

# **DECISION NOTICE**

For

## **Proposed Circle R River Ranch Acquisition**

Region 5 Habitat Montana Proposed Land Project



*Montana Fish, Wildlife & Parks  
2300 Lake Elmo Drive, Billings, MT 59105*

**June 06, 2008**

### **BACKGROUND, DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES**

Montana Fish, Wildlife & Parks (FWP) proposes the acquisition of 4,666 acres of important wildlife habitat along the Yellowstone River. The property is located on the north side of the Yellowstone River approximately 30 miles northeast of Billings and 2.5 miles west of Pompey's Pillar National Monument. The property is currently operated as a private ranch, consisting of 3,976 deeded acres, 621 acres of leased State School Trust (SST) lands managed by Montana Department of Natural Resources and Conservation (DNRC), and 69 U.S. Bureau of Land Management (BLM) acres. Important wildlife habitats that exist on these lands include riparian river bottom, sagebrush grassland, and ponderosa pine savannah.

The property would be purchased through a combination of funding sources, potentially including FWP's Habitat Montana program and the Governor's Access Montana Initiative approved by the 2007 Legislature. FWP, through the Conservation Fund, a nonprofit land conservation organization, has entered into negotiations with the landowner, with a goal of acquiring the property through fee-title purchase of the deeded acres. The leases of BLM and SST acres within the boundary of the property that are now held by the current landowner will be transferred to FWP.

This acquisition would also provide public access to an additional 4,760 acres of adjacent contiguous public lands (4,120 acres BLM, 640 acres SST). In total, this acquisition would provide public access to 9,426 acres of contiguous public lands, while protecting and enhancing 4,666 acres of riparian habitats, sagebrush grasslands, and ponderosa pine savannahs.

The scope of this Environmental Assessment (EA) primarily covers the acquisition of the property. Future significant management/development activities will be addressed by subsequent EAs.

In proposing to acquire the Circle R River Ranch, FWP seeks to meet the following needs:

- To protect and enhance riparian habitats.
- To protect and enhance sagebrush grasslands.
- To provide public recreational access to over 9,426 acres of contiguous habitat that is currently to the public only by boat from the Yellowstone River.
- To prevent subdivision of important wildlife habitat, including almost 5 miles of Yellowstone River shoreline.

### **Alternative A – Proposed Action:**

FWP proposes to acquire 4,666 acres of important wildlife habitat along the Yellowstone River as described in this EA. Through the Proposed Action, FWP would secure permanent public access to this land, as well as to an additional 4,760 acres of difficult-to-access, adjacent public lands (BLM, SST lands), and including approximately 5 miles of Yellowstone River shoreline. This project would conserve animal and plant species biodiversity and important wildlife habitat that exists on these lands, including riparian, sagebrush grasslands and ponderosa pine savannah.

### **Alternative B – No Action:**

Under the No Action alternative, FWP would forgo the opportunity to purchase the Circle R River Ranch. There would continue to be no public access to the property for recreation, and land access to approximately 4,120 acres of adjoining BLM land and 640 acres of SST lands would not be secured for the public. It is possible that under the No Action alternative that this property will be subdivided and developed for rural homesites, with significant adverse impacts to natural habitats.

### **PUBLIC COMMENT**

In compliance with Montana Environmental Policy Act (MEPA), FWP completed an EA with a subsequent public involvement process. Public participation is not a plebiscite to measure those in favor of or opposed to a proposal, but is a mechanism for agencies to consider substantive comments.

The public comment period for this EA opened on April 22, 2008. The proposed acquisition was featured in news articles done by the Billings Gazette staff covering various aspects of the project on April 10, April 18, April 20, April 28, and May 1, 2008. News articles concerning the proposal also appeared in the Yellowstone County News on May 2 and May 16, 2008. FWP issued news releases to all regional media and the Associated Press on April 28, 2008 and May 9, 2008. A public meeting was held on May 8, 2008 at the Region 5 Headquarters in Billings to answer questions and collect oral and written comments. Hard copies of the EA were available to all who attended the meeting. The comment period was formally extended through May 16, 2008, with additional comments accepted beyond that date. The draft EA was available on the FWP website under Public Notices ([www.fwp.mt.gov](http://www.fwp.mt.gov) <<http://www.fwp.mt.gov>>), or by

calling (406) 247-2940, and a hard copy of the EA was available at the Region 5 Headquarters (2300 Lake Elmo Drive, Billings, MT). The draft EA was mailed to the usual government agencies, non-government organizations, local legislators, and county commissioners.

Face-to-face meetings were held with five neighboring landowners (three parties). Written comments were received from 20 individuals or parties. Oral comments were recorded from 15 individuals at the public hearing. Phone calls were received from five individuals (four parties).

This Decision Notice addresses several concerns and issues raised during the public input process, and modifications have also been made to the Management Plan. It is important to note that this EA covers only the acquisition of the property and initial management actions. Any substantial changes in future management, including establishing campgrounds, will be subject to additional environmental analysis and public comment.

Our responses to public inquiries or concerns are summarized below. All public comments in full can be found in the Appendix found on the FWP website ([www.fwp.mt.gov](http://www.fwp.mt.gov)) under public notices. The Appendix also includes a copy of news releases and related news articles. The Environmental Assessment can be found at the FWP website.

## **DECISION**

The trend toward the sale of traditional ranching/farming to recreational buyers or interests focused on subdivision of key wildlife habitats has accelerated recently. Purchase of the Circle R Ranch will maintain this property in open space while providing for public enjoyment of this landscape. Given the high value placed on Yellowstone River recreational properties, if this property is not purchased by FWP, it is likely that either subdivision or exclusive access interests will acquire the Circle R, and opportunities for habitat protection and public enjoyment of this landscape could be lost.

