

Decision Notice for Murray Douglas, Murray Creek, and Douglas Creek Conservation Easements Environmental Assessment

Prepared by:
Montana Fish, Wildlife and Parks
Region 2 Wildlife
3201 Spurgin Road
Missoula, MT 59804
April 30, 2013

DESCRIPTION OF PROPOSED ACTION

Alternative B: FWP would purchase the Murray Douglas Conservation Easement (CE) from The Nature Conservancy, the Murray Creek CE from the Blackfoot River Ranch, and the Douglas Creek CE from the Manley Family Limited Partnership, using funds granted to FWP by the US Forest Service Forest Legacy Program (FLP).

Montana Fish, Wildlife and Parks (FWP) has the authority under state law (§ 87-1-201, MCA) to protect, enhance and regulate the use of Montana's fish and wildlife resources for public benefit now and in the future. To this end, FWP proposed to purchase and hold these three CEs, totaling approximately 10,760 acres, lying north of Drummond in the Garnet Mountain Range in Powell County. The land is comprised of both former corporate timber land acquired by The Nature Conservancy (TNC) as part of the Blackfoot Community Project and private ranch lands historically used for cattle production and timber production. The land sustains important fish and wildlife habitat and has long been a popular and productive area for big game hunting.

Funding would be provided by a \$2.9 million grant awarded to FWP in 2010 by the Forest Legacy Program. The private landowners will also donate 25% of the land's current market value to provide the required FLP matching funds.

The terms of conservation easements prohibit residential, commercial and industrial development, while allowing managed timber harvest, livestock grazing, and fall public hunting access. The easements would be perpetual.

ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION

Alternative A, No Action: FWP would *not* purchase the Murray Douglas Conservation Easement from The Nature Conservancy, the Murray Creek CE from the Blackfoot River Ranch, or the Douglas Creek CE from the Manley Family Limited Partnership.

TNC would need to explore other land-sale options that may jeopardize its desire to protect the entire habitat community as one unit through conservation easements. Private ranch lands subject to this proposal would also remain open to potential development (subdivision, etc.). Public hunting access to the nearly 11,000-acre properties would remain at the sole discretion of the individual parcels' landowners.

If the proposed action is implemented, neighboring ranch owners would immediately use funds generated from the sale of conservation easements on their lands to purchase fee title to adjacent TNC lands (also encumbered by CEs). This outcome would benefit local ranch and timber economies, enable long-term land management planning, and aid the maintenance and restoration of the properties' resource values. Neighboring landowners likely would not be able to purchase much of the TNC land if the No Action Alternative were selected.

MONTANA ENVIRONMENTAL POLICY ACT PROCESS

FWP is required to assess impacts to the human and physical environment under the Montana Environmental Policy Act (MEPA). The Murray Douglas, Murray Creek, and Douglas Creek Conservation Easements proposal and its effects were documented by FWP in a Draft Environmental Assessment (EA).

PUBLIC REVIEW PROCESS

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision based on this information. FWP released a draft environmental assessment (EA) for public review of this proposal (Murray Douglas, Murray Creek and Douglas Creek Conservation Easements) on March 22, 2013 and accepted public comment until 5:00 P. M. on April 22, 2013.

Legal notice of the proposal and availability of the Draft EA was published twice each in the *Independent Record* (Helena, March 22 & 29), *Missoulian* (March 22 & 29), *Philipsburg Mail* (March 21 & 28), *Seeley Swan Pathfinder* (March 14 & 21), and *Silver State Post* (Deer Lodge, March 20 & 27) newspapers.

FWP mailed approximately 53 copies of the EA (and sent approximately 51 email notifications of the EA's availability) to adjacent landowners and interested individuals, groups and agencies. The EA was available for public review on FWP's web site (<http://fwp.mt.gov/>, "Recent Public Notices" and "Submit Public Comments") from March 22 through April 22, 2013. An FWP statewide news release was issued March 29 and posted on FWP's website (<http://fwp.mt.gov/>, "News Releases") the same day.

A public hearing to explain the proposal, answer questions, and take public comment was held on April 3, 2013 (6:00 p.m. at the Drummond Community Hall), and approximately 19 members of the public attended.

SUMMARY OF PUBLIC COMMENT

FWP received 5 comments regarding the proposed conservation easements (Appendix A). Four comments were from individuals (2 from Missoula, 1 each from Butte and Emigrant), and one was from the Powell County Planning Board. The 4 individuals supported FWP’s acquisition of the 3 proposed conservation easements, and the Powell County Planning Board did not specifically state support or opposition to the proposals.

Approximately 18 people attended the public meeting held April 3 in Drummond. Seven people offered testimony supporting the conservation easements (Table 1). No comments were received in opposition to the proposal.

