

SPOKIE EXPANSION ALTERNATIVE LIVESTOCK FACILITY DECISION DOCUMENT

July 5, 2000

Alternative Livestock Application and MEPA Review

Montana Fish, Wildlife and Parks (FWP) received an application for expansion of an alternative livestock operation license from Grant Spoklie on February 8, 2000, to construct facilities that would add approximately 50 acres to 91 acres of an existing alternative livestock facility. The purposes of the facility would be for breeding stock, meat production, antler production, trophy sales, and other uses. Commercial shooting of elk would not occur. The existing and proposed alternative livestock facility is located approximately 4.5 miles south of Kalispell, Montana. It is located off White Basin Road, about ½ mile west of U.S. Highway 93. The applicant lives adjacent to the facility year-round.

FWP and the Montana Department of Livestock (DoL) prepared a draft Supplemental Environmental Review (ER) pursuant to the Montana Environmental Policy Act (MEPA) and Alternative Livestock statutes. This document was distributed for public review and comment on May 17, 2000, and public comments were accepted through June 7, 2000. One comment was received during the comment period.

Upon completion of the ER, it was determined that a full Environmental Impact Statement would not be required. No significant impacts from the proposed action were identified that could not be mitigated. A copy of the Final ER is attached.

Proposed Decision:

Based upon our review of the ER, the license application file, and the information noted below, FWP has determined that a license to expand the alternative livestock facility in question will be issued. The issuance of this license is contingent upon approval of all fence construction and the Licensee's adherence to the requirements listed below. The Licensee will have 3 years from the date of this approval to complete all fence construction as submitted in his application. Changes from the application must be approved by FWP prior to implementation of modifications.

The Licensee must be in compliance with all alternative livestock statutes, rules, and regulations of Montana Fish, Wildlife and Parks and Department of Livestock. Current regulations are attached for the applicant's information, but it is the Licensee's responsibility to keep up with any changes in the laws or regulations. The Licensee must also comply with the requirements listed below.

There is a concern of possible disease transmission to wild populations from captive animals and to captive animals from wild populations, and also genetic 'pollution', should wild and captive animals interbreed. Wild animals, such as native elk, black bears, mountain lions, and coyotes, can be attracted to elk facilities due to the availability of food and potential breeding opportunities. Responsible management and adherence to FWP requirements and regulations will reduce the risk of contact between wild game and captive elk to an acceptable level. The EA recommends additional measures, which should assist in that effort.

The proposed expansion will exclude ungulates and other terrestrial wildlife from using an additional 50 acres of habitat. Combined with the previous licensed 91 acres, the alternative livestock facility will exclude these wildlife from a total of 141 acres. The impact from the loss of 141 acres was not considered significant.

Flathead

Any potential impacts on water quality not addressed herein can be mitigated by the applicant's compliance with the state's water quality standards and requirements. Point source discharges, which include operations qualifying as concentrated animal feeding operations, are regulated under Title 75, Chapter 5, Part 6, MCA and ARM 16.20.1301, et. seq., and may require permits, especially if animal numbers result in significant loss of vegetation. Nonpoint source discharges are regulated under the prohibitions against the pollution and nondegradation of state waters (Title 75, Chapter 5, Parts 3 and 6, MCA and ARM 16.20.701 et. seq.). Nonpoint sources of pollution are considered non-significant sources of degradation where reasonable land, soil, and water conservation practices are applied and existing and anticipated beneficial uses will be fully protected (ARM 16.20.713). The Department of Environmental Quality has the authority to determine whether an activity satisfies these standards (ARM 16.20.709).

The accumulation of debris, packed snow, drifts, and other factors increase the risk of ingress and egress associated with most alternative livestock facilities. The proposed requirements require the applicant to inspect the perimeter fence on a regular basis and immediately after or during events that have a greater probability of damaging the fence (e.g., drifting snow, high streamflow/flooding periods, spring ice break-up) to ensure fence integrity with respect to stream debris, erosional stream flows, ice jams, burrowing animals, predators, and other game animals. The applicant must also immediately notify FWP if there is evidence of ingress or egress of any wild or captive ungulate in order to assess the adequacy of fencing requirements. FWP also proposes that the applicant submit a written fence-monitoring plan to FWP for approval prior to issuance of the license. The fence monitoring plan shall include information on how elk would be removed from the bottom areas within 24 hours, if necessary; how the stream crossing sites would be monitored during the period that high flows typically can occur (March - July); and how the fence would be maintained in a game-proof condition at the stream crossing sites. This should help to address problems early and may result in additional modifications to fence design.

