential to draw on approximately $28.5 million from the Behavioral Health System for Future Generations (BHSFG) State special revenue fund to cover any costs exceeding the initial legislative appropriation. A description of the proposed FMHF, including maps and other depictions of the facility, can be found in Appendix C.

Full scope of the Proposed Action analyzed under MEPA. The Proposed Action analyzed under this EA encompasses the full long-range buildout of the FMHF in two phases on the same parcel:

Phase 1 (currently funded): Construction and operation of a 32-bed forensic mental health facility, funded by the $26.5 million HB 5 (2025) appropriation supplemented by $28.5 million from the BHSFG State special revenue capital account. BOI has approved and is awaiting DPHHS direction to proceed following applicable regulatory processes, an Investment Project Manager Contract (BOI SH-DM-1-2026) with D&M Development, LLC for the construction, with a total contract obligation not to exceed $48,296,810.40.

The Phase 1 design, permitting, bidding, construction, commissioning, and substantial completion sequence is depicted in the project schedule below.

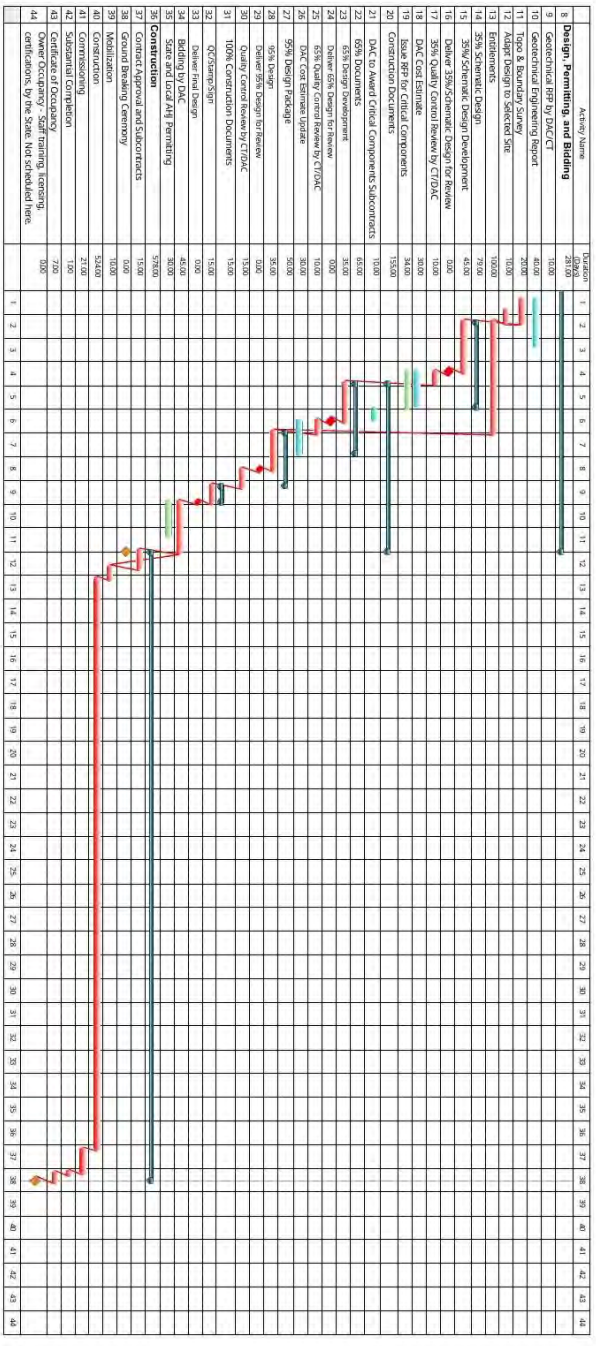


Figure 1. Montana Forensic Mental Health Facility Project Schedule (Phase 1). Source: DAC / Cushing Terrell, December 3, 2025.

Phase 2 (contingent on future appropriation): Construction and operation of an additional 32 forensic beds on the same parcel, increasing total facility capacity to 64 forensic beds. The additional beds will serve the same forensic population, will be designed to the same security and clinical standards, and will be operated under the same DPHHS lease and operational program as the Phase 1 facility. Phase 2 will not be constructed unless and until the Legislature appropriates additional funding for that purpose.

Both phases are analyzed in this EA. Where this document refers to the "32-bed" facility, that reference describes Phase 1 of the Proposed Action; references to the long-range facility, full buildout, or the 64-bed configuration describe the cumulative scope of Phase 1 plus Phase 2. Where impacts are inherently scaled with bed count — water and sanitary sewer demand, staffing complement, traffic, and capital cost — the relevant section identifies both the Phase 1 figure and the full-buildout figure.

The two-phase scope is disclosed in the DPHHS HB 5 Proposed Construction Plan submitted to OBPP (which states the facility will be designed with scalability in mind for future use) and has also been described to the Laurel City Council and the Yellowstone County Commission and is reflected in the conceptual design package prepared by DLR Group and Cushing Terrell on the State's behalf.

Key project components include:

- **32-bed inpatient forensic mental health facility** designed to medium- to low-security standards with modular pods convertible to civil commitment use.
- **Programmatic areas** including evaluation suites, restoration treatment units, gender-separated housing pods, administrative offices, and clinical support spaces.
- **Site infrastructure,** including water, wastewater, electrical service, stormwater management, access roads, and surface parking.
- **Security infrastructure** appropriate for a forensic patient population, including perimeter fencing, secure entries, and camera systems.
- **Landscaping and open space** consistent with a secure, treatment environment and compatible with the surrounding land use context.

Upon completion, DPHHS will operate the FMHF as lessee, with BOI retaining ownership as a State investment asset consistent with its statutory mission.

2.2 SITE DESCRIPTION

The proposed site is a 114-acre parcel of generally flat, vacant agricultural land located on the western edge of Laurel's urban boundary. The site is situated approximately 700 feet from Interstate 90 and borders Old U.S. Highway 10, providing direct access to the interstate transportation corridor and efficient traffic circulation options. The parcel is

bordered by commercial developments to the south and southeast, agricultural land to the west, and residential land to the north and east. The Laurel Golf Course is to the east, and Wood's Softball Complex is across Old Highway 10 to the South. The new Love's Travel Stops & Country Stores, Inc. (Love's) truck stop location is nearby.

Because the property currently lies just outside the Laurel city limits, BOI has contacted both the City of Laurel and Yellowstone County to have the property zoning designated for governmental use. Although the property must be zoned for government use, no zoning regulations or growth policy is contrary to the siting of a forensic mental health facility. BOI plans to consent to annexation if the City of Laurel desires it.

The nearest school is approximately .5 miles from the proposed construction location of FMHF. Commenters have expressed concern about the FMHF's location in relation to the school, generally comparing the FMHF to a prison. (Commenters have presented no data demonstrating that siting a forensic mental health facility within any given proximity to a school causes adverse impacts or effects to the human environment.) Although both forensic mental health facilities and prisons are secure facilities, a forensic mental health facility is not a prison and is very different from a prison. Montana law does not preclude siting a forensic mental health facility in Yellowstone County west of Laurel, including as it may relate to any school.

A forensic mental health facility is a secured facility providing psychiatric care to individuals needing mental health care or evaluation. It is not a prison or private correctional facility. It is part of the behavioral health system, operated under DPHHS authority and licensed as a secured, nonhospital component of a mental health center, whose primary purpose is to provide psychiatric evaluation, treatment, and custody for individuals whose criminal cases turn on their mental illness, fitness to proceed, or special forensic sentencing status.

Pursuant to Administrative Rule of Montana 37.106.1902 (10), a forensic mental health facility means a 24-hour, seven-day-a-week, secured nonhospital-based forensic psychiatric treatment for criminal justice involved adults who are committed by a court of competent jurisdiction for the purpose of psychiatric treatment or evaluation. Pursuant to Montana Code Annotated Section 53-21-102 (11), a "mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a community facility, a category D assisted living facility, a community program, an appropriate course of inpatient treatment, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder.

Forensic mental health facilities are organized around clinical care rather than custody. They must maintain enough clinical and support staff on duty around the clock to meet treatment needs, respond to crises, and sustain a safe therapeutic environment, which results in more direct care staff per patient than is typical per inmate in a prison unit.

The workforce in a forensic mental health facility is largely composed of physicians, psychiatric technicians, nurses, and other clinically oriented staff whose work centers on observation, therapeutic engagement, de-escalation, and supporting individualized treatment plans for people with serious mental illness. Security practices in a forensic mental health facility are designed to protect staff and patients and prevent elopement, but they are embedded within a treatment-focused environment where clinical assessments, recovery-oriented interventions, and therapeutic goals drive daily operations rather than a primarily custodial or punitive mission.

A prison, by contrast, is part of the correctional system and exists to securely confine people who have been criminally convicted and sentenced to the Department of Corrections. Its core legal purpose is punishment, custody, training, and general rehabilitation, with mental health services provided as one of several institutional programs rather than as the primary mission. *See* Mont. Code. Ann. § 53-30-101 (1). Prisons are staffed primarily by Correctional Officers, who are law enforcement professionals focused on maintaining order, enforcing rules, and providing security in a custodial, punishment-oriented setting. Their training emphasizes use of force standards, emergency response, perimeter and movement control, and managing large inmate populations. As a result, a relatively small number of officers may supervise many incarcerated people across large housing units or recreation yards, with staffing geared toward broad security coverage and institutional control.

Prison placement is driven by a standard criminal sentence under the criminal code, whereas placement in a forensic mental health facility is driven by court orders under the mental illness and mental defect provisions of Montana law. In many cases, patients in a forensic mental health facility have not been found guilty of a crime but are being evaluated to determine whether they are mentally fit to stand trial or are being treated to become fit to stand trial. Some may ultimately be found “guilty but mentally ill” (GBMI), meaning the court concludes they committed the offense but had a significant mental disorder at the time, and their sentence must account for both punishment and treatment. Others may be found “not guilty but mentally ill” (NGBMI) or a similar status under Montana law, meaning the court recognizes that their criminal responsibility is altered by mental illness and focuses on treatment and supervision rather than punishment.