After review of this proposal and addressing concerns of several local residents and landowners, as well as considering the significant public support for this project, it is my recommendation to acquire the property known as the Circle R River Ranch from the Morse family subject to approval by the FWP Commission and the Land Board. As such, I accept Alternative A - Proposed Action, as identified in the EA. Through the Proposed Action, FWP would secure public access to 4,666 acres on this property (3,976 acres in fee-title, 690 acres of SST and BLM leases), as well as to an additional 4,760 acres of difficult-to-access, adjacent public lands (BLM, SST lands), and approximately 5 miles of Yellowstone River shoreline. The project will conserve animal and plant species biodiversity and important wildlife habitat that exists on these lands, including riparian, sagebrush grasslands and ponderosa pine savannah.

The Conservation Fund, a nonprofit land conservation organization, has negotiated a purchase agreement with the landowner and has offered to convey the property to FWP for the price of \$5,298,300, which represents a discount of about \$267,000 from appraised value.

The draft version of the EA, this Decision Notice, and the modified Management Plan serve as the final documents for this proposal.



June 6, 2008

Gary Hammond  
Regional Supervisor  
Billings, MT

DATE

## **RESPONSE TO PUBLIC COMMENTS**

Public comments have been summarized into various issues that reflect the public comments received, and are presented along with FWP responses. Changes or additions to the Management Plan, in response to public comment, are also indicated in the FWP responses. All public comments in full can be found in the Appendix found on the FWP website ([www.fwp.mt.gov](http://www.fwp.mt.gov)) under public notices. The EA can also be found on FWP's website.

Written comments were received from 20 individuals and/or parties. Fifteen individuals provided oral comments at the public meeting, 23 individuals attended the public meeting, and phone calls were received from four parties (five individuals). Individual meetings were also held with three parties of nearby landowners (five individuals).

### **IN SUPPORT OF PREFERRED ALTERNATIVE**

*We are supportive of FWP following the Preferred Alternative, and continuing negotiations to acquire the Circle R River Ranch.*

FWP agrees that the Circle R River Ranch, located 30 miles east of Billings along the north bank of the Yellowstone River, represents a significant land acquisition opportunity for wildlife habitat and public recreation. The proposed purchase is intended to protect and enhance important wildlife habitat, including nearly five miles of Yellowstone River shoreline, from subdivision or development, and to provide recreational access to more than 9,400 acres of contiguous public land and habitat.

### **STATE SCHOOL TRUST LANDS**

*How will the proposed acquisition affect the School State Trust lands (referred to as DNRC lands in the EA) within the parcel? Will the Trust be losing money?*

A clarification of DNRC/State School Trust lands as referenced in the EA is in order. State School Trust (SST) lands are *administered* by the Montana Department of Natural Resources and Conservation (DNRC). But SST lands are a separate from other state-owned lands in that the primary purpose of such lands is to raise revenue for the Montana public school system. Any references to SST lands as "DNRC lands" in the EA were inadvertent and not intended to convey any inferences about the nature or purpose of these lands.

Leasing procedures for SST lands, managed by DNRC, can be found in Title 77, Chapter 6, of the Montana Code Annotated. With purchase of the Circle R River Ranch, DNRC would assign the included SST lands (640 acres in T3N, R29E, S16) to FWP for the balance of the 10-year lease currently in place. That assigned lease would expire on February 28, 2014, at which time the lease will be released for bid. If an entity submits a higher bid than FWP's bid, FWP would have the option of retaining the lease by matching the highest bid. Additionally, if FWP grazes the SST lands with livestock during the current lease period, the lease will remain a grazing lease when it comes up

for bid. If the SST lands are not grazed by livestock during the remainder of the current lease, when it is re-bid the lease will be changed to recreational status with a likely increased lease fee.

#### **INTENT OF PROPOSED ACTION**

*From the EA, it appears that FWP wants control of the acquisition property, the state lands, the adjacent BLM lands, as well as adjacent private lands. Is this just a land grab without compensation?*

The Conservation Fund (TCF) has negotiated the purchase of the Circle R River Ranch from the landowner on a willing-buyer, willing-seller basis, with both parties informed of the property's value as determined by independent appraisal. The landowner has freely agreed to the sale terms, indicating the sale price represents fair compensation. TCF in turn has offered to convey the property to FWP for approximately \$5.3 million (a 5% discount from appraised value), and FWP proposes to conclude the acquisition at that price. FWP is authorized through Montana Code Annotated 87-1-209 to acquire lands for purchase for the purpose of wildlife and/or fisheries protection, fishing, hunting, outdoor recreation, and/or to consolidate lands for these purposes, with the approval of the FWP Commission and the Montana Board of Land Commissioners. The FWP Commission approved moving forward with initial steps on the proposed acquisition on April 17, 2008. They will take final action on the proposed acquisition on June 12, 2008, with the Board of Land Commissioners taking action on June 16, 2008.

FWP has no interest or intent to control or manage adjacent BLM, SST, or private lands outside the boundary of this property. The Management Plan focuses only on the fee-title lands currently available for purchase, and the BLM and SST lands within the property boundary. FWP will seek to work with adjacent landowners in the spirit of being good neighbors.

The proposed acquisition is intended to protect and enhance important wildlife habitat, including nearly five miles of Yellowstone River shoreline, from subdivision or development on 4,666 acres. There is substantial conservation value in property of this size and biodiversity, and these will likely increase as neighboring properties are developed in the future.

The Circle R River Ranch property is adjacent to 4,760 acres of BLM and SST lands, where no designated public access currently exists, except by boat via the Yellowstone River. Thus, this project will provide public access by land to more than 9,400 acres of contiguous public land and habitat.

With purchase of the Circle R River Ranch, DNRC would assign the included SST lands to FWP for the balance of the 10-year lease currently in place. That assigned lease would expire on February 28, 2014, at which time the lease will be released for bid. If an entity submits a higher bid than FWP's bid, FWP would have the option of retaining the lease by matching the highest bid. Additionally, if FWP grazes the SST lands with livestock during the current lease period, the lease will remain a grazing lease when it

comes up for bid. If the SST lands are not grazed by livestock during the remainder of the current lease, when it is re-bid the lease will be changed to recreational status with a likely increased lease fee.

