



# Montana Fish, Wildlife & Parks

Region 2 Headquarters  
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Missoula, MT 59804-3101  
406-542-5500

July 2, 2012

Dear Interested Citizen:

Enclosed you will find for your review the Draft Environmental Assessment (EA) for a Montana Fish, Wildlife & Parks (FWP) proposal to acquire the 50% mineral rights ("rights") held by the Pauly Family under 14,149 acres of FWP's 27,616 acres in Spotted Dog Wildlife Management Area (SDWMA). FWP owns the other 50% of the rights under the 14,149 acres in the SDWMA, which is located northeast of Deer Lodge in Powell County and was acquired in 2010. This potential rights purchase would help ensure no mineral exploration and/or extraction activities would occur under the majority of FWP's SDWMA in the future, thus meeting many of the objectives for which the property was originally purchased.

The EA may also be obtained by mail from Region 2 FWP, by phoning 406-542-5540, or by emailing [shrose@mt.gov](mailto:shrose@mt.gov). The EA will also be posted for review and comment on FWP's Internet website <http://fwp.mt.gov> ("Public Notices," beginning no later than July 5).

Comments or questions should be directed to Sharon Rose at the address, phone or email above. Comments must be received by FWP no later than 5:00 p.m. on August 3, 2012.

As part of the decision making process under MEPA, I expect to issue the Decision Notice for this EA very soon after the end of the comment period. The Montana Fish, Wildlife & Parks Commission has the final decision-making authority for FWP acquisition proposals, and the Commission will be asked to render its decision on this proposal at its August 31 meeting in Helena. Approval will also be necessary from the Montana Board of Land Commissioners.

Sincerely,

A handwritten signature in black ink that reads "Mack Long".

Mack Long  
Regional Supervisor

ML/sr

**Draft Environmental Assessment:**

**Proposed Mineral Rights Acquisition  
Spotted Dog Wildlife Management Area**



July 2012



***Montana Fish,  
Wildlife & Parks***

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## **BACKGROUND**

In the fall of 2010, Montana Fish, Wildlife and Parks (FWP) acquired the 27,616-acre Spotted Dog property from Rock Creek Cattle Company (RCCC). As part of the acquisition FWP also assumed the RCCC lease of 10,261 acres from the Montana Department of Natural Resources (DNRC) that RCCC leased for grazing cattle. The fee-title property and leased DNRC acres are intermingled in an area northeast of Deer Lodge and south of Avon, in Powell County, Montana. This acquisition created the Spotted Dog Wildlife Management Area (WMA), and its objectives included:

- Permanently protect fish & wildlife resources;
- Enhance critical winter habitat for elk, mule deer, and antelope;
- Maintain migratory patterns to and from the National Forest for a regionally significant elk herd;
- Provide lasting public access to previously inaccessible lands;
- Maintain landscape connectivity between the Blackfoot and Clark Fork watersheds;
- Replace lost and injured natural resources that were the subject of *Montana v. ARCO* (<https://doj.mt.gov/wp-content/uploads/2011/06/settlementagreement01.pdf>).

## **1.0 PURPOSE OF AND NEED FOR ACTION**

### **1.1 Proposed Action and Need**

Montana Fish, Wildlife and Parks (FWP) proposes to purchase the mineral rights that are held by the Pauly Family under the 14,149 acres under the Spotted Dog Wildlife Management Area which is west of the Continental Divide, northeast of Deer Lodge, and part of the Upper Clark Fork River watershed, from the Pauly family. The Pauly homestead is within the WMA and owned by FWP.

In the 2010 acquisition, FWP received nearly all mineral rights to 10,408 acres and 50% of the mineral rights to 14,149 acres (see Figure). The other 50% interest in the mineral rights to the 14,149 acres is owned by the Pauly family (copy of the Warranty Deed concerning these mineral rights is on file at FWP's Region 2 and Lands Bureau offices). DNRC owns the oil, gas, and coal rights to 2,419 acres within the family's subsurface interest and 640 acres under FWP fee title portion of the WMA. The federal government retained the subsurface rights to the remaining 5,307 acres. Owners of mineral rights retain the right to enter the property and remove the mineral resource at some future time.

The Spotted Dog WMA is the second-largest block of unbroken native grasslands (14,149 acres) west of the Continental Divide in Montana and the most significant single block of wildlife habitat in the Upper Clark Fork River Basin (UCFRB). This WMA provides habitat for a diversity of wildlife species ranging from grasshopper sparrows to grizzly bears. The lands provide especially significant big game habitat with the largest concentration of wintering elk in the Upper Clark Fork (over 1,400 elk in 2012), and yearlong habitat for antelope, mule deer, white-tailed deer, elk, moose, black bear, and other species. Native westslope cutthroat trout reside in Spotted Dog Creek and its tributaries, as well as in O'Neill and Trout Creeks.

Additionally, the WMA offers abundant opportunities for outdoor recreation including hunting, hiking, horseback riding, or bird watching and is within an hour (or less) of Deer Lodge, Butte, Anaconda, Helena, and Missoula. The purchase of the mineral rights would ensure no future mineral exploration or

extraction activities would occur on those acres, which has the potential to negatively impact the existing resource values.

