

DECISION NOTICE
KEOGH RANCH EASEMENT ACQUISITION
Prepared by Region 3, Montana Fish, Wildlife & Parks
February 16, 1996

PROPOSAL

The proposed action is for Montana Fish, Wildlife & Parks (FWP) to purchase and monitor a conservation easement on the Keogh Ranch. The easement would pertain to 7,106 acres of the ranch which is all of the deeded Keogh Ranch land except for 40 acres. The easement would include all of the habitat types on the ranch deemed important for protection. FWP would purchase the conservation easement for \$450,000 with funds from the Habitat Montana Program, which are derived primarily from non resident hunting license fees.

The specific terms of the easement in their entirety are contained in a separate legal document which is the "Deed of Conservation Easement". This document lists FWP's and the landowner's rights under the terms of the easement as well as restrictions on landowner's activities. The rights of both parties and restrictions on some landowner activities were negotiated with and agreed to by the landowner. The intent of these rights and restrictions are to preserve important wildlife habitats in perpetuity while maintaining current and historic agricultural uses of this property.

MONTANA ENVIRONMENTAL POLICY ACT PROCESS

FWP is required to assess impacts to the human and physical environment. The Keogh Easement proposal and its effects were documented by FWP in an Environmental Assessment to satisfy the Montana Environmental Policy Act (MEPA).

A 30 day public comment period ran from January 4 through February 2, 1996. Public notices of the proposed action were run in area newspapers and a public hearing was held at the Whitehall High School Library on January 11, 1996. Approximately 44 copies of the Environmental Assessment were mailed out to adjacent landowners, sportsman groups, and other interested parties. In addition, representatives from FWP met with the Jefferson County Planning Board and major landowners in the area to explain the proposal and answer questions. The proposal was also discussed at the Jefferson Valley Sportsmen's Association, Skyline Sportsmen's Association, Anaconda Sportsmen's Club, and Prickly Pear Sportsmen's Association.

No new issues were generated during the public comment period and no revisions were made to the Draft Environmental Assessment, which will therefore serve as the Final Environmental Assessment.

ISSUES RAISED IN THE ENVIRONMENTAL ASSESSMENT (EA)

The EA lists the issues in detail. These include effects of the proposed conservation easement and potential consequences if an easement is not established on the Keogh Property. Land immediately south of the Keogh Ranch is being subdivided. This type of development is the greatest threat to wildlife habitats and the public's use of the wildlife resource in this area.

Values on the Keogh Ranch which would be protected in perpetuity by the conservation easement but might otherwise be threatened include: valuable wildlife and habitat resources; public hunting access on the Keogh Ranch and adjacent public lands; aesthetic values; and traditional use of the land as a productive family-owned ranch. An easement would require additional monitoring by FWP including periodic inspections and meetings with the landowner but would have no impact on local tax revenues.

SUMMARY OF PUBLIC COMMENTS

We received a total of 24 comments including 21 written and 3 verbal during the public hearing. A summary of the comments follow.

Written Comments

Sixteen of the written comments were very supportive of the Keogh Ranch easement proposal. A number of written comments emphasized the importance of maintaining wildlife habitat values and public access on the Keogh Ranch. Two comments suggested the Keogh Ranch is one of only a few local ranches which still allow public access. A number of comments stressed the importance of maintaining the existing land use (as opposed to residential development) and preserving a family ranch operation for future generations. Additional comments reported how the Keogh Ranch has historically allowed access to sportsmen, provided habitat for wildlife, and maintained a strong conservation mindedness. One individual suggested the easement would be good for landowner-sportsman relations. Another individual suggested the easement would increase public awareness of natural grasslands and water systems and desired more conservation easements in the future. Two individuals felt the easement purchase price was modest for the wildlife and habitat values existing on the Keogh Ranch.

Three written comments were neutral. The first, an adjacent landowner, did not want subdivisions to replace the Keogh Ranch, but was concerned that ranching was no longer a self-sustaining business. This individual was also concerned about knapweed. The proposed conservation easement does allow for the use of agrichemicals in the "amounts and frequency of application constituting the minimum necessary to accomplish reasonable control of noxious weeds, and in a manner that will minimize damage to native plants." Weed

management would remain the responsibility of the landowner.

The second neutral written comment was from the Montana Historical Society which suggested the proposal would in "no way increase the potential and in fact may reduce the possibility of impact" to unknown cultural resources on the Keogh Ranch.

The third neutral written comment was from the Forest Service, Jefferson Ranger District. The District requested that the conservation easement also include provisions for administrative and possibly public access on existing routes through the Keogh Ranch. The proposed conservation easement requires a minimum of foot access for the purpose of recreational hunting. This form of access has worked historically both for the landowner and sportsmen. Motor vehicle access on private roads is also allowed in the easement but is left to the landowner's discretion. A stipulation in the proposed easement also requires, "If Hay Canyon Road is ever abandoned or vacated as a public road, the Landowners will continue to allow the public to use the road for access to public land." Administrative access for FWP (upon prior notice) is also included in the terms of the easement for monitoring compliance and for other purposes listed in the easement document. Administrative access for other government agencies is outside the scope of this conservation easement.