An alternative to purchasing the Circle R River Ranch is to purchase a conservation easement on the property, rather than acquiring direct-fee ownership. However, at this time, the property owner is not interested in selling a conservation easement, but rather fee-title to all of the deeded acres. FWP cannot project the intent of future owners.

#### **ENVIRONMENTAL ASSESSMENT VS. ENVIRONMENTAL IMPACT STATEMENT**

*The potential impact of unlimited public use appears to warrant an EIS. Why was only an EA completed?*

The Montana Environmental Policy Act (MEPA) requires agencies to prepare a written environmental review that is available to the public. This review may be a simple checklist Environmental Assessment (checklist EA), a more comprehensive EA, or a more detailed Environmental Impact Statement (EIS). MEPA directs state agencies to ensure that the public is informed of, and participates in, the decision-making process.

MEPA requires that the level of analysis (checklist EA, EA, or EIS) and the degree of public involvement increase as the significance of the potential or identified environmental impacts increases. MEPA will only identify the possible environmental impacts of the proposal and require agencies to describe those impacts to the decision-maker, the project applicant, and the public. Administrative Rules of Montana (ARM) 12.2.431 states that if none of the impacts are adverse, an EIS is not required. For projects for which an EIS is prepared, it requires the agency to explain why it made a particular decision, what voluntary or enforceable mitigation efforts have been included in the decision, and what unavoidable environmental impacts may occur as a result of the decision. In this proposal to acquire the Circle R River Ranch, there are no 'unavoidable environmental impacts' that require mitigation, and FWP believes that an EA is an appropriate level of analysis.

It is important to note that this EA covers only the acquisition of this property, and initial management. Any substantial changes in management, including establishing campgrounds, will be subject to additional environmental analysis and public comment.

#### **DETAIL WITHIN THE MANAGEMENT PLAN**

*The EA lacks details on how the property will be managed. How does FWP intend to manage the many recreation-days it anticipates, consumptive and non-consumptive users, and still ensure quality game hunting?*

FWP acknowledges the public desire for more detail in the Management Plan, and has updated the Management Plan to reflect these concerns and interests. The Management Plan is attached for review. FWP will consider additional management guidelines in the event that conflicts between users and/or surrounding landowners develop over time.

It is important to note that the EA and the Management Plan are separate documents developed for discrete purposes. The EA is designed to engage public participation, whereas the Management Plan will be an evolving document that FWP will use to guide management of the property. Any substantial change from the actions identified within the EA (e.g. development of a campsite) would warrant an additional EA, and re-engagement of the public.

### **UNLIMITED PUBLIC USE**

*The EA states that this property will provide for thousands of recreation-days and will be open to the public 24-7. Has FWP considered the impacts this will have in terms of: enforcement, road management (dust, noise, increased traffic), off-road vehicles, fire danger, impacts to wildlife, dispersal of game onto private lands, litter, weed management, public safety, fencing, etc? FWP should have someone on staff 24-7 on the property.*

FWP acknowledges these concerns. In response to the concerns over 'unlimited public use', FWP has updated the Management Plan to provide more controlled access to the site, e.g. day use only, until operations funding and staffing allow otherwise. Please see the attached revised Management Plan for additional strategies designed to balance the number of users, the quality of the recreation experience, and to reduce impacts on neighboring ranches.

### **DAMAGE TO WATER WELL**

*The increased traffic on the county road leading to the property will cause vibrations, which could damage a water well on an adjacent landowner's property through which the county road passes.*

The Montana Bureau of Mines was consulted and responded that there are many wells near busy roads with no records of vehicular traffic causing problems to water wells.

### **ROAD MANAGEMENT**

*How will Fish, Wildlife & Parks address road management given the suggested increase in traffic in the area? Has FWP discussed this with Yellowstone County?*

FWP has been in conversation with Yellowstone County officials. The road leading to the gates of the Circle R River Ranch, the Bozeman Trail Road, is a maintained public county road. FWP will work with the County to improve signage in the area to increase safety, and will assist with dust abatement efforts near the residence along the road.

Motorized travel within the Circle R River Ranch property will be strictly controlled, and allowed only on designated travel routes. Only foot traffic will be allowed off of designated travel routes. Please see the Management Plan for additional strategies.

### **FIRE MANAGEMENT**

*This area is prone to high fire danger. The EA has not addressed how fire threats will be addressed? Will the WMA be closed during periods of high fire danger? Has FWP*

*been in contact with Yellowstone County? What is FWP's liability in the event of a fire on the WMA and/or State Park?*

FWP properties that are not covered under direct fire protection by a wildland agency are covered by the county under a cooperative agreement with the state. The county agrees to provide protection to all non-forest district state properties in exchange for the state providing the county with training, equipment, and some planning assistance. FWP makes payments in lieu of taxes (PILT) to counties on all FWP properties except State Parks, Fish Hatcheries, Bird Farms, and in counties where FWP owns less than 100 acres. The state also agrees to assist the county when a fire is too big to handle, and then picks up the tab of the county for that particular fire fighting effort as part of their supplemental appropriations request. The Worden Volunteer Fire Dept. is under contract with Yellowstone County for wildland fire suppression in the area of this property.

During the fire season, FWP attends weekly fire conferences with County, State, and Federal entities to discuss the current fire danger and assess appropriate actions relative to potential fire restrictions. These restrictions may include closure of the site to public use.

Motorized access on the property will be allowed only on designated travel routes. Standard fire protections/restrictions will apply to all picnic/camping areas. Please see the Management Plan for more detail.

The following statute covers liability issues:

**MCA 50-63-103. Liability of offender for damages and costs.** A person who sets or leaves a fire that spreads and damages or destroys property of any kind not belonging to the person is liable for all damages caused by the fire, and an owner of property damaged or destroyed by the fire may maintain a civil suit for the purpose of recovering damages. A person who sets or leaves a fire that threatens to spread and damage or destroy property is liable for all costs and expenses incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing the spread of the fire.