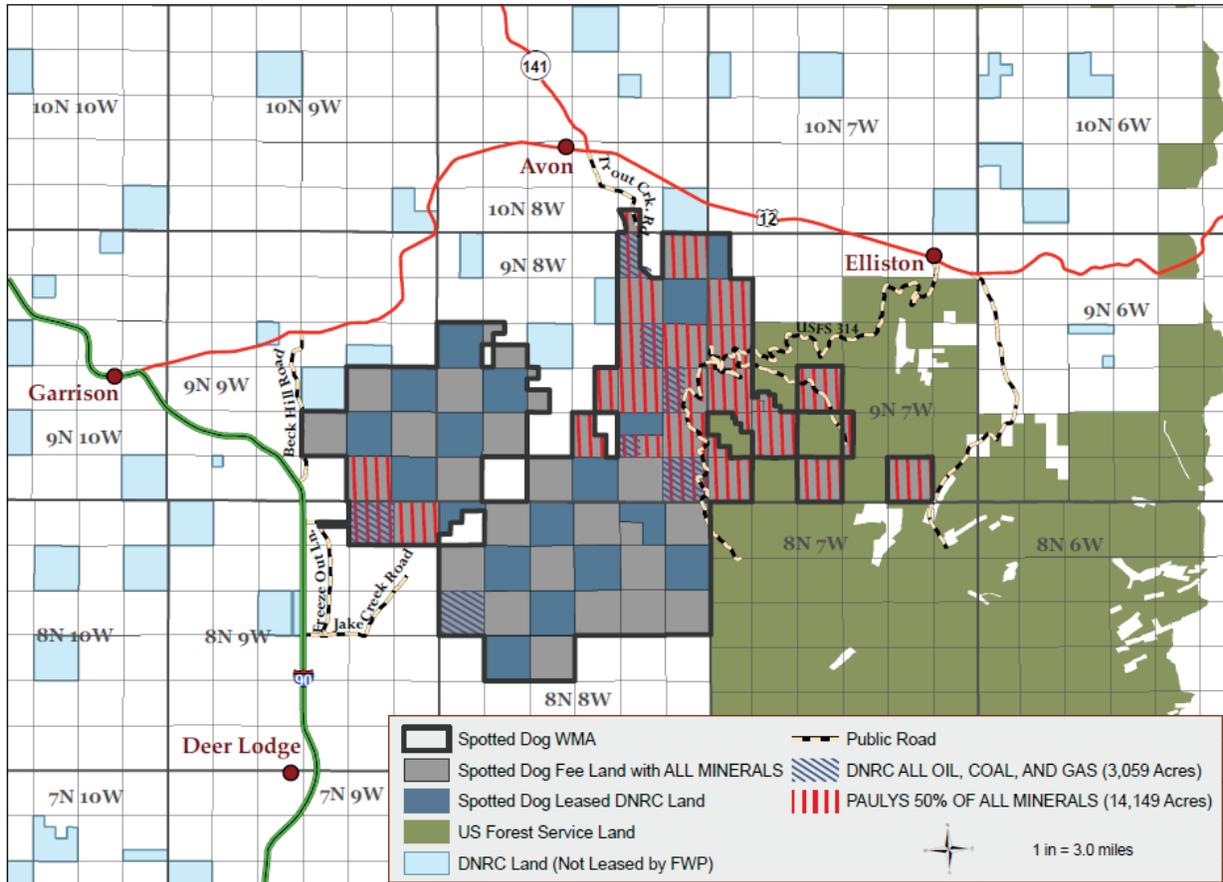


Figure. Current mineral ownership on Spotted Dog Wildlife Management Area.

As part of the evaluation and due diligence process associated with the acquisition of the Spotted Dog Property by FWP, a mineral assessment was conducted by the Montana Bureau of Mines and Geology. The Bureau’s report concluded the potential for coal, oil, and gas was low-to-medium throughout the property and there was moderate potential for metallic minerals in the following sections: T10N, R08W, Sec. 35; T09N, R08W, Sec. 1; and T09N, R07W, Sec. 30, 31, and 35.

The potential purchase of the Pauly mineral rights would ensure no mineral exploration and/or extraction activities would occur under the majority of FWP’s Spotted Dog WMA in the future, thus meeting many of the objectives for which the property was originally purchased.

**1.2 Location**

The Spotted Dog property is located in Powell County approximately 5 miles northeast of Deer Lodge, and one mile south of Avon, at the southeastern most portion of the Garnet Mountains.

The affected acres (areas for which the mineral rights would be acquired) encompass the eastern half of the WMA, which is a mix of native grasslands and conifer forest. This portion of the WMA is interspersed with DNRC and Forest Service owned lands.

Township & Range of the affected acres:

- T8N, R9W: All of Sections 1 and 2  
 T9N, R7W: All of Sections 7, 18, 19, 21, 29, 31, 33, and 35  
 Portions of Sections 20, 27, and 30  
 T9N, R8W: All of Sections 1, 11, 13, 14, 23, 24, 25, and 36  
 Portions of Sections 2, 22, 26, and 27  
 T9N, R9W: All of Sections 35  
 T10N, R8W: Portion of Section 35

**1.3 Application to FWP Comprehensive Fish & Wildlife Management Strategy**

During the last century intermountain grasslands and riparian habitats have declined significantly in Montana, as a result of sod busting, noxious weed invasions, and residential development. The 175,260-acre Deer Lodge Valley is identified in the Montana’s Comprehensive Fish & Wildlife Strategy (2005), as 1 of 10 Terrestrial Focus Areas in the state. The Deer Lodge Valley supports four community types of greatest conservation need (Tier 1 community types; grassland complexes, riparian & wetland, mixed shrub & grass associations, and sagebrush & salt flats) as well as 10 Tier 1 species. The abundance of large continuous tracts of intermountain grasslands is what makes the Upper Clark Fork, and the Deer Lodge Valley in particular, unique. Out of 10 Terrestrial Focus areas, only the Rocky Mountain Front has a similar prevalence of grasslands (60% vs. 59% in the Deer Lodge Valley).

