



**Montana Fish,
Wildlife & Parks**

**DECISION NOTICE
Sauerkraut-Willow Creeks Conservation Easement
January 9, 2008**



Proposal

Montana Fish, Wildlife & Parks (FWP) proposes direct federal funding toward the purchase of a conservation easement on approximately 7,839 acres of contiguous properties currently owned by the Sunny Slope Grazing Association, Susan and Gerald Biresch, and The Nature Conservancy (TNC), in Lewis and Clark County. FWP would provide the funding needed to purchase the proposed conservation easement with a grant of approximately \$5.356 million from the federal Habitat Conservation Plan (HCP) Land Acquisition program. No FWP or other state funds would be involved in the purchase. Five Valleys Land Trust would hold and

help monitor the conservation easement on behalf of FWP and the U.S. Fish and Wildlife Service.

The proposed project area, known as the Sauerkraut-Willow Creeks Conservation Easement, adjoins the Helena National Forest, small parcels of State land as well as many private inholdings. The conservation parcel contains nearly 2-miles of frontage on the Blackfoot River and segments of two tributaries (Sauerkraut and Willow Creeks) to the upper Blackfoot River. As a result of this project, TNC would transfer ownership of approximately 2,200 acres of their land to the Sunny Slope Grazing Association. The Biresch inholding is approximately 216 acres in size. This proposal is an outcome of the Blackfoot Community Project (BCP) of the Blackfoot Challenge, as part of a local grassroots effort to secure the future of some 89,000 acres formerly owned by Plum Creek Real Estate Investment Trust. These 89,000 acres were recently purchased by TNC to enable the BCP.

The purpose of this specific easement is to enhance the recovery of westslope cutthroat trout (WSCT) and bull trout in concert with the existing Habitat Conservation Plan appurtenant to the lands formerly owned by Plum Creek REIT. In so doing, the proposed conservation easement would conserve fish and wildlife habitat by preventing subdivision, development, and other forms of habitat loss, and perpetuate the ranching and logging lifestyle of the private landowners on the land under easement. The land under easement would remain in private ownership, and would remain on the county tax rolls. Traditional uses of the land would continue and generally would be unaffected by the easement. Restrictions on potential changes in land use, and other terms of the conservation easement would endure in perpetuity, and be enforceable upon future owners of the property.

Under the terms of the conservation easement, the landowners, FWP and FVLT agree to native fish restoration actions, and to develop (and follow) a management plan for riparian areas, upland grazing and timber harvest. A baseline assessment of the fisheries resources has been completed, restoration goals and objectives have been identified, and management options are currently being developed that will lead to specific native fish restoration actions both on-and off the parcels. Monitoring of the easement, and the option to monitor fisheries, will occur on an annual basis.

As a native fisheries conservation action, the quality of angling on the Blackfoot River is protected by the “no development” clause in the easement. Future angling opportunities for, and

status of, native fish is also expected to improve due the restoration and conservation actions. All existing streamside access sites and other legal public access sites apply to these parcels. As was historically the case, hunter access is expected to continue on the Sunny Slope properties through the Block Management Program into the foreseeable future at the discretion of the landowners.

Montana Environmental Policy Act (MEPA) Process

FWP prepared an environmental assessment pursuant to MEPA. FWP made this document available during a 30-day public comment period that began on November 19 and ended on December 18, 2007. FWP advertised the public comment period and the availability of the proposal documentation by legal notice in the following 5 newspapers (date published): *The Independent Record* (Helena, Nov. 22); *Great Falls Tribune* (Nov. 24); *Missoulian* (Nov. 23); *Montana Standard* (Butte, Nov. 21); and *Blackfoot Valley Dispatch* (Nov. 29). This documentation was available in its entirety on FWP's Internet web site (www.fwp.mt.gov) for the duration of the public comment period. FWP distributed 82 personal notifications of the documentation as the public comment period began. At the beginning of the comment period, FWP contacted all landowners with property located adjacent to the subject lands, and notified five (county, state or federal) government agencies, four conservation groups and the Lincoln Chamber of Commerce. The content of the legal notice and postcard notification is attached (Appendix A).

An informational public meeting was held on December 3, 2007, at Lambkins Café in Lincoln, to explain the easement, answer questions and solicit comment. This meeting was advertised in the legal notice listed previously, and on FWP's Internet web site. In addition to the FWP and attendees listed in Appendix B, the Sunny Slope landowners, members of the Blackfoot Challenge, TNC and Five Valleys Trust participated in the Lincoln meeting.

Summary of Public Comment

Thirty-two (32) individuals and/or organizations participated in the public involvement process by commenting on the draft proposal, requesting clarification, and/or attended the public meeting. FWP received 5 written responses to the proposal (3 emails and 2 letters) and one petition was received from 17 citizens of Lincoln, which included eight neighbors adjacent to the

Sunny Slope property.