#### **ENFORCEMENT**

*How will FWP ensure that the property and the neighbors are not subjected to crime and vandalism?*

The Region 5 Enforcement Division has 9 field wardens, 9 ex-officio wardens, two warden sergeants, and a warden captain that proactively patrol and are available for call-out. Three of the nine field wardens have specific district responsibilities that include the proposed area, along with several of the ex-officio wardens.

The law enforcement officers from the Region 5 Enforcement Division staff regularly communicate and work with the Yellowstone County Sheriff's Office (YCSO). The

YCSO has historically been responsive to Fish, Wildlife, and Parks enforcement concerns; both proactively and when immediate warden response is unavailable.

While FWP wardens have law enforcement responsibilities on a broad landscape, FWP lands, Block Management Areas, and areas that concentrate the recreational public receive an increased department and law enforcement presence.

### **LOSS OF AGRICULTURAL LAND**

*We are losing productive ranchlands with the Proposed Action.*

Currently, the Circle R River Ranch is a limited commercial agricultural operation and a private recreational property. Currently, FWP does not propose to reduce the acreage of agricultural land. The property would be managed for fish and wildlife habitat in perpetuity in a manner that should have no impact to surrounding land uses or residences. Under the Proposed Action, the area will be maintained as a natural area with increased public access. Irrigated croplands (90 ac) will be managed to increase food availability and cover for upland game birds and other wildlife. Livestock grazing may be used as a management tool to enhance wildlife habitat productivity. Any livestock permitted to graze on this property would have to be disease and parasite free as determined by an accredited veterinarian prior to their release.

### **CURRENT STATE OF PROPERTY**

*The EA misleads the reader to presume that this property is pristine. What will happen to the on-site buildings?*

Currently, the upland habitat is in fair to good condition. The current owner has implemented a limited grazing system that has improved the range considerably. The river bottom has been fenced out from the rest of the property, with little to no grazing allowed, and is in good condition.

The Circle R property was the subject of an onsite hazardous materials assessment as part of the current owner's due diligence when he purchased the land in 2006. The report revealed only minor localized petroleum-stained soil associated with two above-ground fuel tanks (the property is not known to have ever had underground fuel storage), and the recommended cleanup procedures were successfully undertaken. The current owner removed all agricultural chemicals, the above-ground fuel tanks and an agricultural Quonset-hut building from the property. A house and bunkhouse were collapsed, burned and buried in place. There were no indications of hazardous materials associated with these structures, and the former owner attested that he was not aware of any hazardous materials in those buildings during his many years of residence. The concrete septic tank, no longer needed, was crushed and buried. The several buried car bodies were all dug out and removed. The Conservation Fund commissioned an updated hazardous materials assessment in May 2008. The contractor inspected the property, including the former building locations, and found no hazardous material issues of concern.

Two center-pivot sprinklers, a water intake pump, a solar-powered well, and several stock tanks are in excellent condition. Exterior fencing is in moderate condition, with interior fences in fair condition. Fencing needs will be evaluated and problem areas will be addressed as needed.

Initial management action will include an assessment of all man-made improvements on the property with corrective action taken as needed.

#### **MINERAL RIGHTS**

*Why would FWP be interested in property that does not come with the mineral rights?*

According to a geological review conducted by staff of the Montana Bureau of Mines and Geology, the Circle R property is stratigraphically below any coal/lignite-producing rock layers. As a result, the property's mining potential for coal or coal-bed methane is negligible. The potential for hardrock minerals is also considered extremely remote. FWP will receive all minerals rights held by the current owner; however, as is the case throughout the West, some mineral rights are presumed to be split from the surface ownership and held by third parties. Given the unlikelihood of economic mineral deposits on the property, FWP has not invested the many thousands of dollars that it would take to commission an exhaustive research on mineral rights status for the property.

#### **WEED MANAGEMENT**

*The EA does not adequately identify the extent of weeds (in particular leafy spurge), nor how FWP plans to address management of weeds to ensure that weeds are not spread to neighboring properties.*

Weeds will be managed under the auspices of the Statewide Integrated Noxious Weed Management Plan. The plan guides the agency's annual \$600,000 noxious weed management program. FWP's noxious weed management efforts target exotic plant species capable of harming native plant communities and making land unfit for agriculture, forestry, livestock, wildlife, and other beneficial uses. Noxious weeds are generally identified by the Montana Department of Agriculture and Montana Noxious Weed List Advisory Committee.

Currently, the property has a limited infestation of leafy spurge along the Yellowstone River (Montana Department of Agriculture Section-Based Weed Distribution, April 2008). If the Proposed Action is selected, and a successful sale completed, FWP would assess the property for weeds, and initiate an integrated weed management plan. Weed management will involve using techniques that will have minimal impacts to fish and wildlife habitat.

#### **FUTURE OF THE PROPERTY IF NO ACTION ALTERNATIVE IS CHOSEN**

*The EA suggests that subdivision is the alternative to FWP purchase. This is unlikely.*

The FWP office in Region 5 typically reviews over 50 applications per year for subdivision development, and recognizes the high potential for development of 'river front' subdivisions near a major city center such as Billings. In fact, another prospective buyer is reportedly interested in acquiring this property and subdividing it into 160-acre ranchettes.

#### **PROPERTY VALUE AND FUNDING FOR PROPOSAL**

*The asking price for this property is exceedingly high, and is not a good investment for FWP.*

The property is listed with an asking price of \$6.25 million. An independent appraisal completed in May 2008 established the value of the Circle R River Ranch as \$5,566,000, based on a review and analysis of sales of comparable Montana properties. The Conservation Fund, a nonprofit land conservation organization, has negotiated a purchase agreement with the landowner and has offered to convey the property to FWP for the price of \$5,298,300, which represents a discount of about \$267,000 from appraised value.

#### **COST OF MANAGEMENT**

*The EA has not addressed how management of the property will be funded, nor does it adequately address how expensive managing property of this size may become.*

FWP currently manages 71 Wildlife Management Areas, and the Parks system consists of 50 State Parks, 12 affiliated lands, and approximately 316 fishing access sites. This experience combined with a commitment to secure adequate funding for management by the Wildlife and Parks Divisions within FWP will ensure that the property is maintained in the desired condition, and that recreational opportunities are abundant. The Circle R Ranch will be a high priority for Wildlife and Parks additional funding in the upcoming biennium (starting July 1, 2008).