The Table lists the Species of Concern (SOC) and Threatened/Endangered animal species that have been observed on the property or are predicted to occur within the property.

Table. Species of Concern (SOC) found or predicted to be found within FWP’s Spotted Dog Wildlife Management Area.

Species	Status	Habitat	Status in Spotted Dog WMA Vicinity
<b><u>Species of Concern</u></b>			
Westslope Cutthroat Trout ( <i>Oncorhynchus clarki lewisi</i> )	SOC, Tier 1	Coldwater streams	Verified in area, in Spotted Dog, Trout, and O’Neil creeks
Canada Lynx ( <i>Lynx Canadensis</i> )	Threatened, Tier 1	Subalpine conifer forests	Harvested near property
Fisher ( <i>Martes pennant</i> )	SOC	Mixed conifer forests	Verified in the Powell Co.
Fringed Myotis ( <i>Myotis thysanodes</i> )	SOC	Riparian & dry mixed conifer forests	Suitable habitat in area, not verified
Grizzly Bear ( <i>Ursus arctos</i> )	Threatened, SOC, Tier 1	Generalist	Suitable habitat for expansion into the area
Hoary Bat ( <i>Lasiurus cinereus</i> )	SOC	Riparian and forest habitats	Suitable habitat in area, not verified
Townsend’s Big-eared Bat ( <i>Corynorhinus townsendii</i> )	SOC, Tier 1	Caves and mines	Suitable roost sites near area, foraging habitat on property
Preble’s Shrew ( <i>Sorex prebleii</i> )	SOC	Sagebrush/Grasslands	Suitable habitat in area, not verified
Wolverine ( <i>Gulo gulo</i> )	SOC	Conifer forests	Harvested within 2 miles of eastern boundary
Bald Eagle ( <i>Haliaeetus leucocephalus</i> )	SOC, Tier 1	Riparian forests	Nesting pairs along Little Blackfoot, some foraging habitat on property
Brewer’s Sparrow ( <i>Spizella breweri</i> )	SOC	Sagebrush	Suitable habitat in area, not verified
Brown Creeper ( <i>Certhia Americana</i> )	SOC	Mixed conifer forests	Verified on forest service lands near the property

Species	Status	Habitat	Status in Spotted Dog WMA Vicinity
Cassin's Finch ( <i>Carpodacus cassinii</i> )	SOC	Conifer forests	Verified on forest service lands near the property
Clark's Nutcracker ( <i>Nucifraga Columbiana</i> )	SOC	Conifer forests	Verified on forest service lands near the property
Evening Grosbeak ( <i>Coccothraustes vespertinus</i> )	SOC	Conifer forests	Verified in Powell Co.
Flammulated Owl ( <i>Otus flammeolus</i> )	SOC, Tier 1	Low-mid elevation conifer forests with large trees	Verified on forest service lands near the property
Golden Eagle ( <i>Aquila chrysaetos</i> )	SOC	Generalist	Verified on property
Grasshopper Sparrow ( <i>Ammodramus savannarum</i> )	SOC	Grasslands	Suitable habitat in area, not verified
Great Blue Heron ( <i>Ardea Herodias</i> )	SOC	Riparian woodlands	Rookery on the Little Blackfoot near Garrison, foraging habitat on property
Great Gray Owl ( <i>Strix nebulosa</i> )	SOC	Conifer forests	Limited suitable habitat in area, not verified
Lewis's Woodpecker ( <i>Melanerpes lewis</i> )	SOC	Riparian forests	Verified on forest service lands near the property
Long-billed Curlew ( <i>Numenius americanus</i> )	SOC, Tier 1	Grasslands	Verified on property
Northern Goshawk ( <i>Accipiter gentilis</i> )	SOC	Mixed conifer forests	Verified near the area, suitable habitat present
Peregrine Falcon ( <i>Falco peregrines</i> )	SOC	Cliffs, forages over riparian, wetland habitats	Foraging habitat in area, not verified
Sharp-tailed Grouse –Columbian or prairie subsp. ( <i>Tympanuchus phasianellus</i> )	SOC (Columbian)	Grasslands	Suitable habitat, not verified, possible reintroduction site
Veery ( <i>Catharus fuscenscens</i> )	SOC	Riparian forests, shrubby habitats	Suitable habitat, not verified
Western Toad ( <i>Bufo boreas</i> )	SOC, Tier 1	Wetlands, lakes, floodplain ponds	Suitable habitat in area, not verified
<b><u>Potential Species of Concern</u></b>			
Silver-haired Bat ( <i>Lasionycteris noctivagans</i> )	PSOC	Riparian and forest habitats	Suitable habitat in area, not verified
Common Poorwill ( <i>Phalaenoptilus nuttallii</i> )	PSOC	Open conifer woodlands	Suitable habitat in area, not verified
Swainson's Hawk ( <i>Buteo swainsoni</i> )	PSOC	Sage/grasslands with woody draws	Suitable habitat, verified in Deer Lodge Valley
Western Screech-Owl ( <i>Megascops kennicottii</i> )	PSOC	Riparian forests	Suitable habitat, not verified
An Agapetus Caddisfly ( <i>Agapetus montanus</i> )	PSOC	Fast-flowing streams	Verified in Spotted Dog Creek north of the property
<b><u>Additional Tier 1 Species</u></b>			
Olive-sided Flycatcher ( <i>Contopus cooperi</i> )	CFWCS Tier 1	Early seral forest/shrub patches, and burned forest	Verified on forest service lands near the area

#### 1.4 Authority

FWP has the authority to purchase lands or interest in lands that are suitable for game, bird, fish or fur-bearing animal restoration, propagation or protection; for public hunting, fishing, or trapping areas; and for state parks and outdoor recreation per Montana Code Annotated, § 87-1-209.