The Department has the duty under the Montana Environmental Policy Act to conduct an additional environmental review if the action approved by the agency changes, subsequent to the agency's original approval, in a manner which has impacts substantially different from those which were reviewed in the original MEPA review (Ravalli County Fish and Game Association v. Montana Department of State Lands, 273 Mont. 371, 903 P.2d 1362 (1995)). For that reason, the Department provides notice that the MEPA review performed for this facility expansion reviewed the impacts of an alternative livestock facility with up to 150 elk. To the extent that the applicant hereafter increases the number of species of animals or makes other significant changes to the operation, a supplemental MEPA review must be conducted.

License Requirements:

The following requirements, which have been agreed to by the applicant, are imposed by FWP for the Spoklie alternative livestock facility and are designed to ensure that the fence enclosure is maintained in game-proof condition:

- (1) Licensee shall inspect the perimeter fence on a regular basis and immediately after or during events that have a greater probability of damaging the fence (e.g., drifting snow, high streamflow/flooding periods, spring ice break-up) to ensure fence integrity with respect to stream debris, erosional stream flows, ice jams, burrowing animals, predators, and other game animals. If it appears that fence integrity may be compromised because of drifting snow, high streamflow, flooding, and/or ice conditions in the Patrick Creek drainage, the licensee shall immediately remove all elk from the stream bottomland pasture(s). If repairs are required of the perimeter fence at one or both of the stream crossing sites, no elk shall be placed back into these pastures until the fence is inspected for game-proof condition by an FWP representative. Should ingress or egress become a problem during winter due to areas of snow accumulation, areas prone to snow drifting shall be identified and the fence height raised sufficiently to prevent ingress/egress.

Additional remedial actions may be required by FWP if the measures discussed above do not adequately prevent ingress/egress, including possible installation of an interior fence to separate Patrick Creek from the remainder of the elk ranch.

- (2) The licensee shall submit a written fence-monitoring plan to FWP for approval prior to issuance of the license. The fence-monitoring plan shall include information on how elk would be removed from the bottom areas within 24 hours, if necessary; how the stream crossing sites would be monitored during the period that high flows typically can occur (March - July); and how the fence would be maintained in a game-proof condition at the stream crossing sites.

These two requirements are imposed to mitigate a potential risk to fence integrity and the resulting potential for ingress/egress of domestic elk and wildlife. Without these requirements, risk to livestock and wildlife from contact with domestic animals would have the potential to be significant, due to the site being located in an area currently utilized by wild game and because of fenced crossings of Patrick Creek. Regular fence monitoring and a written fence-monitoring plan is required so that FWP has a level of confidence that potential fence integrity problems can be detected promptly.

Recommended Mitigation Measures:

The following list of recommended mitigation measures have been agreed to by the applicant and will be incorporated into the license requirements. They address minor impacts identified in the Spoklie alternative livestock facility draft ER.

Land Resources

- Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure, and potential increases in compaction and subsequent erosion from disturbed ground.

Air Resources

- Employ the following Best Management Practices (BMPs) to reduce odor problems if they occur: (1) incorporate waste into soil quickly by plowing or disking; (2) spread waste during cool weather or in the morning during warm, dry weather; and (3) properly dispose of animal carcasses.

Water Resources

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing of dead animals and excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste, if applicable).
- For any areas that may have erosion and sedimentation problems, use BMPs where surface water could enter Patrick Creek drainage. The BMPs may include earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences to be used on a seasonal basis.
- Clear debris promptly that may collect at the fenced stream crossings to reduce the potential for flooding and fence damage.

Vegetation Resources

- Monitor ranch site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program would be implemented, as regulated by the Flathead County Weed Control Board.

- Provide supplemental feed and minerals to alternative livestock on a year-round basis as needed to reduce excessive grazing on preferred pasture plants.
- Create interior pastures such that rotational grazing strategies can be implemented to reduce adverse impacts to vegetation on wetland, bottomland, and forested pastures. Wetland areas along Patrick Creek would not be grazed during periods of saturated soil conditions.

Wildlife Resources

- Store hay, feed, and salt away from exterior fences or enclose in bear-resistant containers or buildings.
- Feed elk ranch animals at interior portions of the enclosure and not along the perimeter fence.
- Remove dead animals, excess fecal material, and waste feed from the ranch and deposit at an approved site not likely to be used by humans, and domestic and wild animals.
- Adjust fence requirements in consultation with FWP personnel to include double fencing, internal fencing, electrification, or increased height if fence integrity or ingress/egress becomes a problem.

Noise

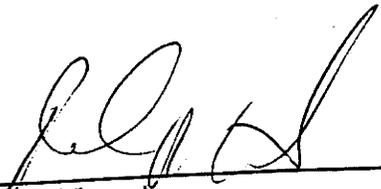
- Reduce the number of bull elk during the rut if excess noise from bugling results in complaints.

