ENVIRONMENTAL ASSESSMENT

STACEY CREEK ROAD ACCESS

POWDER RIVER COUNTY

AUGUST 25, 2011

Montana Fish, Wildlife & Parks

Region 7 – Miles City

I. INTRODUCTION

Montana Fish, Wildlife and Parks (FWP) recognizes that public access to wildlife habitat is an important component of a quality recreational hunting experience and essential to wildlife population management. The Stacey Creek Road Access project represents an opportunity for FWP to work cooperatively with a private landowner and a federal agency to secure permanent public access across private land so that hunters and other recreationists can continue travel to land owned and managed by the Custer National Forest in southeastern Montana.

II. DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks proposes to purchase a permanent road easement, allowing the public to use the Stacey Creek Road to cross 0.4 miles of a private ranch in Powder River County. The road easement would be granted by the owner of the Wood Ranch (a long-time family ranching operation), and the easement would be held by the U.S. Forest Service. The Forest Service administers the public lands of the Custer National Forest along the western end of the Stacey Creek Road, which is referred to by the Forest Service as Beaver Stacey Road #4769. FWP would be a signatory to the easement, along with the Forest Service and the landowner. In the unlikely event that Forest Service would ever decide to relinquish this road easement, the easement would transfer free of charge to FWP.

The proposed road easement covers the only portion of the existing Stacey Creek Road that does not have legal public use rights. Nevertheless, this road is commonly used by the public and the Wood Ranch owner does not object to such use. In fact, this landowner also allows public hunting on the adjoining private land through the FWP Block Management Program, which operates on a year-by-year voluntary basis.

The Forest Service secured administrative and public use rights on the other approximately five miles of the Stacey Creek Road by acquiring a series of seven road easements with private landowners in the 1950s through the 1970s. However, because this 0.4-mile stretch through the Wood Ranch accessed the historic town of Stacey, it was thought that no road easement was necessary.

The Stacey townsite has since become uninhabited, and Powder River County does not claim ownership of the road. Recent title research confirmed that the proposed Stacey Creek Road Easement is necessary to ensure continuous legal access for the public and the Forest Service from the road's junction with Little Pumpkin Creek Road on its eastern end to the national forest boundary on the west.

The road easement will cover a strip of land approximately 2,100 feet long (0.4 miles) and 60 feet wide. The 60-foot width of the easement is a Forest Service standard, allowing for road maintenance and improvement projects. However, the agency plans to keep the road generally as it now exists, with an approximately 16-foot-wide gravel and dirt surface. The Forest Service will replace cattleguards in two locations, install a culvert at a drainage crossing on the Wood Ranch, and provide an initial gravel surfacing. Subsequent road maintenance will be on an as-

needed basis, in the same manner as similar national forest roads are maintained within the Ashland Ranch District of the Custer National Forest.

The cost of the road easement is $20,000, which will be paid to the landowners by FWP, using funds available under the Access Public Lands program. The amount of this one-time payment was determined by an independent appraisal easement, which researched comparable Montana road easement transactions and concluded that the fair market value for the Stacey Creek Road Easement is $20,000. The 33-page appraisal, plus appendices, is on file at FWP.

The terms of the easement grant the Forest Service the right to construct, reconstruct, maintain and repair the road and to administer public road use. The easement does not grant the right to use this road segment to service residential development on private land along the roadway, unless such use is specifically approved by the easement grantor (i.e., the landowner) and the Forest Service. This is stated in the road easement as follows:

> *The rights herein conveyed do not include the right for any person or entity to use the road for access to any privately owned improvement or development for short- or long-term residential purposes, unless and until both the Grantor [landowner] and the Grantee [Forest Service} agree in a writing recorded in Powder River County that the road should serve such use, and unless and until both the Grantor and the Grantee agree in writing upon traffic control regulations, rules, and other provisions to accommodate such use.*

Any pre-existing rights to use the Stacey Creek Road for access to private land would not be affected by the easement.

In summary, FWP's purchase of the Stacey Creek Road Easement would maintain the status quo in terms of public use of this road, but would change the access framework so that such use is by legal right, rather than by permission of the landowner. The result would be continuous and permanent legal access for the Forest Service and the public to drive the length of the Stacey Creek Road, from the Little Pumpkin Creek Road to the high-quality pine forest habitat on national forest land at the west end of the Stacey Creek drainage. The road easement would not grant any rights to the Forest Service or the public to make recreational use of the surrounding private land outside of the road corridor.