Funding for the proposed mineral rights acquisition would come from FWP's Habitat Montana Program and would meet the goals of the Program as described in the Administrative Rules of Montana (ARM) 12.9.509.

### **1.5 Other Relevant Documents**

FWP completed an environmental assessment (EA) for the acquisition of the Spotted Dog WMA in June 2010. The acquisition EA and its Decision Notices are available through the following links:

EA -

[http://fwp.mt.gov/news/publicNotices/environmentalAssessments/acquisitionsTradesAndLeases/pn\\_0085.html](http://fwp.mt.gov/news/publicNotices/environmentalAssessments/acquisitionsTradesAndLeases/pn_0085.html)

Decision Notice - [http://fwp.mt.gov/news/publicNotices/decisionNotices/pn\\_0458.html](http://fwp.mt.gov/news/publicNotices/decisionNotices/pn_0458.html)

## **2.0 ALTERNATIVES**

### **2.1. Alternative A – Proposed Action: For FWP to purchase the 50% mineral rights associated with 14,148.94 acres of the Spotted Dog Wildlife Management Area from the Pauly Family**

Under the Action Alternative, FWP would purchase the Pauly mineral rights associated with the Spotted Dog WMA. This large property was originally acquired by FWP to protect winter range habitat for ungulates, movement corridors for a variety of terrestrial species, and fisheries and riparian areas, and to provide access for compatible public recreation opportunities. The purchase of the mineral rights would minimize the possibility that future subsurface exploration or extraction activities would occur that could negatively impact the existing resource values.

Expected cost of purchasing the mineral rights is \$70,745.

### **2.2 Alternative B – No Action: FWP would not purchase the Pauly mineral rights under Spotted Dog Wildlife Management Area**

Under the No Action Alternative, FWP would not purchase the mineral rights owned by the Pauly family under a portion of Spotted Dog Wildlife Management Area. The family would likely continue to consider other selling options and potential buyers for their interests. The possibility could exist that mineral exploration and extraction could be developed in the future by the Paulys or another party, which could potentially jeopardize existing wildlife, fisheries, and recreation resource values.

## **3.0 AFFECTED ENVIRONMENT AND ENVIRONMENT CONSEQUENCES**

### **3.1 LAND USE**

FWP manages the WMA in order to maintain the existing wildlife habitat for numerous species and provide compatible recreational opportunities for the public (e.g., hunting, hiking, fishing, etc). The WMA is open to the public May 15<sup>th</sup> to December 1<sup>st</sup>, and is closed during the winter and early spring for the benefit of wildlife. See sections 3.4 and 3.6 for additional information on wildlife species and recreation.

There are three legal points of entry to the interior of the WMA: Freeze Out Lane and Jake Creek Road on the west side of the WMA and Trout Creek Road at the northern boundary. Many other small roads cross the WMA but many of them are gated to restrict motorized vehicle access.

Prior to the WMA's purchase, the Spotted Dog Ranch had been used for grazing cattle and sheep since the 1970s, and much of the conifer forest habitat has been harvested, including considerable removal

since 2005. As a condition of the purchase agreement, RCCC is able to continue to use the property to graze approximately 2,000 cow/calf pairs and 20 horses through 2012, at which time FWP is expected to cease grazing within the WMA unless it is used as a management tool as described in the 2010 Spotted Dog WMA Management Plan. (See Spotted Dog Acquisition EA for a copy of the Management Plan.)

Proposed Action: With the completion of this purchase, 89% of the mineral rights associated with FWP's Spotted Dog WMA would be owned by FWP. The acquisition of Pauly's rights would help ensure the objectives for the property's acquisition are met and are not compromised by future mineral exploration and/or extraction activities. Land use is under the guidance of the Spotted Dog WMA Management Plan, which seeks to balance all the property's resource values while providing appropriate recreation opportunities.

The oil, gas, and coal mineral rights owned by DNRC would not be affected by the proposed purchase of the Pauly mineral rights.

The proposed mineral rights acquisition would comply with the goals of the 2006 Powell County Growth Policy in that protection of wildlife and fisheries important to the economy of the county would be encouraged. Additionally, the quantity and quality of water, as well as terrestrial habitat, would be protected from mining-related disturbances.

No Action: Under the No Action Alternative, there is the likelihood that the Pauly family would attempt to find another buyer for their portion of the mineral rights for the WMA. The potential intentions of a future buyer are unknown but two possibilities might exist. If the buyer were a mining firm, there is the potential that a future owner would have no intentions of production and would be buying the property as an investment, which could translate into no immediate disturbances to existing conditions. However, if a future mineral rights owner were to decide to implement exploration activities within the property, typical exploration actions would likely require disturbance or damage to existing surface and subsurface resources. This would increase the probability that habitat functions would be compromised and could decrease the likelihood of public access to these lands to continue for current land uses in the targeted area. The exact level of this risk is unknown since the future impacts to current land uses would be dependent on the actions of the existing or future mineral rights owner(s).

### **3.2 Vegetation**

*Intermountain Grasslands* are abundant throughout the WMA. Native bunchgrasses, including rough fescue (*Festuca scabrella*), bluebunch wheatgrass (*Elymus spicatus*), and Sandberg bluegrass (*Poa secunda*), dominate these communities. These grasslands provide year-round habitat, including winter range, for antelope, mule deer, and elk, as well as nongame species dependent on intact native grasslands.