Risk/Health Hazards

- Mitigation measures recommended above for Vegetation and Wildlife Resources are applicable to this section. In addition, risk of a disease, epidemic, or heavy parasite infection among alternative livestock can be minimized by using best management practices such as maintaining a reasonable stocking rate in relation to the enclosure size, periodic removal of manure from concentration areas, and development of a disease immunization and parasite treatment protocol as applicable to alternative livestock.

Cultural & Historical Resources

- If archeological artifacts are observed during construction of the enclosure fence or from other activities, work should stop in the area and the discovery reported to the Montana Historical Society in Helena. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs, and preserve the artifact(s).


 Daniel P. Vincent
 Regional Supervisor

7/5/00
 Date

 Grant Spoklie
 License Applicant

 Date

Please sign the document and return the original to FWP to indicate your concurrence with the license requirements and recommended mitigation measures listed above. A copy of the signed decision will be provided to you for your records.

Mail to: Nancy Ivy, MFWP Region One, 490 North Meridian Rd., Kalispell, MT 59901

FINAL SUPPLEMENTAL ENVIRONMENTAL REVIEW EXPANSION OF GRANT SPOKLE ALTERNATIVE LIVESTOCK OPERATION

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS

Montana Fish, Wildlife & Parks (FWP) is required to perform an environmental analysis in accordance with the Montana Environmental Policy Act (MEPA) for "each proposal for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment" (Administrative Rules of Montana [ARM] 12.2.430). FWP prepares an environmental assessment (EA) to determine whether a project would have a significant effect on the environment.

The people of Montana, through our legislature, have determined that the alternative livestock industry is appropriate in Montana. It is understood that this carries with it some risk that cannot be reduced to zero. The level of risk that a particular project may introduce must be evaluated by FWP (through the MEPA process) using legislative intent, the negotiated rules and standards therein, as well as established practices that have been demonstrated to be sufficiently effective measures for similar conditions elsewhere.

If, using the above parameters, FWP determines that a project would have a significant impact that cannot be mitigated to a minor impact, the agency will prepare a more detailed environmental impact statement (EIS) before making a decision. If the agency determines that a proposed project will not have a significant impact, or that the impact can be mitigated to minor or none, the agency may make its licensing decision based upon results of the EA and criteria established under Montana Alternative Livestock Statute, Montana Code Annotated (MCA) Title 87, Chapter 4, Part 4.

Mitigation measures may be considered in FWP's analysis as a means to reduce impact(s) of an alternative livestock ranch to a level below significance. FWP may also recommend mitigation measures to reduce impacts that are considered minor. FWP prepared a draft supplemental environmental review (ER) for the proposed expansion of Grant Spoklie's alternative livestock operation located near Kalispell, Montana. A supplemental ER was completed rather than an EA because the Proposed Action would result in a relatively small expansion (50 acres) to an existing licensed alternative livestock facility. The original EA was prepared for the existing alternative livestock operation in 1996. The Draft Supplemental ER was released for public review and comment May 17, 2000. Public comments were accepted through June 7, 2000. One comment letter was received during the comment period.

The Draft Supplemental ER also provided an analysis of impacts to private property as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in the Draft Supplemental ER was conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (Environmental Quality Council 1996).

The Draft Supplemental ER, as modified herein, and this Final Supplemental ER are hereby approved as the Final ER. This Final Supplemental ER for the proposed Grant Spoklie Alternative Livestock

Operation Expansion contains summaries of the Proposed Action, and requirements and mitigation measures, all of which are described in additional detail in the Draft Supplemental ER. This document also describes mitigation measures and requirements, includes a summary of substantive public comments and agency responses to those comments, and provides the conclusion of the EA. The preferred alternative is the Proposed Action with two requirements and several recommended mitigation measures.

PROPOSED ACTION

FWP received an application for expansion of an alternative livestock operation license from Mr. Grant Spoklie on February 8, 2000. The application was dated January 28, 2000. The Proposed Action identifies construction of facilities that would add approximately 50 acres to 91 acres of an existing alternative livestock facility. This application was accepted by FWP on March 6, 2000, initiating a 120-day review process. The existing and proposed alternative livestock facility is located approximately 4.5 miles south of Kalispell, Montana. It is located off White Basin Road, about ½ mile west of U.S. Highway 93. The applicant lives adjacent to the facility year-round.