Nineteen of 20 written comments (including the petition) were in support of the proposed purchase of the conservation easement, and one (1) did not express an opinion either for or against the easement proposal. Three of the 20 written comments expressed concern over future public access to private (2) or State lands (2). A list of meeting attendees and summary of the questions/comments and FWP responses, as well as the text from the emails, letters and the petition are preserved as part of the public record. These are identified in Appendix B in their entirety.

Decision

Utilizing the environmental assessment and public comment process, a decision must be rendered by FWP, which addresses the concerns and issues identified for the proposed purchase of a conservation easement. In light of public comments and internal agency review, I accept the draft environmental assessment as final.

The Sunny Slope Grazing Association, Biresch family and TNC are interested in preventing subdivision and development of the property, and support restoration of native fish habitat. FWP has long recognized the importance of these properties as critical fish and wildlife habitat, particularly with respect to native fish restoration needs in the upper Blackfoot Basin. FWP and the Sunny Slope Grazing Association have a history of cooperating on issues and opportunities such as public access through the Block Management Program. This conservation parcel has been identified as the highest FWP priority in Montana for acquisition of a conservation easement using the native fish HCP program for the year 2007. The involvement of TNC and the Blackfoot Challenge, along with increasing development pressures and the availability of federal funding for which the proposed property qualifies, makes this proposal both a possibility and resource priority.

This opportunity to acquire the Sauerkraut-Willow Creeks Conservation Easement represents a timely convergence of conservation interests, resource priorities and new funding opportunities dedicated to native fish conservation. Through this project, FWP and other project partners will, to the degree possible, perpetuate a traditional agricultural lifestyle while conserving important fish and wildlife habitat in perpetuity. The loss of this opportunity holds unknown, but unquestionably adverse future consequences to fish and wildlife in the Lincoln

Valley. Although the proposal makes no perpetual guarantee of public access on private lands, exceptional fish and wildlife values and potential improvements to native fish of the Blackfoot River place this project clearly in public interest. The easement in no way prevents existing legal access to roads, right-of-ways, State lands or streams, nor does it preclude existing formal, informal or future public sportsman access agreements from being negotiated. In the event that all private lands within the easement boundary were closed, public recreational access corridors located on private lands to two interior parcels of State land (approximately 360 acres) across section corners (Sections 2 and 34) are in the process of being secured through an interim MOU and will be formalized in a separate legal arrangement. Although private land access may change, all State lands will possess public (recreational) access corridors in one form or another.

This project would enact most of the land conservation strategy of the *Blackfoot Challenge*—and FWP as a partner—for the Lincoln area of the Blackfoot Community Project. The *Challenge* initiated the Blackfoot Community Project in Fall 2002—beginning with community meetings throughout the Blackfoot Basin—as a proactive response to the progressive parceling and development of Plum Creek timberlands across the watershed. When completed the 89,000 acres of Plum Creek timber company lands will be used to secure easements on an additional 9,500 acres of private land. Of the 98,500 acres to be protected under the BCP, approximately 83,000 acres (84%) will have guaranteed perpetual public access. FWP interest in land is expected to increase by 20,000-25,000 acres in either acquisition or easements that support hunter access.

TNC's pivotal role in the Blackfoot Community Project—and as a partner in this proposed Forest Legacy project—is as the buyer and interim property holder, on behalf of the local communities. TNC relies in turn on its partners in the *Blackfoot Challenge* to develop and help implement a property disposition strategy by which permanent landowners may be found who will maintain the community values that were identified in the meetings of 2002, and thereafter. Among the community values at the top of the list are continued forest management, timber harvest, livestock grazing, noxious weed control, conservation of fish and wildlife habitat, and public recreational access. These values were provided for decades by the corporate timber companies, and were generally taken for granted by the neighbors and publics who benefited. This proposed Sauerkraut-Willow Creeks Conservation Easement falls within the disposition

strategy of the *Blackfoot Challenge* for Plum Creek lands in the Lincoln area, in an attempt to fulfill the desires and expectations of the local community, including FWP and the other participating public agencies.

In my judgement, and as supported by the public comment, the proposed conservation easement on the subject lands is critically important in meeting its overriding purposes of protecting exceptional fish and wildlife habitat in perpetuity. By accomplishing these purposes, the proposed conservation easement will continue traditional land use, protect critical wildlife habitat, while fostering native fish recovery in the upper Blackfoot River.

In consideration of these facts, I am pleased to recommend that the Fish, Wildlife and Parks Commission acquire a conservation easement on the subject lands of the Sunny Slope Grazing Association, Susan and Gerald Biresch, and The Nature Conservancy properties with approval to spend \$5.356 million from the federal Habitat Conservation Plan (HCP) Land Acquisition program.

A handwritten signature in black ink, appearing to read "Mack Long". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Mack Long
Regional Supervisor
Montana Fish, Wildlife & Parks
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January 9, 2008