*Riparian habitats* are found along many of the 45 miles of perennial and seasonal streams within the WMA as well as on the edges of springs, ponds, and seeps. Riparian woodlands, wet meadows, and emergent marshes are also present. In a dry landscape, these rare habitats provide especially important habitat for birds, bats, reptiles, and amphibians.

*Shrub Grasslands* occupy a portion of the affected area and include antelope bitterbrush (*Purshia tridentata*) and rough fescue communities. Mule deer use these habitats extensively as do calving elk, antelope, and nongame species. Both communities are valuable as forage for elk and mule deer, as well as food and cover for a variety of wildlife.

*Coniferous forest* includes lodgepole pine (*Pinus contorta*) in higher elevations and ponderosa pine (*Pinus ponderosa*), and Douglas-fir (*Pseudotsuga menziesii*) elsewhere. Much of the conifer forest habitat has been harvested, including considerable removal since 2005 by a previous owner. Timber

harvest has included near total removal of some small forest patches. In spite of intensive timber harvest, some of the remaining timber shows evidence of pine beetle mortality. The WMA is fairly close to major pine beetle infestations near the community of Deer Lodge.

*Invasive weed species* are present along both active and abandoned roadways, and other sites where livestock management activities take place. Exotic weed species include spotted knapweed (*Centaurea maculosa*), leafy spurge (*Euphorbia esula*), common hound's-tongue (*Cynoglossum officinale*), common mullein (*Verbascum thapsus*), hoary-cress (*Cardaria pubescens*), and Canada thistle (*Cirsium arvense*). Some weed control activities have been implemented by previous landowners, and FWP currently manages noxious weed infestations through mechanical and chemical methods.

A *vegetation survey* was conducted during the 2011 field season; however a final report for the survey has not been completed in time to be included in this assessment. No sensitive or threatened plant species have been observed within the WMA.

Proposed Action: Successful acquisition of the mineral rights from the Pauly family would guarantee that the existing varieties of vegetation would have the opportunity to regenerate through natural processes without the threat of mineral development disturbances on lands for which FWP would own the mineral rights. FWP would continue to implement the 2008 Statewide Noxious Weed Management Plan (FWP 2008) and the weed management plan designed for the Spotted Dog WMA (approved by the Powell County Weed District) to decrease the acres where noxious weeds are present, and over time, overall habitat health is expected to improve.

No Action: By not purchasing the remaining mineral rights for 14,149 acres of the Spotted Dog WMA from the Pauly family, important winter range habitat for elk and habitat to numerous resident species would potentially be at risk to future mineral development activities that could disturb, alter or destroy the expansive intermountain grasslands, existing forest, and riparian habitats. The exact level of this risk is unknown because the future impacts to vegetation resources would be dependent on the actions of the Pauly family and/or future mineral rights owner(s).

### 3.3 Soils

A query of the U.S. Department of Agriculture's (USDA) Soil Survey database of the Spotted Dog WMA identified over 100 different soil types within its boundaries, ranging from clay and cobbly loams to outcrop complexes. The predominant types included Roy-Shawmut-Danvers complex, Braziel-Tolbert complex, Worock gravelly loam, Braziel-Tolbert-Rock outcrop complex, Danvers clay loam, and Bignell gravelly loam. The remaining soil types are represented in acres of lesser amounts. Depending upon the location within the WMA, slopes ranged from zero to sixty percent (USDA 2012).

Proposed Action: The proposed action would protect additional portions from possible surface and subsurface activities that could be associated with mining exploration, development, and associated supportive activities (i.e., access roads, mobilization site, etc.). Soils and groundcover that have been disturbed by livestock grazing or previous timber harvesting would be able to settle and stabilize over a period of no action.

No Action: By not purchasing the Pauly mineral rights, portions of the WMA might be exposed to future mineral development activities that could disturb, alter or destroy the existing soil composition and design that supports expansive intermountain grasslands, existing forest, and riparian habitats. The exact level of this risk is unknown because the future impacts to soil resources would be dependent on the actions of the Pauly family and/or future mineral rights owner(s) in scope, breadth, and depth.

### 3.4 Wildlife Species

Spotted Dog property provides habitat for a diversity of wildlife species ranging from grasshopper sparrows to grizzly bears. The lands provide especially significant big game habitat with the largest concentration of wintering elk in the Upper Clark Fork as well as yearlong habitat for antelope, mule deer, white-tailed deer, elk, moose, black bear, and other species.

The property has the right mix of native grasslands, sagebrush communities, forests, and water to provide exceptional habitat for elk year-round. Elk calving habitats and winter range are found throughout. Some of the best winter range in the Upper Clark Fork exists on the WMA and intermingled DNRC lands with high numbers of wintering elk observed annually. In 2012, over 1,400 elk were counted on the WMA and adjoining lands.

The Spotted Dog property provides yearlong habitat for numerous Species of Concern. Species which are petitioned for federal protections under the Endangered Species Act (lynx), de-listed species (wolves and bald eagles), and listed species (*threatened*; grizzly bears) are all known to use the WMA or nearby lands. See section 1.3 for a complete list of species identified as Threatened/Endangered or Species of Concern.

The Spotted Dog area has been identified as a linkage area for pioneering grizzly bears and colonizing wolves by the Clark Fork Coalition, Five Valleys Land Trust, and FWP. The area provides landscape connectivity between the Blackfoot, Garnet, Flint and Boulder Mountains, and the Continental Divide.