The applicant stated he would like to eventually place a maximum of 150 elk within the total enclosure area of 141 acres for the purpose of breeding stock, meat production, antler production, trophy sales, and other uses. Commercial shooting of elk would not occur. The proposed expansion would share a common fenceline with the existing facility and, as such, gates would be installed in the existing facility to allow for animal movement between pastures in the new and old sections of the ranch. The expanded area would likely be separated into four separate pastures to facilitate seasonal requirements relating to herd management (e.g., hay production, disease control, and avoidance of saturated wetlands and waterfowl breeding periods). A letter of agreement, signed by Mr. Spoklie, describing pasture management (rotational grazing) and wetland avoidance practices, which will be implemented as part of the proposed action, is available in the project file.

Fence construction would be completed in accordance with requirements of FWP under ARM 12.6.1533. The exterior fence for the enclosures would consist of 8-foot high, Tightlock steel fencing. Because the entire expansion area is flat, the need for higher fencing is not anticipated. There would likely be four exterior gates for the expansion area. A DoL approved handling facility (#126) already exists approximately 100 yards from the residence within the existing facility. Water for the elk would be provided via the existing stream. Supplemental feeding would occur, with oats/grain being provided daily on a year-round basis.

ALTERNATIVES

One alternative (No Action alternative) is evaluated in this environmental review. Under this alternative, FWP would not modify Mr. Spoklie's existing license for expansion of the facility. Therefore, no alternative livestock would be placed on the proposed expansion area. Implementing the No Action alternative would not preclude other activities allowed under local, state, and federal laws from taking place in the proposed expansion area.

REQUIREMENTS AND MITIGATION MEASURES

The stipulations, requirements, and mitigation measures described in this section address potential impacts identified for the proposed expansion of the Grant Spoklie Alternative Livestock Operation. FWP would require actions to ensure that the fence enclosure is maintained in game-proof condition. Other potential impacts from the Proposed Action are addressed as mitigation measures that are

recommended by FWP to remain in compliance with state and federal environmental laws, but are not required.

Requirements

The following requirements, which have been agreed to by Mr. Spoklie, are imposed by FWP for the alternative livestock facility expansion and are designed to ensure that the fence enclosure is maintained in game-proof condition:

- (1) Licensee shall inspect the perimeter fence on a regular basis and immediately after or during events that have a greater probability of damaging the fence (e.g., high streamflow/flooding periods, spring ice break-up) to insure fence integrity with respect to stream debris, erosional stream flows, ice jams, burrowing animals, predators, and other game animals. If it appears that fence integrity may be compromised because of high streamflow, flooding, and/or ice conditions in the Patrick Creek drainage, the licensee shall immediately remove all elk from the stream bottomland pasture(s). If repairs are required of the perimeter fence at one or both of the stream crossing sites, no elk shall be placed back into these pastures until an FWP representative inspects the fence for game-proof condition. Should ingress or egress become a problem during winter due to areas of snow accumulation, areas prone to snow drifting shall be identified and the fence height raised sufficiently to prevent ingress/egress. Additional remedial actions may be required by FWP if the measures discussed above do not adequately prevent ingress/egress, including possible installation of an interior fence to separate Patrick Creek from the remainder of the elk ranch.
- (2) The licensee shall submit a written fence monitoring plan to FWP for approval prior to issuance of the license. The fence monitoring plan shall include information on how elk would be removed from the bottom areas within 24 hours if necessary; how stream crossing sites would be monitored during the period that high flows typically can occur (March - July); and how the fence would be maintained in a game-proof condition at stream crossing sites.

These two requirements are imposed to mitigate a potential risk to fence integrity and the resulting potential for ingress/egress of alternative livestock and wildlife. Without these requirements, risk to wildlife from contact with alternative livestock would have the potential to be significant, due to the site being located in an area currently used by wild game, and the existence of two fenced crossings of Patrick Creek. Regular fence monitoring and a written fence monitoring plan is required so that FWP has a level of confidence that fence integrity problems can be detected promptly before egress problems occur.

Recommended Mitigation Measures

The following recommended mitigation measures address impacts identified in the previously completed Spoklie Expansion EA for resources that have the potential to be affected by the Proposed Action:

Land Resources

- Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure and potential increases in compaction and subsequent erosion from disturbed ground.

Air Resources

- Employ the following Best Management Practices (BMPs) to reduce odor problems if they occur:

(1) incorporate waste into soil quickly by plowing or disking; (2) spread waste during cool weather or in the morning during warm, dry weather; and (3) properly dispose of animal carcasses.

Water Resources

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing of dead animals and excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste, if applicable).
- For any areas that may have erosion and sedimentation problems, use BMPs where surface water could enter Patrick Creek drainage. The BMPs may include earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences to be used on a seasonal basis.
- Clear debris promptly that may collect at the fenced stream crossings to reduce the potential for flooding and fence damage.