III. AUTHORITY AND DIRECTION

Through its Access Public Lands program, FWP seeks to enhance opportunities for Montana hunters to access state and federal public lands. The program is authorized by Section 87-1-265, Montana Code Annotated (MCA), which provides for FWP to work with private landowners on a voluntary, cooperative basis to secure public access across private property. Additional relevant authority for FWP to acquire interests in land is provided by 87-1-209, MCA.

IV. LOCATION OF PROJECT

The proposed Stacey Creek Road Easement is located in N1/2SE1/4 of Section 26 (Township 1 South, Range 47 East) in Powder River County (see location map and site map). The project is located about 50 miles south of Miles City and 25 miles northwest of Broadus. Access to the area is by State Highway 59 to the vicinity of the Custer County-Powder River County boundary, and then southwest from the highway for about 10 miles via the Stacey-Sonnette, Big Pumpkin Creek and Little Pumpkin Creek county roads. (See maps on Pages 9 and 10.)

V. PURPOSE, BENEFITS AND NEED FOR THE PROPOSED ACTION

The purpose of the proposed action is to secure permanent legal public access to public land in and around the Stacey Creek drainage of the Custer National Forest. Such access will benefit the public by providing opportunities for upland bird hunting, big game hunting, wildlife viewing and other outdoor recreation in this pine forest habitat of southeastern Montana. The proposed action is needed because there are no public use rights to this section of the Stacey Creek Road.

VI. DESCRIPTION AND DISCUSSION OF ALTERNATIVES TO THE PROPOSED ACTION

1. No-Action Alternative

Under the no-action alternative, FWP would not pursue acquisition of the Stacey Creek Road Easement. The public and the Forest Service would be at risk of losing their ability to drive across the Wood Ranch section of the Stacey Creek Road if a future landowner decided to no longer allow such access.

2. Forest Service Alternative

Under the Forest Service alternative, FWP would not pursue acquisition of the Stacey Creek Road Easement. Rather, FWP would encourage the Forest Service to undertake the acquisition directly.

FWP has decided to pursue the proposed action (as described above in Section II), rather than the Forest Service Alternative, because the Forest Service is currently not in a position to acquire the easement directly from the landowner. Forest Service appraisal practices for road easements differ from FWP's approach and, based on discussions with the landowner, the Forest Service approach would be unlikely to generate a value sufficient to interest the landowner in selling the Stacey Creek Road Easement.

FWP and the Forest Service have structured the transaction and associated activities as a cooperative effort that balances obligations and expenditures between the two agencies. This cooperative effort is documented in an agreement between the agencies that specifies a number of crucial activities that each cooperating agency proposes to undertake for the Stacey Creek Road Easement:

- FWP will contract and pay for the property appraisal;
- FWP will be responsible for obtaining all necessary State approvals, and conducting its environmental assessment process;
- FWP will pay the landowner for the road easement;
- Forest Service will conduct a survey of the road easement and will provide that survey exhibit to FWP for the road easement document;
- Forest Service will conduct an environmental site assessment of the easement area to check for hazardous materials and other potential hazards;
- Forest Service will accept jurisdiction to manage and maintain the road easement;
- Forest Service will pay for a title insurance policy for the road easement, and will pay closing and recording fees associated with the easement purchase transaction.

This cooperative approach will be implemented in the event that the proposed action is approved through FWP's environmental assessment and decision-making process.

VII. EVALUATION OF IMPACTS ON THE PHYSICAL ENVIRONMENT

1. Land Resources

Impact of Proposed Action: There would be minimal impact on land resources because the Stacey Creek Road already exists and is now used by the public. Acquisition of the permanent road easement is not anticipated to change the levels of use here, because the public already believes it has the right to use the road (as noted previously, the landowner does not object to public use and has made no attempt to limit such use). A corollary project to be undertaken by the Forest Service will involve placement of two cattleguards on the road, installation of a culvert to provide for drainage under the road, and minor road surfacing with gravel.

No Action Alternative: There would be no impact.

2. Air Resources

Impact of Proposed Action: There would be no impact, as current levels of road use and resultant road dust are anticipated to continue.

No Action Alternative: There would be no impact.

3. Water Resources

Impact of Proposed Action: No adverse impacts to water resources are anticipated. The proposed road easement continues use of the existing road. Stacey Creek and Little Pumpkin Creek run under the road through previously installed culverts, which will not be altered. One new culvert will be installed under the road by the Forest Service to improve seasonal drainage from an irrigated meadow.

No Action Alternative: There would be no impact.

4. Vegetation Resources

Same as discussion of impacts to land resources.

5. Fish/Wildlife Resources

Impact of Proposed Action: In the long term, there would be a positive impact for access to wildlife resources for the purpose of sport hunting and wildlife management, as the project would guarantee continuation of public access on a perpetual basis. Mule deer and white-tailed deer are the most abundant species in the Stacey Creek drainage, and upland bird hunters would all benefit from the access.