Over the past 15 years, there has been documented evidence that two packs of gray wolves, the Boulder and Spotted Dog packs, have used the WMA. The Boulder pack (a.k.a., Castle Rock pack) was the first documented pack in the area until depredation issues required the removal of pack members in 2003, and there were no sightings of the remaining pack members after 2004. The Spotted Dog pack resided south of Avon since 2006, but as of 2008, the pack is considered gone from the area since no sightings have been reported by landowners or the public. No new packs are known to use the property at this time.

Little information exists on nongame wildlife on the property, which is typical for most privately-owned land. Results from a nongame species inventory that was completed during the 2011 field season are not yet available. Based on habitat, the WMA likely provides good nesting habitat for grassland bird species such as long-billed curlews, western meadowlarks, vesper sparrows, and grasshopper sparrows. The limited riparian habitat and woody coulees should support a rich diversity of songbirds. Raptors found in the area include golden eagles, bald eagles, prairie falcons, red-tailed hawks, American kestrels, and northern harriers. Jackrabbits and ground squirrels are likely present as well as many other small mammal species.

Proposed Action: Under the Proposed Action, FWP would help ensure no additional disturbances would occur to most of the WMA and ungulate winter range habitat would be protected. However a small risk to habitat conditions still remain since DNRC could pursue its subsurface rights in the future. FWP would maintain current hunting, trapping, and wildlife viewing and related opportunities within the WMA.

No Action: If the Pauly family retained the mineral rights associated with 14,149 acres of the Spotted Dog WMA and was to sell the rights to another buyer, the level of this risk is unknown because the future impacts to resources and public access would be dependent on the actions of a future mineral rights owner(s). Potentially, if the mineral rights were sold to another mining business, crucial winter range for a variety of ungulates, as well as an intermountain grassland habitat could be impacted by mineral exploration and/or development. Furthermore, existing hunting and wildlife viewing opportunities associated with the property could be interrupted if active mining activities were established.

### 3.5 Fisheries Species and Water Resources

The Spotted Dog property encompasses significant portions of three drainages for which FWP has fisheries data. This includes 4½ miles of Spotted Dog Creek as well as most of its tributaries (11 miles in Middle, South and West Forks), 4 miles of Trout Creek, and 4 miles of O'Neill Creek.

Several other small streams flow across the WMA including Freeze Out Creek and Fred Burr Creek. While FWP does not have fisheries data for these smaller streams, their recreational fisheries value is likely low. However, they may support populations of native westslope cutthroat trout. Results from a fisheries inventory that was completed during the 2011 field season are not yet available. The following is a brief summary of the main fisheries within the affected project area and results of a previous survey.

*Spotted Dog Creek* is a significant tributary to the Little Blackfoot River that flows for approximately 14 miles before reaching its mouth near Avon. The Spotted Dog WMA encompasses about 4½ miles of upper Spotted Dog Creek as well as much of its Middle and South Forks. Approximately, 2½ miles of the creek is within the affected area. The reach of Spotted Dog Creek flowing through the WMA likely provides a medium to good quality fishery for resident westslope cutthroat trout (genetically pure) as well as brook trout. The main stem of the creek is large enough to provide a quality, small-stream angling opportunity, and fish habitat appears to be in fair condition; although impacts of riparian livestock grazing are evident.

*Trout Creek* is a moderately sized tributary to the Little Blackfoot River that drains for approximately 11 ½ miles before reaching its mouth near the town of Avon. The Spotted Dog WMA encompasses about 3 to 4 miles of Trout Creek, of which approximately 3 miles of the creek is within the mineral right proposal area. Fish sampling conducted in 2008 by FWP showed that introduced brook trout tended to dominate the lower reaches of the stream, while native westslope cutthroat trout (genetically pure based on past testing) were more common in the upper part of the drainage. Habitat quality throughout much of the stream appears to be fair to poor, with much of the degradation being related to unregulated livestock grazing in the riparian zone. The stream is not large and provides limited angling opportunities.

*O'Neill Creek* is a very small tributary to the Clark Fork River that flows for about 4 ½ miles before reaching its mouth between Deer Lodge and Garrison. The Spotted Dog WMA (including DNRC leased land) encompasses 3 to 4 miles of the upper drainage, of which approximately 1 mile is within the project area. The lower reaches of the stream appear to be ephemeral, and the creek is only connected to the Clark Fork River during spring runoff. Sampling conducted in 2009 by FWP showed the presence of relatively high densities of native westslope cutthroat trout in the upper reaches of the stream. Recent testing has shown these fish to be genetically pure. The stream is considered too small to support any significant angling opportunity.

*Wetlands:* There are numerous freshwater emergent and freshwater forested/shrub wetlands throughout the 14,149 acres. Most are along the upper reaches of the three forks of Spotted Dog Creek, with their sizes ranging from less than 1 acre up to 52 acres (USFWS, Wetlands Inventory Database 2012). Additionally, there are many small emergent wetlands adjacent to springs that pepper the affected area.

Proposed Action: Under the Proposed Action, water resources within the Spotted Dog WMA would mostly be protected from potential mineral exploration and/or development activities that could threaten existing cold, clean, complex, and connected native salmonid habitat critical to westslope cutthroat trout and other fisheries and amphibian species. Recent and historic forestry activities, in addition to livestock grazing in riparian areas, have had some detrimental effects on fisheries and the natural integrity of stream systems. FWP would have the ability to continue habitat restoration projects

for the benefit of aquatic species, with minimal risk that those restorative activities could be changed by mineral exploration and/or development in the future.

No Action Alternative: If FWP decides not to purchase the mineral rights, it is unknown if any of the water resources would be affected by another buyer's plans if the Pauly family were to sell the mineral rights in the future. If mineral exploration was ever initiated, potentially water resources and fisheries could be influenced (e.g., sediment levels, run-off patterns, etc.) depending on the size and scope of those activities. The exact level of this risk is unknown because the future impacts to resources and public access would be dependent on the actions of a future mineral rights owner(s).