Table 1. Public testimony on FWP’s proposed Murray Douglas, Douglas Creek, and Murray Creek Conservation Easements received at the public hearing held April 3 in Drummond.

| |
|--|
| I fully support the project, especially keeping it in working lands, with timber, grazing, and public access. |
| I support the project 100%, as do the three shareholders of Rivercrest Ranch. He supports the timber management. |
| I think the project is a good idea, and especially the extra horsepower applied by TNC [The Nature Conservancy]. |
| I support the project. |
| I support the project. |
| I support the project. |
| I support the project as proposed. |

RESPONSE TO PUBLIC COMMENT

Comment 5 (Appendix A): The Planning Board wants to take the opportunity to express to the agency [FWP] the concerns it has regarding the grazing component found in the easements. As previously noted by the Planning Board, the Board is keen to see grazing language and/or standards in easements have sufficient flexibility ensuring they complement local conditions as well as the requirements of a landowner. The Planning Board communicated these same objectives to Rick Northrup when he appeared before the Board on March 7th to discuss the agency’s approach to grazing with conservation easements. The Planning Board greatly appreciates the presence of Rick Northrup at its recent meeting and applauds FWP’s efforts to improve overall functionality of conservation easements in Powell County; however, the Board still insists the agency needs to amend how it views grazing management in these documents.

FWP Response: FWP recognizes that managed livestock grazing is compatible with, and can even improve, wildlife habitat. FWP’s interest in purchasing the Murray Douglas Conservation Easements is to maintain native plant communities, assure adequate forage for big game, provide nesting cover for forest grouse and other ground-nesting birds, and support ecological functions while also sustaining traditional agricultural uses of the land. We agree with the Planning Board that in order to succeed, grazing management plans must be adaptable over time in order to adapt to changing conditions and landowner needs. Therefore, for these easements, initial specific grazing prescriptions are described in Grazing Management Plans rather than in the recorded CEs themselves. This

approach allows for making adjustments if, after implementing the system, the landowner and FWP come to realize a need for future adjustments or refinements.

FINDING OF NO SIGNIFICANT IMPACT

FWP has reviewed the EA and applicable laws, regulations, and policies and has determined that this action will not have significant effect on the human environment. Therefore, I conclude that the EA is the appropriate level of analysis and the preparation of an Environmental Impact Statement is not necessary.

DECISION

Based on the analysis in the Draft EA and the public comment, I have selected the “Proposed Action” alternative. I recommend to the Montana Fish, Wildlife & Parks Commission that it approve the proposed Murray Douglas, Murray Creek, and Douglas Creek Conservation Easements to conserve important native fish and wildlife habitat, secure fall hunting access, and support traditional productive use of the Land. FWP has worked closely with The Nature Conservancy, local landowners, and the Blackfoot community to develop this project in a manner that meets local, state and federal objectives for this important conservation area.

CONCLUSION

By notification of this Decision Notice, the draft EA is hereby made the final EA. The finding of selection for the “Proposed Action” alternative is the product of this Decision Notice.

/s/ Vivaca Crowser
Vivaca Crowser
Region 2 Acting Supervisor
Montana Fish, Wildlife and Parks
3201 Spurgin Road
Missoula, MT 59804

4/30/13
Date

APPENDIX A. Comments on Murray Douglas Conservation Easements Acquisition EA received by FWP via email and mail.

Com-
men-
ter #

Comment

- 1 I support the acquisition of the Murray Douglas CEs. It is important habitat and should be protected as important habitat for a variety of species. It is imperative the covenants on the property include a right of access for reasonable opportunities for hunting, fishing and recreation. This does not mean unfettered public access but reasonable access. Motorized use should be reasonably limited to avoid game disturbance.

- 2 I support the proposed purchase of the MURRAY DOUGLAS, MURRAY CREEK, AND DOUGLAS CREEK CONSERVATION EASEMENTS. Purchasing these distinct conservation easements, that total 10,760 acres, from willing private sellers using Forest Legacy Program grant funds and private donations is a great investment, in the future, for generations to come. At approximately \$271.00 a acre this is a great deal. Please Thank the existing landowners for their generosity of donating the remainder of the costs.

- 3 I would like to go on record in support of these proposed conservation easements in the Drummond area.

- 4 I'm very much for the proposed Conservation Easement proposal

- 5 See pg. A-2 (Powell County Planning Board)



Planning Department

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April 22, 2013

Sharon Rose
Comments Coordinator, Region 2
Montana Fish, Wildlife & Parks
3201 Spurgin Rd.
Missoula, MT 59804

RE: Murray Douglas, Murray Creek, & Douglas Creek Draft Environmental Assessment

Ms. Rose:

The Powell County Planning Board on April 11th discussed the Draft Environmental Assessment prepared by FWP prior to acquiring three conservation easements on approximately 10,760-acres of private land north of Drummond in Powell County. The Planning Board wants to take the opportunity to express to the agency the concerns it has regarding the grazing component found in the easements. As previously noted by the Planning Board, the Board is keen to see grazing language and/or standards in easements have sufficient flexibility ensuring they complement local conditions as well as the requirements of a landowner. The Planning Board communicated these same objectives to Rick Northrup when he appeared before the Board on March 7th to discuss the agency's approach to grazing with conservation easements. The Planning Board greatly appreciates the presence of Rick Northrup at its recent meeting and applauds FWP's efforts to improve overall functionality of conservation easements in Powell County; however, the Board still insists the agency needs to amend how it views grazing management in these documents.

If you have questions regarding the comments contained in this correspondence or Powell County planning / zoning in general, please contact me by telephone at 406.846.9729, or by email at bbender@co.powell.mt.us.

Sincerely,

Brian P. Bender, AICP, CFM
Planning Director