VIII. EVALUATION OF IMPACTS ON THE HUMAN ENVIRONMENT

1. Noise/Electrical Effects

Impact of Proposed Action: There would be no impact.

No Action Alternative: There would be no impact.

2. Land Use

Impact of Proposed Action: There would be no change from current land uses.

No Action Alternative: There would be no impact.

3. Risk/Health Hazards

Impact of Proposed Action: There is inherent risk associated with driving on rural, unimproved roads. The proposed action would generally continue the status quo in regard to the Stacey Creek Road, with some temporary improvement from the minor road resurfacing. Periodic road maintenance by the Forest Service would be expected to keep the road in a condition that can be safely negotiated at reasonable speeds.

No Action Alternative: There would be no change from current conditions.

4. Community Impacts

Impact of Proposed Action: The proposed road easement would not affect the local community because road use will stay the same as under current conditions. The road easement specifically does not secure any public or private rights for use of this 0.4-mile road as access to potential new residential development. Such rights are outside of the scope of this easement. Any party seeking legal access to service residential development west of the road easement area would face the current situation on road-use rights and

would need to independently evaluate whether the status quo meets their needs or whether they must acquire additional access rights.

No Action Alternative: There would be no change from current conditions.

5. Public Services/Taxes/Utilities

Impact of Proposed Action: There would be no impact.

No Action Alternative: There would be no impact.

6. Aesthetics/Recreation

Impact of Proposed Action: The proposed Stacey Creek Road will secure permanent recreational access to the Stacey Creek portion of the Ashland Ranger District of the Custer National Forest. This will have a positive impact on recreational opportunities in the long term.

No Action Alternative: There would be no change from current conditions; however, if the road easement is not acquired and land ownership and/or ownership philosophy were to change, then this section of the Stacey Creek Road might someday be closed to public use, thus adversely impacting the interests of members of the public who like to recreate on national forest land in the Stacey Creek drainage.

7. Cultural/Historic Resources

Impact of Proposed Action: Only very limited ground-disturbing activities will occur under this project (cattleguard replacement, culvert installation, graveling of the existing road surface), and those will be conducted by the U.S. Forest Service, which will comply with any legal obligations to evaluate any potential cultural and historical resources prior to such activities.

No Action Alternative: There would be no impact.

IX. SUMMARY EVALUATION OF SIGNIFICANCE

The proposed action of acquiring a permanent road easement on this 0.4-mile section of the existing Stacey Creek Road will have no negative environmental effect on a short-term, long-term or cumulative basis. Road use and conditions would continue the status quo that has resulted from the landowner allowing such use for the preceding decades.

X. EVALUATION OF NEED FOR AN EIS

This environmental assessment (EA) has not identified any significant negative impacts from the proposed action, so an environmental impact statement (EIS) is not required. This EA is the appropriate level of review.

XI. PREFERRED ALTERNATIVE AND PUBLIC INVOLVEMENT

FWP's preferred alternative is to implement the proposed action as described in Section II of this EA. Public comment will be taken from the August 26, 2011, release date of this EA through September 20, 2011. Comments may be delivered by mail, fax, in person, by email or phone to:

Montana Fish, Wildlife & Parks – Region 7
Attn: Stacey Creek EA Comments
352 I-94 Business Loop
P.O. Box 1630
Miles City, MT 59301

Email: jensign@mt.gov
Fax: 406-234-4368
Phone: 406-234-0900

XII. DECISION-MAKING PROCESS

Within 1-2 weeks after the close of the public comment period, the Regional Supervisor of FWP Region 7 (Miles City) will evaluate the comments and prepare a Decision Notice that reviews and responds to public comments, and indicates whether or not FWP should proceed with the proposed action. The Decision Notice will be provided to all persons who commented on the proposal, and will be published on the FWP website at http://fwp.mt.gov/news/publicNotices.

If the Regional Supervisor's Decision Notice calls for proceeding with the proposed action, the Stacey Creek Road Easement project would then be scheduled for final consideration at the next regularly scheduled monthly meeting of the Montana Fish, Wildlife & Parks Commission. The Commission is the final State decision-making body on this proposal.