Vegetation Resources

- Monitor ranch site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program would be implemented, as regulated by the Flathead County Weed Control Board.
- Provide supplemental feed and minerals to alternative livestock on a year-round basis as needed to reduce excessive grazing on preferred pasture plants.
- Create interior pastures such that rotational grazing strategies can be implemented to reduce adverse impacts to vegetation on wetland, bottomland, and forested pastures. Wetland areas along Patrick Creek would not be grazed during periods of saturated soil conditions.

Wildlife Resources

- Store hay, feed, and salt away from exterior fences or enclose in bear-resistant containers or buildings.
- Feed elk ranch animals at interior portions of the enclosure and not along the perimeter fence.
- Remove dead animals, excess fecal material, and waste feed from the ranch and deposit at an approved site not likely to be used by humans, and domestic and wild animals.
- Adjust fence requirements in consultation with FWP personnel to include double fencing, internal fencing, electrification, or increased height if fence integrity or ingress/egress becomes a problem.

Noise

- Reduce the number of bull elk during the rut if excess noise from bugling results in complaints.

Risk/Health Hazards

- Mitigation measures recommended above for Vegetation and Wildlife Resources are applicable

to this section. In addition, risk of disease, epidemic, or heavy parasite infections among alternative livestock can be minimized by maintaining a reasonable stocking rate in relation to the enclosure size, periodic removal of manure from concentration areas, and development of a disease immunization and parasite treatment protocol as applicable to alternative livestock.

Cultural & Historical Resources

- If archeological artifacts are observed during construction of the enclosure fence or from other activities, work should stop in the area and the discovery reported to the Montana Historical Society in Helena. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs, and preserve the artifact(s).

SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSES

Public comments for the Spoklie Expansion Alternative Livestock Operation Draft Supplemental ER were accepted from May 17, through June 7, 2000. FWP received one written public comment submittal during the comment period. Five issues and questions raised in this comment submittal are summarized below, along with FWP and DoL responses. Public comments are considered substantive if they relate to inadequacies or inaccuracies in the analysis or methodologies used in the Draft Supplemental ER, or identify new impacts or recommend reasonable new alternatives or mitigation measures, or involve disagreements or interpretations of impact significance. Comments, which express personal preferences or opinions on the proposal rather than on the evaluation itself, are not specifically addressed.

Category 1 – Affected Environment

Issue 1: While wildlife presence and use is covered, there is no information on the fisheries value of Patrick Creek. In particular, it should be referenced that there is a resident population of brook trout within the proposed expansion area, which infrequently supports some recreational fishing. Currently, brook trout are in relatively low abundance in the pond and the man-made creek channel, likely due to the occasional presence of otter at the pond.

Response 1: Thank you for your comment. Region 1 of FWP acknowledges that the noted portion of Patrick Creek contains a small population of brook trout. Based on water quality impacts as disclosed in the Draft Supplemental ER, and given the requirements and mitigation measures as discussed, we feel there would be minor, but mitigatable, impacts to brook trout in this section of Patrick Creek due to implementing the proposed expansion.

Category 2 – Impacts

Issue 1: The 50-acre tract currently offers some waterfowl and upland game habitat. The game-proof fence will inhibit coyote entry; and this, coupled with rest-rotation grazing practices, should be a positive benefit to waterfowl and upland bird production.

Response 1: The elimination of coyotes and other predators coupled with residual nesting cover within the enclosure would have local positive benefits to nesting waterfowl and upland birds.

Issue 2: If coyotes are a non-game animal and are excluded from the proposed facility by fencing, this predator will be impacted. Therefore in matrix 5(c), an impact classification of "minor" would be correct.

Response 2: Matrix 5(c) discloses no changes in diversity or abundance of nongame species, including coyotes, in the area.

Issue 3: In the impact matrix (10(b)), it is specified that there will be no impact on local or state tax base and revenue. However, under the section Affected Environment on the same page, it is referenced that additional taxes would be paid as additional elk were added. A correction of the impact matrix is therefore warranted for obvious consistency.

Response 3: The matrix at 10(b) should indicate that a minor increase in local tax revenues would result from implementing the expansion.

Issue 4: The impact matrix (10(d)) specifies that there will be no increase in use of any energy source. Obviously, energy use will increase with the proposed action. Energy use should be cited as "minor" instead of "none".

Response 4: Comment noted.

Issue 5: The impact matrix does not acknowledge that elk ranching has tourism potential and most certainly, recreational value. Some of the elk raised at the facility will be trophy harvested at MFWP-approved off-site locations. Further, limited tourist viewing of the fenced elk already occurs along White Basin Road. Lastly, it is inconsistent for MFWP to promote its own fish hatcheries as supplying high quality recreational opportunities, but not recognize the recreational and tourism attraction associated with private elk ranching.