FWP makes payments in lieu of taxes (PILT) to local governments for special improvement districts (SIDs) and other lands, at a rate similar to what a private landowner would pay in traditional property taxes. FWP makes such payments when total holdings of Wildlife Management Areas and Fishing Access Sites in a county exceed 100 acres, which is the case in Yellowstone County. FWP does not make payments for State Parks, and affiliated Parks lands, most office buildings, or fish hatcheries.

#### **PUBLIC COMMENT**

*The comment period for this EA was too short and not well publicized. Adjacent landowners were not personally notified.*

In compliance with Montana Environmental Policy Act (MEPA), FWP completed an Environmental Assessment and tried to ensure that the public was informed of, and engaged in this decision-making process. Public participation is not a plebiscite to

measure those in favor of or opposed to a proposal, but is a mechanism for agencies to consider substantive comments.

Regarding public input, MCA 87-1-241, Acquisition of wildlife habitat - rules, states under item (2) "The analysis made of any proposed acquisition must be made available for review by each owner of land adjacent to the property that is the subject of analysis, and to any member of the public. A public hearing must be held in the affected area after the analysis has been made available to the public."

Statutory requirements were met through the following actions: The public comment period for this EA opened on April 22, 2008. The proposed acquisition was featured in news articles done by the Billings Gazette staff covering various aspects of the project on April 10, April 18, April 20, April 28, and May 1, 2008. News articles concerning the proposal also appeared in the Yellowstone County News on May 2 and May 16, 2008. FWP issued news releases to all regional media and the Associated Press on April 28, 2008 and May 9, 2008. A public meeting was held on May 8, 2008 at the Region 5 Headquarters in Billings to answer questions and collect oral and written comments. Hard copies of the EA were available to all who attended the meeting. The comment period was formally extended through May 16, 2008, with additional comments accepted beyond that date. The draft EA was available on the FWP website under Public Notices ([www.fwp.mt.gov](http://www.fwp.mt.gov) <<http://www.fwp.mt.gov>>), or by calling (406) 247-2940, and a hard copy of the EA was available at the Region 5 Headquarters (2300 Lake Elmo Drive, Billings, MT). The draft EA was mailed to the usual government agencies, non-government organizations, local legislators, and county commissioners.

Face-to-face meetings were held with five neighboring landowners (three parties). Written comments were received from 20 individuals or parties. Oral comments were recorded from 15 individuals at the public hearing. Phone calls were received from five individuals (four parties).



*Montana Fish,  
Wildlife & Parks*

**Circle R Property  
PROPOSED MANAGEMENT PLAN**

**June 4, 2008**

# **Circle R Property Proposed Management Plan**

**PART 1.0 - SITE DESCRIPTION, RESOURCE VALUES AND ADMINISTRATION**

**PART 2.0 - VISION STATEMENT**

**PART 3.0 - NATURAL RESOURCE MANAGEMENT**

**PART 4.0 - HERITAGE RESOURCE MANAGEMENT**

**PART 5.0 - RECREATIONAL RESOURCE MANAGEMENT**

**PART 6.0 - ADMINISTRATION, OPERATIONS, AND MAINTENANCE**

**PART 7.0 - CAPITAL IMPROVEMENTS**

## **PART 1.0 SITE DESCRIPTION, RESOURCE VALUES AND ADMINISTRATION**

### **1.1: Introduction**

The Circle R Property, as of the date of this plan, is being considered for acquisition by Montana Fish, Wildlife and Parks (FWP). This 4,666-acre property is located on the north side of the Yellowstone River and includes riparian river bottom, sagebrush-grassland, and ponderosa pine savannah habitats. This Proposed Management Plan will provide a description of the purpose, objectives, and management strategies for this property. Detailed management objectives and strategies will be identified and incorporated if the property is acquired. This plan would be periodically updated to ensure that project continues to fulfill the identified purpose(s). This would include a process to involve the public, other agencies and adjoining landowners. Management of this area will require careful consideration and action over time and will also be responsive to agency and public needs as well as other considerations such as impacts to neighboring properties.

**Property Location:** The property consists of 4,666 contiguous acres, including 3,976 deeded, 621 State School Trust (SST) lease, and 69 acres U.S. Bureau of Land Management (BLM) lease, on the north side of the Yellowstone River. It offers about 5 miles of Yellowstone River frontage along its southern border. The ranch is bordered on the west by 4,760 contiguous acres of currently inaccessible (except by boat via the Yellowstone River) public lands, including 640 acres of SST land and 3,200 acres of BLM land. The ranch is bordered on the north and east by other private lands. The property is accessible by county road on the east end. Pompey's Pillar National Monument is 2.5 miles east of the southeast corner of the property. Legal Description: Deeded - T3N, R29E, Sec. 8 (640 acres), Sec. 9 (640 acres), Sec. 10 (320 acres in S1/2), Sec. 13 (274.87 acres in W1/2), Sec. 14 (640 acres), Sec. 15 (640 acres), Sec. 17 (600.67 acres), Sec. 21 (39.52 acres in N1/2N1/2), Sec. 23 (181.32 acres in N1/2); SST – T3N, R29E, Sec. 16 (620.64 acres); BLM – T3N, R29E, Sec. 22 (68.62 acres in N1/2N1/2).

**Resource Values:** The tremendous habitat diversity within the ranch creates year-round habitat for many species and seasonal habitat for others. The lush riparian river bottom provides habitat for white-tailed deer, pheasants, and wild turkeys. Wood ducks nest in the area, and the backwater sloughs provide roosting areas for ducks and geese.

Riparian and wetland communities support some of the highest concentration of plants and animals in Montana. The multi-layered plant canopy provided along the Yellowstone River corridor provides a variety of nesting, resting, and foraging areas for wildlife. There are 17 Tier I Species of Greatest Conservation Need that rely on riparian and wetland habitat for breeding and/or survival (FWP 2005).