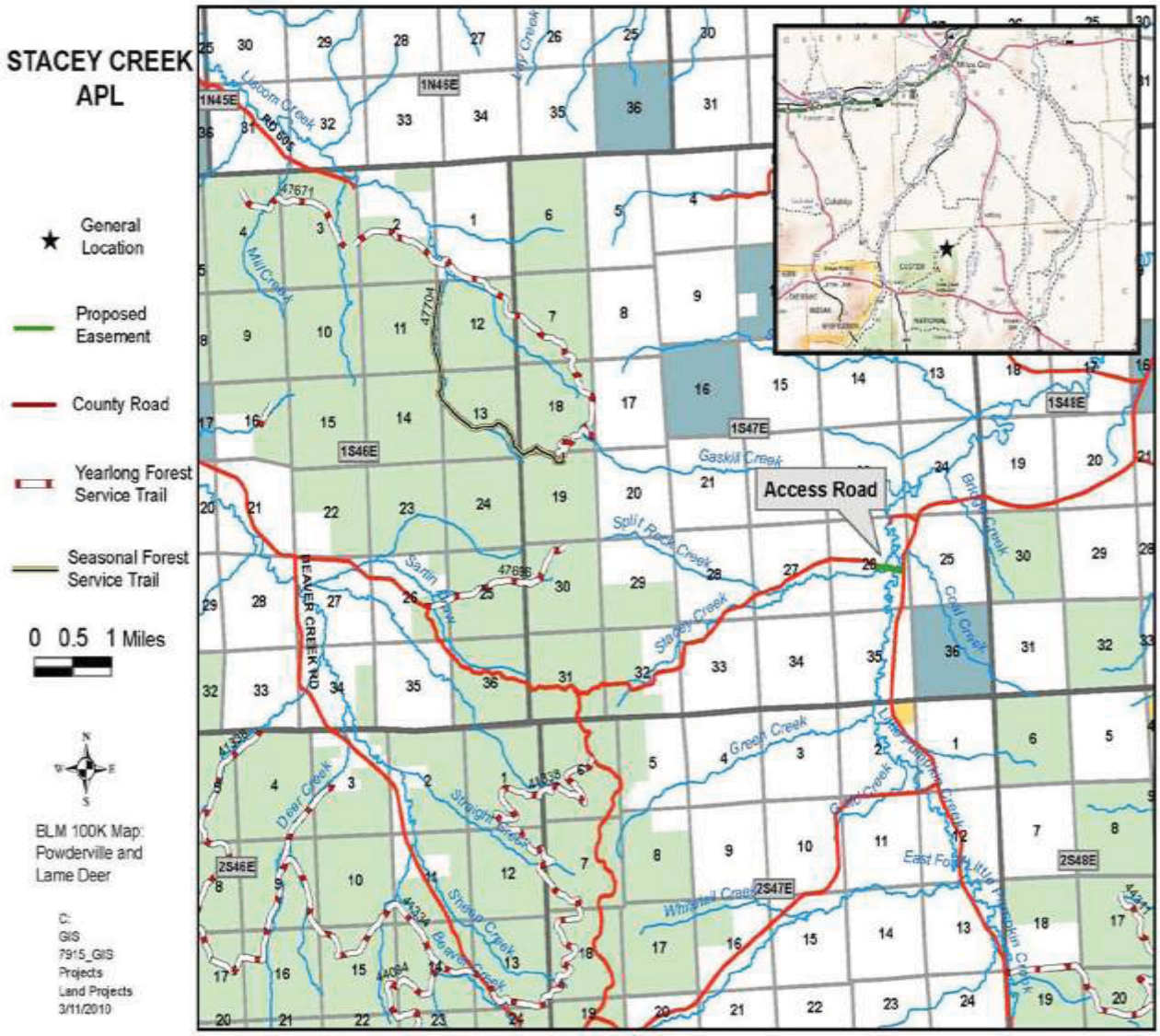
XIII. CONTACT INFORMATION FOR PERSONS PREPARING THIS EA

John Ensign, Region 7 Wildlife Program Manager, Montana Fish, Wildlife & Parks, Miles City
Phone: 406-234- 0921; Email: jensign@mt.gov

Hugh Zackheim, Lands Program Manager, Montana Fish, Wildlife & Parks, Helena
Phone: 406-444-4029; Email: hzackheim@mt.gov

XIV. OTHER GROUPS OR AGENCIES CONTACTED OR WHICH MAY HAVE OVERLAPPING JURISDICTION

USDA Forest Service (Ashland Ranger District & Region 1 East Side Lands Office)
Powder River County Commission



Location Map

Site Map – Proposed Stacey Creek Road Easement

The existing Stacey Creek Road heads west from the Little Pumpkin Creek Road (which is the north-south road on the east side of this air photo). The new easement will be acquired on the road segment that is located in the green rectangle on the map. Heading west from the Little Pumpkin Creek Road, the Stacey Creek Road first crosses Little Pumpkin Creek and then Stacey Creek. West of the proposed road easement area, the remainder of the Stacey Creek Road is already subject to public use rights under road easements held by the U.S. Forest Service.