### **3.6 Recreation and Aesthetics**

Spotted Dog property encompasses a large view-shed from Elliston to Garrison in the Little Blackfoot River Canyon and from Garrison to Deer Lodge along the Interstate Highway 90 corridor. The open, uncluttered views of grasslands and forests as an observer enters the Little Blackfoot or upper reaches of the Clark Fork River reveal some of the least developed grassland valleys in Western Montana.

The Little Blackfoot corridor is an especially scenic drive with a narrow canyon bounded by a largely undeveloped landscape. The western half of the property generally drains into the Clark Fork River and its topography is gently sloping. The eastern half drains into the Little Blackfoot River and is more deeply incised and steeply sloping, between broad prominent benches and plateaus. From the eastern portions of the WMA there are unobstructed views across the Deer Lodge Valley and the Pintlar Mountain Range. Several rocky outcrops and small cliffs are present, especially in the vicinity of Beacon Hill, located on DNRC land at the head of George Gulch near the north boundary of the area.

The WMA is within deer/elk hunting district (HD) 215 and has had high hunter use based on observations from FWP staff. Hunter use statistics have yet to be gathered specifically for the WMA.

Fishing opportunities within the WMA are limited. The reach of Spotted Dog Creek flowing through the property provides a medium to good quality fishery for resident westslope cutthroat trout and brook trout. The main stem of the creek is large enough to provide a quality, small-stream angling opportunity. Only marginal fishing opportunity is available on O'Neill and Trout Creeks, which are small and in some cases, ephemeral.

Within the eastern portion of the WMA there is an existing groomed snowmobile trail system maintained by the Helena Snowdrifters that is accessible from a trailhead along the Little Blackfoot River Road and along Helena National Forest Service Road #314. Approximately 15 miles of groomed and ungroomed snowmobile trails traverse the Spotted Dog property (Helena Snowdrifters Snowmobile Trails 2003). An estimated usage level, as reported by the Snowdrifters in a FY2011 FWP trail grant application, was 3,500 users for the season.

Proposed Action: If FWP were to purchase the mineral rights from the Pauly family, existing public recreational opportunities such as hunting, hiking, fishing, motorized use on open routes, trapping, and camping would be mostly preserved and protected from possible disturbance or inconveniences associated from the initiation of mineral exploration and/or development activities. Recreation would continue to be managed in accordance with applicable FWP rules and regulations and the WMA's Management Plan.

No Action: If FWP decides not to purchase the mineral rights, FWP would continue to allow recreation activities appropriate for the Spotted Dog WMA unless the Pauly family or successor later landowner were to decide to exercise its right to commence mineral exploration and/or development

activities. If such efforts began, FWP would likely need to restrict some recreation opportunities in targeted areas for the duration of the mining activities to ensure the public's safety.

### **3.7 Air Quality**

Proposed Action: There would be no changes to the ambient air quality if FWP were to purchase the mineral rights associated with 14,149 acres of the Spotted Dog Property from the Pauly family.

No Action: If the mineral rights were sold to another buyer, the exact level of risk of change to ambient quality and existing particulate levels is unknown because the future impacts to the resource would be dependent on the actions of the existing or future mineral rights owner(s).

### **3.8 Noise and Electrical Effects**

Proposed Action: There would be no changes to existing noise levels or electrical structures to private in-holdings and easements if FWP were to purchase the mineral rights associated with the Spotted Dog WMA from the Pauly family.

No Action: If the Pauly family were to sell their interest of mineral rights to another buyer, the exact level of risk of change to noise levels is unknown because the future impacts to the resource would be dependent on the actions of the future mineral rights owner(s). If mineral exploration activities were to be initiated, noise levels in the immediate area are likely to increase due to the expected use of heavy equipment. Electrical structures to private in-holdings and easements would likely not be affected if FWP did not purchase Pauly mineral rights.

### **3.9 Risk and Health Hazards**

Proposed Action: If FWP were to purchase the Spotted Dog mineral rights from the Pauly family, there would be no changes to current risk and health hazards within the property.

No Action: If the mineral rights were sold to another buyer, the exact level of risk of changes to risk and health is unknown because the future impacts to the resource would be dependent on the actions of the existing or future mineral rights owner(s). If the Pauly successor were to exercise its right to initiate mineral exploration and/or development activities, FWP would likely need to decrease potential public safety risks through closures of affected areas and placement of appropriate warning signage.

### **3.10 Public Services, Taxes and Utilities**

Proposed Action: There would be no changes to existing public services or utilities if FWP were to purchase the mineral rights associated with the Spotted Dog Property from the Pauly Family. This purchase would not change the property taxes FWP pays to Powell County for FWP's property under § 87-1-603, MCA. FWP is required by § 87-1-603, MCA to pay "to the county a sum equal to the amount of taxes which would be payable on county assessment of the property if it was taxable to a private citizen."

There would be no affects to existing utility easements with the WMA.

No Action: If the mineral rights were sold to another buyer, the exact level of impact to local businesses is unknown because it would be dependent on the actions of the future mineral rights owner(s). If mineral exploration and/or development activities were initiated, some local or regional businesses might receive a positive impact if supplies or equipment were purchased from them, some local persons might gain employment, and/or the county could experience increased tax revenues.

### **3.11 Cultural and Historical Resources**

The Montana State Historic Preservation Office (SHPO) completed a cultural resource file search for the Spotted Dog property at the time of its acquisition and reported that there are a few previously recorded sites within the project area. Most of the sites are associated with a historic irrigation system and railroad stage route that traversed numerous sections of the property.