Forensic mental health facilities differ significantly from prisons. These differences include differences in core mission, staffing, and day-to-day operations. Siting considerations applicable to prisons are not applicable to forensic mental health facilities.

Montana Code Annotated Section 53-30-607 imposes a one-mile setback between a *private correctional facility* and the nearest public school. That statute does not apply to a forensic mental health facility. Section 53-30-607 is titled “Licensure limitations — siting of private correctional facilities” and, by its plain terms, restricts only what the

Department of Corrections may license. "Department" is defined at Montana Code Annotated Section 53-30-602(1) as "the department of corrections provided for in 2-15-2301," and "private correctional facility" is defined at Montana Code Annotated Section 53-30-602(2)(a) as "a correctional facility that is either privately operated or privately owned and operated." The FMHF is neither: it is publicly owned by the BOI under HB 5 (2025) §17, publicly operated by DPHHS under HB 5 § 21, and is a forensic mental health facility, not a correctional facility.

The Legislature, moreover, has expressly recognized that the two categories are distinct: Montana Code Annotated § 53-21-102 (10) provides that "[a] correctional institution or facility or jail is not a mental health facility within the meaning of this part." The FMHF is governed by Title 53, Chapter 21, not by Title 53, Chapter 30, Part 6. No Montana statute imposes a fixed setback distance between a DPHHS forensic mental health facility and a school; the site's security design is therefore evaluated under the standards applicable to forensic hospitals (perimeter fencing, secure entries, controlled patient movement, and sallyport intake, rather than under the Department of Corrections private-prison siting rule). Both environments are secure. There are locked doors, controlled movement, searches, and rules designed to prevent escape and keep staff, residents, and communities safe. Each uses structured schedules, formal disciplinary processes, and incident reporting to manage behavior and respond to safety concerns. Both settings also have to balance individual rights with public safety, follow constitutional standards for conditions of confinement, and provide basic services such as food, shelter, medical care, and access to the courts.

But a forensic mental health facility is very different from a prison. This distinction is recognized both in law and in their core missions. Montana law permits the siting of the forensic mental health facility in Yellowstone County west of Laurel, including as it may relate to any school.

2.3 ALTERNATIVES

Proposed Action – Construct and Operate the FMHF on Parcel Near Laurel in Yellowstone County
As described in Section 2.1 above.

Alternative Sites Considered Prior to Selection
Numerous alternative sites were evaluated for the location of the FMHF. Site visits took place in Summer 2025 throughout Yellowstone County to assess locations suitable for the FMHF's design requirements. Additional site visits were conducted in Fall 2025 in Custer County (Miles City) and Bighorn County (Hardin) with participation from local officials, BOI, and DPHHS representatives.

There were a variety of factors used in the site selection process, including:

- Accessibility, Transportation, and Logistics
- Site Configuration and Suitability
- Utilities, Public Services, and Infrastructure
- Fiduciary Considerations
- Permanent Workforce Availability

Based on a comprehensive evaluation of all proposed locations, the Yellowstone County west of Laurel site most clearly satisfied the State's selection criteria and demonstrated superior long-term viability for a new FMHF. The site was chosen over other locations due to its strong alignment with the aforementioned factors. The alternative sites identified and considered during the site-selection process are identified in Appendix E.

Accessibility, Transportation, and Logistics – The site offers direct and reliable access for patients, staff, emergency medical services (EMS), and law enforcement, with convenient proximity to major transportation routes and regional population centers. This level of accessibility supports timely transfers, facilitates staff commuting, and enhances coordination with community partners throughout eastern Montana. The site also facilitates geographic equity in the provision of mental health services.

Site Configuration and Suitability – The property provides an appropriately sized and configured lot to support secure forensic facility operations and construction needs. The site's topography, layout, and access meet the needs of the specialized security, privacy, and safety requirements of a new FMHF.

Utilities, Public Services, and Infrastructure – The location has access to reliable water, sewer, electrical power, and telecommunications infrastructure, established emergency vehicle routes, and access to emergency medical services, fire, and police. These existing systems reduce development risk, support continuity of operations, and help ensure that emergency response and public safety services can be provided efficiently and effectively.

Fiduciary Considerations – The site supports responsible stewardship of public funds by balancing upfront project costs with long-term maintenance and operational efficiency. The availability of existing infrastructure, the suitability of the lot for potential phased development, and the potential to minimize costly retrofits or off-site improvements all contribute to lower lifecycle costs for the State.

Permanent Workforce Availability – This facility will rely on a specialized behavioral health workforce, including psychiatric nurses, psychiatric technicians, psychiatrists, psychologists, social workers, and other key clinical and support roles. The Laurel location was selected in part because of its proximity to the largest health system and health care workforce hub in Montana, improving the feasibility of recruiting, training, and retaining qualified permanent staff. Workforce challenges in behavioral health are

pronounced nationally and in Montana. The State is actively investing in solutions through efforts such as the BHSFG Initiative and the Rural Health Transformation Program (RHTP). These initiatives, among others, are expanding education, training, certification, and career advancement opportunities in critical behavioral health fields, and the Laurel site is positioned to benefit from and contribute to those ongoing efforts.

Commenters have expressed opposition to the FMHF's immediate location, particularly as to how it may interrelate with proximal residences, businesses, or schools. Although the Commenters concerns have been heard and considered, Commenters arguments and data have not materially changed the criteria evaluation described above, or demonstrated the need for additional, unconsidered criteria, or demonstrated that an alternative location would better satisfy the criteria.

The evaluation of alternative sites, applying the factors identified above, demonstrates that the selected parcel reasonably satisfied, and exceeded, the State's operational, infrastructure, and workforce criteria relative to other locations considered. The Yellowstone County site near Laurel was selected because it best satisfies the State's siting criteria—offering superior access to major transportation routes and regional population centers, access to mental health care providers, compatible site configuration, and immediate connection to existing utilities and public infrastructure—while reducing development risk and lifecycle costs. It also uniquely supports long-term operational viability by providing access to Montana's largest health care workforce, improving recruitment and retention and the provision of forensic mental health services, relative to other locations considered.

No Action Alternative – Decline to Build the Facility

Under the No Action Alternative, BOI would not acquire the Laurel parcel, and the facility would not receive the $26.5 million appropriated in HB 5, which would revert to the Long-Range Building Program account. No new forensic psychiatric capacity would be added in Montana through this mechanism in the foreseeable future. The existing forensic system, centered entirely at the Galen facility in western Montana, would continue to operate at or above capacity, with a growing, constitutionally problematic waitlist, and continued geographic inequity in the provision of forensic mental health services. The Proposed Action and the No Action Alternative have comparable and limited environmental impacts, in that the Proposed Action results in only minor, localized, and mitigable construction and operational effects, while the No Action Alternative avoids those physical disturbances. Accordingly, the primary distinction between the alternatives lies not in the physical environmental effects, but in the Proposed Action's ability to avoid the worsening human-environmental conditions and lost economic opportunity associated with inaction.

3. AFFECTED ENVIRONMENT

The analysis area for this EA is private property under an option to buy agreement with BOI, and potentially impacted surrounding areas, including residences, businesses, schools, transportation corridors, and utility service areas. Additional information on the physical environment is available in Appendix B.

3.1 PHYSICAL ENVIRONMENT

Soils and Geology

As shown in the geotechnical analysis attached as Appendix B, the geologic setting consists of lean clay with varying amounts of sand from the surface to depths ranging from 14 to 20 feet below ground surface. Underlying the clay is a sand with varying amounts of clay, silt, and gravel encountered at depths ranging from 14 to 20 feet and continuing to the bottom of the boring when encountered. The lean clay material was identified to be part of the Quaternary glacial till while the sand material was identified to be part of the Quaternary alluvial deposits in the Scobey region.

Standard Penetration Test (SPT) N values (uncorrected) recorded in the clay generally ranged from 1 to 14 blows per foot, indicating very soft to stiff soil. The moisture content of split spoon samples ranged from 5 to 25% at the time of testing.

SPT N values (uncorrected) recorded in the clay generally ranged from 6 to over 50 blows per foot, indicating loose to very dense soil. The moisture content of split spoon samples ranged from 18 to 23% at the time of testing.

The proposed site consists of agricultural soils typical of the Yellowstone River valley, characterized by generally well-drained loam and clay-loam soils used for dryland and irrigated agricultural production. No unique geological features or unstable soils have been identified in available site records.

Floodplain and Wetlands

Six wetlands totaling 17.31 acres and five bed-and-bank features totaling 1.84 acres were delineated during the February 2026 aquatic resource delineation.

Wetland-3, Wetland-5, and Wetland-6 may be considered jurisdictional due to their connection to seasonal wetlands, Bed and Bank (BB-1), which is likely to convey naturally sourced water for more than three months per year. BB-1 connects to a network of irrigation ditches that eventually outflow to the Yellowstone River, a Waters of the United States (WOTUS). Wetland-2 and Wetland-4 are likely non-jurisdictional features since they do not connect to another WOTUS. More research and field investigation will need to be performed to provide a preliminary jurisdictional determination for Wetland-1, as it is difficult to determine if it connects to another WOTUS somewhere off the property.

BB-4 and BB-5 are all likely non-jurisdictional features since they are constructed wholly in upland and do not convey water for more than three months of the year. BB-2 and BB-3 are also likely non-jurisdictional features, as they are constructed in upland areas and may convey water for more than 3 months of the year.

The U.S. Army Corps of Engineers will be consulted to make all final jurisdictional determinations in future phases that may impact the regulated features. Construction would occur away from and not disturb these wetlands.

Air Quality and Greenhouse Gases

The project is located within Yellowstone County. Montana's air quality standards are enforced under the Clean Air Act of Montana, Title 75, Chapter 2, MCA. Ambient air quality in the project vicinity is typical of peri-urban/agricultural interface and is influenced by a combination of regional and local sources, including vehicle traffic along Interstate 90 and Old U.S. Highway 10, agricultural activities, including soil disturbance and seasonal operations, commercial and light industrial development, and occasional fugitive dust during dry and windy conditions. Existing emissions from the parcel are minimal and limited primarily to agricultural soil disturbance and minor equipment use. Construction activities would generate temporary, localized fugitive dust and equipment emissions, primarily from ground disturbance, vehicle traffic, and construction equipment. During operations, the facility is expected to produce no air quality impacts. The Facility would not be a major stationary source of regulated air pollutants, and emissions would be limited to routine vehicle traffic, building energy use, and minor maintenance activities, consistent with existing development in the area and typical of institutional development. The Proposed Action would likely have a negligible effect on increased greenhouse gas emissions entering the atmosphere.

