

**RECEIVED**

JAN 23 2004

**DECISION NOTICE**  
**LOWER BLACKFOOT**      **LEGISLATIVE ENVIRONMENTAL**  
**FISHING ACCESS SITE ACQUISITIONS**      **POLICY OFFICE**  
**WEIGH STATION AND ANGEVINE**

Montana Fish, Wildlife and Parks  
3201 Spurgin Road  
Missoula, MT 59804  
(406) 542-5500

**DESCRIPTION OF PROPOSED PROJECT**

The purpose of the proposed acquisitions are to maintain and improve public access along the Blackfoot River. The lower Blackfoot River is a very popular river for float and bank angling, as well as a variety of recreational uses including floating, swimming, walking, picnicking, and wildlife viewing. According to an FWP survey conducted in 2002, Reach 6 (Johnsrud Park Fishing Access Site to Bonner, Montana) of the Blackfoot River received 38,118 visitor days. This is the most frequently used reach of the Blackfoot River (*2002 Blackfoot River Use Estimation Study*). Both, Weigh Station and Angevine Park are within this Reach 6 of the lower Blackfoot River.

It is proposed that FWP purchase the 6-acre tract known as the old Weigh Station, from Plum Creek Timberlands, L.P. The purchase price of \$200,000 represents the appraised value as of September 10, 2002. Discharge of the highway easement at Weigh Station is an action to which the owner, Plum Creek Timberlands, L.P., and Montana Department of Transportation (MDT) previously agreed. FWP would not take title to the tract until this easement is discharged.

In addition, FWP would receive a highway easement transferred from the MDT on an 8-acre tract known as Angevine Park and previously used as a highway rest stop. No fees would be charged for this transaction other than associated recording costs. Use of this tract is restricted by the original easement granted by the Anaconda Copper Mining Company to the State of Montana through its Department of Highways in 1944 for highway improvements, **parking sites, camping and recreation**. Plum Creek Timberlands now owns the underlying fee ownership of this tract and would retain the right to remove timber.

**Project and Site Descriptions**

The public has used both tracts for decades, as if they were owned by a public agency, due to their historical easements and assigned use, development, and location adjacent to the State Highway 200. FWP proposes to incorporate these tracts into the Fishing Access Site (FAS) program to allow continued day use recreational opportunities.

The project tracts are located less than 12 miles east of Missoula and are easily accessible from Interstate 90 and Highway 200. Missoula is the primary service and cultural center for the area, including the University of Montana, which is also a major contributor to the local economy. Missoula is the county seat for Missoula County, which has a population of 95,802 according to the 2000 census. This is the second largest county in the state; the City of Missoula also ranks as the second largest urban area in the state. Missoula has grown by nearly 33% since 1990 (U.S. Census Bureau at *ceic.commerce.state.mt.us*). Recent developments in the land market over the past ten to twenty years have increased the number and influence of alternative land users and property uses. Much of the attraction to the areas is related to natural resource features, including

public lands and an abundance of water resources. The Blackfoot River also receives use from residents of Helena, Butte and Great Falls, all less than 170 miles to the north and east.

### **Weigh Station**

Plum Creek Timberlands has expressed a desire to dispose of Weigh Station and has offered it for purchase by FWP in order that it may be continue to be used by the public for river access. The company is willing to accept the appraised value from September 2002, in which the appraisal indicated that the highest and best use for the tract would be as recreational home sites. As per the trends of private ownership in Montana, it is probable that the public would no longer be allowed to access the Blackfoot River at this location if this property were sold for residential or commercial development.

This tract is long, narrow, flat grassland, and is bordered by Highway 200 throughout its length. It is approximately 2000' long and 200' wide at its extremes between the river and the highway with several tiers traversing the length of the tract. The tract was used as a weigh station at one time; however, no buildings or other structures exist today. A portion of the property lies inside the 100-year floodplain. Soils consist of *Shooflin Silt Loam*, which are well-drained soils.

Weigh Station is not zoned, nor are there any restrictions in use. A 24' approach from Highway 200 is granted by a memorandum of agreement between MDT and Plum Creek Timberlands near the middle of the property. The property does have a heavily used gravel road entering the tract and large level area used for parking. A pioneered dirt road accesses the river from the parking area. The riverbank is accessible for nearly the entire length of the property.

This is the last public access point on the Blackfoot River before it enters the Clark Fork River. The nearest access point upstream is Marco Flats, about two miles east.