The uplands consist of “breaks” interspersed with open bench lands. Ponderosa pine savannahs are intermingled with sagebrush-grasslands. Several drainages create rugged canyons that are ideal escape terrain for mule deer. There are mule deer, antelope, and occasionally a few elk on the property. Sage grouse, sharp-tailed grouse, Hungarian partridge, turkeys, and ring-necked pheasants occupy habitats within the property.

There are over 300 terrestrial vertebrate species that are found within the grasslands community type that is found within this parcel. The Comprehensive Fish and Wildlife Conservation Strategy (CFWCS) (FWP 2005) lists the following Tier I Species of Greatest Conservation Need that may be found in mixed shrub and grassland communities: northern leopard frog, western hog-nosed snake, milkshake, greater sage-grouse, mountain plover, long-billed curlew, burrowing owl, spotted bat, Townsend’s big-eared bat, pallid bat, black-tailed prairie dog, and meadow jumping mouse (FWP 2005).

Within the boundary of the proposed land acquisition, there is a large black-tailed prairie dog colony. Black-tailed prairie dogs have been identified as Tier 1 in the CFWCS (FWP 2005). More than 30 vertebrate species are considered dependent on the prairie dog ecosystem for food or shelter.

Rocky outcrops carved by the Yellowstone River provide unique finite habitat resources for many bats, birds, and reptiles, including Townsend’s big-eared bat, northern myotis, milk snake, greater short-horned lizard, and common sagebrush lizards.

Irrigated land in the river bottom totals about 90 acres. This acreage is irrigated with two new center-pivot sprinklers that utilize river water from a new intake pump, all of which are included with the property. The ability to manage these acres to maximize high quality food production and/or nesting cover is an important addition to the habitat diversity on this property.

The Yellowstone River corridor represents an important cultural landscape where indigenous peoples have traveled, camped and subsisted for centuries. The Crow or Absalooke tribe has inhabited the area most recently, although there is recorded evidence of people in the area for at least 9,000 years. In 1806 William Clark and twelve other members of the Lewis & Clark Expedition traveled down the Yellowstone River drainage to explore its upper reaches. Pompey’s Pillar, a large freestanding sandstone column, is just downstream of the property proposed for acquisition. This landmark figures prominently in Native American history, and it bears the only on-site physical evidence of the Lewis and Clark expedition, William Clark’s inscription. The US Bureau of Land Management manages the pillar as a National Historic Landmark.

The specific type and extent of cultural resources and artifacts are unknown at present, but it’s highly likely that the property has a rich assemblage of cultural resources.

## **1.2: Authority**

FWP is authorized through Montana Code Annotated (87-1-209, MCA) to acquire lands for purchase for the purpose of wildlife and/or fisheries protection, fishing, hunting, outdoor recreation, and/or to consolidate lands for these purposes, with the approval of the FWP Commission and the Board of Land Commissioners. FWP has powers and duties regarding the acquisition of lands by fee or donation as state historical sites and recreation areas (MCA 23-1-102). The department may cooperate with other federal, state or local agencies to acquire, plan, establish, and maintain parks (MCA 23-1-107).

FWP is authorized by Section to acquire lands by purchase, gift, or other agreement, or acquire easements upon lands or waters for certain purposes, including public fishing and outdoor recreation (MCA 87-1-209).

## **PART 2.0 VISION STATEMENT**

The primary purpose of the Circle River Ranch will be the conservation and enhancement of habitat for big game, upland game birds, waterfowl, and non-game wildlife. A balance between healthy resources and the needs of visitors will be emphasized. As such, the majority of the property will be undeveloped and managed as a Wildlife Management Area (WMA) with a small portion developed and designated as a State Park.

The property has great potential to provide excellent recreational opportunities, with most of the visitation coming from the local area. The site will provide for both consumptive and non-consumptive recreational activities. Diverse outdoor recreational opportunities provided at the site may include hunting, fishing, river floating, hiking, camping, wildlife watching, photography, natural and cultural history discovery, and education.

A limited number of facilities will be developed to provide for public use and enjoyment of the site. These may include signs, road improvements, parking areas, sanitary facilities, camping areas, trails, and informational and interpretive exhibits. Infrastructure will be developed to ensure that the primary goal of habitat conservation is emphasized. The FWP goals of site stewardship, protecting natural and cultural resources, and supporting a safe, comfortable, and educational visitor experience will be supported. Management will also consider and address the effects that public ownership of this parcel has on adjoining landowners and the local community. It has the potential to contribute to local economies.

**OVERALL GOAL STATEMENT:** The management goal of the proposed Circle R River Ranch acquisition will be to:

- Conserve the native vegetation of the area and the riparian areas along the Yellowstone River
- Maintain or enhance native plant and animal species diversity of the project area
- Provide public hunting opportunities in the area
- Provide other public outdoor recreational opportunities
- Be a “good neighbor” to adjoining properties and the local community and economy

## **PART 3.0 NATURAL RESOURCE MANAGEMENT**

### **3.1: Habitat/Vegetation Management**

**Objective:** Conserve, maintain, and enhance native plant communities in the riparian and upland habitats within the project area.

#### **Management Strategies:**

- a) Obtain appropriate baseline biological data for the property to assess management needs, including topographic and soils maps, aerial photos, distribution and abundance of Plant and Animal Species of Concern, and distribution and abundance of game and non-game wildlife and fish in the property area.
- b) Assess the upland and riparian habitat and identify any potential improvement projects that may be necessary to maximize fish and wildlife habitat on the property.
- c) Develop livestock grazing management plans to enhance grassland community vitality, considering such conditions and options as:
  - Rest-rotation grazing system
  - Season of grazing
  - Class of livestock
  - Existing and required fencing
  - Vegetation monitoring – utilization, range condition, trend
  - Water development/water lanes
  - Grazing lease stipulations
  - **Initial management will be complete rest (i.e. no livestock grazing)**
- d) If vegetation management occurs, vegetation trend monitoring will be implemented using such methods as photo plots, browse evaluation, and cover plots/transects.

### **3.2: Noxious Weed management**

**Objective:** Control noxious weeds to prevent loss of native species and decline in plant community productivity.

#### **Management Strategies:**

- a) Identify noxious weed infestations on the property.
- b) Develop a weed management plan operating under the guidelines of the 2008 FWP Statewide Integrated Noxious Weed Plan.
- c) Implement control and eradication as soon as practical. Weed management will involve using techniques that will have minimal impacts to fish and wildlife habitat.
- d) Coordinate with county weed districts

### **3.3: Wildlife Management**

**Objective:** To maintain healthy wildlife populations for use and enjoyment by the public.

#### **Management Strategies:**

- a) Manage the uplands to provide high-quality habitat for a variety of game and non-game species
  - Livestock grazing management, if implemented, would be the primary tool, utilizing rest-rotation grazing system
  - **Initial grazing management will be complete rest**
- b) Manage the riparian habitat to provide high-quality habitat for a variety of game and non-game species
  - Livestock grazing management, if implemented, would be the primary tool, **with light to no livestock grazing in the riparian areas**
  - Weed control
- c) Manage the existing 90 acres of irrigated farmland to maximize high quality wildlife food production and/or nesting cover.
  - Establish food plots for big game animals and upland game birds.
  - Establish nesting/brood-rearing cover for upland game birds.
  - The irrigated river bottom food/cover plots will help hold animals on the property and minimize potential problems with adjoining landowners.
- d) There should be no game damage problems on this property if it is owned by a public agency.
  - FWP will work with neighboring landowners who qualify for game damage assistance with wildlife game damage issues.
- e) Properly managed hunting will help keep animal populations at desired levels.
  - Hunting will be managed primarily through designation of motorized vehicle travel routes, with only foot travel allowed off of designated travel routes.

- f) Establish population trend surveys for selected game and non-game species.

## **PART 4.0 HERITAGE RESOURCE MANAGEMENT**

### **4.1: Heritage Resource Protection**

**Objective:** Heritage resources will be protected and interpreted as an integral part of the landscape.

**Management Strategies:**

- a) Inventory heritage resources located on the property.
- b) Utilize the Parks Division Heritage Resources Program Manager to develop a heritage resources management strategy.
- c) Consult with the State Historic Preservation Office as necessary.
- d) Educate the public about the importance of leaving heritage resources undisturbed for future generations.
- e) Interpret the sites cultural resources through sensitive and appropriate displays, programs, and information.

## **PART 5.0 RECREATION MANAGEMENT**

### **5.1: Recreational Opportunities**

**Objective:** Provide compatible public recreational use of the property while ensuring conservation of important habitat and wildlife values.

**Management Strategies:**

- a) Public access will be allowed year-round as long as resource conflicts are not present.
- b) Vehicle-accessible overnight camping will be provided if and when a designated campground is developed. No overnight use will be allowed until operations and staffing allow otherwise.

### **5.2: Public Access**

**Objective:** Public access will be provided at appropriate and strategic location.

**Management Strategies:**

- a) Design and implement public access plan consistent with wildlife/habitat management objectives, which may include;
  - mode of travel delineated– walk-in, horseback, vehicular
  - numbers of people could be limited if resource conflicts become evident.
- b) Develop a primary entrance with vehicle access along the existing entrance road.

- c) Restrict vehicles to designated roads, parking areas, and developed campsites. Only foot traffic will be allowed off of designated travel routes.
- d) Prohibit OHV use throughout the site off designated routes.

### **5.3: Public Use Regulations**

**Objective:** These lands would be managed for public use by regulating the level and type of access, level and type of facilities, and by implementing the standard FWP recreational use regulations (ARM 12.8.101-12.8.213), the FWP Commercial Use Rule (ARM 12.14.101-12.14.170), and any special regulations developed for this property. Permits will be required for group use, commercial use, scientific research and projects involving handling wildlife.

#### **Management Strategy:**

- a) Utilize existing ARM Rules pertinent to Wildlife Management Areas and State Parks and determine specific applicability for public use at Circle R.
- b) Discharge of firearms and weapons will be restricted to lawful hunting only. Recreational shooting will be prohibited (ARM 12.8.202).
- c) No person may permit an animal to run at-large in a designated public recreation area. Persons in possession of animals must keep them under control in a manner that does not cause or permit a nuisance, annoyance, or danger to others. In developed campgrounds the animal must be physically restrained or on a leash under ten feet in length in hand or anchored at all times.
- d) If their use is deemed appropriate, recreational livestock such as pack and saddle animals will be restricted to designated areas and roads only. Horse riders must accompany horses at all times. Horse grazing will be prohibited. Weed seed-free feed required (ARM 12.8.203).
- e) Motorized vehicles will be restricted to designated roads and parking areas. OHV use will be prohibited off designated routes (ARM 12.8.204).
- f) Camping will be permitted in designated sites only (ARM 12.8.205).
- g) Campfires will be permitted in designated steel fire grates only (12.8.206).
- h) Gathering or cutting firewood for off-site use will be prohibited (12.8.207).
- i) Removal of natural, geological, historical archeological property will be prohibited except for berries, fallen dead wood, or lawfully taken fish and game (12.8.207).
- j) Commercial use will require a permit in accordance with the Statewide Commercial Use Rules (ARM 12.14.101-170).

### **5.4: Marketing**

**Objective:** The site will be publicized as a unique public resource as part of Montana's Wildlife Management Area and State Parks systems.

#### **Management Strategies:**

- a) Include this area on the FWP website for WMAs and State Parks.
- b) Develop a site-specific brochure including a map, resource information, recreational opportunities, and regulations.

- c) Install appropriate site designation signs at primary access points.

### **5.5: Trails**

**Objective:** Hiking, stock, and mountain bike trails may be developed for public use if suitable locations and trail alignments can be found that do not adversely impact soils, vegetation, natural features, wildlife, fisheries, and cultural resources.

#### **Management Strategies:**

- a) Evaluate potential trail locations, alignments, routes, and destinations.
- b) Design and construct a trail system if appropriate locations can be located, and are consistent with WMA goals and objectives.
- c) Develop and implement trail maintenance and signing standards if consistent with WMA goals and objectives.

### **5.6: Hunting**

**Objective:** Outstanding opportunities for hunting will be available to the public in accordance with existing hunting districts and regulations.

#### **Management Strategies:**

- a) Manage sport hunting in accordance with current hunting districts and regulations.
- b) Implement a hunting access system that allows FWP to monitor hunting activity.
- c) Hunting will be managed primarily through designation of motorized vehicle travel routes, with only foot travel allowed off of designated travel routes.
- d) Establish no hunting safety zones around developed facilities

### **5.7: Angling**

**Objective:** Opportunities for angling in the Yellowstone River will be available in accordance with existing creel limits and fishing regulations.

#### **Management Strategies:**

- a) Consider watercraft and foot portals to facilitate access to fishing waters.

### **5.8: Education and Interpretation**

**Objective:** FWP will develop educational and interpretive media and services that tell the story of the area's natural, cultural, and recreational resources.

#### **Management Strategies:**

- a) Develop appropriate educational and interpretive themes consistent with the site values and resources.
- b) Install a standard State Park informational kiosk at the primary site entrance.
- c) Develop on site programs as funding and staff allows.

- d) Provide detailed information regarding the area's natural, cultural, and recreational resources on the FWP home page.

### **5.9: Commercial Use**

**Objective:** Commercial use may be considered if deemed a necessary and appropriate service for the public enjoyment and use of the site.

#### **Management Strategy:**

- a) Permit approved commercial use requests in accordance with the FWP Commercial Use Rule and Commercial Use Fee Rule (ARM 12.14.101-170).

### **5.10: Public Safety**

**Objective:** Public safety measures will be proactively implemented.

#### **Management Strategies:**

- a) Provide an adequate law enforcement patrol and response presence on the site through the use of Game Wardens and Ex-officio Wardens.
- b) FWP properties that are not covered under direct fire protection by a wildland agency are covered by counties under a cooperative agreement with the state. The county agrees to provide protection to all non-forest district state properties in exchange for the state providing the county with training, equipment, and some planning assistance. FWP makes payments in lieu of taxes (PILT) to counties on FWP properties except State Parks, Fish Hatcheries, Bird Farms, and in counties where FWP owns less than 100 acres. The Worden Volunteer Fire Department is under contract with Yellowstone County for wildland fire suppression in the area of this property.
- c) During the fire season, FWP attends weekly fire conferences with County, State, and Federal entities to discuss the current fire danger and assess appropriate actions relative to potential fire restrictions. These restrictions may include closure of the site to public use.
- d) Motorized access on the property will be allowed only on designated travel routes.
- e) Fires will be limited to developed campgrounds with developed fire rings.
- f) Develop appropriate signage, regulatory postings, and educational messages related to public safety.

## **PART 6.0 ADMINISTRATION, OPERATIONS, & MAINTENANCE**

**Objective:** Initial operations and management will be directed at securing the property, providing managed public access and addressing legitimate concerns of adjoining landowners. Funding and staffing will be secured to properly support site administration, operations, maintenance, and stewardship.

**Management Strategies:**

- a) Develop a strategy to provide an interim site presence capable of providing basic site stewardship while funding and FTE to administer the site is being pursued.
  - Target date of September 1, 2008 for opening the property to the public.
  - No overnight use will be allowed until operations funding and staffing allow otherwise.
- b) Pursue adequate operations funding and staffing to provide adequate site stewardship, administration, and visitor use management.
- c) Establish the following functional assignments and responsibilities consistent with FWP management of the site:

<b>Wildlife Division</b>
Wildlife Management, Habitat Conservation and Enhancement, Agricultural Plots, Grazing Management, Hunting Management, Boundary and Grazing Allotment Fencing
<b>Parks Division</b>
Visitor Use & Recreation Management, Interpretive Programs & Exhibits, Public Facility Maintenance
<b>Enforcement Division</b>
Law Enforcement, Public Safety, Assist With Emergency Operations
<b>Shared</b>
Noxious Weed Control, Access & Boundary Signing

The Circle R property will be managed utilizing management zones (see below). All FWP Divisions will cooperate in managing this property.

**Wildlife Management Zone:** This zone will be primarily managed and administered by the FWP Wildlife Division for WMA purposes and will include the following areas:

- Wildlife enhancement vegetation plots including irrigation systems.
- All areas not referenced below.

**State Park Zone:** This zone will be primarily managed and administered by the FWP Parks Division for Parks purposes and will include the following areas:

- Visitor contact and information facilities at the primary park portal.
- Any designated campground.
- Trails and interpretive displays and signage.

**Administrative Zone:** This zone includes areas and facilities to be jointly managed by all divisions of FWP for administration, operations and management of the property. It includes the following areas:

- Primary and secondary access roads and parking areas.
- Administrative facilities such as storage sheds, etc.

A map will be prepared to visually illustrate and delineate specific locations and acreages of these zones.

## **PART 7.0 CAPITAL IMPROVEMENTS**

**Objective:** Initial development will include securing the property, providing managed public access and addressing legitimate concerns of adjoining landowners. FWP's Parks Division will strive to secure capital funding for public facilities and amenities that enhance the visitor experience.

### **Management Strategies:**

- a) Initial development will include repair/construction of boundary fencing if needed, dust control on the access road including in front of neighbors residences, limited parking, and a pit latrine.
  - Target date of September 1, 2008 for completing initial development and opening the property to the public.
- b) Develop a concept plan for proposed facilities, including access roads, parking areas, signs, exhibits, latrines, vehicle campground, boat camps, trails, river access sites, and primary visitor contact station.
- c) Establish priorities for the phased development of facilities and amenities.
- d) Consult with the State Historical Preservation Office prior to engaging in ground disturbing construction or capital improvement projects.
- e) Implement a MEPA compliance process for all major construction or capital improvement projects.