Water Resources

Water services would be provided by connection to the existing City of Laurel facilities. The City of Laurel has stated that sufficient capacity is available to provide water supply to this proposed facility, as established by the Love's Late-Comer's and Development Agreement approved by the City Council under Resolution R25-39 (adopted June 10, 2025), which authorized extension of city water and sanitary sewer mains to serve this area at capacity sufficient to accommodate the Proposed Action. A copy of Resolution R25-39 and the accompanying Late-Comer's and Development Agreement is attached to this EA as Appendix A. Sufficient capacity is further demonstrated through engineering analysis and consultation with regulating agencies, as more fully described in section 3.2.

~~Circular D by the~ Department of Environmental Quality(DEQ) Circular 4, which can be used to variously estimate water use from theoretical facilities, forecasts use of a theoretical facility potentially analogous to the forensic mental health facility of ~4,680

gallons per day (gpd) for Phase I (32 beds times 115 gpd plus 100 employees times 10 gpd). Phase II of a theoretical facility would add an additional 4,280 gpd (32 beds times 115 gpd plus 60 employees times 10 gpd). An alternative calculation using DEQ Circular 4 projects, ~~A~~at 32 beds, ~~this~~which is roughly the equivalent of 10 five-bedroom single family homes, approximately ~~(~~400 gpd ~~——~~ (approximately 4,000 gpd total).

However, actual projected potable demand for the 32-bed FMHF based on engineering design is approximately 2,000 gallons per day: 1,000 for employee and patient needs and 1,000 for kitchen and laundry services. At 64 beds, the facility would use 2,600 gallons per day potable water. ~~At 32 beds, this is roughly the equivalent of 10 five-bedroom single family homes (400 gpd each).~~ Accordingly, the impact of the facility can be analyzed both based on its actual use as designed, or, more conservatively, based on projection from a theoretical facility using DEQ Circular 4. The total water line length from Love's Truck Stop to the 12" tee at the site is approximately 2,364 lineal feet. There will be approximately 500 linear feet of water line from the tee to the building site. As is the case with Love's, a domestic pump will be used to ensure adequate pressure.Ensuring adequate pressure is a function of the private, or intra-facility lines, and not because of any pressure insufficiency in the mains.

Sanitary wastewater would discharge to the existing City of Laurel municipal wastewater collection and treatment system, which the city has confirmed has adequate treatment capacity at projected flow of approximately 2,000 gallons per day per 32-bed unit, again, throughout Laurel Resolution R25-39.

To minimize the use of treated potable water for non-potable purposes, the Proposed Action includes installation of on-site groundwater wells dedicated to landscape irrigation. The irrigation wells would be permitted by the Montana Department of Natural Resources and Conservation (DNRC) under the Montana Water Use Act (Title 85, Chapter 2, MCA).

Estimated irrigation demand is approximately 7,000 gallons per day during the growing season. Area data indicates groundwater levels are approximately 40 feet below the existing ground surface.

No surface-water bodies are located on the proposed construction site. Stormwater management for construction would be conducted under the Department of Environmental Quality's (DEQ's) General Permit for Stormwater Discharges Associated with Construction Activity, with a Stormwater Pollution Prevention Plan (SWPPP) developed prior to ground disturbance. Post-construction stormwater would be managed by on-site retention and conveyance designed in accordance with the City of Laurel's stormwater standards. The SWPPP mitigations would minimize sediment and erosion-related impacts to surface water during construction.

The water-resources analysis in this EA is tiered to the City of Laurel's adopted water and sewer master plans, to the Late-Comer's and Development Agreement adopted under Resolution R25-39, and to existing Yellowstone County groundwater studies.

Cultural and Historic Resources
No historic structures are located on the vacant agricultural parcel itself.

Vegetation and Wildlife
The site is currently in agricultural use with minimal native vegetation. No critical wildlife habitat, threatened or endangered species, or wildlife corridors have been identified on the parcel. The project footprint is appropriate for the scale of proposed development and will not fragment regionally natural areas. This location is adjacent to the urban interface of Laurel and Old Highway 10. The area is not in Core or General Habitat for greater sage grouse.

3.2 HUMAN ENVIRONMENT

Populations and Demographics
Yellowstone County, anchored by the city of Billings, is the most populous county in Montana, with over 169,000 residents as of 2022 and experiencing growth. It serves as a regional economic hub with a diverse economy. Laurel is a city of approximately 7,376 residents (2026 projected) located in Yellowstone County, approximately 14 miles southwest of Billings. The city has experienced steady population growth, with a projected annual growth rate of approximately 1.1%. The median household income is $68,474, and the poverty rate is approximately 8–10%. Laurel's location on the I-90 corridor, adjacent to the Billings metro area, provides access to a robust regional labor market, essential to staffing the proposed facility.

Health Care Workforce and Infrastructure
Yellowstone County's access to a critical health care workforce and infrastructure necessary to ensure the facility's success is a primary reason for its selection. This location puts the facility close to the Billings metropolitan area's health care workforce catchment zone, which supports a broad range of medical, mental health, and behavioral health professionals. The proximity to Billings — Montana's largest city and regional health care hub — is essential for recruiting and retaining the licensed psychiatric nurses, social workers, psychologists, and security personnel that a forensic facility requires.

Transportation
Laurel sits directly on I-90, one of Montana's primary east-west transportation corridors. This location provides direct, high-quality road access for law enforcement transporting patients from eastern and central Montana counties — many of which currently face

one-way transport distances of 300–500 miles to reach the Galen facility in western Montana. There is a direct exit off the I-90 onto the Old U.S. Highway 10 frontage road. This provides direct site access.

The Traffic Impact Study for the Love's Travel Stop performed by SCJ Alliance dated May 2024 identifies that the Love's Travel Stop will generate an additional 720 trips per day in 2025. Their analysis assumes a 4% growth rate per year for both Love's traffic and general neighborhood growth through 2030. The closest intersection to the FMHF site that was included in the study is at Golf Course Road/19th Ave W and Old Highway 10 W, which will also be the main entrance from the interstate to the facility. 994 trips per day were counted. In 2030, with the Love's project, the traffic flow is anticipated to be 2,085 trips per day. The FMHF, if fully expanded to 64 beds, will have approximately 60 employees. This is less than 5% of the daily traffic and is unlikely to cause effects in the area. This study is attached as Appendix H.

Public Services
Local governments (county or city) could provide standard municipal services, including water, wastewater, fire, and emergency response. Yellowstone County could provide law enforcement detention and emergency medical services at a regional level consistent with the operational needs of the proposed facility. As addressed below, the FMHF will be fairly self-efficient with respect to various public services, as it will have staff trained and equipped to respond to clinical, behavioral, and life-safety events.

Funding for the facility is limited by Legislative transfer and appropriation pursuant to Articles VIII, Sections 13 and 14 and HB5 (2025). Funding for other public services with funds dedicated by the Legislature for this facility is not legal.

Water and sanitary sewer capacity. The City of Laurel's water and sewer systems~~,~~ including water and sewer infrastructure available to the proposed facility, have sufficient capacity to serve the proposed facility. The facility will also have available to it adequate water pressure, and there is no material impact anticipated to water capacity or pressure elsewhere in the system anticipated from the facility. ~~The city has already answered that question in the affirmative on the record.~~

On June 10, 2025, the Laurel City Council adopted Resolution R25-39, approving a Late-Comer's and Development Agreement under Laurel Municipal Code Chapter 12.38 by which Love's has constructed, at its sole expense and at an estimated cost of $2,735,515, a water main extending from the city's existing system at the 8th Avenue/Old U.S. Highway 10 intersection and a sanitary sewer main extending from the city's existing system at the 7th Avenue/Old U.S. Highway 10 intersection, both running approximately 1,450 feet east of the Old Highway 10/19th Avenue West intersection.

The city's approval of R25-39 reflects an affirmative engineering determination that capacity exists in the existing system to receive these new connections along the Old Highway 10 corridor. For instance, prior to Love's construction of water and sewer

mains to the area of the facility, detailed plans and specifications for the construction of the improvements were submitted to the Laurel City Engineer, which plans had to be authorized by the City Engineer. The improvements were constructed in accordance with the standards established by the City of Laurel, and in compliance with all rules and regulations of the Public Works Department. The City could inspect the improvements to determine that their construction conformed with the plans and specifications and complied with all applicable standards, and the City Engineer inspected and approved the improvements upon their completion. A water and sewer "main," moreover, which Love's was constructing, is any line providing water or sewer to multiple service connections, and is designed to specifications providing adequate capacity to those service connections.

The LateComer's Agreement, and its extension of water and sewer mains to the area of the proposed facility, expressly contemplated new users of the water and sewer infrastructure.

The proposed FMHF parcel lies along that same corridor and would tap into the Love's-financed improvements on the same terms as any other prospective customer under LMC § 12.38.030, paying a pro-rata reimbursement during the seven-year reimbursable period. Additionally, the City of Laurel Planning Board and Zoning Commission recognized that the area is a "growth area," that "the city can provide services to the property both existing and proposed if extension of water, sewer," that "fire hydrants and water supply should be adequate if they meet the requirements from the Public Works Department," and that the "extension of services…is in the best interest of both the City of Laurel and the property owners."

The City's execution of R25-39 demonstrates: (1) that the city's water and sewer systems can accommodate the proposed facility; and (2) that new users of the water and sewer infrastructure were anticipated to tap into this water and sewer infrastructure.~~.~~

The BOI and DPHHS consulted with the Montana Department of Environmental Quality (DEQ), which regulates public water supply systems. The City of Laurel is obligated to provide information about water supply issues, including infrastructure capacity and water availability, to the regulating state agency. For example, the City of Laurel certified to DEQ in its submission of the Telgian Engineering and Consulting "Building/Fire Code Research and Water Supply Analysis," that the water line built by Love's and which runs adjacent to the facility's proposed location meets water pressure and capacity standards. Further, Telgian conducted additional supply and flow testing on March 12, 2026, and relayed to Love's on March 20, 2026, that the water pressure and capacity of

the public water supply on the line that would be used by the facility met all regulatory specifications. The two Telgian analyses are found in Appendix I.