Only one written comment, from an adjacent landowner, was somewhat opposed to the easement proposal. A summary of comments from this individual and FWP's responses follow.

1. Comment: "It is indeed interesting that you should choose to spend \$450,000 for a conservation easement that is worth one half of that figure- current AUM values in this area are \$1600.00 X 400 AU is \$640,000. Please justify 75% of the ranch value being spent for an easement."

FWP Response: The purchase price of the proposed Keogh Ranch easement was negotiated between FWP and the landowner. Based on a recent professional appraisal provided to FWP by the landowner, the cost of the easement would be considerably less than 75% of the property value. The easement price, if considered as a percentage of the appraised value, is very comparable to similar easements purchased by FWP in the western part of Montana. If approved by the FWP Commission, the one-time cost associated with purchasing a conservation easement establishes a perpetual guarantee for habitat protection, hunter access, and other protective measures, regardless of changes in landownership.

2. Comment: This individual felt it would be a better use of public funds for FWP to purchase the Fee Title on the Keogh Ranch and lease the property back to the ranchers.

FWP Response: The EA discusses Fee Title Acquisition as an alternative to a conservation easement. This alternative was rejected because the Keogh Ranch was not for sale and it was FWP's preference not to purchase the property. A fee title purchase and management responsibilities associated with owning and managing the property would cost considerably

more and would likely have less public support than the proposed conservation easement. In addition, the 1987 legislature which enacted HB 526 for acquiring wildlife habitat, directed FWP, where possible, to pursue conservation easements and leases as alternatives to fee title acquisition.

3. COMMENT: "Future subdivision is not a threat - the 20 acre parcels adjoining bring such a small profit to the developer that future developers would shy away from the area - \$7500 for a 20 acre parcel - sale dates 1995".

FWP Response: Development has been occurring immediately to the south of the Keogh property. We believe the trend for subdivision and development will continue in the future. Whereas subdivision of the Keogh Ranch may not be financially feasible at this time, economic factors affecting the profitability of subdivision may change in the future.

Public Hearing

A public hearing was held at the Whitehall High School Library on January 11, 1996. A total of 43 people attended of which 3 provided formal testimony. All of the testimonies supported the easement proposal. Major points made during the testimonies included the following:

The proposed easement is a valuable tool for land use planning for future generations. The purchase price is a buy of a lifetime for the Whitehall area. This is a modest price compared with the Bear Creek Conservation Easement. The Keogh Ranch is one of the few places which still allow access onto private land. Access could easily be locked up by outfitter if the Keogh Ranch were sold to another landowner. The proposed easement would also be good for non-hunters because it would maintain opportunities for wildlife viewing. Motorized access currently on the Keogh Ranch needs to continue to be enforced.

Prior to formal testimony, FWP personnel presented information on the Keogh Easement proposal. Following the presentations, a number of questions were asked regarding conservation easements and impacts the proposed easement would have on: grazing and big game numbers; access and road management; property taxes; building construction on the ranch; and changes in land ownership. Many of these questions are also addressed in the Environmental Assessment package which was distributed at the hearing.

Additional Comments

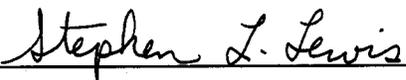
This proposal was presented by FWP at the January Jefferson County Planning Board meeting. The Board, at that time, decided to postpone voting on support of the easement until they had an opportunity to review the Environmental Assessment. According to Dave Bishop, Jefferson County Planner, the Board voted unanimously at their February 7th meeting in favor of FWP acquiring an easement on the Keogh Ranch.

DECISION

Utilizing the EA and public comment, a decision must be rendered by FWP which addresses the concerns and issues identified for this proposed easement.

Given the choice, both FWP's analysis and public input strongly support preserving existing land use on the Keogh Ranch over risking possible land use changes (e.g. residential development). The Keogh Ranch contains a diversity of habitats and supports a unique mix of game and non-game wildlife species. A tradition of public hunting has developed on the Keogh Ranch over many years. All of these valuable resources may be threatened by land use changes which are presently occurring throughout Montana. A conservation easement would guarantee historical uses of the Keogh Ranch by wildlife, ranchers, and the public would be maintained in perpetuity.

After review of this proposal and the corresponding public support, it is my recommendation to purchase a conservation easement on the Keogh Ranch subject to approval by the FWP Commission.



Stephen L. Lewis
Regional Supervisor
Bozeman, MT
February 16, 1996