Response 5: While it is true that elk ranching in general might have tourism and/or recreational value, the matrix (11(c)) discloses that the proposed expansion would have no impact on alteration of the quality or quantity of recreational/tourism opportunities and settings.

Category 3 – Requirements

Issue 1: Requirement #1 on page 31 alludes to there being two streams of water crossing (fence) locations. The only crossing of Patrick Creek will be on the east fenceline. The west fenceline will be on the upland between White Basin Road and the 1/10th acre pond.

Response 1: Figure 2 indicates that the proposed fenceline would cross one ephemeral channel at its northwestern-most point, and Patrick Creek as it leaves the enclosure on its eastern boundary.

CONCLUSION OF THE ENVIRONMENTAL REVIEW

The Draft and Final Supplemental Environmental Reviews are approved as the Final ER for the proposed expansion of the Grant Spoklie Alternative Livestock Operation. The preferred alternative is the Proposed Action, modified with the requirements listed in this Final ER. Based on this review, it is determined that the Proposed Action, with specified requirements, would not have a significant impact on the environment and that an EIS will not be required.

REFERENCES

- Montana Fish, Wildlife and Parks (FWP), 1997. Environmental Assessment. Grant Spoklie Game Farm Expansion. Region 1, Kalispell, MT.
- Montana FWP, 1998. Decision Document, Spoklie Game Farm Expansion #2. April 13, 1998. Region 1, Kalispell, MT.

PERSONS RESPONSIBLE FOR PREPARING THE ER

Montana Fish, Wildlife & Parks

Gael Bissel, FWP Biologist
Fish, Wildlife & Parks, Region 1
490 N. Meridian Road
Kalispell, MT 59901

Tim Feldner, Manager, Commercial Wildlife Permitting
Enforcement Division
1420 E. 6th Avenue
Helena, MT 59620

Brian Sommers, Enforcement
Fish, Wildlife, & Parks, Region 1
490 N Meridian Road
Kalispell, MT 59901

Montana Dept. of Livestock

Evaleen Starkel, Alternative Livestock Program Specialist
Animal Health Division
Third Floor, Scott Hart Building
301 Roberts
Helena, MT 59620

Maxim Technologies, Inc.

Pat Mullen, Biologist
Doug Rogness, Hydrologist
303 Irene Street
Helena, MT 59601

GRANT SPOKLIE GAME FARM EXPANSION FINAL ENVIRONMENTAL ASSESSMENT

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS

The Montana Department of Fish, Wildlife and Parks (FWP) is required to perform an environmental analysis in accordance with MEPA for "each proposal for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment" [Administrative Rules of Montana (ARM) 12.2.430]. FWP prepares environmental assessments (EA) to determine whether a project will have a significant effect on the environment. If FWP determines that a project will have a significant impact that cannot be mitigated to a minor impact, the agency will prepare a more detailed environmental impact statement (EIS) before making a decision. If the agency determines that a proposed project will not have a significant impact, or that the impact can be mitigated to minor or none, the agency may make its licensing decision based upon the results of the EA and criteria established under Montana's game farm statute Montana Code Annotated (MCA) Title 87, Chapter 4, Part 4.

Mitigation measures may be considered in FWP's analysis as a means to reduce the impact(s) of a game farm to a level below significance. FWP may also recommend mitigation measures to reduce impacts that are considered minor.

The FWP prepared a Draft EA for the proposed Spoklie game farm expansion which identified no significant impacts from the Proposed Action that could not be mitigated. The Draft EA was released for public review and comment June 25, 1997. Public comments were accepted through July 25, 1997. The Draft EA, as modified herein, is hereby approved as the Final EA. This Final EA for the proposed Spoklie game farm expansion contains a summary of the Proposed Action, a description of the affected environment, and potential consequences of the Proposed Action, all of which are described in additional detail in the Draft EA which is adopted in this Final EA. This document also includes required mitigation measures, a summary of public comments with FWP's responses, the conclusion of the EA, and an analysis of the impact of imposed stipulations on private property.

PROPOSED GAME FARM APPLICATION

The FWP received an application for an expansion to an existing game farm license from Grant Spoklie on March 3, 1997. On April 1, 1997, FWP accepted the application as complete which initiated a 120-day review and decision period.

The Spoklie game farm and proposed expansion is located approximately 4½ miles southeast of Kalispell, Montana. The applicant proposes to expand an existing 45-acre, 40-elk game farm by an additional 37 acres and 20 elk. The proposed expansion is located in two separate areas:

Flathead

Expansion Area 1A

Proposed expansion area 1A would be a 23-acre area located approximately 1,000 feet northeast of the existing game farm. This area would share a common fence line with the 5-acre existing game farm enclosure.