The Department of Natural Resources and Conservation (DNRC) regulates the waters of the State, which includes the City of Laurel's water rights. DNRC recently completed a required 10-year review of water reservations, including the City of Laurel's reservations. Although the City did not report water use in its initial response to DNRC's questionnaire, Laurel's Director of Public Works subsequently reported that the City used approximately 4,296.4 acre-feet in 2025, or approximately 1,399,988,077 gallons. The City of Laurel has, at a minimum, access to 7,151 acre-feet from the Yellowstone River, or 2,330,163,565 gallons. This leaves an excess of 930,175,488 gallons available to serve the facility. The City's water rights and the communications from the DNRC outlining the rights are found in Appendix I.

DPHHS and BOI also conducted their own engineering analysis, relying on professional engineers, of the water and sewer infrastructure.

The facility's projected water and sewer demand remains the actual projected demand based on facility design (projected potable demand for the 32-bed FMHF is approximately 2,000 gallons per day: 1,000 for employee and patient needs and 1,000 for kitchen and laundry services; at 64 beds, the facility would use 2,600 gallons per day potable water). However, it was inquired as to whether adequate capacity would also exist for a theoretical facility using water at a rate calculated solely based on Montana DEQ Circular 4 (application of Circular 4, though various approaches can be taken which all yield similar results, projects use of 4,680 gallons per day (gpd) for Phase I (32 beds times 115 gpd plus 100 employees' times 10 gpd); Phase II would add an additional 4,280 gpd (32 beds time 115 gpd plus 60 employees time 10 gpd); for a total of approximately 8,960 gpd for a theoretical facility). The engineers have on multiple occasions confirmed that adequate water and sewer capacity exists for the facility, and that adequate capacity exists whether evaluated against the facility's actual use as designed or against a theoretical facility's use. Engineering analysis is included in Appendix 1.

Even assuming the increased water usage from calculations based on a theoretical facility's use, capacity is more than adequate, and the facility presents no material impact to the City's water capacity. Based on DNRC's recently completed 10-year review of existing water reservations, including the City of Laurel's reservations, the City has a net surplus water capacity available of 2,854.6 acre-feet (930,175,406 gallons) per year or a net surplus water capacity available of approximately 2,548,426 gallons per day. The current water intake has an estimated capacity of 20 million gallons per

day. Assuming the max projected usage of a 64-bed theoretical facility's maximum usage of 8,960 gallons per day, a theoretical facility would still only represent 0.0448% of the total intake capacity of the system (as designed, the 64-bed facility would only represent 0.013% of the total intake capacity of the system).

This orders of magnitude more than sufficient capacity would be delivered by newly constructed infrastructure, approved by the City of Laurel and that anticipates new users, and the facility would tap this infrastructure with successively smaller connections sized to address peak instantaneous facility demand. The City of Laurel water system has capacity to serve the domestic and fire flow requirements of the proposed facility.

With respect to water pressure, physical test data collected upstream and downstream of the facility site indicates that the system maintains residual pressures above the required minimums during fire flow events. Residual pressure at the facility site is estimated to be approximately 42 to 42.5 psi during the required fire flow demand of 1,000 gallons per minute, which exceeds the minimum 20 psi required during fire flow events. Pressures have not been shown to drop below 40 psi in the area of town around the facility. The current pressure zone is maintained by the City of Laurel's 4-million-gallon water tank, meaning the facility as designed at 32-beds represents only 0.05% of the total tank capacity, and no booster pumps are used. Maximum anticipated drop in the City storage from all use is 10 feet, and rarely does it even drop that low.

BOI and DPHHS are aware of public concerns regarding water pressure in the area of the proposed facility, but there is no technical information suggesting that servicing the forensic mental health facility with water and sewer would result in extra-facility capacity or pressure impacts. And upon further analysis, comments provided represent properties that are not in the same pressure system as the proposed facility, are not served by the same water line as the proposed facility, or are county residents receiving public water supply services from unrelated infrastructure.

Water and sewer capacity and water pressure are sufficient to service the forensic mental health facility, and the facility would not materially impact water and sewer capacity or water pressure.

The availability of this water and sewer of sufficient capacity, pressure, and infrastructure has become an issue. The State has various options to ensure that adequate public services, including water and sewer, are provided to the facility, which is acutely needed to provide forensic mental health care. These options include but are not limited to:

(1) City of Laurel agrees to provide water and sewer services to the facility without annexing the property into the City, which the City is doing with other customers;
(2) Consent to annexation if the City desires it;
(3) Provide mitigation funding to the City of Laurel for conservation measures or infrastructure upgrades in the amount of the facility's expected use as a condition of connection and/or annexation;
(4) Purchase and decommission properties in the City that consume water in the amounts of the facility's expected use to offset actual capacity constraints;
(5) Compel the City to comply with the provisions of 7-13-4346, MCA, which requires the City provide services to the facility via the Rossmoor Subdivision (the location of the proposed facility), given that the boundary of the subdivision is within 501 to 1,000 feet of a component of the municipal system;
(6) Seek judicial relief and enforcement of the Love's Late-Comer Agreement as a benefited third party wherein the City of Laurel has already agreed to provide water supply to the Rossmoor Subdivision and to reimburse Love's for the cost of the installation of the main line along Highway 10;
(7) Challenge the validity of the annexation moratorium; or
(8) Seek judicial relief and exercise the State's rights under Title 70, Chapter 30, eminent domain, to procure adequate water through either the existing public water supply or by seeking reallocation of the approximately 2,855-acre feet of unused water rights of the City.

None of these options of securing water and sewer have any material impact on the environment. Capacity and pressure are sufficient, and are not materially impacted, regardless of the means of securing water and sewer services.

The preferred option is that the City of Laurel agrees to provide water and sewer services to the forensic mental health facility without annexing the property into the City, as the City is currently doing with other customers. This preference is in response to public comments. The City, however, has not expressed interest in this option.

With respect to annexation, annexation is not necessary for the facility to obtain public services. Rather, it is an option to potentially arrive at a situation mutually benefiting both the City of Laurel and the forensic mental health facility. Accordingly, BOI, as the real estate developer for the Proposed Action, will consent to annexation if the City desires it.

On January 20, 2026, verbal and written comments were provided to the Laurel City Council by the BOI Executive Director. The City Council was informed that the State had

signed a buy-sell agreement for the proposed facility location. The City was also informed that the State would make a formal request to begin the annexation process for the property. Through the annexation process, means of alleviating any impacts, real or perceived, potentially caused by the facility could be addressed, and, for example, mitigation funding provided to the City for conservation measures or infrastructure updates in an amount of the facility's expected use as a condition of connection or annexation.

In response, steps were taken by the City to address its annexation process, which ultimately resulted in an indefinite, in time, application, purpose, and validity, moratorium on annexation applications. DPHHS and BOI have monitored this process, including concerns raised regarding water capacity and pressure, and have not identified any technical information that would question the sufficiency of water or sewer capacity or water pressure to the proposed facility. *See* Appendix I, *Additional Investigation and Explanation as to Water Supply Issues, including Infrastructure Capacity and Water Availability to Service the Proposed Facility*.

On June 16, 2026, DPHHS and BOI, through the engineering firm Cushing Terrell, requested a will-serve letter and the ability to perform a fire flow pressure test on the public water supply on the hydrant adjacent to the facility's proposed location (such testing would confirm the estimations of sufficient water capacity and pressure). The City denied both the will-serve request and the ability to perform the pressure tests in a letter from the City Public Works Director dated June 29, 2026.

DPHHS and BOI again consulted with the Montana Department of Environmental Quality, which regulates public water supply systems. DEQ ensured DPHHS and BOI that they were basing their capacity decisions on the most recent City of Laurel filings with DEQ, which filings demonstrated adequate capacity and approval of use, that DEQ approved connections to the water and sewer infrastructure in the area of the facility based on the City's filings, and that the City had not informed DEQ of any condition that would change these determinations.

On June 23, 2026, the Laurel City Council considered and approved a Conditional Use Permit for Love's Travel Stops and Country Stores for a 24-unit recreational vehicle parking area. The water services would be provided by the same water line that would service the facility. When concerns were raised at this meeting regarding public water and infrastructure capacity, the City Planner said "[t]he problem is not water, but pressure," and made clear reference was to the pressure on the private line, not the

main line. Like the Love's RV Park, to address any private line pressure concerns, the facility plans to include a domestic booster pump.

At its August 4, 2026, meeting, the Laurel City Council discussed a new 10-year agreement with the CHS Refinery, which includes a new requirement for minimum water purchase requirements for the City's largest user of the public water supply. No concerns regarding the City's water or sewer infrastructure or capacity or water pressure were raised. The relevant Laurel Public Works Committee brief is included in Appendix I.

Securing public services through a mutually beneficial relationship with the City of Laurel, by which annexation into the City is one means, is the preferred option for securing water and sewer for the forensic mental health facility. Should this option not be viable, DPHHS and BOI will progress to other options until water and sewer services are secured for a facility critical to addressing the State's acute need for forensic mental health care.

The State's ~~preliminary~~ final and permitted facility design parameters confirm that the demand placed on the city's system by the Proposed Action is modest relative to the capacity being delivered under R25-39: the facility's domestic water service will tap the Loves-financed main with a four-inch (4") connection, reducing to a three-inch (3") service entering the building, sized for a peak instantaneous demand of approximately 120 gallons per minute at full long-range buildout of 64 beds (Phase 1 plus Phase 2, as described in Section 2.1).

Sanitary sewer service to the facility will be conveyed by a six-inch (6") lateral discharging to the Loves-financed sanitary sewer main. These service sizes are consistent with standard institutional health care service connections and are below the design capacity of the mains being constructed under R25-39.