Additionally, SHPO's file search did locate a historic site recorded to have lithic scatter from prehistoric period within the boundaries of the Spotted Dog property. Prehistoric and historic use of Deer Lodge Valley was by many Native American tribes including Pend d'Oreille, Shoshone, Blackfoot, Nez Perce, Salish, and Kootenai (MT Historic Preservation Office 1995). One or more of these tribes may have traveled across or stayed on the Spotted Dog property in historic times.

Proposed Action: There would be no changes to previously identified cultural or historic resources if FWP were to purchase the Pauly mineral rights associated with its Spotted Dog WMA. FWP's proposed purchase would have a positive effect on any cultural or historical resources by securing and managing them in public ownership, because all state agencies are required by Montana law (§ 22-3-433, MCA) to consult with the historic preservation officer (SHPO) on the identification and location of heritage properties on lands owned by the state.

No Action: If the Pauly mineral rights were sold to another buyer, the exact level of risk to recorded and unknown cultural and historic resources would be unknown, because the future impacts to the resource would be dependent on the actions of a future mineral rights owner(s). Additionally, if mineral exploration and/or extraction effort were planned by the Pauly family or its successor, that owner would be required to obtain the necessary permits and licenses through Montana Department of Environmental Quality. As part of that permitting process, SHPO would also be contacted to ensure cultural and historic resources are not at risk of disturbance or destruction.

### **3.12 Cumulative Impacts**

Proposed Action -- The acquisition of Pauly's mineral rights under 14,149 acres of the Spotted Dog WMA by FWP would mostly remove the threat of additional disturbances to wildlife habitat from mining exploration and/or extraction actions in the future. In areas previously affected by livestock grazing and timber harvest activities, vegetation would be allowed to reestablish itself. The cumulative benefits of healthy forest, riparian/wetland, and grassland vegetation would contribute to: a reduction of sediment run-off, benefiting water quality and fisheries; additional forage and cover for all wildlife species that would contribute to greater populations of species in the area; and a more aesthetically pleasing environment in which the public could recreate. Existing recreational opportunities would continue to be available to visitors of the WMA under the guidance of the Spotted Dog WMA Management Plan.

The proposed purchase would contribute to the preservation of the wildlife corridors between the Blackfoot, Garnet, Flint and Boulder Mountains, and the Continental Divide, which is important for recovering threatened, endangered, and SOC species and maintaining viability of numerous other wide-ranging species such as elk, grizzly bear, wolves, and mountain lion.

No Action-- If FWP did not purchase the mineral rights, the potential sale of the minerals rights to another mining company, DNRC, or another private party is likely by the Pauly family. If a future mineral rights owner(s) were to move forward with exploration and/or excavation activities, such actions could contribute to further degradation of existing resource values within a property whose landscape has already been influenced by past timber harvest and livestock management activities. Maintaining important winter range for ungulate populations may be compromised under the no-action alternative, and a cumulative loss of habitat for threatened, endangered, and/or SOC fish and species could occur. The

results of the mineral assessment report completed in conjunction with FWP's Spotted Dog acquisition concluded the potential for metallic mineral occurrence with the Spotted Dog Property was low-to-moderate throughout the WMA for oil, gas, and coal, and moderate for metallic minerals in limited locations. Cumulative impacts of a future owner's activities are difficult to identify or estimate at this time because FWP does not know what the buyer's intentions might be.

#### **4.0 NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT**

Based on the significance criteria evaluated in this EA, is an EIS required? No. Based upon the above assessment, which has identified a limited number of minor impacts from the proposed action and no significant negative impacts, an EIS is not required and an environmental assessment is the appropriate level of review.

#### **5.0 PUBLIC PARTICIPATION**

##### **5.1 Public Involvement**

The public will be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- One statewide press release;
- Two legal notices in each of these newspapers: *Independent Record* (Helena), *Anaconda Leader*, *Silver State Post* (Deer Lodge), *Missoulian*, and *Montana Standard* (Butte);
- Direct mailing or email notification to adjacent landowners and interested parties;
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>

Copies of this EA will be available for public review at FWP Region 2 Headquarters in Missoula, FWP's Butte Area Resource Office, and on the FWP web site. This level of public notice and participation is appropriate for a project of this scope having few and minor physical and human impacts.

##### **5.2 Duration of Comment Period**

The public comment period will extend for thirty (30) days beginning July 5<sup>th</sup>. Written comments will be accepted until 5:00 p.m. on August 3, 2012 and can be mailed to the address below.

Montana Fish, Wildlife & Parks  
Region 2 Headquarters  
Attn: Spotted Dog Minerals EA  
3201 Spurgin Rd.  
Missoula, MT 59804

or emailed to: [shrose@mt.gov](mailto:shrose@mt.gov) or phoned to Sharon Rose: 406-542-5540

##### **5.3 Offices/Programs Contacted or Contributing to this Document:**

Montana Fish, Wildlife & Parks:  
Fisheries Bureau, Missoula  
Lands Bureau, Helena  
Legal Bureau, Helena  
Parks Division, Missoula  
Wildlife Bureau, Missoula

U.S.D.A Natural Resources Conservation Service, Soil Survey Database

#### 5.4 Timeline of Events

EA Public Comment Period  
EA Submitted to FWP Commission  
EA Submitted to MT Land Board

July 5 to 5:00 p.m. on August 3, 2012  
August 31<sup>st</sup>  
September 17<sup>th</sup>

#### 6.0 EA PREPARATION

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