Expansion Area 1B

Expansion area 1B would be a 14-acre area located adjacent to the east side of the existing 40-acre elk pasture. An open area associated with the BPA powerlines would be left between this area and the existing 40-acre game farm enclosure.

With the expansion, total acreage of the Spoklie game farm would be 82 acres (45 acres existing and 37 acres proposed) and the entire game farm would be licensed for up to 60 elk. The applicant would breed, sell and dispose of expansion elk in accordance with Montana game farm and disease control requirements stipulated in ARM 12.6. Subchapter 5.

AFFECTED ENVIRONMENT

Most of the proposed expansion is forested with Douglas fir. Approximately 8 acres (about 22%) of the 37-acres is grassland meadow. The proposed expansion would extend into about ¼-acre of a wetland/riparian area associated with Patrick Creek. The Patrick Creek channel is located approximately 150 feet north of the proposed fence line. Although this portion of the wetland dries up most months of the year, it does contain water for several months in wet years, such as the spring and summer of 1997.

The proposed game farm expansion is in an area used year-long by white-tailed deer at an estimated density of 15 to 30 deer per square mile. Wild elk may occasionally pass through this area. In addition, moose, mule deer, black bears, and mountain lions are also known to occur in the vicinity of the proposed expansion.

Principal land use of the proposed expansion area and vicinity is a combination of timber harvesting, wildlife management and residential development. The proposed expansion is consistent with existing land uses.

IMPACTS AND MITIGATION MEASURES

Impacts to Vegetation and Soil Resources

- Continuous use of the pastures would result in decreased vegetation production, reduced ground cover, increased soil erosion and invasion of noxious weeds. Most trees accessible to game farm elk would eventually die from elk browsing and rubbing. Loss of vegetative cover in the expansion area would present a minor impact to vegetation in the vicinity of the proposed expansion.

Impacts to Water Resources

- Elk fecal material and nutrient-enriched water may enter Patrick Creek during overbank flow that extends into the proposed enclosure; however, this would not have a measurable effect.

Impacts to Wildlife Resources

- Continued opening of the forest would further favor bird species associated with forest edges over bird species requiring forest interior habitat. The game farm fencing would pose a minor flight hazard for forest raptors in pursuit of small birds.
- The proposed expansion would present a minor impact to wildlife habitat due to the exclusion of wild deer and elk from 37 acres of suitable habitat in combination with the 45 acres enclosed by the existing game farm. The expansion would not be a significant impact to habitat because similar habitat is widely available in adjacent areas, the game farm area is not considered critical habitat for any big game species, and existing open space and the small elevational range of the proposed enclosures would allow easy migration of wildlife around the proposed expansion.
- The proposed expansion would present a significant, but mitigatable increase in the risk to wildlife health because the site would be located in an area currently utilized by wild game.

Required Mitigation Measures

- Report ingress of any wild game animals and predators or egress of domestic elk to FWP immediately. The report must contain the probable reason why or how ingress/egress occurred.

Recommended Mitigation Measures

- Properly store hay, feed and salt in enclosed containers and buildings a sufficient distance from the perimeter fence to minimize the attraction of wild animals;
- Use commonly accepted sanitation measures to remove excess feed, dead animals, and other wildlife attractants;
- Regularly patrol the fences to determine whether wild animals are gaining access to the game farm;
- Exclude elk from the riparian/wetland area in such a manner that the elk wastes cannot get washed into or reach the wetland or water; and
- The Montana Department of Environmental Quality (DEQ) recommends implementation of mitigation measures identified in the Draft EA to prevent any significant impacts to Patrick Creek. Mitigation measures can be required by DEQ if impacts occur.

SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSES

Public comments for the Grant Spoklie game farm expansion Draft EA were accepted from June 25 through July 25, 1997. Two letters were received by FWP during the public comment period, both of which opposed the proposed game farm expansion. Issues pertinent to the EA that were raised in the comment letters are summarized below.

1. **Issue:** The possible impact from spread of disease and genetic pollution to the native animals is too great to risk. An escape from the game farm is sure to happen and the risk of introducing tuberculosis or red deer genes is far too great.

Response: Wild animals such as native elk, black bears, mountain lions and coyotes can be attracted to game farms due to the availability of food and potential breeding opportunities. The EA identified risk of disease to wild animal populations as a potentially significant risk, but concluded that the risk would be mitigated to a level below significant by requiring immediate response to, and reporting of, ingress and egress events.

2. **Issue:** The risk of disease spread by local predators is commonly evident.