Fire, police, and emergency medical services. The proposed facility would very rarely draw on Laurel's volunteer-stipend fire department and single-ambulance emergency medical service, or on the city's police department. This health care facility will be staffed at all times with on-site safety personnel and patient-care staff trained and equipped to respond to clinical, behavioral, and life-safety events, and the building will be designed with secure entries, controlled patient movement, perimeter fencing, sallyport intake, and fire detection and suppression systems meeting the standards applicable to a hospital occupancy, and on-site security supervision. The proposed facility is designed and will be operated so as not to impose additional demands on those local services. Additional detail can be found in Section 4.4.1.

The State, through the BOI as titleholder under HB 5 (2025) §17 and DPHHS as operator under HB 5 §21, will not seek annexation of the parcel into the City of Laurel for the

purpose of obtaining fire, police, or ambulance services; the State will, however, consent to annexation if the City requests it, consistent with the position already stated in Section 2.2 of this EA.

For the limited circumstances in which a patient requires emergency medical care that cannot be safely managed on-site, DPHHS will pursue inter-facility transfer agreements with hospital systems and independent emergency medical service providers in Billings (located approximately 12 miles east of the site via Interstate 90) for transport and treatment, rather than relying on the City of Laurel's ambulance or hospital resources.

Accordingly, the Proposed Action does not impose meaningful new operating demands on Laurel's fire department, police department, or emergency medical services.

Proximate Residences, Business, and Schools

Commenters have expressed opposition to the FMHF's immediate location, particularly as to how it may interrelate with proximal residences, businesses, or schools. As addressed in Section 2.3, Commenters' arguments and data have not materially changed the site selection criteria evaluation described above or demonstrated that an alternative location would better satisfy the criteria. Additionally, property value and tax revenue issues are addressed in Sections 4.1.1, 4.1.2--, and schools are addressed in Section 2.2 and 4.1.1. Commenters did not provide any data or studies demonstrating any effect on proximate businesses. As demonstrated in Section 4.1.1, the FMHF is expected to have a positive economic impact.

4. ENVIRONMENTAL CONSEQUENCES

4.1 PROPOSED ACTION – IMPACTS ASSESSMENT

4.1.1 Positive Impacts on the Human Environment

Public Health — Behavioral Health Service Access

The construction of the 32-bed facility is projected to increase DPHHS's annual forensic care delivery capacity to 197 patients, increasing the availability of, and alleviating the lack of capacity for, forensic psychiatric evaluation and restoration services, which is a critical need.

This expansion directly addresses a documented and worsening public health emergency. Individuals on the current 87-person waitlist are being held in county jails without adequate psychiatric care, leading to clinical deterioration, increased suicide risk, and prolonged institutionalization. Access to timely forensic psychiatric services is foundational to both individual health outcomes and community public safety.

The 197-patient annual delivery capacity figure reflects Phase 1 (32 beds). Upon completion of Phase 2 (an additional 32 forensic beds, contingent on future legislative appropriation, as described in Section 2.1), the facility's annual forensic care delivery capacity is projected to approximately double, providing meaningful long-term capacity to address the documented and growing forensic waitlist.

Constitutional Due Process and Rule of Law
Prolonged detention in county jails without access to competency evaluations and restoration treatment may constitute a violation of defendants' constitutional due process rights under the Fourteenth Amendment. Other states, including Washington, have faced federal class-action lawsuits and consent decrees requiring expanded forensic capacity due to similar systemic failures. The proposed facility directly mitigates this legal exposure for both the State of Montana and its 56 counties. It will also reduce the costs of confining individuals who are committed to DPHHS and are awaiting bed availability at the State's Galen campus.

The current waitlist for these services supports Yellowstone County as the location for the facility. As of June 5, 2026, the waitlist, by county, is:

Missoula – 15
Yellowstone – 13
Flathead – 12
Silver Bow – 11
Cascade – 5
Richland – 4
Beaverhead – 4
Powell – 3
Lewis and Clark – 3
Ravalli – 3
Hill – 3
Custer – 2
Jefferson -1
Deer Lodge – 1
Lake – 1
Gallatin – 1
Lincoln – 1
Fallon – 1
Mineral – 1
Carbon – 1
Big Horn – 1

Total: 87 across 21 counties.

Geographic Equity – Central and Eastern Montana
Because the existing forensic mental health facility in Galen is located in western Montana, law enforcement agencies, courts, patients, and families in central and eastern Montana face substantial transportation burdens — in some cases 300–500 miles one-way — for forensic services. DPHHS's guidance analysis specifically cites geographic equity and improved access for eastern Montana as the primary rationale for the facility's site selection. Locating the facility in Laurel on the I-90 corridor provides efficient ground transportation access to communities across central and eastern Montana, including Yellowstone, Custer, Dawson, Richland, McCone, Garfield, Prairie, Rosebud, and Treasure Counties.

Economic Benefits – Regional Employment and Investment
The project represents a capital investment of at least $26.5 million, with potential supplemental funding of up to $28.5 million from the BHSFG fund. Construction will generate direct employment in the building trades and support indirect economic activity throughout the Yellowstone County regional economy. Upon opening, the facility will create permanent positions in psychiatry, nursing, social work, psychology, security, maintenance, and administration — stable, well-compensated public health care sector jobs consistent with Laurel's growth policy goal of greater employment opportunity.

Public Safety
The forensic waitlist has directly contributed to the dismissal of criminal charges on due process grounds — at least 24 known cases in FY 2024 and FY 2025 combined. Each dismissal represents a safety risk if the underlying criminal conduct is attributable to untreated mental illness. By reducing waitlists and increasing throughput for competency evaluation and restoration, the proposed facility enables the criminal justice process to move forward appropriately, protecting both defendants' rights and community safety.

Safety and Security Concerns Related to Proximity to Local Schools and Homes
All individuals admitted to this type of facility are either court-ordered or sentenced to DPHHS. The facility will operate under strict security and clinical protocols to ensure the safety of patients, staff, and the local and broader community. The facility will be fully compliant with ARM 37.106.1615, which stipulates the requirements for a facility of this type. No law or regulation restricts the siting of the facility at the location selected.

As a forensic mental health facility, security is tighter than in traditional locked psychiatric units. Security features include:

- “Sally port” doors, which ensure one door is closed before the other opens to prevent patient elopement

- A robust, high-security perimeter fence around certain sections of the facility as an additional measure of safety and security for the campus as well as the surrounding community
- A 24/7 central command station that operates facility access control and manages patient and staff movements
- 24/7 interior and exterior live video monitoring

No firearms are on-site, and staff are trained in de-escalation and safe behavioral management techniques.

Total EMS calls for the Galen facility are minimal and are as follows, based on information provided by DPHHS. There have been four total fire department calls from 2020 to present, none of which required fire department response (fire alarms only). There have been 21 EMS calls, most in FY 2025, due to ongoing construction of the Main Hospital and increased medical acuity of patients being transferred to Galen. The Department does not anticipate that this would be the patient population served in the Yellowstone County Facility.

Reduction of County Jail Strain
County jails across Montana report severe operational strain from housing forensic patients who require psychiatric care but cannot access treatment due to the waitlist. Jail staff reports that these individuals deteriorate while held in facilities not equipped to treat mental illness. The proposed facility, by reducing the forensic waitlist and absorbing patients from eastern counties, will relieve overcrowding in county jails, reduce per-diem costs to county governments, and allow jail staff to focus on their core public safety function.

Long-Term Systemic Resilience
The facility's modular design — built to forensic standards but capable of conversion to civil commitment use — provides long-term flexibility that maximizes the return on State capital investment and avoids costly future retrofits.

4.1.2 Physical Environmental Impacts

Short-Term Construction Impacts
Ground-disturbing activities will produce temporary, localized impacts, including fugitive dust, equipment exhaust emissions, construction noise, and disturbance of agricultural soils within the project footprint. These impacts are typical of commercial and institutional construction projects. They will be managed through standard best management practices, including dust suppression, erosion and sediment controls, and construction traffic management plans. All applicable State air quality, stormwater, and construction permits will be obtained before commencement of earth-disturbing activities.

Long-Term Operational Impacts
Upon completion, the facility's operational footprint will generate traffic consistent with that of an institutional health care campus — primarily staff commuting and periodic law-enforcement transport of patients. Given the site's access via Old U.S. Highway 10 and its direct exit from I-90, traffic impacts on residential streets will be minimized through appropriate site design and access management. Wastewater flows could be handled by the City of Laurel's municipal wastewater treatment system. Stormwater will be managed in compliance with State permit requirements.

Land Use, Visual, and Socioeconomics
The Proposed Action encompasses the full 64-bed long-range buildout in two phases: Phase 1, the currently funded 32-bed forensic facility; and Phase 2, an additional 32 forensic beds on the same parcel, contingent on future legislative appropriation. The two-phase 64-bed scope, as disclosed in the DPHHS HB 5 Proposed Construction Plan submitted to OBPP, has also been described to the Laurel City Council and the Yellowstone County Commission. It is also reflected in the conceptual design package prepared by DLR Group and Cushing Terrell on the State's behalf, attached as Appendix C.

The 114-acre parcel size reflects the security perimeter, operational support, and contingency-buffer requirements appropriate to a 64-bed forensic campus, identified during the alternative-site screening (Section 2.3). Because the full 64-bed buildout is analyzed in this EA, no supplemental environmental analysis is required for Phase 2 construction, provided it remains within the parameters analyzed here. Any future State-operated construction at this site that would exceed the parameters analyzed in this EA — for example, capacity materially beyond 64 beds or a materially different use — may constitute a separate State action potentially requiring its own environmental analysis.

The site is currently vacant agricultural land in Yellowstone County by the western edge of Laurel. Construction in this location is generally consistent with Laurel's Growth Policy, which anticipates continued development along the western urban fringe. Landscaping, architectural design, and appropriate setbacks will be incorporated to minimize visual impacts on nearby residential properties and recreational amenities. Excess land could be left in its current agricultural status, resold, or further developed, as consistent with land-use or growth needs.

Impacts to nearby residential property values have been raised, specifically by citing broker testimony ("6% sale-price differential on a single townhouse unit," another broker's estimate of "up to 50%," a "$100,000 per home" figure, and a "27% within one mile" figure) and a reference to a Montana Realtors Association report.