### **Angevine Park**

MDT has agreed to transfer and assign its easement at Angevine Park to FWP, at no cost, in order to maintain the recreational opportunities afforded to Montanans and visitors along the Blackfoot River. MDT is ready to decommission Angevine Park since this tract is no longer necessary to provide highway services. MDT no longer wishes to manage the tract for recreation purposes as outlined and required in the 1944 grant of easement from the Anaconda Copper Mining Company. If no state agency were to manage Angevine Park for the intended purposes, the easement would be extinguished and full ownership rights would revert to the underlying fee owner, which presently is Plum Creek Timberlands. The agencies and Plum Creek Timberlands are willing to cooperate in an effort to provide continued recreational and angling opportunities for the good of the general public.

Angevine Park is predominately-scattered timberland (Douglas Fir and Ponderosa Pine) with some open grassy park areas. It is long and irregular in shape, measuring about 1900' long by 300' wide at its maximum between the river and the highway. The tract is generally level with steep banks to the river. A small portion of the tract is located within the 100-year floodplain, but the majority of the tract is on the upper bench outside of the designated floodplain.

Angevine Park is not zoned. Restrictions in use include an easement originally granted by the Anaconda Copper Mining Company to the State of Montana (Dept. of Highways), which severely limits the use of the land for anything other than timber harvest. Some timber was harvested several years ago and presently the tract has a low volume of timber. MDT's right-of-way easement on this tract restricts land uses to "highway purposes, parking sites, roadway

campgrounds, and recreational areas along the state highways...and shall be forever known and designated as Angevine Park..." At the time that this easement was placed on the tract, the Parks Division was housed within the MDT and therefore this agency managed many of the State's recreation sites. Since 1965, when the Parks Division was moved to the Fish and Game Department, recreation site management has shifted to the agency now known as FWP, which would hold this easement if the proposed action is completed.

The tract was historically used in conjunction with a rest area, though no buildings are currently on the tract other than an old latrine. Two entrances access the tract from Highway 200 at either end. These roads are paved, as is the parking lot between the two entrances. Wooden barriers line the roads and parking area to confine vehicles to established roads. The river is accessible the entire length of the tract, however, the banks are steep in some stretches.

The closest public access point downstream of Angevine Park is about 3 miles at Marco Flats FAS. This site is signed and has access to the river by trail. Upstream access is available about 2 ½ miles east at K. Ross Toole FAS, an unsigned and unimproved site.

## **PUBLIC PROCESS AND COMMENT**

The public comment period began November 14, 2003, and ran through December 16, 2003. Legal notices were published in the Missoulian, and the Helena Independent Record. Notices of this EA went out to 51 interested parties consisting of neighbors, conservation groups, Montana state legislators, Montana congressional members, county & state departments or agencies, and federal agencies. Also, there was a press release and a posting on the web site at FWP.

A total of 6 letters and/or e-mail messages were received from the public. Two of the letters represented groups or organizations. One was from a federal agency. The others were from individuals. Of the 6 letters received, 5 of them were completely supportive of the proposed action to acquire these tracts. The 6<sup>th</sup> letter would whole-heartily endorse this endeavor if FWP can appropriate these lands at a reasonable price. Questions regarding the purchase price will be listed and answered in the following section along with other comments about the acquisitions.

Following are some of the comments and/or questions from all of the letters:

- "I enthusiastically support alternative D to acquire the Weigh Station by fee title and accept permanent transfer of the MDT easement at Angevine Park." However, is the easement at Angevine permanent? Does the easement give FWP exclusive control and management in perpetuity? In addition, why is the outright purchase from Plum Creek for \$200,000 required for the Weigh Station, as apposed to a permanent transfer of the MDT easement? Above questions/observations are solely to make sure FWP obtains permanent public access sites in perpetuity at minimum cost. *FWP Response: At the Angevine site, the right-of-way easement granted to the State of Montana by the Anaconda Copper Mining Company in 1944 is specifically granted in perpetuity for highway improvements, parking sites, roadside campgrounds, and recreational areas, provided, however, that the land be forever known and designated as Angevine Park. This easement also provides that if the easement ceases to be used for the intended purposes, the land interest conveyed would revert to the grantor or grantor's successor in interest (now Plum Creek). MDT is no longer interested in maintaining a rest area in this location and is willing to transfer this right to maintain and operate the park to FWP at no cost. While FWP's preference would be to have exclusive management of the property, Plum Creek will still retain some rights as the owner of the land. The landowner's retained rights*

*specifically enumerated in the right-of-way easement are the right to log over and across the property and to transport logs and forest products connected with logging operations. Plum Creek may at some time in the future desire to use a portion of the land as a heliport, loading area, harvest timber, or other unforeseen activity. FWP believes this is an important site to retain for public access and is willing to accept the responsibilities associated with the right-of-way easement with the understanding that Plum Creek retains some rights of use. This site contains approximately 8 acres and was appraised at \$350,000 if the right-of-way easement were to be discharged. The purpose of including this value is for comparison with the Weigh Station tract. These are high values, but Blackfoot River frontage is desirable for a variety of purposes and its availability for public use is becoming increasingly scarce.*