Response: Because predators are at the top of the food chain, most predators are considered dead end hosts if they feed on a diseased animal. Predators usually don't have contact with domestic animals and, therefore, don't have the opportunity to provide a link between one domestic animal and another. Diseases usually follow the movement of an infected animal through similar and susceptible populations.

3. **Issue:** Sportsman's dollars should not be spent to monitor and benefit this small group of private individuals.

Response: FWP is required, by statute, to license and regulate proposed game farms if the proposed project is in compliance with local, state and federal requirements.

4. **Issue:** Elk farming poses a threat to our tradition of public hunting.

Response: Elk farming is allowed in Montana as a permitted business. Traditional public hunting will continue in the state regardless of the existence of game farms.

CONCLUSION OF THE EA

The Draft EA, as modified herein, is approved as the Final EA. The preferred alternative is the Proposed Action, modified with a stipulation requiring the immediate reporting of ingress and egress. Based upon this review, it is determined that the Proposed Action with the required mitigation measure will not have a significant impact on the environment and that an EIS will not be required.

ANALYSIS OF IMPACT ON PRIVATE PROPERTY

Montana game farm statutes (87-4-476, MCA) require that game farm licenses may be denied or issued with stipulations to prevent unacceptable threat of escape of captive game farm animals and to prevent a significant threat to the safety of the general public and surrounding landowners and by the shooting of game farm animals. MEPA requires FWP to identify and analyze environmental impacts of the Proposed Action and potential mitigation measures. MEPA, as revised by Senate Bill 231 of 1995, also requires agencies to evaluate the impact on private property of regulatory actions, such as denial of a permit or establishment of permit conditions (75-1-201, MCA). The Environmental Quality Council (EQC) has established procedural guidelines to implement these requirements. The analysis provided in this EA was prepared in accordance with implementation guidance issued by the EQC.

Reporting of Ingress/Egress of Game Animals and Predators: This mitigation measure would reduce impacts to wildlife resources through timely resolution of fencing problems. There would be no effect on the market value of the property and no additional expenditure of time and money to comply.

In addition, the Private Property Assessment Act (2-10-101, MCA, et seq.) requires agencies to determine whether proposed actions by the State of Montana have "taking or damaging implications", such as to constitute a deprivation of private property in violation of the United States or Montana constitutions and, if so, to perform an impact assessment to determine the likelihood that a state or federal court would hold that the action is a taking or damaging, to review alternatives, and to determine the estimated cost of compensation. In accordance with the Act, the attorney general has prepared guidelines, including a checklist, to assist agencies in identifying and evaluating actions with taking or damaging implications.

FWP has completed the attorney general's checklist with respect to the stipulation recommended in the preferred alternative and has found that the preferred alternative does not have taking or damaging implications and that an impact assessment is not required.

PERSONS RESPONSIBLE FOR PREPARING THE EA AND RESPONSE TO COMMENTS

Fish, Wildlife and Parks

**Gael Bissel, Region I Wildlife Biologist
490 North Meridian Road
Kalispell, Montana 59901
(406) 751-4580**

**Brian Sommers, Region I Game Warden
490 North Meridian Road
Kalispell, Montana 59901
(406) 752-8818**

**Karen Zackheim, FWP Game Farm Coordinator
P.O. Box 200701
Helena, Montana 59620**

Maxim Technologies

**Alice Stanley, Project Manager
Doug Rogness, Hydrologist
Mike Cormier, Soil Scientist
Terry Grotbo, MEPA Specialist
Sally Staley, GIS and Graphics**

Other

**Craig Knowles, Wildlife Biologist
Candace Durran, Vegetation Specialist**

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO		
<u> X </u>	<u> </u>	1.	Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
<u> </u>	<u> X </u>	2.	Does the action result in either a permanent or indefinite physical occupation of private property?
<u> </u>	<u> X </u>	3.	Does the action deprive the owner of all economically viable uses of the property?
<u> </u>	<u> X </u>	4.	Does the action deny a fundamental attribute of ownership?
<u> </u>	<u> X </u>	5.	Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO, skip questions 5a and 5b and continue with question 6.]
<u> </u>	<u> </u>	5a.	Is there a reasonable, specific connection between the government requirement and legitimate state interests?
<u> </u>	<u> </u>	5b.	Is the government requirement roughly proportional to the impact of the proposed use of the property?
<u> </u>	<u> X </u>	6.	Does the action have a severe impact on the value of the property?
<u> </u>	<u> X </u>	7.	Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO, do not answer questions 7a-7c.]
<u> </u>	<u> </u>	7a.	Is the impact of government action direct, peculiar, and significant?
<u> </u>	<u> </u>	7b.	Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
<u> </u>	<u> </u>	7c.	Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.