Studies were submitted by opponents and proponents of the facility. Proponents submitted information collected by the State of Montana's Legislative Services Division, analyzing forensic facility construction and the current economic conditions around previously built forensic facilities. Opponents submitted information regarding "correctional facility, jail, work camp, etc." (Sage Journals), ranging in date from 1990 to 2022. After consideration and review, it was determined that "correctional facilities, jails, work camps, etc." are not comparable to a forensic mental health facility as described in Section 2.2. A local gap analysis was conducted in September 2025, and the Department has determined that the analysis is inaccurate and generally irrelevant. The analysis claimed that the "proposed facility, operating at a standard 7:1 ratio, would require approximately 450 full-time staff," which is categorically false based on the existing staffing models for the FMHF at Galen and the Department's projected staffing needs for the new facility. All studies are available in Appendix F.

The Department has reviewed the comment record and the peer-reviewed empirical literature on this question. None of the figures submitted in comments are supported by controlled market analysis: the 6% figure is a single transaction with a five-month listing period and no hedonic comparison, nor was it accompanied by any documented proof of the valuation change; the "up to 50%," "$100,000," and "27%" figures are stated without identified comparable sales, methodology, or source documents. Anecdotal comments regarding sales data were considered but remain unverified as second-hand and do not consider the changing dynamic of the housing market, which is shifting to a more buyer-friendly market generally (https://nbcmontana.com/news/local/pandemic-era-influx-drove-price-spikes-economist-says-montana-housing-is-stabilizing). However, an analysis was performed on the housing market in the 59044 Zip Code using publicly available data and found average home prices have increased from December 2025 to April 2026 in dollar value and shows home prices have grown year-over-year for the same time frame. This timeframe overlaps with public knowledge of the FMHF and its proposed location in the 59044 Zip Code.



Peer-reviewed literature has examined this question repeatedly over four decades using multiple-regression and difference-in-differences methods that control for the fact that such facilities are generally sited in already lower-value areas.

Galster, Tatian, and Pettit (2004), studying 11 supportive-housing developments in Denver, found that property values within 2,000 feet of the facilities rose approximately 3.5% relative to the pre-siting trend after the facilities opened.

The NYU Furman Center's analysis of roughly 7,500 supportive-housing units in New York City found no statistically significant negative impact on properties within 500 feet and steady relative price growth after opening.

Horn, Joshi, and Maclean (2021), studying substance-use-disorder treatment centers in Seattle, found that naïve models produced a 3.4–4.6% reduction, but that, after correcting for the endogeneity of facility siting using a spatial difference-in-differences model, "no evidence that [such centers] affect property values" remained.

Earlier studies of mental health centers and group homes (Dear 1977; Ryan and Coyne 1985; Wagner 1989) reached similar conclusions.

Property-value diminishment claims are not supported by the available empirical evidence and do not establish an adverse socioeconomic impact. The FMHF, moreover, would be developed with full perimeter landscaping and architectural treatments consistent with the surrounding residential and commercial context, and with setbacks designed to minimize visual intrusion on adjacent properties.

Assertions that siting the facility on the Laurel parcel forgoes an estimated $350,000 to $400,000 per year in property tax revenue that would otherwise be generated by private residential or commercial development of the 114-acre site are not supported by data and are speculative in assuming that such residential or commercial development would provide this revenue (Commenters assume a scale of residential and commercial development exceeding that of the FMHF, which the Commenters maintain cannot adequately be serviced by existing utilities), occur. As demonstrated in Section 4.4.1, the FMHF would generate positive socioeconomic impacts, including those with a nexus to the human environment.

Additionally, psychiatric facilities are commonly located in residential neighborhoods throughout Montana. Appendix C shows maps of the Billings Clinic Behavioral Health and DPHHS Grasslands psychiatric facilities with concentric circles extending for a one-mile radius. In both instances, facilities are near residential and other public facilities, are in growing areas, and, generally, have above-average commercial and financial value.

Property owned by the State of Montana and used for a governmental purpose is generally exempt from local property taxation under Article VIII, Section 5 of the Montana Constitution and Title 15, Chapter 6, Part 2, MCA, irrespective of the specific site selected; any foregone-tax figure therefore reflects not a unique consequence of the Yellowstone County parcel, but the general statutory framework governing State-owned facilities.

The Phase 1 (32-bed) construction phase represents a BOI contractual commitment of up to $48,296,810.40 under BOI Investment Project Manager Contract SH-DM-1-2026, funded by the $26.5 million HB 5 (2025) appropriation supplemented by $28.5 million from the BHSFG fund. Phase 2 construction, if appropriated by a future Legislature, would represent a further capital investment of comparable magnitude on the same parcel. Ongoing operations of the facility will sustain permanent positions in psychiatry, nursing, social work, psychology, security, maintenance, and administration — payroll, procurement, and indirect economic activity that accrues to the Yellowstone County regional economy and to local sales- and income-tax-paying businesses.

Municipal water, sanitary sewer, and road systems could adequately service the FMHF. As addressed in Section 3.2, the City of Laurel's execution of the Love's Latecomer Agreement (Resolution R25-39, June 10, 2025) and its acceptance of municipal water and sewer extensions to this corridor demonstrate that infrastructure capacity to serve development in this area is being delivered. Additionally, water and sewer services are financed by user fees, not property taxes.

The City of Laurel has further received substantial state financial assistance for construction, operation, and maintenance of its water and wastewater systems. The chart below from the Legislative Services Division, which was verified by the Office of Budget and Program Planning, shows in excess of $23 million in state financial assistance to the City of Laurel.

Biennium	Program Type/Legislation	Amount	Infrastructure Focus	Status
2025	State-Local Infrastructure Partnership Act (HB 355)	$488,448	7th Ave and 6th Ave Sewer Main Line Replacements	Approved

2021	ARPA Infrastructure Grant (HB 632)	$1,098,308	South 4th Street Stormwater and Sewer Infrastructure Improvements Project	Completed
2017	TSEP Wastewater Grant	$500,000	Fire Flow Capacity and Mains Replacement	Completed
2015	TSEP Planning Grant	$15,000	Water system PER	Completed
2015	DNRC Renewable Resource Grant (RRGL)	$125,000	Water Systems Improvements	Completed
2011	TSEP Wastewater Grant	$625,000	Replace distribution main	Completed
2009	TSEP Wastewater Grant	$750,000	Replace the Village Sub lift station	Completed
2007	TSEP Wastewater Grant	$500,000	Replace sewer trunk mains.	Completed
Since 2000	WRF (Drinking Water) Loans	$11,600,000	Water Treatment Plant, Water Main, Laurel Intake	Completed
Since 2000	SRF (Wastewater) Loans	$7,900,000	Upgrade to Wastewater Plant and Collection System	Completed
Total		$23,601,756		

Locating the facility on the 114-acre Yellowstone County parcel west of Laurel does not block westward residential growth nor does it exacerbate any local housing shortage. Long-term housing supply in the Laurel area is governed by considerably broader factors than the availability of any one 114-acre peri-urban parcel, and the FMHF merely requires that any westward growth in the area align with the FMHF's use of the parcel. In fact, the FMHF further supports the continued provision of services to any westward expansion. The City of Laurel, moreover, has no ability to provide for expanded residential development in the vicinity of the parcel, as it, and other areas west, are outside the Laurel city limits. The City of Laurel Civil Attorney stated on March 25, 2026, in a written communication to the BOI, "The City of Laurel has no authority to zone, or otherwise dictate, appropriate land use for the property the State is purchasing."

From: Civil Attorney <civilattorney@laurel.mt.gov>
Sent: Wednesday, March 25, 2026 2:43 PM
To: Villa, Dan <DVilla@mt.gov>
Cc: City Mayor <citymayor@laurel.mt.gov>; Kurt Markegard <kmarkegard@laurel.mt.gov>
Subject: Governmental Use Notice

Mr. Villa:

I am responding to the attached letter sent to City of Laurel CAO Markegard late yesterday night.

Moving forward, please direct all communications to my office on this matter, or if you are communicating with City Staff on these pending matters, please be sure to circle in my office, due to pending litigation concerns.

Montana law, related to local zoning regulations, as you note in your letter to CAO Markegard, specifies as follows:

76-2-402. Local zoning regulations -- application to agencies. (1) Whenever an agency proposes to use public land contrary to local zoning regulations, a public hearing must be held and the agency shall attend the public hearing.

(2) The local governing body shall hold a hearing within 30 days of the date the agency gives notice to the local governing body of its intent to develop land contrary to local zoning regulations.

Mont. Code Ann. § 75-2-402 is not applicable to the proposed Mental Health Forensic Facility, as it relates to the City of Laurel. The "local governing body," in this circumstance, is not the City of Laurel. The "local governing body" is Yellowstone County. The property at issue is not within City of Laurel city limits. The property at issue is not subject to City of Laurel jurisdictional obligations. Existing case law and statutory authority makes it very clear that the City of Laurel does not have extra-territorial jurisdiction over the County property at issue. The City of Laurel has no authority to zone, or otherwise dictate, appropriate land use for the property the State is purchasing. Please refer to the County's Resolution related specifically to this issue – R24-116. In addition, please refer to the District Court's determination by way of Judge Fehr in Yellowstone County, clearly specifying that the City does not have extra-territorial jurisdiction over County properties. While that decision is on appeal, right now, to the Montana Supreme Court, unless and until overturned, this is the existing law that governs the City of Laurel, and it is binding upon the City of Laurel's actions, as they relate to County properties.

The City declines to take any actions in relationship to the property at issue, including the State's purchase of this property and intended use. If and when an annexation Petition is presented to the City, at which time the City/County Planning Board will meet its legal obligations to consider the Petition, and thereafter, so will City Council, the City declines to participate in any purported "zoning" hearings or otherwise related to the County property at issue. The City does not have jurisdictional authority over this property, and your inquiries should be directed at Yellowstone County, its staff, and the Commissioners making decisions about County properties.

If you wish to further discuss, please let me know.

Thank you.