- *“Two hundred thousand is way over priced. The Angevine Park is nearly all highway right-of-way. The Weigh Station riverbank is encumbered by highway easement and right-of-way deeds, which covers a large portion of the riverbank area. There is no reason for the highway department to give up these easements.” “Why is the FWP paying so much for land that the State of Montana, aka, the people of Montana already have a right to access?” “The FWP needs to re-appraise these areas. They are not prime riverfront areas. These areas are encumbered with highway right-of-way and easement deeds, which allow the public access to the river.” “I do not approve of the use of fishing license money to buy over-priced property.” FWP Response: In order to address these questions, it is important to understand that a separate agreement was reached in 2002 between the MDT and Plum Creek whereby Plum Creek would grant critically needed right-of-ways in other parts of the state in exchange for the discharge of certain MDT held easements along the Blackfoot River. This agreement was intended to assist MDT with the construction of Highway 93 north of Evaro. MDT has authority to exchange land interests as part of its mission and FWP recognizes the importance of these right-of-way needs for public safety. At the Weigh Station site, the property owned by Plum Creek is about 6 acres. Of the 6 acres, about 3 acres are encumbered with right-of-ways to be discharged by MDT as per the 2002 agreement. The right-of-way easements were granted for road and highway purposes that included the weigh station facility and Highway 200. The weigh station is no longer used for highway purposes. The 3-acre discharge area is a little less than one half of the river frontage owned by Plum Creek. Approximately 3 acres, including about 1000’ feet of the river frontage is unencumbered with a highway easement. The last right-of-way easement granted in 1973 by Champion International Corporation stated that if the land ceased to be used as a public highway, then the easement interest conveyed should immediately revert to the underlying fee owner. The agreement for easement discharge at this location had been executed between MDT and Plum Creek before any agreement between FWP and Plum Creek to acquire the Weigh Station site had occurred. The appraised value of \$200,000 for this land is based on the fact that the right-of-way easement will no longer be in effect and the entire Plum Creek site will be sold as one parcel. Another comment to the EA was that the Weigh Station tract was over priced and may not be suitable for building due to water availability and septic requirements. The independent appraiser hired by FWP who valued the property, investigated septic requirements, zoning, and floodplain designations. Although he noted potential difficulty, he felt the tract could be permitted for residential use based on current information. It should also be noted that due to the location of the highway, this tract is exempt from subdivision review.*
- *“We believe that these acquisitions will greatly benefit the public by ensuring perpetual access to this reach of the Blackfoot River. Maintaining these two access*

sites will serve the thousands of local residents who use this river reach for close-to-home fishing, floating and swimming. It will also ensure that the upper river reaches retain their uncrowded, rural nature, resulting in fewer conflicts with landowners and other recreationists.”

- “The Blackfoot River Recreation Steering Committee (RSC) feels these are critical acquisitions for recreational access on the Blackfoot River. As mentioned in the EA of this proposal, the RSC has recommended acquiring additional lands for recreational access along the lower stretches of the Blackfoot. The RSC, a group of recreationists, commercial outfitters, and Blackfoot Valley landowners, unanimously support acquisition of these properties and continued public access at these sites.”
- “I see no downside to the acquisitions and development of these access sites.”
- “The Fishing Outfitters Association of Montana supports the acquisition of the Angevine Rest Area and Bonner Weigh Station. Our association promotes additional fishing access as one method of handling increased angling pressure. Both of these properties can provide extra access in a popular stretch of the Blackfoot. Plus, if Milltown dam is removed, these would be key access points for proposed whitewater and non-angling activities downstream from the current dam site.”

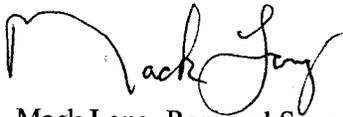
## DECISION

Based on the analysis in the Environmental Assessment (EA) and the applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the natural or human environment. Therefore, an Environmental Impact Statement will not be prepared.

It is my decision to implement the proposed action with the identified FWP responses and proceed with the acquisition and management of these sites. This action also requires the approval of the FWP Commission, scheduled in February, and the Montana State Land Board, also scheduled in February.

By notification of this Decision Notice, the draft EA is hereby made the final EA with the FWP responses in this Decision Notice. The final EA with Decision Notice may be viewed at or obtained from Montana Fish, Wildlife & Parks at the above address.

Please direct any further requests or questions to Mack Long, Region Two Supervisor, or Lee Bastian, Region Two Park Manager.



Mack Long, Regional Supervisor

1/14/04

Date: