



# Montana Fish, Wildlife & Parks

1400 South 19<sup>th</sup> Avenue  
Bozeman MT 59718-5496

December 6, 2010

To: Madison County Commissioners

Governor's Office, Mike Volesky, State Capitol, Room 204, PO Box 200801, Helena, MT 59620-0801

Environmental Quality Council, State Capitol, Room 106, PO Box 201704, Helena, MT 59620-1704

Dept. of Environmental Quality, Metcalf Building, PO Box 200901, Helena, MT 59620-0901

Dept. of Natural Resources & Conservation, PO Box 201601, Helena, MT 59620-1601

Montana Fish, Wildlife & Parks:

Director's Office Parks Division Lands Section FWP Commissioners

Fisheries Division Legal Unit Wildlife Division Design & Construction

MT Historical Society, State Historic Preservation Office, PO Box 201202, Helena, MT 59620-1202

MT State Parks Association, PO Box 699, Billings, MT 59103

MT State Library, 1515 E. Sixth Ave., PO Box 201800, Helena, MT 59620

James Jensen, Montana Environmental Information Center, PO Box 1184, Helena, MT 59624

Janet Ellis, Montana Audubon Council, PO Box 595, Helena, MT 59624

George Ochenski, PO Box 689, Helena, MT 59624

Charity Fechter, Madison County Planning Director, PO Box 278, Virginia City MT 59755

Tim Bozorth, Dillon BLM Field Office Supervisor, Dillon Field Office, 1005 Selway Drive, Dillon, MT 59725

Rick Waltrup, Dillon BLM Recreation Planner, Dillon Field Office, 1005 Selway Drive, Dillon, MT 59725

Tim Finger, Ennis BLM Recreation Planner, Ennis Field Station, 5 Forest Service Way, Ennis, MT 59749

Campbell, Craig, DNRC Unit Manager, [ccampbell@mt.gov](mailto:ccampbell@mt.gov)

Dave Kumlien, 4431 W. Babcock St., Bozeman, MT 59718

Richard Lessner, Executive Director Madison River Foundation

Travis Morris, President, Madison-Gallatin Chapter, Trout Unlimited, PO Box 52, Bozeman, MT 59771

Ladies and Gentlemen:

The enclosed Decision Notice has been prepared for the Upper Madison River Proposed Exchange of Public Access Agreements Draft Environmental Assessment (EA). Montana Fish, Wildlife & Parks (FWP) proposed an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. FWP would acknowledge that an existing road easement is no longer in effect and in exchange, certain landowners would grant a permanent easement for non-motorized recreational access along a portion of the Madison River. For convenience, this transaction is referred to herein as an exchange of easements. The new easement to be acquired by FWP would actually be multiple

easements because it would be granted by multiple landowners. Three (3) public comments were received during the comment period that began November 5, 2010 and ended December 5, 2010.

The EA and Decision Notice may be obtained from FWP at the address provided above, or viewed on FWP's Internet website: <http://www.fwp.mt.gov>.

Based on the Environmental Assessment, public comment, and FWP evaluation, it is my decision to proceed with the preferred alternative B, as described in the Upper Madison River Proposed Exchange of Public Access Agreements Draft EA.

Questions regarding this Decision Notice should be mailed to:

Fish, Wildlife & Parks  
C/O Gerald Walker  
1400 S 19<sup>th</sup> Avenue  
Bozeman, MT 59718

Or e-mailed to: [gwalker@mt.gov](mailto:gwalker@mt.gov)

Sincerely,

A handwritten signature in blue ink that reads "Gerald Walker". The signature is written in a cursive style with a blue ink color.

Gerald Walker  
Regional Parks Manager



# **Montana Fish, Wildlife & Parks**

Region Three Montana Fish, Wildlife & Parks  
1400 South 19<sup>th</sup> Ave  
Bozeman, MT 59718  
December 6, 2010  
Decision Notice for

## **Upper Madison River PROPOSED EXCHANGE OF PUBLIC ACCESS EASEMENTS Draft Environmental Assessment**

### **Proposed Action**

Montana Fish, Wildlife & Parks (FWP) proposed an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. FWP would acknowledge that an existing road easement is no longer in effect and in exchange, certain landowners would grant a permanent easement for non-motorized recreational access along a portion of the Madison River. For convenience, this transaction is referred to herein as an exchange of easements. The new easement to be acquired by FWP would actually be multiple easements because it would be granted by multiple landowners.

### **Montana Environmental Policy Act**

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess significant potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, an Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on November 5, 2010.

Public comments on the proposed project were taken from November 5, 2010 through December 5, 2010. The EA was mailed to 106 organizations and individuals. In addition, the EA was posted on the FWP website and a news release was distributed to statewide media outlets.

### **Summary of Public Comment**

FWP received three (3) comment e-mail messages on the proposed action. Two comments supported the proposal, and one comment posed a question regarding the proposal.

Comments supporting the proposed project: two (2) total.

“I write in support of the proposed exchange of public access easements on the Upper Madison River north of Palisades Recreation Area. As a 40 year user of the Upper Madison River, a 34 year Montana outfitter, and a member of the original Montana Coalition for Stream Access that fought to protect access to Montana’s rivers and streams, I believe the proposed exchange is an equitable solution that protects river bank

access for sportsmen and addresses the concerns of nearby landowners. I would add, for the record, that this exchange in no way impacts or re-defines sportsman's access to the Upper Madison River or any other Montana river or stream that is protected by Montana's Constitution which has been upheld in the US Supreme Court and is defined as recreational use of the water and the streambed up to the ordinary high water mark. Unfortunately, I feel far too many landowners, attorneys, and realtors are not aware of or do not understand Montana's stream access laws, and this lack of awareness appears, in my opinion, to be growing as new landowners buy land along Montana's rivers and streams. I would urge that FWP utilize opportunities such as this one to reiterate our stream access laws."

**FWP Response:** So noted.

"I support Alternative B, to exchange the existing access easement with the new access easement. I don't believe that, "just because the road was never built" that the easement is no longer in force. However I do believe that being good neighbors is very important, and seeing no loss of access to the Madison River I do support Alternative B."

**FWP Response:** So noted.

Comment posing a question regarding the proposed action: one (1) total.

"I usually don't get involved in this stuff but cursory reading of the proposed "relinquishment" of a road sounds like a net LOSS of access to the Madison, especially to mobility impaired sportsman/recreationists. Is it then that only hikers & horseman get use it? Are the rich nouveau Montanans flexing there plutocratic muscles?"

**FWP Response:** Just to be clear, there is no road. FWP was given an easement for a motorized access but it was never developed and FWP never had plans (or funding) to develop a road.

### **Decision**

Based on the Environmental Assessment, public comment, and FWP evaluation, it is my decision to proceed with preferred alternative B, as described in the Upper Madison River Proposed Exchange of Public Access Agreements Draft Environmental Assessment. In the preferred alternative, FWP proposes an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. This course of action will be recommended to the Fish, Wildlife & Parks Commission at their January 13 commission meeting.



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Gerald Walker

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Regional Parks Manager

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