Best Regards,

Michele L. B

Michele L. Braukmann
Civil City Attorney
City of Laurel
Cell Phone: 406.671.4333
civilattorney@laurel.mt.gov

The parcel lies in unincorporated Yellowstone County and is currently in agricultural use. Even where local zoning regulations exist, Montana law expressly contemplates State agency use of public land for governmental purposes that may be contrary to local zoning (see 76-2-402, MCA). Section 76-2-402, MCA, provides that where an agency proposes to use public land contrary to local zoning regulations, the local governing body must hold a public hearing within thirty days of notice from the agency, and the agency must attend the hearing. The statute prescribes a procedure for such use; it does not prohibit it. The State will follow the procedure, as applicable, prescribed by § 76-2-402, MCA, in Yellowstone County. As addressed in Section 2.2, the Department has separately requested that the City of Laurel and Yellowstone County designate the property for governmental use, consistent with the existing planning framework.

Additionally, as detailed in Section 2.3, multiple alternative sites, including various locations in central and eastern Montana, were considered for the potential location of the FMHF. Based on that evaluation and application of the siting factors and considering any unique varying effects on the human environment presented by the various locations, the site near Laurel most clearly satisfied the selection factors and demonstrated superior long-term viability for a new FMHF.

The Department finds that the scope of the Proposed Action is fully disclosed and analyzed. The Department finds no adverse land use, socioeconomic, or visual impacts established by the Proposed Action. The Department finds no adverse impact to the housing market or to the regional growth pattern established by the dedication of this parcel to the Proposed Action.

Water, Air, and Land
Impacts and their lack of materiality are generally addressed in applicable portions of Sections 3.1 and 3.2, and those portions are incorporated herein by reference.

Physical Environmental Finding
Based on site characteristics, the scale of the proposed facility, available infrastructure, and applicable regulatory framework, no adverse impacts to air quality, water resources, soils, cultural resources, biological resources, or other physical environmental components are anticipated from the Proposed Action that cannot be mitigated through standard permitting and construction practices.

Based on the foregoing, the Department has determined that there are no adverse impacts to water resources associated with the Proposed Action.

4.2 NO ACTION ALTERNATIVE – IMPACTS ASSESSMENT

The No Action Alternative — declining to build the Forensic Mental Health Facility in Yellowstone County — does not represent a neutral baseline. It perpetuates and

compounds a documented, ongoing crisis with measurable adverse consequences for Montana's human environment. While the No Action Alternative perpetuates and compounds this adverse consequence for Montana's human environment, it would mean that the impacts of the Proposed Action would not occur, and that existing impacts reflecting 114-acre agricultural land would continue.

Continued Public Health Crisis
Without the proposed facility, the forensic waitlist — currently at 87 individuals and growing — will continue to grow as forensic court orders (up 77% since FY 2022) outpace admission capacity. Individuals legally entitled to psychiatric evaluation and treatment will remain in county jails for extended periods without appropriate clinical intervention, with documented clinical deterioration, increased risk of self-harm, and delayed adjudication.

Constitutional and Legal Exposure
The No Action Alternative leaves Montana's constitutional exposure regarding the due process rights of forensic defendants intact and worsens it. As DPHHS has noted, other states facing analogous situations have been subjected to federal court oversight, class-action litigation, and court-ordered capacity expansions — remedies far more costly than the proactive investment contemplated under the Proposed Action. The continued dismissal of criminal charges due to speedy trial violations is expected to increase.

Perpetuation of Geographic Inequity
Without this Yellowstone County facility, central and eastern Montana will remain without accessible forensic psychiatric services, forcing continued long-distance transport of patients, delays in treatment initiation, and disproportionate burden on eastern Montana's law enforcement and judicial systems.

Foregone Economic Development
The No Action Alternative results in the forfeiture of at least $26.5 million in legislative capital investment in the Laurel and Yellowstone County community. Permanent health care employment positions, multiplier economic effects, and long-term institutional investment in the community would not be realized.

Continued County Jail Strain and Costs
County jails would continue to bear the cost and operational burden of housing psychiatric patients for whom treatment is legally required but unavailable. This burden falls disproportionately on smaller counties with limited detention resources and diverts county resources from core public safety functions.

No Action Alternative Finding
Under the No Action Alternative, existing and worsening adverse impacts on the human environment — including degraded public health, constitutional rights violations, geographic inequity, foregone economic development, and strain on county public

safety — will continue and intensify. The No Action Alternative is found to produce a materially worse environmental outcome for Montana's human environment than the Proposed Action and is not the environmentally preferred alternative.

5. MITIGATION MEASURES AND PUBLIC ENGAGEMENT

The following mitigation measures are recommended as conditions of project approval to manage identified physical environmental impacts. These measures shall be incorporated into the facility's design, construction, and operations documentation before commencement of ground-disturbing activities.

1. **Dust and Air Quality**
   Implement a dust control plan for all ground-disturbing activities, including water application, vehicle speed limits on unpaved surfaces, and prompt stabilization of disturbed areas following grading.

2. **Stormwater and Erosion Control**
   Prepare and implement a Stormwater Pollution Prevention Plan in compliance with Montana DEQ's Construction General Permit before earth-disturbing activities.

3. **Wetlands and Floodplain**
   Complete a formal jurisdictional wetland determination and FEMA floodplain review before final site plan approval. If wetlands are identified, comply with all applicable Section 404/401 requirements.

4. **Cultural Resources**
   Complete a Phase I archaeological survey of the project area before ground disturbance and conduct Section 106 consultation with the State Historic Preservation Office as required by State and federal law.

5. **Traffic Management**
   Develop a Construction Traffic Management Plan to route heavy equipment and delivery vehicles away from residential streets and design permanent facility access to prioritize ingress and egress from Old U.S. Highway 10 and the I-90 interchange.

6. **Exterior Lighting**
   Implement full-cutoff exterior lighting to minimize light spillover onto adjacent residential properties and the Laurel Golf Course, consistent with dark-sky best practices.

7. **Landscaping**
   Landscape to enhance both the functionality of the facility and be consistent with BOI's fiduciary duty to protect the asset's investment value.

8. **Public Engagement**
   Public engagement occurred throughout the decision process, and BOI and DPHHS have held two public meetings in Yellowstone County on the Proposed Action and related EA. Another public engagement will be forthcoming as required by law related to zoning for governmental purposes. First, a public hearing occurred on April 22, 2026, in Laurel, Montana. DPHHS and BOI reviewed and considered public comment and input from that hearing and addressed that input as applicable in a Preliminary Draft EA. A second public hearing, with concurrent public comment period, occurred June 2, 2026, in Billings, Montana. Comments were, again, considered and, as applicable, incorporated into the EA. And a final public engagement is to be scheduled by Yellowstone County and is related to the proposed governmental use designation, should the land purchase occur.

   A brief timetable of public involvement and comment opportunities is detailed below:

   - **August 20, 2025:** BOI Executive Director read a complete statement for the Board of Investment and audience members at the BOI's regular meeting. The statement was made available to the public and can be found at hb5.mt.gov.

   - **December 10, 2025**: BOI authorizes the Executive Director to purchase land for construction of a behavioral health facility pursuant to HB5, subject to approval of the Office of Budget and Program Planning. The option to buy was delayed to July 1, 2026, to accommodate the MEPA process. No public comment was provided.

   - **March 9, 2026**: DPHHS Director, DPHHS staff, and BOI Executive Director provide an update to the Children, Families, Health and Human Services Committee. Public comment and minutes can be found on the committee website at https://committees.legmt.gov/#/nonStandingCommittees/7.
   - **March 17, 2026**: DPHHS Director, DPHHS staff, and BOI Executive Director provide an update to the Health and Human Services Interim Budget Committee. Public comment and minutes can be found on the committee website at https://committees.legmt.gov/#/nonStandingCommittees/41?tab=Details

- **April 22, 2026**: Board of Investments approves the construction contract for the Behavioral Health Facility investment, pending receipt of a notice to proceed by the Department of Public Health and Human Services. Senators and Director Osmundson provided proponent comments. Citizens provided opponent comments. The contract has not been executed pending completion of the MEPA process. A public hearing was held at the Laurel Public Library for comments on the Proposed Action and "State of Montana Preliminary Environmental Assessment." The meeting notice, agenda, and documents can be found at https://hb5.mt.gov/_shared/PUBLIC_HEARING_doc.pdf, and the recording is posted at https://www.youtube.com/@theMT_BOI/videos and incorporated by reference.

- **June 2, 2026**: A public hearing was held at the Billings Hotel and Convention Center on the Proposed Action and draft "State of Montana Final Environmental Assessment." The meeting notice, agenda, and documents can be found at https://hb5.mt.gov/_shared/Docs/6-2-26_Public_Hearing_Packet.pdf, and the recording is posted at https://www.youtube.com/@theMT_BOI/videos and incorporated by reference.

  The Proposed Action was also publicly discussed at the Billings City Council, Laurel City Council, Laurel School Board, and Yellowstone County Commission, all of whom have had public comment on the proposed facility between July 2025 and June 2026. Meetings wherein no formal notice was provided but where public members were made aware of the project and potential locations took place in July 2025 with elected and public officials, including Yellowstone County Commissioners, Billings City Council members and staff, Laurel city staff, and local legislators.

  All applicable comments were reviewed and considered. Written comments as well as video recordings of both public meetings can be viewed in Appendix G. All materials are incorporated herein by reference.

  Additionally, DPHHS and BOI have established a public website, https://hb5.mt.gov, with information relevant to the proposed Forensic

Mental Health Facility, including this EA. That information is incorporated herein by reference. That information includes:

- The plan called for under subsection 2 of Section 17 of House Bill 5;
- The document "Building a Foundation for Future Generations: Montana's New Behavioral Health Facility;
- A Frequently Asked Questions (FAQs): Montana's New Behavioral Health Facility";
- Legal opinions from the Staff Attorneys for the Montana Legislative Services Division;
- A Letter of Advice from the Attorney General;
- A copy of House Bill 5 in its entirety; materials used during the site identification process, including communications from Big Horn County, Custer County, and the City of Laurel;
- A copy of the Buy/Sell Agreement between the Board of Investments and the current landowner;
- Draft floor plans of the proposed facility;
- A presentation to the Children, Families, Health and Human Services Interim Committee entitled "Forensic Mental Health Facility Update";
- A presentation to the Health and Human Services Interim Budget Committee entitled "Forensic Mental Health Facility Update"; and
- Comments between the agencies and the City of Laurel

6. CUMULATIVE IMPACTS

The proposed facility is one component of a comprehensive statewide behavioral health investment totaling approximately $124 million in State funds authorized by the 2025 Legislature. This package includes funding for MSH Spratt Unit closure and conversion to support 30 new forensic beds, expansion of civil psychiatric beds at MSH and MSH Grasslands, reopening of the Montana Mental Health Nursing Care Center (Lewistown) D-Wing for geriatric civil psychiatric patients, and a community-based court-ordered

evaluation program through the BHSFG fund. Each element of the behavioral health investment is essential, and meeting one or more elements does not eliminate the need for the others.

No cumulative adverse physical environmental impacts are identified from the Proposed Action in combination with other projects or activities in the Laurel area. The cumulative human environment benefits of this investment — improved access to behavioral health care, reduced waitlists, decreased legal exposure, reduced county jail burden, and improved geographic equity — are substantial and broadly distributed across the State.

7. AGENCIES AND PERSONS CONSULTED

Agency / Entity	Role in Project
Montana Department of Public Health and Human Services	Lead Agency; forensic demand analysis; site selection; facility programming
Montana Board of Investments	Cooperating Agency; property owner; HB 5 investment manager; real estate developer
Montana Office of Budget and Program Planning	Joint plan review and approval; budget compliance oversight
Montana Department of Environmental Quality	MEPA; stormwater permit requirements, water/ sewer to subdivision approvals; regulator of public water supply systems
City of Laurel	Closest municipal authority
Yellowstone County Commission	Community engagement, land use
CFHHS Interim Committee, Health and Human Services Interim Budget Committee (Section B)	Montana Legislature; legislative oversight and appropriations history
Department of Natural Resources and Conservation	Water rights and availability for the City of Laurel

DPHHS, overlapping with BOI, has jurisdiction and environmental review responsibility for the Proposed Action. Additional agencies or entities, as identified above, will have varying responsibilities for aspects of the Proposed Action, generally relating to the issuance of any needed permits or approvals.

8. FINDINGS AND CONCLUSIONS

1. DPHHS, in cooperation with the Montana BOI, prepared this Environmental Assessment in accordance with the Montana Environmental Policy Act, Montana Code Annotated Title 75, Chapter 1, and the Administrative Rules of Montana, 17.4.601, et seq.
2. The Environmental Assessment evaluates the environmental, social, public health, and economic consequences of the Proposed Action—the construction and operation of a 32-bed (potentially expanding to 64-bed) forensic mental health facility on an approximately 14 acres of an 114-acre property in Yellowstone County west of Laurel, Montana, selected after evaluation, through application of various site selection criteria, of alternative sites—against the No Action Alternative of not proceeding with the Forensic Mental Health Facility, along with the potential environmental impacts of the Proposed Action and No Action Alternative.
3. The Environmental Assessment was made available for public review, and public comment periods were provided and public hearings conducted. DPHHS and BOI reviewed and considered all applicable comments and incorporated responses, either directly or conceptually, into this Environmental Assessment.
4. DPHHS and BOI considered concerns raised, and documentation provided, during public comment, including concerns regarding proximate schools, residences, and businesses, property values and tax revenue, residential growth, transportation, water, sewer, and other public services infrastructure, emergency services, allegations of improper site selection, and general, localized opposition to the Forensic Mental Health Facility. These concerns were evaluated using applicable data, studies, and analysis, and assessing the strength or applicability of any supporting documentation.
5. Montana's forensic mental health system is experiencing a documented and acute shortage of capacity, including increasing forensic court orders, persistent and growing waitlists, strain on county detention systems, and associated constitutional and public-health concerns.
6. The purpose of the Proposed Action is to construct and operate a forensic mental health facility to provide forensic mental health care, including evaluation and competency restoration services, to address this identified statewide need.
7. The Proposed Action's locating of the FMHF in Yellowstone County facilitates access to mental health care professionals and services, facilitates the expansion of Montana's mental health care workforce, and alleviates a geographic inequity in the availability of forensic mental health care.

8. DPHHS and BOI considered the Proposed Action, the No Action Alternative, and multiple alternative sites during the planning and analysis process.

9. Based on an evaluation of the siting criteria, including accessibility, infrastructure availability, site configuration, workforce availability, and long-term operational viability, DPHHS finds that the Yellowstone County site west of Laurel, Montana best satisfies the siting criteria.

10. DPHHS finds that the No Action Alternative would avoid construction-related disturbance but would perpetuate and exacerbate existing adverse conditions affecting Montana's human environment, including continued delay in mental health care, strain on county jails, legal and constitutional risks and liabilities, and public health consequences.

11. DPHHS selects the Proposed Action as the preferred alternative.

12. DPHHS finds that the Proposed Action and affected area are appropriately defined, and that the affected area consists of a vacant agricultural parcel and surrounding transportation, infrastructure, residences, businesses, schools, and service areas, with no unique or fragile environmental resources identified within, or impacted by, the Proposed Action or its footprint.

13. Wetlands and aquatic features are present on portions of the property; however, DPHHS finds that construction will avoid these resources or be subject to additional review and permitting, as required by applicable law.

14. DPHHS finds that construction of the Proposed Action will result in temporary, localized impacts, including dust, noise, emissions, and soil disturbance, all of which are typical of construction activities.

15. DPHHS finds that such impacts will be minimized and controlled through standard permitting requirements, best management practices, and implementation of mitigation measures.

16. DPHHS finds that long-term operation of the Forensic Mental Health Facility will result in minimal impacts to air quality, water resources, soils, waste, biological resources, and cultural resources, and that the facility will function within existing infrastructure and regulatory frameworks.

17. DPHHS finds that water, wastewater, transportation, and other public service infrastructure, including emergency services, have sufficient capacity to support the Proposed Action. Expanding upon this finding, water and sewer capacity and infrastructure is sufficient and is available, water pressure is sufficient, and multiple options exist to secure water and sewer public services for the Proposed Action. Water and sewer capacity and water pressure is more than sufficient whether evaluated using

the facility's actual projected water use based on facility design, or whether evaluated against the more conservative use numbers projected for a theoretical facility. No extra-facility impacts to water or sewer capacity or water pressure are anticipated from the Proposed Action.

18. DPHHS finds no adverse impacts to physical environmental resources are anticipated that cannot be avoided, minimized, or mitigated through standard practices and regulatory compliance.

19. DPHHS finds that the Proposed Action will result in beneficial effects to the human environment, including:
    - Increased access to forensic mental health services;
    - Reduction in county jail strain;
    - Improved public safety;
    - Constitutional due process compliance;
    - Enhanced geographic equity in service access; and
    - Economic investment and employment opportunities.

20. DPHHS finds that no adverse socioeconomic, land-use, or community-service impacts have been demonstrated to result from the Proposed Action.

21. DPHHS finds that the Proposed Action, when considered with other past, present, and reasonably foreseeable actions, will not result in cumulative adverse impacts to the physical environment.

22. DPHHS finds that cumulative impacts to the human environment are beneficial in light of the broader statewide behavioral health investments.

23. DPHHS adopts the mitigation measures identified in Section 5 of the Environmental Assessment as conditions of project implementation, including as applicable:
    - Dust control and air quality measures;
    - Stormwater and erosion control measures (including preparation and implementation of a Stormwater Pollution Prevention Plan);
    - Wetland and floodplain review and compliance;
    - Cultural resource investigations and consultation;
    - Traffic management planning; and
    - Lighting and landscaping measures.

24. DPHHS finds that these mitigation measures are reasonable, enforceable, and will ensure that any potential impacts remain below levels of significance, though no levels of significance are expected.

25. DPHHS finds that the Proposed Action will comply with all applicable federal, state, and local laws, regulations, and permitting requirements, including those governing water resources, air quality, stormwater, cultural resources, and land use.

26. DPHHS finds that any required permits or approvals will be obtained prior to construction or operation as required by law.

27. Based on the analysis contained in this Environmental Assessment, and in consideration of the factors identified in Administrative Rule of Montana 17.4.608, DPHHS finds that the Proposed Action:
    - Will not have significant adverse impacts on or to the environment, including the physical or human environment;
    - Will not adversely affect unique, fragile, or important environmental resources;
    - Will not result in significant cumulative adverse impacts to the environment; and
    - Will not create significant uncertainty or unknown environmental risks.

28. DPHHS finds that any impacts associated with the Proposed Action are minor, localized, temporary, or mitigable, and do not rise to the level of significance under the Montana Environmental Policy Act.

29. Based on the analysis in the Environmental Assessment, including consideration of direct, indirect, and cumulative effects, and applying the significance criteria in Administrative Rule of Montana 17.4.608, the Department concludes that the proposed action will not significantly affect the quality of the environment.

30. DPHHS determines that preparation of an Environmental Impact Statement is not required.

31. DPHHS approves the Proposed Action, subject to the mitigation measures and conditions identified in this Environmental Assessment. The Proposed Action meets the purpose and need, satisfies and exceeds the site selection criteria, has minimal physical environmental impacts, and has positive human environmental impacts.

32. Findings and conclusions included in discussions in other sections of this Environmental Assessment are incorporated herein by reference.

Lead Agency Certifying Official	Cooperating Agency Acknowledgment
Charles T. Brereton Director Montana Department of Public Health and Human Services (DPHHS) Signature: Date:	DAN VILLA Executive Director Montana Board of Investments (BOI) Signature: Date:

This Environmental Assessment was prepared in accordance with Title 75, Chapter 1, MCA (Montana Environmental Policy Act) and the Administrative Rules of Montana, ARM 17.4.601 et seq. Public comment on this document may be submitted to the Montana Department of Public Health and Human Services, 111 N. Sanders, Helena, MT 59601, or to the Montana Board of Investments, 2401 Colonial Drive, 3rd Floor, Helena, MT 59620. Please review public notices identifying comment periods and hearing dates and locations.